

**Taxation—Lands—Sale—Deferred Payments—Interest.**

Method of distributing interest received upon deferred payments under contract for sale of land acquired by the county through tax proceedings stated in the opinion below.

Mr. R. N. Hawkins,  
Assistant State Examiner,  
Helena, Montana.

May 13, 1931.

My dear Mr. Hawkins:

You have requested an opinion on the subject of distributing the annual interest of 6% on deferred payments where land acquired by the county through tax deeds has been sold to purchasers on contracts calling for deferred payments. You inquire if the annual interest on these deferred payments should be distributed to all funds having an equity in the delinquent taxes or whether the county is entitled to the interest on these deferred payments.

This office has held that notwithstanding the provisions of substitute senate bill for senate bills 23 and 26, the provisions of chapter 162 of the laws of 1929 relating to the disposition of proceeds of such sales remain in force and effect. That chapter provides that the funds represented by the taxes and assessments accrued against the property shall participate in the proceeds from the sale to the extent mentioned therein. Where the proceeds of the sale are part in cash and deferred payments to be paid later on with interest, it is my opinion that the cash should be pro rated among the funds as provided in the act and if this is not sufficient to discharge all the accrued taxes, then each fund would have its pro rata share in the deferred payments to the extent of the difference between the amount due each fund and the amount received from the cash payments. To the extent of this balance each fund has an interest in the deferred payments, and under the rule that interest follows the principal, unless otherwise provided, each fund should receive that part of the interest that is paid upon the deferred payments that is applicable to its interest in those deferred payments.

Had the full purchase price been paid in cash at the time of sale

the funds would have received in cash not only that which was actually paid by the purchaser under the contract but also those moneys which are represented by the deferred payments, up to the total amount of accrued taxes due such funds. The funds having received only part of what is due them, and being deprived of the immediate use of that part of the accrued taxes due them, which is represented in the deferred payments, said funds would be entitled to the interest on their share in said deferred payments as compensation for the deferred use of the money, and the county would be entitled to the interest on that part of the deferred payments which is in excess of the amount of accrued taxes belonging to the several funds.

Very truly yours,  
L. A. FOOT,  
Attorney General.