

Opinion No. 67.**Taxation—Penalty and Interest.**

HELD: Where the United States Farm Credit Administration acquired personal property by foreclosure on September 17, 1938, and failed to pay the penalty and interest prior to December 1, 1938, the county treasurer is not permitted to remit penalty and interest following the date said property was acquired.

May 17, 1939.

Hon. W. A. Brown
State Examiner
The Capitol

Dear Mr. Brown:

You have submitted the question whether the United States Farm Credit Administration, which acquired personal property by foreclosure on September 17, 1938, should be required to pay the penalty and interest on delinquent taxes, payment thereof not having been made prior to December 1, 1938. The purchaser claims that it should not pay interest after September 17, 1938, since the property of the United States is exempt from taxation.

The taxes in question were levied upon the former owner. Taxes are levied upon persons and not upon property. It is the person who is taxed. The property which the person owns is used to determine the amount of the tax the property owner will pay.

State ex rel. Tillman v. District Court, 101 Mont. 176, 182, 53 Pac. (2) 107.

The tax, including penalty and interest, is a lien against the property and continues until tax is paid. (Section 2152, R. C. M., 1935.) This property was assessed and the levy made before September, 1938. Nothing that occurred thereafter could impair or destroy the tax lien. No new tax has been levied. The accrual of interest is not a new tax levy in any sense, any more than the accrual of interest on a prior judgment lien would be a judgment against the United States in the event the latter took property subject to a judgment.

We are unable to find any authority permitting the county treasurer to remit to the United States Farm Credit Administration interest accrued after September, 1938, or to the effect that such accrued interest amounts to a new tax levy. If the Comptroller can submit any authority showing either that the county treasurer has such authority or that the interest accrued after September, 1938, constitutes a tax levy against the United States, we shall be glad to give it careful consideration, in the event he does not agree with our position.