

Taxes, Payment of. Special Improvement Taxes, Payment of. Improvement Taxes, Separate from General Taxes.

Special Improvement taxes and General taxes are Separate and Distinct Classes or Species of Taxation, and a taxpayer may pay the whole of either class without making payment of the other class.

Helena, Montana, November 6, 1909.

Hon. Sharpless Walker,
County Attorney,
Miles City, Montana.

Dear Sir:

I am in receipt of your letter of the 3rd instant, relating to the collection of taxes by the county treasurer of that county. It seems from your letter that a "special improvement assessment for side-walks and sewer construction" in Miles City was made and certified and turned over to the county treasurer for collection. Certain taxpayers object to the payment of this special improvement tax, but have signified their willingness to pay the general tax levied for state, county and general city purposes, the question arising is has the treasurer the authority to accept the general tax, without the special tax being paid.

The wide distinction between general taxes levied for the support of state and county government, and special improvement assessments levied for local purposes, places the two species of taxation in different classes; and, in our judgment there is no prohibition against the treasurer accepting the taxes for the whole of one class or the other, while he may not have any authority to accept a part of either class.

We cannot conceive how the rights of any one can be jeopardized, and the taxpayer may have a valid reason for repudiating the special assessment tax and no reason whatsoever for refusing to pay the general tax. We, therefore believe that the treasurer has the authority to accept the general taxes from any taxpayer, although the special assessment is not paid. But, of course, the receipt given should go only to the general taxes.

Yours very truly,
ALBERT J. GALEN,
Attorney General.