

Mortgages, Assessment Of. Taxation, of Mortgages not Released Prior to First Monday in March.

Unless the mortgage is satisfied of record, it is the duty of the assessor to assess the amount of debt secured thereby. Should the mortgage debt have been paid before the first Monday in March, mortgagee upon appearing before the board of

equalization and satisfying the board that the mortgage has been paid, to be entitled to have the assessment cancelled.

March 16, 1911.

Hon. Charles P. Cotter,
County Attorney,
Townsend, Mont.

I am in receipt of your communication of the 14th inst., requesting my opinion upon the following question:

"In cases of chattel mortgages securing notes having expired before the first Monday of March, but which have neither been released or renewed, what is the basis of taxation?"

By the provisions of Section 2578 of the Revised Codes of Montana of 1907, it is the duty of the county clerk to annually transmit to the assessor on or before the first Monday of March, a complete abstract of mortgages, etc., remaining unsatisfied on the records of his office, not barred by the statute of limitations. And by the provisions of Section 5771 of the Revised Codes of 1907 it is made the duty of either the mortgagor or mortgagee upon the satisfaction of a debt or obligation secured by mortgage of personal property, to cause to be filed in the office of the county clerk, or endorsed upon the mortgage, a satisfaction of such mortgage. Unless the mortgage is satisfied of record it is the duty of the assessor to take the abstract of the amounts as therein contained, from the county clerk, and base his assessment upon such abstract. Should the mortgage debt, however, which is secured by the mortgage have been paid prior to the first Monday in March, and the assessor should enter the amount in accordance with the abstract, the mortgagee, upon appearing before the board of equalization and making affidavit to the effect that the obligation had been fully paid and satisfied prior to the first Monday in March, and in addition thereto filed a satisfaction in the office of the county clerk, it would be the duty of the board of equalization to cancel such assessment. However, for the purpose of assessment it is the duty of the assessor to take the abstract as furnished by the county clerk and enter his assessments accordingly.

Yours very truly,

ALBERT J. GALEN,

Attorney General.