

**Delinquent Taxes, Distribution Of. Taxes, Distribution of Delinquent. County Treasurer, Duties of in Distributing Delinquent Taxes.**

In the distribution of delinquent taxes collected by the county treasurer, the county treasurer should remit to the state the amount of the original state tax plus its proportionate share of accrued interest and the balance of the collection should be retained by the county.

April 15, 1911.

Hon. Howard C. Packer,  
County Attorney,  
Hamilton, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 12th inst., requesting my opinion as to the distribution of the delinquent taxes collected. The question you submit is:

"Does the state fund receive anything beside the original state tax plus its proportionate share of the interest?"

With your said communication you enclose a letter from the county treasurer on the subject.

By the provisions of Section 2622, Revised Codes of 1907, the county treasurer is required to add to the amount of the tax a 10 per cent penalty for the use of the county. Further by the provisions of Section 2635, an additional charge of 50c should be made for each lot or parcel of land included in such delinquent assessment, and for each assessment of personal property. However, by the provisions of Section 2681 the county treasurer is required to pro rate the original tax "and 20%" between the county and the state. This section, I believe is ineffective so far as the words "and 20%" are concerned, and has no application to the settlement between the county treasurer and the state in that respect, for the reason that there are no provisions of law specifying any penalties which under every circumstance would make up the additional 20%; and for the further reason that Section 2622, being a more recent enactment as to the county's share of the funds, would take precedence over Section 2681 as to the amount the county shall retain.

It is, therefore, my opinion, that in the distribution of the delinquent taxes collected, the county treasurer should remit to the state the amount of the original state tax plus its proportionate share of accrued interest, and the balance of the collection should be retained by the county.

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