

Taxes, Apportionment of. Apportionment of Taxes.

Under the provisions of Chapter 91, Laws of 1914, any person having an interest in real estate whether as owner or lienor, may relieve the separate parcels of such real estate from the tax levy by paying the real property tax thereon, together with a computed and apportioned part of any personal property tax which may be a lien on all the property of the owner.

May 25, 1915.

Hon. H. W. Bunston,
County Attorney,
Hardin, Montana.

Dear Sir:

I am in receipt of your communication under date the 22nd instant, asking for my interpretation of Chapter 91 of the Session Laws of the Fourteenth Legislative Assembly, and submitting some moot problems arising under this law.

The theory of this law seems to be that any person having an interest in real estate, whether as owner or as lienor, may relieve the separate parcels of such real estate from the tax levy by paying the real property tax thereon, together with a computed and apportioned part of any personal property tax which may be a lien on all the property of the owner. I find no language in the Act justifying the conclusion that a person's real property is relieved from the burden of the personal

property tax lien. The solution to your first problem is, therefore, that it is the duty of the county treasurer to accept the tax offered by the mortgagee upon the parcel covered by his lien and the computed and apportioned part of the personal property tax lien upon all of the property, provided, of course, that it is possible to determine from the records of the treasurer's office what the real property tax upon the portion sought to be redeemed is, and what proportion of the personal property tax is to be borne by the particular parcel of land in question. The answer to the second problem is yes. Under the facts stated in the third problem, the tax lien upon a parcel covered by the mortgagee would be satisfied by a payment of the real property tax assessed thereon, and the apportioned and computed portion of the personal property tax.

It is to be noted in this connection that the law lays down no rule as to the apportionment among several parcels of real estate of the personal property tax. In other words it does not state whether or not such an apportionment is to be made in accordance with acreage, or in accordance with relative value, or some other method. Furthermore, no provision is made for the apportionment of such taxes in a case where the assessment is made of a whole parcel, a portion of which only is covered by a mortgage, as for example: A man owning one hundred sixty acres of land might have forty acres of it in a highly developed orchard, and the remainder totally undeveloped. The assessment would probably be made against the whole parcel, and if the forty acre tract in orchard was covered by a mortgage, Chapter 91 would provide no rule by which to apportion the personal property tax between the improved portion and unimproved.

Yours very truly,

D. M. KELLY,

Attorney General.