

Delinquent Taxes—Penalties—Taxation.

Under the provisions of Chapter 96, Laws of 1923, all delinquent taxes are subject to a penalty of five per cent.

L. Q. Skelton, Esq.,
State Examiner,
Helena, Montana.

My dear Mr. Skelton:

You have requested my interpretation of Chapter 96, Laws of 1923.

You desire to know the amount of the penalty to be charged to the taxpayer on his delinquent taxes as prescribed by this chapter. Section 1 of this chapter provides for the payment of one-half of the taxes on or before the 30th day of November of each year and the other one-half on or before the 31st day of May of each year. It further provides that, if one-half of the taxes are not paid on or before the 30th day of November, the whole amount of the taxes become delinquent, and that all taxes not paid on or before the 31st day of May will be delinquent. This section then provides: "A penalty of five per cent shall be added to all delinquent taxes."

Section 2 of this chapter provides that the County Treasurer must publish a notice and provides that the notice shall specify that one-half of the taxes will be due and payable on the 30th day of November and that, unless paid, the whole amount of the taxes will be delinquent and will draw interest at the rate of one per cent per month from and after such delinquency, and ten per cent will be added to the amount thereof as a penalty. This section further provides that the notice must specify that one-half of all taxes will be due and payable on the 31st day of May next thereafter, and that

unless paid prior thereto will be delinquent and will draw interest at the rate of one per cent per month from and after such delinquency, and **five** per cent will be added to the amount thereof as a penalty.

From a reading of these two sections of the statute together, it is apparent that the Legislature intended that all taxes, becoming delinquent after the passage of Chapter 96, are subject to a penalty of five per cent.

The provision in Section 2 of this chapter, providing that the notice must state that if not paid before November 30th the whole amount of the taxes will be delinquent and **ten** per cent will be added as a penalty, was evidently an oversight on the part of the Legislature, for in the same section as to the one-half of the taxes that are payable on the 31st day of May, it is provided that the notice shall state that **five** per cent will be added as a penalty in case of delinquency. That this was an oversight on the part of the Legislature is apparent from an examination of the history of the bill. The bill, when originally introduced, provided that all delinquent taxes should be subject to a penalty of ten per cent and provided that the notice, in each instance, should recite that **ten** per cent would be added as a penalty in case of delinquency. Amendments to the original bill were introduced and passed striking out the word "ten" in the first section and in one place in the second section, and inserting in lieu thereof the word "five."

It is, therefore, my opinion that, under the provisions of Chapter 96, Laws of 1923, all delinquent taxes are subject to a penalty of five per cent.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.