

**County Treasurer—Mortgages—Redemption — Taxation
—Mortgagee.**

A person redeeming land from a tax sale must pay the taxes levied upon the land, including taxes upon personal property which have become a lien upon the land.

John B. Muzzy, Esq.,
County Attorney,
Stanford, Montana.

My dear Mr. Muzzy:

You have submitted to this office the following question:

“A forecloses a mortgage on a portion of the real estate owned by and assessed to B. In B's assessment is included quite an amount of personal property. A desires to pay the delinquent taxes on the tract on which he has foreclosed the mortgage. The question is whether A will be permitted to do this without paying a proportionate part of the personal property taxes.”

Section 2153, Revised Codes of 1921, makes every tax due upon personal property a lien upon the real property of the owner thereof.

Section 2211, as amended by Chapter 48, Laws of 1923, specifically covers the situation and makes provision for apportionment of personal property tax as follows:

"Whenever any person, firm, co-partnership, corporation, or association shall desire to redeem from a tax sale and pay all subsequent taxes upon any lots, piece, or parcel of real estate, which said person, firm, co-partnership, corporation, or association shall own or hold a mortgage or other lien against or have any interest in such property, it shall be the duty of the County Treasurer of the county in which such real estate is situated to permit such redemption and payment; and in case the said real estate shall have been assessed or sold, together with other real estate, or in case the tax assessed against any other property shall be a lien thereon, then it shall be the duty of said County Treasurer to compute and apportion the tax that should have properly been assessed against the said real estate sought to be redeemed, and upon which the taxes are sought to be paid, the same as if said property had been separately assessed. Any personal property tax which is a lien upon said real estate shall be likewise computed and apportioned on the same percentage basis as the tax assessed against the real estate is apportioned."

It is, therefore, my opinion that a person redeeming land from a tax sale must pay a proportionate amount of the personal property taxes that are a lien upon the land in addition to the tax levied upon the land itself.

Very truly yours,

L. A. FOOT,
Attorney General.