

Taxation—Counties—New Counties—Indebtedness—Adjustment.

New counties are entitled, after the effective date of their creation, to collect for their use and benefit the second installment of taxes levied prior to their creation.

In adjusting the indebtedness between an old and new county uncollected taxes are not to be taken into consideration as a credit or liability of either county.

E. K. Cheadle, Jr., Esq.,
Attorney at Law,
Lewistown, Montana.

January 17, 1925.

My dear Mr. Cheadle:

You have requested my opinion whether Fergus county or Petroleum county is entitled to collect the second installment of taxes on property in Petroleum county; also whether the amount so collected is to be taken into consideration in the adjustment of the debts of the two counties.

Section 4398, R. C. M., 1921, provides that delinquent taxes due to the old county against property situated in the new county shall be transcribed in and collected by the new county.

Section 4400 provides that all acts and steps theretofore taken by the officers of the old county prior to the creation of the new county shall be deemed and taken as having been performed by the officers of the new county for the benefit of the new county. While it is true that the second installment of taxes was not "delinquent" at the time

of the creation of Petroleum county I am satisfied that under the decision in the case of County of Hill vs. County of Liberty, 62 Mont. 15; 203 Pac. 500, the new county is entitled to the benefit of all taxes whether delinquent or otherwise, which are collected within its territorial limits after its creation.

Regarding your second inquiry I find nothing whatever in the law (section 4398) which indicates that taxes to be thereafter collected are to be taken into consideration in the adjustment of the debts of the two counties.

You are therefore advised that in my opinion Petroleum county is entitled to collect the second installment of unpaid taxes upon property within its territorial limits and that the same are not to be taken into consideration in adjusting the debts of the two counties.

Very truly yours,

L. A. FOOT,

Attorney General.