

Automobiles—Motor Vehicles—Taxation.

An automobile owner who has paid his 1927 personal taxes must make affidavit to that effect before he can receive his 1928 automobile license.

An automobile owner whose personal property taxes are a lien against real estate may procure an automobile license without making any showing by affidavit relative to the payment of personal property taxes; otherwise he must make such showing.

March 15, 1928.

C. P. Hahnkamp, Esq.,
Turner, Montana.

My dear Mr. Hahnkamp:

You have requested my opinion upon the two following questions:

1. If the owner of a car has paid his 1927 personal taxes, need he make affidavit to that effect before he can receive his 1928 license?
2. If a car owner has paid the first half of his 1927 taxes, personal property tax included, is it necessary that he send up his affidavit before a license will be issued to him?

Chapter 123 of the session laws of 1927 requires the owners of motor vehicles to present to the registrar a verified application which shall include among other things the following information:

“Whether such applicant was the owner of such motor vehicle on the first Monday of March of the year next preceding the year for which registration is applied.

“And if so whether or not the property tax on such motor vehicle has been paid for such year.”

The above statute renders necessary an affirmative answer to your first question.

Section 2 of the above act requires the county treasurer not later than the second Monday of December of each year to mail to the registrar of motor vehicles of the state of Montana a certified list of the names of all owners of motor vehicles who have not paid the property taxes on such motor vehicles for the current year, and which said taxes are not a lien on the real estate of the owner, as shown by the records of his office.

Section 3 of the act requires the registrar to check each application for registration against said list and if he finds that the property tax has not been paid on such motor vehicle for the preceding year, he must notify applicant that he cannot issue a registration certificate until such delinquent property tax has been paid, and proof thereof by receipt or certificate of the county treasurer filed in his office.

Under the statutes above quoted if your personal property taxes are a lien on real estate they are not affected by chapter 123 and will not be included in the certified list furnished by your county treasurer to the registrar of motor vehicles. If, however, your personal property taxes are not a lien against real estate you are not permitted to procure a license to operate a motor vehicle until you make a showing that you have no delinquent personal property taxes against the automobile for the preceding year.

Chapter 96, laws of 1923, provides that one-half of the amount of all taxes are payable on or before the 30th day of November of each year, and one-half on the 31st day of May of each year. The act further provides that unless the payment due on November 30th is made all taxes become delinquent. Under the above statute a person who on or before the 30th of November, 1927, has paid one-half of his taxes for the year 1927 does not owe any delinquent taxes until May 31, 1928. Section 3 of chapter 123 of the laws of 1927 refers only to delinquent property taxes.

In answer to your second question, it is therefore my opinion that when your personal property taxes are a lien against real estate you need not make any showing by affidavit and you can secure an automobile license.

Very truly yours,

L. A. FOOT,
Attorney General.