

Taxes—Segregation—Chattel Mortgages—Personal Property.

The chattel mortgagee does not come within the provisions of law permitting segregation of taxes upon personal property.

Albert J. Kollman, Esq.,
County Treasurer,
Plentywood, Montana.

February 15, 1930.

My dear Mr. Kollman:

You have requested my opinion relative to the segregation of personal property taxes at the request of a chattel mortgagee.

The provisions of the law applicable to segregation are Sections 2211, R.C.M. 1921, as amended by Chapter 48, Laws of 1923, and Section 2153, R.C.M. 1921, as amended by Section 1 of Chapter 113, Laws of 1927.

The former section permits a person holding a mortgage upon real property to redeem from a tax sale the mortgaged real property, and in case the taxes assessed against the property are a lien thereon, it is the duty of the county treasurer to segregate the taxes properly assessable against the mortgaged real estate and to permit redemption thereof, and in case personal property taxes are a lien upon the said mortgaged real estate they are required to be computed and appor-

tioned on the same percentage basis as the tax assessed against the real estate is apportioned. It is apparent that this section does not apply to a case where the personal property tax is not a lien upon real estate and as to real estate, it only applies after a tax sale has been held.

Under the second section above mentioned the owner of a mortgage on real estate upon which personal property taxes are a lien may, when the owner of the real estate and personal property has failed to pay taxes due upon the real estate and personal property for one or more years, file with the county assessor a written request to have the personal property and real estate of the owner separately assessed, in which case it is the duty of the assessor to make a separate assessment of the real and personal property. It is apparent that this section applies only when the personal property taxes would by law be a lien upon real estate owned by the owner of the personal property, and segregation in such cases is permitted only at the time of assessment and not thereafter.

As I understand your request, the owner of the personal property assessed in this case had no real estate upon which the personal property taxes would be a lien so that neither of the above sections providing for segregation are applicable. I find no other provision in the law which warrants segregation other than in the instances above mentioned.

It is therefore my opinion that a chattel mortgagee does not come within the provisions of the law permitting segregation of the taxes.

Very truly yours,
L. A. FOOT,
Attorney General.