

**Taxation—Automobiles—County Treasurer—Collection—
Certificates—Registration—Motor Vehicles—Liens.**

The lien for all of the personal property taxes extends to all of the personal property assessed and the county treasurer is authorized to seize any and all of the personal property assessed even though it was transferred to a third person since its assessment.

Where an automobile is among the assessed personal property, and the lien for the taxes is not also a lien upon real estate, the owner is entitled to receive from the county treasurer the certificate mentioned in Chapter 171, Laws of 1929, upon the payment of the taxes levied only against the automobile, for the purpose of procuring registration with the

registrar of motor vehicles. There still remains upon the car, however, a lien for the other personal property taxes, and the car remains subject to seizure and sale for said taxes.

H. F. Miller, Esq.,
County Attorney,
Fort Benton, Montana.

March 14, 1930.

My dear Mr. Miller:

You have requested an opinion on the subject of the payment of personal property taxes. Your inquiry is directed particularly to the question of whether a county treasurer has the right to seize and sell an automobile which since its assessment was transferred by the owner to another person if the latter offers to pay the personal property tax due against said automobile alone but declines to pay the taxes levied against the other assessed personal property of the person from whom the automobile was obtained.

I enclose herewith an opinion rendered by this office under date of February 25th, to County Attorney Conwell, in which you will observe it is held that the lien for all of the personal property taxes extends to all of the personal property assessed, and that the county treasurer is authorized to seize any and all of the personal property assessed, even though it is in the hands of a purchaser who acquired it after its assessment, and sell sufficient thereof to discharge the taxes due upon all of the assessed personal property.

In case an automobile is among the personal property assessed, the county treasurer is authorized to seize and sell the same for all of the personal property taxes due upon the assessed personalty the same as he is directed to do in the case of any other kind of personal property that has been assessed. There is a lien upon it for all of the personal property taxes due as well as upon all the other assessed personal property.

Where an automobile is among the assessed personal property the question arises as to the amount of taxes required to be paid in order to secure a certificate from the county treasurer which will enable the owner to procure registration of the automobile under Chapter 171 of the Laws of 1929. Said chapter provides that at the time the owner pays the property tax upon his motor vehicle, he shall be entitled to receive from the county treasurer a certificate for each motor vehicle upon which the tax has been paid, showing among other things, "that the taxes levied against said motor vehicle have been paid." If the taxes upon the motor vehicle are a lien against real estate the owner is entitled to receive a certificate so stating, which entitles the automobile to be registered without the payment of the taxes levied against it.

The legislature did not intend that all of the personal property taxes should be required to be paid before the owner could secure the necessary certificate to enable him to register his automobile. It was in-

tended that only the particular tax levied against the automobile should be paid in those cases where the said tax was not a lien upon real estate.

The taxes which must be paid are those for the year preceding that in which it is desired to register the automobile; thus, the 1929 taxes must be paid before the automobile can be registered in 1930. If the assessor and the county treasurer do their duty under the statute, i.e., to immediately upon assessment demand the payment of taxes upon personal property which has been assessed and for which there is no lien upon real estate, and seize and sell the assessed personalty to enforce collection of the taxes, there would never be any occasion for a situation to exist where the personal property taxes were unpaid in the year in which registration is sought to be made, for the reason that the taxes on all the personal property would have been collected in the previous year.

However, the owner of the automobile is not to be deprived of the right of registering it simply because the officers have not done their duty, and there results therefrom a situation where not only the taxes levied against the automobile have not been paid, but the taxes levied against the other assessed personalty which are a lien upon the car have likewise not been paid, at the time registration is sought.

The owner has the right to register the car upon complying with the provisions of Chapter 171 of the Laws of 1929, which require only the payment of the taxes levied against the automobile. Upon such payment he is entitled to a certificate as provided in said chapter. This certificate is not a tax receipt. Any tax receipt that is issued for the tax upon the automobile should have noted upon it that the automobile is subject to liens for other unpaid personal property taxes. The payment of this particular tax against the car does not release it from the lien upon it for the other personal property taxes, and the duty still remains upon the county treasurer to seize the automobile or any other of the assessed personal property and proceed to collect the taxes in the manner required by law.

If the treasurer seized the automobile to enforce collection of the taxes levied against it and the taxes levied against other assessed personal property which are a lien upon it, prior to the offer to pay the tax levied against the automobile for registration purposes, he is not required to accept less than the full amount of the taxes due for all the assessed personal property, but he may do so if the other personal property remaining in his hands is sufficient to make the remainder of the personal property taxes due.

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