

**Irrigation Districts—Taxation—Bonds—Interest.**

Interest coupons not paid at maturity issued by an irrigation district do not bear interest after maturity as compound interest is not recoverable unless the contract provides therefor.

Mr. Harry L. Burns,  
County Attorney,  
Chinook, Montana.

July 23, 1931.

My dear Mr. Burns:

You state that owing to the fact that subsequent to the issuance of bonds by the Zurich Irrigation District the legislature provided for the semi-annual payment of taxes the district cannot pay the interest coupons on December 1st of each year in full but can only pay half of them and the other half must wait for their payment until the taxes come in from the June installment; that the holders of these bonds demand payment of interest on the interest coupons for the period between December 1st and June 1st following:

You inquire if the county treasurer should pay interest on these interest coupons which were payable December 1st but for the reasons aforesaid could not be paid until June 1st following.

The statute relating to the issuance of these bonds does not provide for the payment of interest on the interest coupons in case of their non-payment at the time specified in them. It merely provides that the bonds shall bear interest until they are paid and that interest coupons shall be issued for the period during which the bonds are to run. At common law compound interest was not allowed (1 Mont. 183) and by virtue of section 7728, R. C. M. 1921, it may be allowed if the contract provides that any interest due but not paid may be treated as part of the principal and thereafter draw interest at the same rate as the principal. No such provision is authorized by the law relating to the issuance of the bonds in question and I presume that the law has been followed and no such provision appears in the bonds themselves.

The interest on the principal obligation from December 1st to June 1st is covered by the subsequent coupons and therefore if interest was to be paid on these coupons which should have been paid December 1st it would amount to the payment of compound interest. For the reasons above stated, this is not permitted and therefore the treasurer should not pay any interest on the said coupons.

You also state that in the spring of 1930 a tax deed was issued to an individual on certain lands lying within the Fort Belknap Irrigation District. In the fall of 1930 the holder of the tax deed paid under protest the sum of \$85.32 as the levy upon his land for interest and sinking fund to retire the bonded indebtedness incurred prior to the issuance of the tax deed. The taxpayer has now put in a claim for the refund of the amount paid under protest. You inquire if this is a valid claim and should be paid.

In my opinion, the claim cannot be allowed at this time. The tax

was paid under protest and, apparently, though you do not so state, no suit was commenced within sixty days from the date of payment as is required by law. Under these circumstances I think that the taxpayer has waived his legal right to contest the levy. The statute having provided him with a remedy he should have pursued it if he wished to contest the validity of the tax.

Very truly yours,

L. A. FOOT,

Attorney General.