

**Taxation—Personal Property Taxes—Real Property Taxes
—Semi-Annual Payments.**

A taxpayer assessed with real and personal property taxes may pay one-half of the personal property taxes on or before November 30th without paying one-half of the real property taxes. The real estate remains liable for the other half of the personal property tax and the personal property itself also remains liable for the half of the taxes not paid.

Mr. F. N. Hamman,
County Attorney,
Ekalaka, Montana.

February 29, 1932.

My dear Mr. Hamman:

You have requested my opinion as to whether a person who is assessed with both real and personal property taxes may pay one-half of his personal property taxes on or before November 30th without paying one-half of the real property taxes.

Under our law the personal property taxes are a lien upon the real estate of the taxpayer and in such cases the taxes come under the provision of the law providing for semi-annual payment.

While it is the general rule that taxes cannot be paid in installments unless provided by law it is also the general rule that a taxpayer has the right to pay any separate tax without being required to pay all of his taxes. Whether or not a tendered payment is merely a partial payment of taxes is not to be determined merely by the fact that the tendered payment is less than the full amount of all of the taxpayer's taxes for the full amount of the taxes may represent a combined total of various separate taxes.

Taxes assessed against personal property are separate from the taxes that are assessed against the real estate and the fact that the real estate is impressed with a lien for the personal property taxes does not

constitute the real and personal property taxes as a single tax. The lien on the real estate is merely security for the payment of the personal property taxes.

Inasmuch as under our law personal property taxes which are a lien upon real estate are payable in two installments it is my opinion that if the taxpayer tenders one-half of the personal property taxes (when they are a lien upon real estate) the treasurer should accept the same for it is the payment of one-half of a separate tax. Of course the lien upon the real estate still exists for the other half of the personal property tax and the lien now provided by statute upon the personal property itself also remains for the half of the taxes not paid.

This does not, of course, apply after the real estate has been sold for the real and personal property taxes and a certificate of sale is outstanding because in that case the statutes provide that redemption can only be effected by the payment of the amount for which the property was sold plus various other items mentioned in the statute.

Very truly yours,

L. A. FOOT,
Attorney General.