

**Taxes—Personal Property—Liens.**

The lien for personal property taxes extends to all real estate owned by the owner of the personal property.

Mr. Dwight Lohn,  
County Treasurer,  
Wolf Point, Montana.

September 29, 1932.

My dear Mr. Lohn:

I have your request for an opinion. You state that certain personal property located in a store building and consisting of merchandise, etc., was assessed with the real estate upon which the store building is located and that the owner of said real estate is also the owner of other real estate consisting of farm lands. You state that the taxes against the personal property are in excess of the value of the store building and the real estate upon which it is situated and you wish to know if these personal property taxes are a lien upon the other real estate of the taxpayer.

Sections 2048 and 2049 R. C. M. 1921 contemplate the assessment of all real and personal property of a taxpayer under one listing in his

name in the assessment book. There is no such thing in contemplation of the law of assessing the personal property of a taxpayer in such a manner that the taxes thereon become a lien upon certain parts of the real estate owned by the taxpayer and leaving other real estate owned by him free from the lien of said personal property taxes. Section 2153 R. C. M. 1921, as amended by chapter 113 of the laws of 1929, provides that the taxes due upon personal property are a lien upon the real property of the owner unless segregation has been demanded in accordance with the provision of said chapter. This means that the personal property taxes are a lien upon all of the real estate of the owner of the personal property and it does not lie within the power of the assessor to diminish this lien upon the real estate by listing the personal property with a part only of the real estate and making a separate assessment of the remainder of the real estate owned by the owner of the personal property. The extent of the lien is fixed by the law and not by the method of listing the property by the assessor in the assessment book.

The proper method of listing the property in the assessment book is to list all of the property, both real and personal, under the name of the owner. If the assessor has failed to do this and has made one listing showing the personal property and certain of the real estate and another listing showing the remainder of the real estate, this irregularity cannot have the effect of diminishing the extent of the lien for the personal property taxes, which, as above stated, extends to all of the real estate owned by the person owning the personal property so listed.

It is therefore my opinion that the lien of the personal property taxes extends not only to the real estate consisting of the store building and the land upon which it is situated but also upon all the other real estate of whatever character owned by the owner of the personal property assessed.

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