

**Taxation—Personal Property Taxes—Delinquent Taxes—
County Treasurer—Collection—Limitations—“Charged Off”
Taxes—Reinstatement.**

There is no limitation of time within which personal property, the taxes upon which are not a lien upon real estate, must be seized and sold for the payment of the taxes to prevent collections being barred by law. Delinquent personal property taxes “charged off” should be reinstated by the county treasurer on the books for collection.

Mr. R. N. Hawkins,
Assistant State Examiner,
Helena, Montana.

March 21, 1931.

My dear Mr. Hawkins:

You ask if there is any limitation of time within which collection of delinquent personal property taxes must be made to prevent said collections being barred by law.

I assume that you have reference to personal property, the taxes upon which are not a lien upon real estate. Since the amendment of section 2153, R. C. M. 1921 in 1925, and by amendments subsequent thereto, said section provides for a lien upon the personal property assessed for the taxes due upon such property. Prior to 1925 there was no lien upon personal property except where the taxes due on the personal property were a lien upon the real property of the owner. Therefore, the taxes due upon personal property prior to the amendment in 1925 did not come within the provisions of section 2152, R. C. M. 1921,

which provides that every tax has the effect of a judgment against the person and that every lien created by the title of which the section is a part has the force and effect of an execution duly levied against all personal property of the delinquent and that the judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment thereof.

Since the amendment, however, in 1925 of section 2153, which section is a part of the same title, a lien is created upon personal property for the taxes due thereon and therefore under the provisions of said section 2152 the lien continues until the taxes are paid or the property is sold for the payment thereof.

As the lien continues until the property is sold and there being no other statute which would affect the time within which the sale can be had, it is my opinion that there is no limitation of time within which the property must be seized and sold to prevent the seizure and sale being barred by law. The two year statute of limitations, which has been held applicable to actions brought to recover taxes, would have no application to a seizure and sale of the property by the county treasurer.

You also inquire if delinquent personal property taxes that have been charged off after a period of two years, or any other number of years, should be reinstated by the county treasurer on the books for collection. I do not know of any provision of law that authorized the county treasurer to charge off delinquent personal property taxes. If such has been done, of course the same should be reinstated.

Very truly yours,

L. A. FOOT,

Attorney General.