

Opinion No. 209

**Motor Vehicles—Taxation—Segregation
of Automobile Taxes.**

HELD: It is the duty of the county treasurer to segregate automobile taxes, to accept payment thereof, and to issue tax receipt therefor upon request of the owner of the motor vehicle or a purchaser.

May 11, 1933.

You have requested my opinion on the following question: "1 Is it the

duty of the county treasurer to segregate the tax due on an automobile from taxes due on other personal property so as to permit payment of it separately and thus enable the owner to obtain the tax receipt required in obtaining new license?"

The question has been passed upon by the Attorney General. See Vol. 12, page 171. I agree with the conclusion reached in that opinion and in support thereof, call attention to the rule of law stated in 61 C. J. 965:

"But where the taxes are separable the rule against part payment does not apply, and the citizen always has the right to pay the amount of any one tax listed against him, while refusing or omitting to pay others, or to pay the taxes for one year, and contest those assessed for other years, or to pay the tax on any one piece or item of his property which is separately assessed, without offering to pay the taxes on other parts; * * *"

And *id.*, 970:

"In making a payment on account of taxes the owner has a right to direct its application to a particular tax or to a particular piece or item of property, and the receiving officer is bound by such direction, and the effect of the payment will not be defeated by the officer's misapplication thereof."

I am unable to find any statute in Montana to the contrary, or any good reason why the automobile tax should not be segregated by the county treasurer when requested by the owner thereof at the time of assessment, or by a purchaser.