

Opinion No. 411**Taxation—Delinquent Taxes—Redemption from Tax Sale by Payment of Proportionate Share of Personal Property Tax.**

HELD: Section 2211, as amended, permits one who redeems real property from tax sale to clear his title to such redeemed property by paying the proportionate share of delinquent personal property tax which is a lien against a group of real property which includes such redeemed property.

December 20, 1933.

It appears from your letter to us of the 18th inst., that continuously from 1919 to the summer or fall of 1933 A held the legal title to a large number of town lots in Hill County. The taxes levied against them in 1919 were allowed to become delinquent, and at a tax sale held in January, 1920, the lots were struck off to the county as purchaser.

In 1925 certain personal property was assessed to A, who failed to pay the taxes thereon and to this day they have remained delinquent.

In the summer or fall of this year A sold to B two of the lots in question. B then redeemed these two lots by paying all the taxes which the county treasurer apportioned to them. Some time later that official called B's attention to the fact that A had failed to pay the taxes levied on his personal property for the year 1925. B is willing to pay his proportionate share of these taxes under the provisions of Section 2211, Revised Codes, 1921, as

amended by Chapter 48, Laws of 1923, if applicable, in order to clear his title to the property. It is your view that he ought to be permitted to do so and you ask us to give you the benefit of our opinion on the matter.

Section 2211, as amended, reads as follows:

"Whenever any person, firm, co-partnership, corporation, or association shall desire to redeem from a tax sale and pay all subsequent taxes upon any lots, piece or parcel of real estate, which said person, firm, co-partnership, corporation, or association shall own or hold a mortgage or other lien against or have any interest in such property, it shall be the duty of the county treasurer of the county in which such real estate is situated to permit such redemption and payment; and in case the said real estate shall have been assessed or sold, together with other real estate, or in case the tax assessed against any other property shall be a lien thereon, then it shall be the duty of said county treasurer to compute and apportion the tax that should have properly been assessed against the said real estate sought to be redeemed, and upon which the taxes are sought to be paid, the same as if said property had been separately assessed. Any personal property tax which is a lien upon said real estate shall be likewise computed and apportioned on the same percentage basis as the tax assessed against the real estate is apportioned."

We are convinced that the statute is broad enough to cover the case before us. Indeed the Supreme Court in construing the statute in *State ex rel. Federal Land Bank v. Hays*, 86 Mont. 58, used language that seems to put the question beyond controversy.