

**Opinion No. 558****Taxation—Delinquent Taxes—Personal Property—County Treasurer.**

HELD: County treasurers may seize personal property, upon which delinquent taxes are due, at any time regardless of the fact that the property has passed to another owner.

June 23, 1934.

You state that you have rendered an opinion to the effect that the county treasurer can seize personal property, upon which delinquent taxes are due, at any time regardless of the fact that the property has passed to another owner and holder.

We agree with the conclusions you have reached. Section 39 of Article V of the Constitution of Montana provides:

"No obligation or liability of any person, association or corporation, held or owned by the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the legislative assembly; nor shall such liability or obligation be extinguished, except by the payment thereof into the proper treasury."

Chapter 182 of the Laws of 1933, amending Section 2153, R. C. M., 1921, makes taxes levied upon any personal property a lien upon the personal property assessed as well as upon the owner's real estate, but not on any other personal property of the owner.

The Supreme Courts of other states have held that "the only way to discharge a lien for taxes is to pay them." *Holbrook v. Kunz*, 83 N. E. 730 (Ind.); *State v. Evans*, 6 Pac. (2d) 161, (Utah).

The provisions of our Constitution cited above and the decisions of other courts necessarily lead to the conclusion that liens for taxes on personal property can not be extinguished except by payment.