

**Opinion No. 235.**

**Taxation—Motor Vehicles—  
Registration.**

HELD: 1. Under Chapter 72, Laws, 1937, only those taxes assessed against the motor vehicle on January 1st of the current year, must be paid before registration of such vehicle.

2. The County Treasurer may not require as a condition of registration of motor vehicle that taxes levied and unpaid prior to January 1st of current year, be paid.

January 28, 1938.

Mr. L. D. Glenn  
County Attorney  
Harlowton, Montana

Dear Mr. Glenn:

You have submitted the question as to whether or not your county treasurer may accept registration of an automobile when delinquent taxes, other and in addition to those taxes assessed, levied, and current January 1, 1938, are not paid.

So much of Chapter 72 of the 1937 Session Laws as is applicable herein, provides:

"Before filing such application with the county treasurer, the applicant shall submit the same to the county assessor of said county and said county assessor shall enter on said application in a space to be provided for that purpose, **the full and true and the assessed valuation of said automobile for the year for which said application for registration is made.**

"The applicant shall, upon the filing of said application, pay to the county treasurer the registration fee, as provided in Section 1760, Revised Codes of Montana, 1935, and shall also at such time **pay the taxes assessed against said motor vehicle for the current year of registration** (unless the same shall have been theretofore paid for said year) before the application for registration or re-registration may be accepted by the county treasurer. \* \* \*

"Motor vehicles are hereby declared to be assessable for taxation as of and on the first day of January in each year irrespective of the time fixed by law for the assessment of other classes of personal property, and irrespective of whether or not the levy and tax may be a lien upon real property within the State of Montana. \* \* \*

"Upon accepting application for registration or re-registration of any motor vehicles which is subject to taxation in this state on January 1st in any year, and upon payment of

taxes, the county treasurer shall stamp on said application: 'Taxes on this vehicle due January 1st of current year paid by applicant, prior applicant or owner and this vehicle is eligible for registration'."

The language of the act expressly provides that the assessor enter on the application the assessed valuation for the automobile for the current year for which the application was made. No duty is imposed upon that official to make any reference upon said application to previous years' taxes which are delinquent. The language of the act expressly provides that the applicant pay the current taxes before the application is accepted, or, in other words, if the current taxes are paid then the county official must register the automobile. To require that other than the current taxes assessable and levied as of January 1st be paid, is to read into Chapter 72 something not found therein. It is an elementary rule, codified in the Montana statutes, that in interpreting a statute you cannot omit that which is inserted, or insert that which is omitted. When the application is accepted, the treasurer stamps upon the application the fact that the current year's taxes, which were due January 1st, were paid. The words thus stamped upon the application clearly indicate that the intention of the legislature was to provide only for the payment of current taxes assessable and levied on the first day of January in each year, as a condition precedent to the registration of the automobile.

The method of collection of delinquent taxes upon a motor vehicle, other than the assessed tax levied January 1st of each year, is by seizure and sale, as provided for by Chapter 200 of the 1935 Revised Codes. Such delinquent taxes are collectible any time, but the county treasurer cannot require the same to be paid as a condition precedent to the registration of the automobile if the taxes assessed and levied for the current year on January 1st, are paid.