

Opinion No. 56.

Taxation — Personal Property — Redemption from tax Lien.

HELD:

1. S. B. 22 covers all taxes on personal property including personal property where the taxes thereon are a lien upon real property.
2. A taxpayer is permitted to pay or redeem personal property by paying each tax lien separately.
3. The state treasurer is permitted to seize and sell only so much property as may be necessary to pay the tax.

March 11, 1937.

Mr. J. E. McKenna
County Attorney
Lewistown, Montana

Dear Mr. McKenna:

You have asked our confirmation of your opinion dated March 5, 1937, to County Treasurer Ferrell, on three questions regarding Senate Bill No. 22.

1. Whether the Act covers all personal property including that where the tax thereupon is also a lien upon real estate.

We call your attention to our opinion to County Attorney Berg, dated March 3, 1937, in which we held that the Act covers all personal property.

2. Whether or not the taxpayer is compelled to pay the entire amount of the delinquent taxes in order to obtain the benefit of this law.

Since the tax upon personal property for each year is a separate lien upon the property, it is my opinion that a taxpayer may redeem such per-

sonal property from each tax lien by paying the original tax due thereon for each year. This would appear to be sanctioned by the statute, which reads: " * * * shall be permitted to redeem such personal property from tax lien by paying the original tax due thereon * * * ." There is nothing in the Act indicating that the legislature intended that a taxpayer must pay off all of the tax liens at once. If there is any doubt about it, we believe it should be resolved in favor of the taxpayer.

3. The question submitted to you is not clearly stated. As we understand it, the question is, how much property is the county treasurer permitted to seize and sell in order to pay the tax.

We believe this is covered by Section 3, which reads:

"Any county or city treasurer, or any other county officer having authority to seize and sell personal property for the payment of delinquent taxes, shall sell only such portion of the property seized for sale as will pay the original tax without penalty or interest."