

Opinion No. 256.

**Taxation—Personal Property—Liens—
Section 2153, R. C. M., 1935—
Chapter 97, Laws of 1937.**

HELD: A lien for personal property taxes extends to each particular item for the entire tax on all the property.

The lien of personal property taxes is not lost through a sale of the personal property.

September 10, 1940.
 Mr. Harold K. Anderson
 County Attorney
 Helena, Montana

Dear Mr. Anderson:

You have called attention to Section 2153, R. C. M., 1935, which reads:

“(a) Every tax due upon personal property is a prior lien upon the particular property assessed, which lien shall have precedence over any other lien, claim or demand upon such property, but shall not extend to any other personal property of the owner thereof, * * *”

which was amended by Chapter 97, Laws of 1937, reading,

“Every tax due upon personal property is a prior lien upon any or all of such property, which lien shall have precedence over any other lien, claim or demand upon such property, * * *”

and have asked the following questions:

“1. Does this mean that where an individual owns considerable property and it is all assessed to him, that the lien for taxes may be asserted on any particular item for the entire tax on all the property?”

“2. Does this apply to property which has come into the hands of a third person by sale? (Would the lien of the tax follow the purchaser so that the piece of property that he purchased would be liable for all the taxes assessed against the vendor, even though the tax on the particular piece of property purchased, if separate, would be a small amount?)”

In view of the change made in the wording of Section 2153 by said Chapter 97, clearly it was the intention of the legislature to have all the personal property tax lien extend to each item thereof. If this is not true, we cannot understand the change made and the use of the phrase, “any and all such property.” We think therefore that your first question must be answered in the affirmative.

Since tax liens are not extinguished, except by payment, it follows that your second question must also be answered in the affirmative. Possibly the reason

for the amendment of Section 2153 was to permit the county treasurer to seize and sell any personal property for taxes levied on any or all personal property and thus make it unnecessary for him to seize and sell any particular personal property which may have been sold to third persons. It would seem that the change, making the personal property tax a lien on each item, not only facilitated the collection of the tax but facilitated trade as well.