

Opinion No. 9

MOTOR VEHICLES; Registration; personal property taxes need not be paid to register — MOTOR VEHICLES; Sales tax — HOUSE TRAILERS—TAXATION; Delinquent taxes of motor vehicles— TAXATION; Personal Property Taxes, of motor vehicles— Sections 53-104, 53-114, 53-122, 53-615, 53-617, 84-3808, 84-6008, 84-6011, Revised Codes of Montana, 1947—Chapter 223, Laws of 1957—Chapter 103, Laws of 1959

- Held:**
- 1. Delinquent personal property taxes for prior years need not be paid as a condition of registering or reregistering a motor vehicle.**
 - 2. That personal property taxes must be paid on new house trailers and new trucks if such vehicles are in the hands of private individuals on the first day of January or in the possession of dealers on the first Monday in March, but such motor vehicles may be registered without the payment of the sales tax found in Section 53-617, R.C.M., 1947, as amended by Chapter 103, Laws of 1959.**
 - 3. Gross vehicle weight and license fees must be paid on new house trailers and trucks.**

September 30, 1959

Mr. Arthur Meyer
Powder River County Attorney
Broadus, Montana

Dear Mr. Meyer:

Your office has asked my opinion on the following questions:

Must delinquent personal property taxes for prior years be paid on a motor vehicle before it can be reregistered?

Must personal property taxes, in addition to gross vehicle weight and license fees, be paid on new house trailers and new trucks before registration?

As to your first inquiry, the law is settled in this state that an applicant for registration of a motor vehicle is not required to pay, in addition to taxes for the current year, delinquent taxes due for prior years. *State ex rel. Kleve v. Fischl et al.*, 106 Mont. 282, 77 Pac. (2d) 392.

It should be noted, however, that the fact that only the current tax is required to be paid as a condition for registration or reregistration of a motor vehicle does not mean that delinquent taxes are automatically cancelled by payment of the current tax. The delinquent tax is a lien upon the vehicle and remains as such until the tax is paid or the vehicle is sold in payment of the tax. Section 84-3808, RCM, 1947.

As to your second question, you will note that trucks and house trailers are considered motor vehicles under the provisions of our licensing and registration act. Section 53-104, RCM, 1947.

You will also note the general rule that personal property taxes may be assessed against a motor vehicle only once a year in this state. Section 53-114 (3) and (5), RCM, 1947.

Gross vehicle weight and license charges are fees, not personal property taxes, and must be paid in addition to personal property taxes. Sections 53-122 and 53-615, RCM, 1947.

Personal property taxes may be assessed against vehicles in at least three ways:

If the vehicle is new or used and in the hands of a dealer on the first Monday in March, it may be assessed as stock in trade (not as a motor vehicle) at that time. Section 53-114(5), RCM, 1947.

New or used motor vehicles in the hands of private owners on the first day of January are subject to assessment as such on that day. Section 53-114 (5), *supra*.

If the vehicle, new or used, is brought into the state by an individual, not a dealer, at any time during the year and remains here for 30 days it may be assessed on a pro-rata basis as migratory personal property. Sections 84-6008 and 84-6011, RCM, 1947.

Under the provisions of Section 53-617, RCM, 1947, as amended by Chapter 103, Laws of 1959, a sales tax is imposed upon new passenger motor vehicles which have not otherwise been assessed and not subject to assessment and taxation in Montana. It is to be observed that the sales tax is limited to new passenger motor vehicles and does not include house trailers and trucks. Under subsection 6 of Section 53-114, RCM, 1947, as last amended by Chapter 223, Laws of 1957, the sales tax is made to apply to wholly new and unused motor vehicles acquired by original contract after the first day of January. By referring to Section 53-617, RCM, 1947, this latter section was incorporated by reference and as it was last amended in 1959, the sales tax therein provided is limited to new passenger motor vehicles. As new house

trailers and trucks are not named in the sales tax law, it must be concluded that this statute has no application to such motor vehicles. It is, therefore, my opinion:

- (1) Delinquent personal property taxes for prior years need not be paid as a condition of registering or reregistering a motor vehicle.
- (2) That personal property taxes must be paid on new house trailers and new trucks if such vehicles are in the hands of private individuals on the first day of January or in the possession of dealers on the first Monday in March, but such motor vehicles may be registered without the payment of the sales tax found in Section 53-617, RCM, 1947, as amended by Chapter 103, Laws of 1959.
- (3) Gross vehicle weight and license fees must be paid on new house trailers and trucks.

Very truly yours,
FORREST H. ANDERSON
Attorney General