

CITIES AND TOWNS - Sharing of penalties collected on late taxes by government entities that levy taxes;
COUNTIES - Sharing of penalties collected on late taxes by government entities that levy taxes;
FINES - Sharing of penalties collected on late taxes by government entities that levy taxes;
LOCAL GOVERNMENT - Sharing of penalties collected on late taxes by government entities that levy taxes;
MUNICIPAL GOVERNMENT - Sharing of penalties collected on late taxes by government entities that levy taxes;
PROPERTY, REAL - Sharing of penalties collected on late taxes by government entities that levy taxes;
REVENUE, DEPARTMENT OF - Sharing of penalties collected on late taxes by government entities that levy taxes;
SCHOOL DISTRICTS - Sharing of penalties collected on late taxes by government entities that levy taxes;
TAXATION AND REVENUE - Sharing of penalties collected on late taxes by government entities that levy taxes.

HELD: School districts, cities, and other government entities authorized to levy taxes are entitled to a pro rata share of the penalties collected on delinquent property taxes by the county treasurer.

27 August 1985

Patrick L. Paul
Cascade County Attorney
Cascade County Courthouse
Great Falls MT 59401

Dear Mr. Paul:

Your predecessor requested my opinion on the following question:

Should "penalty funds" collected on delinquent property taxes be distributed to school districts, cities, and other government entities authorized to levy taxes, or should the "penalty funds" be retained by the county treasurer?

The Montana Supreme Court resolved a question similar to this in School District No. 12 v. Pondera County, 89 Mont. 342, 297 P. 498 (1931). In Pondera, the county collected large sums of money in interest and penalties, but deposited it all in the county general fund. A school district sued, arguing that it deserved a pro rata share of the revenue. The Montana Supreme Court held that unless statute provides otherwise, interest, penalties, and costs collected on delinquent taxes follow the tax; therefore, the school district was entitled to a pro rata share of the revenue earned from penalties, interest, and costs. 89 Mont. at 347, 297 P. at 500. See also Misle v. Miller, 125 N.W.2d 512, 516 (Neb. 1963); Riverton Valley Drainage District v. Board of County Commissioners of Fremont County, 74 P.2d 871, 873 (Wyo. 1937); 16 McQuillin, Municipal Corporations § 44.130 (3d ed. 1984); 85 C.J.S. Taxation § 1064 (1954); cf. § 15-18-108, MCA (redemption proceeds are distributed to state, county, city, etc., in the ratio of their respective shares of the original tax).

THEREFORE, IT IS MY OPINION:

School districts, cities, and other government entities authorized to levy taxes are entitled to a pro rata share of the penalties collected on delinquent property taxes by the county treasurer.

Very truly yours,

MIKE GREELY
Attorney General