

Opinion No. 63-94

August 7, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Jesse D. Kornegay Chief Tax Commissioner State Tax Commission Santa Fe, New Mexico

QUESTION

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Under Sections 72-7-4 and 72-7-32, when property, real or personal, is sold for delinquent taxes, what remittances should the county treasurer make to the state treasurer for credit to the State Tax Commission?

CONCLUSION

In the case of either real or personal property, the remittance should be as follows: 10 percent of the delinquent taxes, interest and penalty, plus one-half of the costs.

OPINION

{*205} ANALYSIS

The two statutes involved in this inquiry are Sections 72-7-4 and 72-7-32, N.M.S.A., 1953 Compilation. The former is the earlier enactment in point of time and provides that when property is sold due to a tax delinquency, at the date of the sale the county treasurer is to add to the tax delinquency figure the sum of 2 percent of such delinquency as costs. One-half of such costs are to be remitted by the county treasurer to the state treasurer for credit to the state tax Commission; the other one-half is placed in a county fund from which the costs of the sale are paid. This Section goes on to provide that in addition to the above, the county treasurer shall remit to the State Tax Commission an amount equal to one-third of the interest collected on the delinquency.

Section 72-7-32, N.M.S.A., 1953 Compilation, is the later enactment and thus it controls to the extent of any irreconcilable conflict between it and Section 72-7-4, supra. Section 72-7-32, supra, provides that "10 percent of **all** delinquent taxes, interest and penalty collected after the time when the state tax commission acquires jurisdiction to make collection of delinquent taxes, when collected shall be by the county treasurer paid to the state treasurer . . . (and) covered into the state tax commission fund."

In our opinion this Section applies to **all** delinquent taxes, whether on real or personal property, just as it specifically states. The only conflict between the two statutes in

question is on the matter of interest, and Section 72-7-32, being the later enactment, is controlling.

Thus the answer to your question is that when property, **either real or personal**, is sold for delinquent taxes, the following amounts, when collected, are to be remitted to the state treasurer for credit to the state tax commission:

(a) One-half of the two percent **costs** which are added to the delinquent tax figure pursuant to Section 72-7-4, supra, and

(b) Ten percent of the delinquent **taxes, interest** and **{*206} penalty** as provided in Section 72-7-32, supra.

To the extent of the conflict between Opinion No. 6306 (1955) and this opinion, this opinion is to be deemed controlling.

By: Oliver E. Payne

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