

Opinion No. 21-2827

February 14, 1921

BY: HARRY S BOWMAN, Attorney General

TO: Mr. E. S. Whitehead, Attorney at Law, Aztec, New Mexico.

Tax Lien Upon Property as Between Vendor and Purchaser.

OPINION

{*25} I have your letter of the 8th instant asking for my construction upon the last part of Section 5482, Code 1915, in so far as the same applies to the tax lien upon real estate as between vendor and purchaser.

The case stated in your letter wherein the property was sold in January, 1921, presents a situation where, according to the statute above mentioned, the vendor is required to pay only that part of the tax which was delinquent December 1st, 1920, and the second half of the tax for that year must be paid by the purchaser, provided, of course, that there was no agreement between them involving the payment of the taxes upon the property.

While the statute provides an unfair division of the taxes, in my opinion, it is plainly worded and can admit of no other construction than that placed upon it above. It permits the vendor the use and benefits of the property for the entire year but compels the purchaser to pay one half of the taxes for the same period.

{*26} In my opinion, the act should be amended so as to compel the vendor to pay the tax for the proportionate part of the year for which he has received the benefits from ownership of the property.