

OPINION
53-108

September 28, 1953 (OPINION)

TAXATION

RE: Cancellation When Property Acquired by City

You have requested our opinion with reference to the question of abatement of delinquent real estate taxes on property recently purchased by the City of Dickinson for street purposes.

Our Supreme Court in the case of State v. Towner County, 68 N.D. 629, 283 N.W. 63, has decided that where property is purchased by the state, all outstanding and unpaid taxes against such property are cancelled.

Moreover, the general rule appears to be as stated in 158 A.L.R. at page 505 that "the acquisition of the title to land by a state or other governmental body acts to extinguish prior tax liens against the property." Only one state, California, opposes this general rule as applied to cities.

Most states make no distinction whatsoever and apply the rule without regard to the nature of the governmental unit. we are inclined to this view and especially for the reason that the New Mexico court in the case of State v. Locke, 219 Pac. 790, followed by our court in State v. Towner County, supra, cites with approval from jurisdictions applying the general rule without regard to the nature of the governmental unit. For example, in Laurel v. Weems, 100 Miss. 335, 56 So. 451, cited in State v. Locke, supra, it is stated:

"In the case of a municipality, a governmental agency of the state, and itself maintained by taxation, and presumed by law to be exempt from taxation, it cannot be supposed that the Legislature intended that any further steps should be taken looking to the enforcement of the state's lien for taxes against property acquired by one of its own governmental agents, after the property is purchased by such agent. Such proceedings would not aid the effectuation of any governmental purpose, but would impair it."

It is our opinion, therefore, that taxes outstanding against property acquired by the City of Dickinson should be cancelled. Real property taxes not being a personal obligation, they furthermore may not be collected from the prior owner and are therefore lost as to the county.

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