

OPINION
53-113

December 9, 1953 (OPINION)

TAXATION

RE: Lien for Personal Property Tax

This office is in receipt of your request of December 2, 1953, asking for an opinion relative to the interpretation to be given section 57-2221 of the North Dakota Revised Code of 1943 and in connection therewith you ask the following questions:

1. Can the board of county commissioners select, at their discretion, the particular tract of land owned by the tax debtor, against which the delinquent personal property tax is to be extended on.

It is the opinion of this office that the board of county commissioners at their January meeting in each year shall declare, by resolution, that all unpaid and uncanceled personal property taxes shall constitute a lien on particular descriptions of real property owned by the tax debtor as of the date of the extension of such entry. Section 57-2222 lends strength to the fact that the county commissioners must designate the particular land by the following wording: "The lands to be sold for personal property taxes entered and extended thereon shall be designated by resolution of the board of county commissioners." These provisions clearly restrict and limit the lien to the specific real property designated in the resolution authorized by section 57-2221.

2. Can the board of county commissioners, for an example, extend delinquent personal property taxes for the years 1950, 1951 and 1952 against real estate contained in the 1953 tax list at their January 1954 board meeting.

It is the opinion of this office that the board of county commissioners have a right to enter such personal property taxes for the years 1950, 1951, and 1952 against the real estate contained in the 1953 tax list.

3. Can the board of county commissioners extend delinquent personal property taxes against land acquired by the tax debtor on a contract for deed; for an example land bought from Sioux county or from the State of North Dakota.

The answer to the above question is not too clear, but section 57-2221 does refer to particular descriptions of real property owned by the tax debtor or which he thereafter may acquire. If the tax debtor has obtained possession of land by virtue of a contract for deed, it is our opinion that such taxes may be extended against said real estate. If it should develop that such contract owner may later be deprived of said land by foreclosure, it is our further thought that such personal property taxes thus extended may be cancelled by the abatement of the former owner.

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Attorney General