

**OPINION
61-250**

February 1, 1961 (OPINION)

TAXATION

RE: Real and Personal Property Taxes - Interest and Penalties

This office acknowledges receipt of your letter of January 30, 1961, in which you request our interpretation of section 57-20-10 of the North Dakota Century Code. Your inquiry reads as follows:

I have been requested by our County Auditor to obtain your interpretation of the above-captioned statute. We are particularly concerned with the portion of the statute dealing with the 6 percent per annum rate on personal property.

By way of illustration, assuming that 1959 personal property taxes in the amount of \$100.00 is paid during the month of January, 1961, what would be the total amount of principal and interest and penalties owing?"

Section 57-20-01 reads as follows:

REAL AND PERSONAL PROPERTY TAXES - WHEN DUE AND DELINQUENT - PENALTIES. All real and personal property taxes, hail insurances taxes, and yearly installments of special assessment taxes shall become due on the first day of January following the year for which such taxes were levied. The first installment of real estate taxes, all personal property taxes, hail insurance taxes, and yearly installments of special taxes shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of one percent, and on May first following an additional penalty of one percent, and on July first following an additional penalty of one percent, and an additional penalty of two percent on October fifteenth following. From and after January first of the year following the year in which the taxes became due and payable, simple interest at the rate of six percent per annum upon the principal of the unpaid taxes on personal property shall be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency. The second installment of real estate taxes shall become delinquent on October fifteenth, and, if not paid on or before that date shall become subject to a penalty of two percent."

As to the penalties which would accrue on the \$100.00 figure that you mention for purpose illustration, it is clear that the total penalty on the 1959 personal property taxes on and after January 1, 1961, would be \$5.00, that is, one percent March 1, one percent May 1, one percent July 1, and 2 percent October 15.

The above-quoted section states that: "From and after January first of the year following the year in which the taxes become due and payable, simple interest at the rate of six percent per annum upon the principal of the unpaid taxes on personal property shall be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency." (Emphasis supplied).

We interpret this last clause to mean that if the taxes are paid on or before January 15, 1961, that no interest would be charged. If paid on January 16 and before February 15 interest for one month, or 50 cents, would be collected. If paid after February 15 and on or before March 15, \$1.00 in interest would have to be paid by the taxpayer and so on. Of course, the \$5.00 penalty fee would be collected, but no interest would be charged on that.

We arrive at the figures above-quoted because we understand that it is an accepted and established practice to compute interest in this manner and it is a convenient method of bookkeeping. To break the computation down to days would be troublesome and time-wasting unless you had an interest table at your disposal.

LESLIE R. BURGUM
Attorney General