

**OPINION
70-478**

February 18, 1970 (OPINION)

Mr. William W. Eichhorst
State's Attorney
Billings County

RE: Taxation - Real Estate Taxes - Discount

This is in reply to your letter of February 14, 1970, relative to section 57-20-09 of the North Dakota Century Code. You state the following facts and questions:

I note that this section reads in part 'The county treasurer shall allow a five per cent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real estate in any one year in full on or before February fifteenth prior to the date of delinquency'

We have a problem here, in that a taxpayer made a partial payment in January on a certain tract of land, and did not receive a discount at that time; then prior to February fifteenth, he paid the balance due on this parcel of land, and demands the discount on the whole payment. His basis is that he made payment prior to the fifteenth of February of all real estate taxes on this parcel of land.

This section does not specify whether payments can be made in several payments, and prior to the fifteenth of February, and still allow the discount. We feel that he is not entitled to this discount for the reason that he did not pay the taxes in full at one time. There is no way that the treasurer can foretell if he will make payment of the balance prior to the fifteenth of February."

Section 57-20-09 of the North Dakota Century Code provides as follows:

DISCOUNT FOR EARLY PAYMENT OF TAX. The county treasurer shall allow a five per cent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount shall apply to all general real estate taxes levied for state, county, city, township, village, school district, park district purposes, but shall not apply to personal property taxes, special assessment installments, or hail indemnity taxes. Whenever the county commissioners, by resolution, determine that an emergency exists in any county by virtue of weather or other catastrophe they may extend the discount period for an additional thirty days."

The above statute only requires that the taxes be paid in full on or before February fifteenth prior to the date of delinquency. While the first payment may not have been payment in full, nevertheless the

taxes were, in fact, paid in full prior to that date. It would appear to us that the requirements of the statute have been met and the taxpayer would be allowed the discount under such circumstances. There is no question but the discount cannot be allowed at the time of the first partial payment even though the taxpayer states he will pay the remainder of the taxes before the fifteenth of February. However, if the taxpayer does, in fact, pay the remainder in full before that date, it would appear the discount should be allowed at the time of the last payment. We cannot read the statute to require payment in full at one time before the fifteenth of February.

We realize this method may cause more work for the county officials. However, in view of the wording of the statute, we believe the taxpayer is entitled, as a matter of law, to the discount if he does, in fact, pay the taxes in full prior to the fifteenth of February even though such payment may be made in one or more installments.

HELGI JOHANNESON

Attorney General