

VOLUME NO. 43

OPINION NO. 4

COUNTIES - Whether special tax levies for rural fire district are for "county ... purposes" under section 61-3-509(1);  
 FIRE DISTRICTS - Whether rural fire district is entitled to proportional distribution of vehicle-related taxes under section 61-3-509(1);  
 MOTOR VEHICLES - Whether rural fire district is entitled to proportional distribution of vehicle-related taxes under section 61-3-509(1);  
 PROPERTY, PERSONAL - Whether rural fire district is entitled to proportional distribution of vehicle-related taxes under section 61-3-509(1);  
 TAXATION AND REVENUE - Whether rural fire district is entitled to proportional distribution of vehicle-related taxes under section 61-3-509(1);  
 MONTANA CODE ANNOTATED - Sections 7-33-2104, 7-33-2105, 7-33-2109, 15-10-401 to 15-10-412, 61-3-303, 61-3-504, 61-3-509, 61-3-521, 61-3-537;  
 MONTANA LAWS OF 1987 - Chapter 654;  
 OPINIONS OF THE ATTORNEY GENERAL - 42 Op. Att'y Gen. No. 109 (1988), 42 Op. Att'y Gen. No. 80 (1988), 41 Op. Att'y Gen. No. 91 (1986), 41 Op. Att'y Gen. No. 26 (1985), 39 Op. Att'y Gen. No. 5 (1981).

HELD: Section 61-3-509(1), MCA, requires the vehicle-related taxes referred to therein to be distributed proportionately to rural fire districts on the basis of all mill levies applicable to personal property located within the geographical boundaries of such districts. For distribution-entitlement purposes, the residence or assignment address appearing on the certificate of registration controls.

February 13, 1989

Mike Salvagni  
 Gallatin County Attorney  
 Law and Justice Center  
 615 South 16th Street  
 Bozeman MT 59715

Dear Mr. Salvagni:

You have requested my opinion concerning the following question:

Is a rural fire district, for which a special tax levy has been imposed under section 7-33-2109, MCA, entitled to a "relative proportion" of those vehicle-related taxes distributed under section 61-3-509(1), MCA, and, if so, how is that proportion determined?

I conclude that section 61-3-509(1), MCA, refers to all levies applicable to personal property and imposed by a county at the request of a rural fire district. I further conclude that distributions under section 61-3-509(1), MCA,

must be made with reference to the ratio of the rural fire district's mill levy to the total of all levies applicable to personal property within its geographical boundaries and that the locus of a vehicle for distribution-entitlement purposes is the residence or assignment address shown on the certificate of registration.

The Belgrade Rural Fire District has been established under section 7-33-2104(2), MCA, and operates through a board of trustees. Section 7-33-2105(3), MCA, authorizes the board to "prepare annual budgets and request special levies" under section 7-33-2109, MCA. The latter section states that, "[a]t the time of the annual levy of taxes, the board of county commissioners may levy a special tax upon all property within [the rural fire] district[]" for maintaining the district and that "[s]uch tax must be collected as are other taxes." Where a rural fire district has been created, it constitutes the relevant "taxing unit" for purposes of Initiative No. 105 and 1987 Montana Laws, chapter 654 (codified in §§ 15-10-401 to 412, MCA), and the term "property" in section 7-33-2109, MCA, includes both real and personal property. 42 Op. Att'y Gen. No. 80 (1988), 42 Op. Att'y Gen. No. 109 (1988). The board of county commissioners thus acts ministerially in levying a special tax under section 7-33-2109, MCA, which has been determined by a rural fire district's board of trustees. See 41 Op. Att'y Gen. No. 91 at 392 (1986), 39 Op. Att'y Gen. No. 5 at 22 (1981).

Section 61-3-509(1), MCA, provides for the distribution of vehicle-related taxes collected under sections 61-3-504, 61-3-521, and 61-3-537, MCA. It requires such taxes to be placed into a "motor vehicle suspense fund" and periodically to be distributed "in the relative proportions required by the levies for the state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed." Section 61-3-509(1), MCA, has been construed to mandate distribution of the involved vehicle taxes identically to personal property taxes (41 Op. Att'y Gen. No. 26 at 90 (1985)), and the section thus effectively makes the vehicle taxes a form of personal property tax. The only logical conclusion which may be drawn from section 61-3-509(1), MCA, as interpreted in 41 Op. Att'y Gen. No. 26, is that those entities which are entitled to share in personal property taxes are also entitled to a similarly proportionate share of the vehicle taxes subject to such provision.

This conclusion is supported by the plain language of section 61-3-509(1), MCA. Although the special tax levy here was for a taxing jurisdiction other than the county itself, the services provided by a rural fire district may fairly be said to relate to "county ... purposes." Not only is a rural fire district initially established by the board of county commissioners after petition by affected residents, but it is also a principal instrument through which a county may supply rural fire protection to its residents. 42 Op. Att'y Gen. No. 109. Only an extremely narrow application of section 61-3-509(1), MCA, would support limiting the levies referred to therein to those imposed by a county on its own behalf as a taxing jurisdiction.

You have also inquired concerning how the appropriate proportion should be calculated if rural fire districts are entitled to distributions under section 61-3-509(1), MCA. That calculation requires computing the ratio of the rural fire district's mill levy to the total of those mill levies applicable to personal property in the district. Whether a particular vehicle is within a district's boundaries for distribution-entitlement purposes must be decided with reference to the residence or assignment address appearing on the certificate of registration. See § 61-3-303(1), MCA.

THEREFORE, IT IS MY OPINION:

Section 61-3-509(1), MCA, requires the vehicle-related taxes referred to therein to be distributed proportionately to rural fire districts on the basis of all mill levies applicable to personal property located within the geographical boundaries of such districts. For distribution-entitlement purposes, the residence or assignment address appearing on the certificate of registration controls.

Sincerely,

MARC RACICOT  
Attorney General