

**County Assessor—Must Assess Lands According to Their Classification.**

The County Assessor has no authority to change the classification of land made under direction of the Board of County Commissioners, but he has the authority to fix the valuation upon the land as classified, subject to review by the County Board of Equalization.

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My dear Mr. Baker:

You have inquired whether, when land has been classified under Chapter 89 of the Laws of 1919, or under the same as amended by Chapter 239 of the Laws of 1921, the Assessor has any authority to assess the lands at a valuation different from that given in connection with the classification made under direction of the Board of County Commissioners.

Chapter 89 and 239, *supra*, in stating the purpose of the Act, contain the following language:

“Section 1. It is hereby made the duty of the State Board of Equalization to provide for a general and uniform method of classifying lands, for the purpose for which they

may be valuable, in the State of Montana for the purpose of securing an equitable and uniform basis of assessment of said lands for taxable purposes."

Section 2 provides that the County Commissioners shall have such classification made.

Sections 6 and 7, which are identical in Chapters 89 and 239, read as follows:

"Section 6. The Classification herein provided shall be full, complete and accurate, and shall be used as the basis upon which land values shall be fixed for purpose of assessment and taxation.

"Section 7. It shall be the duty of the County Assessor to assess all lands for taxation purposes in accordance with the classification, as made by the Board of County Commissioners."

Section 8 provides for reclassification by the Board of County Commissioners if land is erroneously classified.

In *Missouri River Power Co. v. Steele*, 32 Mont. 433, it was held that the Legislature could provide for a "board of appraisers whose duty it shall be to fix valuation of real estate in the county for the purpose of assessment by the county assessor, which valuation so fixed by said board of appraisers shall constitute the value or 'true value' of such real estate." And in *State v. Board of Equalization*, 56 Mont. 413, 443, the following language appears:

"It is also contended that the Act in question is invalid because it denies to the taxpayer the right to have his property assessed by the local assessing officer, as well as the right to have the valuation put thereon reviewed by the county board of equalization. This contention cannot be sustained. It is not a right of the taxpayer to have his assessment made, in the first instance, by any particular officer, or to have it equalized by any particular board. (*Missouri River Power Co. v. Steele*, above; *Ames v. People*, 26 Colo. 83, 56 Pac. 856.) So long as the principles of uniformity and just valuation are observed, his rights are not invaded."

The provisions of Chapter 239, therefore, are not invalid as taking from the Assessor or from taxpayers, any constitutional right with respect to who shall make the assessment of property.

It should be noted that Chapter 239 makes no provision for placing a valuation upon the lands, but merely provides for classification, according to their character, into agricultural lands, irrigated lands, grazing lands, etc., "for the purpose of securing an equitable and uniform basis of assessment, \* \* \*". If the classifier has included a money valuation, such is outside the requirements of the statute and is of no effect except as the Assessor may choose to consider it as advisory when he makes the assessment.

The Assessor is required by Sections 6 and 7, supra, however, to assess the land as agricultural, irrigated, etc., as the case may be, according to the classification as made, and place the valuation upon it as such land. This is for his guidance and assistance as providing him information regarding the acreage of lands of the various classes, and does not purport to fix valuations, but fixes the class of the land, outside of which the Assessor, for the purpose of securing uniformity, is not permitted to assess it. The classification as made under the Board of County Commissioners is presumptively correct, and is to be accepted by the Assessor as a basis upon which he shall fix its value. If changes could be made at will by the Assessor the statute would be rendered nugatory.

Section 8 of the Act, however, makes provision for reclassification by the Board of County Commissioners, sitting as a Board of Equalization, in cases of erroneous classification, which section reads as follows:

"It shall be the duty of the Board of County Commissioners to cause to be mailed by registered mail, return card requested to each owner a notice of the classification of the land owned by him. If the owner of any land is dissatisfied with the classification of his land, the Board of County Commissioners shall make such investigation as they deem necessary to determine the true and correct classification of such land and when so determined, the same shall be classified in the manner ordered by the Board of Commissioners."

It has been held by this office, in an opinion rendered to the Board of County Commissioners of Sheridan County, "that at any meeting of the Board of County Commissioners, sitting as a Board of Equalization, it may reclassify any land that has an incorrect classification, either upon its own initiative or upon protest by the land owner and appropriate proceedings for hearing and investigating the same." This provision having been inserted in the law, the intention is indicated that the Board of County Commissioners should correct the errors in classification, to the exclusion of the authority of the Assessor to do so, and that matters of erroneous classification, including those discovered by the Assessor, should be brought before that body for determination. As stated, however, this refers to the classification of lands and not to assessing it, the matter of placing the valuation upon it as classified still being the duty of the Assessor.

It is, therefore, my opinion that the Assessor has no authority to reclassify lands, classified under direction of the Board of County Commissioners, but that such is the province of the Board of County Commissioners, sitting as a Board of Equalization, but that the valua-

tion thereof as classified is within the province of the Assessor, subject to review and correction by the Board of County Commissioners, sitting as a Board of Equalization, after the valuations given by the Assessor as aforesaid have been included in the assessment roll.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.