

**Bond Issues—School Districts.**

Assessed valuation rather than the taxable valuation should be the basis of determining the limitations of bond issues of school districts. The expressions "value of taxable property" and "assessed valuation," as determined by our Supreme Court, mean the same thing.

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County Attorney,  
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My dear Mr. Husband:

I am in receipt of your letter asking for my interpretation of the term "taxable property" as set forth in Section 1003, Revised Codes of 1907, providing for the issuance of coupon bonds by school trustees in an amount "not to exceed three per cent of the taxable property in said district."

You inquire specifically whether the Board of School Trustees of Judith Gap are authorized to issue bonds on the basis of \$1,744,504, the assessed valuation, or \$523,351, the taxable valuation.

The Supreme Court of Montana in *Hilger v. Moore*, 56 Mont. 165, defined the terms "assessment" and "taxation" as follows:

"Assessment was the process by which persons subject to taxation were listed, their property described, and its *value ascertained* and stated. Taxation consisted in determining the rate of the levy and imposing it."

Almost the exact question you have raised was decided in the case of *State ex rel. Galles v. Board of County Commissioners*, 56 Mont. 387. The court in this case held:

“At the time the Constitution was drafted, the statute provided that all taxable property should be assessed at its full cash value (sec. 1673, Fifth Div. Comp. Stats. 1887), and the same statute has been in force continuously since (sec. 2502, Rev. Codes). In view of this declaration of the public policy of the state, the language of the Constitution above must be construed to mean that the limit of county indebtedness is five per cent of the value of the taxable property as that value is disclosed by the assessment-roll; and since the only value which appears on the assessment-roll is the value fixed by the county assessor as equalized by the county and state boards of equalization—that is, the full cash value—the expressions ‘value of taxable property’ and ‘assessed valuation’ mean the same thing. \* \* \*

“Under the provisions of the Constitution above, the limit of indebtedness is computed upon the assessed valuation as disclosed by the last assessment-roll, and not upon the percentage of value upon which taxes are computed. The language is too plain to admit of doubt or to require the citation of authorities to support the conclusion; but, under like constitutional provisions, the same rule of construction has been applied in other states.”

The above decisions make it clear that “three per cent of the taxable property,” in the law quoted by you, means three per cent of the assessed valuation, and that the assessed valuation is the proper basis for computing the maximum amount of bonds that the district may issue.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.