

**Road Tax Levy—Whether General or Special Tax.**

The road tax levy authorized by Section 1617 of the Revised Codes of 1921 held to be a general and not a special tax.

L. Q. Skelton, Esq.,  
State Examiner,  
Helena, Montana.

My dear Mr. Skelton:

You have requested this office to advise you whether the tax authorized to be levied under the provisions of Section 1617, Revised Codes of 1921, is a special tax.

This section provides as follows:

“For the purpose of raising revenue for the construction, maintenance, and improvement of public highways, the board of county commissioners of each county in this state shall

annually levy and cause to be collected a general tax upon the taxable property in the county of not less than two mills, and not more than five mills on the dollar, which shall be payable to the county treasurer with other general taxes. There is also established a general road tax of two dollars per annum on each male person over the age of twenty-one years, and under the age of fifty years, inhabitant within the county, and payable by each person liable therefor at any time within the year. The collection of these taxes shall be under the direction of the board of county commissioners; taxes from freeholders to be collected the same as other taxes, and from non-freeholders as commissioners may direct; provided, that the foregoing provisions of this section shall not apply to incorporated cities and towns which, by ordinance, provide for the levy and collection of a like general tax and a like special tax within such cities and towns for road, street, and alley purposes. All moneys collected under the provisions of this act shall belong to the general road fund of the county."

A general tax is defined to be one laid on all the property, or on all the property of a certain class located within a specified territory, for the purpose of defraying the public expenses of that territory. (26 R. C. L., Sec. 22.)

It is apparent that this tax is levied upon all of the property of the county, and it is my opinion that the same is a general tax.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.