

Taxation, Personal Property Temporarily in County. Assessment, Personal Property Temporarily in County.

Personal property brought into a county for use on a railroad grade by a resident of another county in the State is subject to taxation in the county of such person's residence. If brought into a county by a non-resident of the State, with intention of taking it out again when through, it would be subject to taxation in whatsoever county it was being used, or was found, on the first Monday of March.

Helena, Montana, Dec. 19, 1907.

Hon. Roy E. Ayres,
County Attorney,
Lewistown, Montana.

Dear Sir:—

Your letter of the 11th inst., received, in which you request an opinion upon the following subject:

“In case mules and horses are brought into the county to do specific work, then to be removed, are they taxable? The matter I have in reference is where these contracting firms bring in horses, etc. to build a line of railroad with the intention of removing them as soon as it is completed.”

If the horses, mules and other personal property are brought into your county from some other county in the state for temporary purposes such as working on a railroad grade, and are to be removed from such county when such work is completed, in our opinion they are

taxable in the county in which their owner resides, and to which they return when the temporary work is completed.

In the case of Flowerree Cattle Co. vs. Lewis and Clark County, 81 Pac. 399, the court referred to the fact that under Section 3711, Political Code, the property of firms and corporations must be assessed in the county in which the property is situated and that under Sec. 3720 livestock belonging to a permanent resident of the state must be assessed in the county in which the person owning same resides, except in cases where such live stock run at large in a county other than the one in which such owner resides, when it must be listed and assessed in such county. And, after referring to other exceptions provided for in the statute, such as merchants, gas companies, etc. the court stated the general rule as follows:

“We are firmly of the opinion that the idea running through our assessment laws is that property shall be assessed in its home county, for to that county it owes the duty of helping to bear the burden of county government.”

Of course, if the person owning the personal property used in the building of a railroad, or temporarily used in any other way in your county, is not a permanent resident of any county in the State of Montana, then, in our opinion his personal property would be subject to taxation in whatsoever county it would be found in the State of Montana on the first Monday of March. But, if as stated above, the said property being temporarily used in your county belongs to a permanent resident of another county in the state, then, in our opinion, it is the duty of the assessor to require such property to be so listed as provided in Subdivision 4 of Section 3701 of the Political Code, and to thereupon immediately make a copy of such statement and send it to the county assessor of the county in which the owner of such property resides as provided in Section 3708 of the same Code.

Very truly yours,

ALBERT J. GALEN,

Attorney General.