

Taxation, Assessment of Mining Machinery and Buildings.

Mining machinery and buildings situated on a mining claim may be assessed and taxed for their actual value, independent of the mining property itself.

Helena, Montana, July 29, 1909.

Board of County Commissioners,
Helena, Montana.

Gentlemen:

I am in receipt of your request for an opinion on the petitions of the

Bald Butte Mining Company and the Piegan-Gloster Mining Company. submitted to your board sitting as a board of equalization, asking you to strike from the assessment roll the improvements of said petitioners situated upon their mining claims in your county, said petitioners claiming that said improvements, being upon mining property, do not possess any value separate and independent from such mines and are not subject to taxation under the authority of *Hale v. Jefferson County*, 101 Pac. 973.

In our opinion the decision in the case of *Hale v. Jefferson county* does not support the contention of petitioners in the present case. If the board of equalization finds that these companies have mining machinery, buildings, or other improvements situated upon these mining claims, then it is for the board to determine what is the actual value of the same separate and independent of its use in connection with such mines. The board, if it is not sufficiently informed as to the character and present condition of this machinery and other improvements, may take testimony relating thereto, and may examine the agents of these companies for that purpose. Then, it is for the board to say what value such machinery and improvements have, independent of their use on these mining claims, and the property is subject to taxation upon such valuation.

The fact that the mines may not be in operation at the present would not necessarily destroy all the value of the machinery and improvements situated thereon, and they would still be liable for assessment at their actual value the same as similar machinery held by a merchant in stock and which was not being actually used for any purpose.

The board of equalization in its minutes should fix the actual value of all machinery and other improvements, independent of its use on the mining claims.

I herewith return to you the petitions filed by said companies, together with the letter of Mr. J. A. Walsh.

Yours very truly,

ALBERT J. GALEN,

Attorney General.