

**Taxation, Assessment of Property Which Has Escaped.  
Statute of Limitations, Applicable to Collection of Taxes on  
Property Which Escaped Taxation.**

Under the provisions of Section 2542 of the Revised Codes of 1907, any property discovered by the assessor to have escaped assessment may be assessed at any time if such property is in the ownership or under the control of the person who owned and controlled it at the time it should be assessed. However, in making such assessment the assessor cannot go back for a

period longer than two years because of the operation of the bar of the statute of limitations.

August 16, 1910.

W. S. Towner, Esq.,  
County Attorney,  
Chouteau, Montana.

Dear Sir:—

I received your favor of the 11th inst., asking my opinion with reference to the construction of section 2542 revised codes of Montana, relating to property which has escaped assessment and taxation. I have carefully examined Section 2542, have investigated its history, and have also made comparison of its provisions with those of Section 3649 of Kerr's Cyclopedic code of California, as by you suggested.

The California statute on this subject differs from our own in that it is applicable only to property which escaped assessment the "preceding year," and provision is made therein that in such instances, the provision is made therein that in such instances, the property shall be assessed for double its value. As you will see from the notes contained in Kerr's Cyclopedic code following the California statute on the subject, the statute has frequently been construed and its constitutionality upheld. Our statute seems plain upon the subject and I can only advise you in accordance with the terms thereof, to-wit:

"Any property discovered by the assessors to have escaped assessment, may be assessed at any time, if such property is in the ownership or under the control of the same person who owned and controlled it at the time it should have been assessed."

This is a very general statute, broad in its terms, and easy of application, but the question arises, how far back may the assessor go in the application of this statute?

In my opinion, he cannot collect any taxes which have become barred by the statute of limitation, which would be two years from the date they became delinquent, under the provision of Section 6453 of the revised codes of 1907. See Board vs. Story, 26 Montana 520, 69 Pacific 57. See also opinions of attorney general 1905-6, page 46 and opinions of attorney general 1906-8, page 23.

Yours very truly,

ALBERT J. GALEN,  
Attorney General