

**Taxation, Range Stock. Assessment, Stock Ranging in Two Districts. Range Stock, Assessment for Taxation. School Districts, Assessment Range Stock In. Liquor License. Wholesale Liquor License.**

Sheep ranging in two or more school districts in the same county should be assessed for taxation in the district where the home ranch is located.

There is no law of this State authorizing the County Treasurer to issue a wholesale liquor license for the conduct of a saloon.

Helena, Mont., July 20, 1911.

Hon. J. A. Knight,  
County Attorney,  
Virginia City, Mont.

Dear Sir:

I am in receipt of your letter of the 14th inst. submitting certain questions for the consideration of this office, to-wit:

1. A band of sheep ranges in two districts A and B. The home ranch is in district B where the sheep are fed during a portion of the winter. In which district should the sheep be listed for taxation?
2. A band of sheep ranges during the greater part of the year in school districts designated as A and B, but the home ranch where the sheep are fed during a part of the year is in district C. In which district should the sheep be listed for taxation?
3. Is there any law in this state authorizing a county treasurer to issue a wholesale liquor license?

We will consider these questions in their order: Chapter 125, page 176, Laws of 1909, as you suggest in your letter is an act which relates wholly to questions arising between counties and does not apply to assessments as between school districts in the same county. The only other law we have on the subject is Sec. 2530, Revised Codes, which in the first paragraph provides that live stock "must not be listed or assessed \* \* \* \* \* until it arrives in the county where the person owning the same resides and must be listed and assessed in such county." The concluding clause of this section also relates to questions arising between counties relative to assessments. We therefore have no law in this state specifically providing for the division of taxes as between districts obtained from assessments of stock which ranges in two or more school districts. The general law on the subject of course, is that personal property should be taxed at the home of the owner.

37 Cyc 952.

The supreme court in Flowerree Cattle Co., vs. Lewis and Clark Co., 33 Mont. 32, uses this language:

"And likewise if the property be range stock its home is its accustomed range."

but this was an action between counties. The court however, in that case seems to hold to the doctrine that the stock should be assessed at the place of its home rather than at the place where the owner resides and the home of range stock for assessment purposes as between school districts in the same county may be generally defined as the place within the county to which the stock is returned when not being grazed.

I am, therefore, of the opinion that these sheep should be assessed in the district where the home ranch is situated, and where the sheep are taken care of during the winter season. In answer to the first question, the sheep should be assessed in district B and in answer to the second question the sheep should be assessed in district C.

In reply to your third question, your conclusion is also correct that we have no law in this state authorizing county treasurers to issue a wholesale liquor license. This term is used in Chapter 92 Laws of 1911 but no power is therein granted which authorizes the county treasurer to issue such a license. The county commissioners were therefore correct in refusing to issue the license referred to.

Vry truly yours,

ALBERT J. GALEN,

Attorney General.