

**Banking Corporations, Taxation of Shares in. Basis Upon Which Value Is Found.**

Property outside of state, basis upon which shares in state banks are taxed.

May 7th, 1913.

Hon. G. M. Houtz,  
State Tax Commissioner,  
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of the letter of James B. Innes, assessor of Teton County, Montana, asking for an explanation of the language in my opinion of April 24th, 1913, relating to the assessment of banking corporations.

The whole difficulty seems to arise from a misunderstanding as to what the term "personal property" includes. Apparently your correspondent has considered that it covers only such things as office equipment and furniture. He gives as an example a bank with a capital and surplus totaling fifty thousand dollars, with real and personal property amounting to twenty thousand dollars, and asks how the difference between the sum of fifty thousand dollars and twenty thousand dollars should be taxed. He assumes that this difference of thirty thousand dollars should be taxed to the shareholders.

This thirty thousand dollars which he speaks of, if it is "Money, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership,"

Within the state, comes under the provisions of Sec. 7 of Art. XII of the Constitution, and must be taxed to the corporation, and in such a case there would be no assessment to be made against the shares held by the stockholders, because the property represented by such shares would be within the state, and taxed to the corporations. (Sec. 17, Art. XII, Const.) But a case might arise where a portion of the capital stock and surplus would be invested in property outside of this state. Such property would give value to the shares as much as property situate within the state. It is upon the value given to the shares by such property as this that the shares are to be taxed. For example:

Suppose in the case cited by your correspondent that all of the property of the bank making up the capital and the surplus, to-wit: "Moneys, credits, bonds, stocks, franchises, and all matters and things (real, personal and mixed) capable of private ownership"

Are found within the state. In such a case, there could be no assessment made against the stock, because all of the property represented by it is within the state, and properly taxed to the corporation; but suppose, on the other hand, that a part of the fifty thousand dollars, capital and surplus, say ten thousand dollars, is invested in property outside the state, in that event, forty thousand dollars worth of the

property represented by the shares would be within the state, and taxed to the corporation, and the stockholders would be taxed upon whatever part of the market value of their shares was due to the ten thousand dollars invested outside the state and not taxed therein.

As to what value this should be assessed at, I refer to Sec. 3502 of the Revised Codes, which is as follows:

“All taxable property must be assessed at its full cash value. Land and the improvements thereon must be separately assessed.”

It is plain in its provisions and needs no explanation.

Very truly yours,

D. M. KELLY,  
Attorney General.