

**Taxation, of Estates of Deceased Persons. Property of Estates of Deceased Persons, Taxation of. Property of Estates, Where Taxable.**

Real property is taxable in the county where it lies and tangible property is likewise taxable in the county where situated. Intangible property, such as debts owing to the estate, is taxable in the county in which is situated the court in which the probate proceedings relative to the estate are being carried on.

March 16th, 1914.

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

Dear Sir:

I am in receipt of a communication from A. P. Smith, assessor of Yellowstone County, handed to me by you for my attention. The question raised by this letter is that involving the proper jurisdiction for the taxation of property belonging to deceased persons.

Sec. 2509, Revised Codes of Montana, 1907, provides in part as follows:

"All other taxable property must be assessed in the county, city or district in which it is situated."

This is intended to include all taxable property except railroads, the taxation of which is provided for in Sec. 2508. The code designates the place in which property is to be taxed, but it gives no rule as to how the situs of such property is to be determined. It is necessary, therefore, to advert to the general principle of law for the determination of this question. Real property, of course, is "situate" in the county where it lies. The same may be said of tangible personal property. This leaves the question of such property as money loaned and debts owing to the estate. In the contemplation of law the title to such property is in the administrator or executor, and therefore should be taxed to him in the place of his residence, because intangible property of this nature follows the person of the owner, and the residence of an executor for the purpose of taxing

the property in his hands, belonging to the estate, would be his official residence as such executor or administrator—that is the county in which is situate the court in which the probate proceedings relative to the estate are being carried on.

Yours very truly,

D. M. KELLY,

Attorney General.