

Corporations, Taxation of. Taxation, of Corporations. Assessment, of Corporate Property.

The property of corporations is subject to assessment and taxation in the same manner as property of individuals, but the capital stock of a corporation, as such is not regarded as property for the purposes of taxation.

February 15th, 1913.

Hon. A. H. McConnell,
County Attorney,
Helena, Montana.

Dear Sir:

I acknowledge receipt of your verbal inquiry for an opinion on the inquiry submitted to you by the county assessor of your county, "Relating to the taxation of corporations."

I also acknowledge receipt of a copy of the opinion given by you to the assessor.

The authority of the state to tax corporations or corporate property cannot be questioned (Sec. 7, Art. 12, State Constitution), and the word "property" as defined in Sec. 17 of Art. 12 of the State Constitution seems to be broad enough to embrace every conceivable kind and character of things capable of private ownership.

N. W. M. L. Ins. Co. v. Lewis and Clark County, 28
Mont. 484.

This of course includes all moneys, solvent credits and all other property owned by the corporation as indicated by Secs. 2510 and 2511, R. C.

However, the capital stock of a corporation as such is not regarded as property. This is merely a declaration on the part of the corporation contained in its articles of incorporation as to what the capital stock shall be and is not itself property; hence, the capitalization of the company as expressed in its articles of incorporation cannot properly be taken by the assessor as the basis of assessment made against the corporation. "The shares of stock," of course, must be assessed to the owner thereof, not to the corporation that issued them except when the property of the corporation, representing such stock is assessed, "the shares of stock" themselves are not then assessable. (Sec. 17, Art. 12, State Constitution.) The Supreme Court of Montana in a recent case involving the right of the state to assess

the authorized capital stock of a corporation, held that the same was not subject to taxation.

Butte Land Investment Co. v. Sheehan, County Treasurer,
44 Mont. 371.

Very truly yours,

D. M. KELLY,
Attorney General.