

Assessment, Deductions of. Banks, Deduction of Assessment of Real Estate. Real Estate, Assessed Value Deducted on Bank Stock. Stock in Bank, Deductions of Real Estate. Assessor, Authority to Make Deductions in Assessment.

Chapter 31, Laws of 1915, authorizes the assessor to deduct from the value of shares of stock in a banking corporation the assessed value of real estate owned by the bank. This is mandatory, and the assessor must make the deduction of the assessed valuation without regard to the amount which the bank paid for the real estate.

July 29, 1915.

Hon. George A. Judson,
County Attorney,
Great Falls, Montana.

Dear Sir:

I am in receipt of your letter of the 24th instant, asking for a construction of the provisions of Chapter 31, Laws of 1915, relative to the amount of deduction which may be made from the value of shares of stock in a banking corporation on account of real estate owned by the bank?

The Chapter above referred to not only gives authority for making the deduction, but names the amount of the deduction which may be made, to-wit: the assessed valuation of the real estate. It is wholly immaterial what price was paid for the real estate, whether it was greater or less than the assessed valuation. The command of the law is that the assessed value shall be deducted, and the assessor is bound by this provision. The real estate may have greatly appreciated in value, or greatly depreciated in value, since its purchase, but that is of no moment to the assessor. He only looks to its present assessed valuation, and to nothing else in determining the amount of deductions to be made. It is fundamental that where all the stock of a corporation is assessed, that the shares of stock are not subject to assessment.

Section 17, Article XII, State Constitution.

Daly Bank v. Board of County Commissioners, 33 Mont. 106; 81 Pac. 952, was decided prior to the enactment of Chapter 31 and that Chapter appears to change the method of assessment of banks. Anyway, by plain statutory provision the assessor must deduct the assessed valuation of the real estate. When he has done this, he has complied with the plain mandate of the law, and any exception taken thereto by the bank or any stockholder, would raise a question for determination by the courts. The Act in question is not necessarily violative of any constitutional provision. Hence, we cannot hold that it is void, but will yield obedience to it until some court of competent jurisdiction declares it inoperative.

Yours very truly,

J. B. POINDEXTER,

Attorney General.