

Taxation, State Bonds Subject to. Bonds Under Farm Loan Act, Subject to Taxation. Farm Loan Act, Bonds Under Subject to Taxation. Exemption, State Bonds Not Subject to.

The bonds issued under the provisions of Chapter 28, Laws of 1915, Farm Loan Act, when owned by parties residing in the State of Montana, are subject to taxation.

Helena, Montana, October 20, 1915.

Hon. W. C. Rae,
State Treasurer,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 20th instant, submitting the question:

“Under the provisions of Chapter 28, Session Laws of 1915 (Farm Loan Act), are the bonds provided for under this Act, and purchased by parties residing in the State of Montana, subject to taxation, under the laws of Montana?”

The Constitution of the State of Montana specifically enumerates the classes of property that must be exempted from taxation, and also enumerates that which may be exempted. Section 2 of Article XII of the Constitution provides in effect that all property owned by municipalities, including that owned by the United States and the State, shall be exempt from taxation, and that such other property as may be used exclusively for agricultural and horticultural societies for educational purposes, places for actual religious worship, hospitals, and places of burial not used or held for private or corporate profit, and institutions of purely public charity may be exempt from taxation. It is not within the power of the state legislature to exempt any other property from taxation, except that included within the meaning of the provisions of Section 2, Article XII of the State Constitution. The bonds issued under the provisions of Chapter 28, Session Laws of 1915, cannot by any possible stretch of the imagination be classified under any of the heads named or referred to in this provision of the State Constitution. Under the provisions of Section 1 of Article XII, all property not exempt must be taxed. The definition of property as given in Section 17 of this article

“Is sufficiently comprehensive to include all matters and things visible and invisible, tangible and intangible, corporal and incorporal, capable of private ownership.”

Cobban v. Meagher et al., 42 Mont. 399, 407 and cases cited.

But in deciding the question submitted, it is not necessary to go either to the State Constitution or to the decision of the Supreme Court. The plain and emphatic terms of the Act itself are sufficient. In Section 11 of this Chapter 28, after providing that the mortgages given to the Commissioner shall not be assessed for purposes of taxation (which mortgages are in effect owned by a municipality), the section provides:

"But nothing in this Act shall be construed as exempting from taxation the bonds issued under this Act, and owned by individuals or corporations within the State of Montana."

But one conclusion can be reached, and that is, that bonds issued under this law and owned in the State of Montana, are subject to taxation the same as any other personal property within the state, and are made so by the emphatic terms of the Act itself.

Yours very truly,

J. B. POINDEXTER,

Attorney General.