

**Mortgages—Not Subject to Taxation.**

Under House Bill, Sixteenth Legislative Assembly, all evidences of indebtedness secured by mortgages, both real and personal, are exempt from taxation.

March 3, 1919.

State Board of Equalization,  
Capitol Building,  
Helena, Montana.

Gentlemen:

I understand that your board is somewhat uncertain regarding whether or not mortgages, or evidences of indebtedness, secured by mortgages, are subject to taxation, this uncertainty arising by reason of the passage and approval of House Bills Nos. 24 and 30.

By Chapter 48, Session Laws of 1917, there was submitted to the electors of this State an amendment to Section 2, Article 12 of the Constitution relating to exemptions from taxation, such amendment being approved at the general election terms exempt from taxation evidences of debt secured by mortgages, but merely authorized the legislature to do so. House Bill No. 24, which is now a law, was passed by the legislature under the authority granted by the Constitutional amendment above referred to, and expressly exempts from taxation evidences of debt secured by mortgages, both personal and real.

House Bill No. 30 provides for the classification of property in this State for taxation. None of its provisions are in conflict with the provisions of House Bill No. 24. House Bill No. 30 does not attempt to define, specify or designate what property is and what property is not subject to taxation, but simply provides for the classification of property which is subject to taxation. By House Bill No. 30 "All moneys and credits, secured or unsecured" are placed in class five, but this does not mean that all evidences of debt, which are "credits", and have been exempted from taxation by House Bill No. 24, are placed in this class and subject to taxation, but means that all "credits" which are unsecured, and all "secured credits," which are taxable, are placed in this class. Such "secured credits" which are subject to taxation, are credits which may be secured other than by mortgages, for instance, a note secured by the deposit of collateral security, a contract of sale when the purchaser is bound to make the payments and complete the purchase and the seller restrains a lien on the property sold as security to the amount of the purchase price remaining unpaid, etc. All of these and similar "secured credits" are subject to taxation and fall within class five of House Bill No. 30.

You are therefore advised that there is no conflict between House Bills Nos. 24 and 30, and that by House Bill No. 24 all evidences of indebtedness secured by mortgages, both real and personal, are exempt from taxation.

Respectfully,  
S. C. FORD,  
Attorney General.