

**Railroads, Logging—Taxation Of—Classification.**

Logging railroads should be assessed as such and placed in class seven.

April 7, 1919.

State Board of Equalization,  
Helena, Montana.

Gentlemen:

I am in receipt of your letter of this date submitting the following for my opinion:

“The question has been raised with us as to the proper classification of logging railroads and machinery, when these are used solely in the production and transportation of logs for

the sawmill. Should these be classed as part of manufacturing machinery and be placed in Class 4, should they be placed in Class 7?"

Section 16 of Article 12 of the Constitution requires the State Board of Equalization to assess the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this State and to apportion the same to the counties, cities, towns, townships and school districts in which such railroads are located. No distinction is made between a railroad operated for the purpose of serving the public generally and one operated by a private person or corporation for private purposes and not for the purpose of serving the public, consequently it would seem that if a logging railroad operated solely for the purpose of serving a sawmill, and not for the purpose of serving the public, should be operated in more than one county in the State, it would be the duty of the State Board of Equalization to assess the same under the provisions of such section of the Constitution. If this is true, it is apparent that when such a logging railroad is operated in but one county of the State the same should be assessed by the county assessor in the same manner as it would be assessed by the State Board of Equalization if operated in more than one county, that is, by assessing its franchise, roadway, roadbed, rails and rolling stock as a unit at a certain amount per mile and then apportioning the same to the cities, towns, townships and school districts in which it is located. It follows, therefore, that being assessed as a railroad, and not as a manufacturing machinery, it should be placed in Class 7.

It may be possible that there is certain machinery not constituting a part of the railroad proper, which may be used in cutting, hauling and loading the logs on the cars. The class in which such machinery should be placed depends entirely upon the purpose for which it is used. If machinery is used in falling the trees and cutting them into logs this would probably be manufacturing machinery, and should be placed in Class 4, while machinery which may be used in hauling the logs to the railroad, in loading them on cars, not being a part of the railroad proper, and not being manufacturing machinery, should be placed in Class 7.

Truly yours,

S. C. FORD,

Attorney General.