

Banks and Banking—Taxation—Moneyed Capital—Insolvent Banks—Receivers.

The property of an insolvent bank should be taxed the same as that of any other corporation and its moneyed capital should not be assessed as if it were employed in conducting a banking business but simply as credits.

State Board of Equalization,
Helena, Montana.

February 9, 1926.

Gentlemen :

You have requested my opinion whether a state bank is taxable for the year 1921 on its moneyed capital at a time when the bank is insolvent and in the hands of a receiver.

Section 1999 R. C. M. 1921, class six, provides in part:

"and the moneyed capital employed in conducting a banking business by any other banking corporation, (other than national banks) * * *."

It then provides for the method of ascertaining the moneyed capital. The assessment is provided for by section 2067 R. C. M. 1921.

In my opinion, these provisions have reference only to a bank that is actually doing a banking business on the first Monday in March in the years of the assessment. Section 1999 only provides a method for taxing moneyed capital of a bank "employed in conducting a banking business."

A bank that is insolvent and in the hands of a receiver is not employing its moneyed capital in the banking business.

Section 6109g of chapter 90, laws of 1923, provides:

"Taxes on Banks Which Have Ceased to do Business as Banks. Whenever any bank ceases to do business as a bank no taxes shall be levied or collected in accordance with the laws governing the assessment of banks, but its property shall be assessed in accordance with the laws governing the assessment of similar property of private corporations."

This was not passed until March 6th, 1923, but, in my opinion, it is but declaratory of the rule that should govern the taxation of the property of such banks prior to its passage.

It is, therefore, my opinion that the moneyed capital of a state bank in the hands of a receiver in 1921 should not be taxed on the basis of 40 per cent of its true and full value as moneyed capital of a bank, but its property should be assessed the same as similar property of private corporations, and its moneys and credits should be taxed at 7 per cent of their full and true value.

Very truly yours,

L. A. FOOT,

Attorney General.