

Inheritance Tax—State Board of Equalization—Estates—Property.

Under section 7724, R. C. M. 1907 where the whole estate, including real and personal property, is in excess of \$7,500 and it passes to direct heirs, it is taxable at one per cent on the value of the personal property even though the personal property is not of a value in excess of \$7,500.

March 12, 1928.

State Board of Equalization,
Helena, Montana.

Gentlemen:

You have called my attention to section 7724 R. C. M. 1907, and have stated that you have a case before you in which the real estate involved in an estate has a value of \$13,000, and personal property of a value of \$3,162.39, and that under the terms of the will the widow receives the entire estate.

You desire to know whether the personal property is taxable at 1 per cent since it does not exceed the sum of \$7,500.

The portion of the statute that is applicable provides as follows:

“When the beneficial interests to any personal property or income therefrom shall pass to or for the use of any * * * wife * * *; in every such case the rate of tax shall be one dollar on every hundred dollars of the clear market value of such property, and at and after the same rate for every less amount, provided, that an estate which may be valued at a less sum than Seventy-five Hundred Dollars shall not be subject to any such tax or duty.”

It will be observed that this section exempts real property from taxation when passing to the direct heirs therein named.

It is my opinion, however, that the personal property involved in your inquiry is taxable at 1 per cent even though the value thereof is less than \$7,500, since the whole estate has a value in excess of \$7,500.

Very truly yours,

L. A. FOOT,
Attorney General.