

**State Board of Equalization—Classification—Lands—Assessment—Appeals.**

The State board of equalization has authority to increase or decrease valuations of property. Where the valuation complained of is the result of a wrong classification of land, the board on appeal, may change the classification to eliminate the cause of the unjust valuation.

Appeals to the State board of equalization by individual taxpayers need not be held within the county affected. Where, however, the board on its own motion contemplates raising or lowering the assessed valuation of one or more classes of property in a county, the hearing must be held within the county.

Oscar J. Swan, Esq.,  
County Treasurer,  
Roundup, Montana.

January 29, 1930.

My dear Mr. Swan:

You have requested an opinion upon the power of the state board of equalization to re-classify land for valuation purposes. In connec-

tion with this inquiry I have obtained from the state board of equalization the record pertaining to the proceedings out of which your inquiry arises, and it appears therefrom that the O. M. Corwin Company made application to the county board of equalization of Musselshell county for the re-classification and valuation of certain lands owned by it in that county, claiming that the existing classification and valuation were unjust, unreasonable and unfair and in excess of the valuations placed upon lands of equal value in the same vicinity. The application was denied, whereupon, an appeal was taken to the state board of equalization, which board, after giving notice of a hearing to be held at Harlowton, and after holding said hearing, made an order changing the classification and valuation of said lands.

Section 15 of Article XII, of the Constitution provides that the county board of equalization shall adjust and equalize the valuation of taxable property within their respective counties, and all such adjustments and equalizations may be supervised, reviewed, changed, increased or decreased by the state board of equalization. It further provides:

“The state board of equalization shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of the county assessors and county boards of equalization; change, increase, or decrease valuations made by county assessors or equalized by county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties, between the different classes of property, and between individual taxpayers. Said state board of equalization shall also have such other powers, and perform such other duties relating to taxation as may be prescribed by law.”

Similar authority is found in subdivisions 6 and 7 of Section 8, of Chapter 3, of the Laws of 1923, relating to the powers of the state board of equalization.

It therefore appears that the state board of equalization has the undisputed authority to increase or decrease valuations of property, and one of the ways in which the board may act to accomplish this is in a proceeding on appeal to it by the taxpayer from the action of the county board of equalization. Where the valuation complained of is the result of a wrong classification of the land it follows that the state board of equalization in the exercise of its power to change the valuation may eliminate the cause of the unjust valuation. The cause being the wrong classification of the land, it is removed by placing the land in its proper classification and it is thereby, by virtue of the law relating to classification, subject to a different valuation for taxation purposes, and takes the same value as all other lands in the same classification.

Changing the classification in such a case is merely doing one of the "things necessary to secure a fair, just and equitable valuation" of the property for taxation purposes. I see no reason why the state board of equalization may not place land wrongly classified in its proper classification when such action is done for the purpose of giving such land a valuation for taxation purposes that is just, fair and equitable in comparison with other lands of the same quality in the same vicinity, and in my opinion the constitutional and statutory powers of the board permit it to do this as one of the things necessary to secure such equitable valuation.

It is, therefore, my opinion that the order of the board in question was within its jurisdiction.

You further inquire if the state board of equalization may hold a hearing on appeals at a place outside the county.

The law does not require these hearings on appeal to be held within the county. It is only when the state board of its own motion contemplates raising or lowering the assessed valuation of one or more classes of property in a county that the hearing must be held within the county. In this case the appeal concerned only the property of one taxpayer, and the hearing could have been held at the office of the board in Helena, and the fact that it was held in Harlowton instead of at Helena was due to the fact that the board had other business at Harlowton and that place being more convenient to the county board than if the hearing had been held at Helena, gives no cause for complaint by the board.

Very truly yours,  
L. A. FOOT,  
Attorney General.