

**Taxation—Sheep.**

Where sheep are brought into Montana from another state after the first Monday in March, and are taken out of the state before the following first Monday in March, they are not subject to taxation in Montana.

F. S. P. Foss, Esq.,  
County Attorney,  
Glendive, Montana.

June 19, 1930.

My dear Mr. Foss:

Your letter states the following facts:

“A man who claims his residence as Fairview, North Dakota and who actually owns property there in North Dakota, owns about 3500 head of sheep. Early in April of each year for a number of years past he brings this 3500 head of sheep into Dawson county and grazes them in the Redwater country for a period of about eight months, taking them back to North Dakota in the early winter and feeding them until the following spring. This particular individual advises me that he would rather pay taxes in Montana on these sheep but that they are assessed each year in North Dakota, and this year a count was made on the sheep and assessed there in North Dakota before he moved them to Montana.”

You ask if the sheep under the above circumstances are taxable in Montana. The statutes relating to the taxation of sheep when they are moved from one county in the state to another have no application in

this instance. The 1907 codes (Sections 2531 et seq.) contain a provision for the taxation of livestock brought into the state under the circumstances above mentioned, but these provisions were repealed by Chapter 109 of the Laws of 1921, so that they are no longer in effect.

In 1927 the Legislature apparently sought to meet the situation disclosed in your letter and enacted Chapter 101 of the Laws of 1927, providing for a license tax to be paid by the owner of the animals brought into the state, but the Supreme Court of Montana in the case of Hale vs. County Treasurer, 82 Mont. 98, held the act arbitrarily discriminatory and therefore unconstitutional. I do not find the subsequent legislature enacted any legislation attempting to cure the defect.

Inasmuch as the sheep mentioned in your inquiry were not within the state on the first Monday of March they are not subject to taxation under the general provisions relating to the levy of ad valorem taxes and therefore some special statute upon the subject would have to exist to permit of their taxation which statute is lacking at the present time in our laws.

It is therefore my opinion that under the circumstances mentioned in your letter the sheep are not taxable in Montana.

Very truly yours,

L. A. FOOT,  
Attorney General.