

**Opinion No. 102.**

**Taxation—Assessment—Property Es-  
caping Taxation—Duty of  
Assessor.**

HELD: Under Section 2033, 2034  
and 2036, R. C. M. 1935, it is the duty  
of the assessor to assess property which

has escaped taxation at any time that he makes such discovery.

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May 14, 1937.

Mr. John J. Traub  
County Assessor  
Broadus, Montana

Dear Mr. Traub:

You have requested my opinion as to your duty when real estate has escaped taxation. You state that a certain person "made final proof, and was granted a patent on a certain tract of land within Powder River County. This certain tract of land has never been placed on record in this county, and no notice of same has ever been received by the County Assessor, until, my office was notified this year by a near neighbor."

I call your attention to Sections 2033, 2034, and 2036, R. C. M. 1935, which provide:

"2033. Any property wilfully concealed, removed, transferred, or misrepresented by the owner or agent thereof to evade taxation, upon discovery, must be assessed at not exceeding ten times its value, and the assessment so made must not be reduced by the board of county commissioners.

"2034. Any property discovered by the assessor to have escaped assessment may be assessed at any time, if such property is in the ownership or under the control of the same person who owned or controlled it at the time it should have been assessed.

"2036. No assessment or act relating to assessment or collection of taxes is illegal on account of informality, nor because the same was not completed within the time required by law."

Under these sections, the county assessor has the power, when property has escaped taxation, to assess it at any time and for such period as it escaped taxation. Although the statute does not require it, we suggest that you give the owner such notice as is provided by Section 2122.11, which is the statute which governs the Board of Equalization when it acts in such cases, in order that you may know all the facts before you make your assessment.