

Opinion No. 255.

**Airports—Levy of Taxes for Airports—
Taxes—Maintenance by County and
Cities for Airports.**

Held: County levies of tax for building or maintaining, or both, of an airport within the county should be assessed against all the taxable property of the county, including property within incorporated cities or towns, regardless of whether the county is acting jointly with one or more incorporated cities or towns or acting individually.

October 9, 1944.

Mr. Bert I. Packer
County Attorney
Teton County
Choteau, Montana

Dear Mr. Packer:

You state that your county is contemplating acting jointly with the town of Choteau in the establishment and maintenance of an airport, and therefore request an official opinion on the following questions:

"1. If the city and county act jointly does a $\frac{1}{2}$ mill levy of the county extend to the city in addition to the levy set by the city?

"2. If the county acts independently of the city and levied a one mill levy would this extend to the city in addition to the levy made by the city?"

In answer to your first question, I refer you to Section 4 of Chapter 54, Laws of 1943, which provides in part as follows:

"For the purpose of establishing, constructing, equipping, maintaining and operating airports and landing fields under the provisions of this act, the county commissioners of the city or town council may each year assess and levy, in addition to the annual levy for general administrative purposes, a tax of not to exceed one (1) mill on the dollar of taxable value of the property of said county, city or town . . ."

It seems that the legislature meant by such language that the tax should be general, and levied in the same manner as the levy for general administrative purposes, which, of course, would include the property within the cities or towns of said county. Section 2002, Revised Codes of Montana, 1935, as amended by Section 9 of Chapter 72, Laws of 1937, reads in part as follows:

"The assessor must . . . assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property to the persons by whom it was owned or claimed . . ."

Thus, it seems that the legislature intended that all property within the county, not exempt or to be taxed by the State Board of Equalization, should be subject to this tax, which of course would include the property within cities and towns located within the county.

Your second inquiry is, in my estimation, to be answered in the affirmative on the same reasoning and statutes cited in answer to your first inquiry.

Therefore, it is my opinion that when the county levies a tax for the purpose of building or maintaining an airport within the county, such tax should be assessed against all the taxable property of the county, including property located within corporate limits, and regardless of whether the county is acting jointly with one or more incorporated cities or towns, or acting individually.

Sincerely yours,
R. V. BOTTOMLY
Attorney General