

assessment and shall not thereafter be assessed."

This section was originally enacted as Section 2 of Chapter 110, Laws of 1927, Section 1 thereof (now Section 2002.1, Revised Codes of Montana, 1935) requiring all real estate and improvements on real estate to be separately valued for assessment and taxation purposes in the year 1927 and biennially thereafter in each odd year, with reference to the value thereof at 12 o'clock noon on the first Monday of March preceding the assessment, such valuation to constitute the assessed valuation thereof until the next biennial assessment, except as provided in the act.

Section 2002, Revised Codes of Montana, 1935, as amended by Chapter 72, Laws of 1937, requires the assessment of property to the person by whom it is owned or claimed, or in whose possession or control it is, at 12 o'clock M. of the first Monday of March, next preceding, exception being made as to motor vehicles.

These sections of the code indicate a definite legislative intention the status of property for purposes of taxation is determined as of 12 o'clock M. on the first Monday of March in each year, and—as to real estate and improvements thereon—the valuation is to be determined biennially and in odd numbered years; further, there is no authority on the part of the taxing officials to change the valuation so fixed as of the first Monday in March in odd numbered years, except as such authority is given to the county and State Boards of Equalization to equalize assessments, and the authority conferred by Section 2002.2 above cited.

Your statement of facts shows in this particular instance the damage to the apartment house occurred after the first Monday of March, 1943. Under Section 2002.1, Revised Codes of Montana, 1935, this structure would have to be valued for assessment purposes as of the first Monday of March, 1943, in its then condition and before damage. In order for the structure to be struck from the assessment under the provisions of Section 2002.2, Revised Codes of Montana, 1935, it must appear that the destruction thereof was in a year different from the year of valuation, and in this particular instance the destruction, under the exact terms of the section, would have

Opinion No. 55.

Taxation—Valuation in Event of Damage by Fire—Fire Damage

Held: No change in valuation for taxation purposes can be made until next biennial valuation, where improvements were damaged by fire in latter part of March, 1943.

May 19, 1943.

Mr. J. Miller Smith
County Attorney
Lewis and Clark County
Helena, Montana

Dear Mr. Smith:

You state that an apartment house was badly damaged by fire in the latter part of March, 1943, and while not completely destroyed it is so damaged for all uses and purposes that no one can live in it until the complete interior is repaired; but the greater part of the building can be salvaged; you ask my opinion as to the application of Section 2002.2, Revised Codes of Montana, 1935, to the facts.

The portion of Section 2002.2, Revised Codes of Montana, 1935, in question reads:

"In case of the destruction of any building, structure, or other improvement on real estate, valued and assessed in the assessment for the year immediately preceding such destruction, such building, structure, or other improvement shall be struck from the

to be in the year, 1944. In view of this situation, it does not appear necessary to determine what constitutes "destruction" under the section.

It is my opinion no change can be made in the valuation of this improvement until the next biennial valuation.

Sincerely yours,
R. V. BOTTOMLY
Attorney General