

Opinion No. 97.

**Taxation—Collection of Taxes—
License Tax on Sheep—Assessment.**

Held: Under Chapter 206, Laws of 1943, license fee of 5c per head on sheep would be added to assessment of other personal property and becomes lien against land. If sheep owner has already paid personal property tax, another personal assessment for the license fee of 5c per head on sheep should be entered on tax rolls, and in event of ownership of land, fee should be added to taxes on real estate when latter are figured.

July 28, 1943.

Mr. Sam D. Goza, Chairman
State Board of Equalization
State Capitol
Helena, Montana

Dear Mr. Goza:

In connection with the license fee or tax provided by Chapter 206, Laws of 1943, you request my opinion as follows:

1. When a sheep owner has all his property, land, household goods, and livestock assessed together, can the license fee of 5c per head on sheep be added to the assessment of other personal property, so it would be a lien against the land?
2. In cases where a sheep owner has already paid his personal property tax for 1943, should another personal property assessment for the license fee be entered against him on the tax rolls, or, if he owns real estate, could the license fee be added to the taxes on real estate when the latter are figured?

The chapter in question makes it the **duty of the board of county commissioners of any county, upon the recommendation of organized associations of sheep growers in the county, either alone or in conjunction with other counties, to conduct a predatory animal control program for the protection of sheep in such county or counties, and—to defray the expenses of such protection—empowers the board of county commissioners to require all owners or persons in possession of any sheep,**

one year old or over, in the county on the first Monday in June of each year to secure a license and pay a license fee of not exceeding five cents per head of sheep so owned or possessed.

It is then provided:

“Upon the order of the board of county commissioners such license fees may be imposed by the entry thereof in the name of the licensee upon the property tax rolls of the county assessor or the county clerk and recorder and shall be payable to and collected by the county treasurer as and when county personal taxes are by law payable and collected, and when so levied shall be a lien upon the property of the licensee enforceable under the laws provided for the collection of taxes on personal property.”

The apparent intention of the legislature is to class the license fee or tax provided by the chapter with other personal taxes, making the fee or tax a lien on real property in those instances where the sheep owner also owns real property, and requiring the collection of the tax in the same manner as other personal property taxes, i. e., either by the county treasurer, where the owner does not own real property, under Sections 2238 (amended Chapter 136, Laws of 1943) to 2252.2, Revised Codes of Montana, 1935, or at the time of collection of real estate taxes in those instances where the sheep owner also owns real property.

It is therefore my opinion the two questions should be answered in the affirmative. I express no opinion as to the constitutionality of the law.

Sincerely yours,
R. V. BOTTOMLY
Attorney General