

Opinion No. 113.

**Library, Public, Taxation—Taxation,
Public Library—Property, Taxation
of—Exemption, Taxation of
Property.**

Held: The property belonging to the Carnegie Public Library of Miles City, a "Free Public Library," by resolution, is tax exempt so long as such library is maintained and owned by the City of Miles City, Montana.

January 8, 1946.

Mr. H. E. Herrick
County Attorney
Custer County
Miles City, Montana

Dear Mr. Herrick:

You have requested an opinion relative to whether or not property belonging to the Carnegie Public Library of Miles City is subject to taxation.

This office was advised by the county attorney of Custer County, in a letter dated May 20, 1942, that the county assessor was not taxing the property in question and that it was considered city property.

I am advised that Chapter XIX, Article I, Section 790, 791, Revised

Ordinances of 1918, of the City of Miles City, declared the Carnegie Public Library of Miles City a "Free Public Library."

Our State Constitution by Section 2 of Article XII exempt two classes of property from taxation, the first class of property being absolutely exempted regardless of how it is used and that includes the property of the United States, the state, the county, cities, towns, school districts, municipal corporations and public libraries.

The Montana Supreme Court in the case of Town of Cascade v. County of Cascade, 75 Mont. 304, 243 Pac. 806, stated:

"It seems, therefore, clear that trust funds and trust property generally while in the hands of the trustees for the beneficial use and enjoyment of a town within the State of Montana, under our present law, must be free from taxation by virtue of the provisions of Section 2, Article XII of the Constitution. The authorities last cited above support this statement."

In the event that the City of Miles City fails to maintain the library and it reverts back to the original Carnegie Library fund, the property would no longer come within the tax exemption.

It is therefore my opinion that the property belonging to the Carnegie Public Library of Miles City, a "Free Public Library," by resolution, is tax exempt so long as such library is maintained and owned by the City of Miles City, Montana.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General