

plication for registration and licensing is made under the provisions of Sections 1760.1, 1760.2 and 1760.3, Revised Codes of Montana, 1935, is not taxable until it has been in the state not less than the period for which registered. A motor vehicle registered and licensed prior to July 1, 1945, the effective date of Chapter 157, Laws of 1945, on which taxes have not been collected, because not in the state on January 1, may not be taxed under the provisions of Chapter 157, Laws of 1945.

August 11, 1945.

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

Dear Mr. Goza:

I have your letter enclosing communication from the treasurer of Sanders County, requesting information relative to the assessment of motor vehicles under the provisions of Chapter 157, Laws of 1945. The treasurer asks the following questions:

Heretofore it has been the practice of not taxing automobiles in this state if the tax had already been paid in any other state, but it appears that this new law would require taxing of any motor vehicles that are in the state for a period of more than thirty days.

What is to be done in the event that a new vehicle is brought into the state and licensed the same day that it is brought in? Is the tax to be collected at the same time the license plate is issued? Or are we supposed to check on all of these individuals at the end of thirty days and, if they are still residing in the county, have them assessed and collect the taxes?

What is to be done relative to the licenses issued prior to July 1st on all motor vehicles on which we did not collect a tax for 1945? Must we collect a tax on them for this year?

Chapter 157 was undoubtedly designed to change the law in respect to taxation of personal property coming into the state after the taxing date

Opinion No. 61.

Taxation—Motor Vehicles—Automobiles—Personal Property.

Held: The provisions of Chapter 157, Laws of 1945, are applicable to motor vehicles brought into the state after January 1. A motor vehicle brought into the state after January 1, for which ap-

for such property, regardless of whether they had been taxed in another state, providing said personal property remained in the state for more than thirty days.

Section 1 of Chapter 157, Laws of 1945, provides as follows:

"Any personal property, including livestock, brought, driven or coming into this state at any time during the year and which shall remain in the state for a period not less than thirty (30) days, shall be subject to taxation and shall be assessed for all taxes, levied or leviable for that year in the county in which the same shall thus be and remain, in the same manner and to the same extent, except as hereinafter otherwise provided, as though such property had been in the county on the regular assessment date; provided that such property has not been regularly assessed for the year in some other county of the state, and provided further that nothing herein contained shall be construed into authority to assess or levy an additional tax against any merchant or dealer within this state on goods, wares or merchandise brought into the county to replenish the stock of such merchant or dealer, so long as such addition does not materially increase the inventory or stock which has been duly assessed to such merchant or dealer as of the regular assessment date."

The language of this section seems to be clear and unequivocal and to require no interpretation. It provides specifically that any personal property coming into the state at any time during the year after the taxing date for such property, and remaining in the state for a period not less than thirty days, shall be subject to taxation. Therefore, it is clear that a motor vehicle, being personal property, brought into the state after January 1, and remaining here for a period of not less than thirty days, is liable for taxation.

In the case of a new vehicle brought into the state and licensed the same day, could the tax be levied at the time of licensing or registration?

It will be noted that under the provisions of Chapter 157, only cars which are brought into the state after Janu-

ary 1, the taxing date, and remain for a period not less than thirty days, are subject to taxation. Section 1759.5, Revised Codes of Montana, 1935, requires every motor vehicle to be licensed before being operated on the highways.

Section 1760.1, Revised Codes of Montana, 1935, provides:

"Every motor or other vehicle of the types required to be licensed, under the laws of this state, which shall enter this state with proof of evidence that it has paid a license fee for the ensuing year, under the laws of some other state or foreign government, shall immediately after entering the state of Montana, obtain a license at the first county seat, for operation in this state, in accordance with the provisions of this act."

Section 1760.2, Revised Codes of Montana, 1935, requires application to be made for registration and the form of application. Section 1760.3 provides that the registrar, if satisfied of the facts, shall register the motor vehicle for a period of thirty days, with right of an extension for a further thirty days.

Therefore, if a motor vehicle is brought into the state after January 1, and application made for license and registration, the owner thereof must pay the taxes before obtaining license unless such application is made under the provisions of Sections 1760.1, 1760.2 and 1760.3, Revised Codes of Montana, 1935. If application is made under these sections, only a thirty day license or registration may be issued, and at the end of such period, the owner of such motor vehicle becomes liable for taxes thereon. After the thirty day period for which registered, a new registration must be had to permit the vehicle to legally operate. When such new registration is made, the tax must be collected.

Chapter 157, Laws of 1945, did not become effective until July 1, 1945. Its provisions are not retroactive, and hence motor vehicles brought into the state prior to July 1, 1945 on which no taxes have been paid because such motor vehicles were not in the state on January 1, 1945, the taxing date under Chapter 72, Laws of 1937, cannot be taxed for the year 1945.

Inasmuch as some question might arise as to the applicability of Chapter 157, Laws of 1945, to motor vehicles, in view of the provisions of Section 1759, Revised Codes of Montana, 1935, as amended by Chapter 72, Laws of 1937, it might be well to consider this question in this opinion.

Chapter 72, *supra*, provides for the assessment of motor vehicles as of January 1 instead of March 1. It did not change the assessment date for other personal property. The purpose of such change was so that the collection of taxes on this class of personal property could be had at the time the motor vehicle was registered as required by law. Under the provisions of this act, all motor vehicles present in the state on January 1, were subject to taxation. Motor vehicles coming into the state after this date, were not subject to taxation and so escaped taxation. Likewise, other personal property which under other provisions of the statutes are taxable as of March 1, and coming into the state after that date were not subject to taxation.

It was to remedy this situation that the legislature by Chapter 157, Laws of 1945, provided that "any personal property" coming into the state during the year, and which shall remain in the state for a period not less than thirty days, shall be subject to taxation and assessed for all taxes levied or leviable for that year in the county in which the same shall be and remain, as though such property had been in the county on the regular assessment date.

Chapter 157 contains no repealing clause. Because of this, it might be contended that Chapter 72, Laws of 1937, was not repealed, and being still in force and effect, its provisions regarding taxation of motor vehicles are not affected by Chapter 157; that Chapter 157 applies only to livestock.

It is true that the title to Chapter 157 does not contain any mention of motor vehicles, nor is this term used in the body of the act. The title does mention livestock, and this term is found in the body of the act. However, the main subject expressed in the title is the collection of taxes on all personal property. The title states "An act to provide for the assessment, levy and collection of taxes on all per-

sonal property brought, driven or coming into this state after the regular annual assessment date of such property." Section 1 of the act begins as follows: "All personal property, including livestock, brought, driven or coming into this state at any time . . ." And Section 2 provides that the provisions of the Revised Codes and all amendments thereto relating to listing and assessment of personal property "shall apply to all personal property brought, driven or coming into this state after the regular annual assessment date . . ." Section 3 provides in part "All property mentioned in the preceding section . . ." And Section 4 provides in part "If such personal property is brought, driven or comes into any county before July 1st . . ." The only special mention of livestock is in Sections 5, 6 and 7, which provide for notice to county assessors when livestock is brought in after March 1, and the procedure for listing and assessing and for moving from one county to another.

In my opinion, the title to Chapter 157 meets the requirements of Section 23, Article V of our Constitution. It contains but one subject, viz., taxation of personal property coming into the state after the regular annual assessment date of such property, and is clearly expressed in the title. (See *State ex rel. Normile v. Cooney*, 100 Mont. 391, 47 Pac. (2d) 637.)

As heretofore pointed out, Chapter 72, Laws of 1937, deals with motor vehicles that are present and located in the state on January 1. Chapter 157, Laws of 1945, deals with motor vehicles as personal property, that are brought into the state after January 1, the regular assessment date for motor vehicles. The acts do not conflict with each other. Each may stand and be effective on the property covered by its provisions.

Chapter 72, Laws of 1937, is not repealed specifically by Chapter 157. It cannot be said that it is repealed by implication. Repeal by implication is not presumed unless the subsequent act is irreconcilably repugnant or revises the entire subject-matter of an earlier statute. (*State v. Mills*, 81 Mont. 86, 261 Pac. 885.) The Supreme Court must reconcile prior and subsequent statutes if reconciliation be possible, consistent with legislative intent.

(London Guaranty & Accident Co. v. Industrial Accident Board of Montana, 82 Mont. 304, 266 Pac. 1103.) The fact that the general repealing clause was omitted from Chapter 157 indicates that it was the intention of the legislature that both Chapter 157, Laws of 1945, and Chapter 72, Laws of 1937, should be in force and effect. I am therefore of the opinion that Chapter 72 was not repealed by Chapter 157, and that both acts may stand.

It is therefore my opinion:

1. That the provisions of Chapter 157, Laws of 1945, are applicable to motor vehicles brought into the state after January 1.

2. That a motor vehicle brought into the state after January 1, for which application for registration and licensing is made under the provisions of Sections 1760.1, 1760.2 and 1760.3, Revised Codes of Montana, 1935, is not taxable until it has been in the state not less than the period for which registered.

3. That a motor vehicle registered and licensed prior to July 1, 1945, the effective date of Chapter 157, Laws of 1945, on which taxes have not been collected because such motor vehicle was not in the state on January 1, may not be taxed under the provisions of Chapter 157, Laws of 1945.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General