

Opinion No. 150**School Districts—Abandoned School
Districts—Annexed School
Districts—Taxation.**

Held: Property located within school districts which are abandoned and annexed to an existing school district prior to the fixing of the levy for the latter district, shall be taxed at the same rate as all property within the then existing district, except in so far as prior indebtedness or outstanding bonds are involved.

November 30, 1948

Mr. James H. Higgins
County Attorney
Meagher County
White Sulphur Springs, Montana

Dear Mr. Higgins:

You have requested my opinion concerning the levy for tax purposes on property located within three abandoned school districts which were annexed to an existing school district.

You advise me that the order of abandonment and of annexation was made by the County Superintendent of Schools on July 26 and 28, 1948. You also state that residents within the territory which was annexed feel that the tax levy on their property should not be that of the district to which the abandoned school districts were annexed.

Chapter 168, Laws of 1943, authorizes the abandonment of school districts and it provides that all funds of an abandoned school district shall be placed in the general fund of the district to which its territory is attached. This means that the abandoned district has been so merged that there is but one legal entity.

Also the levies for school districts are fixed after the preparation of the school budgets. Sections 1019.12 and 1263.19, Revised Codes of Montana, 1935, provide that the Board of County Commissioners shall meet on the second Monday in August for the purpose of fixing tax levies. It is apparent that the annexed territory in question must be subject to the same tax levy fixed for the school district to which it is attached or otherwise escape liability for school taxes as school budgets can not be made for abandoned school districts. All subsequent taxes on property located within the districts abandoned and annexed will likewise be at the same rate fixed for property within the district to which the abandoned territory is annexed, in so far as no prior indebtedness or outstanding bonds are involved.

It is, therefore, my opinion that property located within school dis-

tricts which are abandoned and annexed to an existing school district prior to the fixing of the levy for the latter district shall be taxed at the same rate as all property within the then existing district, except as to the above mentioned prior indebtedness.

Sincerely yours,
R. V. BOTTOMLY
Attorney General