

Opinion No. 40**Taxation—School Districts—School Busses—Exemption From Taxation.**

- Held:** 1. Chapter 208, Montana Session Laws of 1949, which imposes a use tax upon trucks, trailers, semi-trailers, and automobiles operating over and upon the highways of the State of Montana does not apply to (A) school busses owned by a school district, and (B) school busses owned by a private individual and used exclusively for the purposes of transporting school children.
2. Chapter 208, Montana Session Laws of 1949, does apply to school busses owned by a private individual and used partly for the transportation of school children and partly for other purposes.

July 23rd, 1949

Mr. Robert J. Nelson
County Attorney
Great Falls, Montana

You have requested an opinion of this office construing Chapter 208, Montana Session Laws of 1949.

Chapter 208, Montana Session Laws of 1949 provides in part for a use tax on trucks, trailers, semi-trailers, and automobiles operating over and upon the highways of the State of Montana.

You specifically inquire whether the tax imposed by Chapter 208 applies in the following three cases, all involving trucks and busses operated for the purpose of transporting school children:

1. Where the school bus is owned by a school district.
2. Where the school bus is owned by a private individual, but is used exclusively for the purpose of transporting school children.
3. Where the school bus is owned by a private individual and is used partly for other purposes.

Section 1998, Revised Codes of Montana, 1935 contains the general statutory exemptions from taxation. Section 1998 reads in part as follows:

"The property of the United States, the State, Counties, cities, towns, school districts, municipal corporations, public libraries, such other property as is used exclusively for agricultural and horticultural societies, for educational purposes, places of religious worship, . . . are exempt from taxation, . . ."

As was pointed out at length in Op. No. 36, Vol. 23, Report and Official Opinions of Attorney General, Section 1998, *supra*, provides for two distinct classes of property, (1) that property which is absolutely exempt, consisting of the property of the United States, the State, Counties, School Districts, etc., and (2) that class of property which is exempt only when used exclusively for certain enumerated purposes.

A school bus owned by a school district falls in the first classification of property and therefore as stated above is absolutely exempt from taxation.

A school bus owned by an individual and used exclusively for the purpose of transporting school children falls in class 2 of Section 1998, and is exempt from taxation if it is in fact used exclusively for the transportation of school children. However, it is incumbent upon the owner to claim such exemption and make satisfactory proof of the exclusive use of the property.

A school bus owned by an individual and used partly for transportation of school children and partly for other purposes falls in neither of the classes of property set out in Section 1998 and therefore such a bus is not exempt from taxation.

Therefore, it is my opinion that a school bus owned by a school district is exempt from taxation, a school bus owned by a private individual and used exclusively for the transportation of school children is exempt from taxation upon claim and proof of exemption and that a

school bus owned by a private individual and used partly for the transportation of school children and partly for other purposes is not exempt from taxation.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.