

Opinion No. 84.**Taxation—Assessment — Persons Desiring To Be Assessed.**

HELD: A person may not have his name entered in the assessment book as a claimant to the ownership of land under Section 84-508, R.C.M., 1947, after the assessment book for the year for which he desires to be assessed has been completed and delivered to the County Clerk and Recorder. No person may be assessed under that section for any previous year.

July 29, 1954.

Mr. Robert J. Webb
County Attorney
Madison County
Virginia City, Montana

Dear Mr. Webb:

You have requested my opinion as to whether a person whose name does not appear on the assessment roll may have his name inserted upon that assessment roll and have the described property taxed to him for taxes due in preceding years.

Section 84-508, R.C.M., 1947, provides that a person may have his name placed in the assessment book if he has not been listed as the owner of lands which he claims. That section is as follows:

"Persons Claiming Ownership Of Land Desiring To Be Assessed. Lands once described on the assessment book need not be described a second time, but any person claiming the same, and desiring to be assessed therefore, may have his name inserted with that of the person to whom such land is assessed."

It should be noted that this section specifically provides that it is available to persons desiring **to be assessed**.

The case of *Sutter v. Scudder*, 110 Mont. 390, 103 Pac. (2d) 303, has held that a request for such assessment must be directed to the County Assessor.

Assessment has a particular meaning as used in the case of *Hilger v. Moore*, 56 Mont. 146, 182 Pac. 477, wherein the Supreme Court said:

"... Counsel, however, distort the meaning of the term 'assessment.' It is said to comprehend the entire process by which taxes are secured—from the inception to the conclusion. If the term has such broad significance, then it includes the entire process of taxation, and the word 'taxation' used in conjunction with it, is meaningless. But this court is not authorized to disregard the term 'taxation,' or to assume that it was used without purpose.

When our Constitution was prepared and ratified, the term 'assessment' and the term 'taxation' each had a definite, well-understood meaning. Assessment was the process by which persons subject to taxation were listed, their property described, and its value ascertained and stated. Taxation consisted in determining the rate of the levy and imposing it . . . "

The same result was reached in the case of *Butte Electric Railway Company v. McIntyre*, 71 Mont. 21, 227 Pac. 61, wherein the court said:

"It is the duty of the assessor to make an assessment of all taxable property in his county not subject to assessment by the state board of equalization. (Sec. 2002, Rev. Codes.) An assessment means the process by which persons subject to taxation are listed, their property described and its full cash value ascertained and stated . . . "

Under Section 84-503, R.C.M., 1947, the assessor is required to complete his assessment book on or before the second Monday in July; and, under Section 84-505, R.C.M., 1947, deliver it as soon as completed to the County Clerk.

It is evident from the preceding statutes and cases, that the assessment book is completed on the second Monday of July. Therefore, in order to be assessed for any particular year, the citizen requesting assessment of his property must make his request before the assessments for the year are finished. It is not within the power of the County Assessor to change the assessments of property for previous years.

It is therefore my opinion that a person may not have his name entered in the assessment book as a claimant to the ownership of land under Section 84-508, R.C.M., 1947, after the assessment book for the year for which he wishes to be assessed has been completed and delivered to the County Clerk and Recorder. No person may be assessed under that section for any previous year.