

## Opinion No. 30

**TAXATION; Assessments; time for assessing trailer-houses—COUNTY  
ASSESSORS; Duties; assessment, time for assessing trailer-houses  
—MOTOR VEHICLES; Taxation; trailer-houses considered as—  
TRAILER-HOUSES; Assessment of—Constitution of Mon-  
tana, Article XII, Section 16—Sections 12-215, 53-107,  
53-114(5), 84-301 and 84-406, Revised Codes of  
Montana, 1947—Chapter 103, Laws of 1961.**

**Held:** Privately owned trailer-houses must be assessed at the same time that other motor vehicles are assessed on the first day of January, unless they qualify for exclusion by one of the following exceptions:

- a. Trailer-houses held by a licensed motor vehicle dealer as stock in trade must be assessed on the first Monday in March;
- b. Trailer-houses affixed to land owned, leased, or under contract of purchase by the trailer owner must be assessed on the first Monday in March.

- c. Trailer-houses brought into the state as migratory personal property are assessable only after they have remained within the state for a period in excess of thirty days, and at that time they are assessable in the same manner as if they had been in the state on the regular assessment date.**

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December 7, 1961

State Board of Equalization  
Capitol Building  
Helena, Montana

Gentlemen:

You have requested my opinion concerning the proper date to assess trailer-houses for tax purposes.

The Constitution of Montana provides that all property shall be assessed in the manner prescribed by law, Article XII, Section 16. Pursuant to this provision the Legislature enacted the general assessment statute, Section 84-406, RCM, 1947, which provides in part:

"(1) The assessor must, . . . assess all property in his county subject to taxation, except such as is required to be assessed by the State Board of Equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at twelve o'clock M. of the first Monday of March next preceeding, except that such procedure shall not apply to motor vehicles which are not a part of the stock of merchandise of a licensed dealer and which are required by subdivision (2) hereof to be assessed as of the first day of January; . . ."

From this statute it is evident that trailer-houses must be assessed on the first Monday in March, unless they qualify under one of the exceptions to the general rule.

The State Board of Equalization is not required to assess trailer-houses; therefore, that exception has no application to the question here presented.

Motor vehicles which are not held as stock in trade by a licensed motor vehicle dealer must be assessed on the first day of January, Sections 53-114 (5) and 84-406, RCM, 1947. Thus, the question is whether the term "motor vehicle," as defined by our statutes includes trailer-

houses. "Motor vehicle" has a definite legal meaning, as Section 53-107, RCM, 1947, provides:

. . . The term "motor vehicle" includes automobile, truck, motorcycle, semi-trailer and trailer-house. . .

The Legislature has further provided that wherever a term is given a definite legal meaning by statute, that term has the same definite meaning wherever it appears in the Codes, as Section 12-215, RCM, 1947, provides:

"Whenever the meaning of a word or phrase is defined in any part of this code, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears."

Therefore, wherever the term "motor vehicle" is used in the codes it must be construed to include trailer-house, unless a contrary intention is clearly evident. Thus trailer-houses are assessable on the first day of January, unless they are held as merchandise by a licensed motor vehicle dealer, and in which case they are assessable on the first Monday in March. Our Supreme Court has held that it is entirely proper to assess property of different classes on different dates, *Whier v. Dye*, 105 Mont. 347, 356, 73 Pac. 2d 209.

By the amendment to Section 84-301, RCM, 1947, the Legislature clearly indicated an intention to exclude trailer-houses affixed to land from the motor vehicle classification, in that this statute provides one taxable classification for trailer-houses affixed to land and another classification for vehicles. The statute, as amended now provides, in the part here pertinent:

"For the purpose of taxation the taxable property in the state shall be classified as follows: . . .

"Class Two . . . all . . . automobiles, motor trucks and other power-driven cars, **vehicles of all kinds**, . . .

"Class Four . . . all trailers affixed to land owned, leased, or under contract of purchase by the trailer owner, . . ." (Emphasis added.)

Chapter 103, Laws of 1961, amended this section by inserting the above quoted portion to Class Four. Previous to the amendment all trailer-houses were taxed as Class Two property. It is evident then, that the Legislature intended that "trailers affixed to land owned, leased, or under contract of purchase by the trailer owner," should be taxed differently than other "motor vehicles." It is a well established rule that, a special statute covering a particular subject must be read as an exception to the general statute covering the same subject matter in general terms, *In re Wilson's Estate*, 102 Mont. 178, 195, 56 Pac. 2d 733. Therefore, it is my opinion that, trailers affixed to land owned, leased or under contract of purchase by the trailer owner, must be assessed pursuant to the general assessment statute on the first Monday of March.

The migratory property act provides another exception to the general assessment statute, in that Section 84-6008, RCM, 1947, provides in part:

"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, . . ."

It is a fundamental rule of statutory construction that taxing statutes must be strictly construed, *In re Wilson's Estate*, 102 Mont. 178, 194, 56 Pac. 2d 733. Thus, when the Legislature provided that migratory property is **subject to taxation** only after it has been in the state for a period exceeding thirty days, the assessor is not required to assess such property, Section 84-406 (1), *supra*. However, an additional problem is presented, in that the migratory property statute expressly exempts motor vehicles from taxation as Section 84-6008 provides:

". . . that this act shall not apply to motor vehicles brought, driven or coming into this state by any nonresident migratory bona fide agricultural workers temporarily employed in agricultural work in Montana **where said motor vehicles are used exclusively for transportation of agricultural workers.**" (Emphasis added.)

This exemption however, does not apply to trailer-houses, in that the exemption only applies to motor vehicles which are exclusively used for the transportation of agricultural workers. It is evident that trailer-houses are neither designed, nor used, exclusively for that purpose.

Therefore, it is my opinion that:

Privately owned trailer-houses must be assessed at the same time that other motor vehicles are assessed, on the first day of January, unless they qualify for exclusion by one of the following exceptions;

- a. Trailer-houses held by a licensed motor vehicle dealer as stock in trade must be assessed on the first Monday in March;
- b. Trailer-houses affixed to land owned, leased, or under contract of purchase by the trailer owner must be assessed on the first Monday in March;
- c. Trailer-houses brought into the state as migratory personal property are assessable only after they have remained within the state for a period in excess of thirty days, and at that time they are assessable in the same manner as if they had been in the state on the regular assessment date.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General