

## VOLUME 31

## Opinion No. 9

**MOTOR VEHICLES; Special Mobile Equipment; when assessed for taxation—TAXATION; Assessment; special mobile equipment not assessed as motor vehicle—SECTIONS 53-104, 53-114, 53-642, R.C.M. 1947; SECTION 84-406(2), R.C.M. 1947.**

**HELD: Special mobile equipment, as defined in section 53-642, R.C.M. 1947, does not come within the term, motor vehicle, in section 84-406(2), R.C.M. 1947, and is, therefore, not assessable the same as motor vehicles.**

September 17, 1965

Mr. John C. Alley, Chairman  
State Board of Equalization  
State Capitol Building  
Helena, Montana

Dear Mr. Alley:

You have requested my opinion as to whether or not special mobile equipment as defined in section 53-642, R.C.M. 1947, is removed from the category of motor vehicles as that term is applied under section 84-406(2), R.C.M. 1947.

There are two code sections that deal with assessment of "motor vehicles" for taxation. Those are sections 84-406(2) and 53-114(5), R.C.M. 1947, which are similar in substance and effect. Under these provisions motor vehicles are assessed as of the first day of January of each year, which is an exception to assessment of all other personal property between the first Monday of March and the second Monday of July in each year.

What is now section 53-114, R.C.M. 1947, *supra*, has been amended numerous times by the legislature. It was amended by Chapter 158, Laws of Montana, 1931, which contained a definition of motor vehicles. That definition remains as section 53-104, R.C.M. 1947. Subsequently section 53-114, R.C.M. 1947, was amended by Chapter 158, Laws of Montana, 1933, to provide when motor vehicle taxes are due. At that time apparently the legislature intended the definition of motor vehicle in Chapter 158, Laws of Montana, 1931, (section 53-104, R.C.M. 1947) to apply to section 53-114, R.C.M. 1947, *supra*.

Likewise the definition contained in Chapter 158, Laws of Montana, 1931, was intended to apply to section 84-406(2), R.C.M. 1947, since both Chapter 158, Laws of Montana, 1931, and section 84-406, R.C.M. 1947, *supra*, were amended by Chapter 158, Laws of Montana, 1933, to provide when motor vehicles are assessed, without changing the definition of motor vehicle contained in Chapter 158, Laws of Montana, 1931, (section 53-104, R.C.M. 1947).

Section 53-104, R.C.M. 1947, defines motor vehicles as "trailers, semi-trailers, automobiles, auto trucks, motorcycles, cyclemotors, and all other vehicles propelled by their own power, used upon the public highways of the state, excepting steam or gas tractors." This definition was designed to cover vehicles used on the highways of this state. Whereas, an examination of section 53-642, R.C.M. 1947, which defines special mobile equipment, indicates that the legislature intended that such equipment be treated differently than motor vehicles. By definition, special mobile equipment is not a motor vehicle. It is used off the public highways of the state, except for the limited purpose of moving to and from places as designated in the statute.

Therefore, it is my opinion that special mobile equipment, as defined in section 53-642, R.C.M. 1947, does not come within the term, motor vehicle, contained in section 84-406(2), R.C.M. 1947, and is, therefore, not assessable for personal property taxes when motor vehicles are assessed but should be assessed as all other personal property.

Very truly yours,

FORREST H. ANDERSON  
Attorney General

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