

VOLUME NO. 37

OPINION NO. 122

INDIANS - Personal property tax; TAXATION - Personal property, Indians; REVISED CODES OF MONTANA, 1947 - Section 84-301.12.

HELD: An enrolled member of an Indian tribe is not required to pay personal property taxes on a mobile home located within the exterior boundaries of a reservation which he owns and uses as rental property.

17 March 1978

James A. McCann, Esq.
Roosevelt County Attorney
Roosevelt County Courthouse
Wolf Point, Montana 59255

Dear Mr. McCann:

You have requested my opinion on the following question:

Is an enrolled member of an Indian tribe required to pay personal property taxes on a mobile home he owns which is located within the exterior boundaries of a reservation if the mobile home is used as rental property?

The state has no power to levy a personal property tax on the mobile home. Bryan v. Itasca County, Minnesota, 426 U.S. 373 (1976). See also Moe v. Confederated Salish and Kootenai Tribes, 425 U.S. 463 (1976). The fact that it is used as rental property is irrelevant. The tax is levied on the mobile home as a physical object without regard to the use to which it is put. Section 84-301.12, R.C.M. 1947.

THEREFORE, IT IS MY OPINION:

An enrolled member of an Indian tribe is not required to pay personal property taxes on a mobile home located within the exterior boundaries of a reservation which he owns and uses as rental property.

Very truly yours,

MIKE GREELY
Attorney General