

VOLUME NO. 37

OPINION NO. 142

MOBILE HOMES - Taxable value; TAXATION AND REVENUE - Taxable value of mobile homes; REVISED CODES OF MONTANA 1947 - Sections 84-301.12, 84-301.16, 84-309, and 84-429.14.

HELD: The taxable value of class eleven mobile homes is to be determined as a function of the certified statewide percentage increase pursuant to section 84-309, R.C.M. 1947.

26 April 1978

Harold F. Hanser, Esq.
Yellowstone County Attorney
Yellowstone County Courthouse
Billings, Montana 59101

Dear Mr. Hanser:

You have asked my opinion on this question:

Is the taxable value of mobile homes 12% of market value pursuant to section 84-301.12, R.C.M. 1947, or is it to be determined as a function of the certified statewide percentage increase pursuant to section 84-309, R.C.M. 1947?

My opinion is that the taxable value of mobile homes is to be determined as a function of the certified statewide percentage increase.

Section 84-301.12 classifies mobile homes and provides for the determination of taxable value, saying:

Class eleven property includes:

(a) all land, except agricultural land meeting the qualification of 84-437.2;

(b) all improvements, except those included in classes fifteen and eighteen;

(c) all trailers affixed to land owned, leased, or under contract for purchase by the trailer owner; and

(d) all mobile homes, except:

(i) those held by a distributor or dealer of mobile homes as part of his stock in trade; and

(ii) those included in class fifteen;

(2) Class eleven property is taxed at 12% of its market value or so much of 12% as is determined under 84-309, whichever is less. (Emphasis added.)

Your question is directed to those mobile homes included within class eleven, not those held by a distributor or dealer of mobile homes as part of a stock in trade, nor those included within class fifteen, which covers certain mobile homes used as residences by needy widows or widowers, or recipients of retirement or disability benefits. Section 84-301.16, R.C.M. 1947.

Section 84-309 provides for a decrease in the percentage to be used in determining taxable value of class eleven property if the director of the Department of Revenue certifies that the market value of such property as a whole has increased. The statute says:

(1) The director of revenue shall certify to the governor, before June 30, 1978, the percentage by which the market value of all property in the state classified under sections 84-301.12, 84-301.16(1)(b), and 84-301.19(1)(a) as of January 1,

1977 has increased due to the revaluation conducted under 84-429.14. This figure is the "certified statewide percentage increase."

(2) The taxable value of property in these three classes is determined as a function of the certified statewide percentage increase in accordance with the following table:

Certified statewide percentage increase	<u>84-301.12</u>	* * *
0		
1%	11.89	[etc.]
2%	11.79	
[etc.]	[etc.]	

(Emphasis added.)

The language of these statutes is clear and unambiguous on its face. Therefore, the statute speaks for itself and there is nothing to construe. In re Estate of Baier, Mont. , 567 P.2d 943, 946 (1977). Both sections 84-309 and 84-301.12 provide that all class eleven property, including mobile homes, is to be valued at a percentage less than 12% if the director of the Department of Revenue certifies an increase in the market value of that class of property.

Even if these statutes were ambiguous, I would reach the same result. "Where a taxing statute is susceptible of two constructions, any reasonable doubt as to persons intended to be within the particular tax should be resolved against the taxing authority. Cherry Lanes Farms v. Treasurer Gall, Co., 153 Mont. 240, 456 P.2d 296." Nice v. State, 161 Mont. 448, 453, 507 P.2d 527 (1973). In this case then, any doubt should be resolved in favor of allowing mobile home owners the benefit of the lower percentage to be used in determining taxable value specified in section 84-309.

The percentage reduction of section 84-309 was passed by the 1977 Legislature in House Bill 70. This reduction was meant to mitigate any increase in taxable value and therefore mitigate the actual taxes which might result from the statewide reappraisal project conducted under section 84-429.14. Mobile home owners have paid a disproportionately high tax compared to conventional homeowners for a number of years. This is because mobile homes have been assessed annually to current market value. Conventional homes, on the other hand, have not been reappraised for more than fifteen years. To allow conventional homes to receive the decrease in

taxable value brought about by section 84-309 while denying it to mobile homes would perpetuate this inequity. Mobile homes have, in effect, been subjected to a reappraisal annually. They would now be denied the same percentage reduction allowed on property which has been reappraised for the first time in fifteen years. Mobile homes were specifically changed from their previous class (vehicles) to their present class by the Legislature. Laws of Montana (1967), ch. 296. This is the only property changed in this manner. It was for the express purpose of insuring that mobile homes receive the same treatment with respect to taxable value as all other forms of habitation.

A statewide percentage increase for class eleven property was certified to the Governor last week, and some County Assessors and Treasurers who have already sent out tax assessments based on the 12% figure of section 84-301.12 are now faced with the problem of correcting these assessments. One suggestion is to give those taxpayers affected a credit on the second installment of their tax, rather than to process refunds for excess taxes collected.

THEREFORE, IT IS MY OPINION:

The taxable value of class eleven mobile homes is to be determined as a function of the certified statewide percentage increase pursuant to section 84-309, R.C.M. 1947.

Very truly yours,

MIKE GREELY
Attorney General