

Opinion No. 20-2461

January 13, 1920

BY: N. D. MEYER, Assistant Attorney General

TO: State Tax Commission, Santa Fe, New Mexico.

Taxation Railroad Terminal Property.

OPINION

Answering your oral request for the opinion of this office as to whether or not stations, depots, coal chutes, etc., belonging to railroads should be assessed in the county in which said property is located, or distributed over the road mileage, we beg to advise as follows:

It is our opinion that under the present statutes such property as you have mentioned and, in fact, all other property belonging to railroads, except trackage and rolling stock, should be assessed in the county where said property is located.

It is my information that heretofore railroad property that is termed "terminal property" has been classified or divided into common property and what might be called property that is not common to the road. For instance, depots, section houses, small stations, and coal chutes have been classed as property common to the road and the valuation thereof distributed over the road mileage; and property such as shops and roundhouses classed as property not common to the road and assessed in the county where such property is located.

I fail to see under what theory this division can be made, for it appears to me that the railroad shops and roundhouses are as common to the division or system as depots and, in fact, more so because a depot is used for the accommodation of passengers which is not, strictly speaking, an operation that is a part of the system, but concerns the public as much or even more than it does the railroad in the actual operation of its business and such property might be gotten along without and the road still operated, but railroad shops and roundhouses are of exclusive concern to the road and an absolute necessity in its operation.

Railroad shops located in Bernalillo county are just as common and necessary to the operation of that part of the road in Santa Fe county as that which lies in Bernalillo county. Without shops somewhere a railroad could not operate its business in the county where they have no shops any more than if there was a mile of track taken up in that country where they have no shops. Therefore, it appears to me that there is no reason to divide terminal property into two classes. It is either one or the other -- that is, common property, in which case it should be distributed over the road, or not common, and in that case assessed in the county where it is located.

As stated in the beginning, it is our opinion that as far as our present law is concerned, the taxation of terminal property should be made so that such terminal property would be taxed in the county where the same is located. We can see much logic and good reason in the argument that all terminal property should be distributed over the mileage of road within the state, but until legislation is passed we would be inclined to lean to the other procedure.