



# DEPARTMENT OF REVENUE

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## MEMORANDUM

(01-074)

**TO:** / Doug Brandt, Park County Assessor  
Suzanne Olmstead, Teton County Assessor

**FROM:** Allen Black, Administrator *AB*  
Ad Valorem Tax Division

**SUBJECT:** New "Exempt" Tax Districts covering Yellowstone National Park

**DATE:** July 3, 2001

It has recently come to our attention that all property within Yellowstone National Park is exempt from property taxation. Historically, both the Teton and Park County Assessors have classified the Yellowstone Park as exempt from ad valorem tax. However, the Department of Revenue, State Assessed Section has utility companies that have regularly reported operating property within the Park and therefore been assessed. Moreover, the Department's maps have historically shown tax district information for Teton County, but not for Park County.

To alleviate these issues, the Ad Valorem Tax Division has created a tax district for Yellowstone National Park. This "exempt" district will contain only state assessed property, will be applied uniformly in both Teton and Park Counties and will be given a tax code of 9901. We then can track the property within the park boundary and classify it as exempt. We believe this will help eliminate the confusion concerning operating property and tax districts within the Park.

We sincerely appreciate your assistance in resolving this issue. If you have any additional questions regarding this matter, please don't hesitate to contact me at 307-777-5235.



### Fax Numbers

DOR Main (307)777-7722 ☐ Ad Valorem (307)777-7722 ☐ Excise Tax Division (307)777-3632 ☐ Mineral Tax Division (307)777-7849 ☐ Liquor Division (307)777-6255

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THE STATE OF WYOMING

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October 17, 1994

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NATURAL RESOURCES DIVISION 777-7824, 777-7825

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Mr. John O. Housel  
Park County and Prosecuting Attorney  
Park County Courthouse  
1002 Sheridan Avenue  
Cody, Wyoming 82414

Re: Ad valorem taxation of equipment located in Yellowstone National Park

Dear Mr. Housel:

Thank you for your inquiry dated August 26, 1994 regarding the above referenced matter. A brief analysis follows.

The question presented is: Whether Park County may issue an ad valorem tax levy to a lessor for personal property which it leases to a for-profit business for use within Yellowstone National Park.

Analysis of the relevant authorities begins with W.S. 39-2-101, which provides in part: "(a) [e]xcept as otherwise provided: (i) [a]ll taxable property shall be annually listed, valued and assessed for taxation in the county in which located[.]". (Emphasis supplied.) Subsection (b) provides that "[i]f machinery or equipment is located in two (2) or more counties during the calendar year, the county assessors of the respective counties [...] shall meet and prorate the assessed valuation of the machinery or equipment among the counties[.]" (Emphasis supplied.)

W.S. 39-2-101 clearly demonstrates legislative intent that counties assess ad valorem taxes based upon the situs of the property, not that of the lessor. Although the statutory scheme provides for proration between counties, it makes no provision for proration between counties and other entities, such as the federal government.

PETER J. MULVANEY, ADMINISTRATOR - GENERAL

SYLVIA LEE HACKL, CRIMINAL ADMINISTRATOR  
MARY B. GUTHRIE, NATURAL RESOURCES ADMINISTRATOR

MICHAEL L. HUBBARD, CIVIL ADMINISTRATOR  
JOHN W. RENNEISEN, LITIGATION ADMINISTRATOR

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In addition, W.S 36-10-106 provides:

By section 2 of the Act of Admission of the state of Wyoming, 26 United States Statutes at Large, 222, chapter 664, the United States of America reserved exclusive control and jurisdiction over Yellowstone national park and future additions to Yellowstone national park. The boundaries of Yellowstone national park at the time of admission were defined in 17 United States Statutes at Large 32 (Laws 1967, ch. 149 § 1.)

The Act of Admission was approved July 10, 1890. Section two of the act provides in part:

[N]othing in this act contained shall repeal or affect any act of congress relating to the Yellowstone National Park, or the reservation of the park as now defined, or as may be hereafter defined or extended, or the power of the United States over it; and nothing contained in this act shall interfere with the right and ownership of the United States in said park and reservation as it now is or may hereafter be defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same[.]

26 Statutes at Large 222, Ch. 664. This act was long ago held to require express Congressional authorization to assess taxes in Yellowstone National Park. State v. Yellowstone Park Co., 121 P.2d 170 (Wyo. 1942).

16 U.S.C. Section 22 reiterates that "[t]he Yellowstone National Park shall be under the exclusive control of the Secretary of the Interior." Similarly, 16 U.S.C. Section 24 provides in part that "[t]he Yellowstone National Park, as its

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boundaries now are defined, or as they may be hereafter defined or extended, shall be under the sole and exclusive jurisdiction of the United States."

Comprehensive review of the United States Code and Code of Federal Regulation reveals express authority for states to collect sales and use taxes (4 U.S.C. §105), income taxes (4 U.S.C. §106), and motor fuel taxes (4 U.S.C. §104). However, no authority, express or implied, is available which allows states to assess and levy ad valorem taxes on personal property located within the boundaries of Yellowstone National Park.

4 U.S.C. Section 108 reiterates that the exclusive jurisdiction of the United States over federal areas is unaffected by the exceptions contained in 4 U.S.C. §§105 to 110. 4 U.S.C. §108 provides:

The provisions of section 105 to 110 of this title shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any Federal area over which it would otherwise have exclusive jurisdiction or to limit the jurisdiction of the United States over any Federal area.

A review of the internal handbook promulgated by the National Park Service to govern concession operations, entitled, Concessions Management Guideline, NPS-48 reveals express authority to collect sales and use taxes from concessioners operating within park boundaries. However, the handbook contains no express authorization for imposition of ad valorem taxes upon personal property located within the borders of Yellowstone national park.

Your point regarding the concessioner's use of the leased property is well taken, and would be a critical element in sales and use tax analysis. However,

Mr. John O. Housel

Re: Ad valorem taxation of equipment in Yellowstone National Park

September 29, 1994

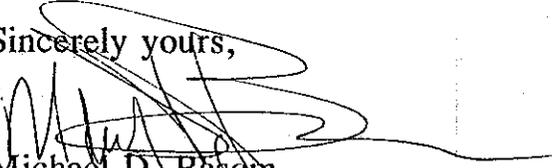
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because ad valorem analysis is predicated upon the physical situs of personal property, the concessioner's use of the property is irrelevant.

A fair reading of these authorities leads to the inescapable conclusion that federal jurisdiction over Yellowstone National Park, is exclusive. The authorities also clearly reflect a corresponding absence of express Congressional authorization to states or other taxing authorities to assess and levy ad valorem taxes upon personal property located within the park. It necessarily follows that Park county may assess ad valorem taxes for only that portion of the calendar year which personal property is physically located within the boundaries of Park county. Therefore, your question is answered in the negative.

Hopefully this explanation will answer your question. If not, please do not hesitate to get in touch.

Sincerely yours,



Michael D. Basom  
Assistant Attorney General



Michael L. Hubbard  
Senior Assistant Attorney General

CC:

Joe Meyer