

Section 3778.3 R. C. M., 1935, defines fur dealers:

“Any person or persons, firm, company or corporation engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading or dealing, within the state of Montana, in the skins or pelts of any animal or animals, designated by the laws of Montana as fur-bearing or predatory animals, shall be deemed a fur dealer within the meaning of this act. If such fur dealer resides in or if his or its principal place of business is within the state of Montana he or it shall be deemed a resident fur dealer. All other fur dealers shall be deemed non-resident fur dealers.”

Upon the facts you have submitted, Mr. Ebaugh is engaged in the business of buying or selling, trading or dealing within the State of Montana in the skins or pelts of animals. This makes him a fur dealer as defined by the section above quoted. Since he is not paid a salary or a commission by the McMillan Fur & Wool Company, and since he buys furs according to his own judgment, and not upon instruction of the company, and makes a profit only when he is able to purchase and sell at a profit, he is an independent dealer. The fact that he has credit with this company to which, if he chooses, he sometimes sells his furs, and can draw on them, is a financial accommodation but does not change his status as an independent fur dealer. There is no question but that he resides in Montana, and that he has his principal place of business in Montana. It is therefore my opinion that he is a resident fur dealer.

Opinion No. 48.

**Licenses—Resident and Non-Resident
Fur Dealers.**

HELD: Facts stated show a dealer in furs to be a resident dealer.

March 1, 1937.

Mr. Fred C. Gabriel
County Attorney
Malta, Montana

Dear Mr. Gabriel:

You have submitted the following facts: Mr. J. A. Ebaugh, a justice of the peace of Malta, and a resident there for more than fifty years, purchases and sells furs. Some of these furs are sold to McMillan Fur & Wool Company of Minneapolis, upon which he draws money to purchase the furs when he sells them to the company. If the furs are bought right, he makes a profit; otherwise he suffers a loss. He is not paid any salary by the company nor any commission and does not sell all of his furs to this company. The question is, is Mr. Ebaugh a resident or non-resident fur dealer?