

Building and Loan Associations, Taxation of Stock Of.

Furniture and fixtures of a building and loan association should be assessed to the corporation. The value of the stock should be assessed to the owners as a solvent credit.

Helena, Montana, August 5, 1905.

Hon. George E. Davis, Chairman, Board of County Commissioners, Bozeman, Montana.

Dear Sir:—Your letter of August 2, making inquiry relative to the manner of assessing property of building and loan associations and the shares of stock held by individuals in such corporations, received.

The law relating to building and loan associations in the State of Montana is perhaps the most confused and confusing statutes with which we have to deal. The act of March 7, 1883, relating to building and loan associations was repealed by the act of March 7, 1887, still companies organized under the prior act were permitted to do business under that act notwithstanding it was repealed by the subsequent act. This same condition exists with reference to the laws of 1895, (Civil Code, 800), and the same thing appears in the act of March 4, 1897, (Laws 1897, p. 231). This last law is again amended by the laws of 1899, p. 121.

With reference to the subject of taxation, however, the constitution comes to our aid and provides, in Section 1, Article XII., that all property must be taxed. Section 7, of this same article, also provides that the power to tax corporations or corporate property shall never be relinquished, and to avoid double taxation Section 17 of the same article provides, in effect, that the stocks of any company or corporation cannot be taxed when the property of such company or corporation, represented by such stocks, is within the State and has been taxed. Section 9, of the act of March 4, 1897, above referred to, is the last legislative utterance on the subject of taxation of such corporations. Under the provisions of

that section the furniture and fixtures and the real estate owned by the corporation should be assessed to the corporation, while the value of the shares of stock should be assessed to the individual owning the same as a solvent credit, and is dealt with, with reference to the collection of taxes and the right of the party to deductions, the same as other solvent credits enumerated in subdivision 6 of Section 3701, and defined in subdivision 6 of Section 3680, Political Code.

Said Section 9, laws of 1897, further provides that this stock or solvent credit shall be listed for taxation by the owner thereof in the county of his residence. It, therefore, stands on the same footing as other solvent credits and is not liable for assessment or taxation in a county where the owner does not reside, and the provisions of Section 681, Civil Code, and 3710, Political Code, and kindred sections relating to the assessment of property to an agent of a foreign owner do not apply for the reason that here is a specific act dealing with this particular subject.

The board of equalization has the same power with reference to the assessment of the stock of a building and loan association owned by a resident of the county that it has with reference to other credits specified in subdivision 6, Section 3701, Political Code, but your attention is respectfully called to Section 3789, Political Code, relative to the power of the board and to the notice required to be given. This section is analyzed in *Western Ranches, Limited v. Custer County*, 28 Mont. 278; also in *Montana Ore Purchasing Company v. James Maher, County Treasurer*, decided in June, 1905, and reported in 81 Pac. 13. The act of March 13, 1905, laws 1905, p. 303, also deals with the rights of the party whose property is assessed and the method to be pursued by him in protecting such rights.

The owner of shares of stock in a building and loan association, by reason of the peculiar character of such corporations, is not a stockholder in the same sense that the owner of stock is a stockholder in other corporations. His shares of stock are more in the nature of a certificate of membership, and his interest in the company is properly characterized as a credit, and it is, therefore, assessed as a credit but is that character of credit named "stock in a building and loan association," and this credit must be assessed to the individual, not to the corporation.

Respectfully submitted,

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Attorney General.