

**Special Road Tax. Cities and Towns, Application to Incorporated. Amendments.**

Sub.-Div. 49 Sec. 4800, as amended by the laws of 1897, p. 203, and Sec. 4875 of the Pol. Code, are amended by section 11 of the laws of 1903, page 70, both as to the amount of the tax and as to the class of persons against whom it may be assessed, and cities and towns should comply with the later Act.

Helena, Montana, June 1st, 1906.

Hon. John H. Tolan, County Attorney, Anaconda, Montana.

Dear Sir: I am in receipt of your letter of the 25th ult., submitting the following question:

"Does the provision of Sec. 11 of the Act of 1903, page 70, relating to road taxes, amend or repeal Sec. 4875 of the Pol. Code, and Sub-Div. 49 of Sec. 4800 of the Pol. Code, as amended by the laws of 1897, page 203, as to the amount of special road tax to be levied in cities, and also as to the age of persons against whom such tax may be levied?"

Sub-Div. 49 of Sec. 4800 and Sec. 4875 of the Pol. Code, fixed the road tax to be levied and collected annually in cities and towns at three dollars per capita, and provided that it should apply to able-bodied male inhabitants between the ages of twenty-one and forty-five years.

Both of these laws were amended by Chap. XLIV, Laws of 1903, p. 65, and the provisions of Sec. 11 of this act should now be complied with by incorporated cities and towns.

The Act of 1903 fixes the road tax at two dollars "on every man over the age of twenty-one years and under the age of fifty years residing in the county", and specially provides that this provision shall not extend to incorporated cities and towns which by ordinance provide for the collection of a tax of not less than one nor more than three mills for road, city and alley purposes, and also a special tax of two dollars on each man over the age of twenty-one and under the age of fifty years in such city or town.

This proviso is a condition precedent which must be complied with by the city or town in order to prevent the application of the law within such city or town.

Very truly yours,

ALBERT J. GALEN,

Attorney General.