

Assessment. Real Estate, Personal Property.

Lands are assessable when the right to patent is complete in the entrymen, even though patent has not issued.

Personal property in the possession of the owner on the first Monday in March is assessable to and in the name of such owner.

Helena, Montana, May 25, 1907.

John L. Slattery, Esq.,
County Attorney,
Glasgow, Montana.

Dear Sir:—

I am in receipt of your favor of the 6th inst., making request for an opinion from this office upon certain questions by you presented therein, respecting the assessment and taxation of property.

1. How shall the assessor assess the lands, the patent to which was not received by the grantee until after the first Monday in March of this year? Are such lands assessable even before patent is received, but after the receipt of the Receivers receipt?"

It is a general rule of law that lands which have constituted a part and portion of the public domain may be taxed by the state before issuance of patent by the Government, when the right to the patent is complete and the equitable title fully vested in the entrymen. That is, when there is nothing more to be paid, nor any act to be done upon which the right or claim to the patent is based such lands are subject to assessment and taxation and should be assessed by the assessor the same as other land.

Railway Co. vs. MsShane, 22 Wallace (U. S.) 444.

Worth vs. Brancon, 98 U. S. 121.

2. "A husband owning no real property in this county, (Valley), but owning property, say one thousand head of sheep, on the Tuesday after the first Monday in March sells and delivers these sheep to his wife. How shall these sheep be assessed?"

In answer to your second question you are advised that, under the law, these sheep became assessable as against the owner on the first Monday in March, and that they are, therefore assessable in the name of the person actually owning them on that date.

In accordance with your request I enclose you herewith copies of the recent opinions rendered by this office respecting the application of the new Board of Health Law, and the Anti-Gambling Statute.

Yours very truly,

ALBERT J. GALEN,

Attorney General.

Ferries, License Tax Of.

Section 4078 of the Political Code, prescribing the license to be collected of Toll Ferries, repeals subdivision 2 of Section 2824 of the Political Code by implication, but the remainder of said latter section is not affected.

Helena, Mont., May 27th, 1907.

Hon. John L. Slattery,
County Attorney,
Glasgow, Mont.

Dear Sir:—

I have your request for an opinion, as follows:

“Kindly give me your opinion as to whether subdivision 2, Section 2824 of the Political Code, has any force or effect at this time owing to the repeal of Sec. 4178 of the Political Code, repealed by Chapter 22 of the Acts of 1907?”

There is no such section as Section 4178 of the Political Code, and I conclude that you have reference to Section 4078 of the Political Code, which is repealed by said Chapter 22, Laws of 1907.

As to the effect of the repeal of said Section 4078, prescribing the license to be paid by persons keeping a toll ferry, upon subdivision 2 of Section 2824 of the Political Code, you are advised that said subdivision is by implication repealed, but the remainder of the Act is in no way affected.

Very truly yours,

ALBERT J. GALEN,

Attorney General.