

Private Banker, Assessment Of. Assessment, Credits of Private Banker.

Under Section 3695, as amended by Chapter 25, Laws 1905, for the purpose of determining the surplus and undivided profits of a private banker, all solvent credits, after deducting all solvent debts, should be added thereto, as the excess of solvent credits over solvent debts constitute a part of the surplus and undivided profits.

Helena, Montana, July 16, 1907.

Hon. Phil I. Cole,
County Attorney,
Choteau, Montana.

Dear Sir:—

Your letter of the 8th inst., submitting the following question for an opinion, received:

“In assessing a private banker should the assessor, assess to such banker all solvent credits, either secured or unsecured, after deducting the solvent debts of such banker as provided in Section 3701. That is, should a private banker be required to list and pay taxes on all mortgages he holds and on all other solvent credits, in addition to the property mentioned in Section 3695 Political Code, as amended by Chap. 25 Laws of 1905.”

A private banker, broker or dealer in stocks must furnish a list to the assessor setting out his property in accordance with the nine subdivisions contained in said Section 3695, as amended, and from the information thus furnished it is the duty of the assessor to make the assessment of the property. And in doing so all mortgages, notes and other evidences of indebtedness held by such private banker, including

certificates, checks, notes, etc, for funds in the hands of other banks, brokers or others, are to be classed as solvent credits, while the amount of all deposits made by other persons in such private bank, also the amount of all accounts payable by said bank, other than current deposit accounts are to be classed as solvent debts. Such solvent debts, either secured or unsecured, are to be deducted from all solvent credits, secured or unsecured, and if there is any balance on the solvent credit side they are to be added to the amount of surplus and undivided profits, and assessed. In other words, the private banker must be assessed with all his capital stock, invested either in real estate, or cash (which cash would include money on hand or in transit) and also with the amount of his surplus and undivided profits. And in determining the amount of surplus and undivided profits all solvent credits, either secured or unsecured, that the banker might have after deducting all solvent debts, either secured or unsecured, that he owes, should be added to the surplus and undivided profits, as they are just as much a part of the surplus and undivided profits as if they were cash in the hands of the banker. In other words, in assessing a private banker, broker or dealer in stocks, under Section 3695, as amended, his solvent debts and credits must be taken into consideration the same as those of any other private individual, and the amount of his solvent credits determined in accordance with the provisions of Section 3701 of the Political Code.. However, under no circumstances can solvent debts be deducted from the amount of real estate, money on hand or other tangible personal property, as debts can only be deducted from credits, and if the amount of solvent debts is in excess of the amount of solvent credits, the excess of the solvent debts cannot be used to reduce the value of either classes of property. In this connection your attention is called to the recent decision of our Supreme Court in the case of Clark vs. Maher, 87 Pac. 272.

Very truly yours,

ALBERT J. GALEN,

Attorney General.