

Poll Tax, Who Liable Therefor. Inhabitants, Meaning Of.

The word "inhabitant", as used in Section 3960 of the Political Code, means resident. Persons who are not residents of this State, as that term is defined in Section 72 of the Political Code, are not liable for a poll tax.

Helena, Montana, April 20, 1907.

Hon. D. M. Durfee,
County Attorney,
Philipsburg, Montana.

Dear Sir:—

Your letter of the 12th inst., requesting an opinion from this office upon the following question, received:

"What do the words 'inhabitants of this State' mean, as used in Section 3960 of the Political Code?"

The word "inhabitants" is generally considered as synonymous with the word "residents." (See: Words and Phrases, Vol. 4, pp. 3602 to 3604, and cases cited.)

"The word 'inhabitants' as used in U. S. Comp. Stats., 1901, page 507, providing that no civil action shall be brought against any person in any other district than that whereof he is an inhabitant, means in the sense of a 'resident.' It comprehends locality of existence, the dwelling place where one maintains his fixed and legal settlement, not the casual and temporary abiding place required by the necessities of present surrounding circumstances. A mere sojourner is not an 'inhabitant' in the sense of the Act."

Bicycle Stepladder Co. vs. Gordon, (U. S.) 57 Fed. 531.

Cooley on Taxation, 3rd Ed., Vol I, p. 641, says:

"Where one has no domicile within the state, he is not assessable there for any mere personal tax not connected with actual presence of property or business within its jurisdiction, though he himself may formerly have been domiciled in the state, and may at the time be within it. But when a party is actually domiciled in the state, some latitude in determining where he shall be taxed—though not a broad one—is allowable. Statutes prescribing the place for personal taxation sometimes make use of the word domicile, sometimes inhabitancy, sometimes place of abode, or some similar term or phrase. Probably these are in general used in the same sense, or nearly so, in tax laws."

Section 72 of the Political Code lays down the rules for determining the place of residence of a person.

You are therefore advised that the word "inhabitant," as used in said Section 3960, means a resident of this State; and, that a person who is called into this State, or brought into this State for the purpose of labor, or other special or temporary purpose, and intends to return to some other state in seasons of repose, is not an inhabitant of this State.

A party collecting Poll Tax must apply the above rules and determine in each case whether a person is a resident of the State, as the same is a question of fact to be determined from the bona fide intention of the person against whom the tax is sought to be collected. This bona fide intention should not be determined merely from statements that might be made by the person, but from his acts and conduct and all other circumstances.

As to who is the proper person to collect the Poll Tax, your attention is called to an opinion given by this office to the County Attorney of Meagher County on April 28, 1905. (Opinions, Attorney General, 1905-'06, p. 98.)

Very truly yours,
ALBERT J. GALEN,
Attorney General.