

Irrigation District, State and Government Lands in. Taxation, State and Government Lands in Irrigation Districts.

Neither government land nor state land can by any pretext whatsoever be burdened with taxation, either special or general.

Helena, Montana, October 19, 1909.

Hon. Harry L. Wilson,
County Attorney,
Billings, Montana.

Dear Sir:

I am in receipt, from Mr. Chas. A. Taylor, deputy county attorney, of a letter dated October 11th, 1909, making enquiry as to whether, under

the law, state and government lands can be included within irrigation districts and made subject to the payment of taxes thereof.

It is the duty of the board of commissioners of an irrigation district to furnish to the county treasurer a list of the lands in the district, together with the amount of the taxes thereon, hence it is a question of fact to be determined by the district commissioners from the records, whether any given tract of land is in the irrigation district. The county treasurers duties are to collect the taxes so returned to him.

Chapter 146, Sec. 54, laws of 1909.

Neither government land nor state land can, by any pretext whatsoever, be burdened with taxation.

Sec. 2, Art. XII., State Constitution.

The method and manner of selling state lands are provided for in chapter 147, laws of 1909, and by section 10 of the Enabling Act. The method, manner and means of enforcing payment of district irrigation taxes is by the sale of the land "in the same manner as for state and county taxes" (Sec. 56, chapter 146, laws 1909), but as neither government nor state lands can be sold for taxes, it necessarily follows that this law does not apply to such lands. And, while these lands may, with the consent of the lessee or homesteader, be included in an irrigation district, the only apparent remedy, in case the parties refuse to pay the taxes, is to withhold water from the land until the taxes and assessments have been fully paid.

Very truly yours,

ALBERT J. GALEN,

Attorney General.