

Inheritance Tax, No Waiver by State Officers. Treasurer, State and County, Not Authorized to Waive Inheritance Tax. Inheritance Tax, Not Collectible From Non-Residents Without Estate in Montana.

The state and county treasurers are not authorized to waive inheritance tax, collectible under the inheritance tax laws of the state of Montana, but deceased persons, whose estate owns shares in Montana corporations, are not subject to inheritance tax in this state.

Helena, Montana, April 13, 1909.

Hon. E. E. Esselstyn, State Treasurer, Helena, Montana.

Dear Sir:

In reply to your verbal request, accompanied by a letter received by you from Barton & Barton, attorneys at law of Boston, Massachusetts, wherein you ask if any particular forms are prescribed by law for submitting to state or county treasurers the facts of devises or bequests of property by testators to heirs or devises, I advise you that there is no such form.

The only method which can be adopted by the various county treasurers in determining whether or not the state and county are entitled to an inheritance tax is by consulting the provisions of Section 7724 and following sections up to and including Section 7751, Revised Codes of the State of Montana, which is part three, title twelve, chapter thirteen, of the Revised Codes, and includes all of the law now in force concerning inheritance taxes.

This law does not provide any form of waiver, nor does it confer authority, either upon the state or county treasurers, to make any waiver of inheritance tax.

If the state is not entitled to collect an inheritance tax no waiver, of course, is necessary. If the state is entitled to collect an inheritance tax, then no authority is conferred upon any state or county officer to waive that tax.

However, if the deceased, whose estate is holder of shares of the Anaconda Copper Mining Company, is a resident of Massachusetts, the State of Montana, in my opinion, has no claim for an inheritance tax. So the only waiver that could be made by you, as state treasurer, would be a statement or certificate that the State of Montana will make no claim for an inheritance tax.

Very truly yours,

ALBERT J. GALEN,

Attorney General.

Helena, Montana, May 14, 1909.

Hon. H. R. Cunningham, State Auditor, Helena, Montana.

Dear Sir:

In answer to your verbal request, accompanied by letters from Sim-

ons and Emanuel and Levi Stevens Lewis, relative to forms and waiver regarding inheritance tax, I enclose herewith copy of letter addressed to the Honorable State Treasurer relating to the same subject and will add in addition to the letter that the "statement or certificate" referred to in the last clause of the letter, if made by you, would be a mere matter of form and would not be binding upon the county authorities or any person charged with the collection of an inheritance tax.

Very truly yours,

ALBERT J. GALEN,

Attorney General.