

Taxation, National Banks. National Banks, Taxation Of.
Stock of Bank, Taxation Of. Bank Stock, Taxation Of.

The capital stock of a national bank should be assessed at its true value to the respective stockholders. In ascertaining the value of such stock the assessor may take into consideration all of the property of the bank less the real estate which is assessed to the bank as such.

December 8th, 1911.

Hon. H. S. Greene,
County Attorney,
Great Falls, Montana.

Dear Sir:

I am in receipt of your letter of the 5th inst., in which you ask concerning the liability of the First National Bank of your city in relation to the taxes for the year 1911. You state that the assessor of your county has assessed this bank with the value of its stock less the amount of real estate owned by the bank, which real estate was assessed separately; and you also state that the bank is willing to pay the tax for its stockholders upon the valuation of the stock as returned by the cashier of the bank but not upon the valuation of the stock as found by the assessor.

A national bank cannot be assessed upon its personal property but such personal property can be taken into consideration by the assessor in fixing a valuation upon the stock of such bank to be assessed to the individual stockholders. Section 2503, Rev. Codes, provides a method of taxing national banks and the stockholders thereof, and this section is in compliance with the provisions of Sec. 5219, Rev. Statutes upon the subject. The shares of stock are to be taxed to the individual stockholders at their actual value after deducting the property otherwise taxed to the bank itself, which in the case of National banks is the real property belonging to the bank. The assessor may take into consideration in fixing the value of the shares all property, solvent credits, notes, mortgages, etc., of the bank, except real estate. In this instance the assessor has not followed the law and assessed the stock to the individual stockholders but has illegally assessed the stock to the bank itself. There is no question that this portion of the bank's assessment is invalid. However, from your letter it seems that the bank is willing to pay the tax on behalf of its stockholders, stating that they do not wish to evade the payment of legitimate taxes, but that they are only willing to pay this upon a valuation as shown by a statement of the cashier returned to the assessor, and have tendered to the county treasurer the amount of this tax, to-wit: \$5,979.37. The question then arises as to the authority of your county treasurer to accept this payment.

Under and by virtue of the authority vested in the board of county commissioners by the provisions of Sec. 2894, Rev. Codes, and particularly sub-division 15, 22 and 25 thereof, and also by the provisions of Sec. 2669, Rev. Codes, the board of county commissioners have authority to compromise a bona fide dispute existing as to the validity of taxes.

Multnomah Co. vs. T. G. & T. Co., 80 Pac. (Ore.) 409.

From the facts stated in your letter it is apparent that there is a bona fide dispute existing as to the validity of the tax so far as it relates to the tax upon the personal property or stock of the bank and in view of the sections of the Revised Codes above cited and the construction of similar statutes as outlined in the case last above cited, it is my opinion that the board of county commissioners of your county has ample authority to compromise this matter and to authorize the treasurer of your county to accept the check tendered by the bank in settlement of the taxes upon this stock for the year 1911, and I would advise procedure of this character to straighten out the entanglement.

In this connection I would also respectfully refer you to Volume 2, Opinions Attorney General, pages 121 and 136; and Volume 3, Opinions Attorney General page 164.

Yours very truly,

ALBERT J. GALEN,

Attorney General.