

State Lands, Amount Which May Be Prchased By An Individual or Corporation. State Lands, Stockholder in Corporation Owning May Purchase. Corporation, May Purchase State Lands. Copartnership, State Lands Purchased By Members Of.

A corporation or individual may purchase only the amount of state lands prescribed by Sec. 37, Chap. 147, Session Laws of 1909.

The fact that an individual is a stockholder in a corporation which owns the maximum amount of state lands prescribed by law may still purchase state lands to the extent prescribed by the above section.

The word "company" as used in this section is synonymous with "corporation."

The members of a partnership may purchase state lands but cannot acquire more land from the state than each member of the partnership could acquire individually.

August 14, 1912.

Honorable Joseph Oker,
Deputy Register State Lands,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of August 10th requesting my official opinion upon the following question:

Can a stockholder in a corporation, or a member of a co-partnership, or company, purchase land from the State when such corporation, company or co-partnership has already purchased from the State the maximum amount prescribed by law?

Sec. 37, Chap .147, Session Laws of 1909, provides that "not more than 160 acres of agricultural land susceptible of irrigation, and not more than 320 acres of agricultural land not susceptible of irrigation, and not more than 640 acres of grazing land or lands which, by reason of altitude are valuable only as hay land, shall be sold to one person, or company, or corporation."

A corporation is a creature of the law having certain powers of a natural person. (Sec. 3805 Rev. Codes.) So far as holding and owning property is concerned, it has all the powers of a natural person. A stockholder in a corporation does not own its property, or hold the title thereto in any respect, but is simply entitled by virtue of the amount of stock he owns to share to that extent in the profits of the corporation. Under the provisions of the section above referred to a corporation stands in the same position as an individual with reference to the amount of land it may purchase from the state, but the mere fact that a person is a stockholder in such a corporation does not prevent him from acquiring the same amount of land from the state that he would have been entitled to if he were not such stockholder. The law considers the corporation as a separate entity aside from its stock holders. A stockholder still has the right to conduct his own business and own and purchase property as he may see fit, regardless of the corporation of which he may be a stockholder.

The word "company" as used in this statute means a legal entity, or corporation, and is synonymous with the word "corporation." A partnership, aside from the individuals which compose it, cannot hold the legal title to property, and is not a separate entity in any sense of the term. The title to partnership property is held by the individual in trust for the partnership. While a conveyance to a partnership in its firm name fails to carry the legal title to the land, such conveyance does vest an equitable title in the firm (30 CYC. 431), and the members of the partnership could compel a transfer of the title to them in trust for the partnership. When the individuals comprising the partnership have acquired, either for themselves or for the partnership, the maximum amount of land prescribed by the statute, they cannot

purchase any more from the state, either individually or as co-partners, and an individual cannot through a partnership acquire more land from the state than he could acquire individually. A partnership is not recognized by law as a separate entity aside from the individuals composing it.

Yours very truly,

ALBERT J. GALEN,

Attorney General.