

Carey Lands, Taxation of. Taxation, of Land Under Carey Land Act.

Taxes may not be levied upon lands settled on under the Carey Land Act until such time as the State is entitled to patent therefor.

May 11, 1915.

Hon. A. W. Mahon,
Secretary Carey Land Act Board,
Helena, Montana.

Dear Sir:

I am in receipt of your recent letter as follows:

"Is a settler on Carey Act land liable to the payment of taxes on the land upon which he has made his final proof and received a final certificate from the State, in view of the fact that the title to said land is still, and will remain, in the federal government until issuance of patent to the State, and this is dependent upon favorable action whether the State has made proper reclamation of the land to warrant the issuance of patent?"

The above inquiry is prompted by the fact which has come to our knowledge that the assessor of Teton County has assessed the land of every Carey Act settler in the Valier irrigation project who has submitted final proof."

This office has heretofore held that government lands are taxable prior to the issuance of patent only when everything required to be done and performed by the grantee or purchaser as a condition precedent to the issuance of patent has been completed, and nothing remains to be done, except the formal issuance of the patent by the federal government.

Opinions Attorney General, Vol. 5, p. 210, 256.

I am therefore, of the opinion that under the foregoing statement of facts, taxes may not be levied upon Carey Act lands until the State is entitled to a patent therefor, and that the acts of the assessor of Teton County, with respect thereto, are absolutely void.

Yours very truly,

D. M. KELLY,

Attorney General.