

**Taxes on Land, Held by Unincorporated Town. Water Supply, Taxes of Land Held for Purpose of. Unincorporated Town, Taxes of Certain Land Held by. Exemption from Taxes, of Certain Lands.**

Land held by an unincorporated town by virtue of a law and for the purpose of furnishing a water supply for the use of the town, is not exempt from taxation.

April 24, 1916.

Hon. Jesse G. Henderson,  
County Attorney,  
Shelby, Montana.

Dear Sir:

I am in receipt of your letter requesting an opinion upon the following proposition:

"Is the land held by an unincorporated town, by virtue of a lease and for the purpose of furnishing water supply for the use of a town, exempt from taxation?"

Under Article XII, Section 2 of the Constitution, the property of towns is declared to be exempt from taxation. The word "town" in this constitutional provision appears without any qualifying term. I am of the opinion, however, that it can have reference only to towns having a corporate entity, and not unincorporated towns, which are nothing more than

"any considerable collection of dwelling houses as distinguished from the adjacent country."

or

"an aggregation of houses so near to one another that the inhabitants may fairly be said to dwell together".

State ex rel Powers vs. Dale, 47 Mont. 227.

In the above case the Supreme Court said:

"It is quite true that in both the constitution and the Codes, the term 'city or town' is used without any definite prefix, but under circumstances which make it clear that only incorporated cities or towns is meant."

In a note to Herrick and Stevens v. Sargent and Lahr, 132 American State Reports, 281, it is clearly pointed out that property to be exempt from taxation must be that public or political subdivisions of the state, such as counties and incorporated cities and towns.

This being true, it becomes unnecessary at this time to pass upon the question as to whether or not a leasehold estate when used for the purpose indicated in your letter is exempt from taxation.

Yours very truly,

J. B. POINDEXTER,

Attorney General.