

Taxation, of State Lands Under Contract of Sale. School Lands, How Taxed When Sold. State Lands, Subject to Special Tax When.

The method of taxing lands held under contract of sale from the state is prescribed by Section 50, Chapter 147, Laws of 1909.

June 15, 1916.

Hon. H. F. Miller,
County Attorney,
Fort Benton, Montana.

Dear Sir:

I am in receipt of your communication under date the 1st instant, inquiring as to the proper assessment of lands under contract of sale in this state. You refer to an opinion rendered by this office under date February 27th, 1911, found in Volume 4 of the Opinions, page 88, with which opinion you state you do not agree. Your contention is that a purchaser should pay taxes on the full percentage of the purchase price of the lands until his payment equals the assessed valuation of the lands. I see no possibility or reason for changing the opinion heretofore rendered. It is in accordance with Section 50 of Chapter 147, Laws of 1909, and desirable as it might be, we cannot overrule the express intent of the legislature. It is true that this method of assessment does not correspond to that applied in the case of mortgaged lands, or lands under contract of purchase between two private parties. Here the state is dealing with property of its own. A purchaser under a contract does not get title, but a mere equity, and the legislature has laid down an express rule for such cases. Being a statute intended to control a specific subject, it takes precedence over the ordinary rule of taxation.

Yours very truly,

J. B. POINDEXTER,
Attorney General.