

State Bank—Charter—Capital Stock—Assessment—Taxation.

Before a state bank is entitled to a charter, its capital stock must be paid up in full. A bank is subject to taxation from the time it comes into existence as a legal entity.

Feb. 4, 1919.

Hon. H. S. Magraw,
Superintendent of Banks,
Helena, Montana.

Dear Sir:

I have your letter of January 14, 1919, submitting for an opinion the following questions:

“In order for a state bank to receive a charter is it necessary under our present laws for them to pay in cash the full amount of their capital stock? Would a bank that received a charter in January, 1919, but which did not open until April 1st, 1919, be subject to assessment?”

Both of the above questions must be answered in the affirmative. Section 10 of Chapter 89 of the Session Laws of the Fourteenth Legislative Assembly reads as follows:

“The amount of the capital stock of a commercial bank shall be not less than twenty thousand dollars, which shall be paid up in cash and deposited with some bank or banks in this state at the time the application is made to the Superintendent of Banks for the Certificate of Authorization hereinabove mentioned.”

The foregoing answers your first question. As to your second question, it is, in my opinion entirely immaterial for the purposes of taxation when a bank opens. A bank comes into existence as a legal entity, capable of holding property and subject to taxation upon the issuance by the Secretary of State, of a Certificate of Incorporation. Section 1 of Chapter 31 of the 1915 Session Laws provides that for the purposes of taxation, all shares of bank stock must be listed and assessed with regard to their value, at twelve o'clock noon, of the first Monday of March of each year.

I am aware that by a very recent decision of our Supreme Court, handed down two days ago, certain provisions of this Chapter were declared unconstitutional, insofar as they prescribed a method of taxation for property of National Banks. Nothing in said opinion contained, however, is inconsistent with the conclusion herein stated, regarding the time when the property of banks should be assessed.

Respectfully yours,

S. C. FORD,

Attorney General.