

## Opinion No. 21-2997

June 9, 1921

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** Mr. William R. Blanchard, Jenkins, New Mexico.

### Taxation of Homesteads Where Patents Lost.

#### OPINION

{\*64} In reply to your letter of the first instant asking if homesteads are taxable in cases where the patents were issued more than two years ago but were lost in transit and photographic copies thereof have only recently been received, would say:

Section 103, Laws 1921, provides:

"Lands entered or purchased under any Act of Congress shall not be subject to taxation until patent therefore has been issued, except in cases where the issuance of patent has been delayed by the neglect or default of the entryman or purchaser or his assigns."

You will note that the law provides that lands mentioned should not be subject to taxation until patent issues impliedly prescribing that the tax shall be levied when the patent is issued. It is the **issuance** of the patent that determines the date upon which the tax may be levied.

The fact that the patents were lost can have no effect upon the date that the land is subject to taxation under our laws.

The land could have been conveyed by the patentee at any time after the date of the issuance of the final receipt, and the title, both legal and equitable, vested in the homesteader on the date that the patents were signed by the President of the United States. They were, therefore, taxable from that date.