

THE STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL
SALT LAKE CITY

November 7th, 1946

Mr. Lawrence Taylor, Director
State Securities Commission
Department of Business Regulation
B U I L D I N G

Dear Mr. Taylor:

This is in reply to your recent request in which you desire an answer to the following question:

If treasury stock in a corporation is given to officers of the company by resolution of the Board of Directors for services (labor in mines, etc) or on a contract to develop a mine to a certain depth, the stock then sold by such officer to the public and proceeds used for the further development or expense of the mine, could this be construed as personal stock sales exempt under 82-1--6(9) if sold by the owner of such stock? If sold by others for the owner where remuneration or commission is received by the person selling?"

Section 82-1-6(9) provides:

"The sale, assignment, transfer or exchange by a natural person of any security issued and delivered by a corporation which at the time of such issue is lawfully qualified to do business in this state and at the time of such sale, assignment, transfer or exchange is in actual bona fide existence and actually engaged in the transaction of the principal business provided for by its articles of incorporation, if such natural person is a resident citizen of this state and the bona fide owner of such security and it has been continuously since the time of its issuance outstanding in the hands of the public; provided, that any such sale, assignment, transfer or exchange shall be instituted and consummated only by the owner thereof without the intervention of any agent other than an agent duly registered by the commission at the time of such sale, assignment, transfer or exchange; and provided further, that the commission at any time within its discretion may suspend or revoke this exemption in so far as it may have application to any particular security, and to that end any and all securities coming exclusively within the provisions of this section shall for all purposes of suspension, revocation or prohibition

Mr. L. Taylor (2)

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be deemed a registered security as provided for in sections 82-1-9 and 82-1-10."

The above quoted section does not prohibit the use of funds received from the sale of stock for development purposes. The use of funds for development purposes is prohibited by the provisions of Subsection 3 of the section but only when the entire stock of the company is sold and used for such purposes.

In the question which you raise it would appear that if the corporation in question is duly qualified to do business in this state and is actually engaged in the transaction of the principal business provided for by its articles of incorporation, and if the sale is to a natural person who is a resident of this state and such natural person has become the bona fide owner of the stock through the payment of money or services, then there is no prohibition to his selling such stock and using the proceeds to develop the mine under contract for such purposes. Such sale could be made by himself or by another for him, provided such other person is an agent duly registered by the commission at the time of such sale or transfer.

Yours very truly,

/s/ GROVER A GILES
Attorney General

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