

## Opinion No. 47-5001

March 24, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** G. T. Watts District Attorney Roswell, New Mexico

{\*23} This is in response to your letter of March 19, 1947, in which you request the opinion of this office as to whether a partially completed building, completed after January 1st of any year, should be placed on the tax roll and taxed for the {\*24} proportionate part of the year in which the building is completed and occupied.

Section 76-221, New Mexico Statutes, 1941 Compilation, provides in part as follows:

"Each of the three (3) years following any years in which its value is fixed, the assessor shall add to the value of all real property the actual value of any or all improvements which may be placed thereon during the preceding year, and shall deduct from such value the value of all improvements which may have been destroyed or removed during the preceding year."

Considering Sections 76-201, 76-203, 76-210 and 76-412, New Mexico Statutes, 1941 Compilation, it is apparent that January 1st of each year is the date which determines the condition or status of taxability of property. Also it is the established doctrine that assessments of taxes are made according to the conditions of things on the first day of January of the year in which the assessment is made.

I do not believe there is any question that partially completed buildings are subject to taxation (See 61 C. J. 186; *Esto Real Estate Corporation vs. Louisiana Tax Commission*, 170 La. 649, 129 So. 117; *People ex rel McConough vs. Marshal Field and Company*, 35 Ill. 633, 189 N. E. 885).

In view of our statutes on this question and in view of the established doctrine that assessments of taxes are made according to the conditions of things on the first day of January in the year in which the assessment is made, I am of the opinion that the county assessor should assess such partially constructed improvements or buildings according to their actual market value as of January 1 of each year. If by January 1 of the next year the building has been completed, the assessor should add to the value for purposes of taxation, pursuant to Section 76-221, above.

The above has been the policy and procedure which has been followed by assessing officials over a period of years, based upon the statutes covering the subject.

The answer to your question is in the negative.

By WM. R. FEDERICI,

Asst. Atty. General