

Opinion No. 53-5766

June 17, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Arthur Stine, Executive Director Commission on Alcoholism Room 28, Laughlin Building Santa Fe, New Mexico

{*166} You have requested an opinion on the legality of two particular percentage administrative charges which are made against your appropriations.

In regard to the 7% administrative charge made by the Bureau of Revenue for the collection of taxes authorized under § 61-1204 N.M.S.A., 1941 Compilation, as amended, it is felt that the wording of the sections of the law which state "sums thus received" and "in the manner now required by law", properly refer to §§ 61-804 and 61-803 N.M.S.A., 1941 Compilation, as amended. These sections provide for setting up and appropriating the specified 7% administrative costs. Clearly, §§ 61-701, et seq., N.M.S.A., 1941 Compilation, as amended, place the burden of collecting and enforcing this tax on the Bureau of Revenue, and the laws setting out the administrative expense of such duty are included in your section of the law.

Turning to the legality of the 5% administrative charge, as required by §§ 7-409, 7-410 and 7-411 N.M.S.A., 1941 Compilation, as amended, this statute clearly applies to all moneys appropriated or earmarked for special specific purposes or governmental functions without exceptions. The fact that § 7-624, sub-section 5, provides specifically for a 5% appropriation from the boards and commissions named therein does not exclude you from such charges. It is felt that the legislative intent in setting up the 5% administrative expense charge in this section was designed to more clearly define the appropriations of these specific boards and commissions, which appropriations are set out in the Appropriations Act, where as § 61-1202 N.M.S.A., 1941 Compilation, as amended, constitutes your appropriation and it does not require a separate appropriations act to provide for your funds.

It is therefore the opinion of this office that both of these administrative charges are being properly assessed against taxes which are collected for your benefit.

We trust that this answers your request.

By: William J. Torrington

Assist. Attorney General