

Opinion No. 55-6131

March 17, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Clarence Forsling, Chief Tax Commissioner, State Tax Commission, Santa Fe, New Mexico

Your predecessor, Mr. Monroe, on March 10, 1955, requested an opinion concerning § 72-6-4, 1953 Compilation, relative to assessment of contractors. He stated that in Los Alamos County there are certain contractors' equipment and property, such as buildings and large machinery, which, although movable, is permanently located in Los Alamos County. The county assessor feels that he should be entitled to assess such property.

§ 72-6-4 authorizes and directs the Tax Commission to determine the value of: (a) property of railroads, telegraph, telephone, transmission or pipe-line companies and public utilities; (b) of shares of capital stock of banks, trust and mortgage loan companies; (c) of mineral property; and (d) as follows:

"Of machinery, equipment and other personal property in this state of all resident or nonresident contractors customarily engaged in contracting business which involves the movement and use of such machinery and equipment in more than one (1) county in the state, when such contractors, in the usual course of business, engage in work involving the use, but not limited to, machinery and equipment commonly used in highway construction and maintenance, industrial building construction, engineering construction, pipe-line construction, steel construction, utilities construction, and oil and gas well drilling.

"It is the purpose of this provision to facilitate the tax returns, valuation and assessments of such contractors by requiring only one (1) annual return, and to provide better procedure on behalf of assessing officers in order to obtain uniformity and equality in the valuation and assessment of such property throughout the state."

It is to be noted that the purpose of adding subsection (d) to the law is stated in the second paragraph thereof, to be the facilitating of tax returns and to provide better procedure in assessments, to obtain uniformity and equality throughout the State as to such property.

It is to be noted that only one tax return is contemplated to be made by the taxpayer who is a contractor, relative to his machinery, equipment and other personal property.

In Section 2, subsection (b), the Tax Commission is directed to certify to the assessor the value of such property in the respective counties in which any of the property included in subsection (d) is situated.

Paragraph 3 provides that the value determined and certified by the Tax Commission shall be final and binding upon all tax officials in the State and requires the assessor to place such value upon the tax rolls as determined by the Tax Commission.

In view of the express language in this section, the Legislature took from the county assessors, the jurisdiction to assess machinery, equipment and other personal property of resident or nonresident contractors located in their counties and gave the authority exclusively to the Tax Commission to determine the value and certify the same to be placed upon the assessors' rolls.

By C. C. McCulloh

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