

## **Opinion No. 58-152**

July 22, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Jr.,  
Assistant Attorney General

**TO:** Mr. F. E. McCulloch, Director, Income Tax Division, Bureau of Revenue, State of  
New Mexico, Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

In keeping with the provisions of 72-15-19, N.M.S.A., 1953 Comp., is it permissible for the Income Tax Division of the Bureau of Revenue to furnish the Legislative Council with information as to the total net income of the wholesale liquor dealers in New Mexico?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

The secrecy requirements as pertain to any and all information acquired by the Income Tax Division from tax returns submitted, investigations and audits conducted or any other source are found compiled as Sec. 72-15-19. This statute specifically provides:

"Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any member of the tax commission [Bureau of Revenue], any deputy, agent, clerk or other officer or employee, or for any office deputy, agent, clerk or employee of any such officer, charged with any duty connected with or relating to the assessment or collection of the income tax, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act [72-15-1 to 72-15-13, 72-15-15 to 72-15-48]. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representative of the state, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act."

It is apparent from the language above quoted that the intent of the Legislature was to prohibit disclosure of any information as could be identified with the affairs of any individual or firm subject to the tax act considered. However, there is found no restriction nor implication thereof against divulging information which, by reason of its collective nature, could not be used as a basis for determining the particulars of any individual's tax affairs. As provided, the statute specifically permits the publishing of statistics classified in such manner as to camouflage the identity of income of individuals. Accordingly, therefore, it is our opinion that the compiling and furnishing of the total net income of all licensed wholesale liquor dealers in this State, so long as there could be no break-down by and reference to individual licensees may be carried out and the results thereof furnished the Legislative Council. See also A.G. Opn. 57-162.