

Opinion No. 63-173

December 31, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Jesse D. Kornegay Chief Tax Commissioner State Tax Commission Santa Fe, New Mexico

QUESTION

QUESTIONS

1. Under Section 72-2-15, N.M.S.A., 1953 Compilation is the assessor required to complete a complete revaluation program during 1964?
2. When may the assessor begin his valuation program under Section 72-2-15?

CONCLUSIONS

1. Yes.
2. Ninety days before January 1, 1964.

OPINION

{*399} ANALYSIS

Although several sections are relevant to your questions the language in two particular sections is of prime importance. The pertinent portions of those two sections are set forth as follows:

"Section 72-2-15. -- Real Property -- Quadrennial Assessment -- Time for Beginning Appraisals and Valuations. -- Hereafter all real property subject to assessment and valuation by the assessors of the different counties, including grazing lands, the value of which is fixed by the state tax commission, shall be appraised and valued for the purposes of taxation once every four (4) years, the **first of such valuations to be in the year 1952, the next in the year 1956, and thereafter each four (4) years.** And the assessors of the different counties, shall begin the appraisals and valuation of real property ninety (90) days prior to the first of the year in which such appraisals and valuations **are to take effect.**" (Emphasis supplied).

Section 72-2-16. -- Assessment and Valuation of Real Property at Market Value -- Finality and Quadrennial Assessment -- "Actual Market Value" defined. -- All such property shall be assessed and valued at actual market value in the manner and by the authority as now provided by law, except that the value of all such property **as finally**

fixed in the year 1952, and each succeeding fourth year thereafter shall be final and binding on all taxing authorities and all owners of such property for four (4) successive tax years, except as to right of appeal and except as herein provided." (Emphasis added).

Reading the emphasized portions of both sections together we come to the conclusion that the assessors are required to conduct and finally complete a valuation during the year 1964, and each succeeding fourth year thereafter. Other statutory sections mention the year in which the valuation is finally fixed. See Sections 72-2-17 through 72-2-19 and 72-2-21, N.M.S.A., 1953 Compilation. We are of the opinion that all of these sections support our conclusion that the valuation should be completed in the year 1964 and each succeeding fourth year. The length of time allowed *{*400}* for the valuation program therefore depends on the date on which the valuation program is to begin. This brings our discussion to your second question.

In your second question you have asked about the date for beginning the quadrennial valuation. Section 72-2-15, N.M.S.A., 1953 Compilation requires the assessor to begin his valuation ninety days before the First of the year in which the appraisals and valuations are to take effect. The answer to your question therefore turns on the determination of when the appraisals take effect. We are of the opinion that the valuations take effect in the year during which they are finally fixed. Section 72-2-16, N.M.S.A., 1953 Compilation provides that the valuations shall be final and binding on all owners and taxing authorities for four successive tax years. After the values are fixed they cannot be changed except through the appropriate review procedure outlined in the statutes. We are of the opinion that the only reasonable interpretation permitted is that the valuations take effect when they become binding. When they are finally fixed they are not subject to change and they therefore become binding. The year in which they are finally fixed is specified in Section 72-2-16, N.M.S.A., 1953 Compilation. In accordance with Section 72-2-15, N.M.S.A., 1953 Compilation, therefore the appraisers should begin their appraisals and valuations ninety days before January 1, 1964. In the future the appraisals and valuations should begin ninety days before January 1 of those even numbered years divisible by four.

In connection with our opinion on these questions another problem occurs which we feel compelled to discuss. The entire quadrennial assessment law has been subject to a moratorium for several years. See Chapter 171, Laws of 1955; Chapter 126, Laws of 1959. The present moratorium expires December 31, 1963. The quadrennial assessment law goes into effect on January 1, 1964.

The problem which has arisen concerns the apparent conflict between the effective date of the quadrennial assessment law and the directive in the last sentence of Section 72-2-15, N.M.S.A., 1953 Compilation. We have stated that the last sentence of Section 72-2-15 requires the assessor to begin his valuation program ninety days prior to January 1, 1964 which is the date on which the assessment law becomes effective. We are of the opinion that the assessor cannot begin his operations under a particular statute before that statute takes effect. The ultimate effect of the moratorium therefore is to

nullify the last sentence of Section 72-2-15, N.M.S.A., 1953 Compilation. We see no restriction, however, on the assessor's calling upon knowledge that he has gained in the past in arriving at the 1964 valuation which he will complete during 1964.

By: Wayne C. Wolf

Assistant Attorney General