

**Opinion No. 12-899**

May 28, 1912

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Non A. Walden, Town Clerk, Artesia, New Mexico.

**OCCUPATION TAX.**

Towns have no power to impose general occupation taxes.

**OPINION**

{\*39} I have today received your letter of the 26th instant. Your town having been incorporated in the year 1905 must have been incorporated under sections of the Compiled Laws beginning with Section 2476. Municipal corporations have no powers except those expressly given by the legislature or necessarily implied from those which are expressed. I believe that your town has all the powers expressed in Section 2402 of the Compiled Laws, but I do not find any power therein to impose general occupation taxes. If you will examine that {\*40} section you will find that power is given to tax or license certain kinds of business, and such power must be restricted to those particular occupations. You will find these special powers in the 13th, 14th, 15th, 16th, 18th, 28th, 61st, 65th and 85th subdivisions of that section. There are also to be found power to levy special taxes for pavements, sidewalks and sewers upon property benefited thereby. The general authority to levy taxes on all property is to be found in the third subdivision of the same section and a proviso in Section 1 of Chapter 34 of the Laws of 1903 prohibits the levy of an annual tax in excess of eleven mills, except for interest on bonds. I am of opinion that you can levy a general tax on property up to eleven mills and levy for any interest on bonds in addition.