

Opinion No. 19-2338

August 4, 1919

BY: N. D. MEYER, Assistant Attorney General

TO: State Tax Commission, Santa Fe, New Mexico.

Taxation of Mines Operated at a Loss.

OPINION

We acknowledge receipt of your letter of July 21, and in answering the same will adopt the statement made therein as a basis upon which to answer the question asked, to-wit, the construction to be placed upon section 4, Chapter 55, Session Laws of 1915, as regards the certification by your Commission to the County Commissioners of the different counties of the assessing value of mines when operated at a loss.

It seems needless for us to interpret the law in this connection for you from the fact that we see no view that could be taken other than that stated in your letter. The action that previous commissions have taken in classing mines operated at a loss as productive mines and assessing them on the surface value it seems to us the only action that could have been taken.

No doubt legislative action should be taken to provide the method of assessing "productive mines operated at a loss." It occurs to us that in many cases productive mines operated at a loss may be of great mineral value; still, under the present law such mineral values produce no revenue from taxation in such cases.

I would suggest that the Commission in considering productive mines operated at a loss during the years 1919 and 1920 for the purposes of assessment bear in mind that House Bill 162 of the recent session of the legislature provides that the average net output of producing mines during the years 1916, 1917 and 1918, be taken as a basis of valuation for the purpose of taxation for the years 1919 and 1920. It might be that in some cases producing mines would show a loss in 1919 and 1920 when an average output for 1916, 1917 and 1918 would show an average net value which would be the basis of taxation for 1919 and 1920, and which net value should be certified to the commissioners and assessed on that basis.