

Opinion No. 21-2897

April 6, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. William G. Haydon, Attorney at Law, East Las Vegas, New Mexico.

Operation of Inheritance Tax Law.

OPINION

{*43} I have delayed replying to your letter of March 31st regarding the status of the estates of decedents where death occurred prior to the becoming effective of the Inheritance Tax Law passed by the last session of the Legislature, which repealed the 1919 Act levying such a tax, until I could give the matter some thought and consideration.

I am not satisfied that the repealing of the 1919 law prevents the state from enforcing the provisions of that law in cases where death occurred between the becoming effective of the 1919 act and its repeal by the 1921 Act.

The 1921 law re-enacts in identically the same form many of the sections of the 1919 law, and in such cases it has been held that the repeal and re-enactment neutralizes the repeal in so far as the old law is continued in force.

1 Suth, Stat. Cons. pg. 445, Sec. 238.

I believe it would be advisable for an action to be brought in order to determine the question above suggested, and that the case be taken to the Supreme Court for final determination.

I shall be glad to do everything in my power to expedite any suit that may be instituted in order that we may have a speedy ruling regarding the liability of estates for the tax where death of the testator ensued between the enactment and the repeal of the 1919 law.

I am preparing to leave for Washington and, therefore, have not been able to make this opinion as thorough as I might otherwise have done. When you are in Santa Fe, if you will come to see me. I shall be pleased to discuss the matter with you. I shall return about the 20th of April.