

**Opinion No. 22-3231**

January 17, 1922

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** Mr. C. M. Rouse, County Clerk, Gallup, New Mexico.

**Interest and Penalty Upon Delinquent Tax Payments.**

**OPINION**

{\*111} Illness and rush of work in the office has prevented a more prompt reply to your letter of the 5th instant, asking for an opinion regarding the imposition of penalty and interest upon delinquent taxes as provided for by Chapter 133, Laws 1921.

The one per cent to be added to delinquent taxes provided for by Section 415, Chapter 133, Laws 1921, is not a penalty, but is in the nature of interest and must be imposed on the first half on January first, and on the second half on June first for taxes delinquent for the preceding year.

The five per cent imposed by Section 416 is in the nature of a penalty and must be imposed fifteen days after the tax shall become delinquent, or in other words, on January 15th and June 15th of each year, and the one per cent interest provided for in Section 415, after that date, is computed both upon the original amount of the tax and the added penalty.

The interpretation of the act as contained in your letter is, in my opinion, correct, and the interest and penalty should be imposed in accordance with your understanding as expressed therein.

The notice provided for by Section 417, while it does not contain any reference to the imposition of the one per cent interest, does not in any manner modify Sections 415 and 416 in so far as the imposition of the one per cent interest is concerned.

The notice given is intended to call the attention of the taxpayer to the fact that the penalty will be imposed if the taxes are not paid within fifteen days after the date of delinquency. The taxpayer is presumed to know without notice, that the one per cent interest provided for in Section 415, will be added.