

Opinion No. 22-3246

January 21, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. W. A. Losey, Town Treasurer, Hagerman, New Mexico.

Distribution Delinquent Taxes.

OPINION

{*113} In reply to your letter of the 18th instant asking if the county treasurer is authorized to pay into the state and county road fund all delinquent taxes collected for years prior to 1915, and thus deprive your town and school district of the levies for those years, I wish to advise you as follows:

Section 9, Chapter 102, Laws 1919, provides that all delinquent taxes collected and not distributed, which accrued prior to January 1st, 1915, should be distributed as follows:

"The portion of such taxes levied for state purposes shall be paid to the state treasurer and covered into the state road fund; all of the remaining of the said taxes shall be covered into the county road fund: Provided, that no portion of such remainder shall be covered into such county road fund until all outstanding valid floating indebtedness of such county, evidenced by certificates issued or claims approved by the county commissioners prior to January 1st, 1915, which should have been paid from the proceeds of such levies, respectively, shall have been paid therefrom."

Section 475, Chapter 133, Laws 1921, provides as follows:

"All moneys collected and not distributed or that may be collected by the treasurers of the several counties by suit or otherwise on account of delinquent taxes, shall be distributed as follows:

"That portion of such taxes levied for state purposes shall be paid to the state treasurer and covered into the respective funds entitled thereto as of the date of the levy thereof, if such fund or funds be in existence, otherwise into the general county fund, excepting where such delinquent taxes be subject to payment of a judgment rendered by a court of competent jurisdiction."

It would appear as if the latter quoted section repeals the provisions of Section 9, Chapter 102, by implication, and that the distribution of delinquent taxes collected should be made in accordance with the latter named section.

It is my opinion, therefore, that your town and school district {**114*} are entitled to such proportionate part of such delinquent taxes collected as they would have received had Section 9, Chapter 102, Laws 1919, never been enacted.