

Opinion No. 36-1476

November 27, 1936

BY: FRANK H. PATTON, Attorney General

TO: Hon. Byron O. Beall Chief Tax Commissioner Santa Fe, New Mexico

{*36} I am in receipt of a letter dated November 25th from Mr. Robert C. Dow, Regional Attorney, Resettlement Administration, Amarillo, Texas, together with copy of letter addressed to yourself and copies of opinions from the office of Attorney General of the states of Oklahoma, Colorado and Wyoming.

Mr. Dow has talked to me in regard to the matters mentioned in his letter and I requested him to take the matter up with your office in so far as obtaining an opinion from us is concerned.

However, I realize that you have been very busy recently with the La Joya Grant matter and other very pressing matters and I have decided not to wait for your letter requesting an opinion but to render same upon Mr. Dow's letter to me and the copy of his letter to you.

These questions have reference to taxation of property which has been taken over by the Federal Government for resettlement purposes.

I have read with interest the opinions by the Attorneys General above mentioned. The opinion from the State of Oklahoma particularly is enlightening in as much as the constitution of that state relative to taxation matters is very similar to our own constitution.

I feel that I can safely say that I concur in the opinions written by these gentlemen and that they have correctly stated the law as I understand it.

Under our constitution and the Federal constitution, land owned by the Federal Government is not subject to taxation.

I agree with the Attorney General of Oklahoma that the taxable status of property is to be determined as of the time when the assessment is levied and that if the property is transferred, even though it be to the Federal Government, after that date, then the exemption from taxation is not retroactive.

We might assume that under our law taxes may be due upon a particular piece of property which is taken by the Federal Government for resettlement purposes and that a lien is impressed upon the property for payment of such taxes. However, after title to this property passes to the Federal Government, there would certainly be no practical way in which to enforce the lien.

It would therefore really make no difference whether the lien is expunged by the passage of the title to the Federal Government or whether there is no way whereby same could be enforced.

In conclusion I again reiterate that I agree with the opinions above mentioned.