

Opinion No. 38-2053

September 19, 1938

BY: FRANK H. PATTON, Attorney General

TO: Bureau of Revenue Income Tax Division Santa Fe, New Mexico. Attention: W. S. Barnes, Auditor

{*279} Pursuant to your written request of this date we hereby confirm the oral opinion given you earlier today construing Sections 38 and 40 of Chapter 85, Session Laws of 1933, known as the Income Tax Act.

Your particular inquiry is whether the law requires your Division to demand and collect interest at the rate of 1% per month from and after the due date of a return in cases where a deficiency assessment has been made and agreed to by the taxpayer.

{*280} Confirming our oral opinion we hereby advise you that the aforementioned sections of law do impose upon your division the requirement to demand and collect such interest and that the same may not be waived by your department.

Since this is a rush opinion we do not enclose herewith authorities supporting our position. Should you require a citation of authorities, we shall be glad to submit them at a later date.

By: FRED J. FEDERICI,

Asst. Atty. Gen.