

**Opinion No. 41-3724**

February 20, 1941

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. John W. Chapman Special Tax Attorney State Tax Commission Santa Fe, New Mexico

{\*38} This will acknowledge receipt of your letter of February 18 wherein you inquire as to whether or not county treasurers should continue to issue tax sale certificates on improvements erected on either Federal or State owned land.

Unquestionably the state has the right to levy taxes on improvements which have been erected by private persons on either State or Federal owned land. After making a minute study of the question and corresponding with the Attorney General of the United States in regard to the same, I am of the opinion that improvements situated on either State or Federal owned property should for the purpose of taxation be classed as personal property, regardless of how such improvements are attached to the realty and whether they are movable or immovable. I arrive at this conclusion for the reason that to say such improvements are a part of the healthy, under the common law {\*39} doctrine of fixtures, to levy a tax on such improvements would in effect be taxing the property of the Federal or State Government, which is specifically prohibited.

I am inclosing copy of my letter to the Attorney General of the United States together with a copy of his reply which may be of some further benefit to you in regard to this question.

Trusting that the foregoing sufficiently answers your inquiry in view of our previous conversation, I am,

By HOWARD F. HOUK

Asst. Atty. Gen.