

Opinion No. 47-5038

June 11, 1947

BY: C. C. McCULLOH, Attorney General

TO: David W. Carmody District Attorney Santa Fe, New Mexico

{*58} We are in receipt of your letter of May 8, in which you ask whether a municipality may impose an occupation tax on an insurance company or agency. I am very sorry that my answer has been delayed. Your letter was misplaced.

Section 60-401 of the 1941 Compilation, as amended by Chapter 107 of the Laws of 1945, provides in part as follows:

"The payment of the aforesaid taxes, licenses and fees provided for in this act shall be in lieu of all other taxes, licenses, and fees of every kind, now or hereafter imposed by this state or any political subdivision thereof, on any insurance company or agent thereof, excepting the regular state, county and city taxes on property located in the state of New Mexico."

I see nothing in Section 14-3807 providing for occupation taxes which would authorize the imposition of an occupation tax on insurance companies and agencies in view of the above quoted exemption. You state that it has been urged that since Section 60-401 was originally Chapter 135 of the Laws of 1925, that Section 14-3807, which was enacted as Chapter 145 of the Laws of 1937, supersedes the 1925 law as a later enactment. Even if this had been so in 1937, it would not hold true now as 60-401 was reenacted in 1943 and again in 1945. Even if the suggested theory were adopted, the exemptions contained in 60-401 would prevail as the last enactment.

In view of the foregoing it is my {*59} opinion that a municipality may not impose an occupation tax on insurance agents or companies

By ROBT. W. WARD,

Asst. Atty. General