Opinion No. 54-5896

February 1, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. F. W. Moxey Chief Tax Commissioner State Tax Commission Santa Fe, New Mexico

*{*333}* In your letter dated January 28, 1954 you request an opinion relative to Chapter 177, Laws of 1953, with regard to taxation of oil and gas production and inquire as to the tax rate that should be used in computing the taxes based upon the semi-annual reports.

Section 1 of this Act requires the report for the first six months period to be filed on or before the first day of August and the report for the second six months period to be filed on or before the first day of February.

Section 2 requires the Tax Commission to determine the net value of the semi-annual output from such reports and, although no time is fixed for the certificate of net value to be made by the Tax Commission, there is an implication that the same be done forthwith within a reasonable time. It is my understanding that not more than two weeks will be required by the Tax Commission to accomplish this purpose and prepare the certificate for distribution to the various county assessors, and that the valuation will be prepared in such a form that the assessor merely applies the rate and the certificate then becomes the tax roll.

Section 3 of this Act requires the county assessor, within thirty days after the receipt of such certificate from the Tax Commission, to enter such valuation upon a special tax roll and extend the taxes thereon, and further requires that the tax rates levied upon other property in the county shall be used and extended upon the valuation of the production for both semi-annual periods of any calendar year.

Since the tax rate for the various counties and the State, generally, is ordinarily not completed until around October 1, it would be impossible to comply with the thirty day provision in Section 3 if the rate for the current year were to be used, and since both semi-annual periods are required to employ the same tax rate in any calendar year and there is apparently a conflict resulting from the language in Section 3, it is our opinion, from reading the entire Act, that the apparent conflict can be best resolved by applying the rate for the previous calendar year to the current year for which returns are filed. Thus the rate to be used and applied upon the valuation for the last half of 1953 production would be the 1952 rate, and the rate to be used for production during 1954 would be the 1953 rate.

By: C. C. McCulloh

Assist. Attorney General