

Opinion No. 54-5939

April 8, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Wm. J. Malloy, Director Income Tax Division Bureau of Revenue State Capitol Building Santa Fe, New Mexico

{*388} You have requested this office for a clarification of an opinion rendered December 15, 1953 to J. Leon Miller, then Director of the Income Tax Division, upon the feasibility of consolidating the income tax liability of each taxpayer, irrespective of year, upon one tax roll:

In the above mentioned Opinion No. 5871, it was the opinion of this office, in reviewing the matter, that additional legislation would be necessary to accomplish the full intents and purposes of a consolidation such as was done upon assessment of real {*389} property taxes by Laws 1953, Chapter 153. This office would like to reiterate that it is still of the same opinion. However, in your letter requesting a clarification or supplemental opinion upon this subject, you state that under that opinion it is necessary to consult as many as fourteen tax rolls to ascertain the delinquent taxes or taxes due, and that this is an expensive and clumsy method of determining the total tax liability.

As you probably know, the purpose of the tax roll being prepared annually is to make an annual assessment which fixes and determines the liability of the taxpayer. This assessment governs in determining the effective date of the liability and the date from which the subsequent remedies for its collection shall commence. However, we can see no objection to a recapitulation upon each annual tax roll of the delinquent taxes from prior years **as long as** such a recapitulation with the proper references to the years in which the taxes were assessed clearly shows that this is not a reassessment of the delinquent taxes, but is merely an entry for the purposes of bookkeeping and to facilitate the Bureau of Revenue in the performance of its delegated task.

Section 76-1241, N.M.S.A., 1941 Comp., provides that the tax rolls shall be in such form to disclose only the information necessary for the collection of the taxes shown thereon. We will not in this supplemental opinion discuss what force and effect, if any, departmental rules and regulations have upon this statute (regardless of whether they are filed with the Supreme Court Librarian or not). Such wording appearing in this section would appear to indicate the legislative intent that the tax roll should be of assistance in informing the collecting agency of the taxes due as well as the permanent record establishing the liability. Therefore, the allocation of a sum in excess of the amount appearing on the annual tax roll would be facilitated by the administrative information of sums due and assessed under prior tax rolls and remaining unsatisfied.

Therefore, clarifying and supplementing Opinion No. 5871, it is the opinion of this office that the tax rolls may contain additional information upon delinquent taxes assessed in

prior years and unsatisfied as long as such information is clearly segregated from the current annual assessment amount.

We trust that this will be of some assistance to you.

By: William J. Torrington

Assist. Attorney General