

Opinion No. 65-165

August 27, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Tom Overstreet, Assistant Attorney General

TO: G. Jennings Jarvis, Executive Secretary, Soil Conservation Committee of New Mexico, P.O. Box 786, University Park, New Mexico 88070

QUESTION

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Is there a statute of limitation for accounts receivable of the Soil and Water Conservation Districts?

CONCLUSION

No.

OPINION

{*277} ANALYSIS

The statute of limitation which generally applies to accounts receivable is found in Section 23-1-4, N.M.S.A., 1953 Compilation. This Section provides:

Those founded upon accounts and unwritten contracts; those brought for injuries to property or for the conversion of personal property or for relief upon the ground of fraud, and all other actions not herein otherwise provided for and specified within four (4) years.

However, the general rule concerning statutes of limitation as applicable against a state is that they do not apply. In **State v. Roy**, 41 N.M. 308, 68 P.2d 162 (1937), the rule is stated as follows:

It is generally held that statutes of limitation do not apply to actions in behalf of the State unless it is specifically so provided in the Statute; or as otherwise stated, unless expressly provided in the statute, or unless the statute does so provide by the clearest implication.

Section 23-1-4, *supra*, does not provide that it applies to the State nor can such be implied.

The nature of a Soil and Water Conservation District is set forth in Section 45-5-3 (1), N.M.S.A., 1953 Compilation as follows:

"District" or "soil conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

It is therefore our opinion that the Soil and Conservation Districts, being subdivisions of this State, are not subject to the statute of limitation which normally applies to accounts receivable.