

Opinion No. 13-1062

June 14, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Messrs. McClughan & Dexter, Deming, New Mexico.

OCCUPATION TAX.

Cities and towns may collect occupation tax from persons engaged in real estate business.

OPINION

{*232} I have today received your letter of the 12th inst. in which you ask whether it is lawful for a town and a county both to collect a license tax for the same occupation, referring especially to the real estate business.

By Section 4142 of the Compiled Laws of 1897, it is provided that real estate or collection agencies, or those who buy and sell real estate on commission, or are engaged in the collection of rents on real estate on a percentage or commission, shall pay \$ 10.00 per annum and this money is to be paid to the county. By the 61st subdivision of Section 2402 of the Compiled Laws, cities and towns are given authority to tax, license and regulate several different occupations, among which is mentioned "brokers." A broker is one who negotiates contracts between other persons relative to property and makes sales or purchases of the same, and his business may cover the dealing in real estate, as well as other kinds of property. In view of this, I am of opinion that the legislature has authorized the collection of a license by cities and towns from persons engaged in what is ordinarily known as the real estate business, in addition to the license which is paid to the county.