

Opinion No. 14-1296

August 13, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. John R. DeMier, Town Recorder, Alamogordo, New Mexico.

OCCUPATION TAX.

Occupation taxes in towns.

OPINION

{*153} I have received your letter relative to occupation taxes in your town, but in order to answer intelligently it seems to me necessary {*154} for us to know under what statute Alamogordo was incorporated. If incorporated prior to 1909 the powers given are much more extensive than under the act of that year.

The act referred to in the opinion to the Clerk of the city of Albuquerque is Chapter 131 of the Laws of 1909 which relates only to cities and not to towns. If Alamogordo was incorporated prior to 1909 your town has all the powers which are enumerated at great length in Section 2402 of the Compiled Laws of 1897, but if incorporated under Chapter 117 of the Laws of 1909, its powers are meager as you will see by reference to Sections 8 to 14 of that act.

Under said Section 2402 you will see that by the 13th, 14th, 15th, 16th, 18th, 28th, 61st, 65th, 85th and 88th sub-divisions thereof, specific power is given to license and tax various occupations, and there are numerous other sub-divisions which give power to regulate various kinds of business, and in connection with such regulation there might exist power to impose reasonable charges in the way of fees to be paid by the persons conducting any of the kinds of business subject to such regulation.