

Opinion No. 15-1430

January 30, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Kenneth K. Scott, Roswell, N. M.

How far a collector of taxes can be held accountable for failure to collect taxes on personal property.

OPINION

{*20} I have received your letter of the 28th inst. in which you ask for a construction of Section 28 of Chapter 84 of the Laws of 1913, and particularly as to how far the county commissioners, in the settlement required under said section, may hold the collector accountable for his failure to collect taxes on personal property.

Under Section 25 of the same act, it is the duty of the county clerk to charge on his book against the collector, the full amount of taxes shown by the assessment book, and on such book to credit the collector for all money collected or received by him and properly accounted for, together with credit for taxes refunded and for uncollectible taxes when properly allowed and ordered by the proper authorities. Section 28 appears to be the only further section on the subject of credits to the county collectors, and that section authorizes the credit to him on his accounts of the amounts of money collected and paid over by him, and of any taxes which have been declared to be uncollectible by proper proceeding in court. I cannot see that the county commissioners can give him credit for anything else under that statute. They have no authority to declare taxes to be uncollectible as that declaration must be made by a proceeding in court.

The county commissioners, in making a settlement with the collector, do not charge anything against him in the way of taxes. The full amount of taxes shown on the assessment book have been already charged against him, and under Section 28, the commissioners are authorized merely to give him credit for all proper amounts. Any additional credits he must obtain by some proceeding in the district court.