

Opinion No. 16-1724

January 27, 1916

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. Herbert B. Pope, Elephant Butte, New Mexico.

As to when road and poll taxes become delinquent.

OPINION

{*297} I am in receipt of your letter of the 25th instant in which you ask when "Road and School taxes" become delinquent. General school taxes, which are levied by the board of county commissioners, become delinquent at the same time as other taxes, but I am impressed with the idea that you are referring to the \$ 1.00 poll tax which, when collected, goes into the school fund. This poll tax is collected under the provisions of Section 4936 of the Codification of 1915. The law last cited provides that if the poll tax is not paid within thirty days after the first demand has been made, the school district clerk is empowered to bring suit for the collection of the same. By Section 4937 it becomes his duty to make a list of the persons liable to pay poll tax, and to post the same on the first Monday in February. Manifestly, the tax cannot be collected until after the list has been posted, so that, for instance, the clerk might make a demand upon a person for the tax on February 2, and if not paid within thirty days from that date, the same would become delinquent, and suit could be brought to collect the same.

So far as the road tax of \$ 3.00 is concerned, Section 2682 of the Codification provides that if any person who is required to pay a road tax neglects to make such payment or perform the labor in lieu thereof, prior to the first day of November, in any year, the tax then becomes delinquent, and the county treasurer is authorized and required to collect the same in the same manner as other taxes are collected. Section 2678 provides that any person subject to a road tax, who, after notice has been given, refuses to pay the same or perform the work in lieu thereof for a period of ten days after being so notified, shall be considered delinquent, and he may be sued in a separate action. It would, therefore, appear that the road tax shall be considered delinquent ten days after the person liable to the payment of the same has been requested to pay or to perform the work in lieu thereof.