

Opinion No. 17-1944

March 1, 1917

BY: ROBERT H. CREWS, Assistant Attorney General

TO: Messrs. Heacock & Cornell, Albuquerque, New Mexico.

Taxes Omitted in Past Years Should Be Assessed as of Years Omitted, and Sale of Property May Be Made for All of Back Taxes Due.

OPINION

In your favor of the 15th ult. you ask the opinion of this office on three propositions. First, can the assessor or collector assess property which has been omitted from the tax rolls for the last ten or twelve years. Second, should the property be listed on the tax rolls of each year, or should it be listed only on the rolls for the current year. Third, can the property be sold for the total amount of taxes due, or should there be separate sales for each year's taxes.

As to the first question we are of the opinion which coincides with yours, that under section 4566 of the 1915 Codification the assessor or collector has the power to assess property which has been omitted from the tax rolls. The second question is not so easy to answer, as we have been unable to find where this matter has been passed upon by any court. However, we are of the opinion that the proper method to pursue is to have the property listed on the assessment rolls of each year during which time it has been omitted. The valuation to be placed upon the property should be arrived at by comparison with valuations placed on property of the same kind for each particular year.

As to the third question, we are of the opinion that under section 5495 of the Codification the sale of property could be made for the total amount of back taxes due. I find that this matter has been passed upon by former Attorney General Clancy in an opinion to Mr. A. W. Hockenull which appears on page 113 of the report of the Attorney General for 1915-16. I believe, as is stated by General Clancy in that opinion, that it might be well to print in the list opposite each name the years for which taxes have been found to be delinquent so that it could not later be claimed that the County was precluded from advertising for sale the property of the same owner for taxes delinquent in other years than those which the collector may have found and included in the amount printed in the list.