

## Opinion No. 19-2312

July 2, 1919

**BY:** N. D. MEYER, Assistant Attorney General,

**TO:** Mr. Fred S. Brown, Treasurer and Collector, Mora, New Mexico.

Publication of Delinquent Tax Lists.

### OPINION

Referring to your letter of June 28, 1919, in which you inquire relative to the tax sale certificates of your county, and the procedure to be followed in publishing delinquencies, we beg to advise that we are inclined to believe that the tax sale certificates for the year 1916 are not good, or at least there is a liability that a tax deed issued thereon might be successfully attacked because of the reason that the judgments upon which said tax sale certificates were based are lost.

Under Section 4 of House Bill 381 of the recent session of the legislature, a mode is prescribed which we believe can be used with efficacy to right this condition. Said section provides that the "District Attorney or special counsel may, if they deem advisable, bring suit to determine the validity of any tax sale certificate issued to and still held by any county. If such certificate be adjudged invalid, the same shall be cancelled and the delinquent taxes for which the same was issued may be collected by suit as if the property taxed had not been offered for sale for such taxes . . . .".

This provision enables the District Attorney to have the existing tax sale certificates adjudged invalid, and then the way is clear to proceed in the collection of delinquent taxes anew.

The course that you are pursuing in regard to the collection of delinquent taxes for the year 1917 is proper, and according to the provisions of sections 1 and 2 of Chapter 80 of the Session Laws of 1917.

We do not believe that it would be proper for you not to publish the delinquent tax list for the year 1918 as you state that you intend to do. We refer you to that part of the law just referred to and ask you to read the same. It seems that under the provisions of Chapter 80 it is necessary for you to both publish and post the delinquent tax list.

In reference to those tax sale certificates for the year 1916 which were destroyed by fire, we are of the opinion that it would be proper to dismiss those proceedings and commence suit for the collection of delinquent taxes as provided for in section 3 of House Bill 381 of the Session Laws of 1919.

If you have not the new laws to which we have referred you it would be well for you to immediately request the State Tax Commission to forward them to you. I understand that they have had those laws printed in pamphlet form.

Hoping that we have suggested the means by which you can proceed to place the records in regard to these tax sales upon a good basis, we beg to remain,