

Opinion No. 20-2514

March 16, 1920

BY: N. D. MEYER, Assistant Attorney General

TO: Mr. J. E. Saint, Chief Tax Commissioner, Santa Fe, New Mexico.

Property Acquired After January Not to Be Scheduled for Taxation For That Year.
Receivers Should Schedule for Taxation Property in Their Hands.

OPINION

Referring to the letter addressed to you by George Roach, Assessor of Curry County, asking in substance two questions -- first, should persons, firms or corporations make return of property for taxation which they did not have on January first but acquired before the period in which to list property expires; second, to whom should property be assessed when the same is in the hands of a receiver -- and upon which questions you want the opinion of this office, we beg to advise as follows:

First. Section 5437 of the Code provides in substance that all property should be listed for the purpose of taxation by the owner, and that said list should be made of all such property as it exists on the first of January. Section 5448 further provides that the return of said property may be made any time after the first of January and not later than the last business day in February of each year.

From these two sections it is quite evident, and we are of the opinion, that all persons should list their property for the purposes of taxation as the same existed on January first, that is to say, that the property which they possessed or controlled on the said first day of January is the property which should be assessed, and any property that may have been acquired later than this date and which the taxpayer did not own, possess or control on January first is not subject to assessment for that year.

Under the law the taxpayer can list his property on the second day of January and thereby comply with the law so far as the return of property for that particular year is concerned, and if he should receive or acquire additional property on the third or fourth of January, or later, it can readily be seen that he would not be required to list the acquired property.

Second. It is to be noted that the law provides that the return of property should be made by the owner or the person who has control or management of said property. Therefore, in the case of a receivership, it is my opinion that the property involved should be assessed in the name of the receiver in the following language: John Doe, Receiver for the Texico-Farwell Truck and Transportation Company -- and listing all the property involved in the receivership.

We believe that the foregoing will answer the questions presented in Mr. Roach's letter, which we are returning to you herewith.