

Opinion No. 21-2903

April 8, 1921

BY: A. M. EDWARDS, Assistant Attorney General

TO: State Tax Commission, Santa Fe, New Mexico.

Laws Remitting Delinquent Taxes Probably Invalid.

OPINION

{*44} Section 474 of the Revenue Code provides that all taxes accrued upon property in this state prior to January first, 1910, whether assessed or not, when no tax sale has been made therefor to a purchaser other than the county, shall be presumed to have been paid and the tax lien therefor is discharged. A similar provision with reference to taxes accruing prior to January first, 1903, was included as Section 9 of Chapter 102, of the Laws of 1919.

Section 32 of Article IV of the Constitution provides:

"No obligation or liability of any person, association or corporation, held or owned by or owing to the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released, postponed, or in any way diminished by the legislature, nor shall any such obligation or liability be extinguished except by the payment thereof into the proper treasury, or by proper proceeding in court."

Under the restrictions of the provisions of the Constitution above quoted, it would seem that the legislature has no authority to remit or extinguish the obligation or liability of any person to pay his taxes.

It is the opinion of this office, therefore, that both Section 474 of the Revenue Code, and Section 9 of Chapter 102 of the Laws of 1919, are unconstitutional, and, therefore, void.