

Opinion No. 22-3301

March 1, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. George F. Bruington, Attorney at Law, Aztec, New Mexico.

Non Residents in State Subject to Payment Poll Tax.

OPINION

{*127} In reply to your letter of the 24th instant, making inquiry concerning those who are liable for the payment of the school poll tax provided for by Section 34, Chapter 105, Laws 1917, I wish to advise you as follows:

You state that many persons in your school district refuse to pay the tax because they claim they are not residents of the state.

In my opinion, the tax is not levied upon "residents" but upon "All able bodied male persons of the age of 21 years or over."

There is nothing in the section which would make the tax collectible only from "residents." While it is true that the word "resident" is used in the section, it is quite clear that the word was intended to be used as defining those who live within the district, and not to apply to persons who have a political residence therein. You will note that as the word is used in the first paragraph, it modifies persons liable to pay the tax, resident in their respective districts."

In the second paragraph, it refers to residents of one district being exempted from paying poll tax in any other district than that in which he resides, and that no poll tax shall be received by any clerk from a resident of another school district.

In all these instances the word "resident" is used to designate a person who resides or lives within the boundaries of the district, and not to one who can claim a legal residence therein.

Therefore, the tax should be collected from all persons who fall within the provision of "able bodied citizens of the age of 21 years or over."