

Opinion No. 26-3890

May 18, 1926

BY: ROBERT C. DOW, Assistant Attorney General

TO: Honorable Walter B. Wagner, Superintendent of Insurance, Santa Fe, New Mexico.

This office is in receipt of your request for an opinion relative to certain tax matters. You desire to know whether or not the notice and publication required under Section 453 of Chapter 133 of the Laws of 1921, has to be given before tax deed can issue, first: to property assessed prior to the year 1921, and, second: whether or not such notice and publication must be given before deed can issue to property assessed prior to the year 1921 but where sale of said property is in November, 1921.

In a former opinion, dated May 4th, 1926, I stated that such notice and publication must be given before a deed can issue to property delinquent for the year 1921; such property could not become delinquent for the year 1921 until after March 12th of said year, the date said law took effect, but it seems that there has been some misunderstanding as to the wording of that portion of the opinion.

Sections 478, Chapter 133, Laws of 1921, carries with it the following proviso:

"Provided, that the provisions of this act shall not affect or be applicable to taxes heretofore assessed, or which are delinquent at the date of the approval hereof, except, that suit for the same may be brought and judgments thereon rendered in the manner provided by this act, but the validity of such delinquent taxes shall be determined by the law in force at the time of making the assessments therefor."

Taxes assessed, or which were delinquent, prior to the date of this Act would not be governed by the Act and, therefore, no notice of publication as above outlined would be required. However, suits may be brought and judgments rendered in the manner provided for in the Act.