

Opinion No. 35-1051

May 31, 1935

BY: FRANK H. PATTON, Attorney General

TO: Mr. J. D. Graham, Jr., Treasurer & Collector, Reserve, New Mexico.

{*69} This is in reply to your letter of May 29, 1935, in which you ask a number of questions regarding tax sale certificates. You do not state whether or not these tax sale certificates were issued to the state or to a private individual. I will assume for the purpose of this letter that they were issued to the state and have not been assigned.

{*70} Where the certificate covers both 1931 and 1932 taxes, it is my opinion that such taxes may be paid in full under Sections 1 or 2 of Chapter 133, Laws of 1935, or by partial payments under Section 2, and in either case the lien of the state as evidenced by such certificate will be discharged. However, the 1935 act must be strictly complied with and I do not think that the certificate would be discharged by merely paying the 1931 taxes alone or the 1932 taxes alone.

I think the Treasurer would have power to make corrections in amounts, descriptions, etc., in such tax sale certificate where they are merely clerical errors. I think however, it would be better to have a court order in such cases. Where an order of court corrects the description or the tax roll, I believe the same procedure should be followed to correct the description on the tax sale certificate.

I believe the above answers would also apply to certificates of tax lien.

I do not think as a general proposition an incorrect description of a part of the land described in a tax sale certificate would render the certificate invalid as to the remainder. However, every case would be governed by the particular facts involved.

Where the total amount of taxes have been paid on a part of the land described in a tax sale certificate issued to the state and not assigned, the State Tax Commission has taken the position that the certificate is not discharged as to the land on which the taxes are paid. There is some doubt in this regard but that is the position we will take for the time being. Of course, a mere partial payment of the taxes on all of the lands covered by the certificate which is not made in conformity with said Chapter 133, Laws of 1935 or other similar statute would not discharge the certificate.

Trusting that the above answers your inquiries, I am,

By: QUINCY D. ADAMS,

Asst. Atty. General