

Opinion No. 36-1416

July 29, 1936

BY: FRANK H. PATTON, Attorney General

TO: Mr. John D. Bingaman, Commissioner of Revenue, Santa Fe, New Mexico.
Attention: L. D. Sparks, Director, Income Tax Division.

{*134} This is in reply to your letter of July 27, 1936, in which you ask whether or not the Commissioner of Revenue has the right to issue subpoenas to require persons to appear before him and testify in cases where they have failed to file income tax return as required by statute.

It seems to me that Section 37, Chapter 85, Laws of 1933, answers your questions in detail. Of course, the statute refers to the State Tax Commission but the Act creating the Bureau of Revenue transfers to that department the powers and duties previously exercised by the State Tax Commission in connection with administration of the Income Tax Act.

The section above referred to does not specifically mention subpoenas, but it does say that the Commission may "require such taxpayer, or the agents or employees of such taxpayer, to give testimony or to answer interrogatories under oath administered by the Chairman of the State Tax Commission, or any member thereof, etc." I think this necessarily infers the right to issue and serve subpoenaes.

By QUINCY D. ADAMS,

Asst. Atty. General