

## Opinion No. 37-1577

March 30, 1937

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. John D. Bingaman Commissioner of Revenue Santa Fe, New Mexico.  
Attention: Mr. R. B. Waggoman, Director, Emergency School Tax Division

{\*68} Your letter of March 29th makes inquiry as to whether Chapter 103 of the Session Laws of 1937, which is the Severance Tax Law, is retroactive in its effect as of March 1st.

It is understood that the bill was not signed and approved by the Governor until March 15th at 9:45 A. M.

From my study of cases and texts involving retroactive statutes I find that legislatures have power to enact such legislation in many cases, and to decide whether or not a statute is retroactive the intent of the legislature must first be determined.

Such intent is to be determined from the Act in its entirety and it may be found either by an express provision in the Act or by provisions which clearly show that the legislature intended to make the statute retroactive in effect.

Your attention is directed therefore to Section 1 of the law in question, which provides as follows: "That for the year 1937, commencing March 1st, 1937, and for each {\*69} subsequent year taxes are hereby levied on the following natural resource products: . . . severed from the soil of this state."

In construing and interpreting statutes to determine if same are to be given a retroactive effect, in cases of doubt the doubt is to be resolved in favor of the taxpayer.

However, I do not believe that there is any doubt in this case and from the language above quoted it appears that it was the intention of the legislature to make this severance tax effective for the year 1937 beginning upon the first day of March of said year.

While this language does not state definitely that the Act is retroactive, yet it does reveal the intention of the legislature to my mind beyond any question of doubt.

It is, therefore, my opinion that the Act is retroactive and is to be effective as of March first of this year.