

Opinion No. 39-3184

June 23, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. John W. Chapman, Assistant Special Tax Attorney, State Tax Commission, Santa Fe, New Mexico.

{*69} We have your letter of June 20th requesting an opinion as to the proper construction of Chapter 140, Laws of 1939, prescribing the use which may be made of the Tax Commission Fund, and the proviso at page 625, in Chapter 238, 1939 Laws, dealing with the appropriations from the Tax Commission Fund.

The first Act above cited prescribes the use of the fund for certain purposes therein generally stated, "and for the exercise of such other powers and duties as may be required by law," all upon a budget approved by the State Board of Finance. Among the duties required of the commission by law is the sale of property conveyed to the state by tax deed and which entails a large amount of work.

The Appropriation Act on the other hand, {*70} at page 625 of the 1939 Session Laws, fixes appropriations for seven separate items, including salaries for six employes of the delinquent tax division, and requires that those seven items "shall be paid from the State Tax Commission Fund only", and then provides that any balance left in the State Tax Commission Fund at the end of this and subsequent fiscal years "shall be expended only for appraisal of property for purposes of taxation according to a budget approved by the State Board of Finance."

It is my opinion that both these statutes must be construed together, and that so construed there must be set up from the Tax Commission Fund in existence at the end of each fiscal year the amounts set out in the seven items above mentioned, and the balance of the fund then existing is to be set aside for use in appraisal work only. To construe the proviso in the appropriation act as requiring the use of the entire amount in the fund at the end of the fiscal year for appraisal work only, would be to require the Delinquent Tax Division to start the new year and carry on all duties other than appraisal work without money until sufficient funds had accumulated from the current year's revenue. It would be unreasonable to presume that this was the intent of the legislature, particularly in view of the large amount of work required by Chapter 203, Laws of 1939, with respect to sale of properties.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.