

Opinion No. 43-4362

August 11, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Honorable J. O. Gallegos, Commissioner of Revenue, Santa Fe, New Mexico.
Attention: Victor Salazar, Director

We are in receipt of your letter of August 10, 1943, in which you ask an opinion of this office as to whether there is any statutory prohibition against an employee of the Bureau of Revenue giving a surety bond with personal sureties.

I find no statute requiring an employee of the Bureau of Revenue to give a surety bond of any nature and, of course, no statute providing for the form of such bond. However, Section 10-201 of the 1941 Compilation provides as follows:

"No bond of any public officer of this state executed by any individual, or firm as surety, shall be accepted or approved unless the persons or firm executing the same shall be the owners of unencumbered real estate or personal property in this state to an amount equal to the amount for which they respectively qualify on such bonds."

Further, Section 7-234 of the 1941 Compilation sets forth the form of bond to be used by any state, county, city or town officer, when such is required by law. This section provides that:

"In event of the giving of bonds with personal sureties the bond shall be substantially in the foregoing form."

In view of the foregoing it is my opinion that there is no statute prohibiting against an employee of the Bureau of Revenue giving a surety bond with personal sureties, but that as a matter of policy both Section 10-201 and Section 7-234 should be substantially complied with.

By ROBERT W. WARD,

Assistant Attorney General