

Opinion No. 46-4891

April 18, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. H. B. Sellers Chief Tax Commissioner State Tax Commission Santa Fe, New Mexico

{*220} In your letter dated April 13, 1946, you enclose a letter from the State Comptroller, and a copy of a Judgment against the Village of Taos, a municipal corporation, and inquire whether the proceeds of tax sales in Taos County can be used to pay this outstanding claim of the municipality.

Section 76-745 of the 1941 Compilation provides for the distribution of proceeds of sales of property deeded to the State for delinquent taxes, and provides, in part, as follows:

"If there be any outstanding and unpaid accounts against any county or school district funds for any year or years prior to the current year, the State Comptroller may order the money which would have been credited to current funds hereunder to be credited to the public funds for such prior year or years in sufficient amount, if available, to pay such outstanding and unpaid accounts."

Aside from the fact that this Judgment is dated November 1, 1945, and for that reason would be an unpaid account of the current fiscal year, I do not believe that proceeds of sales of property deeded to the State for delinquent taxes may be used to pay outstanding accounts of a municipality, except insofar as the municipality may receive its pro rata share, under the current rate of distribution. The Statute merely authorizes the Comptroller to apply such proceeds of sales to unpaid accounts of a county or school district, and does not mention municipalities.