

OPINION
45-67

June 12, 1945 (OPINION)

COUNTY AUDITOR

RE: Refunds and Abatements

In your letter of June 6, you state that Mr. Albert T. Johnson, the county auditor of Dickey County, has raised the question as to whether or not county auditors are required to report refunds and abatements to the state auditor.

Section 2165 of the 1925 Supplement to the 1913 Compiled Laws provided for abatement of taxes. This statute contains the following language:

"The county auditor shall make out a certified statement of the amount of state taxes to abated which statement shall be forwarded to the state auditor, who shall give the county credit for the amount so abated."

This section of the 1925 Supplement was subsequently superseded by chapter 276 of the 1931 Session Laws, which dealt with abatement of unjust or invalid assessments. Section 9 of chapter 276 of the 1931 Session Laws specifically repeals section 2165 of the 1925 Supplement to the Compiled Laws for the year 1913. The language herein quoted from section 2165 of the 1925 Supplement is not contained in chapter 276 of the 1931 Session Laws.

Chapter 57-23 of the North Dakota Revised Code of 1943 deals with proceedings to abate or refund taxes. There is no provision contained in that chapter requiring a county auditor to furnish a certified statement of the amount of state taxes abated to the state auditor. No such requirement has existed since the repeal of section 2165 of the 1925 Supplement to the 1913 Compiled Laws and is not now contained in any provision of the 1943 Revised Code dealing with proceedings to abate or refund taxes.

It is, therefore, the opinion of this office that since the enactment of chapter 276 of the 1931 Session Laws it has not been necessary for a county auditor to make a certified statement of the amount of state taxes abated to the state auditor, nor is there any requirement to do so to be found in the 1943 Revised Code. No such statement by a county auditor to the state auditor is therefore required and those county auditors who have continued to send in statements of refunds and tax abatements to the state auditor's office should be instructed that they are no longer required to do so.

NELS G. JOHNSON

Attorney General