

Opinion No. 52-293

September 4, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. Richard H. Robinson Assistant District Attorney Fifth Judicial District Carlsbad, New Mexico

{*293} In reply to your letter of July 30, 1952, you request an opinion concerning County Occupational Taxes. You state that a company in Eddy County who deals in alfalfa hay, buys the hay in Eddy County and ships it out to other counties in the State and some of it out of the State. Your specific question is upon what should the taxes be based with reference to Chapter 62-101, N.M.S.A., 1941 Compilation.

In our opinion the taxes should be based on all annual sales, and if such sales exceed the sum of \$ 3,000 a license tax of \$ 5.00 per annum should be paid. If his annual sales exceed \$ 3,000 and do not exceed \$ 10,000 he should pay a license fee of \$ 10.00. If his total annual sales exceed \$ 10,000 and do not exceed \$ 20,000 he should pay a license tax of \$ 20.00 per annum, etc., as in said Section 62-101, N.M.S.A., 1941 Compilation provided. Taxes should be based on the amount of total annual sales per annum.

Your question as to the applicability of City Occupation Taxes to a Business which while located outside the City limits makes most of its sales within the City limits, Section {*294} 14-3807 and Section 14-3808 grant to the governing bodies of Municipalities the right to impose by ordinance Occupational Taxes or licenses.

By reason of the limitation of the authority governing body of any Municipality, other territorial limits of the Municipality by ordinances can have no extra territorial effect. It is my opinion that the City may not impose Occupational Taxes or license taxes upon businesses located outside the City limits.

Trusting that this fully answers your inquiries, I remain