

Opinion No. 58-187

September 15, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson Jr.,
Assistant Attorney General

TO: Mr. John W. Chapman, Attorney, Bureau of Revenue, Santa Fe, New Mexico

QUESTION

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Is an automobile company of Gallup permitted to exclude in determining its school tax liability, the receipts and proceeds from sales made to or services performed for the benefit of the Navajo Indian Tribe?

CONCLUSION

No.

OPINION

ANALYSIS

The tax herein considered is one based and founded upon the privilege of rendering services or doing business in the State of New Mexico. Specifically, § 72-16-14, N.M.S.A., 1953 Comp., (P.S.) provides in part as follows:

"There is levied, and shall be collected by the Bureau of Revenue, privilege taxes, measured by the amount of volume of business done, against the persons, on account of their business activities, engaging or continuing, within New Mexico, in any business as herein defined, and in the amounts determined by the application of rates against receipts, as follows:"

Prior to 1957, and in keeping with § 72-16-5, N.M.S.A., 1953 Comp., there was provided an exemption of the tax herein considered as applied to any sales made to the Government of the United States or any agency or instrumentality thereof. This exemption, however, was specifically repealed by the Twenty-third Legislature.

Accordingly, and also in keeping with Attorney General's Opinions Nos. 57-247, 57-263 and 57-297, it is our opinion that the receipts and business proceeds realized by the Navajo Chevrolet Company as result from sales and services made to the Navajo Tribe are equally subject to taxation as are all other proceeds excepting those as may be realized from transactions with the State of New Mexico or any of its political subdivisions.