

**Opinion No. 59-141**

September 15, 1959

**BY:** HILTON A. DICKSON, JR., Attorney General

**TO:** Mrs. Betty Fiorina Secretary of State State Capitol Building Santa Fe, New Mexico

{\*215} This is written in reply to your recent request for an opinion on the following questions:

1. Can the Scottie Saving Stamp Co., Inc. designate as the only place for cash redemption of trading stamps, an address in Lubbock, Texas?
2. Are several stores located in one community who have jointly established a trading stamp system of their own subject to the requirements of the Trading Stamp Act?
3. Where stores such as a grocery store, dry goods store, filling station or drug store jointly operate as redemption centers, must they register as redemption centers in the office of the Secretary of State?

The answer to your first question is no.

The answer to your second question is yes.

The answer to your third question is yes.

It is clear from the language of of the statute that no trading stamp company shall distribute trading stamps in this State or shall redeem trading stamps issued within this State until it has filed with the Secretary of State, the registration statement required by Sec. 4 (49-9-4, N.M.S.A., 1953 Comp. PS.)

The pertinent part of the above section reads as follows:

"No trading stamp company shall distribute trading stamps in this state or shall redeem trading stamps hereafter issued therein until it has filed with the secretary of state:

A. A statement of registration . . . Each such statement shall provide the following information:

. . .

(6) the addresses of the place where its stamps are redeemable within the state; . . ."

In our opinion, it must be implied from the requirements set forth that each such company must have at least one redemption center located within the State of New Mexico. Section 49-9-3, N.M.S.A., 1953 Comp. PS, reads in part as follows:

"No trading stamp company shall distribute trading stamps **in this state** or shall redeem stamps hereafter issued **therein** unless;

. . .

B. The rightful holders may, at their option, redeem the stamps in cash when duly presented to the company for redemption in a number having an aggregate cash value of not less than twenty-five cents [25 [cents\_\_." (Emphasis Supplied)

We interpret the above sections {\*216} to mean that if you are a trading stamp company, you must redeem stamps in this **state** and you must, in addition to offering to redeem for services or merchandise, provide for optional cash redemption in this State.

In answer to your second question, we invite your attention to Section 49-9-1, N.M.S.A. 1953 Comp. PS, Subsection "B" which reads as follows:

"B. The term 'trading stamp company' means any person engaged in distributing trading stamps for retail issuance by **others, or in redeeming trading stamps for retailers in any way or under any guise;**" (Emphasis Supplied)

When several stores establish a trading stamp system where the stamps may be redeemed at any of the several issuing stores, then each store is redeeming for the other and is subject to the above quoted section of the statute. We have recently ruled in Attorney General's Opinion No. 59-126 that a retail store which issues its own trading stamps and redeems them at its own store, is not within the purview of the Act therein. The distinction to be made is that in the case of an individual store, it cannot be said that the redemption is for another. Unless the several stores in the trading stamp system referred to above limit their redemption of trading stamps to the particular stamps which have been issued from their store, they would not be exempt from the Act.

The situation which you have outlined of several stores redeeming stamps issued by them do not come under the exception in Attorney General's Opinion No. 59-126.

In answer to your third question, Section 49-9-4, Subsection "A" (6) supra, controls. That quoted portion of the Act requires the trading stamp company to list the addresses of the places where its stamps are redeemable within the State. This section needs no further interpretation since its meaning is clear and unambiguous.

Hilario Rubio,

Assistant Attorney General