

**Opinion No. 19-2317**

July 8, 1919

**BY:** HARRY S. BOWMAN, Assistant Attorney General

**TO:** State Tax Commission, Santa Fe, New Mexico.

Method of Determining Tax Assessment Private Car Companies.

**OPINION**

We have your letters of the 1st instant, enclosing letter from Lathrop, Morrow, Fox & Moore, attorneys for Peet Brothers Manufacturing company, addressed to the State Treasurer, in regard to an error made by this company in its return of car mileage traveled by its private refrigerator cars in the State of New Mexico during the year 1918, and requesting that the assessment be reduced in accordance with the correct figures of the car mileage traveled, as stated in the letter above mentioned.

The letter states that the return of the company showed that the car miles traveled was 246,422 while the actual mileage made by the Peet Brothers cars was 430,943 miles.

We are not conversant with the method of computing of taxes that would be due but assume that they would increase in proportion to the increase in mileage traveled by the cars. If this assumption be correct, then the tax assessment should be almost double that which was made by the commission upon the basis of the figures as furnished in the return, and the tax should therefore be about \$ 270.00 instead of \$ 140.00.

There is no doubt but what the Commission would have the authority to increase the tax assessment in the event of an error in the return as made by the company, and we are of the opinion that the Commission would be equally authorized to make any reduction that would be found to be proper because of an error made in the number of miles traveled by the cars.

If it be found that the tax assessment should be less than that levied by the Commission, we are of the opinion that the Commission would be authorized to reduce it to the proper amount upon the basis of the actual mileage traveled by the cars.

We are returning to you herewith the letter of Lathrop, Morrow, Fox and Moore to the State Treasurer.