

**Opinion No. 23-3719**

July 20, 1923

**BY:** JOHN W. ARMSTRONG, Assistant Attorney General

**TO:** Requested by: Hon. R. H. Carter, State Comptroller, Santa Fe, New Mexico.

**Federal and State Government are not Exempt from Payment of Gasoline Excise Tax.**

**OPINION**

{\*71} Your inquiry is based upon the following statement:

"A question has been raised in reference to the collection of the excise tax on gasoline, as to whether this tax must be paid by the United States Government or agencies or departments of the State of New Mexico, on sales made by (to) them."

The statute on the question provides that on or before the 10th day of each month, after March 12, 1921, every distributor of gasoline and every retail dealer in gasoline shall render a true and correct statement of all gasoline sold by said distributor or dealer during the preceding month, except gasoline, the sale of which is excepted from taxation hereunder, and shall accompany each such statement with an amount of money equal to the tax herein laid upon such gasoline.

The United States Government, or agencies, or departments of the State of New Mexico are not excepted by the act in question. We, therefore, conclude the distributor and dealer in gasoline must remit one cent per gallon tax on all sales other than those of

"such gasoline as is, or has been, brought into this state and sold in original packages as purely inter-state commerce sales, or purchased outside the state and brought into this state in original packages by the Consumer for his own use."