

Opinion No. 32-519

September 10, 1932

BY: E. K. Neumann, Attorney General

TO: Mr. W. L. Elser, Director of Extension, State College, New Mexico.

{*180} Your letter of Sept. 8th inquires whether a County Extension Agent is exempt from the payment of the new federal tax on gasoline when such agent personally owns his automobile and for official use, is reimbursed from the County moneys at a flat mileage rate.

We note that Mr. Elton L. Marshall, Solicitor, United States Department of Agriculture, Extension Service, {*181} has held that, where the automobile is personally owned by the agent and operated at the expense of the County, such agent is exempt from payment of the tax.

We can see no difference in this and the case here considered. In both instances county funds are used for operation of the automobile. The tax on gas and oil is of course an integral part of this expense and is a direct tax upon a governmental function and an instrumentality of the State.

Therefore, we believe such exemption should be allowed.

By Frank H. Patton,

Asst. Attorney General