

**Opinion No. 33-663**

October 10, 1933

**BY:** E. K. NEUMANN, Attorney General

**TO:** Honorable Juan N. Vigil, State Comptroller, Santa Fe, New Mexico.

{\*83} This letter has reference to yours of October 3, 1933, in which you enclose a copy of letter from the Transcontinental & Western Air, Inc. They wish to know if it would be permissible to invoice private owners for 50 or more gallons of gasoline and issue the gasoline from the storage tank as they need it. I presume the question they have in mind is whether by doing this the private owners would be entitled to a refund of the gasoline tax. So long as the sales made to these private owners are in quantities of 50 gallons or more for each sale, I think they are entitled to the refund. That is my interpretation of Section 1, Chapter 162, Laws of 1933. I do not believe it is necessary that the gasoline be actually delivered at the time of sale. Section 1, above referred to, provides that any person "having paid for any one purchase," etc. This language does not, in my opinion, require actual delivery.

By: QUINCY D. ADAMS,

Asst. Attorney General