

Opinion No. 34-753

May 8, 1934

BY: E. K. NEUMANN, Attorney General

TO: Dr. H. L. Kent, President, New Mexico State College, State College, New Mexico.

{*130} With reference to your letter of May 3, 1934, relating to the School Emergency Tax Act of 1934.

Your institution, being an agency of the State, is exempt from paying the tax upon sales made to it, but with reference to sales made by it, in our opinion, it stands as any other business not exempt.

As to your agricultural products, fruits, milk, vegetables, feed, cotton and like materials, where not refined or manufactured into a by-product thereof, as grower, the institution need pay no tax on such sales. This is clearly the intent of Section 212 (B), in our opinion.

As to your school books and supplies if your sales are simply at a cost price, cost plus handling, you are probably exempt under Section 212 (A). If, however, such department is operated for a profit, even though such profits go to the state or the institution, the institution is subject to the tax. There is, as you suggest, no exemption under Section 212 (E). This same rule applies to your student dining room and dormitories, in our opinion.

Under Section 201 (G), however, tuition charges, matriculation and other such fees, and admissions to athletic games or other shows and the like are exempt from the tax under the state act.

Trusting the above answers your questions, I am