

Opinion No. 34-755

May 9, 1934

BY: E. K. NEUMANN, Attorney General

TO: Mr. O. J. Dowling, Dowling-Moody Company, Carlsbad, New Mexico.

{*131} Referring to your letter of May 2, 1934, relative to the School Emergency Tax law.

Your questions are: Does the tax act apply in the following of your operations:

- (a) Collections of rentals for others?
- (b) Commissions on fire insurance sold?
- (c) Real estate sales commissions?

The answer to each question, in our opinion, is yes. Rentals and premiums on insurance, upon which the state imposes a tax, are exempt in themselves but you as agents must pay the privilege upon your gross commissions. As to insurance agents, we find specific provisions in Sub-Section J of Section 201 of the act, which needs no further explanation. As to your business of rental and real estate agents, we find that the tax is imposed, as we have outlined therein, in the following wording of Sub-Section I of Section 201: "and any other business in which services, (not professional) are performed on a price or fee basis."

To my mind the words "not professional" relate to Sub-Section of the same section where a tax is imposed on professional services of a "professional, technical or scientific nature." Even if "I" does not reach your business, Sub-Section H would.

With sincere good wishes, I am