

Opinion No. 34-757

May 10, 1934

BY: E. K. NEUMANN, Attorney General

TO: Honorable Byron O. Beall, State Tax Commission, Santa Fe, New Mexico.

{*132} With reference to the ruling requested by Messrs. Reid & Iden as to the applicability of the School Emergency Tax upon the business of Hunter Clarkson Inc., with its Indian Detour trips.

While it is entirely true the act cannot apply to the transaction of an interstate commerce business, both by general rules of law and court decisions and specific exemption in the Act, we are of the opinion that Hunter Clarkson Inc., are required to pay the tax upon such business conducted in this state.

From the facts pleaded in the petition presented the Commission, it is apparent that all of the service rendered by said corporation is conducted in New Mexico, much of which is contracted and paid for within this state. Were Hunter Clarkson Inc., as interstate carrier, the situation might be different. As it is, it is not a part of an interstate business and the mere fact that some one else sells a ticket for a trip over its line at some point outside the state does not make it either an interstate carrier or part of an interstate carrier's system. The person selling the ticket outside the state must remit to Hunter Clarkson Inc., a sum of money for a service rendered entirely within this state for which a charge is made.