

Opinion No. 36-1449

October 17, 1936

BY: FRANK H. PATTON, Attorney General

TO: Bureau of Revenue, Income Tax Division, Santa Fe, New Mexico. Attention: W. S. Barnes, Auditor.

{*144} We have your letter of October 16th asking advice from this office with regard to the liability for income tax purposes of a company engaged in the following business.

The company in question is a packing plant with its place of business outside of New Mexico. It is a foreign corporation and, we assume from your letter, is not qualified to do business under our corporation laws in this state. It maintains salesmen in New Mexico, which solicit orders from customers in New Mexico. When a sufficient number of orders have been received in a certain locality shipment of the goods is made to that locality and distributed to the purchasers. You do not state in your letter who makes the distribution but we do not believe that this would be material.

The operations thus described are, in our opinion, interstate commerce {*145} and as such are not subject to the income tax in our state.

By J. R. MODRALL,

Asst. Atty. General