

Opinion No. 37-1518

February 2, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. Dan W. Williams, President Agricultural College of New Mexico State College,
New Mexico

{*48} In your letter of January 30th, you inquire whether the Agricultural College is subject to a stamp tax on its transfer of the radio station, KOB.

Title 26, Section 907, U.S.C.A., enumerates the exemptions to this tax. Sub-section (a) states that "any bond, note, or other instrument, **issued** * * * by any state or local subdivision thereof" shall not be subject to the tax. It may be that the Congress intended to include deeds and other instruments. This has not been decided by the courts, so far as we can find.

Whether it did or not, it is our opinion that the College is not subject to the payment of this tax. The Agricultural College is a state institution, an agency of the state. It is a well settled rule of law that the Federal Government cannot tax the property, or the agencies of a state, unless it is engaged in commercial business for a profit. 33 C. J. 281, Section 11.

By. A. M. FERNANDEZ,

Asst. Atty. Gen.