

Opinion No. 39-3093

April 11, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. J. O. Gallegos, Commissioner, Bureau of Revenue, Santa Fe, New Mexico.
Attention: Mr. Gail S. Carter, Director, School Tax Division

{*33} Your request to this office for an opinion as to what taxes commercial printers are subject to under our Emergency School Tax Law has been received by this office.

Sales Tax Opinion No. 51 on this same subject, was given by this office in May, 1934, on Chapter 7 of the Laws of 1934, known as the Emergency School Tax Law. This law ceased to be effective after June 30, 1935. However, in February, 1935, the law was re-enacted by the Legislature as Chapter 73 with Section 201, paragraph (b) and Section 209 practically the same in both Acts.

The question you raise, are commercial printers manufacturers under Section 201, paragraph (b), and if so, does Section 209, as to retailers, subject them to paragraph (d) of Section 201 of the Act?

It is my opinion that commercial printers and the printing business is not a retail business for the reason that each printing job must come to the shop on an Order. The shop then manufactures the product according to the specifications of the Order, and is therefore a manufacturing business.

Commercial printing defined in Words and Phrases, Vol. 3, Second Series, page 268 reads:

"A company organized to conduct the business of book and job printing, engraving, electrotyping, and lithographing, whose capital is invested in the prosecution of that business, and which {*34} manufactures on orders only, is a manufacturing company."

The Sales Tax Opinion No. 51 rendered by this office on the 1934 Emergency School Tax Law, and to which you refer in your letter, should be followed as our opinion on the 1935 Emergency School Tax Law, the facts and the law remaining practically the same. Therefore, it is my opinion, that commercial printers are manufacturers and taxable only at the rate of one-fourth of one per cent.

By: GEORGE LOUGEE,

Asst. Atty. Gen.