

**Opinion No. 42-4185**

November 16, 1942

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Alfonso C. de Baca Chief Clerk Motor Vehicle Division Bureau of Revenue  
Santa Fe, New Mexico

{\*278} We are in receipt of your letter of November 13, 1942, wherein you request an official opinion concerning whether or not a bus owned by the United States Government will be subject to New Mexico commercial license plates.

The bus will be owned and operated by the Army for the convenience of the soldiers and employees at the Army camp. The soldiers will be charged a sufficient amount to meet operating expenses for the use of this service. Any profits will be returned to the men in the camp. In view of this fact situation the bus will not be subject to New Mexico commercial license plates. 61 Corp. Jur. Taxation, Section 370 states the fundamental rule herein involved:

"It is not within the power of a State, unless by congressional consent, to lay any tax on the instruments, means, or agencies provided or selected by the United States Government to enable it to carry into execution its legitimate powers and functions."

Attention is also called to the numerous cases cited in connection with this rule.

The bus will perform a function of the Government in connection with maintaining an Army for the National Defense. It is the legitimate function of the Government to provide transportation facilities to soldiers so that they may have freer access to the recreational facilities of a nearby town.

By HARRY L. BIGBEE,

Asst. Atty. General