

Opinion No. 45-4709

May 8, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Geo. A. Shipley Attorney at Law Alamogordo, New Mexico

{*61} I am in receipt of your letter of May 2, 1945 wherein you suggest that the Tax Commission requests an official opinion of this office concerning the application of the Withholding Tax for the year 1945, provided for in the Judiciary Committee Substitute for House Bill 198. The Tax Commission has requested that I give you an opinion concerning this question.

Section 3 of Judiciary Committee Substitute for House Bill 198, which will appear as Chapter 128, Laws of 1945, provides for the withholding of a definite percentage of gross income of certain organizations by railroads; and further provides:

"On or before March 1st of each year such railroad company shall make and file with the Commission a consolidated statement, in quadruplicate, in a form to be prescribed by the Commission, showing the amount of such payments for the next preceding twelve months' period ending December 31st, and the amount so withheld. Such railroad company, at the time of filing such statement, shall remit the amount so withheld and due the State of New Mexico."

It will therefore be the duty of all railroad companies, on or before March 1st of 1946, and all succeeding years, to comply with the provisions of Section 3 of the act and remit to the State of New Mexico 3 1/2% of the gross earnings in New Mexico for the entire preceding year of all organizations covered by the act.

In view of the foregoing, it is my opinion that it will be the duty of railroad companies, owning or leasing lines in New Mexico, to report and remit to the State of New Mexico 3 1/2% of the gross earnings of organizations, as provided in the act, for the entire year of 1945, on or before March 1, 1946.

By HARRY L. BIGBEE,

Asst. Atty. General