

Opinion No. 56-6531

October 19, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Patrick F. Hanagan, District Attorney, Fifth Judicial District, Roswell, New Mexico

In reply to your letter of September 22, 1956, attached to which is a letter containing the following questions:

1. Are merchants dealing with state chartered building and loan associations exempted from payment of the 2% sales tax upon their gross receipts as to any sales made by such merchant to a state chartered building and loan association?
2. Are merchants dealing with state chartered building and loan associations which are members of the Federal Home Loan Bank and whose deposits are insured by the Federal Savings and Loan Insurance Corporation, exempted from payment of the 2% sales tax upon their gross receipts as to any sales made by such merchant to a state chartered building and loan association?

the following is submitted for your consideration.

The Statutes, §§ 72-1-1 -- 72-1-18, N.M.S.A., 1953 Comp., which are the sections dealing with "Property subject to tax and exemptions", contain no exemption clause that could be construed to cover the class of merchants mentioned in your questions.

Again at §§ 72-16-1 -- 72-16-47, plus the additions in the 1955 Pocket Supplement, and which are the sections dealing with the sales tax, neither under the general exemptions or under specific exemptions therein enumerated, is there anything that would exclude the merchants mentioned in your questions. Therefore, in the absence of a clear legislative expression to exempt such classification of merchants, it is our opinion that class of merchants mentioned above are not exempt from the payment of the 2% sales tax upon their gross receipts. This conclusion applies to both questions.

Trusting we have fully answered your inquiry, we remain

By: Harry E. Stowers, Jr.

Assistant Attorney General