

Opinion No. [30-26]

April 1, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: Mountain States Tel. & Tel. Co., Albuquerque, New Mexico. Attention: E. J. Steneck, Dist. Plant Chief.

GASOLINE -- Excise tax held constitutional.

OPINION

On several occasions you have inquired concerning the status of a case pending in the Supreme Court in re the constitutionality of the Gasoline Excise Tax of 5 cents per gallon.

We are now pleased to be able to inform you that the Supreme Court has just handed down an opinion in the case, The George E. Breece Lumber Company, et al., Appellee, vs. Gilberto Mirabal, State Comptroller, Appellant, No. 3468, in which opinion the court sustains the statute, section 1 of chapter 14, Laws of 1927, as amended by section 1 of chapter 29, Laws of 1929, holding that the tax there provided for is an excise tax and not a property tax and that it is immaterial to the taxpayer to what purposes the proceeds are devoted.