

Opinion No. 44-4580

September 21, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. Victor Salazar, Director, School Tax Division and Severance Tax Division,
Bureau of Revenue, Santa Fe, New Mexico

We have your letter of September 13, 1944, wherein you state that you are advised that the Federal Government contemplates making subsidy payments to operators of certain oil wells. You then state:

"The problem that has been posed is, if a given operator of a 'stripper' well receives \$ 1.00 a barrel from a private buyer and the Federal Government subsidizes by paying 20c additional on such barrel, does the total of \$ 1.20 a barrel become subject to the New Mexico School Tax, the Conservation Tax, and the Severance Tax?"

You further state that you have had a comparable problem on the payment of bonuses to mine operators wherein you ruled that a bonus paid by the Government was not taxable.

In answer to your problem, I wish to state that the State Tax Commission was confronted with a similar question concerning bonuses paid to copper companies. A hearing was held wherein the companies were represented by various attorneys, and the State Tax Commission was represented by Mr. Ripley, Mr. McCulloh and myself. It was held by the State Tax Commission, upon the advice of counsel, that the subsidy payments on copper were subject to the tax involved, which was levied, and the copper companies have not seen fit to question our ruling in a Court proceeding.

Although the question may not be considered entirely free from doubt, this office re-affirms the action taken by the State Tax Commission, and continues to hold that such subsidy payments are subject to the various State taxes.

Hoping that the above fully answers your questions, I am

By HARRY L. BIGBEE,

Asst. Atty. General