

**Opinion No. 45-4646**

January 26, 1945

**BY:** C. C. McCULLOH, Attorney General

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

{\*11} We are in receipt of your letter of January 24, 1945, in which you state that a tire company engaged in the business of manufacturing tires in the State of Ohio, is also engaged in the business of selling tires at retail in this state. In view of this situation you ask whether it may deduct all the manufacturing taxes paid the Federal Government from its gross receipts through sales at its retail stores in calculating its School Tax.

Section 76-1413 of the 1941 Compilation provides, in part, as follows:

"In all computations of the tax levied by this act, there shall be excepted from the gross receipts or gross proceeds of sales of any business all sums paid by the taxpayer to the United States as taxes **on the product produced or sold or on such business;** \* \* \* "

You will observe that the taxpayer is not entitled to deduct all of the taxes paid to the United States, but only those paid as taxes on the product produced or sold, or on such business. If this section were construed by itself, there might be some basis for the contention made by this tire company. However, as a fundamental rule of statutory construction, no section is construed by itself, all sections of the same act being construed together.

Section 76-1404 of the 1941 Compilation, the section levying the tax, provides, in part, as follows:

"There is hereby levied, and shall be collected by the Bureau of Revenue, privilege taxes, measured by the amount or volume of business done, against the persons, on account of their business activities, engaging or continuing, **within the State of New Mexico,** \* \* \*"

This section then levies a tax on the gross receipts derived from the production of minerals and other mineral resources; the sale of such minerals, the business of manufacturing, the business of wholesaling, the business of sale at retail and various other businesses.

In view of Section 76-1404 of the 1941 Compilation, it is my opinion that the language contained in Section {\*12} 76-1413 "taxes on the product produced or sold or on such business" refers only to products produced in New Mexico, goods sold in New Mexico, or business done in New Mexico. Certainly it is no more reasonable to believe that the Legislature, by this section, intended to permit the deduction of taxes paid on goods

produced outside this state than on the sale of goods or business done in another state. It is, therefore, my opinion that the tire company is not entitled to deduct the manufacturing taxes paid on goods produced or manufactured in another state.

By ROBERT W. WARD,

Asst. Atty. General