

**Opinion No. 45-4788**

September 14, 1945

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

**TO:** Mr. Howard K. Ball Administrative Officer State Soil Conservation Committee State College, New Mexico

{\*130} We have your letter of August 31, 1945, wherein you request an opinion of this office as to whether or not Soil Conservation Districts, as legal subdivisions of the State of New Mexico, as provided by statute, are exempt from the payment of federal tax on gasoline, oil, grease, etc.

Title 26, Section 3412, U.S.C.A., provides:

"(a) There shall be imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 1 1/2 cents a gallon, except that under regulations prescribed by the Commissioner with the approval of the Secretary the tax shall not apply in the case of sales to a producer of gasoline."

Title 26, Section 3413, U.S.C.A, provides:

"There shall be imposed upon lubricating oils sold in the United States by the manufacturer or producer a tax at the rate of {\*131} 6 cents a gallon to be paid by the manufacturer or producer. Every person liable for tax under this section shall register and file bond as provided in section 3412 (d). Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax shall be imposed under this section upon lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him, but for the purposes of this chapter such vendee shall be considered the manufacturer or producer of such lubricating oils."

Section 3442, Title 26, U.S.C.A further provides, in connection with the tax levied under Sections 3412 and 3413, as well as other sections, as follows:

"Under regulations prescribed the Commissioner with the approval of the Secretary, no tax under this chapter shall be imposed with respect to the sale of any article -- \* \* \*

"(3) for the exclusive use of any State, Territory of the United States, **or any political subdivision of the foregoing, \* \* \***"

In view of the foregoing, it appears clear that, as a political subdivision, you are entitled to purchase gas, oil, grease, etc., without payment of the federal tax upon complying with the rules and regulations issued pursuant to Section 3442.

By HARRY L. BIGBEE,

Asst. Atty. General