

Distillate—Gasoline—Tractor Fuel—Taxation.

The statute does not undertake to tax all distillates of petroleum.

For purposes of taxation the State Tax Commission has adopted the rule that everything which is above 46% Baume is taxable and everything below that test is non-taxable.

F. A. Ewald, Esq.,
County Attorney,
Great Falls, Montana.

My dear Mr. Ewald:

You have submitted for my opinion the question whether "tractor fuel" is subject to the tax of 2c imposed on distillate.

This office, in an opinion found in Volume 9, Opinions of Attorney General, page 499, held that "distillate has a well understood meaning among those who engage in the sale and distribution of oil and its various constituents. It is a low-grade gasoline. There is no doubt that petroleum is produced by distillation, but the statute does not undertake to embrace all or any distillate."

For the purpose of determining what is gasoline and distillate, within the meaning of the above Act, the Tax Commission of this state has adopted the following rule:

Everything above 46 per cent Baume is taxable; everything below that test is non-taxable.

It is my understanding of the facts that both gasoline and distillate (as the latter term is used in a commercial sense) are above 46 per cent Baume.

I also understand that tractor fuel is much below 46 per cent Baume and not, therefore, taxable.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.