

Taxes—Gasoline—License Taxes—United States.

The United States Government is entitled to a refund on gasoline license tax paid by it since it cannot be subjected to the tax.

June 21, 1928.

State Board of Equalization,
Helena, Montana.

Gentlemen:

You have requested my opinion whether gasoline dealers in the state of Montana can be compelled to pay the 3c gasoline license tax on gasoline sold to the United States Government.

On May 14, 1928, the supreme court of the United States, in the case of Panhandle Oil Company vs. State of Mississippi, held that the United States Government cannot be subjected either directly or indirectly to the payment of such a tax. The case is reported in the United States Daily of May 15, 1928.

Hence, it is my opinion, in view of the above-cited case, that the United States Government may not be taxed on gasoline purchased by it.

I believe, however, in the administration of the gasoline license tax law, that the dealer should be required to pay a tax on gasoline sold to the government but that the government may apply to the state board of equalization for a refund. I suggest this for the reason that by that method I believe the state board of equalization can more easily investigate the facts and ascertain the amount of gasoline sold by any dealer to the United States Government.

Very truly yours,

L. A. FOOT,
Attorney General.