

**Gasoline — Taxation — Licenses — Exports — Interstate
Commerce.**

Gasoline exported out of the state may not be considered in computing a gasoline dealer's license tax.

State Board of Equalization,
Helena, Montana.

April 14, 1927.

Gentlemen:

You have requested my opinion whether a dealer in gasoline, under chapter 19, laws 1927, must include in his report and pay a tax upon, gasoline exported out of Montana.

Under the constitution of the United States congress has been given power to regulate interstate commerce. The states are not permitted to impose a tax that will interfere with interstate commerce.

Section 9 of article I of the United States Constitution contains this provision: "No tax or duty shall be laid on articles exported from any state." Whether this constitutional provision could be held to prohibit the state from imposing a license tax for the privilege of engaging in business and using as the measure of the amount of tax gasoline exported from any state, is unnecessary to determine in answering your inquiry.

By section 11 of chapter 19 of the laws of 1927 it is provided: "No gasoline exported out of the State of Montana shall be included in the computation of any dealers license tax herein provided for."

In the light of this plain language of chapter 19 it is my opinion that gasoline exported out of Montana by a dealer in gasoline may not be included in the computation of such dealers license tax.

Very truly yours,

L. A. FOOT,
Attorney General.