

Gasoline Tax—Refund—Counties.

Counties purchasing gasoline for use in tractors and road machinery for which they are entitled to refund should pay the tax and apply for refund in the manner provided by statute.

Gasoline used in county trucks and automobiles used solely for county business is not tax exempt.

Mr. Charles Davidson,
Deputy County Attorney,
Great Falls, Montana.

June 26, 1931.

My dear Mr. Davidson:

You have requested my opinion as to whether it is necessary for the county to pay gasoline tax and later file a claim for refund, and, if so, can refund be claimed for gasoline used on county trucks and automobiles used wholly for county business.

In connection with these questions you have stated the following facts:

The county surveyor of your county has charge of all highways and purchases gasoline for highway equipment and trucks, sometimes paying the tax and other times without the payment of the tax, in which

latter event the tax is paid by the county to the state. Claims for refund are then submitted but the refund is only made for gasoline used in tractors and road machinery, no refund being made for gasoline used on county trucks used for heavy construction and repair purposes.

Under the provisions of chapter 168, laws of 1929, the county should pay the gasoline tax and make application for refund as therein provided. As there is no provision for the county purchasing the gasoline, tax free, and then paying the tax direct following the payment by an application for refund, while the result is the same in both instances, it would appear to be the best policy to follow the method provided by statute.

I do not find any provision exempting gasoline used in county trucks and automobiles used wholly for county business from the payment of the tax, and it is therefore my opinion that such gasoline is not exempt and no claim for refund can be made for the tax paid on the same.

Very truly yours,

L. A. FOOT,

Attorney General.