

**Opinion No. 117.****State Treasurer—Oil Production Tax.**

HELD: Duplicate payment of oil production tax by producers on Tribal Indian lands, made to the United States Indian Office, and by the latter distributed to the state, may be con-

sidered as a payment in advance of future taxes and such arrangement is not withdrawing money from the state treasury without appropriation or refunding taxes paid.

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July 2, 1937.

Hon. Ray N. Shannon  
State Treasurer  
The Capitol

Dear Mr. Shannon:

You have asked my opinion as to whether you can legally permit oil producers on Tribal Indian lands, to reimburse themselves for duplicate tax payments made necessary by the United States Department of the Interior, insisting that taxes already paid to the state be now paid to the Indian Office and by that office remitted to you, in accordance with the federal law specifically making the Secretary of the Interior responsible therefor. In other words, in order to meet the requirements of the Indian Office, producers must pay to the Indian Office tax money which has already been paid to the state. The producers desire to have such payment considered a credit on, or as a payment in advance of future taxes which will become due the state on the producers' share of oil produced at  $\frac{1}{4}$  of 1¢ per barrel.

I see no legal objection to this procedure. Certainly the producers should not be penalized because they have paid the tax direct to the state instead of paying it to the Indian Office and permitting the latter to disburse it to the state. Such duplicate payment, in my opinion, may be made, and may be considered by the state as a payment in advance of taxes to become due as oil is produced, and proper credit should be given therefor, for this purpose. No money is actually withdrawn from the state treasury, and there is no refunding of taxes paid. The state suffers no financial loss whatever. It is an equitable and practical solution of a problem arising from the application of a conflicting federal statute.