

paid on gasoline, diesel fuel or oil, but a soil conservation district may purchase petroleum products from a manufacturer or refiner who will allow a discount in the same amount as the tax. The manufacturer or refiner may then secure a refund in the amount of the tax from the federal government.

August 9, 1943.

Mr. J. E. Norton, Chairman  
State Soil Conservation Committee  
Bozeman, Montana

Dear Mr. Norton:

You have requested my opinion whether a soil conservation district, as a legal subdivision of the State of Montana, is entitled to federal tax exemptions on gasoline, diesel fuel and oil used in connection with the operation of district-owned equipment.

Section 3412, Title 26, U. S. C. A., as amended, provides there shall be a tax of 1½ cents on gasoline or fuel used for the propulsion of motor vehicles. This tax is levied on the producer or refiner and is paid by him to the government.

Section 3443, Title 26, U. S. C. A., provides for a refund to the manufacturer or refiner who sells gasoline or fuel "for the exclusive use of the United States, any state, territory of the United States, or any political subdivision of the foregoing or the District of Columbia.

It has been the policy of the federal government to allow the refund to the producer or manufacturer only when he could furnish satisfactory evidence the amount of the tax was not included in the sale price and not passed on to the purchaser. (Andrew Jergens Co. v. Conner, 31 Fed. (2d) 686; Feitler v. Harrison, 126 Fed. (2d) 449.)

It is my opinion therefore, a soil conservation district may not apply in its own name for a refund for the federal tax paid on gasoline, diesel fuel or oil, but a soil conservation district may purchase petroleum products from a manufacturer or refiner who will allow a discount in the same amount as the tax. The manufacturer or refiner may then secure a refund

**Opinion No. 102.**

**Soil Conservation District—Taxation,  
Gasoline Refund.**

**Held:** A soil conservation district may not apply in its own name for a refund for the federal tax

in the amount of the tax from the  
federal government.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General