

Opinion No. 264.

Soil Conservation Districts—Gasoline Refunds or Drawbacks—Refunds—Corporations.

Held: Soil conservation districts duly incorporated under the provisions of Sections 4, 5, 6, 7, 8, 9 and 10 of Chapter 157, Laws of 1937, have a right to the refunds or drawbacks provided for in Section 2394.4, Revised Codes of Montana, 1935, as amended.

December 14, 1944.

Mr. J. E. Norton, Chairman
State Soil Conservation Committee
Post Office Box 855
Bozeman, Montana

Dear Mr. Norton:

You have requested an opinion of this office relative to the question of whether soil conservation districts incorporated under the provisions of Sections 4, 5, 6, 7, 8, 9 and 10 of Chapter 157, Laws of 1937, have a right to a gasoline refund under the provisions of Chapter 216, Political Code, being Sections 2381.1 to 2396.9, Revised Codes of Montana, 1935, and the amendments thereto.

Section 2394.4, Revised Codes of Montana, 1935, as amended by Chapter 96, Laws of 1937, and Chapter 67, Laws of 1939, reads in part as follows:

“That any person who shall purchase and use any gasoline with reference to which there has been paid into the treasury of the state of Montana, under the laws of this state of Montana, licensing dealers in gasoline, a tax at the rate of five (5) cents per gallon for the purpose of operating or propelling stationary gas engines, tractors used for the purposes other than on the public highways or streets of this state . . . or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, and who has paid said tax either directly to the state of Montana or indirectly as a part of the purchase price of said gasoline, shall be allowed and paid as a refund or drawback an amount of money equal to five cents (5c) multiplied by the number of gallons of gasoline so purchased and used . . .”

Section 2381.11, Revised Codes of Montana, 1935, defines certain words as they are used in said Chapter 216. The word person is there defined as follows:

“(2) The word ‘person’ means any person, firm, association, joint stock company, syndicate or corporation.”

Said Chapter 216 does not give any specific definition of its own to corporation; therefore, any corporation would come within the purview of said Chapter 216 and the specific provisions of said Section 2394.4 as amended.

Under the provisions of Sections 4, 5, 6, 7, 8, 9 and 10 of Chapter 157, Laws of 1937, soil conservation districts are duly incorporated and take the full status of corporations.

It is, therefore, my opinion that soil conservation districts duly incorporated under the provisions of Sections 4, 5, 6, 7, 8, 9 and 10 of Chapter 157, Laws of 1937, have a right to the refunds or drawbacks provided for in Section 2394.4, Revised Codes of Montana, 1935, as amended.

Sincerely yours,
R. V. BOTTOMLY
Attorney General