

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

April 21, 1937.

Mr. Clarence A. McKee,
Attorney at Law,
Glendale, Arizona.

Dear Sir:

I have before me your letter of April 7th, calling attention to a recent United States Supreme Court case, *Brush v. Commissioner of Internal Revenue*, which might have a bearing upon the imposition of a privilege sales tax by the State of Arizona upon the sale of water by the City of Glendale to consumers.

We have examined this case and have come to the conclusion that it cannot affect the present situation in any way in that it simply decides that under certain circumstances the furnishing of water by municipalities was an essential governmental function.

While under the rule established by the old case of *McCulloch v. Md.*, a state may not tax the United States, its agencies or its instrumentalities, in any way whatsoever, we fail to find any like rule prohibiting the state from taxing itself or any of its political subdivisions.

We, therefore, are of the opinion that a privilege sales tax may properly be imposed upon the business of furnishing water by the City of Glendale to consumers.

Yours very truly,

JOE CONWAY
Attorney General.

W. E. POLLEY
Assistant
Attorney General.

E. G. FRAZIER,
Special Assistant
Attorney General.