

September 22, 1927

Arizona Highway Commission,
Phoenix, Arizona.

Gentlemen:

Attention: Mr. Whitworth

In reply to your request for an opinion as to whether or not motor vehicle fuel sales to Post Exchanges operated on and in connection with United States Army Posts are considered as sales to the United States Government and thus exempt from tax, we beg to advise that these sales are not sales to the United States Government and are not exempt from tax.

Post Exchanges are operated for the benefit of commissioned officers and enlisted men. The funds for their operation are contributed by the officers and men and are in the nature of community stores operated under the supervision of the Federal Government for the benefit of the officers and men. The officers in charge, it is true, are in the nature of disbursing officers of the Government, however, the property in their custody is held in trust for the officers and men and not for the Government. The Government has no interest in the property or the money derived therefrom. When a Post is abandoned the money derived from the liquidation of its property is distributed among the various companies who have contributed to the maintenance of the Exchange.

In the sale of gasoline, the Post Exchange acts as a retailer just as any service station does. Sales are made to the public as well as to officers and men. Sales to officers and men are as a rule for their private use and not for use in the performance of their duties as officers or enlisted men in the Army. Gasoline sold to the Government for strictly Government use is, of course, exempt. However, gasoline sold to officers and enlisted men for their private use does not come within this exemption.

Very truly yours,

STRUCKMEYER JENNINGS & STROUSS

By

CLS:M