m-1
197

February 20, 1932

Hon. Connor Johnson
321 Professional Bldg.
Phoenix, Arizona

Dear Sir:

In reply to your letter of the 12th instant relative to the claim of certain fire insurance companies that, under the provisions of Section 1809, R. C. A. 1928, they are entitled to a refund of the motor vehicle fuel license tax on motor vehicle fuel used in motor vehicles owned by such companies, and used in the business of such companies, I advise you as follows:

Section 1809, R. C. A. 1928, provides in part as follows:

> "The commission shall file a copy of such verified statement or schedule with the state treasurer, and every company organized under the laws of any other state or foreign country shall pay to the treasurer, through the commission, a tax of two per cent of all premiums collected or contracted for in this state during the year ending December thirty-first next preceding; provided that the tax shall be collected on such premiums after deducting from the gross amount thereof the amount paid to policy holders in this state as return premiums, and the amount paid as premiums to admitted companies for reinsurance on business in this state. Such tax shall be due and payable at the time of filing statement herein provided, and shall be payment in full of all

COPY

> demands of any and all taxes on said company or of licenses for conducting said business of insurance in this state, other than the fees prescribed for agent's licenses and for the commission."

The above section relieves fire insurance companies only from the payment of all taxes and licenses for conducting their business of insurance in this State.

Chapter 16, Laws 10th Legislature, First Special Session, places a tax of five cents per gallon on all motor vehicle fuel imported into this State. This tax must be paid by the distributor, irrespective of the ultimate use to which such fuel is put, save and except in the case of motor vehicle fuel sold by a distributor to the Federal Government.

A refund of the motor vehicle fuel license tax may be had only upon proof of use of the fuel on which the tax was paid, for purposes other than to propel motor vehicles on the highways of this State. The motor vehicle fuel license tax is an excise tax imposed for the use of the highways. It is not a tax on license fee for conducting the business of fire insurance companies.

I, therefore, advise you that fire insurance companies, in my opinion, are not entitled to a refund of the motor vehicle fuel license tax on motor vehicle fuel used by such companies to propel motor vehicles on the highways of this State.

As to the question of the taxing of the furniture and office fixtures of fire insurance companies, I am informed that the legal advisor to the assessor of Maricopa County has rendered an opinion on this subject. No doubt, by getting in touch with Mr. Dudley Windes, you can get a copy of this opinion.

Very truly yours,

Attorney General.

By

Assistant Attorney General.

RBS:S