

MOTOR VEHICLE FUEL TAX: Consular agents and employees of a consulate are not exempt from the provisions of the Motor Vehicle fuel tax of Mo.

December 14, 1934



Hon. Roy H. Cherry
State Inspector of Oils
Jefferson City, Missouri.

Dear Mr. Cherry:

This department is in receipt of your letter of July 31 requesting an opinion as to the following state of facts:

"Attached herewith please find correspondence had with the State Department of Washington, the Shell Petroleum Company and the Mexican Consul at Kansas City, concerning the right of exemption from the motor fuel tax of consular agents and employees of the Consul by reason of a treaty signed at Havana, Cuba, between the American Government and the Government of Mexico on February 20, 1928, I also enclose a copy of this treaty.

I shall be pleased to have you advise me whether, in your opinion, the Mexican Consul and his agents are exempt from the Missouri Motor Fuel Tax by reason of this treaty."

Article 20 of the Convention signed at Havana on February 20, 1928 exempts consular agents from all tax, state, provincial or municipal, except such taxes as may apply to the possession or ownership of real estate.

Section 7794, R. S. Mo. 1929 provides:

"For the purpose of providing funds to complete the construction of and for the maintenance of the state

highway system of this state as designated by law, there is hereby provided a license tax equal to two cents per gallon of motor vehicle fuels as defined in this article used in motor vehicles of the public highways of the state, which license tax shall apply and become effective January 1, 1925."

Section 7795, R. S. Mo. 1929 provides:

"Every distributor shall for the year 1925, and each year thereafter, when engaged in such business in this state, pay to the state treasurer an amount equal to two cents (2¢) for each gallon of motor vehicle fuels refined, manufactured, produced or compounded by such distributor and sold by him in this state, or shipped, transported or imported by such distributor into and distributed or sold by him within this state during each year."

It is clear from a consideration of these two sections of the Motor Vehicle Fuel Tax Law of Missouri that the tax is a license tax imposed upon the distributor and not a property tax paid by the consumer. While the distributor is permitted to charge the purchaser of motor fuel with the amount of this license tax, the distributor alone is made responsible for the payment and collection of this tax to the State of Missouri.

It is therefore the opinion of this department that Consular Agents, as well as the employees of a consulate who are nationals of the state appointing them, are not exempt from the provisions of the Motor Vehicle Fuel Tax Law of the State of Missouri and that no deduction of this tax should be allowed by reason of their official position.

Respectfully submitted

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APPROVED:

ROY McKITTRICK
Attorney General