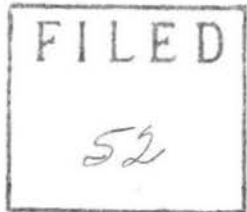


SCHOOL BOARDS -- Operating themselves, buses for the transportation of children to and from school, when buying directly from the manufacturer or their agent are exempt from the payment of Federal taxes, on gasoline. ✓

March 28, 1933.



Mr. Chas. A. Lee  
State Superintendent  
Department of Public Schools  
Jefferson City, Missouri

Attention: Mr. Chas. C. Crosswhite  
School Finance Division

Dear Mr. Crosswhite:

Your letter of March 22, 1933, received, wherein you say,

"Will you kindly examine the enclosed correspondence and give me your opinion as to whether or not school boards may be exempted from payment of the Federal Tax on gasoline on all school owned motorized transportation equipment."

In reply will say, this office has heretofore rendered this opinion,

"It is the opinion of this department, under the authority of the case of McCulloch vs. Maryland, 4 Wheat 316; 4 L.Ed. 579, that the Federal Government can not levy a tax upon any state or any of its governmental agencies, such as municipalities, school boards or other political subdivisions. A state can not levy a tax upon the agency of the Federal Government, likewise, under the same constitutional provisions, the Federal Government can not levy a tax upon it or any of its governmental agencies.

"Collector vs. Day, 11 Wall. 113;  
Indian Motocycle Co. vs. U. S. 283 U.S. 570;  
Pollack vs. Farmers Loan and Trust Co.,  
157 U. S. 429;  
Ambrosiny vs. U. S., 187 U. S. 1;  
Panhandle Oil Co. vs. Knox, 277 U. S. 218 "

March 28, 1933

We adhere to that opinion that the Federal Government can not levy a gasoline tax upon any state or any of its governmental agencies such as school districts or school boards where they, the school district or school board, operates directly buses for the transportation of children to and from school;-- but you must keep in mind, first, that this applies only when the school itself or the district itself operates the buses and, second, they should, under the ruling of the Internal Revenue Collectors of the United States, buy the gasoline direct from the refiner or the agent of the refiner, who has charge of the station.

Indian Motorcycle Co. v. U. S., 283 U. S. 570;  
Farmers and Merchants Bank v. Minnesota, 232 U. S. 516-526.

Trusting this will answer your inquiry satisfactorily, I am,

Very respectfully,



GEO. B. STROTHER  
Assistant Attorney-General.

AP. R. VED:

ROY McVITTRICK  
Attorney-General.

GBS:EO