

OPINION
46-249

June 10, 1946 (OPINION)

SALES TAX

RE: Use Tax - Property Bought From Federal Government

This will acknowledge receipt of your letter of June 3, 1946, which has come to my desk for attention.

We understand that your question is this: Must one Roy McCracken, who bought a jeep from the United States government in the city of Cleveland, Ohio, and shipped it to Fargo, North Dakota, for use in this state, pay the two percent tax provided by section 57-4012 of the North Dakota Revised Code for 1943 before he can obtain registration of the jeep and use it upon the highways of this state?

The two sections particularly applicable are sections 57-4012 and 57-4013, which are as follows:

"There is imposed an excise tax of two percent of the purchase price of any motor vehicle purchased or acquired for use on the streets and highways of this state and required to be registered under the laws of this state. Such tax shall be paid by the purchaser to the motor vehicle registrar at the time that application for the first registration plate or certificate of title of such motor vehicle is made within this state. No registration plate or certificate of title shall be issued upon such application until such tax has been paid.

"The provisions of section 57-0412 shall not apply if the person making application for a registration plate or certificate of title for a motor vehicle shall furnish to the motor vehicle registrar a certificate from a licensed motor dealer in this state, upon a form furnished by the registrar, certifying that such person has paid the retail sales tax prescribed by section 57-3902. Neither shall such provisions apply to common carrier vehicles engaged in interstate commerce."

Under a literal interpretation of these sections, Mr. McCracken would be required to pay the two percent tax provided by these sections. The exemptions provided by the second section quoted would not exempt him from payment of this tax. We know of no other provision of law applicable which would exempt him from the payment of the tax.

NELS G. JOHNSON

Attorney General