

OPINION
55-131

October 25, 1955 (OPINION)

TAXATION

RE: Special Fuels - Exemptions

This is in reply to your letter of October 5, 1955, wherein you request an interpretation of the exemption in section 4 of chapter 335 of the Session Laws of 1955 which imposes an excise tax of six cents per gallon on special fuel.

Your letter reads, in part, as follows:

"Am writing you in regard to the Special Fuels Tax Act. On page 562, line 10, 'when such fuel is delivered into a fuel tank connected with a heating appliance'. This means to my thinking that if you had a barrel in the woodshed and a fuel stove in your house that you would not have to pay the 6 cents tax on fuel that is delivered to this barrel, because it's connected with or associated with the heating appliance. It seems to me if it read 'connected to' it would have a different meaning."

Section 4 of chapter 335 reads, in part, as follows:

"There is hereby levied and imposed an excise tax of six cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel for heating purposes which is delivered into a fuel tank connected with a heating appliance shall be exempt from the tax imposed by this ACT. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user."

The clear intent of this exemption appears to be to exempt special fuel which is used for heating purposes. In order to carry out this apparent intent of the statute, we believe that the exemption applies when such special fuel is delivered for heating purposes even though there is no physical connection of the fuel tank into which said fuel is delivered with the heating appliance in which said fuel is consumed.

LESLIE R. BURGUM

Attorney General