

uniformity in the application of the two laws to sales of coal, fuel oil and other fuels used for purposes other than domestic or commercial. The tax commission redefined the word "commercial" in January, 1944. This was done for two reasons: First, to place a definition upon the word "commercial" which appeared to be in harmony with common understanding and usage; and second, to eliminate a discrimination occurring in the application of the sales and use tax acts to certain consumptions of coal, fuel oil and other fuels.

The present administrative procedure and interpretations followed by the commission operate uniformly under both the sales and use tax acts. However, legislative clarification may be desirable for the purpose of removing all doubt relative to this problem.

Cigarette and Oleomargarine Taxes

Fiscal Year	Net Collections	Administrative Costs		Discount Allowed Distributors
		Amount	Per Dollar	
Cigarette Tax:				
1943.....	\$634,136.86	\$3,097.06	0.49 cents	\$67,322.78
1944.....	646,325.80	3,167.01	0.49 cents	68,783.21
Oleomargarine Tax:				
1943.....	\$ 98,032.27	\$1,169.93	1.19 cents	\$10,428.38
1944.....	97,831.90	1,254.40	1.28 cents	10,388.50

Cigarette tax collections for the fiscal year 1943 increased 44.59% over those of 1942 and reached an all time high in 1944, approximately 1.92% over collections for the year 1943. The increase undoubtedly is war-connected.

Oleomargarine tax collections for the fiscal year 1943 increased 8.2% over those for 1942, whereas the 1944 collections were .2 of 1% less than those for 1943.

Under date of June 1, 1943, the tax commission eliminated the use of non-revenue stamps on cigarettes covering sales to the United States government or its instrumentalities, including the commissaries and canteens on the various military reservations within the state.

Since July 1, 1944, this commission has also exempted cigarette sales made to commissioned and non-commissioned

Average Tax Collections Per License

\$ 2.01
189.25
249.06
252.56
316.30
315.59
322.54
378.56
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469.02
661.87
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officers' messes and clubs and has allowed the sale of tax-free cigarettes to military personnel and permanently employed civilians at military posts, camps, stations, etc. This was in harmony with an agreement made earlier this year by the National Tobacco Tax Conference and representatives of the United States Army. The War Department has cooperated; sales of cigarettes on military reservations to other than those mentioned above are made through cigarette vending machines, and the Utah taxes are paid.

MEYERS
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During the early part of 1944, five of the largest cigarette distributors in the state installed meter machines which make an impression stamp in lieu of the regular cigarette stamp and undoubtedly will save the state many thousands of dollars in printing bills.

The cigarette and oleomargarine license law, Chapter 1, Title 93, Utah Code Annotated, 1943, which imposes the tax on the importation or manufacture of cigarettes or oleomargarine, permits a discount of 10% on purchases of stamps in quantities of \$25.00 or more. The total of such discounts as shown by the above tabulation amounted to almost \$157,000.00 during the two-year period ending June 30 last.

Recommendations.—A reasonably sound argument can be presented in favor of granting a discount in connection with the use of cigarette stamps since a stamp must be placed on each individual package of cigarettes before it is placed on sale in a retail store. However, the rate of 10% is the highest allowed by any state which taxes cigarettes and in four of the 25 states imposing such a tax no discount is allowed. It is the belief of this commission that a 5% discount rate will amply repay the manufacturer or the agency which attaches the stamps and that in the case of those distributors which use the meter machines costs are much lower than 5%.

This commission can see no valid reason at all for allowing any discount for the quantity purchase of stamps under the oleomargarine tax law. Such stamps are not affixed to the individual packages but to the crate or carton in which the oleomargarine is shipped or received.

It is therefore the opinion of the commission that not more than 5% discount should be allowed for quantity purchases of cigarette tax stamps and that the discount for such purchases of oleomargarine stamps should be discontinued.

The commission against the Supreme Court of the State of Utah, Section 93-1-5 as unconstitutional to the State Tax Commission's administrative power when it levies the stamp tax, of a penalty of more than \$299.00 to be assessed against the person who fails to pay the tax on cigarettes or oleomargarine is recommended therefore that a provision be written into the act.

It is also suggested that a provision be made for the purchase, sale or consumption of oleomargarine upon which the tax is levied.

Beer Tax

Fiscal Year	Collected
1943	\$1,149,000
1944	1,301,000

The following schedule of Beer Tax is presented in the Special Report and shows the amount of tax evidenced by the stamp sales.

Fiscal Year	Local Beer	Imported Beer	Total	Rate
1939	1,568,000	581,000	2,149,000	3.2%
1940	1,786,000	514,000	2,301,000	
1941	1,606,000	585,000	2,191,000	
1942	1,820,000	662,000	2,483,000	
1943	2,723,000	1,460,000	4,184,000	
1944	2,692,000	1,612,000	4,305,000	

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The commission again calls attention to the fact that the Supreme Court of the State of Utah has held a portion of section 93-1-5 as unconstitutional in that it tends to delegate to the State Tax Commission a judicial rather than an administrative power when it requires the payment, as part of a stamp tax, of a penalty of not less than \$10.00 or more than \$299.00 to be assessed and collected by this commission from the person who fails properly to affix and cancel stamps on cigarettes or oleomargarine offered for sale. It is recommended therefore that a specific penalty for such failure be written into the act.

It is also suggested that a specific penalty be provided for the purchase, sale or attempted sale of cigarettes or oleomargarine upon which the tax has not been paid.

Beer Tax

Fiscal Year	Net Collections	Administrative Costs	
		Amount	Per Dollar Collected
33	\$198,745.30	\$ 1,313.03	0.66 cents
44	198,538.17	1,520.33	0.76 cents

The following schedule supplements that in the Sixth Biennial Report and shows the distribution of traffic in beer as evidenced by the stamp sales for the fiscal years 1939 to 1944.

G A L L O N S					
Fiscal Year		Packaged Beer			Total
		Light (3.2%)	Heavy (Repeal)	Draught Beer Light	
1939	Local beer	1,568,312	.....	1,560,385	3,128,697
	Imported beer	581,335	.....	693,292	1,274,627
	Total	2,149,647	.....	2,253,677	4,403,324
40	Local beer	1,786,172	.....	1,572,910	3,359,112
	Imported beer	514,863	.....	681,404	1,196,267
	Total	2,301,035	.....	2,254,314	4,555,379
41	Local beer	1,606,513	.....	1,540,390	3,146,903
	Imported beer	585,119	2,074	556,020	1,143,213
	Total	2,191,632	2,074	2,096,410	4,290,116
42	Local beer	1,820,975	.....	1,603,785	3,424,760
	Imported beer	662,925	5,396	707,831	1,376,152
	Total	2,483,900	5,396	2,311,616	4,800,912
43	Local beer	2,723,642	.....	2,507,125	5,230,767
	Imported beer	1,460,474	13,488	966,081	2,440,046
	Total	4,184,116	13,488	3,473,209	7,670,813
44	Local beer	2,692,962	.....	2,642,750	5,335,712
	Imported beer	1,612,253	698	752,812	2,365,763
	Total	4,305,215	698	3,395,562	7,701,475

UTAH

1943-44

The increase in beer consumption, as evidenced by the above schedule, for the fiscal year 1943 over that for the fiscal year 1942 amounted to approximately 59.75%, whereas the increase for 1944 over that for 1943 showed a fairly constant market or an increase of only 0.4%.

This rapid increase which began in 1942 and continued through 1943 is undoubtedly due to the influx of war workers and military personnel. Under government restriction the sale of heavy beer decreased considerably and was used only by the Southern Pacific Railroad during the year 1944.

Effective July 1, 1944, this commission has allowed refund on the sale of tax-paid beer to commissioned and non-commissioned officers' messes and clubs operating on a post, camp or station of the United States government in addition to those on sales to regularly established military posts and exchanges.

This military beer amounted to approximately 3.06% of the total consumed for the fiscal year 1944 and its exemption is in conformity with a like provision under the cigarette tax regulations.

Recommendation.—The commission renews its recommendation that legislation be enacted to require a report system similar to the present motor fuel tax setup in lieu of the present system of requiring beer stamps or crowns on each bottle or keg. The system has been in effect in other states for some time and apparently has been successful from an administration standpoint. Some saving to the state in the cost of printing, handling, stamping, labeling, etc., would be effected. The proposed amendment would require rewriting of Sections 46-0-144 to 149, inclusive.

Motor Fuel Tax

Fiscal Year	Net Collections	Administrative Costs	
		Amount	Per Dollar Collected
1943	\$4,143,479.31	\$8,786.74	0.21 cents
1944	3,819,126.27	8,101.07	0.21 cents

Motor fuel (gasoline) tax collections for the fiscal years 1943 and 1944 showed a marked decline as compared with former years. This annual decrease, approximately 4.44 per cent in 1943 and 7.83 per cent in 1944, is primarily attributable

Table II—Summary by Months of Gasoline Distribution for Fiscal Years 1943 and 1944

Month of Return	TOTAL MOTOR FUEL					NUMBER OF GALLONS					Amount of Tax at 4 cents Per Gall.	
	Returned in Utah	Imported into Utah	To Acct. for	Inventories Increase or Decrease*	Exported from Utah	Total M. F. Consumed in Utah	Tax Exempt Sales to or Imports by U.S. Govt.	Taxable M. F. Consumed in Utah	Statutory Allowance for Evaporation %	Net Gallons Taxable		
1942:												
July	1,254,473	776,285	10,336,528	1,592,337	1,928,179	10,983,145	1,380,186	9,602,659	288,081	9,314,578	\$372,583.13	
August	8,336,335	2,266,123	10,602,458	571,787	2,398,278	10,196,717	457,836	9,738,681	292,161	9,446,520	\$377,860.79	
September	8,634,578	639,273	11,324,851	1,971,337	1,490,780	10,405,858	404,813	10,001,045	298,631	9,702,414	\$388,095.96	
October	9,125,836	2,641,010	11,766,846	68,676	1,075,644	10,761,878	178,045	10,583,833	317,185	10,266,648	\$410,665.92	
November	8,733,973	2,984,002	11,717,975	321,989	943,712	11,096,252	111,653	10,984,299	329,211	10,655,088	\$426,203.62	
December	8,175,487	5,139,044	10,888,531	787,742	1,522,593	8,578,196	148,017	8,430,179	252,851	8,177,328	\$327,093.11	