

# Memorandum

305.0060

To: San Diego - Auditing (BW)

Date: January 17, 1967

From: Tax Counsel (EHS)

Subject: Liability of Indians Under Sales and Use Tax Law

In furtherance of our telephone conversation of this morning, I am enclosing some material dealing with the above subject which will no doubt be of interest to you.

The United States Supreme Court decision in Warren Trading Post v. Arizona Tax Commission, 380 U.S. 685, holds that a state cannot impose sales tax upon Indian traders for trading with Indians on reservations. The court notes that:

"This state tax on gross income would put financial burdens on appellant or the Indians with whom it deals in addition to those Congress or the tribes have prescribed..."

Therefore, it appears that a use tax, as well as a sales tax, imposed on an Indian or a group of Indians would be invalid when such Indians or organizations do not enjoy services provided by the states because Congress has taken over that function. This applies only to transactions on reservations.

If you have any questions as to specific situations, please forward all the facts for our review.

EHS:fb [lb]