



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

December 17, 1975

ATTORNEY GENERAL OPINION NO. 75-464

Mr. Charles L. Frickey
Decatur County Attorney
Decatur County Courthouse
Oberlin, Kansas 67749

Re: K.S.A. 79-307a and K.S.A. 1974 Supp. 79-307b through
-307d

Synopsis: The "feedlot" law passed in 1974 applies only to operators of commercial or private feedlots wherein "cattle of others" are held for "final feeding", and provides a method of taxation which does not conflict with other provisions for assessment and taxation of other cattle and livestock.

* * *

Dear Mr. Frickey:

For many years in Kansas, it was possible that an operator of a large feedlot might during the year finish feed for slaughter thousands of cattle, not his own, which were shipped in from out of state, or from other Kansas counties, held for a period of more than 30 days, and were then shipped out of state for slaughter. Many of such cattle were escaping taxation in Kansas mainly because the county assessor was not furnished by law a means of knowing the cattle were actually present in Kansas or in his county, who they belonged to, when they came or when they left.

The legislature sought to address this situation in 1974 with the enactment of K.S.A. 1974 Supp. 79-307b et seq.

You will note that the 1974 law affects only very large feedlot operators which have "more than one thousand (1,000) head of

Mr. Charles L. Frickey
Page Two
December 17, 1975

livestock at one time during the licensed year." That operator must meet other licensing requirements as defined by K.S.A. 47-1501. In addition, that operator must be "feeding or finishing" cattle of others "immediately prior to the market for slaughter thereof."

In answer to your first question, it is our opinion that there is no conflict or confusion between the Kansas statutes. Compliance by a large feedlot owner, in reporting to the county assessor monthly as provided by law the details about the cattle on hand and the names and addresses of the "other" owners, does not include the owner of the feedlot himself, nor constitute an election under K.S.A. 79-307a for such feedlot owner. It only constitutes a report to the county assessor.

Several statutes must be read in concert with the above mentioned laws. They are K.S.A. 79-304 as amended by ch. 495, § 22, L. 1975, 79-316b and 79-316c. Upon receiving the report, if the cattle have acquired a Kansas tax situs, the assessor puts them on the tax roll, values them and then assesses them. You ask whether the filing of the report constitutes the "assessment." It does not. The report is merely a source of information to be used in the assessment.

Thirdly, you ask if it is not impossible for an assessor to determine when cattle are about to be removed from a feedlot and a full time employee would need to be stationed at the feedlot to "monitor" all shipments of cattle. Many assessors over Kansas have effectively used K.S.A. 79-319. Usually the mere notice to the owner of property in the process of moving away that certain taxes are due accomplishes the collection. It is true that many people take their property out of the county or out of Kansas in violation of this statute, and the assessor cannot follow them. That is the very problem the legislature sought to correct. The 1974 law provides a means of getting an exact description of the cattle in the lot and the owner is identified by name and address. There is no question of the ability of the assessor to serve the tax statement upon the owner and to invoke similar reciprocal tax laws in other states. If the owner is in another county in Kansas, the assessor knows exactly where the owner is and Kansas laws providing for the collection of taxes may be invoked. If the owner who is reported lives within the county, the assessor has an accurate account of cattle on hand and can make an accurate assessment under 79-307a and invoke 79-319, if necessary.

K.S.A. 79-319 has been in force since the session of 1919 without amendment. It can be and has been effectively administered.

Mr. Charles L. Frickey
Page Three
December 17, 1975

Lastly, you inquire concerning a Kansas owner of such a feedlot as is subject to the new law, but who has cattle of his own in addition to cattle of "others." You ask whether, if he had no cattle of his own in the lot on January 1 to assess, he is denied the right under K.S.A. 79-307a to exercise the January 1, option, and whether he would be liable to taxes being collected under K.S.A. 79-307d. This does occur under the 1974 statute. The Kansas owner will not be reporting his own cattle under the new feedlot law. That law specifically requires that "cattle of others" be reported. The owner of such a feedlot is like any other Kansas farmer as to taxation under K.S.A. 79-307a of his own cattle and K.S.A. 79-319 would be invoked only if he undertook to move away after his cattle had been assessed by the assessor without leaving sufficient property behind to secure payment of taxes.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:CJM:kj