



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

March 21, 1979

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 79- 39

Mr. Thomas W. Rhoden, C.K.A.
Trego County Clerk
Trego County Courthouse
Wakeeney, Kansas 67672

Re: Taxation--Property Exempt from Taxation--Claim
for Exemption

Synopsis: The owner or owners of farm storage and drying equipment which is exempt from all property or ad valorem taxes levied under the laws of the state of Kansas pursuant to K.S.A. 1978 Supp. 79-201d, Third, must claim such exemption on or before March 1 of each year subsequent to 1978, in order to establish or maintain the exempt status of such property. If no claim for exemption has been filed by March 1, the assessing officer of the appropriate county is required to list and value such property for assessment and taxation.

* * *

Dear Mr. Rhoden:

You request our opinion as to whether it is necessary for the owner of qualified and eligible farm storage and drying equipment, which is exempt from all property or ad valorem taxes levied under the laws of the state of Kansas pursuant to K.S.A. 1978 Supp. 79-201d, Third, to file annually a claim for such exemption pursuant to K.S.A. 1978 Supp. 79-210.

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Your inquiry arises from the fact that a Trego County, Kansas, taxpayer sought from, and was granted by, the State Board of Tax Appeals of the state of Kansas, relief from a tax grievance in said county. The order of the State Board of Tax Appeals granting said relief was made and entered on July 19, 1978. Briefly summarizing the findings of the Board, it was found that said taxpayer acquired certain farm storage equipment during calendar year 1977; that said equipment met the statutory eligibility requirements for tax exempt status; and that said property should be exempt from ad valorem property taxes pursuant to K.S.A. 1978 Supp. 79-201d for the eight (8) years following its acquisition. Based upon these findings, the Board ordered that said property be exempted from taxation for the years 1978 through 1985 and that the Trego County officials adjust their records accordingly.

In your letter of December 15, 1978, you expressed the opinion that the exemption granted by the State Board of Tax Appeals is an exclusive and continuing exemption for the years 1978 through 1985 and therefore, the taxpayer need not file an annual claim for exemption. In effect, you have construed the third clause of K.S.A. 1978 Supp. 79-201d as providing an absolute exemption for eight (8) years, obviating the necessity of claiming the exemption annually.

In considering your argument, we have reviewed the provisions of K.S.A. 1978 Supp. 79-210, which provide, in relevant part:

"The owner or owners of all property which is exempt from the payment of property taxes under the laws of the state of Kansas other than . . . (5) hay and silage, as said terms are defined by K.S.A. 1978 Supp. 79-201d . . . shall claim such exemption on or before March 1 of each year" (Emphasis added.)

It should be observed that both K.S.A. 1978 Supp. 79-201d and K.S.A. 1978 Supp. 79-210 were amended by the 1978 Legislature. Both statutes relate to tax exempt property and are, therefore, in pari materia. As such, interpretation of their provisions requires that these two statutes be read and construed together [Flowers v. Marshall, 208

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Kan. 900 (1972); Claflin v. Walsh, 212 Kan. 1 (1973); and In re Bowman's Estate, 172 Kan. 17 (1952)], so that, if possible, both may be given force and effect. City of Overland Park v. Nikias, 209 Kan. 643 (1972) and Gnaadt v. Durr, 208 Kan. 783 (1972).

Following this rule of construction, we find no conflict between the provisions of these statutes, and each may be applied without derogation of the other. In the first instance, K.S.A. 1978 Supp. 79-201d proclaims "which property" shall be granted exemption and, in regard to qualified and eligible farm storage and drying equipment, the period of time during which such exemption is available; whereas, K.S.A. 1978 Supp. 79-210 prescribes the "procedure" that must be followed in order to obtain the exemption so granted.

Further, the provisions of K.S.A. 1978 Supp. 79-201d, Third, indicate that the exemption afforded thereby is not automatic. That is, the exemption is made available by the statute, but in order that it be applicable to particular property, the owner thereof must make a timely claim for the exemption. The effect of such claim is to demonstrate that the property for which exemption is claimed meets the statutorily prescribed eligibility requirements.

On the other hand, K.S.A. 1978 Supp. 79-210, in effect, requires that, with certain exceptions not relevant here, owners of property eligible for tax exempt status must claim the exemption annually. In our view, the purpose of this statute is to provide a procedure for determining that property granted a tax exempt status in the first instance continues to be eligible for such exemption. As applied to farm storage and drying equipment, implicit in the provisions of K.S.A. 1978 Supp. 79-201d, Third, is the requirement that such equipment meets and continues to meet the eligibility standards prescribed therein. K.S.A. 1978 Supp. 79-210 provides the method for determining continued eligibility for such tax exempt status.

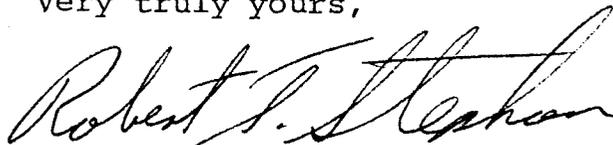
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In our judgment, an absurd result is obtained by construing these statutes together to mean that, once the initial tax exemption is claimed and granted, there is no continuing requirement to claim such exemption. It would mean, for example, that even if the farm storage and drying equipment was no longer "used exclusively for the storage or drying" of the designated commodities, the tax exemption would continue for the eight-year period, regardless of the fact that the property had lost its tax exempt character. We cannot construe these statutes as embodying such legislative intent.

Therefore, in light of the above analysis, it is our opinion that the owner or owners of farm storage and drying equipment, which is exempt from all property or ad valorem taxes levied under the laws of the state of Kansas pursuant to K.S.A. 1978 Supp. 79-201d, Third, must claim such exemption on or before March 1 of each year subsequent to 1978, in order to establish or maintain the exempt status of such property. If no claim for exemption has been filed on or before said date, K.S.A. 1978 Supp. 79-210 requires the assessing officer of the appropriate county to list and value such property for assessment.

We believe the foregoing opinion to be consistent with the order of the State Board of Tax Appeals. That order declared only that the property there in question was exempt from taxation during the time allowed by statute and that the 1978 books and records of Trego County, Kansas, should be corrected accordingly. The order did not address the procedural requirements of K.S.A. 1978 Supp. 79-210 that are necessary to maintain such exemption for the prescribed period of time.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bicker
Assistant Attorney General