

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 15, 1976

ATTORNEY GENERAL OPINION NO. 76-93

Kenneth W. McClintock
Morris County Attorney
418 East Main Street
Council Grove, Kansas 66846

RE: K.S.A. 79-307a, Listing and return of livestock.

Synopsis: The use of the word "or" in a statute has usually been interpreted "disjunctive". When used in the "conjunctive" sense, the context must clearly indicate legislative intent that the words "and" and "or" be used interchangeably. Where "or" is used in the "alternative sense", it is "disjunctive". K.S.A. 79-307a requires all cattle to be reported for taxation by one alternative or the other, and not both.

* * * *

Dear County Attorney McClintock:

You say that you have a taxpayer who has used both alternatives in K.S.A. 79-307a in listing his cattle for taxation. He is attempting to list one classification of cattle as of January 1 and another classification of cattle on the yearly average. You ask if under this statute he can use both.

Our opinion is that he cannot use both, because the alternatives are disjunctive.

It is true that the words "or" and "and" have been construed to be interchangeable. This is usually the case where the word "or" is between synonyms, each meaning substantially the same. State v. Hawri, Robinson v. Hammel, 154 Kan. 654, 658, 121 P.2d 200 (1942); 117 Kan. 74, 75, 230 P. 331 (1924).

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A proviso granting two alternatives for exemptions from registration is disjunctive. State v. Teeslink, 177 Kan. 268, 273, 278 P.2d 591 (1955). A statute using the word "or" reads in the disjunctive and should be given its ordinary meaning, not that of "and". State v. McGaugh, 180 Kan. 850, 853, 308 P.2d 85 (1957). The word "or" means one, not both, citing Webster's New International Dictionary. Standard Oil Co. v. Reed, 126 Kan. 63, 65, 266 P. 735 (1928).

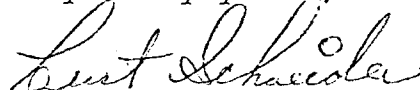
"The word 'or' is here used in the usual alternative sense of one but not both,..." White v. Atchison, T. & S.F., 125 Kan. 537, 539, 265 P. 73, (1928).

The legislature did not leave construction to conjecture. K.S.A. 79-307a provides:—

"Any person...may list and make a return to the assessor for assessment and taxation such livestock which he owns, or has in his possession or control on January 1,...or, in the alternative, he may make and return to the assessor a statement of the estimated average value of livestock which he owned or had in his possession or control during the year next preceding January 1."

The legislature explicitly said this law should be used in the alternative sense. This means one or the other method, but not both.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/ CJM/cgm
cc: Clarence A. McCreath
County Assessor
County Courthouse
Council Grove, Kansas 66846