

AGRICULTURAL PRODUCTS - Treatment for taxation purposes of grain stored in farmer's granaries;  
TAXATION AND REVENUE - Exemption for business inventory;  
TAXATION AND REVENUE - Exemption for nonperishable unprocessed agricultural products;  
TAXATION AND REVENUE - Treatment for taxation purposes of grain stored in farmer's granaries;  
ADMINISTRATIVE RULES OF MONTANA - Section 42.21.120;  
MONTANA CODE ANNOTATED - Sections 15-1-101(1)(a), 15-1-201, 15-6-136, 15-6-136(1)(b), 15-6-201, 15-6-202, 15-6-207, 15-6-207(2);  
OPINIONS OF THE ATTORNEY GENERAL - 40 Op. Att'y Gen. No. 82 (1984);  
MONTANA LAWS OF 1975 - Chapter 442, section 1.

HELD: Grain stored in a farmer's granaries is taxable as class six property under section 15-6-136, MCA; however, it qualifies for the tax exemption provided in section 15-6-207, MCA, if held in the possession of the original producer for less than seven months following harvest. Such grain does not qualify for the business inventories exemption provided in section 15-6-202, MCA.

16 May 1985

John T. Flynn  
Broadwater County Attorney  
Broadwater County Courthouse  
Townsend MT 59644

Dear Mr. Flynn:

You have requested my opinion on the following question:

Should the grain stored in a farmer's granaries be classified as class six property under section 15-6-136, MCA, and taxed accordingly, or does such property fall within the "business inventories" exemption provided in section 15-6-202, MCA?

In 40 Op. Att'y Gen. No. 82 (1984), I concluded that a sugar refinery's piled sugar beets are exempt from taxation under section 15-6-202, MCA. I determined that, while raw sugar beets are "unprocessed agricultural products," they are not really in "storage" when piled at a sugar refinery awaiting processing, thus they should not be classified as class six property under section 15-6-136(1)(b), MCA. I also concluded that the beets would qualify for the business inventories exemption provided in section 15-6-202, MCA, since they are raw materials used to produce "goods primarily intended for sale ... in the ordinary course of business."

However, your question regarding grain stored in a farmer's own granaries raises an issue separate and distinct from that addressed in 40 Op. Att'y Gen. No. 82 (1984). Class six property, taxed at four percent of its market value, includes "all unprocessed agricultural products on the farm or in storage except all perishable fruits and vegetables in farm storage and owned by the producer." (Emphasis added.) § 15-6-136(1)(b), MCA. Grain stored in a farmer's granaries qualifies as "unprocessed agricultural products on the farm or in storage." See § 15-1-101(1)(a), MCA (the term "agricultural" refers to the raising of ... field crops). It is therefore taxable as class six property.

You inquire whether such grain would fall within the business inventories exemption provided in section

15-6-202, MCA. I conclude that it does not qualify for the exemption. The Department of Revenue is charged with exercising general supervision over the administration of the revenue laws for the State of Montana. § 15-1-201, MCA. A rule adopted by the Department makes it clear that the Department does not consider unprocessed agricultural products to be eligible for the business inventories exemption. Section 42.21.120, ARM, provides: "Unprocessed agricultural products, including livestock, poultry, and the unprocessed products of both, not exempted from property taxation pursuant to 15-6-201 or 15-6-207, MCA, are considered to be classified in Class 6 property for purposes of property taxation. These agricultural products are not considered to be business inventory." In construing statutes, the interpretation given to the statute by the agency charged with its administration should be afforded "great deference." Montana Power Co. v. Cremer, 182 Mont. 277, 280, 596 P.2d 483, 485 (1979). Administrative regulations can be said to reflect the interpretation of the agency with respect to the relevant statutes. See Department of Revenue v. Puget Sound Power & Light Co., 179 Mont. 255, 261-62, 587 P.2d 1282, 1286 (1978).

I agree with the Department's interpretation of the statutes. As a general rule, tax statutes granting exemptions must be strictly construed against the exemption. Flathead Lake Methodist Camp v. Webb, 144 Mont. 565, 573, 399 P.2d 90, 94-95 (1965); Cruse v. Fischl, 55 Mont. 258, 263, 175 P. 878, 880 (1918). Moreover, the Legislature has clearly evinced a general intent that grain on the farm is to be taxed as class six property. § 15-6-136, MCA. In addition, the Legislature has provided a more specific, limited exemption for certain agricultural products. Section 15-6-207(2), MCA, exempts from taxation "all nonperishable unprocessed agricultural products, except livestock, held in possession of the original producer for less than 7 months following harvest." This exemption was enacted by the Legislature in 1975 Montana Laws, chapter 442, section 1. Although the legislative history is somewhat sketchy, it appears that the intent was to exempt grain and other "nonperishable" farm products held in possession of the original producer for the limited time provided in the statute. Grain stored in a farmer's granaries would qualify for the exemption

if held in the possession of the producer for less than seven months following harvest.

THEREFORE, IT IS MY OPINION:

Grain stored in a farmer's granaries is taxable as class six property under section 15-6-136, MCA; however, it qualifies for the tax exemption provided in section 15-6-207, MCA, if held in the possession of the original producer for less than seven months following harvest. Such grain does not qualify for the business inventories exemption provided in section 15-6-202, MCA.

Very truly yours,

MIKE GREELY  
Attorney General