

OPINION
44-110

February 8, 1944 (OPINION)

TAXATION

RE: Nonprofit Co-ops

Your letter of February fourth addressed to the Attorney General has been received, in which you ask for our construction of chapter 266 of the Session Laws of 1943, classifying personal property of rural electric cooperatives for the purpose of taxation.

Section 1 of said Act provides that:

"The property of nonprofit cooperative corporations engaged in the distribution, transmission and/or generation of electrical energy for consumption in rural areas is hereby expressly classified as personal property for the purpose of taxation."

Section 2 enumerates specific property which shall be included in the classification of personal property, such as poles, wires, lines, transformers, generating equipment, meters, machinery, buildings and substations used for housing such equipment and office fixtures of every character used in connection with the cooperative business.

You request our opinion with reference to electric cooperatives which have established retail outlets for electrical equipment; that is, as to whether such equipment in these retail stores is covered by this exemption or should be assessed locally and taxed in the same manner as the stock of goods and merchandise of other dealers.

Section 2 to which we have referred, specifically includes the items therein mentioned in the classification, with all other personal property of the cooperative corporations mentioned in said Act, and therefor, are not subject to separate taxation as personal property.

Section 4 provides the method of taxation of such cooperative corporations and provides specifically that the tax levied as therein provided shall be in lieu of any other taxes levied on the personal property of such cooperatives.

It is our opinion, therefor, that the stocks of goods kept for sale at retail by such cooperative corporations are not subject to separate assessment for the reason that the tax upon gross receipts provided for in section 4 is in lieu of all other taxes which otherwise might be levied upon personal property; but the gross income from the sale of such stocks of goods should be included in the gross receipts provided for in section 4, upon which the tax levy is computed.

ALVIN C. STRUTZ
Attorney General