

OPINION
51-168

March 6, 1951 (OPINION)

TAXATION

RE: Buildings of Cooperatives

Yours of March 1st re taxation of Cass County Electric Cooperative of Kindred, North Dakota, has been received.

We are not certain, but will assume that this is an electric cooperative association organized under the provisions of chapter 10-13 N.D.R.C. Section 10-1327 provides for an excise tax in the nature of a fee paid to the secretary of state, and further provides that the corporation "shall be exempt from all other excise taxes except as provided in chapter 33 of the title Taxation." This exemption from further excise taxation does not exempt its property from a direct ad valorem property tax, as an excise tax is not a direct property tax but it is a privilege tax. Therefore, the question of exemption of dwellings owned and rented by the cooperative must be determined by the provisions of sections 57-3301, 57-3302, 57-3303 and 57-3304 N.D.C.C.

In the first place, section 57-3302 provides only for the classification as personal property of property which is "used by the cooperative in connection with" its business, and does not affect other property which it may own, while by section 57-3302 buildings are classified as personal property, but only such buildings as are used in connection with its business.

The tax levied by section 57-3304 is in lieu of personal property taxes, not in lieu of real estate taxes levied upon real property owned by the cooperative, especially when such real property is not "used in connection with" its business.

Therefore, it is our opinion that the dwellings owned by the cooperative and leased to its employees for cash rent are not exempt from taxation but are assessable and taxable the same as any other dwellings owned by private persons.

ELMO T. CHRISTIANSON

Attorney General