

**OPINION
54-10**

May 21, 1954 (OPINION)

ASSESSMENT

RE: Refinery - Pipe Line

This is in reply to your letter of May 17, 1954, wherein an opinion is requested as to the procedure to be followed in the tax assessment of the pipe line which has been constructed by Standard Oil Company of Indiana from their refinery property in Morton County to Moorhead, Minnesota.

According to information which you have received from this company the pipe line is for the exclusive use of this company in transporting its refined petroleum products from its refinery to marketing areas. The line is wholly owned by this company, whose principal business is refining and marketing. The pipe lines have the same relationship to the company as its other properties, such as tank trucks, service stations, bulk plants and refineries.

The question then is whether this pipe line should be assessed by the State Board of Equalization or by the local assessor in each assessment district through which it passes.

The Constitution of North Dakota, Article XI, Section 179, provides in part as follows: "All taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private care line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the State Board of Equalization in a manner prescribed by such state board or commission as may be provided by law. * * *"

Section 57-06-01 of the N.D.R.C. 1943 Provides in part as follows: "The provisions of this chapter shall govern the assessment of the property of any public utility company defined in section 57-0602, and of any other company used directly or indirectly in carrying or conveying persons, property, or messages, unless the said operative property is subject to a lieu tax in place of a general property tax. * * *"

Section 57-06-04 of the N.D.R.C. of 1943 provides as follows: "The state board of equalization, at its annual meeting in August, shall assess the franchises and all operative property of sleeping car, telephone, telegraph, power, gas, and other companies, covered by

this chapter, with reference to the value thereof on the first day of January of that year. * * *"

The Constitution of North Dakota as set forth herein provides that the assessment of property of a corporation operating in this state, and used directly or indirectly in the carrying of property, shall be made by the State Board of Equalization in a manner prescribed by such state board or commission as may be prescribed by law. Section 57-0601 in addition to providing for the assessment of property of any public utility provides for the assessment of the property of any other company used directly or indirectly in carrying or conveying property, unless the said operative property is subject to a lieu tax in place of a general property tax.

It would appear that an intent is implied by Section 179 of the Constitution that property such as a pipe line, which will commonly lie in several taxation districts, is to be assessed by the State Board of Equalization. Such a procedure is most logical and affords the only orderly manner for making uniform and equitable assessments of such property.

It is the opinion of this office that this pipe line is property used in carrying or conveying property, and it is not subject to a lieu tax in place of a general property tax. Further, it is our opinion that sections 57-0601 and 57-0605 of chapter 57-06 of the North Dakota Revised Code provide for the assessment of this property by the State Board of Equalization as required by Section 179 of the Constitution.

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