

**OPINION**  
**55-120**

June 16, 1955            (OPINION)

**TAXATION**

RE: Exemptions - Farm Dwellings Leased to Tenants

This is in reply to your request for an opinion of this office on whether buildings located on farms not used as any part of the farm, but rented as dwellings to tenants to work in the city are exempt from taxation under the provisions of subsection 15 of section 57-0208 of the N.D.R.C. of 1943.

The section provides that:

"57-02-08. Property Exempt from taxation. All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

5. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings, and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as apart of a farm plant, or as a farm residence."

We have found no decision of the Supreme Court of this state in point. However, we feel the following part of the court's opinion in Eisenzimmer v. Bell, 75 N.D. 733, 738 to be of some aid in the determination of the purposes and effects of this particular exemption.

"The provision for exemption is complete in the sentence 'All farm structures, and improvements on agricultural lands.' The remainder of the paragraph, supra, seeks merely to define what shall constitute farm structures or improvements on agricultural lands.

"It was the intention of the Legislature to encourage the construction of buildings and improvements on farms, and to that end classified this particular type of property as exempt from taxation. The Act therefore must be interpreted in the light of existing laws and conditions. U.S. v. N.P. Ry. Co., 311 U.S. 317, 363, 85 L. Ed. 210, 236; 61 S. Ct. 264.

"The term 'agricultural land' as used in this act is descriptive of the land itself as a class and is used merely to distinguish rural from urban or other properties. The first test is as to the character of the lands and secondly the nature of the structures whether they are used or intended for use as part of the farm plant."

The buildings to which you have reference are unquestionably located

on agricultural lands. The only question remaining is whether they are "farm structures or improvements" within the meaning of the statute, in view of the requirement that the exception be not construed to exempt structures not used for or intended for use as a part of the farm plant or farm residence. Further there has apparently been no showing by the people who wish to claim the exemption of any intention to use such buildings as a part of a farm plant or residence. It is, therefore, our opinion that they are not exempt from taxation under this provision.

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