

**OPINION**  
**55-122**

October 3, 1955           (OPINION)

**TAXATION**

**RE: Farm Structures - Exemptions**

Your letter of September 29, 1955, asking for our views upon the question of the exemption of farm structures and improvements upon a one and one-half acre tract of land outside of the village of Sheyenne, belonging to Mr. Throlson, has been received.

The basis for exemption for farm structures is found in section 57-0208, subsection 15 thereof. In this subsection 15 it will be noted that farm structures and improvements would be exempt if they are used or intended for use as a part of a farm plant or as a farm residence. The question which is before you people is one primarily of fact as to what use Mr. Throlson makes of this property. The fact that the acreage is only one and one-half acres would hardly be sufficient to determine the question. It is noted that he has a barn and quite a few head of livestock thereon and that the place is used primarily for a farm residence wherein he lives and takes care of this livestock and operates his farm that is five miles away. The distance of five miles nowadays does not mean to much. In former years that might have been prohibitive, but a five miles between home and cultivated acreage would hardly be one that would determine the question.

It is our opinion that as long as this one and one-half acres is used for nothing but to keep livestock and where he has a barn and uses this place primarily for the purpose of operating his farm that it would be considered as part of the farm structure although there is a distance of five miles between the two places. As stated before, there is not so much a question of law as that of applying the facts which you have to the law, and it occurs to us that our view of it would be the proper one to take in a case of this kind.

LESLIE R. BURGUM

Attorney General