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#92010

STATE OF NEBRASKA
OFFICIAL FILE
JAN 1992
DEPT. OF JUSTICE

DATE: January 27, 1992

SUBJECT: Amendment of Sales and Use Tax Statutes to Exempt Purchases by County Agricultural Societies.

REQUESTED BY: Senator Douglas A. Kristensen
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion as to whether county agricultural societies organized pursuant to Neb.Rev.Stat. §§ 2-201 to 2-217 (Reissue 1987) qualify for exemption from sales and use tax under the Nebraska Revenue Act of 1967, as amended. Your specific question is whether purchases by county agricultural societies are exempt under Neb.Rev.Stat. § 77-2704(1)(l)(i) (Supp. 1991). In the event that county agricultural societies are not exempt pursuant to this provision, you have included proposed legislation to amend § 77-2704(1) to provide an exemption for "[p]urchases by a county agricultural society as defined in sections 2-201 to 2-217. . . ."

Neb.Rev.Stat. § 77-2704 provides, in pertinent part, as follows:

> (1) There are exempted from the computation of the amount of sales and use taxes imposed by the Nebraska Revenue Act of 1967 the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of the following:

* * *

L. Jay Bartel
J. Kirk Brown
Laurie Smith Camp
Elaine A. Chapman
Delores N. Coe-Barbee
Dale A. Comer
David Edward Cygan
Mark L. Ells
James A. Elworth
Lynne R. Fritz
Royce N. Harper
William L. Howland
Marilyn B. Hutchinson
Kimberly A. Klein
Donald A. Kohtz
Sharon M. Lindgren
Charles E. Lowe
Lisa D. Martin-Price
Lynn A. Melson
Harold I. Mosher
Fredrick F. Neid
Paul N. Potadle
Marie C. Pawol
Kenneth W. Payne
LeRoy W. Sievers
James H. Spears
Mark D. Starr
John R. Thompson
Susan M. Ugai
Barry Waid
Terri M. Weeks
Alfonza Whitaker
Melanie J. Whittamore-Mantzios
Linda L. Willard

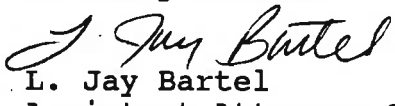
> (1)(i) Purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, or by any county, township, city, village, or rural or suburban fire protection district, except for purchases for use in the business of furnishing gas, water, electricity, or heat, or by any irrigation or reclamation district, the irrigation division of any public power and irrigation district, or public schools established under Chapter 79.

In a previous opinion, this office concluded that a county agricultural society is not a "political subdivision of the state." Report of Attorney General 1979-80, Opinion No. 201, January 21, 1980, p. 288. We note that, in a Nebraska Supreme Court case decided subsequent to our issuance of this opinion, it was held that ". . .a county agricultural society is a public body subject to the provisions of the public meetings law." Nixon v. Madison County Agricultural Society, 217 Neb. 37, 39, 348 N.W.2d 119, 120 (1984). Further, in a recent opinion, we concluded that, based on the reasoning in the Nixon case, county agricultural societies are also subject to the public records statutes. Attorney General Opinion No. 91007, January 29, 1991.

Irrespective of whether a county agricultural society constitutes a "political subdivision," it is evident that a county agricultural society is not among the types of governmental units exempted under the plain language of § 77-2704(1)(l)(i). Statutes conferring exemptions from taxation are strictly construed. Nucor Steel v. Leuenberger, 233 Neb. 863, 448 N.W.2d 909 (1989). Only those entities specifically enumerated in § 77-2704(1)(l)(i) qualify for the governmental exemption from sales and use tax. As there presently is no statutory provision exempting purchases by county agricultural societies from sales and use tax, an amendment would be necessary to provide such an exemption.

Very truly yours,

DON STENBERG
Attorney General

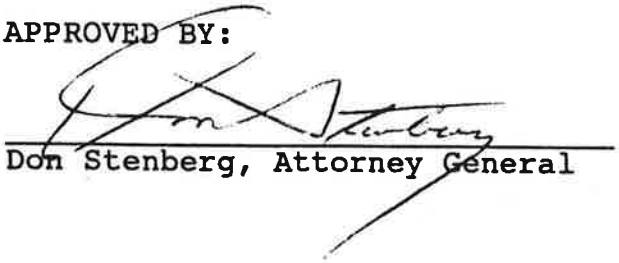


L. Jay Bartel
Assistant Attorney General

cc: Patrick O'Donnell
Clerk of Legislature

7-277-7.9

APPROVED BY:



Don Stenberg, Attorney General