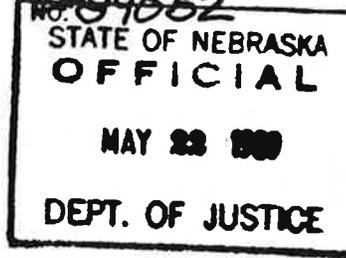


Linda Willard

DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: May 22, 1989

SUBJECT: Exemption from Personal Property Tax under Neb.Rev.Stat. §77-202(6) (Cum. Supp. 1988) of Trucks Used in Livestock Feeding Operations.

REQUESTED BY: Ted S. Griess
Clay County Attorney

WRITTEN BY: Robert M. Spire, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion with regard to whether a truck utilized by a farmer or rancher exclusively in the feeding of livestock qualifies for the exemption from personal property taxation granted to agricultural income-producing machinery and equipment under Neb.Rev.Stat. §77-202(6) (Cum. Supp. 1988).

Section 77-202(6) provides, in pertinent part: "Agricultural income-producing machinery and equipment shall be exempt from the personal property tax except: (a) Motor vehicles, as defined in section 60-301;...." In previous opinions, we have concluded that vehicles which fall within the definition of motor vehicles under §60-301 are not eligible for this exemption by virtue of the specific language excepting motor vehicles from the class of agricultural income-producing machinery and equipment. Report of Attorney General 1977-78, Opinion No. 224, p. 344; Report of Attorney General 1979-80, Opinion No. 190, p. 274.

Neb.Rev.Stat. §60-301(15) (Reissue 1988) defines "motor vehicles", in pertinent part, as follows:

Motor vehicles shall include all vehicles propelled by any power other than muscular power, except (a) mopeds, (b) farm tractors, (c) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (Emphasis added).

- L. Jay Bartel
- Elaine A. Catlin
- Delores N. Coe-Barbee
- Dale A. Comer
- David Edward Cygan
- Lynne R. Fritz
- Denise E. Frost
- Yvonne E. Gates
- Royce N. Harper
- William L. Howland
- Marilyn B. Hutchinson
- Donald E. Hyde
- Vanessa R. Jones
- Kimberly A. Klein
- Charles E. Lowe
- Lisa D. Martin-Price
- Steven J. Moeller
- Harold I. Mosher
- Fredrick F. Neid
- Bernard L. Packett
- Marie C. Pavo
- Kenneth W. Payne
- Douglas J. Peterson
- LeRoy W. Seivers
- James H. Spears
- Mark D. Starr
- John R. Thompson
- Susan M. Ugai
- Terri M. Weeks
- Melanie J. Whittamore
- Linda L. Willard

Ted S. Griess
May 22, 1989
Page -2-

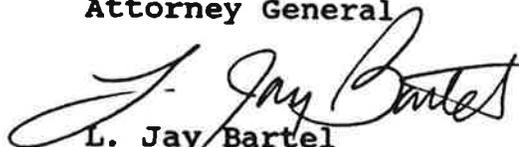
A review of the foregoing reveals that, in order for a truck used in the feeding of livestock to fall within the exception from the definition of motor vehicles recited above, it is necessary for the vehicle to constitute an implement of husbandry "designed for and used primarily for...feeding livestock...." (Emphasis added). While your request does not specify the type of vehicle you are referring to, your use of the word "truck" indicates that the vehicle at issue is one which would commonly be referred to as a "pickup" truck or some other general purpose truck-type vehicle. Under such circumstances, we believe it is clear that a motor vehicle of this nature would not be excluded from the definition of motor vehicles in §60-301(15), as it would not constitute an instrument of husbandry "designed for" feeding livestock, irrespective of whether or not it is used primarily for this purpose. Accordingly, it is our opinion that a general purpose truck of this nature, falling within the definition of motor vehicles under §60-301(15), is specifically excepted from the definition of agricultural income-producing machinery and equipment exempted from taxation under §77-202(6).

In addition, you ask whether the alteration or modification of the design of a general purpose truck, undertaken for the specific purpose of equipping such vehicle for use in feeding livestock, may be sufficient to qualify such vehicle for exemption under §77-202(6).

In general, we believe it is conceivable that a motor vehicle such as a truck suitable for general use may, by alteration or modification, be changed in such a manner as to fall within the requirement that such vehicle be "designed for" a purpose within the exception in §60-301(15). A determination of this nature, however, requires a factual analysis and application which, in relation to the specific situation raised in your request, we simply are not in a position to make in this instance. The question of whether an exemption is available for any particular vehicle is a matter which must be decided by the local government officials responsible for acting on an application for exemption.

Very truly yours,

ROBERT M. SPIRE
Attorney General



L. Jay Bartel
Assistant Attorney General

APPROVED:



Attorney General

7-135-13