

## Opinion No. 3006-0A

June 13, 1921

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** State Tax Commission, Santa Fe, New Mexico.

### Taxation of Wool in Storage.

#### OPINION

{\*66} Referring again to your note of the 11th instant asking for an opinion regarding the tax upon wool in storage on January 1st, 1921, and on April 25th, 1921, and referring to conversation with the Chief Tax Commissioner this morning, I would advise you as follows:

Section 201, Chapter 133, Laws 1921, (the Revenue Code) provides that

"All cattle horses, sheep, goats and other live stock and farm products shall be listed, assessed and taxed in the county where they are situate on the 25th day of April of each year. All other property, both real and personal, shall be listed, assessed and taxed in the county where it is situate on the first day of January of each year."

Your question involves a definition of the words "farm products" and requires that we determine whether "wool" is a "farm product."

If "wool" may be defined as a "farm product," it shall be assessed and taxed as of the 25th day of April of each year, and any wool in storage on January first, 1921, but which had been sold prior to April 25th, 1921, could not be so taxed.

If, on the other hand, "wool" is not a "farm product," it must be taxed as of January first, and any of the product that may have been sold subsequent to that date and prior to April 25th, 1921, would not escape taxation.

In the case of

State vs. Spaugh, 121 N.C. 564, 40 S.E. 60,

farmers vending their own "products" were exempted from an annual license tax, and the court held that the word "products" included live stock and fresh meats.

In the case of

City of Philadelphia vs. Davis, (Pa.) 6 Watts. 269,

swine, horses, neat cattle, sheep, cord wood, hay, as well as vegetables, fruit, eggs, milk, butter, lard and other provisions for the table were held to be strictly "products of the farm," and in the case of

District of Columbia vs. Oyster, 15 D.C. 285, 54 Am. Rep. 279,

it was held that it was the custom to consider all things as farming products which had the situs of their production upon the farm, or which are brought into condition for the uses of society by the labor of those who are engaged in agricultural pursuits as distinguished from those engaged in manufacture or other pursuits.

From the foregoing, I am of the opinion that wool, as used in Section 201 of Chapter 133, Laws 1921, should be considered as a farm product and, therefore, that it could not be assessed and taxed until April 25th of each year.

Therefore, wool in storage on January 1st, but sold prior to April 25th, 1921, would not be subject to assessment and tax in this state.