

## Opinion No. 37-1561

March 19, 1937

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. John D. Bingaman Chairman, Port of Entry Board Santa Fe, New Mexico.  
Attention: Mr. Al S. Roughton

{\*63} Your letter of March 19th requests an interpretation of that portion of Section 8 of House Bill No. 113 of the Thirteenth Legislature which exempts from taxation transportation of livestock and farm products "from the place of production within the United States."

You desire advice as to what constitutes "place of production" as used in the above cited section.

Ordinarily, the term "place of production" would refer to the specific locality wherein the livestock is raised or where the produce is grown, but I believe it to be the intention of the legislature to broaden this ordinarily accepted use of this term.

We have many instances in this state where cooperative associations have places for storage of their products and also numerous cases of elevator services. In instances of this kind it would be my belief that the legislature intended that such production should fall under the exemption clause and we would be safe in saying that in such instances places of this type constitute "the place of production."

There, of course, can be no question as to whether or not the statute {\*64} applies where the produce is transported directly from the fields to the market. Also, in a case of this kind, it is my belief that the question of ownership is immaterial. In other words, a buyer purchasing from the owner in the fields and transporting thereafter to market would be engaged in transportation from the place of production.

In the case of the elevator or storage facility a question of ownership might conceivably arise and each case should be determined in accordance with the intention of the statute and in the exercise of sound judgment. I know of no set and fast rule to apply.

We may take the illustration of a trucker transporting oranges from the State of California into New Mexico for sale. If these oranges are transported from the field or from a general place of storage then I believe the tax would not be applicable.

If, on the other hand, the truckers purchased such fruit from commission merchants in the State of California, then I do not believe it could be said that such transportation is from the place of production.

My belief is that the statute should be liberally construed and it is regrettable that the words "place of production" were included in the statute.

Until I have some specific set of facts before me the above is, of necessity, general in its nature but perhaps will serve as a guide for you in future cases.