

Opinion No. 43-4398

October 19, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Joseph T. Cole, County Treasurer, Santa Rosa, New Mexico

You have asked our opinion as to whether or not real estate in New Mexico is exempt from taxation while the title thereto is vested in the Regional Agricultural Credit Corporation of Wichita, Kansas. This involves three questions:

First, whether Congress has directly or indirectly provided for an exemption from taxation for such corporations; second, whether such corporations are considered a governmental agency of the United States, and so exempt as sovereign; and third, whether the exemption provided in Article 8, Section 3 of the New Mexico Constitution covers such corporations.

These corporations were apparently created under authority granted in Title 12, Section 1148 of the U.S.C.A. All this section does is to authorize the Reconstruction Finance Corporation to create Regional Agricultural Credit Corporations. This Act of Congress makes no provision relating to taxation, nor does Executive Order No. 6084 give immunity to these corporations from taxation.

In the case of *U.S. v. Brown*, 41 Fed. Sup. 838, the Federal District Court had before it the question as to whether or not the Regional Agricultural Credit Corporation enjoyed sovereign immunity from taxation. There the Court first pointed out that the Supreme Court of the United States had held that such corporations were suable even in a tort action to recover for alleged negligence in the care of livestock entrusted to them. See *Keifer & Keifer v. R. F. C.*, 306 U.S. 381, 59 S. Ct. 516, 83 Lawyers Ed. 784. The Court then said:

"When a corporation is created for commercial as distinguished from Governmental purposes, it is ordinarily implied in the absence of statutory provisions to the contrary, that such corporation shall have all the requisites and responsibilities of corporate existence, even though the United States owns all the stock. **Such a corporation is an entity separate from the United States.**" (Emphasis ours).

The Court, in conclusion, held that no congressional intention to grant such corporations immunity from taxation being shown, their lands were subject to taxation.

While by Article 8, Section 3 of the New Mexico Constitution the property of the United States is made exempt from taxation, yet it is seen that the lands owned by the Regional Agricultural Credit Corporation are owned by a separate entity from the United States; thus, while the United States owns stock in such corporations, it does not own

the land, the title thereto being vested in the corporate entity. It is therefore my opinion that Regional Agricultural Credit Corporations are subject to taxation.

Your attention is called to the fact that Regional Agricultural Credit Corporations are entirely distinct entities from the National Agricultural Credit Corporations authorized by Sec. 1151 and following sections, Title 12, U.S.C.A.

Trusting the foregoing sufficiently answers your inquiry, I remain

By ROBERT W. WARD,

Assistant Attorney General