

April 20, 2005
OPINION NUMBER 05-0017

Mr. Michael Wooden, CLA
Assessor, Morehouse Parish
P.O. Box 1177
Bastrop, LA 71221-1177

2-1 AGRICULTURE: Warehouses
4 ASSESSORS
129 TAXATION – Levy & Assessment (ad valorem taxes)
La. R.S. 47:1707
Art. VII, Sec. 21(C)(11) of La. Constitution

A “farm structure” must be located on agricultural land, i.e. land used for the cultivation, production and harvest of crops and in the raising and management of live stock, to qualify for exemption from ad valorem taxation.

Dear Mr. Wooden:

You have asked the opinion of this office regarding the ad valorem tax status of a warehouse used for storing sweet potatoes. You indicated that the warehouse is located on a three-acre tract of land that is not being cultivated or used for the production of crops or animals. Specifically you ask whether this warehouse is a farm structure that would be exempt from ad valorem taxes.

Initially, it should be noted that the authority to determine whether a particular taxpayer may be exempt from the payment of ad valorem taxes is a factual determination exclusively reserved by the Louisiana Constitution and statutory law to the assessor, the La. Tax Commission, and ultimately, the courts.¹ While the Attorney General does not have the authority to grant tax exemptions, we would like to assist you with the applicable law that should be used in making your determinations.

The jurisprudence of this State has consistently held that constitutional and statutory grants of exemptions from taxation must be strictly construed in favor of the taxing body and against the taxpayer desiring the exemption. *Any possible doubt is fatal*. Thus, an exemption, being an exceptional privilege, must be clearly, unequivocally and affirmatively established.²

La. Constitution Art. VII, Sec. 21(C)(11) provides, in pertinent part, as follows:

§ 21. In addition to the homestead exemption provided for in Section 20 of this Article, the following property and no other shall be exempt from ad valorem taxation:

¹ Attorney General Opinion Nos. 00-54, 96-438, 94-603, 94-602, 93-392, 92-660, 89-500 and 76-114.

² *Zapata Haney Corp. v. Larpenster*, 583 So.2d 867 (La. App. 1st Cir. 1991) writ denied.

* * *

(B)(11) agricultural products while owned by the producer, ***agricultural machinery and other implements used exclusively for agricultural purposes***, animals on the farm, and property belonging to an agricultural fair association; (Emphasis added.)

La. R.S 47:1707 clarifies the meaning of the term “*agricultural machinery and other implements used exclusively for agricultural purposes*” contained in the above exemption. It expressly provides that “farm structures” are included within the meaning of the term and exemption afforded by Section 21(C)(11), but does not define farm structures. This office has previously defined a farm structure as “any building, house, barn, fence and any other construction located on land devoted to agricultural and cultivation purposes.”³ That opinion was cited and reaffirmed more recently, when we opined that buildings on lands that are not being used for agricultural purposes (i.e. the cultivation of the land or production of crops and animals) do not constitute farm structures for tax-exempt purposes.”⁴

You also ask what constitutes agricultural land. Since La. R.S. 47:1707 refers to agricultural purposes as the “cultivation, production and harvest of crops and in the raising and management of live stock”, it is our opinion that agricultural lands would be lands being used for these purposes.

We trust the above discussion will assist you in your determination as to the tax-exempt status of the subject property.

With kindest regards,

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

DENISE B. FITZGERALD
Assistant Attorney General

CCF, JR:DBF:jv

³ Atty. Gen. Op. No. 81-179 (Issued to you and attached)

⁴ Atty. Gen. Op. No. 01-144

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Denise B. Fitzgerald
Assistant Attorney General