

N.D.A.G. Letter to Enget (July 29, 1986)

July 29, 1986

Mr. Wade G. Enget
Mountrail County State's Attorney
Mountrail County Courthouse
P.O. Box 369
Stanley, ND 58784

Mr. William E. Woods, Jr.
Parshall City Attorney
P.O. Box 7
Parshall, ND 58770

Gentlemen:

I am writing to you concerning your questions of whether a mobile home owned by an individual tribal member and located within the boundaries of the Indian tribe's reservation is subject to the mobile home property tax which has been codified as N.D.C.C. Ch. 57-55.

Enclosed are copies of two letters, dated June 17, 1985, and May 20, 1976, respectively, which were sent from this office to the office of the Mountrail County State's Attorney. These letters contain the conclusion that a mobile home owned by an individual tribal member and located within the boundaries of the Indian tribe's reservation is not subject to the mobile home property tax which has been codified as N.D.C.C. Ch. 57-55.

It is my understanding that the current guidelines of the Tax Commissioner were amended to reflect this conclusion.

A review of these letters reveals that this conclusion was based upon the following decisions: McClanahan v. State Tax Commission of Arizona, 411 U.S. 164 (1973); Moe v. The Confederated Salish and Kootenai Tribes of the Flathead Reservation, 425 U.S. 463 (1976); Makah Indian Tribe v. Clallam County, 440 P.2d 442 (Wash. 1968); and White Eagle v. Dorgan, 209 N.W.2d 621 (N.D. 1973).

To my knowledge, there has been no subsequent federal or state court decision which would suggest that the conclusion found in the enclosed letters is no longer valid.

Therefore, it is also my opinion that in the above-stated circumstance, a mobile home would not be subject to the tax provision of N.D.C.C. Ch. 57-55.

If you wish to discuss this matter further, please advise me.

Sincerely,

Nicholas J. Spaeth

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Enclosures