

LETTER OPINION
93-L-54

February 18, 1993

Mr. Stephen J. Rice
Walsh County State's Attorney
Walsh County Courthouse
Grafton, ND 58237

Dear Mr. Rice:

Thank you for your January 21, 1993, letter wherein you inquire whether certain properties located in Walsh County and owned by a Trillium Corporation are subject to ad valorem taxation.

My response is based upon the factual assumptions stated in your letter. Trillium Corporation is a subsidiary of a railroad corporation. Trillium owns various parcels of land within the City of Grafton and outside the City of Grafton. The parcels in the City of Grafton are not platted. Trillium leases these parcels to potato house owners who have built potato houses on the parcels.

All property in North Dakota is subject to taxation unless it is expressly exempted. N.D.C.C. ? 57-02-03.

N.D.C.C. ? 57-02-08(15)(a) exempts certain farm structures and improvements from ad valorem taxation.

However, ". . . any structure or improvement located on platted land within the corporate limits of a city, or any structure or improvements located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection."

N.D.C.C. ch. 57-05 provides that the State Board of Equalization shall centrally assess the operating property of a railroad. If railroad property is used for a purpose other than the operating of a railroad, it is locally assessed. N.D.C.C. ? 57-05-01.

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Since the land in question is not directly owned by a railroad and is not used to operate a railroad, it is not subject to the central assessment as provided in N.D.C.C. ch. 57-05.

The parcels of land owned by Trillium are subject to local ad valorem assessment because there is no specific applicable exemption. However, a potato house that is located on this land may qualify for the exemption as a farm building under N.D.C.C. ? 57-02-08(15). Whether the use of the potato house qualifies as a farm building is a factual determination that must be made by the local taxing authorities.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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