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January 4, 1990

DON ROLSTON
COMMISSIONER

Donna Rice
Attorney General's Office
Capitol Building
Cheyenne, WY 82002

Dear Donna:

Enclosed is an Attorney General's Opinion dated July 18, 1956, stating that property owned by Soil Conservation Districts is subject to taxation. Is this opinion still correct or has the law been deleted or changed?

I have been asked this question from several Conservation Districts and would appreciate your opinion in this matter. If you have any questions please contact me at 777-6579.

Sincerely,

Grant Stumbough

GS/lms

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OPINION NO. 83
July 18, 1956

To: Clifford G. Kaser, Chairman, Southeastern Laramie County Soil Conservation District
By: Bruce P. Badley, Assistant Attorney General

QUESTION: Whether property owned by Soil Conservation District which is a legal subdivision of the State of Wyoming is subject to taxation. ANSWER: Yes.

In answer to your above stated question, we refer to W.C.S. 1945, 34-1409 provided in Paragraph (N):

"The property and property rights of every kind and nature of any districts organized under the provisions of this ACT (Sec. 34-1401, 34-1417) shall be exempt from taxes by the State or any political subdivision thereof."

This Section of 34-1409 was deleted, however, by the 1955 Legislature by Chapter 130 (Original House Bill No. 9), which carried the following wording:

"AN ACT to amend and re-enact Section 34-1409, Wyoming Compiled Statutes, 1945, relative to the exemption of taxation of property and property rights of districts organized under the Wyoming Soil Conservation District Law."

I refer you to Attorney General Opinion No. 5, written January 13, 1956, by former Deputy Attorney General, Robert H. McPhillamey, for Mr. J. A. Bartruff, Deputy State Conservationist, U. S. Department of Agriculture in which he discussed intent of the legislature in amending and re-enacting Section 34-1409. It was Mr. McPhillamey's opinion that W.C.S. 1945, 34-1409 was amended and re-enacted by Chapter 130, Session Laws 1955, for the sole purpose of deleting Paragraph (N), which provided for exemption from taxes of property and property rights of soil conservation districts.

W.C.S. 1945, 34-1403 subsection (a) provides:

" 'District' or 'Soil Conservation District' means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth." (Emphasis Supplied).

It is interesting to note the words, "Restrictions hereinafter set forth," for it appears that this means that the Soil Conservation District was meant to be a type of governmental subdivision of this State, but for certain purposes. The Act as originally passed in 1941 (S.L. 1941, Ch. 134, Sec. 3) specifically included a provision exempting Soil Conservation Districts from taxation. (Paragraph "N" of W.C.S. 1945, 34-1409.) We must conclude that the omission in the amendment and reenactment of W.C.S. 1945, 34-1409 by the 1955 Legislature without any other change to the law, must mean that the intent of the legislature was to eliminate the tax exemption for Soil Conservation Districts.

One might think at first glance that the Soil Conservation District should be considered a governmental agency or a legal subdivision thereby automatically qualifying as a unit exempt from taxation. However, we must ask ourselves "Why did the legislature amend and re-enact W.C.S. 1945, 34-1409? If the exemption is still valid, then their act becomes meaningless. Our Wyoming Constitution, Section 12, Article 15, reads:

"The property of the United States, the state, counties, cities, towns,

school districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for religious worship, church personages, public cemeteries, shall be exempt from taxation, and such other property as the legislature may be general law provide."

We submit that the legislature at first provided for an exemption for Soil Conservation Districts and then took it away. A statutory grant of exemption from taxation is never presumed, but must be clearly conferred in plain terms and strictly construed. (61 C.J. 393, 344; R.C.L. 313 Section 274, State Ex Rel. Goshen Irrigation District v. Hunt, Secretary of State 49 Wyo., 497, 57, Par. 2d, 783. Until such time as the legislature restores the exemption, we must conclude that property owned by a State Soil Conservation District is subject to taxation by State, county and local government.
