

TAXATION:  
RURAL ELECTRIFICATION:  
GOVERNMENT AGENCIES:

Rural Electrification Co-operatives are not government agencies and are therefore subject to the provisions of the Tax laws.

September 3, 1941

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Honorable Guy H. Thompson  
Prosecuting Attorney  
Polk County  
Bolivar, Missouri



Dear Sir:

This in reply to yours of recent date wherein you requested an opinion from this department on the following statement of facts:

"The Rural Electrification Agency maintains a district office in this county and in connection with their erection and maintenance of REA lines throughout the district they carry a complete line of electrical appliances for sale to users or to any purchasers that care to buy them. Since this office is conducted as a government agency would the county have any right of taxation on their sale of merchandise?"

Apparently you are under the impression that the Rural Electric Co-operatives are government agencies and for that reason are exempt from the provisions of the Sales Tax Act. You do not state in your request by what authority the co-operative acts, however some of such co-operatives are organized and formed under Article 28, Chapter 102, revised ~~taxes~~ of Missouri. These co-operatives, when so formed, under the Federal Act, are permitted to borrow Federal funds upon which to operate. The authority for loaning such funds is provided by the Rural Electrification Act of 1936, 7 U.S.C.A., Section 901 et seq., pp. 378-84. The applicable provisions of the Act are as follows:

"Sec. 2 (Sec. 902). The Administrator is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service, as hereinafter provided; to make, or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of rural areas in the several States and Territories; and to publish and disseminate information with respect thereto."

"Sec. 4 (904). The Administrator is authorized and empowered, from the sums hereinbefore authorized, to make loans to persons, corporations, \* \* \* and cooperative, nonprofit, or limited-dividend associations organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service: Provided, however, that the Administrator, in making such loans, shall give preference to States, \* \* \* and cooperative, nonprofit, or limited dividend associations, the projects of which comply with the requirements of this chapter."

In the case of Missouri Power & Light Company vs. Louis County R. E. Coop. Association 149 S.W. (2d) 881, the question of the Rural Electric Cooperative Association's authority to sell electric current was under consideration by the Court. In that case the question was not even raised that the Cooperative Association was a government agency.

Hon. Guy Thompson

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In our research we failed to find where these Associations have at any time been classed as a government agency. They are incorporated under the laws of the State of Missouri and the only relation they have to the Federal government is that of debtor and creditor.

On April 15, 1940, this department, by an opinion to Honorable Forrest Smith, held that such associations must collect the sales tax from their members for current which they sell to such members. We are inclosing a copy of this opinion for your information.

CONCLUSION.

From the foregoing, it is the opinion of this department that since Rural Electrification Cooperative Associations are not government agencies, that the taxing authorities have authority to impose upon and collect taxes from them, as any other company or association.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney-General

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