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AGRICULTURE—GRAIN STORAGE—TAXATION; PERSONAL  
PROPERTY—ASSESSING TAXES—§5511.07 R.C.

SYLLABUS:

Where a farmer stores grain in an Ohio grain elevator, under either a “grinding storage” or plain storage agreement, title to the grain remaining with said farmer, such storing of grain constitutes the carrying on of the business of farming, and under the provisions of Section 5711.07, Revised Code, said grain should be listed and assessed in the taxing district where the grain is actually stored.

Columbus, Ohio, October 14, 1958

Hon. Sumner J. Walters, Prosecuting Attorney  
Van Wert County, Van Wert, Ohio

Dear Sir:

Your request for my opinion reads in pertinent part as follows:

“I have been requested by the Auditor to request your opinion concerning the listing of personal property for taxation in two different factual situations.

“Situation one concerns grain raised on a farm owned and operated by a farmer residing on the farm, which said farm is located in Tax District A. The grain is stored by the farmer under a contract with a grain elevator, the office of which is located in a municipal corporation in Tax District B. Title to the grain remains in the farmer under a U. S. bonded warehouse receipt. The grain is actually stored in lease space at locations other than Tax District B, where the grain elevator office is located.

“The second situation involves the same facts except that the grain is stored at the grain elevator under an arrangement known as grinding storage. This is an arrangement of convenience for the farmer, whereby the farmer stores the grain at the elevator which is used by the farmer from time to time by having the elevator grind it and mix it with feed supplements. It is then returned to the farm and fed to livestock. This eliminates the necessity for the farmer to haul the grain to the elevator each time he wants some grinding and mixing of livestock feed.

“Revised Code of Ohio, Section 5711.07 provides in part—  
‘Personal property used in business shall be listed and assessed in the tax district in which such business is carried on.’

“Would you therefore please render for us your opinion as to—

“1. Whether or not the business of farming is being ‘carried on’ as used in the above quoted code section by a farmer at the location where his grain is stored so that it should be listed and assessed at the situs of the place stored under either or both of the two situations outlined above?

“2. If the business of farming is being carried on by the farmer at the location where his grain is stored, then whether it should be listed and assessed at the place of actual storage or whether it should be listed and assessed at the location of the office of the elevator where the contract is entered into?”

You have also indicated that the above two situations are in no way concerned with a Commodity Credit Corporation loan, and that part of the grain stored as described may be stored without the State of Ohio.

The first sentence of Section 5711.07, Revised Code, reads as follows:

“Personal property used in business shall be listed and assessed in the taxing district in which such business is carried on. \* \* \*”

Initially it is to be noted that grain stored in an Ohio grain elevator in the manner described in your opinion request is “used in business”

within the meaning of the above quoted sentence. Section 5701.08 (A), Revised Code, in so far as applicable, states :

“(A) Personal property is ‘used’ within the meaning of ‘used in business’ when employed or utilized in connection with ordinary or special operations \* \* \* or when *stored or kept on hand* as material, parts, products, or *merchandise*. \* \* \* Agricultural products in storage in a grain elevator, a warehouse, or a place of storage which products are subject to control of the United States government and are to be shipped on order of the United States government, and merchandise or agricultural products shipped from outside of this state and held in this state in a warehouse or a place of storage for storage only and for shipment outside of this state are not used in business in this state. \* \* \*” (Emphasis added)

Neither of the exceptions provided by this statute encompass the grain storage situations posed in your request.

Your first question is to the effect of whether a farmer’s storing his grain constitutes “carrying on” business within the meaning of Section 5711.07, Revised Code. There is no doubt that the business of farming includes more than the mere planting of seed and harvesting of crops. The storing of harvested crops is simply one of the many continuous processes involved in the business of farming and therefore constitutes a “carrying on” of the business of farming where the grain is stored. Section 5711.07, Revised Code, requires that such grain “shall be listed and assessed in the taxing district in which such business is carried on.” Since the business of farming is being “carried on” where the grain is actually stored, it follows that the grain should be listed and assessed in the taxing district in which the grain is actually stored. This is the interpretation followed by the Tax Commissioner of Ohio and that position is supported by the following editorial comment appearing under Section 5711.07, Revised Code :

*“Comment*

“This section prescribes the taxing district in which property is to be returned. \* \* \* *The section requires property to be listed where located.* \* \* \*” (Emphasis added)

Specifically answering your question, it is my opinion, and you are accordingly advised, that where a farmer stores grain in an Ohio grain elevator, under either a “grinding storage” or plain storage agreement, title to the grain remaining with said farmer, such storing of grain consti-

tutes the carrying on of the business of farming, and under the provisions of Section 5711.07, Revised Code, said grain should be listed and assessed in the taxing district where the grain is actually stored.

Respectfully,  
WILLIAM SAXBE  
Attorney General