



1960

## Digest of Attorney General Opinions

North Dakota Law Review

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## BENCH AND BAR

## DIGEST OF ATTORNEY GENERAL OPINIONS

AGRICULTURE—TAX ON DAIRY PRODUCTS PICKED UP  
BY OUT OF STATE PROCESSOR

September 23, 1959

In response to a query as to whether or not milk which is picked up at North Dakota milk producing farms by an out of state milk processor is subject to the  $\frac{1}{4}\phi$  per pound tax or assessment as provided for in Chapter 93 of the 1959 Session Laws the answer is yes.

“Section 6, subsection 1 provides for a levy and an assessment of  $\frac{1}{4}\phi$  per pound of butter fat *produced and sold* in North Dakota, and subsection 2 of the same section provides that such an assessment is to be collected by the first *dealer or processor* by deducting it from the price paid for such butter fat.”

The tax attaches at the instant the producer's milk is commingled with other producer's milk in the bulk tank truck, and while the tax is upon the butter fat, and not upon the dealer or processor, a duty is imposed on the dealer or processor to collect the tax.

Therefore, the milk which is picked up by the tank trucker from the farmer's bulk tank is considered sold at that point and is subject to the tax, which must be collected as provided for under Chapter 93 of the 1959 Session Laws.

