



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL

ATTORNEY GENERAL

December 12, 1952

Hon. John C. White
Commissioner of Agriculture
Texas Department of Agriculture
Austin, Texas

Opinion No. V-1554.

Re: Applicability of Article
5764, V.C.S., to Dry Land
Farmers' Co-operative So-
ciety.

Dear Sir:

You have requested the opinion of this office as to whether the Dry Land Farmers' Co-operative Society must pay the annual license fee imposed by Article 5764, V.C.S.

Paragraph IV of the Charter of the Dry Land Farmers' Co-operative Society reads as follows:

"The purpose for which this farmers' co-operative society is to be formed is to engage in the harvesting, handling and utilization of agricultural products produced or delivered to it by its members, and to hire, employ and contract for the hiring and employment of such laborers and harvesters as may be deemed necessary to carry out such purposes, and to execute such bonds and security as is necessary for the hiring of such laborers, as authorized by Articles 2514 to 2524, and Article 5742-A of the Revised Civil Statutes of Texas."

Article 5742-A, V.C.S., reads as follows:

"All the power and authority authorized or given in Article 5742 is hereby conferred and given to Farmer's Co-operative Societies now organized, or may be hereafter organized, under Chapter 5 of Title 46, of the Revised Civil Statutes of 1925, including the power to organize, own stock in, manage and control a joint agency or corporation for the accomplishment of the purpose for which they are incorporated."

Article 5764 provides:

"Each association organized hereunder shall pay to the Commissioner an annual license fee of ten dollars but shall be exempt from all franchise or license taxes. For filing articles of incorporation, an association organized hereunder shall pay ten dollars, and for filing an amendment thereto, two dollars and fifty cents."

The above quoted articles are carried in Chapter 8, Title 93, V.C.S., which chapter is entitled "Marketing Associations" and contains Articles 5737-5764, inclusive. The original Co-operative Marketing Act was passed in 1921. Acts 37th Leg., R.S. 1921, ch. 22, p. 45. Article 5742-A did not appear in the original act but was added in 1930. Acts 41st Leg., 4th C.S. 1930, ch. 12, p. 12.

Articles 2514-2524, V.C.S., comprise subdivision 5 of Title 46. Subdivision 5 is entitled "Farmers' Co-operative Society" and was enacted in its present form in 1917. Acts 35th Leg., R.S. 1917, ch. 193, p. 432.

The obvious purpose of the above cited 1930 amendment to the Co-operative Marketing Act was to allow Farmers' Co-operative Societies, organized under Articles 2514-2524, the same powers conferred by Article 5742 upon associations organized under Chapter 8, Title 93, V.C.S. Thereafter such societies derived power and authority from both the Farmers' Co-operative Societies Act and the Co-operative Marketing Act.

Article 5742-A provides that all the power authorized in Article 5742 is conferred upon Farmers' Co-operative Societies "organized" under Articles 2514-2524, V.C.S. The purpose of Article 5742-A was only to enlarge the corporate powers of Farmers' Co-operative Societies and not to change their method of organization. These societies are still organized under Articles 2514-2524, V.C.S., but have the powers conferred in Article 5742. Since Article 5764 provides a license fee only for associations "organized" under Articles 5737-5764, this license fee is not applicable to co-operative societies organized under a different set of statutes.

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SUMMARY

The Dry Land Farmers' Co-operative Society was organized under Articles 2514-2524, V.C.S. It is therefore not required to pay the annual license fee as provided for in Article 5764, V.C.S., which imposes a fee only upon co-operative associations organized under Articles 5737-5764, V.C.S.

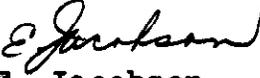
APPROVED:

Mary K. Wall
Reviewing Assistant

Charles D. Mathews
First Assistant

Yours very truly,

PRICE DANIEL
Attorney General

By 
E. Jacobson
Executive Assistant

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