



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

February 3, 1977

The Honorable Oscar B. McInnis  
Criminal District Attorney  
Hidalgo County  
Edinburg, Texas

Opinion No. H-938

Re: Ad valorem taxation  
of sugar cane, raw sugar  
and similar products  
held by an agricultural  
marketing association.

Dear Mr. McInnis:

You have requested our opinion whether Hidalgo County may lawfully collect ad valorem taxes on sugar cane, raw sugar, molasses and/or bagasse held by a cooperative marketing association. Article 8, section 19 of the Texas Constitution provides:

Farm products in the hands of the producer, and family supplies for home and farm use, are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.

The Legislature has not, by a two-thirds vote, authorized any tax upon the commodities at issue here. Thus, the items about which you inquire are exempt from ad valorem taxation if they are "farm products in the hands of the producer."

This office has previously concluded that farm products held by a cooperative marketing association pursuant to a standard cooperative marketing agreement are exempt from payment of ad valorem taxes. Attorney General Opinions M-632 (1970); O-5404 (1943). This view is supported by the decision of the Supreme Court of Texas in Texas Certified

Cottonseed Breeders' Ass'n v. Aldridge, 61 S.W.2d 79 (Tex. 1933), and we believe it to be correct.

The items about which you inquire are, therefore, exempt from taxation if they are "farm products." You have described in some detail the process by which sugar cane is harvested and reduced to juice and bagasse, with the juice then boiled and condensed until sugar crystals are formed and separated from the liquid by centrifugal force. The sugar crystal in this form is known as raw sugar, and is stored in bulk in a warehouse until it is shipped to a sugar refinery. The remaining juice is boiled until it turns into molasses.

We believe that the products described above are "farm products" within the meaning of article 8, section 19, and are, therefore, exempt from ad valorem taxation. A similar question was addressed by the First Circuit Court of Appeals in Sancho v. Bowie, 93 F.2d 323 (1st Cir. 1937), cert. denied, 304 U.S. 569 (1938). At issue in Sancho was the meaning of a Puerto Rican law exempting "growing crops and products of the land" from taxation. We find the reasoning of the court in Sancho to be persuasive:

No one would contend that sugar cane when cut is not an agricultural product and a product of the land. We do not think, therefore, that it can be successfully contended that raw sugar when extracted from the cane, which must be done as soon as practical after being cut to preserve the juice from deteriorating, is not also an agricultural product and a product of the land. The juice of the sugar cane is clearly a product of the land and in the process of extraction and separation into raw sugar is not mixed with any other ingredient. By a well-known process the juice of the cane, after boiling and purifying, contains raw sugar in crystal form and molasses. It is then placed in a centrifugal and the molasses is thrown off, leaving the raw sugar. The change of the sugar content of the cane into the crystal form of raw sugar is necessary to

prepare the product for market, and is not such a change as to render the result any less a product of the land . . . .  
Id. at 326.

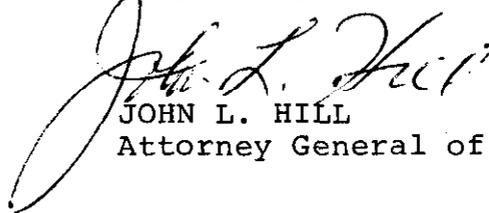
A similar conclusion was reached by the United States Supreme Court in American Sugar Refining Co. v. Louisiana, 179 U.S. 89 (1900). The Court declared, "Refined sugar . . . is the natural and ultimate product of the cane, and the various steps taken to perfect such product are but incident to the original growth." Id. at 92.

It is our opinion, therefore, that the sugar cane, raw sugar, molasses and/or bagasse you describe are "farm products in the hands of the producer," and are exempt from ad valorem taxation.

S U M M A R Y

Sugar cane, raw sugar, molasses and/or bagasse held by a cooperative marketing association are farm products in the hands of the producer and are, therefore, exempt from ad valorem taxation by article 8, section 19 of the Texas Constitution.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jwb