



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WAGGONER CARR
ATTORNEY GENERAL

April 19, 1963

Honorable Ben Atwell, Chairman
Revenue and Taxation Committee
House of Representatives
Austin, Texas

Opinion No. C-59

Re: Whether margarine made
from safflower oil is
exempt from taxation
under Section 2 of
Article 7057c, Ver-
non's Civil Statutes.

Dear Mr. Atwell:

We have received your letter of April 2nd, in which you request an opinion as to whether margarine made from safflower oil is exempt from taxation under Section 2 of Article 7057c, V.C.S.

You express the view that it was probably the intention of the Legislature in the original enactment of the tax on margarine to exempt from taxation margarine which is composed of domestic fats or oils.

The original act in question is House Bill 32, Chapter 6, p. 8 of the Acts of the Third Called Session of the 43rd Legislature (1934), and Section 2 of that Act is Section 2 of Article 7057c, V.C.S., reading as follows:

"Sec. 2. That in addition to the taxes now provided for by law, each and every wholesaler, as defined in this Act, who is now engaged or may be hereafter engaged in his own name, or in the name of others, or in the name of representatives or agents in this State, in the sale of oleomargarine as herein defined, containing any fat and/or oil ingredient other than oleo oil from cattle, oleo stock from cattle, oleo stearine from cattle, neutral lard from hogs, cottonseed oil, peanut oil, corn oil, soya bean oil and/or milk fat, shall not later than the fifteenth day of each calendar month render sworn statements to the State Comptroller of all such oleomargarine sold by such wholesaler in the State of Texas during

the preceding calendar month, and pay an excise tax of Ten (10) Cents per pound on all such oleomargarine so sold as shown by such statement in the manner and within the time hereinafter provided." (Emphasis supplied)

Section 16 of the above mentioned Act, the Emergency Clause, does refer to the importance of the Act to the agricultural and to the cattle industries of this State, and the necessity for the fostering and promotion of those industries.

Webster's New International Dictionary, 2nd Edition (1957) defines "safflower" as follows: "An old world thistle-like herb having large orange colored flower heads".

The question is whether oil derived from safflower falls within the above quoted Section 2 of the Act as ". . . containing any fat and/or oil ingredient other than oleo oil from cattle, oleo stock from cattle, oleo stearine from cattle, neutral lard from hogs, cottonseed oil, peanut oil, corn oil, soya bean oil and/or milk fat, . . .".

We fail to see that oil derived from safflower falls within any of the above classifications, and for that reason are of the opinion that margarine composed of such oil is not exempt from taxation.

S U M M A R Y

Margarine made from safflower oil is not exempt from taxation under Section 2 of Article 7057c, V.C.S.

Yours very truly,

WAGGONER CARR
Attorney General of Texas


H. Grady Chandler
Assistant

HGC:jp:pw

APPROVED:

OPINION COMMITTEE:

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APPROVED FOR THE ATTORNEY GENERAL

By: Stanton Stone