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March 17, 1960

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I Concur	LES HARDY
I Concur	WADE CHURCH

Mr. James P. Boyle, Jr.
County Attorney of Yavapai County
Prescott, Arizona

Dear Mr. Boyle:

Referring to your letter of March 3, 1960, requesting an opinion on the taxability of personal property owned by an Indian living off the reservation on lands owned in trust by the United States for said Indians, it is the opinion of this office that the County of Yavapai may levy personal property taxes on all personal property thereon.

Investigation by this office shows the property in question is owned by Mr. Charles McGee of Chino Valley, Arizona, an Indian of the Hualapai Tribe. Mr. McGee had a public domain allotment on the Hualapai Reservation which he exchanged for land of equal value owned by the Fort Rock Livestock Company. The land was conveyed by said Company to the United States in trust for Mr. McGee by warranty deed.

The land involved not being on any reservation, or having passed to Mr. McGee by Act of Congress, the personal property thereon does not come within the constitutional exemption from taxation of Article 20, Paragraph Fifth of the Constitution of Arizona, which is as follows:

"Fifth. Taxation.

Fifth. The lands and other property belonging to citizens of the United States residing without this State shall never be taxed at a higher rate than the lands and other property situated in this State belonging to residents thereof, and no taxes shall be imposed by this State on any lands or other property within an Indian Reservation owned or held by any Indian; but nothing herein shall preclude the State from taxing as other lands and other property are taxed, any lands and other property outside of an Indian Reservation owned or held by any Indian, save and except such lands as have been granted or acquired as aforesaid, or as may be granted or confirmed to any Indian or Indians under any act of Congress. As amended, election May 31, 1927, eff. June 27, 1927."

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The land, in fact, comes under the foregoing quotation as taxable property.

The law in Arizona and all other jurisdictions is that personal property owned by Indians off their reservation is taxable by the governmental unit where it has its situs.

Cohen, Federal Indian Law, 1956, P. 866; U. S. v. Porter (1927) 22 F.2d 365.

Since the question as asked concerned a home, furniture and farm machinery on the land, it is the opinion of this office that the latter two are taxable. The home falls under the real estate exemption of 25 U.S.C.A., § 412a:

"All homesteads, heretofore purchased out of the trust or restricted funds of individual Indians, are hereby declared to be instrumentalities of the Federal Government and shall be nontaxable until otherwise directed by Congress: * * *"

See Cohen, Federal Indian Law, 1956, P. 863, and Senate Report 332, 75th Congress, 1st Session.

Very truly yours,

WADE CHURCH
The Attorney General

STANLEY Z. GOODFARB
Assistant Attorney General

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