



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable H. A. Hodges
County Auditor
Williamson County
Georgetown, Texas

Dear Sir:

Opinion No. G-1868

Re: In serving process in tax suits within the county and in tax suits in another county, does the sheriff have legal authority to charge mileage traveled in serving such process, in addition to the fee of \$1.00 for "out county" tax suits and \$2.00 for "in county" tax suits?

Your request for opinion upon the above stated question has been received and carefully considered by this department.

We call your attention to the following pertinent portions of Article 7332, Revised Civil Statutes of Texas, to-wit:

"The Sheriff or Constable of the County in which the suit is pending shall receive a fee of Two (\$2.00) Dollars in each case which will cover the service of all process, and the selling of the property and executing deeds for same. If, in any such suit, process is issued to be served in Counties other than the one in which the suit is pending, the Sheriff or Constable serving the same shall receive a fee of One (\$1.00) Dollar in each suit for his services."

"Provided, that the fees herein provided for in connection with delinquent tax suits shall constitute the only fees that shall be charged by said officers for preparing, filing, instituting, and prosecuting suits on delinquent taxes and securing collection thereof, and all laws in conflict herewith are hereby repealed;

"In case the delinquent tax-payer shall pay to the collector the amount of delinquent taxes for which he is liable, together with accrued interest after the filing of suit before judgment is taken against him in the case, then, only one-half of the fees taxable in such a case, as provided for herein, shall be charged against him."

The above quoted provisions of Article 7332, Revised Civil Statutes of Texas, are clear and unambiguous. Said article sets the sheriff's fees for his services in delinquent tax suits at \$2.00 for "in-county tax suits" and at \$1.00 for "out-county tax suits," and all laws in conflict therewith are repealed. The article makes no specific provision for "mileage fees." It was undoubtedly the intention of the legislature by the passage of this article to aid delinquent taxpayers by keeping court costs and fees of the officers within due bounds. This intention is further evidenced by the provision of the statute above quoted which provides for half fees when payment of delinquent taxes and interest are made after suit is filed and before judgment is taken.

You are therefore respectfully advised that it is the opinion of this department that your question should be answered in the negative and it is so answered. You are further respectfully advised that it is the opinion of this department that if the delinquent taxes and accrued interest are paid after suit is filed and before judgment is taken, the sheriff would be entitled

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to charge one (\$1.00) dollar for all his services in connection with "in-county tax suits" and fifty (\$0.50) cents for all his services in connection with "out-county tax suits."

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Wm. J. Fanning*
Wm. J. Fanning
Assistant

WJF:LW

APPROVED FEB 27, 1940

George B. Mann
ATTORNEY GENERAL OF TEXAS

