OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. L. D. Ratliff, Jr.
County Attorney
Dickens County
Spur, Texas

Dear Sir:

Opinion No. O-2406
Re: Assessed valuation of shares of stock in state bank.

From your letter of May 21, 1940, we quote as follows:

"Our local (state) bank has 500 shares of stock, with an actual cash value of $100 per share, making a total of $50,000. The real estate belonging to said bank has been assessed at $26,375.00. There is no controversy as to these matters. The bank has rendered its shares of stock in the following manner. It first takes 65% (which is the percentage that the Court tries to assess all property in Dickens County) of the $50,000, the results being $32,500. From this last amount it subtracts the assessed valuation of its real estate, namely, $26,375, the results being $6,125.00, the amount at which the total number of shares has been rendered by the bank.

"On the other hand, the Commissioners Court contends that from the $50,000 (actual cash value of the total number of shares) there should be subtracted the $26,375 assessed valuation of the real estate, the results being $23,625, and that 65% of this last figure, or, $15,362.25 should be the amount at which the total number of share should be rendered for taxes."

You request our opinion as to which of the methods thus suggested in arriving at the valuation to be placed upon

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the stock is the correct one, and if neither is correct, then to advise the proper method of valuing such shares for taxation.

Article 7164, Civil Statutes, provides in part:

"Art. 7164. Rendition of real estate.

"Persons listing or rendering real estate shall make a statement, duly signed and under oath, which shall truly and distinctly set forth:

"1. The name of the owner, abstract number, number of survey, the number of the certificate, the name of the original grantee, the number of acres, and the true and full value thereof.

"2. The number of the lot and block and the true and full value thereof, together with the name of the town or city.

"3. When the name of the original grantee, or abstract number, or number of certificate, or number of survey is unknown, say 'unknown,' and give such description so that land or lot can be identified and the true and full value thereof can be determined. Id."

Article 7165, Revised Civil Statutes, then requires that every bank, etc., shall make out and furnish the assessor of taxes a sworn statement showing, "....(5) All other property belonging or appertaining to said bank or business, including both personal property and real estate, shall be listed as other personal property and real estate."

Then Article 7166, Civil Statutes, reads as follows:

"Art. 7166. Assessment of real estate by banks.

"Every banking corporation, State or national, doing business in this State shall, in the city or town in which it is located, render its real estate to the tax assessor at the time and in the manner required of individuals. At the time of making such rendition the president or some other officer of said bank shall file with said assessor a sworn statement showing the number and amount of the shares of said bank, the name and residence of each shareholder, and the number and amount of shares owned by

him, Every shareholder of said bank shall, in the city or town where said bank is located, render at their actual value to the tax assessor all shares owned by him in such bank; and in case of his failure so to do, the assessor shall assess such unrendered shares as other unrendered property. Each share in such bank shall be taxed only for the difference between its actual cash value and the proportionate amount per share at which its real estate is assessed. The taxes due upon the shares of banking corporations shall be a lien thereon, and no banking corporation shall pay any dividend to any shareholder who is in default in the payment of taxes due on his shares; nor shall any banking corporation permit the transfer upon its books of any share, the owner of which is in default in the payment of his taxes upon the same. Nothing herein shall be so construed as to tax national or State banks, or the shareholders thereof, at a greater rate than is assessed against other moneyed capital in the hands of individuals. Acts 1885, p. 106; G. L. Vol. 9, p. 726."

Under the statutes, including the above, and applicable constitutional provisions, including Article 8, Section 1, and Article 8, Section 20, we think it is clearly contemplated that all property subject to ad valorem taxation shall be assessed at its fair cash market value. Considering such to be true, we think it plain that in Article 7166, wherein it is said that, "Each share in such bank shall be taxed only for the difference between its actual cash value and the proportionate amount per share at which its real estate is assessed," it was contemplated that the real estate should have been assessed at its actual cash market value. As we understand from your letter, 65% of the actual cash value of the land is $26,375.00. The total cash value would be $40,577.00. The difference between that amount and the total value of the shares is $9,423.00, and that represents the total taxable value of the shares. However, it appears that in your County, the Board of Equalization systematically assesses property at 65% of its actual cash value. Such being true, there can be no discrimination, but this percentage must be applied uniformly. Lively vs. M.K.&T. Ry. Co., 120 S. W. 852. Hence, the valuation fixed upon said 500 shares should be 65% of $9,423.00, or $6,124.95.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By Glenn R. Lewis
Glenn R. Lewis
Assistant

APPROVED JUN 8, 1940

Gerald C. Mann
FIRST ASSISTANT
ATTORNEY GENERAL

GRL/oc

APPROVED
OPINION
COMMITTEE
BY BWB
CHAIRMAN