



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable E. H. Griffin
County Attorney
Young County
Graham, Texas

Dear Sir:

Opinion No. O-5124
Re: Whether attorney collector should be paid commission on \$1.00 redemption fee provided to be paid tax collector by Article 7331, Revised Civil Statutes.

In your letter of February 4, 1941, you request our opinion in response to the following question:

"Should Young County pay an attorney a commission on the \$1.00 redemption fee paid to the Tax Collector of Young County, Texas, under the provisions of Article 7331, R. C. S., by delinquent tax payers, when such attorney has a contract with Young County, Texas, under the provisions of Article 7335, R. C. S., providing for a compensation of 10% on 'all taxes, penalty, and interest actually collected.'"

Article 7335, Revised Civil Statutes, authorizes the Commissioners' Court under certain circumstances to enter into a contract with an attorney to enforce or assist in the enforcement of the collection of delinquent state and county taxes for a per cent of the taxes, penalty and interest actually collected. Among other things, Article 7335a, Vernon's Annotated Statutes, contains a provision limiting the commission which may be paid to such an attorney to 15%. Article 7331, Revised Civil Statutes, reads in part as follows:

"For calculating and preparing redemption certificates and receipts, reporting and crediting redemptions, posting Comptroller's redemption

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numbers on the delinquent tax record or annual delinquent list, mailing certificates of redemption to taxpayers after approval by the Comptroller, and for issuing receipts or certificates of redemption for property shown on the annual delinquent list, the tax collector shall be entitled to a fee of one dollar (\$1.00) for each correct assessment of land to be sold, said fee to be taxed as costs against the delinquent. Correct assessment as herein used means the inventory of all properties owned by an individual for any one year. Provided, that in no case shall the State or county be liable for said fee.

It seems clear to us from a reading of Article 7331 that the fee of \$1.00 required to be paid to the tax collector for each correct assessment of land to be sold is intended to provide compensation for certain services rendered by that officer. It is in no sense a penalty assessed against the taxpayer for failure to make timely payment of his taxes. It is our opinion that the penalty mentioned in Article 7335, upon which a commission can be paid, is such a penalty as Article 7336, Revised Civil Statutes, provides. Our answer to your question is a negative one.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*
Glenn R. Lewis
Assistant

GRL:LM

Gerald Mann
2-12-41

