



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable R. B. Ritchey, Jr.
County Attorney
Jasper County
Jasper, Texas

Dear Sir:

Opinion No. A-3634

Re: Whether tax collector is entitled to fee of One Dollar (\$1.00) provided in Article 7331, V. A. C. S., in view of House Bill 76, 47th Legislature.

We have your opinion request of May 30, 1941, requesting our opinion in response to the following question:

"Shall the tax collector, either of the county or of an independent school district, be entitled to his \$1.00 fee as set out in Article 7331, V. A. C. S., before or after its amendment in 1930, when said statute is construed with the provision of H. B. Number 76, Section 2, 47th Legislature?"

You have enclosed a copy of your own opinion on this question which reads as follows:

"Article 7331, Vernon's Annotated Civil Statutes as amended by the 41st Legislature, 4th C. S., provides: 'For calculating and preparing redemption certificates and receipts, reporting and crediting redemptions, posting Comptroller's redemption 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 of 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

"House Bill No. 76, Section 2, 47th Legislature, provides: 'That all costs of every kind and character that have accrued or attached or that may hereafter accrue or attach to or by reason of delinquent poll or ad valorem taxes on which said poll or ad valorem tax the interest and penalties have been released by any of the provisions of this Act shall be and the same are hereby released, and no such costs shall hereafter be charged, collected, or accounted for, provided, however, that any costs that are now due and payable to any officer or official shall remain a valid obligation, notwithstanding the provision hereof.' This Section of House Bill No. 76 releases the delinquent tax-payer of all costs of any kind that have accrued or may accrue later, with the exception of costs that are due and payable to an officer or official now. The question, it appears to me, is was the \$1.00 fee as called for in Article 7331, supra, due and payable to the tax collector at the time of the passage of the act? Or would it not be due until the officer or tax collector had performed the services as are called for in said Article? If it was not due and payable at the time of the passage of the act, then by the provision of H. B. 76, Section 2, the tax collector would not be entitled to the \$1.00. As the services of the tax collector of issuing the redemption certificates, etc., will not be done or performed until subsequent to the passage of H. B. 76, it is reasonable to say that the fee for such work would not be due at the time of the passage of the act.

"Article 7331, as passed in 1923, and before its amendment in 1930, provided: 'For preparing the annual delinquent list of assessments charged to the tax collector upon the tax roll, but which

Honorable R. B. Ritchey, Jr., Page 3

have not been collected at the time of his annual settlement with the State and County.....', etc., 'the tax collector shall be entitled to a fee of one dollar for each correct assessment of land to be sold, said fee to be taxed as costs against the delinquent.' Therefore, under the provision of the Article before the year 1930, has the tax collector performed the services as required before the passage of H. B. 767. If so, he would be entitled to his fee of \$1.00, as said fee was due and payable at the time of the passage of the Bill. The tax collector each year makes his delinquent list, calculates the penalty, etc.; therefore this work was performed by him before the passage of the Bill.

"CONCLUSION

"For delinquent taxes since the year 1930, and when Article 7331 was amended, the tax collector would not be entitled to his \$1.00 fee as provided in Article 7331, because H. B. 76, 47th Legislature, Sec. 2, releases it if paid before November 1st, 1941, since it was not due at the time of the passage of the Act.

"For delinquent taxes before the year 1930, and from 1923 to 1930, the tax collector would be entitled to the cost of \$1.00 as provided by Article 7331 in force at that time, since the services required of said Article had been performed before the passage of H. B. 76, 47th Legislature, Sec. 2, thereby making said fee due and payable at the time of its passage."

We agree with and adopt the conclusions reached by you and the reasons given. Please permit us to thank you for the assistance thus given in connection with your opinion request.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JUN 1941
Glenn R. Lewis
FIRST ASSISTANT
ATTORNEY GENERAL

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

GRL:mp

