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Honorable W. M. Tucker
County Attorney
Wellington, Texas

Dear Sir:

Opinion No. O-3659
Re: Effect of House Bill 76, 47th Legislature, on pending tax suits and court costs.

In your letter of June 4, 1941, you direct attention to House Bill No. 76, 47th Legislature, making certain remissions of penalties and interest upon delinquent ad valorem and poll taxes paid on or before November 1, 1941, and request our opinion in response to the following questions:

"1:- Shall the provisions of this Act, be so construed as to halt the fileing of delinquent tax suits, for ad valorem and poll tax, until Nov. 2nd, 1941? (The date of the expiration of this Act)

"2:- Shall said Bill, as enacted be construed so as to make unchargeable and uncollectible abstract fees, Sheriff's process fees, and other necessary court costs, in suits filed on June 1st, and pending trial in the November Term of Court, 1941?"

The Act does not declare a moratorium on delinquent taxes, nor lift the same out of a state of delinquency. It merely makes certain remissions as an inducement to early payment of such delinquent taxes, which are still due and owing. Suits may still be maintained legally to collect such taxes. Judgments, however, should contain provisions safeguarding the right of the property owner to the remissions given by the Act, in case he makes payment on or before November 1, 1941. This is in answer to your first question.

Bearing on your second question, we quote Section 2 of said House Bill 76, as follows:

> "Sec. 2. 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 provisions hereof._____"

It will thus be seen that all costs are released in case of payment of the delinquent taxes on or before November 1, 1941, except those due and payable to officers or officials at the effective date of the Act. Any and all costs accruing after the effective date of the Act may be escaped by making payment of the delinquent taxes during the effective period of House Bill 76. This is true, under the express provisions of the statute, without reference to the date the suit was or may be filed. However, such costs are not released and will be collectible unless the taxpayer makes payment of his delinquent taxes on or before November 1, 1941.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By Glenn R. Lewis

Glenn R. Lewis
Assistant

GRL:mp

APPROVED JUN 24, 1941

Robert E. Kepner

Acting ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE
BY BWB
CHAIRMAN