



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Ross Doughty, Jr.
County Attorney
Uvalde County
Uvalde, Texas

Dear Sir:

Opinion No. O-4073

Re: May persons, owning an undivided interest in certain property, as well as other property individually, be entitled to full remission of penalties and interest under House Bill 76, Acts 47th Legislature, Regular Session, by only paying the taxes on the property jointly owned.

We have received a request from you for an opinion from this department. We quote from your request:

"The following question has arisen in this county and has been submitted to me by the Tax Collector: Several persons own four lots together, that is, these persons each own an undivided interest in four lots, and each of these persons own other property separately and independently from the others. Under these facts is it permissible to allow these persons to pay all the taxes upon the property which they all own together and to give them the benefit of Act 73361, Vernon's Annotated Texas Statutes (Acts 1941, 47th Legislature, H. B. 76), releasing penalty and interest.

"These persons only wish to pay the taxes upon that property in which they all own an undivided interest and do not wish to pay the other taxes which they owe.

"It is my opinion that Section 3 of the

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above mentioned Act 73361 answers this question, and that all penalty and interest should not be deducted unless each of said persons pay all of the delinquent taxes which each owes.

"It seems to be well settled that each tract of land in this state is liable only for the taxes against it, *Richie vs. Moor*, 249 S.W. 272, and that in Texas taxes are assessed upon individuals by reason of their ownership of property rather than upon the real estate itself, Art. 7151.

"It is my understanding from the statute (73361) that under the fact situation above mentioned that these persons may pay the taxes upon the property which they own together and will only have to pay a penalty of six per cent, but I would appreciate knowing your views on this matter."

The applicable provisions of House Bill 76, Acts 47th Legislature, Regular Session, are:

"Section 1. That all interest and penalties that have accrued on all ad valorem and poll taxes that were delinquent on or before July 1, 1940, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions of the State (and, subject to the provisions hereinbefore and hereinafter contained, such interest and penalties on delinquent ad valorem and poll taxes due cities, towns, and villages, and special school districts, and independent school districts,) shall be and the same are hereby released, provided said ad valorem and poll taxes are paid on or before November 1, 1941. . . .

". . .

"Sec. 3. Anyone desiring to pay at one time all the delinquent taxes for only one year wherein such taxes are delinquent for more than one year shall have the right to pay the same but without

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remission of penalties and interest; provided, however, that any persons availing themselves of the benefits of this Act shall be required to pay all delinquent ad valorem taxes due the State and county on any specific piece of property on which such taxes are delinquent before the penalties and interest may be released as herein provided; conditioned that a six per cent (6%) penalty on the total amount delinquent be paid on such property."

In our opinion No. 0-3657 we held:

"It is noted that in Section 1 there is a general release of all penalties and interest, if payment is made on or before November 1, 1941. As we view the last clause in Section 3 it does not preserve any part of the penalty and interest theretofore accumulated. Its levy of a penalty is afresh. While the language used is perhaps not as clear as might have been used, we believe that Section 3 was meant to have this effect: (1) if more than one year's taxes are delinquent, the taxpayer may not have the benefit of the release if he pays for one year only, or if he pays for any number of years less than all; and (2) if he owes taxes delinquent on several pieces of property he may single out one piece and pay the delinquent taxes assessed against it, without paying other delinquent ad valorem and poll taxes owing by him, but in such a case of thus paying only a part of the delinquent taxes owing by him he will have to pay a 6% penalty. . . ."

We think the facts submitted by you bring your proposition within the second conclusion expressed and quoted above. You are, therefore, respectfully advised that it is our opinion that the persons, referred to in your request, and under the facts submitted in your request, would be entitled to have the accrued penalties and interest remitted and released, provided the delinquent taxes are paid on or before November 1, 1941, but would be subject to the 6% penalty provided in Section 3 of said House Bill 76. Your question is, accordingly,

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answered in the negative.

Yours very truly

APPROVED OCT 16, 1941

ATTORNEY GENERAL OF TEXAS

Ross Doughty, Jr.

FIRST ASSISTANT
ATTORNEY GENERAL

By *Harold McCracken*

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Assistant

HM:nw

APPROVED
OPINION
COMMITTEE
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CHAIRMAN