



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN

AUSTIN 11, TEXAS

~~JOHN D. SHEPPARD~~
ATTORNEY GENERAL

Hon. W. D. Bryan
County Attorney
Austin County
Bellville, Texas

Dear Sir:

Opinion No. O-5651

Re: Release of penalties and interest
on delinquent ad valorem taxes due
common school and road districts
under S.B. 130, Acts 48th Leg. R.S.

We have your request for an opinion which reads as follows:

"The question has been raised by the tax collector of Austin County as to whether or not Senate Bill No. 130, Acts of the Regular Session of the 48th Legislature releases to all members of the armed forces of the United States of America and their auxiliaries and all members of the armed forces in reserve in the United States of America and their auxiliaries in World War No. 2 all interest and penalties accruing subsequent to their entry into such service on the road districts and common school districts in Austin County.

"We have a copy of your opinion addressed to Honorable George H. Sheppard, Comptroller of Public Accounts, Austin, Texas, by George P. Blackburn, your assistant, and approved July 31, 1943 by Grover Sellers, first assistant attorney general, and in the last paragraph of such opinion, you state that the act applies to the interest and penalties of State and county ad valorem taxes.

"Please advise me if the act also covers road districts and common school districts as hereinabove requested."

Although you do not specify what character of taxes the nonpayment of which give rise to the "interest and penalties" about which you inquire, we assume you have reference to ad valorem taxes due road districts and common school districts. This opinion as written is based upon that assumption.

In our opinion No. O-5463, addressed to Honorable George H. Sheppard, Comptroller of Public Accounts, we held that Senate Bill No. 130, 48th Legislature, was written in language so plain and unambiguous that its meaning was so clear and obvious that the law would be applied and enforced as written, there being no room for construction of its meaning, and we cited numerous authorities.

In Opinion No. 5463 we said, in part: "The method of the Act's operation is to release to the above named persons said interest and penalties. The interest and penalties referred to are plainly described in the Act as 'all interest and penalties accruing subsequent to their entry into such service ON STATE AND COUNTY AD VALOREM TAXES on property listed on the tax rolls of any county in the name of such members of the Armed Forces or their auxiliaries or the Armed Forces Reserve or their auxiliaries prior to the time they joined such Armed Forces or auxiliaries.'"

Reference to the provisions of said Senate Bill 130 discloses that the Bill does not deal with, nor in any way attempt to deal with, the penalties and interest which might accrue by reason of nonpayment of any road district or common school district ad valorem taxes. The Bill legislates with regard to the penalties and interest accruing by reason of the nonpayment of "State and county ad valorem taxes. . . ."

The terms "State ad valorem taxes," "county ad valorem taxes," "road district ad valorem taxes," and "common school ad valorem taxes" are terms of different signification and have long so been used in the Legislative enactments of Texas. They are not synonymous.

You are therefore advised that the provisions of Senate Bill No. 130, 48th Legislature, do not operate to release to the members of the Armed Forces of the United States and their auxiliaries, nor the members of the Armed Forces Reserve and their auxiliaries, any interest and penalties which might accrue against them by reason of the nonpayment by them of any ad valorem taxes due road districts and common school districts in Austin County.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Geo. P. Blackburn

George P. Blackburn
Assistant

GPB:AMM:egw

APPROVED OCT 14, 1943
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved
Opinion Committee
By A W
CHAIRMAN