



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS

Grover Sellers
ATTORNEY GENERAL

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Honorable I. O. McWhirter
County Auditor
Hunt County
Greenville, Texas

5216

Opinion No. O-5316
Re: Determination of commission
of tax assessor-collector in
assessing common school dis-
trict taxes.

Dear Sir:

In your letters of January 12, 1944, and Jan. 20, 1944, you request the opinion of this department as to the basis of determining the commission to the county tax assessor and collector when he assesses common school district taxes. Your question is whether or not the one-half of one per cent commission he is entitled to receive under Article 2795 is on the valuation of the property or on the taxes so assessed.

In our letter to you of January 17, 1944, we enclosed copies of opinions No. O-1821 and O-3632. In your letter of January 20, 1944, you point out that our opinion No. O-1821 refers to the commission collectible on independent school district taxes and not on common school district taxes.

Article 2795, V.A.C.S., reads as follows:

"The commissioners court, at the time of levying taxes for county purposes, shall also levy upon all taxable property within any common school district the rate of tax so voted if a specific rate has been voted; otherwise said court shall levy such a rate within the limit so voted as has been determined by the board of trustees of said district and the county superintendent and certified to said court by the county superintendent. If such tax has been voted after the levy of county taxes, it shall be levied at any meeting of said court prior to the delivery of the assessment rolls by the assessor. The tax assessor shall assess said tax as other taxes are assessed and make an abstract showing the amount of special taxes assessed against each school district in his county and furnish the same to the county superintendent on or before the first day of September of the year for which such taxes are assessed. The taxes levied upon the real property in said districts shall be a lien thereon and the same shall be sold for unpaid taxes in the manner and at the time of sales for State and county taxes. The tax

collector shall collect said taxes as other taxes are collected. The tax assessor shall receive a commission of one-half of one per cent. for assessing such tax and the tax collector a commission of one-half of one per cent. for collecting the same. The tax collector shall pay all such taxes to the county treasurer, and said treasurer shall credit each school district with the amount belonging to it, and pay out the same in accordance with law."

You will note that the tax assessor receives a commission of one-half of one per cent "for assessing such tax." This language is almost identical to that contained in Article 2792, Vernon's Annotated Civil Statutes, which provides that the county assessor and collector shall receive a commission of one per cent "for assessing" independent school district taxes.

The reasoning applied in our opinion No. 0-1821 in construing Article 2792 is equally applicable to the construction of Article 2795; and it follows that in our opinion your tax assessor is entitled to receive a commission of one-half of one per cent on the taxes so assessed, and not one-half of one per cent on the valuation of the property.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED FEB 3, 1944

By (Signed) JAMES D. SMULLEN
Assistant

(Signed) GROVER SELLERS
ATTORNEY GENERAL OF TEXAS

JDS:ADM

APPROVED Opinion Committee
By BWS Chairman