



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**GROVER SELLERS**  
~~XXXXXXXXXXXX~~  
**ATTORNEY GENERAL**

Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. 0-6914

Re: Whether, under Article 7070, receipts from rural accounts outside of incorporated towns are to be taxed under the  $1\frac{1}{2}$  per cent tax bracket.

Your letter of October 31, 1945, reads as follows:

"Section I of Article 7070, R.C.S. 1925 provides:

"Each individual, company, corporation, or association owning, operating, managing, or controlling any telephone line or lines, or any telephones within this State and charging for the use of same, shall make quarterly, on the first day of January, April, July and October of each year, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and one-half ( $1\frac{1}{2}$ ) per cent of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities

and towns of less than two thousand, five hundred (2,500) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to one and three-fourths ( $1\frac{3}{4}$ ) per cent of said gross receipts as shown by said report, received from doing business within incorporated cities and towns of more than two thousand, five hundred (2,500) inhabitants, and not more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to two and two hundred seventy-five thousandths (2.275) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census.'

"\* \* \* \*

"Please tell me if all rural accounts outside of incorporated towns (regardless of the population of the incorporated town) would come under the one and one-half ( $1\frac{1}{2}$ ) tax bracket? There are cases of army camps that are located six, eight or ten miles outside of incorporated towns of ten thousand (10,000) population or more that are serviced by the exchange within the incorporated town."

We call your particular attention to the language of the statute that the occupation tax shall be "equal to one and one-half ( $1\frac{1}{2}$ ) per cent of the gross receipts, . . . received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand, five hundred (2,500) inhabitants."

The receipts from all business done outside the limits of incorporated cities and towns, regardless of the size of such incorporated cities, come within the basic bracket of one and one-half per cent.

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Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Arthur L. Moller  
Arthur L. Moller  
Assistant

ALM/JCP/wc

APPROVED NOV 8, 1945  
s/Carlos C. Ashley  
FIRST ASSISTANT  
ATTORNEY GENERAL

Approved Opinion Committee by s/BWB Chairman