



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

January 16, 1951

PRICE DANIEL  
ATTORNEY GENERAL

Hon. Wm. J. Jackson  
County Attorney  
Hemphill County  
Canadian, Texas

Opinion No. V-1144.

Re: Effect on county taxes of homestead exemption provided in Secs. 1-a and 1-b of Art. VIII, Tex. Const., and propriety of holding farm-to-market road tax election at same time as county tax reallocation election.

Dear Sir:

In your letter of December 27, 1950, you submit this question:

"Does the \$3,000.00 residence homestead exemption provided in Sec. 1-a, Art. 8, Constitution of Texas, adopted Nov. 2, 1948, together with the statutory provisions of Art. 7048a, Sec. 2, of the Revised Civil Statutes, apply only to the 30¢ per \$100.00 valuation levy therein authorized, or does such residence homestead exemption apply to all taxes for county purposes? Further, are county taxes in any manner affected by the provisions of Sec. 1-b, Art. 8, Constitution of Texas, adopted Nov. 2, 1948, providing a \$3,000.00 residence homestead exemption on all taxes for 'state purposes'?"

The pertinent provisions of Section 1-a are the following:

"From and after January 1, 1951, no State ad valorem tax shall be levied upon any property within this State for general revenue purposes. From and after January 1, 1951, the several counties of the State are authorized to levy ad valorem taxes upon all property within their respective boundaries for county purposes, except the first Three Thousand Dollars (\$3,000) value of residential homesteads, not to exceed thirty cents (30¢) on each One Hundred Dollars (\$100) valuation, in addition to all other ad valorem taxes authorized by the Constitution of this State, provided the revenue derived therefrom shall be used for construction and maintenance of Farm to Market Roads or for Flood Control, except

as herein otherwise provided."

Section 1-b reads as follows:

"Three Thousand Dollars (\$3,000) of the assessed taxable value of all residence homesteads as now defined by law shall be exempt from all taxation for all State purposes."

All property is subject to taxation on an equal and uniform basis, with the exception only of such property as the Constitution expressly exempts from taxation or such property as the Legislature shall under constitutional authorization and restrictions declare to be exempt. City of Wichita Falls v. Cooper, 170 S.W. 2d 777 (Tex. Civ. App. 1943, error ref.). The exemption authorized by Section 1-b is limited to taxes for State purposes and therefore cannot be applied to taxes levied for county purposes.

The exemption provided in Section 1-b was formerly carried in Section 1-a of Article VIII, as adopted August 26, 1933. Thus, prior to the effective date of the present Section 1-a, this section effectuated the homestead exemption from State ad valorem taxes levied for general revenue purposes, such taxes being clearly for State purposes. Likewise, prior to the time of the effective date of Section 1-a as amended November 2, 1948, there existed no constitutional exemption for any amount of the assessed taxable value of residence homesteads from taxation for any county purpose, nor was the Legislature authorized by the Constitution to make such an exemption. We are of the opinion that in providing a \$3,000 exemption in Section 1-a, the intent of the framers of the amendment and of the people in adopting it was to preserve the equivalent of the exemption formerly accorded the \$3,000 of the assessed taxable value of residence homesteads from State ad valorem taxes for general revenue purposes. In other words, since the State ad valorem tax for general revenue purposes was to be abolished from and after January 1, 1951, and since \$3,000 of the assessed taxable value of residence homesteads prior to that date was exempt from such tax, the same protective exemption was to be accorded homesteads should the county see fit to levy the new county ad valorem tax authorized by Section 1-a. This interpretation is in accord with the language used in Section 1-a.

Since only one specific county purpose tax is dealt with in this Section, it is clear that the exemption therein provided was also limited to that specific tax.

You also request our opinion on the following question:

"I have also been asked whether or not the election provided by Art. 7048a, Sec. 7, Revised Civil Statutes, to decide whether or not such 30¢ per \$100.00 valuation tax for Farm-to-Market and Lateral Roads, should be levied could be held at the same time as an election to provide for re-allocation of county taxes as provided in Sec. 9, Art. 8, Constitution of Texas, adopted Nov. 7, 1944?"

No constitutional or statutory provision prevents holding the above mentioned elections at the same time. Of course, the specific statutory requirements of Article 7048a, V.C.S., relating to ordering the election, notice of election, etc., contained in Sections 7 and 8, must be complied with. These requirements differ from the requirements contained in the general election statutes, Title 50, V.C.S., which are applicable to a county tax reallocation election, and which must be complied with in holding such an election.

#### SUMMARY

The \$3,000 residence homestead exemption provided in Section 1-a, Article VIII, Constitution of Texas, applies to such county taxes as may be levied for farm-to-market roads or for flood control under said constitutional provision, but not to other county taxes. An election to determine whether a county shall levy the farm-to-market road tax and a county tax reallocation election may be held at the same time, provided applicable statutory requirements for each election are complied with.

Yours very truly,

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