



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

February 18, 1960

Honorable Bill Allcorn
Commissioner
General Land Office
Austin, Texas

Opinion No. WW-807

Re: Whether Veterans' Land
Bonds are exempt from
inheritance taxes

Dear Mr. Allcorn:

You have requested the opinion of this office on the above-captioned matter.

If exemption were to be accorded, it would be by virtue of Section 30 of Article 5421m, Vernon's Civil Statutes, which reads as follows:

"Bonds heretofore and hereafter issued pursuant to the provisions of Section 49-b of Article III of the Constitution as same may be amended, and Statutes enacted to implement said provision of the Constitution, shall be exempt from every character and kind of taxation by the State of Texas, cities, towns, villages, counties, school districts, and all other political sub-divisions, and public agencies of the State of Texas."

The constitutional provision above referred to contains no specific provision for exemption of Veterans' Land Bonds from any kind of taxation.

It has long been settled in Texas that inheritance taxes are privilege taxes rather than property taxes. We quote the following excerpt from State v. Hogg, 123 Tex. 568, 72 S.W. 2d 593 (1934):

"An examination of the authorities convinces us that the almost universal rule is that inheritance taxes such as are levied by our statutes are held to be privilege taxes, and not property taxes. In other words, the tax is upon the right of succession and not upon the property"

Following the above-quoted statement the court cites approximately fifteen authorities and states that these authorities could be multiplied several times.

The holding in the Hogg case was expressly approved in Cahn v. Calvert, ___ Tex ___, 321 S. W. 2d 869 (1959).

In 85 C. J. S. 862, Taxation, Sec. 1118, it is stated that it is generally held that death taxes may be imposed with respect to Federal bonds or securities which could not be taxed directly because of the theory that such taxes are on the privilege of transmission or succession.

Since the statutory provision in question only exempts Veterans' Land Bonds from direct taxation, you are advised that they would be subject to inheritance taxes, assuming the transfer is accomplished in a manner covered by the provisions of the inheritance tax statutes.

S U M M A R Y

Veterans' Land Bonds are not exempt from State Inheritance Taxes.

Very truly yours,

WILL WILSON
Attorney General of Texas

By Marietta M. McGregor Payne
MARIETTA MCGREGOR PAYNE
Assistant Attorney General

MMP:ag

APPROVED:

OPINION COMMITTEE:

W. V. Geppert, Chairman

John C. Phillips

Harris Toler

Arthur Sandlin

John Wildenthal

REVIEWED FOR THE ATTORNEY GENERAL

By: Leonard Passmore