



AUG 01 2003
OPEN RECORDS DIVISION

Mike Stafford
Harris County Attorney

August 1, 2003

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OPINION COMMITTEE

RQ-0089-GA

The Honorable Greg Abbott
Texas Attorney General
P. O. Box 12548
Austin, Texas 78711-2548

Certified Mail 7001 0320 0001 8000 3647
Return Receipt Requested

FILE # ML-43206-03
I.D. # 43206

Dear General Abbott:

In Harris County, the Tax Assessor-Collector has taken an aggressive stance against those businesses that are delinquent in the payment of personal property taxes. The Tax Assessor-Collector has extensively used the tax warrant process in Chapter 33 of the Texas Tax Code to protect the county's tax revenue. A Harris County Constable has raised several questions regarding the tax warrant process. We respectfully request an opinion on the following questions relating to seizure, possession and sale of property taken subject to tax warrants. A Memorandum Brief is attached.

1. Who is authorized to execute a tax warrant?
2. Who is authorized to seize either real or personal property pursuant to a tax warrant?
3. Does the seizure of either real or personal property pursuant to a tax warrant require actual possession of that property, if even for an instant?
4. Is there any requirement that a peace officer, who takes possession of real or personal property seized pursuant to a tax warrant, turn over possession to a tax assessor-collector?
5. If a peace officer relinquishes possession of personal property seized pursuant to a tax warrant to the tax assessor-collector, may the peace officer be indemnified for any loss of value that may occur during the tax assessor-collector's possession?
6. Who is responsible for the preparation of the inventory of the personal property seized pursuant to a tax warrant?
7. Who is authorized to hold the sale of personal property seized pursuant to a tax warrant, and who is authorized to receipt and deliver the proceeds of the sale?
8. During what time periods may a sale of personal property seized pursuant to a tax warrant be conducted?

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9. Are the provisions of the Texas Tax Code that authorize a tax assessor-collector to seize personal property a delegation of authority beyond that contemplated in the Texas Constitution?

Sincerely,

MIKE STAFFORD
County Attorney

A handwritten signature in black ink, appearing to read "James D. Savage". The signature is stylized with a large initial "J" and a long, sweeping underline.

James Savage
Assistant County Attorney