



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Thomas Wheat
County Attorney
Liberty County
Liberty, Texas

Dear Sir:

Opinion No. 0-3026

Re: Is the tax assessor-collector and his deputies entitled to reasonable traveling expenses incurred in traveling over the county to list and procure renditions of property for taxes where the county is operating under the Officers' Salary Law?

Your recent request for an opinion of this department upon the above stated question has been received.

We quote from your letter as follows:

"Mr. W.M. Jett, Tax Collector & Assessor of Liberty County, Texas, has requested of me an opinion as to whether or not he and his deputies in the proper and legal conduct and discharge of the duties of his office, such as assessing land owners for taxes and the collecting of taxes in the traveling about the County, would be entitled to collect from the County for 'reasonable traveling expenses' incurred, in view of the fact that this County is operating under the Officers Salary Law.

"After he asked me the question, I advised him that in my opinion, he was entitled to the travelling expenses in view of the fact that under the law it is his duty and the duty of his deputies to assess land for taxation and in so doing they must travel about the County, and I did this because of subdivision B of Article 3899 of the

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Revised Civil Statutes of Texas, as enacted by the Acts of 1937, 45th Legislature, First Call Session, page 1817, Chapter 37, Section 1, which reads as follows:

"Each officer named in this Act, where he receives a salary as compensation for his services, shall be empowered and permitted to purchase and have charged to his County, all reasonable expenses necessary in the proper and legal conduct of his office...."

"Such expenses to be passed on, pre-determined and allowed in kind and amounts, as nearly as possible, by the Commissioners' Court once each month for the ensuing month, upon the application by each officer, stating the kind, probable amount of expenditure, and the necessity for the expenses of his office for such ensuing month, which, application shall, before presentation to said court, first be endorsed by the County Auditor, if any, etc."

"If under the law it is the duty of the Tax Collector & Assessor to get out and procure renditions of land for taxation and as such, he incurs travelling expenses, it is my opinion that he would be entitled to recover the same from the County, and that the County would be liable to pay the same. Of course, the Commissioners' Court to pass upon the probable amount, kind, etc., in accordance with subdivision 'b' of Article 3899, as amended.

"With regard to whether it is the duty of the Tax Collector and Assessor to get out and procure renditions of land for taxation and procure assessments, I first refer you to Article 7189 of the Revised Civil Statutes of 1925, which reads as follows:

"Assessors of taxes shall, between the first day of January and the thirtieth day of April of each year, proceed to take a list of taxable property, real and personal, in his county and assess the value thereof in the manner following, to wit:

By calling upon the person, or by calling at the office, place of business or the residence of the person, and listing the property required by law in his name, and requiring such person to make a statement under said oath of such property in the form hereinafter prescribed.'

"As such you see it is the duty of the Tax Assessor and Collector or his deputy to call upon the person or by calling at the office or place of business of said tax payer and in doing this necessarily he must get out and incur some travelling expenses, because he must travel to these places.

"Then I refer you to Article 7214 with regard to oath that the tax assessor and collector and deputy in this State have to take, this Article prescribing the oath, which is as follows:

"I, _____, tax assessor (or deputy tax assessor, as the case may be) in and for _____ County, Texas, do solemnly swear that I will personally view and inspect all the real estate and improvements thereon subject to taxation, lying in said county, that may be rendered to me for taxation by any corporation or individual, or by their agent or representative, as fully as may be practicable, and that I will, as fully as is practicable, view and inspect all other taxable property in said county rendered to me as aforesaid;

"As such he takes an oath that he will go out and do these things, and he will travel around and view this property, and how can he view the property unless he travels around.

"As such, it is my opinion that since it is his duty to get out and call upon these people for the purpose of procuring assessments and get out and view the property, which he can only do by travelling from place to place, because the county can't come to the

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county seat where his office is, and since this is his duty, certainly under Article 3899, subdivision B, he should be entitled to these expenses necessary in the legal and proper conduct of his office and I say he should be entitled to his travelling expenses and for any other bill that he may incur under such circumstance.

"Please render me an immediate opinion upon this question, discussing it at length, citing any cases you may be able to find."

Officers who are compensated on a fee basis are specifically authorized by Section A of Article 3899, to pay actual and necessary traveling expenses out of fees earned by such officers. Section B of Article 3899, supra, provides:

"Each officer named in this Act, where he receives a salary as compensation for his services, shall be empowered and be permitted to purchase and have charged to his county all reasonable expenses necessary in the proper and legal conduct of his office"

We have been unable to find any case where the Appellate Courts have construed the above quoted provision of Section B touching the question we have under consideration. However, we believe that Section B, Article 3899, supra, authorizing the tax assessor-collector to purchase and have charged to his county all reasonable expenses necessary in the proper and legal conduct of his office, is broad enough to include such reasonable and necessary expenses as may be incurred in buying gasoline, oil, etc., for his car, when used in travelling over the county to list and procure venditions of property for taxes. In other words, the assessor and collector would not be permitted to charge for the use of his car, but would be allowed the reasonable and necessary expense incurred in operating the same when performing his official duties as above mentioned. The same answer would be applicable, if such official duties are performed by his deputies.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*
Ardell Williams
Assistant

APPROVED FEB 7, 1941

George D. Dean
ATTORNEY GENERAL OF TEXAS

