



**THE ATTORNEY GENERAL  
OF TEXAS**

Gerald C. Mann

AUSTIN 11, TEXAS

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ATTORNEY GENERAL

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

Opinion No. O-3834  
Re: Concerning the  
assessment for taxation  
of shares in Federal  
Savings and Loan Asso-  
ciations.

Dear Sir:

We have your letter of July 30, 1941, requesting our opinion in response to the following questions:

"1. Are Federal Savings & Loan Associations required to pay ad valorem taxes on their shares outstanding?

"2. Are Federal Savings and Loan Associations domiciled in this State required to render their property for taxes on the basis set forth in Section 54 of the 1929 Building and Loan Act, known as Article 881(a), Section 53, V.A.C.S.?"

Article 881a-57a, Vernon's Annotated Civil Statutes, reads as follows:

"Every Federal Savings and Loan Association incorporated under the provisions of Home Owners' Loan Act of 1933, as now or hereafter amended, domiciled in the State of Texas, and the holders of shares or accounts issued by any such association shall have all the rights, powers, and privileges, and shall be entitled to the same exemptions and immunities to which building and loan associations organized under the laws of this State and holders of the share or share accounts of such associations are entitled."

Subdivision (h) of Section 1464, Title 12, U.S.C.A., reads:

"(h) Exemptions from taxation. Such associations, including their franchises, capital, reserves, and surplus, and their loans and income, shall be exempt from all taxation now or hereafter imposed by the United States, and all shares of such associations shall be exempt both as to their value and the

income therefrom from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States; and no State, territorial, county, municipal, or local taxing authority shall impose any tax on such associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions."

Article 881a-54, Vernon's Annotated Civil Statutes, reads as follows:

"At the annual meeting or at any meeting called for that purpose, any two or more building and loan associations organized under the laws of this state may, by vote of two-thirds of all shareholders of each of the different associations, resolve to consolidate into one association upon such terms as shall be mutually agreed upon by the directors of such associations; or any such association may transfer its engagements, funds and property to any other such association upon such terms as may be agreed upon by its board of directors, when approved by two-thirds of all the shares of all members convened in special meeting for that purpose, the notice sent to each member of record specifically stating the object of the meeting; if such notice shall state affirmatively the terms upon which such consolidation is contemplated and shall state that any member not present at the meeting in person or by representative will be regarded as having voted for the transfer or consolidation, such absent member shall be counted as being among the required two-thirds affirmative vote; but such transfer shall not prejudice the right of any creditor of any such association to have payment of his debt out of the assets and property thereof, nor shall any creditor be thereby deprived of or prejudiced in any right of action then existing against the officers or directors of said association any neglect or misconduct; providing that the reorganized association shall be liable for all obligations to stockholders of the associations existing prior to such consolidation, and providing, further, that no consolidation or transfer provided herein shall take effect until the terms and conditions have been approved by the Banking Commissioner of Texas, and until a copy of the

resolution, certified by a majority of the board of directors of each association, shall be filed with said Banking Commissioner of Texas, and recorded in the same manner hereinbefore provided for amendments to charters."

In our opinion No. 0-3156 we held that shares in a Federal Savings and Loan Association are subject to taxation. In that opinion we were not called upon to advise as to whom the same should be taxable, that is, as to the Association or to the owner. However, these shares being property, they would clearly be taxable to the owner, not to the Association. Article 7152, Revised Civil Statutes, provides in part:

"All property shall be listed or rendered in the manner following:

"(1) By the owner. Every person of full age and sound mind, being a resident of this State, shall list all of his real estate, moneys, credits, bonds or stock of joint stock or other companies (when the property of such company is not assessed in this State), moneys loaned or invested, annuities, franchises, royalties, and all other property.

"\* \* \*"

See also, Articles 7161 and 7162, Sections 37, 38 and 43, Revised Civil Statutes. Your first question is therefore answered in the negative. This, however, is not to be construed as saying that money on hand which has been received by such an Association through the issuance of any such shares does not have to be listed as an asset under (c) of Article 881a-53. It should be so listed.

We pass now to a consideration of your second question. On May 12, 1938, Assistant Attorney General Williford advised you in substance that the properties of these Associations should be assessed as provided in Article 881a-53 for building and loan associations, with which opinion we substantially agree. In view of Article 8, Section 1, of the State Constitution, providing that "all property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law," such Associations certainly can have no complaint to the application of Article 881a-53 to them. We say this particularly in view of the permission given by the statute to make deductions (c-1) and (c-2). The properties of such an Association should be assessed and consist of three items, (a), (b) and (c). Item (a) is the value of office

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furniture and fixtures. Item (b) is the value of real estate. Item (c) is the value of all its assets, less three deductions, viz: (1) accounts payable and notes payable, and (2) book value of shares outstanding, and (3) the assessed value of the furniture and fixtures and real estate held by the association and rendered by it for taxation. The sum of items (a), (b) and (c) will be the total assessed value of the properties of the Association. If other properties in the county are systematically assessed at a percentage of value less than the whole, the properties of such Associations, of course, will receive the same treatment.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Glenn R. Lewis  
Glenn R. Lewis, Assistant

APPROVED AUG 18, 1941  
/s/ Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

APPROVED: OPINION COMMITTEE  
BY: BWB, CHAIRMAN

GRL:caw:wb