



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable T. F. Slack
County Attorney
Reeves County
Pecos, Texas

Dear Sir:

Opinion No. 0-5201
Re: Whether an ex-tax collector, who went out of office in September, 1930, is still entitled to receive the \$1.00 cost for preparing annual delinquent lists as provided for in Article 7331 of the Revised Civil Statutes prior to the amendment in 1930.

Your request for an opinion on the above matter has been received and carefully considered, and we have reached the following conclusions in regard thereto.

The Federal Census for 1920 shows the population of Reeves County as 4,457 and for 1930 as 6,407.

In 1897, what is known as the Maximum Fee Law was passed, fixing and limiting the fees of the officers named therein, one of whom was the tax collector, Chapters 5 and 15, pages 5 and 42, General Laws, 25th Legislature, First Called Session; but, Section 17 thereof provided that counties having a population of 15,000 or less were exempt therefrom. This provision was carried into the Revised Civil Statutes of 1911 as Article 3898. In 1913, an amendment was passed which had the effect to raise this maximum figure to 25,000. General Laws, 33rd Legislature, Regular Session, Chapter 121, page 248. In 1919, the 36th Legislature, Chapter 158, page 299, repealed Article 3898, the effect of which was to bring the officers, including tax collectors, of counties with a population of 25,000 or less within the operation of the maximum fee law. This law became effective June 29, 1919. However,

Honorable T. F. Slack, page 2

the 38th Legislature, Acts 1923, Chapter 181, page 397, re-enacted the provisions of said Article 3898, whereby officers, including tax collectors, in counties having a population of 25,000 or less were exempt from the Maximum Fee Law. This amendment became effective July 2, 1923. Effective January 1, 1931, the 41st Legislature, Acts 1930, Fourth Called Session, Chapter 20, repealed Article 3900 of the Revised Civil Statutes of Texas of 1925, which was originally said Article 3898, and brought back under the Maximum Fee Law all counties whose population was less than 25,000. Therefore, since Reeves County was exempt from the Maximum Fee Law from July 2, 1923, to January 1, 1931, all of the fees referred to by you which were earned within that time should be turned over to the proper ex-tax collector who earned them as he is entitled to receive them for services rendered during his tenure of office. But, if any of said fees were earned during the period of time between June 29, 1919, and July 2, 1923, they would be subject to the provisions of the Maximum Fee Law as it was worded during that period of time.

In 1923, the 38th Legislature, at its First Called Session, Chapter 21, page 180, amended Article 7691 of the Revised Civil Statutes of 1911 (Article 7331 of the Revised Civil Statutes of 1925) so that same read in part, as follows:

" . . . For preparing the annual delinquent list of assessments charged to the tax collector upon the tax roll, but which have not been collected at the time of his annual settlement with the State and county, separating the property previously sold to the State from that reported sold as delinquent for preceding years and for prorating the State taxes into State revenue, State school and State pension, calculating the penalty, extending it and adding it in with other taxes, balancing the delinquent list, and certifying it to the commissioners' court and the Comptroller, the tax collector shall be entitled to a fee of one dollar for each correct assessment of land to be sold, said fee to be taxed as costs against the delinquent. Provided that in no case shall the State or county be liable for said fee, which shall be additional and cumulative of all other fees now allowed by law and shall not be accounted for under the fee bill, as fees of office."

Honorable T. F. Slack, page 3

This amendment became effective September 19, 1923, and remained in effect until it was again amended by the 41st Legislature, Acts 1930, Fourth Called Session, page 30, Chapter 20, which became effective January 1, 1931, and which amendment did not provide that said fee should be additional and cumulative of all other fees then allowed by law, etc., as provided in the above quoted provision of 1923. Therefore, for this further reason, any of the fees referred to by you that were earned during the time between September 19, 1923, and January 1, 1931, should be turned over to the proper ex-tax collector who earned them as he is entitled to receive them for services rendered during his tenure of office.

This department has heretofore passed upon a somewhat similar question, as shown by Opinion No. 0-2186, a copy of which is herewith enclosed for your further information.

Trusting that this satisfactorily answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED MAY 5, 1943

[Handwritten signature]

DEPUTY ASSISTANT ATTORNEY GENERAL

By *Jas. W. Bassett*
Jas. W. Bassett
Assistant

JWB:db

Enclosure

