



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-5956

Re: Classification of the wife
of a decedent's stepson for
inheritance tax purposes

We have received and considered your request for opinion dated June 22, 1944. We quote therefrom as follows:

"John Saunders Richards died on April 20, 1943, a resident of Harris County, seized and possessed of a net taxable estate of \$110,000.00. Under the terms of the last will and testament of the deceased, the decedent devised to his stepdaughter-in-law, or the wife of his stepson, property having a value of \$18,000.00.

"We are confronted with the proper exemption allowed this class of beneficiary. We wish to be advised whether to apply the exemption allowed under the provisions of Article 7118 or Article 7122, Revised Civil Statutes of 1925."

Article 7117, V. A. C. S., subjects all property passing by will or by the laws of descent and distribution to an inheritance tax in accordance with the classification set out in Articles 7118 to 7122.

So far as pertinent to your inquiry, Article 7118 reads as follows:

"If passing to or for the use of husband or wife, or any direct lineal descendant of husband or wife, or any direct lineal descendant of the decedent, or to legally adopted child or children, or any direct lineal descendant of adopted child or children of the decedent,

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or to the husband of a daughter, or the wife of a son, the tax shall be one (1) per cent on any value in excess of Twenty-five Thousand Dollars (\$25,000), and not in excess of Fifty Thousand Dollars (\$50,000). . . ."

The underscored portion of this article was added by Acts 1935, 44th Leg., p. 922, Ch. 356, Sec. 1. The title of this amending act is, "An Act amending Article 711B. . . by adding to the class exempted and taxed under class 'A' therein, stepchildren of the decedent, and their direct descendants and the direct descendants of adopted children. . . ." (Emphasis ours).

The emergency clause of this amendment recites:

"The fact that the exemption and reduced rate of taxation as to stepchildren and the direct lineal descendants of adopted and stepchildren was omitted from the original Act, and that such condition is an injustice toward stepchildren and their descendants, . . . have caused great confusion and injustice in administering the inheritance tax of this State, and create an emergency. . . ."

The wife of a stepson is not a direct lineal descendant of a stepson, nor is she included within any of the other groups enumerated in the statute, and the title of the amending act of 1935 and the emergency clause thereof show clearly that the legislature did not intend to include her. The words "direct descendants" and "lineal descendants" have clearly defined meanings in law. See Vol. 12, Words & Phrases, p. 467; Vol. 25, Words & Phrases, p. 319. The Legislature cannot be presumed to have meant otherwise in using these terms.

Article 7122, V. A. C. S., provides:

"If passing to or for the use of the United States. . . or to any other person. . . not included in any of the classes mentioned in the preceding portions of the original Act. . . the tax shall be: 5% on any value in excess of \$500 and not exceeding \$10,000, 6% on any value in excess of \$10,000 and not exceeding \$25,000"

It is our opinion that the beneficiary in question is such other person referred to in Article 7122 and is subject to the pro-

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visions thereof.

Trusting that we have fully answered your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Arthur L. Moller*
Arthur L. Moller
Assistant

ALM:bb

(Noting) *J. Blackburn*
JUL 27 1941
ATTORNEY GENERAL OF TEXAS

