THE ATTORNEY GENERAL OF TEXAS

GROVER SELLERS
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable John C. Bianchi
County Auditor
Victoria County
Victoria, Texas

Dear Sir:

Opinion No. O-6558
Re: Limitation as to collection of ad valorem taxes on personal property.

We are in receipt of your inquiry concerning the above captioned matter, which reads as follows:

"Please furnish me with an opinion on the collection of delinquent taxes, due on personal property.

"Can the collection of delinquent taxes, due on personal property, be effected when the same has been on the delinquent roll four years or longer?

"Can the collection of delinquent taxes due on personal property be effected at ANY TIME after same have become delinquent?"

The common law maxim to the effect that statutes of limitation do not operate against the sovereign unless otherwise provided by statute continues to govern with respect to State taxation.

Article 7298, Revised Civil Statutes, 1925, provides as follows:

"Art. 7298. Limitation not available.

"That no delinquent taxpayer shall have the right to plead in any Court or in any manner rely upon any Statute of Limitation by way of defense against the payment of taxes due from him or her to the State, or any county, city, town, Navigation District, Drainage District, Road District, Levee District, Reclamation District, Irrigation District, Improvement District, School District and all other districts; provided, that no suit shall be brought for the collection of delinquent taxes of a School District or Road District unless instituted within ten years from the time the same shall become delinquent."

The above Article 7298 effectually settles any question as to pleading limitations against all delinquent taxes, except as to the collection of delinquent taxes by a school or road district, as provided for in said

article. City of Austin v. Great Southern Life Insurance Company, (Tex. Civ. App.) 211 S.W. 482, rev'd. on other grounds, 243 S.W. 778. See also Abney v. The State, 47 S.W. 1043.

Section 1 of Article 7336f, Vernon's Annotated Civil Statutes, provides as follows:

"The collection of all delinquent ad valorem taxes due the State, County, Municipality or other defined Subdivision that were delinquent prior to December 31st, 1919, is forever barred."

It is therefore the opinion of this department that the various statutes of limitation are not available as a defense in suits brought for the collection of delinquent ad valorem taxes, whether due on real or personal property, with the exception that the ten-year limitation as provided in Article 7298, supra, may be pleaded as against a school or a road district. However, collection of all ad valorem taxes is barred as to delinquent taxes that were delinquent prior to December 31, 1919, by virtue of Article 7336f, supra.

Trusting that the above and foregoing fully answers your inquiries, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ W.V. Geppert

W.V. Geppert
Assistant

APPROVED MAY 16, 1945
/s/ Grover Sellers
ATTORNEY GENERAL OF TEXAS

WVG:db:egw

APPROVED
OPINION COMMITTEE
BY B W B - Chairman