



**THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS**

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February 10, 1949

Hon. C. Land
County Attorney
Hall County
Memphis, Texas

Opinion No. V-767

Re: The effect of a tax judgment upon other prior delinquent taxes which were not included in the petition or judgment, where no tax sale has been made.

Dear Mr. Land:

We restate the question presented in your letters of December 28, 1948 and January 24, 1949, respectively: Does the payment of a judgment by the defendant, prior to issuance of order of sale or prior to sale when order of sale has been issued, in a tax foreclosure suit deprive the taxing units, parties to the suit, of the taxes for subsequent years, delinquent at the date of the judgment, which are not included in the petition or judgment?

The answer is in the negative. A taxpayer has the right under Art. 7339 V. C. S. to pay delinquent taxes included in a judgment rendered against him at any time before a sale, and thereby discharges his liability for the delinquent taxes involved in the suit. Such a payment not only discharges his liability for the taxes, but extinguishes the lien of the State and County and other taxing units, parties to the suit, for said taxes. This is true regardless of whether a receipt is issued by the tax collector showing the payment or not. This, however, does not in any manner absolve the taxpayer from his liability for the taxes due for other years not involved in the suit.

Sec. 10, Art. 7345b, V. C.S., does provide as follows:

"The purchaser of property sold for taxes in such foreclosure suit shall take title free and clear of all liens and claims for ad valorem taxes against such property delinquent at the

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time of judgment in said suit to any taxing unit which was a party to said suit, and which has been served with citation in said suit as required by this Act."

It is apparent, however, that this statutory provision does not purport to relieve the taxpayer of liability for any taxes lawfully owing by him, but does have the effect of vesting title in the purchaser at such tax foreclosure sale, free and clear of all liens for ad valorem taxes against such property delinquent at the time of judgment in said suit, but has no effect where there has been no sale. By paying off a judgment before issuance of an order of sale or a sale pursuant to the order, the taxpayer does nothing more than pay his taxes as though no suit had been filed against him. His liability for all other taxes current or delinquent remains the same.

The taxpayer has the right to pay delinquent taxes assessed against him and his property for any one year without at the same time paying other taxes for other years if he chooses to do so, and is entitled to have a receipt issued to him by the Tax Collector evidencing his payment. This is the conclusion expressed in opinion V-529, a copy of which is herewith enclosed.

SUMMARY

The payment of delinquent taxes covered by a judgment rendered in a tax foreclosure suit under Article 7345b but paid prior to the issuance of an order of sale or sale does not operate to relieve the taxpayer of liability for any other taxes lawfully assessed against his property, whether delinquent or current.

Very truly yours,

APPROVED:

Fagan Dickson
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By

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