



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD**  
ATTORNEY GENERAL

February 16, 1953

Hon. Ben Ramsey, Lt. Governor  
Chairman, Texas Legislative Council  
Capitol Station  
Austin, Texas

Opinion S-06

Re: Validity of Article 7047a,  
V.C.S., providing an occupa-  
tion tax on the operation of  
stock and commodity exchange.

Dear Governor Ramsey:

You request the opinion of this office as to the constitutionality of H.B. No. 38, Acts 1930, 41st Legislature, 5th C.S., ch. 4, p. 116, codified as Article 7047a, V.C.S. which imposes an occupation tax of \$250.00 annually upon "every person, firm, corporation, or association of persons owning, operating, managing, controlling, or pursuing the business or occupation of any cotton exchange quotation service in this State, or furnishing quotations on the stock market on grain, cotton, or other commodities, or stocks and bonds, and who maintain an office or place of business or branch office, and have a bulletin board or other means of furnishing quotations on the stock market . . .". (Emphasis added)

The obvious purpose of this statute is to levy an occupation tax upon those engaged in the service of furnishing market quotations applicable to the commodities and stocks, bonds, etc., enumerated in the statute. We do not construe this statute as applicable to stock exchanges acting as agents in the purchase and sale of commodities and stocks. These are taxed under Section 7, Brokers and Factors, at the rate of \$10.00 per year as provided in H.B. 677, Acts, 48th Legislature, 1943, ch. 372, p. 654. This statute is Section 7 of Article 7047 V.C.S.

A careful reading of Article 7047a, V.C.S. shows that it merely levies a nondiscriminatory occupation tax upon those pursuing the occupation of furnishing market quotation service. The tax is laid equally and uniformly upon all of that classification. There is nothing in the language of the statute that leads us to the conclusion that it violates any provision of the State or Federal Constitution. The Legislature has the power to classify subjects for occupation taxation. Hurt v. Cooper, 130 Tex. 433, 110 S.W.2d 896 (1937).

Hon. Ben Ramsey, page 2 (S-06)

It would appear from the enclosures accompanying your request that some conflict has heretofore existed in the prior opinions of this office as to the validity of this statute, especially in view of the statement made in opinion from this office dated April 3, 1936, addressed to the then Comptroller, Hon. George H. Sheppard, to the effect that the courts declared this statute unconstitutional in 1931. The opinion does not cite the authority and a very careful search by us has failed to find any such case.

There is perhaps implied in your request the question of whether this statute was repealed by Section 2 of H.B. 677, Acts of the 48th Legislature, 1943, ch. 372, p. 654, which did specifically repeal certain sections of Article 7047, V.C.S. and amended others. This office has heretofore, in Opinion O-5483, 1943, ruled that Article 7047a was not repealed by this subsequent act. We still adhere to this conclusion.

S U M M A R Y

H.B. No. 38, Acts 1930, 41st Legislature, 5th C.S., ch. 4, p. 116, codified as Article 7047a, V.C.S., providing an occupation tax on the operation of stock and commodity exchanges, is constitutional and has not been repealed by any subsequent act of the Legislature.

APPROVED:

W. V. Geppert  
Taxation Division

Willis E. Gresham  
Reviewer

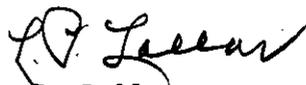
Robert S. Trotti  
First Assistant

John Ben Shepperd  
Attorney General

Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

By

  
L. R. Lollar  
Assistant