



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

October 26, 1964

WAGGONER CARR
ATTORNEY GENERAL

Affirm
11-0-1262 0-6290
0-1187 0-6397
0-6124 V-734

Honorable Franklin L. Smith
County Attorney
Nueces County
Corpus Christi, Texas

Opinion No. (C-338)

Re: Whether the taxpayer has the right to pay his state ad valorem tax early, taking advantage of the discount afforded by Article 7255b, V.C.S., and pay his county ad valorem tax at a later date, without discount, so long as said county ad valorem tax is paid before it becomes delinquent.

Dear Mr. Smith:

You have requested an opinion of this office on the above captioned question.

Article 7255b, Vernon's Civil Statutes reads as follows:

"All taxpayers shall be allowed discounts for the payment of taxes due to the State and all governmental and political subdivisions and taxing districts of the State, said discounts to be allowed under the following conditions: (a) three (3%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State, if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; (b) two (2%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid sixty (60) days before the date when they would otherwise become delinquent; (c) one (1%) per cent discount on ad valorem taxes due the

State or due any governmental or political subdivision or taxing district of the State, if such taxes are paid thirty (30) days before the date when they would otherwise become delinquent. Provided, however, that the provisions of this section shall not apply to water improvement districts, irrigation districts, levee districts, water control districts, and other governmental subdivisions, cities, towns and independent school districts unless and until the governing body of such water improvement districts, irrigation districts, levee districts, water control districts, and other governmental subdivisions, cities, towns or independent school district by ordinance, resolution or order, shall adopt the provisions hereof; and in the event any such water improvement district, irrigation district, levee district, water control district, and other governmental subdivisions, city, town or independent school district elects to allow such discounts, then the governing body of each water improvement district, irrigation district, levee district, water control district, and other government subdivisions, city, town or independent school district, shall have power, by the ordinance, resolution or order levying the annual taxes, to designate the months in which such discounts of three (3%) per cent, two (2%) per cent, and one (1%) per cent respectively shall be allowed, but in no event shall the same apply to split payment of taxes."

Although there is some conflict in the holdings of opinions during prior administrations of this office as to whether all ad valorem taxes appearing on the general tax rolls as to any one separately-assessed parcel of land must be paid at the same time and as to the discount to be allowed therefor under 7255b, it has been the consistent ruling of the office of the Attorney General of this State that a taxpayer must pay his State and County ad valorem taxes at the same time. To the extent of their specific holding on this point or their recognition of this rule, the following Attorney General's Opinions are affirmed: 0-1262 (Sept. 8, 1939); 0-1187 (Oct. 13, 1939); 0-6124 (Nov. 9, 1944); 0-6290 (Dec. 15, 1944); 0-6397 (1945); and V-734 (1948).

We quote the following excerpt from page 2 of Attorney General Opinion No. 0-1262:

"Pursuant to the express statutory warrant above stated, and to avoid interminable confusion in the keeping of accounts and the issuance of receipts by tax assessors-collectors of the various counties of Texas, the Comptroller of Public Accounts promulgated a regulation that all ad valorem taxes appearing upon the general tax rolls such as state, county and common school district taxes, which the tax collecting officials of the county were charged with collecting must, as to any one separately-assessed parcel of land, be paid at the same time. This long-standing regulation of the Comptroller has been, time out of mind, uniformly observed by the tax-collecting officials of various counties, and under such administrative regulation and ruling they have refused to issue receipt for part payment of ad valorem taxes appearing upon the general tax rolls against any separately-assessed tract or parcel of land."

Although we have been informed by the Comptroller's Department that there is no such official specific regulation, such has been the departmental interpretation of the law in so far as state and county ad valorem taxes are concerned as evidenced by the form of the State and County Tax Receipt (Form 40-2.62) for receipting Full Payment or Last Half Payment of state and county ad valorem taxes charged on current tax rolls. This form is furnished tax assessor-collectors by the Comptroller without cost. A separate receipt is provided for First Half Payments of State and County Taxes (Form 40-2.23). The statement above quoted as to the uniform practice of tax assessors-collectors in this regard is correct in so far as state and county ad valorem taxes are concerned.

Stuard v. Thompson, 251 S.W. 277 (Tex.Civ.App. 1923), which held that a tax collector could refuse to accept state and county taxes tendered without payment of a wife's poll tax, is cited in Opinions 0-1262 and 0-1187 as sustaining their result in principle. Opinion 0-6124 points out that no statute authorizes a tax collector to receive and receipt for state taxes without, at the same time, collecting county taxes. We agree that these reasons stated in the aforementioned opinions support their holdings.

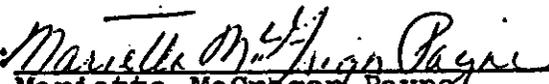
Since state and county taxes against any separately-assessed tract or parcel of land must be paid at the same time, a fortiori, Article 7255b, V.C.S., does not permit a discount for early payment of state ad valorem taxes even though the taxpayer later tenders payment of his county ad valorem taxes prior to delinquency.

S U M M A R Y

State and county ad valorem taxes against any separately-assessed tract or parcel of land must be paid at the same time. Article 7255b, V.C.S., does not authorize a discount for early payment of state ad valorem taxes even though county ad valorem taxes are paid prior to delinquency.

Yours very truly,

WAGGONER CARR
Attorney General of Texas

By 
Marietta McGregory Payne
Assistant Attorney General

MMcGP:sjl

APPROVED:

OPINION COMMITTEE:

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APPROVED FOR THE ATTORNEY GENERAL
BY: Roger Tyler