



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

May 20, 1974

The Honorable Joe Resweber  
Harris County Attorney  
Harris County Courthouse  
Houston, Texas 77002

Opinion No. H- 309

Re: Time to apply for home-  
stead exemption provided  
under Sec. 1-b(b) of  
Article 8 of the Texas  
Constitution

Dear Mr. Resweber:

You have informed us that Mr. Carl S. Smith, the Harris County Assessor and Collector, has asked for clarification regarding "the time at which the partial tax exemption for homesteads of persons over 65 years of age must be requested."

The exemption to which you refer is set out in Article 8, Sec. 1-b(b) of the Texas Constitution and presently reads, in pertinent part, as follows:

"From and after January 1, 1973, the governing body of any county, city, town, school district, or other political subdivision of the State may exempt by its own action not less than Three Thousand Dollars (\$3,000) of the assessed value of residence homesteads of married or unmarried persons sixty-five (65) years of age or older, including those living alone, from all ad valorem taxes thereafter levied by the political subdivision."

For a general discussion of this amendment to the Constitution, see Attorney General Opinion No. H-9 (1973).

You have specifically asked:

"1. Is the person who is over 65 and otherwise eligible to receive the exemption required to render his property during the statutory rendition period of January 1, to April 30, in order to receive the exemption?"

"2. May the person apply for the exemption at the time that he pays the taxes and receive the benefit of the exemption where he failed to render his property during the rendition period?"

There are no constitutional or statutory guidelines expressly delineating the procedures by which such an exemption is to be secured, and you have informed us that "[t]he Commissioners Court ordered the exemption to be placed in effect for Harris County and the Harris County Flood Control District on November 27, 1972. The Order makes no reference to time for application for the exemption."

A virtually identical question was considered in Attorney General Opinion No. O-6842 (1945). That Opinion construed the exemption granted in Article 8, Sec. 1-a, of the Constitution. The question presented was:

"A taxpayer fails to render his property at rendition time and fails to claim homestead exemption until he comes in at taxpaying time. Can he then after taxes are due and rolls are completed come in and sign a certificate and get the homestead taxes deducted from his taxes?"

The Opinion stated:

"The . . . constitutional provision exempts from taxation \$3,000.00 of the assessed taxable value of the residence homestead for all State purposes. The only requirement in this provision is that the property be assessed in order that the taxable value be ascertained. Article 7152, V. R. C. S., makes it the duty of the owner to render his property for taxation, but in cases where the owner fails for any reason to do so, Article 7193, V. R. C. S., makes it the duty of the assessor to render and assess the property.

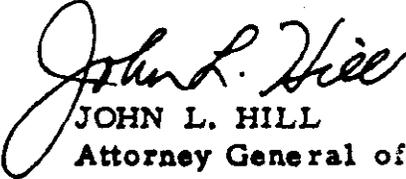
"The assessed taxable value being thus obtained, the taxpayer is entitled to an exemption of \$3,000.00 of the assessed taxable value of his residence homestead as now defined by law at any time he claims his exemption."  
(Emphasis in original).

We believe the reasoning of this Opinion applies with equal force to your inquiry and therefore in answer to your first question, it is our opinion that a person is not required to render his property during the statutory rendition period in order to obtain his exemption, and in answer to your second question, it is our opinion that a person entitled to the exemption may receive its benefit by claiming it at the time he pays his taxes even though he failed to render his property during the statutory period.

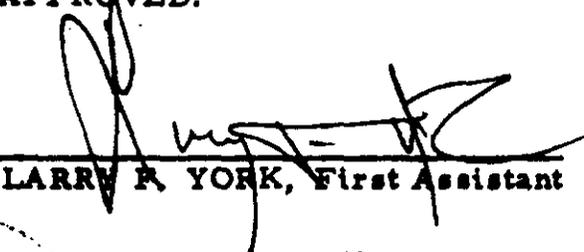
S U M M A R Y

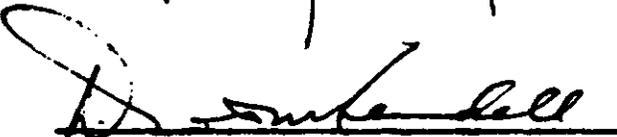
Where a political subdivision has approved a homestead tax exemption for persons 65 years of age or older, a person is entitled to receive the benefits of the exemption even though he fails to claim it during the statutory rendition period.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
LARRY R. YORK, First Assistant

  
DAVID M. KENDALL, Chairman  
Opinion Committee