



Office of the Attorney General
State of Texas

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ATTORNEY GENERAL

April 24, 1997

The Honorable Fred Hill
Chair, Committee on Urban Affairs
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 97-039

Re: Whether section 11.24 of the Tax Code
allows a taxing unit to freeze property taxes on a
historic site (ID# 39404)

Dear Representative Hill:

You ask for an interpretation of section 11.24 of the Tax Code, which authorizes taxing units¹ to provide tax exemptions for historically significant structures. This provision was adopted pursuant to article VIII, section 1-f of the Texas Constitution, which authorizes "[t]he legislature, by law . . . [to] provide for the preservation of cultural, historical, or natural history resources by . . . authorizing political subdivisions to grant exemptions or other relief from ad valorem taxes on appropriate property so designated by the political subdivision in the manner prescribed by general law."

Section 11.24 of the Tax Code provides as follows:

The governing body of a taxing unit by official action . . . may exempt from taxation part or all of the assessed value of a structure . . . and the land necessary for access to and use of the structure . . . , if the structure . . . is:

- (1) designated as a Recorded Texas Historical Landmark . . . ; or
- (2) designated as a historically . . . significant site in need of tax relief to encourage its preservation pursuant to an ordinance or other law adopted by the governing body of the unit.²

You are concerned about partial tax exemptions and ask whether section 11.24 allows a taxing unit to freeze the dollar amount of taxes paid as of the date the exemption was granted or only to exempt a specific percentage of the assessed value of the property. You point out that these two

¹A "taxing unit" means a county, an incorporated city or town, a school district, a special district or authority, or any other political unit of this state that is authorized to impose and is imposing ad valorem taxes. Tax Code § 1.04(12). You inquire about the authority of a city under section 11.24 of the Tax Code, but since this provision applies to taxing units generally we will therefore use the statutory language.

²Tax Code § 11.24 (emphasis added).

methods yield different amounts of tax that can be collected on the property. The tax freeze method yields the same amount of tax each year, while under the percentage method the amount of tax fluctuates with the tax rate and the assessed value of the property.

Section 11.24 authorizes the exemption for “part . . . of the assessed value” of the property. Property is appraised each year at its market value as of January 1,³ and its assessed value is based on the appraised value.⁴ Thus, the partial exemption authorized by section 11.24 is tied to the changing market value of the property. It is not tied to any prior tax payment on the property and does not necessarily yield the same amount of tax each year. The definitions of “taxable value” and “partial exemption” applicable to property tax provisions⁵ show that the tax on a partially-exempt property is to be computed anew each year. “Taxable value” is “the amount determined by deducting from assessed value the amount of any applicable partial exemption,” while “[p]artial exemption” is “an exemption of part of the value of taxable property.” Thus, the amount of the exemption must be deducted from the assessed value of the property each year, and the tax computed on the remaining value. The language of section 11.24 and the definitions do not allow for exemption by freezing the amount of tax.⁶

We agree that under section 11.24 a taxing unit may exempt a specific percentage of the assessed value of the historic site, but we also believe that it may grant a partial exemption consisting of a fixed dollar amount to be deducted from the property’s assessed value each year. Other Tax Code provisions treat exemptions of fixed dollar amounts as partial tax exemptions. For example, article VIII, section 1-b(b) of the Texas Constitution permits the governing body of various taxing units to exempt an individual who is disabled or is sixty-five or older from not less than \$3,000 of the market value of the residence homestead. The enabling legislation refers to this as a tax exemption “of a *portion* . . . of the appraised value of his residence homestead.”⁷ Under section 11.22, a disabled veteran is entitled to “an exemption from taxation of a *portion* of the assessed value of a property he owns and designates” according to the statute.⁸ The exemption is a dollar amount based on the veteran’s disability rating.

³*Id.* § 23.01(a).

⁴*Id.* § 26.02 (property shall be assessed on the basis of 100 percent of its appraised value).

⁵*Id.* § 1.04(10), (11). The definitions included in section 1.04 of the Tax Code apply to title 1 of the Tax Code, which is known as the Property Tax Code. *Id.* § 1.04; *see also id.* § 1.01.

⁶The freeze of ad valorem taxes imposed for school purposes on the homesteads of persons aged sixty-five or over is expressed in language very different from the partial exemption authorized by section 11.24 of the Tax Code. *See* Tex. Const. art. VIII, § 1-b(d) (total amount of ad valorem taxes may not be increased); Tax. Code § 11.26 (school district may not increase the total amount of ad valorem tax it imposes).

⁷Tax Code § 11.13(d) (emphasis added).

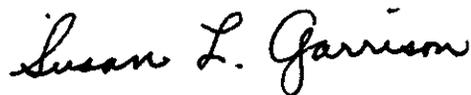
⁸*Id.* § 11.22(a) (emphasis added); *see* Tex. Const. art. VIII, § 2(b).

In these provisions, the legislature has indicated that a partial exemption may consist of a fixed dollar amount that would be deducted from the assessed value of the property each year to yield the taxable value of the property.⁹ Accordingly, we conclude that section 11.24 does not allow a taxing unit to freeze the amount of taxes paid on a historic site as of the date the exemption was granted or any other date, but it does allow the taxing unit to exempt a specific percentage of the assessed value of the property or a fixed dollar amount of the assessed value.

S U M M A R Y

Section 11.24 of the Tax Code, which authorizes taxing units to exempt from taxation part or all of the assessed value of a historic site, does not permit a freeze the on amount of taxes payable on a historic site as of the date the exemption was granted or any other date, but it does permit the exemption of a specific percentage of the assessed value of the property or a fixed dollar amount of the assessed value.

Yours very truly,



Susan L. Garrison
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Opinion Committee

⁹See Tax Code § 1.04(10), (11).