



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable O. Kennedy  
County Attorney  
Beeville, Texas

Dear Sir:

Opinion No. 9-1214  
Re: Method of arriving at value  
of shares in National Banks for  
taxation purposes.

We received your letter of August 1, 1939, advising us of the following facts: The First National Bank of Beeville is located within the boundaries of the Beeville Independent School District. The Bank has complied with Article 7166, Revised Civil Statutes, in furnishing the tax assessor of the district with a list of the shares of stock of said bank and the names and addresses of the owners thereof. The district and the bank are in agreement on all questions except one, which is, the bank insists that the value of all real estate belonging to said bank wherever situated should be deducted from the value of the shares whereas the school district insists that in arriving at the value of the stock to be taxed against the stockholders only the value of the bank's real estate situated within the limits of the school district should be deducted from the value of such shares of stock. You request our opinion as to which party is correct in its contention.

Section 548, Chapter 4, Title 12, U.S.C.A., provides authority from the Congress of the United States for the several states to tax shares in and real estate belonging to National Banks. The Revised Statutes of Texas of 1879 contained no provisions affirmatively authorizing the taxation of land belonging to National Banks. In the absence of such provisions, it was held in the case of Rosenberg vs. Beekes, 4 S. W. 899, that such property could not be taxed. In 1885 an enabling act was passed, the same now being Article 7166, Revised Civil Statutes, reading as follows:

"Every banking corporation, State or national, doing business in this State shall, in the city or town in which it is located, render its real estate to the tax assessor

at the time and in the manner required of individuals. At the time of making such rendition the president or some other officer of said bank shall file with said assessor a sworn statement showing the number and amount of the shares of said bank, the name and residence of each shareholder, and the number and amount of shares owned by him. Every shareholder of said bank shall, in the city or town where said bank is located, render at their actual value to the tax assessor all shares owned by him in such bank; and in case of his failure so to do, the assessor shall assess such unrendered shares as other unrendered property. Each share in such bank shall be taxed only for the difference between its actual cash value and the proportionate amount per share at which its real estate is assessed. The taxes due upon the shares of banking corporations shall be a lien thereon, and no banking corporation shall pay any dividend to any shareholder who is in default in the payment of taxes due on his shares; nor shall any banking corporation permit the transfer upon its books of any share, the owner of which is in default in the payment of his taxes upon the same. Nothing herein shall be so construed as to tax national or State banks, or the shareholders thereof, at a greater rate than is assessed against other moneyed capital in the hands of individuals."

In view of the holding of the Supreme Court in the above case that the State taxing authorities could not levy and collect taxes upon real estate belonging to National Banks without a statute affirmatively authorizing the same, we think it follows that neither the State nor any of its subdivisions may levy and collect taxes against real estate belonging to or shares in National Banks beyond the authority of the statute authorizing taxation of such properties. It is especially noted that the statute provides that "each share in such bank shall be taxed only for the difference between its actual cash value and the proportionate amount per share at which its real estate is assessed." This was evidently intended to avoid what may be considered a species of double taxation upon real estate belonging to such banks. Such intention would be defeated in part if in arriving at the value of the shares the value of real estate situated outside of the taxing district should not be deducted along with the value of land situated within such district. Each of such shares manifestly can be taxed by only one school district. The statute quite plainly says that the assessed value of the real estate belonging to any such bank shall be deducted from the value

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of the shares in arriving at the amount at which the latter shall be taxed. The legislature having so provided, our answer to your question necessarily follows that the First National Bank of Beeville is correct in its contention.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*  
Glenn R. Lewis  
Assistant

GEL:N

APPROVED AUG 10, 1939

*Ernest B. Mann*

ATTORNEY GENERAL OF TEXAS

