



## OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

Modified by 0-6785

 0-5270  
 EDWARD C. MANN  
 ATTORNEY GENERAL

Hon. Geo. H. Sheppard  
 Comptroller of Public Accounts  
 Austin, Texas

Dear Sir:

Opinion No. 0-5270

Re: Allocation of moneys to be paid  
 by the Federal Public Housing  
 Authority in lieu of State taxes,  
 and related questions.

Your letter of April 30, 1943, reads, in part,  
 as follows:

"The Federal Public Housing Authority is now preparing to pay in lieu of state taxes certain sums to the various political subdivisions of the state as well as to the state itself. Several questions arise with reference to the acceptance of this money:

"1. Since the money is paid in lieu of taxes, how shall it be allocated in the State Treasury?

"2. May this department authorize the payment direct to the various tax collectors, or should the payment be made direct to the State Treasurer?

"3. If the money is paid in to the County Tax Assessor-Collector would the Assessor-Collector be entitled to commissions on such sums as belong to the state?

"4. In State Aid Counties, such as Nueces, if the money is paid to the Assessor-Collector would the county retain a portion that is authorized to be remitted to the County Treasurer for the payment of maintenance of sea walls, etc.?"

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All property owned by the United States is, by our statutes, exempted from taxation. Article 7150, R. C. S. By virtue of various acts passed by the United States Congress, the Administrator of the Federal Public Housing Authority is authorized to make annual payments in lieu of taxes to the State and the various local subdivisions of the State in which real property is acquired by the Housing Authority. See Public 849, 76th Congress, 54 Statutes, 1125 (as amended by Public 42, Public 137, Public 409, Public 522, and Public 723, 77th Congress), Public 9, 77th Congress, Public 73, and Public 353, 77th Congress, Public 671, Public 781, 76th Congress. It will be noted that upon the property involved in each of the Federal Acts, the Administrator is authorized to pay "in lieu of taxes" an amount which would be the approximate equivalent of the amount of taxes that would be paid upon such real property if such property were subject to taxation and were not exempt.

Since there is no liability upon the United States to pay the sums authorized in lieu of taxes, any such sums so paid to the State will be in the nature of gifts. We have heretofore held, in our opinion No. 0-2042, that only the Legislature of this State is authorized to accept gifts on behalf of the State. We enclose herewith a copy of such opinion. It might be pointed out that for the same reasons that the Legislature is the only department of the State's Government which can accept gifts, it is likewise the only department of the government which can reject gifts.

Since the Legislature has neither accepted nor rejected, on behalf of the State, any sums that have been or may hereafter be tendered to the State in lieu of taxes upon the lands in question, we think that any such sums tendered to the officials of the State under the authority of the Federal Acts would be "money the status of which is undetermined" within the meaning of Article 4388, V. A. C. S., and that it should be disposed of as therein directed. That article reads, in part, as follows:

"The State Treasurer shall receive daily from the head of each department, . . . a detailed list of all persons remitting money, the status of which is undetermined or which is awaiting the time when it can be finally taken into the treasury . . . deposit receipt shall be issued by the Comptroller for the daily total of such remittances from each department, and the Cashier of the Treasurer's Department shall keep a cash book, to be called 'suspense cash book' in which to enter these deposit receipts, and any others issued for cash receipts, for which

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no deposit warrants can be issued, or when their issuance is delayed. As soon as the status of money so placed with the Treasurer on a deposit receipt is determined, it shall be transferred from the suspense account by placing the portion of it belonging to the State in the Treasury by the issuance of a deposit warrant, and the part found not to belong to the State shall be refunded. . . ."

We must, therefore, answer your first question by saying that in our opinion such sums as may be paid by the Administrator, "in lieu of State taxes", under the authority of the said Federal Acts, should be paid directly to the State Treasurer and should be placed by him in the suspense account as "money the status of which is undetermined," and the ultimate disposition of which should be made in accordance with the direction of the Legislature.

Such sums as may be paid by the Administrator "in lieu of taxes" of local political subdivisions should, of course, be paid directly to the proper local authorities, and not to the State Treasurer.

Having thus answered your first question, it becomes unnecessary for us to discuss the remaining questions contained in your letter.

Trusting that the above fully answers your inquiry,  
we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Fowler Roberts*

Fowler Roberts  
Assistant

APPROVED MAY 25, 1947

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