



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

May 4, 1973

The Honorable Curtis L. Owen
Criminal District Attorney
403 Smith County Courthouse
Tyler, Texas 75701

Opinion No. H- 36

Re: Tax Exemption - Farm to
Market and Lateral Road Tax

Dear Mr. Owen:

Your letter requesting our opinion states that in 1951 the voters of Smith County approved the Farm to Market and Lateral Road Tax in accordance with Article 7048a, Section 2, Vernon's Texas Civil Statutes and, in accordance with Section 1-a of the Texas Constitution, an exemption of \$3,000 has been allowed for residential homesteads.

In November, 1972, Section 1-b of Article 8 of the Texas Constitution was amended to add a subparagraph b authorizing counties, among others, to exempt "not less than three thousand dollars (\$3,000) of the assessed value of residential homesteads of persons sixty-five (65) years of age or older from all ad valorem taxes thereafter levied by the" county.

You have asked whether the exemption allowed under Section 1-b(b) of Article 8 also applies to the Farm to Market and Lateral Road Tax so that some individuals would have two \$3,000 exemptions from the one tax.

Prior to the 1972 amendment to Section 1-b of Article 8, there was no provision by which any political subdivision of the State other than a county could grant an exemption for residence homesteads. Efforts to do so were held invalid. Graham v. City of Fort Worth, 75 S. W. 2d 930 (Tex. Civ. App., Eastland, 1934, err. ref.); City of Wichita Falls v. Cooper, 170 S. W. 2d 777 (Tex. Civ. App., Fort Worth, 1943, err. ref.). Prior to 1972 counties were only authorized to grant exemption for residence homestead in the event they levied an ad valorem tax to be used for the construction and maintenance of farm to market roads or for flood control. Section 1-a, Article 8, Constitution of Texas.

Section 1-b(a) of Article 8 exempted \$3,000 of the assessed taxable value of residence homesteads from State taxes.

Section 1 of Article 8 of the Constitution of Texas requires that taxation be equal and uniform. For this reason the courts hold that tax exemptions are to be strictly construed since they are the very antithesis of equality and uniformity. Hilltop Village, Inc. v. Kerrville Independent School District, 426 S. W. 2d 943 (Tex. 1968). The exempt status will not be extended to property unless the controlling law clearly shows that that was intended. City of Houston v. South Park Baptist Church, 393 S. W. 2d 354 (Tex. Civ. App., Houston, 1965, err. ref.).

"Exemptions from taxation are never favored, and in the construction or interpretation of a law extending exemption from taxation to any citizen or class of property all doubts are resolved against the exemption . . . "

Santa Rosa Infirmary v. City of San Antonio, 259 S. W. 926 (Tex. Com. App. 1924) quoted with approval in City of Longview v. Markham-McRee Memorial Hospital, 152 S. W. 2d 1112 (Tex. 1941) and see Kirby Lumber Corp. v. Hardin Independent School District, 351 S. W. 2d 310 (Tex. Civ. App., Waco, 1961, err. ref., n. r. e.).

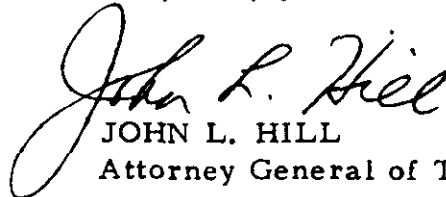
The constitutional provisions in question may be read that county taxes for the construction of farm to market roads or flood control are subject to two exemptions in the amount of \$3,000, one under Section 1-a of Article 8 and the other under Section 1-b(b) of Article 8 where the taxpayer is over 65 years of age or that is subject to only one of these.

Section 1-b(b) does not clearly allow a double exemption and we must resolve any doubts in favor of no exception. City of Houston v. South Park Baptist Church, supra. It is our opinion therefore, that no more than one exemption per residence homestead is available to any one piece of property for the purposes of fixing assessed tax value, and that where an exemption is available under Section 1-a of Article 8 of the Constitution, another exemption may not be tacked to it for the purpose of that tax. See Attorney General Opinion H-9 (1973).

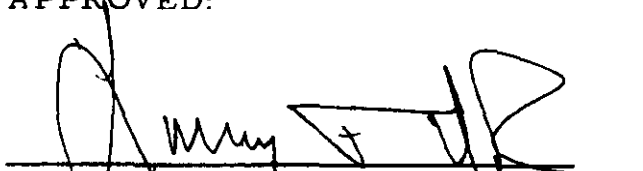
SUMMARY

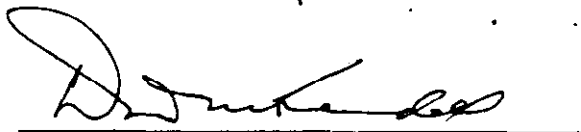
Where property is subject to ad valorem taxes levied by a county for farm to market road and flood control purposes, it is entitled to a \$3,000 residence homestead exemption under that constitutional provision but is not entitled to a second residence homestead exemption under Section 1-b(b) of Article 8 for that tax.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee