

COURT ORDER NO. 89-389-05-22

THE STATE OF TEXAS)	TAX ABATEMENT/EXEMPTION
)	FOR ELDERLY AND DISABLED PERSONS
COUNTY OF COLLIN)	COMMISSIONERS' COURT

On May 22, 1989, the Commissioners' Court of Collin County, Texas, met in a special session with the following members present and participating, to wit:

William J. Roberts	County Judge, Presiding
Howard Thornton	Commissioner, Precinct 1
Jerry Hoagland	Commissioner, Precinct 2
John Witherspoon	Commissioner, Precinct 3
Jack Hatchell	Commissioner, Precinct 4

During such session, the court considered a request to re-examine the county's current tax abatement policy for persons 65 years of age or older, which allows for an exemption from taxation on \$10,000 of the appraised value of their residence homesteads.

Thereupon, a motion was made, seconded and carried with a majority vote of the court to expand the policy to disabled persons and to:

- A) allow disabled persons an exemption from taxation in the amount of \$20,000 of the appraised value of his/her residence homestead;
- B) allow persons who are 65 years of age or older an exemption from taxation in the amount of \$30,000 of the appraised value of his/her residence homestead;
- C) subject any/all such exemptions to the provisions of V.T.C.A., Tax, Section 11.13 (See Exhibit A attached); and,
- D) adjudge that if any portion of this order shall conflict with any portion or all of an existing order of this court, this order shall prevail in an attempt to repeal any conflicting provision of any existing order of the commissioners' court.

Adopted, ordered and dated this the 22nd day of May, 1989.

William J. Roberts
 William J. Roberts, County Judge
 Collin County, T E X A S

ATTEST:
Helen Starnes
 Helen Starnes, Ex-Officio Clerk
 Commissioners' Court
 Collin County, T E X A S



§ 11.12

PROPERTY TAX CODE

Title

Cross References

Application for exemption, necessity, exception under this section, see § 11.43(a).

Notes of Decisions

In general 1
Bonds and notes 2

1. In general

Reconstruction Finance Corporation was a corporate agency of the United States; and Congress had exclusive authority to determine whether, and to what extent, such agency would be immune from state taxation. *R. F. C. v. State of Tex.* (C.A. 1956) 229 F.2d 9, certiorari denied 76 S.Ct. 695, 351 U.S. 907, 100 L.Ed. 1442.

Waiver of federal agency's exemption from state and local taxation would have to be strictly construed. *Id.*

Vernon's Ann.Civ.St. art. 5242, giving legislative permission to the United States to acquire lands within state for specified purposes, Vernon's Ann.Civ.St. art. 5247, authorizing cessation of exclusive jurisdiction save for service of process, and Vernon's Ann.Civ.St. art. 5248 (repealed), providing that lands acquired for federal use should be exempt from any taxation under authority of state so long as the lands were held, owned, used and occupied by the United States for certain purposes, all of which articles were incorporated in deed of cession, did not constitute a reservation that the United States should be secure in its possession and enjoyment of all such lands and should be exempt from any taxation from the state so long as the lands were "held, owned, used, and occupied by the United States of America for any of the purposes expressed in the foregoing statutes and not otherwise." *Humble Oil & Refining Co. v. Calvert* (Civ.App.1971) 464 S.W.2d 170, affirmed 478 S.W.2d 926, certiorari denied 93 S.Ct. 293, 409 U.S. 967, 34 L. Ed.2d 234.

Federal Migratory Game Preserves owned exclusively by the United States Government were not subject to state and county ad valorem taxes. *Op. Atty. Gen.* 1939, No. 0-986.

Lands acquired by the federal government for "forts, military stations, magazine, and arsenals" and all improvements thereon, were not liable for state and county ad valorem taxes. *Op. Atty. Gen.* 1943, No. 0-5363.

The buildings and grounds of Yuc Heights Reservation, the title of which was in name of War Department, were not taxable for school, state or county purposes. *Op. Atty. Gen.* 1944, No. 0-6197.

2. Bonds and notes

Legal tender notes and United States bonds belonging to corporations or individuals are exempt from taxation. *Rosenberg v. Weekes* (1887) 67 T. 578, 4 S.W. 899.

The federal law rendering Liberty bonds and subdivisions of indebtedness exempt from taxation by states and cities was the paramount law, and if there was an impediment to the exercise of the power of the United States in the state legislature its administration, the courts would not strain or set aside any attempt to evade the effect of 31 U.S.C.A. § 742, providing that obligations of the United States should be exempt from taxation, is that in a scheme of state or municipal taxation government bonds must be eliminated from consideration in any equation to reach taxable property, or, at least when they are included, it compels a deduction as such of the amount of the bonds. *City of Waco Amicable Life Ins. Co.* (Civ.App.1921) 2 S.W. 698.

Since United States tax-free bonds purchased by corporate taxpayer several days before January 1 and resold one month later were prima facie nontaxable, board equalization was not entitled to disallow deduction thereof. *Republic Ins. Co. Highland Park Independent School Dist. Dallas County* (1937) 129 T. 55, 102 S.W. 184.

§ 11.13. Residence Homestead

(a) A family or single adult is entitled to an exemption from taxation for state purposes and for the county purposes authorized in Article VIII, Section 1-a, of the Texas Constitution of \$3,000 of the assessed value of his residence homestead.

Ch. 11 TAXABLE AND EXEMPT PROPERTY § 11.13

(b) An adult is entitled to exemption from taxation by a school district of \$5,000 of the appraised value of his residence homestead.

(c) In addition to the exemption provided by Subsection (b) of this section, an adult who is disabled or is 65 or older is entitled to an exemption from taxation by a school district of \$10,000 of the appraised value of his residence homestead.

(d) In addition to the exemptions provided by Subsections (b) and (c) of this section, an individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion (the amount of which is fixed as provided by Subsection (e) of this section) of the appraised value of his residence homestead if the exemption is adopted either:

(1) by the governing body of the taxing unit; or

(2) by a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of the taxing unit, and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit.

(e) The amount of an exemption adopted as provided by Subsection (d) of this section is \$3,000 of the appraised value of the residence homestead unless a larger amount is specified by:

(1) the governing body authorizing the exemption if the exemption is authorized as provided by Subdivision (1) of Subsection (d) of this section; or

(2) the petition for the election if the exemption is authorized as provided by Subdivision (2) of Subsection (d) of this section.

(f) Once authorized, an exemption adopted as provided by Subsection (d) of this section may be repealed or decreased or increased in amount by the governing body of the taxing unit or by the procedure authorized by Subdivision (2) of Subsection (d) of this section. In the case of a decrease, the amount of the exemption may not be reduced to less than \$3,000 of the market value.

(g) If the residence homestead exemption provided by Subsection (d) of this section is adopted by a county that levies a tax for the county purposes authorized by Article VIII, Section 1-a, of the Texas Constitution, the residence homestead exemptions provided by Subsections (a) and (d) of this section may not be aggregated for the county tax purposes. An individual who is eligible for both exemptions is entitled to take only the exemption authorized as provided by Subsection (d) of this section for purposes of that county tax.

§ 11.13

PROPERTY TAX CODE

Title 1

(h) Joint or community owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption but may choose either.

(i) The assessor and collector for a taxing unit may disregard the exemptions authorized by Subsection (b), (c), or (d) of this section and assess and collect a tax pledged for payment of debt without deducting the amount of the exemption if:

- (1) prior to adoption of the exemption, the unit pledged the taxes for the payment of a debt; and
- (2) granting the exemption would impair the obligation of the contract creating the debt.

(j) For purposes of this section, "residence homestead" means a structure (including a mobile home) or a separately secured and occupied portion of a structure (together with the land, not to exceed 20 acres, and improvements used in the residential occupancy of the structure, if the structure and the land and improvements have identical ownership) that:

- (1) is owned by one or more individuals;
- (2) is designed or adapted for human residence;
- (3) is used as a residence; and

(4) is occupied as his principal residence by an owner who qualifies for the exemption.

(k) A qualified residential structure does not lose its character as a residence homestead if a portion of the structure is rented to another or is used primarily for other purposes that are incompatible with the owner's residential use of the structure. However, the amount of any residence homestead exemption does not apply to the value of that portion of the structure that is used primarily for purposes that are incompatible with the owner's residential use.

(l) A qualified residential structure does not lose its character as a residence homestead when the owner who qualifies for the exemption temporarily stops occupying it as a principal residence if that owner does not establish a different principal residence and intends to return and occupy the structure as his principal residence.

(m) In this section:

(1) "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

(2) "School district" means a political subdivision organized to provide general elementary and secondary public education.

1 TAXABLE AND EXEMPT PROPERTY § 11.13

"School district" does not include a junior college district or a political subdivision organized to provide special education services.

Added by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, § 31, eff. Jan. 1,

Historical Note

1981 amendment in the introductory phrase of subsec. (j) inserted "not to exceed 20 acres."

Acts 1981, 67th Leg., p. 3082, ch. 814, eff. Jan. 17, 1981, as amended by Acts 1981, Leg., 1st C.S., p. 181, ch. 13, § 165, eff. Jan. 14, 1981, provides:

Section 1. An individual who, in 1979, applied for but did not receive the limitation increases in school district taxes on residence homestead pursuant to Section 7, Article 7150.5, Revised Civil Statutes Texas, 1925, as it existed December 31, may file an application with the chief appraiser to limit taxes imposed by the school district on the homestead for 1982 to the amount of taxes the district would have imposed for 1979 if the individual had applied for and received in 1979 the residence homestead exemption for individuals 65 years of age or older. The application must be filed before April 1, 1982.

Section 2. (a) The chief appraiser within 15 days of an application is filed pursuant to Section 1 of this Act shall determine the validity of the application before April 15, or as soon thereafter as practicable. (b) The chief appraiser shall give each applicant written notice of the denial or limitation of the exemption within five days after the date he makes that determination.

Section 3. (a) If the chief appraiser determines that an applicant was qualified in 1979 for the residence homestead exemption for individuals 65 years of age or older, he shall make an entry on the appraisal record of the school district in which the homestead is taxable reflecting that the individual is entitled to a limitation on school district taxes on his homestead for 1982.

"(b) Taxes imposed by the school district for 1982 on the applicant's homestead may not exceed the amount of taxes the district would have imposed on the homestead for 1979 if the individual had applied for and received in 1979 the residence homestead exemption for individuals 65 years of age or older.

"Sec. 4. (a) The chief appraiser shall publish in a newspaper a notice of the tax relief provided by this Act. The notice shall be published once each week for three weeks immediately preceding the date of the deadline prescribed by Section 1 of this Act for filing an application for the tax relief.

"(b) The chief appraiser of each appraisal district shall include a notice of the availability of the tax relief provided by this Act with each application form sent pursuant to Section 11.44(a) of the Tax Code in the 1982 tax year to the previous year's claimants of a homestead exemption provided by Section 11.13(c) of the Tax Code.

"(c) Notice required by this section shall briefly identify the tax relief available and describe the procedure for obtaining the relief."

Prior Law:

Acts 1963, 58th Leg., p. 507, ch. 191.
Acts 1979, 66th Leg., p. 689, ch. 302, art. 6, § 1.
Acts 1979, 66th Leg., p. 690, ch. 302, art. 7, § 1.
Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1).
Vernon's Ann.Civ.St. arts. 1301a(17), 7150.4, 7150.5.

Cross References

Application for exemption under this section, claims for subsequent years not necessary, see § 11.43(c).

Partial ownership of property exempted under this section, calculation of exemption, see § 11.41(b).

School tax, limitation on homesteads of elderly, amount of tax in first year qualified for exemption under subsec. (c) of this section, see § 11.26(a).

Law Review Commentaries

Annual survey of Texas law: Taxation.
Therine C. Hall and Charles M. Meadows,
34 Southwestern L.J. (Tex.) 557 (1980).

§ 11.13

PROPERTY TAX CODE

Title 1

Library References

Taxation ☞219.

C.J.S. Taxation § 240 et seq.

Notes of Decisions

1. In general

The homestead is not protected by the constitution from forced sale for lawful taxes, that may be due on it; while that instrument throws the most ample protection around the homestead, it clearly intends that in return it shall bear its just proportionate share of the burdens imposed by government, and it is liable as other real property to all taxes, state, county or municipal, that are justly and lawfully laid on the property of the citizen. *Lufkin v. Galveston* (1883) 58 T. 545.

Where taxpayer's lots were used as one parcel for single purpose of homestead, city's assessment of lots as one parcel was proper. *City of Edinburg v. Magee* (Civ. App.1936) 97 S.W.2d 983.

Evidence that defendants had rendered property for taxes, solemnly affirming that such property was residence homestead,

was admissible to rebut claim of homestead on other property. *Hilliard v. Home Builders Supply Co.* (Civ.Sup.1966) 399 S.W.2d 198, ref. n. r. e.

Under New Property Tax Code (this title), county tax assessor may accept claim for over-65 homestead exemption which is not filed before April 1 of year for which the exemption is claimed; the deadline found in this section may not be applied to deny the homestead tax exemption granted by a county pursuant to Const. Art. 8, § 1-b. Op. Atty. Gen. 1980, No. MW-146.

Legislatively designated cutoff date for homestead exemption claims under Const. Art. 8, § 1-b, will not alone operate to deprive a taxpayer of an exemption, but taxpayer may become estopped to claim the exemption if taxpayer's delay makes its recognition administratively impracticable. Op. Atty. Gen. 1980, No. MW-259.

§ 11.14. Household Goods and Personal Effects

(a) An individual is entitled to an exemption from taxation of his household goods and personal effects that are not held or used for production of income.

(b) In this section:

(1) "Household goods" means furnishings, appliances, utensils, and other tangible personal property used primarily in or around a residence by the residents and their guests.

(2) "Personal effects" means tangible personal property that normally is worn or carried by an individual or that is used by an individual in personal, recreational, or other activities that do not involve production of income. "Personal effects" does not include a motor vehicle, boat, or other means of transportation, a trailer that must be registered for operation on a highway, or a mobile home or similar vehicle designed for occupancy as a dwelling.

Historical Note

Prior Law:

Rev. Civ. St. 1895, art. 5065.
Acts 1907, 30th Leg., p. 302.
Rev. Civ. St. 1911, art. 7607.

Acts 1979, 66th Leg., p. 687, ch. 302, art. 4, § 1.
Vernon's Ann. Civ. St. arts. 7150(11), 7150-2.

Cross References

Application for exemption, necessity, exception under this section, see § 11.43(a).

PROPERTY TAX CODE**§ 11.13****Title 1**

or a profit is generated thereby will not cause such property to be denied ad valorem tax-exempt status. Op.Atty.Gen.1982, No. MW-430.

Property owned by a political subdivision, but sold as a condominium to a private person, would not be entitled to exemption from ad valorem taxation, regardless of the use of such property, because it is not "owned" by a political subdivision within the meaning of Const.Art. 8, § 2, or Art. 11, § 9. Id.

The concession rights in state park lands are not exempt from ad valorem taxation. Op.Atty.Gen.1983, No. JM-59.

The fact that a hospital district receives remuneration for leasing a building owned by that district will not deprive that district of tax-exempt status on such property. Op.Atty.Gen.1986, No. JM-405.

2. Public purposes

Hospital authority's medical office building which was leased in part to physicians for their commercial enterprise was not used exclusively for use and benefit of public and, therefore, did not satisfy "public purpose" requirement to qualify for tax-exempt status. Grand Prairie Hosp. Authority v. Tarrant Appraisal Dist. (App. 2 Dist.1986) 707 S.W.2d 281, ref. n.r.e.

Medical office building, which was located adjacent to hospital and was owned by hospital was not entitled to tax-exempt status, though building was publicly owned, where property was not used exclusively for use and benefit of public, in that private physicians were leasing part of property for their own commercial enterprises. Grand Prairie Hosp. Authority v. Dallas County Appraisal Dist. (App. 5 Dist.1987) 730 S.W.2d 849, ref. n.r.e.

The use of residential property owned by the Department of Corrections to provide housing as compensation to its employees constitutes a public use of the property, thus the property is not subject to ad valorem taxation. Op.Atty.Gen.1981, No. MW-391.

8. — Renting or leasing municipal property

Property owned by a political subdivision, but leased to a private person for the purpose of engaging in a private commercial enterprise, would not be entitled to exemption from ad valorem taxation under Const.Art. 8, § 2, or Art. 11, § 9. Op.Atty.Gen.1982, No. MW-430.

City was not exempt from ad valorem taxation under V.T.C.A., Tax Code § 11.11, on city-owned land surrounding airport which is leased for commercial and agricultural purposes. Op.Atty.Gen.1986, No. JM-464.

§ 11.13. Residence Homestead

(a) A family or single adult is entitled to an exemption from taxation for the county purposes authorized in Article VIII, Section 1-a, of the Texas Constitution of \$3,000 of the assessed value of his residence homestead.

[See main volume for text of (b) to (h)]

(i) The assessor and collector for a taxing unit may disregard the exemptions authorized by Subsection (b), (c), (d), or (n) of this section and assess and collect a tax pledged or payment of debt without deducting the amount of the exemption if:

- (1) prior to adoption of the exemption, the unit pledged the taxes for the payment of a debt; and
- (2) granting the exemption would impair the obligation of the contract creating the debt.

[See main volume for text of (j) to (m)]

(n) In addition to any other exemptions provided by this section, an individual is entitled to an exemption from taxation by a taxing unit of a percentage of the appraised value of his residence homestead if the exemption is adopted by the governing body of the taxing unit before May 1 in the manner provided by law for official action by the body. If the percentage set by the taxing unit produces an exemption in a tax year of less than \$5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of \$5,000 of the appraised value. The percentage adopted by the taxing unit may not exceed 40 percent for the tax years 1982 through 1984, 30 percent for the tax years 1985 through 1987, and 20 percent in the tax year 1988 and each subsequent tax year.

(o) For purposes of this section, a residence homestead also may consist of an interest in real property created through ownership of stock in a corporation incorporated under the Cooperative Association Act (Article 1396-50.01, Vernon's Texas Civil Statutes) to provide dwelling places to its stockholders if:

§ 11.13

PROPERTY

- (1) the interests of the stockholders of the corporation are appraised provided by Section 23.19 of this code in the tax year to which the exemption is provided;
- (2) ownership of the stock entitles the owner to occupy a dwelling place of the corporation;
- (3) the dwelling place is a structure or a separately secured and occupied structure; and
- (4) the dwelling place is occupied as his principal residence by a stockholder who qualifies for the exemption.

(p) Exemption under this section for a homestead described by Subsection (p) extends only to the dwelling place occupied as a residence home portion of the total common area used in the residential occupancy that is a percentage of the total amount of the stock issued by the corporation that is a homestead claimant. The size of a residence homestead under Subsection (p), including any relevant portion of common area, may not exceed the size of the homestead described by Subsection (p). Amended by Acts 1983, 68th Leg., p. 4822, ch. 851, § 6, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 301, § 1, eff. June 7, 1985; Acts 1987, 70th Leg., ch. 547, § 1, eff. Jan. 1, 1988.

1983 Amendment. In subsec. (a) deleted "for state purposes and"; in the introductory language of subsec. (i) deleted "or" following "Subsection (b), (c)," and inserted ", or (n)"; and added subsec. (n).

1985 Amendment. In subsec. (n) inserted "before May 1".

Section 2 of Acts 1985, 69th Leg., ch. 301 provides:

"The change in law made by this Act does not affect the validity of an exemption adopted under Subsection (n), Section 11.13, Tax Code, before the effective date of this Act."

1987 Legislation

The 1987 amendment added subssecs. (o) and (p).

Cross References

Change or diversion of use of land claimed as part of residence homestead under this section, Agricultural land, see § 23.46(e).

Open-space land, see § 23.55(i).

Public employee child-care expense salary reductions, definition of school district as assigned

by subsec. (m)(2) of this section, § 1(1).

Notes of Decision

1. In general

Even though wife was over a year of age at date for school ad valorem tax exemption, husband was under 65, and husband's separate property, house was claimed as their marital property and wife were not entitled to exemption from school ad valorem tax for persons over 65 of age. *Ripstein*, 3 Dist. 1985, 686 S.W.2d 200.

Neither residence owned by individual nor cooperative housing is entitled to homestead tax exemption provided by Tax Code, § 11.13 and Vernon's Ann. Const. art. 16, § 50 and Code, § 41.002. *Op. Atty. Gen.* 1

§ 11.14. Household Goods and Personal Effects

(a) An individual is entitled to an exemption from taxation of his household personal effects that are not held or used for production of income.

(b) In this section:

(1) "Household goods" means furnishings, appliances, utensils, and other personal property used primarily in or around a residence by the resident or guests.

(2) "Personal effects" means tangible personal property that normally carried by an individual or that is used by an individual in personal, other activities that do not involve production of income. Boats which are used by a family or individual for recreational activities and are not held for production of income are exempt under this section. A family owns a boat of this section if any member of the family owns the boat.

(3) "Personal effects" does not include a motor vehicle, boat (other than in Subdivision (2) of this subsection), or other means of transportation