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**RECEIVED**

August 20, 2018

AUG 20 2018

The Honorable Ken Paxton **OPINION COMMITTEE**  
Office of the Attorney General of Texas  
Attention: Opinion Committee  
P.O. Box 12548  
Austin, TX 78711-2548

FILE # ML-48407-18

I.D. # 48407

**RQ-0244-KP**

Re: Authority of a county to refund penalties and interest paid by taxpayers to a private tax collection firm, upon proof that the county may have caused the confusion that led to the delinquencies.

Dear Attorney General Paxton,

With this letter, I respectfully ask that you provide a formal written opinion regarding the aforementioned issue.

### Background

For a number of years, Hood County contracted with the Hood County Appraisal District for the collection of property taxes, pursuant to Section 6.24 of the Tax Code. The Appraisal District also collected taxes for all the other local taxing entities. In 2017, the Hood County Tax Assessor Collector withdrew her approval of this arrangement according to her authority under Section 6.24(b) of the Tax Code. This decision impacted the tax bills that went out in the latter part of 2017, to be paid by January 31, according to Section 31.02 of the Tax Code. For a variety of reasons, the collection of county taxes was not as successful as hoped. There were a number of complaints from taxpayers about checks not being deposited, confusion while paying bills, and general complaints about having to pay two bills in two different locations. On March 13, 2018, the commissioners court signed an agreement with the approval of the Tax Assessor Collector to put the county's property tax collections back with the Hood County Appraisal District.

Since the early part of August, 2018, a number of taxpayers have emerged stating they've received a notice of delinquency from Linebarger, the private collections firm employed by the appraisal district. In some cases, taxpayers are stating they simply never received a bill from Hood County. In other cases, they're stating they paid the full bill (county, school, etc) to the appraisal district on time, were given a refund of the county portion with no explanation, and

then became delinquent later. Due to the volume of these complaints, coupled with the type of taxpayers coming forward (people with long histories of paying on time each year), the commissioners court believes that these taxpayers should not have to pay penalties and interest on their delinquent bills.

I discussed the issue with Linebarger's local attorney via e-mail, asking if we could blame some of the delinquencies on possible omissions by our employees, which would allow us to waive penalties and interest under Section 33.011(a) of the Tax Code. He pointed to two parts of the Tax Code in response. First, Section 31.01(g) does not allow failure to receive a bill to form an excuse for nonpayment. Second, Section 33.011(d) states that taxpayers may not seek a waiver of penalties and interest once 181 days have elapsed since the tax became delinquent.

#### Discussion

The timing of the delinquent notices is such that a number of local taxpayers are only now finding out that the bills are delinquent, and 181 days have passed. Since it appears Linebarger is entitled to their penalties and interest regardless of how it occurred, the question is now whether the county may seek an equitable measure to provide relief by using general fund moneys to refund certain taxpayers of their penalties and interest. Our concern is the apparent prohibition of this type of relief under Article 3, Section 52(a) of the Texas Constitution. Our question is whether there is any legal way for the county to provide relief to taxpayers for their penalties and interest if the county is satisfied that the county created much of the confusion in the first place.

Thank you very much for your time and attention to this matter. Should your office require further information to clarify the nature of this request, please do not hesitate to contact me.

Respectfully,



Matthew A. Mills  
Hood County Attorney