



The Attorney General of Texas

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Equal Opportunity
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Honorable Bob Bullock
Comptroller of Public Accounts
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Opinion No. MW-26

Re: Eligibility standards for the
tax exemption provided disabled
persons by article VIII, section
1-b(b) of the Texas Constitution.

Dear Mr. Bullock:

You ask two questions about the language in article VIII, section 1-b(b) of the Texas Constitution which authorizes ad valorem tax exemptions for disabled persons. The governing body of certain political subdivisions may provide a tax exemption on the homesteads of persons

who are under a disability for purposes of payment of
disability insurance benefits under Federal Old-Age,
Survivors, and Disability Insurance or its
successor. . . .

Tex. Const. art. VIII, § 1-b(b).

You first ask:

Does the exemption include persons eligible under
both the Federal Old-Age, Survivors, and Disability
Insurance program [42 U.S.C. §§ 401-431] and
Supplemental Security Income program's Aid to the
Blind and Aid to the Totally and Permanently
Disabled [42 U.S.C. §§ 1381-1383c].

The definitions of "disability" provided in the statutes establishing these two programs differ slightly. Compare 42 U.S.C. § 423(d)(1) with 42 U.S.C. § 1382c(a)(3)(A), (B). We believe the language of article VIII, section 1-b(b) of the Constitution clearly adopts the definition of disability included in the present Federal Old-Age, Survivors, and Disability Insurance Benefits legislation or future versions of it.

You next ask:

Must individuals actually be receiving benefits under either program to be eligible for the exemptions?

In our opinion, article VIII, section 1-b(b) does not require that the disabled individual actually receive benefits under the Old Age and Survivors Insurance provisions. A recipient of benefits under the federal act must fulfill requirements in addition to disability. He must be insured, must be under sixty-five, and must have applied for disability insurance benefits. 42 U.S.C. § 423(a)(1). Article VIII, section 1-b(b) does not incorporate these additional requirements. It in fact permits a taxpayer who is over sixty-five to receive the disability exemption provided he does not also receive an exemption for persons over sixty-five:

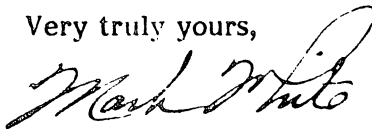
An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from the same political subdivision in the same year but may choose either if the subdivision has adopted both.

Tex. Const. art. VIII, § 1-b(b). Article VIII, section 1-b refers several times to tax exemptions for disabled persons. We believe this constitutional provision merely incorporates the definition of disability found in the Old Age and Survivors Act or its successor as a means of determining who is disabled for purposes of receiving the permissive homestead tax exemption.

S U M M A R Y

The residence homestead tax exemption authorized by article VIII, section 1-b(b) of the Texas Constitution may be provided persons who are under a disability as defined by the Federal Old Age, Survivors, and Disability Insurance Act or its successors. The disabled taxpayer need not receive benefits under the federal act in order to qualify for the homestead tax exemption.

Very truly yours,



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