



**THE ATTORNEY GENERAL  
OF TEXAS**

**GERALD C. MANN**  
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ATTORNEY GENERAL.

**AUSTIN 11, TEXAS**

Honorable Thomas A. Wheat  
County Attorney  
Liberty County  
Liberty, Texas

Dear Sir:

Opinion No. 0-1536  
Re: Is the property of Mercy  
Hospital exempt from  
taxation?

We are in receipt of your letter of September 30, 1939, together with the excellent brief contained therein, in which you request an opinion of this Department as to whether or not Mercy Hospital is exempt from the payment of taxes.

Article 8, Section 2, of the Constitution, reads in part as follows:

"The Legislature may, by general laws, exempt from taxation public property used for public purposes; \* \* \*"

Article 7150, Section 7 of the Revised Civil Statutes of Texas, provides as follows:

"Public charities. - All buildings belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, unless such rents and profits and all moneys and credits are appropriated by such institutions solely to sustain such institutions and for the benefit of the sick and disabled members and their families and the burial of the same, or for the maintenance of persons when unable to provide for themselves, whether such persons are members of such institutions or not. An institu-

tion of purely public charity under this article is one which dispenses its aid to its members and others in sickness or distress, or at death, without regard to poverty or riches of the recipient, also when the funds, property and assets of such institutions are placed and bound by its laws to relieve, aid and administer in any way to the relief of its members when in want, sickness and distress, and provide homes for its helpless and dependent members or other persons."

In your letter you state that Mercy Hospital is operated by the Sisters of St. Frances and that the property of the hospital is owned by them and is devoted exclusively to the purpose for which the hospital is operated. The hospital provides hospitalization to all who may come to it. The profits of the hospital are used solely for the purpose of operating the institution.

The leading case which construed Article 7150 was the case of Santa Rosa Infirmary v. City of San Antonio, 259 S. W. 926. In your letter you discussed this case and correctly analyzed the holding therein. As you state the test of whether or not a hospital is exempt from taxation depends upon whether or not the property is owned by the particular institution and used exclusively for the work of said institution. The hospital may make a profit and be exempt from taxation if this profit is used for the maintenance of said institution.

From the facts set out in your letter, it is evident that the Mercy Hospital would come within the definition of a hospital exempt from taxes as set out by the Commission of Appeals in the above discussed case.

In your letter you comment upon the fact that the County is billed for services rendered to patients placed in the hospital by the County Health Officer. In the San Antonio Case, the Court recognized that even a charity hospital had pay patients and that a profit was made from said patients. The only requirement is that this profit be used for the operation of the institution which requirement seems to be complied with in your case.

It is the opinion of this Department, then that from

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the facts received, Mercy Hospital should be exempt from  
taxation.

Yours very truly

ATTORNEY GENERAL OF TEXAS

/s/ Billy Goldberg

By

Billy Goldberg  
Assistant

BG:RS:EB

APPROVED OCTOBER 20, 1939

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED  
OPINION  
COMMITTEE

By B.W.B.  
Chairman