



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

July 12, 1962

Honorable Robert S. Calvert  
Comptroller of Public Accounts  
Capitol Station  
Austin, Texas

Opinion No. WW-1378

Re: Exemption from inheritance taxes of devise and bequest to the Leo N. Levi Memorial Hospital in Hot Springs, Arkansas.

Dear Mr. Calvert:

From your letter requesting the opinion of this office on the above captioned matter, and from a file which you submitted in connection with your request, we have been apprised of the following facts.

Leon Levine died testate on September 28, 1961. By the fourth clause of his will, he devised and bequeathed all of the residue of his estate to B'nai B'rith Home and Hospital of Memphis, Tennessee, and the Leo N. Levi Memorial Hospital in Hot Springs, Arkansas in equal portions. Admittedly, a tax is due as a result of the bequest to the B'nai B'rith Home and Hospital; but the attorney for the estate is claiming a charitable exemption for the bequest to the Leo N. Levi Memorial Hospital.

The following excerpt from the attorney's letter to the Comptroller of Public Accounts sets forth the facts and reasons he advances as effectuating exemption.

"In referring to this Hospital in our Inheritance Tax Report we simply stated that it was in a State contiguous to Texas, but we did not mean by this to rule out the fact that it was operating on a regional basis. We thought our reference would indicate the fact that the exemption was claimed on this basis.

"We wrote the Hospital to find out from whence they drew their support and the territory to which they ministered. Also we asked them to indicate where their officers and trustees were from. They replied as follows:

"We treat people from all over the United States and Canada. We have officers

and trustees all over the United States and Canada. We have fewer officers and directors in Arkansas than in any other state and our Wills and Bequests are usually from other states.

"If you wish a run down of the states from where we have received our money, I can give you some at this time: Illinois, New York, Ohio, Texas, Alabama, Tennessee, Mississippi, Pennsylvania, and many more.'

"I have been unable to find where 'operating on a regional basis' has been judicially defined, but it certainly seems to me that a hospital such as this that draws support from adjacent states and whose governing body comes from all over the United States, and which likewise treats people on a regional basis as well as nationally, should certainly qualify under the head of this term."

Article 14.06, Title 122A, 20-A, Tax.-Gen., Vernon's Annotated Civil Statutes, provides an exemption from inheritance taxes for transfers to charitable organizations if such charitable organizations are to use the gift within this State. Article 14.06 also contains the following further provisions for exemption which reads as follows:

"Provided, further, that if the property so passing is to or for the use of a religious, educational, or charitable organization which conducts its operations on a regional basis, one such region of which includes the State of Texas, or any part thereof, then a bequest, devise or gift to be used within such region shall be deemed to be used within this state.

"For purposes of this paragraph a region shall comprise not more than five contiguous states, either in whole or in part, one of which is the State of Texas."

It is true that there has been no judicial determination of the meaning of the statutory requirement of conducting charitable operations on a regional basis. However, this office has had occasion to pass upon the meaning of this phrase in several opinions. We quote the following excerpt from Attorney General's Opinion No.

WW-1146:

" . . . It is clear to us, that for a charitable organization to conduct its operations on a 'regional basis', as that term is used in the statute, that the entire field of its operations would have to be divided into separate and distinct regions and be of a permanent nature, with each region being subject to local management and control, under proper directives from the officers or directors of the charitable organization."

The above quoted statement was made in connection with the usual concept of regional operations. It did not, therefore, overrule the prior holding of the Attorney General in Opinion No. WW-1141 to the effect that although the statute referred to the charitable organization "which conducts its operations on a regional basis, one such region of which includes the State of Texas or any part thereof. . .", and that, therefore, national organizations operating on a regional basis were clearly within the provision, the quoted portion of the statute did not require the existence of more than one region as a requisite to exemption.

Attorney General's Opinion No. WW-1349 denied exemption to The National Foundation for Infantile Paralysis, Inc., a New York corporation, with an unlimited geographical field of operation, in a case in which the funds it received were to be used for the purposes for which it was incorporated. We quote the following excerpt from that opinion.

"The attorneys representing the estate take the position that the fact that the beneficiary is a charitable organization under the law is sufficient to effectuate exemption.

"While it is true that under the Federal Estate Tax laws there are no geographical limitations imposed as a requisite to exemption for charitable institutions, this has never been true in this State for inheritance tax purposes. Prior to its amendment in 1955, Article 7122, Vernon's Civil Statutes, presently carried as Article 14.06, 20A, Tax.-Gen., V.C.S., had provided an exemption for property passing ' . . . to or for the use of any religious, educational or charitable

organization when such bequest, devise or gift is to be used within this State.' This provision had been construed by our courts as requiring the limitation to use within this State to be expressed in the will, even though the charitable beneficiary irrevocably committed the devise and bequest to use within this State subsequent to the death of the decedent and prior to the payment of the tax. Presbyterian Church in the U. S. v. Sheppard, 198 S.W.2d 282, (Civ.App. 1946, error ref. n.r.e.).

"In 1955, Article 7122 was amended by providing, in effect, that property passing to religious, education or charitable organizations could gain exemption from inheritance taxes, even though the instrument effectuating transfer did not require that the charitable gift be used within this State, by irrevocably committing such gift to use within this State prior to the payment of inheritance taxes. Senate Bill 266, Acts 1955, 54th Leg., Chapter 389, p. 1032.

"In 1959, the 56th Legislature further enlarged charitable exemptions by extending the geographical limitations on use and thereby departed from the former concept that the exemption would be accorded charitable devises, bequests and gifts only if their use was limited to this State. . . . However, it is noteworthy that even under this most recent amendment of the statute, which accords exemption to property passing to or for the use of charitable organizations conducting their operations on a regional basis, it is still necessary that the State of Texas or a part thereof must be included within the region of operations."

Consistently with the holding of these opinions, we can only conclude that exemption cannot be accorded the Leo N. Levi Memorial Hospital, since the fact that its patients come from all over the United States and Canada, and the further fact that it has been the beneficiary of devises and bequests from numerous decedents of various states, are not such facts as constitute

conducting charitable operations on a regional basis within the meaning of the statute.

S U M M A R Y

The Leo N. Levi Memorial Hospital and Home, a charitable institution, in Hot Springs, Arkansas, cannot obtain an exemption from inheritance taxes since the fact that it receives patients from all over the United States and from Canada, and the further fact that it has been the beneficiary of devises and bequests from decedents of various states are not such facts as constitute conducting charitable operations on a regional basis within the meaning of Article 14.06, 20A, Tax.-Gen., V.C.S.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By:   
Marietta McGregor Payne  
Assistant

MMcGP/jp

APPROVED:

OPINION COMMITTEE:  
W. V. Geppert, Chairman

Gordon Zuber  
Frank Booth  
Bob Patterson  
Pat Bailey

REVIEWED FOR THE ATTORNEY GENERAL  
By: Leonard Passmore