



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

August 29, 1967

Honorable Joe Resweber
County Attorney
Harris County
Houston, Texas

Opinion No. M-130

Re: Whether certain realty
owned and used by Junior
Achievement of Houston,
Inc., is exempt from ad
valorem taxes.

Dear Mr. Resweber:

You ask the opinion of this office as to whether certain real property in Harris County, Texas, owned by Junior Achievement of Houston, Inc., is subject to ad valorem taxes.

Our opinion is that this property is exempt from these taxes because it is used for school purposes within the contemplation of Article VIII, Section 2 of our State Constitution, and Article 7150, Sections 1 and 21, Vernon's Civil Statutes, enacted pursuant thereto.

The relevant portion of this provision of the Constitution reads as follows:

"All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general law, exempt from taxation . . . all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; . . . and all laws exempting property from taxation other than the property above mentioned shall be null and void." (underscoring added).

Article 7150, Section 1, in its pertinent portion, reads:

"The following property shall be exempt from taxation, to-wit:

"1. Schools and Churches. - . . . All public colleges, public academies, and all endowment funds of institutions of learning and religion not used with a view to profit, . . . and all such buildings used exclusively and owned by persons or associations of persons for school purposes; . . ."

Article 7150, Section 21, exempts from ad valorem taxes:

"Property owned or used exclusively and reasonably necessary in conducting any association engaged in the educational development of boys, girls, young men or young women through a program designed to demonstrate the operation of the American Business system of private enterprise and operating under a State or National organization of like character." (underscoring added).

Section 2 of the Act¹ which enacted this Section 21 reads as follows:

"Sec. 2. The fact that there is now an imperative, immediate and continuing need for relieving the tax burden of associations engaged in the educational development of boys, girls, young men and young women through a program designed to demonstrate the operation of the American business system of private enterprise, such as Junior Achievement, Inc., local organizations affiliated therewith, and organizations of like character, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force

¹/ Acts 1959, 56th Leg., Ch. 500, p. 1098.

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from and after its passage, and it is so enacted." (underscoring added).

The By-Laws of Junior Achievement of Houston, Inc., provide:

" . . . Various phases of the Junior Achievement program shall be developed as set forth from time to time in manuals, guides, handbooks and other publications of the National Organization of Junior Achievement, Inc. of Massachusetts." (ART. II, SEC. 2).

We assume that this National Organization of Junior Achievement of Massachusetts named in this By-Law is a State or National organization of like character as Junior Achievement, Inc. mentioned in Section 2 of this Act.

The Charter of Junior Achievement of Houston, Inc. makes the following relevant provisions:

"2. The purpose for which it is formed is to support and carry on a benevolent, charitable and educational undertaking by encouraging, promoting and supervising, especially in urban communities, either directly or through affiliated associations and agencies, the organization of boys and girls, for the purpose of encouraging them in productive enterprises in industry, commerce and homemaking, so that they may get experience in buying raw materials, producing useful products, selling the products of their efforts, and saving and investing the funds accruing from their work, so that the local club or other unit may become the medium through which knowledge and skill, gained in the school and elsewhere, may be given practical application; by interesting the girls in household arts; by encouraging more and better home life by teaching boys and girls to make at home things useful to themselves and for the home, and helping them through a series of work programs to grow into more skillful and industrious men and women with a clearer vision of the various branches of industry and commerce into which they may go and with a spirit loyal

to these organized activities; and generally, the promotion of interests and activities among boys and girls that may make toward happier and more wholesome home surroundings and better preparation for life work.

"3. This corporation is not organized for pecuniary profit and no part of the net earnings of this corporation shall inure to the benefit of any private member or individual; and no part of the activities of this corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation."

The By-Laws make the further relevant provisions in Article II:

"SECTION 1. The purposes for which this corporation is formed are those set forth in its charter. It is not organized for pecuniary profit and no part of the net earnings of the corporation shall inure to the benefit of any private member or individual, and no part of its activities shall be or include the carrying on of propaganda or otherwise attempting to influence legislature [sic]."

"SECTION 2. The program of this corporation is intended to provide an opportunity for young people, in cooperation with adult advisers, to form and operate miniature businesses for the purpose of developing an understanding of the relationship and function of the essential parts of America's private enterprise system, involving private capital, wise management and responsible labor. 'Learn by Doing' shall be the principal method of carrying out the program. Various phases of the Junior Achievement program shall be developed as set forth from time to time in manuals, guides, handbooks and other publications of the National Organization of Junior Achievement, Inc. of Massachusetts."

Article VI of the By-Laws provides, in part:

"SECTION 2. The officers of the corporation shall receive no salary or other compensation from the corporation. Employees of the corporation shall receive such compensation as the Board of Directors may from time to time determine; and all officers and employees shall hold office at the pleasure of the Board."

The activities of the corporation are sustained by voluntary contributions.

The Legislature clearly designated the activities of Junior Achievement, Inc., as educational development.² We equate the term "educational development" used in Article 7150, Section 21 with the term "school purposes" used in Article VIII, Section 2 of our Constitution and Article 7150, Section I of the statutes. All doubts must be resolved in favor of the constitutionality of the statute. Duncan v. Gabler, 147 Tex. 229, 215 S.W.2d 155 (1948); 12 Tex. Jur.2d 386-388, Constitutional Law, Sec. 43. A declaration of the Legislature upon a subject is entitled to great weight and respect in arriving at a final decision of the question. Atwood v. Willacy County Navigation District, 271 S.W.2d 137 (Tex. Civ. App. -1954, error ref., n.r.e.); Bland v. City of Taylor, 37 S.W.2d 291 (Tex. Civ. App. 1931, affd., Davis v. City of Taylor, 123 Tex. 39, 67 S.W.2d 1033, (1934)).

We are well aware that a mere fiat pronouncement of the Legislature, not supported by facts, is not sufficient to create a tax exemption. Dallas County v. Texas Turnpike Co., 268 S.W. 2d 767, 770 (Tex. Civ. App. 1954, affd., 153 Tex. 474, 271 S.W.2d 400, 1954); Dickison v. Woodmen of the World Life Insurance Society, 280 S.W.2d 315 (Tex. Civ. App. 1955, error ref.). We assume that the activities of the corporation do conform to the provisions of its charter and by-laws hereinabove quoted. We believe these activities constitute school purposes within contemplation of Article VIII, Section 2 of the Constitution and Article 7150, Section 1 of the statutes.

^{2/} Acts 1959, 56th Leg., Ch. 500, p. 1098.

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Our State Constitution neither defines nor limits the meaning of the term "school" or "school purposes." These terms appear to be ones of very broad import. Webster's Third New International Dictionary defines a "school" as:

"An organized body of scholars and teachers associated for the pursuit and dissemination of knowledge."

In 51 Texas Jurisprudence, Second, page 318, Schools, Section 1, entitled "In General; Definitions," is the statement:

"A school is commonly regarded as a place where instruction is imparted to the young."

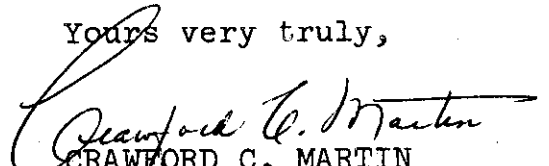
The few cases we find which consider whether a particular institution is a school, for purposes of being exempt from ad valorem taxes, seem to consider the question as one to be resolved upon the facts of each particular situation. Smith v. Feather, 149 Tex. 402, 234 S.W.2d 418 (1950); Little Theatre of Dallas, Inc. v. City of Dallas, 124 S.W.2d 863 (Tex.Civ.App. 1939).

The buildings must be used exclusively and owned by the owner in question as required by the constitutional provision under consideration, and the facts submitted to us appear to conform to this requirement.

S U M M A R Y

The realty and permanent improvements thereon in Harris County owned and used exclusively by Junior Achievement of Houston, Inc., for school purposes or educational development are exempt from ad valorem taxes pursuant to Article VIII, Section 2 of our State Constitution and Article 7150, Sections 1 and 21, Vernon's Civil Statutes.

Yours very truly,


CRAWFORD C. MARTIN
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Prepared by W. E. Allen
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APPROVED:
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