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(501) 371-2007

OPINION NO. 85-86

March 20, 1985

The Honorable W.R. "Bud" Rice
State Representative
State Capitol Building
Little Rock, Arkansas 72201

HAND DELIVERED

Dear Representative Rice:

This official opinion is written in response to your request of February 5th, 1985 in which you ask the following question:

Does the Western Arkansas Counseling and Guidance Center of Fort Smith, Arkansas fall within the same definition as the Sparks Regional Medical Center and St. Edward Mercy Medical Center?

In essence, you ask whether the Western Arkansas Counseling and Guidance Center of Fort Smith, Arkansas is entitled to the same tax-exempt status as that accorded the two entities named in Official Opinion 84-212, a copy of which is attached hereto.

As we noted in Opinion 84-212, Amendment 59 §5(b) to the Arkansas Constitution of 1874 provides, in pertinent part:

The following property shall be exempt from taxation. . . buildings and grounds and material used exclusively for public charity. (Emphasis added).

According to the opinion request to which Opinion No. 84-212 responded, both Sparks Regional Medical Center and St. Edward Mercy Medical Center are exempt from federal income taxation pursuant to 26 U.S.C.S. §501(c)(3) and were engaged in providing medical services to the citizens of Fort Smith and surrounding communities. That Opinion then set out the U.S. Treasury Department standard controlling the charitable status of a hospital and further defined what was meant by a hospital operated exclusively for public charity.

Further standards included, pursuant to Arkansas case law, that the money received by the hospital was devoted altogether to the charitable object which the institution was intended to further, that such institution was open to the general public, no one could be refused services on account of inability to pay and that all profits from paying patients would go toward maintaining the hospital and

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extending and enlarging its charity. Under all those standards, we opined in 84-212 that Sparks Regional Medical Center and St. Edward Mercy Medical Center were tax-exempt within the meaning of the Arkansas Constitution, Amendment 59.

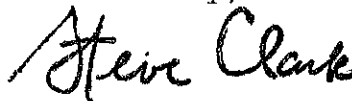
You have provided information that the Western Arkansas Counseling and Guidance Center in Fort Smith, Arkansas has been designated as tax-exempt for Internal Revenue Service purposes as well.

However, such Center must meet all those legal standards set out in Opinion No. 84-212 in order to qualify for tax-exempt status. A ruling by the Internal Revenue Service, in and of itself, is not sufficient to meet the standards set out by the Arkansas Supreme Court to come within the exemption provided by Amendment 59, §5(b).

Indeed, as I noted in a letter to you dated February 19, 1985, information sufficient to allow your local assessor to make a factual determination as to whether the Western Arkansas Counseling and Guidance Center is exempt as a public charity should be forwarded to him so that a determination can be made as to whether said institution meets each of the criteria set out in Opinion No. 84-212 in the same manner as Sparks Regional Medical Center and St. Edward Mercy Medical Center.

The foregoing opinion, which I hereby approve, was prepared by Deputy Chief of Staff R.B. Friedlander.

Sincerely,



STEVE CLARK
Attorney General

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