



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

March 2, 1955

Rep. Stanton Stone, Chairman
Revenue and Taxation Committee
House of Representatives
Capitol Station
Austin, Texas:

Opinion No. MS-181

Re: Validity of House Bill 38, An Act
Amending Art. 7150, V.C.S., ex-
empting American Legion and other
veterans' organizations from pay-
ment of taxes.

Dear Sir:

We are in receipt of your letter of February 17, 1955, requesting an opinion as to the validity of House Bill 38 and the proposed amendments thereto. House Bill 38 seeks to amend Article 7150, Vernon's Civil Statutes, by exempting from taxation the property of the American Legion, American Veterans of World War II (Amvets), Veterans of Foreign Wars of the United States (V.F.W.), Disabled American Veterans (D.A.V.), and all other war veterans' organizations. It is noted that Proposed Committee Amendment No. 1 omits "and all other war veterans' organizations."

A prior opinion of this office, Att'y. Gen. Op. 0-7014 (1946), a copy of which is attached, holds that property of The American Legion is exempt from taxation. The decision was based on the reasoning that since the purpose clause contained in the national charter of The American Legion clearly showed that the organization was an educational institution and not created for private profit or gain, it was therefore a public charity and exempt from taxation under Article 7150.

A careful study of the purpose clauses of the Veterans of Foreign Wars of the United States, Disabled American Veterans, and American Veterans of World War II, as set out in United States Code Annotated reveals that these organizations are also public charities and therefore would be exempt from taxation under Article 7150, Attorney General's Opinion V-123 (1947), a copy of which is attached, limits the exemption to real property and the improvements

thereon with a further requisite that the charity must make an actual, direct and exclusive use of the property for charitable purposes. House Bill 38 and the proposed Committee Amendments attempt to exempt property and do not limit the exemption. It is our opinion that House Bill 38 would be invalid unless it limits the property exemption to conform to Opinion V-123, supra.

The term "all other veterans' organizations" is wide in scope and precludes a determination of whether or not these organizations would be public charities and within the exemption. It is necessary to examine each organization individually to determine its tax status.

It is our opinion that House Bill 38 would be valid and constitutional if the exemption is limited as explained above and if the words "and all other war veterans' organizations" were omitted from the bill. The objectionable language is omitted from Proposed Committee Amendment No. 1.

You further inquire as to the validity of Section 7 of Article 7150. Section 2 of Article VIII of the Constitution of Texas reads in part as follows: "but the Legislature may, by general laws, exempt from taxation ... institutions of purely public charity." This exemption provision of the Constitution is not self-enacting but instead requires affirmative declaration by the Legislature. Section 7 of Article 7150 was enacted by the Legislature to exempt institutions of purely public charity from taxation under the provisions of Section 2 of Article VIII. A careful examination of Section 7 of Article 7150 reveals that it is in harmony with Section 2, Article VIII of the Constitution and does not enlarge upon the exemption contained in the Constitution and is therefore in our opinion valid.

It is also pointed out for your information that the correct names of the organizations under consideration are as follows: The American Legion, American Veterans of World War II, Veterans of Foreign Wars of the United States, and Disabled American Veterans.

Yours very truly,

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Attorney General

By
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