



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

October 17, 1957

*Superseded by  
H.B.'s 572 and 1001  
58th Leg. R.S. 1963*

**WILL WILSON  
ATTORNEY GENERAL**

Hon. Robert S. Calvert  
Comptroller of Public Accounts  
Capitol Station  
Austin 11, Texas

Opinion No. WW-92

Re: Whether death benefits  
under Teachers' Retirement  
System are subject  
to inheritance taxes.

Dear Mr. Calvert:

You have advised us of the following facts. The decedent designated a beneficiary in accordance with the applicable provisions of the Teachers' Retirement System Act. The amount of these benefits was not included in the inheritance tax report filed with the Comptroller's Department. The attorney for the estate takes the position that such benefits should not be included in view of Section 16, paragraph 1 of Article 2922-1 of Vernon's Civil Statutes, which reads as follows:

"The right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Act, and the monies in the various funds created by this Act, are hereby exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Act specifically provided."

The caption of the original Teachers' Retirement System bill reads as follows:

"An Act to carry into effect Section 48a of Article III of the Constitution; to establish a Teachers' Retirement System of Texas; to determine membership and conditions of membership in said System; to provide for a Board of Trustees of said System and for the administration of its affairs; to provide for officers and

a Medical Board and to define their duties; to provide for the adoption of actuarially-made mortality, service and other tables as may be deemed necessary; to provide for the creation, management and distribution of the Teacher Reserve Fund, the State Accumulation Fund, the Annuity Reserve Fund, the Interest Fund, the Permanent Retirement Fund, and the Expense Fund of the said System; and to provide a method of financing said System; providing that no appropriation shall ever be made by the Legislature out of the General Funds for the payment of retirement benefits; and providing that such payments can only be made out of special taxes levied as authorized in the constitutional amendment for the retirement of teachers; making an appropriation of Twenty-five Thousand (\$25,000.00) Dollars out of the General Revenue Funds of the State of Texas not otherwise appropriated, and declaring an emergency." Acts 1937, 45th Leg., p. 1178, ch. 470.

This caption carries no notice of an exemption from inheritance taxes. Therefore, it is not necessary for us to determine what effect, if any, paragraph 1 of Section 16 would have had had the bill complied with the requirements of Section 35 of Article III of the Texas Constitution, which Section reads as follows:

"No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed."

You are, therefore, advised that Teachers' Retirement System death benefits should be treated as an asset of a decedent's estate for inheritance tax purposes.

Hon. Robert S. Calvert, page 3 (WW-92)

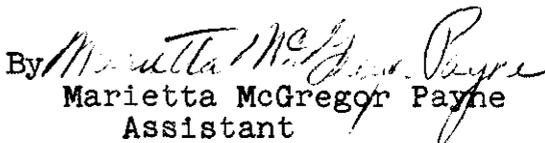
S U M M A R Y

The receipt of benefits by designated nominee under Teachers' Retirement System Act is subject to inheritance tax.

Yours very truly,

WILL WILSON  
Attorney General of Texas

W. V. Geppert  
Assistant Attorney General

By   
Marietta McGregor Payne  
Assistant

MMP:gs

APPROVED:

OPINION COMMITTEE

George P. Blackburn, Chairman

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John B. Webster

W. V. Geppert

REVIEWED FOR THE ATTORNEY GENERAL

By:

James N. Ludlum