



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 15, 1977

ATTORNEY GENERAL OPINION NO. 77-96

Samuel L. Schuetz
Brown County Attorney
Brown County Courthouse
Hiawatha, Kansas 66434

RE: Taxation - Exemptions - Exclusive use K.S.A.
1975 Supp. 79-201(b).

Synopsis: All property, real or tangible personal property, actually and regularly used for hospital purposes, is exempt, both under Article 11, Section 1 of the Kansas Constitution and K.S.A. 1975 Supp. 79-201(b). It is the exclusive use for an exempt purpose that counts, not ownership.

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Dear Mr. Schuetz:

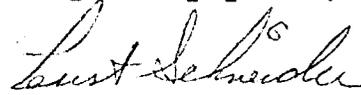
You say that the Hiawatha Hospital Association is leasing from HBE Leasing Corp., a Pennsylvania concern, certain personal property. You say that HBE is not an exempt organization and that the owner has personal property with a tax situs in Brown County and Brown County wants to tax it. You ask our opinion.

In the exemption of property, real or personal, it is solely "exclusive use", not ownership, that determines taxability. Seventh Day Adventist Kansas Conference Ass'n. v. Bd. of Co. Comm. of Dickinson County, 211 Kan. 683, 508 P.2d 911, (1973). This case also held that "exclusive use" means use "only, solely and purely for purposes stated in the Constitution and without admission to participation in any other use." (Syl. #2).

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March 15, 1977
Page Two

The ultimate authority of granting exemptions from ad valorem taxation, of both real and personal property, is in the Board of Tax Appeals. K.S.A. 1975 Supp. 79-1701(e). If that Board has issued an order declaring the real estate used by the Hiawatha Hospital Association is constitutionally exempt, then it follows that the personal property "used exclusively" within the hospital is also exempt. But if there is evidence that such personal property is being used also for other than hospital purposes, you should require the hospital to get a further order from the Board of Tax Appeals exempting such specific personal property, or refuse to strike it from the tax rolls as being exempt.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:CJM:gw