

OPINION 106

two or more farmers and still be within the spirit of the exemption while other boilers which were owned jointly by one or more persons would clearly not be used for agricultural purposes and clearly not exempt from this Act.

I believe therefore that in each case it will be a question of fact as to whether a boiler is located on a farm and if it is used solely for agricultural purposes. The following are submitted as suggested tests for determining whether the boiler is exempt under this Act in the particular case, but, of course, these tests are not all inclusive.

Steam boilers used in mint stills, canneries, farm dairies and creameries are exempt from inspection under this Act, if:

1. It is located on a farm and is used only in processing the output of that one particular farm, or for other agricultural purposes associated with the operation of said farm, or

2. It is located on a farm and is used only by the owners of a steam boiler such as two or more persons owning it jointly, for the purpose of processing output from the farms of the owners of the boilers, or for other agricultural purposes associated with their said farms.

3. However, any time a boiler is utilized for the purpose of processing any agricultural output other than that of the owners of the boilers, it is by such use being used for commercial purposes and is not therefore "used solely for agricultural purposes" and is not exempt under Section 26 of Chapter 66 of the Acts of 1953, *supra*.

OFFICIAL OPINION NO. 106

November 24, 1953.

Mr. R. R. Wickersham,
State Examiner,
State Board of Accounts,
304 State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter dated October 30, 1953 submitting the following question:

“Does the State Examiner have authority to examine personally or through the deputy examiners and field examiners all accounts and financial affairs of a hospital operated by an association which has been incorporated as a corporation not for profit and where such hospital is maintained in part by public funds raised by taxation?”

Your question relates to the General Hospital Association of Elkhart, Indiana, which is incorporated as a corporation not for profit. For a great many years the Civil City of Elkhart has carried a tax levy for the aid of this hospital. In 1950, the amount of aid was \$33,300; in 1951, \$21,400; in 1952, \$22,822.85; a three cent levy is being collected during the current year, and it is estimated that this levy will produce \$18,147.75. Apparently, the hospital authorities have raised a question as to the authority of the State Board of Accounts to make an audit of the accounts and records of this hospital; the theory of these hospital authorities presumably, is that the hospital is privately owned and is therefore a private institution.

Chapter 55, Section 9 of the Acts of the General Assembly of 1909, as amended by Chapter 176, Section 3 of the Acts of the General Assembly of 1945, the same being Burns' Indiana Statutes Annotated (1951 Repl.), Section 60-211, not only authorizes but establishes a duty on the part of the State Examiner to examine all accounts and all fiscal affairs of every public institution. Chapter 55, Section 17 of the Acts of the General Assembly of 1909, the same being Burns' Indiana Statutes Annotated (1951 Repl.), Section 60-219, is a part of the same Act and it defines the term "public institution" as follows:

“* * * The term 'public institution,' as used in this act, shall be construed to extend to, include and mean any institution * * * maintained in whole or in part at public expense or supported in whole or in part by appropriations or public funds or by taxation. * * *”

Your question must be answered in the affirmative since for purposes of the Public Accounting Law, cited and quoted above, the General Hospital Association of Elkhart, Indiana

OPINION 107

must be construed to be a public institution. It is unimportant in answering this question to determine whether it is a public or private corporation for the reason that if it accepts appropriations of public or tax funds it thereby becomes subject to examination by reason of thereby becoming included within the statutory definition of public institutions for the purpose of the Public Accounting Law.

A refusal under such circumstances to permit the state examiner to examine all the accounts and financial affairs of such a public institution would constitute a misdemeanor under the combined provisions of Burns' Indiana Statutes Annotated (1951 Repl.), Sections 60-219 and 60-212, *supra*.

It is apparent from your letter that a levy of three cents is being collected during the current year by the Civil City of Elkhart; it is presumed that the collections as the result of this levy will be paid to the General Hospital Association during the year 1954.

Therefore it is my opinion the state examiner has the authority to examine personally or through the deputy examiners and field examiners all accounts and financial affairs of a hospital operated by an association which has been incorporated as a corporation not for profit where said hospital is maintained in part by public funds raised by taxation.

OFFICIAL OPINION NO. 107

November 27, 1953.

Hon. R. R. Wickersham,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Sir:

In your letter of October 20, 1953 you requested my official opinion in answer to the following question:

“Can an award be paid to any person for the return of an escapee to a school or other institution which is a part of the Department of Correction?”