



CITY OF NEW ORLEANS  
LAW DEPARTMENT

ERNEST N. MORIAL  
MAYOR

SALVADOR ANZELMO  
CITY ATTORNEY

April 5, 1984

Ms. Joan Glennon, Director  
Bureau of Revenue  
Department of Finance  
Room 1W19 - City Hall  
New Orleans, LA 70112

RE: Tulane University - Exemption  
of Sales and Use Taxes - City  
of New Orleans

Dear Ms. Glennon:

You have requested this office for an opinion as to whether Tulane University is exempt from the payment of sales and use taxes levied and imposed by the City of New Orleans.

On February 28, 1984 (Opinion No. 84-194), the Attorney General of the State of Louisiana issued his opinion stating that the provisions of Act No. 43 of 1884 exempts Tulane University from the payment of sales and use taxes of state, parochial and municipal authorities. A copy of that opinion is attached.

Accordingly, it is the opinion of this office that Tulane University is exempt from the payment of sales and use taxes levied and imposed by the City of New Orleans for the reasons set forth in Opinion No. 84-194, which reasons are hereby adopted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Salvador Anzelmo".

SALVADOR ANZELMO  
CITY ATTORNEY

SA/bc

Attachment



WILLIAM J. GUSTE, JR.  
ATTORNEY GENERAL

State of Louisiana

DEPARTMENT OF JUSTICE

Baton Rouge

70804

February 28, 1984

OPINION NUMBER 84-194

Honorable John J. Hainkel, Jr.  
Speaker of the House  
Louisiana House of Representatives  
Post Office Box 44062  
Baton Rouge, Louisiana 70804

Dear Representative Hainkel:

We have been requested to reconsider Opinion 82-1039 regarding whether it is legal for the State and the City of New Orleans to impose sales and use taxes upon purchases made by Tulane University. Pursuant to the provisions of Act No. 43 of the Louisiana Legislature of 1884, all property of the Board of Administrators of the Tulane Education Fund, both present and future, was granted an exemption from all State, parochial and municipal taxation. The essence of the act is recited in Section 5 as follows:

"... it being the true meaning and intent hereof that all the property of the Tulane University of Louisiana, of whatsoever character, shall be exempted from taxation, State, parochial and municipal, except the excess of real estate belonging thereto, over and above the value of five million dollars ....,"

Whereas it is obvious that the State granted a tax exemption on the property of Tulane, it is not so clear as to whether the exemption applies to sales and use taxes.

The contract between the Board of Administrators and the State, embodied in Act 43, provided that the Administrators would devote all properties and revenues to the perpetual maintenance and development of the university, waive forever the legislative appropriation available to it, and provide free tuition to a student from each legislative district. The State transferred all control and property of the University of Louisiana to the Administrators and granted the tax exemption referred to above.

Honorable John J. Hainkel, Jr.  
Page Two  
February 28, 1984  
Opinion Number 84-194

It is true that Section 5 of the act speaks in terms of property taxes. However, at the time this contract was entered into, property taxation was the only taxation contemplated by the legislature and real property was the only taxable asset owned by the Administrators. Further, Section 6 of the act states that an important part of the consideration for the Administrators in entering the contract with the State was "the exemption from all taxation".

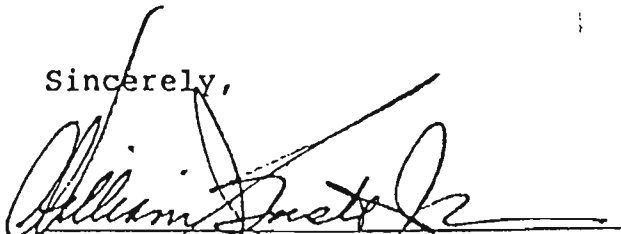
It is important to note that this special tax exemption was raised to constitutional status in 1888. If a property tax exemption was the only exemption granted by the contract, this exemption would have been already included in Article 207 of the 1879 Constitution, which exempted "property used exclusively for colleges or other school purposes".

As the court in Administrators of the Tulane Educational Fund v. Board of Assessors 38 La. Ann. 292 (1886) recognized, the State had no interest in taxing the Administrators as such tax would diminish the revenues of the university which were dedicated to a public purpose.

It is therefore our opinion that the exemption granted in Act 43 of 1884 does exempt Tulane University from the payment of sales and use taxes of the State, parochial, and municipal authorities. Opinion Number 82-1039 is hereby recalled.

If this office can be of further assistance in this matter, please advise.

Sincerely,



WILLIAM J. GUSTE, JR.  
Attorney General

WJG, Jr. /DGS:jhg