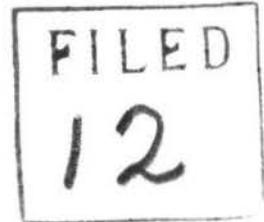


INCOME TAX, FEDERAL
ESTATE TAX AND INHERI-
TANCE TAX:

Contributions made to Missouri School
for Blind are exempt from income, in-
heritance and federal estate taxes.

February 5, 1942



Mr. R. Wilson Brown
Supt. Missouri School for the Blind
3815 Magnolia Avenue
St. Louis, Missouri

Dear Sir:

This will acknowledge your letter of recent date,
requesting an opinion from this department, reading as
follows:

"This letter is to clarify the following
points in reference to gifts and bequests
to the Missouri School for the Blind.

"Gifts by will to the Missouri School for
the Blind are exempt from what federal and
state taxes?

"Are contributions made in any year to the
Missouri School for the Blind exempt from
gift taxes imposed by the federal and state
laws?

"Are contributions to the Missouri School for
the Blind deductible from income taxes of the
donor to the extent provided by law for federal
and state?

"Is the following form for bequests proper?

"I give and bequeath to the Missouri School
for the Blind, now located at 3815 Magnolia
Avenue in St. Louis, Missouri, the sum of
_____ Dollars (\$ _____),
to be used for its general purposes."

February 5, 1942

Also your letter clarifying the above questions, reading as follows:

" * * * I am trying to determine whether or not the Missouri School for the Blind is considered as a charity. If it is, those who make us gifts may deduct such gifts from their income tax reports.

"I am trying to determine whether or not bequests made through wills are subject to inheritance taxes and whether large donations are exempt from gift taxes."

Before considering precise questions you have propounded, we consider the nature of the Missouri School for Blind. In this respect, your attention is directed to Section 10845, as contained in Article 25 of the Revised Statutes of Missouri, 1939. That section reads in part as follows:

"The 'Missouri school for the blind' at Saint Louis, * * * * shall be regarded, classed and conducted wholly as educational institutions of the state."

We have examined the whole article before referred to, and do find that the duties enjoined upon the persons in charge of this school are such as will further the education of those who are blind, in order that such persons may become self sustaining. While the article contemplates that the institution be denominated as that of an educational institution, it is believed nevertheless, that such institution is in the nature of a charitable institution. This may be tested by what was said by the Supreme Court of Missouri in the case of Robinson v. Crutcher, 277 Mo. 1, 8, 209 S. W. 104, in the following language:

" * * * In so doing, it will suffice to content ourselves with the modern definition of a public charity as 'a gift to be applied consistently with existing laws, for the benefit of an indefi-

nite number of persons, by bringing their minds under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, or by assisting them to establish themselves in life, or by erecting and maintaining public buildings or works, or otherwise lessening the burdens of government."

From these considerations, we are convinced that while the legislature has denominated the institution as educational, it is also in the nature of a charitable institution.

The management and control of the property of the Missouri School for Blind is provided for by Section 10864 of the Revised Statutes of Missouri, 1939, in the following language:

"The board of managers of each school shall have the care and control of all the property, real and personal, owned by such school, and the title to all real estate or personal property now owned by such school, or by the state for its use, or that may hereafter be purchased by or donated to such school shall be vested in such board of managers of the respective schools, for the use and benefit of the said school. The board of managers of either school shall not sell or in any manner dispose of any real estate belonging to the school without an act of the general assembly authorizing such sale or disposal of such real estate. The boards of managers shall provide their respective schools with an official seal."

Attention is also directed to Section 11349 of R. S. Mo., 1939, reading in part as follows:

"Contributions or gifts made by individuals and corporations within the taxable year to corporations, associations and societies organized and operated exclusively for religious, chari-

table, scientific or educational purposes, or for the prevention of cruelty to children and animals, not part of the net earnings of which inures to the benefit of any private stockholder or individual, to an amount not in excess of 15 per centum in the case of an individual or 5 per centum in the case of a corporation of the amount of the tax payer's net income on which tax is paid.

"In the cases of those taxable under subdivision 2, Section 11343, only such part of the foregoing deductions shall be used as arose wholly in this state except income taxes under authority of the United States. Such portion of the United States income taxes shall be deducted as the net income from all sources in Missouri, without considering said United States taxes, shall bear to the net income under the laws of the United States."

Attention is also directed to the Internal Revenue Code, Regulations 103 of the United States Treasury Department, p. 126, which reads in part as follows:

"In the case of an Individual, contributions or gifts payment of which is made within the taxable year to or for the use of:

- (1) The United States, any State, Territory, or any political sub-division thereof, or the District of Columbia, for exclusively public purposes;
- (2) A domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or

otherwise attempting to influence legis-
lation; * * * * *

"To an amount which in all the above cases com-
bined does not exceed 15 per centum of the tax-
payer's net income as computed without the bene-
fit of this sub-section. Such contributions
or gifts shall be allowable as deductions only
if verified under rules and regulations pre-
scribed by the Commissioner, with the approval
of the Secretary."

With respect to whether or not gifts made to the Mis-
souri School for the Blind are exempt from the payment of inheri-
tance taxes, your attention is directed to Section 502 of R. S.
Mo., 1939, reading as follows:

"When any property, benefit or income shall
pass to or for the use of any hospital, re-
ligious, educational, Bible, missionary,
scientific, benevolent or charitable purpose
in this state, or to any trustee, association,
or corporation, bishop, minister of any church,
or religious denomination in the state; to be
held and used and actually held and used ex-
clusively for religious, educational, or
charitable uses and purposes, whether such
transfer be made directly or indirectly, the
same shall not be subject to any tax, but this
provision shall not apply to any corporation
which has a right to make dividends or distribute
profits or assets among its members."

With respect to whether or not gifts made to the Mis-
souri School for the Blind are subject to a federal estate tax,
attention is directed to Section 812 (d) and Articles 44-77, Regu-
lation 80 of the Internal Revenue Code, which provides in substance
and effect that gifts to any state for exclusive public purposes,
or to or for the use of a corporation organized and operated ex-
clusively for religious, charitable, scientific or educational
purposes are deductible.

CONCLUSION.

From the above considerations, it follows:

- 1) That gifts by will to the Missouri School for Blind are exempt from federal and state taxes;
- 2) Contributions made during the calendar year to the Missouri School for Blind are exempt from state inheritance taxes;
- 3) That contributions to the Missouri School for Blind are deductible for federal and estate income taxes, provided such contributions do not exceed 15% of the taxpayer's net income, on which the tax is paid;
- 4) That bequests to the Missouri School for Blind should be made to the Board of Managers of such institution, as contemplated by Section 10864 of R. S. Mo., 1939.

Respectfully submitted

RUSSELL C. STONE
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General