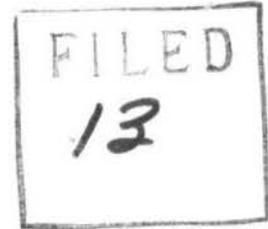


TAXATION: Retail sales made by or to an educational institution
SALES TAX: supported by a religious organization are exempt from
provisions of the Sales Tax Act.

January 21, 1948

Honorable L. Madison Bywaters
Prosecuting Attorney
Clay County
Liberty, Missouri



Dear Sir:

This is in reply to your letter of recent date wherein you request an official opinion from this department on the following statement of facts:

"William Jewell College of Liberty, Missouri has requested that I procure an official opinion from your office as to whether or not the college is required to charge the 2% sales tax for the state on tickets sold to athletic events at the college. Of course you understand that William Jewell College is a purely charitable institution, is not run for profit, and no profits whatever are derived at any time."

Your question refers particularly to sales of athletic tickets by William Jewell College. Under the provisions of the Sales Tax Act, Laws of Missouri, 1945, page 1865, and especially subdivision (b) of Section 11408 thereof, each retailer is required to collect "a tax equivalent to two (2%) per cent of the amount paid, for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events." Under the provision of this section, the college would be required to collect the sales tax on admissions to athletic events, unless it comes within the exemption under Section 11453 of the act, which provides as follows:

"In addition to the exemptions under Section 4, there shall also be exempted from the provisions of this article all sales made by or to religious, charitable, eleemosynary institutions, penal institutions and industries operated by the department

of penal institutions or educational institutions supported by public funds or by religious organizations, in the conduct of the regular religious, charitable, eleemosynary, penal or educational functions and activities, and all sales made by or to a state relief agency in the exercise of relief functions and activities."

If William Jewell College is an educational institution and is supported by a religious organization, then we think it would come within the exemption section. In the case of State ex rel. vs. Trustees of William Jewell College, 234 Mo. 299, this court had before it the question of the liability of this college for ad valorem taxes. In that case, an act of the General Assembly was before the court which had exempted the college from the payment of ad valorem taxes. In discussing the rule to be applied to exemption statutes which exempt educational and charitable institutions from taxation, the court, at l.c. 308, said:

"It is urged that exemption statutes are to be strictly construed. Generally speaking, such is the rule. But we take it from the cases that there has been a well recognized exception to the rule. Perhaps a better wording would be to say that the courts have never been over anxious to apply the rule so as to impose burdens upon religious, scientific, literary and educational institutions. Strict construction has largely been applied to corporations organized for profit and gain, not to corporations performing a public service. * * *"

After laying down this principle, the court referred to the act incorporating William Jewell College, l.c. 312, and said:

"The preamble of the Act of 1849 reads:
'Whereas, the United Baptists in Missouri and their friends are desirous of endowing and building up a college in the State, and for that purpose have under the direction of the General Association of Baptists in Missouri already secured pledges to the amount of about twenty thousand dollars, for the endowment of the same in shares

of forty-eight dollars, each payable in installments of six dollars per share annually, now therefore to enable the parties above mentioned to carry out their contemplated purpose, * * *"

From this preamble it will be seen that the Legislature in the 1849 act recognized that William Jewell College was supported by the General Association of Baptists in Missouri, which is a religious organization. In this same case it was stipulated by parties to the suit that William Jewell College is an educational institution, l.c. 305. Therefore, since it is supported by the General Association of Baptists in Missouri, which is a religious organization, then we think there is no question that it would come within the exemption provisions of said Section 11453, and therefore would not be required to charge the two per cent sales tax on tickets sold to athletic events conducted by the college.

CONCLUSION

From the foregoing, it is the opinion of this department that William Jewell College of Liberty, Missouri, being an educational institution supported by a religious organization, is not required to charge and collect the sales tax on tickets sold to athletic events at the college.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General