

SALES TAX:  
TAXATION:  
COLLEGES AND EXEMPTIONS:

Educational institutions, principally supported by religious organizations, or by gifts or charities, are exempt from provisions of the 2% Sales Tax Act of 1937.

August 6, 1937



Mr. J. F. Hughes, Treasurer  
Rockhurst College  
Rockhurst Road and Troost Avenue  
Kansas City, Missouri

Dear Sir:

This office is in receipt of your letter of July 29, 1937, requesting an opinion as to whether or not Rockhurst College is within the exempted class of taxpayers, as set out in Section 46 of the 2% Sales Tax Act, which letter is as follows:

"Will you please advise us whether or not Rockhurst College is exempt from the Missouri State Sales Tax.

"We note that section #46 provides exemption for all sales made by or to religious, charitable, eleemosynary institutions, etc., as well as institutions operated by religious organizations in the conduct of the regular religious, charitable, eleemosynary, penal or educational functions and activities.

"Rockhurst College is incorporated as an eleemosynary institution in the State of Missouri, is conducted by the Jesuit Order of Priests of the Catholic Church and is engaged exclusively in religious and educational functions and activities.

"Your interpretation and definite authorization of exemption for Rockhurst College, if we are so exempt, will be greatly appreciated."

If that institution is exempt from the provisions of this Act, it is by virtue of the provisions of the Act as set out in Section 46, which are as follows:

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"In addition to the exemption under Section 3 of this Act there shall also be exempted from the provisions of this Act 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 Rockhurst College is within the class exempted in the above sections, it will have to fall within one or more of the following classifications of said section, to-wit, a charitable institution, eleemosynary institution, or educational institution supported by religious organization.

In order to determine this question, it has been necessary for an examination of the Certificate and Articles of Incorporation of Rockhurst College to be made, and upon such examination we find:

"The object and purpose of said corporation shall be for the encouragement of education, science and literature, and the educating and training of youth, in all kinds of knowledge, and it shall have power to take and hold all kinds of property, real, personal and mixed, which it may acquire, purchase, demise, by donation or otherwise, necessary to accomplish the purpose of this corporation, and may dispose of and convey same at pleasure; and shall have power to confer such academic, collegiate and University decrees and honors as are usually conferred by colleges and universities of the United States."

(Certificate and Articles of Incorporation of Rockhurst College on file in Secretary of State's Office, Corporation Department)

From a study of the aforesaid Articles of Incorporation, we find that Rockhurst College does not limit its student body to any particular class, and it is organized for the benefit of youth, generally, and it may be classed as "public" to that extent.

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Assuming that this college is an endowed institution, and receives gifts from individuals, and particularly religious organizations, which gifts are termed as "public charities," the institution to which they go may be termed as a "public charity" in the eyes of the Tax Law.

It is generally known that college institutions exist primarily upon gifts and the earnings from their endowment fund (which endowment fund may be termed a "public charity fund").

A college or university may be a public charity although maintained in part by tuition fees paid by students. (11 C.J. page 975, Sec. I.)

"An incorporated college, whose charter provides that persons of every religious denominations shall be eligible as trustees, that no person shall be refused admission into its faculty or classes, or denied participation in any of its privileges or advantages on account of religious belief, and that it shall be subject to visitation by the state, is a public institution in a broader sense of the word. Such an institution, if founded, endowed and substantially maintained by charity, is purely a public charity and as such within the protection of the Act of 1874, granting exemption from taxation, notwithstanding that a small portion of its annual expense may be paid by fees received from its students." (Northampton Co. v. Lafayette College, 128 Pa. 132)

By the foregoing reasoning, it appears that Rockhurst College, or any other educational institution which receives a substantial portion of its income from gifts and endowment fund, would be within that class of institutions exempted from the provision of the 2% Sales Tax Act in Section 46 thereof, and classed as charitable, eleemosynary and/or educational institutions supported by religious organizations.

#### CONCLUSION

This office is, therefore, of the opinion that Rockhurst College falls within the classification of an eleemosynary, educational institution supported by public charities and/or supported by a religious organization, and is within the class of charitable eleemosynary and/or educational institutions supported by religious organizations that are exempted from the provisions of the Sales Tax Act by Section 46 thereof, and that in the conduct of the regular religious, charitable or educational functions and activities of said

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college, all sales, as defined in said Act, made by or to said college for the aforesaid purposes, are exempted from the sales tax.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General