

Opinion No. 45-4814

November 3, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Benjamin D. Luchini Chairman-Executive Director Employment Security Commission Albuquerque, New Mexico

{*151} We are in receipt of your letter of October 30, 1945, and the enclosed report in connection with the claim made by the Clovis Chamber of Commerce for exemption from the Unemployment Compensation Tax.

Section 57-822 (7) (F) exempts from the payment of Unemployment Compensation Tax services performed in the employ of a corporation, community chest, fund or a foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes.

The Supreme Court of New Mexico, in Santa Fe Lodge No. 460 v. Employment Security Commission, 49 N.M. 149, 159 P. 2d 312, held that this exemption should be liberally construed. In that case, in holding that the Santa Fe Elks Lodge was organized and operated exclusively for charitable purposes, within the meaning of this exemption, the Supreme Court did place a very liberal construction on the meaning of this exemption.

The facts set out in the report on the Clovis Chamber of Commerce are very limited. However, the objects of the Clovis Chamber of Commerce, as set out in the By Laws, are as follows:

"ARTICLE I -- OBJECTS: The Clovis Chamber of Commerce is organized to promote the civic, commercial, industrial and agricultural development of the City of Clovis and County of Curry; to receive gifts, dues, or bequests for such purposes; to acquire such property by purchase or lease and incur {*152} such obligations as may be necessary in carrying out such purposes."

For the purpose of this opinion, I assume that the Clovis Chamber of Commerce actually operates within the scope of these objects. This being so, it could be said that all of the objects of the Chamber of Commerce are educational, not in the usual accepted sense of the word "education", but in its broadest meaning.

In the case of Jones v. Better Business Bureau, 123 F.2d 767, the Tenth Circuit Court of Appeals had before it the exemption contained in the Social Security Law, which is identical in language to the exemptions quoted above. There the Better Business Bureau claimed that it was organized exclusively for educational purposes within the meaning of the Social Security Tax Exemption.

In sustaining the Better Business Bureau's Intention the Court defined "education" as follows:

"Educational training is not confined to colleges, universities or even the public schools, but consists, in the broadest sense, of acquiring information or inspirational suggestions which cause the individual to think and act along proper lines. Certainly, the teaching of honesty, integrity, and truthfulness is the very highest objective of an education."

See also *City Club of Milwaukee v. United States*, 46 F. Supp. 673, wherein the Court held that the City Club of Milwaukee, a nonprofit corporation, created to secure closer union and cooperation among citizens who desire to study municipal affairs, acquire and disseminate accurate information concerning the same, and generally to promote, in a practical and effective way, better social, civic and economic conditions, was organized exclusively for educational purposes, within the meaning of the Social Security Tax Exemption.

In view of the foregoing it is my opinion that the Clovis Chamber of Commerce is organized and operated exclusively for educational purposes within the meaning of the above quoted exemption, assuming that it limits its activities to the objects set forth in its By Laws.

No opinion is expressed as to whether or not the Clovis Chamber of Commerce is a corporation, fund or foundation within the meaning of the above mentioned exemption, as no facts were presented upon which an opinion could be based.

By ROBERT W. WARD,

Asst. Atty. General