

Opinion No. 48-5137

March 11, 1948

BY: C. C. McCULLOH, Attorney General

TO: E. R. Cooper Assistant District Attorney Las Vegas, New Mexico

{*137} I am in receipt of your letter of March 9th in which you ask whether non-income property of the American Legion is exempt from taxation under Article 8, Section 3 of the Constitution which exempts from taxation property used for "educational or charitable purposes." You refer in your letter to the tract of land owned by the American Legion and used as the Rodeo Park. You state that the American Legion derives no benefit from the operation of the Rodeo Grounds as all income is replaced to increase the efficiency of the plant.

In the case of Church of the Holy Faith vs. State Tax Commission, 39 N.M. 403, 48 P. 777, question was raised as to whether property owned by a church but not used for church purposes was exempt from taxation. It appeared that the income from the property was used for church purposes. There the Court held that only property used for church purposes was exempt from taxation and that other property owned by the church was not.

{*138} In the case of Albuquerque Alumnae Association vs. Tierney, 37 N.M. 156, 20 P. 2d 267, the Court held that culture afforded by a college sorority was not educational so as to exempt a sorority chapter house from taxation, even though the state would have been required to provide dormitory facilities had the sorority not done so.

In view of the foregoing, it is my opinion that property owned by the American Legion used for the purpose of operating a rodeo is not exempt from taxation as it is neither property used for a charitable purpose nor for an educational purpose within the meaning of the Constitution.

By ROBERT W. WARD,

Asst. Atty. General