

**Opinion No. 43-4295**

May 21, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. R. F. Apodaca, Superintendent of Insurance, State Corporation Commission, Santa Fe, New Mexico

In your letter of May 20, 1943, you state that the Knights of Columbus, a Fraternal Society, has been operating in New Mexico and has paid the annual fees of \$ 10.00 provided by Section 60-931 of the 1941 Compilation for annual licenses.

In October, 1940, the Supreme Council of this organization amended its By-Laws providing for the employment of representatives to solicit insurance from its members, by so doing the organization as soon as it employed representatives in New Mexico ceased to enjoy the exemptions and would be subject to the annual fee of \$ 100.00. The organization, however, did not employ representatives until July, 1941. Your question is the amount of annual fees and taxes which may be due for the years 1941, 1942, and 1943 in view of these facts.

Chapter 69 Laws of 1937 provided for a 2% gross premiums tax in addition to the annual fees on Fraternal Societies, not exempt under the act. The tax is payable on or before the first day of March for the current year and is measured by the gross premiums collected by it in New Mexico during the preceding calendar year.

On March 1, 1941, this organization had not collected any premiums during the previous year which were taxable and, therefore, no previous tax under the 1937 law would be due.

Since Chapter 69, Laws of 1937 was amended by Chapter 78, Laws of 1941 and the 2% gross premiums tax was deleted from the law effective July 14, 1941, and since this organization did not employ representatives in New Mexico until after said amendment became effective, there would be no tax due in March, 1942, based upon premiums collected in 1941.

For these reasons, I am of the opinion that this organization is not liable for any gross premiums taxes for the years 1941, 1942 and 1943 and is only liable for the \$ 100.00 annual fee for each of the said years.

By C. C. McCULLOH,

First Asst. Atty. General