

STATE OF NEW YORK

STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION :

OF :

SARAH LAWRENCE COLLEGE :

FOR REFUND OF MORTGAGE RECORDING :
TAX UNDER ARTICLE 11 OF THE TAX :
LAW :

ORDER OF DETERMINATION
AND REFUND

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Sarah Lawrence College (hereinafter called the "College")
by Edith G. Morrison its comptroller, having filed an application
pursuant to Section 263 of the Tax Law for a refund of mortgage
tax and a hearing having been held pursuant to Section 251 of the
Tax Law in the office of the State Tax Commission, 80 Centre
Street, New York, New York, on August 4, 1961, to ascertain
whether a mortgage recording tax was erroneously collected by
the Clerk of the County of Westchester upon the recording of a
certain Indenture of Mortgage and Trust made by the "College"
to United States Trust Company of New York as Trustee to secure
\$880,000, dated as of October 1, 1959, and recorded in said
Westchester County Clerk's Office on February 7, 1961, in Liber
6243 of Mortgages, Page 183 and the aforementioned applicant
having been represented at said hearing by Milbank, Tweed, Hope
& Hadley, Esqs., Howard O. Colgan, Jr., Esq. and Clarence Emery,
Esq. of Counsel and the matter having been duly examined and
considered,

The State Tax Commission hereby finds:

(1) That Sarah Lawrence College, a private educational
institution of higher learning and a domestic corporation organized

under the laws of the State of New York and having its principal place of business located in Westchester County, State of New York entered into a written loan agreement with the United States of America dated September 29, 1959 by the terms of which the "College" agreed to issue and sell the "Government" acting through the Housing and Finance Administration, Community Facilities Commissioner by its Regional Administrator, and the "Government" agreed to purchase \$880,000 accrued principal amount of bonds to be secured by an Indenture of Mortgage and Trust covering certain real property owned by the "College" located in the City of Yonkers, County of Westchester, State of New York; that the purpose of the loan was to defray the cost of construction of a new dormitory to be erected on the campus of the "College" in Yonkers, New York; that on September 28, 1960, the "College" entered into an Amendatory Loan Agreement with respect to the purchase of the aforementioned Bonds.

(2) That pursuant to said loan agreement, dated September 29, 1959 and as part of the transaction, the "College" executed an Indenture of Mortgage and Trust to United States Trust Company of New York dated October 1, 1959, to secure the repayment of the Dormitory Bonds in the amount of \$880,000; that the recording of the aforementioned mortgage was made a condition precedent to the purchase of the Bonds by the "Government."

(3) That on February 7, 1961 the "College" presented for recording the aforesaid Indenture of Mortgage and Trust to the recording officer of Westchester County, namely the Clerk of the County of Westchester and paid a mortgage recording tax in the amount of \$4,400; that the aforesaid Indenture of Mortgage and Trust was recorded on February 7, 1961 in the office of the Clerk of Westchester County in Liber 6243 of Mortgages, Page 183.

(4) That on February 8, 1961, the "College" delivered its registered bond for \$880,000 to the "Government" together with a copy of the mortgage to United States Trust Company of New York as Trustee, securing said bond; that the "Government" delivered to the "College" the balance of the proceeds of the bond together with prior advances aggregating \$880,000 accrued principal amount.

(5) That on March 28, 1961 the "College" filed with the Department of Taxation and Finance an application for refund of the recording tax in the amount of \$4,400 paid to the County Clerk of Westchester at the time of the recording of the afore-said Indenture of Mortgage and Trust and for an order directing the Clerk of Westchester County to mark and treat as tax exempt said Indenture of Mortgage and Trust upon the ground that the instrument in question was not subject to mortgage tax; that an amended application for refund of the mortgage recording tax was filed with the Department of Taxation and Finance on May 23, 1961.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DETERMINES:

(A) That the Indenture of Mortgage and Trust dated October 1, 1959 was not subject to the mortgage recording tax imposed by Section 253, Article 11 of the Tax Law.

(B) That the recording officer of Westchester County, the Clerk of the County of Westchester, erroneously collected a mortgage recording tax on the aforementioned instrument recorded in the office of the Clerk of Westchester County on February 7, 1961 in Liber 6243 of Mortgages at Page 183; that pursuant to

Section 263, Article 11 of the Tax Law, Sarah Lawrence College is entitled to a refund of the mortgage recording tax paid in the amount of \$4,400.

(C) That the County Clerk of Westchester County, be, and he hereby is authorized and directed to deduct the sum of \$4,400 from the mortgage tax monies in his hands or which shall come to his hands and to refund said amount to Sarah Lawrence College.

(D) That two certified copies of this order be mailed to the County Clerk of Westchester County, one of which he is directed to file with the records of his office and the other with the Treasurer of the County of Westchester as a warrant for the disbursement.

(E) That a certified copy of this order be mailed to the Treasurer of the County of Westchester County.

DATED: Albany, New York, this 24th day of March 1971.

STATE TAX COMMISSION

Norman Gallman
PRESIDENT

Benjamin M. Bailey
COMMISSIONER

Milton Koenig
COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

*Sarah Lawrence College
Mortgage Tax
1971*

INSTRUMENT EXECUTED BY
IN THE MATTER OF THE ~~APPLICATION~~ :
SARAH LAWRENCE COLLEGE :
to :
UNITED STATES TRUST COMPANY :

AFFIDAVIT OF
MAILING

State of New York) ss.
City and County of Albany)

LOUIS C. JOHNSON, being duly sworn, deposes and
says:

That your deponent is over the age of eighteen and
an employee in the Office of the State Tax Commission, Depart-
ment of Taxation and Finance, Mortgage & Real Estate Transfer
Tax Section.

That on the 11th day of May 1971, your
deponent deposited in a letter box exclusively maintained and
controlled by the United States Government at
Fuller Road Post Office in the City and County of
Albany, New York, a copy of the determination of the State Tax
Commission in this proceeding, copy of which is hereto annexed,
contained in a securely closed, postpaid cover, directed to the
herein below named parties in this proceeding, their representa-
tives and the recording officer of Westchester County at the
addresses set forth below:

Louis C. Johnson

Sworn to before me this 12th day
of May 1971.

Arthur Maxwell

Sarah Lawrence College
Bronxville, New York

United States Trust Company
45 Wall Street
New York, New York