199945062

501.03-13 DEPARTMENT OF THE TREASURY
511.00-00 INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: AUG 16 1999

Contact Person:

ID Number:

Telephone Number:
OP:E:EO:T:4

LEGEND:

B -

Dear Taxpayer:

This is in response to your request for rulings on whether certain proposed activities would result in unrelated business income or adversely impact on your tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

You are exempt from federal income tax as an organization described in IRC 501(c)(3). You are also classified as a supporting organization described in IRC 509(a)(3).

You are a library and maintain one of the largest and oldest collection of business related works, publications and data in the country. You are the only source for much of this material in your area. You create your own publications, such as directories and indexes for business resources and organizations. You conduct workshops and educational seminars for students and the general public on the proper use and application of business information. You provide person-to-person support to your users, assisting in identification, retrieval, and application of appropriate business information sources. You support the educational efforts of a number of local colleges and universities. You are open to the general public, to the business community, to governmental institutions, to charitable organizations, and to educational initiatives of your supported colleges and universities.

Your unique focus on business materials and information and the depth of your collection attracts a variety of users. You make your facility as accessible as possible by opening your facility six days a week. You have a skilled staff in using your collection to respond to inquiries and assist your users in finding and interpreting the materials. This enables your staff to educate the user, often with vastly different knowledge levels on the use of business information. Your staff can also educate a

user on very specific business questions; such as how to create a business plan, identify companies for employment opportunities, student research, etc.

You have developed B service to assist users research particular inquires for business information. Specific employees are assigned to respond to these research inquiries and a fee is charged for the time and resources associated with the request. Under this program the requests are unique and require more extensive researching and assimilation of information including document delivery. You stated B has been well received by Library users and continues to grow in search activity.

You indicated that with the changes in technology and availability of information, it is important that the benefits of information be equally available to all in your communities, regardless of race, income, or other factors. You see a role in delivering such information in the educational tradition of our public libraries. You intend to create equal affordable access of information through a "virtual interactive library." Providing access to such information will not be inexpensive. You have also been exploring the potential uses of your collection and services, which your Library staff could perform to make your Library of further benefit to the public and the supported organizations. You have identified several areas where there is public demand for service as a byproduct of your assembled collection and staff.

Your proposed activities are a by-product of your exempt library activities and are intended to further your outreach of library resources, making them more accessible and usable to the public and enabling you to offer a broader range of collections and services to your users. Your new initiatives fall into the following categories:

A. Remote Access to the Library. This project will create a "virtual interactive library", allowing access to both the collection and the librarian from anywhere in the country. It will include the integration of information content with intellectual capital, delivered in a personal computer environment that allows a user to derive all the benefit of the Library as though the user had walked into the actual library. The information specialist and the user would converse in a manner similar to the existing customer support scripts. The information specialist would identify appropriate information sources, locate them, and educate the user on the use of and application of the source information. The program would be an extension of the traditional communal library. The primary recipients of this service are projected to be public libraries and K-12 educational facilities. Because of the high direct labor and equipment costs associated with the program, you will also look to private and corporate donors for financial assistance.

B. Expansion of Fee Based Services. You propose to expand your fee-based program to encourage additional use among academic, business, charitable organizations, and the general public users of the Library's specific research capability. You would extend your subscription base for B, which would generate additional fee-for-service use from the increased use by businesses, general public, government agencies, and

educational institutions. This proposal would involve some data management and analysis performed by the staff to facilitate use.

C. Applied Reference and Research Assistance. You propose to assist members of the general public who request support in preparation and application of business documents derived from analysis of Library materials. You do not expect to make business decisions or do the business documents for persons assisted. To meet the public requests, it is anticipated additional staff would be required. Should the activity go beyond assistance of others to the actual development of business plans and the making of business judgments in the creation of business plans, the income will constitute unrelated business income.

D. Searchable Collection. In working with the collection and public requests for assistance in the use of the Library data to provide business information, you believe you can develop general forms of data formats which would assist members of the public in addressing their specific business information needs. Work prepared by the staff would be available to the public for future analysis.

E. Library Management. Your expertise in business information and data, as well as library science skills, has led to requests from business for assistance and advice on developing, organizing and/or supervising aspects of their own on-site libraries. These services appeal to businesses, governmental institutions, trade associations and other charitable organizations that need to manage and make available large volumes of business reference information. You intend to incorporate student interns in such activities to provide hands-on training in business library science. You do not expect the on-site maintenance and operation to be a substantial activity. Should the activity go beyond advising others to the actual maintenance and operation of on-site libraries on business premises, the income from such activities will constitute unrelated business income.

F. Educational Services. You intend to expand your educational services among business, governmental agencies, academic institutions, and the general public. You will feature advance and application-specific research skills and techniques.

For each of the above categories for which fees will be charged, you intend to develop an appropriate discount or sliding fee schedule which would permit use of the services for those unable to pay the usual service charges.

You have requested the following rulings:

1. The conduct of the activities described in A, B, C, D, E, and F further your exempt purposes and will not result in unrelated business taxable income within the meaning of IRC 511 other than as described above.

2. The conduct of A, B, C, D, E, and F will not adversely affect your tax-exempt status under IRC 501(c)(3). Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for exempt purposes, no part of the net earning of which inures to any private shareholder or individual.

3. In connection with the activities described in (C) above, activity which goes beyond assistance of others to the actual development of business plans and the making of business judgments in the creation of business plans will constitute unrelated business taxable income, but will not jeopardize your exempt status, unless the scope of the activity become large relative to your other exempt activities, effectively changing your primary purposes.

4. In connection with the activities described in (E) above, activity which goes beyond advising others to the actual maintenance and operation of on-site libraries on businesses premises will constitute unrelated business taxable income, but will not jeopardize your exempt status, unless the scope of the activity become large relative to your other exempt activities, effectively changing your primary purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. The organization must establish that it is not operated for the benefit of private interests such as designated individuals, the creator, or his family, shareholders of the organization or persons controlled directly or indirectly by such private interests.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term Aeducational@ relates to the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 1.501(c)(3)-1(e)(1) of the regulations provides that an organization may meet the requirement of IRC 501(c)(3) although it operates a trade or business as substantial part of its activities, if the operation of the trade or business is in furtherance of the organization=s exempt purposes and if the organization is not organized and operated for the primary purpose of carrying on an unrelated trade or business.

Section 511 of the Code imposes a tax on the unrelated business taxable income of organizations described in section 501(a).

Section 513(a) of the Code defines unrelated trade or business as any trade or business the conduct of which is not substantially related (aside form the need of the organization for the income or funds or the use it makes the profits derived) to the exercise or performance of the organization of its exempt purposes.

21

Section 1.513-1(d)(2) of the regulations provides that trade or business is "related to exempt purposes" only where the conduct of the business activities has a causal relationship to the achievement of exempt purposes, and it is "substantially" related only if the causal relationship is a substantial one. For the conduct of trade or business from which gross income is derived to be substantially related to exempt purposes, the performance of the services which gross income is derived must contribute importantly to the accomplishment of those purposes.

Rev. Rul. 81-29, 1981-1 C.B. 329, describes an organization that operates a computer network to enable participating libraries to exchange bibliographic information. The organization did not provide other services, such as routine administrative functions to the member libraries. Members included libraries of universities and other entities exempt under section 501(c)(3), and libraries of state and federal agencies. In addition, libraries of business entities were also members. The ruling included that the computer network made useful bibliographic information available to researchers and thus advanced education. The fact that the information was furnished both to exempt and non-exempt libraries did not detract from the educational value of the information itself. Therefore, the organization was operated exclusively for charitable purposes within the meaning of IRC 501(c)(3).

In *Forrest Press, Inc. v. C.I.R.*, 22 T.C. 265, acq., 1954-2 C.B. 4, the Tax Court held that an organization which was organized to prepare and publish a widely accepted system for indexing library collections was entitled to exemption under section 101(a) of the Code of 1939, the predecessor of section 501(c)(3). The case establishes that library cataloging is in itself an activity, which furthers education.

Your proposed activities are a by-product of the resources already available, which will make your collection more accessible and usable by the general public, businesses, governmental agencies, and educational institutions. You will not materially change your operations to offer the proposed services, but will be utilizing current technology to increase services, accessibility, and educate the public. All of your activities will be open to the general public, students, faculty, government institutions, charitable organizations, and businesses.

Rev. Rul. 81-29, *supra*, ruled on a library network which provided data business management software to libraries, some of which were not exempt, to permit the users to effectively search databases. The users paid a fee for the service. The service held the organization advanced education within the meaning of IRC 501(c)(3). The fact that the information was provided to exempt and nonexempt users does not detract from the educational value of the information itself. This analysis applies to your proposed activities as the activities will facilitate the access to and use of your data to the public and to further your educational purposes. The proposed activities are an extension of your educational activities and thus are substantially related to your exempt purposes. (See Forest, *supra*, IRC 513(a) and the regulations thereunder.)

Based on the information submitted and the representations made therein, we rule as follows:

1. The conduct of the activities described in A, B, C, D, E, and F further your exempt purposes and will not result in unrelated business taxable income within the meaning of IRC 511 other than as described above.

2. The conduct of A, B, C, D, E, and F will not adversely affect your tax-exempt status under IRC 501(c)(3).

3. In connection with the activities described in (C) above, activity which goes beyond assistance of others to the actual development of business plans and the making of business judgments in the creation of business plans will constitute unrelated business taxable income, but will not jeopardize your exempt status, unless the scope of the activity become large relative to your other exempt activities, effectively changing your primary purposes.

4. In connection with the activities described in (E) above, activity which goes beyond advising others to the actual maintenance and operation of on-site libraries on businesses premises will constitute unrelated business taxable income, but will not jeopardize your exempt status, unless the scope of the activity become large relative to your other exempt activities, effectively changing your primary purposes.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code states that it may not be used or cited as precedent.

A copy of this ruling is being sent to your key District Director. Because this letter could help resolve questions you should keep this copy in your permanent records.

Sincerely yours,

Gerald V. Sack

Gerald V. Sack
Chief, Exempt Organizations
Rulings Branch 4