

Common Threads in Library Law

By Lance M. Werner, Library Law Specialist

Questions on tax status

I frequently hear questions regarding the tax status of Michigan's public libraries. Generally, these issues arise in connection with library grant-seeking endeavors. It is no secret that it is highly desirable to find and secure alternate sources of funding. Most of the questions have two common threads. The first thread pertains to public libraries and their status as charitable organizations under Michigan law. The second involves public libraries and their federal tax status. Based on communications I have had with librarians, I feel it would be useful to furnish clarification in article form.

Commonalities

Virtually all public libraries¹ in Michigan share some common traits. They are primarily funded with public funds and have a board. They also have the same tax status when purchasing goods and services for public library use.

All legally established public libraries, including district libraries, are either departments of local governments or else are regional governmental entities and are considered political subdivisions in their own right. Both local and district libraries function as municipal corporations. Political subdivisions and units of local government have tax-exempt status under Michigan and federal laws.

Under Michigan law, a public library's tax status with respect to sales and use tax is found in section 4h of the General Sales Tax Act, 1933 PA 167, MCL 205.54h, and section 4(g) of the Use Tax Act, 1937 PA 94, MCL 205.94. In short, these sections provide that sales of goods to political subdivisions, such as libraries, are exempt from Michigan sales and use tax. The statutes can be accessed through the Michigan Legislature's website at <http://www.legislature.mi.gov/>.

Public library tax status is also addressed in federal law. Section 115 of the Internal Revenue Code states that "gross income" does not include any income derived from the performance of an essential governmental function, including income obtained by state political subdivisions. It is noteworthy that section 170(c)(1) of the Internal Revenue Code allows donors to claim income tax charitable deductions for donations made to political subdivisions. Based on public library status as a tax-exempt political subdivision, donations made to a library qualify as charitable deductions. The URL for the IRS explanation of how to affirm tax-exempt status can be found at: <http://www.irs.gov/govt/fslg/article/0,,id=112708,00.html>.

Conclusion

¹ "Public libraries" means libraries that have been created under Michigan law, city charter, or city ordinance.

Michigan's public libraries function in whole or in part as political subdivisions of the State and have tax-exempt status under state and federal law. Libraries that are seeking documentation of their federal tax-exempt status for grant-application purposes can contact the Internal Revenue Service. The IRS offers governmental entities a special service, sending free "government affirmation letters" upon request. These letters can be obtained by calling the IRS at 1-877-829-5500. The "government affirmation letter" may well suffice when a library seeks a grant and the grant-giving organization requires confirmation of the library's tax-exempt status during the application process.

Libraries may be able to supply grant-giving organizations with a "Michigan Sales and Use Tax Certificate of Exemption", Form 3372 (Rev. 11-01). Such forms could suffice as adequate documentation of tax status for granting activities in some cases.

Libraries desiring additional information about their Michigan tax status may wish to contact the Michigan Department of Treasury. Libraries can also obtain helpful advice and counsel on tax matters from their attorney.

If you have any questions or comments regarding this article, please contact Lance M. Werner, Library Law Specialist for the Library of Michigan, Michigan Department of History, Arts and Libraries, at (517) 373-1299.