

MAY 27 1982

Date:

3 7 1982

Employer Identification Number:

38-2404964

Key District:

Detroit

Accounting Period Ending:

June

Form 990 Required Yes No

Person to Contact: Bill Brockner
(202) 566-4757

Contact Telephone Number:

▷ Baldwin Public Library Trust
351 Martin Street
Birmingham, MI 48011

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in section 509(a)(3).

If your sources of support, or your purposes, character, or method of operation change, please let your key district know so that office can consider the effect of the change on your exempt status and foundation status. Also, you should inform your key District Director of all changes in your name or address.

Generally, you are not liable for social security (FICA) taxes unless you file a waiver of exemption certificate as provided in the Federal Insurance Contributions Act. If you have paid FICA taxes without filing the waiver, you should contact your key District Director. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have questions about excise, employment, or other Federal taxes, contact any Internal Revenue Service office.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

The box checked in the heading of this letter shows whether you must file Form 990, Return of Organization Exempt from Income Tax. If Yes is checked, you

(over)

are required to file Form 990 only if your gross receipts each year are normally more than \$10,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

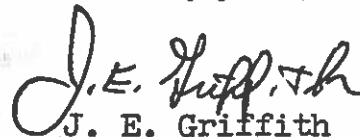
You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T. In this letter, we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

We are informing your key District Director of this action. Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



J. E. Griffith
Chief, Rulings Section

Exempt Organizations Technical Branch

DEAN G. BEIER
JAMES L. HOWLETT
KENNETH B. MCCONNELL
GEORGE A. GOOGASIAN
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LAW OFFICES OF
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BLOOMFIELD HILLS, MICHIGAN 48013
TELEPHONE 313 645-9400

OF COUNSEL
MILO M. ROUSE

June 2, 1981

City of Birmingham
151 Martin Street
Birmingham, Michigan 48011

Att: Robert S. Kenning

Dear Mr. Kenning:

You have asked that we report to you on several legal questions raised by the Baldwin Library Board in its May 21, 1981, communication. These questions deal with the implementation of charter provisions which empower the Board to control donations of money and personal or real property as special trustees.

The ability of the Board to accept and use donations according to their terms is specifically set forth at MCLA 397.209 and contained in the City Charter. Thus, no specific preliminary actions need to be taken prior to acceptance of the donations. As suggested in question two, however, a resolution establishing a library trust fund and a trust account in which to deposit unrestricted donations should be adopted. Thereafter, each gift should be formally accepted by a resolution. If conditions are attached to a donation, those conditions should be acknowledged in the acceptance resolution and strictly followed by the Board.

In its final inquiry, the Board questioned the applicability of the provisions of MCLA 141.421, as amended, the Uniform Budgeting and Accounting Act, to the trust monies it may receive. That Act is divided into two substantive parts, one dealing with required financial statements and audits and one with budgeting requirements. Because the term "local unit" is defined in a different manner in the two portions of the Act, the auditing requirements would apply to the Library Board's trust monies; but the budgetary considerations do not. For purposes of the audit and financial statement requirements of MCLA 141.423 through MCLA 141.433, a "local unit" includes "an authority or

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commission established by a ... city ... ordinance or charter." The Library Board, having been created by the City Charter, fits within this meaning of "local unit". However, its trust monies are not subject to the budgetary considerations of MCLA 141.434 through MCLA 141.440a, as it is not a "local unit" for purposes of those provisions.

Very truly yours,

BEIER, HOWLETT, McCONNELL,
GOOGASIAN & MCCANN



Jane B. Garrow

JBG:po

MEMORANDUM

RE: BALDWIN PUBLIC LIBRARY TRUST FUND

A. **Background.** The 1933 City Charter provides that with respect to public monies raised from tax revenues, the Treasurer of the City of Birmingham will act as the Treasurer of the Library. Hence, all funds derived from the City of Birmingham taxes, State of Michigan receipts, or receipts from contractual communities, are deposited with and disbursed by the Treasurer of the City of Birmingham, pursuant to direction of the Library Board. The 1933 City Charter provided that with respect to gifts or bequests to the Library, the Board of Directors of the Library were authorized to act as special Trustees of these funds, to be held a part and separate from funds held by the City Treasurer. For many years, this provision was not activated, largely due to the fact gifts and bequests were modest, sporadic and intended for current expenditure.

At the time of the 1981 major addition to the Library, the Library Board decided to activate the City Charter provision to encourage citizens to make lifetime gifts or death time bequests. Appropriate steps were taken, including the approval of counsel and the securing from the Internal Revenue Service of the appropriate qualification letter so that gifts and bequests would be treated as charitable contributions. At the same time, the Library Board publicized the existence of the Trust and its desire to secure gifts and bequests, particularly endowed gifts, for various library purposes.

Under Michigan law, endowed funds may be invested in a much broader array of investment vehicles compared to non-endowed funds. In general, non-endowed public funds can only be invested in the most conservative financial instruments, such as United

States Treasury Notes, bank certificates of deposit, or bank accounts. Endowed funds may be invested in a broader array of financial instruments, including stocks, government and non-governmental bonds and mutual funds, of course, being subject to prudent investor guidelines. The purpose of an endowed fund at the library is similar to the purpose of an endowed fund at a university or other charitable organization. A portion of the total return (interest, dividends and appreciation) is intended to be used for current expenditures, and a portion of the total return is intended to permit fund growth as an offset to inflation. In the last 20 years gifts and bequests of endowments have totaled several hundreds of thousands of dollars.

B. Current Status of the Trust Fund. As of July 31, 2005, the total funds in the Baldwin Public Library Trust totaled \$820,292. Of this, \$729,939 was in 17 specified endowment funds. Originally, the Library would permit an endowment to be established with a minimum gift or bequest of \$5,000 in order to encourage this type of donation. Subsequently, the minimum amount was increased to \$10,000. Of the 17 endowed funds, the balances as of July 31, 2005 ranged from a low of \$5,617 to a high of \$281,729. Twelve of these 17 funds have specified purposes, such as adult reading, acquisition of large print books for seniors, youth services, staff appreciation, library collections, and audio visual materials. The other five funds permit the annual distribution amount to be used for any purpose related to the Baldwin Public Library.

In addition to the endowed funds, the Trust has both general and restricted funds, having a total value as of July 31, 2005, of \$90,353. Restricted funds are those funds which are donated for a specific purpose with the intent that they will be expended within the current year. The largest single portion of restricted funds typically are monies

donated each year from the Friends of the Baldwin Library from monies raised from their own dues and from their semi-annual book sales. We presently have restricted funds of \$23,834, donated by the Friends of the Library. We also presently have general funds of \$62,869, which are unrestricted and which can be expended for any purpose. The accumulation of this portion has been slow since most gifts or bequests to the library are either for endowment or for a restricted purpose. These funds have typically been used when there is some unusual expense, not otherwise budgeted, but which is presently needed. General funds also have been used in the past for purposes such as the purchase of replacement furniture, or for landscaping improvements.

In addition to legal fiduciary responsibilities to donors, a gift or bequest to the Library Trust of an endowed fund involves a quid pro quo, that the purpose of the fund will be honored by the Library Board in their separate role as Trustees of the Baldwin Library Trust to carry out the intent of the donor.