



D I S T R I C T O F C O L U M B I A B A R
Taxation Section

Summary of the Section of Taxation's Submission

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In response to IRS Announcement 2000-84 I.R.B., 2000-42, 385 (Oct. 14, 2000), the Section of Taxation is providing comments concerning the application of Internal Revenue Code provisions governing exempt organizations to activities they conduct on the Internet.

In summary, the Internet is becoming an increasingly important medium over which exempt organizations carry on their activities. Small and large exempt organizations are for all intents and purposes on a level playing field in their unprecedented ability to disseminate information, solicit contributions from potential donors, and connect with other websites and organizations. Exempt organizations, however, face a great deal of uncertainty concerning how activities conducted over the Internet will be characterized under federal income tax law. The risks, including loss of exemption and unrelated trade or business taxable income issues, are far greater for smaller organizations that may, for example, receive the bulk of their support from Internet-related activities. Further, risks are not confined to exempt organizations in this new electronic frontier, but also extend to donors who face the risk that their contributions may not be deductible as charitable contributions.

While the Internet presents unique challenges because of its novelty as a medium of communication, transactions over the Internet can often be analogized to transactions over non-Internet mediums. Where possible, we recommend that the Internal Revenue Service should use existing law as applied to analogous situations in non-Internet mediums to guide characterization of transactions over the Internet. Where this is not possible, though, we believe that exempt organizations and donors will be best served by the provision of guidance setting forth various safe harbor rules with respect to a number of arrangements that currently inundate the Internet.

We have provided comments on the following six Internet related topics: (i) links to sponsor websites for fixed-fee consideration, (ii) affiliate merchant websites, (iii) third-party donation websites and charity malls, (iv) e-mail substantiation, (v) the Internet as a force in voter education, and (vi) sharing of websites by related organizations.

¹ The views expressed herein represent only those of the Section of Taxation of the District of Columbia Bar and not those of the District of Columbia Bar or its Board of Governors. The Section of Taxation is comprised of approximately 1,500 members. These materials were prepared by Brian Menkes, Vice Chairperson of the Exempt Organization Committee, and Committee members and subscribers Ruth Kent, Krisanne Schlachter, James Joseph, David Marshall, and Beth Kingsley, and approved by the Steering Committee of the Section of Taxation (Catherine E. Livingston and Judith C. Dunn having recused themselves.)



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February 13, 2001

Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224
Attention: Judith E. Kindell
T:EO

Dear Ms. Kindell:

On behalf of the Section of Taxation of the District of Columbia Bar,¹ we are providing, in response to Announcement 2000-84 I.R.B., 2000-42, 385 (Oct. 14, 2000), comments concerning the application of Internal Revenue Code provisions governing exempt organizations to activities they conduct on the Internet.

The Internet is becoming an increasingly important medium over which exempt organizations carry on their activities. Small and large exempt organizations are for all intents and purposes on a level playing field in their unprecedented ability to disseminate information, solicit contributions from potential donors, and connect with other websites and organizations. Exempt organizations, however, face a great deal of uncertainty concerning how activities conducted over the Internet will be characterized under federal income tax law. The risks, including loss of exemption and unrelated trade or business taxable income issues, are far greater for smaller organizations that may, for example, receive the bulk of their

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Please contact us if you would like more information about these comments or we can be of assistance in any other way.

Sincerely,

Brian J. Menkes, Vice-Chair
Exempt Organization Committee
Section of Taxation
District of Columbia
(202) 663-6626