

An organization which promotes and fosters the development and design of machinery in connection with commercial operation, and in connection therewith has the power to sell, assign, and grant licenses with respect to its copyrights, trademarks, trade names, or patent rights, does not qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

Advice has been requested whether a foundation organized and operated as described herein qualifies for exemption from Federal income tax under the provisions of section 501(a) of the Internal Revenue Code of 1954, as a scientific organization described in section 501(c)(3) of the Code.

The primary purposes of the organization are to foster the development and design of labor saving agricultural machinery, including the development of new labor saving ideas and methods, and to conduct pertinent research. In connection with the foregoing purposes, the organization is empowered to acquire and to hold, own, use, and to sell, design, and grant licenses or territorial rights and to otherwise dispose of, assign, and lease any copyrights, trade names, or letters patent of the United States.

In carrying out its purposes, the organization undertakes projects to determine the need for the development of agricultural machinery which can plant, cultivate or harvest crops of the type which are normally planted, cultivated or harvested manually by agricultural laborers.

Upon selecting a project to be developed, the organization consults with various public institutions, agricultural colleges, and engineers to ascertain if any similar projects are in process. If not, a grant is made by the organization to an appropriate public agency or firm to develop the necessary machinery. A committee then follows up the development under actual field conditions during the agricultural season. If a machine proves successful, a patent is sought in the organization's name and a manufacturer is licensed to build and sell the machine or device on an exclusive or non-exclusive basis. Any royalties received by the organization are then used to develop additional machines for other projects. The successful development of such machinery is expected to ultimately result in reducing the cost of the particular crops to the public.

Section 501(c)(3) of the Code provides for the exemption from taxation of:

(3) Corporations \* \* \* organized and operated exclusively for \* \* \* scientific \* \* \* purposes \* \* \* no part of the net earnings of which inures to the benefit of

any private shareholder or individual, \* \* \*.

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 one or more exempt purposes unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(5) of the regulations provides, in part, that the term 'scientific,' as used in section 501(c)(3) of the code, includes the carrying on of scientific research in the public interest. For research to be scientific within the meaning of section 501(c)(3), it must be carried on in furtherance of a scientific purpose. Scientific research does not include activities of a type ordinarily carried on as an incident to commercial or industrial operations, as, for example, the ordinary testing of materials or products or the designing or construction of equipment or buildings. Section 1.501(c)(3)-1(d)(5)(ii) of the regulations.

On the basis of the above regulations it appears clear that the development or designing of machinery under the circumstances present in the instant case is incident to a commercial operation and does not constitute 'scientific research' within the meaning of section 1.501(c)(3)-1(d)(5) of the regulations. It follows that the organization's primary activity of aiding in the development of the particular farm machinery by the disbursement of grants likewise does not constitute scientific research within the meaning of the above regulations. Furthermore, the development of a new machine, the patents of which may be licensed on a restrictive basis to selected manufacturers, is directed toward benefiting those particular manufacturers and any benefit to the public must be considered indirect. Under these circumstances the organization cannot be considered as operating for a public purpose.

Accordingly, it is held that the organization in question is not entitled to exemption from Federal income tax as one organized and operated for scientific or any other purpose described in section 501(c)(3) of the Code.