



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Number: **200602039**  
Release Date: 1/13/06  
235736/SE:T:EO:RA:T1

Date: October 19, 2005

Contact Person:

UIL: 503.00-00, 509.00-00 , 511.00-00 & 512.01-00

Identification Number:

Telephone Number:

Employer Identification Nos.

Legend

A =  
B =  
C =  
D =  
O =  
a =  
b =  
c =  
d =  
e =  
x =

Dear :

This letter responds to your request for rulings under sections 501(c)(3), 509(a), and 513 of the Internal Revenue Code.

Facts

A is a political subdivision of the State of x. A has been recognized as an organization described in sections 501(c)(3), 509(a)(1) and 170(b)(1)(A)(iii) of the Code. A is a community-based provider of extensive health care and related services. A operates integrated healthcare facilities which include hospitals with over 1,000 beds on five campuses. A maintains an open medical staff, provides medical services to the needy regardless of their ability to pay and operates an emergency room. A's Bylaws require that at all times, at least a majority of the members of its Board of Trustees consists of independent members of the community. A has

adopted a conflicts of interest policy. A carries on significant medical education and research activities.

O is an operating division of A. O is engaged in research and development of intellectual property, including patents, copyrights, processes, formulae, technology and innovations ("Intellectual Property").

B is a x public benefit, non-membership nonprofit corporation which has been recognized as an organization described in sections 501(c)(3) and 509(a)(3) of the Code. B holds interests in healthcare related entities and performs management and oversight functions for related organizations. B's Bylaws provide that A's Board of Trustees determines the number of B's Directors and appoints all of B's Directors. B's Bylaws also provide that at least a majority of B's Directors must be former members of A's Board of Trustees.

C is a x public benefit, non-membership nonprofit corporation which has been recognized as an organization described in sections 501(c)(3) and 509(a)(3) of the Code. C operates as a supporting organization for the benefit of both A and B. C's Bylaws provide that B has the power to appoint C's Board of Directors.

C's principal purposes are to develop, hold and manage Intellectual Property and carry on basic, discovery, applied and sponsored research, and research development. C holds legal title to and beneficial ownership of (or license to use) Intellectual Property developed as a result of research by the Interested Parties. (A, B and C collectively are referred to as the "Interested Parties." A, B or C individually is referred to as an "Interested Party.") C holds and manages the Intellectual Property and may sell, transfer, assign and/or license to third parties some or all of the Intellectual Property or rights to its use.

A's Board of Trustees determined that in order to most effectively and efficiently exploit the commercial and development potential of certain Intellectual Property, an independent, for-profit corporation should be established to operate for the benefit of the Interested Parties. Therefore, C established D, a for-profit corporation, as a subordinate of C. D's Board may include trustees, directors, officers or employees of the Interested Parties.

D has issued a shares of its voting common stock, all of which are outstanding. In return for C making a capital contribution of \$b to D, C received c of these shares. As compensation for services that employees and contractors provided to an Interested Party, the Interested Party directed D to issue shares of its common stock to these employees and contractors.

In addition, as compensation for services that employees and contractors provided to D, D issued shares of its common stock to these employees and contractors. A total of d shares of D common stock have been issued to employees and contractors, all of which are restricted pursuant to certain Deferred Compensation or Restricted Stock Agreements.

In the future, as compensation in whole or in part for services that employees or contractors may perform for an Interested Party or Interested Parties, the Interested Party may transfer some of the shares of D common stock that the Interested Party owns, or may grant options to purchase shares of D common stock that the Interested Party owns, to such employees or contractors.

In addition, in the future, as compensation in whole or in part for services that employees or contractors may perform for D, D may issue or transfer shares of its common stock or may grant options to purchase shares of its common stock. All shares of D common stock that subsequently may be issued to employees and contractors will be restricted.

Further, for fair value, D may issue or sell additional shares of its common stock to third parties, including an Interested Party. In addition, for fair value, C may transfer or sell some of the shares of D common stock that it owns to third parties, including another Interested Party.

In any event, at all times, the Interested Parties, in the aggregate, will own a majority of the outstanding common stock of D.

The Interested Parties have represented that they and D will at all times operate as separate, independent and autonomous organizations, and will deal with each other on an arm's-length, fair market value basis. None of the Interested Parties will be involved in the day-to-day operations or day-to-day management of D, and D will have its own employees, officers and directors, except for one officer of D who is also an officer of the Interested Parties.

A intends to transfer and assign to C all right, title and interest in certain Intellectual Property developed by O, and C intends to license to D certain Intellectual Property pursuant to license agreements. (Intellectual Property assigned by A to C and licensed by C to D is referred to as the "Licensed Intellectual Property.") The licenses C grants to D will be exclusive, except C will be permitted to sub-license the Licensed Intellectual Property to educational and/or research institutions, hospitals and nonprofit organizations for educational and research purposes.

D's purposes include:

- (a) Isolating from the Interested Parties those activities which are not substantially related to their tax-exempt purposes;
- (b) Allowing flexibility to expand non-exempt, unrelated activities through additional taxable activities and affiliations;
- (c) Providing or assisting in providing the commercial development and commercial exploitation of the Licensed Intellectual Property; and
- (d) Providing limitation of liability for legal claims.

The activities of D will include:

- (a) Holding Licensed Intellectual Property;
- (b) Selling and sub-licensing Licensed Intellectual Property to third parties;
- (c) Managing the commercial development of Licensed Intellectual Property for the benefit of an Interested Party; and

- (d) Providing various administrative and management services, in connection with the Licensed Intellectual Property, to or for the benefit of an Interested Party.

A will provide various administrative and management services to D for a fair market value fee. An Interested Party may lease real property to D at fair market value rents. Subject to the approval of the lessor-Interested Party, D may sublease the real property to third parties.

#### Rulings Requested

1. The current status of each Interested Party as an organization described in section 501(c)(3) of the Code and either sections 509(a)(1) or 509(a)(3) will not be adversely affected by the formation and capitalization of D.
2. When D is formed, each of the Interested Parties will be a “controlling organization,” and D will be a “controlled entity,” within the meaning of section 512(b)(13)(A) of the Code.
3. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D’s “net unrelated income,” if any, or the portion, if any, of D’s taxable income that would be “unrelated business taxable income” under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D’s receipt of royalties in connection with the sublicensing by D of Licensed Intellectual Property will not result in unrelated business taxable income to D to the extent that section 512(b)(2) applies to such royalties.
4. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D’s “net unrelated income,” if any, or the portion, if any, of D’s taxable income that would be “unrelated business taxable income” under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D’s receipt of rents in connection with the subleasing by D of real property owned and leased by an Interested Party to D will not result in unrelated business taxable income to D to the extent that section 512(b)(3) applies to such rents.
5. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D’s “net unrelated income,” if any, or the portion, if any, of D’s taxable income that would be “unrelated business taxable income” under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D’s issue, transfer or sale of D’s common stock or grant of options to purchase D’s common stock will not result in unrelated business taxable income to D to the extent that section 512(b)(5) applies to such sale or grant.
6. An Interested Party’s sale of D common stock or grant of options to purchase D common stock owned by the Interested Party will not result in unrelated business taxable income to the Interested Party within the meaning of sections 511 through 513 of the Code to the extent that section 512(b)(5) applies to such sale or grant.
7. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D’s “net unrelated income,” if any, or the portion, if any, of D’s taxable income that would be “unrelated business taxable income” under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D’s provision of business,

management and administrative services to or for the benefit of an Interested Party regarding Licensed Intellectual Property will not result in unrelated business taxable income to D.

8. The transfer by an Interested Party of shares of D common stock owned by the Interested Party, or grant of options to purchase D common stock owned by the Interested Party, to an employee or a contractor as compensation for services that the employee or contractor performs for an Interested Party or Interested Parties will not adversely affect the Interested Party's current status as an organization described in section 501(c)(3), section 509(a)(1) or section 509(a)(3) of the Code, provided that the total compensation paid to such employee or contractor for the services performed for the Interested Parties is reasonable in amount.
9. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, the general rules in sections 511 through 513 will apply.
10. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, an activity of D that is substantially related to an exempt purpose of an Interested Party will not result in unrelated business taxable income to D.

## Law

Section 318(a)(2)(C) of the Code provides that if 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person is considered as owning the stock owned directly or indirectly, by or for such corporation, in that proportion which the value of the stock which such person so owns bears to the value of all of the stock in such corporation.

Section 318(a)(3)(C) of the Code provides that if 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation is considered as owning the stock owned, directly or indirectly by or for such person.

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, educational or 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(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities

which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(a)-1(c) of the regulations provides that the words “private shareholder or individual” refer to persons having a personal and private interest in the activities of the organization.

Section 509(a) of the Code provides the term “private foundation” means an organization described in section 501(c)(3) other than one described in sections 509(a)(1), (2), (3), or (4).

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of “private shareholders or individuals.”

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Section 511 of the Code imposes a tax on the unrelated business taxable income of organizations exempt from federal income tax under section 501(c).

Section 512(a)(1) of the Code defines the term “unrelated business taxable income” as gross income derived by an organization from an “unrelated trade or business” regularly carried on by it, less the allowable deductions which are directly connected with such trade or business.

Section 512(b)(1) of the Code excludes dividends, interest and other payments from the computation of unrelated business taxable income.

Section 512(b)(2) of the Code excludes royalties from the computation of unrelated business taxable income.

Section 512(b)(3) of the Code excludes certain rents from the rental of certain real and personal property from computation of unrelated business taxable income.

Section 512(b)(5) of the Code provides that gains or losses from the sale, exchange or other disposition of property, other than inventory-type property, is excluded from unrelated business taxable income.

Section 512(b)(13)(A) of the Code provides special rules for certain amounts that a “controlling organization” receives from a “controlled entity.”

Section 512(b)(13)(A) of the Code provides that, notwithstanding sections 512(b)(1), (2) and (3), a “controlling organization” receiving a “specified payment” from a “controlled entity” must include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the “net unrelated income” of the controlled entity (or increases any net unrelated loss of the controlled entity).

Section 512(b)(13)(B)(i)(I) of the Code defines the term “net unrelated income,” for the purposes of a controlled entity which is not exempt from tax under section 501(a), as the portion of the entity's taxable income which would be unrelated business taxable income if such entity were exempt under section 501(a) and had the same exempt purposes as the controlling organization.

Section 512(b)(13)(B)(i)(II) of the Code defines the term “net unrelated income” for the purposes of a controlled entity which is exempt from tax under section 501(a), as the amount of the unrelated business taxable income of the controlled entity.

Section 512(b)(13)(C) of the Code defines the term “specified payment” as any interest, annuity, royalty or rent.

Section 512(b)(13)(D)(i) of the Code provides, in part, that the term “control” means, in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock of such corporation, and in any case other than a corporation or partnership, “control” means ownership of more than 50 percent of the beneficial interests in the entity.

Section 512(b)(13)(D)(ii) of the Code provides that that section 318 (relating to constructive ownership of stock) applies for purposes of determining ownership of stock in a corporation, and similar principles apply for purposes of determining ownership of interests in any other entity.

Section 513(a) of the Code defines the term “unrelated trade or business” as any trade or business the conduct of which is not substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of the purpose or function constituting the basis for its exemption under section 501.

Section 1.513-1(a) of the regulations provides, in pertinent part, that gross income of an exempt organization subject to the tax imposed under section 511 of the Code is includible in the computation of unrelated business taxable income if (1) it is income from trade or business, (2) such trade or business is regularly carried on by the organization, and (3) the conduct of such trade or business is not substantially related (other than through the production of funds) to the organization's exercise or performance of its exempt function.

Section 1.513-1(d)(2) of the regulations provides that trade or business is related to exempt purposes in the relevant sense, only where the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income); and it is substantially related, for purposes of section 513 of the Code, only if the causal relationship is a substantial one. Thus, for the conduct of trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of those purposes.

#### Analysis

#### Ruling Request No. 1

Each Interested Party has been recognized as an organization described in section 501(c)(3) of the Code and either section 509(a)(1) or section 509(a)(3). A is a community-based provider of extensive health care and related services. O is an operating division of A that is engaged in research and development of Intellectual Property. B holds interests in healthcare related entities, and performs management, and oversight functions for related organizations. C develops, holds and manages Intellectual Property and carries on basic, discovery, applied and sponsored research, and research development. C holds legal title to and beneficial ownership of (or license to use) Intellectual Property developed as a result of research by the Interested Parties. C holds and manages the Intellectual Property and may sell, transfer, assign and/or license to third parties some or all of the Intellectual Property or rights to its use.

A's Board of Trustees determined that in order to most effectively and efficiently exploit the commercial and development potential of certain Intellectual Property, an independent, for-profit corporation should be established to operate for the benefit of the Interested Parties. Therefore, C established D, a for-profit corporation, as a subordinate of C.

Following the formation and capitalization of D, each Interested Party will continue the same activities that it carried on previously. Therefore, each Interested Party will continue to be organized and operated exclusively for exempt purposes within the meaning of section 1.501(c)(3)-1(a) of the regulations. Therefore, the formation and capitalization of D will not adversely affect the current status of each Interested Party as an organization described in section 501(c)(3) of the Code and either section 509(a)(1) or section 509(a)(3).

#### Ruling Request No. 2

B's Bylaws provide that A's Board of Trustees determines the number of B's Directors and appoints all of B's Directors. B's Bylaws also provide that at least a majority of B's Directors must be former members of A's Board of Trustees.

C's Bylaws provide that B has the power to appoint C's Board of Directors.

In return for C making a capital contribution of \$b to D, C received c shares of D common stock, representing e percent of D's issued and outstanding common stock.

In the future, as compensation in whole or in part for services that employees or contractors of an Interested Party or Interested Parties may perform for the Interested Party, C may transfer some of the shares of D common stock that C owns, or may grant options to purchase shares of D common stock that C owns.

In addition, in the future, as compensation in whole or in part for services that employees and contractors of D may perform for D, D may issue or transfer shares of its common stock or may grant options to purchase shares of its common stock. All shares of D common stock that subsequently may be issued to employees and contractors will be restricted.

Further, for fair value, D may issue or sell additional shares of its common stock to third parties, including an Interested Party. In addition, for fair value, C may transfer or sell some of the shares of D common stock that it owns to third parties, including another Interested Party.



In any event, at all times, the Interested Parties, in the aggregate, will own a majority of the outstanding common stock of D.

Since at all times, the Interested Parties, will directly and indirectly own a majority of the outstanding common stock of D, under section 318(a) of the Code, the Interested Parties will control D within the meaning of section 512(b)(13)(D) of the Code. Therefore, D is a "controlled entity" with respect to each Interested Party, and each Interested Party is a "controlling organization" with respect to D, within the meaning of section 512(b)(13)(A).

#### Ruling Request No. 3

D's activities include selling and sub-licensing Licensed Intellectual Property to third parties. In return, D will receive royalties.

Therefore, for purposes of section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, under section 512(b)(2), any royalties D receives from the sublicensing of Licensed Intellectual Property to third Parties would be excluded from the computation of D's unrelated business taxable income.

#### Ruling Request No. 4

An Interested Party may lease real property to D at fair market value rents. Subject to the approval of the lessor-Interested Party, D may sublease the real property to third parties.

Therefore, for purposes of section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, under section 512(b)(3), any rents D receives from the subleasing to third parties of real property leased to D by an Interested Party would be excluded from the computation of D's unrelated business taxable income.

#### Ruling Request No. 5

D has issued a shares of its voting common stock, all of which are outstanding. As compensation for services that employees and contractors provided to D, D issued shares of its common stock to these employees and contractors. In the future, as compensation in whole or in part for services that employees or contractors may perform for D, D may issue or transfer shares of its common stock or may grant options to purchase shares of its common stock. Further, for fair value, D may issue or sell additional shares of its common stock to third parties, including another Interested Party.

Therefore, for purposes of section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, under section 512(b)(5), if D issues or transfers shares of its common stock, or grants options to purchase shares of its

common stock, to employees or contractors as compensation in whole or in part for services the employees and contractors perform for D; or if for fair value, D issues or sells additional shares of its common stock to third parties, including another Interested Party, any gain or loss that D may realize from these transactions would be excluded from unrelated business taxable income.

#### Ruling Request No. 6

In the future, as compensation in whole or in part for services that employees or contractors may perform for an Interested Party or Interested Parties, the Interested Party may transfer some of the shares of D common stock that the Interested Party owns, or may grant options to purchase shares of D common stock that the Interested Party owns.

Therefore, if an Interested Party transfers some of the shares of D common stock that it owns, or grants options to purchase shares of D common stock that it owns, to employees or contractors, as compensation in whole or in part for services the employees and contractors perform for the Interested Party, under section 512(b)(5) of the Code, any gain or loss that the Interested Party may realize from these transactions would be excluded from unrelated business taxable income within the meaning of sections 511 through 513.

#### Ruling Request No. 7

D's activities include managing the commercial development of Licensed Intellectual Property for the benefit of an Interested party and providing various administrative and management services, in connection with the Licensed Intellectual Property, to or for the benefit of an Interested Party.

Therefore, for purposes of section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D's managing the commercial development of Licensed Intellectual Property for the benefit of an Interested Party and providing various administrative and management services, in connection with the Licensed Intellectual Property, to or for the benefit of an Interested Party, will contribute importantly to the accomplishment of an Interested Party's exempt purposes. Therefore, any income that D receives from these activities will not result in unrelated business taxable income to D.

#### Ruling Request No. 8

As compensation in whole or in part for services that employees or contractors may perform for an Interested Party or Interested Parties, the Interested Party may transfer some of the shares of D common stock that the Interested Party owns, or may grant options to purchase shares of D common stock that the Interested Party owns, to such employees or contractors.

The payment of reasonable compensation by an organization described in section 501(c)(3) of the Code to its employees or contractors does not constitute prohibited inurement under section 1.501(c)(3)-1(c)(2) of the regulations, does not constitute impermissible private benefit under section 1.501(c)(3)-1(d)(1)(ii), and will not adversely affect the organization's private foundation status under section 509(a)(1), section 509(a)(2) or section 509(a)(3) of the Code.

Therefore, if an Interested Party transfers shares of D common stock that the Interested Party owns, or grants options to purchase shares of D common stock that the Interested Party owns, to employees or contractors, as compensation in whole or in part for services that these employees or contractors perform for an Interested Party or Interested Parties, as long as the total compensation paid by the Interested Parties to these employees or contractors is reasonable in relation to the total value of all services they perform for the Interested Parties, such transactions would not result in prohibited inurement under section 1.501(c)(3)-1(c)(2) of the regulations or impermissible private benefit under section 1.501(c)(3)-1(d)(1)(ii) and would not adversely affect the Interested Party's private foundation status under section 509(a)(1) or section 509(a)(3) of the Code.

#### Ruling Request No. 9

For purposes of section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, the same general rules in sections 511 through 513 will also apply to D in computing D's unrelated business taxable income.

#### Ruling Request No. 10

For purposes of section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, an activity of D that is "substantially related," within the meaning of section 1.513-1(d) of the regulations, to an exempt purpose of an Interested Party, will not result in unrelated business taxable income to D.

#### Rulings

1. The current status of each Interested Party as an organization described in section 501(c)(3) of the Code and either sections 509(a)(1) or 509(a)(3) will not be adversely affected by the formation and capitalization of D.
2. When D is formed, each of the Interested Parties will be a "controlling organization," and D will be a "controlled entity," within the meaning of section 512(b)(13)(A) of the Code.
3. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D's receipt of royalties in connection with the sublicensing by D of Licensed Intellectual Property will not result in unrelated business taxable income to D to the extent that section 512(b)(2) applies to such royalties.
4. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a)

and had the same exempt purposes as an Interested Party, D's receipt of rents in connection with the subleasing by D of real property owned and leased by an Interested Party to D will not result in unrelated business taxable income to D to the extent that section 512(b)(3) applies to such rents.

5. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D's issue, transfer or sale of D's common stock or grant of options to purchase D's common stock will not result in unrelated business taxable income to D to the extent that section 512(b)(5) applies to such sale or grant.
6. An Interested Party's sale of D common stock or grant of options to purchase D common stock owned by the Interested Party will not result in unrelated business taxable income to the Interested Party within the meaning of sections 511 through 513 of the Code to the extent that section 512(b)(5) applies to such sale or grant.
7. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, D's provision of business, management and administrative services to or for the benefit of an Interested Party regarding Licensed Intellectual Property will not result in unrelated business taxable income to D.
8. The transfer by an Interested Party of shares of D common stock owned by the Interested Party, or grant of options to purchase D common stock owned by the Interested Party, to an employee or a contractor as compensation for services that the employee or contractor performs for an Interested Party or Interested Parties will not adversely affect the Interested Party's current status as an organization described in section 501(c)(3), section 509(a)(1) or section 509(a)(3) of the Code, provided that the total compensation paid to such employee or contractor for the services performed for the Interested Parties is reasonable in amount.
9. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, the general rules in sections 511 through 513 will apply.
10. Under section 512(b)(13)(B)(i)(I) of the Code, in computing D's "net unrelated income," if any, or the portion, if any, of D's taxable income that would be "unrelated business taxable income" under section 512(a)(1) if D were exempt from tax under section 501(a) and had the same exempt purposes as an Interested Party, an activity of D that is substantially related to an exempt purpose of an Interested Party will not result in unrelated business taxable income to D.

This ruling letter is based on the understanding there will be no material changes in the facts upon which it is based.

This ruling letter does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described.

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

This ruling letter will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

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

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Lawrence M. Brauer  
Acting Manager,  
Exempt Organizations  
Technical Group 1

Enclosure:  
Notice 437