



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **200541044**

Release Date: 10/14/2005

SE:T:EO:RA:T:2

Date: 07/18/05

Contact Person:

Uniform Issue List:

501.03-08 509.02-01
501.03-21 170.07-06
501.03-30
513.00-00
514.00-00

Identification Number:

Contact Number:

Employer Identification Number:

Legend:

M =
N =
O =
P =
Q =
R =
S =

Dear :

We have considered the ruling request dated March 28, 2005, submitted on behalf of M, O, and R, by their authorized representative, relating to the federal income tax consequences under sections 501, 509, and 513 of the Internal Revenue Code arising from the merger of O and R into M. In a FAX communication dated June 21, 2005, the representative withdrew Ruling Request #5, involving sections 170, 2055, and 2522 of the Code.

FACTS:

M is an N nonprofit corporation formed in 1966. M has been recognized by the Internal Revenue Service as exempt from federal income tax as an organization described in section 501(c)(3) of the Code and as other than a private foundation under section 509(a)(2). M's principal purpose is to promote the study of the law, the diffusion of knowledge of the law, and the continuing education of prosecuting attorneys, lawyers, law enforcement personnel, and other members of the interested public.

M is a membership organization with five classes of members, as follows: (1) Active – chief prosecuting attorneys and attorneys general who act as district attorneys; (2) Associate – assistant or associate prosecuting attorneys, armed forces attorneys, various federal

prosecuting attorneys, and certain foreign governmental attorneys; (3) Alumni – former members of the M Board of Directors whose term has expired; (4) Law Student; and (5) Honorary –past presidents of M who are no longer eligible for active membership. In addition, M has approximately ten full-time employees.

O is a P nonprofit corporation formed in 1966 with the assistance of M, the American Bar Association, the American College of Trial Lawyers, and the International Academy of Trial Lawyers. O has been recognized by the Service as tax exempt under section 501(c)(3) of the Code and as other than a private foundation under sections 509(a)(1) and 170(b)(1)(A)(ii) (a school). For 29 years, O was housed in a certain identified law school, but in 1999, it relocated to another law school. The principal purpose of O is to provide continuing legal education and advocacy training for prosecuting attorneys through programs specifically tailored to meet their needs. O is the only institution devoted exclusively to training prosecutors. O has approximately 20 full-time employees.

The goal of O training is to help prosecutors fulfill their responsibilities efficiently, effectively, and ethically. To this end, O conducts approximately 20-25 national courses each year at various locations around the United States. These four and five day courses provide prosecutors, as well as their investigators and administrative personnel, with specialized training on such topics as trial advocacy, civil law, forensic evidence, white collar crime, victim advocacy, and the prosecution of drug, homicide, sexual assault, and other violent crimes.

Among the national courses offered each year by O are three special courses. The first course is designed for prosecutors who have at least one year of felony trial experience. It is a two week in-depth study of the critical role which the prosecutor plays within the criminal justice system. The second course is open only to elected or appointed prosecuting attorneys and first assistants. It provides a forum whereby senior policy making prosecutors share ideas and learn techniques to improve the administration of their offices. The third special course is a multi-disciplinary conference geared to increase participants' effectiveness in investigating, prosecuting, and handling post-sentence management of domestic violence cases and offenders, and to increase awareness and the quality of treatment of victims of domestic violence, their family members, and their communities.

In addition to these national programs, O contracts with State associations and State and local and military prosecutors' offices to present training programs tailored to meet the specific needs of prosecutors in those jurisdictions.

Q, created in 2001 by O and an identified law school, is dedicated to the promotion of the highest ethical standards for prosecutors. An Advisory Committee includes representatives from M, the National Association of Prosecutor Coordinators, and the US Department of Justice, among others.

The purpose of Q is to study and to objectively analyze legislative enactments, judicial rules and decisions, and ethics advisory opinions of interest to prosecutors, as well as proposals by bar associations, State prosecution associations, and State and national defense lawyer associations, and to provide assistance and information relating to these areas to State and local prosecutors. In addition, Q provides assistance to O, M, State and local prosecutors'

offices and organizations, and the various States in designing courses of instruction, conducting educational programs, and developing strategies for the implementation of rules of professional responsibility empathetic to the uniqueness of the prosecutorial function.

A fundamental asset of Q is its website, a resource center for prosecutors in the field who face, on a daily basis, ethical issues. Registration for the website is free and available to all full-time and part-time prosecutors who have no connection to or involvement with the representation or giving of advice to persons or entities charged with or suspected of committing crimes. A forum for prosecutors to solicit information from and share information with prosecutors from across the country is also available in the members-only portion of the website.

Another major project of Q will be the revision of the M Prosecution Standards. They were last completely reviewed and revised in 1991. A special committee will be appointed to conduct this review under the direction of Q and will ultimately submit its recommendations to the M Board of Directors.

R is an S nonstock corporation formed in 1984. The Service has recognized R as tax exempt under section 501(c)(3) of the Code and as other than a private foundation on the basis that it is a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi). The principal purpose of R is to provide prosecutors at all levels of government with the latest information, research, training and technical assistance on a wide variety of issues, including gun violence strategies, DNA forensics, child abuse, juvenile justice, traffic law, violence against women, and white collar crime. R acts as a national clearinghouse for information on the prosecutorial function. R's staff includes veteran prosecutors and researchers. Access to comprehensive justice, medical, and scientific data resources, including a nationwide network of working prosecutors, ensures that information provided by R is up to date, practical, and accurate. R staff conducts research on a broad range of criminal justice issues that are of interest to prosecutors. R has approximately 40 full-time employees.

Your authorized representative states that M, O, and R do not conduct any unrelated trade or business activities and do not own any unrelated debt-financed property. He further represents that M, O, and R have no plans to commence any such unrelated trade or business activity or to acquire any such unrelated debt-financed property after the merger.

M, O, and R plan to effect mergers of (1) O with and into M pursuant to applicable provisions of N and P law, and (2) R with and into M pursuant to applicable provisions of N and S law. In each case, M will be the surviving entity. Each such merger is subject to approval under the articles of incorporation and bylaws of the entities involved and under the applicable State laws.

The authorized representative states that while M, O, and R are "pursuing their exempt purposes diligently and successfully", they nevertheless seek to merge because, "the merger can help them to identify services that would facilitate the efforts of the nation's district attorneys, improve the delivery of services by each of the formerly separate entities, reduce or eliminate duplicative administrative functions and costs, and eliminate the requirement to file

annual federal Forms 990 for the two merged entities, reducing total tax compliance costs.” In addition, “the merger should make it possible for the surviving entity to perform all of its functions better and more comprehensively.”

The authorized representative has cited the respective State statutes (for N, P, and S) which allow for the merger of domestic, i.e., in-State, nonprofit corporations with foreign, i.e., out of State, nonprofit corporations.

Following the merger, the governance of the merged entity will be effected in accordance with N corporate law by the Board of Directors of M. The present M Board of Directors will continue to serve as the initial Board of the surviving entity. That Board, however, will receive substantial guidance and assistance from two advisory boards, established pursuant to N law and applicable provisions of M's articles of incorporation and bylaws. One board will be established for the O operating division and a second board will be established for the R operating division. The anticipation is that the initial members of these advisory boards will be the current members of the O Board of Regents and the R Board of Directors. As advisory board members are not covered under director-related statutes, M will revise the indemnity provisions of its articles of incorporation and bylaws to so cover them. It is also contemplated that the present officers of O and R will become officers of M with responsibility for their respective divisions.

Although the separate entity status of O and R will cease as a result of the transaction, the expectation is that the O and R divisions of M that succeed these separate corporations after the merger will preserve the O and R names under applicable assumed or fictitious name laws of pertinent States by filing the required State specific registrations. The present activities of M, O, and R will be continued by M after the merger.

It is contemplated that, following the merger, M will satisfy the public support requirements under section 509(a)(2) of the Code or under sections 509(a)(1) and 170(b)(1)(A)(vi).

RULINGS REQUESTED:

You request that we rule as follows:

- (1) The merger of R with and into M will not affect the exemption of M under section 501(c)(3) of the Code or the pre-merger exemption of R under section 501(c)(3).
- (2) The merger of O with and into M will not affect the exemption of M under section 501(c)(3) of the Code or the pre-merger exemption of O under section 501(c)(3).
- (3) The merger of R with and into M will not adversely affect the status of M as an organization that is not a private foundation under section 509(a)(2) of the Code, or the pre-merger status of R as an organization that is not a private foundation under sections 509(a)(1) and 170(b)(1)(A)(vi).

- (4) The merger of O with and into M will not adversely affect the status of M as an organization that is not a private foundation under section 509(a)(2) of the Code, or the pre-merger status of O as an organization that is not a private foundation under sections 509(a)(1) and 170(b)(1)(A)(ii).
- (5) The transfer of funds and assets as a result of the merger of R with and into M will not result in gain or loss being recognized by any party to the transfer. The acquisition by M of the assets of R, as successor by merger to R, will not cause unrelated business taxable income to be attributed to M or R under sections 511 through 514 of the Code.
- (6) The transfer of funds and assets as a result of the merger of O with and into M will not result in gain or loss being recognized by any party to the transfer. The acquisition by M of the assets of O, as successor by merger to O, will not cause unrelated business taxable income to be attributed to M or O under sections 511 through 514 of the Code.

LAW:

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations that are organized and operated “exclusively” for charitable, religious, educational, or other specified exempt 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 qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that, in general, an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes, and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

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 exempt purposes under Code section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase “exclusively for educational purposes” in Better Business Bureau v. United States, 236 U.S. 279 (1945), the Supreme Court of the United States stated, “This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.”

Section 1.501(c)(3)-1(d)(2) of the regulations states that the term “charitable” is used in Code section 501(c)(3) in its generally accepted legal sense and includes the advancement of

education or science, and the promotion of social welfare through various means, including efforts to defend human and civil rights secured by law.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term “educational” relates to (a) the instruction or training of the individual for the purpose of improving or developing his capabilities; or (b) the instruction of the public on subjects useful to the individual and beneficial to the community.

In Kentucky Bar Foundation v. Commissioner, 78 T.C. 921 (1982), The Tax Court held that an organization which is devoted to the improvement of the administration of justice through various means qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 65-60, 1965-1 C.B. 231, describes an organization formed for the primary purpose of developing and disseminating a body of new knowledge relating to the social sciences. The organization’s research staff consists of persons qualified by education and experience to perform scientific research in these fields. The organization conducts scientific research pursuant to contracts with governmental agencies and holds seminar courses attended by qualified members of the public. A tuition fee is charged for each course in order to recover the cost of presenting the seminar, including salaries of the professional staff. The organization’s research findings are communicated to the public through seminar courses, lectures, and public discussions, and through publications distributed free to depository libraries.

Rev. Rul. 65-60 cites the definition of the term “educational” in section 1.501(c)(3)-1(d)(3) of the regulations and the definition of the term “scientific” in section 1.501(c)(3)-1(d)(5), which states that a “scientific” organization must meet two tests: (1) It must engage in research carried on in furtherance of a “scientific” purpose, and (2) the scientific research must be carried on in the public interest. For purposes of Code section 501(c)(3), the term “scientific” includes the carrying on of research in the physical or social sciences.

Rev. Rul. 65-60 concludes that the seminars conducted by the organization depicted are “educational” within the meaning of the cited regulations and that the research activities conducted pursuant to contracts with governmental agencies is in the public interest and accordingly “scientific” within the definition cited above. Held, the organization qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 68-504, 1968-2 C.B. 211, describes a nonprofit organization formed to conduct an educational program for bank employees in a particular urban area. The organization furnishes classrooms and employs local university professors and specialists in banking law to teach courses on various banking subjects. Course work is given credit by universities. The organization provides textbooks at cost to students. It publishes a professional magazine and sponsors occasional social affairs to stimulate interest in its educational programs.

Rev. Rul. 68-504 cites the definition of the term “educational” in section 1.501(c)(3)-1(d)(3) of the regulations and states that an organization that instructs or trains individuals to improve their business or professional capabilities may be exempt from tax under section 501(c)(3) of

the Code. See Rev. Rul. 65-298, 1965-2 C.B. 163. Held, the organization qualifies for exemption under section 501(c)(3).

Rev. Rul. 71-506, 1971-2 C.B. 233, describes a nonprofit organization composed principally of heating and air conditioning engineers, although its membership also includes architects, educators, and others who have a professional interest in the fields of heating and air conditioning. It was formed to advance the arts and sciences of heating, ventilating and air conditioning, and the allied arts and sciences, for the benefit of the general public by providing facilities for research and the dissemination of scientific knowledge.

Full membership in the society is limited to persons who have had more than eight years experience in the sciences relating to heating, ventilating, or air conditioning, and who have actively practiced the profession at least four years during which they have been in charge of important work consisting of design, construction, research, development, or teaching. There are also associate members, junior members, and student members, all of whom must meet requirements as to age, training, and experience.

The society's primary activity is research carried on continuously by a full-time paid staff in its own laboratory. Some subjects of investigation include solar radiation through various materials, the phenomena of heat flow and transfer, development of data on air friction, the problems of panel heating, and the physiological effects of air conditioning upon the human body. The organization does not perform commercial tests nor does it issue reports on commercial products. Further, it has no financial interest in the scientific information it develops. All such information is made freely available to the public. The organization has conducted research and studies on a cost basis for universities and government agencies.

At its headquarters, the society maintains a library of books, periodicals, studies, and monographs relevant to its field. The library is open to members of the engineering profession, architects, scientists, teachers, and students, as well as others who are seriously interested in its contents. There is no charge imposed for use of the library.

The results of the society's research and the research papers of its members, as presented at society meetings, are disseminated through the society's three regular publications: an annual volume, a monthly journal, and an annual guide. Over the years, these data have been assembled into more than a score of model codes of minimum standards for heating, ventilating, and air conditioning. The society does not engage in activities directed at or concerned with the protection or promotion of the business interests of any of the professions represented by its membership.

The society receives support from three sources: (1) membership dues and fees; (2) receipts from publications; and (3) contributions.

Rev. Rul. 71-506 cites the definitions of the terms "educational" and "scientific" in the regulations (see above), and concludes that the society is operating in conformance therewith, as follows: scientific research is carried on in the public interest if the results are made available to the public on a nondiscriminatory basis as, for example, information published in a treatise,

thesis, trade publication, or in any form that is available to the interested public. And by operating the library, disseminating the research results, and making the model codes available to the public, the society is “educational” in that it is instructing the public on subjects useful to the individual and beneficial to the community. Held, the organization qualifies for exemption under section 501(c)(3) of the Code.

Concerning the unrelated business income tax issues presented:

Section 511 of the Code imposes a normal tax and a surtax on the unrelated business taxable income (defined in section 512) of organizations exempt from tax under section 501(c)(3) of the Code.

Section 512(a)(1) of the Code provides that the term “unrelated business taxable income” means the gross income derived by any organization from any unrelated trade or business (defined in section 513) regularly carried on by it, less the allowable deductions which are directly connected with the carrying on of such trade or business.

Section 513(a) of the Code provides that the term “unrelated trade or business” means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption.

Section 1.513-1(d)(2) of the regulations provides that a trade or business is “related” to exempt purposes only where the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income). Further, it is “substantially related”, for purposes of section 513, only if the causal relationship is a substantial one. For this relationship to exist, the production or the performance of the service from which the gross income is derived must contribute importantly to the accomplishment of exempt purposes. Whether the activities productive of gross income contribute importantly to such purposes depends in each case upon the facts and circumstances involved.

Section 514(a) of the Code defines the term “unrelated business taxable income” to include a percentage of the net income derived from “debt-financed property”. This percentage, in general, has as its numerator and denominator the average “acquisition indebtedness” and the average adjusted basis, respectively, for the year with respect to the debt-financed property.

Section 514(b)(1)(A) of the Code defines the term “debt-financed property” to mean property that is held to produce income and with respect to which there is an “acquisition indebtedness”, except that such term does not include any property substantially all the use of which is substantially related (aside from the need of the organization for income or funds) to the exercise or performance by such organization of its charitable, educational, or other exempt purposes.

Section 514(c)(1)(A) of the Code defines the term “acquisition indebtedness” to mean, with respect to any debt-financed property, the unpaid amount of –

(A) the indebtedness incurred by the organization in acquiring or improving such property;

(B) the indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) the indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

Section 1.514(b)-1(b)(1)(ii) of the regulations excludes from the definition of “debt-financed property” any property the use of which is substantially related to the exercise or performance of an organization’s charitable, educational, or other exempt purpose if 85 percent or more of such property is devoted to the organization’s exempt purposes.

Concerning the ruling requests with respect to foundation status, section 509(a)(2) of the Code provides that a section 501(c)(3) organization is other than a private foundation if (A) it normally receives more than one-third of its support in each taxable year from any combination of – (1) gifts, grants, contributions, or membership fees, and (2) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business, excluding receipts from any person or from a governmental agency which exceed the greater of \$5,000 or 1 percent of the organization’s support in such taxable year, and (B) it normally receives not more than one-third of its support in each taxable year from the combined sum of gross investment income and the excess (if any) of the amount of the unrelated business taxable income (as defined in section 512) over the amount of the tax imposed by section 511.

Section 509(a)(1) of the Code provides that a section 501(c)(3) organization is other than a private foundation if it is described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)). An organization described in section 170(b)(1)(A)(vi) is one which is referred to in section 170(c)(2) and which normally receives a substantial part of its support (exclusive of income received in the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exempt status) from a governmental unit referred to in section 170(c)(1) or from direct or indirect contributions from the general public. Section 1.170-2(b)(5)(iii)(a) of the regulations provides that the determination of whether an organization is “publicly supported” depends on the facts and circumstances in each case. However, a “mechanical test” is set forth in paragraph (b) where, in effect, “substantial” support” is interpreted to mean one-third or more (from governmental units and the general public) of total support for the current taxable year and the four years immediately preceding.

ANALYSIS:

The basis for the merger of O and R into M is the expectation that it will effect certain operational efficiencies, including the elimination of duplicative administrative functions and

costs and a reduction in total tax compliance costs. M, O, and R will continue to engage in the activities which have been deemed to be charitable and/or educational within the meaning of section 501(c)(3) of the Code. The merger is an organizational change whereby O and R will become operating divisions of M, the surviving entity. The operational changes which flow from the merger will not negate the performance by O and R of their charitable and educational functions.

The research, advisory, and educational programs of M, including the operating divisions of O and R, are designed to bring about improvements in the administration of the criminal justice system in the various States, the federal courts, and military courts. The Tax Court, in Kentucky Bar Foundation, cited above, held that essentially the same purpose warranted recognition of tax exemption under Code section 501(c)(3). The research conducted by the entities herein is "scientific" in that it is clearly in the public interest. See section 1.501(c)(3)-1(d)(5) of the regulations. Research in the social sciences is considered "scientific"; see the holding in Rev. Rul. 65-60, cited *supra*. The continuing legal education and advocacy training for prosecuting attorneys, now to be provided by O as an operating division of M, is comparable to the courses on banking subjects provided by the organization described in Rev. Rul. 68-504, also cited above. That organization qualified for exemption under Code section 501(c)(3) on the basis of its educational purposes. The activities of operating division R may be compared to those of the organization depicted in Rev. Rul. 71-506, discussed above, in that R provides prosecutors at all levels of government with the latest information, research, training, and technical assistance on such issues as gun violence strategies, DNA forensics, juvenile justice, child abuse, etc., all at no charge. And as with the organization described in Rev. Rul. 71-506, neither M nor R has any financial interest in the research and information which they develop and then disseminate.

There is nothing in the proposed changes in the articles and bylaws of M, O, and R that will cause any of these entities to fail the organizational test under Code section 501(c)(3). And the merged entity, M, will continue to operate in furtherance of charitable and educational purposes under section 501(c)(3). Further, the proposed merger does not involve the transfer of any assets to any for profit entity or to any private parties. Thus, no prohibited private benefit or inurement will result from the proposed transaction. Accordingly, M, O, and R will remain in conformance with the organizational and operational requirements stated in sections 1.501(c)(3)-1(a)(1), 1(b)(1)(i), and 1(c)(1) of the regulations.

Concerning the ruling requests involving the unrelated business income tax provisions of the Code, the proposed merger herein should not result in the carrying on of any unrelated trade or business (within the meaning of Code section 513) by the merged entity, M. It will continue to carry on the activities for which it has been recognized as tax exempt, albeit under a new organizational structure. Also, the two organizations which will merge into M, i.e., O and R, will continue to perform their exempt activities, but now as operating divisions of M. The point is that the merger will not entail the introduction of activities which are outside the scope of their exempt purposes and thus be subject to unrelated business income tax under section 511. Further, the merger will not result in the acquisition of any "debt-financed property" within the meaning of section 514(b)(1)(A) because the facts indicate that all property involved in the

transfer will be devoted to the promotion of exempt purposes within the meaning of section 501(c)(3).

Concerning foundation status, up until the time of the proposed merger, all three entities (M, O, and R) should continue to operate and receive financial support in essentially the same manner which provided the basis for determining that they qualify for classification as other than private foundations, although under different Code sections from one another, i.e., there are differing bases for their qualification. The surviving entity, M, should continue to qualify for non-private foundation status under section 509(a)(2) of the Code following the merger because its sources of support should continue to conform to the relevant support test under section 509(a)(2) and it should otherwise conform to the requirements under section 509(a)(2).

RULINGS:

Based on the foregoing, we rule as follows:

- (1) The merger of R with and into M will not adversely affect the tax exempt status of M under section 501(c)(3) of the Code or the pre-merger tax exemption of R under section 501(c)(3).
- (2) The merger of O with and into M will not adversely affect the tax exempt status of M under section 501(c)(3) of the Code or the pre-merger tax exemption of O under section 501(c)(3).
- (3) The merger of R with and into M will not adversely affect the status of M as an organization that is other than a private foundation because it is an organization described in section 509(a)(2) of the Code, or the pre-merger status of R as other than a private foundation on the basis that it is an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).
- (4) The merger of O with and into M will not adversely affect the status of M as an organization that is other than a private foundation because it is an organization described in section 509(a)(2) of the Code, or the pre-merger status of O as other than a private foundation on the basis that it is an organization described in sections 509(a)(1) and 170(b)(1)(A)(ii).
- (5) The transfer of funds and assets as a result of the merger of R with and into M will not result in gain or loss being recognized by any party to the transfer. The acquisition by M of the assets of R, as successor by merger to R, will not cause unrelated business taxable income to be attributed to M or R under sections 511 through 514 of the Code.
- (6) The transfer of funds and assets as a result of the merger of O with and into M will not result in gain or loss being recognized by any party to the transfer. The acquisition by M of the assets of O, as successor by merger to O, will not cause unrelated business taxable income to be attributed to M or O under sections 511 through 514 of the Code.

This ruling is based on the understanding that there will be no material changes in the facts upon which it is based. Any changes that may have a bearing upon the tax exempt status of M, O, or R should be reported to the Ohio Tax Exempt and Government Entities (TE/GE) Customer Service Office. The mailing address is: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The telephone number there is 877-829-5500 (a toll free number).

Pursuant to a Power of Attorney on file in this office, we are sending a copy of this letter to the authorized representative for M, O, and R.

We are also sending a copy of this ruling to the Ohio TE/GE Customer Service Office. Because this letter could help resolve any questions about the exempt status of M, O, and R, it should be kept with the permanent records of these organizations.

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

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

Thank you for your cooperation.

Sincerely,

Jane Baniewicz
Manager, Exempt Organizations
Technical Group 2

Enclosure
Notice 437