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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: MAR 15 2004

U.I.L. No.:  
501.06-00  
513.00-00

T.E.O.B.2

Employer Identification Number:

**LEGEND:**

M =  
N =  
X =  
Y =  
Z =

Dear

This is in response to the letter from the authorized representative of X, Y and Z dated February 13, 2003, in which X, Y and Z requested rulings with respect to the tax consequences of a proposed merger of X and Y and the related transactions described below.

X, Y and Z are nonstock corporations exempt from federal income tax under section 501(a) of the Internal Revenue Code as chambers of commerce described in section 501(c)(6).

X has conducted various activities as a chamber of commerce. The request summarizes X's current principal activities as follows:

1. Regional economic development and policy (transportation strategy board, stewardship forum, regional asset district initiative);
2. Promotion of coordination among governmental, civic and regional organizations;
3. Educational and workforce initiatives (relations with city of M political and city of M public schools); and,
4. Professional development training for economic development professionals to enable them to promote the region better.

The request states that these activities are intended to enhance the economy and livability of

the greater M region, thus furthering the interests of the members of X. X's members consist of various towns, chambers of commerce, and corporate members.

Y has conducted various activities as a chamber of commerce. The request summarizes the current principal activities of Y as follows:

1. Seminars specifically designed for small businesses (both members and nonmembers) that address current community needs and proposed solutions, as well as enabling the participants to compete more effectively;
2. Conferences on regional and statewide issues (economic outlook) for both members and nonmembers;
3. Sponsoring breakfasts, business showcases, expos, directories, newsletters, etc., in order to promote programs and activities which benefit the region, and demonstrate its business and social viability; and,
4. Lobbying and public policy on issues and legislation that affect the business climate.

The request states that as an ancillary, secondary program, Y assists members and other business entities to operate more economically and efficiently, with a view to increasing the economic prosperity of the greater M area. The assistance is rendered on a cost recovery (or less than cost recovery) basis.

Y's members elects its directors. Certain officers of Y, and affiliated organizations and municipal officials, also hold positions on Y's Board of Directors as ex-officio directors.

Through its operation, Z has conducted various activities as a chamber of commerce. The request summarizes Z's current principal activities as follows:

1. Coordinating and amplifying the activities of Y and X;
2. Economic development (task forces, business attractions, business site promotion);
3. Municipal economic development support; and,
4. Regional marketing and communications initiatives.

The request also states that joint activities have been undertaken by X, Y and Z. If successful, the activities will improve the social and business climate of the greater M area, and enable the members to attract and retain better employees. Z's Bylaws provide that the President of Z shall serve as President and Chief Executive officer of both X and Y.

Z's membership presently consists of four community members and thirteen business members (business entities that are the major supporters of X, Y and Z). One of the community members is an association of chambers of commerce. Bylaws submitted for one of the association's members show the membership as being open to all businesses.

The Plan of Merger ("Plan") provides for the merger of X (as the terminating corporation) into Y (the surviving corporation) under state law. The proposed merger will become effective upon the filing of the Certificate of Merger. At that time, all of the assets and liabilities of X, including employees, contracts, and the like, will be vested in Y.

The request states that the purpose of the merger is to eliminate the duplication of programs, the duplication of membership costs to members, and the unnecessary expenses of operating two distinct corporate entities. It will also coordinate the economic development activities of both X and Y, in cooperation with Z, to be conducted in Y. This also enables Y to receive support that will exceed the support now received by X and Y. Y will be retained as a separate entity, and the members of Y will continue to be involved in its management.

Pursuant to the Plan, Y's Certificate of Incorporation and bylaws will be amended and restated to satisfy the current requirements of state law, to conform to current requirements applicable to organizations exempt under section 501(c)(6) of the Code, to insert provisions protecting directors and officers from lawsuits, and to provide that a majority of Y's directors shall consist of those individuals serving on the N Committee of Z. Z will have majority control of Y's Board of Directors, Y's Executive Committee and any other committee appointed to exercise the authority of Y's Board. The request states that the purpose for allowing Z to designate a majority of the directors of Y is to further coordinate economic development activities in the N area. A minority of the Board of Directors of Y will be elected by its members, consisting in large part of former members of X and Y.

The request states that a key proposed amendment in Y's Amended and Restated Certificate of Incorporation will summarize Y's current and future activities. The corporate purpose of Y will be expanded to include the promotion of economic development to allow Y to pursue the activities formerly pursued by X. The request further states that Y's post-merger activities will be those section 501(c)(6) type activities previously conducted by both X and Y. In addition, the request states that Y, following the merger, will not be conducting any activities not conducted by X and Y prior to the merger.

The request states that Z's Certificate of Incorporation and bylaws will be amended and restated to conform to the new organizational structure as well as to reflect the disappearance of X in the merger.

In light of the representations, as summarized above, the following rulings have been requested:

That the merger of X into Y, and the resultant Amended and Restated Certificate of Incorporation and bylaws of Y and Z, as described above, and the transactions described herein:

1. Shall not cause X (as the terminating corporation in the merger) to lose its status (up to the time of its termination in the merger) as a tax exempt organization under section 501(a) of the Code, as an organization described in section 501(c)(6);
2. Shall not cause X to realize any unrelated business taxable income under sections 511 through 514;
3. Shall not cause Y (as the surviving corporation in the merger) to lose its status as a tax exempt organization under section 501(a) as an organization described in section 501(c)(6);
4. Shall not cause Y to realize any unrelated business taxable income pursuant to sections 511 through 514; and,

5. Shall not cause Z to lose its tax exemption under section 501(a) as an organization described in section 501(c)(6).

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 511(a) of the Code imposes a tax on the unrelated business taxable income of organizations described in section 501(c).

Section 512(a)(1) of the Code defines the term "unrelated business taxable income" as the gross income derived by any organization from any unrelated trade or business regularly carried on by it, less certain allowable deductions and modifications.

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 such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of the function constituting the basis of its exemption.

Section 514(a)(1) of the Code provides that a portion of the income derived from, or on account of, each debt-financed property shall be included as an item of gross income derived from unrelated trade or business.

Section 514(b) of the Code defines "debt-financed property" to mean, with certain exceptions, any property which is held to produce income and with respect to which there is an "acquisition indebtedness" at any time during the taxable year.

Section 514(c) of the Code defines "acquisition indebtedness" as the unpaid amount of indebtedness incurred in acquiring or improving the property.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

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; and it is "substantially related" only if the causal relationship is a substantial one. The regulation continues that 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.

The transfer of activities and actions described above will have no adverse effect on a determination of exempt status under section 501(c)(6) of the Code for Y following the merger or for X prior to the merger. After the merger, Y will carry on activities within the meaning of section 501(c)(6), and its activities will be those previously conducted by both X and Y. Y will not conduct any activities not conducted by either entity prior to the merger. The proposed merger of X and Y does not involve the regular carrying on of unrelated trade or business within the meaning of section 1.513-1(b) of the regulations. Nor does the transfer of cash from X, in this case, represent acquisition indebtedness incurred by X or Y. The proposed merger as described will not result in the realizing or recognizing of any unrelated business taxable income under sections 511 through 514 by either X or Y. Finally, the changes made by Z to conform to the new organizational structure resulting from the merger of X and Y will have no adverse effect on a determination of Z's exempt status under section 501(c)(6).

Accordingly, based on the information furnished, we rule as follows:

That the merger of X into Y, and the resultant Amended and Restated Certificate of Incorporation and bylaws of Y and Z, as described above, and the transactions described herein:

1. Shall not cause X (as the terminating corporation in the merger) to lose its status (up to the time of its termination in the merger) as a tax exempt organization under section 501(a) of the Code, as an organization described in section 501(c)(6);
2. Shall not cause X to realize any unrelated business taxable income under sections 511 through 514;
3. Shall not cause Y (as the surviving corporation in the merger) to lose its status as a tax exempt organization under section 501(a) as an organization described in section 501(c)(6);
4. Shall not cause Y to realize any unrelated business taxable income pursuant to sections 511 through 514; and,
5. Shall not cause Z to lose its tax exemption under section 501(a) as an organization described in section 501(c)(6).

This ruling only addresses whether the merger itself results in unrelated business taxable income.

This ruling is based on the understanding that there will be no material changes in the facts upon which it is based. Any such change should be reported to the Ohio Tax Exempt and Government Entities (TE/GE) Customer Service office. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records. A copy of this ruling is being forwarded to the Ohio TE/GE Customer Service office.

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

Because this letter could help resolve any future questions about tax consequences of the activities of X, Y and Z, you should keep a copy of this ruling in your permanent records.

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.

Sincerely,

A handwritten signature in black ink, appearing to be the name 'Michael C. Seto' written in a cursive style.

Michael C. Seto  
Acting Manager, Exempt Organizations  
Technical Group 2