

of which is the electing member organization's exempt purpose expenditures and the denominator of which is the exempt purpose expenditures of all the electing member organizations in the affiliated group.

(5) *Taxable year for which liable.* An electing member organization that is liable for all or a portion of the excise tax imposed by section 4911(a) on the excess lobbying expenditures of an affiliated group of organizations is liable for the tax as if the tax were imposed for its taxable year with which or within which ends the taxable year of the affiliated group.

(6) *Organization a member of more than one affiliated group.* If, under this paragraph (d), an organization is liable for its taxable year for two or more excise taxes imposed by section 4911(a) on the excess lobbying expenditures of two or more affiliated groups, then the organization is liable only for the greater of the two or more taxes.

(e) *Former member organization.* An electing member organization that ceases to be a member of an affiliated group of organizations, the taxable year of which is different from its own, must thereafter determine its liability under §56.4911-1 for the excise tax imposed by section 4911(a) as if its taxable year were the taxable year of the affiliated group of which it was formerly a member. An organization to which this paragraph (e) applies that is liable for the excise tax imposed by section 4911(a) is liable for the tax as if the tax were imposed for its taxable year within which ends the taxable year of the affiliated group of which it was formerly a member. The Commissioner may, at the Commissioner's discretion, permit an organization to disregard the rules of this paragraph (e) and to determine any liability under section 4911(a) based upon its own taxable year.

**§56.4911-9 Application of section 501(h) to affiliated groups of organizations.**

(a) *Scope.* This section provides rules concerning the application of the limitations of section 501(h) to members of an affiliated group of organizations (as defined in §56.4911-7(e)(1)).

(b) *Determination required.* For each taxable year of an affiliated group of

organizations, the calculations described in §1.501(h)-3(b)(1) (i) and (ii) must be made, based on the expenditures of the group. If, for a taxable year of an affiliated group, it is determined that the sum of the affiliated group's lobbying or grass roots expenditures for the group's base years exceeds 150 percent of the sum of the group's corresponding nontaxable amounts for the base years, then under section 501(h), each member organization that is an electing member organization (as defined in §56.4911-7(e)(4)) at any time in the taxable year of the affiliated group shall be denied tax exemption beginning with its first taxable year beginning after the end of such taxable year of the affiliated group. Thereafter, exemption shall be denied unless (pursuant to §1.501(h)-3(d)) the organization reapplies and is recognized as exempt as an organization described in section 501(c)(3). For purposes of this section, the term *base years* generally means the taxable year of the affiliated group for which a determination is made and the group's three preceding taxable years. Base years, however, do not include any year preceding the first year in which at least one member of the group was treated as described in section 501(c)(3).

(c) *Member organizations that are not electing organizations.* An organization that is a member of an affiliated group of organizations but that is not an electing member organization remains subject to the "substantial part test" described in section 501(c)(3) with respect to its activities involving attempts to influence legislation.

(d) *Filing of information relating to affiliated group of organizations—(1) Scope.* The filing requirements described in this paragraph (d) apply to each member of an affiliated group or organizations for the taxable year of the member with which, or within which, ends the taxable year of the affiliated group.

(2) *In general.* Each member of an affiliated group of organizations shall provide to every other member of the group, before the first day of the second month following the close of the affiliated group's taxable year, its name, identification number, and the information required under §1.6033-2(a)(2)(ii)(k) for its expenditures during

the group's taxable year and for prior taxable years of the group that are base years under paragraph (b). For groups electing under § 56.4911-7(e)(5) to have each member file information with respect to the group based on its taxable year, each member shall provide the information required by the preceding sentence by treating each taxable year of any member of the group as a taxable year for the group.

(3) *Additional information required.* In addition to the information required by § 1.6033-2(a)(2)(ii)(k), each member of an affiliated group of organizations must provide on its annual return the group's taxable year and, if the election under § 56.4911-7(e)(5) is made, the name, identification number, and taxable year identifying the return with which its consent to the election was filed.

(4) *Information required of electing member organization.* In addition to the information required by § 1.6033-2(a)(2)(ii)(k) and paragraph (d)(3) of this section, each electing member organization (as defined in § 56.4911-7(e)(4)) must provide on its annual return—

(i) The name and identification number of each member of the group, and

(ii) The appropriate calculation described in § 56.4911-8(d), if the organization is an electing member organization liable for all or any portion of the excise tax imposed by section 4911(a).

(e) *Example.* The provisions of this section may be illustrated by the following example:

*Example.* (1) M, N, and O are affiliated organizations under § 56.4911-7(a). M's taxable year ends November 30, N's, January 31, and O's, June 30. On June 20, 1979, O files Form 5768 to elect to be governed by the expenditure test. M files Form 5768 in December of 1979. Neither M nor O revokes the election, and no organization makes the election provided for in § 56.4911-7(e)(5). M, N, and O constitute an affiliated group of organizations, the first taxable year of which is the calendar year 1979.

(2) Because the organizations did not elect under § 56.4911-7(e)(5) to use their own taxable years as the group's taxable years, the expenditures of the affiliated group for its first taxable year are the expenditures made by M, N, and O during calendar year 1979, and are reported by M, N, and O on their returns for their taxable years within which falls December 31, 1979. M reports the expenditures of the affiliated group for 1979 on its return for its taxable year ending November 30, 1980; and O, on its return for its taxable year ending June 30, 1980. N is not an electing member (as defined in § 56.4911-7(e)(4)). Accordingly, under paragraph (d)(3)(i) of this section, it reports the name and identification number of each member of the group.

(3) The following tables summarize the expenditures by the affiliated group for the calendar years indicated. None of the group's lobbying expenditures for its taxable years 1979 through 1982 were grass roots expenditures.

TABLE I—GROUP'S EXPENDITURES

| Year  | Exempt purpose expenditures (EPE) | Calculation                        | Lobbying nontaxable amount (LNTA) | Lobbying expenditures (LE) |
|-------|-----------------------------------|------------------------------------|-----------------------------------|----------------------------|
| 1979  | \$400,000                         | (20%×\$400,000=)                   | \$80,000                          | \$100,000                  |
| 1980  | 300,000                           | (20%×\$300,000=)                   | 60,000                            | 100,000                    |
| 1981  | 600,000                           | (20%×\$500,000+<br>15%×\$100,000=) | 115,000                           | 120,000                    |
| 1982  | 500,000                           | (20%×\$500,000=)                   | 100,000                           | 220,000                    |
| Total | 1,800,000                         |                                    | 355,000                           | 540,000                    |

TABLE II—EXPENDITURES OF M AND O

|      | Exempt purpose expenditures |         | Lobbying nontaxable amount |        | Lobbying expenditures |        | M plus O |
|------|-----------------------------|---------|----------------------------|--------|-----------------------|--------|----------|
|      | M                           | O       | M                          | O      | M                     | O      |          |
| 1979 | 125,000                     | 100,000 | 25,000                     | 20,000 | 60,000                | 20,000 | 80,000   |
| 1980 | 100,000                     | 50,000  | 20,000                     | 10,000 | 40,000                | 40,000 | 80,000   |
| 1981 | 250,000                     | 100,000 | 50,000                     | 20,000 | 60,000                | 40,000 | 100,000  |
| 1982 | 200,000                     | 100,000 | 40,000                     | 20,000 | 160,000               | 40,000 | 200,000  |

(4) For the affiliated group's taxable years 1979, 1980, 1981, and 1982, the group has excess lobbying expenditures. Under section 4911(f)(1)(B) and § 56.4911-8(d), M and O, as electing member organizations, are liable for a portion of the 25 percent excise tax imposed on the group's excess lobbying expenditures, based on their respective shares of the lobbying expenditures of all electing member organizations. For 1979, the excess lobbying expenditures are \$20,000 (\$100,000 - \$80,000). The tax is 25% of \$20,000 or \$5,000; M must pay \$3,750 ( $(\$60,000/\$80,000) \times \$5,000 = \$3,750$ ), and O must pay \$1,250 ( $(\$20,000/\$80,000) \times \$5,000 = \$1,250$ ). For 1980, the tax is \$10,000 and each must pay \$5,000. For 1981, the tax is \$1,250, of which M must pay \$750 and O must pay \$500. For 1982, the tax is \$30,000. M must pay \$24,000 and O must pay \$6,000. M and O are not liable for any separate 4911 excise tax that otherwise would have been imposed on their separate excess lobbying expenditures.

(5) Under § 56.4911-9(b), the group must make the calculation described in § 1.501(h)-3(b)(1) for each of the group's taxable years 1979 through 1982. The following illustrates only the required calculation for the group's taxable year 1982. For its taxable year 1982, the group must determine whether it normally has made lobbying expenditures in excess of its lobbying ceiling amount. The determination takes into account the group's expenditures in base years 1979 through 1982. The sum of the group's lobbying expenditures for the base years (\$540,000) exceeds 150% of the sum of the group's lobbying nontaxable amounts for the base years ( $150\% \times \$355,000 = \$532,500$ ). Therefore, for its taxable year 1982, the group normally has made lobbying expenditures in excess of its lobbying ceiling amount. Under section 501(h) and § 56.4911-9(b), M is not exempt from tax under section 501(a) as an organization described in section 501(c)(3) for its taxable year beginning December 1, 1983, and O is not exempt for its year beginning July 1, 1983. Whether N's lobbying expenditures disqualify it for tax exemption at any time after January 1, 1979, is determined under the substantial part test of section 501(c)(3).

(f) *Cross reference.* For other provisions relating to members of an affiliated group or organizations, see §§ 56.4911-2(c)(4)(ii), 56.4911-4(c)(2), 56.4911-4(e), and 56.4911-5(f)(3).

**§ 56.4911-10 Members of a limited affiliated group of organizations.**

(a) *Scope.* This section provides additional rules for members of a limited affiliated group of organizations, as defined in paragraph (b) of this section (relating generally to organizations that are affiliated solely by reason of

provisions of their governing instruments that extend control solely with respect to national legislation). Except as otherwise provided in this section, §§ 56.4911-8 and 56.4911-9 do not apply to members of a limited affiliated group. Thus, as modified by this section, the regulations under sections 501(h) and 4911 apply to electing members of a limited affiliated group individually. For example, §§ 56.4911-2 through 56.4911-4, which, by their terms, include amounts described in paragraph (d) of this section, are used in applying sections 501(h) and 4911 to controlling member organizations (within the meaning of paragraph (c) of this section). Except as otherwise provided in this section, members of a limited affiliated group that are not electing organizations are subject to the substantial part test.

(b) *Members of limited affiliated group.* For purposes of section 4911, a limited affiliated group consists of two or more organizations that meet the following requirements:

(1) Each organization is a member of an affiliated group of organizations as defined in § 56.4911-7(e);

(2) No two members of the affiliated group described in paragraph (b)(1) of this section are affiliated by reason of interlocking governing boards under § 56.4911-7(b); and

(3) No member of the affiliated group described in paragraph (b)(1) of this section is, under its governing instrument, bound by decisions of one or more of the other such members on legislative issues other than national legislative issues.

Each organization in a group of organizations that satisfies the requirements of the preceding sentence is a member of the limited affiliated group.

(c) *Controlling and controlled organizations.* For purposes of this section, a member of a limited affiliated group is a controlling member organization if it controls one or more of the other members of the limited affiliated group, and a member of a limited affiliated group is a controlled member organization if it is controlled by one or more of the other members of the limited affiliated group. For purposes of the preceding