

**OPINION NO. 2003-023****Syllabus:**

1. When a new township is erected pursuant to R.C. 503.09, a proper division of the funds on hand, credits, and properties of the original township between the new township and the municipal corporation eliminated from the township should be made pursuant to R.C. 503.11 on the basis of the current tax duplicates of the areas subject to levy for the original township, the new township, and the municipal corporation, respectively.
  2. An order for the proper division of assets pursuant to R.C. 503.11 should allocate between the new township and the municipal corporation any assets of the original township that were accrued from taxes levied on the property of the township as a whole, and should allocate to the new township any assets that were accrued from taxes levied on only the unincorporated area of the township. Assets that were allocated to the original township pursuant to R.C. 707.28 upon the incorporation of the municipal corporation are subject to being allocated again, in accordance with these principles.
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**To: Sherri Bevan Walsh, Summit County Prosecuting Attorney, Akron, Ohio**

**By: Jim Petro, Attorney General, July 21, 2003**

We have received your request for an opinion concerning the division of assets upon the elimination of a municipal corporation from a township pursuant to R.C. 503.09. You have asked specifically about the interpretation of R.C. 503.11, which states:

The board of county commissioners, upon entering an order erecting a new township under section 503.09 of the Revised Code, shall include in such order *a proper division of the funds on hand, credits, and properties of the original township*, between the new township and the municipal corporation eliminated from the township, *on the basis of the respective tax duplicates subject to levy for the creation of such funds or credits, or subject to taxation for the creation of the fund from which the property was acquired.* (Emphasis added.)

Your question has arisen because freehold electors owning land in the unincorporated portion of Richland Township, acting pursuant to R.C. 503.09, have petitioned for the erection of a new township that excludes the territory of Richfield Village (currently part of Richland Township), so that the unincorporated area of Richfield Township will become a new township and the territory lying within the limits of the municipal corporation will be considered as not being located in any township. You have informed us that Summit County is under a court order to proceed with the separation of the incorporated and unincorporated areas of Richfield Township and the creation of a new township. Summit County Council has asked for guidance relating to the proper division of assets pursuant to R.C. 503.11.<sup>1</sup>

Your letter of request suggests that there are two possible interpretations of R.C. 503.11. The first is, generally, that the division of assets between the new township and Richfield Village should be based on the current percentage of tax duplicates in these respective areas. The second is that the division of assets should be based on a tracing of the date of acquisition of each item of property, with the division made on the basis of the tax duplicates that existed at the time of acquisition.

You have outlined a history of Richfield Township and Richfield Village that may be relevant to the division of assets. Richfield Village was incorporated in 1967, but the village territory remained part of Richfield Township, so that Richfield Village residents remained residents and electors of the township. At the time of incorporation, the probate court issued an order pursuant to R.C. 707.28 providing for the division of township assets between Richfield Township and Richfield Village. From the time of incorporation through the 1997 collection year, Richfield Township's operating levy was imposed on all territory within the township, including both the unincorporated and the incorporated (Richfield Village) areas. You have informed us that, from the 1997 collection year until the present, no township levies have been imposed on the incorporated area of Richfield Township. You have also

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<sup>1</sup>Pursuant to Ohio Const. art. X, § 3, Summit County has adopted a charter form of government that does not include a board of county commissioners. Under the charter, various functions that are delegated by statute to boards of county commissioners are performed, instead, by the Summit County Council. *See, e.g., State ex rel. O'Connor v. Davis*, 139 Ohio App. 3d 701, 709, 745 N.E.2d 494 (Summit County 2000) (Summit County Council is the legislative and taxing authority of the county); 2001 Op. Att'y Gen. No. 2001-020; 1994 Op. Att'y Gen. No. 94-095; 1985 Op. Att'y Gen. No. 85-039.

stated that there have been several annexations since the 1997 collection year, and there was a carry-over in general funds from 1997 to 1998.

Based upon this history, you have described three categories of property, as follows:

1. Property allocated to the Richfield Township in 1967 when the Village was incorporated. While these properties were allocated to Richfield Township in 1967, the Richfield Township at that time included the incorporated area of the Township (Village). This gives rise to the question whether this property should be subject to division at the erection of a new township that excludes the incorporated area.
2. Property acquired during the time in which incorporated Township (Village) residents were contributing through an operating levy to the general fund of the Township, from 1967 through the 1997 collection year.
3. Property acquired after the 1997 collection year.

You are seeking advice concerning the application of R.C. 503.11 to these categories of property.<sup>2</sup>

We note, initially, that we are not able, by means of this opinion, to provide a comprehensive and detailed allocation of assets between the new township and Richfield Village. The responsibility for that task has been given to the county by R.C. 503.11, and we cannot exercise that duty on behalf of the Summit County Council. Further, that task requires a careful examination of all the assets at issue, which cannot be accomplished by means of this opinion. Accordingly, this opinion simply sets forth generally principles to be considered in applying R.C. 503.11 to particular facts.

#### ***Township taxation and tax duplicates***

To understand the application of R.C. 503.11, it is helpful to review the relationship between townships and municipal corporations and the taxes they levy. Under Ohio law, when part of the territory of a township is incorporated into a municipal corporation (that is, a city or a village), the municipal territory remains part of the township (unless action is taken to remove it from the township), and residents of the municipal corporation remain taxpayers and voters of the township. *See State ex rel. Halsey v. Ward*, 17 Ohio St. 543 (1867); 1993 Op. Att'y Gen. No. 93-019; 1990 Op. Att'y Gen. No. 90-048.

Both townships and municipal corporations are subdivisions with authority to levy taxes on real property within their boundaries. *See, e.g.*, R.C. 5705.01(A); R.C. 5705.03; R.C. 5705.49. When a township includes both territory that is incorporated into a city or village and territory that is unincorporated, the township is authorized to levy taxes on all of that territory, including the territory that is incorporated. However, the township is also authorized to enact certain taxes that apply only to the unincorporated territory of the township.

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<sup>2</sup>The statutory scheme governing the erection of a new township pursuant to R.C. 503.09 also provides for the existing indebtedness of the original township to be apportioned between the new township and the municipal corporation eliminated from the township, stating that the apportionment "shall be made in proportion to the tax duplicates of the respective territories subject to levy, in order to provide for the payments of such indebtedness." R.C. 503.10. You have informed us that there is no existing township indebtedness, so R.C. 503.10 is not relevant to the current situation.

*See, e.g.*, R.C. 5575.10 (authorizing a levy “upon all the taxable property of the township outside of any municipal corporation or part thereof” to create a fund for the maintenance and repair of township roads<sup>3</sup>).<sup>4</sup> A municipal corporation, as a separate political subdivision, is authorized to levy taxes on property within its territory, whether or not that territory is located in a township that also levies taxes. *See, e.g.*, 1993 Op. Att’y Gen. No. 93-019; 1990 Op. Att’y Gen. No. 90-048. Thus, residents of a municipal corporation that is part of a township are included as taxpayers and voters of both the municipal corporation and the township.

The process of levying real property taxes is performed by the county auditor and treasurer. Each year the county auditor prepares the general tax list of the owners and values of property located in each township, municipal corporation, special district, or school district in the county, and provides the county treasurer with the duplicate of the list. *See* R.C. 319.28 (preparation by auditor of “the auditor’s general tax list and treasurer’s general duplicate of real and public utility property for the current year”). The county auditor determines the amount of taxes to be levied upon the property. R.C. 319.30. The real property taxes levied by a township or municipal corporation are extended on the tax duplicate by the county auditor of the county in which the property is located and are collected by the county treasurer. The proceeds are deposited in the treasury of the subdivision to the credit of the appropriate fund. R.C. 5705.03(C). Thus, the tax duplicates referred to in R.C. 503.11 are the lists of the owners and values of real property located in the township or municipal corporation. *See* R.C. 319.28.<sup>5</sup>

***Basing division of assets under R.C. 503.11 on historical or current tax duplicates***

In considering how to divide assets between the new township and the municipal corporation that is eliminated from the township, we look first to the language of the statute. As quoted above, R.C. 503.11 requires that an order erecting a new township under R.C. 503.09 include “*a proper division of the funds on hand, credits, and properties of the original township, between the new township and the municipal corporation eliminated from the township, on the basis of the respective tax duplicates subject to levy for the creation of such funds or credits, or subject to taxation for the creation of the fund from which the property was acquired.*” (Emphasis added.)

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<sup>3</sup>The term “township road” includes only roads in the unincorporated territory of a township. When territory is incorporated, the township roads become streets of the village or city. *See* 1988 Op. Att’y Gen. No. 88-036, at 2-169 to 2173.

<sup>4</sup>A board of township trustees may also establish taxing districts (consisting of various portions of the township, as permitted by statute) for the purpose of providing certain services to the area within each district. *See* R.C. 505.27-.33 (waste disposal district); R.C. 505.37(C) (fire district); R.C. 505.48-.55 (police district); R.C. 5573.21-.211 (road district). A taxing district is a subdivision separate from the township that creates it. *See, e.g.*, R.C. 5705.01(A) and (C); 1988 Op. Att’y Gen. No. 88-036. Your request does not mention any such taxing districts, and this opinion does not address them.

<sup>5</sup>The Revised Code also provides for various other types of taxes, and a township may receive moneys from other sources. *See, e.g.*, R.C. 319.29 (personal property tax list and duplicate); R.C. 319.34 (classified tax list and duplicate); R.C. 321.24; R.C. 5731.48 (estate tax); R.C. 5747.51-.53 (county undivided local government fund).

R.C. 503.11 begins by calling for a “proper division” of the assets of the original township. That term has been construed to mean an equitable or fair division. *See Northfield Township v. Macedonia Village*, 33 Ohio Cir. Dec. 445, 446 (Cir. Ct. Summit County 1907) (statute requiring a “proper division” of assets when a village is created out of part of a township “provides substantially for an equitable accounting between political subdivisions of the state ..., to the end that a proper division of public funds in hand and in course of collection may be made between them”); *In re Petition for Incorporation of the Village of Holiday City*, No. 92WM00011, 1993 Ohio App. LEXIS 1780, at \*15 (Williams County Mar. 31, 1993), *aff’d*, 70 Ohio St. 3d 365, 639 N.E.2d 42 (1994). Therefore, the overriding goal of the county in dividing assets pursuant to R.C. 503.11 is to seek an equitable apportionment.<sup>6</sup>

By its terms, R.C. 503.11 provides for funds that the original township has on hand to be divided between the new township and the municipal corporation on the basis of the respective tax duplicates subject to levy for the creation of such funds, for the credits of the original township to be divided between the new township and the municipal corporation on the basis of the respective tax duplicates subject to levy for the creation of such credits, and for the properties of the original township to be divided between the new township and the municipal corporation on the basis of the respective tax duplicates subject to taxation for the creation of the fund from which the property was acquired.<sup>7</sup> It is clear that all the existing assets of Richfield Township must be allocated either to the new township or to Richfield Village. R.C. 503.11 indicates that the source of each fund, credit, or property must be considered, and that the fund, credit or property should be allocated on the basis of the tax duplicates from which it was acquired.

The link in R.C. 503.11 between township assets and their sources indicates that the legislative intent was to allocate to the new township and the municipal corporation, respectively, assets derived from taxes on the territory within their boundaries. In general, this means that assets derived from taxes levied only on territory within the unincorporated area of the township should be allocated to the new township, assets derived from taxes levied

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<sup>6</sup>It is clear, as a practical matter, that no division of property will be able to ascertain that each item of property is allocated in precise relationship to the source of the assets. Regardless of the manner in which R.C. 503.11 is applied, there will be circumstances in which a reasonable approximation is the best solution possible. The implementation of R.C. 503.11 in a particular situation will require the use of reasonable judgment to determine an equitable result. We have been informed that parties participating in this process are cooperating in this regard, and we commend that cooperation.

<sup>7</sup>The language of R.C. 503.11 appears to assume that all funds on hand, credits, and properties of the township resulted from levies on real property appearing on the tax duplicates. It does not address assets that may have been acquired through other sorts of taxes or moneys derived from other sources. *See generally In re Application of Village of Eastlake for Division of Township Funds and Assets*, 88 Ohio App. 25, 96 N.E.2d 435 (Lake County 1950) (finding that assets to be divided under G.C. 3544 (now R.C. 707.28) when a portion of a township was incorporated into a village included the special assessment fund, firemans indemnity fund, general fund, gasoline or liquid fuel tax fund, funds on hand or in process of collection from the general levy upon real and personal property, and proceeds of liquor permits); 1932 Op. Att’y Gen. No. 4843, vol. III, p. 1430 (construing G.C. 3246 (now R.C. 503.02-.03) which provided, upon the division of a township, for the apportionment of the funds in the treasury “to the extent they are collected from such territory” and finding that funds that were not collected from the appropriate territory were not subject to such apportionment).

only on territory within the incorporated area of the township should be allocated to the municipality, and assets derived from taxes levied throughout the entire township should be allocated between the new township and the municipality of the basis of the respective tax duplicates of the incorporated and unincorporated areas of the township.

The language of R.C. 503.11, in itself, does not specify the date on which the values of the respective tax duplicates should be determined, and, thus, is ambiguous on that point. Accordingly, it is appropriate for us to examine other factors, including the object sought to be attained, the construction of similar statutes, and the consequences of a particular construction. R.C. 1.49(A), (D) and (E); *In re Appeal of Lemon Township Trs.*, 60 Ohio App. 1, 19 N.E.2d 277 (Butler County 1938) (construing together various statutes relating to the apportionment of township funds upon the establishment of a new township to determine the intent of the General Assembly). It is also appropriate to seek a construction that is just and reasonable and that is feasible of execution. R.C. 1.47(C) and (D). *See generally State ex rel. Village of Bay v. Cooley*, 2 Ohio N.P. (n.s.) 589, 590 (C.P. Cuyahoga County 1904) (considering R.S. 1377 (now R.C. 503.02-.03), relative to the division of property upon the division of a township, and stating: "The statutes of Ohio do not constitute a treatise on mathematics, or any exact science. They are a piece of patchwork, made at different times and drawn by different persons, and language can never be examined with great refinement in order to determine what the Legislature actually meant"), *aff'd*, 74 Ohio St. 252, 78 N.E. 369 (1906).

As your request notes, there are essentially two different approaches that could be followed in dividing the assets of the original township, one that uses historical tax duplicates and one that uses current tax duplicates. There are arguments that could be advanced in support of each, based on the object sought to be obtained and the consequences of particular construction.

#### ***Argument in favor of basing division of assets on historical tax duplicates***

Proponents of the use of historical tax duplicates, for instance, could argue that the language of R.C. 503.11 supports the approach of tracing the dates of acquisition of particular property and determining the values of the respective tax duplicates at that time. Under this argument, it could be stated that, had the General Assembly intended to refer simply to current tax duplicates, it would have ended the sentence after the words "respective tax duplicates." Inclusion of the additional language suggests that particular tax duplicates were intended, those being the historical duplicates subject to levy for the creation of particular funds or credits, or subject to taxation for the creation of the fund from which particular property was acquired. This argument is supported by the fact that there is a different tax duplicate for each year. *See* R.C. 319.28.

A person seeking to use historical tax duplicates could argue, further, that an interpretation that provides for using tax duplicates from the time of acquisition serves to promote the fairness of the division of assets by giving areas of the township credit for those instances in which their contributions in the past were greater than the current tax duplicates would indicate. This argument would assert that the most equitable allocation of assets would require tracing property back to its date of purchase to determine precisely which real estate was taxed to acquire the property and using the tax duplicates from that date. *See, e.g., Comm'rs of Fulton County v. Comm'rs of Lucas County*, 2 Ohio St. 508, 511 (1853) (considering the division of property when Fulton County was established on territory taken principally from Lucas County and stating: "the legislature has undertaken to make an equitable division of such surplus, by providing, in effect, that so much of it as was paid by

the retiring portion of the county, might be withdrawn by them, and taken to the new county, into which they were incorporated”); *see also Cooley v. State ex rel. Village of Bay*, 74 Ohio St. 252, 78 N.E. 369 (1906) (considering statutory language providing for the apportionment of funds upon the division of a township to the extent the funds were collected from the territory established into the new township), *aff’g State ex rel. Village of Bay v. Cooley*, 2 Ohio N.P. (n.s.) at 591 (describing money that had been collected from territory of a newly-created township and providing for its allocation to that township: “It is money that was paid by the people of the [newly-created] township of Bay, and was paid for township purposes; that is, their own township purposes, and for the support of their poor, and their cemeteries, and their libraries, and their ditches, not for the support of ... any other public corporation foreign to the township of Bay”).

***Argument in favor of basing division of assets on current tax duplicates***

In contrast, the argument that the assets should be divided on the basis of current values on the respective tax duplicates would be supported by the proposition that the language of R.C. 503.11 following the reference to “respective tax duplicates” merely reflects the distinction that funds or credits are obtained directly from the levy of a tax on property on a tax duplicate, whereas properties must be acquired with moneys from a fund created from a tax levy. The argument for using current tax duplicates would focus on the fact that this approach has the advantage of simplicity and ease of execution. It is hard to imagine that the General Assembly intended that a board of county commissioners should undertake the complex task of tracing back the purchase of innumerable pieces of property and computing the various percentages required to comply with the tracing-back interpretation. The process required by that interpretation would be prone to error, omission, and lack of information, thus countering the argument that it would provide for a more equitable allocation.

Further, a proponent of using current tax duplicates could argue that common practice calls for the use of current tax duplicates to allocate property upon the division of subdivisions. For example, *In re Application of Village of Eastlake for Division of Township Funds and Assets*, 88 Ohio App. 25, 96 N.E.2d 435 (Lake County 1950), concerned the division of assets pursuant to G.C. 3544 (now R.C. 707.28) when a portion of a township was incorporated into a village. The court of appeals held that it was not error for the probate court to base the distribution of property solely on the relative tax duplicate values on a single date shortly after the incorporation of the village, thereby approving a method of valuation that made no effort to track the actual sources or respective contributions of the various funds. *See also Village of Buckeye Lake v. Licking County Budget Comm’n*, 21 Ohio St. 3d 12, 487 N.E.2d 294 (1986) (upholding determination by county budget commission to allocate to newly-created village a fraction of the undivided local government fund previously allocated to the township in which the village’s territory had been located, finding this a practical solution in light of the fact that no actual figures or reliable estimates were available); 1932 Op. Att’y Gen. No. 4843, vol. III, p. 1430, at 1432 (considering the allocation of assets upon the division of a township under G.C. 3246 (now R.C. 502-.03) and finding that the general fund and road and bridge fund should be divided “in the proportion that the taxable property in [the newly-created township] bears to the taxable property in [the remaining territory of the original township]”). Recent action by the General Assembly also indicates an intent to base property division on current information that is susceptible of ready determination. *See* 1999-2000 Ohio Laws, Part I, 562, 563 (Sub. H.B. 91, eff. Nov. 3, 1999) (amending R.C. 503.02, which governs the apportionment of funds upon the division or partition of a township, to state: “This apportionment may take into account the

taxable property valuation, population, or size of the portions created by the division or partition, as well as any other readily ascertainable criteria”).

***Conclusion in favor of basing division of assets on current tax duplicates***

Having considered the arguments in favor of the use of historical tax duplicates and the use of current tax duplicates for the division of assets pursuant to R.C. 503.11, we find that it is a close question. There is little authority on the subject, and both arguments have some merit. On balance, however, we find that basing the division of assets on current tax duplicates is the better result. It is consistent with the history and application of related statutes and provides for a more objective and practical result, with easier computation and more certain determination of applicable figures.

Construing R.C. 503.11 to effect this result, we read the language “respective tax duplicates subject to levy for the creation of such funds or credits, or subject to taxation for the creation of the fund from which the property was acquired” to apply to the current tax duplicates subject to levy for the areas comprising the new township and the village. We note, however, that it is appropriate to allocate to the new township alone any assets derived from levies that are limited to the unincorporated area of the township, even as it is appropriate for the village to retain any assets derived from taxes levied only on its territory. We read the language of R.C. 503.11 following the term “respective tax duplicates” to mean that only assets derived from taxes levied on the entire area of the original township are to be divided between the new township and the village.

We conclude, accordingly, that when a new township is erected pursuant to R.C. 503.09, a proper division of the funds on hand, credits, and properties of the original township between the new township and the municipal corporation eliminated from the township should be made pursuant to R.C. 503.11 on the basis of the current tax duplicates of the areas subject to levy for the original township, the new township, and the municipal corporation, respectively.

***Application of R.C. 503.11 to particular property***

You have asked specifically about three different types of property, and whether these types of property are subject to division pursuant to R.C. 503.11. We consider first the property that was allocated to Richfield Township in 1967 when Richfield Village was incorporated. The allocation of property at that time was made pursuant to R.C. 707.28, which then applied only upon the incorporation of a village, but now applies also upon the incorporation of a city. *See* 1977-1978 Ohio Laws, Part II, 2084, 2088 (Am. Sub. H.B. 218, eff. Aug. 22, 1978). Pursuant to R.C. 707.28, when a portion of a township is incorporated and application is made, the probate court must make a proper division of the real and personal property of the township and of the funds that are in the township treasury or in the process of collection, and must transfer the appropriate property or funds to the village or city. The allocation of property pursuant to R.C. 707.28 is authorized whether the incorporated territory remains part of the township or is removed from the township. *See Village of Roaming Shores v. Morgan Township*, 9 Ohio App. 3d 49, 458 N.E.2d 394 (Ashtabula County 1983); 1949 Op. Att’y Gen. No. 687, p. 330, at 336-37. *See generally* 1962 Op. Att’y Gen. No. 3170, p. 601.

In the instant case, Richfield Village remained part of Richfield Township, and Richfield Township retained responsibility for township governance of both the unincorporated territory of the township and the portion of the township that was incorporated into



the village. Thus, it appears that the allocation of property pursuant to R.C. 707.28 was not performed in contemplation of complete separation of the township and village, but rather anticipated that the village would remain part of the township and would receive township services from the village. *See generally State ex rel. Halsey v. Ward*, 17 Ohio St. at 546 (there is no difficulty in the "existence and harmonious working" of a township and a municipal corporation within the limits of the township). Therefore, the property allocated to Richfield Township in 1967 should be treated as other property of the township and allocated between the new township and the village on the basis of the respective tax duplicates, according to the principles discussed above.<sup>8</sup>

You have also asked specifically about the allocation of property acquired by the original township from 1967 through the 1997 collection year, and property acquired following that date. You state that, from 1967 through the 1997 collection year, the township taxed both the incorporated and unincorporated areas of the township. Therefore, the village residents, as residents of the township, were contributing to the expenses of the township. It is evident that property acquired with funds acquired from such tax levies should be divided between the new township and the village. For the reasons discussed above, the division should be based on current tax duplicates.

You have informed us that, after the 1997 collection year, the original township levied no taxes on property in the village, although it did levy taxes on property in the unincorporated area of the township.<sup>9</sup> To the extent that taxes were levied only on the unincorporated territory of the township, assets derived from those levies should be consid-

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<sup>8</sup>It is possible that an allocation under R.C. 707.28 may include certain assets that are applicable only to the unincorporated portion of the township. For example, because township roads become village streets upon the incorporation of a village, it would be possible to allocate to the village the assets used for the maintenance and repair of roads (now streets) within its boundaries, and to allocate to the unincorporated areas of the township the corresponding assets used for roads in the unincorporated areas of the township. *See generally State ex rel. Halsey v. Ward*, 17 Ohio St. 543 (1867); *Village of Roaming Shores v. Morgan Township*, 9 Ohio App. 3d 49, 51, 458 N.E.2d 394 (Ashtabula County 1983) (Hofstetter, P.J., dissenting). In the event of such an allocation, it appears that assets that were awarded to the original township for the use of only the unincorporated area of the township would not be subject to division between the new township and the municipal corporation on the basis of current tax duplicates pursuant to R.C. 503.11, but would, instead, be allocated entirely to the new township. Any assets allocated to the township that were intended for the use of the township as a whole, including the incorporated area of the township, would be subject to being divided again pursuant to R.C. 503.11. In the instant case, the facts you have provided do not indicate whether any assets were allocated to Richfield Township for use by only the unincorporated area of the township.

<sup>9</sup>We are not certain how this situation could occur. It is our understanding that, as long as territory within a municipal corporation remains within a township that is not coextensive with its boundaries, the residents of the municipal corporation, like other residents of the township, are responsible for providing financial support to the township. *See, e.g.*, 1993 Op. Att'y Gen. No. 93-019 (syllabus, paragraph 3) ("[w]hen a municipal corporation is located within the boundaries of a township but does not have boundaries that are identical to those of the township, and when no steps have been taken to alter the boundaries, residents of the municipal corporation must be assessed the same township tax rate within the ten-mill limitation as residents of the unincorporated areas of the township, except as otherwise provided by statute"); 1990 Op. Att'y Gen. No. 90-048; 1969 Op. Att'y Gen. No. 69-055.

ered assets of the unincorporated territory (new township) and should not be divided with the village.

We conclude, therefore, that an order for the proper division of assets pursuant to R.C. 503.11 should allocate between the new township and the municipal corporation any assets of the original township that were accrued from taxes levied on the property of the township as a whole, and should allocate to the new township any assets that were accrued from taxes levied on only the unincorporated area of the township. Assets that were allocated to the original township pursuant to R.C. 707.28 upon the incorporation of the municipal corporation are subject to being allocated again, in accordance with these principles.

For the reasons set forth above, it is my opinion, and you are advised, as follows:

1. When a new township is erected pursuant to R.C. 503.09, a proper division of the funds on hand, credits, and properties of the original township between the new township and the municipal corporation eliminated from the township should be made pursuant to R.C. 503.11 on the basis of the current tax duplicates of the areas subject to levy for the original township, the new township, and the municipal corporation, respectively.
2. An order for the proper division of assets pursuant to R.C. 503.11 should allocate between the new township and the municipal corporation any assets of the original township that were accrued from taxes levied on the property of the township as a whole, and should allocate to the new township any assets that were accrued from taxes levied on only the unincorporated area of the township. Assets that were allocated to the original township pursuant to R.C. 707.28 upon the incorporation of the municipal corporation are subject to being allocated again, in accordance with these principles.