

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

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Parent =

Distributing 1 =

Distributing 2 =

Controlled 1 =

Controlled 2 =

Newco =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 1A =

Sub 1B =

Partnership =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 6A =

Sub 8A =

Sub 8B =

Sub 11A =

Sub 11B =

Sub 11C =

Sub 11D =

Sub 11E =

Sub 11F =

News sub =

Shareholder A =

Financial Advisor =

Business A =

Business B =

Business C =

Country A =
a =
b =
c =

This letter responds to your October 16, 1998 request for rulings on certain federal income tax consequences of a proposed transaction. The information submitted in that request and later correspondence is summarized below.

Summary of Facts

Parent is the common parent of an affiliated group that conducts Business A, Business B, and Business C. Parent wholly owns Distributing 2. Distributing 2 wholly owns Sub 1, Sub 2, Sub 3, Distributing 1, and Controlled 2. Sub 1 wholly owns Sub 1A, and Sub 1A wholly owns Sub 1B. Distributing 1 owns a 51 percent general partner interest in Partnership, 30 percent of Sub 4, and all of Sub 5, Sub 6, Sub 7, Sub 8, Sub 9, Sub 10, and Sub 11. Sub 6 wholly owns Sub 6A. Sub 8 wholly owns Sub 8A, and Sub 8A wholly owns Sub 8B. Sub 11 wholly owns Sub 11A and Sub 11B. Sub 11A wholly owns Sub 11C and Sub 11D. Sub 11B wholly owns Sub 11E, and Sub 11E wholly owns Sub 11F. Parent, Distributing 1, Distributing 2, Sub 1, Sub 2, Sub 3, Sub 6, Sub 7, Sub 8, Sub 9, Sub 10, Sub 11, Sub 11A, and Sub 11B are domestic corporations and join in the filing of a consolidated federal income tax return. Sub 1A, Sub 1B, Sub 4, Sub 5, Sub 6A, Sub 8A, Sub 8B, Sub 11C, Sub 11D, Sub 11E, and Sub 11F are foreign corporations and do not join in the consolidated return. Distributing 1 owes Parent a dollars (the "Intercompany Receivable").

Parent has two classes of common stock outstanding, Type A Common Stock and Type B Common Stock. The Type A Common Stock has one vote per share and is publicly held. The Type B Common Stock has ten votes per share and is convertible at any time into Type A Common Stock on a share-for-share basis. Shareholder A and certain trusts of which Shareholder A is the settlor (the "Trusts") own all of the Type B Common Stock.

We have received financial information indicating that Business A and Business B as conducted by Distributing 1 each has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

To further certain business goals, Distributing 1 wishes either to raise substantial capital through a stock offering or to use stock in making acquisitions. Parent's Financial Advisor has concluded in a series of reasoned and detailed letters that this stock would have materially greater value for both purposes if Distributing 1 (with Business B and Business C) were separated from Parent (with Business A).

Proposed Transaction

To accomplish this separation, Parent has proposed the following transaction:

(i) Distributing 2 will contribute the stock of Sub 1, Sub 2, Sub 3, and recently acquired Newsub to Distributing 1 (the "First Contribution"). Each of these subsidiaries is engaged in Business B or Business C.

(ii) Parent will contribute b dollars of the Intercompany Receivable (the "Contributed Receivable") to Distributing 2 (the "Second Contribution").

(iii) Distributing 2 will contribute the Contributed Receivable to Distributing 1 (the "Third Contribution").

(iv) Distributing 1 will form Newco, a Country A corporation, and Newco will purchase for cash the Business B assets held by Sub 8B in a taxable transaction (the "Purchase").

(v) Distributing 1 will contribute its Business A assets to newly formed Controlled 1. These assets include the 51 percent interest in Partnership, the business of managing Partnership, and all the stock of Sub 4, Sub 5, Sub 6, Sub 7, and Sub 8 (the "Fourth Contribution").

(vi) Distributing 1 will distribute the stock of Controlled 1 to Distributing 2 (the "First Distribution").

(vii) Distributing 2 will contribute to newly formed Controlled 2 all the stock of Distributing 1 in exchange for Type C Common Stock and Type D Common Stock, the terms of which are similar to those of Type A Common Stock and Type B Common Stock, respectively (the "Fifth Contribution").

(viii) Controlled 2 will borrow c dollars under a new bank credit facility and lend the proceeds to Distributing 1. Distributing 1 will use the proceeds to repay the balance of the Intercompany Receivable retained by Parent.

(ix) Distributing 2 will distribute all of the Controlled 2 stock to Parent (the "Second Distribution").

(x) Shareholder A and the Trusts will convert enough Type B Common Stock into Type A Common Stock to insure that more than 80 percent of the value of all shares of Controlled 2 will be distributed on the Type A Common Stock in the Third Distribution (described in step (xi)) (the "Conversion").

(xi) Parent will distribute the Type C Common Stock pro rata to holders of the Type A Common Stock and the Type D Common Stock pro rata to holders of the Type B Common Stock (the "Third Distribution").

(xii) Within one year following the Third Distribution, Controlled 2 will issue a significant amount of its stock in either a public offering or an acquisition.

Representations

The First Contribution

The taxpayer has made the following representations regarding the First Contribution:

(a) No stock or securities will be issued for services rendered to or for the benefit of Distributing 1 in connection with the First Contribution, and no stock or securities will be issued for indebtedness of Distributing 1 that is not evidenced by a security or for interest on indebtedness of Distributing 1 that accrued on or after the beginning of the holding period of Distributing 2 for the debt.

(b) The First Contribution is not the result of the solicitation by a promoter, broker, or investment house.

(c) Distributing 2 will not retain any rights in the property transferred to the Distributing 1 in the First Contribution.

(d) Any debt relating to the stock being transferred in the First Contribution that is being assumed (or to which such stock is subject) was incurred to acquire such stock and was incurred when such stock was acquired, and Distributing 2 is transferring all of the stock for which the acquisition indebtedness being assumed (or to which such stock is subject) was incurred.

(e) The adjusted basis and the fair market value of the assets transferred by Distributing 2 to Distributing 1 in the First Contribution will, in each instance, equal or exceed the sum of any liabilities assumed by Distributing 1 plus any liabilities to which the transferred assets are subject.

(f) Any liabilities of Distributing 2 to be assumed by Distributing 1 in the First

Contribution were incurred in the ordinary course of business and are associated with the assets to be transferred.

(g) There is no indebtedness between Distributing 2 and Distributing 1, and there will be no indebtedness created in favor of Distributing 2 as a result of the First Contribution.

(h) The transfers and exchanges in the First Contribution will occur under a plan agreed upon before the First Contribution in which the rights of the parties are defined.

(i) All exchanges in the First Contribution will occur on approximately the same date.

(j) There is no plan or intention on the part of Distributing 1 to redeem or otherwise reacquire any stock or indebtedness issued in the First Contribution.

(k) Taking into account any issuance of additional shares of Distributing 1 stock; any issuance of stock for services; the exercise of any Distributing 1 stock rights, warrants, or subscriptions; a public offering of Distributing 1 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Distributing 1 to be received in the exchange, Distributing 2 will be in "control" of Distributing 1 under § 368(c) of the Internal Revenue Code until completion of the Fifth Contribution.

(l) Distributing 1 will remain in existence and retain and use the property transferred to it in the First Contribution in a trade or business.

(m) There is no plan or intention by Distributing 1 to dispose of the property transferred in the First Contribution other than in the normal course of business operations.

(n) Each of the parties to the First Contribution will pay its or his/her own expenses, if any, incurred in connection with the First Contribution.

(o) Distributing 1 will not be an investment company under § 351(e)(1) and § 1.351-1(c)(1)(ii) of the Income Tax Regulations.

(p) Distributing 2 is not under the jurisdiction of a court in a title 11 or similar case (under § 368(a)(3)(A)), and the stock or securities received in the First Contribution will not be used to satisfy the indebtedness of such debtor.

(q) Distributing 1 will not be a "personal service corporation" under § 269A.

The Second Contribution

The taxpayer has made the following representations regarding the Second Contribution:

(r) No stock or securities will be issued for services rendered to or for the benefit of Distributing 2 in connection with the Second Contribution, and no stock or securities will be issued for indebtedness of Distributing 2 that is not evidenced by a security or for interest on indebtedness of Distributing 2 that accrued on or after the beginning of the holding period of Parent for the debt.

(s) The Second Contribution is not the result of the solicitation by a promoter, broker, or investment house.

(t) Parent will not retain any rights in the property transferred to Distributing 2 in the Second Contribution.

(u) The adjusted basis and the fair market value of the assets transferred by Parent to Distributing 2 in the Second Contribution will, in each instance, equal or exceed the sum of any liabilities assumed by Distributing 2 plus any liabilities to which the transferred assets are subject.

(v) Any liabilities of Parent to be assumed by Distributing 2 were incurred in the ordinary course of business and are associated with the assets to be transferred.

(w) There is no indebtedness between Distributing 2 and Parent, and there will be no indebtedness created in favor of Parent as a result of the transaction.

(x) The transfers and exchanges in the Second Contribution will occur under a plan agreed upon before the transaction in which the rights of the parties are defined.

(y) All exchanges in the Second Contribution will occur on approximately the same date.

(z) There is no plan or intention on the part of Distributing 2 to redeem or otherwise reacquire any stock or indebtedness issued in the Second Contribution.

(aa) Taking into account any issuance of additional shares of Distributing 2 stock; any issuance of stock for services; the exercise of any Distributing 2 stock rights, warrants, or subscriptions; a public offering of Distributing 2 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Distributing 2 to be received in the exchange, Parent will be in "control" of Distributing 2 under § 368(c).

(bb) Each of the parties to the Second Contribution will pay its or his/her own expenses, if any, incurred in connection with the Second Contribution.

(cc) Distributing 2 will not be an investment company under § 351(e)(1) and § 1.351-1(c)(1)(ii).

(dd) Parent is not under the jurisdiction of a court in a title 11 or similar case (under § 368(a)(3)(A)), and the stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.

(ee) Distributing 2 will not be a "personal service corporation" under § 269A.

The Third Contribution

The taxpayer has made the following representations regarding the Third Contribution:

(ff) No stock or securities will be issued for services rendered to or for the benefit of Distributing 1 in connection with the Third Contribution, and no stock or securities will be issued for indebtedness of Distributing 1 that is not evidenced by a security or for interest on indebtedness of Distributing 1 that accrued on or after the beginning of the holding period of Distributing 2 for the debt.

(gg) The Third Contribution is not the result of the solicitation by a promoter, broker, or investment house.

(hh) Distributing 2 will not retain any rights in the property transferred to Distributing 1 in the Third Contribution.

(ii) The adjusted basis and the fair market value of the assets transferred by Distributing 2 to Distributing 1 in the Third Contribution will, in each instance, equal or exceed the sum of any liabilities assumed by Distributing 1 plus any liabilities to which the transferred assets are subject.

(jj) Any liabilities of Distributing 2 to be assumed by Distributing 1 in the Third Contribution were incurred in the ordinary course of business and are associated with the assets to be transferred.

(kk) There is no indebtedness between Distributing 2 and Distributing 1, and there will be no indebtedness created in favor of Distributing 2 as a result of the Third Contribution.

(ll) The transfers and exchanges in the Third Contribution will occur under a plan agreed upon before the Third Contribution in which the rights of the parties are defined.

(mm) All exchanges in the Third Contribution will occur on approximately the same date.

(nn) There is no plan or intention on the part of Distributing 1 to redeem or otherwise reacquire any stock or indebtedness to be issued in the Third Contribution.

(oo) Taking into account any issuance of additional shares of Distributing 1 stock; any issuance of stock for services; the exercise of any Distributing 1 stock rights, warrants, or subscriptions; a public offering of Distributing 1 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of the Distributing 1 to be received in the exchange, Distributing 2 will be in "control" of Distributing 1 under § 368(c) until completion of the Fifth Contribution.

(pp) Distributing 1 will remain in existence and retain and use the property transferred to it in the Third Contribution in a trade or business.

(qq) There is no plan or intention by Distributing 1 to dispose of the property transferred in the Third Contribution other than in the normal course of business operations.

(rr) Each of the parties to the Third Contribution will pay its or his/her own expenses, if any, incurred in connection with the Third Contribution.

(ss) Distributing 1 will not be an investment company under § 351(e)(1) and § 1.351-1(c)(1)(ii).

(tt) Distributing 2 is not under the jurisdiction of a court in a title 11 or similar case (under § 368(a)(3)(A)), and the stock or securities received in the Third Contribution will not be used to satisfy the indebtedness of such debtor.

(uu) Distributing 1 will not be a "personal service corporation" under § 269A.

(vv) The basis in the indebtedness transferred in both the Second Contribution and the Third Contribution will be equal to its stated face value.

The Fourth Contribution and First Distribution

The taxpayer has made the following representations regarding the Fourth Contribution and the First Distribution:

(ww) Controlled 1 will not be indebted to Distributing 1 after the First Distribution.

(xx) No part of the consideration distributed by Distributing 1 in the First Distribution will be received by Distributing 2 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 1.

(yy) The five years of financial information submitted on behalf of Distributing 1

relative to Business A and Business B represents the present operations of Business A and Business B, and, regarding Distributing 1, there have been no substantial operational changes since the date of the last financial statements submitted.

(zz) Following the First Distribution, Distributing 1 and Controlled 1 each will continue the active conduct of its business independently and with its separate employees.

(aaa) The First Distribution will be carried out to facilitate (i) a Controlled 2 stock offering for cash or (ii) the use of Controlled 2 stock as acquisition currency. The First Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(bbb) There is no plan or intention by Distributing 2 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, Controlled 1 after the First Distribution.

(ccc) There is no plan or intention by either Distributing 1 or Controlled 1, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the First Distribution, other than through stock purchases meeting the requirements of § 4.05(1)(b) of Rev. Proc 96-30, 1996-1 C.B. 696, 705.

(ddd) There is no plan or intention to liquidate Distributing 1 or Controlled 1, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the First Distribution, except in the ordinary course of business.

(eee) The total adjusted basis and the fair market value of the assets transferred in the Fourth Contribution to Controlled 1 by Distributing 1 each equals or exceeds the sum of any liabilities assumed by Controlled 1 plus any liabilities to which the transferred assets are subject.

(fff) Any liabilities assumed in the Fourth Contribution and any liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.

(ggg) No intercorporate debt will exist between Distributing 1 and Controlled 1 at the time of, or after, the First Distribution.

(hhh) Immediately before the First Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13, as published by T.D. 8597). Further, any excess loss account Distributing

1 may have in the Controlled 1 stock that is required to be included in income as a result of the First Distribution will be included immediately before the First Distribution (see § 1.1502-19).

(iii) Payments made in any continuing transactions between Distributing 1 and Controlled 1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(jjj) No two parties to the First Distribution are investment companies under §§ 368(a)(2)(F)(iii) and (iv).

(kkk) The First Distribution is not part of a plan or series of related transactions (within the meaning of § 355(e)) pursuant to which one or more persons will acquire directly or indirectly stock possessing 50 percent or more of the total combined voting power of all classes of stock of either Distributing 1 or Controlled 1 entitled to vote, or stock possessing 50 percent or more of the total value of all classes of stock of either Distributing 1 or Controlled 1.

The Fifth Contribution and Second Distribution

The taxpayer has made the following representations regarding the Fifth Contribution and Second Distribution:

(lll) Controlled 2 will not be indebted to Distributing 2 after the Second Distribution.

(mmm) No part of the consideration distributed by Distributing 2 in the Second Distribution will be received by Parent as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 2.

(nnn) The five years of financial information submitted on behalf of Distributing 1 relative to Business A and Business B represents the present operations of Business A and Business B, and, regarding Distributing 1, there have been no substantial operational changes since the date of the last financial statements submitted.

(ooo) Immediately after the Second Distribution, at least 90 percent of the fair market value of the gross assets of Distributing 2, and at least 90 percent of the fair market value of the gross assets of Controlled 2, will consist of the stock and securities of controlled corporations that are engaged in the active conduct of a trade or business as defined in § 355(b)(2).

(ppp) Following the Second Distribution, Distributing 2 (through Controlled 1) and Controlled 2 (through Distributing 1) each will continue the active conduct of its business independently and with its separate employees.

(qqq) The Second Distribution will be carried out to facilitate (i) a Controlled 2 stock offering for cash or (ii) the use of Controlled 2 stock as acquisition currency. The Second Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(rrr) There is no plan or intention by Parent to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, Distributing 2 after the Second Distribution.

(sss) There is no plan or intention by either Distributing 2 or Controlled 2, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the Second Distribution, other than through stock purchases meeting the requirements of § 4.05(1)(b) of Rev. Proc 96-30.

(ttt) There is no plan or intention to liquidate Distributing 2 or Controlled 2, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Second Distribution, except in the ordinary course of business.

(uuu) The total adjusted basis and the fair market value of the assets transferred by Distributing 2 to Controlled 2 in the Fifth Contribution each equals or exceeds the sum of any liabilities assumed by Controlled 2 plus any liabilities to which the transferred assets are subject.

(vvv) Any liabilities assumed in the Fifth Contribution and any liabilities to which the transferred assets are subject were incurred in the ordinary course of business.

(www) No intercorporate debt will exist between Distributing 2 and Controlled 2 at the time of, or after, the Second Distribution.

(xxx) Immediately before the Second Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597 and as currently in effect; § 1.1502-13, as published by T.D. 8597). Further, any excess loss account Distributing 2 may have in the Controlled 2 stock that is required to be included in income as a result of the Second Distribution will be included immediately before the Second Distribution (see § 1.1502-19).

(yyy) Payments made in any continuing transactions between Distributing 2 and Controlled 2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(zzz) No two parties to the Second Distribution are investment companies under

§§ 368(a)(2)(F)(iii) and (iv).

(aaaa) The Second Distribution is not part of a plan or series of related transactions (within the meaning of § 355(e)) pursuant to which one or more persons will acquire directly or indirectly stock possessing 50 percent or more of the total combined voting power of all classes of stock of either Distributing 2 or Controlled 2 entitled to vote, or stock possessing 50 percent or more of the total value of all classes of stock of either Distributing 2 or Controlled 2.

The Third Distribution

The taxpayer has made the following representations regarding the Third Distribution:

(bbbb) Controlled 2 will not be indebted to Parent after the Third Distribution.

(cccc) No part of the consideration distributed by Parent will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Parent.

(dddd) The five years of financial information submitted on behalf of Distributing 1 relative to Business A and Business B represents the present operations of Business A and Business B, and, regarding Distributing 1, there have been no substantial operational changes since the date of the last financial statements submitted.

(eeee) Immediately after the Third Distribution, at least 90 percent of the fair market value of the gross assets of Parent will consist of stock in Distributing 2, and at least 90 percent of the fair market value of the gross assets of Distributing 2 will consist of the stock and securities of controlled corporations that are engaged in the active conduct of a trade or business as defined in § 355(b)(2). Further, at least 90 percent of the fair market value of the gross assets of Controlled 2 will consist of the stock and securities of controlled corporations that are engaged in the active conduct of a trade or business as defined in § 355(b)(2).

(ffff) Following the Third Distribution, Parent (through Distributing 2 and Controlled 1) and Controlled 2 (through Distributing 1) each will continue the active conduct of its business independently and with its separate employees.

(gggg) The Third Distribution will be carried out to facilitate (i) a Controlled 2 stock offering for cash or (ii) the use of Controlled 2 stock as acquisition currency. The Third Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(hhhh) There is no plan or intention by any shareholder who owns five percent

or more of the stock of Parent, and the management of Parent, to its best knowledge, is not aware of any plan or intention on the part of any particular remaining shareholder or security holder of Parent to sell, exchange, transfer by gift, or otherwise dispose of any stock in, or securities of, either Parent or Controlled 2 after the Third Distribution.

(iii) There is no plan or intention by either Parent or Controlled 2, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the Third Distribution, other than through stock purchases meeting the requirements of § 4.05(1)(b) of Rev. Proc 96-30.

(jii) There is no plan or intention to liquidate Parent or Controlled 2, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Third Distribution, except in the ordinary course of business.

(kkk) No intercorporate debt will exist between Parent and Controlled 2 at the time of, or after, the Third Distribution.

(lll) Immediately before the Third Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597 and as currently in effect; § 1.1502-13, as published by T.D. 8597). Further, any excess loss account Parent may have in the stock of Controlled 2 will be included in income immediately before the Third Distribution (see § 1.1502-19).

(mmm) Payments made in any continuing transactions between Parent and Controlled 2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(nnn) No two parties to the Third Distribution are investment companies under § 368(a)(2)(F)(iii) and (iv).

(ooo) The Third Distribution is not part of a plan or series of related transactions (within the meaning of § 355(e)) pursuant to which one or more persons will acquire directly or indirectly stock possessing 50 percent or more of the total combined voting power of all classes of stock of either Parent or Controlled 2 entitled to vote, or stock possessing 50 percent or more of the total value of all classes of stock of either Parent or Controlled 2.

Other Representations

(ppp) Sufficient Type B Common Stock will be converted into Type A Common Stock to insure that more than 80 percent of the value of all shares of Controlled 2 will

be distributed with respect to Type A Common Stock in the Third Distribution.

(qqqq) After the Conversion, no foreign person will own a five percent or greater interest in Parent.

(rrrr) Parent will attach to its timely filed federal income tax return for the taxable year in which the Third Distribution occurs a statement satisfying the requirements of § 1.367(e)-1T(c)(2)(iii).

(ssss) Within one year following the Third Distribution, Controlled 2 will issue a significant amount of its stock in either a public offering or an acquisition.

Rulings

The First Contribution

Based solely on the information submitted and representations made, we rule as follows on the First Contribution:

(1) No gain or loss will be recognized by Distributing 2 on the First Contribution (§ 351(a)).

(2) No gain or loss will be recognized by Distributing 1 on the First Contribution (§ 1032(a)).

(3) The basis of each asset received by Distributing 1 in the First Contribution will equal the basis of that asset in the hands of Distributing 2 immediately before the First Contribution (§ 362(a)).

(4) The holding period of each asset received by Distributing 1 in the First Contribution will include the period during which Distributing 2 held that asset (§ 1223(2)).

(5) The basis Distributing 2 has in the stock of Distributing 1 will be increased by the basis Distributing 2 has in the assets transferred in the First Contribution (§ 358).

The Second Contribution

Based solely on the information submitted and representations made, we rule as follows on the Second Contribution:

(6) No gain or loss will be recognized by Parent on the Second Contribution

(§ 351(a)).

(7) No gain or loss will be recognized by Distributing 2 on the Second Contribution (§ 1032(a)).

(8) The basis of each asset received by Distributing 2 in the Second Contribution will equal the basis of that asset in the hands of Parent immediately before the Second Contribution (§ 362(a)).

(9) The holding period of each asset received by Distributing 2 in the Second Contribution will include the period during which Parent held that asset (§ 1223(2)).

(10) The basis Parent has in the stock of Distributing 2 will be increased by the basis Parent has in the assets transferred in the Second Contribution (§ 358).

The Third Contribution

Based solely on the information submitted and representations made, we rule as follows on the Third Contribution:

(11) No gain or loss will be recognized by Distributing 2 on the Third Contribution (§ 351(a)).

(12) No gain or loss will be recognized by Distributing 1 on either the Second Contribution or the Third Contribution (§§ 1032(a), 108(e)(4), and 108(e)(6)).

(13) The basis Distributing 2 has in the stock of Distributing 1 will be increased by the basis Distributing 2 has in the assets transferred in the Third Contribution (§ 358).

The Fourth Contribution and First Distribution

Based solely on the information submitted and representations made, we rule as follows on the Fourth Contribution and the First Distribution:

(14) The Fourth Contribution followed by the First Distribution will be a reorganization under § 368(a)(1)(D). Distributing 1 and Controlled 1 each will be “a party to a reorganization” under § 368(b).

(15) No gain or loss will be recognized by Distributing 1 on the Fourth Contribution (§§ 361(a) and 357(a)).

(16) No gain or loss will be recognized by Controlled 1 on the Fourth Contribution (§ 1032(a)).

(17) The basis of each asset received by Controlled 1 in the Fourth Contribution will equal the basis of that asset in the hands of Distributing 1 immediately before the Fourth Contribution (§ 362(b)).

(18) The holding period of each asset received by Controlled 1 in the Fourth Contribution will include the period during which Distributing 1 held that asset before the Fourth Contribution (§ 1223(2)).

(19) No gain or loss will be recognized by Distributing 1 on the First Distribution (§§ 361(c)(1)).

(20) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing 2 on receipt of the Controlled 1 stock in the First Distribution (§ 355(a)(1)).

(21) The holding period of the Controlled 1 stock received by Distributing 2 will include the holding period of the Distributing 1 stock on which the First Distribution is made, provided the Distributing 1 stock is held as a capital asset on the date of the First Distribution (§ 1223(1)).

(22) The earnings and profits of Distributing 1 will be allocated as provided in §§ 312(h), 1.312-10(a), and 1.1502-33(f)(2).

(23) Provided the Fourth Contribution qualifies under § 351, Distributing 1 need not include the § 1248 amount with respect to its transfer of Sub 5 to Controlled 1 in the Fourth Contribution (§ 1.367(b)-4(b)).

The Fifth Contribution and Second Distribution

Based solely on the information submitted and representations made, we rule as follows on the Fifth Contribution and the Second Distribution:

(24) The Fifth Contribution followed by the Second Distribution will be a reorganization under § 368(a)(1)(D). Distributing 2 and Controlled 2 each will be “a party to a reorganization” under § 368(b).

(25) No gain or loss will be recognized by Distributing 2 on the Fifth Contribution (§§ 361(a) and 357(a)).

(26) No gain or loss will be recognized by Controlled 2 on the Fifth Contribution (§ 1032(a)).

(27) The basis of each asset received by Controlled 2 in the Fifth Contribution will equal the basis of that asset in the hands of Distributing 2 immediately before the

Fifth Contribution (§ 362(b)).

(28) The holding period of each asset received by Controlled 2 in the Fifth Contribution will include the period during which Distributing 2 held that asset before the Fifth Contribution (§ 1223(2)).

(29) No gain or loss will be recognized by Distributing 2 on the Second Distribution (§ 361(c)(1)).

(30) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Parent on receipt of the Controlled 2 stock in the Second Distribution (§ 355(a)(1)).

(31) The holding period of the Controlled 2 stock received by Parent will include the holding period of the Distributing 2 stock on which the Second Distribution is made, provided the Distributing 2 stock is held as a capital asset on the date of the Second Distribution (§ 1223(1)).

(32) The earnings and profits of Distributing 2 will be allocated as provided in §§ 312(h), 1.312-10(a), and 1.1502-33(f)(2).

The Third Distribution

Based solely on the information submitted and representations made, we rule as follows on the Third Distribution:

(33) No gain or loss will be recognized by Parent on the Third Distribution (§ 355(c)(1)).

(34) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Parent's shareholders on the Third Distribution (§ 355(a)(1)).

(35) The holding period of the Controlled 2 stock received by each Parent shareholder will include the period during which the shareholder held the Parent stock on which the Third Distribution is made, provided the Parent stock is held as a capital asset on the date of the Third Distribution (§ 1223(1)).

(36) The aggregate basis of the Type C Common Stock and the Type A Common Stock in the hands of a Parent shareholder will equal the aggregate basis of the Type A Common Stock held immediately before the Third Distribution by that shareholder, allocated between the Type C Common Stock and the Type A Common Stock in proportion to the relative fair market value of each on the date of the Third Distribution in accordance with § 1.358-2(a)(2) (§ 358(b)(1)).

(37) The aggregate basis of the Type D Common Stock and the Type B Common Stock in the hands of a Parent shareholder will equal the aggregate basis of the Type B Common Stock held immediately before the Third Distribution by that shareholder, allocated between the Type D Common Stock and the Type B Common Stock in proportion to the relative fair market value of each on the date of the Third Distribution in accordance with § 1.358-2(a)(2) (§ 358(b)(1)).

(38) The earnings and profits of Parent and Controlled 2 will be allocated as provided in §§ 312(h), 1.312-10(b), and 1.1502-33(e)(3).

(39) Provided that (i) Parent satisfies the requirements of § 1.367(e)-1T(c)(2)(i) of the Temporary Regulations (and the reporting requirement described in § 1.367(e)-1T(c)(2)(iii)), and (ii) Parent does not know or have reason to know that any shareholder of Parent who is not a qualified U.S. person (as defined in § 1.367(e)-1T(b)(1)(i)) is a five percent shareholder (as described in § 1.367(e)-1T(c)(2)(ii)), no gain will be recognized by Parent under § 367(e)(1) with respect to the Third Distribution.

Caveats

We express no opinion about the tax treatment of the transaction under any other provision of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the transaction not specifically covered by the above rulings. In particular, no opinion is expressed regarding the tax consequences of the Purchase described above in step (iv) or the Conversion described above in step (x).

The rulings in this letter are based on the facts and representations submitted under penalties of perjury in support of the request. This office has not verified any of the material submitted in support of the request for a ruling. Verification of that information may be required as part of the audit process.

Temporary or final regulations pertaining to one or more of the issues addressed in this ruling letter (including regulations under § 358(g)) have not yet been adopted. Therefore, this ruling will be modified or revoked if adopted temporary or final regulations are inconsistent with any conclusions in the ruling. See § 12.04 of Rev. Proc. 99-1, 1999-1 I.R.B. 6, 47-48. However, when the criteria in § 12.05 of Rev. Proc. 99-1 are satisfied, a ruling is not revoked or modified retroactively except in rare or unusual circumstances.

Procedural Matters

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Each taxpayer involved in this transaction must attach a copy of this letter to the federal income tax return of the taxpayer for the taxable year in which the transaction is completed.

Pursuant to a power of attorney on file in this office, we are forwarding a copy of this letter to the taxpayer.

Sincerely yours,
Assistant Chief Counsel (Corporate)

By Wayne T. Murray

Wayne T. Murray
Senior Technical Reviewer
Branch 4