Internal Revenue Service

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Distributing 2 =

Distributing 1 =

Controlled 1 =

Controlled 2 =

Acquiring =

Sub 1 =

Date B =

c =

Individual C =

Individual D =

Date E =

Date F =

Business I =

State K =

Business L =

This letter replies to a request dated October 13, 1999, submitted on your behalf by your authorized representative, that we supplement our letter ruling dated March 19, 1998 (PLR-121282-97)(the "Prior Ruling") regarding certain federal income tax consequences of a series of transactions, which included the distribution by Distributing 1 of all of the outstanding stock of Controlled 1 to Distributing 2 (the "Internal Spin"), followed by the distribution by Distributing 2 to its shareholders, pro rata, of all of the outstanding stock of Controlled 2 (the "External Spin"). The Prior Ruling held, *inter alia,* that both the Internal Spin and the External Spin were tax-free under sections 368(a)(1)(D) and 355 of the Internal Revenue Code. The legend, summary of facts, proposed transactions, representations, and caveats appearing in the Prior Ruling are incorporated herein by reference. Additional information was submitted in a letter dated January 27, 2000. The information submitted for consideration is summarized below.

Distributing 2, a State K corporation, is the common parent of an affiliated group of corporations filing a consolidated federal income tax return on a calendar year basis using an accrual method of accounting. Distributing 2 has one class of common stock issued and outstanding. Distributing 2's common stock is widely held and publicly traded on the New York Stock Exchange.

Distributing 2 is involved directly and through its subsidiaries in a number of diverse businesses. Prior to the transactions which were the subject of the Prior Ruling, Distributing 1 was a wholly owned subsidiary of Distributing 2 which directly and through its subsidiaries was engaged in Business I. Prior to 1995, Distributing 1 had also conducted Business L. However, the significant growth of Business L and the need, from a marketing viewpoint, to distinguish that business from Distributing 1's Business I, led to the formation in 1995 of Controlled 1 and the transfer of the Business L to it.

It was determined that Controlled 1 must build "brand" recognition for its Business L if that business was to be expanded. That required that Controlled 1 be separated from Distributing 1 because the brand recognition of Distributing 1 in Business I hindered the development and recognition of the otherwise independent brand from Controlled 1's Business L. To achieve that corporate business purpose, all of the stock of Controlled 1 was distributed by Distributing 1 to its then parent, Distributing 2, on Date B. That distribution is referred to in the Prior Ruling as the "Internal Spin."

The second distribution to Distributing 2's shareholders (referred to in the Prior Ruling as the "External Spin") consisted of substantially all of the stock of a newly-organized corporation, Controlled 2, which had been formed to hold all of the stock of Distributing 1. The corporate business purpose for the External Spin was to make Distributing 1 a separate, public company in order to provide equity ownership to all of its employees. To implement that corporate business purpose, immediately following the contribution of all of the common stock of Distributing 1 to Controlled 2, Distributing 2 distributed all of the outstanding stock of Controlled 2 to its shareholders (the "Distributing 2 Shareholder Group"), pro rata. The External Spin was made on Date E.

Acquiring is a State K corporation and, through its principal subsidiaries, is engaged in Business I. Acquiring has outstanding only common stock, which common stock is regularly traded on the New York Stock Exchange. Acquiring has no outstanding options, warrants, convertible obligations, or other similar interests with respect to its common stock, other than compensatory stock options granted to its employees which contain terms and conditions which are customary in compensatory employee stock options.

It is proposed that Controlled 2 merge with and into Acquiring in a transaction intended to qualify under section 368(a)(1)(A) of the Code. In the merger, the shareholders of Controlled 2, including the Distributing 2 Shareholder Group, will receive a combination of cash and shares of Acquiring common stock. Pursuant to section 3.1(c)(i) of the merger agreement, dated Date F, the stockholders of Controlled 2 will receive in the merger a number of shares of the common stock of Acquiring such that immediately following the consummation of the merger, the Distributing 2 Shareholder Group will own at least c percent (more than 50 percent) of the outstanding common stock of Acquiring. Moreover, as of the date of this request for private letter ruling, none of Acquiring, any corporation whose ownership of Controlled 2 common stock would be attributed (by reason of section 318(a)(2)(C)) to Acquiring or any person acting on its behalf has acquired any Controlled 2 common stock. Last, the merger agreement provides that any Controlled 2 common stock owned by Acquiring or any subsidiary at the time of the merger will not be taken into account in determining that the Distributing 2 Shareholder Group will receive in the merger Acquiring common stock representing at least c percent (more than 50 percent) of Acquiring's common stock outstanding immediately after the merger.

The only individuals who beneficially owned 5 percent or more of the common stock of Distributing 2 for the 2-year period beginning two years before the External Spin are Individual C and Individual D, and their percentage of the outstanding stock of Distributing 2 during that 2-year period remained the same. Moreover, the only individuals who beneficially owned 5 percent or more of the common stock of Controlled 2 for the 2-year period ending two years after the External Spin are Individual C and Individual D, neither of whom has disposed of any of their Controlled 2 common stock. The remaining common stock of Controlled 2 distributed in the External

Spin, since the distribution, has been owned by the public, i.e., other persons and institutions, none of which beneficially owed 5 percent or more of Controlled 2's common stock. Thus, using the principles and terminology under section 382, all of the common stock of Controlled 2 distributed in the External Spin was distributed to two individual 5-percent shareholders, i.e., Individual C and Individual D, and one public group. The merger agreement includes provisions so that the group including Individual C and Individual D and this public group, immediately after the merger, will continue to own c percent (more than 50 percent) of the outstanding stock of Acquiring.

Based solely on the information set forth above, we hold as follows:

The proposed merger of Controlled 2 with and into Acquiring, with Acquiring surviving, if implemented in accordance with the Merger Agreement, will not have an adverse effect upon the rulings contained in the Prior Ruling, and the Internal Revenue Service reaffirms the rulings set forth in the Prior Ruling.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no ruling was requested and no opinion is expressed as to whether the proposed merger of Controlled 2 with and into Acquiring will qualify as a reorganization within the meaning of section 368(a)(1)(A) of the Code.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely yours,
Assistant Chief Counsel (Corporate)
By: Victor Penico
Chief, Branch 3