

**Internal Revenue Service**

Department of the Treasury

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Distributing	=
Controlled	=
Acquired	=
<u>x</u>	=
Date A	=
Date B	=

This letter responds to your September 13, 2000 request for a supplement to our prior letter ruling dated July 11, 1997 (PLR-102034-97 *issued as* PLR 9802048) (the "Prior Letter Ruling"). The legend abbreviations, Summary of Facts, Proposed Transaction, Representations, and Caveats appearing in the Prior Letter Ruling are incorporated by reference.

The Prior Letter Ruling addresses a distribution of Controlled stock by Distributing under § 355 of the Internal Revenue Code (the "Spin-Off"), followed by a merger of Acquired into Controlled (the "Merger"). The Spin-Off and Merger were completed on Date A. In preparation for these transactions, Controlled had recapitalized its single class of common stock into Class A common stock and Class B common stock (the "First Recapitalization"). The Class A stock was distributed to the Distributing shareholders in the Spin-Off, and the Class B stock was issued to the Acquired shareholders in the Merger. On completion of the Merger, the Class A stock held by Distributing shareholders represented 80.1 percent of the power to vote for directors (and x percent of the value) of the resulting corporation ("Taxpayer"). The Class B stock held by former Acquired shareholders represented the remaining vote and value. On all matters other than voting for directors, the two classes have an equal vote.

**Supplemental Facts**

**(1) *Second Recapitalization.*** To obtain the Prior Letter Ruling, Controlled represented that:

The managements of Controlled and Acquired have no plan or intention to propose or support any plan of recapitalization or amendment to Controlled's organic documents or other action providing for (i) the conversion of shares of any class of Controlled stock into a different class of Controlled stock, (ii) any change in the absolute or relative voting rights of any class of Controlled stock from the rights existing at the time of the Controlled Spin-Off, (iii) any change in the manner of election or duties and responsibilities of the Controlled board of directors from those existing at the time of the Controlled Spin-Off, or (iv) any action having an effect similar to (i), (ii), or (iii).

Taxpayer now asks that it be allowed to recapitalize the Class A stock and Class B stock into one class of common stock (the "Second Recapitalization") without affecting the Prior Letter Ruling. In support of this request, Taxpayer states that (i) the representation in the Prior Letter Ruling set forth above was true when made, (ii) the Second Recapitalization would be conditioned on shareholder approval by the two classes, voting separately, (iii) more than three years would separate the Spin-Off from the Second Recapitalization, (iv) at the time of the First Recapitalization, there were no understandings, arrangements, agreements, or substantial negotiations regarding any post-Spin-Off/Merger change to the First Recapitalization, and (v) there has been a significant and unanticipated change in market and business conditions following the Spin-Off that requires the Second Recapitalization.

**(2) Reverse Stock Split.** In the Prior Letter Ruling, Distributing represented that:

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

To avoid the administrative inconvenience caused by having to communicate with a large number of small shareholders, Taxpayer now proposes to distribute cash to those holding fewer than 20 shares of Class A or Class B stock in exchange for their shares. The mechanism used would be a 20-to-1 reverse stock split followed by a 20-to-1 forward stock split (the "Reverse/Forward Split"). In this regard, Taxpayer represents that:

The Reverse/Forward Split is expected to result in the cash-out of less than one percent of the stock of Taxpayer (a publicly traded corporation), based on registered shareholder ownership profiles as of Date B and reasonable assumptions about the ownership profiles of shareholders owning in street name. There is no reason to expect material changes in these profiles before the Reverse/Forward Split.

### Supplemental Rulings

Based solely on the information and representations submitted in the original and supplemental ruling requests, we rule that:

(1) The Second Recapitalization will not affect the rulings contained in the Prior Letter Ruling. *Compare United States v. Cumberland Public Service Co.*, 338 U.S. 451 (1950) and Rev. Rul. 96-30, 1996-1 C.B. 36 with *Commissioner v. Court Holding Co.*, 324 U.S. 331 (1945).

(2) The Reverse/Forward Split will not affect the rulings contained in the Prior Letter Ruling. *Compare* Section 4.05(1)(b) of Rev. Proc. 96-30, 1996-1 C.B. 696, 705 (describing permitted open market repurchases).

### Caveats

We express no opinion on the federal income tax treatment of the transactions proposed in this supplemental request under other provisions of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transactions that are not specifically covered by the above rulings. In particular, we express no opinion on the federal income tax consequences of the Second Recapitalization or the Reverse/Forward Split beyond the rulings given above.

### Procedural Statements

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

Each taxpayer involved in either or both of the proposed transactions should attach a copy of this supplemental letter to the taxpayer's federal income tax return for the taxable year in which the transaction or transactions are completed.

In accordance with the power of attorney on file in this office, a copy of this letter is being sent to each of the authorized Taxpayer representatives.

Sincerely,  
Associate Chief Counsel (Corporate)  
By: Wayne T. Murray  
Senior Technician Reviewer  
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