

**Internal Revenue Service**

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Washington, DC 20224

Person to Contact:  
Richard K. Passales (50-05544)  
Telephone Number:  
(202)-622-7530  
Refer Reply To:  
CC:CORP:B04 PLR-127906-01  
Date:  
June 25, 2001

Date O =

Dear

This responds to your May 18, 2001 request that we supplement our letter ruling dated March 1, 2001 (PLR-118279-00) (the "Prior Letter Ruling"). Capitalized terms not defined herein have the meanings assigned them in the Prior Letter Ruling.

The Prior Letter Ruling addresses certain federal income tax consequences of a proposed initial public offering of Controlled stock (the "Offering"), followed by the distribution by Distributing of its Controlled stock (the "Distribution"), and certain related transactions. The Offering was completed on Date O. The Distribution has not yet been undertaken. The taxpayer proposes to modify the Proposed Transaction described in the Prior Letter Ruling in the following manner:

Before the Distribution, the Distributing preferred stock held by Investor D (the "Old Preferred") will be exchanged for new Distributing preferred stock (the "New Preferred") pursuant to an Exchange Agreement. The New Preferred will have the same terms as the Old Preferred, with the following exceptions: (i) Distributing will not make the Cash Distribution to Investor D that is described in step (vi) of the Proposed Transaction and (ii) the amount of the reduction in the liquidation preference of Investor D's Old Preferred will be the value of the Controlled stock distributed on the New Preferred as of the redemption date (or, if earlier, the date Distributing is liquidated) rather than as of the Distribution date. Since Distributing will not make the Cash Distribution, the references to the Cash Distribution in the Legend and Caveats of the Prior Letter Ruling are deleted.

Additionally, Distributing no longer intends to contribute substantially all of its non-operating assets (other than the Sub 1, Sub 2, Sub 3, and Controlled stock) to Sub 2 and Controlled, and then contribute the Sub 1 and Sub 3 stock to Sub 2, as described in step (ii) of the Proposed Transaction. Instead, Distributing will contribute certain non-operating assets to Controlled in exchange for additional Controlled stock and cause Sub 1 to merge into Distributing. After the merger of Sub 1 into Distributing, Distributing will conduct directly Sub 1's share of the integrated activities of Business C.

Also, Distributing no longer intends to do either (i) an initial public offering of Sub 2 stock, followed by a distribution of Distributing's Sub 2 stock to its shareholders, or (ii) an initial public offering of Sub 3 stock, followed by a distribution of Distributing's Sub 3 stock to its shareholders. Instead, Distributing will sell or dispose of the stock or assets of these subsidiaries or liquidate them. As a result, clause (v) of the Caveats of the Prior Letter Ruling is deleted.

In response to these changes, Representations (d) and (g) are deleted from the Prior Letter Ruling, and Representations (e1), (f), and (l) are replaced with the following representations:

(e1) The gross assets of the business relied upon by Distributing to satisfy the active trade or business test of § 355(b) will have a fair market value equal to or greater than five percent of the total fair market value of the gross assets of Distributing immediately after the Distribution.

(f) Following the Distribution, Controlled and Distributing each will continue, independently and with its separate employees, the active conduct of its share of the integrated activities of Business C.

(l) There is no plan or intention to liquidate either Distributing or Controlled, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the transaction, except in the ordinary course of business and except that Distributing may sell or otherwise dispose of Sub 2 or Sub 3 or both (including through distributions to Distributing's shareholders). Distributing further represents that its continued conduct of a significant active trade or business under § 355(b) would be unaffected by any disposition of the stock or the assets of Sub 2 or Sub 3 or both. See representations (e1) and (f).

As a result of the changes described above, rulings (7) and (8) of the Prior Letter Ruling are deleted and replaced with the following rulings:

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

(8) The aggregate basis of the Distributing stock and the Controlled stock in the hands of each Distributing shareholder after the Distribution will equal the basis of the Distributing stock held by the shareholder immediately before the Distribution. (§§ 358(a)(1) and 358(c)). The aggregate basis will be allocated between the Distributing stock and Controlled stock in proportion to the fair market value of each immediately after the Distribution in accordance with § 1.358-2(a)(2) (§ 358(b)(2)).

In addition, the following ruling is issued:

Except as described above regarding rulings (7) and (8) of the Prior Letter Ruling, the additional information and representations contained in this supplemental ruling will not adversely affect the Prior Letter Ruling, and the Prior Letter Ruling retains full force and effect.

We express no opinion about the tax treatment of the Proposed Transaction under any other provision of the Code or regulations or the tax treatment of any condition existing at the time of, or effect resulting from, the Proposed Transaction that is not specifically covered by the above rulings. In particular, no opinion is expressed regarding the tax treatment of the sale or other disposition of Sub 2 or Sub 3 or both described above in representation (I).

This supplemental 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 the Proposed Transaction should attach a copy of this letter, along with a copy of the Prior Letter Ruling, to the taxpayer's federal income tax return for the taxable year in which the Proposed Transaction is completed.

Under a power of attorney on file in this office, a copy of this letter is being sent to each of your authorized representatives.

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