Office of Chief Counsel
Internal Revenue Service

memorandum

CC:NER:MAN:TL-N-3045-99
PLDarcy

date:

to: District Director, Manhattan
Attn: Mr. John Marino

from: District Counsel, Manhattan

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subject: [redacted]

Taxable Year Ended: [redacted]

Statute of Limitations Expires: [redacted]

Uniform Issue List # 6501.08-00; 6501.08-17

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This responds to your request concerning how the parties can properly extend the statute of limitations on assessment for the above referenced taxpayer's [redacted] taxable year.

ISSUE:

1. Who is the proper entity to extend the statute of limitations on assessment for the [redacted] taxable year of [redacted].

CONCLUSION:

We advise you that [redacted] is the proper entity to execute an Internal Revenue Service Form 872 to extend the statute of limitations on assessment. In this case, the Internal Revenue Service Form 872 should read as follows:

[redacted] (E.I.N. [redacted]*

In addition, at the bottom of the page, you should add the following language:

*This is with respect to the consolidated tax liability of [redacted] (E.I.N. [redacted]) for the taxable year [redacted] by [redacted] (E.I.N. [redacted]) as alternative agent for [redacted] pursuant to Treas. Reg. § 1.1502-77T."

FACTS:

THE ADVICE IS RENDERED ON THE BASIS THAT ALL THE REPRESENTATIONS AND FACTS IN THIS MEMORANDUM ARE CORRECT. WE RECOMMEND THAT YOU VERIFY THIS INFORMATION. IF ANY OF THE REPRESENTATIONS AND/OR FACTS ARE INCORRECT OR CANNOT BE SUBSTANTIATED, WE MAY NEED TO MODIFY OUR ADVICE.

[redacted], a Dutch corporation, formed [redacted] in [redacted] for the purpose of completing its acquisition of the [redacted] chain. [redacted] filed its first consolidated tax return for the tax year [redacted] as the common parent for an affiliated group. Subsequent to the [redacted] tax year, [redacted] formed the [redacted].

On [redacted], [redacted] sold to [redacted], a related Dutch corporation, all its shares of stock in [redacted] for approximately $[redacted]. At some time during [redacted], [redacted] acquired [redacted] in a "reverse acquisition" within the meaning of Treas. Regs. § 1.1502-75(d)(3). [redacted] remains a viable entity within the [redacted] corporate structure and retains the same employee identification number it had during the [redacted] taxable year.

DISCUSSION:

Section 1.1502-77(a) designates the common parent of a consolidated group as the sole agent for each subsidiary in the group, duly authorized to act in its own name in all matters relating to the tax liability of the consolidated return year. As a result of the reverse acquisition whereby [redacted] acquired [redacted] the [redacted] ceased to be the common parent of an

affiliated group. As such, it could no longer act on behalf of the group. See Treas. Regs. 1.1502-77(a). Treas. Regs. 1.1502-77T, however, provides alternative agents for the purpose of extending the statute of limitations on assessment when the common parent of a group ceases to be a common parent. Under this provision, a waiver obtained from any one of several alternative agents is deemed to be given by the agent of the group. Treas. Regs. 1.1502-77T(a)(3). Included in the list of alternative agents is the common parent of the group for all or any part of the year to which the notice or waiver applies. Treas. Regs. 1.1502-77T(a)(4)(i). Thus, [redacted], the common parent for the group during the [redacted] tax year, can act as alternative agent for the group. Furthermore, a current officer of [redacted] must execute the Internal Revenue Service Form 872 with respect to the [redacted] tax year.

In light of the above, you should caption the Internal Revenue Service Form 872 as follows:

[redacted]*

In addition, at the bottom of the page, you should add the following language:

*This is with respect to the consolidated tax liability of [redacted] (E.I.N. [redacted]) for the taxable year [redacted], by [redacted] (E.I.N. [redacted]) as alternative agent for [redacted] pursuant to Treas. Reg. § 1.1502-77T."

Should you have any questions regarding this matter, please contact Paul Darcy of our office at 264-5473, extension 256.

LINDA R. DETTERY
District Counsel

By: _____
PETER J. LABELLE
Assistant District Counsel

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