

Internal Revenue Service

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Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:01
PLR-124010-09

Date:
September 30, 2009

LEGEND

Parent =

Business X =

Subsidiary =

LLC =

State A =

Regulator =

Dear _____ :

This is in reply to your letter dated May 7, 2009, in which rulings are requested as to the federal income tax consequences of a proposed transaction. Additional information was

submitted in a letter dated September 18, 2009. The facts submitted for consideration are substantially as set forth below.

SUMMARY OF FACTS

Parent, a publicly traded corporation, is the common parent of an affiliated group of corporations that files a consolidated federal income tax return (the "Parent Group") which operates Business X. Parent wholly owns Subsidiary, a captive insurance company formed under the insurance laws of State A. Subsidiary is the sole member of LLC. LLC has not elected to be treated as a corporation under § 301.7701-3(a) of the Income Tax Regulations. Subsidiary is regulated by Regulator. At the time of its formation, Subsidiary was issued an insurance license by State A pursuant to which Subsidiary has the authority to issue policies of insurance for the benefit of members of the Parent Group. Parent has not treated Subsidiary as an insurance company under section 816(a) of the Internal Revenue Code ("the Code").

For valid business reasons, Parent proposes the complete liquidation of Subsidiary (the "Wind-Up Plan"):

- (1) Subsidiary will cease issuing new insurance policies and transacting any new business.
- (2) Subsidiary will terminate all outstanding insurance policies by agreement with the policyholder (i.e., Parent) for cash consideration to be agreed upon.
- (3) Parent will assume or satisfy all of Subsidiary's non-insurance obligations and liabilities owed to parties other than Parent.
- (4) Subsidiary will distribute to Parent all of its assets including its remaining cash and its interest in LLC.
- (5) Subsidiary will surrender its State A insurance license.

Following the Wind-Up Plan Subsidiary will remain in existence, possessing only its corporate charter, thereby preserving its legal existence. All of the actions contemplated by the Wind-Up Plan will occur within a single taxable year of Subsidiary.

REPRESENTATIONS

The taxpayer has made the following representations with respect to the proposed transaction:

- (a) On the date of the adoption of the Wind-Up Plan, and at all times until the final

liquidating distribution is completed, Parent will be the sole owner of 100% of the single outstanding class of Subsidiary stock and Subsidiary does not (and will not) have any options, warrants, obligations convertible to stock, or similar interests outstanding.

- (b) No shares of Subsidiary stock will have been redeemed during the three years preceding the adoption of the Wind-Up Plan.
- (c) All distributions from Subsidiary to Parent pursuant to the Wind-Up Plan will be made within a single taxable year of Subsidiary.
- (d) Upon the first liquidating distribution, Subsidiary will cease to be a going concern and its activities will be limited to winding up its affairs, paying its debts, and distributing its remaining assets to its sole shareholder.
- (e) Following the final liquidating distribution, and unless Subsidiary is dissolved pursuant to an order of a State A court, Subsidiary will remain in existence as an inactive subsidiary of Parent, retaining only its corporate charter and legal existence.
- (f) Following the surrender of Subsidiary's State A insurance license, Subsidiary will no longer be subject to regulation by Regulator and will lack authority to issue policies of insurance for the benefit of members of the Parent Group or others.
- (g) Subsidiary will not seek to have its State A insurance license reinstated and will not engage in any activities or hold any assets.
- (h) Subsidiary will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the date of the adoption of the Wind-Up Plan.
- (i) No assets of Subsidiary have been, or will be, disposed of by either Subsidiary or Parent, other than dispositions in the ordinary course of business, dispositions occurring more than three years prior to the adoption of the Wind-Up Plan, and dispositions occurring pursuant to the Wind-Up Plan.
- (j) The distribution of assets by Subsidiary occurring pursuant to the Wind-Up Plan will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation (Recipient) of any of the businesses or assets of Subsidiary. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of Section 318(a) of the Code as modified by section 304(c)(3).
- (k) Prior to the adoption of the Wind-Up Plan, no assets of Subsidiary will have been

distributed in kind, transferred, or sold to Parent, except for (i) transactions occurring in the normal course of business, and (ii) transactions occurring more than three years prior to the adoption of the plan of liquidation.

- (l) Subsidiary will report for the period ending on the date of the distributions all earned income represented by assets that will be distributed to Parent.
- (m) The fair market value of the assets of Subsidiary will exceed its liabilities (including its insurance reserves) both at the date of the adoption of the Wind-Up Plan and immediately prior to the date on which the first distribution is made.
- (n) Parent is not an organization that is exempt from federal income tax under section 501 or any other provision of the Code.
- (o) All transactions to be undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Wind-Up Plan have been fully disclosed.

RULINGS

1. For Federal tax purposes, Subsidiary will be treated as having adopted a plan of liquidation when the Wind-Up Plan is formally adopted by Subsidiary's Board of Directors.
2. Subsidiary's distribution of its assets to Parent and Parent's assumption of Subsidiary's liabilities will qualify as a complete liquidation of Subsidiary into Parent under section 332.
3. Subsidiary will be deemed to have dissolved for purposes of section 332(a) when it distributes all of its assets to Parent, notwithstanding its continued legal existence.
4. No gain or loss will be recognized by Parent on the receipt of all the assets, and the assumption of the liabilities of Subsidiary. Section 332(a).
5. No gain or loss will be recognized by Subsidiary on the distribution of its assets to, and the assumption of its liabilities by, Parent. Sections 337(a).
6. Parent's basis in each asset received from Subsidiary will be the same as the basis of that asset in the hands of Subsidiary immediately before its liquidation. Section 334(b)(1).
7. Parent's holding period in each asset received in the liquidation of Subsidiary will include the period during which that asset was held by Subsidiary. Section

1223(2).

8. Parent will succeed to and take into account the items of Subsidiary described in section 381(c) of the Code, subject to the conditions and limitations specified in sections 381, 382, 383, and 384 and the regulations thereunder. Section 381(a) and section 1.381(a)-1.

CAVEATS

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

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.

PROCEDURAL STATEMENTS

This ruling is directed only to the taxpayer 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. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Mark J. Weiss
Assistant to Branch Chief, Branch 1
Office of Associate Chief Counsel (Corporate)

cc: