

## Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

**CC:CORP:1-PLR-105939-03**

Date:

**May 27, 2003**

Oldco =

ForeignCo =

ForeignSub =

State X =

Country Z =

Date 1 =

Dear

We respond to your letter dated December 31, 2002, requesting rulings on the federal income tax consequences of a proposed transaction. Additional information was received in a letter dated March 11, 2003. The information submitted in your request and in subsequent correspondence is summarized below.

Oldco is a State X corporation. Until Date 1, ForeignCo wholly owned Oldco.

For valid business purposes, ForeignCo wishes to convert Oldco into a limited partnership under State X law, which will continue to be taxable as a corporation for federal income tax purposes. To accomplish this intent, on Date 1, ForeignCo contributed Oldco to new Country Z entity ("ForeignSub"). ForeignSub then will form an LLC, which will be disregarded as an entity separate from its owner under Treas. Reg.

§ 301.7701-2 (“LLC”), and ForeignCo will contribute a 1% interest in Oldco to LLC. ForeignSub will cause Oldco to be converted into a limited partnership (“Newco”) pursuant to State X’s conversion statute with ForeignSub being a 99% limited partner and LLC being a 1% general partner for purposes of State X law (“the Conversion”).

Newco will elect under Reg. § 301.7701-3 to be treated as a C corporation for federal tax purposes, effective the date of the Conversion.

Section 3.01(29) of Rev. Proc. 2003-3, 2003-1 I.R.B. 113, 114, provides that the Service will not rule on the qualification of a transaction as a reorganization under 368(a)(1)(F) unless the Service determines that there is a significant issue that is not clearly and adequately addressed by published authority. Oldco has made the following representations in connection with addressing the significant issue of whether the Conversion of Oldco into a limited partnership that elects corporate entity classification constitutes a reorganization under section 368(a)(1)(F).

- (a) Contribution of the shares of Oldco to ForeignSub constitutes a valid 351 transaction that is undertaken for a valid business purpose.
- (b) There is no plan or intention by the ForeignSub to sell, exchange or otherwise dispose of any of the interests of Newco received in the Conversion.
- (c) Immediately following consummation of the Conversion, for federal tax purposes, ForeignSub will own all of the membership interests in Newco and will own such membership interests in Newco solely by reason of its ownership of Oldco immediately prior to the Conversion.
- (d) Newco has no plan or intention to issue additional interests following the Conversion.
- (e) Immediately following consummation of the Conversion, Newco will possess the same assets and liabilities as those possessed by Oldco immediately prior to the Conversion. No assets will be distributed and there will be no dissenting shareholders.
- (f) At the time of the Conversion, Oldco will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Oldco.
- (g) Newco has no plan or intention to reacquire any of its interests issued in the Conversion.

(h) Newco has no plan or intention to sell or otherwise dispose of any of the assets of Oldco acquired in the Conversion, except for dispositions made in the ordinary course of business.

(i) Following the Conversion, Newco will continue the historic business of Oldco or use a significant portion of Oldco's business assets in a business.

(j) ForeignSub will pay its expenses, if any, incurred in connection with the Conversion.

(k) Oldco is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A) of the Internal Revenue Code.

(l) Newco's election under the Reg. § 301.7701-3 to be treated as an association taxable as a corporation will be effective as of the date of the Conversion such that Newco will never exist as a partnership for federal tax purposes.

Thus, based solely on the information submitted and the representations set forth above, we hold as follows:

1) The conversion of Oldco into Newco pursuant to State X Law and Newco's election to be treated as an association taxable as a corporation for federal tax purposes effective as of the date of conversion qualifies as a reorganization under section 368(a)(1)(F), even though it is a step in a larger transaction that includes a series of steps. See Rev. Rul. 96-29, 1996-1 C.B. 50. Shareholder will not recognize any gain or loss on the deemed exchange of its Equity Interest in Oldco for an Equity Interest in Newco (§ 354(a)(1)).

2) Oldco will not recognize any gain or loss on the exchange (§§ 361(a) and 357(a)). The basis of the assets of Oldco in the hands of Newco will be the same as the basis of such assets in the hands of Oldco immediately prior to the proposed transaction (§ 362(b)). The holding period of the Oldco assets held by Newco will include the period during which such assets were held by Oldco (§ 1223(2)).

3) The basis of the equity interest in Newco received by ForeignSub will be the same as the basis of the shares of Oldco surrendered in exchange therefor (§ 358(a)(1)). The holding period of the equity interest in Newco to be received by ForeignSub will include the period during which the shares of Oldco surrendered therefor were held, provided that the shares are held as capital assets on the date of the exchange (§ 1223(1)).

We express no opinion as to the federal income tax treatment of the proposed transaction under other provisions of the Code and regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction that are not specifically covered by the above rulings.

It is important that a copy of this letter be attached to the federal income tax returns of

the taxpayers involved for the taxable year in which the transaction covered by this letter is consummated.

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.

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.

Sincerely,

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Marie C. Milnes-Vasquez  
Senior Counsel, Branch 1  
Office of Associate Chief Counsel  
(Corporate)