

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:CORP:B01 – PLR-111565-04

Date:

June 17, 2004

In Re:

Legend:

Parent =

State X =

Business Y =

Agent =

Date 1 =

Date 2 =

a =

b =

c =

d =

e =

f =

g =

h =

i =

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n =

Dear

This letter responds to your letter dated February 17, 2004, which requests rulings on certain federal income tax consequences of stock redemptions made following a proposed change to the taxpayer's Articles of Incorporation ("Articles"). The material information submitted for consideration is summarized below.

Parent, a State X corporation, is the parent company of a group of corporations filing a consolidated return. Parent and its affiliated subsidiaries are engaged in Business Y.

Parent has Class A and Class B common stock authorized and outstanding. There are a shares of Class A stock authorized and b shares of Class B Stock authorized. As of Date 1, c shares of Class A stock were issued and outstanding and held by d shareholders, and e shares of Class B stock were issued and outstanding and owned by f shareholders. Parent also has one class of preferred stock authorized, none of which is outstanding.

The Class A Stock is entitled to one vote per share and may be owned only by an Agent. An Agent who owns Class A Stock must own exactly g shares. Each holder of Class A Stock also must own at least h shares of Class B Stock.

A holder of Class B Stock has no voting rights, except as specifically required by State A. Ownership of Class B Stock is limited to certain holders, including Agents. An Agent who does not own Class A Stock must own at least i shares of Class B Stock. No Agent may own more than j shares of Class B Stock. Pursuant to a prior change to the Articles, the minimum required ownership of Class B Stock by an Agent generally will increase, in i share increments each year, so that by Date 2 each Agent generally

will be required to own k shares of Class B Stock. Subject to the prior approval of the Board of Directors of Parent (the "Board"), an Agent may exchange all or any part of its Class B Stock for Class A Stock.

The Articles and the contractual arrangements binding each Agent presently contemplate two types of redemptions: a mandatory redemption and an optional redemption. Under the mandatory redemption provision, Parent generally must acquire, and the shareholder must sell to Parent, all of its Class A Stock and/or all of its Class B Stock upon the occurrence of certain events. In addition, Parent may acquire less than all of the Parent stock owned by a shareholder if the shareholder complies with certain requirements. The optional redemption provision permits Parent, at its option, to acquire all of the shares of Class A Stock and Class B Stock held by a shareholder, or all of the shares of Class B Stock if the Agent holds only Class B Stock, in certain circumstances. In addition, upon the request of an Agent, and subject to Board approval, Parent may purchase all of an Agent's outstanding Class A and Class B Stock, or all or a portion of a shareholder's Class B Stock (if it owns no Class A Stock).

Parent proposes to amend the Articles to permit a holder of Class A Stock to hold h, i, or g, shares of Class A Stock (in lieu of owning exactly g shares of Class A Stock), subject to the requirement that following any redemption a holder must own at least m combined shares of Class A and Class B Stock (the "Proposed Amendments"). A redeeming shareholder will not be permitted to acquire additional Class A Stock for at least three years. After three years, any request to acquire additional Class A Stock must receive the approval of the Board.

The Articles will continue to require that a legal opinion be secured that any such redemption should not have an adverse tax effect on the non-redeeming shareholders. The process of redemption under the Proposed Amendments will be initiated by an Agent request for the redemption of its shares through written notification to the Chief Financial Officer of Parent. The Agent will specify the number of shares and timing for redemption. The Chief Financial Officer will submit the request to the Board for consideration at the next regularly scheduled Board meeting. In determining whether to grant such approval, the Board will examine the Parent's financial condition and consider the restrictions imposed by the Parent's loan agreements with its third-party lenders. If requests for redemption at the time of such Board meeting exceed the aggregate amount the Board makes available for that purpose, the Board will decide which shareholders will be redeemed by considering all relevant facts, including each shareholder's need, as well as the impact of not acting on the redemption request. Accordingly, no shareholder will know, in advance of any such Board meeting, whether its or any other shareholder's redemption request will be granted. There will exist no written plan, verbal promise, or shareholder agreement concerning coordinated redemptions of stock. No redeeming shareholder will possess knowledge of any other impending redemption, except as a result of Board service.

Under the terms of the Articles, no shareholder can own more than g shares of the Parent's voting stock. Consequently, every voting shareholder now owns, and immediately after adoption of the Proposed Amendments would own, less than n percent of the issued and outstanding shares of Class A Stock.

Based solely on the information submitted, we hold as follows:

For purposes of determining whether Section 302(b)(2)(D) may apply to any redemptions of Class A and Class B stock occurring within a single year or in multiple years that are made pursuant to the Proposed Amendments, neither the adoption of the Proposed Amendments that enable such redemptions nor the process described above pursuant to which such redemptions occur will constitute a plan described in Section 302(b)(2)(D).

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.

The rulings contained in this letter are based upon information 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.

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.

A copy of this letter must be attached to any income tax return to which it is relevant.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,
Michael J. Wilder
Michael J. Wilder
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel
(Corporate)

cc: