

**Internal Revenue Service**

Number: **200530003**  
Release Date: 7/29/2005  
Index Number: 355.00-00

Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:CORP:B01  
PLR-108768-05

Date:  
April 26, 2005

Legend:

Distributing =

Controlled =

Acquiring =

Shareholder =

Period 1 =

State X =

a =

Dear :

This letter responds to a letter dated February 8, 2005, requesting that we supplement our prior letter ruling (the "Prior Letter Ruling") dated November 16, 2004 (PLR-138013-04). Additional information was submitted in a letter dated March 28, 2005. The material information submitted for consideration is summarized below.

The Prior Letter Ruling addresses certain federal income tax consequences of a series of proposed transactions (the “Proposed Transaction”) under sections 355 and 368 of the Internal Revenue Code, and other related Code provisions, including a distribution (step (viii)) by Distributing to its shareholders of all the stock of Controlled (the “Distribution”) and a subsequent merger (step (ix)) of Controlled into Acquiring (the “Controlled Merger”). It is expected that the Proposed Transaction will be completed during Period 1. Capitalized terms not defined in this ruling have the meanings assigned to them in the Prior Letter Ruling.

Acquiring has outstanding a shares of Series B convertible preferred stock (the “Preferred Stock”), all of which are held by Shareholder. As a result of the Controlled Merger, Shareholder will have the right to demand payment of the appraisal value of the Preferred Stock under State X General Corporation Law. In the event that Shareholder asserts, perfects, and does not withdraw his appraisal rights, Acquiring will have the obligation to pay cash in exchange for the Preferred Stock held by Shareholder (the “Appraisal Payment”) in connection with the Controlled Merger. The Controlled Merger will occur on the same date as the Distribution. The Appraisal Payment may be made after the effective date of the Distribution and the Controlled Merger.

Distributing has represented that, except as otherwise stated in the preceding paragraph, all of the facts and representations set forth in the Prior Letter Ruling remain true and correct.

Based solely on the information and representations set forth above and in the Prior Letter Ruling, we rule that the Appraisal Payment will have no effect on the rulings contained in the Prior Letter Ruling and that such rulings will remain in full force and effect.

No opinion is expressed about the tax treatment of the Proposed Transaction under other provisions of the Code or Income Tax Regulations or about 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 ruling or the rulings set forth in the Prior Letter Ruling.

The ruling contained in this letter is based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This Office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter should 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.

Pursuant to 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  
Senior Technician Reviewer, Branch 1  
Office of Associate Chief Counsel (Corporate)

cc: