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TY:

Legend

Acquiring =

Target =

Business A =

w =

x =

y =

z =

Year 1 =

Dear :

This letter responds to your request for rulings as to the federal income tax consequences of a proposed transaction, supplemented in a correspondence dated December 6, 2006. The information submitted is summarized below.

Summary of Facts

Acquiring is a subchapter C corporation engaged in Business A. The company has one class of stock that is closely held. Target owns w percent (an amount greater than 50 percent, but less than 80 percent) of the stock. Shareholders of Target own directly or indirectly approximately x of the stock of Acquiring. An employee stock ownership plan and unrelated persons own the remainder.

Target is a subchapter C corporation. Target's principal asset is the stock of Acquiring. Through this stock ownership, Target actively participates in the management and operation of Acquiring. Target has common and preferred stock outstanding. The common stock has the normal features of common stock. The preferred stock was issued in Year 1 to facilitate the orderly transition of corporate governance and of control to the next generation of shareholders, and to promote other estate planning objectives. Each share of preferred is entitled to one vote. Collectively, the shares represent more than y percent of the voting power of Target. Each share also has a right to preferred dividends, and has a redemption and liquidation right to its par value. As such, the preferred stock does not participate in corporate growth. The fair market value of all shares of preferred stock was valued in excess of par in the estate of the founder of Target because of its voting power. Based on that value, the shares represent z percent of the net equity value of Target.

Proposed Transaction

It has been decided that Target and Acquiring should be combined in order to achieve the following business objectives. First, such a combination will result in a saving of administrative costs that Target currently incurs as a separate entity. Acquiring routinely answers questions from credit agencies regarding its relationship with Target so combining the entities will simplify the organizational chart and end such distracting questioning. Second, Acquiring is also exploring the possibility of converting to an S Corporation. While there has been no firm decision to do so, Acquiring cannot make the election to convert to S status while Target remains a corporate shareholder. In order to achieve these business objectives, Target and Acquiring have agreed to a transaction in which Target will merge downstream into Acquiring.

The transaction will be effected pursuant to the applicable merger statute. As a result of the operation of the merger laws, Acquiring will acquire all of Target's assets in exchange for Acquiring stock and the assumption by Acquiring of Target's liabilities. Target will cease to exist under state law. The Acquiring stock received in the transaction will be distributed to the Target shareholders pursuant to the merger agreement.

The terms of the merger agreement will specify what consideration will be received in exchange for a particular share of Target stock or a particular class of Target stock. The terms will be economically reasonable. Such terms will not result in a shareholder's realizing a loss on the exchange. The Target shareholders agree that the terms will control for purposes of determining the basis of the stock received in the exchange. It is possible that a Target shareholder will be entitled to receive a fractional share of Acquiring stock. Under the terms of the merger agreement, Acquiring will redeem the fractional share for cash. After the transaction, Acquiring will have only one class of stock outstanding.

Representations

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

1. The fair market value of the Acquiring stock received by each Target shareholder will be approximately equal to the fair market value of the Target stock surrendered in the transaction. No opinion is expressed regarding the value of the Target preferred stock.
2. On the date of the transaction and at all times after, there will be no intention by Acquiring or any person related to Acquiring (as defined in Treas. Reg. Section 1.368-1(e)(3)) to acquire or redeem any of the Acquiring shares issued in the transaction either directly or through any transaction, agreement, or other arrangement with any other person
3. At the effective time of the transaction, Acquiring will have no plan or intention to sell or otherwise dispose of any Target's assets acquired in the transaction, except for dispositions made in the ordinary course of business or transfers described in Treas. Reg. § 1.368-2(k)(1).
4. Target incurred any liabilities assumed by Acquiring in the ordinary course of Target's business. The liabilities will be associated with the transferred assets.
5. After the effective time of the transaction, Acquiring (or members of its qualified group, as defined in Treas. Reg. § 1.368-1(d)(4)(ii)) will continue its historical business.
6. Acquiring, Target, and the shareholders of Target will pay their respective expenses, if any, incurred in connection with the transaction.
7. At the effective time of the transaction, there will be no intercorporate indebtedness existing between Target and Acquiring that was issued, acquired, or will be settled at a discount.

8. At the effective time of the transaction, no two parties to the transaction will be investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
9. At the effective time of the transaction, Target will not be under the jurisdiction of a court in a title 11 or similar case within the meaning of section 368(a)(3)(A).
10. At the effective time of the transaction, the fair market value of Target's assets transferred to Acquiring will exceed the sum of the liabilities assumed by Acquiring.
11. The fair market value of Acquiring's assets will exceed the amount of the liabilities of Acquiring immediately after the transaction.

Rulings

Based solely on the information submitted and on the representations set forth above, we rule as follows:

1. Provided the transaction qualifies as a statutory merger under applicable law, the transaction will be a reorganization under section 368(a)(1)(A). Target and Acquiring will each be a "party to a reorganization" under section 368(b).
2. Target will recognize no gain or loss on the transfer of its assets to Acquiring pursuant to the plan of merger and in exchange for Acquiring stock, and the assumption by Acquiring of the liabilities of Target (sections 361(a) and 357(a)).
3. Target will recognize no gain or loss on the distribution of Acquiring stock to its shareholders pursuant to the plan of merger (section 361(c)(1)).
4. A Target shareholder will recognize no gain or loss on the receipt of Acquiring stock (including a fractional share interest) in exchange for Target stock pursuant to the plan of merger (section 354(a)(1)).
5. A Target shareholder's total basis in the Acquiring stock (including a fractional share interest) received pursuant to the plan of merger will be the same as the total basis in the Target stock surrendered in exchange therefor (section 358(a)(1)). The shareholder may specifically identify basis under Treas. Reg. § 1.358-2.
6. A Target shareholder's holding period in the Acquiring stock received pursuant to the plan of merger will include the period during which the Target shareholder held the Target stock surrendered in exchange therefore, provided that the Target stock was held as a capital asset on the date of the change (section 1223(1)). The holding period will reflect an identification of specific basis under Treas. Reg. § 1.358-2.

7. No share of Acquiring stock will be section 306 stock in the hands of a Target shareholder (section 306(c)(1)(B) and Rev. Rul. 76-387, 1976-2 C.B. 96).
8. A Target shareholder will treat the payment of cash in lieu of fractional share interests in Acquiring stock as a redemption of the fractional share by Acquiring under section 302.
9. Acquiring will recognize no gain or loss on the receipt of Target assets in exchange for Acquiring stock and the assumption of Target liabilities (section 1032(a)).
10. Acquiring's basis in each asset of Target acquired in connection with the plan of merger will be the same as the basis of the asset in the hands of Target immediately before merger (section 362(b)).
11. Acquiring's holding period in each asset of Target received in connection with the plan of merger will include the period for which the asset was held by Target (section 1223(2)).
12. As provided by section 381(c)(2) and Treas. Reg. § 1.381(c)(2)-1, Acquiring will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Target as of the close of the date of the transaction. Any deficit in the earnings and profits of Acquiring or Target will be used only to offset earnings and profits accumulated after the date of that day.
13. Pursuant to section 381(a) and Treas. Reg. § 1.381(a)-1, Acquiring will succeed to and take into account the items of Target described in section 381(c) as of the close of the day of the transaction. The items will be taken into account by Acquiring subject to the conditions and limitations specified in sections 381, 382, 383, and 384 and the regulations thereunder.

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.

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.

Sincerely,

Virginia S. Voorhees

Virginia S. Voorhees
Senior Technical Reviewer
(Corporate)