

Internal Revenue Service

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Washington, DC 20224

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Date:
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LEGEND:

Distributor =

Sub1 =

Sub2 =

Sub3 =

Purchaser =

Country Y =

State A =

Business A =

Business B =

Discontinued Business =

Date 1 =

Date 2 =

Date 3 =

D Assets =

E Assets =

m =

n =

p =

Dear :

This letter responds to your November 22, 2006, request that we supplement our letter ruling dated October 17, 2006 (PLR-128365-06) (the "Prior Letter Ruling"). The information provided in that letter and in later correspondence is summarized below.

The ruling contained in this letter is based on 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 information submitted in support of the request for rulings, it is subject to verification on examination.

The Prior Letter Ruling addresses the federal income tax consequences of a distribution in partial liquidation under §§ 302(b)(4) and 302(e)(1) of the Code. There have been three principal factual changes to the Prior Letter Ruling: (i) Distributor will not form a new company and will not merge into such company, with Distributor surviving, in a reorganization that was intended to qualify under § 368(a)(1)(A); (ii) the Proposed Distribution will be made on a pro rata basis and without an actual surrender of stock; and (iii) on Date 3, certain of the Sub2 assets were sold. In addition, the Prior Letter Ruling is modified to reflect that the E Assets, to the extent available, can be used to offset the intercompany debt totaling approximately p dollars without the requirement

that the E Assets be sold. The ruling is also modified to reflect a revised date for Date 1 and to add Date 3. Accordingly, the Prior Letter Ruling is changed as follows:

1. Newco is deleted from the Legend.
2. Date 1 is revised as indicated above.
3. Date 3 is added as indicated above.
4. Paragraph 2 on Page 3 in the Summary of Facts is changed to read as follows:

Prior to the sale of the Sub1 stock, Sub1 distributed to Distributor the D Assets, the E Assets and the stock of Sub2. At that time, Distributor had outstanding an intercompany receivable due from Sub1 totaling approximately p dollars. The intercompany debt will be satisfied from the distributed E assets and, to the extent necessary, from the Proceeds (as defined below). The E Assets are non-business assets and will not be included in the Proceeds.

5. Paragraph 3 on Page 3 in the Summary of Facts is changed to read as follows:

On Date 2, Distributor sold the D Assets for approximately n dollars. The proceeds were deposited to the Segregated Account. On Date 3, Sub2 assets were sold. The Sub1 Sale, the sale of the Sub2 assets and the sale of the D Assets are collectively referred to as "the Asset Sales."

6. Step (iii) on Page 3 in the Proposed Distribution section is changed to read as follows:

Pursuant to the Plan, Distributor will, within the taxable year in which the Plan is adopted or within the succeeding taxable year, distribute the Net Proceeds pro rata to its shareholders in a deemed surrender of shares of Distributor stock. The total cash received by all of the Distributor shareholders will equal the amount of the Net Proceeds.

7. Representation (c) is changed to read as follows:

The distribution in partial liquidation will equal the Net Proceeds. "Net Proceeds" are the amounts realized on the sale of the Discontinued Business, together with the Sub2 working capital reasonably attributed to the Discontinued Business and including proceeds from the Asset Sales (the "Proceeds"), reduced by: (i) assets received by Distributor in settlement of the intercompany debt totaling approximately p dollars satisfied in the liquidation of Sub1, to the extent such debt was not satisfied from the E

assets; (ii) debt repayments associated with the D Assets and with the assets of Sub2 settled out of proceeds from the sale or disposition of the D Assets and the assets of Sub2; (iii) taxes and expenses of Distributor attributable to the Asset Sales; (iv) taxes and expenses of Distributor incident to the Proposed Distribution, including any expenses with regard to any investment of the Proceeds, such as the temporary investment of the Proceeds in the Temporary Investments; and (v) any loss of Proceeds as a result of being temporarily invested in the Temporary Investments.

8. Representation (d) is changed to read as follows:

The Proposed Distribution will be made pro rata to all shareholders of Distributor in accordance with the Plan and for a deemed redemption of the outstanding shares of Distributor stock.

9. Representation (u) is deleted.

10. Ruling (3) on Page 7 is changed to read as follows:

Distributions made pursuant to the Plan to a shareholder who is not a corporation will be treated as in-full payment in exchange for the stock deemed surrendered under § 302(a) of the Code. Gain or loss will be recognized to such noncorporate shareholders to the extent of the difference between the amount distributed in partial liquidation and the adjusted basis of the stock deemed surrendered therefore, as provided in ruling (6) below. Provided that Distributor's stock is a capital asset in the hands of such noncorporate shareholders, gain or loss, if any, will be considered capital gain or loss subject to the provisions and limitations of Subchapter P of Chapter 1 of the Code.

11. Ruling (4) on Page 7 is changed to read as follows:

If the amount distributed to shareholders of Distributor in the Proposed Distribution exceeds the Net Proceeds distributed pursuant to ruling (2) above, each shareholder of Distributor, or each person considered to hold Distributor stock under § 302(e)(5), will be treated as receiving the same ratio of the Net Proceeds and any excess. Any amount distributed to the shareholders of Distributor that is not distributed in partial liquidation under § 302(b)(4) may constitute a distribution in redemption under § 302(b)(1), (2), or (3) that will be treated as in full payment for the stock deemed surrendered under § 302(a), as provided in ruling (6) below, or may be treated as a distribution of property under §§ 301 and 316.

12. Ruling (6) on Page 7 is changed to read as follows:

For purposes of the rulings above, the number of shares that will be deemed surrendered for the purpose of determining gain or loss will be determined in accordance with the principles set forth in Rev. Rul. 77-245, 1977-2 C.B. 105.

Caveats

The facts that form the basis for the Prior Letter Ruling are incorporated herein by this reference to the extent such facts have not been changed by the current ruling. All terms used and not otherwise defined herein are as defined the Prior Letter Ruling.

Procedural Statements

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

A copy of this ruling letter should be attached to the federal income tax return of each taxpayer involved for the taxable year in which the transaction covered by this ruling letter is consummated. 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 ruling letter.

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,

Lewis K Brickates
Chief, Branch 4
Associate Chief Counsel
(Corporate)