



Sub 6 =

Corp 1 =

Corp 2 =

Corp 3 =

Shareholder A =

Shareholder B =

Shareholder C =

Business A =

Business B =

Post-Exchange  
Insurance  
Payments =

Post-Exchange  
Indemnity  
Payments =

Type 1 Assets =

Type 2 Assets =

Dispositions =

a =

b =

c =

d =

e =

f =

g =

h =

i =

i =

k =

l =

m =

n =

o =

Date 1 =

Date 2 =

Date 3 =

Country A =

Country B =

Country C =

Agency A =

Dear :

This letter responds to your January 22, 2007 letter requesting rulings on certain federal income tax consequences of the Proposed Transaction (defined below). The information provided in that letter and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by the appropriate parties. 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.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Exchange (as described below): (i) satisfies the business purpose requirement of § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of Distributing, Controlled or both (see § 355(a)(1)(B) of the Internal Revenue Code and § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in Distributing or Controlled (see § 355(e)(2)(a)(ii) and § 1.355-7).

### Summary of Facts

Distributing is the common parent of a corporate group that includes domestic and foreign corporations (the "Distributing Group"). The authorized and outstanding capital stock of Distributing consists of three separate classes of common stock: Class A Common Stock, Class B Common Stock, and Class C Common Stock (collectively, the "Distributing Common Stock"). The Class A Common Stock is publicly traded and widely held. Based on publicly available securities information, only one shareholder held five percent or more of the Class A Common Stock on Date 1. The Class B Common Stock is owned entirely by Shareholder A. The Class C Common Stock, which represents a% by vote and b% by value of the Distributing Common Stock, is owned entirely by Shareholder B and Shareholder C.

Distributing wholly owns Controlled, which was formed in connection with the Proposed Transaction on Date 2; and Sub 1. Distributing directly owns c% of Sub 2 and indirectly owns the remaining d% through a wholly owned Country A subsidiary. Sub 2 owns all but one share of Sub 3, which is held by Sub 1. Sub 3 owns e% of Sub 4, and Sub 1 owns the remaining f%. Sub 4 wholly owns Sub 5. Distributing also indirectly owns interests in Sub 6, Corp 1, Corp 2, and Corp 3.

Distributing and the members of its “separate affiliated group” as defined in § 355(b)(3) (the “Distributing SAG”) directly engage in Business A. Sub 2, which will have been a member of the Distributing SAG for the entire five-year period ending on the date of the Exchange, acquired stock of Sub 3, through a series of taxable transactions ending on Date 3, resulting in Sub 2’s control of Sub 3, within the meaning of § 368(c), and Sub 3 becoming a member of the Distributing SAG. At the time of the acquisition, Sub 3 and its affiliates were engaged in activities related to Business A (the “Segment B Activities”). Business B will be constituted in the Contribution (as defined below) as a result of the separation of the Segment B Activities from the other business segments of Business A. Financial information has been submitted indicating that Business A has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

The Exchange is motivated, in whole or substantial part, to permit Distributing to (i) enhance its earnings and further integrate and rationalize its business following a significant acquisition by allowing it to (a) restructure and optimize its newly acquired business assets and its portfolio of shareholdings, (b) refocus its service activities to match its intended market positioning, and (c) accomplish the restructuring and optimization in a single transaction in such a manner that maximizes the value of the business assets and participation interests; and (ii) remove a market overhang on the Distributing Common Stock caused by the announced intent for Shareholder B and Shareholder C to dispose of their Distributing Common Stock, which, in turn, is expected to meaningfully facilitate the acquisition strategy of Distributing (collectively, the “Corporate Business Purposes”).

Immediately after the Exchange, Controlled, certain corporations satisfying the requirements of § 355(g)(2)(B)(iv) and partnerships satisfying the requirements of § 355(g)(2)(B)(v) owned by Controlled will hold insurance policies issued by third parties (each an “Insurance Policy”). Each Insurance Policy will have been procured in the ordinary course of business. After the Exchange, Controlled and certain of its affiliates will be entitled to indemnification by Distributing for certain potential losses (each an “Indemnification Obligation”).

### **Proposed Transaction**

To effect the separation of Business B from Business A and the other businesses of the Distributing SAG, Distributing has proposed the following series of transactions (the “Proposed Transaction”). Among those transactions that are pertinent to the requested rulings are the Pre-Contribution Steps (defined below, which Distributing will undertake prior to the Contribution and the Exchange), the Contribution and the Exchange.

The Pre-Contribution Steps include the following transactions:

(i) Sub 4 recapitalizes a portion of its existing common stock owned by Sub 3 into a new class of preferred shares representing the lesser of (i) g% of the share capital of all of the shares of Sub 4 after the recapitalization or (ii) shares of Sub 4 with a book value of h (such stock is referred to herein as the “Sub 4 Preferred”).

(ii) Sub 2 purchases the one share of Sub 3 stock held by Sub 1.

(iii) Sub 3 converts from a société anonyme to a société à responsabilité limitée under Country A corporate law, and files an election to be classified as an entity intended to be disregarded as separate from its owner for federal tax purposes under § 301.7701-3.

(iv) Sub 4 converts from a société anonyme to a société à responsabilité limitée under Country A corporate law and files an election to be classified as a partnership for federal tax purposes under § 301.7701-3.

(v) Sub 5 files an election to be classified as an entity intended to be disregarded as separate from its owner for federal tax purposes under § 301.7701-3. Each of the elections described in steps (iii), (iv), and (v) will be effective prior to the date step (vi) is undertaken.

(vi) Sub 1 sells its common share of Sub 4 to Sub 3 for a note. Sub 3 sells all of the common shares of Sub 4 to Distributing for a note.

The following steps (i) through (viii) set forth those related transactions that, in the aggregate, constitute the Contribution:

(i) Distributing contributes all of the common shares of Sub 4 to Controlled.

(ii) Distributing assigns to Controlled a forward sales contract with respect to all of the outstanding Sub 4 Preferred.

(iii) Distributing contributes approximately i and certain Type 1 Assets to Controlled.

(iv) Distributing contributes shares representing j% of Corp 1 and shares representing k% by value and l% by vote of Corp 2 to Controlled.

(v) Distributing transfers to Controlled the right to receive shares representing m% of Corp 3, subject to approval by the government of Country C (the “Corp 3 Transfer Right”) and deposits into escrow n, all or part of which the escrow agent will release to Controlled upon the occurrence of certain contingencies (any such payments, the “Corp 3 Escrow Payments”).

(vi) Following the date of the Exchange, upon Controlled's request, subject to the approval of Agency A, Sub 6 transfers the Type 2 Assets to Controlled for no additional consideration (the "Type 2 Asset Transfer").

(vii) Following the date of the Exchange, if the government of Country C has approved the transfer of the shares of Corp 3, Distributing transfers the Corp 3 shares to Controlled for no additional consideration.

(viii) Following the date of the Exchange, the escrow agent releases the Corp 3 Escrow Payments to Controlled for no additional consideration.

(ix) Distributing distributes all of the stock of Controlled (the "Controlled Common Stock") proportionately to Shareholder B and Shareholder C in exchange for all of the Distributing Common Stock held by Shareholder B and Shareholder C (the "Exchange").

In addition to the Pre-Contribution Steps and the Contribution, in anticipation of the Exchange and immediately prior to the Exchange, (i) the chief executive officer of Sub 4 is appointed an officer of CSub 4 (an entity which Controlled indirectly forms as a société à responsabilité limitée under the laws of Country A that is classified as a corporation and is a member of Controlled's "separate affiliated group" as defined in § 355(b)(3))(the "Controlled SAG"); (ii) CSub 5, a wholly owned private limited company under the laws of Country B that is disregarded as an entity separate from Controlled for federal tax purposes under § 301.7701-3, hires o employees who are currently employed by Sub 4; and (iii) Controlled hires o employees who are currently employed by the Distributing SAG.

In connection with the Proposed Transaction, Controlled and its affiliates, including Sub 4, which immediately after the Exchange will be a partnership, and the direct and indirect subsidiaries of Sub 4 (the "Controlled Group"), will enter into agreements with members of the Distributing Group for (i) transitional services ("Transitional Services") for a period not expected to exceed two years following the effective time of the Distribution, (ii) tax sharing and allocations, and (iii) certain other contractual relationships, including contractual relationships whereby members of the Distributing Group provide services to members of the Controlled Group with respect to Business B and whereby members of the Controlled Group provide services to members of the Distributing Group with respect to Business A (the "Continuing Agreements").

### **Representations**

The following representations have been made regarding the Contribution and the Exchange:

(a) Indebtedness, if any, owed by Controlled to Distributing after the Exchange will not constitute stock or securities.

(b) The fair market value of the Controlled Common Stock to be received by Shareholder B and Shareholder C will be approximately equal to the fair market value of the Distributing Common Stock surrendered in the Exchange.

(c) No part of the consideration to be distributed by Distributing in the Exchange will be received by Shareholder B or Shareholder C as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.

(d) The five years of financial information submitted on behalf of Business A (as conducted by the Distributing SAG), represents the present operations of the business, and regarding the business, there have been no substantial operational changes since the date of the last financial statement submitted.

(e) Following the Exchange, the Distributing SAG will continue the active conduct of Business A, and the Controlled SAG will directly continue the active conduct of Business B (including through Sub 4) independently and with their separate employees.

(f) The Exchange is being carried out for the Corporate Business Purposes. The Exchange is motivated, in whole or substantial part, by the Corporate Business Purposes.

(g) There is no plan or intention to (i) liquidate either Distributing or Controlled, (ii) sell or otherwise dispose of the assets of either corporation (except in connection with the Dispositions), or (iii) merge either Distributing or Controlled with any other corporation, in each case, after the Proposed Transaction.

(h) The Exchange is not used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.

(i) The total fair market value of the assets transferred to Controlled in the Contribution will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of § 357(d)) by Controlled in the exchange, (ii) the amount of any liabilities owed to Controlled by Distributing that are discharged or extinguished in connection with the exchange, and (iii) the amount of cash and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without recognition of gain) received by Distributing in the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Contribution.

(j) The total adjusted basis and the fair market value of the assets transferred by Distributing to Controlled in the Contribution each will equal or exceed the sum of the total liabilities assumed (within the meaning of § 357(d)) by Controlled (if any).

(k) Any liabilities assumed (within the meaning of § 357(d)) by Controlled in the Contribution were incurred in the ordinary course of business and are associated with the assets transferred.

(l) The total fair market value of the assets transferred in the Contribution will be equal to or exceed the adjusted basis of those assets.

(m) No intercorporate debt will exist between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) at the time of, or subsequent to, the Exchange other than trade payables between Distributing and Controlled created in the ordinary course of business, including those created in connection with Transitional Services and pursuant to the Continuing Agreements. Controlled will not be indebted to Distributing after the Exchange.

(n) No indebtedness between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) has been, or will be cancelled in connection with the Exchange.

(o) Immediately before the Exchange, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see § 1.1502-13 and § 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597).

(p) Payments made in all continuing transactions between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(q) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(r) Immediately after the Exchange, Controlled will not be a disqualified investment corporation if (i) none of the Type 1 Assets constitutes an "investment asset" within the meaning of § 355(g), and (ii) any Post-Exchange Insurance Payment or Post-Exchange Indemnity Payment does not constitute an "investment asset" within the meaning of § 355(g) held by Controlled "immediately after" the Exchange. However, if any of the Type 1 Assets or any Post-Exchange Insurance Payments or Post-Exchange Indemnity Payments were treated as an investment asset, Controlled may be a disqualified investment corporation.

(s) Immediately after the Exchange, no person will own (taking into account the rules of § 318) a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Distributing.

(t) Distributing is a foreign corporation that is not subject to federal taxation in connection with the Exchange, regardless of whether the Exchange qualifies under § 355.

(u) Distributing is not a passive foreign investment company as defined in § 1297(a).

(v) Distributing is not a controlled foreign corporation as defined in § 957(a).

### **Rulings**

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

(1) No gain or loss will be recognized by (and no amount will be included in the income of) Shareholder B or Shareholder C upon their receipt of all of the Controlled Common Stock in exchange for all of their Distributing Common Stock (§ 355(a)(1)).

(2) The aggregate basis of the Controlled Common Stock in the hands of each of Shareholder B and Shareholder C immediately after the Exchange will equal the respective aggregate basis that Shareholder B and Shareholder C has in its Distributing Common Stock surrendered in the Exchange, allocated in the manner described in § 1.358-2.

(3) The holding period of the Controlled Common Stock received respectively by each of Shareholder B and Shareholder C will include the holding period of the Distributing Common Stock surrendered by the shareholder in exchange therefor, provided that such Distributing Common Stock is held as a capital asset on the date of the Exchange (§ 1223(1)).

### **Caveats**

We express no opinion about the 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 is not specifically covered by the above rulings. In particular, we express no opinion regarding:

- (i) Whether the Exchange satisfies the business purpose requirement of § 1.355-2(b);

- (ii) Whether the Exchange is being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both (see § 355(a)(1)(B) and § 1.355-2(d));
- (iii) Whether any distribution described above and an acquisition or acquisitions are part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii);
- (iv) The tax consequences with regard to the Pre-Contribution steps and other restructuring steps except to the extent that such steps impact the § 355 rulings above; and
- (v) Any other tax consequences to Distributing.

### **Procedural Statements**

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

A copy of this ruling letter must be attached to the federal income tax return of each taxpayer involved for the taxable year in which the transactions described herein are completed. Alternatively, a taxpayer filing its return electronically may satisfy this requirement by attaching a statement to its federal income tax return that sets forth the date and control number of this ruling.

Under a power of attorney on file in this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

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Richard K. Passales  
Senior Counsel, Branch 4  
Office of Associate Chief Counsel (Corporate)