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PLR-101360-08

Date:

April 25, 2008

LEGEND

Parent =

Sub 1 =

Distributing =

Controlled =

Company A =

State A =

State B =

Business A =

Business B =

a =

b =

c =

d =

e =

Dear :

This letter responds to your December 21, 2007 request for rulings on certain federal income tax consequences of a Proposed Transaction (defined below). The information provided in that request 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 an appropriate party. This office has not verified any of the material 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 Distribution (defined below): (i) satisfies the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations, (ii) is used principally as a device for the distribution of the earnings and profits of distributing or 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) and § 1.355-7).

SUMMARY OF FACTS

Parent is the common parent of an affiliated group of corporations that files a consolidated U.S. federal income tax return. Parent is a widely-held public corporation with a single class of voting common stock outstanding. Parent is headquartered in State A and files a separate income and franchise tax return in State A.

Parent's primary businesses are conducted through its subsidiaries. Parent wholly owns Sub 1. Sub 1 is a holding company that wholly owns Distributing, a group of domestic corporations (the "Sub 1 Domestic Subsidiaries") and a group of foreign corporations (the "Sub 1 Foreign Subsidiaries"). Sub 1 also holds approximately \$a in intercompany notes (the "Intercompany Notes") and has notes payable of \$b to Parent (the "Sub 1 Intercompany Notes"), initially distributed as a dividend.

Distributing owns all of the membership interests in Controlled, a limited liability company that has elected to be treated as an association and taxed as a corporation for U.S. federal income tax purposes. Controlled is also treated as a corporation for State A income tax purposes.

Distributing directly and through wholly owned entities conducts Business A. Controlled conducts Business B directly. The financial information submitted by the taxpayer indicates that Business A and Business B each has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

The Proposed Transaction will be undertaken pursuant to a single, integrated plan to effectuate an internal restructuring of certain domestic subsidiaries of Parent and to separate the legal ownership of Parent's domestic and foreign operations.

PROPOSED TRANSACTION

For what are represented to be valid business reasons, the taxpayer has proposed the following steps (collectively, the "Proposed Transaction") to occur in the order listed:

- (i) Sub 1 will convert under the applicable laws of State B to a limited liability company ("Sub 1 LLC") (the "Sub 1 Conversion") and be treated as an entity disregarded from its owner for U.S. federal income tax purposes, effective as of the date of the Sub 1 Conversion.
- (ii) Sub 1 LLC will distribute 100 percent of the Distributing stock to Parent. Sub 1 will also distribute the Sub 1 Domestic Subsidiaries and other assets (including \$c in notes receivable from Distributing) to Parent and the Sub 1 Intercompany Notes will be cancelled.
- (iii) Distributing will distribute 100 percent of its membership interests in Controlled to Parent (the "Distribution").
- (iv) Controlled will make an election to be treated as a disregarded entity for U.S. federal income tax purposes, effective after the date of the Distribution (the "Controlled Liquidation"). Following the Controlled Liquidation, Parent will continue Business B.
- (v) Sub 1 LLC will convert under the applicable laws of State B to a corporation known as New Sub 1 and will be taxed as a corporation for U.S. federal income tax purposes (the "Sub 1 LLC Conversion"). At the time of the Sub 1 LLC Conversion, New Sub 1's assets will be predominately composed of

the Sub 1 Foreign Subsidiaries previously held by Sub 1 and the remaining Intercompany Notes. Those assets will represent less than d percent of the gross value of Sub 1's assets.

REPRESENTATIONS

Sub 1 Conversion

The taxpayer makes the following representations regarding the Sub 1 Conversion should the transaction be treated as a liquidation under § 332:

(a1) Parent, on the date of the adoption of the plan of complete liquidation of Sub 1 into Parent, and at all times until the final liquidating distribution is completed, will be the owner of at least 80 percent of the single outstanding class of Sub 1 stock.

(b1) No shares of Sub 1 stock will have been redeemed during the three years preceding the adoption of the plan of complete liquidation of Sub 1.

(c1) All distributions from Sub 1 to Parent pursuant to the plan of complete liquidation will be made within a single taxable year of Sub 1.

(d1) As soon as the first liquidating distributions occur, Sub 1 will cease to be a going concern and its activities will be limited to winding up its affairs, paying its debts, and distributing its remaining assets to its shareholders.

(e1) Sub 1 will retain no assets following its final liquidating distribution.

(f1) Sub 1 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions in the ordinary course of business, and acquisitions occurring more than three years before the date of the adoption of the plan of complete liquidation of Sub 1.

(g1) Other than in conjunction with the sale by Parent and its subsidiaries of Company A and related affiliated companies, no assets of Sub 1 have been, or will be, disposed of by either Sub 1 or Parent, except for dispositions in the ordinary course of business, transfers within the controlled group, and dispositions occurring more than three years before the adoption of the plan of complete liquidation of Sub 1.

(h1) Except for transfers pursuant to the Proposed Transaction, the liquidation of Sub 1 will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation (Recipient) of any of the businesses or assets of Sub 1, if persons holding, directly or indirectly, more than 20 percent in

value of the Sub 1 stock also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rule of § 318(a) as modified by section § 304(c)(3).

(i1) Before the adoption of the plan of complete liquidation of Sub 1, and excluding the issuance of the Sub 1 Intercompany Notes, no Sub 1 assets will have been distributed in kind, transferred or sold to Parent, except for (i) transactions occurring in the ordinary course of business and (ii) transactions occurring more than three years before adoption of the plan of complete liquidation of Sub 1.

(j1) Sub 1 will report all earned income represented by assets that will be distributed to Parent, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(k1) The fair market value of Sub 1's assets will exceed its liabilities both at the date of the adoption of the plan of complete liquidation of Sub 1 and immediately before the time the first liquidating distribution is made.

(l1) On the date of the Sub 1 Conversion, other than the Sub 1 Intercompany Notes and obligations arising in the ordinary course of business, there is no intercorporate debt existing between Parent and Sub 1 and none has been cancelled, forgiven, or discounted, except for transactions that occurred more than three years before the date of adoption of the liquidation plan. As a result of the Sub 1 Conversion, the Sub 1 Intercompany Notes will be deemed extinguished.

(m1) Parent is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(n1) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Sub 1 Conversion have been fully disclosed.

The taxpayer makes the following representations regarding the Sub 1 Conversion should the transaction be treated as a reorganization under § 368(a)(1)(C):

(o1) The fair market value of the Parent voting stock deemed received by Parent in the Sub 1 Conversion will be approximately equal to the fair market value of the Sub 1 stock deemed surrendered in the exchange.

(p1) No property, other than the deemed shares of Parent voting stock, will be issued by Parent to Sub 1 as consideration with respect to the Sub 1 Conversion.

(q1) In cancellation of its Sub 1 stock, Parent will acquire a direct interest in the Sub 1 business enterprise (through Sub 1 LLC).

(r1) Parent will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by Sub 1 immediately prior to the transaction. For purposes of this representation, amounts paid by Sub 1 to dissenters, amounts used by Sub 1 to pay its reorganization expenses, amounts paid by Sub 1 to shareholders who receive cash or other property, and all redemptions and distributions (except for regular, normal dividends) made by Sub 1 immediately preceding the transfer will be included as assets of Sub 1 held immediately prior to the transaction.

(s1) Parent has no plan or intention to sell or otherwise dispose of any of the assets of Sub 1 acquired in the Sub 1 Conversion, except for dispositions made in the ordinary course of business or transfers described in § 368(a)(2)(C).

(t1) The assets transferred to New Sub 1 will represent less than d percent of the gross value of Sub 1's assets.

(u1) Sub 1 will be treated as distributing the Parent voting stock deemed received in the Sub 1 Conversion, and its other properties, in pursuance of the plan of reorganization.

(v1) The liabilities of Sub 1 assumed (as determined under § 357(d)) by Parent were incurred by Sub 1 in the ordinary course of its business.

(w1) Following the Sub 1 Conversion, Parent either directly or through one or more members of Parent's qualified group (within the meaning of §1.368-1(d)(4)(ii)) will continue the historic business of Sub 1 or use a significant portion of Sub 1's historic business assets in a business.

(x1) Parent and Sub 1 will pay their respective expenses, if any, incurred in connection with the Sub 1 Conversion.

(y1) At the time of the Sub 1 Conversion, other than the Sub 1 Intercompany Notes and obligations arising in the ordinary course of business, there will be no intercorporate indebtedness existing between Parent and Sub 1 that was issued, acquired, or will be settled at a discount. As a result of the Sub 1 Conversion, the Sub 1 Intercompany Notes will be deemed extinguished.

(z1) The Sub 1 Conversion will be undertaken pursuant to a plan of reorganization.

(aa1) No party to the Sub 1 Conversion will be an investment company as defined in § 368(a)(2)(F)(iii) and (iv).

(bb1) The fair market value of the assets of Sub 1 transferred to Parent will equal or exceed the sum of the liabilities assumed by Parent, plus the amount of liabilities, if any, to which the transferred assets are subject.

(cc1) Sub 1 is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

(dd1) Items of income, gain, loss, deduction and credit will be taken into account as required by the applicable intercompany transaction regulations as a result of the Sub 1 Conversion (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).

Distribution

The taxpayer makes the following representations regarding the Distribution:

(a2) The indebtedness owed by Controlled to Distributing, if any, after the Distribution will not constitute stock or securities.

(b2) No part of the consideration to be distributed by Distributing will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.

(c2) Immediately after the Distribution, Distributing will be engaged in the active conduct of a trade or business as defined in § 355(b)(2) and (3).

(d2) Immediately after the Distribution, Controlled will be engaged in the active conduct of a trade or business as defined in § 355(b)(2) and (3).

(e2) The five years of financial information submitted on behalf of Distributing is representative of the corporation's present operation and, with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

(f2) The five years of financial information submitted on behalf of Controlled is representative of the corporation's present operation and, with regard to such

corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

(g2) Neither Business A nor control of an entity conducting this business was acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part. Throughout the five-year period ending on the date of the Distribution, Distributing has been the principal owner of the goodwill and significant assets of Business A and will continue to be such owner following the Distribution.

(h2) Neither Business B nor control of an entity conducting this business was acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part. Throughout the five-year period ending on the date of the Distribution, Controlled has been the principal owner of the goodwill and significant assets of Business B and will continue to be such owner following the Distribution.

(i2) Following the transaction, Distributing and Controlled will each continue the active conduct of its business, independently and with its separate employees.

(j2) The Distribution will be carried out for the following corporate business purposes: (i) the utilization of Parent's State A net operating losses to offset the State A taxable income of Controlled; (ii) obtaining a State A income tax deduction for Distributing for Business B services provided by Controlled; (iii) a reduction in net worth based state franchise taxes incurred by Distributing; (iv) the reduction of state income tax resulting from the limitations on dividends received deductions on dividends paid by Controlled to Distributing; (v) the utilization of certain State A tax credits attributable to jobs created in Controlled; and (vi) the alignment of the legal ownership of domestic and foreign operations within the current internal reporting and management structure. The Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.

(k2) The Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.

(l2) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

(m2) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of

the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution or (ii) attributable to distributions on Distributing stock or securities that were acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

(n2) No intercorporate debt will exist between Distributing and Controlled at the time of, or after, the Distribution, other than obligations arising in the ordinary course of business.

(o2) Immediately before the Distribution, 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).

(p2) Immediately before the Distribution, Distributing will not have an excess loss account (as defined in §1.1502-19(a)(2)) in Controlled's stock.

(q2) Payments made in connection with all continuing transactions, if any, 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.

(r2) The Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

(s2) Immediately following the transaction (taking into account § 355(g)(4)), (i) neither Distributing nor Controlled will be a disqualified investment corporation (as defined by § 355(g)(2)) and (ii) no person will hold a 50 percent or greater interest in any disqualified investment corporation (as defined by § 355(g)(2)) immediately after the transaction who did not so hold, directly or indirectly, such interest immediately before the transaction.

Controlled Liquidation

The taxpayer makes the following representations regarding the Controlled Liquidation:

(a3) Parent, on the date of the adoption of the plan of complete liquidation of Controlled into Parent, and at all times until the final liquidating distribution is completed, will be the owner of at least 80 percent of the single outstanding class of Controlled membership interest.

(b3) No membership interest of Controlled will have been redeemed during the three years preceding the adoption of the plan of complete liquidation of Controlled.

(c3) All distributions from Controlled to Parent pursuant to the plan of complete liquidation will be made within a single taxable year of Controlled.

(d3) As soon as the first liquidating distributions occur, Controlled will cease to be a going concern and its activities will be limited to winding up its affairs, paying its debts, and distributing its remaining assets to its shareholders.

(e3) Controlled will retain no assets following its final liquidating distribution.

(f3) Controlled will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years before the date of the adoption of the plan of complete liquidation of Controlled.

(g3) No assets of Controlled have been, or will be, disposed of by either Controlled or Parent, except for dispositions in the ordinary course of business and dispositions occurring more than three years before the adoption of the plan of complete liquidation of Controlled.

(h3) The liquidation of Controlled will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation (Recipient) of any of the businesses or assets of Controlled, if persons holding, directly or indirectly, more than 20 percent in value of the Controlled stock also hold, directly or indirectly, more than 20 percent in value of the stock in the Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a) as modified by section § 304(c)(3).

(i3) Before the adoption of the plan of complete liquidation of Controlled, no Controlled assets will have been distributed in kind, transferred or sold to Parent, except for (i) transactions occurring in the ordinary course of business and (ii) transactions occurring more than three years before adoption of the plan of complete liquidation of Controlled.

(j3) Controlled will report all earned income represented by assets that will be distributed to Parent, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(k3) The fair market value of Controlled's assets will exceed its liabilities both at the date of the adoption of the plan of complete liquidation of Controlled and immediately before the time the first liquidating distribution is made.

(l3) On the date of the Controlled Liquidation, there is no intercorporate debt existing between Parent and Controlled and none has been cancelled, forgiven, or discounted, except for an approximately \$e intercompany obligation between Parent and Controlled and for transactions that occurred more than three years before the date of adoption of the liquidation plan.

(m3) Parent is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(n3) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Controlled Liquidation have been fully disclosed.

(o3) Items of income, gain, loss, deduction and credit will be taken into account as required by the applicable intercompany transaction regulations as a result of the Controlled Liquidation (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).

Sub 1 LLC Conversion

The taxpayer makes the following representations regarding the Sub 1 LLC Conversion:

(a4) No stock or securities will be issued for services rendered to or for the benefit of New Sub 1 in connection with the Proposed Transaction, and no stock or securities will be issued for indebtedness of New Sub 1 that is not evidenced by a security or for interest on indebtedness of New Sub 1 which accrued on or after the beginning of the holding period of Parent for the debt.

(b4) The deemed transfer of assets to New Sub 1 is not the result of the solicitation by a promoter, broker, or investment house.

(c4) Parent will not retain any rights in the assets deemed transferred to New Sub 1.

(d4) Any debt relating to the stock being transferred that is being assumed (or to which such stock is subject) was incurred to acquire such stock and was incurred when such stock was acquired, and Parent is transferring all of the stock for which the acquisition indebtedness being assumed (or to which such stock is subject) was incurred, if any.

(e4) The total fair market value of the assets deemed transferred by Parent to New Sub 1 will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of § 357(d)) by New Sub 1 in connection with the transfer, (ii) the amount of any liabilities owed to New Sub 1 by Parent that are discharged or extinguished in connection with the transfer, and (iii) the amount of cash and the fair market value of any other property (other than stock permitted to be received under § 351(a) without the recognition of gain) received by Parent in connection with the transfer. The fair market value of the assets of New Sub 1 will exceed the amount of its liabilities immediately after the transfer.

(f4) The adjusted basis and the fair market value of the assets deemed transferred by Parent to New Sub 1 are equal to or exceed any liabilities assumed (as determined under § 357(d)) by New Sub 1.

(g4) The aggregate fair market value of the assets deemed transferred by Parent to New Sub 1 will equal or exceed the aggregate adjusted bases of those assets.

(h4) The liabilities of Parent deemed to be assumed (as determined under § 357(d)) by New Sub 1 were incurred in the ordinary course of business and are associated with the assets transferred.

(i4) There is no indebtedness between New Sub 1 and Parent and there will be no indebtedness created in favor of Parent as a result of the Sub 1 LLC Conversion.

(j4) The deemed transfer of the assets will occur under a plan agreed upon before the transaction in which the rights of Parent and New Sub 1 are defined.

(k4) All exchanges will occur on approximately the same date.

(l4) New Sub 1 has no plan or intention to redeem or otherwise reacquire any of its stock issued in the Sub 1 LLC Conversion.

(m4) Taking into account any issuance, deemed or otherwise, of additional shares of New Sub 1 stock; any issuance of stock for services; the exercise of any New Sub 1 stock rights, warrants, or subscriptions; a public

offering of New Sub 1 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of New Sub 1 to be received in the exchange, Parent will be in “control” of New Sub 1 within the meaning of § 368(c).

(n4) The fair market value of the New Sub 1 stock and other consideration deemed received by Parent will be approximately equal to the fair market value of the assets deemed to be transferred in the exchange.

(o4) New Sub 1 will remain in existence and retain and use the property transferred to it in a trade or business.

(p4) New Sub 1 has no plan or intention to sell or otherwise dispose of any of the assets deemed acquired in the Sub 1 LLC Conversion, except for dispositions made in the ordinary course of business.

(q4) New Sub 1 and Parent will pay their respective expenses, if any, incurred in connection with the Proposed Transaction.

(r4) New Sub 1 will not be an investment company within the meaning of § 351(e)(1) and § 1.351-1(c)(1)(ii).

(s4) Parent is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of § 368(a)(3)(A)) and any stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.

(t4) New Sub 1 will not be a “personal service corporation” within the meaning of § 269A.

RULINGS

Sub 1 Conversion

Based solely on the information and representations submitted, we rule as follows on the Sub 1 Conversion:

1. No gain or loss will be recognized by Sub 1 on the Sub 1 Conversion.
2. No gain or loss will be recognized by Parent on the Sub 1 Conversion.
3. The basis of each asset received by Parent in the Sub 1 Conversion will equal the basis of that asset in the hands of Sub 1 immediately before the Sub 1 Conversion.

4. The holding period of each asset received by Parent in the Sub 1 Conversion will include the period during which Sub 1 held that asset.

Distribution

Based solely on the information and representations submitted, we rule as follows on the Distribution:

5. No gain or loss will be recognized by Distributing on the Distribution (§ 355(c)(1)).
6. No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Parent on the Distribution (§ 355(a)(1)).
7. The aggregate basis of the Distributing stock and the Controlled membership interests in the hands of Parent will equal the aggregate basis of the Distributing stock held by Parent immediately before the Distribution, allocated between the Distributing stock and the Controlled membership interests in proportion to the fair market value of each immediately after the Distribution in accordance with §1.358-2(a) (§ 358(a), (b), and (c)).
8. As provided in § 312(h), proper allocation of earnings and profits between Distributing and Controlled will be made in accordance with §§1.312-10(b) and 1.1502-33(e)(3).

Controlled Liquidation

Based solely on the information and representations submitted, we rule as follows on the Controlled Liquidation:

9. No gain or loss will be recognized by Controlled on the Controlled Liquidation (§ 337(a)).
10. No gain or loss will be recognized by Parent on the Controlled Liquidation (§ 332(a)).
11. The basis of each asset received by Parent in the Controlled Liquidation will equal the basis of that asset in the hands of Controlled immediately before the Controlled Liquidation (§ 334(b)(1)).
12. The holding period of each asset received by Parent in the Controlled Liquidation will include the period during which Controlled held that asset (§ 1223(2)).

Sub 1 LLC Conversion

Based solely on the information and representations submitted, we rule as follows on the Sub 1 LLC Conversion:

13. Parent will recognize no gain or loss on the Sub 1 LLC Conversion (§§ 351(a) and 357(a)).
14. New Sub 1 will recognize no gain or loss on the Sub 1 LLC Conversion (§ 1032(a)).
15. The basis of each asset received by New Sub 1 in the Sub 1 LLC Conversion will equal the basis of that asset in the hands of Parent immediately before the Sub 1 LLC Conversion (§ 362(a)).
16. The holding period of each asset received by New Sub 1 in the Sub 1 LLC Conversion will include the period during which Parent held that asset (§ 1223(2)).
17. The basis of the New Sub 1 stock received by Parent will equal the basis of the assets transferred in exchange thereof, reduced by the amount of liabilities assumed by New Sub 1 (§ 358(a)(1) and (d)).
18. The holding period of the New Sub 1 stock received by Parent will include the holding period of the assets transferred to New Sub 1, provided that the assets are held by Parent as capital assets on the date of the exchange (§ 1223(1)).

CAVEATS

No opinion is expressed about the tax treatment of the Proposed Transaction under other provisions of the Code and regulations or on 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 rulings. In particular, this office has not reviewed any information pertaining to and has made no determination regarding:

- (i) Whether the Distribution satisfies the business purpose requirement of § 1.355-2(b);
- (ii) Whether the Distribution is used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both; and
- (iii) Whether the Distribution and an acquisition or acquisitions are part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii).

PROCEDURAL MATTERS

This ruling letter is directed only to the taxpayer 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 any income tax return to which it is relevant. Alternatively, any taxpayer filing its return electronically may satisfy this requirement by attaching a statement to the return that provides the date and control number of this letter ruling.

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,

Richard K. Passales

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