

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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Person To Contact:

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Date:

July 17, 2008

LEGEND:

Government =

Insurance Business =

Unit =

Commissioner =

Newco =

Privatization Legislation =

Chief Elected Official =

Policyholders =

Interests =

Contracts =

Fund 1 =

Fund 2 =

Fund 3 =

Note =

Year A =

Date B =

Date C =

Date D =

Date E =

Date F =

Date G =

Date H =

Date I =

a =

b =

c =

d =

e =

Dear :

This letter responds to your authorized representative's letter dated November 14, 2007, requesting rulings under sections 351 and 832 of the Internal Revenue Code ("Code") regarding a completed transaction. 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 penalties 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.

FACTS

Government conducted the Insurance Business through various state agencies from Year A until Date C. From Date B until Date C, Government conducted the Insurance Business through Unit. For purposes of this letter ruling, Government includes Unit.

For what are represented to be valid business reasons, Government moved the Insurance Business from public to private ownership pursuant to the Privatization Legislation through the following transactions (the "Conversion Transaction").

- (i) Newco was organized on Date D as a private mutual insurance company. As such, Newco has no shares of capital stock outstanding. On Date E, the Internal Revenue Service granted Newco an exemption from federal taxation under section 501(c)(27)(B) through Date F.
- (ii) Effective Date G, Unit transferred the assets relating to the Insurance Business (including Fund 2) to Newco, and Newco assumed the liabilities associated with the Insurance Business. All Contracts along with any advanced deposits with Unit novated to and were deposited in an account with Newco.

Prior to the Conversion Transaction, the historic funds of the Insurance Business were held in Fund 1, which as of Date C held an estimated \$a in assets. Pursuant to the Privatization Legislation and the proclamation issued by Chief Elected Official on Date H, the \$a of assets in Fund 1 was allocated between three funds, including Fund 2. Fund 2 received assets from Fund 1 in the amount of \$b. Of the \$b amount in Fund 2, \$c is subject to repayment by Newco according to the terms of Note. Government retained custody of the other two funds holding the remaining \$d of assets from Fund 1.

- (iii) Newco issued all of its Interests directly to the Policyholders. The Interests entitle holders to receive policyholder dividends if and when declared and, after Date F, to vote for a board of directors. The Chief Elected Official appoints the Newco board of directors (including any vacancies) until Date F. In addition, the Interests do not entitle holders to receive proceeds in the event of liquidation because Newco's tax-exempt status requires that liquidation be prohibited.

REPRESENTATIONS

The taxpayer has made the following representations regarding the Conversion Transaction:

- (a) No stock, securities, or other ownership interests have been or will be issued for services rendered to or for the benefit of Newco in connection with the Conversion Transaction, and no stock, securities, or other ownership interests have been or will be issued for indebtedness of Newco that is not evidenced by a security or for interest on indebtedness of Newco which accrued on or after the beginning of the holding period of Unit for the debt.
- (b) All rights, title and interests for each copyright, in each medium of exploitation, were transferred to Newco in the Conversion Transaction.
- (c) The Conversion Transaction was not the result of the solicitation by a promoter, broker, or investment house.
- (d) Unit did not retain any significant power, right, or continuing interest, within the meaning of section 1253(b), in any trademarks or trade names being transferred.
- (e) Government (through Commissioner) did not retain any rights in the property transferred to Newco.
- (f) The adjusted bases and the fair market value of the assets transferred by Unit to Newco, in each instance, equaled or exceeded the total liabilities assumed (as determined under section 357(d)) by Newco.

(g) The total fair market value of the assets transferred to Newco by Unit exceeded the sum of (i) the amount of liabilities assumed (as determined under section 357(d)) by Newco in connection with the exchange, (ii) the amount of liabilities owed to Newco by Unit that were discharged or extinguished in connection with the exchange, and (iii) the amount of any money and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Unit in connection with the exchange. The fair market value of the assets of Newco exceeded the amount of its liabilities immediately after the exchange.

(h) The aggregate fair market value of the assets transferred to Newco by Unit equaled or exceeded the aggregate adjusted bases of such assets immediately after the exchange.

(i) The liabilities of Unit assumed (as determined under section 357(d)) by Newco were incurred in the ordinary course of business and were associated with the assets transferred.

(j) Other than the Note, there is and was no indebtedness between Newco and Unit, and there will be no indebtedness created in favor of Unit as a result of the Conversion Transaction.

(k) The transfers and exchanges occurred under a plan agreed upon before the Conversion Transaction in which the rights of the parties were defined.

(l) All exchanges occurred on Date I (effective Date G).

(m) There is no plan or intention on the part of Newco to redeem or otherwise reacquire any stock, indebtedness, or ownership interests issued in the Conversion Transaction.

(n) Taking into account any issuance of additional shares of Newco stock or other ownership interests; any issuance of stock or other ownership interests for services; the exercise of any transferee stock rights, warrants, or subscriptions; a public offering of Newco stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock or other ownership interests of Newco received in the Conversion Transaction, Unit was in "control" of Newco within the meaning of section 368(c).

(o) In the Conversion Transaction, Unit constructively received equity interests in Newco approximately equal to the fair market value of the property transferred to Newco.

- (p) Newco will remain in existence and retain and use the property transferred to it in a trade or business.
- (q) There is no plan or intention by Newco to dispose of the transferred property other than in the normal course of business operations.
- (r) The Privatization Legislation established Fund 3 funded with \$e to pay the legal, operational, consultative and human resource related expenses associated with the establishment of Newco and transferring personnel from Unit to Newco. To the extent not covered by Fund 3, Unit, the Policyholders, and Newco each paid its or their own expenses, if any, incurred in connection with the Conversion Transaction.
- (s) Newco is not an investment company within the meaning of section 351(e)(1) and section 1.351-1(c)(1)(ii).
- (t) Unit is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock, securities, or other ownership interests received in the Conversion Transaction will not be used to satisfy the indebtedness of such debtor.
- (u) Newco is not a “personal service corporation” within the meaning of section 269A.
- (v) Unit would be permitted under the Constitution of Government to own all of the stock or other equity ownership interests in Newco.

RULINGS

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

1. For federal income tax purposes, the Conversion Transaction will be treated as if (a) Government (through Unit) had transferred the Insurance Business to Newco on Date I in exchange for all of the Interests in Newco and the assumption by Newco of related liabilities (collectively, the “Exchange”) and (b) Government had transferred a portion of the Interests to the Policyholders (see D’Angelo Associates, Inc. v. Commissioner, 70 T.C. 121 (1978); cf. Himmel v. Commissioner, 338 F.2d 815 (2nd Cir. 1964)).
2. The Interests deemed received by Government (through Unit) in the Exchange are treated as stock under section 351(a).

3. Government (through Unit) recognized any realized gain on the Exchange in an amount not in excess of the fair market value of the Note (section 351(a) and (b)(1)). The requirement of section 351(a) that Government (through Unit) control Newco immediately after the Exchange was satisfied because Government (through Unit) had the right, in choosing the method of privatizing the Insurance Business, either to retain the Interests or to designate other persons to receive the Interests (see D'Angelo Associates, Inc. v. Commissioner). No loss was recognized on the Exchange (section 351(b)(2)).
4. No income, gain, or loss was recognized by Newco as a result of the Exchange (section 1032(a)).
5. The basis of each asset of the Insurance Business received by Newco in the Exchange equals the basis of that asset in the hands of Government (through Unit) immediately before the Exchange, increased by the amount of gain, if any, recognized on the Exchange (section 362(a)).
6. The holding period of each asset of the Insurance Business received by Newco in the Exchange includes the holding period of that asset in the hands of Government (through Unit) immediately before the Exchange (section 1223(2)).
7. For Newco's first year as a taxable entity (year ending December 31,), the deduction for losses incurred under section 832(b)(5) will be computed using discounted unpaid losses as of December 31, and December 31, .

CAVEATS

No opinion is expressed about the tax treatment of the Conversion 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 Conversion Transaction that are not specifically covered by the above rulings.

PROCEDURAL STATEMENTS

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 letter must be attached to any income tax return to which it is relevant. 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 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,

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