

**Office of Chief Counsel  
Internal Revenue Service  
Memorandum**

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CC:CORP:01:LMThompson  
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Third Party Communication: None  
Date of Communication: Not Applicable

UILC: 267.07-01, 267.07-02, 301.00-00, 331.00-00

date: March 09, 2009

to:  
Internal Revenue Agent  
( )

from: Stephen P. Fattman  
Special Counsel  
Office of Associate Chief Counsel (Corporate)

Leah M. Thompson  
General Attorney, Branch 1  
Office of Associate Chief Counsel (Corporate)

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subject:

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

LEGEND

Parent	=	████
Year 1	=	████
Sub	=	████████████████
Disregarded Entity	=	██████████████
A	=	██
Shareholder 1	=	████████

B	=	████
C	=	██
D	=	████
E	=	██
F	=	██
G	=	████
H	=	█
General Partner	=	████████████████████
I	=	██
J	=	████
Individual 1	=	████████████████
Individual 2	=	████████████████
K	=	█
L	=	████

Dear ██████:

You asked us whether the loss recognized in the section 301 distribution by Sub, deferred under section 267(f) and not taken into account under section 1502-13, can be taken into account when Parent converts to an LLC. We are writing to confirm that, at least where Sub is a first tier subsidiary of Parent, under 267(f)(2), Sub takes the loss into account when Parent liquidated under section 331 as a result of the LLC conversion. Just to confirm the essence of our discussion the facts are laid out below.

FACTS

Parent was the common parent of a consolidated (and controlled) group. In Year 1, Parent's wholly-owned Sub, distributed 100% of the membership interests in Disregarded Entity to Parent (the 301 Distribution). Sub recognized a loss in the 301 Distribution that was deferred under section 267(f) and section 1502-13. Parent then

contributed 100% of the stock in Sub to Disregarded Entity. Then Parent converted into an LLC, treated as a partnership for federal tax purposes, under a state law formless conversion statute.

At the time of the conversion of Parent, A% of Parent stock was owned by Shareholder 1 (a partnership for federal tax purposes), B% was owned by Investment Fund (a corporation for federal tax purposes), and C% was owned by Individuals. D% of Shareholder 1 was owned by Investment Fund, E% of Shareholder 1 was owned by Institutional Investors, and F% of Shareholder 1 was owned by Individual Family Partnerships.

Shortly after the conversion of Parent, Parent transferred Disregarded Entity to a new master limited partnership (MLP), a partnership for federal tax purposes, in exchange for G% of the MLP interests. In the same transaction, the MLP issued H% of its total equity to General Partner (a partnership for federal tax purposes). General Partner is owned I% by Shareholder 1, and J% by each of Individual A and Individual B (who each owned K% of Parent). The MLP issued L% of its equity to the public as part of the same overall transaction. An additional H% of MLP's equity was issued to the public a year later in an unrelated transaction.

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

If you have any further questions please contact Leah M. Thompson at (202) 622-7750 or Stephen P. Fattman at (202) 622-7700

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Stephen P. Fattman

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Leah M. Thompson