

Internal Revenue Service

Department of the Treasury
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PLR-149878-09

Date:

December 22, 2009

Legend

US Parent =

Foreign Parent 1 =

Foreign Parent =

Sub 1 =

Country A =

Date A =

Date B =

Date C =

Year 1 =

Note 1 =

Note 2 =

Credit Facility =

r =

s =

t =

u =

v =

Dear :

This letter responds to your November 9, 2009 request for a ruling on behalf of US Parent. The information submitted for consideration is summarized below. The rulings contained in this letter are based upon 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 material submitted in support of the request for rulings, it is subject to verification on examination.

Summary of Facts

US Parent is the common parent of an affiliated group of corporations that files a consolidated United States ("U.S.") federal income tax return (the "US Parent Group") on the basis of a calendar taxable year using the accrual method of accounting. US Parent is a wholly owned subsidiary of Foreign Parent, a Country A corporation. Foreign Parent is a wholly owned subsidiary of Foreign Parent 1, a publicly traded Country A corporation. Foreign Parent and Foreign Parent 1 do not directly conduct any trade or business within the U.S. and do not file a U.S. federal income tax return.

Prior to Date A, US Parent was indebted to Foreign Parent in the amount of r dollars, a significant portion of which was incurred to fund operations of a wholly owned US Parent subsidiary, Sub 1. On Date A, US Parent transferred all of its Sub 1 stock to

Foreign Parent in exchange for cash, the payment of which was effectuated by the cancellation of US Parent indebtedness to Foreign Parent (the "Sub 1 Acquisition"). US Parent's remaining indebtedness to Foreign Parent included Note 1 and Credit Facility (collectively, the Debt) and Note 2.

On Date B, Foreign Parent cancelled the Debt in order to improve the financial position of US Parent. For Country A tax purposes, the Debt was cancelled by Foreign Parent in exchange for s shares of US Parent stock (the "Shares"), the fair market value of which was intended to be approximately equal to the fair market value of the Debt (the "Transaction").

Rescission Transaction

US Parent intends to enter into an agreement (the "Rescission Agreement") with Foreign Parent with respect to the Transaction (upon consummation, the "Rescission"). Pursuant to the Rescission Agreement, on or before Date C, which is the last day of the taxable year for US Parent that includes the Transaction, (i) the cancellation of the Debt as part of the Transaction will be void, ab initio, and interest (or other payments) will be paid accordingly, and (ii) the Shares will be cancelled. Following the Rescission, (a) the principal amount of US Parent's indebtedness to Foreign Parent will be the same as it was immediately prior to the Transaction, and the amount of interest (or other payments) payable and paid to Foreign Parent with respect to the Debt will be the same as it would have been if the Transaction had not occurred.

Subsequent Debt Cancellation

Following the Rescission, US Parent intends to enter into an agreement with Foreign Parent pursuant to which (i) solely for Country A tax reasons, Foreign Parent will purchase a share of US Parent (the "Single Share"), in exchange for cancellation of an amount of Note 1 and/or Note 2 intended to be equal to the fair market value of the Single Share, (ii) Foreign Parent will cancel t amount of debt under Note 1 and/or Note 2 as a capital contribution to US Parent, and (iii) the Single Share, issued solely for Country A tax reasons, will be cancelled within u days of its issuance (upon consummation, the "Subsequent Debt Cancellation," the cancelled debt of which is the "Contribution Debt").

Representations

- (a) At all times relevant hereto, US Parent has had (and will have) only one class of stock, consisting of identical shares of common stock.
- (b) Aside from accounts payable incurred in the ordinary course of business, all of US Parent's material indebtedness is owed to Foreign Parent.

- (c) The Debt and the Contribution Debt qualify as debt for U.S. federal income tax purposes and have been (and will be) treated by Foreign Parent and US Parent as debt of US Parent for all U.S. federal income tax purposes.
- (d) The Contribution Debt relates to principal amounts and not accrued interest.
- (e) The Contribution Debt will have a positive fair market value at the time it is contributed to the capital of US Parent.
- (f) Prior to the Transaction, US Parent had y shares of common stock outstanding. At all times relevant hereto, all of these shares were owned by Foreign Parent.
- (g) The Rescission will occur in the taxable years of US Parent and Foreign Parent that include the Transaction.
- (h) The intent and effect of the Rescission is to restore in all material respects the legal and financial arrangements with respect to the Debt and Shares that would have existed had the Transaction never occurred.
- (i) During Year 1, US Parent will not pay or declare any actual or constructive dividends or make any other distributions with respect to any of its stock.
- (j) During the period beginning on the date the Shares were issued and ending on the date of the Rescission, the issuance of the Shares to Foreign Parent will have had no legal or material economic consequences to Foreign Parent or US Parent.
- (k) Neither US Parent nor Foreign Parent is or will be bound by any legal obligation regarding the Subsequent Debt Cancellation at or before the effective time of the Rescission.
- (l) US Parent and Foreign Parent will not effect the Subsequent Debt Cancellation at any time when US Parent is insolvent within the meaning of section 108(d)(3).
- (m) Neither US Parent, Foreign Parent, nor US Parent Group has taken or will take any material position for U.S. federal tax purposes that is inconsistent with the Rescission.

Rulings

Based solely on the facts submitted, the representations made, and the parties' restoration by Date C of the relative positions they would have occupied if the Transaction had not been consummated, we rule as follows for U.S. federal income tax purposes:

- (1) The cancellation of the Debt and issuance of the Shares pursuant to the Transaction shall be disregarded for U.S. federal income tax purposes (Rev. Rul. 80-58, 1980-1 C.B. 181).
- (2) US Parent's transitory Single Share will be disregarded for U.S. federal income tax purposes.
- (3) US Parent will be treated as having satisfied the Contribution Debt with an amount of money equal to Foreign Parent's adjusted basis in the Contribution

Debt for purposes of determining income of US Parent from discharge of indebtedness (§ 108(e)(6)).

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed nor was any opinion requested, regarding the U.S. Federal income tax consequences relating to the "Sub 1 Acquisition."

Procedural Matters

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

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.

Sincerely,

Alfred C. Bishop, Jr.
Branch Chief, Branch 6

cc: