

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201136009**
Release Date: 9/9/2011

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:

Index Number: 355.00-00, 355.01-00, 368.04-00

, ID No.
Telephone Number:

Refer Reply To:
CC:CORP:B06
PLR-146545-10
Date:
May 23, 2011

LEGEND

Distributing 1 =

Distributing 2 =

Controlled =

Subsidiary =

LP =

State X =

State Y =

Business A =

Business B =

Segment X =

Segment Y =

Other Property =

a =

b =

c =

d =

Dear _____ :

This letter responds to your November 9, 2010, letter requesting rulings on certain federal income tax consequences of the Proposed Transactions (described below). The information provided in that letter and in later correspondence 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. 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.

Moreover, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the distributions (described below): (i) satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) are used principally as a device for the distribution of the earnings and profits of any distributing corporation or

the controlled corporation or both (see section 355(a)(1)(B) of the Internal Revenue Code (the “Code”) and Treas. Reg. § 1.355-2(d)); or (iii) are 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 any distributing corporation or the controlled corporation (see section 355(e) and Treas. Reg. § 1.355-7).

FACTS

Distributing 2, a publicly traded State X corporation, is the common parent of an affiliated group of corporations that files a consolidated federal income tax return (the “Distributing 2 Group”). Distributing 2 is principally a holding company and has one class of common stock outstanding.

Distributing 1, a State Y corporation, is a direct, wholly-owned subsidiary of Distributing 2 and a member of the Distributing 2 Group. Distributing 1 owns the a outstanding shares of stock in Controlled (the “Controlled stock”). Controlled, a State X corporation and a member of the Distributing 2 Group, owns all of the outstanding membership interests in Subsidiary, a State X limited liability company that is classified as a corporation for U.S. federal income tax purposes.

LP, a State X limited partnership, is classified as a partnership for U.S. federal income tax purposes. The partnership interests in LP are owned by Distributing 2, Distributing 1, and Subsidiary. Distributing 1 and Subsidiary collectively own more than a b interest in the capital and profits and losses of LP. The interest of Subsidiary in LP is a general partner interest.

Distributing 1 is engaged in Business A, directly and through its subsidiaries. The taxpayer has submitted financial information with respect to Segment X of Business A which indicates that Segment X has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

Subsidiary and LP, directly and through their subsidiaries are engaged in Business B. The taxpayer has submitted financial information with respect to Segment Y of Business B which indicates that Segment Y has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

PROPOSED TRANSACTIONS

For what have been represented as valid business purposes, the following transactions have been proposed (“Proposed Transactions”):

- (a) Prior to the Distributing 1 Distribution (as defined below), Controlled will distribute cash to Distributing 1 of approximately \$d (the “Cash Distribution”).
- (b) Distributing 1 will contribute to Controlled its interest in LP and certain miscellaneous assets related to Business B (the “Distributing 1 Contribution”). Controlled will then contribute the miscellaneous assets to Subsidiary.
- (c) Distributing 1 will distribute the Controlled stock to Distributing 2 (the “Distributing 1 Distribution” and, together with the Distributing 1 Contribution, the “Internal Spin-off”).
- (d) Distributing 2 will contribute to Controlled its interest in LP, certain miscellaneous assets related to Business B, and any receivables due from Controlled (or any of its subsidiaries) (the “Distributing 2 Contribution”). Controlled will then contribute the miscellaneous assets to Subsidiary. After the Distributing 2 Contribution, Distributing 2 will surrender the a shares of Controlled stock to Controlled in exchange for a number of shares of Controlled stock that will allow Distributing 2 to distribute one share of Controlled stock for every c shares of Distributing 2 common stock outstanding.
- (e) Distributing 2 will distribute the Controlled stock pro rata to the holders of Distributing 2 common stock (the “Distributing 2 Distribution” and, together with the Distributing 2 Contribution, the “External Spin-off”). Distributing 2 will not issue fractional shares of Controlled stock pursuant to the Distributing 2 Distribution. Instead, on behalf of the shareholders, the distribution agent will aggregate and sell on the open market all fractional shares and distribute the proceeds to those shareholders otherwise entitled to fractional shares.

Proposed Transactions (b) through (e), above, will occur on the same day.

- (f) Distributing 2 and Controlled will enter into certain agreements (collectively, the “Ancillary Agreements”) necessary for the companies to achieve operational independence. One of the Ancillary Agreements will be a tax sharing agreement (the “Tax Sharing Agreement”).

REPRESENTATIONS

The taxpayer makes the following representations regarding the Internal Spin-off and the External Spin-off (together the “Spin-offs”):

Internal Spin-off

- (a) Any indebtedness owed by Controlled to Distributing 1 after the Internal Spin-off will not constitute stock or securities.
- (b) No part of the consideration to be distributed by Distributing 1 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 1.
- (c) Distributing 1 and Controlled will each treat all members of their respective SAG (as defined in § 355(b)(3)(B)) as one corporation in determining whether they meet the requirements of § 355(b)(2)(A) regarding the active conduct of a trade or business.
- (d) The five years of financial information submitted on behalf of the Distributing 1 SAG is representative of the Distributing 1 SAG's present business operation, and with regard to such Distributing 1 SAG, there have been no substantial operational changes since the date of the last financial statements submitted.
- (e) The five years of financial information submitted on behalf of Business B (which is contributed to or currently owned by the Controlled SAG) is representative of the Controlled SAG's present business operation, and with regard to such Business B, there have been no substantial operational changes since the date of the last financial statements submitted.
- (f) Except as provided for in the Ancillary Agreements, following the Internal Spin-off, the Distributing 1 SAG and the Controlled SAG will each continue the active conduct of its business, independently and with its separate employees.
- (g) The distribution of the Controlled Stock is carried out to facilitate the External Spin-off that is, in turn, carried out for the following corporate business purposes:
 - a. Enhance the flexibility of the management team of each company to make business and operational decisions that are in the best interests of its business and to allocate capital and corporate resources in a manner that focuses on achieving its own strategic priorities;
 - b. Facilitate growth of Distributing 2's and Controlled's businesses;
 - c. Improve investor understanding of the separate businesses of Distributing 2 and Controlled and facilitate valuation assessments for the securities of both companies, which should appeal to the different investor bases of Business A and Business B; and

- d. Enhance the ability of each company to attract employees with appropriate skill sets, to incentivize its key employees with equity based compensation that is aligned with the performance of its own operations and to retain key employees for the long term.

The distribution of the Controlled Stock pursuant to the Internal Spin-off is motivated, in whole or substantial part, by one or more of these corporate business purposes.

- (h) The Internal Spin-off is not used principally as a device for the distribution of the earnings and profits of Distributing 1 or Controlled or both.
- (i) For purposes of § 355(d), immediately after the Internal Spin-off, 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 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 1 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 Internal Spin-off.
- (j) For purposes of § 355(d), immediately after the Internal Spin-off, 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 Internal Spin-off or (ii) attributable to distributions on Distributing 1 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 Internal Spin-off.
- (k) The total adjusted basis and the fair market value of the assets transferred to Controlled in the Distributing 1 Contribution will equal or exceed the sum of (i) the total liabilities assumed (within the meaning of § 357(d)) by Controlled, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of § 361(b)) received by Distributing 1 and transferred to its creditors and/or shareholders in connection with the Internal Spin-off.
- (l) The aggregate fair market value of the assets transferred to Controlled in the Distributing 1 Contribution will equal or exceed the aggregate adjusted basis of these assets.

- (m) The total fair market value of the assets transferred to Controlled in the Distributing 1 Contribution will exceed the sum of (i) the amount of liabilities (if any) assumed (within the meaning of § 357(d)) by Controlled in connection with the Distributing 1 Contribution, (ii) the amount of any liabilities owed to Controlled by Distributing 1 that are discharged or extinguished in connection with the Distributing 1 Contribution, 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 the recognition of gain) received by Distributing 1 from Controlled in connection with the Distributing 1 Contribution.
- (n) The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Distributing 1 Contribution.
- (o) The liabilities assumed (within the meaning of § 357(d)) by Controlled in the Distributing 1 Contribution were incurred in the ordinary course of business and are associated with the assets being transferred.
- (p) Distributing 1 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Internal Spin-off.
- (q) No intercorporate debt will exist between Distributing 1 (and its subsidiaries) and Controlled (and its subsidiaries) at the time of, or subsequent to, the Internal Spin-off, except for payables arising under the Ancillary Agreements or in the ordinary course of business.
- (r) At the time of the Internal Spin-off, no member of the Distributing 2 Group will have an excess loss account in the Controlled Stock or in the stock of any subsidiary of Controlled.
- (s) Immediately before the Internal Spin-off, 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, 1995-32 I.R.B. 6, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Distributing 1's excess loss account with respect to the Controlled Stock, if any, will be included in income immediately before the Internal Spin-off. (See § 1.1502-19).
- (t) Payments made in connection with all continuing transactions, if any, between Distributing 1 (and its subsidiaries) and Controlled (and its subsidiaries) following the Internal Spin-off will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length, except for Other Property that Distributing 1 (and its subsidiaries) and Controlled (and its subsidiaries) may license to the other.

- (u) No two parties to the Internal Spin-off are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (v) The Internal Spin-off 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 1 or Controlled (including any predecessor or successor of any such corporation).
- (w) Immediately after the Internal Spin-off, neither Distributing 1 nor Controlled will be a disqualified investment corporation within the meaning of § 355(g)(2)(A).
- (x) Distributing 1 and Controlled each will generally pay its own expenses incurred in connection with the Internal Spin-off.
- (y) There is no regulatory, legal, contractual, or economic compulsion or requirement that Distributing 1 make part or all of the Distributing 1 Contribution as a condition to the distribution by Controlled of the Cash Distribution.

External Spin-off

- (z) Any indebtedness owed by Controlled to Distributing 2 after the External Spin-off will not constitute stock or securities.
- (aa) No part of the consideration to be distributed by Distributing 2 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 2.
- (bb) Distributing 2 and Controlled will each treat all members of their respective SAG (as defined in § 355(b)(3)(B)) as one corporation in determining whether they meet the requirements of § 355(b)(2)(A) regarding the active conduct of a trade or business.
- (cc) The five years of financial information submitted on behalf of the Distributing 2 SAG is representative of the Distributing 2 SAG's present business operation, and with regard to such Distributing 2 SAG, there have been no substantial operational changes since the date of the last financial statements submitted.
- (dd) The five years of financial information submitted on behalf of Business B (which is contributed to or currently owned by the Controlled SAG) is representative of Business B's present business operation, and with regard to such Business B, there have been no substantial operational changes since the date of the last financial statements submitted.

- (ee) Except as provided for in the Ancillary Agreements, following the External Spin-off, the Distributing 2 SAG and the Controlled SAG will each continue the active conduct of its business, independently and with its separate employees.
- (ff) The distribution of the Controlled Stock is carried out for the following corporate business purposes:
 - a. Enhance the flexibility of the management team of each company to make business and operational decisions that are in the best interests of its business and to allocate capital and corporate resources in a manner that focuses on achieving its own strategic priorities;
 - b. Facilitate growth of Distributing 2's and Controlled's businesses;
 - c. Improve investor understanding of the separate businesses of Distributing 2 and Controlled and facilitate valuation assessments for the securities of both companies, which should appeal to the different investor bases of Business A and Business B; and
 - d. Enhance the ability of each company to attract employees with appropriate skill sets, to incentivize its key employees with equity based compensation that is aligned with the performance of its own operations and to retain key employees for the long term.

The distribution of the Controlled Stock pursuant to the External Spin-off is motivated, in whole or substantial part, by one or more of these corporate business purposes.

- (gg) The External Spin-off is not used principally as a device for the distribution of the earnings and profits of Distributing 2 or Controlled or both.
- (hh) For purposes of § 355(d), immediately after the External Spin-off, 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 2 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 2 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 External Spin-off.
- (ii) For purposes of § 355(d), immediately after the External Spin-off, 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 External Spin-off or (ii) attributable to distributions on Distributing 2 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 External Spin-off).

- (jj) The total adjusted basis and the fair market value of the assets transferred to Controlled in the Distributing 2 Contribution will equal or exceed the sum of (i) the total liabilities assumed (within the meaning of § 357(d)) by Controlled, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of § 361(b)) received by Distributing 2 and transferred to its creditors and/or shareholders in connection with the External Spin-off.
- (kk) The aggregate fair market value of the assets transferred to Controlled in the Distributing 2 Contribution will equal or exceed the aggregate adjusted basis of these assets.
- (ll) The total fair market value of the assets transferred to Controlled in the Distributing 2 Contribution will exceed the sum of (i) the amount of liabilities (if any) assumed (within the meaning of § 357(d)) by Controlled in connection with the Distributing 2 Contribution, (ii) the amount of any liabilities owed to Controlled by Distributing 2 that are discharged or extinguished in connection with the Distributing 2 Contribution, 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 the recognition of gain) received by Distributing 2 from Controlled in connection with the Distributing 2 Contribution.
- (mm) The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Distributing 2 Contribution.
- (nn) The liabilities assumed (within the meaning of § 357(d)) by Controlled in the Distributing 2 Contribution were incurred in the ordinary course of business and are associated with the assets being transferred.
- (oo) Distributing 2 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the External Spin-off.
- (pp) No intercorporate debt will exist between Distributing 2 (and its subsidiaries) and Controlled (and its subsidiaries) at the time of, or subsequent to, the External Spin-off, except for payables arising under the Ancillary Agreements or in the ordinary course of business.
- (qq) Immediately before the External Spin-off, 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, 1995-32 I.R.B. 6, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Distributing 2's excess loss account with respect to the Controlled Stock, if any, will be included in income immediately before the External Spin-off. (See § 1.1502-19).

- (rr) Payments made in connection with all continuing transactions, if any, between Distributing 2 (and its subsidiaries) and Controlled (and its subsidiaries) following the External Spin-off will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length, except for Other Property that Distributing 2 (and its subsidiaries) and Controlled (and its subsidiaries) may license to the other.
- (ss) No two parties to the External Spin-off are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (tt) The External Spin-off 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 2 or Controlled (including any predecessor or successor of any such corporation).
- (uu) Immediately after the External Spin-off, neither Distributing 2 nor Controlled will be a disqualified investment corporation within the meaning of § 355(g)(2)(A).
- (vv) Distributing 2 and Controlled each will generally pay its own expenses incurred in connection with the External Spin-off.
- (ww) The receipt by Distributing 2 shareholders of cash in lieu of fractional shares of Controlled stock is solely for the purpose of avoiding the expense and inconvenience to Controlled of issuing fractional shares and does not represent separately bargained-for consideration. It is intended that the total cash consideration received by the Distributing 2 shareholders will not exceed one percent of the total consideration that will be distributed in the External Spin-off. It is also intended that no Distributing 2 shareholder will receive cash in an amount equal to or greater than the value of one full share of Controlled stock. Controlled is not aware of any overall plan (within the meaning of § 355(e)) to acquire an ownership interest in Controlled through the purchase of the bundled Controlled shares sold in connection with the issuance of cash in lieu of fractional shares.

RULINGS

Based solely on the information submitted and the representations set forth above, it is held as follows:

- (1) The Cash Distribution will be a distribution to which § 301(a) applies.

Internal Spin-off

- (2) The Distributing 1 Contribution and the Distributing 1 Distribution, taken together, will qualify as a reorganization described in § 368(a)(1)(D). Each of Distributing 1 and Controlled will be a “party to the reorganization” within the meaning of § 368(b).
- (3) No gain or loss will be recognized by Distributing 1 on the Distributing 1 Contribution (§§ 357(a) and 361(a)).
- (4) No gain or loss will be recognized by Controlled on the Distributing 1 Contribution (§ 1032(a)).
- (5) Controlled’s basis in each asset received in the Distributing 1 Contribution will be the same as the basis of that asset in the hands of Distributing 1 immediately before its transfer (§ 362(b)).
- (6) Controlled’s holding period in each asset received in the Distributing 1 Contribution will include the period during which Distributing 1 held the asset (§ 1223(2)).
- (7) No gain or loss will be recognized by Distributing 1 on the Distributing 1 Distribution (§ 361(c)).
- (8) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing 2 upon its receipt of the Controlled Stock in the Distributing 1 Distribution (§ 355(a)).
- (9) The aggregate basis of the Distributing 1 stock and Controlled stock in the hands of Distributing 2 immediately after the Internal Spin-off will equal the aggregate basis of the Distributing 1 stock held by Distributing 2 immediately before the Internal Spin-off, allocated between the stock of Distributing 1 and Controlled in proportion to the fair market value of each immediately following the Internal Spin-off in accordance with Treas. Reg. § 1.358-2(a)(2) (§358(b)(2) and (c)).
- (10) Distributing 2’s holding period in the Controlled Stock received will include the holding period of the Distributing 1 common stock with respect to which the distribution of the Controlled Stock is made, provided that the Distributing 1 common stock is held as a capital asset on the date of the Distributing 1 Distribution (§ 1223(1)).
- (11) Earnings and profits (if any) will be allocated between Distributing 1 and Controlled in accordance with § 312(h) and §§ 1.312-10(a) and 1.1502-33.

External Spin-off

- (12) The Distributing 2 Contribution and the Distributing 2 Distribution, taken together, will qualify as a reorganization described in § 368(a)(1)(D). Each of Distributing 2 and Controlled will be a “party to the reorganization” within the meaning of § 368(b).
- (13) No gain or loss will be recognized by Distributing 2 on the Distributing 2 Contribution (§§ 357(a) and 361(a)).
- (14) No gain or loss will be recognized by Controlled on the Distributing 2 Contribution (§1032(a)).
- (15) Controlled’s basis in each asset received in the Distributing 2 Contribution will be the same as the basis of that asset in the hands of Distributing 2 immediately before its transfer (§ 362(b)).
- (16) The holding period in each asset received in the Distributing 2 Contribution will include the period during which Distributing 2 held the asset (§ 1223(2)).
- (17) No gain or loss will be recognized by Distributing 2 on the Distributing 2 Distribution (§ 361(c)).
- (18) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) the holders of Distributing 2 common stock upon their receipt of the Controlled Stock in the Distributing 2 Distribution (§ 355(a)).
- (19) The aggregate basis of the Distributing 2 stock and the Controlled stock in the hands of each shareholder of Distributing 2 (including any fractional share interest in Controlled to which the shareholder may be entitled) immediately after the External Spin-off will equal the aggregate basis of the Distributing 2 stock held by the shareholder immediately before the External Spin-off, allocated between the stock of Distributing 2 and Controlled in proportion to the fair market value of each immediately following the External Spin-off in accordance with Treas. Reg. §1.358-2(a)(2) (§ 358(b)(2) and (c)).
- (20) The holding period of a shareholder of Distributing 2 common stock in the Controlled Stock received (including any fractional share interest in Controlled to which the shareholder may be entitled) will include the holding period of the Distributing 2 common stock with respect to which the distribution of the Controlled Stock is made, provided that the Distributing 2 common stock is held as a capital asset on the date of the Distributing 2 Distribution (§ 1223(1)).
- (21) Earnings and profits (if any) will be allocated between Distributing 2 and Controlled in accordance with § 312(h) and §§ 1.312-10(a) and 1.1502-33.

- (22) The receipt by Distributing 2 shareholders of cash in lieu of fractional shares of Controlled stock will be treated for federal income tax purposes as if the fractional shares had been distributed to the Distributing 2 shareholders as part of the External Spin-off and then had been disposed of by such shareholders for the amount of such cash in a sale or exchange. The gain (or loss) recognized, if any (determined using the bases allocated to the fractional shares in ruling (19)), will be treated as capital gain (or loss), provided the stock was held as a capital asset by the selling shareholder (§ 1001). Such gain or loss will be short-term or long-term capital gain (or loss) (determined using the holding period provided in ruling (20)).
- (23) Payments by Distributing 2 to or for the benefit of Controlled or by Controlled to or for the benefit of Distributing 2 under the Tax Sharing Agreement or any of the other Ancillary Agreements entered into in connection with the Spin-offs that (i) have arisen or will arise for a taxable period ending on or before the Distributing 2 Distribution or for a taxable period beginning before and ending after the Distributing 2 Distribution and (ii) will not become fixed and ascertainable until after the Distributing 2 Distribution, will be treated as occurring before the Distributing 2 Distribution. See *Arrowsmith v. Comm’r*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.
- (24) Following the Distributing 2 Distribution, Controlled will not be a successor to Distributing 2 for purposes of § 1504(a)(3); therefore, Controlled and its direct and indirect subsidiaries that are “includible corporations” (under § 1504(b)) and satisfy the ownership requirements of § 1504(a)(2) will be members of an affiliated group of corporations entitled to file a consolidated federal income tax return with Controlled as the common parent.

CAVEATS

We express no opinion about the tax treatment of the Proposed Transactions under other provisions of the Code and regulations or the tax treatment of any condition existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding:

- (i) Whether the Distributing 1 Distribution and the Distributing 2 Distribution satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b);
- (ii) Whether the Distributing 1 Distribution and the Distributing 2 Distribution are being used principally as a device for the distribution of earnings and profits of any distributing corporation or the controlled corporation (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d));
- (iii) Whether the Distributing 1 Distribution and the Distributing 2 Distribution are 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 any distributing corporation or the controlled corporation (see section 355(e) and Treas. Reg. § 1.355-7).

In addition, no opinion is expressed whether the transfers of any intellectual property rights in the Distributing 1 Contribution and the Distributing 2 Contribution constitute transfers of property. (see Rev. Rul. 69-156, 1969-1 C.B. 101). Additionally, no opinion is expressed on the licensing of the Other Property.

PROCEDURAL STATEMENTS

This ruling letter is directed only to the taxpayer who requested 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 this letter ruling.

Sincerely,

Mary E. Goode
Senior Counsel, Branch 6
Office of Associate Chief Counsel (Corporate)

cc: