

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:
April 3, 2012

LEGEND

Taxpayer =

Partnership 1 =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

OpCo =

Industry A =

Bank =

Year 1 =

Year 2 =

Year 3 =

Date A =

Date B =

Date C =

Date D =

Date E =

Date F =

Date G =

Date H =

a =

b =

c =

d =

e =

Dear :

This letter responds to a letter dated December 21, 2011 requesting that we supplement our prior letter ruling dated August 6, 2010 (PLR-152375-09) (the "Prior Letter Ruling"). The Prior Letter Ruling addressed a restructuring transaction (the "Year 1 Restructuring") between Partnership 1, Sub 4, Sub 5, and other affiliated entities. The subject of this supplemental ruling is a subsequent refinancing transaction between Partnership 1 and its affiliates (the "Partnership Group") and Bank (the "Year 2 Refinancing"). The information submitted in that request 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 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.

Facts

A. Year 1 Restructuring:

On August 6, 2010, the IRS issued the Prior Letter Ruling addressing the application of sections 351 and 304 to certain exchanges, including the planned election by Sub 5 to be classified as a corporation for US federal tax purposes. Sub 5 filed an election to be classified as a corporation effective as of Date A resulting in the transfer to Sub 5 of (i) all of the outstanding OpCo interests, (ii) all of the outstanding Sub 1 shares, (iii) all of the outstanding directly and indirectly held Sub 2 shares, and (iv) a directly held Sub 3 shares (among other property described in the Prior Letter Ruling) in exchange for (i) all the stock of Sub 5 and (ii) Sub 5's assumption of the Senior Debt as described in the Prior Letter Ruling (among other consideration described in the Prior Letter Ruling).

B. Year 2 Refinancing:

On Date B, Bank initiated discussions with the management of the Partnership Group regarding options to reduce Sub 4's debts (the "Junior Debt"). In order to satisfy Bank's request, the Partnership Group considered, among other options, a partial repayment of the Junior Debt with proceeds from the sale of a portion of its Sub 3 stock. Such sale was made possible by the unexpected rapid recovery of Industry A and, to a lesser extent, the overall global economy in late Year 3 (the "Year 3 Recovery") that resulted in a significant increase in the Sub 3 stock price. The Year 3 Recovery also provided the Partnership Group with an opportunity to restructure its remaining Junior Debt. Due to the Year 3 Recovery, the Partnership Group believed the terms of its Junior Debt no longer reflected its credit risk.

In response to Bank's request to reduce its exposure to the credit risk of the Partnership Group, the Partnership Group provided Bank a formal written proposal on Date C to reduce and refinance the Junior Debt. The proposal included, among other things, a sale of a portion of Sub 4's Sub 3 stock to prepay a portion of the Junior Debt.

After months of negotiations following the initial proposal made on Date C, Bank and the Partnership Group finally agreed to the Year 2 Refinancing plan on Date D. As a condition to Bank's agreement to allow Sub 4 to sell a portion of its Sub 3 stock, Bank required Sub 4 to hold an amount of Sub 3 stock that had a value equal to the remaining amount of the Junior Debt after the Junior Debt repayment. The executed steps of the Year 2 Refinancing plan included the following:

- On Date E, Sub 4 sold b shares of the total outstanding stock of Sub 3 and raised net proceeds of c (the "Sub 3 Stock Sale"). The proceeds of the sale were used to repay a portion of the Junior Debt.
- On Date F, Sub 5 distributed d shares of Sub 3 stock to Sub 4 (the "Sub 3 Stock Distribution").

- On Date G, Sub 5 assumed e of the Junior Debt.
- On Date H, Sub 5 adopted a resolution creating an obligation of Sub 5 to Sub 4 in an amount up to e.

Taxpayer and the Partnership Group did not contemplate any steps of the Year 2 Refinancing, including the Sub 3 Stock Sale and the Sub 3 Stock Distribution, at the time of the Year 1 Restructuring.

Ruling

Based solely on the information submitted and representations made, we rule as follows: The steps of the Year 2 Refinancing, in particular the Sub 3 Stock Sale and Sub 3 Stock Distribution, will be treated as separate from the Year 1 Restructuring and do not impact the rulings issued in the Prior Letter Ruling.

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. In particular, no opinion is expressed or implied concerning Sub 5's assumption of a portion of the Junior Debt on Date G and adoption of resolutions creating an obligation to Sub 4 on Date H.

Procedural Statements

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. 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 representative.

Sincerely,

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

cc: