

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:CORP:B03  
PLR-137492-12

Date:  
September 06, 2012

**Legend:**

Distribution Agreements =

Dear :

This letter responds to your representative's letter dated May 4, 2012, requesting that we supplement a private letter ruling dated April 12, 2012 (PLR-149071-11) (the "Original Ruling"). Additional information was submitted in letters dated May 21, 2012, June 28, 2012, July 20, 2012, July 30, 2012, August 3, 2012, August 22, 2012, and August 28, 2012 (collectively with the letter dated May 4, 2012, the "Supplemental Submissions"). Additional information has been submitted in various communications since May 4th. The material information submitted for consideration is summarized below. Capitalized or underlined terms not defined in this letter have the meanings assigned to them in the Original Ruling.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by penalties of perjury statements executed by the appropriate party. This office has not verified any of the materials in the Supplemental Submissions 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.

## SUPPLEMENTAL FACTS

### Modifications to Transactions Described in the Original Ruling

The taxpayer executed certain transactions described in the Original Ruling in modified form and proposes to execute certain others in modified form. Following is a description of the modifications:

#### Distribution of Distributing 1: Modification of Distribution 1, Reorganization 1, and Distribution 12

Before Distribution 1, Distributing 2 distributed all of the issued and outstanding stock of Distributing 1 to Distributing 8 in a transaction that qualified under § 355 (“Distribution A1”) and distributed all of the issued and outstanding stock of Controlled 6 to Distributing 8.

The rulings related to Distribution 1 are modified hereby to reflect the fact that Distributing 8, rather than Distributing 2, owned Distributing 1 at the time of Distribution 1.

The representations and rulings related to Reorganization 1 are modified hereby to reflect the fact that Distributing 8, rather than Distributing 2, owned Controlled 1 and Controlled 6 at the time of Reorganization 1.

Because Distributing 2 owned less than all of the issued and outstanding stock of Controlled 6 at the time of Distribution 12, Distribution 12 is modified hereby to reflect that Distributing 2 distributed all of its stock of Controlled 6 to Distributing 8.

#### Removal of Liquidations 6 and 7

The taxpayer will not undertake Liquidations 6 and 7.

#### Removal of Distribution 5 and Distribution 6.

The taxpayer will not undertake Distributions 5 and 6.

#### Modification of Contribution 4

LLC 9 was not transferred to Controlled 3 in connection with Contribution 4. Instead, (i) Distributing 4 distributed LLC 9 to Controlled 4 after Reorganization 3, (ii) LLC 9 elected pursuant to § 301.7701-3 to be treated as a corporation, (iii) Controlled 4 distributed the interests in LLC 9 to Distributing 5, and (iv) Distributing 5 contributed the interests in LLC 9 to Controlled 3.

### Modification of Contribution 10

Distributing 2 distributed to Distributing 8 a note receivable from Distributing 7 (the "Distributing 7 Note"). Distributing 8 will contribute the Distributing 7 Note to Controlled 6 as part of Contribution 10.

### Modification of Reorganization 4 and Reorganization 5

Reorganization 5 will occur before Reorganization 4. In connection with Reorganization 4, Distributing 5 will get both (i) shares of Sub 1 stock that will have no more than 20 percent of the total combined voting power of all classes of stock entitled to vote and (ii) securities of Sub 1 (the "Sub 1 Securities"). The representations and rulings related to Reorganization 4 are hereby modified to reflect these changes.

### Modification of Distribution 11

As part of Distribution 11, Distributing 2 distributed a portion of the Controlled 8 stock (the "Exchanged Controlled 8 Shares") to Distributing 8 in redemption of Distributing 2 stock. The representations and rulings related to Distribution 11 are hereby modified to reflect this change.

### Modification of Step (iv)

Step (iv) is modified to reflect that, first, Distributing 6 canceled for no consideration a portion of its shares held by Distributing 2 represented by the t% interest in Distributing 6, in addition to the Distributing 6 Interest and the s% interest in Distributing 6, and, second, immediately thereafter, LLC 4 distributed the interests in FSub 12 to Distributing 4.

### Modification of Step (lii)

Step (lii) is modified to reflect that Sub 2 distributed the interests in LLC 1 to Distributing 2 in redemption of an amount of Sub 2 stock of equal value.

### Modification of Step (lx)

Step (lx) is modified to reflect that FSub 5 will elect under § 301.7701-3 to be treated as a disregarded entity effective before the distribution of the Property by FSub 5 to Distributing 2.

### Modification of Step (lxxii)

In the second sentence of Step (lxxii):

("Contribution 11" and "Distribution 14")

is hereby replaced with:

"Contribution 11 and Distribution 14".

### **SUPPLEMENTAL REPRESENTATIONS**

The taxpayer reaffirms all of the facts, representations, and statements contained in the Original Ruling, as modified herein, as modified by the Supplemental Submissions, and as modified by PLR-120264-12.

#### Reorganization 1

References to "Distributing 2" in Representations (b<sup>1</sup>), (b<sup>2</sup>), (b<sup>3</sup>), (b<sup>8</sup>), (b<sup>12</sup>), and (b<sup>13</sup>) are hereby replaced with "Distributing 8."

#### Reorganization 4

Representation (s<sup>2</sup>) has been modified as set forth below:

(s<sup>2</sup>) The fair market value of the Sub 1 stock and Sub 1 Securities received by Distributing 5 in Reorganization 4 will be approximately equal to the fair market value of the Controlled 4 stock surrendered in the exchange.

#### Distribution 11

Representation (y<sup>24</sup>) has been added as set forth below:

(y<sup>24</sup>) The fair market value of the Exchanged Controlled 8 Shares received by Distributing 8 was approximately equal to the fair market value of the Distributing 2 shares surrendered by Distributing 8 in the exchange.

#### Correction of Representations for Contribution 12 and Distribution 17

The representations in the Original Ruling related to Contribution 12 and Distribution 17 inadvertently referred to Contribution 11, rather than to Contribution 12. References to "Contribution 11" in Representations (ee<sup>1</sup>), (ee<sup>2</sup>), (ee<sup>3</sup>), and (ee<sup>4</sup>) are hereby replaced with "Contribution 12."

**SUPPLEMENTAL RULINGS**Distribution 1

References to “Distributing 2” in Rulings 6, 8, and 9 in the Original Ruling are replaced with “Distributing 8.” As modified, the rulings related to Distribution 1 remain in full force and effect.

Reorganization 1

References to “Distributing 2” in Rulings 11, 17, 18, 19, and 20 in the Original Ruling are replaced with “Distributing 8.” As modified, the rulings related to Reorganization 1 remain in full force and effect.

Reorganization 4

Rulings 143-145 in the Original Ruling are modified as follows and references to “Distributing 2” in Rulings 148-150 in the Original Ruling are replaced with “Distributing 5.” As modified, the rulings related to Reorganization 4 remain in full force and effect.

(143) No gain or loss will be recognized by Controlled 4 on the transfer of all of its assets to Sub 1 in exchange for Sub 1 stock, Sub 1 Securities, and Sub 1’s assumption of Controlled 4’s liabilities in Reorganization 4 (§§ 357(a) and 361(a)).

(144) Sub 1 will not recognize gain or loss on the receipt of Controlled 4’s assets in exchange for Sub 1 stock, Sub 1 Securities, and the assumption of Controlled 4’s liabilities in Reorganization 4 (§ 1032(a)).

(145) No gain or loss will be recognized by Controlled 4 on its distribution of the Sub 1 stock and Sub 1 Securities received in Reorganization 4 (§ 361(c)).

Distribution 11

Rulings 202-203 in the Original Ruling are modified as follows. As modified, the rulings related to Distribution 11 remain in full force and effect.

(202) The basis of the Exchanged Controlled 8 Shares in the hands of Distributing 8 after Distribution 11 will equal the basis of the Distributing 2 stock surrendered by Distributing 8 in exchange therefor (§ 358(a)(1)). The remaining basis of the stock of Distributing 2 and Controlled 8 in the hands of Distributing 8 after Distribution 11 will be the same as the remaining basis of the Distributing 2 stock held immediately before Distribution 11 (§ 358(a) and § 1.358-1(a)),

allocated in proportion to the remaining fair market value of each of Distributing 2 and Controlled 8 in accordance with § 1.358-2(a)(2) (§§ 358(b)(2) and 358(c)).

(203) The holding period of the Exchanged Controlled 8 Shares received by Distributing 8 in Distribution 11 will include the holding period of the Distributing 2 shares exchanged therefor, and the holding period of the remaining Controlled 8 shares received by Distributing 8 in Distribution 11 will include the holding period of the remaining Distributing 2 shares with respect to which Distribution 11 will be made, provided that in each case such Distributing 2 shares are held as capital assets on the date of Distribution 11 (§ 1223(1)).

#### Miscellaneous

Ruling (263) is modified as follows:

(263) Payments or other transfers made between any two of the Distributing 9, Controlled 6, and Controlled 11 groups under the Distribution Agreements for obligations that (i) have arisen or will arise for a taxable period ending on or before a Distribution or for a taxable period beginning before and ending after a Distribution and (ii) will not have become fixed and ascertainable until after such Distribution, will be treated as occurring between the transferor and the transferee immediately before such Distribution (see Arrowsmith v. Commissioner, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84).

The supplemental facts submitted shall have no adverse impact on the Original Ruling, which, as modified, shall remain in full force and effect.

#### **CAVEATS**

No opinion is expressed about the tax treatment of the proposed transactions under other provisions of the Code or regulations or the tax treatment of any conditions 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 whether any of Distributions 1 through 18 or any of the transactions described in this letter: (i) satisfies the business purpose requirement of § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of any distributing corporation or controlled corporation or both (see § 355(a)(1)(B) and § 1.355-2(d)); or (iii) is 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 the distributing corporation or the controlled corporation (see § 355(e) and § 1.355-7).

**PROCEDURAL STATEMENTS**

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

A copy of this ruling letter should be attached to the federal income tax return of each taxpayer involved for the taxable year in which the transaction covered by this ruling letter is consummated. 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,

Isaac W. Zimbalist  
Isaac W. Zimbalist  
Senior Technician Reviewer, Branch 5  
Office of Associate Chief Counsel (Corporate)