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PLR-145256-12

Date:
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LEGEND:

Distributing 1 =

Distributing 2 =

Distributing 3 =

Distributing 4 =

Controlled 1 =

Controlled 2 =

PLR-145256-12

2

Controlled 3 =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

Sub 15 =

Sub 16 =

Sub 17 =

Sub 18 =

Sub 19 =

Sub 20 =

Sub 21 =

PLR-145256-12

4

DRE 1 =

DRE 2 =

DRE 3 =

DRE 4 =

DRE 5 =

DRE 6 =

DRE 7 =

Business 1 =

Business 2 =

State A =

State B =

State C =

Country A =

Date 1 =

Entity =

a =

b =

c =

d =

e =

f =

g =

h =

i =

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W =

X =

Y =

Dear :

This letter responds to your letter dated October 18, 2012, submitted by your authorized representatives, requesting rulings on certain federal income tax consequences of a Proposed Transaction (described below). The information submitted in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalties 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 verified any information pertaining to, and has made no determination regarding whether the Internal Distributions (defined in step (xxiii)) and the External Distribution (defined in step (xxxiv)): (i) satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b) of the Income Tax Regulations; (ii) are used principally as a device for the distribution of the earnings and profits of any distributing corporation or any controlled corporation or both (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)); and (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 any controlled corporation (see section 355(e) and Treas. Reg. § 1.355-7).

Facts

Distributing 4 is a publicly traded corporation and the parent of a worldwide group of entities (the "Distributing 4 Worldwide Group"). Distributing 4 is also the common parent of an affiliated group of corporations filing a consolidated federal income tax return (the "Distributing 4 Consolidated Group"). Distributing 4 has a single class of stock outstanding (the "Distributing 4 Common Stock"). Distributing 4 also has outstanding various share-based compensatory arrangements including stock options, restricted stock units, and performance-based shares.

Distributing 4 owns all of the equity of the following entities: Distributing 2, Sub 1, Sub 2, and Sub 3. All entities are classified as corporations for federal income tax purposes unless otherwise noted.

Sub 1 owns all of the equity of Sub 4, Sub 16, Sub 17, and Sub 20, as well as various other subsidiaries. Sub 1 also owns all of the equity of DRE 3, a limited liability company disregarded as an entity separate from Sub 1. Sub 4 owns all of the equity of DRE 4, a limited liability company disregarded as an entity separate from Sub 4, and a percent of Sub 5. Sub 16, Sub 20, and Sub 17 own the remaining interests (b percent, c percent, and d percent, respectively) in Sub 5. Sub 5 owns all of the equity of Sub 6. Sub 6 owns all of the equity of Sub 7 and Sub 8. Sub 8 owns all of the equity of Sub 9, Sub 10, and Sub 11. Sub 8 also owns an e percent general partnership interest in Sub 19, a limited partnership classified as a corporation for federal income tax purposes. Sub 1 owns the h percent limited partnership interest in Sub 19.

Sub 3 owns all of the equity of Sub 12, and f percent of the equity of Sub 13. Various members of the Distributing 4 Consolidated Group, each of whom will remain a member of the Distributing 4 Consolidated Group after the Proposed Transaction, own the other g percent of Sub 13. Sub 12 owns all of the equity of DRE 1, a limited liability company disregarded as an entity separate from Sub 12 for federal income tax purposes. DRE 1 owns an h percent limited partnership interest in Sub 14, a limited partnership classified as a corporation for federal income tax purposes. Sub 2 owns the e percent general partnership interest in Sub 14. Hereinafter, Sub 2 and DRE 1 are together referred to as the “Sub 14 Shareholders.” Sub 14 owns all of the equity of Sub 21.

Distributing 2 owns all of the equity of DRE 2, a Country A Entity disregarded as an entity separate from Distributing 2 for federal income tax purposes. DRE 2 owns all of the equity of Distributing 1, a Country A corporation. Distributing 1 owns all of the equity of Sub 15, a Country A corporation.

As of Date 1, Sub 1 will have approximately i dollars in intercompany receivables owing from Distributing 4 (the “Distributing 4 Receivable”); Sub 13 will have approximately j dollars in intercompany receivables owing from Sub 1 (the “Sub 1 Receivable”); Sub 3 will have intercompany receivables of at least i dollars owing from Sub 13 (the “Sub 13 Receivable”); and Distributing 4 will have intercompany receivables of at least i dollars owing from Sub 3 (the “Sub 3 Receivable”). In addition, at the time of the Proposed Transaction, Sub 4 will have a net intercompany payable owing to Sub 1 (the “Sub 4-Sub 1 Intercompany Debt”).

The Distributing 4 Worldwide Group is principally engaged in Business 1 and Business 2, domestically and internationally. Specifically, Sub 14 and Sub 21 conduct Business 1 in State B and State C. Distributing 2 and its direct and indirect subsidiaries, including DRE 2, Distributing 1, and Sub 15, conduct Business 1 in Country A. Sub 1 and its direct and indirect subsidiaries, including Sub 4, Sub 5, Sub 6, Sub 7, Sub 8, Sub 9, Sub 10, and Sub 11, conduct Business 2 throughout the United States. Distributing 1 and its direct and indirect subsidiaries, including Sub 15, conduct Business 2 in Country A.

The taxpayer has submitted financial information indicating that (i) the State B and State C Business 1 operations, (ii) the Country A Business 1 operations, (iii) the domestic Business 2 operations, and (iv) the Country A Business 2 operations each have had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

The Distributing 4 Worldwide Group has determined that the separation of Business 1 from Business 2 will serve the following corporate business purposes: (i) improving management focus and strategy, (ii) facilitating access to capital, (iii) enhancing employee incentive programs, and (iv) establishing valuable acquisition currency.

Prior Transactions

In prior years, Sub 1 and Sub 4 distributed and/or sold to Distributing 4 certain Business 1 operating assets and equity interests in certain entities that conducted Business 1 in taxable transactions that constituted intercompany transactions under Treas. Reg. § 1.1502-13(b)(1). Such transactions resulted in intercompany items, as defined in Treas. Reg. § 1.1502-13(b)(2), within Sub 1 and Sub 4 (the “Deferred Business 1 Intercompany Items”). Distributing 4, in turn, made tax-free contributions of such assets and equity interests to one or more wholly owned direct or indirect subsidiaries within the Distributing 4 Consolidated Group that conducted similar business lines (the “Business 1 Transferee Entities”). Distributing 4’s subsequent contributions of the assets and equity interests to the Business 1 Transferee Entities did not result in Sub 1 or Sub 4 taking into account any portion of the Deferred Business 1 Intercompany Items. As a result, the Deferred Business 1 Intercompany Items have not yet been taken into account.

In addition, in prior years, Sub 7, Sub 8, Sub 9, and Sub 10 each acquired Business 2 assets from Sub 1, Sub 4, Sub 16, Sub 17, and Sub 20. Such transactions were taxable sales for federal income tax purposes that constituted intercompany transactions under Treas. Reg. § 1.1502-13(b)(1). Sub 1, Sub 4, Sub 16, Sub 17, and Sub 20 therefore had intercompany items, as defined in Treas. Reg. § 1.1502-13(b)(2), from these transactions (the “Deferred Business 2 Intercompany Items”) that have not yet been taken into account.

In a prior year, not pursuant to the same plan that includes the Sub 4 Conversion (defined below), Sub 1 transferred certain items of inventory and fixed assets associated with the domestic Business 2 to Sub 4 in exchange for no consideration (the “Prior Sub 4 Contribution”) in a transaction intending to qualify as a section 351 transfer for federal income tax purposes. Immediately thereafter, Sub 4 transferred such assets, directly and indirectly through subsidiaries, to Sub 8.

Proposed Transaction

For what are represented to be valid business reasons, Distributing 4 proposes to undertake the following steps pursuant to a single integrated plan to accomplish the separation of Business 2 from Business 1.

Controlled 1 Contribution and First Internal Distribution

- (i) Distributing 2 formed DRE 5, a wholly owned State A limited liability company with minimal capital, and DRE 5 formed Controlled 1, a wholly owned Country A Entity. Each of DRE 5 and Controlled 1 is disregarded as an entity separate from Distributing 2 for federal income tax purposes.
- (ii) DRE 2 will recapitalize its existing capital structure into (i) preferred shares with a fair market value equal to the value of the Country A Business 2 Assets (defined below) (“DRE 2 Preferred Shares”) and (ii) new common shares with a fair market value equal to the difference between the total net fair market value of DRE 2 and the DRE 2 Preferred Shares.
- (iii) Distributing 2 will transfer the DRE 2 Preferred Shares to DRE 5 solely in exchange for interests in DRE 5 of equal value.
- (iv) DRE 5 will transfer the DRE 2 Preferred Shares to Controlled 1 solely in exchange for Controlled 1 common shares of equal value.
- (v) Distributing 1 will transfer all of the assets and liabilities associated with the Country A Business 2, including 100 percent of the issued and outstanding shares of Sub 15 (collectively, the “Country A Business 2 Assets”), to Controlled 1 in exchange for preferred shares of Controlled 1 (“Controlled 1 Preferred Shares”) equal to the aggregate value of all assets transferred (the “Controlled 1 Contribution”).
- (vi) Distributing 1 will distribute the Controlled 1 Preferred Shares to DRE 2.
- (vii) Controlled 1 will redeem the Controlled 1 Preferred Shares held by DRE 2 in consideration for a note (“Note 1”).
- (viii) DRE 2 will redeem the DRE 2 Preferred Shares held by Controlled 1 in consideration for a note (“Note 2”).
- (ix) Note 1 will be set off against Note 2 and both notes will thereby be paid and canceled.
- (x) DRE 5 will liquidate, distributing all of the Controlled 1 shares to Distributing 2.

- (xi) Controlled 1 will elect to be classified as an association taxable as a corporation for federal income tax purposes under Treas. Reg. §§ 301.7701-2 and 301.7701-3.

(Steps (i) through (xi) are collectively referred to as the “Controlled 1 Contribution” and the “First Internal Distribution”).

Second Internal Distribution

- (xii) Distributing 2 will distribute all of the outstanding shares of Controlled 1 to Distributing 4 in exchange for Distributing 2 shares of equal value (the “Second Internal Distribution”).

Internal Debt Satisfaction

- (xiii) Sub 1 will transfer the Distributing 4 Receivable to Sub 13, thereby retiring approximately \bar{i} dollars of the Sub 1 Receivable held by Sub 13. Sub 13 will, in turn, transfer the Distributing 4 Receivable to Sub 3, thereby retiring approximately \bar{i} dollars of the Sub 13 Receivable held by Sub 13. Sub 3 will, in turn, transfer the Distributing 4 Receivable to Distributing 4, thereby retiring approximately \bar{i} dollars of the Sub 3 Receivable held by Distributing 4.
- (xiv) Sub 13 will sell the remainder of the Sub 1 Receivable to Distributing 4 in exchange for a new Distributing 4 note. Distributing 4 will contribute the remainder of the Sub 1 Receivable to the capital of Sub 1 in exchange for no additional equity interests in Sub 1 (the “Sub 1 Capital Contribution”, and steps (xiii) and (xiv) together, the “Internal Debt Satisfaction”).

Sub 4 Conversion

- (xv) Sub 4 will convert to a limited liability company (“Sub 4 LLC”) pursuant to a state conversion statute, upon which it will be disregarded as an entity separate from Sub 1 for federal income tax purposes (the “Sub 4 Conversion”).

Distributing 3 Reorganization and the Non-Business 2 Transfers

- (xvi) Distributing 4 will transfer all of the issued and outstanding shares of Sub 1 to Distributing 3, a newly formed, wholly owned State A corporation, solely in exchange for Distributing 3 common shares of equal value (the “Sub 1 Equity Transfer”). One day following the Sub 1 Equity Transfer, Sub 1 will convert to a limited liability company (“Sub 1 LLC”) pursuant to a state conversion statute (the

“Sub 1 Conversion,” and together with the Sub 1 Equity Transfer, the “Distributing 3 Reorganization”).

- (xvii) Sub 1 LLC will distribute DRE 3 to Distributing 3; Sub 4 LLC will distribute DRE 4 to Distributing 3 (through Sub 1 LLC); and all other assets held by direct or indirect subsidiaries of Sub 4 LLC that are not associated with the domestic Business 2 (collectively, the “Non-Business 2 Assets”), if any, will be distributed directly or indirectly by those subsidiaries to Distributing 3 (collectively, the “Non-Business 2 Transfers”).

Sub 14 Reorganization

- (xviii) Sub 2 will contribute to DRE 6, a newly formed State A limited liability company disregarded as an entity separate from Sub 2 for federal income tax purposes, its e percent general partnership interest in Sub 14 solely in exchange for DRE 6 equity interests.
- (xix) Sub 2 will transfer all of the issued and outstanding equity interests in DRE 6 to Distributing 3 solely in exchange for Distributing 3 common stock of equal value (the “First Sub 14 Equity Transfer”).
- (xx) DRE 1 will transfer its h percent interest in Sub 14 to Distributing 3 solely in exchange for Distributing 3 common stock of equal value (the “Second Sub 14 Equity Transfer”).
- (xxi) Sub 14 will elect to be disregarded as an entity separate from Distributing 3 for federal income tax purposes under Treas. Reg. §§ 301.7701-2 and 301.7701-3, effective as of two days following the Second Sub 14 Equity Transfer (the “Sub 14 CTB Election,” and together with the First Sub 14 Equity Transfer and the Second Sub 14 Equity Transfer, the “Sub 14 Reorganization”).

Controlled 2 Contribution and Third Internal Distribution

- (xxii) Distributing 3 will transfer all of its membership interests in Sub 1 LLC to Controlled 2, a newly formed State A corporation, solely in exchange for Controlled 2 common shares (the “Controlled 2 Contribution”).
- (xxiii) Distributing 3 will distribute all of the issued and outstanding shares of Controlled 2 to Distributing 4 in exchange for specifically identified shares of Distributing 3 held by Distributing 4 (the “Third Internal Distribution”).

The First Internal Distribution, the Second Internal Distribution, and the Third Internal Distribution are collectively referred to as the “Internal Distributions.”

Sub 6 Subs Restructuring

- (xxiv) Each of Sub 7, Sub 8, Sub 9, and Sub 10 will convert to a limited liability company pursuant to a state conversion statute (the “Sub 6 Subs Conversions”). Sub 7 will become “Sub 7 LLC,” Sub 8 will become “Sub 8 LLC,” Sub 9 will become “Sub 9 LLC,” and Sub 10 will become “Sub 10 LLC” (collectively, the “Sub 6 LLCs”). Each of the Sub 6 LLCs will be disregarded as an entity separate from Sub 6 for federal income tax purposes.
- (xxv) Sub 8 LLC will distribute to Sub 6 (i) its e percent general partnership interest in Sub 19 and (ii) all of the issued and outstanding shares of Sub 11 (the “Sub 8 LLC Distribution”).
- (xxvi) Sub 6 will contribute all of the issued and outstanding equity interests in each of the Sub 6 LLCs to DRE 7, a newly formed, wholly owned State B limited liability company disregarded as an entity separate from Sub 6 for federal income tax purposes, solely in exchange for all of the equity interests in DRE 7 (the “DRE 7 Contribution 1”).
- (xxvii) Following the DRE 7 Contribution 1, (i) Sub 5 will contribute Business 2 assets to DRE 7 solely in exchange for an approximately k percent equity interest in DRE 7, (ii) Sub 17 will contribute Business 2 assets to DRE 7 solely in exchange for an approximately l percent equity interest in DRE 7, (iii) Sub 1 LLC and Sub 4 LLC will transfer Business 2 assets to DRE 7 solely in exchange for an approximately m percent equity interest in DRE 7, and (iv) Sub 16 will contribute Business 2 assets to DRE 7 solely in exchange for an approximately n percent equity interest in DRE 7 (collectively, the “DRE 7 Contribution 2”), causing DRE 7 to be classified as a partnership for federal income tax purposes. After step (xxvii), Sub 6 will own o percent of the equity interest in DRE 7.

Thereafter, DRE 7 will transfer certain of the Business 2 assets received pursuant to the DRE 7 Contribution 1 and DRE 7 Contribution 2 to Sub 7 LLC and Sub 8 LLC.

- (xxviii) Each of Sub 16 and Sub 17 will transfer its entire equity interest in DRE 7 directly to Sub 5 in exchange for equity interests in Sub 5 of equal value. Sub 1 LLC will contribute its equity interest in DRE 7 to Sub 4 LLC, and Sub 4 LLC will contribute the interest in DRE 7 received from Sub 1 LLC to Sub 5 in transactions intending to be described in section 351 and Treas. Reg. § 1.1502-34 (collectively, the “DRE 7 Equity Interests Transfer”).

The Sub 6 Subs Conversions, the Sub 8 LLC Distribution, the DRE 7 Contribution 1, the DRE 7 Contribution 2, and the DRE 7 Equity Interests Transfer are collectively referred to as the “Sub 6 Subs Restructuring.”

Debt-for-Debt Exchange, Debt-for-Equity Exchange, and External Distribution

- (xxix) Distributing 4 will contribute all of its interests in Controlled 1 and Controlled 2 to Controlled 3, a newly formed, wholly owned State A corporation, in exchange for all of the single class of issued and outstanding stock of Controlled 3, approximately p dollars of debt of Controlled 3 that qualifies as “securities” within the meaning of section 361(a) (the “Controlled 3 Securities”), and approximately q dollars of cash (to be received in step (xxxi) (the “Controlled 3 Contribution”).
- (xxx) Controlled 3 will contribute all of the issued and outstanding stock of Controlled 1 to Sub 18, a newly formed, wholly owned Country A corporation, in exchange for equity interests in Sub 18 (the “Sub 18 Contribution”).
- (xxxi) In connection with the Controlled 3 Contribution, Controlled 3 will borrow cash from an unrelated lender (either under a credit facility or by issuing a term note), which it will transfer to Distributing 4 in step (xxix) above pursuant to the Controlled 3 Contribution. Distributing 4 will directly deposit the cash received into a segregated bank account.

Pursuant to the plan of reorganization that includes the Controlled 3 Contribution and the External Distribution (defined below), following the External Distribution, Distributing 4 will use the cash received to pay obligations owed to certain creditors and possibly to pay quarterly dividends to shareholders and/or redeem shares from shareholders, in each case within r months following the External Distribution. Obligations paid with the cash so received may include certain long-term indebtedness previously incurred by Distributing 4 (including associated fees, such as consent fees), ordinary course liabilities (whenever incurred), and borrowings under a revolving credit facility that may be incurred by Distributing 4 prior to the completion of the Proposed Transaction.

- (xxxii) On or around the date of the Controlled 3 Contribution, Distributing 4 will issue debt (“Distributing 4 Debt”) to one or more financial institutions (collectively, the “Financial Institution”) for cash (the “First Debt Issuance”). The Financial Institution may choose to enter into hedging arrangements (interest or credit risk) with respect to the Distributing 4 Debt with third parties unrelated to Distributing 4 and its affiliates in the ordinary course of its business.
- (xxxiii) At least s days after the First Debt Issuance, Distributing 4 will enter into an exchange agreement (the “Debt-for-Debt Exchange Agreement”) with the Financial Institution pursuant to which Distributing 4 will retire some or all of the

Distributing 4 Debt issued in the First Debt Issuance in exchange for the Controlled 3 Securities. At least t days after the First Debt Issuance and pursuant to the Debt-for-Debt Exchange Agreement, Distributing 4 will transfer the Controlled 3 Securities to the Financial Institution in repayment of some or all of such Distributing 4 Debt (the “Debt-for-Debt Exchange”). Thereafter, Distributing 4 understands that the Financial Institution will sell the Controlled 3 Securities to third-party investors.

- (xxxiv) Distributing 4 will distribute pro rata to the shareholders of Distributing 4 shares of Controlled 3 common stock representing at least u percent of the total issued and outstanding shares of Controlled 3 common stock (the “External Distribution”).

Collectively, the Internal Distributions and the External Distribution will be referred to as the “Distributions.” Distributing 4 will retain (the “Retention”) the remaining Controlled 3 common stock (the “Retained Stock”).

- (xxxv) Within v months following the External Distribution, Distributing 4 will issue additional Distributing 4 Debt to the Financial Institution for cash (the “Second Debt Issuance”). Financial Institution may choose to enter into hedging arrangements (interest or credit risk) with respect to the Distributing 4 Debt with third parties unrelated to Distributing 4 and its affiliates in the ordinary course of its business.
- (xxxvi) At least s days after the Second Debt Issuance, Distributing 4 will enter into an exchange agreement (the “Debt-for-Equity Exchange Agreement”) with the Financial Institution pursuant to which Distributing 4 will retire some or all of the Distributing 4 Debt issued in the Second Debt Issuance in exchange for some or all of the Retained Stock. The sum of (i) the Retained Stock transferred pursuant to the Debt-for-Equity Exchange Agreement, (ii) Controlled 3 shares issued in a “greenshoe” or overallotment option, and (iii) any shares issued to employees as equity compensation will represent no more than w percent of the total issued and outstanding Controlled 3 stock.

At least t days after the Second Debt Issuance, Distributing 4 will transfer some or all of the Retained Stock to the Financial Institution in repayment of some or all of such Distributing 4 Debt (the “Debt-for-Equity Exchange”). Distributing 4 understands that the Financial Institution will sell such Controlled 3 stock to third-party investors in a public offering (the “Offering”). The Debt-for-Equity Exchange is likely to occur at least x months following the External Distribution, and will in no event be completed later than y months following the External Distribution.

- (xxxvii) Pursuant to the plan that includes the External Distribution, Distributing 4 may transfer any Retained Stock not transferred pursuant to the Debt-for-Equity

Exchange to its shareholders in exchange for shares of Distributing 4 common stock (the "Share Repurchase"). Any Share Repurchase will in no event be completed later than y months after the External Distribution. Any of the Retained Stock not disposed of pursuant to the Debt-for-Equity Exchange or the Share Repurchase will be disposed of as soon as is commercially practicable, but in any event not later than y months after the External Distribution.

In connection with the Proposed Transaction, Distributing 4 and Controlled 3 will enter into certain new agreements relating to the separation of Business 1 from Business 2 (the "Continuing Arrangements"). The Continuing Arrangements will include a Separation and Distribution Agreement, a Tax Matters Agreement, a Transition Services Agreement, an Employee Matters Agreement, and certain continuing commercial arrangements under which Distributing 4 (and/or its subsidiaries) and Controlled 3 (and/or its subsidiaries) will provide goods, services, or facilities to each other on market-based terms.

Representations

The Taxpayer makes the following representations with respect to the Proposed Transaction:

Controlled 1 Contribution and First Internal Distribution

- (1a) The indebtedness, if any, owed by Controlled 1 to Distributing 1 after the First Internal Distribution will not constitute stock or securities.
- (1b) No part of the consideration to be distributed in the First Internal Distribution will be received by any shareholder of Distributing 1 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 1.
- (1c) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing 1 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (the "Distributing 1 SAG") as one corporation.
- (1d) The five years of financial information submitted on behalf of the Country A Business 1 conducted by the Distributing 1 SAG are representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (1e) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Controlled 1 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (the "Controlled 1 SAG") as one corporation.

- (1f) The five years of financial information submitted on behalf of the Country A Business 2 conducted by the Controlled 1 SAG are representative of its present business operations, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (1g) The Distributing 1 SAG neither acquired the Country A Business 1 nor acquired control of an entity conducting the Country A Business 1 during the five-year period ending on the date of the First Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (1h) The Controlled 1 SAG neither acquired the Country A Business 2 nor acquired control of an entity conducting the Country A Business 2 during the five-year period ending on the date of the First Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (1i) Following the First Internal Distribution, the Distributing 1 SAG will continue the active conduct of the Country A Business 1 and the Controlled 1 SAG will continue the active conduct of the Country A Business 2 independently and with their separate employees.
- (1j) The First Internal Distribution will be carried out for the corporate business purpose of facilitating the External Distribution. The First Internal Distribution is motivated, in whole or in substantial part, by this corporate business purpose.
- (1k) The First Internal Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing 1 or Controlled 1 or both.
- (1l) For purposes of section 355(d), immediately after the First Internal Distribution, no person (determined after applying section 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 section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Internal Distribution.
- (1m) For purposes of section 355(d), immediately after the First Internal Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 1 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled 1 stock that was (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Internal Distribution or (ii) attributable to distributions on Distributing 1 stock or securities that were

acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Internal Distribution.

- (1n) Except as otherwise provided in the Proposed Transaction, the First Internal Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 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 section 355(d)(4)) in Distributing 1 or Controlled 1 (including any predecessor or successor of any such corporation).
- (1o) Immediately after the First Internal Distribution, either (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in the stock of Distributing 1 or Controlled 1 who did not hold such an interest before the transaction or (ii) neither Distributing 1 nor Controlled 1 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (1p) The aggregate fair market value of the Country A Business 2 Assets transferred to Controlled 1 in the Controlled 1 Contribution will equal or exceed the aggregate adjusted basis of such assets.
- (1q) The total adjusted bases of the Country A Business 2 Assets transferred to Controlled 1 in the Controlled 1 Contribution will exceed the sum of the liabilities assumed (within the meaning of section 357(d)) by Controlled 1 plus any liabilities to which the transferred assets are subject (in each case, excluding liabilities to which section 357(c)(3) applies).
- (1r) The total fair market value of the Country A Business 2 Assets transferred to Controlled 1 by Distributing 1 in the Controlled 1 Contribution will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 1 in connection with the Controlled 1 Contribution, (ii) the amount of any liabilities owed to Controlled 1 by Distributing 1 that are discharged or extinguished in connection with the Controlled 1 Contribution, and (iii) the amount of any cash and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing 1 from Controlled 1 in connection with the Controlled 1 Contribution. The fair market value of the Country A Business 2 Assets of Controlled 1 will exceed the amount of its liabilities immediately after the Controlled 1 Contribution.
- (1s) The liabilities assumed in the Controlled 1 Contribution and any liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.

- (1t) No investment credit determined under section 46 has been (or will be) claimed with respect to any property contributed to Controlled 1 by Distributing 1 in connection with the Controlled 1 Contribution.
- (1u) Except possibly pursuant to the elimination or reduction of intercompany balances in connection with the Proposed Transaction, Distributing 1 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the First Internal Distribution.
- (1v) Except for indebtedness that may be created in the ordinary course of business in connection with the Continuing Arrangements, no indebtedness will exist between Distributing 1 and Controlled 1 at the time of, or subsequent to, the First Internal Distribution.
- (1w) Except as described in the Continuing Arrangements, payments made in connection with all continuing transactions between Distributing 1 and Controlled 1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (1x) No two parties to the transaction are, or will be, investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (1y) Following the First Internal Distribution, Distributing 2 will compute its pre-distribution amount and post-distribution amount with respect to Distributing 1 and Controlled 1 as defined under Treas. Reg. § 1.367(b)-5(e)(1) and (2). To the extent Distributing 2's pre-distribution amount with respect to either Distributing 1 or Controlled 1 exceeds the post-distribution amount with respect to either Distributing 1 or Controlled 1, Distributing 2 will make basis adjustments and recognize income (if any) as required under applicable regulations.
- (1z) The notice requirements of Treas. Reg. § 1.367(b)-1(c) will be satisfied for each of the Controlled 1 Contribution and the First Internal Distribution.
- (1aa) The contribution of assets by Distributing 1 to Controlled 1 in exchange for stock of Controlled 1 in the Controlled 1 Contribution will not be an exchange described in Treas. Reg. § 1.367(b)-4(b)(1)(i), 1.367(b)-4(b)(2)(i), or 1.367(b)-4(b)(3). Such contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply. No amount will be included in income as a deemed dividend equal to the section 1248 amount under section 367(b) as a result of the contribution.
- (1bb) Each of Distributing 1 and Sub 15 will be a controlled foreign corporation, within the meaning of section 957(a), immediately before and after each of the Controlled 1 Contribution and First Internal Distribution. Controlled 1 will be a

controlled foreign corporation, within the meaning of section 957(a), immediately after the Controlled 1 Contribution and immediately before and after the First Internal Distribution.

- (1cc) Neither Distributing 1 nor Controlled 1 will be a passive foreign investment company (“PFIC”), within the meaning of section 1297(a), immediately before or after the Controlled 1 Contribution and the First Internal Distribution.
- (1dd) Distributing 2 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to each of Distributing 1 and Sub 15 immediately before and after each of the Controlled 1 Contribution and the First Internal Distribution. Distributing 2 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to Controlled 1 immediately after the Controlled 1 Contribution and immediately before and after the First Internal Distribution.
- (1ee) Controlled 1 will not hold any United States real property interests, as defined in section 897(c)(1), immediately before or after the Controlled 1 Contribution and the First Internal Distribution.
- (1ff) The Proposed Transaction will not include the transfer of (i) equity interests of any corporation that has been a U.S. transferor, the transferee foreign corporation, the transferred corporation, or successor thereto or (ii) substantially all of the assets of the transferred corporation, with respect to any unexpired gain recognition agreement within the meaning of Treas. Reg. §§ 1.367(a)-3, 1.367(a)-8, or 1.367(a)-8T.

Second Internal Distribution

- (2a) The indebtedness, if any, owed by Controlled 1 to Distributing 2 after the Second Internal Distribution will not constitute stock or securities.
- (2b) The fair market value of the Controlled 1 stock will be approximately equal to the fair market value of the Distributing 2 shares surrendered by Distributing 4 in the exchange.
- (2c) No part of the consideration to be distributed in the Second Internal Distribution will be received by any shareholder of Distributing 2 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 2.
- (2d) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing 2 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (the “Distributing 2 SAG”) as one corporation.

- (2e) The five years of financial information submitted on behalf of the Country A Business 1 conducted by the Distributing 2 SAG are representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (2f) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Controlled 1 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (i.e., the Controlled 1 SAG) as one corporation.
- (2g) The five years of financial information submitted on behalf of the Country A Business 2 conducted by the Controlled 1 SAG are representative of its present business operation, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (2h) The Distributing 2 SAG neither acquired the Country A Business 1 nor acquired control of an entity conducting the Country A Business 1 during the five-year period ending on the date of the Second Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (2i) The Controlled 1 SAG neither acquired the Country A Business 2 nor acquired control of an entity conducting the Country A Business 2 during the five-year period ending on the date of the Second Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (2j) Following the Second Internal Distribution, the Distributing 2 SAG will continue the active conduct of the Country A Business 1 and the Controlled 1 SAG will continue the active conduct of the Country A Business 2 independently and with their separate employees.
- (2k) The Second Internal Distribution will be carried out for the corporate business purpose of facilitating the External Distribution. The Second Internal Distribution is motivated, in whole or in substantial part, by this corporate business purpose.
- (2l) The Second Internal Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing 2 or Controlled 1 or both.
- (2m) For purposes of section 355(d), immediately after the Second Internal Distribution, no person (determined after applying section 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 section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Internal Distribution.

- (2n) For purposes of section 355(d), immediately after the Second Internal Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 1 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled 1 stock that was (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Internal Distribution or (ii) attributable to distributions on Distributing 2 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Internal Distribution.
- (2o) Except as otherwise provided in the Proposed Transaction, the Second Internal Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 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 section 355(d)(4)) in Distributing 2 or Controlled 1 (including any predecessor or successor of any such corporation).
- (2p) Immediately after the Second Internal Distribution either (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in the stock of Distributing 2 or Controlled 1 who did not hold such an interest before the transaction or (ii) neither Distributing 2 nor Controlled 1 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (2q) Except possibly pursuant to the elimination or reduction of intercompany balances in connection with the Proposed Transaction, Distributing 2 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Second Internal Distribution.
- (2r) No indebtedness will exist between Distributing 2 and Controlled 1 at the time of, or subsequent to, the Second Internal Distribution.
- (2s) Payments made in connection with all continuing transactions between Distributing 2 and Controlled 1, if any, will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (2t) No two parties to the transaction are, or will be, investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (2u) Distributing 2 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to Controlled 1 immediately before the Second Internal Distribution, and Distributing 4 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to Controlled 1 immediately after the Second Internal Distribution.

- (2v) Controlled 1 will not be a PFIC, within the meaning of section 1297(a), immediately before the Second Internal Distribution.

Sub 4 Conversion

- (3a) Sub 4 and Sub 1 will adopt a plan of liquidation by conversion of Sub 4 into an LLC (the "Sub 4 Plan of Liquidation"), and the Sub 4 Conversion will occur pursuant to the Sub 4 Plan of Liquidation.
- (3b) Sub 1, on the date of adoption of the Sub 4 Plan of Liquidation (the "Sub 4 Plan Date"), and at all times thereafter until the Sub 4 Conversion is completed, will own 100 percent of the single outstanding class of Sub 4 stock.
- (3c) No shares of Sub 4 have been redeemed during the three years preceding the Sub 4 Plan Date.
- (3d) All deemed transfers from Sub 4 to Sub 1 will occur on the date of the Sub 4 Conversion.
- (3e) Upon the Sub 4 Conversion, Sub 4 will cease to be a going concern, and will cease to conduct any activities as a corporation, for federal income tax purposes.
- (3f) Upon the Sub 4 Conversion, all of the stock of Sub 4 will be cancelled, and it will cease to exist as a corporation, for federal income tax purposes.
- (3g) Sub 4 (as a corporation) will retain no assets following the Sub 4 Conversion for federal income tax purposes.
- (3h) Sub 4 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the Sub 4 Plan Date and except pursuant to the Prior Sub 4 Contribution.
- (3i) Except as otherwise provided in the Proposed Transaction, and except for the transfer of the assets received pursuant to the Prior Sub 4 Contribution, dispositions in the ordinary course of business, and dispositions occurring more than three years prior to the Sub 4 Plan Date, no assets of Sub 4 have been, or will be, disposed of by either Sub 4 or Sub 1.
- (3j) Except for the Distributing 3 Reorganization and the contribution by Distributing 3 of the Sub 1 LLC interests in the Controlled 2 Contribution, the Sub 4 Conversion will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Sub 4, if persons holding, directly or indirectly, more than 20 percent in value of the Sub 4 stock (as determined by application of section 318(a) as modified by section

304(c)(3)) also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient.

- (3k) Following the Sub 4 Conversion, there is no plan or intention to undertake any action (e.g., an election to be treated as an association taxable as a corporation for federal income tax purposes under Treas. Reg. § 301.7701-3, etc.), and no other circumstances will exist (e.g., the existence of a second regarded owner of a member interest), that will prevent Sub 4 from being treated as disregarded from the owner of its membership interests for federal income tax purposes under Treas. Reg. §§ 301.7701-2 and 301.7701-3.
- (3l) Prior to the Sub 4 Plan Date, no assets of Sub 4 will have been distributed in kind, transferred, or sold to Sub 1, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the Sub 4 Plan Date.
- (3m) Sub 4 will report all earned income represented by assets that will be deemed distributed to Sub 1.
- (3n) The fair market value of the assets of Sub 4 will exceed its liabilities, both at the Sub 4 Plan Date and immediately prior to the time of the Sub 4 Conversion.
- (3o) Except for the Sub 4-Sub 1 Intercompany Debt, there is no intercorporate debt existing between Sub 1 and Sub 4, and none has been cancelled, forgiven, or discounted, except for transactions that occurred more than three years prior to the Sub 4 Plan Date.
- (3p) Sub 1 is not an organization that is exempt from federal income tax under section 501 or another provision of the Code.
- (3q) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to Sub 4 Conversion have been fully disclosed.

Distributing 3 Reorganization

- (4a) Distributing 4 will receive solely Distributing 3 stock in the Distributing 3 Reorganization.
- (4b) Immediately before the Distributing 3 Reorganization, Distributing 4 will own 100 percent of the stock of Sub 1, and immediately following the Distributing 3 Reorganization, Distributing 4 will own 100 percent of the stock of Distributing 3.

- (4c) The fair market value of the Distributing 3 stock received by Distributing 4 will be approximately equal to the fair market value of the Sub 1 stock deemed surrendered in the exchange.
- (4d) Generally, Sub 1, Distributing 3, and Distributing 4 will each pay their own expenses, if any, incurred in connection with the Distributing 3 Reorganization. Distributing 4 may, however, pay certain expenses incurred in connection with the Distributing 3 Reorganization on behalf of Sub 1 and Distributing 3, but in no event will Distributing 3 pay any expenses on behalf of Sub 1, Distributing 4, or any other member of the Distributing 4 Worldwide Group.
- (4e) Immediately after the Distributing 3 Reorganization, Distributing 4 will own 100 percent of the outstanding stock of Distributing 3 and will own such stock solely by reason of its ownership of the Sub 1 stock immediately prior to the Distributing 3 Reorganization.
- (4f) Immediately after the Distributing 3 Reorganization, Distributing 3 will hold (directly and through Sub 1 LLC as a disregarded entity) all the assets held by Sub 1 immediately prior to the Distributing 3 Reorganization, except for assets used to pay expenses in connection with the Distributing 3 Reorganization, if any. The assets used to pay expenses will be less than one percent of the fair market value of the net assets of Sub 1 immediately prior to the Distributing 3 Reorganization. No assets will be distributed.
- (4g) The liabilities of Sub 1 deemed to be assumed by Distributing 3 plus the liabilities, if any, to which the assets deemed to be transferred are subject, were incurred by Sub 1 in the ordinary course of its business and are associated with the assets deemed transferred.
- (4h) At the time of the Distributing 3 Reorganization, Sub 1 will not have any outstanding warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Sub 1.
- (4i) At the time the Distributing 3 Reorganization, neither Sub 1 nor Distributing 3 will be under the jurisdiction of a court in a title 11 or similar case within the meaning of section 368(a)(3)(A).
- (4j) Distributing 3 will be newly formed for the purpose of effecting the Distributing 3 Reorganization. At all times prior to the transaction, Distributing 3 (i) will not engage in business activity; (ii) will have no federal income tax attributes (attributes described in section 381(c)); and (iii) will not hold any assets (except for a nominal amount of assets held to facilitate its reorganization) and will not incur any liabilities.

- (4k) Except in connection with the Third Internal Distribution, Distributing 3 has no plan or intention to (i) redeem or reacquire any of its stock issued in the Distributing 3 Reorganization or (ii) issue any additional shares of Distributing 3 stock.
- (4l) There will be no plan or intention on the part of any party related to Distributing 3 to acquire any of the stock of Distributing 3 received by Distributing 4 pursuant to the Distributing 3 Reorganization.
- (4m) Except as otherwise provided in the Proposed Transaction, Distributing 3 has no plan or intention to sell or otherwise dispose of any of the assets of Sub 1 acquired in the transaction, except for dispositions in the ordinary course of business.
- (4n) Immediately before the Distributing 3 Reorganization, the fair market value of the assets of Sub 1 will exceed the sum of the liabilities of Sub 1 (whether indebtedness or other forms of obligations, including contingent or related party obligations), plus the liabilities, if any, to which the assets of Sub 1 are subject.
- (4o) The Distributing 3 Reorganization will be carried out for the corporate business purpose of facilitating the External Distribution.

Sub 14 Reorganization

- (5a) The fair market value of the Distributing 3 stock received by the Sub 14 Shareholders will be approximately equal to the fair market value of the Sub 14 stock deemed surrendered in the exchange.
- (5b) Immediately before the Sub 14 CTB Election, Sub 14 will be classified as a corporation for federal income tax purposes under Treas. Reg. § 301.7701-3(c).
- (5c) Immediately after the Sub 14 CTB Election, Sub 14 will be disregarded as an entity separate from Distributing 3 for federal income tax purposes under Treas. Reg. § 301.7701-3(c).
- (5d) Throughout the 12-month period ending immediately before the Sub 14 Reorganization, Sub 14 will not (i) sell, exchange, or otherwise dispose of any of its assets, except for dispositions in the ordinary course of business; or (ii) redeem, reacquire, or make distributions (other than regular, normal distributions) with respect to any of its equity interests.
- (5e) There is no plan or intention for Distributing 3, or any person related (as defined in Treas. Reg. § 1.368-1(e)(4)) to Distributing 3, to acquire or redeem any Distributing 3 stock issued or deemed issued in the Sub 14 Reorganization,

either directly or through any transaction, agreement, or other arrangement with any other person.

- (5f) At least 40 percent of the proprietary interest in Sub 14 will be exchanged for Distributing 3 stock and will be preserved within the meaning of Treas. Reg. § 1.368-1(e).
- (5g) Distributing 3 has no plan or intention to sell or otherwise dispose of any of the assets of Sub 14 deemed to be acquired in the transaction except for dispositions made in the ordinary course of business.
- (5h) Distributing 3 will be deemed to acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by Sub 14 immediately prior to the Sub 14 Reorganization. For purposes of this representation, amounts used by Sub 14 to pay its reorganization expenses, if any, and all redemptions and distributions (except for regular, normal dividends) made by Sub 14 immediately preceding the Sub 14 Reorganization are included as assets of Sub 14 held immediately prior to the Sub 14 Reorganization.
- (5i) After the Sub 14 Reorganization, the Sub 14 Shareholders will be in control of Distributing 3 within the meaning of section 368(a)(2)(H)(i).
- (5j) The liabilities of Sub 14 deemed to be assumed by Distributing 3 plus the liabilities, if any, to which the assets deemed to be transferred are subject, were incurred by Sub 14 in the ordinary course of its business and are associated with the assets deemed transferred.
- (5k) Following the Sub 14 Reorganization, Distributing 3 will continue the historic business of Sub 14, or use a significant portion of Sub 14's historic business assets in a business as required by Treas. Reg. § 1.368-1(d).
- (5l) At the time of the Sub 14 Reorganization, Distributing 3 will not have any outstanding warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Distributing 3.
- (5m) Generally, Distributing 3, Sub 14, and the Sub 14 Shareholders will each pay their own expenses, if any, incurred in connection with the Sub 14 Reorganization. Distributing 4 may, however, pay certain expenses incurred in connection with the Sub 14 Reorganization on behalf of Distributing 3, Sub 14, and the Sub 14 Shareholders, but in no event will Distributing 3 pay any expenses on behalf of Distributing 3, Sub 14, the Sub 14 Shareholders, or any other member of the Distributing 4 Worldwide Group.

- (5n) At the time of the Sub 14 Reorganization, no party to the Sub 14 Reorganization will be an investment company as defined in section 368(a)(2)(F)(iii) and (iv).
- (5o) At the time of the Sub 14 Reorganization, no intercorporate indebtedness will exist between Distributing 3 and Sub 14 that was issued, acquired, or settled at a discount.
- (5p) The fair market value of the assets deemed transferred to Distributing 3 by Sub 14 will exceed the amount of any liabilities (whether indebtedness or other forms of obligations, including contingent or related party obligations) of Sub 14 immediately before the Sub 14 Reorganization (including any liabilities that are cancelled, extinguished, or deemed assumed by Distributing 3 in connection with the Sub 14 Reorganization).
- (5q) Immediately after the Sub 14 Reorganization, the fair market value of the assets of Distributing 3 will exceed the amount of its liabilities (including the liabilities of any disregarded entities), whether indebtedness or other forms of obligations, including contingent obligations.
- (5r) At the time the Sub 14 Reorganization, neither Sub 14 nor Distributing 3 will be under the jurisdiction of a court in a title 11 or similar case within the meaning of section 368(a)(3)(A).
- (5s) The Sub 14 Reorganization will be undertaken pursuant to a plan of reorganization.
- (5t) The Sub 14 Reorganization will be carried out for the corporate business purpose of facilitating the External Distribution.

Controlled 2 Contribution and Third Internal Distribution

- (6a) The indebtedness, if any, owed by Controlled 2 to Distributing 3 after the Third Internal Distribution will not constitute stock or securities.
- (6b) The fair market value of the Controlled 2 stock will be approximately equal to the fair market value of the Distributing 3 shares surrendered by Distributing 4 in the exchange.
- (6c) No part of the consideration to be distributed in the Third Internal Distribution will be received by any shareholder of Distributing 3 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 3.
- (6d) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing 3 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (the "Distributing 3 SAG") as one corporation.

- (6e) The five years of financial information submitted on behalf of the State B and State C Business 1 conducted by the Distributing 3 SAG are representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (6f) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Controlled 2 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (the "Controlled 2 SAG") as one corporation.
- (6g) The five years of financial information submitted on behalf of the domestic Business 2 conducted by the Controlled 2 SAG are representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (6h) The Distributing 3 SAG neither acquired the State B and State C Business 1 nor acquired control of an entity conducting the State B and State C Business 1 during the five-year period ending on the date of the Third Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (6i) The Controlled 2 SAG neither acquired the domestic Business 2 nor acquired control of an entity conducting the domestic Business 2 during the five-year period ending on the date of the Third Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (6j) Following the Third Internal Distribution, the Distributing 3 SAG will continue the active conduct of the State B and State C Business 1 and the Controlled 2 SAG will continue the active conduct of the domestic Business 2 independently and with their separate employees.
- (6k) The Third Internal Distribution will be carried out for the corporate business purpose of facilitating the External Distribution. The Third Internal Distribution is motivated, in whole or in substantial part, by this corporate business purpose.
- (6l) The Third Internal Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing 3 or Controlled 2 or both.
- (6m) For purposes of section 355(d), immediately after the Third Internal Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 3 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Distributing 3 stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Third Internal Distribution.

- (6n) For purposes of section 355(d), immediately after the Third Internal Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 2 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled 2 stock that was (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Third Internal Distribution or (ii) attributable to distributions on Distributing 3 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Third Internal Distribution.
- (6o) Except as otherwise provided in the Proposed Transaction, the Third Internal Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 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 section 355(d)(4)) in Distributing 3 or Controlled 2 (including any predecessor or successor of any such corporation).
- (6p) Immediately after the Third Internal Distribution, either (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in the stock of Distributing 3 or Controlled 2 who did not hold such an interest before the transaction or (ii) neither Distributing 3 nor Controlled 2 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (6q) The aggregate fair market value of the assets of domestic Business 2 transferred to Controlled 2 in the Controlled 2 Contribution will equal or exceed the aggregate adjusted basis of such assets.
- (6r) The total adjusted basis of the assets transferred to Controlled 2 in the Controlled 2 Contribution will exceed the sum of the liabilities assumed (within the meaning of section 357(d)) by Controlled 2 plus any liabilities to which the transferred assets are subject (in each case, excluding liabilities to which section 357(c)(3) applies).
- (6s) The total fair market value of the assets transferred to Controlled 2 by Distributing 3 in the Controlled 2 Contribution will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 2 in connection with the Controlled 2 Contribution, (ii) the amount of any liabilities owed to Controlled 2 by Distributing 3 that are discharged or extinguished in connection with the Controlled 2 Contribution, and (iii) the amount of any cash and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing 3 from Controlled 2 in connection with the Controlled 2 Contribution. The fair market value of the assets of Controlled 2

will exceed the amount of its liabilities immediately after the Controlled 2 Contribution.

- (6t) The liabilities assumed in the Controlled 2 Contribution and any liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (6u) No investment credit determined under section 46 has been (or will be) claimed with respect to any property contributed to Controlled 2 by Distributing 3 in connection with the Controlled 2 Contribution.
- (6v) Except possibly pursuant to the elimination or reduction of intercompany balances in connection with the Proposed Transaction, Distributing 3 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Third Internal Distribution.
- (6w) Except for indebtedness that may be created in the ordinary course of business in connection with the Continuing Arrangements, no indebtedness will exist between Distributing 3 and Controlled 2 at the time of, or subsequent to, the Third Internal Distribution.
- (6x) Except as described in the Continuing Arrangements, payments made in connection with all continuing transactions between Distributing 3 and Controlled 2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (6y) No two parties to the transaction are, or will be, investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (6z) There is no regulatory, legal, contractual, or economic compulsion or requirement that Distributing 4 make all or part of the Sub 1 Capital Contribution as a condition to the Third Internal Distribution.

Sub 6 Subs Restructuring

- (7a) Immediately following the DRE 7 Contribution 2, DRE 7 will qualify as a valid partnership, as defined in section 7701(a)(2), for federal income tax purposes and characterized as such under subchapter K.
- (7b) Following the Sub 6 Subs Restructuring, there is no plan or intention (i) to take any action that would cause DRE 7 to fail to qualify as a valid partnership for federal income tax purposes, (ii) to sell or otherwise dispose of any of the assets transferred to DRE 7, (iii) to liquidate DRE 7, (iv) to take any action that would result in the involuntary liquidation of DRE 7, or (v) for either Sub 6 or Sub 5 to

reacquire the assets contributed to DRE 7 pursuant to the DRE 7 Contribution 1 and DRE 7 Contribution 2.

External Distribution

- (8a) The indebtedness owed by Controlled 3 to Distributing 4 after the External Distribution, if any, will not constitute stock or securities.
- (8b) The fair market value of the Controlled 3 common stock to be received by each shareholder of Distributing 4 pursuant to the Share Repurchase, if any, will be approximately equal to the fair market value of the Distributing 4 common stock surrendered by the shareholder in the exchange.
- (8c) Except with regard to the holders of restricted Distributing 4 stock, no part of the consideration to be distributed in the External Distribution will be received by any shareholder of Distributing 4 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 4. The sum of (i) the shares of Controlled 3 common stock distributed in the External Distribution with respect to restricted stock of Distributing 4 and (ii) the Retained Stock transferred to the Financial Institution in connection with the Debt-for-Equity Exchange, if any, will not represent more than w percent of the total combined voting power of the Controlled 3 common stock outstanding after the External Distribution.
- (8d) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing 4 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (the "Distributing 4 SAG") as one corporation.
- (8e) The five years of financial information submitted on behalf of the Business 1 conducted by the Distributing 4 SAG are representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (8f) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Controlled 3 will treat all members of its separate affiliated group as defined in section 355(b)(3)(B) (the "Controlled 3 SAG") as one corporation.
- (8g) The five years of financial information submitted on behalf of the Business 2 conducted by the Controlled 3 SAG are representative of its present business operation, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (8h) The Distributing 4 SAG neither acquired the Business 1 nor acquired control of an entity conducting the Business 1 during the five-year period ending on the date of the External Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.

- (8i) The Controlled 3 SAG neither acquired the Business 2 nor acquired control of an entity conducting the Business 2 during the five-year period ending on the date of the External Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part for federal income tax purposes.
- (8j) Following the External Distribution, the Distributing 4 SAG will continue the active conduct of the Business 1 and the Controlled 3 SAG will continue the active conduct of the Business 2 independently and with their separate employees.
- (8k) The External Distribution will be carried out to permit the Business 2 to pursue the business development strategies most appropriate for optimal growth and operation by (i) improving management focus and strategy, (ii) facilitating access to capital, (iii) enhancing employee incentive programs, and (iv) establishing valuable acquisition currency. The External Distribution is motivated, in whole or in substantial part, by these corporate business purposes.
- (8l) The External Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing 4 or Controlled 3 or both.
- (8m) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 4 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Distributing 4 stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution.
- (8n) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 3 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled 3 stock that was (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution or (ii) attributable to distributions on Distributing 4 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution.
- (8o) The External Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 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 section 355(d)(4)) in Distributing 4 or Controlled 3 (including any predecessor or successor of any such corporation).

- (8p) Immediately after the External Distribution, either (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in the stock of Distributing 4 or Controlled 3 who did not hold such an interest before the transaction or (ii) neither Distributing 4 nor Controlled 3 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (8q) The aggregate fair market value of the stock of Controlled 1 and Controlled 2 transferred to Controlled 3 in the Controlled 3 Contribution will equal or exceed the aggregate adjusted basis of the transferred assets.
- (8r) The total adjusted basis of the assets transferred to Controlled 3 in the Controlled 3 Contribution will exceed the sum of (i) the liabilities assumed (within the meaning of section 357(d)) by Controlled 3 plus any liabilities to which the transferred assets are subject (in each case, excluding liabilities to which section 357(c)(3) applies) and (ii) the total amount of cash and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing 4 from Controlled 3 and transferred by it to its creditors or shareholders in connection with the plan of reorganization.
- (8s) The total fair market value of the assets transferred to Controlled 3 by Distributing 4 in the Controlled 3 Contribution will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 3 in connection with the Controlled 3 Contribution, (ii) the amount of any liabilities owed to Controlled 3 by Distributing 4 that are discharged or extinguished in connection with the Controlled 3 Contribution, and (iii) the amount of any cash and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing 4 from Controlled 3 in connection with the Controlled 3 Contribution. The fair market value of the assets of Controlled 3 will exceed the amount of its liabilities immediately after the Controlled 3 Contribution.
- (8t) The liabilities assumed in the Controlled 3 Contribution, if any, and any liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (8u) No investment credit determined under section 46 has been (or will be) claimed with respect to any property contributed to Controlled 3 by Distributing 4 in connection with the Controlled 3 Contribution.
- (8v) Except possibly pursuant to the elimination or reduction of intercompany balances in connection with the Proposed Transaction, Distributing 4 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the External Distribution.

- (8w) Except for (i) indebtedness that may be created in the ordinary course of business in connection with the Continuing Arrangements and (ii) the Controlled 3 Securities, if any, held by Distributing 4 prior to the Debt-for-Debt Exchange, no indebtedness will exist between Distributing 4 and Controlled 3 at the time of, or subsequent to, the External Distribution.
- (8x) Immediately before the External Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treas. Reg. §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; Treas. Reg. § 1.1502-13 as published by T.D. 8597). Further, any excess loss account of a member in the stock of another member that is required to be taken into account by Treas. Reg. § 1.1502-19 will be included in income, as appropriate.
- (8y) Except as described in the Continuing Arrangements, payments made in connection with all continuing transactions between Distributing 4 and Controlled 3 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (8z) No two parties to the transaction are, or will be, investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (8aa) The sum of the amount of Distributing 4 Debt exchanged for Controlled 3 stock and Controlled 3 Securities, if any, in the Debt-for-Equity Exchange and the Debt-for-Debt Exchange, respectively, plus the amount of Distributing 4 debt repaid with the cash received by Distributing 4 in the Controlled 2 Contribution will be less than the weighted quarterly average of all of Distributing 4's debt owed to unrelated third parties for the 12 months ending on the day before its board first discussed the proposed divestiture of the Business 2.
- (8bb) The Controlled 3 Securities issued to Distributing in connection with the Controlled 3 Contribution, if any, will qualify as "securities" within the meaning of section 361(a).
- (8cc) Distributing 4 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to Controlled 1 immediately before the Controlled 3 Contribution, and Controlled 3 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to Controlled 1 immediately after the Controlled 3 Contribution.
- (8dd) Controlled 1 will not be a PFIC, within the meaning of section 1297(a), immediately before the Controlled 3 Contribution.

Rulings

Based solely on the information provided and representations made, we rule as follows:

Controlled 1 Contribution and First Internal Distribution

- (1) Steps (i) through (xi) will be treated as if Distributing 1 contributed the Country A Business 2 Assets to Controlled 1 in exchange for all the outstanding shares of Controlled 1 stock and the assumption of liabilities associated with the Country A Business 2 Assets, and then distributed the Controlled 1 stock to Distributing 2. See Rev. Rul. 77-191, 1977-1 C.B. 94 and Rev. Rul. 83-142, 1983-2 C.B. 68.
- (2) The Controlled 1 Contribution followed by the First Internal Distribution will be a reorganization within the meaning of section 368(a)(1)(D). Distributing 1 and Controlled 1 each will be “a party to a reorganization” within the meaning of section 368(b).
- (3) Distributing 1 will not recognize gain or loss upon the Controlled 1 Contribution. Sections 361(a)-(b) and 357(a).
- (4) Controlled 1 will not recognize gain or loss upon the Controlled 1 Contribution. Section 1032(a).
- (5) Controlled 1’s basis in each asset received in the Controlled 1 Contribution will equal the basis of such asset in the hands of Distributing 1 immediately before the Controlled 1 Contribution. Section 362(b).
- (6) Controlled 1’s holding period in each of the assets received in the Controlled 1 Contribution will include the period during which Distributing 1 held such asset. Section 1223(2).
- (7) Distributing 1 will not recognize gain or loss upon the First Internal Distribution. Section 361(c).
- (8) Distributing 2 will not recognize gain or loss (and no amount will be includible in its income) upon the receipt of Controlled 1 stock in the First Internal Distribution. Section 355(a)(1).
- (9) Distributing 2’s basis in the Controlled 1 stock and the Distributing 1 stock immediately after the First Internal Distribution will equal the basis of the Distributing 1 stock Distributing 2 held immediately before the First Internal Distribution, allocated between the stock of Distributing 1 and Controlled 1 in proportion to their relative fair market values at the time of the First Internal Distribution in accordance with Treas. Reg. § 1.358-2(a)(2)(iv). Section 358(b)(2) and (c).

- (10) Distributing 2's holding period in the Controlled 1 stock received will include the holding period of the Distributing 1 shares held by Distributing 2 with respect to which the First Internal Distribution is made, provided the Distributing 1 stock was held as a capital asset on the date of the First Internal Distribution. Section 1223(1).
- (11) Earnings and profits will be allocated between Distributing 1 and Controlled 1 in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).
- (12) The First Internal Distribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367-5(f) apply. If Distributing 2's post-distribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 1 or Controlled 1 is less than its pre-distribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)) with respect to such corporation, Distributing 2's basis in such stock immediately after the First Internal Distribution must be reduced by the amount of the difference. Distributing 2's basis in such stock, however, must not be reduced below zero. To the extent the foregoing reduction would reduce its basis below zero, Distributing 2 must instead include such amount in income as a deemed dividend from such corporation. If Distributing 2 reduces the basis in the stock of Distributing 1 or Controlled 1 (or has an inclusion with respect to such stock), Distributing 2 must increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).
- (13) Except for purposes of section 355(g), payments made between any of Distributing 1 and Controlled 1 and their respective affiliates under any of the Continuing Arrangements regarding liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the First Internal Distribution or for a taxable period beginning before and ending after the First Internal Distribution and (ii) will not become fixed and ascertainable until after the First Internal Distribution will be viewed as occurring before the First Internal Distribution. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

Second Internal Distribution

- (14) Distributing 2 will not recognize gain or loss upon the Second Internal Distribution. Section 355(c).
- (15) Distributing 4 will not recognize gain or loss (and no amount will be includible in its income) upon the receipt of Controlled 1 stock in the Second Internal Distribution. Section 355(a)(1).
- (16) Distributing 4's basis in the Controlled 1 stock immediately following the Second Internal Distribution will equal Distributing 4's basis in the Distributing 2 shares

exchanged therefor in accordance with Treas. Reg. § 1.358-2(a)(2)(i). Section 358(b)(2) and (c).

- (17) Distributing 4's holding period in the Controlled 1 stock received will include the holding period of the Distributing 2 shares Distributing 4 held, provided the Distributing 2 stock was held as a capital asset on the date of the Second Internal Distribution. Section 1223(1).
- (18) Distributing 2's earnings and profits will be adjusted and Controlled 1's earnings and profits will be determined in accordance with section 312(h) and Treas. Reg. § 1.312-10(b).
- (19) Except for purposes of section 355(g), payments made between any of Distributing 2 and Controlled 1 and their respective affiliates under any of the Continuing Arrangements regarding liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Second Internal Distribution or for a taxable period beginning before and ending after the Second Internal Distribution and (ii) will not become fixed and ascertainable until after the Second Internal Distribution will be viewed as occurring before the Second Internal Distribution. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.
- (20) The earnings and profits of Controlled 1, to the extent attributable to Distributing 2 under Treas. Reg. § 1.1248-2 or 1.1248-3 (whichever is applicable), that were accumulated in taxable years of Controlled 1 beginning after December 31, 1962 and during the period in which Controlled 1 was a controlled foreign corporation, will be attributable to such stock held by Distributing 4. Treas. Reg. § 1.1248-1(a)(1)).

Sub 4 Conversion

- (21) The Sub 4 Conversion will be treated as a distribution by Sub 4 in complete liquidation under section 332(a).
- (22) Sub 1 will not recognize gain or loss on the receipt of the assets and liabilities of Sub 4 pursuant to the Sub 4 Conversion. Section 332(a).
- (23) Sub 4 will not recognize gain or loss on the distribution of its assets and liabilities to Sub 1 in the Sub 4 Conversion. Section 337(a).
- (24) Sub 1's basis in each asset received from Sub 4 pursuant to the Sub 4 Conversion will equal the basis of that asset in the hands of Sub 4 immediately before the Sub 4 Conversion. Section 334(b)(1).

- (25) Sub 1's holding period in each asset received from Sub 4 in the Sub 4 Conversion will include the period during which Sub 4 held such asset. Section 1223(2).
- (26) Sub 1 will succeed to and take into account the items of Sub 4 described in section 381(c), subject to the conditions and limitations specified in sections 381, 382, 383, and 384 and the regulations thereunder. Section 381(a)(1) and Treas. Reg. § 1.381(a)-1.
- (27) Except to the extent Sub 4's earnings and profits are reflected in Sub 1's earnings and profits, Sub 1 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub 4 as of the date of the Sub 4 Conversion. Section 381(c)(2)(A) and Treas. Reg. §§ 1.381(c)(2)-1 and 1.1502-33(a)(2). Any deficit in the earnings and profits of Sub 4 will be used only to offset earnings and profits accumulated after the date of the Sub 4 Conversion. Section 381(c)(2)(B).
- (28) As a result of the Sub 4 Conversion, Sub 1 will become a successor person to Sub 4 and will succeed to, and take into account (under the rules of Treas. Reg. § 1.1502-13), Sub 4's intercompany items (including the Deferred Business 1 Intercompany Items and the Deferred Business 2 Intercompany Items). Treas. Reg. § 1.1502-13(j)(2).

Distributing 3 Reorganization

- (29) For U.S. federal income tax purposes, the Distributing 3 Reorganization will be treated as a transfer by Sub 1 of its assets to Distributing 3 in exchange for Distributing 3 stock and Distributing 3's assumption of (or taking subject to) the liabilities of Sub 1, followed by Sub 1's distribution of the Distributing 3 stock to its sole shareholder, Distributing 4. The Distributing 3 Reorganization will qualify as a reorganization within the meaning of section 368(a)(1)(F). Sub 1 and Distributing 3 will each be "a party to a reorganization" within the meaning of section 368(b).
- (30) Sub 1 will not recognize gain or loss upon the transfer of all of its assets to Distributing 3 in exchange for Distributing 3 stock and the assumption of liabilities. Sections 361(a) and 357(a).
- (31) Distributing 3 will not recognize gain or loss upon the receipt of the Sub 1 assets. Section 1032(a).
- (32) Distributing 3's basis in each asset acquired from Sub 1 will be the same as Sub 1's basis in such asset immediately before the Distributing 3 Reorganization. Section 362(b).

- (33) Distributing 3's holding period for the assets acquired from Sub 1 will include the period during which Sub 1 held such assets. Section 1223(2).
- (34) Sub 1 will not recognize gain or loss on the distribution to Distributing 4 of the Distributing 3 stock. Section 361(c)(1).
- (35) Distributing 4 will not recognize gain or loss, as the shareholder of Sub 1, upon the receipt of the stock of Distributing 3 in exchange for the stock of Sub 1. Section 354(a)(1).
- (36) Distributing 4's basis in each share of Distributing 3 stock received in exchange for Sub 1 stock will equal the basis of each share of Sub 1 stock exchanged therefore. Section 358(a)(1) and Treas. Reg. § 1.358-2(a)(2)(i).
- (37) Distributing 4's holding period in the Distributing 3 stock will include the period during which Distributing 4 held the Sub 1 stock exchanged therefor, provided that Distributing 4 held the Sub 1 stock as a capital asset on the date of the exchange. Section 1223(1).
- (38) Distributing 3 will succeed to and take into account the items of Sub 1 described in section 381(c). Section 381(a) and Treas. Reg. § 1.381(a)-1.
- (39) The taxable year of Sub 1 will not close on the date of the Distributing 3 Reorganization and such taxable year will continue in the name of Distributing 3. Treas. Reg. § 1.381(b)-1.
- (40) Neither the Sub 14 Reorganization nor the Distributions will preclude the Distributing 3 Reorganization from qualifying as a section 368(a)(1)(F) reorganization. Rev. Rul. 96-29, 1996-1 C.B. 50.
- (41) As a result of the Distributing 3 Reorganization, Distributing 3 will become a successor person to Sub 1 and Sub 4 and will succeed to, and take into account (under the rules of Treas. Reg. § 1.1502-13), Sub 1's and Sub 4's intercompany items (including the Deferred Business 1 Intercompany Items and the Deferred Business 2 Intercompany Items). Treas. Reg. § 1.1502-13(j)(2).

Sub 14 Reorganization

- (42) For federal income tax purposes, the Sub 14 Reorganization will be treated as (i) a transfer by Sub 14 of all of its assets to Distributing 3 solely in exchange for Distributing 3 stock and (ii) the distribution by Sub 14 of all of the Distributing 3 stock to the Sub 14 Shareholders in exchange for all of the Sub 14 Shareholders' stock in Sub 14.

- (43) The Sub 14 Reorganization will qualify as a reorganization within the meaning of section 368(a)(1)(D). Sub 14 and Distributing 3 will each be “a party to a reorganization” within the meaning of section 368(b).
- (44) Sub 14 will not recognize gain or loss on the transfer of its assets to Distributing 3 in exchange for Distributing 3 stock in the Sub 14 Reorganization. Section 361(a).
- (45) Distributing 3 will not recognize gain or loss on its receipt of Sub 14’s assets in exchange for Distributing 3 stock in the Sub 14 Reorganization. Section 1032(a).
- (46) Sub 14 will not recognize gain or loss on the distribution of the Distributing 3 stock to the Sub 14 Shareholders in the Sub 14 Reorganization. Section 361(c)(1).
- (47) The Sub 14 Shareholders will not recognize gain or loss on their exchange of Sub 14 stock for Distributing 3 stock in the Sub 14 Reorganization. Section 354(a)(1).
- (48) The Sub 14 Shareholders’ basis in the Distributing 3 stock received in the Sub 14 Reorganization will be equal to the basis of the Sub 14 stock exchanged therefor in the Sub 14 Reorganization. Section 358(a)(1) and Treas. Reg. § 1.358-2.
- (49) The Sub 14 Shareholders’ holding period for the Distributing 3 stock received in the Sub 14 Reorganization will include the period during which such shareholders held the Sub 14 stock exchanged therefor, provided that such Sub 14 stock is held as a capital asset in the hands of the Sub 14 Shareholders on the date of the Sub 14 Reorganization. Section 1223(1).
- (50) Distributing 3 will succeed to and take into account the items of Sub 14 described in section 381(c). Section 381(a) and Treas. Reg. § 1.381(a)-1. These will be taken into account by Distributing 3 subject to the conditions and limitations specified in sections 381, 382, 383, and 384, and the regulations thereunder.

Controlled 2 Contribution and Third Internal Distribution

- (51) The Controlled 2 Contribution followed by the Third Internal Distribution will be a reorganization within the meaning of section 368(a)(1)(D). Distributing 3 and Controlled 2 each will be “a party to a reorganization” within the meaning of section 368(b).
- (52) Distributing 3 will not recognize gain or loss upon the Controlled 2 Contribution. Sections 361(a)-(b) and 357(a).

- (53) Controlled 2 will not recognize gain or loss upon the Controlled 2 Contribution. Section 1032(a).
- (54) Controlled 2's basis in each of the assets received will be equal to the basis of the asset in the hands of Distributing 3 immediately before the Controlled 2 Contribution. Section 362(b).
- (55) Controlled 2's holding period in each of the assets received will include the period during which Distributing 3 held such asset. Section 1223(2).
- (56) Distributing 3 will not recognize gain or loss upon the Third Internal Distribution. Section 361(c).
- (57) Distributing 4 will not recognize gain or loss (and no amount will be includible in its income) upon the receipt of Controlled 2 stock in the Third Internal Distribution. Section 355(a)(1).
- (58) Distributing 4's basis in the Controlled 2 stock immediately following the Third Internal Distribution will equal Distributing 4's basis in the Distributing 3 shares exchanged therefor in accordance with Treas. Reg. § 1.358-2(a)(2)(i). Section 358(b)(2) and (c).
- (59) Distributing 4's holding period in the Controlled 2 stock received will include the holding period of the Distributing 3 shares with respect to which the Third Internal Distribution is made, provided the Distributing 3 stock was held as a capital asset on the date of the Third Internal Distribution. Section 1223(1).
- (60) Earnings and profits will be allocated between Distributing 3 and Controlled 2 in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(e).
- (61) Except for purposes of section 355(g), payments made between any of Distributing 3 and Controlled 2 and their respective affiliates under any of the Continuing Arrangements regarding liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Third Internal Distribution or for a taxable period beginning before and ending after the Third Internal Distribution and (ii) will not become fixed and ascertainable until after the Third Internal Distribution will be viewed as occurring before the Third Internal Distribution. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

Sub 6 Subs Restructuring

- (62) The Deferred Business 2 Intercompany Items will be taken into account as a result of the Sub 6 Subs Restructuring. Treas. Reg. § 1.1502-13(d)).

- (63) The gain taken into account by each of Sub 20, Sub 16, and Sub 17 in accordance with Treas. Reg. § 1.1502-13(d) will be reflected under Treas. Reg. § 1.1502-32 in Distributing 4's basis in Controlled 2 immediately before the Sub 6 Subs Restructuring to the extent such gain is allocable (i) under Treas. Reg. § 1.1502-76(b) to the period before Controlled 2 ceases to be a member of the Distributing 4 Consolidated Group, and (ii) under Treas. Reg. § 1.1502-32(b)(1)(iii) to the period before the Sub 6 Subs Restructuring.

External Distribution

- (64) The Controlled 3 Contribution, together with the Debt-for-Debt Exchange, the Debt-for-Equity Exchange, the External Distribution, and the Share Repurchase will be a reorganization within the meaning of section 368(a)(1)(D). Distributing 4 and Controlled 3 each will be "a party to a reorganization" within the meaning of section 368(b).
- (65) Distributing 4 will not recognize gain or loss upon the Controlled 3 Contribution. Sections 361(a)-(b) and 357(a).
- (66) Controlled 3 will not recognize gain or loss upon the Controlled 3 Contribution. Section 1032(a).
- (67) Controlled 3's basis in each of the assets received in the Controlled 3 Contribution will be equal to the basis of the asset in the hands of Distributing 4 immediately before the Controlled 3 Contribution. Section 362(b).
- (68) Controlled 3's holding period in each of the assets received in the Controlled 3 Contribution will include the period during which Distributing 4 held such asset. Section 1223(2).
- (69) Distributing 4 will not recognize gain or loss upon (i) the External Distribution, (ii) the Debt-for-Debt Exchange, and (iii) the Debt-for-Equity Exchange, other than (i) deductions attributable to the fact that the Distributing 4 Debt may be redeemed at a premium, (ii) income attributable to the fact that the Distributing 4 Debt may be redeemed at a discount, and (iii) interest expense accrued with respect to the Distributing 4 Debt. Section 361(c).
- (70) A Distributing 4 shareholder will not recognize gain or loss (and no amount will be includible in such shareholder's income) upon the receipt of Controlled 3 stock in the External Distribution. Section 355(a).
- (71) Each Distributing 4 shareholder's basis in the Controlled 3 stock and the Distributing 4 stock immediately following the External Distribution will equal the

- basis of the Distributing 4 stock that the shareholder held immediately before the External Distribution, allocated between the stock of Distributing 4 and Controlled 3 in proportion to their relative fair market values at the time of the External Distribution in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(b)(2) and (c).
- (72) Each Distributing 4 shareholder's holding period in the Controlled 3 stock received in the External Distribution will include the holding period of the Distributing 4 shares with respect to which the External Distribution is made, provided the Distributing 4 stock was held as a capital asset on the date of the External Distribution. Section 1223(1).
- (73) Earnings and profits will be allocated between Distributing 4 and Controlled 3 in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(e).
- (74) No portion of the Deferred Business 1 Intercompany Items attributable to Sub 1 or Sub 4 will be accelerated or otherwise taken into account as a result of the External Distribution.
- (75) Except for purposes of section 355(g), payments made between any of Distributing 4 and Controlled 3 and their respective affiliates under any of the Continuing Arrangements regarding liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the External Distribution or for a taxable period beginning before and ending after the External Distribution and (ii) will not become fixed and ascertainable until after the External Distribution will be viewed as occurring before the External Distribution. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.
- (76) The earnings and profits of Controlled 1, to the extent attributable to Distributing 4 under Treas. Reg. §§ 1.1248-2 or 1.1248-3 (whichever is applicable), that were accumulated in taxable years of Controlled 1 beginning after December 31, 1962 and during the period in which Controlled 1 was a controlled foreign corporation, will be attributable to such stock held by Controlled 3. Treas. Reg. § 1.1248-1(a)(1).

Closing Agreement

In connection with the issuance of this ruling letter, a closing agreement is being entered into between the Internal Revenue Service and the taxpayer with respect to certain of those issues affecting its tax liability on the basis set forth above. Pursuant to our practice with respect to such agreements, the closing agreement contains a stipulation to the effect that any change or modification of applicable statutes enacted

subsequent to the date of this agreement and made applicable to the taxable period involved will render the agreement ineffective to the extent that it is dependent upon such statutes. This private letter ruling will become effective upon execution of the closing agreement.

Caveats

No opinion is expressed about the tax treatment of the Proposed Transaction under other provisions of the Code and regulations or on the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings. In particular, this office has not reviewed any information pertaining to and has made no determination regarding:

- (i) Whether the Internal Distributions and the External Distribution satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b);
- (ii) Whether the Internal Distributions and the External Distribution are used principally as a device for the distribution of the earnings and profits of any distributing corporation or any controlled corporation or combination thereof (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d));
- (iii) Whether the Internal Distributions and the External Distribution and an acquisition or acquisitions are part of a plan (or series of related transactions) under section 355(e)(2)(A)(ii);
- (iv) The federal tax consequences of the Proposed Transaction under Subchapter K of the Code;
- (v) Except as expressly provided herein, the Taxpayer has requested no rulings and no opinion is expressed or implied regarding the federal income tax consequences of (1) The Sub 18 Contribution, (2) the Internal Debt Satisfaction, (3) the Non-Business 2 Transfers, (4) the qualification of the Controlled 3 Securities as securities for purposes of section 361(a), (5) the Sub 6 Subs Conversions, (6) the Sub 8 LLC Distribution, (7) the DRE 7 Contribution 1, (8) the DRE 7 Contribution 2, and (9) the DRE 7 Equity Interests Transfer;
- (vi) The taxpayer has not represented that Distributing 4 has not been a United States real property holding corporation (as defined in section 897(c)(2)) at any time during the five-year period ending on the date of the External Distribution, that Distributing 4 will not be a United States real property holding corporation immediately after the External Distribution, or that no foreign person will hold greater than five percent of the stock of Distributing 4 on the date of the External Distribution. Therefore, no opinion is expressed regarding the federal income tax

consequences to any greater than five percent foreign shareholder under section 897 as a result of the External Distribution; and

- (vii) The potential application of final regulations under section 1248(f), which were issued on March 19, 2013, to the Second Internal Distribution. For the potential application of those rules to the Second Internal Distribution, see Treas. Reg. §§ 1.1248(f)-1(b)(2), 1.1248(f)-2(b), and 1.1248(f)-3(b).

Procedural Statements

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

A copy of this ruling letter must be attached to any income tax return to which it is relevant. Alternatively, any taxpayers filing their return electronically may satisfy this requirement by attaching a statement to the return that provides the date and control number of this 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,

A. Graham Magill

A. Graham Magill
Assistant Branch Chief, Branch 5
Office of Associate Chief Counsel (Corporate)