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Department of the Treasury  
Washington, DC 20224

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Date of Communication: Not Applicable

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CC:CORP:02  
PLR-137260-13

Date:  
March 11, 2014

Legend:

Parent =

Distributing =

Controlled =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

PS 1 =

PS 2 =

PS 3 =

FSub 1 =

FSub 2 =

FSub 3 =

FSub 4 =

FSub 5 =

FSub 6 =

FSub 7 =

FSub 8 =

FSub 9 =

FSub 10 =

FSub 11 =

FSub 12 =

FSub 13 =

FSub 14 =

FSub 15 =

FSub 16 =

FSub 17 =

FSub 18 =

FSub 19 =

FSub 20 =

FSub 21 =

FSub 22 =

FSub 23 =

FSub 24 =

FSub 25 =

FSub 26 =

State A =

Country A =

Country B =

Country C =

Country D =

Country E =

Country F =

Country G =

Country H =

Country I =

Country J =

Country K =

Business 1 =

Business 1A =

Business 1B =

Date 1 =

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f =

g =

h =

i =

i =

k =

l =

m =

n =

o =

p =

q =

r =

s =

t =

Dear :

This letter responds to your authorized representatives' letter dated August 23, 2013, requesting rulings regarding certain Federal income tax consequences of a proposed transaction. The information submitted in that request and in later 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.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Distribution (as defined below): (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is being used principally as a device for the distribution of the earnings and profits of Distributing, Controlled, or both (see section 355(a)(1)(B) of the Internal Revenue Code (the "Code") and § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in Distributing or Controlled (see section 355(e) and § 1.355-7).

#### Summary of Facts

Parent is a publicly traded State A corporation and the parent of a worldwide group of corporations (the "Parent Worldwide Group") that is engaged in Business 1. The Parent Worldwide Group divides its operations into two segments—Business 1A and Business 1B. Parent also is the common parent of an affiliated group of corporations that files a consolidated Federal income tax return.

Parent wholly and directly owns Sub 1, a State A corporation that serves as a holding company for certain of the Parent Worldwide Group's subsidiaries. Parent also owns a% of the outstanding stock of Sub 2, a State A corporation; Sub 1 owns the remaining b% of outstanding Sub 2 stock. Sub 2 is a holding company for some of the Parent

Worldwide Group's non-U.S. operations. Sub 2 also directly and wholly owns Sub 3, another State A corporation.

Sub 2 and Sub 3 directly own  $c\%$  and  $d\%$ , respectively, of the outstanding interests in PS 1, a State A general partnership that is classified as a partnership for U.S. Federal tax purposes. PS 1 directly and wholly owns Sub 4, a State A limited liability company that is classified as a disregarded entity for U.S. Federal tax purposes. PS 1 also directly owns  $e\%$  of the single class of outstanding stock in Distributing, a Country A entity that is classified as a corporation for U.S. Federal tax purposes. Sub 4 and Parent, respectively, directly own the remaining  $f\%$  and  $g\%$  of Distributing stock. Distributing is a controlled foreign corporation within the meaning of section 957(a).

Distributing directly and wholly owns FSub 1, a Country A entity that is classified as a disregarded entity for U.S. Federal tax purposes and that is engaged in Business 1A. Distributing also directly and wholly owns FSub 2, a Country B entity that is classified as a disregarded entity for U.S. Federal tax purposes. FSub 2 directly and wholly owns FSub 3, a Country C entity that is classified as a disregarded entity for U.S. Federal tax purposes. In turn, FSub 3 directly owns more than  $h\%$  of outstanding equity interests in FSub 4, a Country D entity that is classified as a disregarded entity for U.S. Federal tax purposes; the remaining  $i\%$  (a nominal amount) is owned by Sub 5, a State A limited liability company that is indirectly owned by, and that is disregarded as separate (for U.S. Federal tax purposes) from, Distributing.

FSub 4 directly conducts Business 1A in Country D. FSub 4 also owns, directly and indirectly, other Country D entities that conduct Business 1A. Such entities include FSub 5, a Country D entity that is classified as a corporation for U.S. Federal tax purposes. FSub 4 owns  $j\%$  of the outstanding equity interests in FSub 5; FSub 3 owns the remaining  $k\%$  (a nominal amount). FSub 4 does not directly have any employees; rather, its business is conducted by employees of FSub 5 pursuant to an intercompany agreement.

Distributing also directly owns numerous foreign entities in various countries other than Country A that are engaged, directly and indirectly, in Business 1A and Business 1B. These entities include: (i) FSUBs 6 - 9, each of which is 100%-owned by, and disregarded as separate (for U.S. Federal tax purposes) from, Distributing; (ii) FSUBs 10 - 21, each of which is 100%-owned by Distributing and classified as a corporation for U.S. Federal tax purposes; (iii) PS 2, a Country E entity that is  $l\%$ -owned by Distributing (the remaining  $m\%$  is owned by FSub 18) and that is classified as a partnership for U.S. Federal tax purposes; (iv) FSub 22, a Country F entity that is  $h\%$ -owned by, and disregarded as separate (for U.S. Federal tax purposes) from, Distributing (the remaining  $i\%$  is owned by FSub 1 as a nominee for Distributing); (v) FSub 23, a Country G entity that is  $n\%$ -owned by Distributing (the remaining  $o\%$  is owned by another entity that is disregarded as separate from Distributing for U.S. Federal tax purposes) and that is classified as a corporation for U.S. Federal tax purposes; (vi) FSub 24, a Country H

entity that is  $p\%$ -owned by Distributing (the remaining  $q\%$  is owned by an unrelated party) and that is classified as a corporation for U.S. Federal tax purposes; (vii) PS 3, a Country I entity that is  $q\%$ -owned by Distributing (the remaining  $p\%$  is owned by unrelated parties) and that is classified as a partnership for U.S. Federal tax purposes; (viii) FSub 25, a Country J entity that is  $q\%$ -owned by Distributing (the remaining  $p\%$  is owned by unrelated parties) and that is classified as a corporation for U.S. Federal tax purposes; and (ix) FSub 26, a Country K entity that is  $r\%$ -owned by Distributing (the remaining  $s\%$  is owned by FSub 7) and that is classified as a corporation for U.S. Federal tax purposes.

The foreign entities listed in the foregoing paragraph (except for FSub 1), together with FSub 2, are referred to herein as the “Non-Country A Entities.” In turn, the Non-Country A Entities other than FSub 6, FSub 7, FSub 8, and FSub 26 are referred to herein as the “Transferred Non-Country A Entities.”

For purposes of the Distribution, Distributing will rely on Business 1A as conducted by FSub 1 (the “FSub 1 Business”), and Controlled will rely on Business 1A as conducted by FSub 4 and FSub 5 (the “FSub 4 Business”), to satisfy the active trade or business requirement of section 355(b). These businesses are representative of the businesses conducted by other subsidiaries of Distributing. Financial information has been submitted indicating that each of the FSub 1 Business and the FSub 4 Business has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

As of Date 1, Distributing had approximately \$ $t$  of intercompany debt outstanding for U.S. Federal tax purposes.

### Proposed Transaction

For what is represented to be a valid corporate business purpose, Parent proposes to undertake the following transactions (collectively, the “Proposed Transaction”) pursuant to a single overall plan:

- (1) Certain intercompany debts of the Parent Worldwide Group will be restructured or eliminated (through repayment, contribution, distribution, or set-off).
- (2) PS 1 will form a new foreign corporation (“Controlled”) with minimal capital.
- (3) Distributing will transfer its equity interests in each of the Transferred Non-Country A Entities to Controlled. In exchange, Controlled will issue shares directly to PS 1, Sub 4, and Parent in proportion to their respective equity interests in Distributing.

- (4) PS 1, Sub 4, and Parent may contribute their respective equity interests in Controlled to a newly formed global holding company in exchange for proportionate interests therein.

In connection with the Proposed Transaction, Distributing and Controlled expect to enter into certain agreements and arrangements concerning the relationship between Distributing and Controlled after the Proposed Transaction (collectively, the “Continuing Arrangements”). The Continuing Arrangements are expected to include, among other agreements, a “Shared Services Agreement” pursuant to which Distributing will perform certain non-core services—IT, operations (e.g., safety and productivity), finance (reporting, accounting, tax, and treasury) and human resources functions—on behalf of companies in the Distributing SAG and the Controlled SAG (as defined below) on an ongoing basis. Services provided under the Shared Services Agreement will be provided at cost.

#### Representations

- a) No part of the consideration to be distributed by Distributing in the Distribution will be received by a shareholder of Distributing as a creditor or an employee or in any capacity other than that of a shareholder of Distributing.
- b) Controlled will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “Controlled SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- c) No intercorporate debt will exist between Distributing (or any member of its affiliated group) and Controlled (or any member of the Controlled SAG) at the time of, or subsequent to, the Distribution, other than any debt that arises under the Continuing Arrangements. Any indebtedness owed by Controlled (or any member of the Controlled SAG) to Distributing (or any member of its affiliated group) after the Distribution will not constitute stock or securities.
- d) The five years of financial information submitted by Parent with respect to the FSub 1 Business conducted by Distributing is representative of the present operation of the FSub 1 Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- e) The five years of financial information submitted by Parent with respect to the FSub 4 Business to be conducted by the Controlled SAG is representative of the present operation of the FSub 4 Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

- f) Neither the FSub 1 Business nor control of an entity conducting the FSub 1 Business will have been acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part. Throughout the five-year period ending on the date of the Distribution, Distributing will have been the principal owner of the goodwill and significant assets of the FSub 1 Business, and it will continue to be the principal owner following the Distribution.
- g) Neither the FSub 4 Business nor control of an entity conducting the FSub 4 Business will have been acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part. Throughout the five-year period ending on the date of the Distribution, the Distributing separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Distributing SAG") will have been the principal owner of the goodwill and significant assets of the FSub 4 Business, and the Controlled SAG will continue to be the principal owner following the Distribution.
- h) Following the Distribution, Distributing and the Controlled SAG will continue the active conduct of the FSub 1 Business and the FSub 4 Business, respectively, independently and with its separate employees, except with respect to services provided under the Shared Services Agreement.
- i) The Distribution is being carried out for the corporate business purpose of reducing significant audit defense, legal, and advisory costs incurred in connection with the unreasonable audits and demands of the Country A tax authorities. The Distribution is motivated, in whole or substantial part, by this corporate business purpose.
- j) The Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing, Controlled, or both.
- k) The distribution of Controlled stock to Distributing's shareholders in the Distribution is with respect to their ownership of Distributing stock.
- l) Any money, property, or stock contributed by Distributing to Controlled in the Contribution (as defined below) will be exchanged solely for stock in Controlled and the assumption of certain liabilities of Distributing.
- m) The total adjusted basis and the fair market value of the assets to be transferred by Distributing to Controlled in the Contribution each will equal or exceed the sum of the liabilities to be assumed (within the meaning of section 357(d)), if any, by Controlled plus any liabilities to which the transferred assets are subject.

- n) The liabilities, if any, to be assumed (within the meaning of section 357(d)) by Controlled in the Contribution and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- o) The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Contribution.
- p) The fair market value of the assets transferred to Controlled in the Contribution will equal or exceed Controlled's aggregate basis in those assets immediately after the Contribution.
- q) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Proposed Transaction.
- r) For purposes of section 355(d), immediately after the 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 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 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 Distribution.
- s) For purposes of section 355(d), immediately after the 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 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution, or (ii) attributable to distributions on Distributing 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 Distribution.
- t) Payments made in connection with all continuing transactions between Distributing (or any of its subsidiaries) and Controlled (or any of its subsidiaries) following the Distribution will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length, except in the case of services provided under the Shared Services Agreement (such as IT, financial reporting and accounting, tax, and human resources), which will be provided at cost.

- u) No two parties to the Proposed Transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- v) The Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor of or successor to any such corporation).
- w) Immediately after the transaction (within the meaning of section 355(g)(4)), either (i) any person that holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)) will have held such an interest in such corporation immediately before the transaction, or (ii) neither Distributing nor Controlled is or will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- x) Distributing and Controlled, and their respective shareholders, each will pay their own expenses, if any, incurred in connection with the Proposed Transaction.
- y) Distributing and Controlled each will be a controlled foreign corporation (within the meaning of section 957(a)) immediately before and after the Distribution.
- z) Parent and PS 1 each will be a section 1248 shareholder (within the meaning of § 1.367(b)-2(b)) with respect to Distributing and Controlled immediately before and after the Distribution.
- aa) The notice requirements of § 1.367(b)-1(c) will be satisfied for the Distribution.
- bb) The Contribution and Distribution will not include an exchange described in §§ 1.367(b)-4(b)(1)(i), 1.367(b)-4(b)(2)(i), or 1.367(b)-4(b)(3).
- cc) Following the Distribution, Parent and PS 1 each will compute its pre-distribution amount and post-distribution amount with respect to Distributing and Controlled as defined under §§ 1.367(b)-5(e)(1) and (2). To the extent the pre-distribution amount exceeds the post-distribution amount with respect to either Distributing or Controlled, Parent and PS 1 will make basis adjustments and recognize income (if any), as required under the Treasury regulations.
- dd) The Contribution and the Distribution will not include the transfer of stock of any corporation that has been a US transferor, the transferee foreign corporation, or the transferred corporation with respect to any unexpired gain recognition agreement within the meaning of §§ 1.367(a)-3, 1.367(a)-8, or 1.367(a)-8T.

- ee) Neither Distributing nor Controlled will hold any United States real property interests, as defined in section 897(c)(1), immediately before or after the Distribution.
- ff) Neither Distributing nor Controlled is or will be a passive foreign investment company (within the meaning of section 1297(a)) immediately before or after the Distribution.

### Rulings

Based solely on the information submitted and the representations set forth above, and provided that (i) the distribution of Controlled stock to Distributing's shareholders in the Distribution is with respect to their ownership of Distributing stock, (ii) any money, property, or stock contributed by Distributing to Controlled in the Contribution will be exchanged solely for stock in Controlled and the assumption of certain liabilities of Distributing, and (iii) any other transfer of stock, money, or property between Distributing, Controlled, or any Distributing shareholder and any person related to Distributing, Controlled, or any Distributing shareholder is respected as a separate transaction, we rule as follows:

- 1) Steps 2 and 3 of the Proposed Transaction will be treated for U.S. Federal income tax purposes as (i) the contribution by Distributing of certain Business 1 assets (namely, its interests in the regarded Transferred Non-Country A Entities and the assets of the disregarded Transferred Non-Country A Entities) to Controlled in exchange for all of the stock of Controlled and the assumption by Controlled of liabilities relating to the transferred assets (the "Contribution"), followed immediately thereafter by (ii) the distribution of all of the stock of Controlled by Distributing to its shareholders on a pro rata basis (the "Distribution"). Cf. Rev. Rul. 77-191, 1977-1 C.B. 94.
- 2) The Contribution, together with the Distribution, will qualify as a reorganization within the meaning of section 368(a)(1)(D). Distributing and Controlled each will be a "party to a reorganization" within the meaning of section 368(b).
- 3) Distributing will recognize no gain or loss on the Contribution (sections 361(a) and 357(a)).
- 4) Controlled will recognize no gain or loss on the Contribution (section 1032(a)).
- 5) Immediately after the Contribution, Controlled's basis in each asset received in the Contribution will equal the basis of that asset in the hands of Distributing immediately before the Contribution (section 362(b)).

- 6) Controlled's holding period for each asset received in the Contribution will include the period during which Distributing held that asset (section 1223(2)).
- 7) Distributing will recognize no gain or loss on the Distribution (section 361(c)(1)).
- 8) PS 1, Sub 4, and Parent will not recognize any gain or loss (and will not otherwise include any amount in income) upon their receipt of Controlled stock in the Distribution (section 355(a)(1)).
- 9) Immediately after the Distribution, the basis in the hands of PS 1, Sub 4, and Parent of the Distributing stock and the Controlled stock will equal the basis of the Distributing stock immediately before the Distribution in the hands of PS 1, Sub 4, and Parent, respectively, allocated in proportion to the fair market values of the Distributing and Controlled stock immediately after the Distribution in accordance with § 1.358-2(a)(2) (sections 358(a)(1), (b), and (c)).
- 10) The holding period of the shares of Controlled stock received by PS 1, Sub 4, and Parent in the Distribution will include the holding period of the shares of Distributing stock with respect to which the Distribution is made, provided that such shares of Distributing stock are held as capital assets on the date of the Distribution (section 1223(1)).
- 11) Earnings and profits will be allocated between Distributing and Controlled in accordance with section 312(h) and Reg. §1.312-10(a).

#### Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. We express no opinion about the tax treatment of the Proposed Transaction under other provisions of the Code and the Treasury regulations or the tax treatment of any condition existing at the time of, or effect resulting from, the Proposed Transaction that is not specifically covered by the above Rulings. In particular, no opinion is expressed or implied regarding:

- (i) Whether the Distribution satisfies the business purpose requirement of § 1.355-2(b);
- (ii) Whether the Distribution is being used principally as a device for the distribution of the earnings and profits of Distributing, Controlled, or both (see section 355(a)(1)(B) and § 1.355-2(d));
- (iii) Whether the Distribution and any acquisition or acquisitions are part of a plan (or series of related transactions) under section 355(e)(2)(A)(ii);

- (iv) Any consequences under section 367 with respect to any transaction described in this letter ruling; or
- (v) Any cost-based transactions between Distributing and Controlled and/or their respective subsidiaries.

#### Procedural Statements

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

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

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

Sincerely,

Douglas C. Bates  
Senior Technician Reviewer, Branch 6  
Office of Associate Chief Counsel (Corporate)

cc: