



Sub 8 =

Sub 9 =

DRE 1 =

DRE 2 =

DRE 3 =

DRE 4 =

DRE 5 =

Partnership =

Newco =

State A =

State B =

Country A =

Country B =

Country C =

Country D =

Country E =

Country E =

Country G =

a =

b =

c =

d =

e =

f =

g =

h =

i =

i =

Dear \_\_\_\_\_ :

This letter responds to your letter dated August 23, 2013 requesting rulings under sections 351 and 358 of the Internal Revenue Code (the "Code") and related provisions with respect to a proposed transaction described below (the "Proposed Transaction"). The information submitted in that request, as supplemented, is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

#### SUMMARY OF FACTS

Parent is a publicly traded State A corporation and is the parent of a worldwide group of entities (the “Parent Worldwide Group”). Parent is also the common parent of an affiliated group of corporations filing a consolidated federal income tax return (the “Parent Consolidated Group”).

Parent owns all of the equity of Sub 1, a State B corporation, and Sub 2, a State A corporation. Parent also owns all of the membership interests of DRE 1, DRE 2, DRE 3, and DRE 4 (collectively, the “Parent DREs”). DRE 1, DRE 2, DRE 3, and DRE 4 are limited liability companies, each is disregarded and treated as a division of Parent for federal income tax purposes.

Parent directly and through the Parent DREs owns a% of Partnership, a State A limited liability company classified as a partnership for federal income tax purposes. The other b% of Partnership is owned by Sub 1. Sub 2 owns all of the equity interests of Sub 3, a Country A corporation.

Partnership owns equity in the following foreign entities which are classified as corporations for federal income tax purposes, it owns (i) all of the equity of Sub 4, a Country B entity; (ii) all of the equity of Sub 5, a Country C entity; (iii) c% of Sub 6, a Country D entity; (iv) d% of Sub 7, a Country E; (v) e% of Sub 8, a Country E entity; and, (vi) f% of Sub 9, a Country E entity (collectively, the “Partnership Assets”). The remaining g% of Sub 6 is owned by Parent. The remaining h% of Sub 7 is owned by DRE 5, a Country G entity disregarded as separate from Sub 6. The remaining i% of Sub 8 is owned by Sub 7. The remaining j% of Sub 9 is owned by Parent.

### PROPOSED TRANSACTION

For valid business reasons, Parent proposes to undertake the following steps pursuant to a single integrated plan (*i.e.*, the Proposed Transaction).

- (i) Partnership will convert to Newco, a Country D entity classified as a corporation for federal income tax purposes, pursuant to applicable State A and Country D migration statutes (the “Conversion”). The applicable statutes do not require an actual transfer of Partnership’s assets or interests. Pursuant to the Conversion, each partner in Partnership will receive shares of common stock, which may include voting preferred equity certificates (“Newco Voting PECs”) treated as common stock for federal income tax purposes, and non-voting preferred equity certificates (“Newco Non-Voting PECs”).
- (ii) Sub 2 will contribute all of the equity of Sub 3 to Newco in exchange for common stock, which may include Newco Voting PECs treated as common

stock for federal income tax purposes, and Newco Non-Voting PECs (the “Sub 2 Contribution”).

In addition, certain other foreign subsidiaries owned by Parent and Sub 1 may also contributed to Newco in connection with the Proposed Transaction.

## REPRESENTATIONS

### General Representations

- a) The Newco Voting PECs will be treated as equity for federal income tax purposes.
- b) The Newco Non-Voting PECs will be treated as a separate class of non-voting equity for federal income tax purposes.
- c) The Newco Non-Voting PECs will not grant a holder the right to vote on the election of the board of directors of Newco.
- d) None of the Newco common stock, Newco Voting PECs, or Newco Non-Voting PECs will be nonqualified preferred stock (“NQPS”) within the meaning of section 351(g).
- e) In connection with the Proposed Transaction, Parent will, on its own behalf and as the common parent of the Parent Consolidated Group, file initial and new gain recognition agreements (“GRA”) in accordance with Treas. Reg. §§ 1.367(a)-3 and 1.367(a)-8. In connection with any GRAs filed, Parent will, in accordance with Treas. Reg. §§ 1.367(a)-8(c) and 1.367(a)-8(k), (i) identify all triggering events and exceptions thereto resulting from the Proposed Transaction if the GRA is filed under Treas. Reg. § 1.367(a)-8(k)(14), (ii) designate a successor transferor corporation, transferee corporation, and/or transferred corporation, as applicable, and (iii) comply with all other requirements for GRAs under Treas. Reg. § 1.367(a)-8.
- f) Parent, on its own behalf and as the common parent of the Parent Consolidated Group, will comply with the notice requirements of Treas. Reg. § 1.367(b)-1(c).

### The Conversion

The following representations are made with respect to the Conversion.

- g) No stock or securities will be issued for services rendered to or for the benefit of Newco in connection with the Conversion, and no stock or securities will be issued for indebtedness of Newco.
- h) None of the stock to be transferred is “section 306 stock” within the meaning of section 306(c).
- i) The Conversion is not the result of the solicitation by a promoter, broker, or investment house.
- j) Partnership will not retain any rights in the Partnership Assets transferred to Newco.
- k) At the time of the Conversion, Partnership will not have any liabilities, and the Partnership Assets will not be subject to any liabilities.
- l) There is no indebtedness between Newco and Partnership, and there will be no indebtedness created in favor of Partnership as a result of the Conversion.
- m) The fair market value of the assets of Newco will exceed the sum of the liabilities (whether indebtedness or other forms of obligations including contingent obligations) of Newco immediately after the Conversion.
- n) The aggregate fair market value of the property deemed transferred to Newco in the Contribution will be equal to or exceed the aggregate adjusted basis of such property immediately after the Conversion.
- o) The Conversion will occur under a plan agreed upon before the Proposed Transaction in which the rights of the parties are defined.
- p) All exchanges pursuant to the Conversion will occur on approximately the same date.
- q) There is no plan or intention on the part of Newco to redeem or otherwise reacquire any stock to be issued in the Conversion.
- r) Taking into account any issuances of additional shares of Newco stock; any issuances of stock for services; the exercise of any Newco stock rights, warrants, or subscriptions; a public offering of Newco stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Newco deemed received in the Conversion (other than the deemed distribution of the Newco stock by Partnership to Parent and Sub 1 as a result of the Conversion), Partnership and Sub 2, together, will be in “control” (within the

meaning of section 368(c)) of Newco immediately after the Proposed Transaction.

- s) Consistent with ruling # 1, Parent will treat Partnership as having contributed all of its assets to Newco in exchange for Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs, and immediately thereafter, Parent will treat Partnership as liquidating by distributing the Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs to its partners. The fair market value of the Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs will approximately equal the fair market value of the property that will be deemed transferred to Newco in the Conversion.
- t) Newco will remain in existence and retain and use the property that will be transferred to it in a trade or business.
- u) There is no plan or intention by Newco to dispose of the Partnership Assets, other than in the normal course of business operations or transfers to a subsidiary of Newco.
- v) Each of the parties to the Conversion will pay its own expenses, if any, incurred in connection with the Conversion.
- w) Newco will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).
- x) Partnership is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.
- y) Newco will not be a "personal service corporation" within the meaning of section 269A.
- z) Neither Newco, nor any of the Partnership Assets will be passive foreign investment companies within the meaning of section 1297(a) immediately before or after the Conversion.
- aa) Partnership will calculate and report gain (if any) recognized upon the Conversion under subchapter K of the Code, including gain (if any) recognized under sections 704(c)(1)(B), 707, 731, 737, or 751(b).

The Sub 2 Contribution

- bb) No stock or securities will be issued for services rendered to or for the benefit of Newco in connection with the Sub 2 Contribution, and no stock or securities will be issued for indebtedness of Newco.
- cc) None of the stock to be transferred is “section 306 stock” within the meaning of section 306(c).
- dd) The Sub 2 Contribution is not the result of the solicitation by a promoter, broker, or investment house.
- ee) Sub 2 will not retain any rights in the Sub 3 stock transferred to Newco.
- ff) The Sub 3 stock contributed to Newco pursuant to the Sub 2 Contribution will not be subject to any liabilities, and Newco will not assume any liabilities of Sub 2 in the Sub 2 Contribution.
- gg) There is no indebtedness between Newco and Sub 2, and there will be no indebtedness created in favor of Sub 2 as a result of the Sub 2 Contribution.
- hh) The fair market value of the assets of Newco will exceed the sum of the liabilities (whether indebtedness or other forms of obligations including contingent obligations) of Newco immediately after the Sub 2 Contribution.
- ii) The aggregate fair market value of the Sub 3 stock will be equal to or exceed the aggregate adjusted basis of such stock immediately after the Sub 2 Contribution.
- jj) The Sub 2 Contribution will occur under a plan agreed upon before the Proposed Transaction in which the rights of the parties are defined.
- kk) The exchange of Sub 3 stock for Newco stock pursuant to the Sub 2 Contribution will occur on approximately the same date.
- ll) There is no plan or intention on the part of Newco to redeem or otherwise reacquire any stock to be issued in the Sub 2 Contribution.
- mm) Taking into account any issuances of additional shares of Newco; any issuances of stock for services; the exercise of any Newco stock rights, warrants, or subscriptions; a public offering of Newco stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Newco received in the Sub 2 Contribution, Partnership and Sub 2, together, will be in “control” (within the meaning of section 368(c)) of Newco immediately after the Proposed Transaction.



- nn) Sub 2 will receive Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs approximately equal to the fair market value of the Sub 3 stock that will be transferred to Newco in the Sub 2 Contribution.
- oo) Newco will remain in existence and retain and use the property that will be transferred to it in a trade or business.
- pp) There is no plan or intention by Newco to dispose of the transferred property, other than in the normal course of business operations or transfers to a subsidiary of Newco.
- qq) Each of the parties to the Sub 2 Contribution will pay its own expenses, if any, incurred in connection with the Sub 2 Contribution.
- rr) Newco will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).
- ss) Sub 2 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.
- tt) Newco will not be a "personal service corporation" within the meaning of section 269A of the Code.
- uu) Neither Newco, nor Sub 3 will be a passive foreign investment company within the meaning of section 1297(a) immediately before or after the Sub 2 Contribution.

### RULINGS

#### The Conversion

- (1) For federal income tax purposes, the Conversion will be treated as if (a) Partnership transferred all of its assets to Newco solely in exchange for Newco common stock, Newco Voting PECs and Newco Non-Voting PECs (the "Contribution") and (b) Partnership liquidated, distributing the Newco common stock, the Newco Voting PECs, and the Newco Non-Voting PECs to its members, Parent and Sub 1. Rev. Rul. 2004-59, 2004-1 C.B. 1050 (Treas. Reg. § 301.7701-3(g)(1)(i)).
- (2) Partnership will recognize no gain or loss upon the deemed transfer of the Partnership Assets to Newco solely in exchange for Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs. (section 351(a)).

- (3) The aggregate basis of the Newco stock deemed received by Partnership will be the same as the aggregate basis of the Partnership Assets deemed contributed in exchange therefor and will be allocated between the shares of Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs received in the exchange in proportion to the fair market values of the classes, such that each voting Newco common share will have an identical, averaged basis, each Newco PEC will have an identical, averaged basis, and each Newco Non-Voting PEC will have an identical, averaged basis. (section 358 and Treas. Reg. § 1.358-2(b)(2)).
- (4) The holding period of the Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs deemed received by Partnership will include the period during which the Partnership Assets exchanged therefor were held, provided such assets were held as capital assets on the date of the Contribution. (section 1223(1)).
- (5) Newco will recognize no gain or loss upon the receipt of Partnership Assets in exchange for the issuance of Newco common stock, Newco Voting PECs, and the Newco Non-Voting PECs. (section 1032(a)).
- (6) The basis of the Partnership Assets received by Newco will be the same as the basis of such assets in the hands of Partnership immediately before the Contribution. (section 362(a)).
- (7) The holding period of each of the Partnership Assets received by Newco in the Contribution will include the holding period of such asset in the hands of Partnership immediately before the Contribution. (section 1223(2)).

#### The Sub 2 Contribution

- (8) Sub 2 will recognize no gain or loss upon the transfer of the Sub 3 stock to Newco solely in exchange for Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs. (section 351(a)).
- (9) The aggregate basis of the Newco stock received by Sub 2 will be the same as the aggregate basis of the Sub 3 stock contributed in exchange therefor and will be allocated between the shares of Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs received in the exchange in proportion to the fair market values of the classes, such that each voting Newco common share will have an identical, averaged basis, each Newco PEC will have an identical, averaged basis, and each Newco Non-Voting PEC will have an identical, averaged basis. (section 358 and Treas. Reg. §1.358-2(b)(2)).
- (10) The holding period of the Newco common stock, Newco Voting PECs, and Newco Non-Voting PECs received by Sub 2 will include the period during which

the Sub 3 stock was held, provided such assets were held as capital assets on the date of the Sub 2 Contribution. (section 1223(1)).

(11) Newco will recognize no gain or loss upon the receipt of the Sub 3 stock in exchange for the issuance of Newco common stock, Newco PECs, and Newco Non-Voting PECs. (section 1032(a)).

(12) The basis of the Sub 3 stock received by Newco will be the same as the basis of such stock in the hands of Sub 2 immediately before the Sub 2 Contribution. (section 362(a)).

(13) The holding period of the Sub 3 stock received by Newco in the Sub 2 Contribution will include the holding period of such stock in the hands of Sub 2 immediately before the Sub 2 Contribution. (section 1223(2)).

#### CAVEATS

No opinion is expressed about the federal income tax consequences of the Proposed Transaction under other provisions of the Code or regulations or the federal income 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, no opinion is expressed or implied regarding the treatment of the Proposed Transaction under the international provisions of the Code, including sections 367 and 7874. Additionally, we express no opinion on any of the tax consequences, including calculation of basis under section 732, of the deemed liquidation of Partnership and the distributions of common stock, including Newco Voting PECs and Newco Non-Voting PECs to its partners.

#### PROCEDURAL STATEMENTS

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent. A copy of this 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 in this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

*Mark S. Jennings*  
Mark S. Jennings  
Branch Chief, Branch 1  
Office of Associate Chief Counsel  
(Corporate)