

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201603020**
Release Date: 1/15/2016

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 355.00-00, 355.01-00,
368.02-00, 368.04-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B02
PLR-121615-15
Date:
October 20, 2015

Legend

Distributing =

Controlled =

Target A =

Target B =

Business A =

Business B =

State A =

QRS1 =

QRS2 =

REIT Property =

Date 1 =

Year 1 =

Year 2 =

a =

b =

c =

Dear :

This letter responds to your June 22, 2015 request, submitted by your authorized representatives, for rulings under sections 368(a)(1)(D) and 355. The information provided in that letter and in later correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by penalties of perjury statements executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This letter is issued pursuant to section 6.03 of Rev. Proc. 2015-1, 2015-1 I.R.B. 1, regarding one or more significant issues under sections 332, 351, 355, 368, or 1036. The rulings contained in this letter only address one or more discrete legal issues involved in the transaction. This Office expresses no opinion as to the overall tax consequences of the transactions described in this letter or as to any issue not specifically addressed by the rulings below.

FACTS

Distributing is a publicly traded State A real estate investment trust under sections 856 through 860 ("REIT") with a highly diversified portfolio of properties. In conjunction with

these real property investments, Distributing indirectly operates or will operate several distinct lines of business, which include, among others, Business A and Business B. Distributing directly owns all of the outstanding stock of QRS1, an entity treated as a qualified REIT subsidiary for federal income tax purposes. QRS1 owns all of the stock of QRS2, also a qualified REIT subsidiary for federal income tax purposes, indirectly through several disregarded entities. Distributing has conducted the management and operations activities of Business A through QRS2 and Distributing's separate affiliated group ("SAG") since the formation of QRS2 on Date 1 (a date more than five years ago).

In Year 1, Distributing acquired Target A, which also engages in Business A, in a taxable acquisition, which Distributing represents as qualifying as a trade or business expansion of Business A described in Treas. Reg. § 1.355-3(b)(3)(ii).

Target B was an entity electing to be treated as a S corporation for federal income tax purposes. Target B conducts all of the managerial and operational activities, and owns all of the assets and employees associated with Business B. It has continuously and actively conducted Business B since Year 2 (more than five years ago).

TRANSACTION

For what are represented as valid business purposes, Distributing entered into the following Transaction:

- (i) Distributing formed Controlled, a new, wholly owned, State A corporation with one class of common stock, and contributed certain REIT Property to Controlled. Controlled elected to be treated as a REIT effective for the taxable year beginning the day of the acquisition of Target B.
- (ii) Distributing acquired all the membership interests in Target B in a tax-free reorganization under section 368(a)(1)(B) in which the members of Target B acquired solely the stock of Controlled in exchange for all of the stock of Target B (the "Target B Acquisition"). Immediately thereafter, Controlled and Target B made a joint election, pursuant to section 856(l), for Target B to be treated as a taxable REIT subsidiary (TRS) of Controlled.
- (iii) Distributing distributed its Controlled shares to Distributing's public shareholders on a pro rata basis.

Following the separation, Distributing's public shareholders own a percent of Controlled and the remaining b percent of Controlled is held by the former members of Target B. Controlled will continue Business B through Target B, a member of the Controlled SAG.

REPRESENTATIONS

1. Except for the lease of Distributing headquarters office space, which is a limited lease of de minimis value (less than c percent) as compared to the value of real estate leased to third parties (as described in the separation and distribution agreement, the transition services agreement, the tax matters agreement, the employee matters agreement, and the headquarters sublease agreement), there is no intention on the part of Distributing to lease any of its real property to Controlled and there is no intention on the part of Controlled to lease any of its real property to Distributing following the separation.

2. Distributing represents that the acquisition of Target B in the Target B Acquisition satisfies all of the requirements of a tax-free reorganization under section 368(a)(1)(B), with the shareholders of Target B receiving solely stock of Controlled.

RULINGS

Based solely on the information submitted and the representations set forth above, and provided that the Target B Acquisition described in Step (ii) of the Transaction qualifies as a tax-free reorganization under section 368(a)(1)(B), we rule as follows:

- (1) The relative fair market value of the gross assets of Business A as compared to the fair market value of the gross assets of Distributing will not prevent Business A from otherwise qualifying as an active trade or business for purposes of section 355(b).
- (2) The relative fair market value of the gross assets of Business B as compared to the fair market value of the gross assets of Controlled will not prevent Business B from otherwise qualifying as an active trade or business for purposes of section 355(b).
- (3) The Target B Acquisition will not cause the distribution to fail to satisfy the active trade or business requirement of section 355(b)(2)(D)(ii) with respect to Business B.

CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the Transaction under any provision of the Code and regulations or the tax treatment of any condition existing at the time of, or effects resulting from the Transaction that is not specifically covered by the above rulings. Specifically, we are not ruling on whether Controlled or Distributing qualifies as a REIT under Part II of

Subchapter M of Chapter 1 of the Code.

PROCEDURAL STATEMENTS

These rulings are 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.

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

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.

Sincerely,

Richard Heinecke

Richard Heinecke
Assistant to the Branch Chief, Branch 5
Office of Associate Chief Counsel (Corporate)