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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B03

PLR-124397-15

Date:

January 15, 2016

X =

State =

Dear :

This responds to a letter dated July 17, 2015, and subsequent correspondence, submitted on behalf of X by its authorized representatives, requesting a ruling under Treasury Regulations §§ 1.708-1(c) and 1.708-1(d), with respect to the transaction described in the submissions ("Transaction").

FACTS

The information submitted states that X is a limited partnership organized under the laws of State. X invests in real estate, including land, office, residential, hotel, and retail properties, and makes these investments directly and through interests in lower-tier entities (other partnerships and real estate investment trusts).

The Transaction will facilitate a potential initial public offering of stock in an entity that will elect to be treated as a "real estate investment trust" as defined in Section 856 ("Public REIT"). Public REIT will acquire an interest in a newly formed operating partnership ("OP") by contributing to OP (a) the proceeds from the initial public offering of its stock and (b) a portion of its shares that OP will use to acquire some of the interests to be acquired in the Transaction. Public REIT will own all of its investments in real estate properties and conduct all of its operations through OP. The Transaction will be achieved as described in the steps below.

Step 1: X will form a single member LLC (the "Wanted LLC") by contributing the portion of its assets desired by the OP to the capital of Wanted LLC.

Step 2: X will form a single member LLC (the “Legacy LLC”) that will in turn form a single member LLC (the “Mergerco LLC”).

Step 3: X will distribute the entirety of its interests in Legacy LLC to its partners in accordance with each partner’s economic right based on the X partnership agreement.

Step 4: Wanted LLC and Mergerco LLC will merge pursuant to a merger agreement. Pursuant to the merger agreement, Wanted LLC will survive with all of the interests in Wanted LLC owned (after the merger) by Legacy LLC.

Step 5: Public REIT will contribute some of its shares to the capital of OP in return for units of partnership interest in OP (“OP Units”) (the shares of Public REIT contributed to OP are referred to as the “OP Merger REIT Shares”).

Step 6: Pursuant to a contribution agreement (“Contribution Agreement”), Legacy LLC will contribute the entirety of the interests in Wanted LLC to the capital of OP in return for OP Units and OP Merger REIT Shares.

Step 7: Legacy LLC will liquidate by distributing OP Units to a portion of its partners and the OP Merger REIT Shares to the remaining partners (“REIT Shareholders”).

X has made the following representations with respect to the above steps:

- a. OP will be formed, will have at least two owners, and will be classified as a partnership for federal income tax purposes prior to the above steps.
- b. Wanted LLC and Mergerco LLC will not be classified as associations for federal income tax purposes at any of the relevant times during the above steps.
- c. Upon the completion of step 4, X and Legacy LLC will be owned by the same partners. Each partner’s combined economic interest in X and Legacy LLC will be the same as their interest in X before the Transaction.
- d. The fair market value of the assets (net of liabilities) held by Legacy LLC will exceed the fair market value of the assets (net of liabilities) held by X immediately after step 4.
- e. Public REIT will own more than 50 percent of the capital and profits interests of OP as a result of the Transaction. The partners of Legacy LLC will not own more than 50 percent of the capital and profits interests of OP as a result of the Transaction.
- f. X will not be contemplating participation in any additional divisions or mergers as

of the date of the above steps.

g. Other than as discussed in the ruling request, OP will not be contemplating participation in any additional divisions or mergers as of the date of the above steps.

h. The Contribution Agreement will specify (i) that OP is purchasing partnership interests in Legacy LLC from each particular REIT Shareholder and (ii) the consideration that is transferred for each interest purchased. Moreover, each particular REIT Shareholder will, by reason of the terms of the Contribution Agreement, be deemed to have consented to treat the distribution of the OP Merger REIT Shares as a sale of the partnership interests in Legacy LLC by the REIT Shareholders to OP for federal income tax purposes.

RULINGS REQUESTED

X requests the following rulings regarding the Transaction.

1. The Division will be treated as a division of X under Reg. § 1.708-1(d).
2. The Merger will be treated as a merger of Legacy LLC and the OP under Reg. § 1.708-1(c).
3. The Distribution of the Public REIT Shares will be treated as a sale of partnership interests in the Legacy LLC by the REIT Shareholders to the OP under Reg. § 1.708-1(c)(4).

LAW AND ANALYSIS

Partnership Division

Section 708(b)(2)(B) provides that in the case of a division of a partnership into two or more partnerships, the resulting partnerships (other than any resulting partnership the members of which had an interest of 50 percent or less in the capital and profits of the prior partnership) shall, for purposes of this section, be considered a continuation of the prior partnership.

Section 1.708-1(d)(1) provides, in part, that upon the division of a partnership into two or more partnerships, any resulting partnership (as defined in Section 1.708-1(d)(4)(iv)) or resulting partnerships shall be considered a continuation of the prior partnership (as defined in Section 1.708-1(d)(4)(ii)) if the members of the resulting partnership or partnerships had an interest of more than 50 percent in the capital and profits of the prior partnership. Any other resulting partnership will not be considered a continuation of the prior partnership but will be considered a new partnership.

Section 1.708-1(d)(3)(i)(A) provides that in a division under the assets-over form where at least one resulting partnership is a continuation of the prior partnership, the divided partnership (as defined in Section 1.708-1(d)(4)(i)) contributes certain assets and liabilities to a recipient partnership (as defined in Section 1.708-1(d)(4)(iii)) or recipient partnerships in exchange for interests in such recipient partnership or partnerships; and, immediately thereafter, the divided partnership distributes the interests in such recipient partnership or partnerships to some or all of its partners in partial or complete liquidation of the partners' interests in the divided partnership.

Section 1.708-1(d)(4)(i) provides, in part, that for purposes of Section 1.708-1(d), the divided partnership is the continuing partnership which is treated, for federal income tax purposes, as transferring the assets and liabilities to the recipient partnership or partnerships, either directly (under the assets-over form) or indirectly (under the assets-up form). If a partnership divides into two or more partnerships without undertaking a form for the division that is recognized under Section 1.708-1(d)(3), or if the resulting partnership that had, in form, transferred assets and liabilities is not considered a continuation of the prior partnership, and more than one resulting partnership is considered a continuation of the prior partnership, the continuing resulting partnership with the assets having the greatest fair market value (net of liabilities) will be treated as the divided partnership.

Section 1.708-1(d)(4)(ii) provides that for purposes of Section 1.708-1(d), the prior partnership is the partnership subject to division that exists under applicable jurisdictional law before the division.

Section 1.708-1(d)(4)(iii) provides that for purposes of Section 1.708-1(d), a recipient partnership is a partnership that is treated as receiving, for federal income tax purposes, assets and liabilities from a divided partnership, either directly (under the assets-over form) or indirectly (under the assets-up form).

Section 1.708-1(d)(4)(iv) provides that for purposes of Section 1.708-1(d), a resulting partnership is a partnership resulting from the division that exists under applicable jurisdictional law after the division and that has at least two partners who were partners in the prior partnership. For example, where a prior partnership divides into two partnerships, both partnerships existing after the division are resulting partnerships.

Partnership Merger

Section 708(a) provides that an existing partnership shall be considered as continuing if it is not terminated. Section 708(b)(2)(A) provides that in the case of a merger or consolidation of two or more partnerships, the resulting partnership shall, for purposes of this section, be considered the continuation of any merging or consolidating

partnership whose members own an interest of more than 50 percent in the capital and profits of the resulting partnership.

Section 1.708-1(c)(3)(i) provides that when two or more partnerships merge or consolidate into one partnership under the applicable jurisdictional law without undertaking a form for the merger or consolidation, or undertake a form for the merger that is not an assets-up form, any merged or consolidated partnership that is considered terminated under this Section 1.708-1(c)(1) is treated as undertaking the assets-over form for federal income tax purposes. Under the assets-over form, the merged or consolidated partnership that is considered terminated under Section 1.708-1(c)(1) contributes all of its assets and liabilities to the resulting partnership in exchange for an interest in the resulting partnership, and immediately thereafter, the terminated partnership distributes interest in the resulting partnership to its partners in liquidation of the terminated partnership.

Section 1.708-1(c)(4) provides that in a transaction characterized under the assets-over form, a sale of all or part of a partner's interest in the terminated partnership to the resulting partnership that occurs as part of a merger or consolidation under section 708(b)(2)(A), as described in Section 1.708-1(c)(3)(i), will be respected as a sale of a partnership interest if the merger agreement (or another document) specifies that the resulting partnership is purchasing interests from a particular partner in the merging or consolidating partnership and the consideration that is transferred for each interest sold, and if the selling partner in the terminated partnership, either prior to or contemporaneous with the transaction, consents to treat the transaction as a sale of the partnership interest.

CONCLUSION

Based solely on the information submitted and the representations made, we conclude as follows regarding the Transaction:

1. Steps 1 through 4 above will be treated as a division of X under Section 1.708-1(d)(3)(i) of the Income Tax Regulations.
2. Steps 5 through 7 above will be treated as a merger of the Legacy LLC and OP under Section 1.708-1(c) of the Income Tax Regulations.
3. The distribution of the OP Merger REIT Shares in Step 7 above will be treated as a sale of partnership interests in Legacy LLC by the REIT Shareholders to the OP under Section 1.708-1(c)(4) of the Income Tax Regulations.

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. Specifically, no opinion is expressed with regard to whether Public REIT will otherwise qualify as a REIT under subchapter M of the Code.

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. In accordance with a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representative.

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

Sincerely,

Richard T. Probst
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures: 2
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