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Person To Contact:
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Telephone Number:

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Date:
March 03, 2016

Legend

Foundation =
Company =
DISC =
X =
Y =

Dear :

This letter responds to DISC's December 21, 2015, request for a ruling that a corporate redemption will not be self-dealing under Internal Revenue Code section 4941.

Facts

DISC is a closely-held corporation owned by members of the X family and various related entities. Foundation is a private foundation under sections 501(c)(3) and 509(a), and it is a shareholder of DISC. Foundation was funded by certain X family members who are current or former shareholders of DISC, and it is managed by certain X family members who are current shareholders of DISC.

DISC is a domestic international sales corporation formed to export products. The shareholders of DISC are identical to the shareholders of Company, except Company is also a shareholder of DISC. The shareholders of DISC entered into a shareholder agreement, which requires any transfer of Company stock to be accompanied by a transfer of an equal amount of DISC stock.

DISC represents that Company and DISC are disqualified persons with respect to Foundation.

Company has one class of voting common stock and one class of nonvoting common stock. DISC has only one class of voting common stock. Foundation owns nonvoting common stock in Company and voting common stock in DISC.

The board of directors for Company and the board of directors for DISC have each authorized, contingent on obtaining a favorable letter ruling, a redemption regarding certain stock from any shareholder. The proposed redemptions involve Company's nonvoting common stock and DISC's voting common stock. Any shareholder that participates in the redemption with Company must also participate in the redemption with DISC, in accordance with the DISC shareholder agreement. Foundation intends to participate in the proposed redemptions for various reasons, including liquidity to facilitate its charitable endeavors.

DISC represents that the redemption price in both proposed redemptions will be equal to the fair market value of the stock on the redemption date, payable in cash. The fair market value of the stock on the redemption date will be determined by an independent appraiser who is not a disqualified person with respect to Foundation, and who is competent to conduct the appraisal. The appraiser will not derive a benefit, economic or otherwise, from the value assigned to the stock.

The proposed Company redemption will be subject to a maximum aggregate redemption price of \$Y. If multiple shareholders participate in the redemption and if the total fair market value of the stock offered for redemption by the shareholders on the redemption date exceeds \$Y, the number of shares redeemed from each participating shareholder will equal the number of shares offered by the shareholder multiplied by a fraction containing a numerator equal to the maximum number of shares to be redeemed, and a denominator equal to the total number of shares offered by all participating shareholders, such that the total redemption price will not exceed \$Y. Reductions in the number of shares redeemed by Company result in equivalent reductions in the number of shares redeemed by DISC under the DISC shareholder agreement.

No shareholder will receive any preferential treatment compared to any other shareholder regarding any aspect of either proposed redemption.

Ruling Requested

DISC requests a ruling that its proposed redemption of voting common stock will not constitute an act of self-dealing under section 4941.

Law

Section 4941 imposes an excise tax on each act of self-dealing between a disqualified person and a private foundation, paid by the disqualified person that participates in the act of self-dealing.

Section 4941(d)(1) defines an act of self-dealing as including a sale or exchange of property between a private foundation and a disqualified person.

Section 4941(d)(2)(F) provides that a transaction between a private foundation and a corporation which is a disqualified person (as defined in section 4946(a)), pursuant to a redemption shall not be an act of self-dealing if all of the securities of the same class as that held by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value.

Section 4946(a) defines the term “disqualified person” as including, among other things, a substantial contributor to the foundation and corporations where certain disqualified persons own more than 35 percent of the total combined voting power of such corporation.

Section 53.4941(d)-3(d)(1) of the Foundation and Similar Excise Taxes Regulations provides that under section 4941(d)(2)(F), any transaction between a private foundation and a corporation that is a disqualified person will not be an act of self-dealing if such transaction is engaged in pursuant to a redemption, so long as all the securities of the same class as that held (prior to the transaction) by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value. The regulation further provides that the securities will not be subject to the same terms unless, pursuant to such transaction, the corporation makes a bona fide offer on a uniform basis to the foundation and every other person who holds such securities. The regulation explains that it will be evidence that such offer was not made on a uniform basis if a private foundation receives property, such as debentures, while all other persons holding securities of the same class receive cash for their interests.

Section 53.4941(d)-3(d)(2) of the Foundation and Similar Excise Taxes Regulations illustrates the redemption exception in section 4941(d)(2)(F) with two examples, not repeated here.

Analysis

Under the proposed redemption by DISC, all voting common stock is subject to the same terms, and such terms provide for receipt by Foundation as a shareholder of no less than fair market value. DISC will make a bona fide offer on a uniform basis to all shareholders of voting common stock, including Foundation. All shareholders

participating in the redemption will receive cash for their interests. The fact that the redemption offer by Company is limited to a fixed dollar amount, and the fact that the redemption offer by DISC is in tandem with an equivalent offer by Company, does not detract from the uniform nature of the offer by DISC under the facts presented.

Ruling

Based solely on the facts and representations submitted by DISC, we rule that the proposed redemption of shares of voting common stock of DISC will not constitute an act of self-dealing under section 4941.

The rulings contained in this letter are based upon information and representations submitted by or on behalf of DISC (accompanied by a penalty of perjury statement executed by an individual with authority to bind DISC) and upon the understanding that there will be no material changes in the facts.

This office has not verified any of the material submitted in support of the request for rulings, and such material is subject to verification on examination.

This ruling does not address the applicability of any section of the Code or Regulations to the facts submitted other than with respect to the sections specifically described, and, except as expressly provided in this letter, no opinion is expressed or implied concerning the federal income tax consequences of any aspects of any transaction or item of income set forth above.

Because it could help resolve questions concerning federal income tax status, this ruling should be kept in DISC's permanent records.

DISC must attach a copy of this letter to any tax return to which it is relevant. Alternatively, if DISC files its return electronically, this requirement may be satisfied by attaching a statement to the return that provides the date and control number of this letter.

This ruling will be made available for public inspection under section 6110 after certain deletions of identifying information are made. For details, see the enclosed Notice 437, Notice of Intention to Disclose. A copy of this ruling, showing the deletions that we intend to make on the version that will be made available to the public, is attached to the Notice 437. If DISC disagrees with our proposed deletions, it should follow the instructions in the Notice 437.

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

This letter is directed only to DISC. Section 6110(k)(3) provides that it may not be used or cited as precedent by anyone else, including Foundation, Company, and any disqualified person other than DISC.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Kenneth M. Griffin
Chief
Exempt Organizations Branch 3
(Tax Exempt & Government Entities)

cc: