

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:CORP:B04  
PLR-140419-15

Date:  
June 13, 2016

Taxpayer =

Operating Partnership =

Business =

Group 1 =

Group 2 =

New Stock =

Date A =

Dear :

This letter responds to your December 9, 2016, letter requesting a ruling on certain federal income tax consequences of a proposed transaction. The information submitted in that letter and in later correspondence is summarized below.

The ruling contained in this letter is based upon 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 material

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.

### FACTS

Taxpayer has made a valid election to be treated as a real estate investment trust ("REIT") under section 856 for federal income tax purposes, and has outstanding shares of common stock and several series of preferred stock ("Preferred Stock"). The common stock and certain shares of Preferred Stock are publicly traded. Taxpayer is the sole general partner of Operating Partnership and conducts substantially all of its activities through Operating Partnership. Operating Partnership is primarily engaged in Business, which consists of Group 1 and Group 2.

### PROPOSED TRANSACTION

For what are represented to be valid business reasons, Taxpayer proposes the following series of steps (collectively, the "Proposed Transaction"):

- (i) Taxpayer will distribute shares of New Stock.
- (ii) Taxpayer will make a valid election under section 858(a) to treat certain dividends distributed after the close of its taxable year ("Spillover Distributions") as having been paid during the taxable year (the "Preceding Year"). The Spillover Distributions will be made on shares of common stock, New Stock, or both.
- (iii) Taxpayer will repurchase shares of common stock, New Stock, or both (the "Repurchases"). The Repurchases will be made through open market purchases, accelerated stock repurchase programs, or through an issuer tender offer.

### REPRESENTATIONS

Taxpayer has made the following representations in connection with the Proposed Transaction:

- (a) Taxpayer is indifferent to the identity of the shareholders that will participate in the Repurchases and will not make any Repurchases with a purpose to increase or decrease the ownership percentage of any particular shareholder or group of shareholders.
- (b) No Spillover Distribution will be made by way of a repurchase or redemption of any of taxpayer's stock.
- (c) All Spillover Distributions will be made as distributions within the meaning of section 301 on or before Date A.

- (d) The amount of current earnings and profits in the Preceding Year (taking into account all other applicable rules, including Treas. Reg. § 1.858-1, but disregarding the impact of any section 302(a) redemptions in such Preceding Year) will exceed the amount of the Spillover Distribution considered paid (under section 858(a)) in such Preceding Year.
- (e) Taxpayer will not claim a deduction for dividends paid with respect to the Repurchases.
- (f) Taxpayer anticipates that most of the shareholders of the common stock and of the New Stock that will dispose of their stock as part of the Repurchases will be eligible to treat the dispositions as exchanges under section 302(a).

### RULING

Based solely on the information submitted and on the representations set forth above, we rule as follows:

- (1) The section 301 Spillover Distributions are ordinary distributions in the Preceding Year and will take priority over the section 302 Repurchases made in the Preceding Year in accessing Taxpayer's available current earnings and profits. See section 316(a)(2), section 312(n)(7), section 858(a), and Rev. Rul. 74-339, 1974-2 C.B. 103.

### CAVEATS

No opinion is expressed or implied as to whether section 305(a) applies to the Proposed Transaction or about the federal tax treatment of any other aspect of any transaction or item discussed or referenced in this letter, or about the tax treatment of any condition existing at the time of, or effects resulting from, any transaction or item that is not specifically covered by the above ruling. In addition, no opinion is expressed or implied concerning whether Taxpayer qualifies as a REIT under part II of Subchapter M of Chapter 1 of the Code.

### PROCEDURAL STATEMENTS

The ruling 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 request for a ruling, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Internal Revenue 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.

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

Sincerely,

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Benjamin M. Willis  
Senior Technician Reviewer, Branch 5  
Office of Associate Chief Counsel (Corporate)