

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:3

PLR-118450-18

Date:

April 05, 2021

Legend

Parent =

Sub1 =

Sub2 =

Sub3 =

State =

Dear :

This letter responds to a letter from your authorized representative dated May 30, 2018, as supplemented on January 24, 2020, and September 21, 2020. In that letter, you requested rulings under Section 101 and Treas. Reg. § 1.1502-13. The material information submitted in the request is summarized below.

The rulings contained in this letter are 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 rulings, it is subject to verification on examination.

## FACTS

Parent, a State corporation, is the parent of a worldwide group of corporations and the common parent of a consolidated group within the meaning of Treas. Reg. § 1.1502-1(h) (the "Parent Group"). Sub1 is a wholly owned subsidiary of Parent; Sub2 is a wholly owned subsidiary of Sub1; and Sub3 is a wholly owned subsidiary of Sub2. Sub1, Sub2, and Sub3 are includible members of the Parent Group.

Parent holds life insurance policies on certain employees and former employees (the "Policies," each a "Policy"). Most of the Policies have a fair market value in excess of basis in Parent's hands.

## PROPOSED TRANSACTION

Parent proposes to engage in the following Proposed Transactions:

- (i) In a transaction represented to qualify under Section 351(b), Parent will contribute the Policies to Sub1 in exchange for cash (in an amount less than the aggregate built-in gain in the Policies) and a constructive issuance of stock of Sub1 (the "First Contribution").
- (ii) In a transaction represented to qualify under Section 351(a), Sub1 will contribute the Policies to Sub2 in exchange solely for a constructive issuance of stock of Sub2 (the "Second Contribution").
- (iii) In a transaction represented to qualify under Section 351(a), Sub2 will contribute the Policies to Sub3 in exchange solely for a constructive issuance of stock of Sub3 (the "Third Contribution").

Consistent with Representation (d) below, after Step (iii), the Parent Group intends to hold the Policies until maturity.

## STATEMENT OF LAW

Section 101(a)(1) excludes from gross income amounts paid under a life insurance contract "by reason of the death of the insured." If a life insurance contract has been transferred for valuable consideration, Section 101(a)(2) limits the exclusion under Section 101(a)(1) to the value of the consideration plus other amounts paid (e.g., premiums). Section 101(a)(2)(A) provides that this limitation does not apply if the life-insurance contract has a transferred basis, in whole or in part (the "Carryover Basis Exception"). Section 362(a) provides that property acquired by a corporation in connection with a transaction to which Section 351 applies has a transferred basis, in whole or in part. However, Section 101(a)(3) provides that the limitation does apply, even if the life-insurance contract has a transferred basis, in whole or in part, in the case of a transfer for valuable consideration that is a reportable policy sale. Under Treas.

Reg. § 1.101-1(c)(2)(ii), a transfer between members of a consolidated group is not a reportable policy sale.

Section 1.1502-13(c)(6) provides that under § 1.1502-13(c)(1)(i), S's intercompany item might be redetermined to be excluded from gross income or treated as a noncapital, nondeductible amount. However, S's intercompany income or gain is redetermined to be excluded from gross income only to the extent §§ 1.1502-13(c)(6)(ii)(A), (B), (C), or (D) applies.

Section 1.1502-13(c)(6)(ii)(D) provides that, under certain circumstances, the Commissioner may determine that treating S's intercompany item as excluded from gross income is consistent with the purposes of § 1.1502-13 and other applicable provisions of the Internal Revenue Code (the "Code"), regulations, and published guidance.

## REPRESENTATIONS

Parent has made the following representations with respect to this letter ruling:

- (a) The Policies constitute, and have always constituted, life insurance for Federal income tax purposes.
- (b) The Policies meet all applicable state insurable interest laws at the time of issuance and at the time of each of the Proposed Transactions.
- (c) The First Contribution, Second Contribution, and Third Contribution each qualify as a Section 351 transfer.
- (d) The Parent Group intends to hold the Policies until maturity.
- (e) In accordance with Treas. Reg. § 1.1502-13(c)(6)(ii)(C)(1)(v) and (c)(6)(ii)(D)(1)(i), no member of the Parent Group will derive any Federal income tax benefit from the Proposed Transactions or the redetermination of Parent's intercompany item in the event a Policy is held by a member of the Parent Group at the time of the death of the insured.

## RULINGS

Based solely on the information and representations made, and conditioned on the execution of a closing agreement, we rule as follows:

- (1) For purposes of determining the amount of the Policy proceeds excludable from gross income under Section 101(a)(1), the First Contribution is a transfer that qualifies for the Carryover Basis Exception.
- (2) Any gain arising from the First Contribution under Section 351(b) (the "Boot Gain") is redetermined to be excluded from gross income under Treas. Reg. § 1.1502-13(c)(6)(ii)(D).
- (3) No member of the Parent Group will increase the basis of any asset (including basis in the stock of any member of the Parent Group) as a result of the Boot

Gain (for example, under Section 358(a)(1)(B)(ii), Section 362(a), or Treas. Reg. § 1.1502-32).

These rulings apply only with respect to Policies that continue to be owned by a member of the Parent Group and whose benefits are paid to a member of the Parent Group by reason of the death of the insured (within the meaning of section 101(a)(1)).

#### CLOSING AGREEMENT

We will, accordingly, approve a closing agreement with the taxpayer with respect to those issues affecting its tax liability on the basis set forth above. The necessary closing agreement for Parent has been prepared in triplicate and is enclosed. In pursuance of our practice with respect to such agreements, the agreement contains a stipulation to the effect that any change or modification of applicable statutes enacted subsequent to the date of this agreement and made applicable to the taxable period involved will render the agreement ineffective to the extent that it is dependent upon such statutes.

#### CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the Proposed Transactions 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 proposed transaction that is not specifically covered by the above rulings. Specifically, we express no opinion with respect to the application of § 1.1502-13(c)(6)(ii)(D) to items subject to any other provision of the Code and regulations.

#### PROCEDURAL STATEMENTS

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.

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 with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Lisa A. Fuller  
Deputy Associate Chief Counsel  
(Corporate)

Enclosures: Closing Agreement (3 copies)

cc: