

Distributing =

Controlled =

State 1 =

Country 1 Entity =

Country 2 =

Country 3 Entity 1 =

Country 3 Entity 2 =

a =

Dear :

This letter responds to a letter dated June 28, 2021, as supplemented by subsequent information and documentation, submitted on behalf of the taxpayer, requesting rulings under Section 355, and related provisions of the Internal Revenue Code of 1986, as amended, and related regulations, with respect to the proposed transaction described 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.

This letter is issued pursuant to Rev. Proc. 2021-1, 2021-1 I.R.B. 1, and Rev. Proc. 2017-52, 2017-41 I.R.B. 283, regarding a Transactional Ruling for a Covered Transaction. This office expresses no opinion as to the overall tax consequences of the proposed transaction or as to any issue not specifically addressed by the rulings below.

This office has made no determination regarding whether the Distribution (as defined below): (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see Section 355(a)(1)(B))

and Treas. Reg. § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation, or any predecessor or successor of the distributing corporation or the controlled corporation, within the meaning of Treas. Reg. § 1.355-8 (see Section 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

Summary of Facts

Parent is a State 1 corporation that is the common parent of both a U.S. consolidated group, as defined in Treas. Reg. § 1.1502-1(h), and an expanded affiliated group of corporations (collectively, the “Parent Group”).

Parent owns all the outstanding equity interests in Sub 1, a State 1 limited liability company that is classified as a corporation for U.S. Federal income tax purposes. Sub 1 owns all the outstanding equity interests in Sub 2, a State 1 limited liability company that is classified as a corporation for U.S. Federal income tax purposes. Sub 2 owns all the outstanding equity interests of DRE 1, a State 1 limited liability company that is classified as a disregarded entity for U.S. Federal income tax purposes. DRE 1 owns all the outstanding equity interests of Distributing, a Country 1 Entity that is classified as a corporation for U.S. Federal income tax purposes.

Immediately prior to the Distribution, the Distributing separate affiliated group (within the meaning of Section 355(b)(3)) includes DRE 2 and Sub 3. DRE 2 is a Country 1 Entity that is classified as a disregarded entity for U.S. Federal income tax purposes. Sub 3 is a Country 2 corporation that is classified as a corporation for U.S. Federal income tax purposes. Distributing intends to rely on the active trade or business (“ATB”) of Sub 3 to satisfy the ATB requirement of Section 355(b).

Distributing owns all the outstanding equity interests of Controlled, which is classified as a Country 3 Entity 1. Controlled is also classified as a corporation for U.S. Federal income tax purposes.

Proposed Transaction

1. (i) Sub 2 will merge with and into Sub 1, with Sub 1 surviving. Parent represents that this merger will qualify as a tax-free liquidation under Section 332 and that neither Sub 2 nor Sub 1 will recognize gain or loss under Sections 332 and 337; and,

(ii) Sub 1 will then merge with and into Parent, with Parent surviving. Parent represents that this merger will qualify as a tax-free liquidation under Section 332 and that neither Sub 1 nor Parent will recognize gain or loss under Sections 332 and 337;
2. (i) Distributing has loaned a to Controlled;

- (ii) later that same day, Controlled distributed the a of loan proceeds to Distributing as a return of a of Distributing's investment in Controlled's shares;
 - (iii) Distributing contributed a to Controlled;
 - (iv) Controlled repaid the a loan owing to Distributing; and
 - (v) Upon completion of steps 2(i) through 2(iv), Controlled will convert from a Country 3 Entity 1 to a Country 3 Entity 2. Parent represents that this conversion will qualify as tax-free under Section 368(a)(1)(F).
3. Distributing will make a pro rata distribution of all the outstanding shares of Controlled to DRE 1 (the "Distribution").
 4. DRE 1 will make a pro rata distribution of all the outstanding shares of Controlled to Parent.

Representations

Except as otherwise set forth below, Parent makes all the representations in section 3 of the Appendix to Rev. Proc. 2017-52 in the form set forth therein.

A. Inapplicable Representations

1. Representation 7 is inapplicable because neither the Distribution nor any other aspect of the proposed transaction constitutes a split-up or a split-off.
2. Representations 17 – 20 are inapplicable because the Distribution is not part of a reorganization qualifying under Section 368(a)(1)(D).
3. Representation 35 is inapplicable as no cash will be paid in lieu of fractional shares of Controlled.
4. Representations 36 – 39 are inapplicable because neither Distributing nor Controlled is a member of the Parent U.S. consolidated group.

B. Alternative Representations

Parent is relying on the following Alternative Representations: 3(a), 8(a), 11(a), 15(a), 22(a), 31(a) and 41(a).

C. Modified Representations

1. Representation 32 is modified to read as follows:

No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution of Controlled stock, except for (i) amounts attributable to the cash pool, with respect to which Distributing is the leader and Controlled is a member; and (ii) ordinary course receivables and payables.

2. Representation 34 is modified to read as follows:

Distributing and Controlled each will pay its own expenses, if any, incurred in connection with the Distribution, except that (i) corporate legal service fees directly related to the proposed transaction will be borne by DRE 2; and (ii) tax service fees directly related to the proposed transaction will be borne by Parent.

D. Additional Representation

For purposes of Treas. Reg. § 1.367(b)-5(c), Parent's predistribution amount with respect to Distributing or Controlled will not exceed Parent's postdistribution amount with respect to both entities, or, if the predistribution amount does exceed the postdistribution amount, Parent will reduce its basis, or include an amount in income as a deemed dividend, to the extent provided in Treas. Reg. § 1.367(b)-5(c)(2).

Rulings

1. Distributing will recognize no gain or loss upon the Distribution. Section 355(c).
2. No gain or loss will be recognized by (and no amount will be otherwise includible in the income of) Parent upon its receipt of Controlled shares pursuant to the Distribution. Section 355(a).
3. The aggregate basis of the Distributing stock and the Controlled stock in the hands of Parent immediately after the Distribution will equal the aggregate basis of the Distributing stock held by Parent immediately before the Distribution, allocated in the manner described in Treas. Reg. § 1.358-2(a)(2). Section 358(b).
4. The holding period of the Controlled stock received by Parent in the Distribution will include the holding period of the Distributing stock held by Parent, provided that such Distributing stock was held as a capital asset on the date of the Distribution. Section 1223(1).
5. The earnings and profits of Distributing will be allocated between Distributing and Controlled in accordance with Section 312(h) and Treas. Reg. § 1.312-10(b).

Caveats

No opinion is expressed or implied about the tax treatment of the proposed transaction under any other provision of the Code or regulations or effects resulting from the proposed transaction that are not specifically covered by the above rulings.

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.

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

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,

Robert M. Rhyne

Robert M. Rhyne
Assistant to the Branch Chief, Branch 2
(Associate Chief Counsel (Corporate))

cc: