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Department of the Treasury
Washington, DC 20224

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CC:CORP:B04
PLR-124106-21

Date:
May 10, 2022

Legend

Distributing =

Controlled =

Sub 1 =

Sub 2 =

State A =

State B =

Business A =

Business B =

Business C =

Business D =

Business E =

Senior Notes 1 =

Senior Notes 2 =

Senior Notes 3 =

Senior Notes 4 =

Senior Notes 5 =

Debentures 1 =

Debentures 2 =

Debentures 3 =

Continuing
Arrangements =

Date 1 =
a =
b =
c =
d =
e =
f =
g =
h =
i =
j =
k =

Dear :

This letter responds to your letter dated November 23, 2021, as supplemented by an additional letter dated March 15, 2022, submitted on behalf of Distributing, its affiliates, and its shareholders, requesting rulings under sections 355 and 368(a)(1)(D), and related provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and related regulations with respect to a series of proposed transactions (the “Proposed Transaction,” as described below). The material information submitted in that request and subsequent correspondence is summarized below.

This letter is issued pursuant to Rev. Proc. 2021-1, 2021-1 I.R.B. 1, Rev. Proc. 2022-10, 2022-6 I.R.B. 473, and Rev. Proc. 2017-52, 2017-41 I.R.B. 283, as amplified and modified by Rev. Proc. 2018-53, 2018-43 I.R.B. 667, regarding one or more “Covered Transactions” under section 355 and/or section 368 of the Code. This Office expresses no opinion as to any issue not specifically addressed by the rulings below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalties 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 office has made no determination regarding whether the Proposed Transaction: (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

Distributing, a publicly traded, widely held, State A corporation, is the parent of a worldwide group of domestic and foreign entities (the “Distributing Worldwide Group”). Distributing is also the common parent of an affiliated group of domestic corporations that file a U.S. consolidated federal income tax return (the “Distributing Consolidated Group”). At the time of the Proposed Transaction, Distributing will have a single class of voting common stock issued and outstanding. The following summary describes the relevant ownership structure of the Distributing Worldwide Group immediately prior to the Proposed Transaction.

The Distributing Worldwide Group is engaged in multiple businesses, including Business A, Business B, Business C, Business D, and Business E (Business B, Business C, Business D, and Business E, together, the “Retained Businesses”).

Distributing directly owns all of the issued and outstanding stock of Sub 1, a State A corporation and a member of the Distributing Consolidated Group. Distributing also directly owns certain Business A assets.

Distributing also directly owns all of the issued and outstanding stock of Sub 2, a State A corporation and a member of the Distributing Consolidated Group. Sub 2 is directly and solely engaged in Business A and owns various domestic and foreign entities that are also solely engaged in Business A.

For purposes of satisfying the active trade or business requirements of section 355(b) with respect to the External Distribution (as defined below), Distributing and the members of its “separate affiliated group” as defined in section 355(b)(3)(B) will rely on the Retained Businesses, and Controlled and the members of its “separate affiliated group” as defined in section 355(b)(3)(B) will rely on Business A. Distributing has submitted financial information in accordance with Rev. Proc. 2017-52 indicating that both the Retained Businesses and Business A have had gross receipts and operating

expenses representing the active conduct of a trade or business for each of the past five years.

Distributing has outstanding five issuances of senior unsecured notes, including: (i) Senior Notes 1 in an aggregate principal amount of a; (ii) Senior Notes 2 in an aggregate principal amount of a; (iii) Senior Notes 3 in an aggregate principal amount of b; (iv) Senior Notes 4 in an aggregate principal amount of a; and (v) Senior Notes 5 in an aggregate principal amount of c (together with the Senior Notes 1, Senior Notes 2, Senior Notes 3, and Senior Notes 4, the “Senior Notes”). Distributing also has outstanding three issuances of debentures, including: (i) Debentures 1 in an aggregate principal amount of d; (ii) Debentures 2 in an aggregate principal amount of e; and (iii) Debentures 3 in an aggregate principal amount of f (together with Debentures 1 and Debentures 2, the “Debentures”). Finally, Distributing also has borrowings under its commercial paper program in the aggregate principal amount of g as of Date 1 (together with the Senior Notes and the Debentures, the “Historic Debt”).

Proposed Transaction

For what are represented to be valid business reasons, Distributing proposes to engage in the following transactions to separate Business A from the Retained Businesses. Following the Proposed Transaction, Distributing will conduct the Retained Businesses and a newly formed State B corporation (“Controlled”) will conduct Business A. In the description of the Proposed Transaction below, any repayment or retirement of Historic Debt includes payments of principal, interest, market premiums, and associated legal fees.

Step 1: Distributing will form Controlled with one authorized class of voting common stock (the “Controlled Stock”), all of which will be directly owned by Distributing.

Step 2: Distributing may issue short-term debt (the “New Debt”), to one or more financial institutions (“Banks”) for cash (the “New Debt Proceeds,” and such lending, the “New Debt Issuance”). Distributing will hold the New Debt Proceeds received in the New Debt Issuance in general accounts.

Step 3: Distributing may enter into one or more exchange agreements (each, an “Exchange Agreement”) with Banks pursuant to which Distributing will agree to transfer Controlled Securities (defined below) and/or Controlled Stock to the Banks in exchange for (and in retirement of) all or a portion of any New Debt and/or Historic Debt. Any Exchange Agreement will not be entered into any earlier than the day after the day on which the Banks acquire the New Debt and/or a portion of any Historic Debt. The exchange ratio for the Debt Exchanges will be fixed on the date any Exchange Agreement is entered into with the Banks.

Step 4: Distributing will contribute to Controlled 100 percent of the issued and outstanding stock of Sub 2 as well as all of Distributing’s directly owned Business A

assets in exchange for: (i) Controlled Stock; (ii) the assumption by Controlled of liabilities associated with Business A (if any); (iii) Controlled Cash (if any, as defined below); and (iv) certain h-year debt instruments or term loans issued by Controlled (if any, the “Controlled Securities,” and such exchange, the “Controlled Contribution”).

Step 5: Controlled may: (i) borrow cash from third-party lenders through capital markets borrowing (the “Controlled Borrowing”); and/or (ii) issue and sell shares of Controlled Stock to third-party investors for cash in an initial public offering (the “IPO,” and the cash proceeds received by Controlled in the Controlled Borrowing and/or the IPO, the “Controlled Cash”). The amount of Controlled Stock that will be issued and sold by Controlled in the IPO will represent less than j percent of the total combined voting power of all Controlled Stock, less the percentage of Controlled Stock that may be transferred by Distributing to the Banks as part of any Debt-for-Equity Exchange (as defined below).

Step 6: After the expiration of the lock-up period associated with the IPO, Distributing will distribute Controlled Stock representing at least j percent of the total combined voting power of all Controlled Stock to its shareholders in exchange for Distributing common stock (“Distributing Stock”), pursuant to a registered exchange offer (the “Split-Off”), and, if necessary, in the Clean-Up Distribution (as defined below). If the exchange offer is fully subscribed, Distributing will distribute all the issued and outstanding shares of Controlled Stock that it owns pursuant to the Split-Off. If the exchange offer is not fully subscribed, Distributing will transfer as soon as practical after the Split-Off all the shares of Controlled Stock not distributed in the Split-Off (and not transferred in the Debt-for-Equity Exchange (as defined below)) to its shareholders on a pro rata basis in accordance with their stock ownership (the “Clean-Up Distribution” and, together with the Split-Off, the “External Distribution”).

Step 7: Contemporaneously with the External Distribution, Distributing will transfer (i) any Controlled Securities to creditors, which may include the Banks, in exchange for (and in retirement of) all or a portion of any New Debt and/or Historic Debt (if any, the “Debt-for-Debt Exchange”), and (ii) any other Controlled Stock to creditors, which may include the Banks, in exchange for (and in retirement of) all or a portion of any New Debt and/or Historic Debt (if any, the “Debt-for-Equity Exchange” and, together with the Debt-for-Debt Exchange, the “Debt Exchanges”). Distributing understands that, after any Debt Exchanges, the Banks will sell any Controlled Securities and/or Controlled Stock to third-party investors for cash pursuant to an offering memorandum.

Step 8: Within k months following the External Distribution, (i) Distributing will use an amount of cash from its general accounts equal to the amount of any Controlled Cash to: (a) make *pro rata* cash distributions to Distributing’s shareholders; (b) repurchase shares of Distributing Stock, including potentially pursuant to one or more customary accelerated share repurchase programs (with respect to (a) and (b), the “Stock Distribution Transactions”); and/or (c) repay or repurchase Historic Debt (including principal, interest, premium, and fees) to third-party lenders (such debt, the “Distributing

Purged Debt,” and all such uses of the Controlled Cash, the “Cash Boot Purge”); and (ii) Distributing will use an amount of cash from its general accounts equal to the amount of any New Debt Proceeds to repay or repurchase Historic Debt (including principal, interest, premium, and fees) to third-party lenders (the Controlled Contribution, External Distribution, the Debt Exchanges (if any), and the Cash Boot Purge (if any) together, the “Controlled Reorganization”).

In connection with the External Distribution, Distributing and Controlled, collectively with their affiliates, will enter into certain agreements that will continue after the completion of the External Distribution in order to effect an orderly transition of Controlled to a standalone public company, including transition services agreements, a tax matters agreement, and other agreements (collectively, the “Continuing Arrangements”). The Continuing Arrangements will be based on arm's-length terms and conditions, except for the Transition Services Agreements, which will be on a cost or cost-plus basis during their terms.

Following the External Distribution, Distributing and Controlled will operate as independent companies having separate boards of directors. The separate boards of directors will have no overlapping membership, with the possible exception of one director that may serve on the board of directors of Controlled and also serve on the board of directors of Distributing and/or that is a member of the senior management team of Distributing (the “Overlapping Board Member”). To the extent there is any director overlap following the Proposed Transaction, such Overlapping Board Member will represent a minority share of the overall composition of Distributing’s and Controlled’s board of directors. The Overlapping Board Member will serve in this capacity to provide a sense of business continuity to Controlled as it transitions to becoming a standalone public company and will enable Controlled to continue to benefit from the expertise of such director regarding Business A. The Overlapping Board Member will at all times have a minority voting power with respect to each of the boards of Distributing and Controlled.

Representations

Except as set forth below, Distributing has made all of the representations in section 3 of the Appendix to Rev. Proc. 2017-52 with respect to the Proposed Transaction:

1. Distributing has made the following alternative representations: 3(a), 11(a), 15(a), 22(a), 31(a), and 41(a).
2. Distributing has not made the following representations, which do not apply to the Proposed Transaction: 24, 25, and 40.
3. Representation 6 is only made with respect to the Clean-Up Distribution and representation 7 is only made with respect to the Split-Off.

4. Distributing has made the following modified representations:

Representation 2: In the Split-Off, Distributing will distribute on the same day all the stock and securities of Controlled that it holds immediately before the Split-Off; except that, in the case of a Split-Off that is undersubscribed, the Clean-Up Distribution with respect to such Split-Off will occur as promptly as practical after such Split-Off taking into account applicable stock exchange and clearing agency requirements.

Representation 5: Other than any Controlled Stock transferred in the Debt-for-Equity Exchange and any Controlled Securities transferred in the Debt-for-Debt Exchange, none of the Controlled Stock, Controlled Securities, or Other Property to be distributed in the Distribution will be received in any capacity other than that of a shareholder of Distributing.

Representation 8(b): Distributing has securities outstanding, but it will not distribute Controlled Stock or Controlled Securities or Other Property to any holder of such securities in the Distribution in satisfaction thereof; except that Distributing may transfer Controlled Cash, Controlled Securities, and/or Controlled Stock to holders of the Historic Debt that qualifies as a security.

Representation 32: No intercorporate debt will exist between Distributing and Controlled (and their respective affiliates, as applicable) at the time of, or subsequent to the External Distribution, except for (i) amounts arising by reason of the Continuing Arrangements, (ii) ordinary course receivables and payables, and (iii) Controlled Securities until such time as the Controlled Securities are transferred pursuant to any Debt-for-Debt Exchange.

Representation 45: Distributing will not dispose of any Controlled Stock in anticipation of the Distribution, except for Controlled Stock, if any, transferred to the Banks by reason of the Debt-for-Equity Exchange.

Representation 46: Other than in connection with the IPO, Controlled will not issue stock or securities to any person other than Distributing in connection with the Controlled Reorganization.

Except as set forth below, Distributing has made all of the representations in section 3.04 of Rev. Proc. 2018-53 with respect to the Proposed Transaction.

5. Distributing has made the following modified representations:

Representation 1: Distributing is in substance the obligor of each Distributing Purged Debt that will be assumed or satisfied.

Representation 3: The holder of Distributing Debt that will be assumed or satisfied will not hold the debt for the benefit of Distributing, Controlled, or any Related Person. With the exception of the New Debt, the Banks will not acquire Distributing Debt from Distributing, Controlled, or any Related Person. None of Distributing, Controlled, or any Related Person will participate in any profit gained by the Banks upon an exchange of Section 361 Consideration; nor will any such profit be limited by agreement or other arrangement. The amount of the Section 361 Consideration received by the Banks in satisfaction of the Distributing Debt will be determined pursuant to arm's-length negotiations.

Representation 4: Distributing incurred the Distributing Debt that will be assumed or satisfied (a) before the request for any relevant ruling is submitted and no later than 60 days before the earliest of the following dates: (i) the date of the first public announcement (as defined in Treas. Reg. § 1.355-7(h)(10)) of the Divisive Reorganization or a similar transaction, (ii) the date of the entry by Distributing into a binding agreement to engage in the Divisive Reorganization or a similar transaction, and (iii) the date of approval of the Divisive Reorganization or a similar transaction by the board of directors of Distributing, or (b) if such debt was issued more recently, the proceeds of the issuance of such debt were used to satisfy other debt of Distributing that was incurred no later than the time described in this representation, and such other debt was not issued in anticipation of, or in connection with, the Controlled Reorganization.

Representation 6: There are one or more substantial business reasons for any delay in satisfying Distributing Debt with any New Debt Proceeds beyond 30 days after the date of the first distribution of Controlled Stock to Distributing's shareholders. All the Distributing Debt that will be satisfied with any New Debt Proceeds will be satisfied no later than k months after such distribution.

Rulings

Based solely on the information submitted and the representations made, we rule as follows with respect to the Proposed Transaction:

1. The Controlled Contribution, together with the External Distribution, will qualify as a reorganization and distribution within the meaning of sections 368(a)(1)(D) and 355. Distributing and Controlled will each be a "party to a reorganization" within the meaning of section 368(b).
2. No gain or loss will be recognized by Distributing on the Controlled Contribution. Sections 361(a), 361(b) and 357(a).
3. No gain or loss will be recognized by Controlled on the Controlled Contribution. Section 1032(a).

4. The basis in each asset received by Controlled in the Controlled Contribution will equal the basis of that asset in the hands of Distributing immediately before the Controlled Contribution. Section 362(b).
5. The holding period in each asset received by Controlled in the Controlled Contribution will include the period during which the asset was held by Distributing. Section 1223(2).
6. No gain or loss will be recognized by Distributing on (i) the External Distribution, (ii) the Debt-for-Debt Exchange, (iii) the Debt-for-Equity Exchange, or (iv) the Cash Boot Purge, other than (i) deductions attributable to the fact that the Distributing Purged Debt may be redeemed at a premium, (ii) income attributable to the fact that the Distributing Purged Debt may be redeemed at a discount, and (iii) interest expense accrued with respect to the Distributing Purged Debt. Section 361(c).
7. No gain or loss will be recognized by, and no amount will be included in the income of, Distributing's shareholders on the receipt of Controlled Stock in the Split-Off or any Clean-Up Distribution. Section 355(a)(1).
8. Each participating shareholder's aggregate basis in the Controlled Stock it receives in exchange for Distributing Stock pursuant to the Split-Off (including any fractional share interest in Controlled Stock to which a shareholder may be entitled) will equal such shareholder's aggregate basis in the Distributing Stock surrendered in the External Distribution and will be allocated among the shares received in the manner described in Treas. Reg. § 1.358-2(a). Section 358(a)(1) and (b)(1).
9. If the Clean-Up Distribution is undertaken, each Distributing shareholder's aggregate basis in its Distributing Stock and Controlled Stock immediately after the Clean-Up Distribution (including any fractional share interest in Controlled stock to which a shareholder may be entitled) will equal such shareholder's aggregate basis in its Distributing Stock immediately prior to the Clean-Up Distribution. Section 358(a). The basis will be allocated between Distributing Stock and Controlled Stock in proportion to the fair market values of each immediately after the Clean-Up Distribution in accordance with Treas. Reg. § 1.358-2(a)(2). Sections 358(a) through (c).
10. If a shareholder of Distributing Stock that purchased or acquired shares on different dates or at different prices is not able to identify which particular share of Controlled Stock is received in exchange for, or as a distribution with respect to, a particular share of Distributing Stock, the shareholder may designate which particular share of Controlled Stock is received in exchange for, or as a distribution with respect to, a particular share of Distributing Stock, provided the designation is consistent with the terms of the External Distribution. Treas. Reg. § 1.358-2(a)(2)(vii).
11. Each Distributing shareholder's holding period in its Controlled Stock received in the External Distribution (including any fractional share interest in Controlled Stock to which

the shareholder may be entitled) will include the holding period of the Distributing Stock exchanged therefor or with respect to which a distribution of Controlled Stock was made, provided that such Distributing Stock is held by such Distributing shareholder as a capital asset on the date of the relevant exchange or distribution. Section 1223(1).

12. The receipt by the shareholders of Distributing of cash in lieu of fractional shares, if any, of Controlled Stock will be treated for U.S. federal income tax purposes as if the fractional shares had been distributed to such shareholders as part of the External Distribution and then had been disposed of by such shareholders for the amount of such cash in a sale or exchange. Gain (or loss) recognized (if any, determined using the basis allocated to the fractional shares in Rulings 8-10) will be treated as capital gain (or loss) under section 1001, provided the stock was held as a capital asset by the selling shareholder. Such gain (or loss) will be short-term or long-term capital gain (or loss) (determined using the holding period provided in Ruling 11).

13. 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(a) and 1.1502-33(e).

14. Following the External Distribution, Controlled will not be a successor of Distributing for purposes of section 1504(a)(3). Therefore, Controlled and its direct and indirect subsidiaries that are "includible corporations" under section 1504(b) and satisfy the ownership requirements of section 1504(a)(2) will be members of an affiliated group of corporations eligible to file a consolidated U.S. federal income tax return with Controlled as the common parent.

15. Payments made between any of Distributing and Controlled and their respective affiliates under any of the Continuing Arrangements regarding liabilities, indemnities, or other obligations, that (i) have arisen or will arise for a taxable period ending on or before the External Distribution or for a taxable period beginning before and ending after the External Distribution; and (ii) will not become fixed and ascertainable until after the External Distribution, will be viewed as occurring immediately before the External Distribution. See Arrowsmith v. Commissioner, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

Caveats

No opinion is expressed or implied about the tax treatment of the Proposed Transaction under any other provisions of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that is not specifically covered by the above rulings.

Procedural Statements

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that this letter may not be used or cited as precedent.

A copy of this letter ruling 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 returns that provides the date and control number (PLR-124106-21) of this letter ruling.

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

Sincerely,

Brian R. Loss
Senior Technician Reviewer, Branch 4
Office of Associate Chief Counsel (Corporate)

cc: