

Internal Revenue Service

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Department of the Treasury

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Third Party Communication: None

Date of Communication: Not Applicable

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CC:INTL:B04

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Date:

June 21, 2022

Legend

FP1 =

FP2 =

FP3 =

DP =

US Blocker =

New Foreign Holdco =

Foreign Individual =

Foreign Founders =

Partners =

Investor =

Country A =

Country B =

State A =

Date A =

Date B =

Date C =

Date D =

a =

b =

Dear :

This letter responds to your authorized representative's letter dated August 19, 2021, requesting rulings under section 7874, relating to expatriated entities and their foreign parents. Specifically, for purposes of determining the ownership fraction under section 7874(a)(2)(B)(ii) on the facts described in the ruling request, a ruling is sought to determine the application of section 7874(c)(5) with respect to certain foreign partnerships and a domestic partnership that are under common control. The material information submitted in that request and in subsequent correspondence is summarized below.

The ruling contained in this letter is based on facts and representations submitted by you and your representatives and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for a ruling. Verification of the information, representations, and other data may be required as part of the audit process.

Summary of Facts

The description below reflects the relevant organizational structure immediately before the Proposed Transaction (defined below).

Partners and Foreign Founders, all of whom are individuals, together own all of the interests in FP1, a Country A entity treated as a partnership for federal income tax purposes, and together own all of the interests in FP2, a Country B entity treated as a partnership for federal income tax purposes. FP2, in turn, owns certain interests in FP3, a Country B entity treated as a partnership for federal income tax purposes.

Partners and Foreign Founders also together indirectly own a percent of the interests in DP, a State A limited liability company treated as a partnership for federal income tax purposes, and FP1 owns the remaining b percent. None of FP1, FP2 or FP3 directly or indirectly own interests in any domestic corporation or domestic partnership other than US Blocker (described below) or DP, or directly or indirectly engage in the conduct a trade or business within the United States, other than through DP. DP, FP1, FP2, and FP3 are each under common control as that term is described in section 7874(c)(5).

Proposed Transaction

The following steps (collectively, the “Proposed Transaction”) have been or will be effectuated as part of a single, integrated plan:

1. On Date A, Foreign Individual, who is also a Foreign Founder, formed New Foreign Holdco, a Country B entity which made an entity classification election to be disregarded as an entity separate from its owner for federal income tax purposes effective as of its date of formation.
2. On Date C, FP1 formed US Blocker, a State A entity that made an entity classification election to be a corporation for federal income tax purposes effective as of its date of formation.
3. On Date D, Partners and Foreign Founders indirectly transferred all of the properties of FP2 and FP3 to FP1.
4. On Date D, FP1 contributed its interests in DP to US Blocker in exchange for stock of US Blocker.
5. On Date D, Investor transferred cash to New Foreign Holdco solely in exchange for interests in New Foreign Holdco.
6. On Date D, Foreign Founders and Partners transferred their interests in FP1 to New Foreign Holdco, in exchange for interests in New Foreign Holdco and cash.

7. New Foreign Holdco will make an entity classification election to be a corporation for federal income tax purposes effective as of Date B, resulting in an acquisition by New Foreign Holdco of substantially all of the properties constituting a trade or business of a domestic partnership for purposes of section 7874(a)(2)(B) with respect to the properties constituting a trade or business of DP. (Steps 6 and 7 together, the “Transfer.”)

Applicable Law and Ruling

A ruling is sought to provide that the application of section 7874(c)(5) and the regulations under section 7874 do not result in FP1, FP2, FP3 and DP being treated as one domestic partnership for purposes of determining the ownership fraction under section 7874(a)(2)(B) as a result of the Proposed Transaction.

Based solely on the information submitted, we rule as follows regarding the Transfer for purposes of section 7874(a)(2)(B):

The stock of New Foreign Holdco held by reason of holding an interest in a domestic partnership, taking into account section 7874(c)(5) and the regulations under 7874, including Treas. Reg. 1.7874-2(f), includes a proportion of the stock held by reason of holding an interest in FP1 determined based on FP1’s indirectly held interest in DP relative to FP1’s interests in all its properties (including such indirectly held interest in DP), and does not otherwise include stock held by reason of directly or indirectly holding an interest in FP1, FP2, or FP3.

Caveats

No opinion is expressed regarding the tax treatment of the Proposed Transaction under 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 are not specifically covered by the above ruling. In particular, no opinion is expressed or implied regarding the application of section 7874 to the Proposed Transaction other than as described specifically herein. Further, no opinion is expressed regarding (i) the federal income tax classification of any of the entities involved in the Proposed Transaction and (ii) the validity of any entity classification election made with respect to any of the entities. In addition, this ruling is based on the facts presented and the applicable law in effect on the date of this letter.

Procedural Statements

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

In accordance with the power of attorney on file in this office, a copy of this letter is 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 B. Williams, Jr.
Senior Counsel, Branch 4 (International)

cc: