

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

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Telephone Number:

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CC:CORP:BO2

PLR-111834-22

Date:

September 08, 2022

Legend

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

a =

Dear _____ :

This letter responds to your representative's letter dated June 13, 2022, requesting rulings under § 1.1502-13 of the Income Tax Regulations. The material information submitted in that letter and in subsequent correspondence 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 is the common parent of an affiliated group of corporations that files a consolidated return for U.S. federal income tax purposes (the "Parent Group").

On Date 1, Parent acquired all of the stock of Sub 1 in a fully taxable transaction. No section 338 election was made with respect to the acquisition. Following the acquisition, Sub 1 and its wholly owned subsidiary, Sub 2, became members of the Parent Group.

On Date 2, the following transactions occurred:

- (i) Sub 1 distributed all of its Sub 2 stock to Parent ("Sub 2 Distribution"); and
- (ii) Sub 3 (a wholly owned subsidiary of Parent) merged with and into Sub 1 with Sub 1 surviving ("Sub 3 Merger"). No stock was issued in the merger.

Sub 1 recognized approximately \$ of gain on the Sub 2 Distribution, and the gain ("DIG") was deferred under Treas. Reg. § 1.1502-13.

Completed Transactions

On Date 3, Sub 2 merged with and into Sub 1 with Sub 1 surviving ("Sub 2 Merger"). No stock was issued in the merger.

On Date 4, Parent sold all of its Sub 1 stock to an unrelated buyer at a loss ("Sub 1 Sale").

Representations

- (a) The Sub 2 Merger and Sub 3 Merger each qualified as a reorganization under section 368(a)(1)(A).

- (b) Following the Sub 2 Merger, Parent's aggregate basis in Sub 1 is the same as it would have been if, instead of the Sub 2 Distribution on Date 2 and the Sub 2 Merger on Date 3, Sub 2 had liquidated directly into Sub 1 in a transaction qualifying under section 332.
- (c) The existence of separate basis blocks in Sub 1 stock has never affected the taxable income or tax liability of any taxpayer.
- (d) Provided the DIG is redetermined to be excluded from gross income, Parent's loss from the Sub 1 Sale was the same as it would have been if Sub 2 had liquidated directly into Sub 1 in a transaction qualifying under section 332 (taking into account the application of Treas. Reg. § 1.1502-36 in each of the two scenarios).
- (e) The effects of the Sub 2 Distribution have not previously been reflected, directly or indirectly, on the Parent Group's consolidated return.
- (f) The Parent Group has not derived, and no taxpayer will derive, any federal income tax benefit from the Sub 2 Distribution that gave rise to the DIG or from the redetermination of the DIG (including any adjustment to basis in member stock under Treas. Reg. § 1.1502-32).
- (g) At the time of the Sub 1 Sale, the value of the outstanding Sub 1 stock exceeded Sub 1's net inside attribute amount (as defined in Treas. Reg. § 1.1502-36(d)(3)(iii)(B)).

Rulings

1. The context does not require treating Sub 1 stock as a successor asset to Sub 2 stock within the meaning of Treas. Reg. § 1.1502-13(j)(1), and Parent takes the DIG into account following the Sub 2 Merger.
2. The DIG is redetermined to be excluded from gross income under the Commissioner's Discretionary Rule of Treas. Reg. § 1.1502-13(c)(6)(ii)(D). Accordingly, the DIG is excluded from the gross income of the Parent Group for the group's consolidated return year that includes the day of the Sub 2 Merger.
3. The amount of the DIG that is redetermined to be excluded from gross income will not be taken into account as earnings and profits of any member of the Parent Group and will not be treated as tax-exempt income of any member of the Parent Group under Treas. Reg. § 1.1502-32(b)(2)(ii).

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the above completed 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 completed transactions that is 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. 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,

Julie T. Wang
Senior Counsel, Branch 2
Office of the Associate Chief Counsel (Corporate)

cc: