

Internal Revenue Service

Number: **202304007**
Release Date: 1/27/2023

Index Number: 355.00-00, 355.01-00,
368.00-00, 368.04-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:1
PLR-115618-22

Date:
November 02, 2022

Legend

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Distributing =

Sub 4 =

Sub 5 =

Controlled =

Sub 6 =

Sub 7 =

Sub 8 =

State A =

Country A =

Country B =

Country C =

Country D =

Business A =

Business B =

Business C =

Business D =

a =

b =

Dear :

This letter responds to your authorized representatives' letter dated August 15, 2022, as supplemented by subsequent information and documentation (the "Ruling Request"), requesting rulings on certain federal income tax consequences of the Proposed Transaction (defined below). The material information submitted in the Ruling Request and subsequent correspondence is summarized below.

This letter is issued pursuant to Rev. Proc. 2017-52, 2017-41 I.R.B. 283, regarding one or more "Covered Transactions" under sections 355 and 368 of the Internal Revenue

Code (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 facts and representations submitted by the taxpayer 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 Ruling Request. Verification of the information, representations, and other data may be required as part of the audit process.

This office has made no determination regarding whether the Distribution (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, a publicly traded and widely held State A corporation, is the parent of a worldwide group of domestic and foreign affiliates (the “Parent Worldwide Group”). Parent and its domestic affiliates join in filing a consolidated U.S. federal income tax return (the “Parent Consolidated Group”).

The Parent Worldwide Group is engaged in multiple businesses, including Business A, Business B, Business C, and Business D.

Parent owns all of the stock of Sub 1, a State A corporation and a member of the Parent Consolidated Group. Sub 1 owns all of the stock of Sub 2 and Sub 3, each a State A corporation and a member of the Parent Consolidated Group.

Sub 2 and Sub 3 own a percent and b percent, respectively, of the stock of Distributing, a Country A entity that is treated as a corporation for U.S. federal income tax purposes. Distributing owns all of the stock of Sub 4, a Country B entity that is disregarded as separate from its owner for U.S. federal income tax purposes (a “disregarded entity”).

Sub 4 owns all of the stock of Sub 5, a Country B disregarded entity. Sub 5 is engaged in Business C in Country B. Sub 5 owns all of the stock of Controlled, a Country C disregarded entity.

Controlled is a holding company and owns all of the stock of Sub 6, a Country C disregarded entity. Sub 6 owns all of the stock of Sub 7, a Country D disregarded

entity, and Sub 8, a Country C disregarded entity. Controlled, specifically through Sub 6, Sub 7, and Sub 8, conducts Business D in Country C and Country D.

Proposed Transaction

For what are represented to be valid business reasons, Distributing intends to engage in the following transaction to separate Distributing from Controlled (the "Proposed Transaction").

1. Sub 2 will merge with and into Sub 3 pursuant to state law (the "Sub 2 Merger"). The Sub 2 Merger is intended to qualify as a tax-free reorganization pursuant to section 368(a).
2. Sub 5 will distribute Controlled to Sub 4 in exchange for no consideration in a transaction that will be disregarded for U.S. federal income tax purposes.
3. Sub 4 will distribute Controlled to Distributing in exchange for no consideration in a transaction that will be disregarded for U.S. federal income tax purposes.
4. Controlled will make an election pursuant to Treas. Reg. § 301.7701-3(c) to change its U.S. federal income tax election from a disregarded entity to an association (the "Controlled Check-the-Box Election" and, with respect to the deemed transactions occurring for U.S. federal income tax purposes as a result of the Controlled Check-the-Box Election, the "Contribution").
5. Distributing will distribute Controlled to Sub 3 in exchange for no consideration (the "Distribution").
6. Controlled will borrow from Parent or a third-party lender to make a cash distribution to Sub 3 (the "Cash Distribution").

In connection with the Proposed Transaction, Distributing and Controlled (or their respective affiliates, as applicable) will enter into certain continuing arrangements on an arm's length basis.

Representations

Except as set forth below, Parent has made all the representations in section 3 of the Appendix to Rev. Proc. 2017-52.

1. Parent has made the following alternative representations: 3(a); 8(a); 11(a); 15(a); 22(a); 31(a); and 41(a).

2. Parent has not made the following representations, which do not apply to the Proposed Transaction: 7; 19; 20; 24; 25; 35; 36; 37; 38; and 39.

Parent was unable to make the following standard representations; however, Parent has made the following modified representations.

3. Representation 32: No intercorporate debt will exist between Distributing and Controlled (and their respective subsidiaries, as applicable) at the time of, or subsequent to, the Distribution, except for amounts arising by reason of the continuing arrangements or ordinary course receivables and payables.
4. Representation 43: Both Distributing and Controlled will each be a controlled foreign corporation (within the meaning of section 957(a)) immediately before and after the Distribution, and there will be no plan or intention for any action to be taken to prevent Distributing or Controlled from being a controlled foreign corporation.

For purposes of Treas. Reg. § 1.367(b)-5(c), Distributing's shareholder's pre-distribution amount with respect to both Distributing and Controlled will not exceed Distributing's post-distribution amount with respect to both entities, or, if the pre-distribution amount does exceed the post-distribution amount, Distributing's shareholder 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).

Parent has made the following additional representation.

5. Sub 3 has no plan or intention of contributing the proceeds of the Cash Distribution to Distributing.

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows:

1. The Contribution and the Distribution, together, will constitute a reorganization within the meaning of section 368(a)(1)(D). Distributing and Controlled will each be a "party to a reorganization" within the meaning of section 368(b).
2. Distributing will not recognize gain or loss on the Contribution. Sections 361(a) and 357(a).
3. Distributing will not recognize gain or loss on the Distribution. Section 361(c).

4. Controlled will not recognize gain or loss on the Contribution. Section 1032(a).
5. Controlled's basis in each asset received in the Contribution will be the same as the basis of such asset in the hands of Distributing immediately before the Contribution. Section 362(b).
6. Controlled's holding period in each asset received in the Contribution will include the period during which Distributing held the asset. Section 1223(2).
7. Sub 3 will not recognize gain or loss (and no amount will be includible in income) upon the receipt of Controlled stock in the Distribution. Section 355(a).
8. The aggregate basis of the Distributing stock and the Controlled stock in the hands of Sub 3 immediately after the Distribution will be the same as the aggregate basis of the Distributing stock held by Sub 3 immediately before the Distribution, allocated between the stock of Distributing and Controlled in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a). Section 358(a)(1) and (b).
9. Sub 3's holding period in the Controlled stock received in the Distribution will include the holding period of the Distributing stock with respect to which the distribution is made, provided that the Distributing stock is held as a capital asset on the date of the Distribution. Section 1223(1).
10. Earnings and profits, if any, will be allocated between Distributing and Controlled in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).

Caveat

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of the Proposed Transaction 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 addressed 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, 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 returns that provides the date and control number (PLR-115618-22) of the letter ruling.

Sincerely,

Richard K. Passales

Richard K. Passales

Senior Counsel, Branch 4

Office of Associate Chief Counsel (Corporate)

cc: