

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202417008**
Release Date: 4/26/2024

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 1504.00-00, 1504.02-00

Person To Contact:

ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B01
PLR-115324-23

Date:
November 08, 2023

LEGEND

Parent =

Sub =

DRE 1 =

DRE 2 =

PC 1 =

PC 2 =

State A =

State B =

State C =

Profession =

Professional =

Shareholder 1 =

Shareholder 2 =

State B Code =

State C Code =

First Support Services Agreement =

Second Support Services Agreement =

First Stock Transfer Restriction Agreement =

Second Stock Transfer Restriction Agreement =

Dear :

This letter responds to your authorized representatives' letter received July 31, 2023, as supplemented by subsequent letters and documentation, requesting rulings under section 1504(a) of the Internal Revenue Code (the "Code"). The material information submitted in that request and subsequent correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by penalties of perjury statements executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

This letter is issued pursuant to Rev. Proc. 2023-1, 2023-1 I.R.B. 1, regarding one or more significant issues under section 1504 of the Code. This office expresses no opinion as to any issue not specifically addressed by the rulings below.

FACTS

Parent, a publicly traded State A corporation, is the common parent of an affiliated group of corporations filing a consolidated federal income tax return (the “Parent Group”). Parent indirectly owns all the outstanding stock of Sub, a State A corporation and a member of the Parent Group. Sub owns all the outstanding equity interests in DRE 1, a State A limited liability company that is disregarded as an entity separate from Sub for U.S. federal tax purposes. DRE 1 owns all the outstanding equity interests in DRE 2, a State A limited liability company that is disregarded as an entity separate from Sub for U.S. federal tax purposes.

PC 1 is a State B professional corporation and is subject to State B Code. PC 2 is a State C professional corporation and is subject to State C Code. Each of PC 1 and PC 2 (collectively, the “PCs” and, individually, a “PC”) are engaged in Profession. Each of State B Code and State C Code provides that PC 1 and PC 2, respectively, may engage in Profession only through one or more Professionals. Accordingly, the PCs, through their Professional employees, conduct the aspects of their respective businesses that constitute engagement in Profession.

Under both State B Code and State C Code, the shares of corporations engaged in Profession generally may only be issued to, held by, or transferred to Professionals. Shareholder 1 owns legal title to all the issued and outstanding shares of PC 1. Shareholder 1 is a Professional and is authorized to engage in Profession in State B. Shareholder 1 is an at-will employee of PC 1 and has a consulting agreement with Sub that may be terminated by Sub at any time. Shareholder 2 owns legal title to all the issued and outstanding shares in PC 2. Shareholder 2 is a Professional and is authorized to engage in Profession in State C. Shareholder 2 is an at-will employee of PC 2 and has a consulting agreement with Sub that may be terminated by Sub at any time.

Sub and PC 1 will execute the First Support Services Agreement. Under the terms of the First Support Services Agreement, Sub will perform all administrative and support services on behalf of PC 1 in exchange for an administrative fee and the potential for an annual bonus. Sub also will manage substantially all operations of PC 1 to the extent that such management does not constitute engagement in Profession. PC 1 must provide Sub with advance written notice, and consult with Sub in good faith during such notice period, prior to taking any of the following actions: (i) declaring or paying any dividends or making any other distributions, in cash or in kind, to any shareholder of PC 1; (ii) entering into any discussions or making any decisions regarding any merger, consolidation, purchase, sale or transfer of assets valued in the aggregate at five percent or more of PC 1’s net worth, partial or complete liquidation or dissolution, or change in the nature of PC 1’s business; (iii) filing for bankruptcy or similar protection from creditors; (iv) selecting or dismissing any of PC 1’s executive officers or any member or members of PC 1’s board of directors; (v) making any loan to an affiliated

entity other than in the ordinary course of business; or (vi) any other action for which the approval of PC 1's board of directors is required under applicable State B law.

Sub, PC 1, and Shareholder 1 also will execute the First Stock Transfer Restriction Agreement (together with the First Support Services Agreement, the "PC 1 Agreements"). Pursuant to the provisions of the First Stock Transfer Restriction Agreement, Shareholder 1 generally may not sell, assign, transfer, gift, donate, pledge, hypothecate, encumber, cause PC 1 to issue shares to others, or otherwise dispose of, whether voluntarily, involuntarily, by operation of law or otherwise, any stock of PC 1 without consent of Sub. Pursuant to the First Stock Transfer Restriction Agreement, shares of PC 1 are deemed to be transferred from Shareholder 1 to a designated transferee without further action by Shareholder 1 upon the occurrence of certain events, including the death or permanent disability of Shareholder 1, the professional disqualification of Shareholder 1, or Shareholder 1 ceasing to be an employee or consultant of Sub or any of its affiliates. Any designated transferee will be a Professional permitted under State B Code to directly hold the stock of PC 1.

Pursuant to the bylaws of PC 1, the shares of PC 1 are certificated. The stock certificate of PC 1 provides that the shares of PC 1 are subject to the First Stock Transfer Restriction Agreement, and no transfer of the shares will be valid or effective until the terms and conditions of the First Stock Transfer Restriction Agreement are met.

DRE 2 and PC 2 will execute the Second Support Services Agreement. Under the terms of the Second Support Services Agreement, DRE 2 will perform all administrative and support services on behalf of PC 2 in exchange for an administrative fee and the potential for an annual bonus. DRE 2 also will manage substantially all operations of PC 2 to the extent that such management does not constitute engagement in Profession. PC 2 must provide DRE 2 with advance written notice, and consult with DRE 2 in good faith during such notice period, prior to taking any of the following actions: (i) declaring or paying any dividends or making any other distributions, in cash or in kind, to any shareholder of PC 2; (ii) entering into any discussions or making any decisions regarding any merger, consolidation, purchase, sale or transfer of assets valued in the aggregate at five percent or more of PC 2's net worth, partial or complete liquidation or dissolution, or change in the nature of PC 2's business; (iii) filing for bankruptcy or similar protection from creditors; (iv) selecting or dismissing any of PC 2's executive officers or any member or members of PC 2's board of directors; (v) making any loan to an affiliated entity other than in the ordinary course of business; or (vi) any other action for which the approval of PC 2's board of directors is required under applicable State C law.

DRE 1, PC 2, and Shareholder 2 will execute the Second Stock Transfer Restriction Agreement (together with the Second Support Services Agreement, the "PC 2 Agreements"). Pursuant to the provisions of the Second Stock Transfer Restriction Agreement, Shareholder 2 generally may not sell, transfer, assign or otherwise dispose of, or pledge, mortgage, hypothecate or otherwise encumber, or permit or suffer any

encumbrance, any shares of PC 2 without consent of DRE 1. Pursuant to the Second Stock Transfer Restriction Agreement, shares of PC 2 are automatically transferred from Shareholder 2 to a designated transferee without further action by Shareholder 2 upon the occurrence of certain events, including the death or permanent disability of Shareholder 2, the professional disqualification of Shareholder 2, or Shareholder 2 ceasing to be an employee or consultant of DRE 1, Sub, or any of their affiliates. Any designated transferee will be a Professional permitted under State C Code to directly hold the stock of PC 2.

The shares of PC 2 are not certificated. However, the Second Stock Transfer Restriction Agreement provides that any certificate representing shares of PC 2 will contain a notice of restrictions evidencing that the shares are subject to the Second Stock Transfer Restriction Agreement and no transfer of the shares will be valid or effective until the terms and conditions of the Second Stock Transfer Restriction Agreement are met.

The First and Second Support Services Agreements require the PCs to consult with Sub or DRE 2, respectively, before having any discussions or making any decisions regarding the complete or partial liquidation of the PCs. If Sub or DRE 2 does not agree to the liquidation of PC 1 or PC 2, respectively, Sub may excise its right (or DRE 2 may request Sub exercise its right) to terminate the at-will consulting agreement with the respective Shareholder and trigger an immediate substitution of that Shareholder under the First or Second Stock Transfer Restriction Agreement. In the event Sub or DRE 2 decides to terminate PC 1's or PC 2's existence, respectively, any liquidation proceeds would flow first to Sub or DRE 2 to satisfy all unpaid administrative fees and annual bonuses from the relevant Support Services Agreement and any additional funds would be distributed to any other creditors. Moreover, Sub and DRE 2 may utilize the consultation requirement in the Support Services Agreements to direct any remaining distributions or proceeds of the liquidation after such creditors are satisfied.

REPRESENTATIONS

Parent makes the following representations:

- (a) Since Parent acquired Sub, neither PC 1 nor PC 2 have declared or paid any dividends, or made other distributions, to any shareholder.
- (b) PC 1 and PC 2 do not intend to declare or pay any dividends, or make any other distributions, to any shareholder in their capacity as such.
- (c) In the event shares of PC 1 or PC 2 are transferred to a designated transferee pursuant to the First or Second Stock Transfer Restriction Agreement, such designated transferee will be required to execute a new version of the First or Second Stock Transfer Restriction Agreement having terms substantially similar to the existing agreements.

- (d) The legal arrangements created by the PC 1 Agreements are valid and legally enforceable under State B law.
- (e) The legal arrangements created by the PC 2 Agreements are valid and legally enforceable under State C law.
- (f) Applicable State B law does not prohibit the beneficial ownership of stock in PC 1 by Sub.
- (g) Applicable State C law does not prohibit the beneficial ownership of stock in PC 2 by DRE 1 or DRE 2.
- (h) Neither PC 1 nor PC 2 is: (i) a corporation exempt from taxation under section 501 of the Code; (ii) an insurance company subject to taxation under section 801 of the Code; (iii) a foreign corporation; (iv) a regulated investment company; (v) a real estate investment trust; (vi) a domestic international sales corporation under section 992 of the Code; or (vii) an S corporation.
- (i) Neither PC 1 nor PC 2 has previously joined in the filing of a consolidated return with Parent.

RULINGS

Based on the facts and information submitted and the representations made, we rule as follows:

- (1) Upon execution of the PC 1 Agreements, PC 1 will become a member of the Parent Group (within the meaning of section 1504(a)(1) of the Code) and must join in the filing of a consolidated federal income tax return (within the meaning of sections 1501 and 1502 of the Code and the regulations thereunder) with the Parent Group. Section 1504(a); Rev. Rul. 84-79, 1984-1 C.B. 190.
- (2) Upon execution of the PC 2 Agreements, PC 2 will become a member of the Parent Group (within the meaning of section 1504(a)(1) of the Code) and must join in the filing of a consolidated federal income tax return (within the meaning of sections 1501 and 1502 of the Code and the regulations thereunder) with the Parent Group. Section 1504(a); Rev. Rul. 84-79, 1984-1 C.B. 190.

CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the arrangements 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 arrangements that are not specifically addressed by this letter. Furthermore, no

opinion is expressed concerning the treatment of any arrangements in taxable years for which income tax returns have already been filed.

PROCEDURAL STATEMENTS

This ruling letter 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 ruling letter must be attached to any federal 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 (PLR-115324-23) of this ruling letter.

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,

Jonathan R. Neuville

Jonathan R. Neuville
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel (Corporate)

cc: