

PLR-100271-25 2

Date A =

Date B =

Date C =

Business A =

Business B =

Business C =

Acquiring Common Stock =

Merger Agreement =

Purpose A =

Business C Divestiture =

Divestiture Payment =

Employee Incentive Payments =

Target Restricted Stock Unit Settlement =

a =

b =

Dear :

This letter responds to your letter dated December 20, 2024, requesting rulings on certain Federal income tax consequences of a proposed transaction (defined below). The material information submitted in that letter and in subsequent correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by penalties of perjury statements executed by appropriate party. This office has not verified any of the materials 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. 2024-1, 2024-1 I.R.B. 1, and Rev. Proc. 2024-3, 2024-1 I.R.B. 143. This office expresses no opinion as to any issue not specifically addressed by the rulings below.

Facts

Acquiring is a widely-held public company that is the common parent of an affiliated group of corporations that join in filing a consolidated federal income tax return (the "Acquiring Group"). The Acquiring Group is engaged in Business A. Acquiring does not own, directly or indirectly, any stock of Target.

Target is a widely-held public company that is the common parent of an affiliated group of corporations, including Sub 1, that join in filing a consolidated federal income tax return (the "Target Group"). The Target Group is engaged in Business B and Business C. The Target Group's largest customer is the Acquiring Group, which was responsible for approximately a% of Target's Year 1 net revenue. Third Party and its subsidiaries (together, the "Third Party Group") are Target's second largest customer and accounted for approximately b% of the Target Group's Year 1 net revenue. Target made its most recent cash dividend distribution to its shareholders on Date B and has not declared cash distributions on Target stock since such time. Target has an authorized share repurchase program, but last repurchased its shares pursuant to such program on Date C. Date B and Date C predate the discussions between Acquiring and Target regarding the Proposed Transaction.

In Year 2, Target and Acquiring discussed, negotiated, and entered into the Merger Agreement that provides for consummation of the Proposed Transaction.

Both in Year 1, preceding the Proposed Transaction, and in Year 2, after discussions of the Proposed Transaction had begun, Acquiring made various cash advances to Sub 1 to enable the Target Group to continue delivering products to the Acquiring Group, to satisfy the Target Group's obligations, and to continue the Target Group's operations. Sub 1 (and other members of Target Group) may receive additional cash advances prior to the closing of the Proposed Transaction (together the "Cash Advances"). The Cash Advances may only be used to fund ordinary business operations. Proceeds from the Cash Advances have not been, and will not be, used by the Target Group to fund distributions, redemptions, or any other payments with respect to Target shareholders (other than in their capacity as employees).

Under the terms of the Merger Agreement, Target is required to use reasonable best efforts to make the Business C Divestiture, including the Divestiture Payment. To the extent that the Target Group does not have sufficient cash to fund the Divestiture Payment, the Merger Agreement requires Acquiring to make a payment to the Target Group in the amount of Target's cash shortfall (the "Cash Shortfall"). The Cash Shortfall payment, if any, must be used by the Target Group to fund the Divestiture Payment.

In addition to the Business C Divestiture, Target and its direct and indirect subsidiaries are permitted under the Merger Agreement to divest segments of Business B that are

identified in the Merger Agreement, which will be sold separately, if at all, to either the Third Party Group or another purchaser (the “Other Potential Divestitures”).

Target will complete the Target Restricted Stock Unit Settlement.

Pursuant to the Proposed Transaction, Target may pay certain Target employees the Employee Incentive Payments if conditions for the payments are met.

Proposed Transaction

For what have been represented as valid business purposes, including Purpose A, the taxpayer has proposed the following steps, some of which have been completed (collectively, the “Proposed Transaction”):

1. Acquiring formed Merger Sub on Date A.
2. Merger Sub will merge with and into Target in accordance with State A law, with Target surviving. Target will acquire the assets and liabilities (if any) of Merger Sub. By operation of State A law, all of the Target stock held by Target shareholders will be cancelled, the Target shareholders will receive Acquiring Common Stock, and the stock of Merger Sub held by Acquiring will convert into all the outstanding stock in Target. Fractional shares of Acquiring Common Stock (“Fractional Shares”) will not be issued; instead, cash will be paid to Target shareholders in lieu of Fractional Shares.

Representations

1. All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to the Proposed Transaction for which the letter rulings are requested have been fully disclosed.
2. The fair market value of the Acquiring Common Stock (and cash in lieu of Fractional Shares) received by each Target shareholder will be approximately equal to the fair market value of the Target stock surrendered by each such Target shareholder in the Proposed Transaction.
3. Immediately prior to the Proposed Transaction, the fair market value of the assets of Target will exceed the sum of its liabilities plus (without duplication) the liabilities, if any, to which the assets are subject. Immediately prior to the Proposed Transaction, the fair market value of the assets of Acquiring will exceed the sum of its liabilities plus (without duplication) the amount of liabilities, if any, to which such assets are subject.
4. No party to the Proposed Transaction will have been a U.S. real property holding corporation (as defined in section 897(c)(2)) at any time during the five-year period preceding the Proposed Transaction, and no party to the Proposed

Transaction will be a U.S. real property holding corporation immediately after the Proposed Transaction.

5. No party to the Proposed Transaction will have any outstanding, or will issue any, shares of preferred stock as defined in section 351(g).
6. The Proposed Transaction will be undertaken pursuant to a plan of reorganization, as described in Treasury Regulation §§1.368-1(c) and 1.368-2(g), that was adopted by the taxpayer and each of its affiliates as necessary, before the Proposed Transaction.
7. Immediately after the Proposed Transaction, Acquiring will be in control of Target within the meaning of section 368(c).
8. Target has no plan or intention to issue additional shares or redeem shares of its stock that will result in Acquiring losing control of Target within the meaning of section 368(c).
9. Target has no outstanding warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire any Target stock.
10. Acquiring or a person bearing a relationship to Acquiring specified in section 267(b) or 707(b)(1) neither owns, directly or indirectly, nor has owned during the past two years, directly or indirectly, any stock of Target.
11. Acquiring will acquire Target stock solely in exchange for Acquiring Common Stock. For purposes of this representation, Target stock redeemed for cash or other property furnished by Acquiring (or a person bearing a relationship to Acquiring specified in section 267(b) or 707(b)(1)) will be considered acquired by Acquiring.
12. No liabilities of Target shareholders will be assumed by Acquiring, nor will any of the Target stock be subject to any liabilities. Acquiring has not and will not reimburse, directly or indirectly, any expenses or liabilities of Target shareholders.
13. Except as relates to Acquiring's Cash Advances and Acquiring's payment of the Cash Shortfall, if any, no liabilities of Target will be assumed, within the meaning of section 357(d), by Acquiring (or any related person bearing a relationship to Acquiring specified in section 267(b) or 707(b)(1)) in connection with the Proposed Transaction.
14. Acquiring has no plan or intention to reacquire any of its stock issued in the Proposed Transaction.
15. Except for the cash paid in lieu of Acquiring issuing Fractional Shares and stock acquired in the Proposed Transaction, neither Acquiring nor any person bearing

- a relationship to Acquiring specified in section 267(b) or 707(b)(1) has acquired or will acquire any stock of Target in connection with the Proposed Transaction.
16. Following the Proposed Transaction, Target will continue to be engaged in Business B, which is a significant historic business of Target. There is no plan or intention for Target to cease being involved in Business B.
 17. At the time the Proposed Transaction is undertaken, there will be no plan or intent by Acquiring or Target to liquidate Target, to merge Target into another company, to have Acquiring sell or otherwise dispose of Target stock, to have Target cease to be a separate corporate entity for Federal income tax purposes, or to sell or otherwise dispose of Target's stock or Target's assets (other than (i) the Other Potential Divestitures, (ii) transactions with regard to Target's assets undertaken in the normal course of business, or (iii) transfers permitted in accordance with section 368(a)(2)(C) or Treasury Regulation section 1.368-2(k)).
 18. Except as relates to Acquiring's Cash Advances and Acquiring's payment of the Cash Shortfall, if any, Target will pay its own expenses, if any, incurred in connection with the Proposed Transaction. Acquiring and Merger Sub will pay their respective expenses, if any, incurred in connection with the Proposed Transaction.
 19. Neither Target nor Acquiring has paid, nor will either Target or Acquiring pay, directly or indirectly, any expenses incurred by any Target shareholder in connection with or in contemplation of the Proposed Transaction. To the best of both Target's and Acquiring's knowledge, each Target shareholder has paid and will pay its own expenses, if any, incurred in connection with the Proposed Transaction.
 20. The Proposed Transaction is being effected for the non-Federal income tax business purpose of Purpose A.
 21. Target is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
 22. Neither Target nor Acquiring is an investment company as defined in section 368(a)(2)(F)(iii) and (iv).
 23. The payment of cash in lieu of Fractional Shares of Acquiring Common Stock is solely for the purpose of avoiding the expense and inconvenience to Acquiring of issuing a Fractional Share and does not represent separately bargained-for consideration. The total cash consideration that will be paid in the Proposed Transaction to the Target shareholders in lieu of issuing Fractional Shares of Acquiring Common Stock will not exceed one percent of the total consideration that will be received by the Target shareholders in exchange for their shares of Target stock. The Fractional Share interests of each Target shareholder will be

aggregated, and no Target shareholder will receive cash in an amount equal to or greater than the value of one full share of Acquiring Common Stock, with the possible exception of Target shareholders whose holdings are in multiple accounts or with multiple brokers.

24. None of the compensation received by any shareholder-employees of Target will be separate consideration for, or allocable to, any of their Target stock; none of the shares of Acquiring Common Stock received by any shareholder-employees will be separate consideration for, or allocable to, any employment agreement; and the compensation paid to any shareholder-employees will be for services actually rendered and will be commensurate with amounts paid to third parties bargaining at arm's-length for similar services.
25. Under State A law, none of the Target shareholders will have dissenter's rights with respect to the Proposed Transaction.
26. Merger Sub has been formed solely to effect the Proposed Transaction, has not conducted and will not conduct any business or activities other than the issuance of its stock to Acquiring prior to the Proposed Transaction, and has not owned any assets since its formation (other than assets with nominal value contributed upon formation of Merger Sub). Merger Sub will have no liabilities assumed by Target and will not transfer to Target any assets subject to liabilities in the Proposed Transaction.

Rulings

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

1. The Proposed Transaction will be a reorganization within the meaning of section 368(a)(1)(B). Acquiring and Target will each be a "party to the reorganization" within the meaning of section 368(b).
2. No gain or loss will be recognized by Acquiring in the Proposed Transaction. Section 1032(a).
3. Acquiring's basis in the Target stock received will be equal to the basis of the Target shareholders in such stock immediately prior to the transfer, as provided by section 362(b).
4. Acquiring's holding period in the Target stock received in the Proposed Transaction will include the holding period of the Target shareholders from whom the Target stock was received. Section 1223(2).

5. Except as relates to the receipt of cash in lieu of the Fractional Shares, no gain or loss will be recognized by the Target shareholders upon receipt of Acquiring Common Stock in exchange for their Target stock in the Proposed Transaction. Section 354(a); *cf.* Rev. Rul. 73-54, 1973-1 C.B. 187.
6. For each Target shareholder, the basis in the Acquiring Common Stock (including Fractional Shares) received will be equal to the basis of the Target stock surrendered by such shareholder in exchange therefor. Section 358(a)(1).
7. For each Target shareholder, the holding period for the Acquiring Common Stock (including Fractional Shares) received will include the period during which such shareholder held the Target stock exchanged therefor, provided that such Target stock is held as a capital asset in the hands of such Target shareholder on the date of the exchange. Section 1223(1).
8. A Target shareholder who receives cash in lieu of receiving a Fractional Share will be viewed as (i) receiving the Fractional Share, and then (ii) transferring the Fractional Share back to Acquiring in exchange for cash. The cash payment will be treated as having been received as a distribution in redemption of the Fractional Share, subject to the provisions and limitations of section 302 of the Code. Rev. Rul. 66-365, 1966-2 C.B. 116. Gain or loss will be recognized by a Target shareholder on the difference between the Target shareholders' basis in such Fractional Share and the amount of cash received. Section 1001. If the Fractional Share qualifies as a capital asset in the hands of the shareholder, such gain or loss will be a capital gain or loss subject to the provisions and limitations of sections 1221 and 1222.

Caveats

Except as expressly provided herein, we express no opinion concerning the tax consequences of any aspect of any matter or item discussed or referenced in this letter. Moreover, no opinion is expressed about the tax treatment of the transactions or of any other matter under other provisions of the Code or regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction not specifically covered in 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 returns that provides the date on and control number (PLR-100271-25) 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 representative.

Sincerely,

Mark J. Weiss
Chief, Branch 2
Office of Associate Chief Counsel (Corporate)

cc: