

Internal Revenue Service

Number: **200850016**

Release Date: 12/12/2008

Index Number: 355.01-01, 382.00-00

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:2

PLR-129071-08

Date:

August 28, 2008

Legend

Date 4 =

Dear :

This letter responds to your June 26, 2008 request that we supplement our letter rulings dated March 14, 2008 (PLR-141238-07) and April 29, 2008 (PLR-114603-08) (the "Prior Rulings"). The information submitted for consideration is summarized below. Capitalized terms not defined in this letter have the meanings originally assigned to them in the Prior Rulings.

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. In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the proposed transaction: (i) satisfies the business purpose requirement of Treas. Reg. section 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) of the Internal Revenue Code and Treas. Reg. section 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 (see section 355(e) and Treas. Reg. section 1.355-7).

The Prior Rulings address certain U.S. federal income tax consequences of Proposed Transactions under sections 355 and 382 of the Code, and other Code provisions. Except as modified below, the facts and representations set forth in the Prior Rulings remain in effect for purposes of this supplemental ruling letter.

Supplemental Facts

Retention of the Recently Acquired Stock

The Prior Rulings include the statement that “Distributing 1 has held all of its shares of Controlled Common Stock, other than approximately g shares that it purchased from Controlled during the h quarter of Year A, for the five-year period ending on the date of the Proposed Transactions.” Step (ii) of the Proposed Transactions includes the statement that “Distributing 1 will retain the Recently Acquired Stock” and not distribute it in Spin-Off 1.

Distributing and Controlled now believe it is possible that the Recapitalization, the Split-Off, and related transactions will not be completed before Date 4, when the Recently Acquired Stock will have been owned for more than five years.

In order to avoid having to renegotiate the deal, Distributing and Controlled intend to effect the Proposed Transactions in the manner described in the Prior Rulings whether or not the Recapitalization, the Split-Off, and related transactions are completed prior to Date 4. Moreover, Distributing 1 still plans to retain the Recently Acquired Stock and not distribute it in Spin-Off 1.

Payment of Expenses

Step (viii) of the Proposed Transactions states as follows:

Distributing will reimburse up to \$q of transaction expenses incurred by Controlled in connection with the Split-Off and Distributing will also pay or reimburse Controlled for certain deal related expenses. In addition, through the h anniversary of the date of consummating the Split-Off, Distributing will reimburse Controlled, at a fixed rate per holder in excess of an agreed upon number of shareholders, for certain additional costs that Controlled will incur as a result of having to service the increased number of Controlled shareholders.

To date, Controlled has incurred costs and expenses related to the Recapitalization, the Split-Off, and related transactions (the “Controlled Transaction/Deal Expenses”) that are in excess of the \$q previously anticipated for which Distributing will reimburse Controlled. In addition, Distributing and Controlled

expect that there will be additional Controlled Transaction/Deal Expenses for which Distributing will reimburse Controlled.

Supplemental Ruling

Based on the information set forth herein and submitted with the Prior Rulings, we rule as follows:

The adjustments, clarification and timing considerations described in the supplemental facts submitted will have no adverse effect on the rulings contained in the Prior Rulings, which will remain in full force and effect.

Caveat

No opinion is expressed about the tax treatment of the Proposed Transactions 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 Transactions that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding:

- (i) Whether the Distributions satisfy the business purpose requirements of Treas. Reg. §1.355-2(b);
- (ii) Whether the Distributions are used principally as a device for the distribution of the earnings and profits of Distributing, Distributing 2, Distributing 1, or Controlled (see Section 355(a)(1)(B) and Treas. Reg. §1.355-2(d));
- (iii) Whether the Distributions are part of a plan (or series of related transactions) under Section 355(e)(2)(A)(ii); and
- (iv) The federal income tax treatment of Distributing's reimbursement of Controlled for certain transaction related expenses to the extent not covered by the foregoing ruling or Prior 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 representative.

Sincerely,

Gerald B. Fleming
Senior Technician Reviewer, Branch 2
(Corporate)