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Date:

April 21, 1999

Distributing 1 =

Distributing 2 =

Controlled =

Corp 1 =

Corp 2 =

Corp 3 =

Corp 4 =

Corp 5 =

Corp 6 =

Corp 7 =

Corp 8 =

Corp 9 =

Corp 10 =

Corp 11 =

Corp 12 =

Corp 13 =

Corp 14 =

Corp 15 =

Corp 16 =

Corp 17 =

A =

B =

C =

D =

E =

F =

G =

Country H =

Business 1 =

Business 2 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Family X =

Family Y =

a =

b =

c =

d =

e =

<u>f</u>	=	
<u>g</u>	=	
<u>h</u>	=	
<u>i</u>	=	
<u>j</u>	=	
<u>k</u>	=	
<u>l</u>	=	
<u>m</u>	=	
<u>n</u>	=	
<u>o</u>	=	
<u>p</u>	=	
<u>q</u>	=	
<u>r</u>	=	
<u>s</u>	=	_____
<u>t</u>	=	

This letter responds to your December 17, 1998 request for rulings on certain federal income tax consequences of a proposed transaction. The information submitted in that request and in later correspondence is summarized below.

FACTS

Distributing 1, a holding company, wholly owns Distributing 2 (which conducts Business 1) and Corp 1, and Corp 1 owns a percent of the stock of Corp 2. Distributing 2 wholly owns Controlled (which conducts Business 2). Distributing 1 has owned all of its Distributing 2 stock, and Distributing 2 has owned all of its Controlled stock, for more than five years.

Distributing 1's voting common stock is owned by A (b percent) and B (c percent), its nonvoting, nonparticipating, noncumulative preferred stock is owned by Corp 3, and its nonvoting common stock is owned by Corp 4 (d percent), Corp 5 (e percent), Corp 6 (f percent), Corp 7 (g percent), and Corp 8 (h percent).

In addition to holding Distributing 1 stock, Corp 3 has substantial business interests that are unrelated to the operations of Business 1 and Business 2. C owns all the voting common stock of Corp 3. The nonvoting common stock of Corp 3 is owned i percent by Corp 12, j percent by Corp 14, and a percent by Corp 15. Corp 10 and Corp 11 each owns one-half of Corp 12's voting common stock, Corp 13 owns all of Corp 10's and Corp 11's voting common stock, and Corp 13 is owned by C and D. C owns Corp 14. Corp 15 is owned by Corp 6, Corp 8, and Corp 16. Corp 6 and Corp 16 are owned by E, and Corp 8 is owned by E and his children, F (E's brother) and his children and grandchildren, Corp 6, and Corp 7. Corp 7 is owned by E and his wife and several trusts established for the benefit of their children.

Corp 4's nonvoting common stock is owned equally by Corp 10 and Corp 11, and its voting common stock is owned k percent by Corp 9 and l percent by each of Corp 10 and Corp 11. Corp 9's voting preferred stock is owned by Distributing 1 (m percent), Corp 5 (n percent), and Corp 4 (o percent). Corp 9's voting common stock is owned equally by Corp 10 and Corp 11.

Corp 4 owns p percent and B owns the remaining c percent of the voting common stock of Corp 5. Corp 4 also owns all of Corp 5's nonvoting common stock. Corp 12 owns all the nonvoting preferred stock of Corp 5.

All of the above corporations are domestic, except for Corp 3, Corp 10, Corp 11, Corp 12, Corp 13, and Corp 14 (all of which are Country H corporations). C and D are nonresident aliens for U.S. tax purposes. Distributing 1, Distributing 2, and Controlled are members of an affiliated group that files a consolidated U.S. federal income tax return.

On Date 1, Distributing 1 purchased for cash shares of Corp 4's nonvoting preferred stock, and on Date 2, Corp 5, and Corp 17 each purchased for cash shares of Corp 4's nonvoting preferred stock (collectively, the "First Preferred Stock Purchases"). On Date 3, Distributing 1, Corp 5, and Corp 17 each transferred their Corp 4 nonvoting preferred stock to newly formed Corp 9 in exchange for Corp 9 voting preferred stock of equal value. Subsequent to Date 3, Corp 9 and Corp 12 each acquired shares of Corp 4's voting common stock. On Date 4, Distributing 1 purchased for cash additional shares of Corp 9's voting preferred stock (the "Second Preferred Stock Purchase"). On Date 5, Corp 17 distributed to Corp 4, in complete redemption of all of the Corp 17 nonvoting common stock then owned by Corp 4, shares of Corp 9 voting preferred stock currently owned by Corp 4 (the "Redemption").

The proposed transaction, described in greater detail below, involves the split-off of Controlled to B, Corp 4, and Corp 5 in the Second Distribution. Corp 4 will receive q (more than 50) percent of the Controlled stock in the Second Distribution. During the five-year period ending on the date of the proposed transaction, several stock acquisitions have occurred among indirect owners of Distributing 1 stock. One of these occurred on Date 6, when Corp 12 distributed to Corp 10 and Corp 11 all of the Corp 4 stock (i.e., all of Corp 4's nonvoting common stock and l percent each of its voting common stock) and all of the Corp 9 stock (i.e., all of Corp 9's voting common stock) that they presently own (the "Date 6 Stock Distribution"). Section 311(b) of the Internal Revenue Code applied to the Date 6 Stock Distribution, and Corp 10 and Corp 11 received a fair market value basis in the distributed stock under § 301(d). Accordingly, the Date 6 Stock Distribution was a "purchase" under § 355(d)(5)(A). This purchase of Corp 4 and Corp 9 stock resulted in a deemed purchase of Distributing 1 stock by operation of § 355(d)(8). As a result of this deemed purchase, of the q percent of Controlled stock that Corp 4 will receive in the Second Distribution, an amount of Controlled stock representing at least 50 percent of Controlled's outstanding stock will be disqualified stock under § 355(d)(3)(B)(ii), and the Second Distribution will be a disqualified distribution under § 355(d)(2)(B).

Financial information has been received which indicates that Business 1 and Business 2 each has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

B, Corp 4, and Corp 5 (the latter two of which are ultimately controlled by C and D, who together comprise Family X) wish to concentrate on Business 2. A (the son of E and nephew of F), Corp 6, Corp 7, and Corp 8 (the latter three of which are ultimately controlled by E and F and their families, who together with A comprise Family Y) wish to concentrate on Business 1.

PROPOSED TRANSACTION

To allow the Distributing 1 shareholders to concentrate on the business that most interests them, the following transaction has been proposed:

- (i) Distributing 2 will distribute all of the Controlled stock to Distributing 1 (the “First Distribution”).
- (ii) To meet the requirements of §§ 355(b)(1)(A) and (b)(2)(A) and for other business reasons, Distributing 1 will transfer all of the Corp 1 stock to Distributing 2.
- (iii) Distributing 1 will transfer to Controlled all its voting preferred stock in Corp 9, two notes receivable from Corp 4, and cash that Distributing 1 intends to borrow from a commercial lender (collectively, the “Contribution”). The Contribution will be made to equalize the post-transaction values of Distributing 1 and Controlled, and to eliminate Distributing 1’s indirect ownership interest in Controlled.
- (iv) Distributing 1 will distribute its Controlled stock q percent to Corp 4, r percent to Corp 5, and the remainder to B (collectively, the “Distributees”) in exchange for all of the Distributees’ Distributing 1 stock (the “Second Distribution”) (and together with the First Distribution, the “Distributions”).

Following the Second Distribution, the amount of cash contributed to Controlled in the Contribution may be adjusted under a post-closing adjustment provision (the “Adjustment Provision”) contained in the Restructuring Agreement. Any amount of cash Controlled transfers to Distributing 1 under the Adjustment Provision will not exceed the amount of cash Controlled receives in the Contribution.

FIRST DISTRIBUTION REPRESENTATIONS

The following representations have been submitted in support of the First Distribution:

- (a) No part of the consideration distributed by Distributing 2 will be received by Distributing 1 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 2.
- (b) The five years of financial information submitted on behalf of Distributing 2 is representative of its present operation and there have been no substantial operational changes since the date of the last financial statements submitted.
- (c) The five years of financial information submitted on behalf of Controlled is

representative of its present operation and there have been no substantial operational changes since the date of the last financial statements submitted.

(d) Following the Distributions, Distributing 2 and Controlled will each continue the active conduct of its business, independently and with its separate employees, except that G, a member of the board of directors (but not an employee) of Distributing 2, may be hired by Controlled as a consultant. The terms of any such consultancy will be negotiated between G and Controlled on an arm's-length basis.

(e) The First Distribution will enable the shareholders of Distributing 1 to concentrate on the business that most interests them. See § 1.355-2(b)(5), Example (2), of the Income Tax Regulations; Rev. Proc. 96-30, Appendix A, § 2.05, 1996-1 C.B. 696, 711. The First Distribution is motivated, in whole or substantial part, by this and other corporate business purposes.

(f) Neither Distributing 2 nor Controlled is an S corporation under § 1361(a), and neither plans or intends to make an S corporation election under § 1362(a) after the First Distribution.

(g) Except for the Second Distribution, there is no plan or intention by Distributing 1 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, Distributing 2 or Controlled after the First Distribution.

(h) There is no plan or intention by either Distributing 2 or Controlled, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the First Distribution.

(i) Immediately after the First Distribution, the gross assets of Business 1 directly conducted by Distributing 2 will have a fair market value equal to at least five percent of the total fair market value of the gross assets of Distributing 2.

(j) Immediately after the First Distribution, the gross assets of Business 2 directly conducted by Controlled will have a fair market value equal to at least five percent of the total fair market value of the gross assets of Controlled.

(k) There is no plan or intention to liquidate either Distributing 2 or Controlled, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the First Distribution, except in the ordinary course of business.

(l) No intercorporate debt will exist between Distributing 2 and Controlled at the time of, or after, the Distributions, except for certain intercompany items created in the ordinary course of business that are consistent with past practice. Such items are not

anticipated to materially exceed \$5, and will be settled as promptly as practicable following the Distributions. Any debt owed by Controlled to Distributing 2 after the Distributions will not constitute stock or securities.

(m) Immediately before the First Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Distributing 2 does not have an excess loss account in its Controlled stock.

(n) There will be no continuing transactions between Distributing 2 and Controlled except as follows: Distributing 2 currently performs certain administrative functions for Controlled, and Controlled reimburses Distributing 2 for the costs and expenses of these functions. Following the Distributions, Distributing 2 will continue to provide these functions to Controlled for a transition period that should not materially exceed six months. Payments made in connection with these transactions between Distributing 2 and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(o) Less than 50 percent of the total combined voting power of all classes of Distributing 1 stock entitled to vote and less than 50 percent of the total value of shares of all classes of Distributing 1 stock will have been acquired by purchase under § 355(d)(5) or (8) during the five-year period ending on the date of the Distributions (determined after applying § 355(d)(6)).

(p) Less than 50 percent of the total combined voting power of all classes of Distributing 1 stock entitled to vote and less than 50 percent of the total value of shares of all classes of Distributing 1 stock (measured after the Second Distribution) will have been acquired by any means during the two-year period ending on the date of the Distributions.

(q) Less than 50 percent of the total combined voting power of all classes of Controlled stock entitled to vote and less than 50 percent of the total value of shares of all classes of Controlled stock (measured after the Second Distribution) will be received by the Distributees in exchange for Distributing 1 stock that will have been acquired by any means during the two-year period ending on the date of the Distributions.

(r) The First Distribution is not part of a plan or series of related transactions (within the meaning of § 355(e)) pursuant to which one or more persons will acquire, directly or indirectly (except for acquisitions described in § 355(e)(3)), stock possessing 50 percent or more of the total combined voting power of all classes of stock of either Distributing 2 or Controlled, or stock possessing 50 percent or more of the total value of

all classes of stock of either Distributing 2 or Controlled.

CONTRIBUTION AND SECOND DISTRIBUTION REPRESENTATIONS

The following representations have been made in support of the Contribution and the Second Distribution:

(s) The fair market value of the Controlled stock and other consideration received by each Distributee will approximately equal the fair market value of the Distributing 1 stock surrendered by that Distributee in the exchange.

(t) No part of the consideration distributed in the Second Distribution will be received by a Distributee as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 1.

(u) The five years of financial information submitted on behalf of Distributing 2 is representative of its present operation and there have been no substantial operational changes since the date of the last financial statements submitted.

(v) The five years of financial information submitted on behalf of Controlled is representative of its present operation and there have been no substantial operational changes since the date of the last financial statements submitted.

(w) Immediately after the Second Distribution, at least 90 percent of the fair market value of the gross assets of Distributing 1 will consist of the stock of Distributing 2, and Distributing 2 will be engaged in the active conduct of a trade or business as defined in § 355(b)(2).

(x) Following the Second Distribution, Distributing 1 (indirectly through its ownership of Distributing 2 stock) and Controlled will each continue the active conduct of its business, independently and with its separate employees, except as described in representation (d) above.

(y) The Second Distribution will enable the shareholders of Distributing 1 to focus on the business that most interests them. See § 1.355-2(b)(5), Example (2); Rev. Proc. 96-30, Appendix A, § 2.05, 1996-1 C.B. 696, 711. The Second Distribution is motivated, in whole or substantial part, by this and other corporate business purposes.

(z) Neither Distributing 1 nor Controlled is an S corporation under § 1361(a), and neither plans or intends to make an S corporation election under § 1362(a) after the Second Distribution.

(aa) There is no plan or intention by the shareholders or security holders of

Distributing 1 to sell, exchange, transfer by gift, or otherwise dispose of any of their stock in, or securities of, either Distributing 1 or Controlled after the Second Distribution.

(bb) There is no plan or intention by either Distributing 1 or Controlled, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the Second Distribution.

(cc) Immediately after the Second Distribution, the gross assets of Business 1 directly conducted by Distributing 2 will have a fair market value equal to at least five percent of the total fair market value of the gross assets of Distributing 2.

(dd) Immediately after the Second Distribution, the gross assets of Business 2 directly conducted by Controlled will have a fair market value equal to at least five percent of the total fair market value of the gross assets of Controlled.

(ee) There is no plan or intention to liquidate either Distributing 1 or Controlled, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Second Distribution, except in the ordinary course of business.

(ff) Controlled will neither assume liabilities nor receive assets subject to liabilities in the Contribution.

(gg) No investment credit determined under § 46 has been or will be claimed with respect to any property transferred in the Contribution.

(hh) It is not anticipated that there will be any intercorporate debt between Distributing 1 and Controlled at the time of, or after, the Second Distribution. However, if any such indebtedness exists, it will have been incurred in the ordinary course of business and any debt owed by Controlled to Distributing 1 will not constitute stock or securities.

(ii) Except as noted in representation (n) above and except for any payment pursuant to the Adjustment Provision, there will be no continuing transactions between Distributing 1 or Distributing 2, on the one hand, and Controlled, on the other, after the Second Distribution.

(jj) Immediately before the Second Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Distributing 1 does not have an excess loss account in its Distributing 2 stock.

(kk) No two parties to the Contribution and Second Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(ll) The Second Distribution is not part of a plan or series of related transactions (within the meaning of § 355(e)) pursuant to which one or more persons will acquire, directly or indirectly (except for acquisitions described in § 355(e)(3)), stock possessing 50 percent or more of the total combined voting power of all classes of stock of either Distributing 1 or Controlled, or stock possessing 50 percent or more of the total value of all classes of stock of either Distributing 1 or Controlled. See also § 355(e)(2)(D).

ADDITIONAL REPRESENTATIONS

The following additional representations have been submitted in support of the requested rulings:

(mm) There is no plan or intention to alter any rights in the stock of Distributing 1, Distributing 2, Controlled, Corp 3, or any other corporation discussed herein before or after the Distributions.

(nn) Corp 3 will not acquire, in any manner, a voting interest in Distributing 1 or Distributing 2 (or their subsidiaries, if any) after the Distributions.

(oo) There is no plan or intention for Distributing 1 to convert its nonvoting preferred stock into any class of voting stock of either Distributing 1, Distributing 2, or any of their subsidiaries either before or after the Distributions.

(pp) There is no plan or intention for Distributing 1 to issue (whether through a sale, recapitalization, stock dividend, conversion of options, securities, or other rights, or in any other fashion) its voting stock to Corp 3 before, after, or as part of the proposed transaction.

(qq) Following the proposed transaction, no member of Family X will participate in any manner in the management or operations of Distributing 1 or Distributing 2.

(rr) The value of the Family X economic interest in Distributing 1, held indirectly through Corp 3's nonvoting preferred stock in Distributing 1 after the Distributions, will be 1 percent of the total value of all outstanding Distributing 1 stock.

(ss) To the best of their knowledge and belief, Distributing 1, Corp 5, and Corp 17 each paid the same amount in the First Preferred Stock Purchases that an unrelated third party would have paid to Corp 4 for the same amount of Corp 4 stock.

(tt) To the best of its knowledge and belief, Distributing 1 paid the same amount

in the Second Preferred Stock Purchase that an unrelated third party would have paid to Corp 9 for the same amount of Corp 9 stock.

(uu) To the best of their knowledge and belief, the amount that an unrelated third party would have paid for the Corp 9 stock received by Corp 4 from Corp 17 in the Redemption was equal to the amount that an unrelated third party would have paid for the Corp 17 stock redeemed from Corp 4 in the Redemption.

FIRST DISTRIBUTION RULINGS

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

(1) No gain or loss will be recognized by Distributing 2 on the First Distribution (§ 355(c)(1); Rev. Rul. 62-138, 1962-2 C.B. 95; Rev. Rul. 98-27, 1998-22 I.R.B. 4).

(2) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing 1 on its receipt of Controlled stock in the First Distribution (§ 355(a); Rev. Rul. 62-138, 1962-2 C.B. 95; Rev. Rul. 98-27, 1998-22 I.R.B. 4).

(3) The holding period of the Controlled stock received by Distributing 1 in the First Distribution will include the period during which the Distributing 2 stock was held by Distributing 1, provided that Distributing 1 holds the Distributing 2 stock as a capital asset on the date of the First Distribution (§ 1223(1)).

(4) As provided in § 312(h), proper allocation of earnings and profits between Distributing 2 and Controlled will be made under § 1.312-10(b).

CONTRIBUTION AND SECOND DISTRIBUTION RULINGS

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

(5) The Contribution, followed by the Second Distribution, will be a reorganization under § 368(a)(1)(D). Distributing 1 and Controlled will each be "a party to a reorganization" under § 368(b).

(6) No gain or loss will be recognized by Distributing 1 on the Contribution (§§ 361(a) and 357(a)).

(7) No gain or loss will be recognized by Controlled on the Contribution (§ 1032(a)).

(8) The basis of each asset received by Controlled in the Contribution will equal the basis of that asset in the hands of Distributing 1 immediately before its transfer (§ 362(b)).

(9) The holding period of each asset received by Controlled in the Contribution will include the period during which Distributing 1 held that asset (§ 1223(2)).

(10) Distributing will recognize gain (but not loss) on the Second Distribution as if it had sold the Controlled stock to the Distributees at its fair market value (§§ 355(d)(1) and 361(c)(2)).

(11) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) the Distributees on their receipt of Controlled stock in exchange for Distributing 1 stock in the Second Distribution (§ 355(a)).

(12) The basis of the Controlled stock received by each of the Distributees in the Second Distribution will equal the basis of the Distributing 1 stock that each surrenders in exchange therefor (§ 358(a)(1)).

(13) The holding period of the Controlled stock received by each of the Distributees will include the holding period of the Distributing 1 stock that each surrenders in exchange therefor, provided that each Distributee holds the Distributing 1 stock as a capital asset on the date of the Second Distribution (§ 1223(1)).

(14) As provided in § 312(h), proper allocation of earnings and profits between Distributing 1 and Controlled will be made under § 1.312-10(a).

CAVEATS

We express no opinion about the tax treatment of the proposed transaction 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 proposed transaction that are not specifically covered by the above rulings. In particular, we express no opinion concerning: (1) the transfer described in step (ii) above, (2) the tax treatment of the First Preferred Stock Purchases, Second Preferred Stock Purchase, and the Redemption, (3) the allocation or amount of stock bases under any provision of the Code, except as described in ruling (12) above, and (4) the tax treatment of any payments made under the Adjustment Provision.

Temporary or final regulations pertaining to one or more issues addressed in this ruling letter (including regulations under § 358(g)) have not yet been adopted. Therefore, this ruling letter may be revoked or modified if adopted temporary or final regulations are inconsistent with any conclusions reached herein. See section 12.04 of Rev. Proc. 99-1, 1999-1 I.R.B. 6, 47, which addresses, in greater detail, when a ruling

will be revoked or modified. However, when the criteria in section 12.05 of Rev. Proc. 99-1 are satisfied, a ruling is not revoked or modified retroactively, except in rare or unusual circumstances.

PROCEDURAL MATTERS

This ruling letter has no effect on any earlier document and is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Each taxpayer involved in the proposed transaction should attach a copy of this letter to the taxpayer's federal income tax return for the taxable year in which the proposed transaction is completed.

Under a power of attorney on file in this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

Assistant Chief Counsel (Corporate)

By: Robert T. Hawkes

Robert T. Hawkes
Assistant to the Chief
Branch 4