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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

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Refer Reply To:

CC:CORP:3

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Date:

September 15, 2022

Legend

Parent =

Holdco =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Foundation =

a =

b =

Business A =

Field =

State Y =

State Y Act =

State Y Code =

Committee =

Organization =

State Regulator =

Dear _____ :

This letter responds to a letter dated March 11, 2022, and subsequent information, submitted by your authorized representatives, requesting rulings on the federal income tax consequences of certain parts of a series of transactions. The material information submitted in that request and subsequent correspondence is summarized 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 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 § 6.03(2) of Rev. Proc. 2022-1, 2022-1 I.R.B. 1, regarding one or more significant issues under sections 351 and 368 of the Internal Revenue Code (the “Code”) and the application of sections 833 and 1502. This office expresses no opinion as to any issue not specifically addressed by the rulings below.

Facts

Parent is organized as a non-profit, non-stock, non-member corporation pursuant to the State Y Act and is licensed as a Business A corporation pursuant to the State Y Code. Parent is governed by a board of directors (the “Parent Board”) with general corporate authority to elect and terminate officers, make key decisions as to corporate matters, and otherwise perform the fundamental governance role of the board of directors of a for-profit, stock corporation. The Parent Board is self-perpetuating (that is, members of the Parent Board elect their successors). The current bylaws of Parent provide for a Parent Board of a directors recommended by the Committee of the Parent Board and selected by the existing Parent Board. The Parent Board is made up of community and national leaders who are recognized experts in their respective fields and who are committed to monitoring the effectiveness of policy and decision-making, both at the Parent Board and management levels. The Parent Board must be comprised of at least a majority basis of “public” and “independent” directors. Under Parent’s articles of incorporation, in the event of the dissolution or liquidation of Parent, any proceeds thereof will be distributed in the manner required by the laws of State Y, or in the absence of such requirement, to Foundation or another tax-exempt entity.

Parent is an Organization subject to tax under sections 501(m) and 833. Parent is also the common parent of an affiliated group of corporations (the “Parent Group”) that join in the filing of a consolidated federal income tax return. Parent wholly owns all the stock in Sub 1, Sub 2, and Sub 3, and all the membership interests in Sub 4, a limited liability company taxable as a corporation for federal tax purposes. Sub 4 wholly owns all the stock in Sub 5, Sub 6, Sub 7, and Sub 8. Parent and certain of its subsidiaries are regulated by the State Regulator.

In addition, Parent controls Foundation, an affiliated private foundation organized as a non-profit corporation that operates for the interest of the general public and focuses on promoting Field-related research, education, and engagement activities. Foundation's bylaws provide that Parent is entitled to appoint a simple majority of Foundation's board of directors, with the remainder of the directors self-appointed by the Foundation's board of directors.

Restructuring

Parent desires to simplify and streamline its entity organizational structure by "unstacking" certain of its operating subsidiaries (the "Restructuring"). A key aim of the Restructuring is to simplify and streamline Parent's structure for purposes of the State Regulator's review and oversight by making Parent's structure more transparent in terms of capitalization, intercompany transactions, and financial reporting. The Restructuring is also the first step towards the implementation of Parent's modernization goal for its organizational structure pursuant to which Parent would like to evolve into a broader Field company under a holding company structure with subsidiary chains (or "verticals") organized on the basis of business line/function and with regulated entities in separate verticals from non-regulated entities. In furtherance of the Restructuring, the following steps have been implemented or will be implemented.

- (i) Holdco was newly organized outside of the Parent Group as a State Y non-profit, non-stock, non-member corporation and is intended, after the Restructuring, to serve as a pure holding company for Parent and its direct and indirect subsidiaries as well as future (as yet to be formed) subsidiaries. Holdco will be governed by a board of directors (the "Holdco Board") with authority to perform the functions typically performed by a board of directors of a for-profit, stock corporation. Holdco's organizational documents provide for a self-perpetuating board of directors that must be comprised of at least a majority basis "independent" and "public" directors. Immediately following the consummation of the Restructuring, the members of the Holdco Board will be comprised of the same members as the Parent Board immediately prior to the consummation of the Restructuring. Holdco's organizational documents also provide that Holdco may not pay any dividends and any proceeds of any dissolution or liquidation of Holdco will be distributed in the manner required by the laws of State Y, or in the absence of such requirement, to Foundation or another tax-exempt entity.
- (ii) Parent will amend and restate its articles of incorporation to recapitalize Parent as a membership non-profit corporation as allowed by the State Y Act with the governance and liquidating distribution provisions of Parent's articles of incorporation revised to reflect a single Parent membership interest (the "Membership Interest") as permitted by the State Y Act. The Membership Interest will provide its holder with: (a) the sole right to elect, retain, and/or dismiss members of the Parent Board; (b) control of dissolution/capital transaction decisions and amendments to Parent's articles of incorporation

and bylaws; and (c) all rights to any dissolution or sale proceeds of Parent, as long as the holder is a State Y non-profit corporation. If no such holder of the Membership Interest exists, any dissolution or sale proceeds go first to Foundation, and if the Foundation does not still exist, to another tax-exempt corporation.

- (iii) Parent will amend and restate its bylaws to reflect the creation of the Membership Interest.
- (iv) Holdco will be admitted as the sole member of Parent in accordance with Parent's adoption of its amended and restated bylaws and the terms included therein for the issuance of the Membership Interest to Holdco.
- (v) Foundation will amend and restate its bylaws to provide that (a) the Chief Executive Officer of Holdco will appoint a simple majority of board members to serve on Foundation's board of directors and (b) the remaining directors of Foundation will be self-selected by Foundation's board of directors.
- (vi) Subject to receipt of any required approval by the State Regulator, Parent will transfer, assign, and convey all the outstanding shares in Sub 1 and Sub 2 to Holdco in accordance with State Y law (the "Distributions").
- (vii) Subject to receipt of any required approval by the State Regulator, Parent will declare and pay a dividend of b in cash on the Membership Interest to Holdco in accordance with State Y law (the "Dividend").

Consummation of the Restructuring is subject to the State Regulator's approval. Although the Restructuring will be implemented largely through formless steps from a state law perspective, the plan of reorganization entered into by and among Parent and Holdco (the "Plan of Reorganization") sets forth a detailed and ordered set of steps that the affected members of the Parent Group intend the Restructuring to consist of for federal income tax, and applicable state and local income tax, purposes. The Plan of Reorganization requires all members of the Parent Group (and their affiliates) to prepare all books, records, and filings in a manner consistent with such intent. Specifically, the Plan of Reorganization provides that the consummation of the Restructuring will be treated to consist of the following sequential steps:

- 1) All the proprietary interests in Parent ("Parent Interests") will be transferred to Holdco in exchange for all the proprietary interests in Holdco ("Holdco Interests") in an exchange intended to qualify as a nontaxable exchange under sections 351(a) and 1032(a) (the "Exchange").
- 2) Parent will issue the Membership Interest to Holdco in exchange for all the Parent Interests held by Holdco in an exchange intended to qualify as a reorganization as described in section 368(a)(1)(E) (the "Recapitalization").

- 3) Following the Recapitalization and the establishment of the reconstituted Parent Group with Holdco as the common parent, Parent will make the Distributions and the Dividend to Holdco with respect to the Membership Interest.

Representations

The following representations are made with respect to the Restructuring:

- 1) The Restructuring, and each transaction step thereto, will occur under a plan formulated and approved before the Restructuring takes place.
- 2) The Restructuring, and each step thereto, will be implemented for valid business reasons.
- 3) Holdco will not seek to be classified as an organization exempt from federal income tax pursuant to section 501(a) but, instead, will be subject to federal income tax as a holding company for one or more organizations described in sections 501(m) and 833.
- 4) Holdco will receive all rights with respect to the Parent Interests deemed to be transferred in the Exchange.
- 5) Holdco will treat its interests in Parent as stock for all purposes of the Code and the Treasury regulations thereunder.
- 6) Immediately following the Recapitalization, the Membership Interest will provide Holdco with: (i) the sole right to elect, retain, and/or dismiss members of Parent Board; (ii) control of dissolution/capital transaction decisions and amendments to Parent's articles of incorporation and bylaws; and (iii) all rights to any dissolution or sale proceeds of Parent, as long as Holdco is a State Y non-profit corporation.
- 7) Following the Restructuring, and each transaction step thereto, Holdco and its direct and indirect subsidiaries (which will include Parent) will continue to own substantially all the assets and liabilities that were held by Parent and its direct and indirect subsidiaries prior to the Restructuring, and each transaction step thereto.
- 8) As of the date of this letter ruling submission, Parent was an existing Organization under section 833(c)(1)(A).
- 9) For purposes of State Y law, Parent will be the same legal entity both before and after the Restructuring.
- 10) Holdco and Parent expect to remain State Y non-profit corporations and have no current plans to legally change to State Y for-profit corporations.

- 11) Following the Restructuring, and each transaction step thereto, Holdco and its direct and indirect subsidiaries (which will include Parent) will continue to conduct the business operations that Parent and its direct and indirect subsidiaries conducted prior to the Restructuring, and each transaction step thereto.
- 12) The Restructuring will not result in any change to the high-risk coverage offered by members of the Parent Group.
- 13) Post-Restructuring, the members of the Parent Group will continue their business in a substantially unchanged manner, with the same personnel and assets as existed pre-Restructuring, subject to any changes that occur in the ordinary course of business or as a result of the Distributions and the Dividend.
- 14) To the best knowledge and belief of Parent, and assuming a favorable letter ruling is issued, none of Holdco, Parent, any other member of the Parent Group, or any related entity will take into account currently taxable gain, income, deduction, or loss as a result of the Distributions or the Dividend (as described in steps vi and vii, respectively).

Rulings

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

- (1) For purposes of determining the federal income tax consequences of the Restructuring:
 - (a) The Parent Interests, the Holdco Interests, and the Membership Interest will be considered stock of the applicable corporation,
 - (b) The holders (and relative holdings) of the Holdco Interests immediately following the Exchange will be deemed identical to the holders (and relative holdings) of the Parent Interests immediately preceding the Exchange, and
 - (c) Holdco will be deemed the sole owner of the Membership Interest immediately after the Recapitalization.
- (2) The Parent Group will be treated as remaining in existence immediately following the Exchange, with Holdco as the new common parent of the continuing group. *Cf.* Rev. Rul. 82-152, 1982-2 C.B. 205.
- (3) The Restructuring will not represent a “material change” in the “operations” or “structure” of Parent within the meaning of section 833(c)(2)(C).

Caveats

No opinion is expressed about the tax treatment of the Restructuring under other provisions of the Code or regulations or the tax treatment of any conditions at the time

of, or effects resulting from, the Restructuring that are not specifically covered by the above rulings. In particular, this office has not reviewed any information pertaining to, and has made no determinations regarding, the federal income tax treatment of steps (vi) and (vii) of the Restructuring.

Procedural Statements

This ruling is directed only to the taxpayer who requested 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 that provides the date and control number of the letter ruling.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Jonathan R. Neuville
Senior Technician Reviewer, Branch 4
Office of Associate Chief Counsel (Corporate)

cc: