

Internal Revenue Service

Department of the Treasury

Number: **200126012**

Release Date: 6/29/2001

Index Number: 355.01-00
355.03-00

Washington, DC 20224

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PLR-132563-00 CC:CORP:03

Date:

March 27, 2001

Distributing =

Controlled =

Exchange =

Business D =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Item 1 =

Item 2 =

Item 3 =

Item 4 =

d =

e =

f =

g =

i =

k =

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<u>l</u>	=
<u>m</u>	=
<u>n</u>	=
<u>o</u>	=
<u>p</u>	=
<u>q</u>	=
<u>r</u>	=
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<u>t</u>	=
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<u>v</u>	=
<u>w</u>	=

This letter is in reply to a letter dated December 15, 2000, requesting that we supplement our prior ruling letter dated August 2, 2000 (PLR-103080-00), published as PLR-200044017 (the "Prior Letter Ruling"). Additional information was provided in letters dated January 26, 2001, February 12, 2001, February 22, 2001, March 1, 2001, March 16, 2001, and March 20, 2001. Except as noted herein, the capitalized terms, the facts, the description of the Proposed Transaction, and the representations in the Prior Letter Ruling are still valid.

The Prior Letter Ruling states as follows: "Distributing will distribute all of its holdings of Class B common stock of Controlled to the shareholders of Distributing (other than the Specified Shareholders) pro rata in accordance with their relative ownership of Distributing's common stock." In addition, the Prior Letter Ruling states that after the Proposed Transaction (i) the Class A and Class B shares of Controlled will remain outstanding and will be listed on the Exchange, and (ii) the intercorporate debt owed by Controlled to Distributing that is represented by a note (the "Note") will remain outstanding.

As of Date 2, when the most recent payment was made on the Note, the unpaid principal balance of the Note was \$ j. No payments of principal were made on the Note between Date 2 and Date 3, which is the date on which the Note was transferred to

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Controlled and canceled pursuant to the Contribution (as defined in step (i), below). The fair market value of the Note on Date 3 was \$ k.

The Prior Letter Ruling also states that "Distributing needs additional capital to grow its business. Distributing has submitted a letter from an investment banker advising Distributing that its borrowing capacity would be increased if the business of Controlled were spun off to the shareholders of Distributing." However, as a result of the deterioration of the capital markets and based upon further advice of an investment banker, Distributing and Controlled have decided to undertake additional transactions in furtherance of their business purpose that modify the Proposed Transaction or change facts as set forth in the Prior Letter Ruling. These modifications to the Proposed Transaction and other changes in facts are as follows:

- (i) Distributing transferred (or will transfer) to Controlled the Note, in cancellation thereof, and certain assets. Controlled transferred (or will transfer) to Distributing Controlled Class A common stock (the "Class A Stock"), Item 1, Item 2, Item 3, and Item 4. This step (i) is referred to as the "Contribution."
- (ii) The Class B common stock of Controlled, 100% of which is owned by Distributing, will be converted into Class A Stock. After such conversion, Distributing will only own Class A Stock, which will be the only class of Controlled common stock outstanding. It has been represented that such conversion will constitute a reorganization within the meaning of § 368(a)(1)(E). Prior to and after the conversion, Distributing will at all times own an amount of stock in Controlled constituting control (within the meaning of § 368(c)).
- (iii) Distributing will distribute an amount of Class A Stock constituting control (within the meaning of § 368(c) but will temporarily retain less than w% (which is less than 5%) of the shares of Class A Stock after the Proposed Transaction.
- (iv) On Date 4, Controlled issued l shares of convertible preferred voting stock ("Convertible Preferred stock") in exchange for cash. The Convertible Preferred stock has m votes per share and is convertible into m shares of Class A Stock, which represent n% of the vote and o% of the value of Controlled's stock, respectively.
- (v) Prior to the Proposed Transaction, approximately \$p debt will be issued to the public by a special purpose business trust owned by Controlled (the "Controlled Financing") and the proceeds of the debt issuance will be used by Controlled to fund its current and additional capital needs. In connection with the Controlled Financing, Distributing will provide certain credit supports (the "Credit Support").
- (vi) On Date 5, Distributing issued, in exchange for cash, approximately q shares of additional common stock which represents less than r% of the total vote and value of Distributing's stock.

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- (vii) The captioned letters in the Prior Letter Ruling d, e, f and g should be changed to s, t, u and v, respectively.

All of the representations made in connection with the Prior Letter Ruling are affirmed by Distributing and Controlled, except as specifically indicated below.

Representation (a) in the Prior Letter Ruling is modified to read as follows:

No intercorporate debt will exist between Distributing or its affiliates on the one hand and Controlled or its affiliates on the other hand at the time of, or subsequent to, the distribution of Controlled, except for (1) any possible claims under the tax allocation agreement, (2) certain intercompany payables for administrative services performed by Distributing for Controlled on a temporary basis, and (3) intercorporate indebtedness, if any, that may possibly arise from the Credit Support for the Controlled Financing. Any indebtedness owed by Controlled to Distributing after the Proposed Transaction will not constitute stock or securities.

Furthermore, Distributing makes the following additional representations:

- (o) No two parties to the Proposed Transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (p) Distributing will distribute an amount of stock in Controlled constituting control (within the meaning of § 368(c)).
- (q) Distributing will retain Class A Stock after the Proposed Transaction possessing less than w% of the outstanding shares of Controlled stock.
- (r) Pursuant to a contract to be entered into between Distribution and Controlled, as long as Distributing retains any Controlled stock after the Proposed Transaction, none of the employees, officers, or directors of Distributing or any of its subsidiaries will serve as directors or officers of Controlled or any of its subsidiaries.
- (s) Pursuant to a contract to be entered into between Distributing and Controlled, as long as Distributing retains any Controlled stock after the Proposed Transaction, it will vote such stock in proportion to the votes cast by other Controlled shareholders.
- (t) Distributing will dispose of all of the Controlled stock that it retains after the Proposed Transaction as soon as market conditions allow, but in any event no later than five years after the Proposed Transaction.

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Based solely on the information and representations submitted with this request for supplemental rulings and the Prior Letter Ruling, Ruling 1 and Ruling 6 of the Prior Letter Ruling are revoked. Ruling 1 is replaced with the following:

1. The Contribution, followed by the distribution of an amount of Class A Stock constituting control (within the meaning of § 368(c)) to shareholders of Distributing, will qualify as a reorganization within the meaning of § 368(a)(1)(D). Distributing and Controlled will each be a "party to a reorganization" within the meaning of § 368(b).

Ruling 7, Ruling 8, and Ruling 9 are to be renumbered as Ruling 6, Ruling 7, and Ruling 8, respectively. We also hold further as follows:

9. Gain, if any, will be recognized by Distributing upon the Contribution in an amount not in excess of the sum of (i) the fair market value of Item 1 and (ii) the fair market value of all or any part of Item 2, Item 3, or Item 4 that is treated as a transfer of property to Distributing pursuant to the reorganization (§ 361(b)(1)). No loss will be recognized by Distributing (§ 361(b)(2)).
10. No gain or loss will be recognized by Controlled on the transfer of Class A Stock to Distributing in the Contribution (§ 1032(a)).
11. The basis of each asset received by Controlled will equal the basis of that asset in the hands of Distributing immediately before the transfer, increased by the amount of gain, if any, recognized by Distributing upon the Contribution (§ 362(b)).
12. The holding period of each asset received by Controlled will include the period during which such asset was held by Distributing (§ 1223(2)).
13. Section 355(a)(3)(B) will not treat as "other property" the Class A Stock received by Distributing in the Contribution. See, e.g., Rev. Rul. 78-442, 1978-2 C.B. 143.
14. The retention by Distributing of Class A Stock possessing less than w% of the outstanding Controlled stock, as described above, will not be treated as in pursuance of a plan having as one of its principal purposes the avoidance of Federal income tax within the meaning of § 355(a)(1)(D)(ii).
15. Except as otherwise provided in the Code, gain, if any, will be recognized by Controlled on the transfer of Item 1, and on all or any part of Item 2, Item 3, or Item 4 that is treated as a transfer of property to Distributing pursuant to the reorganization to the extent that the fair market value of such items exceeds the tax bases of such items (§1001(a)).
16. The basis, in the hands of Distributing, of Item 1 and of all or any part of Item 2

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or Item 3 that is treated as a transfer of property to Distributing pursuant to the reorganization will equal the fair market value of such items on the date of the exchange (§ 358(a)(2)).

17. No gain or loss will be recognized by Distributing upon the distribution of the Controlled Class A Stock to shareholders of Distributing in the Proposed Transaction (§ 361(c)).

Except as provided above, no opinion is expressed regarding the tax treatment of Item 2, Item 3, or Item 4, including whether any of these items, or any part of these items, are treated as transfers of property to Distributing pursuant to the § 368(a)(1)(D) reorganization. Furthermore, no opinion is expressed regarding (1) the treatment of the Note under § 1.1502-13(g), (2) the tax treatment of the Credit Support in step (v), above, (3) whether the conversion of the Controlled Class B common stock to Class A Stock in step (ii), above, constitutes a reorganization within the meaning of § 368(a)(1)(E), and (4) the tax treatment of the equity transactions in steps (iv) and (vi), above.

Finally, we express no opinion about the federal income tax treatment of this transaction under other provisions of the Code and regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the transaction that are not specifically covered by the above rulings.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Each affected taxpayer must attach a copy of this letter to the taxpayer's federal income tax return for the tax year in which the transaction covered by this ruling letter is consummated.

We have sent a copy of this letter to your authorized representatives pursuant to the powers of attorney on file in this office.

Sincerely yours,

Associate Chief Counsel (Corporate)

By: Michael J. Wilder
Assistant to the Branch Chief, Branch 3