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Department of the Treasury

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Person to Contact:

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Date:

March 24, 2000

Legend

Distributing =

Controlled =

Corporation 1 =

Subsidiary 1 =

Subsidiary 2 =

Subsidiary 3 =

Subsidiary 4 =

Subsidiary 5 =

Subsidiary 6 =

Subsidiary 7 =

Subsidiary 8 =

Subsidiary 9 =

Subsidiary 10 =

Subsidiary 11 =

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Subsidiary 12 =

Subsidiary 13 =

Subsidiary 14 =

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Subsidiary 29 =

Subsidiary 30 =

Subsidiary 31 =

Subsidiary 32 =

Subsidiary 33 =

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Subsidiary 34

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Subsidiary 35

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Subsidiary 36

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LLC 1

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LLC 2

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LLC 3

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LLC 4

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LLC 5

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LLC 6

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Partnership 1

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Partnership 2

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Partnership 3

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Division 1

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Division 2

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Mutual Funds

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Business 1

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Business 2

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Business 3

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Business 4

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Date A

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Date B

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Date C =

Date D =

Date E =

State A =

State B =

State C =

State D =

Country A =

Country B =

Country C =

Country D =

Country E =

Country F =

Country G =

Country H =

Products =

P =

X =

Y =

Q =

R =

S =

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T	=
U	=
V	=
J	=
K	=
L	=
M	=

Dear :

We respond to your letter dated July 19, 1999, in which you requested rulings as to the federal income tax consequences of a proposed transaction. Additional information was provided in letters dated October 15, October 26, November 4, November 23, November 29, December 15, and December 20, 1999, and January 5, January 31, February 15, and March 14, 2000. Specifically, you requested rulings under § 355 of the Internal Revenue Code. The information you submitted is summarized below.

Distributing is a publicly traded corporation organized under the laws of State A, and the successor to Corporation 1, also a State A corporation incorporated in 1970. Corporation 1 merged with and into Distributing on Date A in a reorganization described in § 368(a)(1)(A) (the "Merger"). Thereafter, on Date B, Distributing changed its name to its current name. Distributing is a calendar year, accrual method taxpayer that has been indirectly engaged, as the common parent of an affiliated group of domestic and foreign corporations (the "Distributing Group"), in four separate lines of businesses (Business 1, Business 2, Business 3, and Business 4) within the oil and gas industry since 1980 by providing products and services used in the exploration and production of oil and natural gas. As of Date C, the issued and outstanding stock of Distributing consists of one class of common stock in the amount of M shares. Mutual Funds are 5% shareholders of Distributing.

Controlled is a wholly owned subsidiary of Distributing that was organized under the laws of State A on Date D. Controlled has been directly engaged in Business 1 since its inception.

Subsidiary 1 is a wholly owned subsidiary of Distributing organized under the

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laws of State A that is directly engaged in Business 2.

Subsidiary 2 is a wholly owned subsidiary of Subsidiary 1 organized under the laws of State A that is directly engaged in Business 2.

Subsidiary 3 is a wholly owned subsidiary of Subsidiary 2 organized under the laws of State A that is directly engaged in Business 2.

Subsidiary 4 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 2.

Subsidiary 5 is a wholly owned subsidiary of Subsidiary 1 organized under the laws of State A that is directly engaged in Business 4.

Subsidiary 6 is a wholly owned subsidiary of Subsidiary 2 organized under the laws of Country A that is engaged directly in Business 2.

Subsidiary 7 is a wholly owned subsidiary of Distributing organized under the laws of Country B that is directly engaged in Business 2.

Subsidiary 8 is a wholly owned subsidiary of Distributing organized under the laws of Country B that is directly engaged in Business 2.

Subsidiary 9 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 2.

Subsidiary 10 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 2.

Subsidiary 11 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 2.

Subsidiary 12 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 2.

Subsidiary 13 is a wholly owned subsidiary of Subsidiary 1 organized under the laws of State C that is directly engaged in Business 2.

Subsidiary 14 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 3.

Subsidiary 15 is a wholly owned subsidiary of Distributing organized under the laws of State B that is directly engaged in Business 3.

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Subsidiary 16 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 2. Subsidiary 16 owns L shares of Distributing common stock.

Subsidiary 17 is a wholly owned subsidiary of Subsidiary 4 organized under the laws of Country G that is directly engaged in Business 2.

Subsidiary 18 is a wholly owned subsidiary of Subsidiary 17 organized under the laws of Country G that is directly engaged in Business 1.

Subsidiary 19 is a wholly owned subsidiary of Subsidiary 18 organized under the laws of Country G that is directly engaged in Business 2.

Subsidiary 20 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 1.

Subsidiary 21 is a wholly owned subsidiary of Distributing organized under the laws of Country C that is directly engaged in Business 1.

Subsidiary 22 is owned X% by Distributing and Y% by Controlled and is organized under the laws of Country D and is directly engaged in Business 1.

Subsidiary 23 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 1.

Subsidiary 24 is a wholly owned subsidiary of Distributing organized under the laws of State C that is directly engaged in Business 1.

Subsidiary 25 is a Country D corporation directly engaged in Business 1 of which Distributing owns X% and Controlled owns Y%.

Subsidiary 26 is a wholly owned subsidiary of Distributing organized under the laws of State A that is directly engaged in Business 1.

Subsidiary 27 is a Country E corporation directly engaged in Business 1 of which Distributing owns Y%.

Subsidiary 28 is a wholly owned subsidiary of Subsidiary 14 organized under the laws of Country H that is directly engaged in Business 3.

Subsidiary 29 is a Country F corporation directly engaged in Business 2 and Business 3 of which Distributing, Subsidiary 4, and Subsidiary 14 own Q%, R%, and S%, respectively.

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Partnership 1 is a State D limited partnership directly engaged in Business 2 of which Subsidiary 2 owns X% and Subsidiary 3 owns Y%. Partnership 1 is an association taxable as a corporation for federal income tax purposes.

The Merger was undertaken to expand the product and service offerings of Distributing and Corporation 1 in connection with the expansion and development of additional phases of the oil and gas production process (horizontal expansion) and provide a broader geographic distribution outlet for many of Distributing's product lines at a time when the oil and gas industry was experiencing increased profits and demands that placed both corporations at near full utilization. In particular, Distributing and Corporation 1 expected many synergies, including those resulting from the integration of Distributing's Business 1 with Corporation 1's Business 2. In the Merger, Distributing issued P% of its common stock to the shareholders of Corporation 1. Thereafter, Distributing made additional acquisitions where it issued additional shares of its common stock. The total amount of Distributing shares issued in the Merger and the additional acquisitions exceed 50% of Distributing's shares outstanding immediately before the Merger.

Shortly after the Merger, the worldwide price of oil materially declined resulting in an approximate 50% fall in the worldwide rig count. The decline in oil price resulted in a substantial reduction in drilling and production activity which caused the industry's revenues and operating income to fall dramatically (the "Oil Crisis").

As a result of the Oil Crisis, the oil industry has implemented large scale restructurings in order to reduce costs, improve efficiencies and become more competitive in light of an expected permanent change in market conditions. The need to restructure has manifested itself through mergers and acquisitions which focus on providing products and services by an alternative means. In particular, Distributing has responded to the Oil Crisis by expanding and changing Business 2, Business 3 and Business 4 by providing a more specialized and complete array of products and services for one or several phases of the oil and gas exploration and production process (vertical expansion) and move away from its post-Merger horizontal structure which it can only do by making additional acquisitions. Distributing has also changed its Business 1 by acquiring businesses involved in the manufacture of raw materials so that it can provide its manufactured products at a lower price.

The necessary acquisitions require substantial amounts of capital which Distributing must expend in order to remain competitive. However, the management of Distributing is unwilling to make any capital expenditures with respect to Business 1 because Business 1 is a capital intensive business whose expected returns on investments are less than Distributing's expected returns from its other businesses. Additionally, further long-term investments in Business 1 is inconsistent with Distributing's need to focus on its other businesses in light of the market conditions that now exist. Accordingly, Distributing's Business 1 subsidiaries intend to raise their own

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capital through a proposed debt offering. However, investment bankers have advised Distributing that its Business 1 subsidiaries would have a greater access to capital if its Business 1 subsidiaries made the debt offering not as subsidiaries of Distributing but as a separate group. Consequently, Distributing proposes to move all of its Business 1 subsidiaries except Controlled under Controlled and distribute all of the stock of Controlled on a pro-rata basis to its shareholders.

In order to effectuate the spin-off of Controlled, Distributing will restructure its Business 2, Business 3, and Business 4 subsidiaries as well as its Business 1 subsidiaries which will allow Distributing and Controlled to meet the active trade or business requirement of § 355 (collectively, the entire transaction will be referred to as the "Proposed Transaction"). Distributing will move its Business 1 subsidiaries under Controlled in steps 29-36 of the Proposed Transaction (collectively, steps 29-36 will be referred to as the "Contribution") and distribute Controlled to its shareholders in step 51 of the Proposed Transaction (step 51 will be referred to as the "Distribution"). The Proposed Transaction will be completed as follows:

- (1) Subsidiary 2 will liquidate and distribute all of its assets (including a 1% general partner interest in Partnership 1) to Subsidiary 1.
- (2) Subsidiary 1 will liquidate and distribute all of its assets to Distributing.
- (3) Distributing will form LLC 5 under the laws of State A, and LLC 5 as a single-member entity, will elect, pursuant to § 301.7701-3, to be disregarded as an entity separate from its owner.
- (4) Distributing will contribute to LLC 5 the 1% general partner interest in Partnership 1 which Distributing acquired in the liquidation of Subsidiary 1.
- (5) Distributing will contribute to Subsidiary 3 all of Distributing's interest in LLC 5 and all of the assets which Distributing acquired in Step (2) from the liquidation of Subsidiary 1 other than certain intellectual property which Distributing will contribute to Subsidiary 4.
- (6) Distributing will contribute to Subsidiary 4 all of the stock which Distributing owns in Subsidiary 29.
- (7) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 4.
- (8) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 5.
- (9) Distributing will contribute to Subsidiary 3 all of the stock which

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Distributing owns in Subsidiary 6.

- (10) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 7.
- (11) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 8.
- (12) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 9.
- (13) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 10.
- (14) Subsidiary 3 will contribute to Partnership 1 all of the stock which Subsidiary 3 owns in Subsidiary 10 and the assets which Subsidiary 3 acquired from Distributing in Step (5).
- (15) Subsidiary 10 will liquidate and distribute all of its assets to Partnership 1.
- (16) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 11.
- (17) Subsidiary 3 will contribute to Partnership 1 all of the stock which Subsidiary 3 owns in Subsidiary 11.
- (18) Subsidiary 11 will liquidate and distribute all of its assets to Partnership 1.
- (19) Partnership 1, as a single-member entity, will elect, pursuant to 301.7701-3, to be disregarded as an entity separate from its owner. (Distributing believes that as a result of LLC 5's election to be disregarded as an entity separate from its owner in step (3), Partnership 1, although legally owned by Subsidiary 3 and LLC 5, will constitute a single member entity owned by Distributing for federal income tax purposes).
- (19a) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 12.
- (19b) Subsidiary 3 will contribute to LLC 5 1% of the stock which Subsidiary 3 owns in Subsidiary 12.
- (19c) LLC 5 will contribute to Partnership 1 1% of the stock which LLC 5 owns in Subsidiary 12 (Distributing believes that as a result of LLC 5's election to be disregarded as an entity separate from its owner pursuant to step (3)

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and Partnership 1's election to be disregarded as an entity separate from its owner pursuant to step (19), step (19c) will constitute a non event for federal income tax purposes).

- (19d) Subsidiary 3 will contribute to Partnership 1 the remaining 99% of the stock which Subsidiary 3 owns in Subsidiary 12.
- (19e) Subsidiary 12 will liquidate and distribute all of its assets to Partnership 1.
- (20) Distributing will contribute to Subsidiary 3 all of the stock which Distributing owns in Subsidiary 13.
- (21) Distributing will contribute to Subsidiary 14 all of the stock which Distributing owns in Subsidiary 15.
- (22) Distributing will form LLC 1 and LLC 2 under the laws of State A . Each of LLC 1 and LLC 2, as a single-member entity, will elect, pursuant to § 301.7701-3, to be disregarded as an entity separate from its owner.
- (23) Distributing will contribute to LLC 1 and LLC 2, respectively, 99% and 1% of the shares of stock Distributing owns in Subsidiary 16.
- (24) LLC 1 and LLC 2 will form Partnership 3, a State A limited partnership, by contributing their respective shareholdings in Subsidiary 16 to Partnership 3. Partnership 3, will elect, pursuant to § 301.7701-3, to be disregarded as an entity separate from its owners.
- (25) Subsidiary 16 will merge with and into Partnership 3 under the laws of State A.
- (26) Partnership 3 will distribute to LLC 1 and LLC 2 all of the shares of Distributing common stock which Partnership 3 acquired in the merger with Subsidiary 16.
- (27) LLC 1 and LLC 2 will distribute to Distributing all of the shares of Distributing common stock received in Step (26).
- (28) Subsidiary 19 will elect pursuant to § 301.7701-3 to be disregarded as an entity separate from its owner.
- (29) Distributing will contribute to Controlled all of the stock which Distributing owns in Subsidiary 20.
- (30) Distributing will contribute to Controlled all of the stock which Distributing

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owns in Subsidiary 21.

- (31) Distributing will contribute to Controlled all of the stock which Distributing owns in Subsidiary 22.
- (32) Distributing will contribute to Controlled all of the stock which Distributing owns in Subsidiary 23.
- (33) Distributing will contribute to Subsidiary 24 Distributing's 1% share ownership in Subsidiary 25.
- (34) Distributing will contribute to Controlled all of the stock which Distributing owns in Subsidiary 24.
- (35) Distributing will contribute to Controlled all of the stock which Distributing owns in Subsidiary 26.
- (36) Distributing will contribute to Controlled all of the stock which Distributing owns in Subsidiary 27.
- (37) Controlled will purchase the shares of Subsidiary 18 from Subsidiary 17.
- (38) Controlled will form LLC 3 and LLC 4, each as a State A limited liability company, and LLC 3 and LLC 4, as single-member entities, will elect, pursuant to § 301.7701-3, to be disregarded as entities separate from their owner.
- (39) LLC 3 and LLC 4 will form Partnership 2, a State A limited partnership, in which LLC 3 will own a 1% general partner interest and LLC 4 will own a 99% limited partner interest. Partnership 2, as a single-member entity, will elect, pursuant to § 301.7701-3, to be disregarded as an entity separate from its owner. (Distributing believes that as a result of LLC 3's and LLC 4's proposed elections to be disregarded as entities separate from their owner pursuant to Step (38), LLC 3 and LLC 4 will be treated as branches of Controlled, and thus, Partnership 2, although legally owned by LLC 3 and LLC 4 will constitute a single-member entity for federal income tax purposes).
- (40) Controlled will form Subsidiary 30, a State A corporation, by contributing to Subsidiary 30 all of Controlled's intellectual property.
- (41) Controlled (through LLC 3 and LLC 4) will contribute to Partnership 2 all of Controlled's remaining assets, except for the cash required in Steps (42) and (44), and liabilities.

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- (42) Controlled will form Subsidiary 32, a Country H corporation, by contributing cash to Subsidiary 32.
- (43) Subsidiary 32 will use the cash received in Step 42 above to purchase from Subsidiary 28 all of the assets of its Division 2 which are engaged in Business 1.
- (44) Controlled will form Subsidiary 31, a Country F corporation, by contributing cash to Subsidiary 31.
- (45) Subsidiary 31 will use the cash received in Step 44 above to purchase from Subsidiary 29 all of the assets of its Business 1 division which are engaged in the Business 1.
- (46) Distributing will cancel all currently existing inter-company indebtedness owed by Controlled in excess of \$T but less than \$U (the exact amount yet to be determined) as a contribution to capital.
- (47) Concurrent with the distribution, Controlled intends to consummate a public debt offering (the "Debt Offering") pursuant to which Controlled will seek to raise between \$U and \$V.
- (48) Concurrent with the distribution, Controlled will use an amount of the proceeds of the Debt Offering required to repay the remaining inter-company indebtedness owed to Distributing, and, if the required amount is not raised, an interest-bearing promissory note having a principal amount of between \$T and \$U and a term of less than five years will be issued to Distributing for the remaining indebtedness owed to Distributing.
- (49) Controlled will increase the number of shares of Controlled common stock which Controlled is authorized to issue from J to K by amending its certificate of incorporation.
- (50) Controlled, through a stock dividend, will increase the number of issued and outstanding shares of Controlled common stock, all of which are currently held by Distributing, from J to that number required to enable Distributing to effect the distribution in accordance with Step (51).
- (51) Distributing will distribute one share of Controlled common stock to the holder of each share of Distributing common stock outstanding on the record date designated for the distribution.

After the distribution, Distributing's President, Chief Executive Officer and Chairman of the Board will be a director and serve as the Chairman of the Board of

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Directors of Controlled. Additionally, four other directors of Distributing will also be directors of Controlled. One other officer of distributing will serve as a part time officer of Controlled to assist in the transition of Controlled (the "Overlapping Directors"). All of the Overlapping Directors, except the Chairman of the Board, will be outside directors of Controlled. However, the Overlapping Directors must abstain from voting as directors of Distributing and Controlled with respect to matters that involve a material conflict of interest between the companies. In connection with the Distribution, Distributing and Controlled have entered into a transition services agreement for a period of one year and a preferred supplier agreement for a period of three years. Additionally, Distributing and Controlled have entered into a tax allocation agreement by which Distributing and Controlled will allocate their corresponding tax liabilities incurred during the time both corporations filed a consolidated return.

The following representations have been made in connection with the proposed transactions:

- (a) The indebtedness owed by Controlled to Distributing after the Distribution, if any, will not constitute stock or securities.
- (b) No part of the consideration to be distributed by Distributing in the Distribution will be received by a stockholder as a creditor, employee, or in any capacity other than that of a stockholder of Distributing.
- (c) The five years of financial information submitted on behalf of Subsidiary 14 is representative of the corporation's present operation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.
- (d) The five years of financial information submitted on behalf of Partnership 1 is representative of the entity's present operation, and with regard to such entity, there have been no substantial operational changes since the date of the last financial statements submitted.
- (e) The five years of financial information submitted on behalf of Controlled is representative of the corporation's present operation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.
- (f) Immediately after the Distribution, at least 90% of the fair market value of the gross assets of Distributing will consist of the stock and securities of controlled corporations (Subsidiary 3 and Subsidiary 14) that are engaged in the active conduct of a trade or business as defined in § 355(b)(2).

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- (g) Immediately after the Distribution, the gross assets of the business directly conducted by Controlled (as defined in § 355(b)(2)) will have a fair market value of at least 5% of the total fair market value of Controlled's gross assets.
- (h) Immediately after the Distribution, the gross assets of the business directly conducted by Subsidiary 3 (as defined in § 355(b)(2)) will have a fair market value of at least 5% of the total fair market value of Subsidiary 3's gross assets.
- (i) Immediately after the Distribution, the gross assets of the business directly conducted by Subsidiary 14 (as defined in § 355(b)(2)) will have a fair market value of at least 5% of the total fair market value of Subsidiary 14's gross assets.
- (j) Following the Distribution, Distributing (through Subsidiary 3 and Subsidiary 14) and Controlled will each continue the active conduct of its respective business or businesses, independently and with separate employees except as previously stated above.
- (k) The Distribution is to be carried out for the following corporate business purposes: (i) borrowing, and (ii) fit and focus. The Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (l) There is no plan or intention by any shareholder who owns 5 percent or more of the stock of Distributing, and the management of Distributing, to its best knowledge, is not aware of any plan or intention on the part of any stockholder or security holder of Distributing, to sell, exchange, transfer by gift or otherwise dispose of any stock in, or securities of, either Distributing or Controlled after the Distribution.
- (m) There is no plan or intention by Distributing or Controlled, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the Distribution, other than through stock purchases meeting the requirements of Section 4.05(1)(b) of Rev. Proc. 96-30.
- (n) There is no plan or intention to liquidate either Distributing or Controlled, to merge either corporation with any other corporation where the other corporation would be the surviving corporation or where the merger would effect a change in control of Distributing or Controlled, or to sell or otherwise dispose of the assets of either corporation after the Distribution, except in the ordinary course of business.

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- (o) The total adjusted bases and the fair market values of the assets transferred to Controlled by Distributing in the Contribution each equals or exceeds the sum of the liabilities assumed by Controlled plus any liabilities to which the transferred assets are subject.
- (p) The liabilities assumed by Controlled in the Contribution and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (q) The income tax liability for the taxable year in which investment credit property (including any building to which § 47(d) applies) is transferred will be adjusted pursuant to § 50(a)(1) or (a)(2) (or § 47, as in effect before amendment by Public Law 101-508, Title 11, 104 Stat. 1388, 536 (1990), if applicable) to reflect an early disposition of the property.
- (r) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Distribution.
- (s) Immediately before the 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, 1995-32 I.R.B. 6, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Distributing's excess loss account, if any, with respect to the Controlled common stock will be included in income immediately before the Distribution to the extent required by the applicable intercompany transaction regulations (See § 1.1502-19).
- (t) Except possibly for the Distribution arrangement, the preferred supplier agreement, the tax allocation agreement, and the transition services agreement, payments made in connection with all continuing transactions, if any, between Distributing and Controlled, will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (u) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (v) None of the Mutual Funds has any plan or intention to sell, exchange, transfer by gift, or otherwise dispose of any stock in Distributing or Controlled after the Distribution.
- (w) The 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

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will acquire directly or indirectly stock possessing 50% or more of the total combined voting power of all classes of stock of either Distributing or Controlled, or stock possessing 50% or more of the total value of all classes of stock of either Distributing or Controlled.

- (x) Distributing owns all of the issued and outstanding stock of Controlled.
- (y) Neither Distributing, nor Controlled, nor any other member of the Distributing Group has been or will be a United States real property holding corporation ("USRPHC"), as defined in § 897(c)(2), at any time during the 5-year period ending on the date of the Distribution, (other than subsidiary 20 which was but is not now a USRPHC) and neither Distributing nor Controlled will be a USRPHC immediately after the Proposed Transaction.
- (z) Nearly 100 of the direct or indirect subsidiaries in the Distributing Group are controlled foreign corporations ("CFCs") as defined in § 957(a); all of these subsidiaries will continue to be CFCs after the Proposed Transaction.
- (Aa) Subsidiary 33, Subsidiary 34, and Subsidiary 35 are subsidiaries of Distributing that are foreign sales corporations ("FSCs") as defined in § 922, and each will continue to be a FSC after the Proposed Transaction.
- (Bb) Except for Subsidiary 32, the Distributing Group currently holds no interest in a foreign corporation that constitutes a passive foreign investment company ("PFIC") as defined in § 1297.
- (Cc) No United States person who is currently a member of the Distributing Group will transfer intangible property, within the meaning of § 367(d), to a foreign corporation in connection with the Proposed Transaction.
- (Dd) The Distributing Group currently has only two members that are subject to tax under §§ 882 and 884: Division 1 (a division of Subsidiary 29, a Country F company and a CFC), and LLC 6 (a branch of Subsidiary 36, a Country G company and a CFC). Division 1 has been a disregarded entity since its formation.
- (Ee) None of the steps in the Proposed Transaction are subject to §§ 882 and 884.

Based solely on the facts submitted and the representations made above, we hold as follows:

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- (1) Neither the Merger nor the distribution of the Controlled common stock in the Distribution is part of a plan (or series of related transactions) pursuant to which one or more persons acquired or will acquire directly or indirectly stock representing a 50 percent or greater interest in Distributing or Controlled (§ 355(e)(2)).
- (2) The Contribution by Distributing to Controlled followed by the pro rata distribution of the Controlled common stock in the Distribution will be 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).
- (3) No gain or loss will be recognized by Distributing on the Contribution (§§ 361(a) and 357(a)).
- (4) No gain or loss will be recognized by Controlled on the Contribution (§ 1032(a)).
- (5) Controlled’s basis in the assets received from Distributing in the Contribution will equal the basis of such assets in the hands of Distributing immediately prior to the Contribution (§ 362(b)).
- (6) Controlled’s holding period in the assets received from Distributing in the Contribution will include the period during which Distributing held such assets (§ 1223(2)).
- (7) No gain or loss will be recognized by Distributing on the distribution of all of the stock of Controlled to its shareholders (§ 361(c)).
- (8) Distributing will recognize no gain or loss under § 367(e)(1) on its distribution of Controlled common stock in the Distribution. Treas. Reg. § 1.367(e)-1(c).
- (9) The earnings and profits of all CFCs transferred from Distributing to Controlled, to the extent attributable to such stock under § 1.1248-2 or § 1.1248-3 (whichever is applicable) which were accumulated in taxable years of such CFCs beginning after December 31, 1962, during the period Distributing held such foreign corporations (or was considered as holding such stock by application of § 1223) while such corporations were CFCs will be attributable to such stock held by Controlled. Treas. Reg. § 1.1248-1(a).
- (10) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing’s stockholders on their receipt of

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the Controlled common stock in the Distribution (§ 355(a)(1)).

- (11) The aggregate basis of the Controlled common stock and the Distributing common stock in the hands of each Distributing stockholder after the Distribution will equal the aggregate basis of the Distributing common stock held by such stockholder immediately before the Distribution, allocated between the Controlled common stock and the Distributing common stock in proportion to the respective fair market values of each in accordance with § 1.358-2(a)(2) (§ 358(b)(2)).
- (12) The holding period of the Controlled common stock received from Distributing by each Distributing stockholder in the Distribution will include the holding period of the Distributing common stock held by such stockholder immediately before the Distribution, provided that such stockholder held the Distributing common stock as a capital asset on the date of the Distribution (§ 1223(1)).
- (13) As provided in § 312(h), proper allocation of earnings and profits between Distributing and Controlled will be made under § 1.312-10(a).
- (14) Payments made by Distributing to Controlled or by Controlled to Distributing under the Tax Allocation Agreement that (i) have arisen or will arise for a taxable period ending on or before the Distribution or for a taxable period beginning on or before and ending after the Distribution and (ii) will not become fixed and ascertainable until after the Distribution will be treated as occurring immediately before the Distribution.

No opinion is expressed about the tax treatment of the Proposed 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 proposed transaction that are not directly covered by the above rulings. In particular, no opinions have been requested and none are provided about the federal income tax consequences of the various domestic restructuring transactions in the Proposed Transaction under § 332, § 351, or any other Code provision.

Additionally, no opinion is expressed on whether any or all of the above-described foreign corporations are passive foreign investment companies within the meaning of § 1297(a) and any related regulations. If it is determined that any of the above-described foreign corporations are passive foreign investment companies, no opinion is expressed related to the application of §§ 1291 through 1298 to the proposed transactions. In particular, in a transaction in which gain is not recognized, regulations under § 1291(f) may require gain recognition notwithstanding any other provision of the Code.

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Furthermore, no opinions have been requested and none are provided about the federal income tax consequences of the various foreign restructuring transactions involving Distributing Group subsidiaries. In particular, no opinion is expressed about the application of § 304 to any foreign restructuring transaction or the effectiveness of any election under § 301.7701-3. In addition, no opinion is expressed about the application of § 367(a), § 367(b), § 1248, § 954(c), § 954(d), or § 964(e) to any foreign restructuring transaction. In particular, we express no opinion about steps 28, 37, 43, and 45.

The rulings in this letter are based on the facts and representations submitted under penalties of perjury in support of the request. Verification of that information may be required as part of the audit process.

This ruling letter 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 should be attached to the federal income tax returns or the taxpayers involved for the taxable year in which the transaction covered by this ruling letter is consummated.

Sincerely,

Assistant Chief Counsel (Corporate)

By:

Mark S. Jennings
Acting Chief, Branch 1