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December 16, 2005

Legend

Distributing =

Distributing 1 =

Controlled =

Controlled 1 =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

Sub 15 =

Sub 16 =

Sub 17 =

Sub 18 =

Sub 19 =

Sub 20 =

Sub 21 =

Sub 22 =

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Sub 26 =

Sub 27 =

Sub 28 =

Sub 29 =

State A =

Country A =

Country B =

Country C =

Country D =

Country E =

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Country G =

Country H =

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Business X =

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Dear :

This letter responds to your September 22, 2005 request for rulings on certain federal income tax consequences of a series of proposed transactions. The information submitted in that letter and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayers and accompanied by penalty of perjury statements executed by the appropriate parties. 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.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Distribution, the First Internal Distribution, and the Second Internal Distribution (all defined below) (i) satisfy the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations, (ii) are being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both (see § 355(a)(1)(B) of the Internal Revenue Code and § 1.355-2(d)), or (iii) are part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in Distributing or Controlled (see § 355(e) and § 1.355-7).

Summary of Facts

Distributing is a publicly traded corporation and common parent of an affiliated group of corporations that files a consolidated federal income tax return (the "Distributing Group"). Distributing also holds, directly or indirectly, stock of various foreign corporations. Distributing has one class of common stock outstanding, and A, B and C are the only shareholders who own more than five percent of this stock.

Distributing wholly owns Sub 1, and Sub 1 wholly owns Sub 2, Sub 3, Sub 4, Sub 5, Sub 6, Sub 17, and Distributing 1. Sub 1 also owns a% of the stock of Sub 7. Sub 2 wholly owns Sub 8, Sub 18, and Sub 19, and Sub 19 wholly owns Sub 20 (a limited liability company). Sub 8 wholly owns Sub 9, Sub 9 wholly owns Sub 10, and Sub 10 wholly owns Sub 11. Sub 3 wholly owns Controlled and Sub 26, as well as Sub 21, Sub 22, and Sub 23 (all dormant). Sub 26 wholly owns Sub 27. Controlled wholly owns Sub 24 and Sub 25 (dormant). Sub 4 wholly owns Sub 28 and Sub 29. Distributing 1 wholly owns Controlled 1, Sub 12, and an inactive Country A corporation. Sub 5 wholly owns Sub 14, and Sub 14 owns b% of Sub 15. The remaining c% of Sub 15 is held by Distributing due to Country F requirements. Sub 15 owns b% of Sub 16. The remaining c% of Sub 16 is held by Distributing due to Country F requirements. Sub 6 wholly owns Sub 13.

All of the above-described entities are domestic corporations or limited liability companies except for Distributing 1 (Country A), Sub 4 (Country B), Sub 5 (Country C), Sub 7 (Country D), Sub 10 (Country E), Sub 11 (Country A), Controlled 1 (Country A), Sub 12 (Country A), Sub 14 (Country C), Sub 15 (Country F), Sub 16 (Country F), Sub 17 (Country G), Sub 28 (Country H), and Sub 29 (Country H).

Certain loans exist between Distributing or various of its subsidiaries and various subsidiaries of Controlled. Three of these loans will remain outstanding following the proposed transactions and will be restructured under two amended and restated notes ("Note 1" and "Note 2"). These obligations will remain outstanding because resources are not currently available to repay them and refinancing on similar or better terms is not currently obtainable. The first loan will be restructured under Note 1. This loan is in the amount of d and is between Distributing and Sub 5. The second and third loans will be restructured under Note 2. These loans are in the aggregate amount of e and are between Sub 10 and Sub 5. Note 1 and Note 2 will be refinanced with an outside lender within two years of the Distribution. There is no existing intercompany debt directly between Distributing and Controlled nor will any be created in connection with the proposed transactions.

In addition to the above, three existing loans will be repaid or will be transferred so that both the borrower and the lender are within Controlled's group that will conduct Business Y after the Distribution (the "Controlled Group"). Loan 1 is between Sub 1 and Sub 12 in the amount of f. Loan 2 is between Sub 11 and Sub 12 in the amount of f. Loan 3 is between Sub 1 and Sub 4 in the amount of g.

There is also short-term intercompany indebtedness in the nature of intercompany accounts receivable/accounts payable that will be extinguished. Debt 1 is between Distributing 1 and Sub 4 and Sub 5 in the amount of h in the aggregate. Debt 2 is between Sub 11 and Distributing 1 in the amount of i.

The Distributing Group engages in Business X, Business Y, and Business Z. Each of Sub 9 and Controlled 1 directly conduct Business X. As a result of step (xiv) below, Distributing will also be engaged in Business X. Each of Controlled and Sub 12

directly engage in Business Y. Distributing 1, a holding company, will rely on Sub 12's Business Y to satisfy the active trade or business requirement of § 355(b).

Financial information has been submitted indicating that Controlled, Controlled 1, Sub 9, and Sub 12 each have had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

The Proposed Transactions

Distributing wishes to divest itself of Business Y. For what are represented to be valid business reasons, the following steps (collectively, the "Proposed Transactions") have been proposed in order to effectuate the divestiture:

(i) Controlled 1 will distribute j to Distributing 1 as a dividend. Sub 4 and Sub 5 will pay Distributing 1 h in the aggregate in settlement of Debt 1. Distributing 1 will pay i to Sub 11 in settlement of Debt 2, and will contribute k to Sub 12.

(ii) Sub 12 will borrow l from either Sub 5 or an indirect wholly-owned subsidiary of Sub 4. Sub 12 will then pay f to Sub 11 in settlement of Loan 2.

(iii) Sub 17 will be dissolved.

(iv) Sub 1 will contribute the stock of Distributing 1, Sub 4, Sub 5, and Sub 7 to Sub 3. Sub 1 will also contribute Loan 1 and Loan 3 to Sub 3.

(v) Sub 1 will merge into Distributing.

(vi) Sub 21, Sub 22, and Sub 23 will merge into Sub 3.

(vii) Sub 29 will merge into Sub 28.

(viii) Sub 24 and Sub 25 will merge into Controlled.

(ix) Sub 27 and Sub 26 will merge with Sub 27 surviving.

(x) Sub 3 will merge into Controlled.

(xi) Sub 8 will merge into Sub 9.

(xii) Sub 20 will merge into Sub 19.

(xiii) Sub 19 will merge into Sub 18.

(xiv) Sub 9 and Sub 2 will each convert into a limited liability company that will be treated as a disregarded entity for federal income tax purposes.

(xv) Distributing will contribute its c% interests in Sub 15 and Sub 16 to Controlled (the "Contribution").

(xvi) Distributing 1 will distribute the stock of Controlled 1 to Controlled (the “First Internal Distribution”).

(xvii) Controlled will distribute the stock of Controlled 1 to Distributing (the “Second Internal Distribution”). Solely for purposes of the Second Internal Distribution, Controlled will be referred to hereinafter as “Controlled/Distributing 2.”

(xviii) Distributing will contribute the stock of Controlled 1 to Sub 2.

(xix) Sub 2 will contribute the stock of Controlled 1 to Sub 9.

(xx) Sub 9 will contribute the stock of Controlled 1 to Sub 10.

(xxi) Controlled will change its state of incorporation by merging into a newly formed State A corporation.

(xxii) Distributing will distribute the stock of Controlled pro rata to its shareholders (the “Distribution”).

Representations

The following representations have been made with respect to the First Internal Distribution:

(a) Distributing 1, Controlled 1, and the shareholder of Distributing 1 will each pay their respective expenses, if any, incurred in connection with the transaction.

(b) No part of the consideration to be distributed by Distributing 1 will be received by a stockholder as a creditor, employee, or in any capacity other than that of a stockholder of the corporation.

(c) The five years of financial information submitted on behalf of Business X conducted by Controlled 1 represents the present operations of Controlled 1, 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 Business Y conducted by Sub 12 represents the present operations of Sub 12, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

(e) Immediately after the First Internal Distribution, at least 90% of the fair market value of the gross assets of Distributing 1 will consist of the stock and securities of controlled corporations that are engaged in the active conduct of a trade or business as defined in § 355(b)(2).

(f) Following the transaction, Distributing 1 and Controlled 1 will each continue the active conduct of its business, independently and with its separate employees.

(g) The First Internal Distribution is being carried out for the following corporate business purposes: (i) to enable each of Distributing and Controlled to develop a management team whose only focus will be Business X and Business Z, on the one hand, and Business Y, on the other, with a view toward helping each to realize its full potential and facilitating the succession of management upon the retirement of A as Distributing's founder and chief executive; (ii) to enable the creation of equity incentives that will incentivize the management of Distributing and Controlled since the performance of each of Business X and Business Y will directly affect the value of the Distributing stock and the Controlled stock, respectively; and (iii) to enable Business Y to expand its business without the constraints of being affiliated with Business X, including through acquisitions that could be effected using its stock as acquisition currency. The First Internal Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.

(h) The transaction is not being used principally as a device for the distribution of the earnings and profits of Distributing 1 or Controlled 1 or both.

(i) For purposes of § 355(d), immediately after the First Internal Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 1 stock, that was acquired by purchase (as defined in §§ 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the First Internal Distribution.

(j) For purposes of § 355(d), immediately after the First Internal Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 1 stock, that was either (i) acquired by purchase (as defined in §§ 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the First Internal Distribution or (ii) attributable to distributions on Distributing 1 stock or securities that were acquired by purchase (as defined in §§ 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the First Internal Distribution.

(k) Distributing 1 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the transaction.

(l) Payments made in connection with all continuing transactions, if any, between Distributing 1 and Controlled 1, or between Controlled 1 and subsidiaries of Distributing 1, will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(m) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(n) The First Internal Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons, other than current beneficial owners of Distributing 1 and Controlled 1, will acquire, directly or indirectly, stock representing a 50 percent or greater interest (within the meaning of § 355(d)(4) in Distributing 1 or Controlled 1 (including any predecessor or successor of any such corporation).

The following representations have been made with respect to the Second Internal Distribution:

(o) Controlled/Distributing 2, Controlled 1, and the shareholder of Controlled/Distributing 2 will each pay their respective expenses, if any, incurred in connection with the transaction.

(p) No part of the consideration to be distributed by Controlled/Distributing 2 will be received by a stockholder as a creditor, employee, or in any capacity other than that of a stockholder of the corporation.

(q) The five years of financial information submitted on behalf of Business Y conducted by Controlled/Distributing 2 represents the present operations of Controlled/Distributing 2, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

(r) The five years of financial information submitted on behalf of Business X conducted by Controlled 1 represents the present operations of Controlled 1, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

(s) Following the transaction, Controlled/Distributing 2 and Controlled 1 will each continue the active conduct of its business, independently and with its separate employees.

(t) The Second Internal Distribution is being carried out for the following corporate business purposes: (i) to enable each of Distributing and Controlled/Distributing 2 to develop a management team whose only focus will be Business X and Business Z, on the one hand, and Business Y, on the other, with a view toward helping each to realize its full potential and facilitating the succession of management upon the retirement of A as Distributing's founder and chief executive; (ii) to enable the creation of equity incentives that will incentivize the management of Distributing and Controlled/Distributing 2 since the performance of each of Business X and Business Y will directly affect the value of the Distributing common stock and the Controlled/Distributing 2 common stock, respectively; and (iii) to enable Business Y to

expand its business without the constraints of being affiliated with Business X, including through acquisitions that could be effected using its stock as acquisition currency. The Second Internal Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.

(u) The transaction is not used principally as a device for the distribution of the earnings and profits of Controlled/Distributing 2 or Controlled 1 or both.

(v) For purposes of § 355(d), immediately after the Second Internal Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled/Distributing 2 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled/Distributing 2 stock, that was acquired by purchase (as defined in §§ 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Second Internal Distribution.

(w) For purposes of § 355(d), immediately after the Second Internal Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 1 stock, that was either (i) acquired by purchase (as defined in §§ 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Second Internal Distribution or (ii) attributable to distributions on Controlled/Distributing 2 stock or securities that were acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Second Internal Distribution.

(x) Controlled/Distributing 2 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the transaction.

(y) Payments made in connection with all continuing transactions, if any, between Controlled/Distributing 2 and Controlled 1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(z) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(aa) The Second Internal Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons, other than current beneficial owners of Controlled/Distributing 2 and Controlled 1, will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of § 355(d)(4) in Controlled/Distributing 2 or Controlled 1 (including any predecessor or successor of any such corporation).

The following representations have been made with respect to the Contribution and the Distribution:

(bb) Distributing, Controlled, and the shareholders of Distributing will each pay their respective expenses, if any, incurred in connection with the transaction.

(cc) No part of the consideration to be distributed by Distributing will be received by a stockholder as a creditor, employee, or in any capacity other than that of a stockholder of the corporation.

(dd) The Distribution is being carried out for the following corporate business purposes: (i) to enable each of Distributing and Controlled to develop a management team whose only focus will be Business X and Business Z, on the one hand, and Business Y, on the other, with a view toward helping each to realize its full potential and facilitating the succession of management upon the retirement of A as Distributing's founder and chief executive; (ii) to enable the creation of equity incentives that will incentivize the management of Distributing and Controlled since the performance of each of Business X and Business Y will directly affect the value of the Distributing common stock and the Controlled common stock, respectively; and (iii) to enable Business Y to expand its business without the constraints of being affiliated with Business X, including through acquisitions that could be effected using its stock as acquisition currency. The Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.

(ee) The transaction is not being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.

(ff) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the transaction.

(gg) 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, 1995-2 C.B. 147, 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 stock (or the excess loss account that a member may have in the stock of another member that is required to be taken into account by § 1.1502-19) will be included in income immediately before the Distribution to the extent required by regulations (see § 1.1502-19).

(hh) 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.

(ii) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(jj) Taking into account each of the acquisitions of stock of Distributing or Controlled (including any predecessor or successor of any such corporation) that is or

may be part of a plan or series of related transactions (within the meaning of § 1.355-7) that includes the Distribution, stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation) will not be acquired by any person or persons.

(kk) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in § 355(d)(5) and § 355(d)(8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

(ll) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution or (ii) attributable to distributions on Distributing stock or securities that were acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

(mm) Controlled will not be indebted to Distributing after the Distribution, other than indebtedness that may arise due to continuing transactions between the parties after the Distribution. Any such indebtedness will not constitute stock or securities.

(nn) The five years of financial information submitted on behalf of Sub 9 (whose business Distributing will rely on to satisfy the active trade or business requirement of § 355(b)) represents the present operations of this corporation, and with regard to this corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

(oo) The five years of financial information submitted on behalf of Business Y conducted by Controlled represents the present operations of Controlled, and with regard to such corporation, there have been no substantial operational changes made since the date of the last financial statements submitted.

(pp) Following the Distribution, Distributing and Controlled each will continue the active conduct of its business, independently and, except for a brief transition period, with its own separate employees.

(qq) Sub 4, a dual resident of the United States and Country B, has the following certified dual consolidated losses:

<u>FYE</u>	<u>Amount</u>	<u>Certification Period</u>
1/31/2001	\$ <u>m</u>	FYE 1/31/2001-2016

1/31/2002	\$ <u>n</u>	FYE 1/31/2002-2017
1/31/2003	\$ <u>o</u>	FYE 1/31/2003-2018
1/31/2004	\$ <u>p</u>	FYE 1/31/2004-2019

As a result of the Proposed Transaction, these dual consolidated losses will be recaptured and reported as income as provided in § 1.1503-2(g)(2)(vii), unless Distributing and Controlled enter into a closing agreement with the Service (§ 1.1503-2(g)(2)(iv)(B)).

(rr) Neither Distributing nor any other domestic corporation that is involved in the Proposed Transactions has filed a gain recognition agreement pursuant to § 1.367(a)-8 that is currently effective.

(ss) None of the foreign corporations involved in the Proposed Transactions is a passive foreign investment company as defined in § 1297(a).

(tt) The aggregate fair market value of the assets contributed to Controlled in the Contribution will exceed the aggregate adjusted basis of such assets immediately after the Contribution.

(uu) The total fair market value of the assets contributed to Controlled in the Contribution will exceed the sum of (a) the amount of any liabilities assumed (within the meaning of § 357(d)) by Controlled in connection with the exchange, (b) the amount of any liabilities owed to Controlled by Distributing that are discharged or extinguished in connection with the exchange, and (c) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing in connection with the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the exchange.

Rulings

Based solely on the facts submitted and on the representations set forth above, and subject to the caveats set forth below (hereafter, the “Caveats”), we rule as follows regarding the First Internal Distribution:

(1) No gain or loss will be recognized by Distributing 1 upon its distribution of the Controlled 1 stock pursuant to the First Internal Distribution (§ 355(c)).

(2) No gain or loss will be recognized by (and no amount will be included in the income of) Controlled upon its receipt of the Controlled 1 stock in the First Internal Distribution (§ 355(a)(1)).

(3) Controlled’s basis in a share of Distributing 1 common stock (as adjusted under § 1.358-1) shall be allocated between the share of Distributing 1 common stock with respect to which the First Internal Distribution is made and the share or shares of

Controlled 1 common stock (or allocable portions thereof) received with respect to the share of Distributing 1 common stock in proportion to their fair market values. If one share of Controlled 1 common stock is received in respect of more than one share of Distributing 1 common stock, the basis of each share of Distributing 1 common stock must be allocated to the shares of Controlled 1 common stock received in a manner that reflects that, to the greatest extent possible, a share of Controlled 1 common stock received is received with respect to shares of Distributing 1 common stock acquired on the same date and at the same price. If Controlled purchased or acquired shares of Distributing 1 common stock on different dates or at different prices and is not able to identify which particular share of Controlled 1 common stock (or portion thereof) is received with respect to a particular share of Distributing 1 common stock, Controlled may designate which share of Controlled 1 common stock is received with respect to a particular share of Distributing 1 common stock, provided the terms of the designation are consistent with the terms of the distribution.

(4) The holding period of the Controlled 1 stock received by Controlled will include the holding period of the Distributing 1 stock on which the First Internal Distribution will be made, provided such stock is held as a capital asset on the date of the First Internal Distribution (§ 1223(1)).

(5) Earnings and profits will be allocated between Distributing 1 and Controlled 1 in accordance with § 312(h) and § 1.312-10(b).

Based solely on the facts submitted and on the representations set forth above, and subject to the Caveats, we rule as follows regarding the Second Internal Distribution:

(6) No gain or loss will be recognized by Controlled/Distributing 2 on its distribution of the Controlled 1 stock in the Second Internal Distribution (§ 355(c)).

(7) No gain or loss will be recognized by (and no amount will be included in the income of) Distributing upon its receipt of the Controlled 1 stock in the Second Internal Distribution (§ 355(a)(1)).

(8) Distributing's basis in a share of Controlled/Distributing 2 common stock (as adjusted under § 1.358-1) shall be allocated between the share of Controlled/Distributing 2 common stock with respect to which the Second Internal Distribution is made and the share or shares of Controlled 1 common stock (or allocable portions thereof) received with respect to the share of Controlled/Distributing 2 common stock in proportion to their fair market values. If one share of Controlled 1 common stock is received with respect to more than one share of Controlled/Distributing 2 common stock, the basis of each share of Controlled/Distributing 2 common stock must be allocated to the shares of Controlled 1 common stock received in a manner that reflects that, to the greatest extent possible, a share of Controlled 1 common stock received is received with respect to shares of Controlled/Distributing 2 common stock

acquired on the same date and at the same price. If Distributing purchased or acquired shares of Controlled/Distributing 2 common stock on different dates or at different prices and is not able to identify which particular share of Controlled 1 common stock (or portion thereof) is received with respect to a particular share of Controlled/Distributing 2 common stock, Distributing may designate which share of Controlled 1 common stock is received with respect to a particular share of Controlled/Distributing 2 common stock, provided the terms of the designation are consistent with the terms of the distribution.

(9) The holding period of the Controlled 1 stock received by Distributing will include the holding period of the Controlled/Distributing 2 stock on which the Second Internal Distribution will be made, provided such stock is held as a capital asset on the date of the Second Internal Distribution (§ 1223(1)).

(10) Earnings and profits will be allocated between Controlled/Distributing 2 and Controlled 1 in accordance with § 312(h) and § 1.312-10(b).

Based solely on the facts submitted and on the representations set forth above, and subject to the Caveats, we rule as follows regarding the Contribution and the Distribution:

(11) The Contribution, together with the Distribution, will constitute a reorganization under § 368(a)(1)(D). Distributing and Controlled will each be a party to a reorganization under § 368(b).

(12) No gain or loss will be recognized by Distributing on the Contribution (§ 361(a)).

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

(14) The basis of each asset received by Controlled in the Contribution will be the same as the basis of that asset in the hands of Distributing immediately before the Contribution (§ 362(b)).

(15) The holding period of each asset acquired by Controlled in the Contribution will include the period during which the asset was held by Distributing (§ 1223(2)).

(16) No gain or loss will be recognized by Distributing on the Distribution (§ 361(c)(1)).

(17) No gain or loss will be recognized by (and no amount will be included in the income of) the shareholders of Distributing upon receipt of the Controlled stock in the Distribution (§ 355(a)(1)).

(18) Each Distributing shareholder's basis in a share of Distributing common stock (as adjusted under § 1.358-1) shall be allocated between the share of Distributing

common stock with respect to which the Distribution is made and the share or shares of Controlled common stock (or allocable portions thereof) received with respect to the share of Distributing common stock in proportion to their fair market values. If one share of Controlled common stock is received with respect to more than one share of Distributing common stock, the basis of each share of Distributing common stock must be allocated to the shares of Controlled common stock received in a manner that reflects that, to the greatest extent possible, a share of Controlled common stock received is received in respect of shares of Distributing common stock acquired on the same date and at the same price. If a Distributing shareholder that purchased or acquired shares of Distributing common stock on different dates or at different prices is not able to identify which particular share of Controlled common stock (or portion thereof) is received with respect to a particular share of Distributing common stock, the shareholder may designate which share of Controlled common stock is received with respect to a particular share of Distributing common stock, provided the terms of the designation are consistent with the terms of the distribution.

(19) The holding period of the Controlled stock received by the Distributing shareholders will, in each instance, include the holding period of the Distributing stock on which the Distribution will be made, provided such stock is held as a capital asset on the date of the Distribution (§ 1223(1)).

(20) Earnings and profits will be allocated between Distributing and Controlled in accordance with §§ 312(h), 1.312-10(a), and 1.1502-33(e)(3).

Caveats

No opinion is expressed about the tax treatment of the Proposed Transactions under other provisions of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding: (i) whether the First Internal Distribution, the Second Internal Distribution, or the Distribution satisfies the business purpose requirement of § 1.355-2(b); (ii) whether the Proposed Transactions are being used principally as a device for the distribution of earnings and profits of any or all of Distributing, Distributing 1, Controlled, and Controlled 1 (see § 355(a)(1)(B) and § 1.355-2(d)); and (iii) whether the First Internal Distribution, the Second Internal Distribution, or the Distribution are acquisitions that are part of a plan (or series of related transactions) under § 355(e)(2)(A). Additionally, no opinion is expressed or implied as to:

- (i) the application of §§ 1291 through 1298 to the Proposed Transactions,
- (ii) the application of § 1.1502-13(g),
- (iii) the application of §§ 1.367(a)-3, 1.367(a)-8, 1.367(b)-3, 1.367(b)-4, 1.367(b)-5, § 1248(f), § 1503(d), or Notice 87-64, or

(iv) the federal income tax consequences of the transactions described in steps (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xviii), (xix), (xx) or (xxi).

Procedural Statements

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) 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.

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

Sincerely,

Marc A. Countryman

Marc A. Countryman
Senior Technician Reviewer, Branch 4
Associate Chief Counsel (Corporate)

cc: