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Person To Contact:

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Date:
December 30, 2009

Legend:

Parent =

Sub =

Business =

State A =

a =

b =

Dear

This letter responds to your November 16, 2009 request for rulings as to the federal income tax consequences of a proposed transaction. The information provided in that letter and in later correspondence is summarized below.

Facts

Parent is a State A holding company and the common parent of an affiliated group of corporations that files a consolidated federal income tax return. The Parent group consists of Parent and Sub, a State A limited liability company that is treated as a corporation for federal income tax purposes. Parent has issued and outstanding one class of voting common stock, which is closely held.

Sub, which is engaged in Business, has one class of membership interests, a percent of which is held by Parent. The remaining b percent is held by a key employee of Sub. A membership interest in Sub entitles its holder to vote and to receive dividend distributions based upon the holder's ownership interest in Sub. In addition, upon liquidation, assets are to be distributed to members in accordance with their membership interest.

Proposed Transaction

Parent proposes to merge into Sub in a statutory merger under State A law (the "Merger"). Pursuant to the terms of a proposed Joint Agreement and Plan of Merger, the following will occur:

- (1) Parent and Sub will become one entity, which will be Sub. Sub will survive the merger as a State A limited liability company.
- (2) Parent's separate existence will cease.
- (3) Sub will possess all of its and Parent's rights, privileges and franchises.
- (4) All of Parent's property and assets will be transferred to and vested in Sub.
- (5) Sub will be responsible for all of the obligations and liabilities of Parent.

Representations

Taxpayer has made the following representations in connection with the Merger:

- (a) The fair market value of the Sub membership interests received by each Parent shareholder will be approximately equal to the fair market value of the Parent stock surrendered in the exchange.
- (b) There is no plan or intention by Sub or any person related to Sub (as defined in Treas. Reg. §1.368-1(e)(3)) to acquire or redeem any membership interests issued in the transaction, either directly or through any transaction, agreement or other arrangement with any other person.
- (c) Sub has no plan or intention to sell or otherwise dispose of any of Parent's assets acquired in the transaction, except for dispositions made in the ordinary course of business or transfers described in §368(a)(2)(C) of the Code.
- (d) The liabilities of Parent assumed by Sub and the liabilities to which the transferred assets of Parent are subject were incurred by Parent in the ordinary course of its business.
- (e) Following the Merger, Sub will continue its historical business.
- (f) Parent, Sub and the shareholders of Parent will pay their respective expenses, if any, incurred in connection with the transaction.
- (g) There is no intercorporate indebtedness existing between Parent and Sub that was issued, acquired, or will be settled at discount.
- (h) No two parties to the transaction are investment companies as defined in §368(a)(2)(F)(iii) and (iv) of the Code.
- (i) Parent is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of §368(a)(3)(A) of the Code.
- (j) The fair market value of the assets of Parent transferred to Sub will equal or exceed the sum of the liabilities assumed by Sub plus the amount of liabilities, if any, to which the transferred assets are subject, and the fair market value of the assets of Sub will exceed its liabilities immediately after the transaction.

- (k) At least 40 percent of the proprietary interest in Parent will be exchanged for Sub membership interests and will be preserved within the meaning of Treas. Reg. §1.368-1(e).

Rulings

Based solely on the information submitted, we rule as follows:

- (1) Provided the Merger qualifies as a statutory merger in accordance with State A law, the Merger will constitute a reorganization under §368(a)(1)(A). Parent and Sub will each be a “party to a reorganization” within the meaning of §368(b).
- (2) Parent will recognize no gain or loss on the transfer of its assets to Sub in exchange for Sub membership interests and the assumption by Sub of any liabilities of Parent (§§357(a) and 361(a)).
- (3) Sub will recognize no gain or loss on the receipt of Parent assets in exchange for its membership interests and the assumption of Parent’s liabilities, if any (§1032(a)).
- (4) Sub’s basis in the assets received from Parent will equal the basis of such assets in the hands of Parent immediately before the Merger (§362(b)).
- (5) Sub’s holding period in the assets received from Parent will include the period during which such assets were held by Parent (§1223(2)).
- (6) Parent will recognize no gain or loss on the distribution of the Sub membership interests to its shareholders (§361(c)).
- (7) Sub will succeed to and take into account the items of Parent as described in §381(c).
- (8) As provided by §381(c)(2) and §1.381(c)(2)-1, Sub will succeed to and take into account the earnings and profits, or deficits in earnings and profits of Parent as of the close of the date of the Merger.
- (9) A Parent shareholder will recognize no gain or loss on the receipt of Sub membership interest in exchange for Parent stock (§354(a)(1)).

- (10) A Parent shareholder's basis in the Sub membership interest received will equal the basis of the Parent stock surrendered in exchange therefor. (§358(a)(1)).
- (11) A Parent shareholder's holding period of the Sub membership interest received will include the period during which the Parent shareholder held the Parent stock surrendered in exchange therefor, provided that the Parent stock was held as a capital asset on the date of the Merger (§1223(1)).
- (12) Parent will cease to exist as a result of the Merger and, because Sub will not have any subsidiaries at that time, the Parent consolidated group will terminate pursuant to §1.1502-75(d)(1).
- (13) Sub will begin a separate taxable year on the day after the Merger which will be treated as a separate taxable year for federal income tax purposes pursuant to §1.1502-75(d)(1) and §1.1502-76(b)(1).
- (14) Parent will be required to file a consolidated federal income tax return up to and including the day of the Merger (§1.1502-75(d)(1) and §1.1502-76(b)(1)).

Caveats

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 transaction that are not specifically covered by the above rulings.

Procedural Statements

This ruling 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 the taxpayer's federal income tax return for the taxable year in which the transaction is consummated. Alternatively, taxpayers filing

their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter.

Sincerely,

Lewis K Brickates
Chief, Branch 4
Office of Associate Chief Counsel (Corporate)

cc: