

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

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Date:
May 23, 2000

Distributing =
LLC =
Controlled =
Parent =
Sub =
Business B =
Business D =
Activity X =
Activity Y =
Date C =
q =
r =
s =
t =

This letter responds to your March 23, 2000 request for a supplement to our letter ruling dated June 30, 1999 (the "Prior Letter Ruling") (PLR-104542-99/199939040). The legend abbreviations, Summary of Facts, Proposed Transactions, Representations, and Caveats appearing in the Prior Letter Ruling are incorporated by reference.

The ruling contained in this letter is based upon the facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed

by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of this material may be required as part of the audit process.

The Prior Letter Ruling addresses certain federal income tax consequences of a proposed transfer by Distributing of Business B to Controlled for Controlled stock, followed by the distribution (the "Distribution") of Controlled stock pro rata to Distributing's shareholders. Under the proposal, Distributing would continue to own the only membership interest in LLC, an entity intended to be disregarded as separate from Distributing for federal income tax purposes under § 301.7701-3(b)(1)(ii) of the Procedure and Administration Regulations.

Supplemental Facts

Under an agreement signed on Date C (after issuance of the Prior Letter Ruling), the following additional transactions are now proposed:

(i) Distributing will transfer a q percent membership interest in LLC to recently formed Parent in exchange for r percent of the Parent stock. The remaining interests in Parent have been or will be acquired by parties unrelated to Distributing for cash (the "Cash") and other property.

(ii) Parent will transfer the q percent interest in LLC and part of the Cash to wholly owned Sub. Alternatively, Parent may direct Distributing in step (i) to transfer the LLC interest directly to Sub.

(iii) Distributing will sell a q percent membership interest in LLC to Sub for s dollars. Distributing will retain the remaining t percent (greater than 50 percent) interest in LLC.

Distributing will continue to control the operation of Business D through LLC. In this regard, Distributing will have the right to appoint a majority of the LLC Board of Directors (all such appointees being officers of Distributing). Distributing also will have extensive rights and obligations to operate Activity X of Business D. Activity Y of Business D will be performed for LLC by Sub and other subsidiaries of Parent.

Representations

Distributing makes the following representations concerning the transactions described above (collectively, the "Transactions"):

(a) LLC will be a partnership for federal income tax purposes (see § 301.7701-3(b)(1)(i)).

(b) After the Transactions, Distributing's officers will continue to (1) perform

active and substantial management functions regarding LLC's activities, including decision-making on significant business issues (e.g., decisions on significant capital investments, significant financings, and substantial asset dispositions) and (2) participate regularly in the overall supervision, direction, and control of LLC's employees in their performance of LLC's operational functions.

(c) The t percent interest that Distributing retains in LLC will represent, immediately after the Transactions, at least five percent of the fair market value of Distributing's gross assets.

(d) To the best of Distributing's knowledge and belief, the fair market value of the gross assets of LLC immediately after the Transactions will not be greater than 15 percent of the total fair market value of Distributing's gross assets.

(e) Distributing has no plan or intention to dispose of any of its t percent interest in LLC, other than as described above, or to cause LLC to engage in any transaction that would dilute its t percent interest in LLC.

(f) The Distribution is not part of a plan or series of related transactions (within the meaning of § 355(e) of the Internal Revenue Code) pursuant to which one or more persons will acquire, directly or indirectly, stock possessing 50 percent or more of the total combined voting power of all classes of stock of either Distributing or Controlled entitled to vote, or stock possessing 50 percent or more of the total value of all classes of stock of either Distributing or Controlled.

Ruling

Based solely on the information submitted in the original and supplemental requests, we rule that the Transactions will have no adverse effect on the Prior Ruling Letter.

Caveats

No opinion is expressed on the tax treatment of the Transactions under other provisions of the Internal Revenue Code or Income Tax Regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the Transactions that are not specifically covered by the above ruling. **In particular**, no opinion is expressed on (i) the entity characterization of LLC before or after the Transactions, (ii) the extent to which intercompany items must be taken into account under § 1.1502-13 of the Income Tax Regulations on the transfer to Parent of the q percent LLC interest described above in step (i), and (iii) the consequences of the Transactions under § 367(a) (including § 1.367(a)-3(d)(1)(vi) and (a)-8) or any other section of the Code or Regulations applicable to foreign entities or operations.

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.

Each taxpayer involved in the Transactions must attach a copy of this ruling letter to the taxpayer's federal income tax return for the taxable year in which the Transactions are completed.

Under a power of attorney on file in this office, a copy of this ruling letter will be sent to the taxpayer.

Sincerely yours,
Assistant Chief Counsel (Corporate)
By: Wayne T. Murray
Senior Technician/Reviewer
Branch 4