

INTERNAL REVENUE SERVICE

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January 8, 1999

Distributing 2 =

Controlled 2 =

Distributing 1 =

Corporation Y =

Business E =

Business G =

Date a =

b =

c =

d =

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Exchange =

Alternative
Exchange =

This responds to a request dated December 8, 1998, submitted on your behalf by your authorized representative, that we supplement our letter ruling dated March 27, 1998 (PLR-121669-97) (the "Prior Ruling") regarding certain federal income tax consequences of a series of transactions, which included the distribution of all of the outstanding capital stock of the successor to Controlled 2 ("New Controlled 2") by Distributing 2 (1) to holders of its Group B Common Stock in exchange for that stock, and (2) to holders of its Group C Common Stock as a distribution with respect to their Group C Common Stock (the "Distribution"). The Prior Ruling held, *inter alia*, that the Distribution qualified as a tax-free distribution under § 355 of the Internal Revenue Code. Capitalized terms retain the meanings originally assigned to them.

Following the Distribution, Distributing 2 was renamed Corporation Y and the successor to Controlled 2 was renamed Distributing 2.

Corporation Y, through wholly owned subsidiaries, is engaged in Business E and Business G.

By resolution dated Date a, the Board of Directors of Corporation Y authorized the repurchase of up to b million shares (representing approximately c percent) of the capital stock of Corporation Y over a period not to exceed d months. In the Prior Ruling, Corporation Y represented that it had no plan or intention to repurchase shares following the Distribution other than through stock purchases meeting the requirements of § 4.05(1)(b) of Rev. Proc. 96-30, 1996-1 C.B. 696, 705.

At such time as Corporation Y determines to repurchase shares, Corporation Y will engage a broker to act as its agent to repurchase shares in the open market. The broker would execute purchases under guidelines established by Corporation Y. These typically would include price limits (*e.g.*, a price lower than a pre-determined ceiling) and volume limits (*e.g.*, no more than a pre-determined percentage of the trading volume on a particular day). These guidelines would be supplemented by regular contacts (daily or even more frequent) between Corporation Y and the broker to monitor the program and to be responsive to specific conditions in the market.

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All trades executed under this program will be executed on Exchange (or occasionally on Alternative Exchange), be reported on the tape and included in Corporation Y's daily trading volume. The stock specialist will record the trade as a trade between Corporation Y's broker and the broker acting as seller's agent. Corporation Y is not made aware of the identity of the seller.

Alternatively, Corporation Y may receive unsolicited telephone inquiries from brokers other than the one selected as its purchasing agent offering a block of stock at a set price (a "Block Trade"). These brokers will have received a sell order from one of their clients and are attempting to execute it directly with Corporation Y.

Under Securities and Exchange guidelines, Corporation Y is permitted to entertain these unsolicited requests, even if its broker is buying shares on its behalf in the market the same day. If Corporation Y accepts the Block Trade at the offered price (or such other price as may be agreed upon), the trade will be executed on Exchange (or on Alternative Exchange, as the case may be), be reported on the tape and included in Corporation Y's daily trading volume. The stock specialist will record the Block Trade as a trade between the broker soliciting the Block Trade (as Corporation Y's agent) and the same broker (as seller's agent). Corporation Y is not made aware of the identity of the seller.

Section 4.05(1)(b)(iii) of Rev. Proc. 96-30 requires that stock repurchases be made in the open market.

With respect to the proposed stock repurchases, Corporation Y has made the following representation:

Corporation Y will not know the identify of the seller of its stock with respect to any Block Trade in which Corporation Y may participate.

Based on the information submitted and on the representation set forth above, we hold as follows:

Corporation Y's repurchases of capital stock pursuant to a Block Trade will constitute repurchases made in the open market within the meaning of § 4.05(1)(b)(iii) of Rev. Proc. 96-30.

This supplement is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

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Each taxpayer involved in the transaction should attach a copy of this supplement to the taxpayer's federal income tax return for the taxable year in which the transaction is consummated.

Under a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Assistant Chief Counsel (Corporate)

By Victor L. Penico

Victor L. Penico
Chief, Branch 3

Refers to Written Determination Number : 9826030