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Department of the Treasury

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Person to Contact:

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Refer Reply To:

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Date:

January 29, 2001

Legend

Mutual Bank	=
State A	=
State B	=

Dear:

This letter responds to your letter dated August 31, 2000, requesting rulings regarding the federal income tax consequences of a proposed transaction. We received additional information in a letter dated October 12, 2000. The information submitted is summarized below.

Mutual Bank is a federally-chartered insured mutual savings bank engaged in banking and banking related business under the laws of State A. Mutual Bank has no authorized capital stock. Instead, holders of Mutual Bank's deposit accounts have liquidation and voting rights in Mutual Bank.

For what have been represented to be valid business reasons, Mutual Bank's Board of Directors has decided to convert to a mutual holding company structure pursuant to the laws of State B. Accordingly, Mutual Bank proposes the following steps all of which will be undertaken pursuant to a plan and will occur on approximately the same date (Proposed Transaction):

- (1) Mutual Bank will organize an interim federal stock savings bank as a wholly-owned subsidiary ("Interim One").
- (2) Interim One will organize an interim federal stock savings bank as a wholly owned subsidiary ("Interim two").
- (3) Interim One will organize a federal stock corporation as a wholly-owned subsidiary of Interim One.
- (4) Mutual Bank will become Stock Bank by exchanging its charter for a federal stock savings bank charter.
- (5) Interim One will become MHC by canceling its outstanding stock and exchanging its charter for a federal mutual holding company charter, a mutual

institution owned by its members.

(6) Interim Two will merge with and into Stock Bank with Stock Bank surviving, causing Stock Bank to be a wholly-owned subsidiary of MHC.

(7) MHC will transfer all of the outstanding shares of Stock Bank to Stock Holding Company (the "Contribution").

As a result of the transaction, Stock Bank will be a wholly-owned subsidiary of Stock Holding Company, which will be a wholly-owned subsidiary of MHC. MHC will not have authorized capital stock. Rather, mutual ownership interests in MHC will consist solely of liquidation and voting rights. The depositors of Mutual Bank (and, later, Stock Bank) will hold all of the mutual owners' interests in MHC as long as they maintain deposit accounts in Stock Bank.

You propose that steps (4) and (6) be recast in accordance with their substance as follows:

Step (4) to be treated as if Mutual Bank converted to Stock Bank and issued stock in Stock Bank to the former members of Mutual Bank in exchange for their mutual ownership interests in Mutual Bank (the "Conversion").

Step (6) to be treated as if the stock holders of Stock Bank contributed their stock in Stock Bank to MHC in exchange for mutual ownership interests in MHC (the "Exchange").

You further propose that the Conversion be treated as a reorganization described in section 368(a)(1)(F) of the Code, and that the Exchange and Contribution be treated as transfers of property solely in exchange for stock described in section 351(a).

Section 3.01(28) of Rev. Proc. 2000-3, 1997-1 I.R.B. 85, 89, provides that the Internal Revenue Service will not rule on the qualification of a transaction as a reorganization under section 368(a)(1)(F). Additionally, section 3.01(22) of Rev. Proc. 2000-3 provides that the Service will not rule on the application of section 351 to an exchange of stock for stock in the formation of a holding company. Although Rev. Proc. 2000-3 provides a general no-rule policy concerning sections 368(a)(1)(F) and 351, the Service has discretion to rule on significant sub-issues that must be resolved to determine whether a transaction qualifies under either of these sections. The Service will only rule on such sub-issues if they are significant and not clearly and adequately addressed by a statute, regulation, decision of the Supreme Court, tax treaty, revenue ruling, revenue procedure, notice, or other authority published in the Internal Revenue Bulletin.

You have represented that, to the best of your knowledge and belief, and but for the resolution of your requested rulings, the Conversion is a reorganization described in

section 368(a)(1)(F), and the Exchange and Contribution are transfers of property in exchange for stock described in section 351(a).

Based solely on the information submitted and the representations set forth above and provided that step (4) is recast as you propose in the Conversion, we rule as follows:

- (1) The requirement of Treasury Regulations 1.368-1(b) and (e) that there be a continuity of interest on the part of the owners of the enterprise prior to the reorganization is satisfied in the Conversion. Rev. Rul. 80-105, 1980-1 C.B. 78.
- (2) The requirement that there be a continuity of identity shareholder interest on the part of the owners of the enterprise prior to the reorganization is satisfied in the Conversion, notwithstanding the Exchange and the Contribution. Rev. Rul. 96-29, 1996-1 C.B. 50.
- (3) Step (6) will be recast as you propose in the Exchange. Rev. Rul. 67-448, 1967-2 C.B. 144; Rev. Rul. 90-95, 1990-2 C.B. 67.
- (4) The mutual ownership interests in MHC will be treated as stock within the meaning of Code section 351(a). Rev. Rul. 69-3, 1969-1 C.B. 103.

A determination of whether the Conversion qualifies as a reorganization under section 368(a)(1)(F), and whether the Exchange and Contribution are described in section 351(a), will be made by the Director's office upon audit of the federal income tax returns of Mutual Bank, Stock Bank, MHC, and Stock Holding Company.

We express no opinion about the tax treatment of the transaction under any other section of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the transaction that are not specifically covered in the above rulings.

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

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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

Sincerely,
Associate Chief Counsel (Corporate)
By: Mark S. Jennings
Chief, Branch 1