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PLR-132415-04

Date:

December 09, 2004

State A =

State B =

State C =

Country A =

Country B =

Country C =

Date 1 =

#a =

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a% =

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Business 1 =

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Business 2 =

Business 3 =

Business 4 =

Business 5 =  
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Business 6 =

Business 7 =

Business 8 =

Business 9 =

Business 10 =  
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Type A =

X(AA) =

Corp 1 =

Corp 2 =

Corp 3 =

Corp 4 =

Corp 5 =

Corp 6 =

Corp 7 =

Corp 8 =

Corp 9 =

Corp 10 =

Corp 11 =

Corp 12 =

Corp 13 =

Corp 14 =

Corp 15 =

BBBBB =

CCCCC =

Dear

This letter responds to your June 10, 2004 request for rulings regarding certain federal income tax consequences of proposed transactions. The information submitted in that request and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. 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. Corp 1 is the common parent corporation of a consolidated group of corporations within the meaning of Treas. Reg. § 1.1502-1(h) ("the Corp 1 Consolidated Group") filing federal income tax returns on a calendar-year basis. Corp 1's overall method of accounting for maintaining its accounting books and filing its federal income tax returns is the accrual method of accounting. Corp 1 was incorporated under the laws of State A on Date 1. Corp 1 and its subsidiaries are engaged in Business 1.

Corp 2, which is a State B corporation, is a member of the Corp 1 Consolidated Group. All of the common stock of Corp 2 is indirectly wholly owned by Corp 1. Corp 2 is engaged in Business 2.

Corp 3, which is a State B corporation, is a member of the Corp 1 Consolidated Group. Corp 3 is engaged in Business 3. Corp 3 is wholly owned by Corp 2.

Corp 4, which is a State B corporation, is a member of the Corp 1 Consolidated Group. Corp 4 is a holding company for various foreign subsidiaries engaged in Business 4. Corp 4 is wholly owned by Corp 2.

Corp 5, which is a State B corporation, is a member of the Corp 1 Consolidated Group. All the common stock of Corp 5 is owned by Corp 2. Corp 5 also has outstanding #a shares of Series A Preferred Stock, which are held by two indirect foreign subsidiaries of Corp 2. The initial Stated Value of the Series A Preferred Stock was #b per share. Corp 5 is a holding company for various foreign subsidiaries engaged in Business 4.

Corp 6, which is a State B corporation, is a member of the Corp 1 Consolidated Group. Corp 6 was historically engaged in Business 5, though that business is gradually being phased out of existence. Corp 6 also serves as a holding company for various subsidiaries engaged in Business 4. Corp 6 is wholly owned by Corp 2.

Corp 7, which is a State C corporation, is a member of the Corp 1 Consolidated Group. Corp 7 is a holding company for numerous foreign subsidiaries engaged in Business 4. Corp 7 is owned a% by Corp 2, b% by Corp 4, c% by Corp 5 and d% by Corp 6.

Corp 8, which is a State A corporation, is a member of the Corp 1 Consolidated Group. Corp 8 is a holding company for various foreign Business 4 subsidiaries. Corp 8 is a "Type A organization" within the meaning of State A, Type A Law § X(AA), and as such it is subject to supervision and examination by the State A, Type A Department. Corp 8 is wholly owned by Corp 7.

Corp 9, which is a State B corporation, is a member of the Corp 1 Consolidated Group. Corp 9 is a holding company for various foreign Business 4 subsidiaries. Corp 9 is wholly owned by Corp 7.

Corp 10 is a Country A limited liability company wholly owned by Corp 3. Corp 10 is disregarded as an entity separate from Corp 3 for U.S. federal income tax purposes under Treas. Reg. § 301.7701-3(c).

Corp 10 presently serves as a holding company for Country A and non-Country A subsidiaries engaged in Business 6. It is contemplated that Corp 10 may acquire the stock of additional Country A and non-Country A subsidiaries.

Corp 11 is a Country A limited liability company wholly owned by Corp 10. Corp 11 is treated as a corporation for U.S. federal income tax purposes under Treas. Reg. § 301.7701-3(b). Corp 11 is engaged, through its subsidiaries, in Business 6.

Corp 12 is a Country A limited liability company wholly owned by Corp 11. Corp 12 is treated as a corporation for U.S. federal income tax purposes under Treas. Reg. § 301.7701-3(b). Corp 12 is engaged in Business 7.

Corp 13 is a Country A limited liability company wholly owned by Corp 8. Corp 13 is treated as a corporation for U.S. federal income tax purposes under Treas. Reg. § 301.7701-3(b). Corp 13 is involved in Business 8. Corp 13 has branches in Country B and Country C. Because it is a subsidiary of Corp 8, which is subject to supervision and examination by the State A, Type A Department. Corp 13 is subject to certain State A, Type A, regulatory requirements.

Corp 14 is a Country A limited liability company wholly owned by Corp 9. Corp 14 is treated as a corporation for U.S. federal income tax purposes under Treas. Reg. § 301.7701-3(b). Corp 14 is a holding company for the Country A, Business 9 conducted through its subsidiary.

Corp 15 is a Country A limited liability company wholly owned by Corp 14. Corp 15 is treated as a corporation for U.S. federal income tax purposes under Treas. Reg. § 301.7701-3(b). Corp 15 is engaged in Business 10.

#### FACTS RELATED TO THE TRANSACTION

It is anticipated that Corp 10 will have net operating losses for Country A income tax purposes. Under applicable Country A income tax law, any member of a Country A affiliated group that has taxable income may make “group relief payments” to an affiliate with net operating losses. Such “group relief payments” may be made in the form of cash or debt obligations (including debt obligations evidenced by means of book entries), but they may not be made in the form of stock. Under the tax laws of Country A, “group relief payments” to Corp 10 from a Country A Affiliate will have the effect of reducing both the taxable income of the Country A Affiliate and the net operating losses of Corp 10. The result of such “group relief payments” will be to reduce the current aggregate Country A income tax liability of Corp 10 and the Country A Affiliates. Confirmatory rulings as to the Country A tax consequences of the “group relief payments” specified in Contract 1 (Situation 2), in light of that transaction structure, as described below, have been obtained from CCCCC in Country A. The rulings obtained from CCCCC were appealed by the Country A Tax Agency to the Country A BBBBB. The Country A BBBBB upheld the rulings obtained from CCCCC.

Before any of the proposed “group relief payments” are made, three related contracts will be entered into, as described below. First, Corp 10, Corp 11, and Corp 12 will enter into a valid and enforceable written contract (“Contract One”). Contract One will provide that if Corp 11 makes any “group relief payment” to Corp 10, then Corp 10

will immediately make a corresponding capital contribution in an equal amount to Corp 11. (hereinafter referred to as Situation One). In addition, Contract One will provide that if Corp 12 makes any “group relief payment” to Corp 11, then (a) Corp 11 will immediately make a “group relief payment” in an equal amount to Corp 10; (b) Corp 10 will then immediately make a corresponding capital contribution in an equal amount to Corp 11; and (c) Corp 11 will then immediately make a corresponding capital contribution in an equal amount to Corp 12. (hereinafter referred to as Situation Two). Contract One will continue in effect until canceled by mutual consent. Country A subsidiaries subsequently acquired by Corp 10 or Corp 11 may be added as parties to the contract, in which event similar provisions will apply to any “group relief payments” made by those subsequently acquired subsidiaries. Any “group relief payments” and capital contributions pursuant to Contract One will be made solely by means of book entries. Country A legal counsel for taxpayer has opined that Contract One will be valid and fully enforceable under applicable Country A law.

Corp 2, Corp 4, Corp 5, Corp 6, Corp 7, Corp 9, Corp 14 and Corp 15 will enter into a valid and enforceable written contract (“Contract Two”). Contract Two will provide that if Corp 15 makes any “group relief payment” to Corp 10 intended to be made in the form of a debt obligation, then (a) Corp 14 will immediately make a corresponding capital contribution in an equal amount to Corp 15, (b) Corp 9 will immediately make a corresponding capital contribution in an equal amount to Corp 14, (c) Corp 7 will immediately make a corresponding capital contribution in an equal amount to Corp 9, (d) Corp 4, Corp 2, Corp 5, and Corp 6 will immediately make corresponding capital contributions equal to b%, a%, c%, and d%, respectively (and totaling 100%), of such amount to Corp 7, and (e) Corp 2 will immediately make corresponding capital contributions to Corp 4, Corp 5, and Corp 6 equal to the capital contributions described in item (d) (hereinafter referred to as Situation Three). Contract Two will continue in effect until canceled by mutual consent. Country A subsidiaries subsequently acquired by Corp 14 may be added as parties to the contract, in which event similar provisions will apply to any “group relief payments” made by those subsequently acquired subsidiaries. Any “group relief payments” and capital contributions pursuant to Contract Two will be made solely by means of book entries. However, all such book entries will be consolidated and replaced by a single book entry (having the same effect) showing an obligation from Corp 2 to Corp 10, and Corp 2 will promptly pay that obligation in cash. Country A legal counsel for taxpayer has opined that Contract Two will be valid and fully enforceable under applicable Country A law.

Corp 2, Corp 4, Corp 5, Corp 6, Corp 7, Corp 8, and Corp 13 will enter into a valid and enforceable written contract (“Contract Three”). Contract Three will provide that if and when notified by Corp 13 that Corp 13 intends to make a “group relief payment” of a specified amount to Corp 10 intended to be made in the form of a debt obligation, then (a) Corp 2 will make capital contributions to Corp 4, Corp 5, Corp 6, and Corp 7 equal to b%, c%, d%, and a%, respectively, equaling together the amount of the “group relief payment,” (b) Corp 4, Corp 5, and Corp 6 will immediately make a capital contribution to Corp 7 equal to the amount received from Corp 2, (c) Corp 7 will

immediately make a capital contribution to Corp 8 in the amount of the “group relief payment,” (d) Corp 8 will immediately make a capital contribution to Corp 13 in the amount of the “group relief payment,” and (e) Corp 13 will make a “group relief payment” of the specified amount to Corp 10. (hereinafter referred to as Situation Four). The contributions will be made prior to the “group relief payments” under Contract Three in order to assure compliance with State A Type A regulatory requirements. Contract Three will continue in effect until canceled by mutual consent. Country A subsidiaries subsequently acquired by Corp 8 may be added as parties to the contract, in which event similar provisions will apply to any “group relief payments” made by those subsequently acquired subsidiaries. Any “group relief payments” and capital contributions pursuant to Contract Three will be made solely by means of book entries. However, all such book entries will be consolidated and replaced by a single book entry (having the same economic effect) showing an obligation from Corp 2 to Corp 10, and Corp 2 will then promptly pay that obligation in cash. Country A legal counsel has opined that Contract Three will be valid and fully enforceable under applicable Country A law.

Pursuant to Contracts One, Two, and Three, described above, it is proposed that “group relief payments” and corresponding capital contributions will be made in the situations 1, 2, 3 and 4. In situation (1), the proposed transactions will be accomplished in the manner set forth below.

Corp 11 (or another Country A Affiliate directly and wholly owned by Corp 10) will make a “group relief payment” to Corp 10 by establishing a book entry (the “first book entry”) showing an obligation due to Corp 10.<sup>1</sup>

Pursuant to Contract One, Corp 10 will immediately make a capital contribution to Corp 11 (or such other Country A Affiliate) by establishing a book entry (the “second book entry”) showing an equal and offsetting obligation due to Corp 11 (or such other Country A Affiliate).<sup>2</sup>

The first and second book entries will be netted against each other with the result that both will be canceled.<sup>3</sup>

In situation (2), the proposed transactions will be accomplished in the manner set forth below.

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<sup>1</sup> Corp 10 will also establish a corresponding book entry showing an obligation due from Corp 11 (or such other Country A Affiliate).

<sup>2</sup> Corp 11(or such other Country A Affiliate) will also establish a corresponding book entry showing an obligation due from Corp 10.

<sup>3</sup> The corresponding book entries described in nn.1 and 2 supra will also be canceled.

Corp 12 (or another Country A Affiliate directly and wholly owned by Corp 11) will make a “group relief payment” to Corp 11 by establishing a book entry (the “first book entry”) showing an obligation due to Corp 11.<sup>4</sup>

Corp 11 will immediately make a “group relief payment” in an equal amount to Corp 10 by establishing a book entry (the “second book entry”) showing an obligation due to Corp 10.<sup>5</sup>

Pursuant to Contract One, each of the following capital contributions will be made:

(A) Corp 10 will immediately make a capital contribution to Corp 11 by establishing a book entry (the “third book entry”) showing an obligation due to Corp 11 that is equal to and fully offsets the second book entry.<sup>6</sup>

(B) Corp 11 will immediately make a capital contribution to Corp 12 (or such other Country A Affiliate) by establishing a book entry (the “fourth book entry”) showing an obligation due to Corp 12 (or such other Country A Affiliate) that is equal to and fully offsets the first book entry.<sup>7</sup>

The first and fourth book entries will be netted against each other with the result that both will be canceled, and the second and third book entries will be netted against each other with the result that both will be canceled.<sup>8</sup>

In situation (3), the proposed transactions will be accomplished in the manner set forth below.

(i) Corp 15 will make a “group relief payment” to Corp 10 by establishing a book entry showing an obligation to Corp 10.<sup>9</sup>

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<sup>4</sup> Corp 11 will also establish a corresponding book entry showing an obligation due from Corp 12 (or such other Country A Affiliate).

<sup>5</sup> Corp 10 will also establish a corresponding book entry showing an obligation due from Corp 11.

<sup>6</sup> Corp 11 will also establish a corresponding book entry showing an obligation due from Corp 10

<sup>7</sup> Corp 12 (or such other Country A Affiliate) will also establish a corresponding book entry showing an obligation due from Corp 11.

<sup>8</sup> The corresponding book entries described at nn.4, 5, 6 and 7 supra will also be canceled.

<sup>9</sup> Corp 10 will also establish a corresponding book entry showing an obligation due



(ii) Pursuant to Contract Two, each of the following capital contributions will be made:

(A) Corp 14 will immediately make a capital contribution to Corp 15 in the amount of the “group relief payment” by establishing a book entry showing an obligation due to Corp 15;<sup>10</sup>

(B) Corp 9 will immediately make a capital contribution to Corp 14 in the amount of the “group relief payment” by establishing a book entry showing an obligation due to Corp 14;<sup>11</sup>

(C) Corp 7 will immediately make a capital contribution to Corp 9 in the amount of the “group relief payment” by establishing a book entry showing an obligation due to Corp 9;<sup>12</sup>

(D) Corp 4, Corp 2, Corp 5, and Corp 6 will each immediately make a capital contribution to Corp 7 equal to b%, a%, c%, and d%, respectively, which together total the amount of the “group relief payment” by each establishing a book entry showing an obligation due to Corp 7;<sup>13</sup> and

(E) Corp 2 will immediately make corresponding capital contributions to Corp 4, Corp 5, and Corp 6 equal to the capital contributions described in item (D) above by establishing book entries showing obligations due to Corp 4, Corp 5, and Corp 6.<sup>14</sup>

(iii) For the above, situation (3), book entries will be consolidated and replaced by a single book entry (having the same economic effect) showing an obligation from Corp 2 to Corp 10.<sup>15</sup> Corp 2 will promptly pay that obligation in cash.

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from Corp 15.

<sup>10</sup> Corp 15 will also establish a corresponding book entry showing an obligation due from Corp 14.

<sup>11</sup> Corp 14 will also establish a corresponding book entry showing an obligation due from Corp 9

<sup>12</sup> Corp 9 will also establish a corresponding book entry showing an obligation due from Corp 7.

<sup>13</sup> Corp 7 will also establish corresponding book entries showing obligations due from Corp 4, Corp 2, Corp 5, and Corp 6.

<sup>14</sup> Corp 4, Corp 5, and Corp 6 will also establish corresponding book entries showing obligations due from Corp 2.

<sup>15</sup> The corresponding book entries described in footnotes 9, 10, 11, 12, 13 and 14

Because Corp 10 is a disregarded entity for federal income tax purposes pursuant to Treas. Reg. § 301.7701-3(c), the above-mentioned payment will be treated for federal income tax purposes as being made to Corp 3. Corp 3 is Corp 10's parent.

In situation (4), the proposed transactions will be accomplished in the manner set forth below.

(i) Pursuant to Contract Three, each of the following capital contributions will be made:<sup>16</sup>

(A) When notified by Corp 13 that Corp 13 will make a "group relief payment" of a specified amount to Corp 10, by establishing a book entry obligation by Corp 13 to Corp 10, Corp 2 will make capital contributions to Corp 4, Corp 5, Corp 6, and Corp 7 equal to b%, c%, d%, and a%, respectively, of the amount of the "group relief payment" by establishing book entries showing obligations due to Corp 4, Corp 5, Corp 6, and Corp 7.<sup>17</sup>

(B) Corp 4, Corp 5, and Corp 6 will immediately make capital contributions to Corp 7 equal to the amount each received from Corp 2 by each establishing a book entry showing an obligation due to Corp 7;<sup>18</sup>

(C) Corp 7 will immediately make a capital contribution to Corp 8 in the amount of the "group relief payment" by establishing a book entry showing an obligation due to Corp 8;<sup>19</sup>

(D) Corp 8 will immediately make a capital contribution to Corp 13 in the amount of the "group relief payment" by establishing a book entry showing an obligation due to Corp 13;<sup>20</sup>

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supra will also be canceled. Further, Corp 10 will make an entry showing an obligation due from Corp 2.

<sup>16</sup> As indicated above, the capital contributions will be made prior to the "group relief payment" in situation (4) in order to assure compliance with State A Type A regulatory requirements.

<sup>17</sup> Corp 4, Corp 5, Corp 6, and Corp 7 will also establish corresponding book entries showing obligations due from Corp 2.

<sup>18</sup> Corp 7 will also establish corresponding book entries showing obligations due from Corp 4, Corp 5, and Corp 6.

<sup>19</sup> Corp 8 will also establish a corresponding book entry showing an obligation due from Corp 7.

<sup>20</sup> Corp 13 will also establish a corresponding book entry showing an obligation due

(ii) Corp 13 will make a “group relief payment” to Corp 10 by establishing a book entry showing an obligation to Corp 10.<sup>21</sup>

(iii) The foregoing, situation (4), book entries will be consolidated and replaced by a single book entry (having the same economic effect) showing an obligation from Corp 2 to Corp 10.<sup>22</sup> Corp 2 will promptly pay that obligation in cash. Because Corp 10 is a disregarded entity for federal income tax purposes pursuant to taxpayer’s election under Treas. Reg. § 301.7701-3(c), the above-mentioned, payment will be treated for federal income tax purposes as being made to Corp 3. Corp 3 is Corp 10’s parent.

The business purpose for the transactions described above is to enable the Country A Affiliates to obtain group relief in order to reduce their aggregate Country A income tax liability. The transactions are not otherwise intended to change the economic position of the Country A Affiliates. However, in situations (3) and (4) described above, the transactions will have the ultimate effect of transferring cash from Corp 2 to Corp 10.

#### LAW AND ANALYSIS

Section 305(a) of the Code provides that gross income does not include the amount of any distribution of the stock of a corporation made by such corporation to its shareholders with respect to its stock, except as otherwise provided in section 305 of the Code. The theoretical basis under section 305(a) for not including the receipt of such stock in the gross income of the distributee is that a shareholder should not be taxed where he has not realized any income. Eisner v. Macomber, 252 U.S. 189, 212 (1920). Section 305(b)(1) of the Code, however, provides that if a distribution is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either in stock or in property, section 305(a) of the Code will not apply, and that such distribution will thus be treated as a distribution of property to which section 301 applies.

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from Corp 8.

<sup>21</sup> Corp 10 will also establish a corresponding book entry showing an obligation due from Corp 13.

<sup>22</sup> The corresponding book entries described at nn.17, 18, 19, 20 and 21 supra will also be canceled. Further, Corp 10 will make an entry showing an obligation due from Corp 2.

In Rev. Rul. 80-154, 1980-1 C.B. 68, the shareholders of a foreign corporation adopted a resolution declaring a cash dividend and providing that the distribution was to be used to increase capital investment in the corporation. The resolution stated that ‘the payment will be made in cash without any delay’ and that ‘the dividend shall be utilized to cover a new share’ that will “participate in the profit earned by the company beginning with the current business year.’ No cash or stock was actually distributed pursuant to the resolution. The decrease in retained earnings and increase in invested capital were reflected only in accounting entries. Reasoning that the “cash” dividend had been tied up so effectively that the shareholders never received nor exercised control over any cash, Rev. Rul. 80-154 held the foreign corporation was deemed to have made a distribution of its own common stock, that section 305(b)(1) was inapplicable, and that therefore, under section 305(a), the distribution was not includible in the gross income of the shareholders.

Under Contract 1, for Situation 1, Corp. 10 will be required to contribute back the “group relief payment” made by Corp 11 to Corp 10. So, as in Rev. Rul. 80-154, the funds with respect to such putative constructive distribution from Corp 11 to Corp 10 will be “tied up so effectively” by Corp 11, that Corp 10 will not receive nor exercise control over such “group relief payment”. Hence, the putative capital contribution will serve to offset, and thus to negate, such putative distribution.

Under Contract 1, for Situation 2, Corp 10 will be required to contribute back the “group relief payment” made by Corp 11 to Corp 10 and Corp 11 will be required to contribute back the “group relief payment” made by Corp 12 to Corp 11. So, as in Rev. Rul. 80-154, the funds with respect to these putative constructive distributions made by Corp 12 to Corp 11 and by Corp 11 to Corp 10 will be “tied up so effectively” by Corp 12, that neither Corp 11 nor Corp 10 will receive or exercise control over such “group relief payments.” Hence, the putative capital contributions will serve to offset, and thus to negate, such putative distributions.

In Rev. Rul. 78-83, 1978-1 C.B. 79, domestic corporation P owned all the stock of foreign subsidiaries X and Y. Subsidiary X transferred property to subsidiary Y without receiving adequate consideration therefore. Rev. Rul. 78-83 held that the amount transferred by subsidiary X to subsidiary Y was treated as a distribution from subsidiary X to corporation P, followed by an equivalent capital contribution from corporation P to subsidiary Y.

For Situation 3 (Contract 2), if no provision were made for offsetting (putative) capital contributions, then, as in Rev. Rul. 78-83, the “group relief payment” would result in a constructive distribution from Corp 15 to Corp 14, followed by a constructive distribution from Corp 14 to Corp 9, followed by a constructive distribution from Corp 9 to Corp 7, followed by constructive distributions from Corp 7 to Corp 4, Corp 2, Corp 5 and Corp 6 (equaling together the amount of the “group relief payment”), and followed by constructive distributions from Corp 4, Corp 5, and Corp 6 to Corp 2. Yet, under Contract 2, for Situation 3, Corps 2, 4, 7, 5, 6, 9, and 14 will each be required by the distributing corporation to contribute back its corresponding putative distribution. So, as

in Rev. Rul. 80-154, the above-mentioned putative distributions will be “tied up so effectively” in the distributing corporation that each distributee corporation will not receive nor exercise control over any of the funds of the distributing corporation. Hence, the corresponding, putative, capital contributions will each serve to offset, and thus to negate, the above-mentioned, putative distributions.

For Situation 4 (Contract 3), if no provision were made for offsetting putative capital contributions, then, as in Rev. Rul. 78-83, the payment made by Corp 2 to Corp 10 in order to satisfy “the group relief payment” obligation of Corp 13 would generate a constructive distribution from Corp 13 to Corp 8, followed by a constructive distribution from Corp 8 to Corp 7, followed by constructive distributions from Corp 7 to Corp 4, Corp 2, Corp 5, and Corp 6 (equaling together the amount of the “group relief payment”), and followed by constructive distributions from Corp 4, Corp 5 and Corp 6 to Corp 2. Yet, under Contract 3, for Situation 4, Corps 2, 4, 7, 5, 6, and 8 each will have been required by the distributing corporation to make a capital contribution corresponding to the putative distribution made to it. So, as in Rev. Rul. 80-154, the above-mentioned putative distributions will be “tied up so effectively” in the distributing corporation that each distributee corporation will not receive nor exercise control over any of the funds of the distribution corporation. Hence, the corresponding, putative capital contributions will serve to offset, and thus to negate, the above-mentioned, putative distributions.

As in Rev. Rul. 80-154, each distributing corporation in Contracts 1, 2, and 3 will be treated as distributing its own stock to its shareholder(s). Since the shareholders will not possess an election to receive cash (instead of stock), section 305(b)(1) will not apply to any of these distributions. As such, these stock distributions will, pursuant to section 305(a), not be included in the gross income of any of these shareholder-corporations.

## REPRESENTATIONS

1. Corp 3 owns all of the outstanding equity of Corp 10, and Corp 10 is disregarded as a separate entity from, and accordingly is treated as a branch of, Corp 3 pursuant to Treas. Reg. § 301.7701-3(c). In addition, all of the outstanding indebtedness of Corp 10 is held by Corp 3. As a result, such inter-branch indebtedness is not taken into account for U.S. federal income tax purposes. Therefore, any interest paid or accrued by Corp 10 on such inter-branch indebtedness will not be deductible for U.S. federal income tax purposes, and such interest consequently should not result in the creation of any dual consolidated return losses. It is not anticipated that Corp 10 will have any material expenses other than interest. If any such other expenses result in the creation of a dual consolidated loss, then such dual consolidated loss will be nondeductible under section 1503(d)(1) and Treas. Reg. § 1.1503-2(b)(1). Contract One will not become effective unless and until it is ratified by the boards of directors of Corp 11 and Corp 12.

2. Contract Two will not become effective unless and until it is ratified by the boards of directors of Corp 15, Corp 14, Corp 9, Corp 7, Corp 6, Corp 5, Corp 4, and Corp 2.

3. Contract Three will not become effective unless and until it is ratified by the boards of directors of Corp 13, Corp 8, Corp 7, Corp 6, Corp 5, Corp 4, and Corp 2.

Based solely on the information submitted and the representations made, we have concluded:

- (1) Each “group relief payment” made by Corp 11 in situation (1), together with the offsetting putative capital contribution, will be treated as a distribution by Corp 11 of its own stock to Corp 3, and, pursuant to section 305(a), such distribution will not be included in the gross income of Corp 3. See, Treas. Reg. § 301.7701-3(c).
- (2) Each “group relief payment” made by Corp 12 and Corp 11 in situation (2), together with the two offsetting putative capital contributions, will be treated as a stock distribution by Corp 12 of its own stock to Corp 11, followed by a stock distribution by Corp 11 of its own stock to Corp 3, and, pursuant to section 305(a), the distributions will not be included in the gross income of Corp 11 and Corp 3, respectively. See, Treas. Reg. § 301.7701-3(c).
- (3) Each “group relief payment” made by Corp 15 in situation 3, together with the putative capital contributions and the putative, constructive distributions, will be treated as a distribution by Corp 15 of its own stock to Corp 14, followed by a distribution by Corp 14 of its own stock to Corp 9, followed by a distribution by Corp 9 of its own stock to Corp 7, followed by distributions by Corp 7 of its own stock to Corp 4, Corp 2, Corp 5 and Corp 6, followed by distributions by Corp. 4, Corp. 5 and Corp. 6 each of its own stock to Corp 2 and then followed by a capital contribution to Corp 3 by Corp 2 in the amount of “group relief payment.” Pursuant to section 305(a), these distributions of stock will not be included in the respective gross incomes of Corp 14, Corp 9, Corp 7, Corp 4, Corp 5, Corp 6, and Corp 2. Pursuant to section 118(a), the capital contribution by Corp 2 to Corp 3 in the amount of the “group relief payment” will not be included in the gross income of Corp 3. See, Treas. Reg. § 301.7701-3(c).
- (4) Each “group relief payment” made by Corp 13 in situation 4, together with the putative capital contributions and the putative constructive distributions will be treated as a distribution by Corp 13 of its owns stock to Corp 8, followed by a distribution by Corp 8 of its own stock to Corp 7, followed by a distribution by Corp 7 of its own stock to Corp 4, Corp 2, Corp 5 and Corp 6, followed by distributions by Corp. 4, Corp. 5 and Corp. 6, each, of its own stock to Corp 2 and then followed by a capital contribution to Corp 3 by Corp 2 in the amount of “group relief payment.” Pursuant to section 305(a), such distributions of stock will not be included in the respective gross incomes of Corp 8, Corp 7, Corp 4, Corp 5, Corp 6, and Corp 2. Pursuant to section 118(a), the capital contribution by Corp 2 to Corp 3 in the amount of the “group relief payment”

will not be included in the gross income of Corp 3. See, Treas. Reg. § 301.7701-3(c).

No opinion is expressed about the federal tax treatment of the proposed transactions under any other provision of the Code or Regulations, or the tax treatment of any condition existing at the time of, or effect resulting from, the proposed transactions that are not specifically covered by the above rulings.

This ruling is directed only to the taxpayer that 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 federal income tax return of each taxpayer involved for the taxable year in which the proposed transactions are completed.

In accordance with the Power of Attorney on file in this office, a copy of this letter is being sent to the taxpayer representative.

Sincerely yours,

*Steven J. Hankin*

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Steven J. Hankin  
Senior Technician Reviewer, Branch 6  
Office of Associate Chief Counsel (Corporate)