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January 21, 2000

Acquiring =

Target =

State A =

State B =

State B Tax =

This letter responds to your representative's September 24, 1999 request for rulings on the federal income tax consequences of a proposed transaction. Additional information with respect to the proposed transaction was submitted in letters dated December 6, 1999, January 7, 2000, and January 12, 2000. The information submitted for consideration is summarized below.

Acquiring is incorporated under the laws of State A and registered under the Investment Company Act of 1940 (the "1940 Act") as a non-diversified closed-end management investment company. Acquiring has elected to be taxed as a regulated investment company ("RIC") under §§ 851-855. Acquiring's investment objective is to provide shareholders with high current income exempt from federal income tax and State B Tax. Acquiring pursues its investment objective by investing primarily in a portfolio of long-term municipal obligations issued by or on behalf of State B.

Target is incorporated under the laws of State A and registered under the 1940 Act as a non-diversified closed-end management investment company. Target has elected to be taxed as a RIC under §§ 851-855. Target's investment objective is to provide shareholders with high current income exempt from federal income tax and State B Tax. Target pursues its investment objective by investing primarily in a portfolio of long-term municipal obligations issued by or on behalf of State B.

Acquiring and Target each has one class of voting common stock and one class

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of voting preferred stock outstanding. Both file their income tax returns based on the accrual method of accounting.

Acquiring and Target have approved a plan of reorganization for what are represented to be valid business reasons. Pursuant to the plan, the following transaction is proposed (the "Transaction"):

- (1) Target will transfer all of its assets and liabilities to Acquiring in exchange for newly issued Acquiring voting common stock and voting preferred stock (the "Transfer").
- (2) Target will liquidate and distribute to its shareholders all of the Acquiring stock received in the exchange. Each Target shareholder will receive, on a pro rata basis, shares of the class of Acquiring stock with the same class designation and respective rights as the Target stock held by such shareholder immediately prior to the Transfer.
- (3) Target will dissolve in accordance with the laws of State A and will terminate its registration under the 1940 Act.
- (4) Acquiring may sell up to 66% of the assets received in the Transaction to unrelated purchasers and will reinvest any proceeds consistent with its investment objectives and policies.

The following representations have been made in connection with the Transaction:

- (a) The fair market value of the Acquiring stock received by each Target shareholder will be approximately equal to the fair market value of the Target stock surrendered in the exchange.
- (b) Acquiring will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by Target immediately prior to the Transaction. For purposes of this representation, amounts paid by Target to dissenters, amounts used by Target to pay its reorganization expenses, and all redemptions and distributions (except for regular, normal dividends) made by Target immediately preceding the transfer will be included as assets of Target held immediately prior to the Transaction.
- (c) Acquiring has no plan or intention to reacquire any of its stock issued in the Transaction.
- (d) After the Transaction, Acquiring will use the assets acquired from Target, except

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that a portion of these assets may be sold or otherwise disposed of in the ordinary course of Acquiring's business. Any proceeds will be invested in accordance with Acquiring's investment objectives. Acquiring has no plan or intention to sell or dispose of any of the assets of Target acquired in the Transaction, except for dispositions made in the ordinary course of business or transfers described in § 368(a)(2)(C).

- (e) Target will distribute to its shareholders the stock of Acquiring it receives pursuant to the plan of reorganization.
- (f) The liabilities of Target assumed by Acquiring and any liabilities to which the transferred assets of Target are subject were incurred by Target in the ordinary course of its business.
- (g) Following the Transaction, Acquiring will continue the historic business of Target or use a significant portion of Target's historic business assets in the continuing business.
- (h) Acquiring, Target, and the shareholders of Target will pay their respective expenses, if any, incurred in connection with the Transaction.
- (i) There is no intercorporate indebtedness existing between Target and Acquiring that was issued, acquired or will be settled at a discount.
- (j) Acquiring and Target each meets the requirements of a regulated investment company as defined in § 368(a)(2)(F).
- (k) Acquiring does not own, directly or indirectly, nor has it owned during the past five years, directly or indirectly, any stock of Target.
- (l) The fair market value of the assets of Target transferred to Acquiring will equal or exceed the sum of the liabilities assumed by Acquiring, plus the amount of liabilities, if any, to which the transferred assets are subject.
- (m) Cash is being distributed to the shareholders of Target in lieu of fractional shares of Acquiring solely to save Acquiring the expense and inconvenience of issuing and transferring fractional shares. Such cash does not represent separately bargained for consideration in the Transaction. The total cash consideration that will be paid to the Target shareholders instead of issuing fractional shares of Acquiring stock will not exceed one percent of the total consideration that will be issued in the Transaction to the Target shareholders in exchange for their shares of Target stock. The fractional share interests of each shareholder of Target will be aggregated, and no Target shareholder will receive cash in an amount equal to or greater than the value of one full share of Acquiring stock.

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- (n) Target is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (o) Target and Acquiring have elected to be taxed as RICs under § 851 and, for all of their taxable periods (including Target's last short taxable period ending on the date of the Transaction), have qualified for the special tax treatment afforded RICs under the Internal Revenue Code. After the Transaction, Acquiring intends to continue to so qualify.
- (p) There is no plan or intention for Acquiring (the issuing corporation as defined in § 1.368-1(b)), or any person related (as defined in § 1.368-1(e)(3)) to Acquiring, to acquire, during the five year period beginning on the date of the Transaction, with consideration other than Acquiring stock, Acquiring stock furnished in exchange for a proprietary interest in Target in the Transaction, either directly or through any transaction, agreement, or arrangement with any other person, except for cash distributed to the Target common shareholders in lieu of fractional shares of Acquiring common stock.
- (q) During the five year period ending on the date of the Transaction, (i) neither Acquiring, nor any person related (as defined in § 1.368-1(e)(3)) to Acquiring, will have acquired Target stock with consideration other than Acquiring stock, (ii) neither Target, nor any person related (as defined in § 1.368-1(e)(3) without regard to § 1.368-1(e)(3)(i)(A)) to Target, will have acquired Target stock with consideration other than Acquiring stock or Target stock, and (iii) no distributions will have been made with respect to Target stock (other than regular, normal dividend distributions made pursuant to Target's historic dividend paying practice), either directly or through any transaction, agreement, or arrangement with any other person, except for (a) cash paid to dissenters and (b) distributions described in §§ 852 and 4982, as required for Target's tax treatment as a RIC.
- (r) The aggregate value of the acquisitions, redemptions, and distributions described in paragraphs (p) and (q) above will not exceed 50 percent of the value (without giving effect to the acquisitions, redemptions, and distributions) of the proprietary interest in Target on the effective date of the Transaction.

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

- (1) The acquisition by Acquiring of substantially all of the assets of Target in exchange for voting stock of Acquiring and Acquiring's assumption of Target's liabilities, followed by the distribution by Target to its shareholders of Acquiring stock and any remaining assets, in complete liquidation, will qualify as a reorganization within the meaning of § 368(a)(1)(C). Target and Acquiring will

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each be a “party to a reorganization” within the meaning of § 368(b).

- (2) Target will recognize no gain or loss upon the transfer of substantially all of its assets to Acquiring in exchange for voting stock of Acquiring and Acquiring’s assumption of Target’s liabilities or upon the distribution of the Acquiring stock to the Target shareholders. Sections 361(a) and (c) and 357(a).
- (3) Acquiring will recognize no gain or loss on the receipt of the assets of Target in exchange for voting stock of Acquiring. Section 1032(a).
- (4) The basis of Target’s assets in the hands of Acquiring will be the same as the basis of those assets in the hands of Target immediately prior to the Transaction. Section 362(b).
- (5) Acquiring’s holding period for the Target assets acquired will include the period during which such assets were held by Target. Section 1223(2).
- (6) The Target shareholders will recognize no gain or loss on the receipt of voting stock of Acquiring solely in exchange for their Target stock (including fractional shares to which they may be entitled). Section 354(a)(1).
- (7) The basis of the Acquiring stock received by the Target shareholders will be the same as the basis of the Target stock surrendered in exchange therefor. Section 358(a)(1).
- (8) The holding period of the Acquiring stock received by the Target shareholders in exchange for their Target stock (including fractional shares to which they may be entitled) will include the period that the shareholder held the Target stock exchanged therefor, provided that the shareholder held such stock as a capital asset on the date of the exchange. Section 1223(1).
- (9) The payment of cash to the Target shareholders in lieu of fractional shares of Acquiring will be treated as though the fractional shares were distributed as part of the Transaction and then redeemed by Acquiring. The cash payments will be treated as distributions in full payment for the fractional shares deemed redeemed under § 302(a), with the result that such Target shareholders will have short-term or long-term capital gain or loss to the extent that the cash they receive differs from the basis allocable to such fractional shares.
(Rev. Rul. 66-365, 1966-2 C.B. 116, and Rev. Proc. 77-41, 1977-2 C.B. 574).
- (10) Pursuant to § 381(a) and § 1.381(a)-1, the tax year of Target will end on the effective date of the Transaction and Acquiring will succeed to and take into account the items of Target described in § 381(c), subject to the provisions and limitations specified in §§ 381, 382, 383, and 384, and the regulations

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thereunder.

No opinion is expressed about the tax treatment of the 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 transactions that are not specifically covered by the above rulings. Specifically, no opinion was requested, and none is expressed, about whether Acquiring or Target qualify as a RIC that is taxable under Subchapter M, Part 1 of the Code.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

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.

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

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely yours,
Assistant Chief Counsel (Corporate)

By *Michael J. Wilder*

Assistant to the Chief, Branch 3