

Internal Revenue Service

Department of the Treasury

Index Numbers: 351-00.00; 355-00.00;
368-04-00

Washington, DC 20224

Number: **200037045**
Release Date: 9/15/2000

Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:CORP:2-PLR-103032-00
Date:
June 21, 2000

Legend

Parent =

Distributing =

Controlled #1 =

Controlled #2 =

Sub #1 =

Sub #2 =

Sub #3 =

Sub #4 =

Sub #5 =

Sub #6 =

Sub #7 =

Newco #1 =

Newco #2 =

LLC #1 =

LLC #2 =

Business A =

Business B =

Business C =

Business D =

Business E =

Business F =

Business G =

Type A investments =

Type B investments =

State X =

PLR-103032-00

Agency =

Date 1 =

Date 2 =

Trustee #1 =

Trustee #2 =

Type 1 Securities =

Type 2 securities =

Dear :

This is in response to your authorized representative's letter dated February 3, 2000, requesting rulings under §§ 351 and 355 of the Internal Revenue Code (the "Code") with respect to a proposed series of transactions. Additional information was received in letters dated April 17, May 16, and June 16, 2000. The material information submitted is summarized below.

Parent is a State X corporation. Parent is the common parent of an affiliated group of corporations that files a consolidated federal income tax return on a calendar year basis.

Parent owns all of the outstanding common stock of Distributing, a State X corporation engaged in Business A, Business B, and Business C. Parent also owns all of the outstanding common stock of Sub #1, a State X corporation that is engaged indirectly through subsidiaries in a number of related businesses, including Business D, Business E, Business F, and Business G. Sub #1 and its subsidiaries will collectively be referred to as the "Sub #1 Group."

Controlled #1 and Controlled #2 are both State X corporations and wholly owned subsidiaries of Distributing. Controlled #1 and Controlled #2 were both formed for the purpose of the transactions described below.

Sub #1 owns directly all of the stock of Sub #2, Sub #3, and Sub #4. Sub #2 is engaged in Business E and Business F. Sub #3 is engaged in Business G. Sub #4 is a holding company. Sub #4 owns all of the stock of Sub #5 and Sub #6. Sub #5 holds Type A investments and Type B investments. Sub #6 owns all the stock of Sub #7.

Financial information has been received indicating that Business A, Business B, and Business C have each had gross receipts and operating expenses representing the active conduct of a trade or business for each of the last five years.

Business A, Business B, and Business C are currently highly regulated by various government agencies, including Agency. Business D and the other businesses

PLR-103032-00

conducted within the Sub #1 Group are not so regulated. On Date 1, Agency ordered Distributing to separate Business A and Business B, on the one hand, from Business C, on the other (the "Order"). The Order in effect requires that the separation of the businesses be completed by Date 2. Business C will continue to be regulated by Agency. Business A and B will not be regulated by Agency, although aspects of Business B in particular will continue to be highly regulated by various governmental agencies.

A. Distributions 1 and 2 and Contributions 1 and 2.

In order (1) to comply with the Order, (2) to allow Distributing to continue to conduct Business C free from the management and systemic problems that would be likely to arise from the continued conduct of regulated and non-regulated business within Distributing or within Distributing and subsidiaries of Distributing, (3) to allow the Sub #1 Group to conduct Business A along with the related, non-regulated, businesses now conducted within the Sub #1 Group, (4) to allow Business B with its unique regulatory and risk profile to be conducted separately from the businesses conducted by the Sub #1 Group, and (5), to allow Distributing to maintain a capital structure and credit profile consistent with its current bond ratings, Parent proposes the following series of transactions:

(1) Distributing will transfer the assets of Business A to Controlled #1 in exchange for: (i) all of the outstanding stock of Controlled #1; (ii) Controlled #1 notes; and (iii) the assumption by Controlled #1 of certain liabilities related to Business A. Distributing will distribute all of the Controlled #1 stock to Parent ("Distribution 1"). The Controlled #1 notes will be delivered to Trustee #1 (the trustee for Distributing's Type 1 Securities) and payments on the notes will be used exclusively to make corresponding payments of interest on, and principal of, Distributing's Type 1 and Type 2 Securities. The Controlled #1 notes will have a final maturity not exceeding one year. Parent has represented that the Controlled #1 notes will be fully paid within one year of issuance and that as each payment on any of the Controlled #1 notes is made, corresponding payments will be made to the holders of the Type 1 and Type 2 Securities.

(2) Immediately after Distribution 1, Parent will contribute all of the Controlled #1 stock to Sub #1 in constructive exchange for Sub #1 stock ("Contribution 1").

(3) Distributing will transfer the assets of Business B to Controlled #2 in exchange for all the stock of Controlled #2 and the assumption by Controlled #2 of certain liabilities related to the Business B. Distributing will distribute all of the Controlled #2 stock to Parent ("Distribution 2").

(4) Immediately after Distribution 2, Parent will contribute all the Controlled #2 stock to LLC #1, a State X limited liability company that is wholly owned by Parent and that will elect to be disregarded as a separate entity pursuant to Reg. § 301.7701-3(c)

PLR-103032-00

("Contribution 2"). Parent intends to convert LLC #1 to a corporation within twelve months after Contribution 2.

Following the transactions described above, Distributing will continue to conduct Business C; Controlled #1, which will be wholly owned, directly or indirectly, by Sub #1, will conduct Business A, and Controlled #2, which will be owned by LLC #1, will conduct Business B.

B. Contributions 3 and 4 and Distributions 3, 4, 5, and 6.

In addition to Contributions 1 and 2 and Distributions 1 and 2 as described above, in order to consolidate all of the members of the Parent consolidated group engaged in Business D within the Sub #1 Group, Parent proposes the following series of transactions:

(5) (a) Sub #2 will contribute the assets of its Business E to a newly-formed corporation, Newco #1, in exchange for all of the stock of Newco #1 and a note from Newco #1. Sub #2 will retain the assets of Business F, which will become a part of Business D.

(b) Sub #2 will then distribute the stock of Newco #1 to Sub #1 and retain the Newco #1 note. ("Distribution 3.")

(6) (a) Sub #5 will contribute its Type A investments to LLC #2, a single-member limited liability company that will elect to be disregarded as a separate entity pursuant to Reg. § 301.7701-3(c). Sub #5 will retain its Type B investments, which will become a part of Business D.

(b) Sub #5 will then distribute its membership interest in LLC #2 to Sub #4. ("Distribution 4.")

(7) Sub #6 will distribute the stock of Sub #7 to Sub #4. ("Distribution 5.")

(8) Immediately after steps 5, 6, and 7, Sub #1 will contribute all of the stock of Controlled #1, Sub #2, and Sub #3 to Sub #4 in constructive exchange for Sub #4 stock. ("Contribution 3")

(9) Immediately after Step 8, Sub #4 will contribute all of the stock of Controlled #1, Sub #2, Sub #3, Sub #5, and Sub #6 to Newco #2 in constructive exchange for Newco #2 stock. ("Contribution 4")

Parent has made the following representations with respect to Distribution 1:

(a) The indebtedness owed by Controlled #1 to Distributing after Distribution 1 will not constitute stock or securities.

PLR-103032-00

(b) No part of the consideration to be distributed by Distributing will be received by Parent as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.

(c) The five years of financial information submitted on behalf of Distributing is representative of the corporation's present operation and, with regard to such operation, there have been no substantial operational changes since the date of the last financial statements submitted.

(d) The financial information submitted on behalf of Distributing and Business A is representative of the corporation's present operation and, with regard to such corporation and Business A, there have been no substantial operational changes since the date of the last financial statements submitted.

(e) Following the transaction, Distributing and Controlled #1 will each continue the active conduct of a business, independently and with its separate employees.

(f) Distribution 1 is being carried out for the following corporate business purposes, among others: compliance with the Order; rational managerial risk/reward incentives; reduction of regulatory concerns regarding cross-subsidization; managerial focus on the unique risks and challenges of Business A facilities. Distribution 1 is motivated in whole or substantial part by one or more of these corporate business purposes.

(g) Except for Parent's plan to contribute the Controlled #1 stock to Sub #1 pursuant to Contribution 1 immediately after Distribution 1, there is no plan or intention by any shareholder who owns five percent or more of the stock of Distributing, and the management of Distributing, to its best knowledge, is not aware of any plan or intention on the part of any particular remaining shareholder or security holder of Distributing, to sell, exchange, transfer by gift, or otherwise dispose of any stock in, or securities of, either Distributing or Controlled #1 after Distribution 1.

(h) There is no plan or intention by Distributing or Controlled #1, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the transaction, other than through purchases meeting the requirements of section 4.05(1)(b) of Rev. Proc. 96-30.

(i) After Distributions 1 and 2, the gross assets of Business C will have a fair market value that is equal to at least five percent of the total fair market value of the gross assets of Distributing. Such business will not be de minimis compared with the other assets or activities of Distributing and its subsidiaries.

(j) The gross assets of Business A will have a fair market value that is equal to at least five percent of the total fair market value of the gross assets of Controlled #1.

PLR-103032-00

Such business will not be de minimis compared with the other assets or activities of Controlled #1 and its subsidiaries.

(k) Except for Parent's plan to contribute the Controlled #1 stock to Sub #1 pursuant to Contribution 1 immediately after Distribution 1, there is no plan or intention to liquidate either Distributing or Controlled #1, to merge any of these corporations with any other corporation, or to sell or otherwise dispose of the assets of any of these corporations after the transaction except in the ordinary course of business.

(l) The total adjusted basis and the fair market value of the assets transferred to Controlled #1 by Distributing each equals or exceeds the sum of the liabilities assumed by Controlled #1 plus the fair market value of any other property and the amount of any money distributed to Distributing's shareholders in pursuance of the plan of reorganization or to its creditors in connection with the reorganization. For purposes of this representation, the Controlled #1 notes are treated as property distributed to Distributing's creditors in connection with the reorganization. The liabilities assumed in the transaction were incurred in the ordinary course of business and are associated with the assets being transferred.

(m) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the transaction.

(n) Except for Controlled #1's obligations under the Controlled #1 notes as described above, no intercorporate debt will exist between Distributing and Controlled #1 at the time of, or subsequent to, Distribution 1.

(o) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled #1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arms length.

(p) No two parties to Distribution 1 are investment companies as defined in Code section 368(a)(2)(F)(iii) and (iv).

Parent has made the following representations with respect to Distribution 2:

(q) No part of the consideration to be distributed by Distributing will be received by Parent as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.

(r) The five years of financial information submitted on behalf of Distributing is representative of the corporation's present operation and, with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

PLR-103032-00

(s) The financial information submitted on behalf of Distributing and Business B is representative of the corporation's present operation and, with regard to such corporation and Business B, there have been no substantial operational changes since the date of the last financial statements submitted.

(t) Following the transaction, Distributing and Controlled #2 will each continue the active conduct of a business, independently and with its separate employees.

(u) Distribution 2 is being carried out for the following corporate business purposes, among others: compliance with the Order; rational managerial risk/reward incentives; reduction of regulatory concerns regarding cross-subsidization; managerial focus on the unique risks and challenges of Business B facilities. Distribution 2 is motivated in whole or substantial part by one or more of these corporate business purposes.

(v) Except for Parent's plan to contribute the Controlled #2 stock to LLC #1 (a disregarded entity) pursuant to Contribution 2 immediately after Distribution 2, there is no plan or intention by any shareholder who owns five percent or more of the stock of Distributing, and the management of Distributing, to its best knowledge, is not aware of any plan or intention on the part of any particular remaining shareholder or security holder of Distributing, to sell, exchange, transfer by gift, or otherwise dispose of any stock in, or securities of, either Distributing or Controlled #2 after Distribution 2.

(w) There is no plan or intention by Distributing or Controlled #2, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the transaction, other than through purchases meeting the requirements of section 4.05(1)(b) of Rev. Proc. 96-30.

(x) After Distributions 1 and 2, the gross assets of Business C will have a fair market value that is equal to at least five percent of the total fair market value of the gross assets of Distributing. Such business will not be de minimis compared with the other assets or activities of Distributing and its subsidiaries.

(y) After Distributions 1 and 2, the gross assets of Business B will have a fair market value that is equal to at least five percent of the total fair market value of the gross assets of Controlled #2. Such business will not be de minimis compared with the other assets or activities of Controlled #2 and its subsidiaries.

(z) Except for Parent's plan to contribute the Controlled #2 stock to LLC #1 (a disregarded entity) pursuant to Contribution 2 immediately after Distribution 2, there is no plan or intention to liquidate either Distributing or Controlled #1, to merge any of these corporations with any other corporation, or to sell or otherwise dispose of the assets of any of these corporations after the transaction except in the ordinary course of business.

PLR-103032-00

(aa) The total adjusted basis and the fair market value of the assets transferred to Controlled #2 by Distributing each equals or exceeds the sum of the liabilities assumed by Controlled #2. The liabilities assumed in the transaction were incurred in the ordinary course of business and are associated with the assets being transferred.

(bb) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the transaction.

(cc) No intercorporate debt will exist between Distributing and Controlled #2 at the time of, or subsequent to, Distribution 2.

(dd) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled #2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arms length.

(ee) No two parties to Distribution 2 are investment companies as defined in Code section 368(a)(2)(F)(iii) and (iv).

Parent has made the following representations with respect to Contribution 1:

(ff) No stock or securities will be issued for services rendered to or for the benefit of Sub #1 in connection with the proposed transaction. No stock or securities will be issued for indebtedness of Sub #1 that is not evidenced by a security or for interest on indebtedness of Sub #1 that accrued on or after the beginning of the holding period of Parent for the debt.

(gg) The transfer is not the result of solicitation by a promoter, broker, or investment house.

(hh) Parent will not retain any rights in the property transferred to Sub #1.

(ii) There is no indebtedness between Parent and Sub #1 and there will be no indebtedness created in favor of Parent as a result of the transaction.

(jj) The transfer will occur under a plan agreed upon before the transaction in which the rights of the parties are defined. There will be no exchanges, and no stock of Sub #1 will be issued in connection with the transfer.

(kk) There is no plan or intention on the part of Sub #1 to redeem or otherwise reacquire any of its stock or indebtedness.

(ll) Taking into account any issuance of additional shares of Sub #1 stock, any issuance of stock for services, the exercise of any Sub #1 stock rights,, warrants, or subscriptions, a public offering of Sub #1 stock, and the sale, exchange, transfer by gift, or other disposition of any of the stock of Sub #1 held by Parent after the transfer, Parent will be in "control" of Sub #1 within the meaning of Code section 368(c).

PLR-103032-00

(mm) Sub #1 will remain in existence and will use the property transferred to it in its trade or business.

(nn) There is no plan or intention by Sub #1 to dispose of the transferred property other than in the normal course of business operations.

(oo) Each of the parties to the transaction will pay its own expenses, if any, incurred in connection with the proposed transaction.

(pp) Sub #1 will not be an investment company within the meaning of Code section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(qq) Parent is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of Code section 368(a)(3)(A)) and no stock or securities of Sub #1 will be used to satisfy the indebtedness of such a debtor.

(rr) Sub #1 will not be a “personal service corporation” within the meaning of Code section 269A.

Parent has made the following representations with respect to Contribution 3:

(ss) No stock or securities will be issued for services rendered to or for the benefit of Sub #4 in connection with the proposed transaction. No stock or securities will be issued for indebtedness of Sub #4 that is not evidenced by a security or for interest on indebtedness of Sub #4 that accrued on or after the beginning of the holding period of Sub #1 for the debt.

(tt) The transfer is not the result of solicitation by a promoter, broker, or investment house.

(uu) Sub #1 will not retain any rights in the property transferred to Sub #4.

(vv) There is no indebtedness between Sub #1 and Sub #4 and there will be no indebtedness created in favor of Sub #1 as a result of the transaction.

(ww) The transfer will occur under a plan agreed upon before the transaction in which the rights of the parties are defined. There will be no exchanges, and no stock of Sub #4 will be issued in connection with the transfer.

(xx) There is no plan or intention on the part of Sub #4 to redeem or otherwise reacquire any of its stock or indebtedness.

(yy) Taking into account any issuance of additional shares of Sub #4 stock, any issuance of stock for services, the exercise of any Sub #4 stock rights, warrants, or subscriptions, a public offering of Sub #4 stock, and the sale, exchange, transfer by gift

PLR-103032-00

or other disposition of any of the stock of Sub #4 held by Sub #1 after the transfer, Sub #1 will be in "control" of Sub #4 within the meaning of Code section 368(c).

(zz) Sub #4 will remain in existence and will use the property transferred to it in its trade or business.

(aaa) Each of the parties to the transaction will pay its own expenses, if any, incurred in connection with the proposed transaction.

(bbb) Sub #4 will not be an investment company within the meaning of Code section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(ccc) Sub #1 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of Code section 368(a)(3)(A)) and no stock or securities of Sub #4 will be used to satisfy the indebtedness of such debtor.

(ddd) Sub #4 will not be a "personal service corporation" within the meaning of Code section 269A.

Based solely on the information submitted and the representations made, we have concluded with respect to Distribution 1 that:

(1) Distributing's transfer of the assets of Business A to Controlled #1 in exchange for: (i) all of the outstanding stock of Controlled #1; (ii) the Controlled #1 notes; and (iii) the assumption by Controlled #1 of certain liabilities, each as described above, followed by the distribution of the Controlled #1 stock to Parent pursuant to Distribution 1 will constitute a reorganization within the meaning of Code section 368(a)(1)(D). Distributing and Controlled #1 will each be a party to a reorganization within the meaning of Code section 368(b).

(2) Distributing will not recognize any gain or loss upon the transfer of the assets of Business A to Controlled #1 in exchange for (i) all of the outstanding Controlled #1 stock, (ii) the Controlled #1 notes, and (iii) the assumption of certain liabilities by Controlled #1, each as described above, provided that the Controlled #1 notes are delivered to Trustee #1 and all payments in respect thereof are wired directly to bank accounts of Trustee #1 and Trustee #2 and used solely as described above. Code sections 361(a), 361(b)(1)(A), 361(b)(3), and 357(a).

(3) Controlled #1 will not recognize any gain or loss upon the receipt of the assets of Business A, as described above, in exchange for (i) all of the outstanding stock of Controlled #1; (ii) the Controlled #1 notes; and (iii) the assumption of certain liabilities by Controlled #1, each as described above. Code section 1032(a).

(4) The basis of the assets received by Controlled #1 from Distributing will be the same as the basis of such assets in the hands of Distributing immediately prior to the transfer. Code section 362(b).

PLR-103032-00

(5) The holding period of each asset received by Controlled #1 from Distributing will include the period during which Distributing held such asset. Code section 1223(2).

(6) Distributing will not recognize any gain or loss upon the distribution to Parent of the Controlled #1 stock pursuant to Distribution 1. Code section 361(c)(1).

(7) No gain or loss will be recognized by (and no amount will be included in the income of) Parent upon the receipt of Controlled #1 stock pursuant to Distribution 1. Code section 355(a)(1).

(8) Parent's holding period for the Controlled #1 stock will include the period during which Parent held the shares of Distributing common stock in respect of which Parent received the Controlled #1 stock provided that Parent held the Distributing common stock as a capital asset on the date of Distribution 1. Code section 1223(1).

Based solely on the information submitted and the representations made, we have concluded with respect to Distribution 2 that:

(9) Distributing's transfer of the assets of Business B to Controlled #2 in exchange for all of the outstanding stock of Controlled #2 and the assumption of certain liabilities by Controlled #2, as described above, followed by the distribution of the Controlled #2 stock to Parent pursuant to Distribution 2 will constitute a reorganization within the meaning of Code section 368(a)(1)(D). Distributing and Controlled #2 will each be a party to a reorganization within the meaning of Code section 368(b).

(10) Distributing will not recognize any gain or loss upon the transfer of the assets of Business B to Controlled #2 in exchange for all of the outstanding Controlled #2 stock and the assumption of certain liabilities by Controlled #2, as described above. Code sections 361(a) and 357(a).

(11) Controlled #2 will not recognize any gain or loss upon the receipt of the assets of Business B, as described above, in exchange for all of the outstanding stock of Controlled #2 and the assumption of certain liabilities by Controlled #2, as described above. Code section 1032(a).

(12) The basis of the assets received by Controlled #2 from Distributing will be the same as the basis of such assets in the hands of Distributing immediately prior to the transfer. Code section 362(b).

(13) The holding period of each asset received by Controlled #2 from Distributing will include the period during which Distributing held such asset. Code section 1223(2).

(14) Distributing will not recognize any gain or loss upon the distribution to Parent of the Controlled #2 stock pursuant to Distribution 2. Code section 361(c)(1).

PLR-103032-00

(15) No gain or loss will be recognized by (and no amount will be included in the income of) Parent upon the receipt of Controlled #2 stock pursuant to Distribution 2. Code section 355(a)(1).

(16) Parent's aggregate basis in the Distributing common stock and the Controlled #1 stock and Controlled #2 stock received by Parent in Distributions 1 and 2, respectively, will be the same as the aggregate basis of the Distributing common stock in the hands of Parent immediately before Distributions 1 and 2, allocated in proportion to the relative fair market value of each in accordance with Treas. Reg. § 1.358(a)(1), (b) and (c). Code section 358(a)(1), (b), and (c).

(17) Parent's holding period for the Controlled #2 stock will include the period during which Parent held the shares of Distributing common stock in respect of which Parent received the Controlled #2 stock provided that Parent held the Distributing common stock as a capital asset on the date of Distribution 2. Code section 1223(1).

(18) As provided in Code section 312(h), the earnings and profits of Distributing will be allocated among Distributing, Controlled #1, and Controlled #2 under Treas. Reg. 1.312-10(a).

Based solely on the information submitted and the representations made, we have concluded with respect to Contribution 1 that:

(19) No gain or loss will be recognized by Parent on the transfer of the Controlled #1 stock to Sub #1 in constructive exchange for Sub #1 stock pursuant to Contribution 1. Code section 351(a).

(20) No gain or loss will be recognized by Sub #1 on the receipt of Controlled #1 stock in constructive exchange for Sub #1 stock pursuant to Contribution 1. Code section 1032(a).

(21) Sub #1's basis in the Controlled #1 stock received from Parent pursuant to Contribution 1 will be the same as the basis of such stock in the hands of Parent immediately prior to the transfer. Code section 362(a).

(22) Parent's basis in the Sub #1 stock constructively received will be the same as Parent's basis in the Controlled #1 stock immediately prior to the transfer. Code section 358(a).

(21) The holding period of the stock of Sub #1 constructively received by Parent in the transfer will include the holding period during which Parent held the Controlled #1 stock, provided that the Controlled #1 stock is held as a capital asset on the date of the transfer. Code section 1223(1).

(22) The holding period of the Controlled #1 stock in the hands of Sub #1 will include the period during which such stock was held by Parent. Code section 1223(2).

PLR-103032-00

Based solely on the information submitted and the representations made, we have concluded with respect to Contribution 2 that:

(23) Parent's contribution of the Controlled #2 stock to LLC #1 pursuant to Contribution 2, followed by the conversion of LLC #1 to an association taxable as a corporation within twelve months after Contribution 2, will not adversely affect any of the foregoing or following rulings.

Based solely on the information submitted and the representations made, we have concluded with respect to Contribution 3 that:

(24) No gain or loss will be recognized by Sub #1 on the transfer of the stock of Controlled #1, Sub #2, and Sub #3 to Sub #4 in constructive exchange for Sub #4 stock pursuant to Contribution 3. Code section 351(a).

(25) No gain or loss will be recognized by Sub #4 on the receipt of stock of Controlled #1, Sub #2, and Sub #3 in constructive exchange for Sub #4 stock pursuant to Contribution 3. Code section 1032(a).

(26) Sub #4's basis in the stock of each of Controlled #1, Sub #2, and Sub #3 received from Sub #1 pursuant to Contribution 3 will be the same as the basis of the stock of each such corporation in the hands of Sub #1 immediately prior to the transfer. Code section 358(a).

(27) Sub #1's basis in the Sub #4 stock constructively received will be the same as Sub #1's aggregate basis in the stock of each of Controlled #1, Sub #2, and Sub #3 immediately prior to the transfer. Code section 362(a).

(28) The holding period of the stock of Sub #4 constructively received by Sub #1 in the transfer will include the holding periods during which Sub #1 held the stock of each of Controlled #1, Sub #2, and Sub #3, provided that the stock of each of Controlled #1, Sub #2, and Sub #3 is held as a capital asset on the date of the transfer. Code section 1223(1); Rev. Rul. 85-164, 1985-2 C.B. 117.

(29) The holding period of the stock of each of Controlled #1, Sub #2, and Sub #3 in the hands of Sub #4 will include the period during which the stock of such corporation was held by Sub #1. Code section 1223(2).

No opinion is expressed as to the tax treatment of the transactions under other provisions of the Code or 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. More specifically, no opinion is expressed as to the tax treatment of Contribution 4 or Distributions 3, 4, 5, or 6.

In accordance with a power of attorney on file in this office, copies of this letter are being sent to your authorized representatives.

PLR-103032-00

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.

Sincerely yours,
Assistant Chief Counsel (Corporate)
By Charles M. Levy
Counsel to the Assistant Chief Counsel (Corporate)