

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

October 12, 2000

Parent	=
Target	=
Acquiring	=
Country A	=
Business B	=
Business C	=
State D	=
State E	=

Dear:

This letter responds to your request for rulings about the federal income tax consequences of a proposed transaction. The information submitted and considered in your request is summarized below.

Target and Acquiring are each domestic, State D and State E corporations, respectively, that are wholly owned subsidiaries of Parent, a publicly traded Country A corporation. Target is engaged in Business B. Acquiring is engaged in Business C and is the common parent of a consolidated group.

For valid business reasons, the following transaction is proposed:

1. Acquiring will form a State D limited liability company ("LLC") by contributing to it the minimum capital required under State D law. All of the interests of LLC will be issued to Acquiring.
2. Parent will transfer all of the stock of Target to Acquiring in exchange for Acquiring stock (the "Contribution").
3. Immediately after the Contribution, Target will merge with and into LLC pursuant to State D law (the "Merger").

The taxpayer has made the following representations in connection with the above transactions:

1. The fair market value of the Acquiring stock received by Parent will be approximately equal to the fair market value of the Target stock surrendered in the exchange.

2. There is no plan or intention by the shareholders of Target owning 5% or more of the stock of Target, and to the best of the knowledge of the management of Target, there is no plan or intent on the part of the remaining Target shareholders to sell, exchange, or otherwise dispose of a number of shares of Acquiring stock received in the transaction that would reduce the Target shareholders' ownership of the Acquiring stock to a number of shares having a value, as of the date of the transaction, of less than 50 percent of the value of all of the formerly outstanding stock of Target as of the same date. For purposes of this representation, shares of Target stock exchanged for cash or other property, surrendered by dissenters or exchanged for cash in lieu of fractional shares of Acquiring stock will be treated as outstanding Target stock on the date of the transaction. Moreover, shares of Target stock and shares of Acquiring stock held by Target shareholders and otherwise sold, redeemed, or disposed of prior to or subsequent to the transaction will be considered in making this representation.
3. 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 paid by Target to shareholders who receive cash or other property, 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.
4. After the transaction, Parent will be in control of Acquiring within the meaning of section 368(a)(2)(H)(i) of the Code.
5. Acquiring has no plan or intention to reacquire any of its stock issued in the transaction.
6. Acquiring has no plan or intention to sell or otherwise dispose of any of the assets of Target acquired in the transaction, except for dispositions made in the ordinary course of business.
7. The liabilities of Target assumed by Acquiring plus the liabilities, if any, to which the transferred assets are subject were incurred by Target in the ordinary course of its business and are associated with the assets transferred.
8. Following the transaction, Acquiring will continue the historic business of Target or use a significant portion of Target's historic business assets in a business.
9. At the time of the transaction, Acquiring will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Acquiring that, if exercised or converted, would affect Parent's acquisition or retention of control of Acquiring, as defined in section 368(a)(2)(H)(i).

10. Acquiring, Target, and Parent will each pay their respective expenses, if any, incurred in connection with the transaction.
11. There is no intercorporate indebtedness existing between Acquiring and Target that was issued, acquired, or will be settled at a discount.
12. No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv) of the Code.
13. 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.
14. The total adjusted basis of the assets of Target transferred to Acquiring will equal or exceed the sum of the liabilities to be assumed by Acquiring, plus the amount of the liabilities, if any, to which the transferred assets are subject.
15. Target is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A) of the Code.
16. The transaction is being undertaken for valid business purposes.

Based solely on the information submitted and the representations made, we hold as follows:

1. LLC will be disregarded as separate from Acquiring pursuant to Treasury Reg. §301.7701-3.
2. The Contribution and the Merger will be treated as if (i) Target transferred all of its assets directly to Acquiring in exchange for Acquiring stock and the assumption by Acquiring of the Target liabilities, and then (ii) Target dissolved, transferring the Acquiring stock it received in step (i) to Parent.
3. The transfer by Target of all of its assets solely in exchange for Acquiring stock and the assumption by Acquiring of the Target liabilities followed by the distribution to Parent in liquidation of Target will be a reorganization within the meaning of section 368(a)(1)(D) of the Code. Acquiring and Target will each be “a party to a reorganization” within the meaning of section 368(b).
4. No gain or loss will be recognized by Target upon the transfer of all of its assets to Acquiring in exchange for Acquiring stock and the assumption by Acquiring of the Target liabilities (sections 361(a) and 357(a)).
5. No gain or loss will be recognized by Target on the deemed transfer of Acquiring stock to

Parent (section 361(c)(1)).

6. No gain or loss will be recognized by Acquiring upon the receipt of the assets of Target in exchange for Acquiring stock (section 1032(a)).
7. The basis of the assets of Target in the hands of Acquiring will be the same as the basis of those assets in the hands of Target immediately prior to the transfer (section 362(b)).
8. The holding period of the assets of Target in the hands of Acquiring will include the period during which those assets were held by Target (section 1223(2)).
9. No gain or loss will be recognized by Parent upon the receipt of the Acquiring stock in exchange for its Target stock (section 354(a)(1)).
10. The basis of the shares of Acquiring received by Parent will be the same as the basis of the Target stock surrendered in exchange therefor (section 358(a)(1)).
11. The holding period of the Acquiring stock received by Parent will include the period during which Parent held the Target stock surrendered in the exchange therefor pursuant to section 1223(1), provided the Target stock is held as a capital asset on the date of the merger.

No opinion is expressed about the tax treatment of the transaction under any other provision of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the transaction not specifically covered by the above rulings.

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

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

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

Pursuant to the power of attorney on file in this office, a copy of this letter has been sent to the taxpayer.

Sincerely,
 Associate Chief Counsel (Corporate)
 By: Lewis K Brickates
 Assistant to Branch Chief (Corporate)