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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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PLR-125132-06

Date:

July 12, 2006

Legend:

Sub 19 =

Sub 20 =

LP 2 =

B Acquisitions =

p =

q =

s =

State a =

Dear :

This letter responds to your May 9, 2006 request that we supplement our letter ruling dated April 7, 2006 (PLR-100049-06) (the "Original Letter Ruling"). The information submitted in your May 9, 2006 letter and subsequent correspondence is summarized below. Capitalized terms not defined in this ruling have the meanings assigned to them in the Original Letter Ruling.

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. This office has not verified any of the material 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. Moreover, no information provided by the taxpayer has been reviewed and no determination has been made regarding whether the proposed transaction: (i) satisfies the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations; (ii) is used principally as a device for the distribution of any earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) of the Internal Revenue Code (the Code) and § 1.355-2(d)); and (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation (see § 355(e)(2)(A)(ii) and § 1.355-7).

Summary of Facts

The Original Letter Ruling addressed certain federal income tax consequences of a transfer by Distributing of the stock of subsidiaries conducting Business A to Controlled solely in exchange for Controlled Common Stock, cash in the form of a Special Dividend, and Controlled Securities (the "Contribution"), followed by the pro rata distribution of all the shares of Controlled Common Stock to holders of Distributing Common Stock (the "External Distribution") and the subsequent merger of Controlled with and into Merger Partner (the "Merger"). The Original Letter Ruling held that the Contribution followed by the External Distribution qualified as a reorganization under §§ 355 and 368(a)(1)(D) of the Code and that the Merger qualified as a reorganization under § 368(a)(1)(A) of the Code.

Distributing now expects that the Special Dividend will equal approximately \$p and that the Controlled Securities will have a face amount of approximately \$q. As described in the Original Letter Ruling, Distributing has Commercial Paper and Notes outstanding, none of which were issued in anticipation of the External Distribution. The

amount of Notes outstanding is \$r and not \$b, as set forth in the request for the Original Letter Ruling. Distributing intends to transfer all of the Controlled Securities to the Investment Banks in exchange for Commercial Paper and Notes that the Investment Banks, acting as principals for their own accounts, will have acquired in the marketplace at least 14 days prior to the External Distribution. Distributing previously expected the Investment Banks to acquire approximately \$j of Commercial Paper and Notes with a face amount of approximately \$k less the face amount of Commercial Paper so acquired. In order to add flexibility with respect to the Debt Exchange, Distributing now expects the Investment Banks to acquire some combination of Commercial Paper and Notes such that the Commercial Paper may represent anywhere from zero to \$a, with the balance of debt to be exchanged in the Debt Exchange consisting of Notes. Finally, while Distributing had expected the Controlled Securities to bear interest at a rate designed to render the securities worth their face amount, Distributing now anticipates, due to current market conditions, that the Controlled Securities may be worth less than their face amount when they are issued, although any such discount is not expected to exceed a de minimis amount within the meaning of §§ 1273(a)(3) and 1278(a)(2)(C).

Proposed Transaction

Distributing intends to engage in certain Pre-Distribution Restructuring steps before the Contribution, the External Distribution, and the Merger. The steps of the Pre-Distribution Restructuring, as modified (the "Proposed Transaction") are as follows:

- (i) Distributing will contribute certain Business A assets to Sub 3.
- (ii) Distributing will contribute all of the stock of Sub 3 to Sub 6.
- (iii) Sub 6 will contribute all of the stock of Sub 3 to Sub 15.
- (iv) Sub 11 will sell certain Business B assets to Sub 1, which will contribute such assets to a newly formed partnership, all of the interests in which will be owned by Sub 1 and one of its subsidiaries.
- (v) Sub 4 and Sub 12, each inactive corporations, will liquidate in transactions intended to qualify as liquidations under §§ 332 and 337.
- (vi) Sub 15 will transfer all of its interest in LP and certain real estate to Sub 18 for no consideration. For federal income tax purposes, Distributing will treat the transfer as a distribution of such assets from Sub 15 to Sub 6, followed by successive contributions of such assets by Sub 6 to Sub 17 and by Sub 17 to Sub 18.
- (vii) Sub 6 will distribute all of the stock of Sub 17 to Distributing in a transaction intended to qualify as a distribution under § 355 ("Internal Distribution 1").
- (viii) Distributing will contribute all of the stock of Sub 17 to Sub 1.

(ix) Sub 1 will contribute certain Business A assets to a newly formed, wholly owned subsidiary, Sub 19, in a transaction intended to qualify as a reorganization under § 368(a)(1)(D) ("Contribution 1") and will distribute all of the stock of Sub 19 to Distributing in a transaction intended to qualify as a distribution under § 355 ("Internal Distribution 2").

(x) Distributing will contribute all of the stock of Sub 5 to Sub 1, and, immediately thereafter, Sub 1 will cause Sub 5 to convert into a State a limited liability company that will be disregarded as an entity separate from its owner for federal income tax purposes under § 301.7701-3(b)(1)(ii).

(xi) Sub 5 will contribute all of its interest in LP 2 to its direct, wholly owned subsidiary, Sub 20, which owns the remaining interests in LP2, and LP 2 will liquidate under state law. Sub 5 will distribute the stock of Sub 20 and another subsidiary to Sub 1 (these steps will be disregarded for federal income tax purposes), and Sub 20 will merge with and into Sub 1.

(xii) As part of the Contribution, Distributing will transfer to Controlled the existing accounts receivable and payable between Distributing and various subsidiaries conducting Business A, which accounts have generally arisen in the ordinary course of business.

Representations

In connection with its request for a supplemental ruling, Distributing affirms the statements and representations made in the Original Letter Ruling, as amended as follows:

(c) Distributing will elect not to apply the transitional rule of § 355(b)(3)(C). Therefore, Distributing and Controlled will treat all members of its respective separate affiliated group as defined in § 355(b)(3)(B) (hereafter "SAG") as one corporation in determining whether it meets the requirements of § 355(b)(2)(A) regarding the active conduct of a trade or business.

(d) The five years of financial information submitted on behalf of the business conducted by Sub 1 (a member of the Distributing SAG) is representative of the present business operations of Sub 1, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted, other than the B Acquisitions.

(e) The five years of financial information submitted on behalf of the business conducted by Sub 15 (a member of the Controlled SAG) is representative of the present business operations of Sub 15, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

Representations (f) and (g) are deleted.

(h) Following the Distribution, the Distributing SAG and the Controlled SAG will continue the active conduct of their respective businesses, independently and with their separate employees.

Distributing makes the following additional representations with respect to Internal Distribution 1:

(a) Any indebtedness owed by Sub 17 to Sub 6 after Internal Distribution 1 will not constitute stock or securities.

(b) No part of the consideration to be distributed by Sub 6 with respect to its stock will be received by Distributing as a creditor, employee, or in any capacity other than that of a shareholder of Sub 6.

(c) Sub 6 will elect not to apply the transitional rule of § 355(b)(3)(C). Therefore, Sub 6 and Sub 17 will treat all members of its respective SAG as one corporation in determining whether it meets the requirements of § 355(b)(2)(A) regarding the active conduct of a trade or business.

(d) The five years of financial information submitted on behalf of the business conducted by Sub 15 (a member of the Sub 6 SAG) is representative of the present business operations of Sub 15, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

(e) The five years of financial information submitted on behalf of the business conducted by Sub 18 (a member of the Sub 17 SAG) is representative of the present business operations of Sub 18, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

(f) Following Internal Distribution 1, the Sub 6 SAG and the Sub 17 SAG will continue the active conduct of their respective businesses, independently and with their separate employees.

(g) Internal Distribution 1 is being carried out for the corporate business purpose of facilitating the External Distribution. Internal Distribution 1 is motivated, in whole or substantial part, by this corporate business purpose.

(h) Internal Distribution 1 is not used principally as a device for the distribution of the earnings and profits of Sub 6 or Sub 17 or both.

(i) No indebtedness between Sub 6 (and its subsidiaries) and Sub 17 (and its subsidiaries) has been or will be cancelled in connection with Internal Distribution 1

other than the settlement of open intercompany account balances attributable to the normal business operations of Distributing and its subsidiaries prior to Internal Distribution 1.

(j) No intercorporate debt will exist between Sub 6 (and its subsidiaries) and Sub 17 (and its subsidiaries) at the time of, or subsequent to, Internal Distribution 1, except for payables arising under the transitional agreements or in the ordinary course of business.

(k) Payments made in connection with any continuing transactions between Sub 6 (and its subsidiaries) and Sub 17 (and its subsidiaries) following Internal Distribution 1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(l) No two parties to Internal Distribution 1 are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(m) For purposes of § 355(d), immediately after Internal Distribution 1, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 6 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 6 stock, that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of Internal Distribution 1.

(n) For purposes of § 355(d), immediately after Internal Distribution 1, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 17 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 17 stock, that was either (1) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of Internal Distribution 1 or (2) attributable to distributions on Sub 17 stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of Internal Distribution 1.

(o) The Merger may be part of a plan or series of related transactions (within the meaning of § 1.355-7) that includes Internal Distribution 1. Taking the Merger into account, Internal Distribution 1 is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50 percent or greater interest (within the meaning of § 355(d)(4)) in Sub 6 or Sub 17 (including any predecessor or successor of any such corporation).

Distributing makes the following additional representations with respect to Contribution 1 and Internal Distribution 2:

(p) Any indebtedness owed by Sub 19 to Sub 1 after Internal Distribution 2 will not constitute stock or securities.

(q) No part of the consideration to be distributed by Sub 1 with respect to its stock will be received by Distributing as a creditor, employee, or in any capacity other than that of a shareholder of Sub 1.

(r) The total adjusted basis and the fair market value of the assets contributed to Sub 19 by Sub 1 each will equal or exceed the sum of (i) any liabilities assumed (within the meaning of § 357(d)) by Sub 19 and (ii) the total of any money and the fair market value of any other property (within the meaning of § 361(b)) received by Sub 1.

(s) Any liabilities assumed (within the meaning of § 357(d)) by Sub 19 were incurred in the ordinary course of business and are associated with the assets being transferred.

(t) The five years of financial information submitted on behalf of Sub 1 is representative of the present operations of that corporation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted, other than the acquisition of assets in connection with the B Acquisitions.

(u) The five years of financial information submitted on behalf of Sub 19 is representative of the present operations of that corporation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

(v) Following Internal Distribution 2, Sub 1 and Sub 19 will continue the active conduct of their respective businesses, independently and with their separate employees.

(w) Internal Distribution 2 is being carried out for the corporate business purpose of facilitating the External Distribution. Internal Distribution 2 is motivated, in whole or substantial part, by this corporate business purpose.

(x) Internal Distribution is not used principally as a device for the distribution of the earnings and profits of Sub 1 or Sub 19 or both.

(y) No indebtedness between Sub 1 (and its subsidiaries) and Sub 19 (and its subsidiaries) has been or will be cancelled in connection with Internal Distribution 2.

(z) No intercorporate debt will exist between Sub 1 (and its subsidiaries) and Sub 19 (and its subsidiaries) at the time of, or subsequent to, Internal Distribution 2,

except for payables arising under the transitional agreements or in the ordinary course of business.

(aa) No property will be transferred by Sub 1 to Sub 19 for which an investment credit allowed under § 47 will be claimed.

(bb) Payments made in connection with any continuing transactions between Sub 1 (and its subsidiaries) and Sub 19 (and its subsidiaries) following Internal Distribution 2, will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(cc) No two parties to Internal Distribution 2 are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(dd) For purposes of § 355(d), immediately after Internal Distribution 2, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 1 stock, that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of Internal Distribution 2.

(ee) For purposes of § 355(d), immediately after Internal Distribution 2, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 19 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 19 stock, that was either (1) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after § 355(6)) ending on the date of Internal Distribution 2 or (2) attributable to distributions on Sub 1 stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of Internal Distribution 2.

(ff) The Merger may be part of a plan or series of related transactions (within the meaning of § 1.355-7) that includes Internal Distribution 2. Taking the Merger into account, Internal Distribution 2 is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50 percent or greater interest (within the meaning of § 355(d)(4)) in Sub 1 or Sub 19 (including any predecessor or successor of any such corporation).

(gg) The total fair market value of the assets transferred in Contribution 1 will equal or exceed the aggregate adjusted basis of those assets.

Rulings

Based solely on the information and representations submitted with the original and supplemental requests, we reaffirm the rulings set forth in the Original Letter Ruling and rule as follows on Internal Distribution 1:

(1) Sub 6 will not recognize any gain or loss on Internal Distribution 1 (§ 355(c)).

(2) Distributing will not recognize any gain or loss (and will not include any amount in income) upon receipt of the stock of Sub 17 (§ 355(a)).

(3) The aggregate basis of the Sub 6 and Sub 17 stock held by Distributing after Internal Distribution 1 will be the same as the basis in the Sub 6 stock held by Distributing immediately prior to the distribution, allocated in proportion to the fair market values of Sub 6 and Sub 17 stock in accordance with § 1.358-2 and § 358.

(4) The holding period of the Sub 17 stock will include the holding period of the Sub 6 stock with respect to which the distribution of the Sub 17 stock is made, provided that the Sub 6 stock is held as a capital asset on the date of Internal Distribution 1 (§ 1223(1)).

(5) Earnings and profits will be allocated between Sub 6 and Sub 17 in accordance with § 312(h).

Based solely on the information submitted and the representations made, we rule as follows on Contribution 1 and Internal Distribution 2:

(6) Contribution 1, followed by Internal Distribution 2, will qualify as a reorganization within the meaning of § 368(a)(1)(D), and Sub 19 and Sub 1 will each be “a party to a reorganization” within the meaning of § 368(b).

(7) Sub 1 will not recognize any gain or loss (and will not include any amount in income) on Contribution 1 (§§ 361(a) and 357(a)).

(8) Sub 19 will not recognize any gain or loss (and will not include any amount in income) on Contribution 1 (§ 1032).

(9) Sub 1 will not recognize any gain or loss (and will not include any amount in income) on Internal Distribution 2 (§ 361(c)(1)).

(10) Distributing will not recognize any gain or loss (and will not include any amount in income) upon its receipt of the stock of Sub 19 (§ 355(a)(1)).

(11) The aggregate basis of the Sub 1 and the Sub 19 stock held by Distributing after Internal Distribution 2 will be the same as the basis in the Sub 1 stock

held by Distributing immediately prior to the distribution, allocated in proportion to the fair market values of the Sub 1 and Sub 19 stock in accordance with § 1.358-2(a)(2) and § 358.

(12) The holding period of the Sub 19 stock will include the holding period of the Sub 1 stock with respect to which the distribution of the Sub 19 stock is made, provided that the Sub 1 stock is held as a capital asset on the date of Internal Distribution 2 (§ 1223(1)).

(13) Sub 19's basis in each asset received from Sub 1 will equal the basis of that asset in the hands of Sub 1 immediately before Contribution 1 (§ 362(b) and (e)).

(14) Sub 19's holding period in each asset received from Sub 1 in Contribution 1 will include the period during which Sub 1 held that asset (§ 1223(2)).

(15) Earnings and profits will be allocated between Sub 1 and Sub 19 in accordance with § 312(h).

Caveats

No opinion is expressed about the tax treatment of the Proposed Transaction under other provisions of the Code or the regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding: (i) whether Internal Distribution 1 or Internal Distribution 2 satisfies the business purpose requirement of § 1.355-2(b); (ii) whether the Proposed Transaction is used principally as a device for the distribution of earnings and profits of any distributing corporation or any controlled corporation (see § 355(a)(1)(B) and § 1.355-2(d)); and (iii) whether the distributions and an acquisition or acquisitions are part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii).

Procedural Statements

This supplemental ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent. A copy of the Original Letter Ruling and this supplemental ruling must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their returns that provides the date and control number of the letter rulings.

In accordance with the power of attorney on file with this office, a copy of this supplemental ruling will be sent to your authorized representative.

Sincerely,

Richard K. Passales
Senior Counsel, Branch 4
Office of Associate Chief Counsel (Corporate)

cc: