

## Internal Revenue Service

## Department of the Treasury

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**April 27, 1999**

A =

B =

Estate of C =

X =

Y =

Z =

m =

n =

o =

p =

Date R =

This letter responds to your December 22, 1998 request for rulings on certain federal income tax consequences of a proposed transaction.

### **Summary of Facts**

A and B own m and n percent, respectively, of X corporation and o and p percent, respectively, of Y corporation. X and Y have only common stock outstanding. X owns all the common stock and Class A preferred stock of Z corporation. Before the transactions described below, the Estate of C will have distributed the Class B preferred stock of Z corporation equally to A and B.

For valid business reasons, A and B have agreed, in an Exchange and Redemption Agreement executed on Date R (the "Agreement"), to undertake the following transactions:

(i) B will transfer his Y stock (the "Y Stock") to A in exchange for A's Class B stock in Z and so much of A's X stock that the combined fair market value of the Z and X stock will equal the fair market value of the Y Stock (the "Exchange").

(ii) X will redeem A's remaining X stock (the "Redemption").

### **Representations**

The taxpayer has made the following representations regarding the Redemption:

(a) There are no outstanding warrants to purchase X stock, nor are there outstanding debentures or other obligations that are convertible into X stock or would be considered X stock.

(b) No notes or other obligations of X will be distributed to A.

(c) No shares of X stock are constructively owned by A under § 318(a) of the Internal Revenue Code. A is not related, within the meaning of § 318, to any other X shareholder.

(d) No shareholder of X has been or will be obligated to purchase any of the stock to be redeemed.

(e) The transaction, including the Exchange and the Redemption, is an isolated transaction and is not related to any past or future transaction.

(f) X has no plan or intention to issue, redeem, or exchange additional shares of

its stock.

(g) None of the stock to be redeemed is “section 306 stock” within the meaning of § 306(c).

(h) There are no declared but unpaid dividends, or funds set apart for dividends, on any of the stock to be redeemed.

(i) The fair market value of the consideration to be received by A will, as of the date of the Agreement, approximately equal the fair market value of the X stock A submits for redemption.

(j) X has no plan or intention to issue, redeem, or exchange additional shares of its stock. There was not and will not be any distribution, redemption, or issuance of stock of any related corporation in connection with the transaction.

(k) The price to be paid by X for the X stock to be redeemed will not result in a loss to A with respect to those shares.

### **Rulings**

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

(1) The Redemption will be a “complete termination” of A’s interest in X under § 302(b)(3) (see Rev. Rul. 55-745, 1955-2 C.B. 223). Therefore, the amount distributed by X in the redemption will be treated as a distribution in full payment for the X stock surrendered by A (§ 302(a)).

(2) Provided that § 341 (relating to collapsible corporations) is not applicable, and the X stock is a capital asset in A’s hands, any gain on the redemption will be capital gain, subject to the conditions and limitations of Subchapter P, Chapter 1, Subtitle A of the Code (§ 1222).

(3) B will not receive a constructive distribution from X as a result of the redemption of X stock from A (Rev. Rul. 58-614, 1958-2 C.B. 920).

### **Caveats**

We express no opinion on the federal tax treatment of the proposed transaction under other provisions of the Code or regulations or the tax treatment of any condition existing at the time of, or effect resulting from, the proposed transaction not specifically covered by the above rulings. In particular, no opinion is expressed regarding the

Exchange.

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

### **Procedural Statements**

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

Each taxpayer involved in the proposed transaction should attach a copy of this letter to the taxpayer's federal income tax return for the taxable year in which that part of the transaction affecting the taxpayer is completed.

Under a power of attorney on file in this office, a copy of this letter is being sent to A.

Sincerely,

Assistant Chief Counsel (Corporate)

By: *Wayne T. Murray*  
Wayne T. Murray  
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Branch 4