

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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PLR-137852-09

Date:

June 16, 2010

Legend:

Acquiror =

Target =

Target Parent =

Acquiror Parent =

Country X =

Country Y =

State A =

State B =

Business 1 =

Date 1 =

Date 2 =

Date 3 =

Dear :

This letter responds to your August 10, 2009 request for rulings on certain federal income tax consequences of a completed transaction. The information submitted in that letter and in later correspondence is summarized below.

Summary of Facts

Acquiror Parent (a Country X corporation) owns all the stock of both Target Parent (a Country Y corporation) and Acquiror (a State A corporation). Prior to completion of the Transaction, Target Parent owned all the stock of Target (a State B corporation). Acquiror is engaged in Business 1; until Date 1, Target also was engaged in Business 1.

For what are represented to be valid business reasons, Acquiror Parent combined the operations of Target and Acquiror in the manner described below (the "Transaction"):

(i) On Date 1, Target transferred to Acquiror all of its operating assets in exchange for cash (the "Transfer"). Target retained certain non-operating assets, including cash and accounts receivable.

(ii) Following the Transfer, Target collected the retained accounts receivable, satisfied its obligations, sold the illiquid retained assets, and distributed excess cash to Target Parent. Target's final wind-up distribution occurred on Date 2.

(iii) After winding up its affairs, Target formally liquidated into Target Parent on Date 3.

Since the Transfer, Acquiror has continued to operate the business formerly conducted by Target, in addition to Acquiror's existing business.

Representations

In connection with the Transaction, the following representations have been made:

(a) The fair market value of the Acquiror stock and other consideration received (or deemed received) by Target Parent was approximately equal to the fair market value of the Target stock surrendered in the exchange.

(b) There was no plan or intention for Acquiror, or any person related (as defined in Treas. Reg. § 1.368-1(e)(4)) to Acquiror, to acquire or redeem any Acquiror stock issued or deemed issued in the Transaction, either directly or through any transaction, agreement, or other arrangement with any other person.

(c) There was no plan or intention by Acquiror Parent to sell, exchange, or otherwise dispose of any shares of Acquiror stock.

(d) Acquiror acquired 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 Transfer. For purposes of this representation, 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 were included as assets of Target held immediately prior to the Transfer.

(e) After the Transaction, Acquiror Parent was in control of Acquiror within the meaning of section 368(a)(2)(H)(i).

(f) Acquiror had 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.

(g) The liabilities of Target assumed by Acquiror plus the liabilities, if any, to which the transferred assets were subject were incurred by Target in the ordinary course of its business and were associated with the assets transferred.

(h) Following the Transfer, Acquiror has continued and will continue the historic business of Target or has used and will continue to use a significant portion of Target's historic business assets in a business.

(i) At the time of the Transaction, Acquiror did not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Acquiror that, if exercised or converted, would affect Acquiror Parent's acquisition or retention of control of Acquiror, as defined in section 368(a)(2)(H)(i).

(j) Acquiror, Target, and Target Parent paid their respective expenses, if any, incurred in connection with the Transaction.

(k) At the time of the Transaction, no intercorporate indebtedness existed between Acquiror and Target that was issued, acquired, or settled at a discount.

(l) At the time of the Transaction, no party to the Transaction was an investment company as defined in section 368(a)(2)(F)(iii) and (iv).

(m) The fair market value of the assets of Target transferred to Acquiror equaled or exceeded the sum of the liabilities assumed by Acquiror plus the amount of the liabilities, if any, to which the transferred assets were subject.

(n) The total adjusted basis of the assets of Target transferred to Acquiror equaled or exceeded the sum of the liabilities assumed by Acquiror plus the amount of the liabilities, if any, to which the transferred assets were subject.

(o) At the time of the Transaction, Target was not under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).

(p) After Date 1, Target owned no operating assets and conducted no business or operations other than what was necessary to wind up and liquidate.

(q) Target has not at any time during the five-year period ending on the date of the Transfer been a United States real property holding corporation, as defined under section 897(c) and Treas. Reg. § 1.897-2(b).

Rulings

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

(1) The transfer by Target of substantially all of its assets to Acquiror in exchange for cash and a nominal share of Acquiror stock and the assumption by Acquiror of Target liabilities, followed by the distribution of cash and the deemed distribution of the nominal share to Target Parent in a distribution subject to sections 354 and 356, qualifies as a reorganization within the meaning of section 368(a)(1)(D). Acquiror and Target each were a “party to a reorganization” within the meaning of section 368(b). The nominal share is deemed to have been further transferred from Target Parent to Acquiror Parent to reflect the actual ownership of Target and Acquiror (Treas. Reg. § 1.368-2T(l)(2)(i)).

(2) No gain or loss was recognized by Target upon the transfer of its assets to Acquiror in exchange for cash and the nominal share and the assumption by Acquiror of Target liabilities (sections 361(b) and 357(a)).

(3) No gain or loss was recognized by Target upon the distribution of cash and the deemed distribution of the nominal share to Target Parent (section 361(c)).

(4) No gain or loss was recognized by Acquiror upon the receipt of Target's assets in exchange for the nominal share (section 1032(a)).

(5) The basis of the assets of Target in the hands of Acquiror immediately after the Transfer was the same as the basis of those assets in the hands of Target immediately prior to the Transfer (section 362(b)).

(6) The holding period of the assets of Target in the hands of Acquiror includes the period during which such assets were held by Target immediately prior to the Transfer (section 1223(2)).

(7) Target Parent recognized no gain or loss upon the deemed exchange of Target stock for the nominal share (section 354(a)(1)). Target Parent recognized gain (if any) upon the receipt of cash or other property (excluding Acquiror stock) from Target in exchange for Target stock, but not in excess of the amount of cash or the fair market value of other property received (section 356(a)(1)). If the exchange had the effect of the distribution of a dividend (determined with the application of section 318(a)), then the amount of the gain recognized by Target Parent was treated as a dividend to the extent of the combined earnings and profits of Target and Acquiror, and the remainder, if any, of the gain recognized was treated as gain from the sale or exchange of property (section 356(a)(2)). No loss was recognized on the exchange (section 356(c)).

(8) The basis of the nominal share deemed received by Target Parent in the Transaction was the same as Target Parent's basis in the Target stock deemed surrendered in exchange therefor, decreased by the amount of cash or the fair market value of other property received, and increased by the amount of gain, if any, treated as a dividend and the amount of gain (not including any part of the gain treated as a dividend) recognized by Target Parent on the exchange (section 358(a)(1)).

(9) The holding period of the nominal share deemed received by Target Parent in the Transaction includes the period during which Target Parent held the Target stock deemed surrendered in exchange therefor, provided the Target stock was held as a capital asset by Target Parent on the date of the exchange (section 1223(1)).

(10) Target Parent recognized gain (if any), but not loss, on the deemed transfer of the nominal share to Acquiror Parent (section 311). Acquiror Parent's basis in the nominal share was the fair market value thereof (section 301(d)).

(11) Acquiror succeeded to and took into account the items of Target described in section 381(c) (section 381(a) and Treas. Reg. § 1.381(a)-1), subject to the conditions and limitations specified in sections 381, 382, 383, and 384, and the Treasury Regulations thereunder. The tax year of Target ended on the effective date of the Transfer (section 381(b) and Treas. Reg. § 1.381(b)-1).

(12) As provided in section 381(c)(2) and Treas. Reg. § 1.381(c)(2)-1, Acquiror succeeded to and took into account the earnings and profits, or deficit in earnings and

profits, of Target as of Date 1. Any deficit in the earnings and profits of Acquiror or Target could be used only to offset the earnings and profits accumulated after that time.

Caveats and Procedural Statements

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.

No opinion is expressed or implied about the tax treatment of the Transaction under other provisions of the Internal Revenue Code or Treasury Regulations, or the tax treatment of any conditions existing at the time of, or effects resulting from, the Transaction that are not specifically covered by the above rulings.

The ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Each taxpayer involved in the Transaction should attach a copy of this ruling letter to the taxpayer's federal income tax return for the taxable year in which the Transaction was completed. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

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

Sincerely,

Lisa A. Fuller
Senior Counsel
Office of Associate Chief Counsel (Corporate)