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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

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PLR-108984-07

Date:
June 21, 2007

Date 1 =

State Z =

State Y =

x =

y =

a =

b =

Dear

We respond to your February 20, 2007, request that we supplement our letter ruling dated September 27, 2006 (PLR-104830-06; the "Prior Ruling Letter"). Additional information was submitted in a letter dated June 18, 2007. Capitalized terms not defined in this ruling have the meanings assigned to them in the Prior Ruling Letter. The transaction described in the Prior Ruling Letter may be referred to below as the "Proposed Transaction." The information submitted for consideration is summarized below.

The Prior Ruling Letter addressed certain Federal income tax consequences of the Proposed Transaction under §§301, 311, 708, 732, 740, 751, 1012, and 1502 of the Internal Revenue Code.

As set forth in the Prior Ruling Letter, one of the steps in the Proposed Transaction is that Sub 2 and Sub 4 sell their LP interests to Sub 3. Among other rulings, we concluded in the Prior Ruling Letter that the sales by Sub 2 and Sub 4 of their interests in LP to Sub 3 would be intercompany transactions described in §1.1502-13(b)(1) of the Income Tax Regulations. We also concluded that the gains from the sales (the intercompany items) would be accounted for under the matching rule of §1.1502-13(c) and that Sub 3's corresponding items would be its items with respect to the Sub 5 stock that Sub 3 would be treated as acquiring. The Proposed Transaction results in Sub 2 and Sub 4 owning Sub 5 common stock and Sub 3 owning both Sub 5 common stock and Sub 5 preferred stock.

With the objectives of lessening regulatory oversight and simplifying organizational structure, and once all required regulatory approvals are obtained, Parent desires to merge Sub 5 into Sub 4 and requests this supplemental ruling letter. The merger consideration conveyed by Sub 4 will consist of a combination of Sub 4 stock and Sub 4's assumption of Sub 5's liabilities, which combination will equal approximately the fair market value of all the shares of Sub 5 stock owned by Sub 2 and Sub 3. Sub 4 will issue fractional shares if necessary to make the values approximately equal.

The taxpayer makes the following representations:

(a) The proposed merger will be effected pursuant to the state statute or statutes necessary to effect a merger or consolidation.

(b) Simultaneously at the effective time of the merger and as a result of the operation of the merger or consolidation laws, Sub 4 will acquire all of Sub 5’s assets in exchange for shares of Sub 4 common stock and the assumption by Sub 4 of Sub 5’s liabilities.

(c) The Sub 4 stock will not be nonqualified preferred stock within the meaning of §351(g).

(d) The Sub 4 stock will be distributed to the Sub 5 shareholders pursuant to the plan of reorganization. The terms of the merger will specify what shares of Sub 4 stock are to be received in exchange for a particular share of Sub 5 stock. Such specific terms will be economically reasonable. A recipient shareholder will agree that the terms will control for purposes of determining the basis of the stock received in the exchange. Thus, Sub 3's basis in the Sub 4 stock will be determined directly in whole by reference to the Sub 5 stock.

(e) Sub 5 will retain no assets and will cease to exist under state law.

(f) The fair market value of Sub 4 stock received by each Sub 5 shareholder will be approximately equal to the fair market value of the Sub 5 stock surrendered in the merger.

(g) The Sub 4 stock received by the Sub 5 shareholders in the merger will have a fair market value, as of the effective time of the merger, of more than 50 percent of the fair market value of all the formerly outstanding Sub 5 stock as of the same time. Shares of Sub 5 stock exchanged for cash or property, surrendered by dissenters, or exchanged for cash in lieu of fractional shares of Sub 4 stock will be treated as outstanding Sub 5 stock at the effective time. Moreover, Sub 5 stock sold, redeemed, or otherwise disposed of by Sub 2, Sub 3, or Sub 4 before or subsequent to the merger will be considered in making this representation. Sub 4 will have no plan or intention to acquire any of the Sub 4 stock issued in the merger, either directly or through any transaction, agreement, or arrangement with any other person. For purposes of this representation, (1) a reference to Sub 4 or Sub 5 includes a reference to any successor or predecessor of such corporation to the extent provided in §1.368-1(e)(6), and (2) a reference to Sub 4 or Sub 5 includes a reference to a person related to Sub 4 or Sub 5 to the extent provided in §1.368-1(e)(3).

(h) At the effective time of the merger, Sub 4 will have no plan or intention to sell or otherwise dispose of any of Sub 5's assets acquired in the transaction, except for dispositions made in the ordinary course of business or transfers described in §1.368-2(k)(1).

(i) Sub 5 incurred any liabilities assumed by Sub 4 in the ordinary course of Sub 5's business. The liabilities will be associated with the transferred assets.

(j) After the effective time of the merger, Sub 4 will continue Sub 5's historical business or use a significant portion of Sub 5's historical business assets in a business.

(k) Sub 4 will pay the expenses incurred by the parties and directly related to the merger, with such relationship determined under the guidelines established in Rev. Rul. 73-54, 1973-1 C.B. 187. The payment of such expenses will be allocated among the affiliated companies pursuant to an existing cost-sharing agreement.

(l) At the effective time of the merger, there will be no intercorporate indebtedness existing between Sub 5 and Sub 4 that was issued or acquired or will be settled at a discount.

(m) At the effective time of the merger, neither Sub 4 nor Sub 5 will be investment companies as defined in §368(a)(2)(F)(iii) and (iv).

(n) At the effective time of the merger, Sub 5 will not be under the jurisdiction of a court in a title 11 or similar case within the meaning of §368(a)(3)(A).

(o) On the day of adoption of the merger plan, and until the effective time of the merger, the fair market value of Sub 5's assets transferred to Sub 4 will exceed the sum of the liabilities assumed by Sub 4.

(p) Effective Date 1, Sub 4 redomiciled from State Z to State Y. It currently has two classes of outstanding common stock, Class A and Class B. There are x outstanding shares of Class A and y outstanding shares of Class B. The class A shares have a vote(s) per share. The Class B shares have b vote(s) per share. The other rights and privileges are identical. A share of one class has the same right to dividends and to assets on liquidation as a share of the other class, with no share having a limit or preference with respect to dividend or liquidation rights. Sub 4 has no right to redeem any of its stock at a fixed price.

(q) There will be no agreements, arrangements, or understandings (whether documented or undocumented) that will modify or alter the rights of a share of stock, or the rights of the holders of the stock immediately after the proposed merger, or that will create any additional obligations or rights between such holders. There will be no present intention to create such agreements, arrangements, or understandings.

(r) Sub 3 will have no right to convert any share of Sub 4 common stock received as merger consideration into preferred stock of Sub 4.

Based solely on the information submitted and the representations set forth both herein and submitted with the Prior Ruling Letter, we rule as follows:

(1) Provided that the merger of Sub 5 into Sub 4 qualifies as a statutory merger in accordance with applicable state law, the acquisition by Sub 4 of all of the assets of Sub 5 in exchange for the common stock of Sub 4 and the assumption of Sub 5 liabilities, followed by the distribution of the Sub 4 stock to the Sub 5 shareholders in complete liquidation of Sub 5, will constitute a reorganization pursuant to §368(a)(1)(A). Sub 4 and Sub 5 each will be a "party to the reorganization" within the meaning of §368(b).

(2) Sub 5 will not recognize any gain or loss on the transfer of all of its assets to Sub 4 in exchange for Sub 4 stock and the assumption of liabilities (§§357(a) and 361(a)).

(3) Sub 4 will not recognize any gain or loss on its receipt of all of the assets of Sub 5 in exchange for Sub 4 stock and its assumption of Sub 5 liabilities (§1032(a)).

(4) Sub 4's basis in the assets received from Sub 5 will equal the basis of such assets in the hands of Sub 5 immediately before the merger (§362(b)).

(5) Sub 4's holding period in the assets received from Sub 5 will include the period during which Sub 5 held the assets (§1223(2)).

(6) Sub 5 will not recognize any gain or loss on its deemed distribution of the Sub 4 stock to its shareholders (§361(c)).

(7) Sub 5 shareholders will not recognize any gain or loss (and will not include any amount in income) upon their exchange of Sub 5 shares for shares of Sub 4 (§354(a)(1)).

(8) A Sub 5 shareholder's basis in the Sub 4 stock received will equal the basis of the Sub 5 stock that such Sub 5 shareholder held immediately before the merger (§358(a)).

(9) A Sub 5 shareholder's holding period of the stock of Sub 4 received will include the holding period of the stock of Sub 5 on which the distribution is made, provided that the Sub 5 shareholder held such Sub 5 stock as a capital asset on the date of the merger (§1223(1)).

(10) Sub 4 will succeed to and take into account the items of Sub 5 as described in §381(c). These items will be taken into account by Sub 4 subject to the applicable conditions and limitations specified in §§381, 382, 383, and 384 and the regulations thereunder.

(11) Sub 4 will succeed to and take into account the earnings and profits or deficit in earnings and profits of Sub 5 as of the date of the merger. Any deficit in earnings and profits will be used only to offset earnings and profits accumulated after the date of the merger (§§381(c)(2)(A), 1.381(c)(2)-1, and 1.312-11(a)).

(12) The shares of Sub 4 stock that Sub 3 will receive pursuant to the plan of merger (including any fractional share interest) will be successor assets to

the shares of Sub 5 stock surrendered in exchange therefor within the scope of §1.1502-13(j)(1). The merger itself will not result in an application of the matching rule or the acceleration rule in the taxable year that includes the merger to cause Sub 2 and Sub 4 to account for their intercompany items from the sales of their partnership interests. Instead, Sub 2 and Sub 4 will continue to account for their intercompany items under the matching rule of §1.1502-13(c). Sub 3's corresponding items will be its items with respect to the shares of Sub 4 stock that it receives in exchange for shares of Sub 5 stock.

(13) No share of Sub 4 stock will be §306 stock in the hands of Sub 3 (§306(c)(1)(B) and Rev. Rul. 76-387, 1976-2 C.B. 96).

Except as specifically set forth above, we express no opinion concerning the tax consequences of the proposed transaction under any other provision of the Code and regulations, or about the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction.

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.

A copy of this letter 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 ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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Filiz A. Serbes
Chief, Branch 3
Office of Associate Chief Counsel (Corporate)