Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:CORP:B03
PLR-111769-08
Date:
May 23, 2008

S Corp =

Parent =

S1 =

S2 =

S3 =

S4 =

S5 =

S6 =

S7 =

S8 =

S9 =

S10 =

S11 =

Year 1 =

Year 2 =

A =

B =

C =

D =

E =

F =

G =

H =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Date 8 =

Date 9 =

Date 10 =

Date 11 =

Date 12 =

Date 13 =

Date 14 =

Date 15 =

Date 16 =

Date 17 =

Date 18 =

Family =

Business 1 =

Dear :

We respond to your representative's letter dated March 10, 2008, requesting rulings as to the Federal income tax consequences of a transaction which has been partially consummated. Additional information was submitted in letters dated May 13 and May 22, 2008. The information submitted is summarized below.

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.

STATEMENT OF FACTS

S Corp is a domestic corporation which has elected to be treated as a qualified Subchapter S corporation since its organization on Date 18. S Corp is beneficially owned by members of Family and an employee stock ownership plan. S Corp owns all of the stock of Parent which is the common parent of a consolidated group of corporations. All corporations mentioned below are domestic corporations. The Completed Transactions (defined below) were intended to centralize and efficiently manage the costs of Business 1. The Proposed Transaction is intended to facilitate the election to treat members of Parent's consolidated group as qualified Subchapter S subsidiaries (QSubs).

The Completed Transactions

From Date 1 to Date 2 there were six transactions involving the sale or distribution of stock of Parent group members (the "Completed Transactions"). Prior to the Completed Transactions, Parent wholly owned S1, S2, S3, and S4. S2 wholly owned S5, S6, S7, and S8. S7 wholly owned S10, while S4 wholly owned S9.

Transaction 1

On Date 3, S2 sold all of its stock of S5 to Parent for $A. Parent then contributed all of its stock of S1 to S5. Under § 1.1502-13 of the Income Tax Regulations, the gain from the sale of S5 stock was not taken into account by S2.

Transaction 2

On Date 4, S3 contributed business assets to a newly-formed corporation, S11, in exchange for all of the stock of S11 in a transaction intended to qualify under § 351 of the Internal Revenue Code. The business assets were sold by S11 on Date 5 and Date 6 to unrelated parties. On Date 7, S3 sold all of the stock of S11 to Parent for $B. On Date 8, S11 was merged into S5 in a reorganization intended to qualify under § 368(a). Under § 1.1502-13, the gain from the sale of S11 stock was not taken into account by

S3. The stock of S5 became a successor asset under § 1.1502-13(j)(1) in the hands of Parent.

Transaction 3

On Date 9, S7 sold all of its stock of S10 to Parent for $C. At the time of the sale, S7 had an excess loss account in its S10 stock. Parent then contributed the stock of S10 to S5. Under § 1.1502-13, the gain from the sale of S10 stock was not taken into account by S7.

Transaction 4

On Date 10, S4 sold all of its stock of S9 to Parent for $D. On Date 11, Parent contributed the stock of S9 to S5 in a transaction intended to qualify under § 351. On Date 12, S9 merged with and into S1 in a transaction intended to qualify under § 368(a). Under § 1.1502-13, the gain from the sale of S9 stock was not taken into account by S4. The stock of S1 became a successor asset under § 1.1502-13(j)(1).

Transaction 5

During Year 1, S2 contributed business assets to S1 in exchange for stock in a transaction intended to qualify under § 351. On Date 13 and Date 14, S2 sold its stock of S1 to S5 for less than fair market value, $E. For Federal income tax purposes, the excess of fair market value over the sales price was considered a distribution from S2 to Parent and then a contribution by Parent to the capital of S5. On such deemed distribution, S2 recognized gain under § 311(b) equal to the fair market value of the S1 stock over its sales price. Under § 1.1502-13, the gain from the sale and deemed distribution of S1 stock was not taken into account by S2.

Transaction 6

During Year 2, S2 contributed business assets to S1 in exchange for stock in a transaction intended to qualify under § 351. On Date 15, Date 16, and Date 17, S2 sold the stock of S1 to S5 for less than fair market value, $G. For Federal income tax purposes, the excess of fair market value over the sales price was considered a distribution from S2 to Parent and then a contribution by Parent to the capital of S5. On such deemed distribution, S2 recognized gain under § 311(b) equal to the fair market value of the S1 stock over its sales price. Under § 1.1502-13, the gain from the sale and deemed distribution of S1 stock was not taken into account by S2.

<u>The Proposed Transaction:</u>

For the business reasons described above, the taxpayer proposes the following partially consummated transaction:

(i) On Date 18, the shareholders of Parent organized S Corp. S Corp's shares consist of voting and non-voting common stock. A timely election was filed to treat S Corp as an S corporation under § 1362 from the date of its formation.

(ii) On Date 18, the shareholders of Parent contributed all of their stock in Parent to S Corp. The shareholders of S Corp immediately after the contribution of Parent stock were identical with the stockholdings of Parent immediately before the contribution.

(iii) S Corp will make an election under § 1361(b) and § 1.1361-3 to treat Parent and each of the subsidiaries involved in the Completed Transactions (as well as certain other subsidiaries of Parent) as QSubs. It is intended that all such elections will be effective on the same day and S Corp will specify under § 1.1361-4(b)(2) that the deemed liquidations of the subsidiaries involved in the Completed Transactions will be made in the following order starting with the earliest: S2, S3, S4, S7, S8, S10, S1, S6, and lastly Parent.

REPRESENTATIONS

The following representations have been made regarding the Completed Transactions and the Proposed Transaction:

(a) Each share of the stock of each member which reflects intercompany gain from any of the Completed Transactions has been held by members of Parent group continuously since such gain arose and will be held by members of Parent group continuously until the completion of the Proposed Transaction.

(b) On the day before the effective date of the QSub elections by S Corp and Parent and each subsidiary involved in the Completed Transactions will be solvent and the deemed liquidations will meet the requirements of § 332(b).

(c) Parent's affiliated group has not and will not derive any Federal income tax benefit (within the meaning of § 1.1502-13T(c)(6)(ii)(C)) from the Completed Transactions that gave rise to intercompany gain or the redetermination of intercompany gain (including any adjustment to basis in member stock under § 1.1502-32).

(d) The effects of Transactions 1 through 6 have not previously been reflected, directly or indirectly, on the Parent group's consolidated return.

RULINGS

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

Upon the completion of the Proposed Transaction, the intercompany gain on the sale or deemed sale or distribution or deemed distribution of subsidiary stock described in

Transactions 1 through 6 will be redetermined to be excluded from gross income under § 1.1502-13(c)(1)(i) because the Completed Transactions and the Proposed Transaction meet the provisions for exclusion contained in § 1.1502-13T(c)(6)(ii)(C).

CAVEATS

We express no opinion about the tax treatment of any transaction described above under other provisions of the Code and regulations or the tax treatment of any condition existing at the time of, or effect resulting from, any of these transactions that is not specifically covered by the above rulings. In particular, no opinion is requested and no opinion is expressed regarding (1) the validity of S Corp's S election or the validity of the QSub elections made for the members of Parent group; (2) the amount of intercompany gain recognized in any of the Completed Transactions, or the amount of intercompany gain taken into account upon the Proposed Transaction and redetermined to be excluded from gross income pursuant to § 1.1502-13T(c)(6)(ii)(C); or (3) the tax consequences of any exchange in the Completed Transactions intended to qualify § 351 or § 368.

PROCEDURAL STATEMENTS

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

A copy of this ruling letter must be attached to the Federal income tax return of each party involved for the taxable year in which the transaction covered by this letter is consummated. 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.

Pursuant to the power of attorney on file in this Office, copies of this letter are being sent to Parent's authorized representatives.

Sincerely,

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Ross E. Poulsen
Assistant to the Branch Chief, Branch 3
Office of Associate Chief Counsel (Corporate)

cc: