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CC:CORP:B04
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Date:
September 25, 2008

Legend

Distributing	=	
Controlled	=	
Shareholder A	=	
Shareholder B	=	
Sub 1	=	
Sub 2	=	
Sub 3	=	
Sub 4	=	

Sub 5	=	
Sub 6	=	
Sub 7	=	
Sub 8	=	
Sub 9	=	
Sub 10	=	
Sub 11	=	
Old LLC 1	=	
Old LLC 2	=	
Partnership	=	

Business A =

a =

b =

Asset A =

Dear :

This letter responds to your February 8, 2008 request for rulings on certain federal income tax consequences of a series of proposed transactions. The information submitted in that request and in later correspondence is summarized below.

The rulings contained in this letter are based on facts 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 materials 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.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Distribution (defined below): (i) satisfies the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations, (ii) is being used principally as a device for the distribution of earnings and profits of any distributing or controlled corporation or both (see § 355(a)(1)(B) of the Internal Revenue Code (the "Code") and § 1.355-2(d)), or (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% or greater interest in any distributing or controlled corporation (see § 355(e) and § 1.355-7).

Summary of Facts

Distributing is the common parent of an affiliated group of corporations that files a consolidated federal income tax return (the "Distributing Group"). Distributing has two equal shareholders, Shareholder A and Shareholder B. Distributing wholly owns Sub 1 and Sub 2. Sub 2 wholly owns each of Sub 3, Sub 4, Sub 5, Sub 6, Sub 7, Sub 8, Sub 9, Sub 10, Sub 11, Old LLC 1, and Old LLC 2. In addition, Sub 2 owns an a% interest in Partnership. The remaining interest in Partnership is owned by an unrelated third party.

Distributing operates Business A through Sub 2. Financial information submitted by Distributing indicates that Business A (through Sub 2) has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

The taxpayer has represented that the Distribution will serve a number of corporate business purposes including alleviating certain differences of opinion that have arisen between Shareholder A and Shareholder B regarding the future development and capital allocation of Distributing, which prevents the optimal development of Business A.

Proposed Transaction

For what have been represented to be valid business purposes the following steps have been proposed (the "Proposed Transaction"):

(i) Distributing forms a new LLC ("Sub 2 LLC"). Sub 2 merges under state law into Sub 2 LLC ("Upstream Merger 1"). Following Upstream Merger 1, Sub 2 LLC distributes all of the stock of Sub 9, Sub 10, and Sub 11 to Distributing.

(ii) Sub 2 LLC forms a new LLC ("New LLC 1"). Sub 2 LLC transfers to New LLC 1 certain Asset A and related assets and liabilities.

(iii) Sub 2 LLC forms a new LLC ("New LLC 2"). Sub 2 LLC transfers to New LLC 2 certain Asset A and related assets and liabilities, including its interest in Old LLC 1, its interest in New LLC 1 and the stock of Sub 3 (together, with half of the assets remaining in Sub 2 LLC after the Proposed Transaction, the "Distributing Business").

(iv) Sub 2 LLC distributes its interest in New LLC 2 to Distributing.

(v) A new LLC is formed by Sub 2 LLC for each of Sub 5, Sub 6 and Sub 7 ("Sub 5 LLC," "Sub 6 LLC" and "Sub 7 LLC"). Each of Sub 5, Sub 6 and Sub 7 then merge under state law into their corresponding LLCs ("Upstream Merger 2," "Upstream Merger 3" and "Upstream Merger 4," respectively).

(vi) Sub 2 LLC forms a new LLC ("New LLC 3"). Sub 1 and Sub 4 then each merge under state law into New LLC 3 ("Upstream Merger 5" and "Upstream Merger 6," respectively).

(vii) Sub 2 LLC forms a new LLC ("New LLC 4"). Sub 2 LLC transfers to New LLC 4 certain Asset A and related assets and liabilities.

(viii) Distributing forms Controlled. Sub 2 LLC transfers to Controlled its remaining Asset A and certain related assets and liabilities, including its interest in Partnership, its interest in Old LLC 2, its interest in New LLC 4 and the stock of Sub 8 (together, with half of the assets remaining in Sub 2 LLC after the Proposed Transaction, the "Controlled Business"). Distributing then transfers b% of its interest in Sub 2 LLC to Controlled (together with the transfers described in the preceding sentence, the "Contribution").

(ix) Distributing distributes all of the stock of Controlled to Shareholder B in exchange for all of the stock of Distributing owned by Shareholder B (the "Distribution").

In connection with the Proposed Transaction, Shareholder A, Shareholder B, Distributing, and Controlled will enter into several agreements relating to certain corporate, tax, employment, and other matters (the “Separation Agreements”). It is anticipated that payments will be made between Distributing and Controlled pursuant to the Separation Agreements (the “Adjustment Payments”). In addition, Shareholder A (directly or through Distributing), and/or Shareholder B (directly or through Controlled) may make one or more contributions or loans of equal value to Sub 2 LLC prior to or after the Proposed Transaction to assure that it is adequately capitalized. Any contributions or loans to Sub 2 LLC made in connection with the Proposed Transaction will be made in equal amounts by Shareholder A (directly or through Distributing) and Shareholder B (directly or through Controlled).

Representations

The following representations are made in connection with Upstream Merger 1:

(a1) Distributing will be the owner of at least 80 percent of the only outstanding class of Sub 2 stock at the effective time of Upstream Merger 1.

(b1) No shares of Sub 2 will have been redeemed during the three years preceding the effective time of Upstream Merger 1.

(c1) Upon Upstream Merger 1, Sub 2 will cease to be a going concern.

(d1) Sub 2 will not retain any assets following Upstream Merger 1.

(e1) Except for properties acquired in like-kind exchanges, Sub 2 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the effective time of Upstream Merger 1.

(f1) Except for dispositions (i) in the ordinary course of business, (ii) which occurred more than three years prior to the effective time of Upstream Merger 1 (iii) which occur pursuant to steps undertaken as part of the Proposed Transaction, or (iv) certain sales of Asset A, no assets of Sub 2 have been, or will be, disposed of by either Sub 2 or Distributing.

(g1) Sub 2 will report all earned income represented by assets that will be distributed to Distributing such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(h1) The liquidation of Sub 2 will not be preceded or followed by the reincorporation, transfer, or sale of all or a part of the business assets of Sub 2 to another corporation (i) that is the alter ego of Sub 2 and (ii) except as provided in the Proposed Transaction, that, directly or indirectly, will be owned more than 20 percent in value by persons holding directly or indirectly more than 20 percent in value of the stock of Sub 2. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a), as modified by § 304(c)(3).

(i1) Prior to the effective time of Upstream Merger 1, no assets of Sub 2 will have been distributed in kind, transferred, or sold to Distributing, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the effective time of Upstream Merger 1.

(j1) The fair market value of the assets of Sub 2 will exceed its liabilities at the effective time of Upstream Merger 1.

(k1) Distributing is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(l1) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to Upstream Merger 1 have been fully disclosed.

(m1) There is no intercorporate indebtedness existing between Distributing and Sub 2 that was issued, acquired, or will be settled at a discount.

The following representations are made in connection with Upstream Merger 2:

(a2) Distributing will be the owner of at least 80 percent of the only outstanding class of Sub 5 stock at the effective time of Upstream Merger 2.

(b2) No shares of Sub 5 will have been redeemed during the three years preceding the effective time of Upstream Merger 2.

(c2) Upon Upstream Merger 2, Sub 5 will cease to be a going concern.

(d2) Sub 5 will not retain any assets following Upstream Merger 2.

(e2) Sub 5 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the effective time of Upstream Merger 2.

(f2) Except for dispositions (i) in the ordinary course of business, (ii) which occurred more than three years prior to the effective time of Upstream Merger 2, or (iii) which occur pursuant to steps undertaken as part of the Proposed Transaction, no assets of Sub 5 have been, or will be, disposed of by either Sub 5 or Distributing.

(g2) Sub 5 will report all earned income represented by assets that will be distributed to Distributing such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(h2) The liquidation of Sub 5 will not be preceded or followed by the reincorporation, transfer, or sale of all or a part of the business assets of Sub 5 to another corporation (i) that is the alter ego of Sub 5 and (ii) except as provided in the Proposed Transaction, that, directly or indirectly, will be owned more than 20 percent in value by persons holding directly or indirectly more than 20 percent in value of the stock of Sub 5. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a), as modified by § 304(c)(3).

(i2) Prior to the effective time of Upstream Merger 2, no assets of Sub 5 will have been distributed in kind, transferred, or sold to Distributing, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the effective time of Upstream Merger 2.

(j2) The fair market value of the assets of Sub 5 will exceed its liabilities at the effective time of Upstream Merger 2.

(k2) Distributing is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(l2) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to Upstream Merger 2 have been fully disclosed.

(m2) There is no intercorporate indebtedness existing between Distributing and Sub 5 that was issued, acquired, or will be settled at a discount.

The following representations are made in connection with Upstream Merger 3:

(a3) Distributing will be the owner of at least 80 percent of the only outstanding class of Sub 6 stock at the effective time of Upstream Merger 3.

(b3) No shares of Sub 6 will have been redeemed during the three years preceding the effective time of Upstream Merger 3.

(c3) Upon Upstream Merger 3, Sub 6 will cease to be a going concern.

(d3) Sub 6 will not retain any assets following Upstream Merger 3.

(e3) Sub 6 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the effective time of Upstream Merger 3.

(f3) Except for dispositions (i) in the ordinary course of business, (ii) which occurred more than three years prior to the effective time of Upstream Merger 3, or (iii) which occur pursuant to steps undertaken as part of the Proposed Transaction, no assets of Sub 6 have been, or will be, disposed of by either Sub 6 or Distributing.

(g3) Sub 6 will report all earned income represented by assets that will be distributed to Distributing such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(h3) The liquidation of Sub 6 will not be preceded or followed by the reincorporation, transfer, or sale of all or a part of the business assets of Sub 6 to another corporation (i) that is the alter ego of Sub 6 and (ii) except as provided in the Proposed Transaction, that, directly or indirectly, will be owned more than 20 percent in value by persons holding directly or indirectly more than 20 percent in value of the stock of Sub 6. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a), as modified by § 304(c)(3).

(i3) Prior to the effective time of Upstream Merger 3, no assets of Sub 6 will have been distributed in kind, transferred, or sold to Distributing, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the effective time of Upstream Merger 3.

(j3) The fair market value of the assets of Sub 6 will exceed its liabilities at the effective time of Upstream Merger 3.

(k3) Distributing is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(l3) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to Upstream Merger 3 have been fully disclosed.

(m3) There is no intercorporate indebtedness existing between Distributing and Sub 6 that was issued, acquired, or will be settled at a discount.

The following representations are made in connection with Upstream Merger 4:

(a4) Distributing will be the owner of at least 80 percent of the only outstanding class of Sub 7 stock at the effective time of Upstream Merger 4.

(b4) No shares of Sub 7 will have been redeemed during the three years preceding the effective time of Upstream Merger 4.

(c4) Upon Upstream Merger 4, Sub 7 will cease to be a going concern.

(d4) Sub 7 will not retain any assets following Upstream Merger 4.

(e4) Sub 7 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the effective time of Upstream Merger 4.

(f4) Except for dispositions (i) in the ordinary course of business, (ii) which occurred more than three years prior to the effective time of Upstream Merger 4, or (iii) which occur pursuant to steps undertaken as part of the Proposed Transaction, no assets of Sub 7 have been, or will be, disposed of by either Sub 7 or Distributing.

(g4) Sub 7 will report all earned income represented by assets that will be distributed to Distributing such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(h4) The liquidation of Sub 7 will not be preceded or followed by the reincorporation, transfer, or sale of all or a part of the business assets of Sub 7 to another corporation (i) that is the alter ego of Sub 7 and (ii) except as provided in the Proposed Transaction, that, directly or indirectly, will be owned more than 20 percent in value by persons holding directly or indirectly more than 20 percent in value of the stock of Sub 7. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a), as modified by § 304(c)(3).

(i4) Prior to the effective time of Upstream Merger 4, no assets of Sub 7 will have been distributed in kind, transferred, or sold to Distributing, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the effective time of Upstream Merger 4.

(j4) The fair market value of the assets of Sub 7 will exceed its liabilities at the effective time of Upstream Merger 4.

(k4) Distributing is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(l4) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to Upstream Merger 4 have been fully disclosed.

(m4) There is no intercorporate indebtedness existing between Distributing and Sub 7 that was issued, acquired, or will be settled at a discount.

The following representations are made in connection with Upstream Merger 5:

(a5) Distributing will be the owner of at least 80 percent of the only outstanding class of Sub 1 stock at the effective time of Upstream Merger 5.

(b5) No shares of Sub 1 will have been redeemed during the three years preceding the effective time of Upstream Merger 5.

(c5) Upon Upstream Merger 5, Sub 1 will cease to be a going concern.

(d5) Sub 1 will not retain any assets following Upstream Merger 5.

(e5) Sub 1 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the effective time of Upstream Merger 5.

(f5) Except for dispositions (i) in the ordinary course of business, (ii) which occurred more than three years prior to the effective time of Upstream Merger 5, or (iii) which occur pursuant to steps undertaken as part of the Proposed Transaction, no assets of Sub 1 have been, or will be, disposed of by either Sub 1 or Distributing.

(g5) Sub 1 will report all earned income represented by assets that will be distributed to Distributing such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(h5) The liquidation of Sub 1 will not be preceded or followed by the reincorporation, transfer, or sale of all or a part of the business assets of Sub 1 to another corporation (i) that is the alter ego of Sub 1 and (ii) except as provided in the Proposed Transaction, that, directly or indirectly, will be owned more than 20 percent in value by persons holding directly or indirectly more than 20 percent in value of the stock of Sub 1. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a), as modified by § 304(c)(3).

(i5) Prior to the effective time of Upstream Merger 5, no assets of Sub 1 will have been distributed in kind, transferred, or sold to Distributing, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the effective time of Upstream Merger 5.

(j5) The fair market value of the assets of Sub 1 will exceed its liabilities at the effective time of Upstream Merger 5.

(k5) Distributing is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(l5) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to Upstream Merger 5 have been fully disclosed.

(m5) There is no intercorporate indebtedness existing between Distributing and Sub 1 that was issued, acquired, or will be settled at a discount.

The following representations are made in connection with Upstream Merger 6:

(a6) Distributing will be the owner of at least 80 percent of the only outstanding class of Sub 4 stock at the effective time of Upstream Merger 6.

(b6) No shares of Sub 4 will have been redeemed during the three years preceding the effective time of Upstream Merger 6.

(c6) Upon Upstream Merger 6, Sub 4 will cease to be a going concern.

(d6) Sub 4 will not retain any assets following Upstream Merger 6.

(e6) Sub 4 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the effective time of Upstream Merger 6.

(f6) Except for dispositions (i) in the ordinary course of business, (ii) which occurred more than three years prior to the effective time of Upstream Merger 6, or (iii) which occur pursuant to steps undertaken as part of the Proposed Transaction, no assets of Sub 4 have been, or will be, disposed of by either Sub 4 or Distributing.

(g6) Sub 4 will report all earned income represented by assets that will be distributed to Distributing such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(h6) The liquidation of Sub 4 will not be preceded or followed by the reincorporation, transfer, or sale of all or a part of the business assets of Sub 4 to another corporation (i) that is the alter ego of Sub 4 and (ii) except as provided in the Proposed Transaction, that, directly or indirectly, will be owned more than 20 percent in value by persons holding directly or indirectly more than 20 percent in value of the stock of Sub 4. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a), as modified by § 304(c)(3).

(i6) Prior to the effective time of Upstream Merger 6, no assets of Sub 4 will have been distributed in kind, transferred, or sold to Distributing, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the effective time of Upstream Merger 6.

(j6) The fair market value of the assets of Sub 4 will exceed its liabilities at the effective time of Upstream Merger 6.

(k6) Distributing is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(l6) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to Upstream Merger 6 have been fully disclosed.

(m6) There is no intercorporate indebtedness existing between Distributing and Sub 4 that was issued, acquired, or will be settled at a discount.

The following representations are made in connection with the Contribution and Distribution:

(a7) The fair market value of the Controlled stock to be received by Shareholder B will be approximately equal to the fair market value of the Distributing stock surrendered by Shareholder B.

(b7) The indebtedness, if any, owed by Controlled to Distributing after the Distribution will not constitute stock or securities.

(c7) No part of the consideration to be distributed by Distributing in the Distribution will be received by Shareholder B as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.

(d7) The five years of financial information submitted on behalf of the Distributing Business and the Controlled Business represent the present operations of each business, and with regard to each business, except for certain sales of Asset A, there have been no substantial operational changes since the date of the last financial statements submitted.

(e7) Following the transaction, the Distributing separate affiliated group and Controlled separate affiliated group will each continue, through their ownership of significant interests in Sub 2 LLC, the active conduct of its respective share of all the integrated activities of the business conducted by the Distributing separate affiliated group prior to the consummation of the transaction.

(f7) The Distribution is carried out for the corporate business purpose of allowing Shareholder A and Shareholder B to resolve certain philosophical differences that currently impede the Distributing Group's ability to develop and compete within its industry. The Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(g7) The Distribution is not used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.

(h7) The total fair market value of the assets transferred by Distributing to Controlled in the Contribution will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of § 357(d)) by Controlled in connection with the exchange, (ii) the amount of any liabilities owed to Controlled by Distributing that are discharged or extinguished in connection with the exchange, and (iii) the amount of the cash and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing in connection with the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the exchange.

(i7) Neither Business A nor control of any entity conducting this business was acquired during the 5 year period ending on the date of the Distribution in a transaction in which gain or loss was recognized or treated as recognized in whole or in part.

(j7) The total adjusted basis and the fair market value of the assets transferred to Controlled by Distributing in the Contribution each will equal or exceed the sum of any liabilities assumed within the meaning of § 357(d).

(k7) The liabilities assumed by Controlled in the Contribution and the liabilities to which the transferred assets are subject, if any, were incurred in the ordinary course of business and are associated with the assets being transferred.

(l7) No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution, except for any indebtedness incurred in the ordinary course of business or in connection with the Separation Agreements.

(m7) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see § 1.1502-13 and § 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Distributing's excess loss account with respect to the stock of Controlled, if any, will be included in income immediately before the Distribution (see § 1.1502-19).

(n7) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled, will be for fair market value based on terms and conditions arrived at by the parties' bargaining at arm's length.

(o7) For purposes of § 355(d), immediately after the Distribution, 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 Distributing stock entitled to vote or 50 percent or more of the total value of shares of all classes of Distributing 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 the Distribution.

(p7) For purposes of § 355(d), immediately after the Distribution, 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 Controlled stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled stock that was either (i) 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 the Distribution or (ii) attributable to distributions on Distributing 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 the Distribution.

(q7) The Distribution 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 Distributing or Controlled (including any predecessor or successor of any such corporation).

(r7) Immediately after the Distribution, neither Controlled nor Distributing will be a disqualified investment corporation (within the meaning of § 355(g)(2)).

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows regarding Upstream Merger 1:

1. No gain or loss will be recognized by Sub 2 in Upstream Merger 1. (§ 337(a)).

2. No gain or loss will be recognized by Distributing in Upstream Merger 1. (§ 332(a)).

3. The basis of each of Sub 2's assets in the hands of Distributing immediately after Upstream Merger 1, in each instance, will be the same as the basis of

those assets in the hands of Sub 2 immediately prior to Upstream Merger 1. (§ 334(b)(1)).

4. The holding period of the assets of Sub 2 in the hands of Distributing, in each instance, will include the period during which such assets were held by Sub 2 immediately prior to Upstream Merger 1 (§ 1223(2)).

5. Distributing will succeed to and take into account as of the close of the effective date of Upstream Merger 1 the items of Sub 2 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations there under (§ 381(a) and § 1.381(a)-1).

6. Except to the extent Sub 2's earnings and profits are reflected in Distributing's earnings and profits, Distributing will succeed to and take into account the earnings and profits or deficit in earnings and profits of Sub 2 as of the date of Upstream Merger 1. Any deficit in earnings and profits will be used only to offset earnings and profits accumulated after the date of Upstream Merger 1 (§ 381(c)(2)(A), §§ 1.381(c)(2)-1, 1.312-11(a), and 1.1502-33(a)(2)).

Based solely on the information submitted and the representations set forth above, we rule as follows regarding Upstream Merger 2:

7. No gain or loss will be recognized by Sub 5 in Upstream Merger 2 (§ 337(a)).

8. No gain or loss will be recognized by Distributing in Upstream Merger 2 (§ 332(a)).

9. The basis of each of Sub 5's assets in the hands of Distributing immediately after Upstream Merger 2, in each instance, will be the same as the basis of those assets in the hands of Sub 5 immediately prior to Upstream Merger 2 (§ 334(b)(1)).

10. The holding period of the assets of Sub 5 in the hands of Distributing, in each instance, will include the period during which such assets were held by Sub 5 immediately prior to Upstream Merger 2 (§ 1223(2)).

11. Distributing will succeed to and take into account as of the close of the effective date of Upstream Merger 2 the items of Sub 5 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).

12. Except to the extent Sub 5's earnings and profits are reflected in Distributing's earnings and profits, Distributing 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 Upstream Merger 2. Any deficit in earnings and profits will be used only to offset earnings and profits accumulated after the date of Upstream Merger 2 (§ 381(c)(2)(A), §§ 1.381(c)(2)-1, 1.312-11(a), and 1.1502-33(a)(2)).

Based solely on the information submitted and the representations set forth above, we rule as follows regarding Upstream Merger 3:

13. No gain or loss will be recognized by Sub 6 in Upstream Merger 3 (§ 337(a)).

14. No gain or loss will be recognized by Distributing in Upstream Merger 3 (§ 332(a)).

15. The basis of each of Sub 6's assets in the hands of Distributing immediately after Upstream Merger 3, in each instance, will be the same as the basis of those assets in the hands of Sub 6 immediately prior to Upstream Merger 3 (§ 334(b)(1)).

16. The holding period of the assets of Sub 6 in the hands of Distributing, in each instance, will include the period during which such assets were held by Sub 6 immediately prior to Upstream Merger 3 (§ 1223(2)).

17. Distributing will succeed to and take into account as of the close of the effective date of Upstream Merger 3 the items of Sub 6 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).

18. Except to the extent Sub 6's earnings and profits are reflected in Distributing's earnings and profits, Distributing will succeed to and take into account the earnings and profits or deficit in earnings and profits of Sub 6 as of the date of Upstream Merger 3. Any deficit in earnings and profits will be used only to offset earnings and profits accumulated after the date of Upstream Merger 3 (§ 381(c)(2)(A), §§ 1.381(c)(2)-1, 1.312-11(a), and 1.1502-33(a)(2)).

Based solely on the information submitted and the representations set forth above, we rule as follows regarding Upstream Merger 4:

19. No gain or loss will be recognized by Sub 7 in Upstream Merger 4 (§ 337(a)).

20. No gain or loss will be recognized by Distributing in Upstream Merger 4 (§ 332(a)).

21. The basis of each of Sub 7's assets in the hands of Distributing immediately after Upstream Merger 4, in each instance, will be the same as the basis of those assets in the hands of Sub 7 immediately prior to Upstream Merger 4 (§ 334(b)(1)).

22. The holding period of the assets of Sub 7 in the hands of Distributing, in each instance, will include the period during which such assets were held by Sub 7 immediately prior to Upstream Merger 4 (§ 1223(2)).

23. Distributing will succeed to and take into account as of the close of the effective date of Upstream Merger 4 the items of Sub 7 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).

24. Except to the extent Sub 7's earnings and profits are reflected in Distributing's earnings and profits, Distributing will succeed to and take into account the earnings and profits or deficit in earnings and profits of Sub 7 as of the date of Upstream Merger 4. Any deficit in earnings and profits will be used only to offset earnings and profits accumulated after the date of Upstream Merger 4 (§ 381(c)(2)(A), §§ 1.381(c)(2)-1, 1.312-11(a), and 1.1502-33(a)(2)).

Based solely on the information submitted and the representations set forth above, we rule as follows regarding Upstream Merger 5:

25. No gain or loss will be recognized by Sub 1 in Upstream Merger 5 (§ 337(a)).

26. No gain or loss will be recognized by Distributing in Upstream Merger 5 (§ 332(a)).

27. The basis of each of Sub 1's assets in the hands of Distributing immediately after Upstream Merger 5, in each instance, will be the same as the basis of those assets in the hands of Sub 1 immediately prior to Upstream Merger 5 (§ 334(b)(1)).

28. The holding period of the assets of Sub 1 in the hands of Distributing, in each instance, will include the period during which such assets were held by Sub 1 immediately prior to Upstream Merger 5 (§ 1223(2)).

29. Distributing will succeed to and take into account as of the close of the effective date of Upstream Merger 5 the items of Sub 1 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).

30. Except to the extent Sub 1's earnings and profits are reflected in Distributing's earnings and profits, Distributing will succeed to and take into account the earnings and profits or deficit in earnings and profits of Sub 1 as of the date of Upstream Merger 5. Any deficit in earnings and profits will be used only to offset earnings and profits accumulated after the date of Upstream Merger 5 (§ 381(c)(2)(A), §§ 1.381(c)(2)-1, 1.312-11(a), and 1.1502-33(a)(2)).

Based solely on the information submitted and the representations set forth above, we rule as follows regarding Upstream Merger 6:

31. No gain or loss will be recognized by Sub 4 in Upstream Merger 6 (§ 332(a)).

32. No gain or loss will be recognized by Distributing in Upstream Merger 6 (§ 337(a)).

33. The basis of each of Sub 4's assets in the hands of Distributing immediately after Upstream Merger 6, in each instance, will be the same as the basis of those assets in the hands of Sub 4 immediately prior to Upstream Merger 6 (§ 334(b)(1)).

34. The holding period of the assets of Sub 4 in the hands of Distributing, in each instance, will include the period during which such assets were held by Sub 4 immediately prior to Upstream Merger 6 (§ 1223(2)).

35. Distributing will succeed to and take into account as of the close of the effective date of Upstream Merger 6 the items of Sub 4 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).

36. Except to the extent Sub 4's earnings and profits are reflected in Distributing's earnings and profits, Distributing will succeed to and take into account the earnings and profits or deficit in earnings and profits of Sub 4 as of the date of Upstream Merger 6. Any deficit in earnings and profits will be used only to offset earnings and profits accumulated after the date of Upstream Merger 6 (§ 381(c)(2)(A), §§ 1.381(c)(2)-1, 1.312-11(a), and 1.1502-33(a)(2)).

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

37. The Contribution, followed by the Distribution, will qualify as a reorganization within the meaning of § 368(a)(1)(D), and Distributing and Controlled will each be "a party to a reorganization" within the meaning of § 368(b).

38. Distributing will not recognize any gain or loss on the Contribution (§§ 361(a) and 357(a)).

39. Controlled will not recognize any gain or loss on the Contribution (§ 1032(a)).

40. Shareholder B will not recognize any gain or loss (and will not include any amount in income) upon receipt of the stock of Controlled pursuant to the Distribution (§ 355(a)(1)).

41. Distributing will not recognize any gain or loss on the Distribution (§ 361(c)).

42. The aggregate basis of the Controlled stock held by Shareholder B after the Distribution will be equal to Shareholder B's aggregate basis in the Distributing stock surrendered in the Distribution, allocated in the manner described in § 1.358-2 (§ 358).

43. The holding period of the Controlled stock received by Shareholder B will include the holding period of the Distributing stock surrendered in exchange for the Controlled common stock, provided that such Distributing stock is held as a capital asset on the date of the Distribution (§ 1223(1)).

44. Controlled's basis in each asset received from Distributing will equal the basis of that asset in the hands of Distributing immediately before the Contribution (§ 362(b)).

45. Controlled's holding period in each asset received from Distributing in the Contribution will include the period during which Distributing held that asset. (§ 1223(2)).

46. As provided in § 312(h), proper allocation of earnings and profits between Distributing and Controlled will be made in accordance with § 1.312-10(a).

47. Any Adjustment Payments made by Distributing to Controlled, or vice versa, that (i) have arisen or will arise for a taxable period ending on or before the Distribution or for a taxable period beginning on or before and ending after the Distribution and (ii) will not have become fixed and ascertainable until after the Distribution, will be treated as occurring immediately before the Distribution. See Arrowsmith v. Commissioner, 344 U.S. 6 (1952); Rev. Rul, 83-73, 1983-1 C.B. 84.

Caveats

We express no opinion about the tax treatment of the Proposed Transactions under other provisions of the Code and regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings.

In particular, we express no opinion regarding:

(i) Whether the Distribution will satisfy the business purpose requirement of § 1.355-2(b);

(ii) Whether the Distribution is being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled (see § 355(a)(1)(B) and § 1.355-2(d)); and

(iii) Whether the Distribution 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% or greater interest in Distributing 2 or Controlled (see § 355(e) and § 1.355-7).

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 letter must be attached to the federal income tax return of each party involved in the Proposed Transaction for the taxable year in which the Proposed Transaction is completed. Alternatively, any taxpayer filing its return electronically may satisfy this requirement by attaching a statement to the return that provides the date and the control number of this letter ruling.

Under the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

____

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