

Internal Revenue Service

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TY:

Legend:

Parent =

CountryA =

Forco1 =

Forco2 =

CountryB =

Forco3 =

%W =

%X =

CountryC Entity =

Forco4 =

Forco5 =

%Y =

%Z =

Forco6 =

Distributing =

StateA =

ProductA =

ProductB =

ProductC =

BusinessA =

BusinessB =

Dear

This letter responds to your request for rulings dated April 27, 2011, as to the federal income tax consequences of a proposed transaction (the "Proposed Transaction"). The information received in that request and in subsequent 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, either Distribution1 or Distribution2 (as defined below): (i) satisfies the business purpose requirement of §1.355-2(b) of the Income Tax Regulations; (ii) is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporations or any combination thereof (see section 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-percent or greater interest in the distributing corporation or the controlled corporations (see section 355(e) and §1.355-7).

SUMMARY OF FACTS

Parent is a privately owned CountryA holding company that is treated as a corporation for United States federal income tax purposes.

Forco1, a CountryA company, is a wholly-owned subsidiary of Parent that is treated as a corporation for United States federal income tax purposes.

Forco2, a CountryB company, is a wholly-owned subsidiary of Parent that is treated as a corporation for United States federal income tax purposes.

Forco3 is a CountryC Entity that is treated as a partnership for United States federal income tax purposes. Forco1 owns %W of the equity interests of Forco3, and Forco2 owns the remaining %X of the equity interests of Forco3.

Forco4, a CountryB company, is a wholly-owned subsidiary of Forco1 and is disregarded as separate from Forco1 for United States federal income tax purposes.

Forco5 is a CountryA company that is treated as a corporation for United States federal income tax purposes. Forco5 is owned %Y by Forco4 and %Z by Forco1.

Forco6 is a CountryB company that is treated as a corporation for United States federal income tax purposes and which is a wholly-owned subsidiary of Forco5.

Distributing is a StateA corporation and is wholly-owned by Forco3.

Parent and all direct and indirect subsidiaries of Parent (including Forco1 and Distributing) are referred to collectively as the "Parent Group."

The Parent Group produces ProductA. Parent Group's products fall in two general categories: ProductB and ProductC.

Distributing engages in a BusinessA and a BusinessB, each of which is with respect to ProductA, including ProductB and ProductC.

THE PROPOSED TRANSACTION

Distributing has proposed the following Proposed Transaction.

Distributing will form Controlled1 and Controlled2 as StateA corporations.

Distributing will contribute all assets of the BusinessA and the BusinessB relating to ProductC to Controlled1 in exchange for Controlled1 stock and the assumption by

Controlled1 of the liabilities relating to such portions of the BusinessA and the BusinessB (the "Controlled1 Contribution").

Distributing will contribute all assets of the BusinessA relating to the ProductB to Controlled2 in exchange for Controlled2 stock and the assumption by Controlled2 of the liabilities relating to such portion of the BusinessA (the "Controlled2 Contribution").

Distributing will retain the BusinessB relating to ProductB.

Distributing will assign all of the stock of Controlled1 to Forco6. Provided a ruling is issued accordingly, for federal income tax purposes (and the representations herein) the Parent Group will treat the transaction as a distribution by Distributing of all of the stock of Controlled1 to Forco3 ("Distribution1") followed by: (i) a pro rata distribution by Forco3 to Forco1 and Forco2 of the Controlled1 stock, (ii) a distribution by Forco2 of the Controlled1 stock to Parent and a contribution by Parent of such stock to Forco1, (iii) a contribution by Forco1 of the Controlled1 stock to Forco5, and finally (iv) a contribution by Forco5 of such stock to Forco6 (the "Deemed Distributions and Contributions"). Distributing will assign the Controlled1 stock to Forco6, rather than distribute that stock to Forco3 (followed by a series of actual distributions and contributions (as described in the Deemed Distributions and Contributions)) in consideration of certain foreign laws.

Distributing will distribute all of the stock of Controlled2 to Forco3 ("Distribution2").

REPRESENTATIONS

The following representations have been made with respect to the Proposed Transaction:

- (a) Each of the parties will pay its own expenses, if any, incurred in connection with the Proposed Transaction.
- (b) None of Distributing, Controlled1 or Controlled2 was a United States real property holding corporation (as defined in section 897(c)(2)) at any time during the five-year period ending on the date of the Proposed Transaction. None of Distributing, Controlled1 or Controlled2 will be a United States real property holding corporation immediately after the Proposed Transaction.
- (c) No part of the consideration to be distributed by Distributing will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (d) The five years of financial information submitted on behalf of Distributing is representative of the corporations' present operation, and with regard to Distributing,

there have been no substantial operational changes since the date of the last financial statements submitted.

(e) Following the Proposed Transaction, Controlled1 and Controlled2 will each continue, independently and with its separate employees, the active conduct of its share of all the integrated activities of the BusinessA conducted by Distributing prior to the consummation of the Proposed Transaction.

(f) Following the Proposed Transaction, Distributing and Controlled1 will each continue, independently and with its separate employees, the active conduct of its share of all the integrated activities of the BusinessB conducted by Distributing prior to the consummation of the Proposed Transaction.

(g) The Proposed Transaction is carried out for the following corporate business purpose: to operate more efficiently, address more effectively the different business needs of the business activities, and respond more expeditiously and effectively to the demands of different customers. The Proposed Transaction is motivated, in whole or substantial part, by this corporate business purpose.

(h) The Proposed Transaction is not being used principally as a device for the distribution of the earnings and profits of any of Distributing, Controlled1 or Controlled2.

(i) The total adjusted bases and the fair market value of the assets to be transferred to Controlled1 by Distributing in the Controlled1 Contribution each equals or exceeds the sum of the liabilities to be assumed (within the meaning of section 357(d)) by Controlled1. The liabilities to be assumed (within the meaning of section 357(d)) by Controlled1 in the Controlled1 Contribution were incurred in the ordinary course of business and are associated with the assets to be transferred.

(j) The total adjusted bases and the fair market value of the assets to be transferred to Controlled2 by Distributing in the Controlled2 Contribution each equals or exceeds the sum of the liabilities to be assumed (within the meaning of section 357(d)) by Controlled2. The liabilities to be assumed (within the meaning of section 357(d)) by Controlled2 in the Controlled2 Contribution were incurred in the ordinary course of business and are associated with the assets to be transferred.

(k) No investment credit determined under section 46 has been (or will be) claimed with respect to any property contributed to Controlled1 or Controlled2 by Distributing in connection with the Proposed Transaction.

(l) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Proposed Transaction.

- (m) No intercorporate debt will exist between Distributing, Controlled1 and/or Controlled2 at the time of, or subsequent to, the Proposed Transaction, except for payables arising under any transition services agreement or any other ancillary agreement entered into between Distributing, Controlled1 and/or Controlled2 in connection with the Proposed Transaction or in the ordinary course of business.
- (n) Payments made in connection with all continuing transactions between Distributing, Controlled1 and Controlled2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (o) None of the parties to the Proposed Transaction is an investment company as defined in sections 368(a)(2)(F)(iii) and (iv).
- (p) The Proposed Transaction 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 section 355(d)(4)) in Distributing, Controlled1 or Controlled2 (including any predecessor or successor of any such corporation).
- (q) For purposes of section 355(d), immediately after the Proposed Transaction, no person (determined after applying section 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 sections 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Proposed Transaction.
- (r) For purposes of section 355(d), immediately after the Proposed Transaction, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled1 stock, that was either (i) acquired by purchase (as defined in sections 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Proposed Transaction or (ii) attributable to distributions on Distributing stock that were acquired by purchase (as defined in sections 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Proposed Transaction.
- (s) For purposes of section 355(d), immediately after the Proposed Transaction, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled2 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled2 stock, that was either (i) acquired by purchase (as defined in sections 355(d)(5) and (8)) during the five-year period (determined after applying section

355(d)(6)) ending on the date of the Proposed Transaction or (ii) attributable to distributions on Distributing stock that were acquired by purchase (as defined in sections 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Proposed Transaction.

(t) Immediately after the transaction (as defined in section 355(g)(4)), none of Distributing, Controlled1 or Controlled2 will be a disqualified investment corporation within the meaning of section 355(g)(2).

(u) The total fair market value of the assets that Distributing will transfer to Controlled1 will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled1 in connection with the Controlled1 Contribution, (ii) the amount of any liabilities owed to Controlled1 by Distributing (if any) that are discharged or extinguished in connection with the Controlled1 Contribution, and (iii) the amount of any cash and the fair market value of any property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing from Controlled1 (if any) in connection with the Controlled1 Contribution. The fair market value of the assets of Controlled1 will exceed the amount of its liabilities immediately after the exchange.

(v) The total fair market value of the assets that Distributing will transfer to Controlled2 will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled2 in connection with the Controlled2 Contribution, (ii) the amount of any liabilities owed to Controlled2 by Distributing (if any) that are discharged or extinguished in connection with the Controlled2 Contribution, and (iii) the amount of any cash and the fair market value of any property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing from Controlled2 (if any) in connection with the Controlled2 Contribution. The fair market value of the assets of Controlled2 will exceed the amount of its liabilities immediately after the exchange.

(w) Neither the BusinessA nor the BusinessB (as conducted by Distributing) nor control of an entity conducting either business will have been acquired during the five-year period ending on the date of the Proposed Transaction in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.

(x) The aggregate fair market value of the assets that Distributing will transfer to Controlled1 in the Controlled1 Contribution will equal or exceed the aggregate adjusted basis of such assets.

(y) The aggregate fair market value of the assets that Distributing will transfer to Controlled2 in the Controlled2 Contribution will equal or exceed the aggregate adjusted basis of such assets.

RULINGS

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

- 1) Solely for federal income tax purposes, the assignment of all of the stock of Controlled1 to Forco6 will be treated as a distribution by Distributing of all of the stock of Controlled1 to Forco3 (as noted, "Distribution1") followed by the Deemed Distributions and Contributions (as described above).
- 2) The transfer by Distributing to Controlled1 of part of its assets in exchange for all of the Controlled1 stock and assumption of liabilities followed by the distribution of all the Controlled1 stock to Forco3 will constitute a reorganization within the meaning of section 368(a)(1)(D). Distributing and Controlled1 each will be "a party to a reorganization" within the meaning of section 368(b).
- 3) The transfer by Distributing to Controlled2 of part of its assets in exchange for all of the Controlled2 stock and assumption of liabilities followed by the distribution of all the Controlled2 stock to Forco3 will constitute a reorganization within the meaning of section 368(a)(1)(D). Distributing and Controlled2 each will be "a party to a reorganization" within the meaning of section 368(b).
- 4) No gain or loss will be recognized by Distributing on the Controlled1 Contribution or the Controlled2 Contribution. Sections 357(a) and 361(a).
- 5) No gain or loss will be recognized by Controlled1 or Controlled2 on the Controlled1 Contribution or the Controlled2 Contribution, respectively. Section 1032(a).
- 6) Controlled1's basis in each asset received from Distributing in the Controlled1 Contribution and Controlled2's basis in each asset received from Distributing in the Controlled2 Contribution will equal the basis of such asset in the hands of Distributing immediately before its transfer. Section 362(b).
- 7) The holding period for each asset received by Controlled1 and Controlled2 from Distributing in the Controlled1 Contribution and the Controlled2 Contribution, respectively, will include the period during which such asset was held by Distributing. Section 1223(2).
- 8) No gain or loss will be recognized by Distributing on Distribution1 or Distribution2. Section 361(1); Treas. Reg. §1.367(e)-1(c).
- 9) No gain or loss will be recognized by (and no amount will be included in the income of) Forco3 upon the receipt of Controlled1 stock and Controlled2 stock in Distribution1 or Distribution2. Section 355(a)(1).

10) The aggregate basis of the Distributing stock, Controlled1 stock and the Controlled2 stock in the hands of Forco3 will be the same as the aggregate basis of the Distributing stock held by Forco3 immediately before Distribution1 and Distribution2, allocated between the Distributing stock, Controlled1 stock and the Controlled2 stock in proportion to the fair market value of each in accordance with Treas. Reg. §1.358-2(a)(2). Section 358(a), (b), and (c).

11) Forco3's holding period of the Controlled1 stock and the Controlled2 stock received in Distribution1 and Distribution2, respectively, will include the holding period of the Distributing stock with respect to which the distributions will be made, provided that the Distributing stock is held as a capital asset on the date of the distributions. Section 1223(1).

12) Distributing's earnings and profits will be allocated between Distributing, Controlled1 and Controlled2 in accordance with section 312(h) and Treas. Reg. §1.312-10(a).

CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In addition, no opinion is expressed regarding whether either Distribution1 or Distribution2 (as defined above): (i) satisfies the business purpose requirement of §1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporations or any combination thereof (see section 355(a)(1)(B) 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-percent or greater interest in the distributing corporation or the controlled corporations (see section 355(e) and §1.355-7).

PROCEDURAL MATTERS

This ruling letter is directed only to the taxpayer who requested it. See section 6110(k)(3), which 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 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 letter is being sent to your authorized representative.

Sincerely,

Mark S. Jennings
Branch Chief, Branch 1
(Corporate)

cc: