Internal Revenue Service

Number: **201536016**
Release Date: 9/4/2015

Index Number: 301.00-00, 305.03-00

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:BO1 -
PLR-145539-14

Date:
June 04, 2015

In Re:

Taxpayer =

State X =

Y Properties =

P Partnership =

a =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Property B =

b =

c =

d =

e =

Advisor E =

F =

Dear

This letter responds to a letter from Taxpayer's authorized representative dated December 12, 2014, requesting a ruling under sections 301 and 305 of the Internal Revenue Code. Taxpayer furnished additional information in a letter dated February 12, 2015. The information submitted is summarized below.

Summary of Facts

Taxpayer is s State X corporation that has elected to be taxed as a real estate investment trust (REIT) as defined in section 856(a) for federal income tax purposes. Taxpayer invests in Y Properties. It also acquires or originated mortgages or other real-estate related loans. It owns substantially all its assets and conducts its operations through P Partnership, of which Taxpayer is the sole general partner. As of Date 1, Taxpayer's common stock was held by a shareholders, none of which held more than 5 percent of Taxpayer stock. Taxpayer regularly distributes its earnings and profits in full or in part.

On Date 2, Taxpayer, through a disregarded subsidiary, acquired an interest in three distressed mortgage loans (the Loans) for a purchase price of $b. The aggregate principal amount was $c (a larger amount than $b), but the Loans were in default when Taxpayer acquired them. The Loans were secured by Property B. Taxpayer took over the foreclosure proceedings that the former lender had already begun. On Date 3, Taxpayer acquired title to Property B pursuant to a consent foreclosing proceeding. An appraisal determined that Property B had a fair market value of $d, which was larger than Taxpayer's $b purchase price for acquiring the loans. Taxpayer recognized gain of $e ($d less $b) (the "Bargain Purchase Gain"), but Taxpayer's former management determined that this gain should not be recognized for federal tax purposes.

On Date 4, Advisor E became Taxpayer's external advisor, whose duties included tax advice. Advisor E recommended that Taxpayer should have recognized the Bargain Purchase Gain.

Proposed Transaction

Taxpayer proposes to make a distribution (the Proposed Distribution) to which section 305 applies and have that distribution be treated as a deficiency dividend under section 860(f) that will be allowed as a deduction under section 860(a). The amount of the Proposed Distribution is intended to fully offset Taxpayer's net income as

redetermined. After Taxpayer receives the requested rulings, Taxpayer will follow the procedures set forth in Rev. Proc. 2009-28, 2009-20 I.R.B. 1011, which concerns a self-determination of a deficiency dividend by a REIT under section 860(e)(4).

The Proposed Distribution will be a dividend distribution declared by Taxpayer for taxable year F under which its shareholders may elect to receive either cash or additional Taxpayer stock, or a mixture thereof. The aggregate cash component will be capped at 20 percent of the dividend distribution (the "Cash Limitation."). To the extent the shareholders of Taxpayer elect to receive in the aggregate more cash than the Cash Limitation, management will substitute stock for cash under a predetermined formula (described below), consistent with applicable corporate law. Shareholders who fail to make an election will be deemed to have elected to receive only stock.

Representations

Taxpayer makes the following representations in connection with the Proposed Distribution.

(a) The Proposed Distribution will be by Taxpayer to its shareholders with respect to its stock.

(b) Pursuant to the declaration of the Proposed Distribution, each shareholder of Taxpayer will be able to request to receive the shareholder's entire entitlement under the declaration in either all cash, all stock or Taxpayer of equivalent value, or a mix of cash and stock, the aggregate of which is subject to the Cash Limitation. A shareholder making the mixed election could elect to receive a percentage of his or her distribution in cash, the aggregate of which will not exceed the Cash Limitation percentage, with the balance of the distribution consisting of Taxpayer stock.

(c) The Cash Limitation will be 20 percent of the aggregate declared distribution.

(d) In no event will the aggregate cash distributed be less than the Cash Limitation. If the aggregate cash distributed is less than the Cash Limitation (such difference, the "Shortfall"), the Shortfall will be distributed to shareholders pro rata, in proportion to the amount of cash requested.

(e) If the requested cash component of the Proposed Distribution is oversubscribed and exceeds the aggregate Cash Limitation, the following sets forth what each shareholder will receive. Each shareholder will receive the lesser of (i) the amount of cash requested, or (ii) 20 percent of its portion of the proposed distribution (in the aggregate, "Portion A."). In addition, the difference between the aggregate Cash Limitation and Portion A (such difference, "Portion B"), will be distributed to all shareholders who requested to receive all or part of their distribution in cash. Portion B

will be distributed to this shareholder group pro rata, according to their relative share of the difference between their requested cash amount and their share of Portion A.

(f) Any cash paid in lieu of fractional shares will not count toward the Cash Limitation.

(g) Taxpayer does not have any convertible debt instruments or preferred stock outstanding.

(h) The calculation of the number of shares to be received by any shareholder will be determined, as of a date not more than 15 days before the record date of the proposed distribution, based upon appraisals of Taxpayer's assets and liabilities, as approved by Taxpayer's Board of Directors, and is designed to equate in value the number of shares to be received with the amount of money that could be received instead.

Rulings

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

1. All of the cash and shares of common stock distributed by Taxpayer in the Proposed Distribution will be treated as a distribution of property by Taxpayer with respect to its stock to which section 301 applies by reason of section 305(b).

2. Because Taxpayer regularly distributes its earnings and profits, the amount of the distribution of the stock to which section 301 applies received by any shareholder of Taxpayer electing to receive stock will be considered to equal the amount of money that the shareholder could have received instead. (Reg. § 1.305-1(b)(2)).

Caveats

We express no opinion on the tax treatment of the transactions described above under any other provisions of the Code or Treasury Regulations, or the tax treatment of any conditions existing at the time of, or effects resulting from, the transactions that are not specifically covered by the above rulings. In particular, we express no opinions on (i) whether Taxpayer qualifies as a REIT under Part II, Subchapter M, Chapter 1 of the Code; (ii) whether the Proposed Distribution will satisfy the requirements of section 857(a)(2); or (iii) whether the Proposed Distribution will constitute a preferential dividend under section 562(c). Furthermore, we express no opinion on the reasonableness of Taxpayer's stock valuation method.

Procedural Statements

This 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.

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 a power of attorney on file with this office, copies of this letter are being sent to two of your authorized representatives.

Sincerely,

_____

Mark S. Jennings
Chief, Branch 1
Office of Associate Chief Counsel
(Corporate)

cc: