Internal Revenue Service

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Third Party Communication: None
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Person To Contact:
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Refer Reply To:
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TY:

Legend

Parent =

State X =

State Y =

Sub =

DRE =

Date1 =

Date2 =

Preferred Stock A =

Preferred Stock B =

a =

b =

$x =

$y =

$z =

Dear :

This letter responds to your authorized representative's letter dated July 26, 2016, requesting a ruling on certain Federal income tax consequences of a transaction. The material information provided in that request and in subsequent correspondence 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. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination. This Office expresses no opinion as to the overall tax consequences of the transaction described in this letter or as to any issue not specifically addressed by the rulings below.

Parent, a State X corporation, is a publicly traded holding company and the common parent of a consolidated group (the "Parent Group"). Parent Group files its consolidated Federal income tax return on a calendar year basis. Parent owns all the stock of Sub, a State X corporation and member of the Parent Group. Sub owns all the equity of DRE, a State Y entity disregarded as separate from its owner for Federal income tax purposes.

On Date1 and Date2, Parent made public offerings of a shares of Preferred Stock A and b shares of Preferred Stock B (the "Offerings"). The net proceeds from the Offerings were used for general corporate purposes.

The Offerings were underwritten by DRE and other unaffiliated underwriters. Parent paid underwriting fees of $x to DRE with respect to the Offerings, and DRE incurred related expenses of $y with respect to the Offerings for a net underwriting profit for Sub (through DRE) of $z in the Offerings. Parent has represented that it has not and will not claim a Federal income tax deduction or basis in any asset with respect to the $x underwriting fees paid to DRE. Parent and the Commissioner of Internal Revenue have entered into a closing agreement regarding the treatment of the $x underwriting fees incurred by Parent and the $y related expenses incurred by DRE.

Section 1.1502-13(b)(1) defines an intercompany transaction as a transaction between corporations that are members of the same consolidated group immediately after the transaction.

Section 1.1502-13(b)(2)(i) provides:

> S's income, gain, deduction, and loss from an intercompany transaction are its intercompany items. For example, S's gain from the sale of property to B is intercompany gain.

S is the member transferring property or providing services, and B is the member receiving the property or services.

Section 1.1502-13(b)(3)(i) provides that B's income, gain, deduction, and loss from an intercompany transaction, or from property acquired in an intercompany transaction, are its corresponding items.

Section 1.1502-13(b)(6) provides that the attributes of an intercompany item or corresponding item are all of the item's characteristics, except amount, location, and timing, necessary to determine the item's effect on taxable income (and tax liability). Attributes include treatment as excluded from gross income or as a noncapital, nondeductible amount.

Section 1.1502-13(c)(1)(i) provides that the separate entity attributes of S's intercompany items and B's corresponding items are redetermined to the extent necessary to produce the same effect on consolidated taxable income (and consolidated tax liability) as if S and B were divisions of a single corporation, and the intercompany transaction were a transaction between divisions.

Section 1.1502-13(c)(6)(i) provides that under §1.1502-13(c)(1)(i), S's intercompany item might be redetermined to be excluded from gross income or treated as a noncapital, nondeductible amount.

Section 1.1502-13(c)(6)(ii) provides that, notwithstanding the general rule in §1.1502-13(c)(1)(i), S's intercompany income or gain is redetermined to be excluded from gross income only to the extent one of the enumerated provisions apply.

In addition, § 1.1502-13(c)(6)(ii)(D)(*1*) provides that the Commissioner may determine that S's intercompany item may be excluded from gross income if such exclusion is consistent with the purposes of §1.1502-13 and other provisions of the Internal Revenue Code and regulations.

Based solely on the information submitted and the representations made, we rule that DRE's net underwriting profit of $z is determined to be excluded from Sub's gross income under § 1.1502-13(c)(6)(ii)(D).

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

A copy of this letter ruling 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 on and control number of the letter ruling.

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

Sincerely,

Ken Cohen
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel (Corporate)