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:B05
PLR-126636-18

Date:
January 30, 2019

Legend

HoldCo =

OpCo =

Class 1 =

Class 2 =

Class 3 =

Class A =

Class B =

Class C =

a =

b =

c =

d =

e =

f =

g =

h =

i =

State A Law =

State B Act =

State A =

State B =

Shareholder 1 =

Shareholder 2 =

Shareholder 3 =

Shareholder 4 =

Shareholder 5 =

Shareholder A =

Shareholder B =

Dear :

This letter responds to your letter dated August 31, 2018, requesting rulings on certain federal income tax consequences of a proposed transaction. The information submitted in that letter and 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 penalties 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 letter is issued pursuant to section 6.03 of Rev. Proc. 2018-1, 2018-1, I.R.B. 1, regarding one or more significant issues under section 368 of the Internal Revenue Code (the "Code"). The rulings contained in this letter only address one or more discrete legal issues involved in the transaction. This Office expresses no opinion as to the overall tax consequences of the transactions described in this letter or as to any issue not specifically addressed by the rulings below.

Summary of Facts

OpCo has three classes of stock issued and outstanding: Class 1, Class 2 and Class 3. HoldCo owns a percent of Class 1. In addition, HoldCo owns approximately b percent of Class 2 and approximately d percent of Class 3. The remaining approximate c percent of Class 2 is owned by directors, management, OpCo's savings plan and other shareholders, and the remaining approximate e percent of Class 3 is owned by OpCo's savings plan.

HoldCo has three classes of stock issued and outstanding: Class A, Class B, and Class C. Shareholder 1 owns a percent of Class A. Shareholder 2, Shareholder 3, Shareholder 4 and Shareholder 5 each owns approximately g percent of Class B. Shareholder 2, Shareholder 3, Shareholder 4, Shareholder 5 and OpCo each owns approximately h percent of Class C.

Prior to the Proposed Transaction (defined below), Holdco will issue new Class A Shares to Shareholder A. Immediately thereafter Holdco will reacquire all of its Class A Shares owned by Shareholder 1, and Shareholder 1 will dissolve such that Shareholder A will own a percent of the HoldCo Class A shares. Thereafter, each of Shareholder A, Shareholder 2, Shareholder 3, Shareholder 4 and Shareholder 5 will transfer all of its HoldCo stock to Shareholder B in exchange for interests in Shareholder B. All of the assets other than the OpCo stock held by HoldCo will be distributed by HoldCo, such that at the time of the Proposed Transaction HoldCo will own only OpCo stock (except for an amount of cash reasonably necessary to settle its liabilities).

Proposed Transaction

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

(i) OpCo will form a State A corporation, 100 percent owned by OpCo ("Merger Sub"). Prior to the First Merger (defined below), Merger Sub will engage in no activities and hold no assets (other than minimum capital required by state law).

(ii) OpCo will form a State B limited liability company, 100 percent owned by OpCo, that is disregarded for U.S. federal tax purposes ("Acquiror LLC", together with OpCo, the "OpCo Transferee Unit").

(iii) Pursuant to State A Law, Merger Sub will merge with and into HoldCo with HoldCo surviving (the "First Merger") and in the First Merger, all of the shares of HoldCo's Class A stock will be converted into i newly issued shares of OpCo Class 1 stock, and all of the shares of HoldCo's Class B and Class C stock (other than shares owned by OpCo) will be converted into the right to receive a number of shares of OpCo Class 2 and Class 3 stock, in each case, as would result in Shareholder B, after completing the First Merger, having approximately the same economic interest in OpCo as immediately before the First Merger.

(iv) Pursuant to State A Law and the State B Act, HoldCo will merge with and into Acquiror LLC, at which time the separate existence of HoldCo will cease, and all of the HoldCo stock will be converted into the right to receive Acquiror LLC member interests.

As a result of its ownership of HoldCo stock, Shareholder B will hold a percent of the voting stock in OpCo and approximately f percent of the fair market value of the OpCo stock outstanding immediately after the Proposed Transaction.

Representations

(a) The fair market value of the OpCo stock received by Shareholder B in the First Merger will be approximately equal to the fair market value of the OpCo stock surrendered by Shareholder B in the First Merger.

(b) Each share of HoldCo stock surrendered by Shareholder B in the First Merger will be exchanged solely for OpCo stock.

(c) Neither the OpCo Transferee Unit nor any person related to OpCo (within the meaning of Treas. Reg. § 1.368-1(e)(3)) has any plan or intention to reacquire any of the OpCo stock issued to Shareholder B in the First Merger.

(d) The OpCo Transferee Unit has no plan or intention to sell or otherwise dispose of any of the assets of HoldCo acquired in the Proposed Transaction, except for dispositions made in the ordinary course of business or transfers described in section 368(a)(2)(C) or Treas. Reg. § 1.368-2(k).

(e) The liabilities of HoldCo assumed by the OpCo Transferee Unit in the Proposed Transaction and the liabilities to which the transferred assets of HoldCo are subject, if any, were incurred by HoldCo in the ordinary course of its business.

(f) Following the Proposed Transaction, OpCo will continue to conduct its historical business.

(g) The OpCo Transferee Unit, HoldCo and Shareholder B will pay their respective expenses, if any, incurred in connection with the Proposed Transaction.

(h) There is no intercorporate indebtedness existing between the OpCo Transferee Unit and HoldCo that was issued, acquired, or will be settled at a discount.

(i) No two parties to the Proposed Transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).

(j) HoldCo is not under the jurisdiction of a court in a title 11 or similar case within the meaning of section 368(a)(3)(A).

(k) The fair market value of the assets of HoldCo transferred to the OpCo Transferee Unit (including the OpCo Class 1, Class 2 and Class 3 stock held by HoldCo immediately before the Proposed Transaction) will exceed the sum of the liabilities assumed by the OpCo Transferee Unit, plus the amount of liabilities, if any, to which the transferred assets are subject.

(l) HoldCo and the OpCo Transferee Unit will have adopted a plan of merger, and the Proposed Transaction will occur pursuant to such plan.

Rulings

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

1. For purposes of determining whether the Proposed Transaction is described in section 368(a)(1)(A), the requirements under Treas. Reg. § 1.368-1(d) will be satisfied as a result of the Proposed Transaction. See Rev. Rul. 85-197, 1985-2 C.B. 120.

2. Provided the Proposed Transaction qualifies as a reorganization under section 368(a)(1)(A), for federal income tax purposes, the form of the Proposed Transaction will be disregarded, and instead, HoldCo will be treated as transferring all of its assets, including all of its OpCo stock to OpCo, in exchange for newly issued OpCo stock, and HoldCo will be treated as distributing that newly issued OpCo stock to its shareholders in complete cancellation of their HoldCo stock; and the OpCo stock deemed transferred by HoldCo will become the assets of OpCo (within the meaning of Treas. Reg. § 1.368-2(b)(1)(ii)(A)). See Rev. Rul. 67-274, 1967-2 C.B. 141, and Rev. Rul. 2001-46, 2001-2 C.B. 321.

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 particular, other than as provided above, no opinion is expressed about the federal income tax consequences of Proposed Transaction. Furthermore, no opinion is expressed regarding whether the Proposed Transaction constitutes a reorganization under section 368(a).

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.

Pursuant to the Power of Attorney on file in this matter, a copy of this letter is being sent to your authorized representative.

Sincerely,

Gerald B. Flemings

Gerald B. Fleming
Senior Technician Reviewer, Branch 2
Office of Associate Chief Counsel (Corporate)