Internal Revenue Service

Department of the Treasury

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Refer Reply To:
CC:DOM:CORP:5 PLR-120627-98
Date:
May 10, 1999

In re:

P =

State Y =

Business 1 =

S =

Business 2 =

Country X =

x =

Joint Venture =

F1 =

y =

z =

Dear :

This is in reply to your letter dated October 30, 1998, requesting rulings as to the federal income tax consequences of a proposed transaction. The information submitted for consideration is substantially as set forth below.

P, a State Y corporation, is the domestic parent of a group of domestic and foreign entities engaged in Business 1. S, a State Y corporation, is a wholly owned domestic subsidiary of P and joins in the filing of P's U.S. consolidated federal income tax return. S is engaged in Business 2 in Country X through its x percent interest in Joint Venture. S also owns x percent of the stock of F1, a Country X corporation.

Joint Venture is an unincorporated joint venture between S and three other unrelated corporations. Joint Venture has a mining concession on publicly owned land and lease agreements on a relatively small amount of adjacent privately owned land. The Joint Venture members jointly own and operate the Joint Venture assets. Each Joint Venture member owns a pro rata, undivided interest in each Joint Venture asset, pays its pro rata share of the production costs, and takes its pro rata share of the z produced, which each member then sells in its own name or otherwise uses in its own business. Joint Venture has elected not to be treated as a partnership for U.S. income tax purposes.

Under the management agreement among the Joint Venture members, F1 is designated the manager of the Joint Venture. The stock of F1 is owned by the Joint Venture members in proportion to their shares of Joint Venture. F1 owns no assets.

For valid business reasons, it is proposed that S will be reincorporated as a Country X corporation. The following steps will be undertaken to achieve the proposed reincorporation:

(i) The Board of Directors of S will adopt a resolution providing that S will migrate from State Y to Country X.

(ii) The resolution adopted by the Board of Directors of S will be unanimously approved by S's shareholder, P.

(iii) S will file a certificate of transfer with the State Y Secretary of State, at which time S will cease to be a State Y corporation.

(iv) S will file an application to be registered as a company in Country X and amend its articles of incorporation to comply with the laws of Country X, at which time S will become a Country X corporation ("Newco Country X").

It is expected that, prior to the foregoing transaction, a dividend (the "Dividend") will be declared by S payable to its shareholder, P, as of a later date. Subsequently, P will form a new domestic corporation ("Newco U.S."). Newco U.S. will form a new Country X legal entity ("Newco Branch"), which will be treated as a disregarded entity pursuant to an election to be made under § 301.7701-3 of the Income Tax Regulations. S will then be transferred by P to Newco U.S. and by Newco U.S. to Newco Branch (the "Transfers"). Following the transfer of S to Newco Branch, but several days prior to the migration of S to Country X, the Dividend will be paid in the form of a note payable by S. Following completion of the migration, Newco Country X will pay the note payable.

The following representations are made in connection with the proposed transaction:

(a) Subject only to the resolution of the issues addressed in ruling (1) below, the conversion of S to a Country X corporation will qualify as a reorganization described in § 368(a)(1)(F) of the Internal Revenue Code.

(b) The amount of the Dividend described above will not exceed 50 percent of the fair market value of S immediately before the Dividend.

Based solely on the information submitted and on the representations set forth above, it is held as follows:

(1) Neither the Dividend nor the Transfers will prevent the conversion of S to a Country X corporation from qualifying as a reorganization under § 368(a)(1)(F).

No opinion is expressed about the tax treatment of the proposed transaction under other provisions of the Code and regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction that are not specifically covered by the above rulings.

This ruling has no effect on any earlier documents and is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Each taxpayer involved in this transaction should attach a copy of this ruling letter to the taxpayer's federal income tax return for the taxable year in which the transaction is completed.

Pursuant to the power of attorney on file in this office, a copy of this letter has been sent to the taxpayer.

Sincerely,

Assistant Chief Counsel (Corporate)

By:_____
Filiz A. Serbes
Assistant to the Chief, Branch 5