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Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC: DOM: CORP: 1 - PLR-113132-99
Date:
November 30, 1999

Date A =

Dear :

We respond to a letter from your authorized representative, dated July 27, 1999, requesting that we supplement our letter rulings dated April 15, 1998 (PLR-11958-97) (the "Prior Letter Ruling") and July 13, 1998 (PLR-111623-98) (the "Prior Supplemental Letter Ruling"). Additional information was submitted on September 21, October 8, and November 24, 1999. The information submitted for consideration is summarized below. Capitalized terms retain the meaning assigned to them in the Prior Letter Ruling.

The taxpayer requested a private letter ruling for a proposed transaction consisting of an initial public offering of Controlled stock (the "IPO"), followed by the distribution of the Controlled stock held by Distributing to Distributing's shareholders on a pro-rata basis (the "spin-off"). Based on the facts submitted and representations made, the Prior Letter Ruling was issued. However, a change in market conditions caused the taxpayer to restructure the proposed transaction to complete the spin-off prior to the IPO. The taxpayer requested a supplemental letter ruling that the revised transaction would not affect the earlier rulings. Based on the facts submitted and the taxpayer's representation that it would complete the public offering within twelve months of the distribution, the Prior Supplemental Letter Ruling was issued.

Consistent with the Prior Letter Ruling and Prior Supplemental Letter Ruling, Distributing completed the spin-off on Date A. However, the IPO of Controlled stock has not been completed, and more than twelve months has passed since the spin-off. In its request for a second supplemental letter ruling, the taxpayer explained that unanticipated sustained unfavorable market conditions for companies of Controlled's type have caused Controlled to postpone indefinitely a public offering of its stock. Controlled's investment bankers analyzed market conditions, and recommended that

256

Controlled satisfy its need for additional capital through other means. Accordingly, the taxpayer requests a second supplemental letter ruling confirming the rulings in the Prior Letter Ruling, based on either the unanticipated sustained unfavorable market conditions or a fit and focus business purpose.

In the Prior Letter Ruling request, the taxpayer made the following representation:

(e) The distribution of the stock of the controlled corporation is carried out for the following corporate business purposes: (i) to permit the managements of the distributing and controlled corporations to focus on their respective core businesses; (ii) to improve the near term earnings of the distributing corporation by eliminating from the distributing corporation's results of operations the expenses associated with developing the controlled corporation's Business B; (iii) to permit the financial community to focus separately on the distributing corporation and the controlled corporation; and (iv) to enable the controlled corporation to have greater access to capital to finance its business. The distribution of the stock of the controlled corporation is motivated, in whole or substantial part, by these corporate business purposes.

Information concerning business purpose (i) submitted by the taxpayer in its first request, as supplemented by additional submissions in connection with this ruling, demonstrate that, under the organizational structure of the corporation prior to the distribution of Controlled, the taxpayer was unable to pursue effectively the strategies necessary to enhance its performance. The two different businesses required Distributing's management to implement two distinct and incompatible strategies to operate each business successfully. The taxpayer has substantiated its business purpose analysis that both Business A and Business B would benefit from the separation.

Based upon the information and representations submitted with the original and supplemental ruling requests, we reaffirm the rulings set forth in the Prior Letter Ruling provided that the spin-off on Date A is not being examined by a district director.

No opinion is expressed concerning the federal income tax treatment of the transactions under other provisions of the Code or Regulations or about 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.

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

25

A copy of this letter should be attached to the Federal Income Tax Returns of the taxpayers involved for the taxable year in which the transaction covered by this supplemental letter ruling was consummated.

In accordance with the power of attorney on file in this office, copies of this letter are being sent to your authorized representatives.

Sincerely yours,

Assistant Chief Counsel (Corporate)

By: _____
Mark S. Jennings
Acting Chief, Branch 1