Internal Revenue Service

Department of the Treasury

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November 1, 1999

Re:

Distributing =

Controlled =

Parent =

Subsidiary 1 =

Subsidiary 2 =

Subsidiary 3 =

Partnership 1 =

Partnership 2 =

LLC 1 =

LLC 2 =

Company W =

Company Z =

Date A =

Date B =

Date C =

Date D =

Business A =

Business B =

Business C =

Business D =

Business M =

E =

F =

G =

H =

State X =

State Y =

Dear :

This letter is in reply to a letter from your authorized representatives, dated July 2, 1999, requesting rulings on a proposed transaction. Additional information was submitted in letters dated August 9, and September 9, 1999. The information submitted for consideration is summarized below.

Parent, a publicly traded State Y corporation, is an accrual basis, calendar year

taxpayer. On Date A, Parent was formed as a wholly owned subsidiary of Distributing in order to complete a corporate restructuring. On Date B, a subsidiary of Parent, which was created for the transaction, merged into Distributing. Parent issued shares of its Class A and Class B common stock to Distributing's Class A and Class B common stockholders, and Parent canceled the Parent shares held by Distributing. Also on Date B, certain subsidiaries of Company W, an unrelated State Y corporation, transferred Business A assets to Parent in exchange for Class A common stock and the assumption of debt.

Distributing, a State Y corporation, is an accrual basis, calendar year taxpayer. Distributing conducts Business A, Business B, Business C and Business D directly and through subsidiaries. As a result of the transaction described above, Distributing has one class of voting common stock outstanding, all of which is owned by Parent, and two classes of voting preferred stock. Distributing has represented that, to the best of its knowledge, there are no shareholders who own 5 percent or more of any class of Distributing preferred stock. On Date C, Parent transferred the stock of several subsidiaries to Distributing in exchange for additional shares of Distributing common stock. Parent and Distributing represent that this transfer met the requirements of § 351 of the Internal Revenue Code.

Controlled, a State Y corporation, is an accrual basis, calendar year taxpayer. Controlled currently has three classes of common stock outstanding. Controlled is the common parent of an affiliated group of corporations that file a consolidated federal income return. As a result of steps (i) through (iv) of the proposed transaction described below, Controlled will be directly engaged in Business M.

Controlled is the successor to Subsidiary 1. Prior to Date D, all of the stock of Subsidiary 1 was owned by Distributing. Subsidiary 1 was engaged in various joint enterprises with Company Z, an unrelated State Y corporation. On Date D, Subsidiary 1 merged into the newly formed Controlled (the "Date D transaction"). Distributing received all of the shares of Class A and Class B Controlled voting common stock. Company Z received all of the shares of Class C Controlled voting common stock. Controlled has an F-member board of directors, one member of which is elected by the Class C shareholder. The holders of Controlled's Class A and Class B shares together elect the remaining members of the board of directors.

As a result of the Date D transaction, Distributing owns G percent of the vote and H percent of the value of the outstanding stock of Controlled. Accordingly, Distributing owns an amount of stock of Controlled constituting "control" within the meaning of § 368(c). The taxpayer has provided sufficient information and representations to demonstrate that this control is permanent in nature and not transitory or illusory. See Rev. Rul. 69-407, 1969-2 C.B. 50.

Subsidiary 2 is a State Y corporation. Subsidiary 2 has only common stock

outstanding, all of which is held by Controlled. Subsidiary 2 is a holding company.

Subsidiary 3 is a State X corporation. All of Subsidiary 3's stock is held by Controlled. Subsidiary 3 is a holding company.

Partnership 1 is a State X limited partnership. Partnership 1 does not conduct a trade or business. Partnership 1 is owned in the following approximate percentages: (i) 2 percent by Parent; (ii) 30 percent by Subsidiary 3; and (iii) 68 percent by Controlled.

Partnership 2 is a State X general partnership directly engaged in Business M. Subsidiary 2 and Partnership 1 each hold a 50 percent interest in Partnership 2.

Financial information has been received which indicates that Distributing and Controlled have each had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

Distributing plans to borrow approximately $E within one year of the completion of the proposed transaction described below. Distributing has provided information showing that it can significantly reduce its borrowing costs if Distributing does not own Controlled stock. Accordingly, Distributing proposes the following transaction:

(i) Subsidiary 2 will liquidate, distributing its 50 percent interest in Partnership 2 to Controlled.

(ii) Controlled will form a wholly owned State Y limited liability company, LLC 1. Controlled will contribute its 50 percent interest in Partnership 2 to LLC 1.

(iii) Partnership 1 will distribute its 50 percent interest in Partnership 2 to Controlled in a partnership distribution.

(iv) Controlled will form a wholly owned State Y limited liability company, LLC 2. Controlled will contribute its 50 percent interest in Partnership 2 to LLC 2.

(v) Distributing will distribute to Parent all of the Class A and Class B shares of Controlled. Distributing will provide consulting and administrative service to Controlled after the transaction; Controlled will pay fair market for such services; either party may cancel these services upon notice. In addition, certain persons might serve as directors of both Distributing and Controlled.

The following representations have been made in connection with the proposed transaction:

(a) Distributing, Controlled and Parent will each pay their own expenses, if any, incurred in connection with the proposed

transaction.

(b) No part of the consideration to be distributed by Distributing in the proposed transaction will be received by Parent in any capacity other than that of a shareholder of Distributing.

(c) No consideration will be distributed to security holders in the transaction.

(d) The five years of financial information submitted on behalf of Distributing is representative of the corporation's present operations, and with regard to such corporation, there have been no significant operational changes in its business since the date of the last financial statements submitted, other than the above-described contribution by Parent to Distributing of the stock of corporations holding Business A assets, which increased the size of Distributing's Business A.

(e) The five years of financial information submitted on behalf of Controlled is representative of such corporation's present operations, and with regard to such corporation, there have been no significant operational changes since the date of the last financial statements submitted.

(f) Following the proposed transaction, Distributing and Controlled will each continue the active conduct of its business, independently and with its separate employees, except as described above in step (v) of the proposed transaction.

(g) The distribution of the stock of Controlled will be carried out for the following corporate business purposes: (i) to facilitate one or more preferred stock offerings and/or borrowing by Distributing on better terms than would otherwise be available; (ii) to reduce the cost of debt and/or equity; and (iii) to create separate "pure play" corporations for Business A and Business M, which may facilitate strategic investments in the future. The distribution of the stock of Controlled is motivated, in whole or in substantial part, by these corporate business purposes.

(h) There is no plan or intention by the shareholders or security holders of Distributing to sell, exchange or otherwise dispose of any of their stock in, or securities of, either Distributing or Controlled after the transaction.

(i) There is no plan or intention by either Distributing or Controlled, directly or through any subsidiary corporation, to purchase any of its outstanding stock after the transaction, other than through stock purchases meeting the requirements of section 4.05(1)(b) of Rev. Proc. 96-30.

(j) There is no plan or intention to liquidate either Distributing or Controlled, to merge or combine either corporation with any other corporation, or to sell or dispose of any of the assets of either Distributing or Controlled, except in the ordinary course of business.

(k) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the transaction.

(l) No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the distribution of Controlled.

(m) Immediately before the distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations. Distributing does not have an excess loss account with respect to its Controlled stock because Controlled is not a member of the affiliated group of which Distributing is a member.

(n) Payments made in connection with all continuing transactions between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arms' length.

(o) The distribution is not part of a plan or series of related transactions (within the meaning of section 355(e)), including investments in Distributing or Controlled, pursuant to which one or more persons will acquire directly or indirectly stock possessing 50 percent or more of the total combined voting power of all classes of stock of either Distributing or Controlled corporation, or stock possessing 50 percent or more of the total value of all classes of stock of either Distributing or Controlled.

(p) Within the five-year period preceding the proposed transaction, no person (including all persons related to such person within the meaning of § 267(b) and § 707(b)(1)) or any group of persons

acting in concert purchased (as defined in § 355(d)(5)) directly or indirectly, more than 50 percent of outstanding stock of Distributing.

Based solely on the information submitted and the representations set forth above, it is held as follows for federal income tax purposes with respect to steps (i) through (iv):

(1) No gain or loss will be recognized to Controlled or Partnership 1 as a result of the distribution described in step (iii).

(2) LLC 1 and LLC 2 will be disregarded as separate entities apart from Controlled.

(3) Controlled will be the sole owner of the partnership interests in Partnership 2. For federal income tax purposes, Partnership 2 will cease to be a partnership, and will liquidate, distributing all of its assets to Controlled.

(4) No gain or loss will be recognized to Controlled or Partnership 2 as a result of the termination of Partnership 2.

Based solely on the information submitted and the representations set forth above, and upon the significant cost savings projected to result from the completion of step (v), it is held as follows:

(5) No gain or loss shall be recognized to Distributing upon its distribution of all of the outstanding shares of stock of Controlled to Parent (§ 355(c)).

(6) No gain or loss shall be recognized by (and no amount shall be includible in the income of) Parent upon its receipt of all of the outstanding shares of stock of Controlled (§ 355(a)(1)).

(7) The basis of the stock of Controlled and Distributing in the hands of Parent after the distribution shall be the same as the aggregate basis of the Distributing stock held immediately before the distribution, allocated in proportion to the fair market value of each in accordance with § 1.358-2(a)(2) of the Income Tax Regulations (§ 358(b)).

(8) The holding period of the Controlled stock received by Parent shall include the holding period of the Distributing stock with respect to which the distribution will be made, provided that the Distributing stock is held by Parent as a capital asset on the date of the

exchange (§ 1223(1)).

(9) As provided in § 312(h) of the Code, proper allocation of earnings and profits between Distributing and Controlled will be made in accordance with § 1.312-10(b) of the Regulations.

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

Temporary or final regulations pertaining to one or more of the issues addressed in this ruling letter (including regulations under § 358(g)) have not yet been adopted. Therefore, this ruling will be modified or revoked if adopted temporary or final regulations are inconsistent with any conclusions in the ruling. See, section 12.04 of Rev. Proc. 99-1, 1999-1 I.R.B. 6, 47 (January 4, 1999). However, when the criteria in section 12.05 of Rev. Proc. 99-1 are satisfied, a ruling is not revoked or modified retroactively except in rare or unusual circumstances.

This ruling letter has no effect on any earlier documents and 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.

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 is 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)
B y:Christopher Schoen
Assistant to the Chief, Branch 1