Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:CORP:1 - PLR-127290-00
Date:
April 20, 2001

P =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

HOLDINGS =

LLC 1 =

LLC 2 =

State X =

State Y =

Business A =

Business B =

Business C =

Business D =

Business E =

Date S =

Year T =

u =

v =

Dear :

This letter responds to your November 22, 2000 request for rulings on a significant federal income tax subissue present in a proposed transaction. See § 3.01(27) of Rev. Proc. 2000-3, 2000-1 I.R.B. 103, 107. Additional information was submitted in letters dated April 3, 2001 and April 14, 2001. The facts submitted for consideration are substantially as set forth below.

P, a State X corporation, is the publicly traded parent of an affiliated group of corporations that files a consolidated federal income tax return. P is proposing to sell certain of its lines of business and restructure the P consolidated group. P operates Business D directly and indirectly through several subsidiaries. P owns 100 percent of Sub 1, a holding company. Sub 1 separates P's Business D from subsidiaries that operate other businesses. Sub 1 owns 100 percent of Subs 7 - 14 and previously owned 100 percent of the stock of Subs 2 - 6. On Date S, Sub 1 sold all of the stock of Subs 2 - 6. Subs 2 - 6 are and were engaged in Business A, Sub 7 is engaged in Business B, Subs 8 - 12 are engaged in Business C, and Subs 13 - 14 are engaged in Business E.

As part of the proposed restructuring, P will form and own all of the interests in LLC 1, a State X single-member limited liability company. Sub 1 will merge with and into LLC 1. P will also form and own 100 percent of Holdings, a corporation organized under the laws of State Y. Holdings will form and own all of the interests in LLC 2, a State X single-member limited liability company. For valid business reasons, P will merge with and into LLC 2 (the "Merger").

The following steps will or have been taken:

(i) Prior to the Merger, P has purchased common stock pursuant to a general stock repurchase program. The program was begun in Year T and approximately v percent of common stock has been purchased to date (the "Stock Repurchases").

(ii) Prior to the Merger, P will redeem u dollars of its total preferred stock outstanding and will tender to acquire its remaining class of preferred stock (the "Redemptions").

(iii) Prior to the Merger, Sub 1 has sold the stock of Subs 2 - 6, and will sell the stock of Sub 7 and Subs 8 - 12 (the “Subsidiary Sales”).

(iv) Prior to the Merger, P will form LLC 1, and Sub 1 will merge with and into LLC 1 (the “Liquidation”). It is intended that LLC 1 be disregarded for federal income tax purposes under § 301.7701-3.

(v) Prior to the Merger, P will form Holdings and Holdings will form and own all of the interests in LLC 2.

(vi) Subsequent to the Merger, LLC 2 will transfer ownership of Sub 13, Sub14 and LLC 1 to Holdings. It is intended that LLC 2 be disregarded for federal income tax purposes under § 301.7701-3.

(vii) Subsequent to the Merger, Holdings will sell LLC 2 which holds the assets comprising Business D (the “Subsequent Sale”).

The taxpayer has made the following representations concerning the Liquidation:

(a) P, on the date of adoption of the plan of liquidation of Sub 1(the “Plan”) and at all times until the final liquidating distribution is completed, will be the owner of at least 80% of the single outstanding class of Sub 1 stock.

(b) No shares of Sub 1 stock will have been redeemed during the 3 years preceding adoption of the Plan.

(c) All transfers from Sub 1 to LLC 1 pursuant to the Plan will be made within a single taxable year of Sub 1.

(d) When the Liquidation occurs, the assets and liabilities of Sub 1 will pass by operation of law to LLC 1 and Sub 1 will cease to exist.

(e) Sub 1 will retain no assets following the final liquidating distribution.

(f) Sub 1 will not have acquired any assets in any nontaxable transaction at any time, except for acquisitions occurring more than 3 years before the date of adoption of the Plan.

(g) No assets of Sub 1 have been, or will be, disposed of by either Sub 1, LLC 1, or P, except for the sale of Subs 2 - 12, dispositions in the ordinary course of business, and dispositions occurring more than 3 years before adoption of the Plan.

(h) The liquidation of Sub 1 will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation (“Recipient”) of any of

the businesses or assets of Sub 1, if persons holding, directly or indirectly, more than 20% in value of the Sub 1 stock also hold, directly or indirectly, more than 20% in value of the stock of Recipient. For purposes of this representation, ownership will be determined by applying the constructive ownership rules of § 318(a) as modified by § 304(c)(3).

(i) Before adoption of the Plan, no assets of Sub 1 will have been distributed in kind, transferred, or sold to P except for (i) transactions that occurred in the normal course of business and (ii) transactions occurring more than 3 years before the adoption of the Plan.

(j) Sub 1 will report all earned income represented by assets that will be transferred to LLC 1, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(k) The fair market value of the assets of Sub 1 will exceed its liabilities at the date of the adoption of the Plan and immediately before the time the Liquidation occurs.

(l) There is no intercorporate debt existing between P and Sub 1 and none has been cancelled, forgiven, or discounted, except for transactions occurring before the date P initially acquired Sub 1 stock and for certain existing intercorporate debt which is expected to be paid in full by Sub 1 prior to the Liquidation.

(m) P is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(n) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the proposed liquidation of Sub 1 have been fully disclosed.

(o) LLC 1 will be a domestic eligible entity with a single owner that has not elected to be treated as an entity separate from its owner.

The taxpayer has submitted the following representations in connection with the Merger:

(p) The fair market value of the Holdings stock and other consideration received by each shareholder of P will be approximately equal to the fair market value of P's stock surrendered in the exchange.

(q) There is no plan or intention by the shareholders of P who own 5% or more of P's stock, and to the best of the knowledge of P's management there is no plan or intention on the part of the remaining shareholders, to sell, exchange, or otherwise

dispose of any of the shares of Holdings stock received in the transaction.

(r) Immediately following consummation of the transaction, the shareholders of P will own all of the outstanding Holdings stock and will own such stock solely by reason of their ownership of P's stock immediately prior to the transaction.

(s) Immediately following consummation of the transaction, Holdings will possess the same assets and liabilities, except for assets distributed to shareholders who receive cash or other property, assets used to pay dissenters to the transaction, and assets used to pay expenses incurred in connection with the transaction, as those possessed by P immediately prior to the transaction. Assets distributed to shareholders who receive cash or other property (except for the Stock Repurchases), assets used to pay expenses, assets used to pay dissenters to the transaction, and all redemptions and distributions (except for the Redemptions and regular, normal dividends) made by P immediately preceding the transaction will, in the aggregate, constitute less than 1% of the net assets of P. It is expected that dissenting shareholders will own less than 1% of P's stock.

(t) At the time of the transaction, P will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in P, except for employee stock options issued in the normal course of business.

(u) Holdings has no plan or intention to reacquire any of its stock issued in the transaction.

(v) Holdings has no plan or intention to sell or otherwise dispose of any of the assets of P acquired in the transaction, except for the Subsequent Sale and dispositions made in the ordinary course of business.

(w) The liabilities of P assumed by Holdings plus the liabilities, if any, to which the transferred assets are subject were incurred by P in the ordinary course of its business and are associated with the assets transferred.

(x) Following the transaction, Holdings will continue the historic Business E of P or use a significant portion of P's historic Business E assets in a business.

(y) P, Holdings, and shareholders will pay their respective expenses, if any, incurred in connection with the transaction.

(z) P is not under the jurisdiction of a court in a title 11 or similar case within the meaning of § 368(a)(3)(A) of the Code.

(aa) LLC 2 will be a domestic eligible entity with a single owner that has not elected to be treated as an entity separate from its owner.

(bb) To the best of P's knowledge and belief, the Merger qualifies as an F Reorganization provided that the existence of, or actions taken pursuant to, (a) the Stock Repurchases, (b) the Redemptions, (c) payments to any dissenters from the Merger; (d) sales of Business A, Business B, Business C and Business D, and (e) the use of LLC 2 do not prevent the Merger from so qualifying.

Based solely on the information submitted and the representations made, we rule as follows:

1. The Liquidation will constitute a complete liquidation of Sub 1 under § 332 (§§ 301.7701-2(a), -2(c)(2)(i), -3(b)(1)(ii); §§ 332(a); §1.332-2(d)).

2. No gain or loss will be recognized by P or Sub 1 as a result of the Liquidation. (§§ 337(a), 336(d)(3), 332(a)).

3. The Stock Repurchases, Redemptions, Subsidiary Sales, Subsequent Sale, and use of LLC 2 will have no effect on the qualification of the Merger under §§ 368(a)(1)(F) . See Rev. Rul. 96-29 , 1996-1 C.B. 50; § 1.368-1(d) and (e) of the Income Tax Regulations.

We express no opinion about the tax treatment of the transactions 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 transactions that are not specifically covered by the above ruling.

This ruling 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 the transaction covered by this letter should attach a copy of the letter to its federal income tax return for the taxable year in which the transaction is consummated.

Pursuant to a power of attorney on file in this office, we have sent a copy of this letter to the taxpayer's representative.

Sincerely yours,

Associate Chief Counsel (Corporate)

By: _____
Mark S. Jennings
Chief, Branch 1