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LEGEND:

LP =

Club =

LLC =

NP =

State =

Dear

This letter responds to a letter dated May 24, 2007, submitted on behalf of LP, requesting rulings on a proposed reorganization of LP and related entities.

LP is a State limited partnership that owns a golf club (the Club), consisting of a golf course, a clubhouse, a restaurant, rooms available to members for overnight stay, and the underlying land. The Club has several classes of membership. A membership conveys the right to use the golf course, clubhouse and other amenities of the Club. Any person using Club facilities must be a member or sponsored by a member. Membership is transferable upon written consent of LP. LP also owns all of the membership interests in LLC, which owns land adjacent to the Club. This land is available for purchase by members of the Club and others for building homes.

Some members of the Club became members by purchasing a limited partnership interest in LP ("Partners"). A member's limited partnership interest reflects that partner's type of membership in the Club. However, a majority of the members of the Club directly purchased a membership from the Club and, therefore, are not partners of the LP ("Nonpartner Members"). LP also has a general partner, a corporation that does not have a membership in the Club and only a nominal interest in LP.

LP proposes the following series of transactions:

(i) LP will distribute all of its membership interests in LLC to its Partners in proportion to their respective limited partnership interests in LP.

(ii) The Nonpartner Members will contribute their memberships in the Club to LP in exchange for limited partnership interests in LP equivalent in number and classes to the memberships in the Club as in existence prior to this step, and the Club will cancel all of these membership contracts.

(iii) LP will transfer all of the Club property to NP, a non-profit corporation intended to qualify as tax-exempt under § 501(c)(7), in exchange for membership interests in NP equivalent in number and classes to the memberships in the Club as in existence prior to step (ii).

(iv) LP will liquidate and will distribute to its limited partners (which consists of both the original Partners and the former Nonpartner Members) membership interests in NP, corresponding to the types of limited partnership interests in LP that each such partner had. The general partner would also liquidate and not receive anything from LP, i.e., it would be treated as if it had received a nominal amount of consideration from LP in exchange for its (nominal) general partnership interest and then contributed such amount to NP.

LP has requested the following rulings:

(a) The distribution of membership interests in LLC will be taxed under the principles set forth in Rev. Rul. 99-5, 1999-1 C.B. 434. For federal income tax purposes, the distribution of the membership interests in LLC will be treated as a distribution to the Partners of LLC's assets and liabilities, immediately followed by a deemed contribution of those assets to a new LLC. Pursuant to § 731(a) gain shall not be recognized by the Partners on the distribution of the LLC assets, except to the extent any money distributed exceeds a Partner's basis in the Partner's partnership interest. Pursuant to § 731(b), no gain or loss is recognized to LP.

(b) Pursuant to § 721, no gain or loss is recognized to LP or any of the contributing partners (i.e., the Nonpartner Members) as a result of the contribution of the memberships in exchange for limited partnership interests in LP.

(c) Pursuant to § 351, no gain or loss is recognized as a result of the contribution by LP of the Club Property to NP in exchange for membership interests in NP.

(d) No gain or loss will be recognized by the Partners, except to the extent provided under § 731(a), as a result of the distribution of the NP memberships by the LP to the Partners in liquidation of LP.

(e) The contribution of memberships by the Nonpartner Members in exchange for limited partner interests in LP followed by the receipt by Nonpartner Members of NP membership interests in connection with the distribution of NP membership interest to all Partners in liquidation of LP, do not constitute a sale or exchange for purposes of § 707(a)(2)(B).

LP makes the following representations:

(1) No stock or securities will be issued for services rendered to or for the benefit of NP in connection with the exchange, and no stock or securities will be issued for indebtedness of LP that is not evidenced by a security or for interest on indebtedness of NP which accrued on or after the beginning of the holding period of LP for the debt.

(2) LP will not retain any significant power, right, or continuing interest, within the meaning of § 1253(b), in the franchises, trademarks, or trade names being transferred.

(3) The exchange is not the result of the solicitation by a promoter, broker, or investment house.

(4) LP will not retain any rights in the Club property transferred to NP.

(5) The value of the membership interests in NP received in exchange for accounts receivable will be equal to the net value of the accounts transferred, i.e., the face amount of the accounts receivable previously included in income less the amount of the reserve for bad debts.

(6) The adjusted basis and the fair market value of the assets to be transferred by LP to NP will, in each instance, be equal to or exceed the sum of the liabilities assumed (within the meaning of § 357(d)) by NP.

(7) The liabilities of LP to be assumed (within the meaning of § 357(d)) by NP were incurred in the ordinary course of business and are associated with the assets to be transferred.

(8) There is no indebtedness between LP and NP and there will be no indebtedness created in favor of LP as a result of the exchange.

(9) The transfers and exchanges will occur under a plan agreed upon before the consummation of the transaction in which the rights of the parties are defined.

(10) All exchanges will occur on approximately the same date.

(11) There is no plan or intention on the part of NP to redeem or otherwise reacquire any stock or indebtedness to be issued in the transaction.

(12) Taking into account any issuance of additional membership interests in NP; any issuance of membership interests for services; the exercise of any membership rights, warrants, or subscriptions; a public offering of membership interests; and the sale, exchange, transfer by gift, or other disposition of any of the membership interests in NP to be received in the exchange, LP will be in "control" of NP within the meaning of § 368(c).

(13) LP will receive membership interests in NP approximately equal to the fair market value of the Club property transferred to NP.

(14) NP will remain in existence and retain and use the Club property in its exempt function activity.

(15) There is no plan or intention by NP to dispose of the transferred property other than in the normal course of its exempt function activity.

(16) Each of the parties to the exchange will pay its own expenses, if any, incurred in connection with the exchange.

(17) NP will not be an investment company within the meaning of § 351(e)(1) and § 1.351-1(c)(1)(ii).

(18) LP is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of § 368(a)(3)(A)) and the membership interests received in the exchange will not be used to satisfy the indebtedness of LP.

(19) NP will not be a "personal service corporation" within the meaning of § 269A.

Section 351(a) provides that no gain or loss will be recognized if one or more persons transfer property to a corporation solely in exchange for stock in the corporation and immediately after the exchange the transferors are in control (as defined in § 368(c)) of the corporation.

Section 707(a)(2)(B) provides that if (i) there is a direct or indirect transfer of money or other property by a partner to a partnership, (ii) there is a related direct or indirect transfer of money or other property by the partnership to such partner (or another partner), and (iii) the transfers described in clauses (i) and (ii), when viewed together, are properly characterized as a sale or exchange of property, such transfers shall be treated either as occurring between the partnership and one who is not a partner, or as a transaction between two or more partners acting other than in their capacity as members of the partnership.

Section 721(a) provides that no gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

Section 731(a)(1) provides that in the case of a distribution by a partnership to a partner gain shall not be recognized to such partner, except to the extent that any money distributed exceeds the adjusted basis of such partner's interest in the partnership immediately before the distribution. Section 731(b) provides that no gain or loss shall be recognized to a partnership on a distribution to a partner of property, including money.

Section 1.707-3(c) of the Income Tax Regulations provides that if within a two-year period a partner transfers property to a partnership and the partnership transfers money or other consideration to the partner (without regard to the order of the transfers), the transfers are presumed to be a sale of the property to the partnership unless the facts and circumstances clearly establish that the transfers do not constitute a sale.

Rev. Rul. 99-5, 1999-1 C.B. 434, explains the federal income tax consequences when a single member domestic limited liability company that is disregarded for federal tax purposes as an entity separate from its owner under § 301.7701-3 becomes an entity with more than one owner that is classified as a partnership for federal tax purposes.

Rev. Rul. 99-5 addresses two situations in which the disregarded entity becomes an entity classified as a partnership for federal tax purposes. In Situation 1, an unrelated person purchases an interest in the disregarded entity from its owner for cash. In Situation 2, an unrelated person contributes cash to the disregarded entity in exchange for an interest in the entity.

In Situation 1, Rev. Rul. 99-5 concludes that the purchase of an interest in a disregarded entity will be treated as the purchase of a share of the assets of the entity, the assets being treated as owned directly by the owner of the disregarded entity, followed immediately by the contribution of the assets by the purchaser and the original owner to a newly formed partnership in exchange for ownership interests.

In Situation 2, Rev. Rul. 99-5 concludes that the unrelated third party and the owner of the disregarded entity are treated as contributing cash and the entity's assets, respectively, to a newly formed partnership in exchange for partnership interests.

Upon LP's distribution of interests in LLC to the Partners, LLC will be converted from a disregarded entity to a partnership, similar to Situation 1, in Rev. Rul. 99-5. The distribution of the LLC interests by LP shall be treated as a non-taxable pro rata distribution of LP's assets (subject to any related liabilities) to the Partners, as if such assets had been distributed outright from LP to the Partners. The Partners will be treated as contributing their respective interests in those assets to a new partnership, in exchange for ownership interests in the partnership. Under § 721(a), no gain or loss will be recognized by the Partners as a result of the conversion of the disregarded entity to a partnership. Rev. Rul. 99-5.

Accordingly, based solely on the information and representations submitted, we rule as follows. For federal income tax purposes, LP's distribution of the membership interests in LLC will be treated as a distribution of LLC's assets and liabilities to the Partners, immediately followed by a deemed contribution of those assets and liabilities to LLC that is now treated as a partnership. Pursuant to § 731(a), the Partners shall not recognize gain on the distribution of the LLC assets, except to the extent any money distributed exceeds a Partner's basis in the Partner's partnership interest. No gain or loss will be recognized by the Partners, except to the extent provided under § 731(a), as a result of the distribution of the NP memberships by the LP to the Partners in liquidation of LP. Pursuant to § 731(b), no gain or loss is recognized to LP.

Pursuant to § 721, no gain or loss is recognized to LP or any of the contributing partners (i.e., the Nonpartner Members) as a result of the contribution of the memberships in exchange for limited partnership interests in LP. Furthermore, the contribution of memberships by the Nonpartner Members in exchange for limited partner interests in LP followed by the receipt by Nonpartner Members of NP membership interests in connection with the distribution of NP membership interests to all Partners in liquidation of LP, do not constitute a sale or exchange for purposes of § 707(a)(2)(B) because the related transfers are not properly characterized as a sale or exchange.

We further rule as follows on the exchange described in step (iii):

(1) No gain or loss will be recognized by LP upon the transfer of all of the Club property to NP in exchange for membership interests in NP equivalent in number and classes to the memberships in the Club as in existence prior to step (ii) above, followed by the distribution by LP of those membership interests in NP to its limited partners in complete liquidation (§351(a), Rev. Rul. 84-111, 1984-2 C.B. 88, and Rev. Rul. 58-501, 1958-2 C.B. 262).

(2) The basis of the membership interests in NP received by LP will be the same as the basis of the Club property exchanged therefor (§ 358(a)).

(3) The holding period of the membership interests in NP received by LP will include the period during which LP held the Club property, provided that such property was held as a capital asset at the time of the exchange (§ 1223(1)).

(4) No gain or loss will be recognized by NP on the receipt of the Club property from LP in exchange for membership interests in NP (§ 1032(a)).

(5) The basis of each Club asset received by NP in the exchange will equal the basis of that asset in the hands of LP immediately before the exchange (§ 362(a)).

(6) The holding period of each Club asset received by NP in the exchange will include the period during which LP held that asset (§ 1223(2)).

For these rulings to be effective, NP must have qualified as a § 501(c)(7) organization by the time the transaction described in step (iii) is undertaken. No opinion is expressed as to the federal income tax consequences of step (iii) if NP fails to so qualify at the time step (iii) is undertaken.

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

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to X's authorized representatives.

Sincerely,

J. Thomas Hines
Chief, Branch 2
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter
Copy for section 6110 purposes