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Department of the Treasury
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Date:
April 30, 2008

Legend

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Splitco =

Acquiror =

New Sub 2 LLC =

New Sub 2 Inc. =

Newco LLC =

Mergerco LLC =

Foreign Sub =

Foreign Sub 2 =

State A =

State B =

State C =

Country A =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Facility =

Business A =

Product A =

$a =

$b =

c =

d =

$e =

Dear :

This letter responds to your December 21, 2007 letter requesting a ruling under section 355. The information you submitted for our consideration is summarized below. Unless otherwise indicated, references herein to code sections and regulations are to the applicable Internal Revenue Code and Income Tax Regulations.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support

of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Internal Distribution and External Distribution (defined below): (i) satisfy the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations, (ii) are being used principally as a device for the distribution of the earnings and profits of the distributing and the controlled corporations discussed below (*see* § 355 (a)(1)(B) of the Internal Revenue Code and § 1.355-2(d)), or (iii) are part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest in any of the distributing or the controlled corporations (*see* § 355(e) and § 1.355-7).

FACTS

Parent is a holding company that was incorporated under the laws of State A on Date 1. Parent and its domestic subsidiaries file a consolidated federal income tax return on a calendar-year basis.

Parent's only direct subsidiary is Sub 1, which currently conducts Product A business which is to be transferred in the proposed transaction. Sub 1 was incorporated under the laws of the State B on Date 2. Parent owns all of the outstanding stock of Sub 1 and Sub 1 is part of Parent's consolidated federal income tax return. Sub 1 is an operating company which, along with its subsidiaries, is engaged in the manufacture, marketing, and sale of various products inside and outside the United States.

Nearly all of the intellectual property that will be transferred in the transaction is held by Sub 2, a wholly owned direct subsidiary of Sub 1. Sub 2 licenses such intellectual property, as well as other intellectual property held by Sub 2, to Sub 1 for use by Sub 1 in Business A and other businesses. Sub 2 is part of Parent's consolidated federal income tax return.

Acquiror has agreed to acquire, through a merger, Sub 1's Product A business. The newly formed corporation that will hold Product A business assets transferred by Sub 1 will be merged into Acquiror. Acquiror was incorporated under the laws of the State C on Date 3. Acquiror and its domestic subsidiaries file a consolidated federal income tax return based on a fiscal year ending on Date 4. Business A includes the domestic manufacturing, marketing, and packaging components of the integrated Product A business currently conducted by Sub 1.

PROPOSED TRANSACTIONS

In order to effect the acquisition by Acquiror, Parent intends to effect the following transactions (collectively the "Proposed Transaction"):

1. Sub 1 will form two new wholly owned entities, New Sub 2 LLC and New Sub 2 Inc. New Sub 2 LLC will be a single member limited liability company that will be disregarded for federal income tax purposes. New Sub 2 Inc. will be a corporation for federal income tax purposes. Sub 2 will merge with and into New Sub 2 LLC (the "Sub Merger"). New Sub 2 LLC will then distribute the intellectual property that relates to Product A business to Sub 1. Sub 1 will contribute its interests in New Sub 2 LLC in exchange for the stock of New Sub 2 Inc. (the "New Sub 2 Inc. Contribution" collectively with the Sub Merger is the "Internal Reorganization"). Following the Internal Reorganization, Sub 1 will use the intellectual property held by New Sub 2 LLC in the conduct of its other businesses.

2. Sub 1 will transfer assets to Newco LLC, a newly formed limited liability company wholly owned directly by Sub 1 that will be disregarded for federal income tax purposes, along with sufficient cash to purchase (1) Facility and (2) certain assets related to the conduct of the Product A business in countries other than the U.S. (all of the above, the "Newco LLC Contribution"). The Product A business related assets include certain internet domain names associated with Business A which are currently held by Parent. Parent will contribute these domain names to Sub 1, which will in turn transfer them to Newco LLC in the Newco LLC Contribution. As partial consideration for such transfers, Newco LLC will assume the liabilities associated with those assets, which liabilities generally relate to the operation of Business A. It may not be possible to transfer certain Product A-related assets to Newco LLC at the time of the Newco LLC Contribution because their transfer requires the consent or approval of third parties (the "Delayed Transfer Assets"). However, the beneficial ownership of the Delayed Transfer Assets will be transferred to Newco LLC at the time of the Newco LLC Contribution, and the legal transfer of the Delayed Transfer Assets will occur when the necessary third-party approvals are obtained.

3. Newco LLC will purchase Facility, using cash contributed by Sub 1, from Sub 3, a wholly owned direct subsidiary of Sub 1.

4. Sub 1 will contribute Newco LLC to Splitco, a new wholly owned direct subsidiary of Sub 1 that will be treated as a corporation for federal income tax purposes, in exchange for stock of Splitco, securities of Splitco in the amount of approximately $a (the "Splitco Securities"), and the assumption by Splitco of certain liabilities (the "Splitco Contribution"). The liabilities to be assumed by Splitco in the Splitco Contribution include the obligation to repay a borrowing incurred by Sub 1 from one or more lenders immediately before the Splitco Contribution of approximately $b (the "External Debt") and the operating liabilities associated with Product A business. Immediately following the Splitco Contribution, Sub 1 will distribute the stock of Splitco to Parent (the "Internal Distribution").

5. Sub 1 will transfer the Splitco Securities to Parent in repayment of intercompany debt equal to the principal amount of the Splitco Securities (the “Internal Debt Repayment”). At the same time, Sub 1 will also transfer cash to Parent in repayment of an amount of intercompany debt equal to the amount of such cash (approximately $b). On the date of the proposed transaction, or as soon as reasonably practicable thereafter, Parent will use the cash proceeds to repay the External Debt and exchange the Splitco Securities with third-party lenders.

Parent will transfer all of the Splitco Securities received by it to an unrelated investment bank or a commercial bank or a group of unrelated investment banks and/or commercial banks (the "Investment Banks") in exchange for Parent debt (including, possibly, commercial paper) outstanding at the time of the External Distribution (as defined in Step 6(b) below), which Parent debt will be acquired by the Investment Banks as principals for their own account by purchases in the secondary market at least 14 days prior to the External Distribution (the "External Debt Exchange"). Parent expects to consummate the External Debt Exchange in accordance with an exchange agreement entered into by it and the Investment Banks no sooner than 5 days after the Investment Banks acquire such Parent debt, pursuant to which the parties will agree to exchange the Splitco Securities for an amount of Parent debt with a fair market value to be determined as of the date the exchange is consummated.

6. Immediately following the Internal Distribution, at its election, Parent will either:

    a. Offer to holders of Parent stock the right to exchange all or a portion of their Parent shares for Splitco shares (the “Split-off”) and distribute any shares of Splitco that are not subscribed for in the exchange offer (less those transferred to holders of Parent deferred stock as described below) to the remaining Parent shareholders (including holders of Parent restricted stock) on a pro rata basis (the “Cleanup Spin-off”); or

    b. Distribute all of the shares of Splitco (less those shares of Splitco transferred to holders of Parent deferred stock as described below) on a pro rata basis to the Parent shareholders (including holders of Parent restricted stock) (the “Spin-off”, collectively with the Split-off and the Cleanup Spin-off, the “External Distribution”).

To the extent that the External Distribution takes the form of a Split-off, holders of Parent restricted and deferred stock will not participate. To the extent that the External Distribution takes the form of a Spin-off or is completed as a Cleanup Spin-off, holders of Parent restricted stock will participate. Each holder of a share of Parent restricted stock will receive shares of Splitco stock, which will be fully vested at the time of the External Distribution, in the same proportion as holders of unrestricted Parent stock. Parent will transfer shares of Splitco stock to the holders of Parent deferred stock (the “Deferred Stock Transfer”) in an amount equal to the amount of Splitco stock that they would have received in the pro rata distribution (whether Spin-off or Cleanup Spin-off)

had their deferred stock been treated as outstanding common stock, up to an aggregate limit of c shares of Splitco stock (which represents less than .d% of the Splitco stock).

7. Splitco will merge with and into Mergerco LLC, a newly formed limited liability company wholly owned directly by Acquiror that is disregarded for federal income tax purposes (the "Merger"). Immediately following the Merger, Mergerco LLC will merge into Acquiror (the "Upstream Merger"), so that Newco LLC will be directly owned by Acquiror and Acquiror will be the obligor on the Splitco Securities and the External Debt.

8. Foreign Sub, a new wholly owned indirect subsidiary of Acquiror organized under the laws of Country A that will be treated as a corporation for U.S. federal income tax purposes, will purchase certain Business A-related assets located in Country A from Foreign Sub 2, the indirect wholly owned Country A subsidiary of Sub 1 that currently owns them (the "Country A Purchase").

REPRESENTATIONS

The following representations are made by Parent regarding the Proposed Transaction. For purposes of this ruling request, "Sub 1 Unit" means Sub 1 and all of the business entities the assets of which are treated as owned by Sub 1 for federal income tax purposes; "Sub 2 Unit" means Sub 2 and all of the business entities the assets of which are treated as owned by Sub 2 for federal income tax purposes; "Splitco Unit" means Splitco and all of the business entities the assets of which are treated as owned by Splitco for federal income tax purposes; and "Acquiror Unit" means Acquiror and all of the entities the assets of which are treated as owned by Acquiror for federal income tax purposes.

Sub Merger (Merger of Sub 2 into New Sub 2 LLC)

1. Sub 1 Unit has no plan or intention to sell or otherwise dispose of any of the assets of Sub 2 Unit acquired in the Sub Merger, except for (i) dispositions made in the ordinary course of business, (ii) the Splitco Contribution, and (iii) the transfer of New Sub 2 LLC to New Sub 2 Inc.

2. All of the proprietary interest in Sub 2 Unit will be preserved (within the meaning of Treas. Reg. § 1.368-1(e)(1)(i) and (ii)).

3. The liabilities of Sub 2 Unit assumed by Sub 1 Unit and the liabilities to which the transferred assets of Sub 2 Unit are subject were incurred by Sub 2 Unit in the ordinary course of its business.

4. Sub 1 Unit, through its ownership of New Sub 2 Inc., will continue the historic business of Sub 2 Unit or use a significant portion of Sub 2 Unit's historic business assets in a business.

5. Sub 2 Unit and Sub 1 Unit will pay their respective expenses, if any, incurred in connection with the Sub Merger.

6. No intercorporate indebtedness exists between Sub 2 Unit and Sub 1 Unit that was issued, acquired, or will be settled at a discount.

7. No party to the Sub Merger is an investment company as defined in § 368(a)(2)(F)(iii)–(iv).

8. The Sub Merger will be carried out to facilitate the Internal Distribution, External Distribution, and Merger.

9. No member of Sub 2 Unit is under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

10. The adjusted bases and the fair market value of the assets of Sub 2 Unit transferred to Sub 1 Unit will equal or exceed the sum of the liabilities assumed (within the meaning of § 357(d)) by Sub 1 Unit.

11. The Sub Merger will be effected pursuant to the laws of the State B, under which, as a result of the operation of such laws, the following events will occur simultaneously at the effective time of the Sub Merger: (i) all of the assets and liabilities (except to the extent satisfied or discharged in the transaction) of Sub 2 will become the assets and liabilities of one or more members of Sub 1 Unit; and (ii) Sub 2 will cease its separate legal existence for all purposes.

12. New Sub 2 LLC is a State B single member limited liability company that is a "disregarded entity" within the meaning of Treas. Reg. § 1.368-2(b)(1)(i)(A).

Newco LLC Contribution (Contribution of Operating Assets, Related Liabilities, and Cash to Newco LLC)

1. Newco LLC is a State B single member limited liability company that is a "disregarded entity" within the meaning of Treas. Reg. § 1.368-2(b)(1)(i)(A).

New Sub 2 Inc. Contribution (Contribution of New Sub 2 LLC to New Sub 2 Inc.)

1. No stock or securities will be issued for services rendered to or for the benefit of New Sub 2 Inc. in connection with the Proposed Transaction, and no stock or securities will be issued for indebtedness of New Sub 2 Inc.

2. Sub 1 will transfer all substantial rights in patents or patent applications within the meaning of § 1235 to New Sub 2 Inc.

3. To the extent any copyrights will be transferred by Sub 1, all rights, title, and interests for each copyright, in each medium of exploitation, will be transferred to New Sub 2 Inc.

4. Sub 1 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 to New Sub 2 Inc.

5. The “information” being transferred in exchange for stock under § 351 is “property” within the meaning of Rev. Rul. 64-56, C.B. 1964-1.

6. Any services to be performed in connection with the transfer of the property are merely ancillary and subsidiary to the property transfer within the meaning of Rev. Rul. 64-56 or the transferor will be compensated by a fee negotiated at arm's length (in consideration other than stock or securities of the transferee unless such stock or securities are identified) for any other services to be performed on behalf of the transferee.

7. The transfer is not the result of solicitation by a promoter, broker, or investment house.

8. Sub 1 will not retain any rights in the property transferred to New Sub 2 Inc.

9. Any debt relating to the stock being transferred that is being assumed (or to which such stock is subject) was incurred to acquire such stock and was incurred when such stock was acquired, and Sub 1 is transferring all of the stock for which the acquisition indebtedness being assumed (or to which such stock is subject) was incurred.

10. The adjusted bases and the fair market value of the assets to be transferred by Sub 1 to New Sub 2 Inc. will each equal or exceed the sum of the liabilities to be assumed by New Sub 2 Inc. (within the meaning of § 357(d)).

11. The liabilities of Sub 1 to be assumed by New Sub 2 Inc. were incurred in the ordinary course of business and are associated with the assets to be transferred.

12. There is no indebtedness between Sub 1 and New Sub 2 Inc. and there will be no indebtedness created in favor of Sub 1 as a result of the New Sub 2 Inc. Contribution.

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

14. The exchange will occur on a single date.

15. There is no plan or intention on the part of New Sub 2 Inc. to redeem or otherwise reacquire any stock or indebtedness to be issued in the New Sub 2 Inc. Contribution.

16. Taking into account any issuance of additional shares of New Sub 2 Inc. stock; any issuance of stock for services; the exercise of any New Sub 2 Inc. stock rights, warrants, or subscriptions; a public offering of New Sub 2 Inc. stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of New Sub 2 Inc. to be received in the exchange, Sub 1 will be in "control" of the transferee within the meaning of § 368(c).

17. Sub 1 will receive stock approximately equal to the fair market value of the property transferred to New Sub 2 Inc.

18. New Sub 2 Inc. will remain in existence and retain and use the property transferred to it in a trade or business.

19. There is no plan or intention by New Sub 2 Inc. to dispose of the transferred property other than in the normal course of business operations.

20. Sub 1 and New Sub 2 Inc. will pay their own expenses, if any, incurred in connection with the New Sub 2 Inc. Contribution.

21. New Sub 2 Inc. will not be an investment company within the meaning of § 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

22. Sub 1 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 stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.

23. New Sub 2 Inc. will not be a "personal service corporation" within the meaning of § 269A.

Splitco Contribution and Internal Distribution (Contribution of Newco LLC to Splitco and Distribution by Sub 1 of Splitco to Parent)

1. Other than the Splitco Securities, any indebtedness owed by Splitco to Sub 1 after the Internal Distribution will not constitute stock or securities.

2. No part of the consideration to be distributed by Sub 1 in the Internal Distribution will be received by Parent as a creditor, employee, or in any capacity other than that of a shareholder of Sub 1.

3. The five years of financial information submitted on behalf of Sub 1 is representative of the corporation’s present operation, and with regard to such

corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

4. The five years of financial information submitted on behalf of Business A is representative of the corporation's present operation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

5. Following the transaction, Sub 1 and Splitco will each continue the active conduct of its business, independently and with its separate employees.

6. The Internal Distribution will be carried out for the following corporate business purpose: to facilitate the acquisition of Business A by Acquiror. The distribution of the stock of Splitco is motivated, in whole or substantial part, by this corporate business purpose.

7. The transaction is not used principally as a device for the distribution of the earnings and profits of Sub 1, Splitco, or both.

8. For purposes of § 355(d), immediately after the Internal Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Splitco stock, that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the Distribution Date, or (ii) attributable to distributions on any stock of Sub 1 that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the Distribution Date.

9. For purposes of § 355(d), immediately after the Internal Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Splitco stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Splitco stock, that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the Distribution Date, or (ii) attributable to distributions on any stock of Sub 1 that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the Distribution Date.

10. The total adjusted bases and the fair market value of the assets transferred to Splitco by Sub 1 each will equal or exceed the sum of the liabilities assumed (within the meaning of § 357(d)) by Splitco, including the External Debt assumed, and other than the Splitco Securities and the External Debt assumed (within the meaning of § 357(d)), the liabilities assumed in the transaction were incurred in

the ordinary course of business and are associated with the assets being transferred.

11. The income tax liability for the taxable year in which investment credit property (including any building to which § 47(d) applies) is transferred will be adjusted pursuant to § 50(a)(1) or (a)(2) (or § 47 as in effect amendment by Public Law 101–508, Title 11, 104 Stat. 1388, 536 (1990), if applicable) to reflect an early disposition of the property.

12. No intercompany debt will exist between Sub 1 and Splitco for more than sixty days subsequent to the External Distribution except for possible short-term payables arising in the ordinary course of business, including in connection with the parties' transitional services and tax allocation agreements.

13. Immediately before the Internal Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations. Further, Sub 1's excess loss account with respect to the Splitco stock, if any, will be included in income immediately before the Internal Distribution.

14. Payments made in connection with all continuing transactions, if any, between Sub 1 and Splitco or Acquiror will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

15. No party to the Internal Distribution is an investment company as defined in § 368(a)(2)(F)(iii) and (iv).

16. The Merger is part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) that includes the Internal Distribution. Taking the Merger into account, the Internal Distribution is not part of a plan or other arrangement (or series of related transactions) (within the meaning of Treas. Reg. § 1.355-7T) on the part of Sub 1 or any of its affiliates pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of § 355(d)(4)) in Sub 1 or Splitco (including any predecessor or successor of any such corporation).

17. The Splitco Securities issued to Sub 1 will qualify as "securities" as that term is used in § 361(a).

18. At all times since Date 5, Sub 1 has owed Parent a net amount of at least $e. Sub 1 has not increased and will not increase its level of debt to Parent, or its total level of debt, in contemplation of or in connection with the Proposed Transaction.

19. At all times since Date 6, Parent has had outstanding debt to external lenders in a net amount of at least $e. Parent has not increased and will not increase its level of external debt in contemplation of or in connection with the Proposed Transaction.

20. The sum of the intercompany debt (i) repaid with the Splitco Securities in the Internal Debt Repayment and (ii) repaid with the cash proceeds of the External Debt, will not exceed the weighted quarterly average of the intercompany debt owed by Sub 1 to Parent for the 12 month period ending on the last full business day before the date on which Parent's Board of Directors initially discussed the potential disposition of Business A.

21. The sum of the external debt (i) repaid by Parent with the Splitco Securities in the External Debt Exchange and (ii) repaid with the cash proceeds of the External Debt, will not exceed the weighted quarterly average of external debt of Parent for the 12 month period ending on the last full business day before the date on which Parent's Board of Directors initially discussed the potential disposition of Business A.

22. The External Debt Repayment will occur at the time of or as soon as reasonably practicable after the External Distribution pursuant to the plan of reorganization.

External Distribution (Distribution of Splitco by Parent to its Shareholders)

1. Other than the Splitco Securities, any indebtedness owed by Splitco to Parent after the External Distribution will not constitute stock or securities.

2. If Parent completes the External Distribution as a Split-off, the fair market value of the Splitco stock and other consideration to be received by each shareholder of Parent will be approximately equal to the fair market value of the Parent stock surrendered by the shareholder in the exchange.

3. Except for the potential distribution of shares of Splitco stock to holders of restricted shares of Parent stock in a Spin-off, no part of the External Distribution will be received by such shareholders as compensation and no part of the consideration to be distributed by Parent in the External Distribution will be received by any shareholder of Parent as a creditor, employee, or in any capacity other than that of a shareholder of Parent.

4. The five years of financial information submitted on behalf of Parent is representative of the corporation's present operation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

5. The five years of financial information submitted on behalf of Business A is representative of the corporation's present operation, and with regard to such corporation, there have been no substantial operational changes since the date of the last financial statements submitted.

6. Following the transaction, Parent and Splitco will each continue the active conduct of its business, independently and with its separate employees.

7. The External Distribution will be carried out for the following corporate business purpose: to facilitate the acquisition of Business A by Acquiror. The distribution of the stock of Splitco is motivated, in whole or substantial part, by this corporate business purpose.

8. The transaction is not used principally as a device for the distribution of the earnings and profits of Parent, Splitco, or both.

9. For purposes of § 355(d), immediately after the External Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Parent stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Parent stock, that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the Distribution Date.

10. For purposes of § 355(d), immediately after the External Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Splitco stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Splitco stock, that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the Distribution Date, or (ii) attributable to distributions on any stock of Parent that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the Distribution Date.

11. Other than the Splitco Securities, no intercompany debt will exist between Parent or its subsidiaries, on one hand, and Splitco or its subsidiaries, on the other, for more than thirty days subsequent to the External Distribution except for possible short-term payables arising in the ordinary course of business, including in connection with the parties' transitional services and tax allocation agreements.

12. Immediately before the External Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations. Further, Parent's excess loss account with respect to the Splitco stock, if any, will be included in income immediately before the External Distribution.

13. Payments made in connection with all continuing transactions, if any, between Parent and Splitco or Acquiror will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

14. No party to the External Distribution is an investment company as defined in § 368(a)(2)(F)(iii) and (iv).

15. The Merger is part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) that includes the External Distribution. Taking the Merger into account, the External Distribution is not part of a plan or other arrangement (or series of related transactions) (within the meaning of Treas. Reg. § 1.355-7T) on the part of Parent or any of its affiliates pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of § 355(d)(4)) in Parent or Splitco (including any predecessor or successor of any such corporation).

Merger (Merger of Splitco into Mergerco LLC)

1. The shareholders of Splitco immediately before the Merger will receive in the Merger stock possessing greater than 50 percent of the total combined voting power of all classes of Acquiror stock entitled to vote and greater than 50 percent of the total value of shares of all classes of Acquiror stock.

2. The fair market value of the Acquiror stock and other consideration, if any, received by each Splitco shareholder will approximately equal the fair market value of the Splitco stock surrendered in the exchange.

3. At least 50% of the proprietary interest in Splitco will be preserved (within the meaning of Treas. Reg. § 1.368-1(e)(1)(i) and (ii)).

4. In connection with the Proposed Transaction, neither Acquiror, nor any person related (within the meaning of Treas. Reg. § 1.368-1(e)(3)) to Acquiror, has any plan or intention to acquire any of the shares of Acquiror issued in the Merger except for buybacks that satisfy the requirements of Rev. Proc. 96-30.

5. Acquiror Unit does not have any plan or intention to sell or otherwise dispose of any of the assets of Splitco Unit acquired in the Merger, except for dispositions made in the ordinary course of business or transfers described in § 368(a)(2)(C) or Treas. Reg. § 1.368-2(k).

6. Other than the Splitco Securities and the External Debt, the liabilities of Splitco Unit assumed by Acquiror Unit and the liabilities to which the transferred assets of Splitco Unit are subject were incurred in the ordinary course of business and will be associated with the assets transferred.

7. Following the Merger, Acquiror Unit will continue the historic business of Splitco Unit or use a significant portion of the Splitco Unit historic business assets in a business.

8. Acquiror Unit, Splitco Unit, and the shareholders of Splitco will pay their respective expenses, if any, incurred in connection with the Merger.

9. No intercorporate indebtedness exists between Splitco Unit and Acquiror Unit that was issued, acquired, or will be settled at a discount.

10. No party to the Merger is an investment company as defined in § 368(a)(2)(F)(iii)–(iv)

11. No member of Splitco Unit is under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

12. The fair market value of the assets of Splitco Unit transferred to Acquiror Unit will equal or exceed the sum of the liabilities assumed (within the meaning of § 357(d)) by Acquiror Unit.

13. Payments made in connection with any continuing transactions between Parent (and its subsidiaries) and Acquiror (and its subsidiaries) following the Merger will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

14. The payment of cash in lieu of fractional shares of Acquiror stock is solely for the purpose of avoiding the expense and inconvenience to Acquiror of issuing fractional shares and does not represent separately-bargained-for consideration. The total cash consideration that will be paid in the transaction to the Splitco shareholders instead of issuing fractional shares of Acquiror stock will not exceed one percent of the total consideration that will be issued in the transaction to the Splitco shareholders in exchange for their shares of Splitco stock. The fractional share interests of each Splitco shareholder will be aggregated, and no Splitco shareholder of record will receive cash in an amount equal to or greater than the value of one full share of Acquiror stock.

15. None of the compensation received by any shareholder of Splitco who is also an employee of Splitco Unit (“shareholder-employee”) will be separate consideration for, or allocable to, any of his or her shares of Splitco stock; none of the shares of Acquiror stock received by any shareholder-employee will be separate consideration for, or allocable to, any employment agreement; and the compensation paid to any shareholder-employee will be for services actually rendered and will be commensurate with amounts paid to third parties bargaining at arm’s-length for similar services.

16. The Merger will be effected pursuant to the laws of the State B, under which, as a result of the operation of such laws, the following events will occur simultaneously at the effective time of the Merger: (i) all of the assets and liabilities of Splitco Unit will become the assets and liabilities of one or more members of Acquiror Unit; and (ii) Splitco will cease its separate legal existence for all purposes.

17. Mergerco LLC is a State B single member limited liability company that is a "disregarded entity" within the meaning of Treas. Reg. § 1.368-2(b)(1)(i)(A).

RULINGS

Based solely on the facts and representations set forth herein, we rule as follows:

Sub Merger (Merger of Sub 2 into New Sub 2 LLC)

1. Provided that the Sub Merger qualifies as a statutory merger under applicable state law, the Sub Merger will qualify as a reorganization under § 368(a)(1)(A) and will not be disqualified by reason of the fact that part of Sub 2's assets acquired in the transaction are transferred to Splitco and that New Sub 2 LLC is transferred to New Sub 2 Inc. § 368(a)(1)(A), (a)(2)(C); Treas. Reg. § 1.368-2(b)(1), -2(k)(1); Rev. Rul. 69-617, 1969-2 C.B. 57. Sub 1 and Sub 2 will each be a "party to a reorganization" under § 368(b). Treas. Reg. § 1.368-2(f).

2. No gain or loss will be recognized by Sub 2 on the Sub Merger. §§ 361(a); 357(a).

3. No gain or loss will be recognized by Sub 1 on the Sub Merger. §§ 1032(a); 354(a).

4. The basis of each asset received by Sub 1 Unit in the Sub Merger will equal the basis of that asset in the hands of Sub 2 Unit immediately before the Sub Merger. § 362(b).

5. The holding period of each asset received by Sub 1 Unit in the Sub Merger will include the holding period of Sub 2 in that asset immediately before the Sub Merger. § 1223(2).

6. Sub 1 will succeed to and take into account those attributes of Sub 2 Unit described in § 381(c). § 381(a); Treas. Reg. § 1.381(a)-1. These items will be taken into account by Sub 1 subject to the applicable conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder.

New Sub 2 Inc. Contribution (Contribution of New Sub 2 LLC to New Sub 2 Inc.)

1. The transfer of assets by Sub 1 in constructive exchange for additional New Sub 2 Inc. stock and the assumption of the transferred liabilities by New Sub 2 Inc. will qualify as a transaction described in § 351.

2. No gain or loss will be recognized by Sub 1 on the New Sub 2 Inc. Contribution. §§ 351(a); 357(a).

3. No gain or loss will be recognized by New Sub 2 Inc. on the New Sub 2 Inc. Contribution. § 1032.

4. The basis of the stock of New Sub 2 Inc. in the hands of Sub 1 will be increased by an amount equal to the basis of the transferred assets and decreased by the amount of transferred liabilities assumed by New Sub 2 Inc. (including the transferred assets and liabilities in New Sub 2 LLC). § 358(a)(1), (d)(1).

5. The holding period of the stock of New Sub 2 Inc. constructively received by Sub 1 on the transfer will include the holding period of Sub 1 in the transferred assets that New Sub 2 LLC acquired in the Sub Merger, provided that the transferred assets were capital assets or were property described in § 1231. § 1223(1).

6. The basis of each transferred asset in the hands of New Sub 2 Inc. Unit will be equal to the basis of such asset in the hands of Sub 1 Unit immediately prior to the New Sub 2 Inc. Contribution. § 362(a)(1).

7. The holding period of each transferred asset in the hands of New Sub 2 Inc. Unit will include the holding period of Sub 1 in that asset immediately prior to the New Sub 2 Inc. Contribution. § 1223(2).

Newco LLC Contribution (Contribution of Operating Assets, Related Liabilities, and Cash to Newco LLC)

1. The transfer of assets by Sub 1 in exchange for interests in Newco LLC and the assumption of the transferred liabilities by Newco LLC will be disregarded for federal income tax purposes.

Splitco Contribution and Internal Distribution (Contribution of Newco LLC to Splitco and Distribution by Sub 1 of Splitco to Parent)

1. The Splitco Contribution, followed by the Internal Distribution, will be a reorganization under § 368(a)(1)(D). Sub 1 and Splitco will each be "a party to a reorganization" under § 368(b). Treas. Reg. § 1.368-2(f).

2. No gain or loss will be recognized by Sub 1 on the transfer of all the interests in Newco LLC (including the beneficial ownership of the Delayed Transfer Assets)

in exchange for the Splitco shares, the Splitco Securities, and the assumption of liabilities by Splitco in the Splitco Contribution. §§ 361(a); 357(a).

3. The aggregate basis of the Splitco shares and the Splitco Securities in the hands of Sub 1 immediately after the Splitco Contribution will equal the aggregate basis Sub 1 had in the contributed assets immediately before the Splitco Contribution, decreased by the liabilities assumed by Splitco in the Splitco Contribution. § 358(a)(1), (d). Such aggregate basis will be allocated between the Splitco shares and Splitco Securities in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(b)(2). § 358(b).

4. No gain or loss will be recognized by Splitco on the receipt of all the interests in Newco LLC in exchange for the Splitco shares and Splitco Securities and the assumption of liabilities of Sub 1 Unit in the Splitco Contribution. § 1032(a).

5. The basis of each asset received by Splitco Unit in the Splitco Contribution will equal the basis of that asset in the hands of Sub 1 Unit immediately before the Splitco Contribution. § 362(b).

6. The holding period of each asset received by Splitco Unit in the Splitco Contribution will include the holding period of Sub 1 in that asset immediately before the Splitco Contribution. § 1223(2).

7. No gain or loss will be recognized by Sub 1 on the distribution of the stock of Splitco in the Internal Distribution. § 361(c)(1).

8. No gain or loss will be recognized by (and no amount will be included in the income of) Parent upon the receipt of the stock of Splitco in the Internal Distribution. § 355(a)(1).

9. The aggregate basis of the Sub 1 shares and the Splitco shares in the hands of Parent immediately after the Internal Distribution will equal the basis Parent had in the Sub 1 shares immediately before the Internal Distribution, allocated in the manner described in Treas. Reg. § 1.358-2(a)(2). § 358(a)–(c); Treas. Reg. § 1.358-1(a).

10. The holding period of the stock of Splitco received by Parent in the Internal Distribution will include the holding period of Parent in the stock of Sub 1 prior to the Internal Distribution, provided that the shares of Sub 1 were held as a capital asset on the date of the Internal Distribution. § 1223(1).

11. As provided in § 312(h), earnings and profits will be allocated between Sub 1 and Splitco in accordance with Treas. Reg. §§ 1.312-10(a) and 1.1502-33.

Internal Debt Repayment (Transfer of Splitco Securities by Sub 1 to Parent in Repayment of Debt)

1. Provided that the Splitco Securities are transferred in the aforementioned "External Debt Exchange", then taking into account the intercompany transaction regulations, the following will occur:

- With respect to the Internal Debt Repayment, no income, gain, loss, or deduction will be recognized with respect to the Splitco Securities on the transfer of the Splitco Securities other than Sub 1's amount of income, gain, loss, or deduction that offsets Splitco's corresponding amount of income, gain, loss or deduction upon the deemed satisfaction of the Splitco Securities

- With respect to the Internal Debt Repayment and the External Distribution, no income, gain, loss, or deduction will be recognized with respect to the Splitco Securities and the intercompany debt between Sub 1 and Parent other than Parent's amount of income, gain, loss, or deduction that offsets Sub 1's corresponding amount of income, gain, loss or deduction upon the deemed satisfactions of the Splitco Securities

- With respect to the External Debt Exchange, no income, gain, loss, or deduction will be recognized with respect to the Splitco Securities on the transfer of the Splitco Securities other than any (i) deductions attributable to the fact that Parent debt may be redeemed at a premium, (ii) income attributable to the fact that Parent debt may be redeemed at a discount, (iii) interest income recognized by Parent prior to the External Debt Exchange, (iv) deductions attributable to interest expense accrued with respect to Parent debt, and (v) income, gain, deductions or loss recognized on the transfer of the Splitco Securities in the Internal Debt Repayment and the External Debt Exchange attributable to appreciation or depreciation in the Splitco Securities after the External Distribution and prior to their disposition by Parent.

2. Parent will obtain a cost basis, determined at the time of the Internal Debt Repayment, in the Splitco Securities acquired in the Internal Debt Repayment in repayment of debt owed by Sub 1 to Parent. § 1012.

External Distribution (Distribution of Splitco by Parent to its Shareholders)

1. No gain or loss will be recognized by (and no amount will be included in the income of) the shareholders of Parent on the External Distribution (whether effected as a Spin-off or a Split-off followed by a Cleanup Spin-off (if any)). § 355(a)(1).

2. No gain or loss will be recognized by Parent on the External Distribution (whether effected as a Spin-off or a Split-off followed by a Cleanup Spin-off (if any)). § 355(c)(1).

3. If the External Distribution is effected as a Split-off, the aggregate basis of the Splitco shares received by each Parent shareholder in the exchange will be the same as the shareholder's aggregate basis in the Parent shares surrendered in the exchange, allocated in the manner described in Treas. Reg. § 1.358-2(a)(2)(i). § 358(a)(1), (b)–(c). If the External Distribution is effected as a Spin-off or to the extent there is a Cleanup Spin-off, the aggregate basis of the Parent shares and the Splitco shares in the hands of each Parent shareholder immediately after the External Distribution (as adjusted under Treas. Reg. § 1.358-1) will equal the basis the shareholder had in the Parent shares immediately before the External Distribution, allocated in the manner described in Treas. Reg. § 1.358-2(a)(2)(iv). § 358(a)–(c); Treas. Reg. § 1.358-1(a).

4. The holding period of the stock of Splitco received by the Parent shareholders in the External Distribution will include the holding period of such shareholders in (a) the Parent shares surrendered in exchange therefor in the case of a Split-off or (b) the Parent shares on which the distribution was made in the case of a Spin-off or Cleanup Spin-off, provided the shares of Parent were held as a capital asset on the date of the External Distribution. § 1223(1).

5. As provided in § 312(h), earnings and profits will be allocated between Parent and Splitco in accordance with Treas. Reg. §§ 1.312-10(b) and 1.1502-33.

6. Any Acquiror stock acquired after the announcement of the Proposed Transaction by an employee or director of Acquiror (including acquisitions of Acquiror stock pursuant to the exercise of stock options or the settlement of stock appreciation rights granted to an employee or director of Acquiror before the Proposed Transaction) or any Splitco stock acquired in the Proposed Transaction by holders of Parent deferred stock or holders of Parent restricted stock will not be treated as acquired as part of a plan or series of related transactions that includes the External Distribution under § 355(e), provided that such stock was acquired in connection with the performance of services for Acquiror, Splitco, or Parent, as applicable, in a transaction to which § 83 applies and is not excessive by reference to the services performed. Treas. Reg. § 1.355-7(d)(8).

Merger (Merger of Splitco into Mergerco LLC)

1. Provided that the Merger qualifies as a statutory merger under applicable state law, the Merger will qualify as a reorganization under § 368(a)(1)(A). Treas. Reg. § 1.368-2(b)(1). Splitco and Acquiror will each be a “party to a reorganization” under § 368(b). Treas. Reg. § 1.368-2(f).

2. No gain or loss will be recognized by Splitco on the Merger. §§ 361(a); 357(a).

3. No gain or loss will be recognized by Acquiror on the Merger. § 1032(a).

4. No gain or loss will be recognized by the Splitco shareholders on the Merger. § 354(a)(1).

5. The basis of each asset received by Acquiror Unit in the Merger will equal the basis of that asset in the hands of Splitco Unit immediately before the Merger. § 362(b).

6. The holding period of each asset received by Acquiror Unit in the Merger will include the holding period of Splitco in the asset immediately prior to the Merger. § 1223(2).

7. Acquiror will succeed to and take into account those attributes of Splitco described in § 381(c). § 381(a); Treas. Reg. § 1.381(a)-1. These items will be taken into account by Acquiror subject to the applicable conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder.

8. The basis of the Acquiror shares (including any fractional share interest to which the shareholder may be entitled) received by each Splitco shareholder in the Merger will equal the basis of the Splitco shares surrendered by that shareholder in exchange therefor. § 358(a)(1).

9. The holding period of the Acquiror stock (including any fractional share interest to which the shareholder may be entitled) received by each Splitco shareholder in the Merger will include the holding period of such shareholder in the Splitco shares surrendered in exchange therefor, provided the Splitco stock is held as a capital asset on the date of the Merger. § 1223(1).

10. The payment of cash to a Splitco shareholder in lieu of receiving a fractional share of Acquiror stock will be treated for federal income tax purposes as if the fractional share was distributed as part of the Merger and subsequently redeemed by Acquiror. These cash payments will be treated as distributions in full payment in exchange for the stock redeemed as provided in § 302(a). Rev. Rul. 66-365, 1966-2 C.B. 116.

Upstream Merger (Merger of Mergerco LLC into Acquiror)

1. The Upstream Merger will be disregarded for federal income tax purposes.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

_____

Debra L. Carlisle
Branch Chief, Branch 5
Office of Associate Chief Counsel
(Corporate)