Internal Revenue Service

Number: **201411006**
Release Date: 3/14/2014

Index Number: 351.00-00, 358.02-00, 362.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B01
PLR-123948-13

Date:
December 05, 2013

Legend

Parent =

FSub 1 =

FSub 2 =

Transferor =

Transferee =

Sub 1 =

DE 1 =

DE 2 =

Business A =

Business B =

Country A =

State A =

State B =

$aa =

$bb =

$cc =

z% =

X =

Dear :

This letter responds to your representative's May 17, 2013 request for rulings on certain federal income tax consequences of the proposed transaction described below (the "Proposed Transaction"). The information submitted in that request and in later correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a "penalties of perjury" statement executed by an appropriate party. This office has not verified any of the material 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.

SUMMARY OF FACTS

Parent is a Country A corporation and is the parent of a worldwide group of corporations (the "Parent Group") engaged in Business A. Parent owns all of the stock of FSub 1 and FSub 2, each a Country A private limited company. FSub 2 owns all of the interests in DE 1, a State A limited liability company. DE 1 owns all of the interests in DE 2, also a State A limited liability company. DE 2 owns all of the single class of stock of Sub 1, a State B corporation. Sub 1 is a holding company and is the common parent of an affiliated group of corporations that join in the filing of a consolidated federal income tax return. After a series of taxable sales of non-core businesses, Sub 1 primarily is engaged through its subsidiaries in Business B and related activities.

FSub 1 owns all of the stock (apart from an immaterial number of shares held by a nominee entity) of Transferor, a Country A private limited company. Transferor owns all of the single class of stock of Transferee, a State A corporation. Transferee is the common parent of an affiliated group of corporations that join in the filing of a consolidated federal income tax return.

Sub 1 has used the proceeds from the sale of its non-core businesses to make loans to other members of the Parent Group, including Transferee. Additionally, Sub 1 and members of its affiliated group and Transferee and members of its affiliated group have entered into a unified cash management system. Accordingly, members of Sub 1's affiliated group and Transferee's affiliated group will have outstanding receivables and payables owing to members of the other group in the ordinary course of business (collectively the "Ordinary Course Accounts"). The Ordinary Course Accounts are not expected to be settled or paid off in connection with the Proposed Transaction.

PROPOSED TRANSACTION

Parent proposes to undertake the following Proposed Transaction, some of the steps of which may be disregarded for federal income tax purposes:

(i) Sub 1 will pay a dividend of approximately $aa to FSub 2.

(ii) Parent will file a "check the box" election with respect to FSub 1 and FSub 2, causing FSub 1 and FSub 2 to be treated as disregarded entities and as such a branch or division of Parent.

(iii) Parent will cause DE 2 to sell all of the stock of Sub 1 to FSub 1 for cash equal to Sub 1's estimated fair market value.

(iv) Parent (through FSub 1, now a disregarded entity for federal income tax purposes) will contribute all of the Sub 1 stock to Transferor in exchange for common stock of Transferor.

(v) Transferor will contribute all of the Sub 1 stock to Transferee (the "Sub 1 Contribution"), with each share of Sub 1 stock contributed partially to the capital of Transferee and partially in exchange for perpetual non-voting preferred stock of Transferee (the "Preferred Stock"). The Preferred Stock is expected to have an aggregate face amount of $bb and to have an aggregate fair market value equal to approximately z% of Sub 1's fair market value after the dividend described in Step (i) above. Further, the Preferred Stock will be redeemable by Transferee at par plus the accrued unpaid preferred return at any time after the X anniversary of issuance. The Parent Group intends that the Preferred Stock will not be "nonqualified preferred stock" (within the meaning of section 351(g)(2)).

(vi) Transferee will assume and pay all expenses of each step of the Proposed Transaction, including the Country A legal and tax expenses incurred by Parent and FSub 2 in effecting the steps described above. Parent estimates that the total transaction expenses to be assumed by Transferee will be approximately $cc.

Parent states that the maintenance of two separate consolidated groups creates administrative redundancies and inefficiencies, and accordingly the Parent Group is entering into the Proposed Transaction in order to combine Sub 1's consolidated group and Transferee's consolidated group into one consolidated group with Transferee as its common parent and containing the Parent Group's principal U.S. businesses and assets.

REPRESENTATIONS

The following representations are made with respect to the Proposed Transaction:

(a) No stock or securities will be issued for services rendered to or for the benefit of Transferee in connection with the Proposed Transaction, and no stock or securities will be issued for indebtedness of Transferee.

(b) The Proposed Transaction will not be the result of a solicitation by a promoter, broker, or investment house.

(c) Transferor will not retain any rights in the property transferred to Transferee.

(d) There is no indebtedness between Transferor and Transferee and there will be no indebtedness created in favor of Transferor as a result of the Proposed Transaction.

(e) The Proposed Transaction will occur under a plan agreed before the Proposed Transaction in which the rights of the parties are defined and all exchanges in the Proposed Transaction will occur on approximately the same date.

(f) There is no plan or intention on the part of Transferee to redeem or otherwise reacquire any stock issued in the Proposed Transaction.

(g) Taking into account any issuance of additional shares of Transferee stock; any issuance of stock for services; the exercise of any Transferee stock rights, warrants, or subscriptions; a public offering of Transferee stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Transferee to be received in the exchange, Transferor is now and will be in control of Transferee within the meaning of section 368(c).

(h) None of the Sub 1 stock to be transferred to Transferee in the Proposed Transaction will be "section 306 stock" within the meaning of section 306(c).

(i) The adjusted basis and the fair market value of the Sub 1 stock to be transferred to Transferee by Transferor will, in each instance, exceed the sum of the liabilities to be assumed by Transferee plus any liabilities to which the Sub 1 stock is subject.

(j) The fair market value of the Sub 1 stock transferred to Transferee will exceed the fair market value of the Preferred Stock received by Transferor. The documents effecting the contribution will make clear that the Preferred Stock is being received by Transferor in exchange for a portion of each share of Sub 1 stock transferred of approximately equal fair market value to the fair market value of the Preferred Stock received.

(k) Transferee is a holding company and will remain in existence and will hold the Sub 1 stock transferred to it in the ordinary course of its activities as a holding company.

(l) There is no plan or intention by Transferee to dispose of the transferred property other than in the normal course of business operations.

(m) Transferee will not be an "investment company" within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(n) Transferor is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)).

(o) Transferee will not be a "personal service corporation" within the meaning of section 269A.

RULINGS

Based solely on the information submitted and the representations made above, we rule as follows regarding the Proposed Transaction:

(1) Transferee may file a statement on its federal income tax return that Parent and Transferor elect to apply section 362(e)(2)(C) to the transfer of Sub 1 to Transferor described in Step (iv) above. (Treas. Reg. § 1.362-4(d)(3)(ii)(G)).

(2) Transferor shall not recognize gain or loss on the transfer of the Sub 1 stock to Transferee. (Section 351(a) and section 357(a)).

(3) Transferee shall not recognize gain or loss on the receipt of the Sub 1 stock. (Section 118(a) and section 1032).

(4) The aggregate basis attributable to the Sub 1 stock contributed to Transferee in the Sub 1 Contribution (reduced by the aggregate amount of the liabilities assumed by Transferee in connection with the transfer) shall be pro-rated between the existing Transferee common stock held by Transferor and the Preferred Stock based on the respective fair market values of the Preferred Stock and the Sub 1 stock being contributed to capital and, in the case of the Sub 1 stock being contributed to capital, shall be added to Transferor's existing basis in its Transferee common stock, such that each share of Transferee common stock shall have an identical increase in basis as a result of the Sub 1 Contribution and, each share of Preferred Stock shall have an identical, averaged basis. In the event that the Preferred Stock is "nonqualified preferred stock" (within the meaning of section 351(g)(2)), the aggregate basis attributable to the Sub 1 stock contributed to Transferee in the Sub 1 Contribution (reduced by the aggregate amount of the liabilities assumed by Transferee in connection with the transfer) shall be added to Transferor's existing basis in its Transferee common stock, such that each share of Transferee common stock shall have an identical increase in basis as a result of the Sub 1 Contribution. (Section 358 and Treas. Reg. § 1.358-2(b)).

CAVEATS

No opinion is expressed about the federal income tax consequences of the Proposed Transaction under other provisions of the Code or regulations or the federal income tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding whether the Preferred Stock is "nonqualified preferred stock" within the meaning of section 351(g)(2).

PROCEDURAL MATTERS

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.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

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,

Mark S. Jennings
Branch Chief, Branch 1
Office of Associate Chief Counsel (Corporate)