Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:CORP:2-PLR-120890-98
Date:
March 10, 1999

Re:

Acquiring =

Sub =

Target =

Business 1 =

Date 2 =

State A =

Dear :

This is in reply to your letter dated November 12, 1998 requesting that we rule on a significant federal income tax subissue present in a proposed transaction. See § 3.01(23) of Rev. Proc. 99-3, 1999-1 I.R.B. 103, 106. The facts submitted for consideration are substantially as set forth below.

Sub was organized by Acquiring, which is engaged in Business 1, solely to acquire Target, which is engaged in Business 2. On Date 1, under applicable state law, Sub merged into Target pursuant to an Agreement and Plan of Reorganization (First-Step Merger). Acquiring proposes to merge Target with and into Acquiring in accordance the laws of State A and State B (Second-Step Merger) on or before Date 2.

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

(a) The First-Step Merger, viewed independently of the Second-Step Merger, qualifies as a reorganization under Sections 368(a)(1)(A) and 368(a)(2)(E).

(b) The Second-Step Merger will qualify as a statutory merger under applicable state law, and, if viewed independently of the First-Step Merger, would qualify as a liquidation under Section 332.

(c) If Target had not merged with Sub in the First-Step Merger but had instead merged directly with and into Acquiring, then such merger would have qualified as a reorganization under Section 368(a)(1)(A).

Pursuant to section 3.01(23) of Rev. Proc. 99-3, 1999-1 I.R.B. 106, the Internal Revenue Service will not rule as to whether a proposed transaction qualifies under section 368(a)(1)(A) by reason of 368(a)(2)(E). However, the Service has discretion to rule on significant subissues that must be resolved to determine whether a transaction qualifies under section 368(a)(1)(A).

Accordingly, based on the information submitted and the representations made, and provided that the First-Step Merger and Second-Step Merger are treated as steps in an integrated plan under the step transaction doctrine, we rule as follows:

The First-Step Merger and Second-Step Merger will be treated as if Acquiring had directly acquired Target's assets through a statutory merger as that term is used in § 368(a)(1)(A) (Rev. Rul. 67-274, 1967-2 C.B. 141).

We express no opinion about whether the First-Step Merger and Second-Step Merger are steps in an integrated plan. We also express no opinion about whether either merger is a reorganization under section 368(a)(1)(A).

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(j)(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.

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.

Sincerely,

Assistant Chief Counsel (Corporate)

By: _____

Richard L. Osborne
Senior Technician Reviewer
Branch 2