INTERNAL REVENUE SERVICE
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January 4, 1999

Re:

Acquiring =

Acquiring Sub =

Target =

Business A =

Business B =

State A =

Date A =

Dear :

This is in response to a letter dated July 13, 1998, requesting rulings about the federal income tax consequences of a proposed transaction. We received additional information in letters dated September 30, October 23, and December 22, 1998. The information submitted for consideration is summarized below.

Acquiring is a State A corporation engaged in Business A and is the publicly traded parent of a consolidated group of corporations that now includes Target. Acquiring files its federal consolidated income tax return using the accrual method

and a calendar year.

Target is a State A corporation engaged in Business B. Target is now a wholly-owned subsidiary of Acquiring. Prior to the initial merger described below, Target was the common parent of a consolidated group of corporations using the accrual method and a calendar year. Target had outstanding publicly traded common stock.

Over a year ago, it was decided to combine the businesses of Acquiring and Target. It was desired to have the businesses of the two corporation operated in a single corporation. However, at that time, because of Target's contract arrangements, a direct merger of Target into Acquiring was not possible. Accordingly, Acquiring formed Acquiring Sub and the following transaction ("Acquisition Merger") took place in Date A:

(1) Acquiring Sub merged into Target with Target being the surviving corporation. In exchange for their Target stock, the Target shareholders received voting common stock of Acquiring. Acquiring received all the outstanding Target stock.

The problems that previously prevented Target from merging into Acquiring have now been resolved and it is now planned to combine the two companies in the following transaction ("Upstream Merger"):

(2) Target will merge into Acquiring pursuant to the laws of State A. Acquiring will receive all the assets and liabilities of Target and will be the surviving corporation.

Section 3.01(24) of Rev. Proc. 98-3, 1998-1 I.R.B. 100, 103-104, provides that the Internal Revenue Service will not rule on the qualification of a transaction as a reorganization under § 368(a)(1)(A). Although Rev. Proc. 98-3 provides a general no-rule policy concerning § 368(a)(1)(A), the Service has discretion to rule on significant subissues that must be resolved to determine whether a transaction qualifies under this section. The Service will only rule on such subissues if they are significant and not clearly and adequately addressed by a statute, regulation, decision of the Supreme Court, tax treaty, revenue ruling, revenue procedure, notice, or other authority published in the Internal Revenue Bulletin.

In connection with the proposed transaction, it is represented that:

(a) The Acquisition Merger qualified as a statutory merger under applicable state law and, absent the proposed Upstream Merger, qualified as a reorganization under §§ 368(a)(1)(A) and 368(a)(2)(E) of the Internal Revenue Code.

(b) The Upstream Merger will qualify as statutory merger under the laws of State A, and, viewed independently of the Acquisition Merger, would qualify as a complete liquidation under § 332.

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

(d) The Acquisition Merger and the Upstream Merger, whether viewed independently of each other or viewed as a single integrated transaction, did not, and will not result in a reverse acquisition within the meaning of § 1.1502-75(d)(3) of the Income Tax Regulations.

With respect to the proposed Upstream Merger of Target into Acquiring (as described above), you have requested a subissue ruling as to how this transaction would be treated if the Upstream Merger and Acquisition Merger were treated as steps in an integrated plan.

Based on the information submitted and representations set forth above, and provided that (i) the Acquisition Merger and the Upstream Merger are treated as steps in an integrated plan pursuant to the step-transaction doctrine and (ii) the Acquisition Merger and the Upstream Merger each qualifies as a statutory merger under applicable state law, we hold as follows:

(1) For federal income tax purposes, the Acquisition Merger and the Upstream Merger will be treated as if Acquiring directly acquired the assets of Target in exchange for Acquiring stock and the assumption of Target liabilities by Acquiring through a statutory merger within the meaning of § 368(a)(1)(A). Rev. Rul. 67-274, 1967-2 C.B. 141, Rev. Rul. 72-405, 1972-2 C.B. 217.

(2) Target's consolidated group's tax year terminates and will end for all federal income tax purposes at the end of the day of the Acquisition Merger under §§ 1.1502-75(d) and 1.1502-76(b)(1).

(3) Following the Acquisition Merger, Target and its subsidiaries will adopt the tax year of Acquiring under

§ 1.1502-76(a).

(4) Target will be treated for tax purposes as remaining in existence and will, accordingly, be included in Acquiring's consolidated return from the end of the day of the Acquisition Merger until the date of the Upstream Merger under § 1.1502-11.

We express no opinion as to whether the step-transaction doctrine applies to this situation. A determination about whether the step-transaction doctrine applies so as to treat the Upstream Merger and the Acquisition Merger as a single integrated transaction will be made by the District Director's office upon audit of the federal income tax returns of Target and Acquiring. In addition, we express no opinion as to whether either the Acquisition Merger or the Upstream Merger qualifies as a reorganization under § 368(a)(1)(A).

Furthermore, 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 rulings.

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

It is important that a copy of this letter be attached to the federal income tax returns of the taxpayers involved for the taxable years in which the transactions covered by this letter are consummated.

Pursuant to a power of attorney on file in this office, a copy of this letter has been sent to your authorized representatives.

Sincerely yours,
Assistant Chief Counsel (Corporate)

By_____
Howard W. Staiman
Assistant to the Chief, Branch 1