INTERNAL REVENUE SERVICE
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Re:

Partnership 1 =

Business A =

a =

Corporation A =

b =

Partnership 2 =

General Partner =

c =

d =

Corporation B =

Disregarded LLC1 =

Disregarded =

Partnership

Group A =

Sub 1 =

Sub 2 =

Sub 3 =

Disregarded LLC2 =

Dear :

We respond to your letter dated May 7, 1998, requesting a ruling as to the federal income tax consequences of a proposed transaction. Additional information was submitted in letters dated July 27, October 2, November 18, and December 2, 1998.

The rulings contained in this letter are predicated upon the facts 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 factual information, representations, and other data may be required as part of the audit process.

Partnership 1 is a publicly traded partnership within the meaning of § 7704 of the Code. Partnership 1 owns a percent (greater than 50 percent) of the vote and value of the Corporation A stock and a b percent limited partnership interest in Partnership 2. General Partner, a partnership, is the sole general partner of Partnership 1. General Partner owns c percent of the Corporation A stock and a d percent general partnership interest in Partnership 2.

Partnership 1, Corporation A, and Partnership 2 engage in Business A. Business A properties are located in several geographic regions across the US and contain many different types of assets, the varying products of which are sold to customers all over the world.

Partnership 1 has formed Corporation B, a corporation which intends to qualify as a real estate investment trust within the meaning of §§ 856 - 859 of the Code. Corporation B has organized a wholly owned single member limited liability company, Disregarded LLC1. Corporation B will not elect to treat

Disregarded LLC1 as a separate entity for federal income tax purposes.

Corporation B and Disregarded LLC1 have organized a limited partnership, Disregarded Partnership. Corporation B owns the limited partnership interest and Disregarded LLC1 owns the general partnership interest. Corporation B and Disregarded LLC1 will not elect to treat Disregarded Partnership as a separate entity for federal income tax purposes.

In order to attract new investment and to attempt to obtain an "investment grade" credit rating, the taxpayer proposes the following steps (the "proposed transaction"):

(1) Corporation A will recapitalize its currently outstanding shares of stock held by General Partner and Partnership 1 into Class B nonvoting stock. Group A will contribute cash to Corporation A in exchange for Corporation A Class A voting stock.

(2) Partnership 2 and Group A will form Sub 1, Sub 2, and Sub 3. Partnership 2 will contribute property to each Sub in exchange for each Sub's Class B nonvoting stock and each Sub's assumption of certain liabilities. Group A will contribute cash to each Sub in exchange for each Sub's Class A voting stock.

(3) General Partner will merge with and into Corporation B under applicable state law while simultaneously Partnership 1 will merge with and into Disregarded Partnership under applicable state law (together, the "Mergers"). As a result of the Mergers, (i) Corporation B will acquire all of General Partner's assets and Disregarded Partnership will acquire all of Partnership 1's assets; (ii) interests in General Partner and Partnership 1 will be converted into shares of stock in Corporation B; and (iii) General Partner and Partnership 1 will terminate.

(4) Corporation B will organize a wholly owned single member limited liability company, Disregarded LLC2. Corporation B will transfer its d percent general partnership interest in Partnership 2 to Disregarded LLC2.

(5) Corporation B will contribute its Corporation A Class B nonvoting stock and its interest in Disregarded LLC2 to Disregarded Partnership. Disregarded Partnership will then transfer the Corporation A Class B nonvoting stock

received from Corporation B along with its Corporation A Class B nonvoting stock to Partnership 2.

(6) Corporation B will give serious consideration to undertaking a public offering of stock within one year of the transactions described in steps (1) - (5).

The following representations have been made concerning the proposed transaction:

(a) The fair market value of the Corporation A Class B nonvoting stock received by Partnership 1 and General Partner will be approximately equal to the fair market value of the Corporation A stock exchanged.

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

(c) Corporation A will have no securities outstanding immediately prior to step (1).

(d) The stock received by Partnership 1 and General Partner will be transferred to Corporation B in connection with the Mergers. Corporation B has no plan or intention to dispose of the Corporation A Class B stock.

(e) No fractional shares will be issued.

(f) No property other than Corporation A stock will be issued.

(g) Corporation A will not have outstanding any stock options, warrants, convertible securities or any other right that is convertible into any class of stock or securities of Corporation A.

(h) Corporation A will continue to conduct its current business operations.

(i) Step (1) will occur under a plan of reorganization agreed upon before the transaction.

(j) Corporation A is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

(k) Corporation A has no plan to redeem or otherwise reacquire any stock to be issued.

(l) There have been no redemptions or acquisitions of Corporation A stock during the last five years.

(m) No stock or securities will be issued for services rendered to or for the benefit of Sub 1, Sub 2, or Sub 3 in connection with the proposed transaction. No stock or securities will be issued in exchange for indebtedness of any of Sub 1, Sub 2, or Sub 3 or for interest on indebtedness of any of Sub 1, Sub 2, or Sub 3.

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

(o) Partnership 2 and Group A will not retain any rights in the property transferred to Sub 1, Sub 2, or Sub 3.

(p) No stock will be transferred to Sub 1, Sub 2, or Sub 3.

(q) The adjusted basis and the fair market value of the assets to be transferred by Partnership 2 and Group A to Sub 1, Sub 2, and Sub 3 will, in each instance, be equal to or exceed the sum of the liabilities to be assumed by Sub 1, Sub 2, and Sub 3, respectively, plus any liabilities to which the transferred assets are subject.

(r) The liabilities of Partnership 2 and Group A to be assumed by Sub 1, Sub 2, and Sub 3 were incurred in the ordinary course of business and are associated with the assets to be transferred or businesses previously owned by Partnership 1 and Partnership 2.

(s) There is no indebtedness between Sub 1, Sub 2, or Sub 3 and Partnership 2 or Group A and there will be no indebtedness created in favor of Partnership 2 or Group A.

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

(u) All exchanges will occur contemporaneously.

(v) There is no plan or intention on the part of Sub 1, Sub 2, or Sub 3 to redeem or otherwise reacquire any stock or indebtedness to be issued in the proposed transaction.

(w) Taking into account any issuance of additional shares of Sub 1, Sub 2, or Sub 3 stock; any issuance of stock for services; the exercise of any Sub 1, Sub 2, or Sub 3 stock rights, warrants, or subscriptions and the sale, exchange, transfer by gift, or other disposition of any stock of Sub 1, Sub 2, or Sub 3 to be received in the exchange, Partnership 2 and Group A will be in control of each of Sub 1, Sub 2, and Sub 3 within the meaning of § 368(c).

(x) Partnership 2 and Group A each will receive stock, securities or other property approximately equal to the fair market value of the property transferred to Sub 1, Sub 2, and Sub 3, respectively.

(y) Sub 1, Sub 2, and Sub 3 will remain in existence and retain and use the property transferred to them in a trade or business.

(z) There is no plan or intention by Sub 1, Sub 2, or Sub 3 to dispose of the transferred property other than in the normal course of business operations.

(aa) Each of the parties will pay its own expenses, if any, incurred in connection with the proposed transaction.

(bb) Neither Partnership 2 nor Group A is 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 either debtor.

(cc) Neither Sub 1, Sub 2, nor Sub 3 will be "personal service corporations" within the meaning of § 269A.

(dd) No stock or securities will be issued for services rendered to or for the benefit of Corporation B. No stock or securities will be issued in exchange for indebtedness of Corporation B or for interest on indebtedness of Corporation B.

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

(ff) Neither Partnership 1 nor General Partner will retain any rights in the property transferred to Corporation B.

(gg) Partnership 1 and General Partner are transferring 100 percent of the Corporation A Class B nonvoting stock to Corporation B in the Mergers.

(hh) The adjusted basis and the fair market value of the assets to be transferred by Partnership 1 and General Partner to Corporation B will be equal to or exceed the sum of the liabilities to be assumed by Corporation B plus any liabilities to which the transferred assets are subject.

(ii) The liabilities of Partnership 1 and General Partner to be assumed by Corporation B were incurred in the ordinary course of business and are associated with the assets to be transferred.

(jj) There is no indebtedness between Corporation B and Partnership 1 or General Partner and there will be no indebtedness created in favor of Partnership 1 or General Partner as a result of the proposed transaction.

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

(ll) All exchanges will occur contemporaneously.

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

(nn) Taking into account any issuance of additional shares of Corporation B's stock; any issuance of stock for services; the exercise of any Corporation B stock rights, warrants, or subscriptions; a public offering of Corporation B's stock; and the sale, exchange, transfer by gift, or other disposition of any stock of Corporation B deemed to be received in the exchange, stock deemed received by Partnership 1 and General Partner in the Mergers will represent control of Corporation B within the meaning of § 368(c).

(oo) Partnership 1 and General Partner each will be deemed to receive stock, securities, or other property approximately equal to the fair market value of the property transferred to Corporation B.

(pp) Corporation B will remain in existence and retain and use the property transferred to it in a trade or business.

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

(rr) Each of the parties to the transaction will pay its or his/her own expenses, if any, incurred in connection with the proposed transaction.

(ss) Neither Partnership 1 nor General Partner is 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 deemed received in the exchange will not be used to satisfy the indebtedness of such debtor.

(tt) Corporation B will not be a personal service corporation within the meaning of § 269A.

(uu) The Corporation B shares deemed received by Partnership 1 and General Partner in the Mergers will be distributed immediately as part of the Mergers.

(vv) Neither Partnership 1 nor General Partner has incurred any debt to acquire assets with a principal purpose of avoiding or reducing the effect of § 731(c).

We rule as follows with respect to the proposed transaction:

(1) The exchange by Partnership 1 and General Partner of Corporation A common stock for Corporation A Class B nonvoting stock will be a recapitalization within the meaning of § 368(a)(1)(E). Corporation A will be a "party to a reorganization" within the meaning of § 368(b).

(2) No gain or loss will be recognized by Partnership 1 or General Partner upon the exchange of Corporation A common stock for Corporation A Class B nonvoting stock in step (1) (§ 354(a)).

(3) No gain or loss will be recognized by Corporation A upon the receipt of its common stock in exchange for Corporation A Class B nonvoting stock in step (1) (§ 1032(a)).

(4) The basis of the Corporation A Class B nonvoting stock received by Partnership 1 and General Partner in

step (1) will in each case be the same as the aggregate basis of the Corporation A common stock exchanged therefor (§ 358(a)(1)).

(5) The holding period of Partnership 1's and General Partner's Corporation A Class B nonvoting stock will in each case include the holding period of the common stock surrendered therefor, provided the common stock is held as a capital asset or is property described in § 1231 on the date of the exchange (§ 1223(1)).

(6) Neither Partnership 2 nor Group A will recognize gain or loss in connection with step (2) (§§ 351(a) and 357(a)).

(7) Partnership 2's and Group A's bases in stock received in step (2) will equal the basis of the property transferred in exchange therefor, reduced by the sum of the liabilities assumed by the particular corporate subsidiary or subject to which assets transferred were taken, other than liabilities excluded by § 357(c) (§§ 358(a) and 358(d)).

(8) Partnership 2's and Group A's holding periods in stock received in step (2) will include the period during which the property transferred to each corporate subsidiary was held by Partnership 2 or Group A, provided that such property was a capital asset or property described in § 1231 on the date of step (2). Partnership 2's and Group A's holding periods in stock received in exchange for a contribution of property other than capital assets or property described in § 1231 will begin on the day after step (2). If assets other than capital assets and property described in § 1231 are contributed along with capital assets or property described in § 1231, Partnership 2's and Group A's holding periods in stock received in step (2) will be split.

(9) Neither Sub 1, Sub 2 nor Sub 3 will recognize gain or loss on its receipt of property from Partnership 2 and Group A solely in exchange for common stock of the transferee corporation (§ 1032(a)).

(10) Each corporate subsidiary's basis in the property received from Partnership 2 and Group A in step (2) will equal the basis of such property in the hands of Partnership 2 or Group A immediately prior to step (2).

(11) Each corporate subsidiary’s holding period in the property received from Partnership 2 and Group A in step (2) will include the periods during which Partnership 2 or Group A held such property (§ 1223(2)).

(12) Disregarded LLC1, Disregarded Partnership, Disregarded LLC2, and Partnership 2 will not be treated for federal income tax purposes as entities separate from Corporation B (§ 301.7701-2(a)).

(13) The Mergers will be treated as transfers of Partnership 1's and General Partner’s assets to Corporation B in exchange for Corporation B shares and the assumption of liabilities followed by a distribution of Corporation B shares in liquidation of Partnership 1's and General Partner’s interests.

(14) The assets held directly and indirectly by Partnership 1 and General Partner represent a diversified portfolio of assets prior to the Mergers with the result that no diversification will result from the Mergers within the meaning of § 1.351-1(c)(1)(i).

(15) The Corporation B shares acquired by the partners in the Mergers will satisfy the control requirement of § 351 (Rev. Rul. 84-111, 1984-2 C.B. 88, Situation 1).

(16) No gain or loss will be recognized by General Partner upon the transfer to Corporation B of General Partner’s assets in the merger even if such transfer is in connection with a public offering of Corporation B stock (§§ 351(a) and 357(a)).

(17) General Partner’s basis in Corporation B shares deemed received in the merger will equal the basis of the property transferred in exchange therefor, reduced by the sum of the liabilities assumed by Corporation B or subject to which assets transferred were taken (§§ 358(a) and 358(d)).

(18) Section 304(a) (and not § 351 and not so much of §§ 357 and 358 as relates to § 351) will apply to the acquisition by Corporation B from Partnership 1 of that portion of the Corporation A stock deemed exchanged for liabilities of Partnership 1 assumed by Corporation B attributable to Corporation A stock (§ 304(b)(3)(A)). The acquisition by Corporation B from Partnership 1 of the portion of the Corporation A stock deemed exchanged

for liabilities of Partnership 1 assumed by Corporation B attributable to Corporation A stock will be treated as a distribution in redemption of the corresponding portion of Partnership 1's Corporation B stock. Partnership 1 and Corporation B will be treated in the same manner as if Partnership 1 had transferred the portion of the Corporation A stock so acquired to Corporation B in exchange for a corresponding portion of Corporation B stock in a transaction to which § 351(a) applies, and then Corporation B had redeemed the corresponding portion of stock it was treated as issuing (§§ 304(a)(1)). The deemed redemption distribution will constitute a dividend to the extent of the earnings and profits of Corporation B and Corporation A. The balance of the deemed redemption distribution, if any, will reduce Partnership 1's basis in the Corporation B stock (§ 301(c)(2)). The remaining balance of the deemed redemption distribution, if any, will be treated as gain from the sale or exchange of property (§ 301(c)(3)).

(19) No gain or loss will be recognized by Partnership 1 upon the transfer to Corporation B of the Corporation A stock not described in ruling (18) and other assets solely in exchange for Corporation B stock and the assumption by Corporation B of liabilities of Partnership 1 not attributable to Corporation A stock, even if such transfer is in connection with a public offering of Corporation B stock (§§ 351(a) and 357(a)).

(20) Partnership 1's basis in Corporation B shares deemed received in the merger will equal the basis of the property transferred in exchange therefor, reduced by (i) the sum of the liabilities assumed by Corporation B or subject to which assets transferred were taken other than liabilities attributable to Corporation A stock described in ruling (18); and (ii) if applicable and to the extent applicable, the amount specified in § 301(c)(2), as provided in ruling (18) (§§ 358(a) and (d)).

(21) Partnership 1's and General Partner's holding period in Corporation B shares deemed received in the Mergers includes the period during which the property transferred to Corporation B was held by Partnership 1 and General Partner, provided that such property was a capital asset or property described in § 1231 on the date of the Mergers. Partnership 1's and General Partner's holding period in Corporation B shares deemed received in exchange for a contribution of property

other than capital assets or property described in § 1231 will begin on the day after the Mergers. If assets other than capital assets and property described in § 1231 are contributed along with capital assets or property described in § 1231, Partnership 1's and General Partner's holding period in Corporation B shares deemed received will be split.

(22) Corporation B will recognize no gain or loss upon its receipt of property from Partnership 1 and General Partner in exchange for its common stock in the Mergers (§ 1032(a)).

(23) Corporation B's basis in the property received from Partnership 1 and General Partner in the Mergers will equal the basis of such property in the hands of Partnership 1 and General Partner immediately prior to the Mergers. Corporation B's basis will be determined with reference to any special basis adjustment to such assets under § 743(b), except to the extent that the partners use any such special basis adjustment to reduce their share of any gain recognized by Partnership 1 or General Partner resulting from the property transfer. Partnership 1's or General Partner's gain, if any, relates to amounts recognized on the transfer of property by Partnership 1 or General Partner to Corporation B under §§ 351 and 304 determined without reference to any basis adjustment to the transferred property under § 743(b).

(24) Corporation B's holding period in the property received from Partnership 1 and General Partner in the Mergers will include the period during which Partnership 1 and General Partner held such property (§ 1223(2)).

(25) Under § 1.731-2(d)(1)(ii), the deemed distribution of Corporation B shares to the partners upon the liquidation of Partnership 1 and General Partner pursuant to the Mergers will not, by reason of the application of § 731(c), be treated as a distribution of "money" under § 731(a).

(26) In general, the partners will not recognize gain upon their receipt of Corporation B shares on the liquidation of Partnership 1 and General Partner. However, Corporation B's assumption of Partnership 1's and General Partner's liabilities immediately prior to the liquidation of Partnership 1 and General Partner will decrease each respective partner's share of Partnership 1's and General Partner's liabilities and

will be a constructive distribution of money to the partners, thus decreasing the adjusted basis of each partner's interest in Partnership 1 and General Partner under § 733(1). This constructive distribution will result in gain to a partner to the extent the money deemed distributed under § 752(b) exceeds the adjusted tax basis of the partner's interest under § 731(a)(1).

(27) The basis of Corporation B shares received by the partners in liquidation of Partnership 1 and General Partner will, with respect to each of the partners, equal the adjusted basis of such partner's interest in Partnership 1 and General Partner under § 732(b). The basis in Corporation B shares will reflect the partner's special basis adjustment under § 743(b), if any, reduced, however, by any special basis adjustment used by the partner to reduce his share of any gain recognized by Partnership 1 and General Partner in connection with the Mergers. Partnership 1's and General Partner's gain, if any, will relate to amounts recognized on the transfer of property by Partnership 1 and General Partner to Corporation B under §§ 351 and 304 determined without reference to any basis adjustment to the transferred property under § 743(b).

(28) The holding period of Corporation B shares received by a partner in liquidation of Partnership 1 and General Partner will include the period during which Partnership 1 and General Partner are deemed to have held the Corporation B shares under § 735(b).

We express no opinion about the tax treatment of the proposed transaction under any provisions of the Code or regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction not specifically covered by the above rulings. In particular, we express no opinion as to whether Corporation B qualifies as a real estate investment trust under §§ 856 - 859, or to any other application of § 856 to the proposed transaction.

Pursuant to a power of attorney on file in our office, a copy of this letter is being sent to your authorized representative.

This ruling is directed only to the taxpayers who requested it. Section 6110(k)(3) of the Code 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 year in which the transaction covered by this letter is consummated.

Sincerely yours,
Assistant Chief Counsel (Corporate)

By _____
Mark S. Jennings
Senior Technician Reviewer, Branch 1