Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:CORP:2-PLR-115688-02
Date:
September 30, 2002

Legend:

Holdco 1 =

Holdco 2 =

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

State X =

Business A =

Business B =

Business C =

Y =

Dear :

This letter responds to your March 13, 2002 request for rulings on certain federal income tax consequences of a proposed transaction on behalf of the above-captioned taxpayer. Additional information was received on July 16, August 27, September 20, and September 30, 2002.

The information submitted indicates that Holdco 1, Holdco 2, and Parent are State X corporations that are accrual method taxpayers who each file tax returns on a calendar year basis. In addition, Parent is the common parent of an affiliated group that joins in the filing of a consolidated return. Sub 1, Sub 2, Sub 3 and Sub 4 are all members of the Parent consolidated group. The Parent Group has in effect an election under § 1504(c)(2) of the Internal Revenue Code to include eligible life insurance companies in the consolidated return.

The ownership structure of the corporations involved is as follows: Holdco 1 wholly owns Holdco 2, Holdco 2 owns Y (less than 80) percent of Parent, Parent wholly owns Sub 2, Parent owns greater than 80 percent of Sub 1, Sub 1 wholly owns Sub 3, Sub 2 owns greater than 80 percent of Sub 4. Sub 3 and Sub 4 each own several subsidiaries.

The principal business of Holdco 1 and Parent is the conduct of Business A. As currently structured, most of the Business B companies are owned by Sub 1 through its ownership of Sub 3. Another group of Business B companies are owned by Sub 2 and its subsidiaries. However, Sub 2 and its subsidiaries are primarily engaged in Business C. The taxpayer alleges that this structure creates confusion and troublesome management issues for Holdco 1, Parent and their subsidiaries.

In order to address the structural problems raised, the taxpayers have proposed the following transaction:

(a) Holdco 2 will be liquidated into Holdco 1 through a transaction purported to qualify under § 332 of the Code.

(b) Parent will then be merged into Holdco 1 with Holdco 1 surviving in a transaction purported to qualify under § 368(a)(1)(A) of the Code. After the transaction, pursuant to an election to be filed under Treas. Reg. § 1.1502-75(d)(3)(iii), the former shareholders of Parent will own over 50% of the fair market value of Holdco 1's stock as a result of their prior ownership of Parent.

(c) The Business B subsidiaries will be distributed by Sub 3 to Sub 1, and then by Sub 1 to Holdco 1.

(d) Holdco 1 will then transfer the Business B subsidiaries to Sub 2.

(e) Sub 2 will distribute the stock of Business C subsidiaries to Holdco 1.

In connection with the proposed transaction, the taxpayer represents that the transfer of the Business B subsidiaries by Holdco 1 to Sub 2 and Sub 2's transfer of its Business C subsidiaries to Holdco 1 were fundamental and necessary parts of the overall transaction, without which the transaction would not have been undertaken. Further it is stated that the substitution of assets (i.e., the Business B subsidiaries for the Business C subsidiaries) is required for regulatory purposes and to preserve Sub 2's rating. It was also stated that without the corresponding transfer, the distribution of the Business C subsidiaries might be viewed by regulators as a threat to Sub 2's solvency. Also, while the taxpayer has not obtained an independent appraisal of the enterprise values of the Business B and Business C subsidiaries, they believe them to be of substantially equivalent value.

Based solely on the information submitted and the representations set forth above, we rule as follows:

(1) The Parent consolidated group will remain in existence under Treas. Reg. § 1.1502-75(d)(3)(ii) to the extent that an election is made under Treas. Reg. § 1.1502-75(d)(3)(iii), and that the appropriate shareholders end up owning greater than fifty percent of the requisite stock.

(2) The Parent group's life-nonlife election under § 1504(c)(2) of the Code shall continue after the transaction described herein is consummated. Treas. Reg. § 1.1502-47(e).

(3) The distributions described in (c) above will constitute intercompany distributions to which §§ 301 and 311 apply, subject to the provisions of § 1.1502-13(f).

(4) The transfer and distribution described in (d) and (e) are subject to §§ 351 and 311 of the Code respectively, and are subject to the provisions of §§ 1.1502-13 and 1.1502-32.

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. In particular, we express no opinion on the tax consequences of Holdco 2 liquidating into Holdco 1. Nor do we express an opinion on the tax consequences of Parent merging into Holdco 1.

This ruling is directed only to the taxpayer(s) 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.

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

Edward S. Cohen

Edward S. Cohen
Chief, Branch
Office of Associate Chief Counsel
(Corporate)