

Internal Revenue Service

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Date:

February 19, 2004

Parent =

Target =

New Target =

Acquiring =

F Sub 1 =

F Sub 2 =

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F Sub 3 =

F Sub 4 =

F Sub 5 =

F Sub 6 =

F Sub 7 =

Business P =

Business ZZ =

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Business Q =

Business R =

Business S =

Business T =

Business U =

Business V =

Business W =

Country X =

A% =

B% =

C% =

D% =

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E%	=
F%	=
G%	=
H%	=
J%	=
A\$	=
Country X limited liability company	=
Country X corporation	=

Dear

This responds to a letter dated September 9, 2003, submitted on your behalf by your authorized representative, requesting rulings under section 368(a)(1)(F) of the Internal Revenue Code with respect to a proposed transaction. Additional information was submitted in letters dated November 25, 2003 and January 28, 2004. The information submitted is summarized below.

Facts

Parent is the common parent of a consolidated group of corporations filing a U.S. consolidated tax return (Parent Group). Parent, either directly or indirectly through subsidiaries, engages in Business P (which includes the businesses discussed below) in the U.S. and Country X.

The ownership and businesses of the entities involved in the transaction are as follows:

Parent owns A% of the stock of Target, a Country X corporation and F Sub 1 (discussed below) owns the remaining B% of Target stock. Target is directly engaged in Business Q. Target also holds most of the stock of the Country X subsidiaries engaged in Business ZZ, Business R, Business S, Business T, Business U, Business V and Business W.

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Target owns C% of the stock of F Sub 1, a Country X corporation engaged in Business R, and F Sub 2 (as described below), owns the remaining D% of the stock in F Sub 1.

Target owns E% of the stock of F Sub 2, a Country X corporation engaged in Business S, and F Sub 1 owns the remaining F% of the stock in F Sub 2.

F Sub 2 owns G% of the stock of F Sub 3, a Country X corporation engaged in Business T, and unrelated outside parties own the remaining stock in F Sub 3.

Target owns H% of the interests in F Sub 4, a Country X limited liability company treated as a corporation for U.S. federal income tax purposes that is engaged in Business U, and F Sub 1 owns the remaining J% interests in F Sub 4.

Target owns H% of the stock in F Sub 5, a Country X corporation engaged in Business ZZ, and F Sub 2 owns the remaining J% of the stock in F Sub 5.

Target owns H% of the interests in F Sub 6, a Country X limited liability company treated as a corporation for U.S. federal income tax purposes that is engaged in Business V, and F Sub 2 owns the remaining J% interests in F Sub 6.

F Sub 6 owns H% of the interests in F Sub 7, a Country X limited liability company treated as a corporation for U.S. federal income tax purposes that is engaged in Business W, and Target owns the remaining J% of the interests in F Sub 7.

For valid business reasons, the Parent Group has decided to pursue the following reorganization in Country X (hereinafter sometimes referred to as the "Proposed Transaction"):

Step One: All of Target's ownership in its subsidiary companies will be transferred to a new Country X corporation ("Acquiring"). Target will remain in existence under Country X law. Target's Business Q will be retained by Target.

Step Two: Parent and F Sub 1's ownership in Target will be substantially diluted through the issuance by Target of a disproportionate number of shares to Acquiring in exchange for a contribution of approximately A\$. It is intended that, as a result of the share issuance, that Acquiring would own approximately H% of the outstanding capital stock of Target after this step.

Step Three: Target converts from a Country X corporation to a Country X limited liability company (New Target).

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Step Four: New Target (as of Step Three, above, New Target will be a Country X limited liability company which is H% owned by Acquiring) will file an election to be treated as a partnership for U.S. Federal income tax purposes.

Representations

The following representations have been made in connection with the Proposed Transaction:

- a. The fair market value of the Acquiring stock and other consideration received by each Target shareholder will be approximately equal to the fair market value of the Target stock surrendered in the exchange.
- b. There is no plan intention by the shareholders of the Target who own one percent or more of the Target stock, and to the best of the knowledge of management of Target, there is no plan or intention on the part of the remaining shareholders of Target to sell, exchange or otherwise dispose of any of the shares of Acquiring stock received in the transaction.
- c. Immediately following consummation of the transaction, the shareholders of Target will own all of the outstanding Acquiring stock and will own such stock solely by reason of their ownership of Target stock immediately prior to the transaction.
- d. Acquiring has no plan or intention to issue additional shares of its stock following the transaction.
- e. Immediately following consummation of the transaction, Acquiring will possess the same assets and liabilities, except for assets distributed to shareholders who receive cash or other property, assets used to pay dissenters to the transaction, and assets used to pay expenses incurred in connection with the transaction, as those possessed by Target immediately prior to the transaction. Assets distributed to shareholders who receive cash or other property, assets used to pay expenses, assets used to pay dissenters to the transaction, and all redemptions and distributions (except for regular, normal dividends) made by Target immediately preceding the transaction will, in the aggregate, constitute less than one percent of the net assets of Target. Dissenting shareholders will own less than one percent of the Target stock.
- f. At the time of the transaction, Target will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Target.

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- g. Acquiring has no plan or intention to reacquire any of its stock issued in the transaction.
- h. Acquiring has no plan or intention to sell or otherwise dispose of any of the assets of Target acquired in the transaction, except for dispositions made in the ordinary course of business.
- i. The liabilities of Target assumed by Acquiring plus the liabilities, if any, to which the transferred assets of Target are subject were incurred by Target in the ordinary course of its business and are associated with the assets transferred.
- j. Following the transaction, Acquiring will continue the historic business of Target or use a significant portion of Target's historic business assets in a business.
- k. The shareholders will pay their respective expenses, if any, incurred in connection with the transaction.
- l. Target is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

Rulings

- (1) The Proposed Transaction will be treated as if: (a) All of Target's ownership in its subsidiaries is transferred to a new Country X corporation (Acquiring). Target transfers H% of its assets in Business Q to Acquiring. Target also transfers H% of the A\$ to Acquiring; (b) The Acquiring corporation then transfers its stock to Target in exchange for the assets mentioned above; (c) After the Target converts from a Country X corporation to a Country X limited liability company (New Target) and elects to be treated as a partnership for U.S. Federal income tax purposes, the New Target corporation, pursuant to Treas. Reg. § 301.7701-3(g)(1)(ii), then is deemed to liquidate and distribute the Acquiring corporation stock to its shareholders along with the assets the Target is treated as retaining after (a) above, and the Acquiring corporation, F Sub 1, and Parent then are deemed to contribute the A\$ and Business Q assets to the New Target partnership in exchange for partnership interests. The proportionate interests held in the partnership reflect the proportionate assets contributed to the partnership that were exchanged for the partnership interests.
- (2) For U.S. federal income tax purposes, and in accordance with the above, Target will be considered to have transferred H% of its A\$ and its Business Q assets, in addition to all of the stock it holds in its subsidiaries, to Acquiring in exchange for

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all of the outstanding Acquiring stock. New Target will then be considered to liquidate, distributing the Acquiring stock that it received and its deemed retained assets (J% of A\$ and Business Q assets that end up in the New Target partnership) to Parent and F Sub 1 in exchange for their New Target shares, which is followed by a deemed transfer by Acquiring, Parent and F Sub 1 of the Business Q assets and the A\$ to New Target (at that time treated as a partnership).

- (3) The transfer by Target of its assets to Acquiring in exchange for Acquiring stock and the assumption by Acquiring of the liabilities, if any, of Target, followed by the distribution by New Target of the Acquiring stock to Parent and F Sub 1 in complete liquidation of New Target will constitute a reorganization within the meaning of § 368(a)(1)(F) of the Code.
- (4) Target/New Target and Acquiring will each be, “a party to a reorganization” within the meaning of § 368(b).
- (5) No gain or loss will be recognized by Target upon the transfer of its assets to Acquiring in exchange for Acquiring stock and the assumption by Acquiring of the Target liabilities, if any, under §§ 361(a) and 357(a).
- (6) No gain or loss will be recognized by New Target upon the distribution of the Acquiring stock to Parent and F Sub 1 in exchange for their New Target stock under § 361(c)(1).
- (7) New Target will recognize gain, if any, (but not loss) on the distribution of its deemed retained assets to Parent and F Sub 1 under § 361(c)(2).
- (8) No gain or loss will be recognized by Acquiring upon the receipt of assets of Target in exchange for Acquiring stock under § 1032(a).
- (9) The basis of the assets of Target in the hands of Acquiring will be the same as the basis of those assets in the hands of Target immediately prior to the transfer under § 362(b).
- (10) The holding period of the assets of Target acquired by Acquiring will include the period during which those assets were held by Target under § 1223(2).
- (11) No gain or loss will be recognized by Parent and F Sub 1 on their receipt of Acquiring stock in exchange for New Target stock under § 354(a)(1).

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- (12) Parent and F Sub 1 will recognize gain, if any, with respect to their receipt of New Target's deemed retained assets in exchange for New Target stock under § 356(a)(1).
- (13) The basis of the shares of Acquiring stock received by Parent and F Sub 1 will be the same as the basis of the New Target shares surrendered in exchange therefore under § 358(a)(1) (A) decreased by- (i) the fair market value of any other property (except money) received by the taxpayer, (ii) the amount of any money received by the taxpayer, and (iii) the amount of loss, if any, to the taxpayer which was recognized on such exchange, and (B) increased by the amount of gain, if any, which was recognized on such exchange.
- (14) The taxable year of Target does not close on the date of the reorganization and the Target's tax year continues in the name of Acquiring. Treas. Reg. § 1.381(b)-1 and Rev. Rul. 57-276, 1957-2 C.B. 126.
- (15) Parent and F Sub 1 will not have an income inclusion under Treas. Reg. § 1.367(b)-4(b) with respect to the § 354 exchange of the New Target stock for the Acquiring stock.
- (16) Under § 721(a), no gain or loss is recognized by the New Target partnership or any of its partners upon the deemed contribution of property to the partnership in exchange for an interest therein.

Caveats

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.

More specifically, no opinion is expressed as to whether New Target will incur foreign personal holding company income under § 954(c) as a result of New Target recognizing gain on the distribution of its deemed retained assets to Parent and F Sub 1 under § 361(c)(2). Please see Treas. Reg. § 1.6038B-2 for information reporting requirements on transfers of property to foreign partnerships.

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.

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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,

Alfred C. Bishop, Jr.

Alfred C. Bishop, Jr.
Branch Chief, Branch 6
Office of Associate Chief Counsel
(Corporate)