Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
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Refer Reply To:
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PLR-149808-05

Date:
January 25, 2006

Legend

StateA =

StateB =

StateC =

Subsidiary =

Subsidiary2 =

Parent =

Companies =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

Date6 =

Court1 =

Receiver =

Commission =

$Z =

Y =

$X =

$W =

$V =

Dear :

This is in reply to a letter dated September 22, 2005, in which rulings are requested as to the federal income tax consequences of a proposed transaction. Additional information was submitted in letters dated November 8, 2005 and November 29, 2005. The facts submitted for consideration are substantially as set forth below.

Subsidiary is a StateA corporation. Subsidiary is an insurance company as defined in Treas. Reg. § 1.801-3(a), but it is a not a life insurance company as defined in Section 816. Subsidiary has a calendar year accounting period. Since 1995, Subsidiary has qualified as a non-life insurance company which is exempt from taxation under Section 501(c)(15) of the Internal Revenue Code ("the Code"). Subsidiary received a determination letter from the Internal Revenue Service confirming that it is tax-exempt under Section 501(c)(15) of the Code in 1997. Beginning in 2004, Section 501(c)(15) of the Code applies only to non-life insurance companies with gross receipts which do not exceed $600,000, where more than 50% of the receipts consist of premiums. However, subject to a transitional rule, the $350,000 premium income test continues to apply to certain companies in a rehabilitation or liquidation proceeding. P.L. 108-218, § 206(e)(2).

Parent is a StateB corporation with no capital stock. Parent has a calendar year accounting period and is an accrual method taxpayer. Parent is a holding company which owns the stock of Subsidiary and Subsidiary2. Parent and Subsidiary2 file a consolidated income tax return. Subsidiary, as an exempt company, is not eligible to join in that consolidated return. Together, Parent, Subsidiary and Subsidiary2 are referred to as the "Companies."

Prior to Date1, Subsidiary2 had been incorporated in StateC to administer the Companies' insurance program. In Date1, Subsidiary was formed as a risk retention group insurance company under the Liability Risk Retention Act, 15 U.S.C. Section 3901, et seq. In Date1, Subsidiary2's management incorporated Parent as a non-stock holding company to hold the stock of Subsidiary and Subsidiary2.

$V of expenses and/or liabilities was paid by Subsidiary on behalf of Parent. Any obligation relating to this expenditure will be cancelled in the liquidation.

On Date2, Court1 issued a final order placing the Companies into receivership and appointing the Commission as Permanent Receiver of the Companies. Pursuant to the order, the Receiver and its representatives took control of the Companies and their assets. Shortly prior to the final order being entered, the Receiver suspended the issuance of new insurance business. No insurance policies issued by Subsidiary were cancelled, but rather the policies remain in force and expire by their own terms.

Since Date3, Subsidiary's financial condition has significantly improved. A substantial portion of all liabilities and assets of the Companies reside at Subsidiary, which is the main operating unit of the Companies. In Date3, Subsidiary was unable to pay all of its estimated obligations as and when due, and, as such, a partial moratorium was placed on the payment of claims. However, Subsidiary is now able to pay 100 percent of claims. Subsidiary continues to process claims and maintains insurance reserves for its unpaid reported and unreported losses. In order to implement a windup of the Companies, Receiver proposed the following transaction to the Commission.

To wind up the Companies, Receiver filed an Application for Orders ("Application") with the Commission on Date4. The Liquidation Order authorizes Receiver to adopt a plan of complete liquidation of Subsidiary (the "Subsidiary Plan of Liquidation"), in his discretion. Subsidiary is now a solvent company, and as of Date5 will report a statutory surplus of $Z. Under the Subsidiary Plan of Liquidation, all of the remaining assets and liabilities of Subsidiary will be transferred pursuant to the plan of liquidation to Parent within 3 years after the end of the first taxable year in which the first liquidating distribution occurs. The Liquidation Order also approves, with modification, the Application's proposed plan to liquidate the Parent at some point in the future.

In connection with the proposed transaction, the taxpayer represents as follows:

(a) As of the date of this letter and of the adoption of the Subsidiary Plan of Liquidation, Subsidiary has authorized and outstanding Y shares of voting common stock, $X par value. Such stock is traditional common stock as to the right to vote, receive dividends and receive property on the liquidation of Subsidiary. The right to vote is not and will not be held by someone other than Parent. The common stock confers the right to vote for directors and no restrictions or suspensions on voting have been or will be imposed.

(b) Parent has owned 100 percent of the outstanding stock of Subsidiary since its incorporation on Date6, which shares were acquired for cash in the amount of $W.

(c) There is no plan or intent to sell, dispose of or issue any Subsidiary stock prior to the liquidation.

(d) Parent, on the date of adoption of the Subsidiary Plan of Liquidation and at all times until the final liquidating distribution is completed, will be the owner of at least 80 percent of the single outstanding class of Subsidiary stock.

(e) No shares of Subsidiary stock will have been redeemed during the three years preceding the adoption of the Subsidiary Plan of Liquidation.

(f) The Subsidiary Plan of Liquidation has not yet been adopted. The Liquidation Order authorizes the Deputy Receiver to adopt a directive implementing the Subsidiary Plan of Liquidation and liquidate Subsidiary if and when he files a written report with the Commission advising that he has received an actuarial projection that Subsidiary has sufficient assets to satisfy its liabilities and to declare a dividend to Parent sufficient for Parent to satisfy its liabilities.

(g) Subsidiary will adopt the Subsidiary Plan of Liquidation specifying that the final liquidating distribution is to be completed within 3 years from the close of the taxable year of Subsidiary in which the first liquidating distribution is made.

(h) As soon as the first liquidating distribution has been made, Subsidiary will cease to be a going concern and its activities will be limited to the winding up of its affairs, paying its debts and distributing its remaining assets to its shareholder.

(i) Subsidiary will be dissolved and all of its stock will be cancelled.

(j) Subsidiary will retain no assets, following the final liquidating distribution.

(k) Subsidiary will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the date of adoption of the Subsidiary Plan of Liquidation.

(l) No assets of Subsidiary have been or will be disposed of by either Subsidiary or Parent except for dispositions in the ordinary course of business and dispositions occurring more than three years prior to adoption of the Subsidiary Plan of Liquidation.

(m) No assets of Subsidiary have been or will be acquired by a corporation, other than Parent, except for sales in the normal course of business, in the liquidation or during the three years prior to adoption of the Subsidiary Plan of Liquidation.

(n) The liquidation of Subsidiary will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Subsidiary, if persons holding, directly or indirectly, more than 20 percent in value of the Subsidiary stock also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of Section 318(a) of the Code, as modified by Section 304(c)(3) of the Code.

(o) Prior to adoption of the Subsidiary Plan of Liquidation, no assets of Subsidiary will have been distributed in kind, transferred or sold to Parent except for (i) transactions occurring in the normal course of business or (ii) transactions occurring more than three years prior to adoption of the Subsidiary Plan of Liquidation.

(p) Subsidiary will report all earned income, if any, represented by assets that will be distributed to Parent, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(q) The fair market value of Subsidiary's assets will exceed its liabilities both at the date of adoption of the Subsidiary Plan of Liquidation and immediately prior to the time the first liquidating distribution is made.

(r) Parent is not an organization that is exempt from federal income tax under Section 501 of the Code or any other provision of the Code.

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

(1) No gain or loss will be recognized by Parent upon the receipt of the assets and liabilities of Subsidiary. Section 332 of the Code. However, no opinion is expressed on the tax treatment of Parent or Subsidiary with respect to the $V amount paid by Subsidiary on behalf of Parent.

(2) No gain or loss will be recognized by Subsidiary on the distribution of its assets to, or the assumption of liabilities by, Parent in complete liquidation. Section 337(a) of the Code.

(3) Parent’s basis in each asset received from Subsidiary will be the same as the basis of that asset in the hands of Subsidiary immediately prior to its liquidation. Section 334(b)(1) of the Code.

(4) Parent’s holding period in each asset received from Subsidiary as a result of the liquidation will include the period during which that asset was held by Subsidiary. Section 1223(2) of the Code.

(5) Parent will succeed to and take into account the items of Subsidiary described in Section 381(c), subject to the conditions and limitations specified in Sections 381, 382, 383 and 384 of the Code and the regulations thereunder. 381(a) of the Code and Section 1.381(a)-1 of the Income Tax Regulations.

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.

This ruling is directed only to the taxpayer 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. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

_*Virginia Voorhees*______________
Virginia Voorhees
Senior Technician Reviewer, Branch 5
Office of Associate Chief Counsel
(Corporate))

cc: