

Internal Revenue Service

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Date:
June 06, 2006

LEGEND:

Parent

Distributing1

Distributing2

Controlled

LLC

C-Sub

F-Sub1

F-Sub2

F-Sub3

CF-Sub1

CF-Sub2

CF-Sub3

Business A

Business B

b

c

Date A

Dear

This letter responds to your letter dated December 23, 2005, requesting rulings under §§ 355 and 332 of the Internal Revenue Code and related provisions with respect to a proposed and partially consummated transaction. Additional information was submitted in letters dated January 26, January 30, February 1, February 10, February 14, February 20, February 27, March 1, March 16, March 24, and April 26, 2006. The information submitted is summarized below.

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

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether any distribution described below satisfies the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations, whether any of the distributions described below is used principally as a device for the distribution of earnings and profits of any distributing corporation or controlled corporation (see § 355(a) (1)(B) of the Code and § 1.355-2(d) of the regulations), or whether any distribution described below is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing corporation or controlled corporation (see § 355(e) and § 1.355-7).

Summary of Facts

Parent is a publicly traded corporation and the common parent of a multi-national group of corporations. Parent along with its affiliates is in Business A. F-Sub1, F-Sub2, and F-Sub3 are all wholly owned subsidiaries of Parent and each conduct functions associated with the conduct of Business A in their respective markets. Parent files a consolidated Federal income tax return with its eligible subsidiaries. On Date A, Parent acquired all of the shares of Distributing2 ("Parent/Distributing2 Combination"). More than 12 months prior to, and not in connection with nor in contemplation of, the Parent/Distributing2 Combination, Parent acquired b, a de minimis number, of

Distributing2 shares in an open market purchase. As part of its normal course of business, Parent has purchased de minimis shares in companies that are in businesses similar to Parent's business.

Prior to Date A, Distributing2 was a publicly traded corporation and the common parent of a multi-national group of corporations. The Distributing2 multi-national group of corporations conducts Business B. As a result of the Parent/Distributing2 Combination, all of the issued and outstanding shares of Distributing2 are owned by Parent. Distributing 2 owns all of the issued and outstanding shares of Distributing 1.

Distributing1 is engaged in certain functions associated with the conduct of Business B. Distributing1 owns all of the issued and outstanding shares of Controlled.

Controlled owns all of the issued and outstanding interests in LLC, which under § 301.7701 of the regulations, is a disregarded entity for Federal income tax purposes. LLC is engaged in certain functions associated with the conduct of Business B. LLC owns all of the issued and outstanding shares of CF-Sub1, CF-Sub2, and CF-Sub3, each of which conducts certain functions associated with Business B in their respective markets. Controlled also owns all of the issued and outstanding shares of C-Sub. C-Sub's only asset is stock of Parent.

The taxpayer has submitted financial information indicating that certain functions associated with the conduct of Business B have been conducted by Distributing1 and Controlled each of which has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Parent has determined that in order to facilitate the integration of business operations of the Distributing2 multi-national group with Parent's business operations, to eliminate redundancies and inefficiencies in customer order processing and financial accounting systems, and to promote the seamless operation and integration of Business A and Business B, the following transaction has been proposed and partially consummated ("Proposed Transaction").

Proposed Transaction

- (i) Parent will contribute its stock held in each of F-Sub1, F-Sub2, and F-Sub3 (collectively "F-Subs") to Distributing2. Distributing2 will then contribute the stock of the F-Subs to Distributing1. Distributing1 will then contribute the stock of the F-Subs to Controlled. Controlled will then contribute the stock of the F-Subs to LLC ("Successive Stock Contributions");
- (ii) CF-Sub1 will merge with and into F-Sub1, CF-Sub2 will merge with and into F-Sub2, and CF-Sub3 will merge with and into F-Sub3 (CF-Sub1, CF-Sub2 and CF-Sub3 are collectively referred to as "CF-Subs"). Each merger will be pursuant to local law ("CF Mergers");
- (iii) Distributing1 will distribute all of the stock of Controlled to Distributing2 ("Distributing1 Distribution");
- (iv) Distributing2 will distribute all of the stock of Controlled to Parent ("Distributing2 Distribution");
- (v) Within twelve months of the Distributing2 Distribution, Controlled will merge with and into Parent, with Parent surviving, in a transaction intended to qualify under § 332 ("Controlled Merger");
- (vi) Within twelve months of the Distributing2 Distribution, C-Sub will merge with and into Parent, with Parent surviving, in a transaction intended to qualify under § 332 ("C-Sub Merger"). Parent will cancel the Parent shares owned by C-Sub;
- (vii) LLC will merge with and into Parent; and
- (viii) When Parent's financial accounting system is able to support the currently planned state planning structure, Parent will contribute c to Distributing2. Distributing2 will then contribute c to Distributing1.

Representations

The taxpayer makes the following representations concerning the Proposed Transaction:

Parent/Distributing2 Combination

- (a) The fair market value of the Parent voting stock received by each Distributing2 shareholder was approximately equal to the fair market value of the Distributing2 stock surrendered in the exchange.

- (b) At least 40 percent of the value of the stock in Distributing2 was exchanged in the Parent/Distributing2 Combination for voting stock of Parent and at the time of the transaction, there was no plan or intention by Parent or any person related (as defined in § 1.368-1(e)(3)) to Parent to redeem or otherwise acquire the shares of Parent stock issued in the transaction. However, Parent may repurchase shares of Parent common stock from the general public pursuant to its previously announced public share repurchase program. Such share repurchase plan and any modification of such share repurchase plan that is made pursuant to any plan, intention, agreement or understanding, that existed as of the date of the Parent/Distributing2 Combination, satisfied the following conditions: (i) the program was not a matter negotiated with Distributing2 or former Distributing2 stockholders; (ii) there was no understanding between Parent and any stockholder of Distributing2 that such stockholder's ownership of the Parent common stock received in the Parent/Distributing2 Combination would be transitory, (iii) Parent did not know the identity of a seller of Parent common stock, (iv) a former Distributing2 stockholder who received Parent common stock in the Parent/Distributing2 Combination and subsequently sold such stock would not know whether Parent was the buyer, (v) without regard to the repurchase program, a market exists for Parent common stock issued to the former Distributing2 stockholders in the Parent/Distributing2 Combination and there will be sales of Parent common stock on such open market and (vi) the number of shares repurchased would not exceed the total number of shares of Parent common stock issued and outstanding prior to the Parent/Distributing2 Combination or the number of shares of Parent common stock received by Distributing2 stockholders pursuant to the Parent/Distributing2 Combination.
- (c) At the time of the transaction, Distributing2 had no plan or intention to issue additional shares of its stock that would have resulted in Parent losing control of Distributing2 within the meaning of § 368(c).
- (d) At the time of the transaction, Parent had no plan or intention to liquidate Distributing2, to merge Distributing2 into another corporation, to cause Distributing2 to sell or otherwise dispose of any of its assets, except for dispositions made in the ordinary course of business, or to sell or otherwise dispose of any Distributing2 stock acquired in the transaction, except for transfers described in § 368(a)(2)(C) of the Code and regulations issued thereunder.

- (e) Parent, Distributing2 and the shareholders of Distributing2 paid their respective expenses, if any, incurred in connection with the transaction.
- (f) In the Parent/Distributing2 Combination, Parent acquired Distributing2 stock solely in exchange for Parent voting stock. For purposes of this representation, Distributing2 stock redeemed for cash or other property furnished by Parent was considered as acquired by Parent. Further, no liabilities of Distributing2 or the Distributing2 shareholders were assumed by Parent, nor was any of the Distributing2 stock subject to any liabilities.
- (g) At the time of the transaction, Distributing2 had no outstanding warrants, options, convertible securities or any other type of right pursuant to which any person could have acquired stock in Distributing2 that, if exercised or converted, would have affected Parent's acquisition or retention of control of Distributing2, as defined in § 368(c).
- (h) Immediately prior to the transaction, Parent did not own directly or indirectly, nor had it owned during the past five years, directly or indirectly, any stock of Distributing2 (other than the de minimis Distributing2 shares purchased by Parent, as described above).
- (i) Following the transaction, Distributing2 continued its historic business or used a significant portion of its historic business assets in a business.
- (j) No two parties in the transaction were investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (k) Distributing2 paid its dissenting shareholders the value of their stock out of its own funds. No funds were supplied for that purpose, directly or indirectly, by Parent, nor did Parent directly or indirectly reimburse Distributing2 for any payments to dissenters.
- (l) On the date of the transaction, the fair market value of the assets of Distributing2 exceeded the sum of its liabilities plus the liabilities to which the assets were subject.
- (m) The payment of cash in lieu of fractional shares of Distributing2 stock was solely for the purpose of avoiding the expense and inconvenience to Parent of issuing fractional shares and did not represent separately bargained-for consideration. The total cash

consideration that was paid to the Distributing2 shareholders instead of issuing fractional shares of Parent did not exceed 1 percent of the total consideration issued in the transaction to the Distributing2 shareholders in exchange for their shares of Distributing2 stock. The fractional share interests of each Distributing2 shareholder were aggregated, and the Distributing2 shareholders did not receive cash in an amount greater than the value of one full share of Parent stock.

- (n) None of the compensation received by any shareholder-employees of Distributing2 was separate consideration for, or allocable to, any of their shares of Distributing2 stock; none of the shares of Parent received by any shareholder-employees were separate consideration for, or allocable to, any employment agreement; and the compensation paid to any shareholder-employees was for services actually rendered and was commensurate with amounts paid to third parties bargaining at arm's-length for similar services.

CF Mergers

The following representations are submitted in connection with the CF Mergers based on a characterization of steps (i) and (ii) of the Proposed Transaction as transfers of all of the assets of each of the CF-Subs to their respective F-Sub in exchange for F-Sub stock, and the assumption of the liabilities of each CF-Sub by their respective F-Sub, followed by the liquidations of each of the CF-Subs.

- (o) The fair market value of F-Sub stock and other consideration deemed received by LLC (a wholly-owned disregarded entity of Controlled) will be equal to the fair market value of the CF-Sub stock surrendered in each respective exchange.
- (p) In each of the transactions, at least 40 percent of the value of all of the formerly outstanding stock in each CF-Sub was exchanged for stock in the respective F-Sub and, apart from the Controlled Merger, there is no plan or intention for any of the F-Subs or any person related (as defined in Section 1.368-1(e)(3)) to the F-Subs to redeem or otherwise acquire the shares of stock of the F-Subs issued in connection with the mergers of each CF-Sub with and into each respective F-Sub.
- (q) Each F-Sub will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by each CF-Sub, respectively, immediately prior to the transaction. For purposes of this representation, amounts used

by each CF-Sub to pay its reorganization expenses, and all redemptions and distributions (except for regular, normal dividends) made by each CF-Sub immediately preceding the transfer will be included as the assets of each CF-Sub held immediately prior to the transaction.

- (r) After the transaction, Controlled will be in control (through LLC) of each F-Sub within the meaning of § 368(a)(2)(H)(i).
- (s) Each F-Sub has no plan or intention to sell or otherwise dispose of any of the assets of each CF-Sub, respectively, acquired in the transaction, except for dispositions made in the ordinary course of business.
- (t) The liabilities of each CF-Sub assumed (as determined under § 357(d)) by each F-Sub, respectively, were incurred by each CF-Sub in the ordinary course of each of its business and are associated with the assets transferred.
- (u) Following the transaction, each F-Sub will continue the historic business of each CF-Sub, respectively, or use a significant portion of each CF-Sub's historic business assets in a business.
- (v) At the time of the transaction each F-Sub will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in any of the F-Subs that, if exercised or converted, would affect Controlled's acquisition or retention of control (through LLC) of each F-Sub, as defined in §§ 368(a)(2)(H)(i) and 304(c).
- (w) Each CF-Sub, each F-Sub, and LLC will each pay their respective expenses, if any, incurred in connection with the transaction.
- (x) There is no intercorporate indebtedness existing between an F-Sub and its respective CF-Sub that was issued, acquired or will be settled at a discount.
- (y) None of the F-Subs or CF-Subs are investment companies as defined in Section 368(a)(2)(F)(iii) and (iv).
- (z) The fair market value of the assets of each CF-Sub transferred to each F-Sub, respectively, will equal or exceed the sum of the liabilities assumed (as determined under § 357(d)) by each respective F-Sub.

- (aa) Each CF-Sub is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (bb) The mergers of each CF-Sub into its respective F-Sub are being undertaken for valid business reasons.
- (cc) Controlled will comply with the notice requirement described in § 1.367(b)-1(c).
- (dd) Immediately after the mergers, each F-Sub will be a controlled foreign corporation, as defined in § 957, with respect to which Controlled is a § 1248 shareholder.

Distributing1 Distribution

The following representations are made with respect to the Distributing1 Distribution:

- (ee) No transfer of property to Controlled will be made in anticipation of, or in connection with, the Distributing1 Distribution.
- (ff) No intercorporate debt will exist between Distributing1 and Controlled at the time of, or subsequent to, the distribution of Controlled's stock other than debt created in the ordinary course of business. Any such debt will not constitute stock or securities within the meaning of § 355.
- (gg) No part of the Controlled stock to be distributed by Distributing1 to Distributing2 is being received by Distributing2 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing1.
- (hh) The 5 years of financial information submitted on behalf of Distributing1 is representative of Distributing1's present operations and, with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (ii) The 5 years of financial information submitted on behalf of Controlled is representative of Controlled's present operations and, with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.

- (jj) The Distributing1 Distribution will be carried out to facilitate the Distributing2 Distribution, which is, in turn, carried out for the following corporate business purposes: (i) to facilitate the integration of business operations of the Distributing2 multi-national group with Parent's existing business operations; (ii) to eliminate redundancies and inefficiencies in customer order processing and financial accounting systems that exist within the current organizational structure; (iii) to promote the seamless operation of Parent's and Distributing2's Business A and Business B operations. The distribution of the stock of Controlled is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (kk) Following the Distributing1 Distribution, Distributing1 and Controlled (through LLC) will each continue the active conduct of its business, independently and with its separate employees.
- (ll) The transaction is not used principally as a device for the distribution of the earnings and profits of Distributing1 or Controlled.
- (mm) The Distributing1 Distribution will not be a disqualified distribution (as defined in § 355(d)(2)) because immediately after the Distributing1 Distribution: (i) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Distributing1 that will constitute a 50 percent or greater interest (defined in § 355(d)(4)) in Distributing1, and (ii) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Controlled that will constitute a 50 percent or greater interest (defined in § 355(d)(4)) in Controlled.
- (nn) There is no acquisition of stock of Distributing1 or Controlled (including any predecessor or successor of any such corporation) that is part of a plan or series of related transactions (within the meaning of § 1.355-7) that includes the distribution of Controlled stock.
- (oo) Immediately before the Distributing1 Distribution, items of income, gain, loss, deduction, and credit, if any, will be taken into account as required by the applicable intercompany transaction regulations. There is no excess loss account with respect to Controlled stock.
- (pp) Payments made in connection with all continuing transactions, if any, between Distributing1 and Controlled will be for fair market value

based on terms and conditions arrived at by the parties bargaining at arm's length.

- (qq) No two parties to the Distributing1 Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

Distributing2 Distribution

- (rr) No transfer of property to Controlled will be made in anticipation of, or in connection with, the Distributing2 Distribution.
- (ss) No intercorporate debt will exist between Distributing2 and Controlled at the time of, or subsequent to, the distribution of Controlled's stock other than debt created in the ordinary course of business. Any such debt will not constitute stock or securities within the meaning of § 355.
- (tt) No part of the Controlled stock to be distributed by Distributing2 to Parent is being received by Parent as a creditor, employee, or in any capacity other than that of a shareholder of Distributing2.
- (uu) Immediately after the distribution, at least 90 percent of the fair market value of the gross assets of Distributing2 will consist of the stock and securities of Distributing1 which is engaged in the active conduct of a trade or business as defined in § 355(b)(2).
- (vv) The Distributing2 Distribution will be carried out for the following corporate business purposes: (i) to facilitate the integration of business operations of the Distributing2 multi-national group with Parent's existing business operations; (ii) to eliminate redundancies and inefficiencies in customer order processing and financial accounting systems that exist within the current organizational structure; (iii) to promote the seamless operation of Parent's and Distributing2's Business A and Business B operations. The distribution of the stock of Controlled is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (ww) Following the Distributing2 Distribution, Distributing2 (through its ownership of Distributing1) and Parent (as the successor to Controlled) will each continue the active conduct of its business, independently and with its separate employees.
- (xx) The Distributing2 Distribution is not used principally as a device for the distribution of the earnings and profits of Distributing2 or Controlled.
- (yy) The Distributing2 Distribution will not be a disqualified distribution (as

defined in § 355(d)(2)) because immediately after the Distributing2 Distribution: (i) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Distributing2 that will constitute a 50 percent or greater interest (defined in § 355(d)(4)) in Distributing2, and (ii) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Controlled that will constitute a 50 percent or greater interest (defined in § 355(d)(4)) in Controlled.

- (zz) There is no acquisition of stock of Distributing2 or Controlled (including any predecessor or successor of any such corporation) that is part of a plan or series of related transactions (within the meaning of § 1.355-7) that includes the distribution of Controlled stock.
- (aaa) Immediately before the Distributing2 Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations. There is no excess loss account with respect to the Controlled stock.
- (bbb) Payments made in connection with all continuing transactions, if any, between Distributing2 and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (ccc) No two parties to the Distributing2 Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

Controlled Merger

- (ddd) Parent, on the date of adoption of the plan of merger/liquidation, and at all times until the merger is completed, will be the owner of at least 80 percent of the total combined voting power of all classes of Controlled stock entitled to vote and the owner of at least 80 percent of the total value of all classes of Controlled stock (excluding nonvoting stock, if any, that is limited and preferred as to dividends and otherwise meets the requirements of § 1504(a)(4)).
- (eee) No shares of Controlled stock will have been redeemed during the 3 years preceding the adoption of the plan of merger/liquidation of Controlled.
- (fff) All distributions from Controlled to Parent pursuant to the plan of merger/liquidation will be made within a single taxable year of Controlled.

- (ggg) Upon the merger of Controlled with and into Parent, Controlled will cease to be a going concern and its activities will be limited to winding up its affairs, paying its debts, and distributing its remaining assets to Parent.
- (hhh) Controlled will retain no assets following its merger with and into Parent.
- (iii) Except for the assets acquired in certain internal restructuring transactions that occurred prior to the Parent/Distributing2 Combination, Controlled will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than 3 years prior to the date of adoption of the plan of merger/liquidation.
- (jjj) No assets of Controlled have been, or will be, disposed of by either Controlled or Parent except for dispositions in the ordinary course of business and dispositions occurring more than 3 years prior to the adoption of the plan of merger/liquidation.
- (kkk) The merger of Controlled with and into Parent 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 Controlled, if persons holding, directly or indirectly, more than 20 percent in value of the Controlled 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 § 318(a) of the Code as modified by § 304(c)(3).
- (lll) Prior to adoption of the plan of merger/liquidation, no assets of Controlled will have been distributed in kind, transferred, or sold to Parent, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than 3 years prior to adoption of the plan of merger/liquidation.
- (mmm) Controlled will report all earned income represented by assets that will be distributed to its shareholders such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
- (nnn) The fair market value of the assets of Controlled will exceed its liabilities both at the date of the adoption of the plan of merger/liquidation and immediately prior to the time of the merger of Controlled with and into Parent.
- (ooo) There is no intercorporate debt existing between Parent and Controlled (other than as listed in a supplemental letter) and none has been cancelled, forgiven, or discounted, except for transactions

that occurred more than 3 years prior to the date of the adoption of the merger/liquidation plan.

- (ppp) Parent is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.
- (qqq) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with or in any way related to, the proposed merger of Controlled with and into Parent have been fully disclosed.

C-Sub Merger

- (rrr) Parent, on the date of adoption of the plan of merger/liquidation, and at all times until the merger is completed, will be the owner of at least 80 percent of the total combined voting power of all classes of C-Sub stock entitled to vote and the owner of at least 80 percent of the total value of all classes of C-Sub stock (excluding nonvoting stock, if any, that is limited and preferred as to dividends and otherwise meets the requirements of § 1504(a)(4)).
- (sss) No shares of C-Sub stock will have been redeemed during the 3 years preceding the adoption of the plan of merger/liquidation of C-Sub.
- (ttt) All distributions from C-Sub to Parent pursuant to the plan of merger/liquidation will be made within a single taxable year of C-Sub.
- (uuu) Upon the merger of C-Sub with and into Parent, C-Sub will cease to be a going concern and its activities will be limited to winding up its affairs, paying its debts, and distributing its remaining assets to Parent.
- (vvv) C-Sub will retain no assets following its merger with and into Parent.
- (www) C-Sub will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than 3 years prior to the date of adoption of the plan of merger/liquidation.
- (xxx) The merger of C-Sub with and into Parent 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 C-Sub, if persons holding, directly or indirectly, more than 20 percent in value of the C-Sub 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 § 318(a) as modified by § 304(c)(3).

- (yyy) Prior to adoption of the plan of merger/liquidation, no assets of C-Sub will have been distributed in kind, transferred, or sold to Parent, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than 3 years prior to adoption of the plan of merger/liquidation.
- (zzz) C-Sub will report all earned income represented by assets that will be distributed to its shareholders such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
- (aaaa) The fair market value of the assets of C-Sub will exceed its liabilities both at the date of the adoption of the plan of merger/liquidation and immediately prior to the time of the merger of C-Sub with and into Parent.
- (bbbb) There is no intercorporate debt existing between Parent and C-Sub (other than as in the ordinary course of business) and none has been cancelled, forgiven, or discounted, except for transactions that occurred more than 3 years prior to the date of the adoption of the plan of merger/liquidation.
- (cccc) Parent is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.
- (dddd) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with or in any way related to, the proposed merger of C-Sub with and into Parent have been fully disclosed.
- (eeee) There are no deferred intercompany items with respect to the Parent stock owned by C-Sub.

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows with respect to the Proposed Transaction:

Parent/Distributing2 Combination

- (1) Parent's acquisition of Distributing2's common stock from the shareholders of Distributing2, in exchange solely for Parent voting common stock, qualifies as a reorganization within the meaning of § 368(a)(1)(B). Parent and Distributing2 are each "a party to the reorganization" within the meaning of § 368(b).

- (2) No gain or loss is recognized by Parent upon the receipt of Distributing2 stock solely in exchange for Parent voting common stock (§ 1032(a)).
- (3) No gain or loss is recognized by the shareholders of Distributing2 upon the receipt of Parent voting common stock solely in exchange for their Distributing2 stock (§ 354(a)(1)).
- (4) The basis of the Distributing2 stock in the hands of Parent will be the same as the basis of such stock in the hands of the shareholders of Distributing2 immediately before the exchange (§ 362(b)).
- (5) The basis of the Parent voting common stock in the hands of the shareholders of Distributing2 will be the same as the basis of their Distributing2 stock surrendered in exchange therefor (§ 358(a)(1)).
- (6) Parent's holding period in the Distributing2 stock includes the period during which such stock was held by the shareholders of Distributing2 prior to the exchange (§ 1223(2)).
- (7) The holding period of Parent voting common stock received by the shareholders of Distributing2 includes the period during which such shareholders held their stock in Distributing2 surrendered in exchange therefor, provided such stock was held as a capital asset on the date of the exchange (§ 1223(1)).

CF Mergers

- (8) For Federal income tax purposes, Steps (i) and (ii) of the Proposed Transaction will be treated as if: (i) CF-Sub1 transferred all of its assets to F-Sub1 in exchange for a deemed issuance of F-Sub1 stock and the assumption by F-Sub1 of the CF-Sub1 liabilities, followed by the complete liquidation of CF-Sub1; (ii) CF-Sub2 transferred all of its assets to F-Sub2 in exchange for a deemed issuance of F-Sub2 stock and the assumption by F-Sub2 of the CF-Sub2 liabilities, followed by the complete liquidation of CF-Sub2; and (iii) CF-Sub3 transferred all of its assets to F-Sub3 in exchange for a deemed issuance of F-Sub3 stock and the assumption by F-Sub3 of the CF-Sub3 liabilities, followed by the complete liquidation of CF-Sub3.
- (9) The transfer by each of the CF-Subs of all of their assets to the F-Subs in exchange for a deemed issuance of stock of the F-Subs and the assumption by the F-Subs of the respective CF-Subs liabilities, followed by the distribution of such stock in complete liquidation of the CF-Subs

each qualifies as a reorganization within the meaning of § 368(a)(1)(D). Each of the CF-Subs and the F-Subs is “a party to the reorganization” within the meaning of § 368(b).

- (10) No gain or loss is recognized by the CF-Subs upon the transfer of all of their assets to their respective F-Subs in exchange for stock of their respective F-Subs and the assumption by the respective F-Subs of the liabilities of the respective CF-Subs (§§ 361(a) and 357(a)).
- (11) No gain or loss is recognized by the CF-Subs on the distribution of the respective F-Subs stock to LLC (§ 361(c)).
- (12) No gain or loss is recognized by the F-Subs upon the receipt of the assets of the respective CF-Subs in exchange for the deemed issuance of the F-Subs stock (§ 1032(a)).
- (13) The basis of the assets of each of the CF-Subs in the hands of each of the F-Subs will be the same as the basis of those assets in the hands of the CF-Subs immediately prior to the transfer (§ 362(b)).
- (14) The holding period of the assets of the CF-Subs in the hands of each of the F-Subs includes the period during which those assets were held by the CF-Subs (§ 1223(2)).
- (15) No gain or loss is recognized by Controlled (through LLC) on receipt of the F-Subs stock solely in exchange for LLC’s CF-Subs stock (§ 354(a)).
- (16) The basis of the shares of each of the F-Subs received by LLC will be the same as the basis of the CF-Subs stock surrendered in exchange therefore (§ 358(a)(1)).
- (17) The holding period of the F-Subs stock received by LLC includes the period during which LLC held the CF-Subs stock surrendered in exchange therefore in each exchange, provided such stock was held as a capital asset on the date of the transaction (§ 1223(1)).
- (18) Pursuant to § 381(a) and § 1.381(a)-1, each of F-Sub1, F-Sub2, and F-Sub3 will succeed to and take into account the items of CF-Sub1, CF-Sub2, and CF-Sub3, respectively, described in section 381(c), subject to the provisions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder.

Distributing1 Distribution

- (19) No gain or loss will be recognized by Distributing1 on the distribution of all of the stock of Controlled to Distributing2 pursuant to the Distributing1 Distribution (§ 355(c)).
- (20) No gain or loss will be recognized by (and no amount will be included in the income of) Distributing2 on the Distributing1 Distribution (§ 355(a)(1)).
- (21) The aggregate basis of the Distributing1 and Controlled stock in the hands of Distributing2 immediately after the Distributing1 Distribution will be the same as the basis of the Distributing1 stock held by Distributing2 immediately before the Distributing1 Distribution. The total basis will be allocated between the shares of Distributing1 stock and Controlled stock in proportion to the relative fair market values of each in accordance with § 1.358-2(a)(2) (§ 358(b)).
- (22) The holding period of the Controlled stock received by Distributing2 will include its holding period of the Distributing1 stock with respect to which the Distributing1 Distribution is made, provided that the Distributing1 stock is held as a capital asset on the date of the Distributing1 Distribution (§ 1223(1)).
- (23) As provided in § 312(h), proper allocation of earnings and profits between Distributing1 and Controlled will be made in accordance with §§ 1.312-10(b) and 1.1502-33.

Distributing2 Distribution

- (24) No gain or loss will be recognized by Distributing2 on the distribution of all of the stock of Controlled to Parent pursuant to the Distributing2 Distribution. (§ 355(c)).
- (25) No gain or loss will be recognized by (and no amount will be included in the income of) Parent upon the receipt of the Controlled stock pursuant to the Distributing2 Distribution. (§ 355(a) and Rev. Rul. 62-138, 1962-2 C.B. 95)).
- (26) The aggregate basis of the Distributing2 and Controlled stock in the hands of Parent immediately after the Distributing2 Distribution will be the same as the basis of the Distributing2 stock held by Parent immediately before the Distributing2 Distribution. The total basis will be

allocated between the shares of Distributing2 stock and Controlled stock in proportion to the relative fair market values of each in accordance with § 1.358-2(a)(2) (§ 358(b)).

- (27) The holding period of the Controlled stock received by Parent will include its holding period of the Distributing2 stock with respect to which the Distributing2 Distribution is made, provided that the Distributing2 stock is held as a capital asset on the date of the Distributing2 Distribution. (§ 1223(1)).
- (28) As provided in § 312(h), proper allocation of earnings and profits between Distributing2 and Controlled will be made in accordance with §§ 1.312-10(b) and 1.1502-33.

Controlled Merger

- (29) The Controlled Merger will be treated as a distribution by Controlled to Parent in complete liquidation of Controlled, within the meaning of § 332 and § 1.332-2(d).
- (30) No gain or loss will be recognized by Parent on the receipt of the assets of Controlled distributed pursuant to the Controlled Merger (§§ 332(a) and 336(d)(3)).
- (31) No gain or loss will be recognized by Controlled upon the distribution of its assets and the assumption by Parent of Controlled's liabilities pursuant to the Controlled Merger (§§ 336(d)(3) and 337(a)).
- (32) Parent will succeed to and take into account the items of Controlled described in § 381(c), subject to the provisions and limitations of § 381(b) and (c) and the regulations thereunder (§ 381(a) and § 1.381(a)-1).
- (33) Parent will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Controlled as of the date of the liquidation (§ 381(c)(2)(A); § 1.381(c)(2)-1). Any deficit in the earnings and profits of Controlled or Parent will be used only to offset earnings and profits accumulated after the date of the liquidation (§ 381(c)(2)(B)). Notwithstanding the above, to the extent that Controlled's earnings and profits are reflected in Parent's earnings and profits, the Controlled earnings and profits to which Parent succeeds must be adjusted to prevent duplication (§ 1.502-33(a)).

C-Sub Merger

- (34) The C-Sub Merger will be treated as a distribution by C-Sub to Parent in complete liquidation of C-Sub, within the meaning of § 332 and §1.332-2(d).
- (35) No gain or loss will be recognized by Parent on the receipt of the assets of C-Sub distributed pursuant to the C-Sub Merger (§§ 332(a) and 336(d)(3)).
- (36) No gain or loss will be recognized by C-Sub upon the distribution of its assets to Parent and the assumption by Parent of C-Sub's liabilities pursuant to the C-Sub Merger (whether or not the Parent stock distributed in the liquidation is cancelled by Parent) (§ 337(a)).
- (37) Parent will succeed to and take into account the items of C-Sub described in § 381(c), subject to the provisions and limitations of § 381(b) and (c) and the regulations thereunder (§ 381(a) and § 1.381(a)-1).
- (38) Parent will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of C-Sub as of the date of the liquidation (§ 381(c)(2)(A); § 1.381(c)(2)-1). Any deficit in the earnings and profits of C-Sub or Parent will be used only to offset earnings and profits accumulated after the date of the liquidation (§ 381(c)(2)(B)). Notwithstanding the above, to the extent that C-Sub's earnings and profits are reflected in Parent's earnings and profits, the C-Sub earnings and profits to which Parent succeeds must be adjusted to prevent duplication (§ 1.502-33(a)).

No opinion is expressed about the tax treatment of the proposed transaction under other provisions of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding: (i) whether the Distribution satisfies the business purpose requirement of § 1.355-2(b); (ii) whether the proposed transaction is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation (see §355(a)(1)(B) and § 1.355-2(d)); (iii) whether the proposed transaction is part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii); and (iv) whether § 1.367(b)-4 applies to the CF Mergers.

Procedural Matters

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

A copy of this ruling letter must be attached to the Federal income tax return of each party involved in the Proposed Transaction for the taxable year(s) in which the Transactions are completed.

Under the power of attorney on file in this office, copies of this letter have been sent to your authorized representatives.

Sincerely,

Richard E. Coss
Senior Counsel, Branch 3
Office of Associate Chief Counsel (Corporate)