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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:BO1
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Date:
September 03, 2013

In Re:

Parent1 =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Corp 5

Parent 2 =

Newco =

State X =

Liquidator =

Court Y =

a =

b =

c =

Dear :

This letter responds to your representative's letter dated March 7, 2013, requesting rulings on certain federal income tax consequences of a proposed transaction. Additional information was submitted in a letter dated April 12, 2013. The material information is summarized below.

Summary of Facts

Parent 1 is the common parent of an affiliated group of corporations which has elected to file a consolidated federal income tax return. Sub 1, a first-tier subsidiary of Parent, is a property and casualty insurance company that is in the process of liquidation pursuant to State X law. The final liquidation of Sub 1 is not expected to occur for at least a in the future.

Parent 2 is the common parent of an affiliated group of corporations which has elected to file a consolidated federal income tax return that includes Sub 2, Sub 3, and Sub 4. Sub 2, Sub 3, and Sub 4, (together the "Parent 2 Transferors") are each life insurance companies taxed under Part I of Subchapter L. Together the Parent 2 Transferors and Sub 1 comprise the "Transferors."

Sub 1 has accepted qualified assignments of periodic payment liabilities (within the meaning of § 130 of the Code) from tort defendants, employers (in the case of workers' compensation settlements), or other insurers. These obligations require that Sub 1 make periodic payments to the injured parties and family members. To finance the periodic payments, Sub 1 purchased annuity contracts from the Parent 2 Transferors (including Corp 5, a corporate predecessor of Sub 2), or other issuers of annuities. The annuity contracts ("Structured Settlement Annuities") provided for periodic payments to Sub 1 that match Sub 1's obligations to the injured parties under their respective qualified assignments. In addition, Sub 1 is the obligor under

settlements for injuries suffered by its own insureds (so-called “buy and hold” settlements), and funded those obligations with annuities from the Parent 2 Transferors or other issuers of annuities. Both the settlements for Sub 1’s own obligations and the obligations it assumed under qualified assignments are referred to as “Structured Settlements.” In most cases, the annuity issuers directly pay the beneficiaries of the settlements, so that Sub 1 does not actually receive the annuity payments and issue its own payments.

The taxpayers represent that, with respect to the Parent 2 Structured Settlements (those funded by annuities from the Parent 2 Transferors and Corp 5) that involve qualified assignments of personal injury liabilities under § 130, the settlement recipients are eligible to exclude the damages or workers’ compensation payments under § 104(a) and have not subjected Sub 1 or the Parent 2 Transferors to reporting obligations under § 6041. These structured settlements have produced no net income to Sub 1 (other than initial administrative fees it received when it accepted assignments) in connection with the ownership of annuities from the Parent 2 Transferors.

Proposed Transaction

For valid business purposes, the Transferors and the State X statutory liquidator (the “Liquidator”) wish to transfer the Structured Settlement Annuities issued by the Parent 2 Transferors and the corresponding Structured Settlements to a separate corporation before the final liquidation of Sub 1. The Liquidator will apply to Court Y for an order (the Court Order) which will provide that (i) the new separate corporation (Newco) will replace Sub 1 as obligor under the Structured Settlements with respect to payments that will be funded by the related Structured Settlement Annuities, (ii) Newco will replace Sub 1 as owner of the corresponding annuities, and (iii) the liquidation estate of Sub 1 will be discharged from any further obligations under the Structured Settlements. The transaction will include the following steps:

- (i) Sub 1 or one of the Parent 2 Transferors will form Newco. Thereafter Sub 1 will transfer the Structured Settlement Annuities and b dollars in cash to Newco in exchange for Newco stock and Newco’s assumption of the Structured Settlements.
- (ii) The Parent 2 Transferors will transfer a total of c dollars in cash to Newco in exchange for Newco stock.

Representations

The following representations have been made in connection with the proposed transaction:

- (a) No stock or securities will be issued for services rendered to or for the benefit of Newco in connection with the Proposed Transaction.

- (b) No stock or securities will be issued for indebtedness of Newco.
- (c) No stock will be transferred to Newco.
- (d) The transfer of assets to Newco is not the result of the solicitation by a promoter, broker, or investment house.
- (e) The Transferors will not retain any rights in the property transferred to Newco in connection with the Proposed Transaction.
- (f) The adjusted basis and the fair market value of the assets to be transferred by each Transferor to Newco will, in each instance, be equal to or exceed the sum of the liabilities to be assumed by Newco (within the meaning of section 357(d)). For purposes of determining whether the adjusted basis of the transferred assets equals or exceeds the sum of the liabilities assumed by Newco, liabilities described in section 357(c)(3) are not taken into account.
- (g) The liabilities of Sub 1 to be assumed by Newco (within the meaning of section 357(d)) were incurred in the ordinary course of business and are associated with the assets to be transferred.
- (h) There is no indebtedness between Newco and the Transferors, and there will be no indebtedness created in favor of the Transferors as a result of the Proposed Transaction.
- (i) The transfers of assets to Newco will occur under a plan agreed upon before the transaction in which the rights of the parties are defined.
- (j) All exchanges will occur on approximately the same date.
- (k) There is no plan or intention on the part of Newco to redeem or otherwise reacquire any stock issued in the Proposed Transaction.
- (l) Taking into account any issuance of additional shares of Newco stock; any issuance of stock for services; the exercise of any Newco stock rights, warrants, or subscriptions; a public offering of Newco stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Newco received in the exchange, the Transferors will be in "control" of Newco within the meaning of section 368(c) immediately after the exchange.
- (m) Each Transferor will receive stock of Newco approximately equal to the fair market value of the net assets transferred to Newco (less any liabilities assumed by Newco within the meaning of section 357(d)).

- (n) Newco will remain in existence and will retain and use the property transferred to it in a trade or business.
- (o) There is no plan or intention by Newco to dispose of the transferred property other than in the normal course of business operations.
- (p) Each of the parties to the transaction will pay its own expenses, if any, incurred in connection with the Proposed Transaction.
- (q) Newco will not be an investment company within the meaning of section 351(e)(1) and section 1.351-1(c)(1)(ii) of the Income Tax Regulations.
- (r) Sub 1 is under the jurisdiction of a court in a title 11 or similar case (within the meaning of section 368(a)(3)(A)). The stock received in the exchange will not be used to satisfy the indebtedness of Sub 1. Sub 2 is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of section 368(a)(3)(A)), and the stock or securities received in the exchange will not be used to satisfy the indebtedness of Sub 2.
- (s) Newco will not be a “personal service corporation” within the meaning of section 269A.
- (t) To the best of the taxpayers’ knowledge, the obligations assumed by Sub 1 from parties obligated to make periodic payments under structured settlements were received by Sub 1 in qualified assignments under § 130(c).
- (u) To the best of the taxpayers’ knowledge, the Parent 2 Structured Settlement Annuities purchased by Sub 1 to fund Sub 1’s structured settlement obligations met the requirements for qualified funding assets under § 130(d), without regard to whether there was a qualified assignment, when issued and their terms have not been modified.
- (v) All terms and conditions of the Parent 2 Structured Settlement obligations and qualified assignments entered into by Sub 1 and all terms and conditions of the corresponding Parent 2 Structured Settlement Annuities issued to Sub 1 will be the same both before and after the proposed transaction, except for, pursuant to the Court Order, (i) the substitution of Newco for Sub 1 and (ii) the express discharge and release of any obligations under the Parent 2 Structured Settlements in excess of what can be funded by the corresponding Parent 2 Structured Settlement Annuities.

Rulings

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

- (1) No gain or loss will be recognized by Transferors on the transfer of assets to Newco in exchange for Newco stock and the assumption by Newco of liabilities associated with the Structured Settlements (sections 351(a) and 357(a)).
- (2) No income, gain, or loss will be recognized by Newco on the receipt of assets in exchange for its stock (section 1032(a)).
- (3) The basis of each asset received by Newco will be the same as the basis of that asset in the hands of the respective Transferor immediately before the transfer (section 362(a)).
- (4) The holding period of each asset received by Newco will include the period in which the asset was held by each Transferor (section 1223(2)).
- (5) The basis of the Newco stock received by Transferors will be the same as the basis of the assets transferred by each respective Transferor to Newco, decreased by the sum of Transferor liabilities assumed by Newco (as determined under section 357(d)) (sections 358(a) and (d)).
- (6) The holding period of the Newco stock received by each Transferor will include the period during which the respective Transferor held the transferred assets, provided the transferred assets were held by the respective Transferor as capital assets on the date of the transfer (section 1223(1)).
- (7) Assuming that the Parent 2 Structured Settlement Annuities constitute qualified funding assets under section 130(d) (without regard to whether there were qualified assignments) when the annuities were purchased by Sub 1, then the proposed transaction will not adversely affect the status of such annuities as qualified funding assets for purposes of section 130(d).
- (8) The proposed transaction will not subject Newco or the Parent 2 Transferors to information reporting under section 6041. This conclusion is based on the determination that the proposed transaction will not affect the continued applicability of the section 104(a)(1) and section 104(a)(2) exclusion from the claimants' gross income to the periodic payments, assuming that the exclusion applied before the proposed transaction.
- (9) We decline to rule on the status of the annuities under section 72(q)(2)(G), 72(s)(5)(D), and 72(u)(3)(C). See Rev. Proc. 2013-1, Sec. 6.11, 2013-1 I.R.B. 1.

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.

Section 6.11 of Rev. Proc. 2013-1, states in part that generally, a letter ruling will not be issued with respect to an issue that is clearly and adequately addressed by statute, regulations, decisions of a court, revenue rulings, revenue procedures, notices, or other authority published in the Internal Revenue Bulletin.

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 a ruling, it is subject to verification on examination.

Procedural Matters

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

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 this ruling letter.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Mark J. Weiss _____

Mark J. Weiss
Reviewing Attorney, Branch 6
Office of Associate Chief Counsel
(Corporate)

cc: