

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **201441010**  
Release Date: 10/10/2014

Third Party Communication: None  
Date of Communication: Not Applicable

Index Number: 1502.19-00, 355.00-00,  
332.00-00

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:CORP:B01  
PLR-141865-13

Date:  
April 22, 2014

LEGEND

Distributing 2 =

Distributing 1 =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

SpinCo =

SplitCo =

LLC 1 =

LLC 2 =

LLC 3 =

LLC 4 =

LLC 5 =

Partnership =

Entity =

State A =

State B =

State C =

State D =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

l =

Business A =

Business B =

Business C =

Business C1 =

Facility A =

Facility B =

Facility C =

Date 1 =

Dear :

This letter responds to your authorized representatives' letter dated September 26, 2013, requesting rulings on certain federal income tax consequences of a proposed transaction (the "Proposed Transaction"). The information provided in that request and in subsequent correspondence is summarized below. This letter supersedes the letter dated April 10, 2014.

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.

This Office expresses no opinion as to the overall tax consequences of the transaction described in this letter, including qualification under sections 332 and 355, or as to any issue or step not specifically addressed by this letter. Rather, the rulings contained in this letter only address one or more discrete legal issues involved in the transaction. Further, 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.

#### SUMMARY OF FACTS

Distributing 2 is a State A corporation and is the common parent of a consolidated group (the “Distributing 2 Group”). Distributing 2’s stock is publicly traded and widely held. The Distributing 2 Group is engaged in several lines of business; relevant to this request are Business A, Business B, and Business C.

Distributing 2 owns all of the common stock of Distributing 1 and Sub 1, both State B corporations. Distributing 1 has non-voting preferred stock outstanding that is owned by unrelated parties. Distributing 1 owns all of the common stock of Sub 2 and SpinCo, both state B corporations. Sub 2 owns all of the common stock of Sub 3, a State B corporation. SpinCo owns all of the stock of Sub 4 and SplitCo, each a State B corporation, and Sub 5, a State C corporation. Sub 4 owns a% of the stock of Sub 6, a State B limited liability company treated as a corporation; the remaining b% of the stock of Sub 6 is owned by Distributing 1. Distributing 1 owns c%, Sub 2 owns d%, and Sub 6 owns e% of Sub 7, a State D corporation. SplitCo owns all of the stock of Sub 8, an Entity, and Sub 9, a State B corporation. SplitCo and its subsidiaries have a net intercompany payable to Distributing 1 and its subsidiaries (the “SplitCo Intercompany Payable”).

Sub 3 owns all of the interests in LLC 1, a State B limited liability company treated as a disregarded entity. Sub 7 owns directly or indirectly all of the interests in LLC 2, LLC 3, LLC 4, and LLC 5, each a State B limited liability company treated as a disregarded entity. LLC 1 owns f% of the interests in Partnership, LLC 2 owns g% of the interests in Partnership, and an unrelated third-party owns the remaining interests in Partnership. Partnership owns Facility A, LLC 4 owns Facility B, and LLC 5 owns Facility C.

Distributing 1 is directly and indirectly engaged in Business A, Business B, Business C, and other lines of business. Sub 4, Sub 5, Sub 6, and Sub 7 are engaged in Business A. SplitCo, Sub 8, and Sub 9 are engaged in Business B. SpinCo historically has held directly and indirectly assets relating to Business A, Business B, and Business C. Partnership, LLC 4 and LLC 5 are engaged in Business C1, which is a part of Business C, through their respective ownership of Facility A, Facility B, and Facility C.

Distributing 2 has an excess loss account within the meaning of Treas. Reg. §1.1502-19(a)(2) (an “ELA”) in its Distributing 1 stock (the “Distributing 1 ELA”). At the time the ruling request was submitted: Distributing 2 estimates that its ELA in the Distributing 1 stock was approximately \$h; Distributing 1 did not have an ELA in its SpinCo stock; and SpinCo did not have an ELA in its SplitCo stock. Distributing 2 anticipates that (i) there will be no ELA in the stock of either SpinCo or SplitCo immediately before the Internal Distribution (described in Step (viii) below), and (ii) with the application of the rulings provided in this letter, there will be no ELA in the stock of SplitCo following the SpinCo Liquidation (described in Step (ix) below) and immediately before the External Distribution (described in Step (x) below).

Prior to the Proposed Transaction, Distributing 2 consolidated most of Distributing 1’s assets and liabilities that comprise Business B under a holding company (SplitCo) via a

combination of contributions and sales (collectively, the “Prior Restructuring Transactions”). The Prior Restructuring Transactions were completed on or prior to Date 1.

Following the Business C1 Acquisition (described in Step (v) below) and prior to the SpinCo Liquidation, SpinCo and members of its “separate affiliated group” as defined in section 355(b)(3) (the “SpinCo SAG”) will directly engage in Business C1. After the SpinCo Liquidation, Distributing 2 and members of its “separate affiliated group” as defined in section 355(b)(3) (the “Distributing 2 SAG”) will directly engage in Business C1. Employees of Distributing 1 and Sub 1 will have conducted operational and management activities with respect to Business C1 of Partnership, LLC 4, and LLC 5, throughout the five-year period ending on the date of the Internal Distribution. Employees of the SpinCo SAG will conduct operational and management activities with respect to Business C1 of Partnership, LLC 4, and LLC 5 following the Internal Distribution and prior to the SpinCo Liquidation. Employees of the Distributing 2 SAG will conduct operational and management activities with respect to Business C1 of Partnership, LLC 4, and LLC 5 following the SpinCo Liquidation.

Financial information has been submitted that Business C1 has had gross receipts and operating expenses indicating the active conduct of a trade or business for each of the past five years.

#### PROPOSED TRANSACTION

Distributing 2 is entering into the Proposed Transaction in part to split off Business B to its public shareholders. The relevant steps of the Proposed Transaction are described below:

- (i) Distributing 1, SpinCo, and certain of their affiliates will sell certain assets related to Business B to SplitCo (the “Business B Transfers”).
- (ii) The SplitCo Intercompany Payable will be refinanced into a term loan owed by SplitCo to Distributing 1 (the “SplitCo Note”). SplitCo is also expected to assume intercompany debt owed by Distributing 1 (the “Assumed Debt”).
- (iii) SplitCo will enter into a term loan facility with Distributing 1 (“Term Loan Facility 1”) and a term loan facility with third-party lenders (“Term Loan Facility 2”).
- (iv) SplitCo will effect an initial public offering of no more than 10% of the SplitCo stock (the “SplitCo IPO”). Concurrent with the closing of the SplitCo IPO, SplitCo expects to borrow the full amount under Term Loan Facility 1 (such borrowings, the “Distributing 1 Instrument”) and the full amount available under Term Loan Facility 2. SplitCo anticipates that it will use the net proceeds of the SplitCo IPO together with the borrowings under Term Loan Facility 1 and Term Loan Facility 2, in part, to repay all of SplitCo’s related party debt owed to

Distributing 1 and its affiliates (including the SplitCo Note, and the Assumed Debt, if any).

- (v) SpinCo will acquire Business C1 (the “Business C1 Acquisition”) as follows: (1) Sub 7 will distribute its interests in LLC 2, LLC 3, LLC 4, and LLC 5 to Sub 6 in redemption of a portion of Sub 6’s Sub 7 stock; (2) Sub 6 will in turn distribute its interests in LLC 2, LLC 3, LLC 4, and LLC 5 to Sub 4 in redemption of a portion of Sub 4’s Sub 6 stock; (3) Sub 4 will in turn distribute its interests in LLC 2, LLC 3, LLC 4, and LLC 5 to SpinCo; (4) SpinCo will purchase the f% interest in Partnership held by LLC 1; and (5) SpinCo will hire as its employees certain Distributing 1 employees who hold management positions and an operational position with respect to Business C.
- (vi) SpinCo will contribute all of the stock of Sub 5 to Sub 4 (the “Sub 5 Contribution”).
- (vii) SpinCo will distribute to Distributing 1 all of the stock of Sub 4 and certain intercompany receivables.
- (viii) Distributing 1 will distribute all of the stock of SpinCo to Distributing 2 (the “Internal Distribution”).
- (ix) SpinCo will convert under state law to a limited liability company which will be treated as a disregarded entity, and as such, a branch or division of Distributing 2 (the “SpinCo Liquidation”).
- (x) Pursuant to one or more offers to exchange all of its shares of SplitCo for shares of Distributing 2 held by its shareholders, Distributing 2 will exchange SplitCo shares for Distributing 2 shares (an “Exchange Offer”; the one or more Exchange Offer(s) collectively, the “Split-Off”). If the Split-Off is undersubscribed, any remaining shares of SplitCo will be distributed pro rata to Distributing 2’s shareholders within j months following the initial exchange (the “Clean-up Spin-Off” and, together with the Split-Off, the “External Distribution”).

## REPRESENTATIONS

- (a) The assets transferred in the Sub 5 Contribution, the Business B Transfers, and any other assets (excluding the assets transferred in the Prior Restructuring Transactions) owned by SpinCo at the commencement of the Proposed Transaction that are contributed by SpinCo or by Distributing 2 to a related corporation as part of the Proposed Transaction (collectively, the “Reincorporated Assets”) constitute no more than k% of the value of the assets of SpinCo. For purposes of this representation, a corporation is a “related corporation” if Distributing 2 owns directly or indirectly more than 20% of the value of the stock of the corporation and, for purposes of determining Distributing

2's ownership, the constructive ownership rules of section 318(a) as modified by section 304(c)(3) apply. For purposes of computing the value of the assets owned by SpinCo, Distributing 2 has included all of the assets SpinCo owns as a matter of applicable local law, including those assets acquired in the Prior Restructuring Transactions.

- (b) The five years of financial information submitted on behalf of SpinCo is representative of Business C1's present operations and, with regard to Business C1, there have been no substantial operational changes since the date of the last financial statements submitted.
- (c) Following the Internal Distribution and prior to the SpinCo Liquidation, the SpinCo SAG will continue the conduct of Business C1 independently and with its separate employees, with the exception of certain operational activities that will be performed by employees of the Distributing 2 SAG for Partnership, LLC 4, and LLC 5, and services performed by independent contractors consistent with industry standards. Following the SpinCo Liquidation, the Distributing 2 SAG will continue the conduct of Business C1 independently and with its separate employees with the exception of services performed by independent contractors consistent with industry standards.
- (d) SplitCo's borrowing pursuant to the Distributing 1 Instrument is solely to facilitate the Proposed Transaction.
- (e) Following the External Distribution and as long as Distributing 2, Distributing 1, or any of their affiliates retain the Distributing 1 Instrument, none of Distributing 2's or Distributing 1's directors or officers will serve as directors or officers of SplitCo.
- (f) Distributing 1 will dispose of its interest in the Distributing 1 Instrument as soon as practicable and in all events not later than 1 after the issuance of the Distributing 1 Instrument.

#### RULINGS

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

- (1) Provided that the Internal Distribution and the External Distribution each satisfies the requirements of section 355, and provided that the SpinCo Liquidation satisfies the requirements of section 332, no adjustment under Treas. Reg. §1.1502-19(e) or under section 358(g) shall be made with respect to the Proposed Transaction as a whole or with respect to any step thereof.
- (2) For federal income tax purposes, (i) Distributing 2 will be treated as having acquired all of the stock of SpinCo prior to the time SpinCo adopts a plan of



liquidation, and (ii) SpinCo will be treated as transferring to Distributing 2 (x) all of the assets it owns as a matter of local law at the time of the Internal Distribution and the SpinCo Liquidation, and (y) no other assets.

- (3) The Reincorporated Assets and the assets transferred in the Prior Restructuring Transactions will not preclude the SpinCo Liquidation from constituting a “complete liquidation” within the meaning of section 332.
- (4) With respect to the Internal Distribution, SpinCo will satisfy the active trade or business requirement of section 355(b).
- (5) Provided that the External Distribution would otherwise satisfy the requirements of section 355 if all of the SplitCo stock were to be distributed pursuant to only one Exchange Offer, and provided that any subsequent Exchange Offer(s) and/or the Clean-up Spin-Off (if needed) will be completed within j months of the completion of the initial distribution of SplitCo stock pursuant to the initial Exchange Offer, the External Distribution will be treated as a single distribution in determining whether the requirements of section 355(a)(1)(D) are met.
- (6) Provided that the Distributing 1 Instrument constitutes indebtedness, the retention of the Distributing 1 Instrument by Distributing 1 will not cause either the Internal Distribution or the External Distribution to fail to meet the requirements of section 355(a)(1)(D).
- (7) SplitCo will not be a successor to Distributing 2 for purposes of section 1504(a)(3).

#### CAVEATS

No opinion is expressed or implied about the federal income tax consequences of any other aspect of any transaction or item discussed or referenced in this letter, or the federal income 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 whether the Distributing 1 Instrument constitutes debt or equity.

PROCEDURAL STATEMENTS

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.

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Mark S. Jennings  
Branch Chief, Branch 1  
Office of Associate Chief Counsel  
(Corporate)