

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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PLR-116285-14

Date:

October 10, 2014

Legend

Distributing =

Controlled =

Business A =

Business B =

Shareholder Group A =

Shareholder Group B =

Remaining Class A Shareholders =

Five-Percent Shareholders =

Company =

Remaining Class B Shareholders =

Shareholder 1 =

Shareholder 2 =

Shareholder 3 =

Shareholder 4 =

Year 1 =

Year 2 =

Year 3 =

Date 4 =

Date 5 =

a =

b =

c =

d =

e =
f =
g =
h =
i =
i =
k =
l =
m =
n =
o =
p =

Dear _____ :

We respond to your April 4, 2014, letter requesting rulings under section 355(e) of the Internal Revenue Code of 1986, as amended (the Code). The information submitted in that letter and in later correspondence is summarized below.

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. This Office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and any other data may be required as part of the audit process.

This Office expresses no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter, except as expressly provided herein. Specifically, this Office expresses no opinion whether the Stock Unification, defined below, qualifies under section 368(a)(1)(E) of the Code, the Distribution, defined below, qualifies under section 355, or regarding 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 Stock Unification and Distribution.

Facts

Distributing is the common parent of a consolidated group of corporations and has two classes of common stock issued and outstanding, Class A and Class B. The Class A stock is high-vote stock that is not publicly traded, and the Class B stock is low-vote stock that is publicly traded. The Class B stock is entitled to an \$e-per-share annual dividend preference over any dividends on the Class A stock.

Each share of Class A stock is convertible into a share of Class B stock, on a share-for-share basis, upon the election of the holder thereof. Under Distributing's current arrangement, owners of the Class A stock can participate in public trading only if they elect to convert their stock from Class A to Class B. This structure was put into place when Distributing's stock became publicly traded in Year 1. Distributing's Articles of Incorporation provide that, if the percentage of issued and outstanding shares of Class A falls below h percent of the aggregate amount of all of the issued and outstanding stock of Distributing, all of the rights, preferences, limitations and restrictions relating to the Class B stock automatically become the same as the rights, preferences, limitations and restrictions of the Class A stock, such that all distinctions between the two classes are eliminated. Thus, if and when the percentage of Class A shares outstanding falls below h percent, every class and share of Distributing stock automatically becomes entitled to the same voting rights, including with respect to the election of directors to the Board (the Stock Unification).

Distributing provides a variety of products from two business segments, Business A and, through its wholly-owned subsidiary Controlled, Business B. In Year 3, for what have been represented to be valid business purposes, Distributing's Board of Directors authorized and approved the distribution of all of the issued and outstanding stock of Controlled to Distributing's shareholders (the Distribution). In contemplation of the Distribution, Distributing's Board also determined that the dual-class stock structure is no longer desirable and has conditioned the Distribution upon the prior occurrence of the Stock Unification.

Thus, as part of the proposed Distribution, several Class A shareholders, representing approximately f percent of the issued and outstanding Class A stock (Shareholder Group B), have entered into an agreement with Distributing pursuant to which each shareholder will convert his or her Class A stock into Class B stock immediately before the Distribution. Distributing has represented that this conversion will be sufficient to trigger the Stock Unification, though Distributing anticipates that there will be some residual Class A shareholders who do not convert and who will hold stock constituting approximately m percent of the total issued and outstanding stock of Distributing immediately after the Stock Unification.

Historically, the Class A shareholders were entitled to elect a out of b members of the Board of Directors, and the Class B shareholders were entitled to elect the remaining c out of b members of the Board. In anticipation of the Distribution, Distributing added new members to the Board in Year 2 and Year 3 for a total of d directors; however, due to retirements and decisions to not run for re-election, the number of Board members will return to the historical level of b directors effective on or before Date 5, which is a date before the Stock Unification and Distribution. Distributing has represented that it does not intend or have any current plans to fill the unoccupied board seats such that Distributing will continue to have b directors going forward consistent with historical practices.

As of Date 4, three groups of Distributing shareholders own all of the issued and outstanding shares of Class A stock: Shareholder Group A, Shareholder Group B and the Remaining Class A Shareholders. Shareholder Group A represents shareholders who own both Class A and Class B stock, totaling i percent of the issued and outstanding Class A stock and j percent of the issued and outstanding Class B stock. Shareholder 4 owns more than five percent of the Class A stock and is included in Shareholder Group A. Shareholder Group B (the converting Class A shareholders) owns f percent of the Class A stock, and Shareholder 1, Shareholder 2, and Shareholder 3, who each own more than five percent of the Class A stock, are included in Shareholder Group B. The Remaining Class A Shareholders own l percent of the Class A stock. In addition to Shareholder Group A, three groups of Distributing shareholders own the Class B stock: the Five-Percent Shareholders (p percent of the Class B shares), Company (k percent of the Class B shares), and the Remaining Class B Shareholders (g percent of the Class B shares).

Distributing represents that there is an overlap in identity among the shareholders of Distributing before and after the Stock Unification because no additional shares of Distributing stock will be issued in the transaction. Persons who were direct and indirect owners of Distributing shares before the Stock Unification will continue to own, directly and indirectly, shares in Distributing after the Stock Unification, although the amounts they own and are deemed to own may result in a shift in voting power (or value) between the owners of the Class A stock and the owners of the Class B stock after the Stock Unification.

Distributing has applied the “net decrease” methodology of the example in the 1998 legislative history of section 355(e)(3)(A)(iv) for purposes of testing whether one or more persons will acquire a 50 percent or greater interest in Distributing (and Controlled) under section 355(e) as a result of the Stock Unification and Distribution.

Distributing has provided percentage ownership figures that demonstrate that the Stock Unification results in a shift of approximately n percent (more than 50 percent) in the aggregate voting power of the Class B shareholders as a result of the Stock Unification

but that, when analyzed on a shareholder-by-shareholder basis as identified above, the largest shift in voting power will occur within the Remaining Class B Shareholders and will result in a shift of 0 percent (less than 50 percent) in its voting power as a result of the Stock Unification (the Indirect Voting Shift).

Representations

(a) The fair market value of the Distributing Class A common stock and the Distributing Class B common stock before the Stock Unification will be approximately equal to the fair market value of the Distributing Class A common stock and the Distributing Class B common stock after the Stock Unification.

(b) Distributing has no plan or intention to issue additional shares of its stock in connection with the Stock Unification.

(c) Excluding any acquisitions of stock that result from or are deemed to result from the Stock Unification, the Distribution is not part of a plan or series of related transactions (within the meaning of section 1.355-7 of the Income Tax Regulations) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

Rulings

Based solely on the information submitted and the representations made, we rule as follows:

(1) For purposes of determining the “voting power” (within the meaning of section 355(d)(4)) of the Distributing Class A common stock and Distributing Class B common stock, the voting power of such stock will be measured by reference to its relative ability to elect members to Distributing’s Board of Directors (Rev. Rul. 69-126, 1969-1 C.B. 218).

(2) For purposes of testing whether the Stock Unification and Distribution will result in a direct or indirect acquisition of Distributing stock for purposes of section 355(e)(2)(A)(ii), any increase in the percentage, by vote or value, of Distributing stock owned by any shareholder that may result from the Stock Unification will be disregarded (and not be treated as an acquisition within the meaning of section 355(e)(2)(A)(ii)) to the extent of any decrease in that shareholder’s percentage ownership, by vote or value, of Distributing stock prior to the Stock Unification.

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 Stock Unification or the Distribution that are not specifically covered by the above rulings.

Procedural Statements

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 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.

Sincerely,

Filiz A. Serbes
Chief, Branch 3
Office of Associate Chief Counsel (Corporate)