Internal Revenue Service

Number: **201548003**
Release Date: 11/27/2015

Index Number: 165.06-03

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:B03
PLR-104421-15

Date:
August 3, 2015

LEGEND:

Foreign Parent =

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

State A =

Country A =

Business =

Year 1 =

Year 4 =

Date a =

a =

b =

c =

d =

e =

f =

g =

Payment 1 =

Payment 2 =

Dear :

This responds to your request for a ruling on behalf of Parent addressing certain federal income tax consequences of a transaction that is expected to result in a loss deduction under § 165(a) of the Internal Revenue Code, submitted January 28, 2015, by your authorized representatives. The information submitted in that request and in correspondence dated June 10, 2015, is summarized below.

FACTS:

Parent is a domestic holding company owned by Foreign Parent, a Country A corporation. Parent is the common parent of an affiliated group of corporations that file a consolidated federal income tax return. Parent owns all of the outstanding common stock of Sub 1, Sub 3, and Sub 4. Sub 1 owns all of the outstanding stock of Sub 2. Sub 1, Sub 2, Sub 3 and Sub 4 are members of the Parent consolidated group.

In Year 4, Sub 2 held receivables totaling approximately \$a, comprised of \$b due from Sub 3 and \$c due from Sub 4. Sub 1 had a payable of approximately \$d owed to Sub 3 that arose from certain debt financing used to purchase the stock of Sub 2 in Year 1. Sub 1 acquired Sub 2 from a third party for approximately \$e.

Sub 1 does not directly engage in an active business and its primary asset is its ownership of Sub 2 stock. Sub 2 is engaged in Business and its value has deteriorated. As part of the proposed transaction, Sub 2 will distribute receivables totaling approximately \$a to Sub 1. Thereafter, Sub 1 will sell all of the stock of Sub 2 to an unrelated third party for approximately \$f, resulting in a loss on the sale of the Sub 2 stock.

Sub 1 will use the cash received from the sale of the Sub 2 stock along with the amounts received in the Sub 2 distribution to partially repay the $d payable Sub 1 owes to Sub 3. Sub 3 will cancel the remaining balance due from Sub 1 of approximately $g. Sub 1 will then liquidate under state law or convert to a limited liability company with a classification as an entity disregarded from Parent for federal income tax purposes.

REPRESENTATIONS:

1. Sub 1, a State A corporation, has been a wholly-owned subsidiary of Parent, a State A corporation, since Date a.

2. Treating the dividends from Sub 2 as Passive Gross Receipts only to the extent of Sub 2's Passive Gross Receipts, more than 90 percent of the aggregate gross receipts of Sub 1 for all taxable years have been from sources other than royalties, rents, dividends, interest, annuities, and gains from sales or exchanges of stocks and securities, within the meaning of § 165(g)(3)(B).

3. The distribution of the Sub 2 receivables to Sub 1 will be respected as a distribution and not as an addition to the purchase price paid by the buyer for the stock of Sub 2.

4. No Sub 1 stock has been acquired by Parent for the purpose of converting a capital loss into an ordinary loss under § 165(g)(3).

5. The loss sustained by Parent on the worthlessness of the Sub 1 stock will not be compensated for by insurance or otherwise.

6. The Sub 1 stock did not become worthless (within the meaning of § 165(g)) prior to 2015, and such stock will become worthless within the meaning of §165(g) during 2015.

7. Sub 1 will be insolvent (as described in Rev. Rul. 2003-125, 2003-2 C.B. 1243) for federal income tax purposes at the time of its liquidation.

8. Parent has not owned, and will not own, any of the shares of Sub 1 stock with an excess loss account.

9. Sub 1 has not owned, and will not own, any of the shares of Sub 2 with an excess loss account (including after taking into account the distribution of Sub 2 receivables).

10. At all times, all instruments referred to as debt herein have been treated as debt for U.S. federal tax purposes. Also, at all times, all instruments referred to as equity herein have been treated as equity for U.S. federal tax purposes.

11. Parent will claim a worthless stock loss with respect to the stock of Sub 1 only to the extent permitted by § 1.1502-36 of the Income Tax Regulations.

12. The stock of Sub 1 will be worthless within the meaning of § 165(g)(1) and § 1.1502-80(c) as of the date of liquidation. Parent owns directly Sub 1 stock possessing 100% of the total voting power and 100% of the total value of the Sub 1 stock, and meets the requirements of § 1504(a)(2).

13. The Sub 1 shares owned by Parent will be cancelled for no consideration as a result of the liquidation of Sub 1.

14. Parent will take into account in income any excess loss account in its Sub 1 stock.

RULINGS:

Based on the facts described above, and on the representations provided, we rule as follows:

1. Provided the requirements of § 165(g) (taking into account the provisions of § 1.1502-80(c)) are satisfied, Parent may claim a worthless stock deduction under § 165(g)(3), subject to the application of § 1.1502-36.

2. For purposes of the § 165(g)(3)(B) gross receipts test, Sub 1 will include in its aggregate gross receipts all amounts of gross receipts received in intercompany transactions that are described in § 1.1502-13 (as effective/applicable on or after July 12, 1995) ("Intercompany Transactions"), and such amounts from Intercompany Transactions will be treated as "gross receipts from passive sources" only to the extent they are attributable to the Intercompany Transactions' counterparty's "gross receipts from passive sources" ("Look-Through Approach"). See § 1.1502-13(a), (b), and (c) (as effective/applicable on or after July 12, 1995). For purposes of these rulings, "gross receipts from passive sources" is defined as royalties, certain rents, dividends, certain interest, annuities, and gains from the sales of stock and securities as defined in § 165(g)(3) and the regulations thereunder.

3. For purposes of computing Sub 1's "gross receipts" under § 165(g)(3)(B), Sub 1 (and any relevant counterparty in an Intercompany Transaction) will take into account the historic receipts of any transferor corporation in a transaction to which § 381(a) applied, provided however, that Sub 1 (and any relevant counterparty in an Intercompany Transaction) will eliminate gross receipts from Intercompany Transactions with any such transferor corporation, as appropriate, to prevent duplication.

4. In applying the Look-Through Approach, for purposes of computing the "gross receipts from passive sources" of Sub 1's counterparty in an Intercompany Transaction or any other counterparties in Intercompany Transactions, the counterparty will include in its aggregate gross receipts all amounts of gross receipts it received in Intercompany Transactions, and such amounts from Intercompany Transactions will be treated as

"gross receipts from passive sources" to the extent they are attributable to its counterparty's "gross receipts from passive sources." In other words, Sub 1's "gross receipts from passive sources" is determined by looking at all of Sub 1's gross receipts from Intercompany Transactions (even if on its face the Intercompany Transaction appears not to be "gross receipts from passive sources") and sourcing the gross receipts based on Sub 1's counterparty's "gross receipts from passive sources." Furthermore, Sub 1's counterparty in Intercompany Transactions (and Sub 1's counterparty's counterparty, and so on until it reaches an ultimate counterparty) will apply a similar rule.

5. In applying the Look-Through Approach with respect to gross receipts from intercompany dividends (that is, intercompany distributions to which § 301(c)(1)) applies, the amount will be attributed pro rata to the gross receipts that gave rise to the E&P from which the dividend was distributed.

6. In applying the Look-Through Approach with respect to gross receipts from Intercompany Transactions other than § 301(c)(1) distributions, provided the intercompany transaction counterparty's gross receipts for the tax period are greater than the counterparty's intercompany transaction payments, the amounts will be attributed pro rata to the gross receipts of the intercompany transaction counterparty for the taxable year during which the intercompany transaction occurs (adjusted as appropriate for other intercompany transactions during such period to prevent any duplication).

7. For purposes of computing the gross receipts test under § 165(g)(3)(B), the proceeds from the sale of all the outstanding shares of Sub 2 stock at a loss to an unrelated buyer will not be included in gross receipts.

8. To the extent that Payment 1 and Payment 2 are considered to be gross receipts, they are not royalties, rents, dividends, interest, annuities, or gains from the sales of stock and securities as defined in § 165(g)(3) and the regulations thereunder.

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.

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.

Sincerely,

Christopher F. Kane
Branch Chief, Branch 3
(Income Tax & Accounting)

cc: