

Internal Revenue Service

Number: **201603002**
Release Date: 1/15/2016

Index Number: 267.07-02, 332.01-00,
1502.13-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

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Refer Reply To:
CC:CORP:B02
PLR-102590-15

Date:
July 24, 2015

Legend

Distributing =

Controlled =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

Sub 15 =

PLR-102590-15

3

Sub 16 =

Sub 17 =

DRE 1 =

DRE 2 =

DRE 3 =

DRE 4 =

DRE 5 =

LP1 =

Business A =

Business B =

a =

b =

Country A =

Country B =

Country C =

Country D =

Country E =

State A =

State B =

State C =

State D =

State E =

State F =

State G =

Territory A =

Date 1 =

Items =

Dear :

This letter responds to your letter dated January 8, 2015, as supplemented by subsequent submissions, requesting rulings under Sections 267 and 332 of the Internal Revenue Code (the "Code") and related provisions with respect to a partially completed series of transactions described below (the "Proposed Transaction"). The information submitted is summarized below.

The rulings contained in this letter are based on 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 materials 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.

This letter is issued pursuant to section 6.03 of Rev. Proc. 2015-1, 2015-1 I.R.B. 19, regarding one or more significant issues under sections 332, 351, 355, 368, or 1036. The rulings contained in this letter only address one or more discrete

legal issues involved in the transaction. This Office expresses no opinion as to the overall tax consequences of the transactions described in this letter or as to any issue not specifically addressed by the rulings below.

Summary of Facts

Distributing is a publicly traded State A corporation and the common parent of both a consolidated group for U.S. federal income tax purposes (the “Distributing Consolidated Group”) and a group of foreign and domestic entities (the “Distributing Worldwide Group”) engaged in certain businesses, including Business A and Business B.

Distributing owns 100 percent of the stock of Sub 1, a State B corporation, and Sub 2, a State C corporation. Sub 1 is the parent of a subgroup of entities, some of which are regarded subsidiaries and some of which are disregarded as separate from their respective owners for U.S. federal income tax purposes (the “Sub 1 Subgroup”). The Sub 1 Subgroup is the principal owner and operator of Business B. Distributing is indebted to Sub 1 and entities disregarded as separate from Sub 1 for U.S. federal income tax purposes (the “Sub 1 Intercompany Receivable”). Sub 1 is indebted to Sub 2 (the “Sub 2 Intercompany Receivable”).

Sub 1 owns 100 percent of the interests in DRE 1, a Country A entity disregarded as separate from Sub 1 for U.S. federal income tax purposes. DRE 1 owns 100 percent of the interests in Sub 3, a Country B entity, and 100 percent of the interests in Sub 4, a Country B entity, both of which are classified as corporations for U.S. federal income tax purposes. The primary asset of Sub 3 and Sub 4 is a property interest in land located in Country B. DRE 1 also owns certain Country E entities which own an interest in a Business B joint venture in Country E and conduct related sales and marketing activities (the “Country E Entities”).

Sub 1 directly owns 100 percent of Sub 5, a State B corporation with a Country C branch. Sub 1 and Sub 5 together directly and indirectly own 100 percent of the interests in several Country C entities.

Sub 1 also owns 100 percent of the stock of Sub 6, a State D corporation directly engaged in Business B.

Although most of Business B is owned and conducted by the Sub 1 Subgroup, Distributing owns, directly and indirectly, certain other entities associated with this business and assets that will be converted into Business B assets.

Distributing owns 100 percent of the interests in DRE 2, a State C limited liability company (“LLC”) disregarded as separate from Distributing for U.S. federal income tax purposes. DRE 2 owns both Business B and Business A assets, and intends that the Business A assets be converted to Business B assets over time. The aggregate fair market value of DRE 2’s assets

is less than Distributing's aggregate basis therein.

Distributing owns 100 percent of the stock of Sub 7, a State C corporation owning and operating Business A assets also intended to be converted into Business B assets over time.

Distributing also owns 100 percent of the stock of two State C corporations, Sub 8 and Sub 9, involved in activities related to Business B.

Distributing owns 100 percent of the stock of Sub 10, a State C corporation. Distributing and Sub 10 own approximately a percent and b percent, respectively, of the general partnership interest and limited partnership interests in LP 1 (the remaining interests are owned by third-parties), a State C limited partnership which, in turn, owns 100 percent of the stock of Sub 11, a Territory A corporation. Sub 11 owns Business B assets (and assets which will be converted to Business B assets) and operates Business B in Territory A.

Sub 10 also holds the creditor position on certain notes from an unrelated third party (the "Third Party Notes"). The Third Party Notes were issued as part of a series of transactions in which the Distributing Worldwide Group acquired assets now owned by the Sub 1 Subgroup. The fair market value of the Third Party Notes is less than Sub 10's basis therein.

Distributing indirectly owns 100 percent of the interests in Sub 12, a Country A entity, and Sub 13, a Country D entity, both of which are treated as corporations for U.S. federal income tax purposes. Sub 13, through intervening entities, indirectly owns Business A assets in Country C which are intended to be converted to Business B assets over time (the "Country C Assets/Entities").

Distributing owns 100 percent of the stock of Sub 14, a State C corporation that held assets related to Business B in Territory A. Sub 14 is indebted to Sub 1.

Distributing owns 100 percent of the interests in DRE 3, a State C LLC disregarded as separate from Distributing for U.S. federal income tax purposes. DRE 3 was formed as a holding company.

DRE 3 owns 100 percent of the interests in DRE 4 a State C LLC disregarded as separate from Distributing for U.S. federal income tax purposes. DRE 4 holds certain assets related to Business B and employs certain employees of Business B in State E.

DRE 4 owns 100 percent of the stock of Sub 15, a State C corporation, which owns a license related to Business A.

Sub 1 owns 100 percent of the interests in DRE 5, a State C LLC disregarded as separate from Sub 1 for U.S. federal income tax purposes. DRE 5 was engaged in Business B in State B. Sub 1 is indebted to DRE 5 (the "DRE 5 Receivable").

Sub 1 owns 100 percent of the stock of Sub 16, a State B corporation formed to support activities related to Business B in State E and Country B.

Sub 1 owns 100 percent of the stock of Sub 17, a State E corporation formed to support activities related to Business B.

Proposed Transaction

Distributing has undertaken and proposes to undertake, pursuant to one overall plan, the following transaction steps:

1. On Date 1, Distributing formed a new corporation as a wholly owned subsidiary (i.e., Controlled).
2. Through a series of transactions, Sub 16 will become the owner of the equity of Sub 11 and will acquire certain notes owed by Sub 11 to Sub 12 (collectively, the "Sub 11 Acquisition"). The Sub 11 Acquisition will be funded, as necessary, through a partial repayment of the Sub 1 Intercompany Receivable and the contribution by Sub 1 of cash to Sub 16.
3. DRE 1 will form a new U.S. LLC ("New DRE") as an entity disregarded as separate from Sub 1 for U.S. federal income tax purposes. DRE 1 will contribute the Country E Entities and all of its remaining assets other than the stock of Sub 3 and Sub 4 to New DRE, and New DRE will assume DRE 1's liabilities. DRE 1 will then distribute the member interests in New DRE to Sub 1. The stock of Sub 3 and Sub 4 may be sold to a third party prior to the distribution in step 8 below. If the sale is so consummated, this step 3 will not occur and the interests in DRE 1 will not be distributed to Distributing pursuant to step 8.
4. Sub 1 will contribute a portion of the Sub 1 Intercompany Receivable to Sub 16 (Sub 16 and Sub 6 are each a "Sub 1 Acquiring Subsidiary") and Sub 16 will purchase the Third Party Notes from Sub 10 in exchange for that portion of the Sub 1 Intercompany Receivable in a value-for-value exchange (the "Third Party Notes Sale").
5. Sub 1 will contribute a portion of the Sub 1 Intercompany Receivable to Sub 6, and Sub 6 will purchase all the member interests in DRE 2 from Distributing in exchange for that portion of the Sub 1 Intercompany Receivable in a value-for-value exchange (the "DRE 2 Sale").
6. Distributing will transfer cash to Sub 1 in partial payment of the Sub 1 Intercompany Receivable, and Sub 1 will contribute a portion of the cash in an amount equal to the net value of the Country C Assets/Entities through the chain of ownership to Sub 5. Sub 5

(and/or one or more of its subsidiaries) will then purchase the Country C Assets/Entities from one or more entities indirectly owned by Sub 13 in a value-for-value exchange (the "Country C Assets/Entities Acquisition").

7. Sub 1 will convert to an LLC ("Sub 1 LLC") under State B law and will be disregarded as an entity separate from Distributing for U.S. federal income tax purposes (the "Sub 1 Liquidation").
8. Sub 1 LLC will distribute the remaining Sub 1 Intercompany Receivable and all of its interests in DRE 1 and DRE 5 to Distributing. Distributing will assume the payable obligation for the Sub 2 Intercompany Receivable and the DRE 5 Receivable in partial repayment of the Sub 1 Intercompany Receivable.
9. Distributing will contribute Sub 14 to Sub 1 LLC. Sub 1 LLC will then contribute its intercompany receivable due from Sub 14 to the capital of Sub 14.
10. DRE 3 will distribute DRE 4 to Distributing. DRE 4 will then distribute its shares in Sub 15 to Distributing. Distributing will then contribute DRE 4 to Sub 1 LLC.
11. Distributing will contribute all of its interests in Sub 1 LLC, Sub 7, Sub 8, and Sub 9 to Controlled in exchange for Controlled stock and Controlled's assumption of any of Distributing's liabilities associated with Business B (the "Controlled Transfer"). Controlled will further transfer Sub 7, Sub 8, and Sub 9 to Sub 1 LLC. In connection with this step 11, Sub 1 LLC (and/or one or more of its subsidiaries) will become the employer of certain Business B employees and Distributing (and/or one or more of its subsidiaries) will become the employer of certain Business A employees.
12. Sub 1 LLC will contribute DRE 4 to Sub 17.
13. In connection with the Distribution, Distributing and Controlled (and their respective affiliates, as applicable) will enter into post-separation agreements and arrangements that will address continuing transactions between the parties after the Distribution.
14. Distributing will distribute the stock of Controlled to Distributing's shareholders pro rata (the "Distribution").

Representations

- a) The Distribution would be pursued by Distributing regardless of whether losses associated with the DRE 2 Sale or the Third Party Notes Sale would be recognized by virtue of the Proposed Transaction.
- b) Each of Distributing and Sub 10 would be entitled to recognize its loss with respect its respective interest in DRE 2 and the Third Party Notes upon a taxable sale of such interest

to an unrelated third party.

- c) Distributing and Sub 10, on the one hand, and Sub 6 and Sub 16, on the other hand, will cease to be members of the same controlled group as defined in Section 267(f)(1) upon the consummation of the Distribution (i.e., (i) neither Distributing nor Sub 10 will own more than 50 percent of the total voting power or value of all classes of stock of either Sub 6 or Sub 16, and (ii) five or fewer individuals, trusts or estates will not own more than 50 percent of the total voting power or value of all classes of stock of either Distributing and Sub 6 or Sub 10 and Sub 16).
- d) The Distribution is not being engaged in or structured with a principal purpose to avoid the provisions of Section 267(f) (including, for example, by avoiding treatment as an intercompany sale or by distorting the timing of losses or deductions) within the meaning of Reg. § 1.267(f)-1(h).
- e) Except for Distributing's contribution of Sub 1 LLC to Controlled in the Controlled Transfer and the transfer of a portion of the Sub 1 Intercompany Receivable or cash by Sub 1 to one or more of its subsidiaries in connection with the DRE 2 Sale, the Third Party Notes Sale, the Country C Assets/Entities Acquisition, and the Sub 11 Acquisition, the Sub 1 Liquidation will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation of any of the businesses or assets of Sub 1, if persons holding, directly or indirectly, more than 20 percent in value of the Distributing stock also hold, directly or indirectly, more than 20 percent in value of the stock in a recipient corporation. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of Section 318(a), as modified by Section 304(c)(3).
- f) The value of the portion of the Sub 1 Intercompany Receivable or cash contributed by Sub 1 to one or more of its subsidiaries in connection with the DRE 2 Sale, the Third Party Notes Sale, the Country C Assets/Entities Acquisition, and the Sub 11 Acquisition will constitute less than 30 percent of the total value of all of Sub 1's assets immediately before the Proposed Transaction.

Rulings

1. The Distributing Consolidated Group will recognize any loss realized by Distributing on the DRE 2 Sale and any loss realized by Sub 10 on the Third Party Notes Sale and, immediately before the Distribution, will take into account any loss so recognized (Section 267(f)(2)(B) and Reg. § 1.267(f)-1(c); Reg. § 1.1502-13(d)(1)(i)).
2. Neither Distributing's contribution of assets held by Sub 1 LLC to Controlled nor Sub 1's contribution of cash or a portion of the Sub 1 Intercompany Receivable to one or more of its subsidiaries in connection with DRE 2 Sale, the Third Party Notes Sale, the Country C Assets/Entities Acquisition, and the Sub 11 Acquisition will preclude the Sub 1 Liquidation from qualifying as a "complete liquidation" within the meaning of Section 332.

Caveat

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.

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 representatives.

Sincerely,

Gerald B. Fleming

Gerald B. Fleming
Senior Technician Reviewer, Branch 2
Office of Associate Chief Counsel (Corporate)