

**Internal Revenue Service**

Department of the Treasury  
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March 16, 2017

LEGEND

Cooperative =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

State 1 =

State 2 =

Business =

Core Services =

a =

b =

c =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Closing Date =

Dear :

This letter responds to your letter dated September 30, 2016, requesting rulings on certain U.S. federal (“Federal”) income tax consequences of the Proposed Transaction (describe below). The information provided in that letter and in later correspondence 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 the 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 letter is issued pursuant to section 6.03 of Rev. Proc. 2016-1, 2016-1 I.R.B. 1 and 19, regarding one or more significant issues under section 332. 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

Cooperative was incorporated in State 1, on Date 1. Cooperative is a privately held, member owned, cooperative with approximately a members. Cooperative was originally organized to provide in rural Northeast State 1 certain services to customers on a cooperative basis that are allowed tax-exempt treatment under section 501(c) (12). Over time, Cooperative has expanded its operations to certain additional services that are not eligible for tax-exempt treatment under section 501(c) (12) or otherwise.

The additional services are provided to customers through subsidiaries of Cooperative. The annual accounting period for each entity is the fiscal year ending Date 3. Since the additional services are now an increasingly greater portion of Cooperatives' total business operations, Cooperative has decided to consolidate its business operations to one legal entity and provide all its services at cost on a cooperative basis, which will allow Cooperative to bundle its services and charge its customers a single price on a single bill. It will also have the effect of Cooperative no longer qualifying for tax-exempt treatment under section 501(c) (12).

Cooperatives' present business structure is as follows:

Cooperative owns 100% of the single class of stock of Sub 1, a Subchapter C corporation. Sub 1 was incorporated in State 2 on Date 2. Sub 1 is an intermediary holding company that was organized to hold investments in subsidiaries formerly held by Cooperative.

Sub 1 owns 100% of the single class stock of both Sub 2 and Sub 4, each a Subchapter C corporation. Sub 2 provides services to both members and non-members. Sub 4 provides services through Sub 5, which is a wholly owned limited liability partnership and disregarded as an entity separate from Sub 4.

Sub 1 also owns a b limited partnership interest in Sub 3 and 100% of the membership interest in Sub 6. Sub 6 is disregarded as an entity separate from Sub 1. Sub 6 owns a c general partnership interest in Sub 3. Thus Sub 1 effectively owns 100% of the stock of Sub 3, which is taxed as a Subchapter C corporation. Sub 3 provides services to customers who are not members of the Cooperative.

### Proposed Restructuring

Cooperative, Sub 3, Sub 2, Sub 1 and Sub 6 will engage in the following transactions (the Proposed Restructuring) on a single designated date (the Closing Date).

- (i) At 11:55 P.M., Sub 3 will convert from a limited partnership classified as an association and taxable as a corporation, into a limited liability

company and make an election to be treated as disregarded as an entity separate from Sub 1 for federal tax purposes (the Sub 3 Conversion).

- (ii) At 11:56 P.M., Sub 6 will merge with and into Sub 1 with Sub 1 surviving. (the Sub 6 Merger).
- (iii) At 11:57 P. M., Sub 2 will convert from a corporation into a limited liability company treated as disregarded as an entity separate from Sub 1 under the default classification rules (the Sub 2 Conversion).
- (iv) At 11:58 P. M., Sub 1 will liquidate pursuant to State 2 law, distributing all of its assets to the Cooperative (the Sub 1 Liquidation).
- (v) At 11:59 P. M., Sub 2 (now disregarded as an entity separate from Cooperative) will distribute the Core Services and related assets to Cooperative (the Sub 2 Distribution).

### **Representations**

- (a) Sub 1 will adopt a plan of liquidation under State 2 law, and the Sub 1 liquidation will occur pursuant to the Sub 1 liquidation plan.
- (b) On the date of the adoption of the Sub 1 liquidation plan and at all times thereafter until the Sub 1 liquidation is complete, Cooperative will own 100% of the single outstanding class of Sub 1 stock.
- (c) Upon the Sub 1 liquidation, Sub 1 will cease to exist for federal income tax purposes.
- (d) All liquidating distributions from Sub 1 to Cooperative pursuant to the Sub 1 liquidation will be made on the Closing Date.
- (e) After the Proposed Restructuring beginning in Cooperative's fiscal year ending Date 4, and for all foreseeable future fiscal years of Cooperative, Cooperative expects that it will not be an organization that is exempt from federal income tax under section 501 or any other provision of the Code.

### **Rulings**

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

- (1) Provided that Cooperative's non-member income for the fiscal year ending Date 4 will exceed 15% of Cooperatives income following the Proposed

Restructuring, section 1.337(d)-4(a)(1) will not apply to the Sub 1 liquidation.

- (2) If after the Proposed Restructuring has been completed, Cooperative's status changes to be a tax-exempt cooperative under section 501(c)(12) of the Code solely by meeting the annual 85% member income test, Cooperative will not be considered to have had a principal purpose of avoiding the application of the change in status rules under the anti-abuse rule in section 1.337(d)-4(a)(3)(iii), and Cooperative's return to tax-exempt status will qualify for the exception from the change in status rule under section 1.337(d)-4(a)(3)(i)(E).

### **Caveats**

Except as expressly provided herein, no opinion is expressed or implied on (a) whether the Liquidation qualifies for no recognition of gain or loss under § 332; (b) whether the change in status of Cooperative to a tax-exempt entity, if it occurs, is a reorganization under section 368(a) (1) (E) or (F), and (c) whether Cooperative is operated according to cooperative principles. We also express no opinion on the federal income tax treatment of the proposed transaction under other provisions of the Code or regulations or the 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.

### **Procedural Statements**

This ruling letter 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 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  
Senior Technician Reviewer  
Branch 1  
Office of Associate Chief Counsel (Corporate)