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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

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Refer Reply To:
CC:CORP:B03
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Date:
July 06, 2021

In Re:

Legend

Distributing = .

Sub1 =

Business A =

Business B =

Business C =

Date 1 =

Convertible Notes 1 =

Convertible Notes 2 =

Senior Notes =

a =

b =

c =

d =

e =

f =

g =

Dear _____ :

This letter responds to your letter dated April 14, 2021, and subsequent correspondence, submitted on behalf of Distributing, its affiliates, and its shareholders, requesting rulings on certain federal income tax consequences of a series of transactions (the “Proposed Transaction”). The material information submitted in that request and subsequent correspondence is summarized below.

This letter is issued pursuant to Rev. Proc. 2017-52, 2017-41 I.R.B. 283, as amplified and modified by Rev. Proc. 2018-53, 2018-43 I.R.B. 667, and section 6.02(3)(b) of Rev. Proc. 2021-1, 2021-1 I.R.B.1, regarding one or more significant issues under sections 355, 357, and 361 of the Internal Revenue Code (the “Code”). 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 on examination.

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, a publicly traded domestic corporation, is the parent company of a worldwide group of foreign and domestic entities (the “Distributing Group”). Distributing and its domestic affiliates join in the filing of a consolidated U.S. federal income tax return. At the time of the Proposed Transaction, Distributing will have a single class of voting common stock issued and outstanding (the “Distributing Common Stock”). The Distributing Group has been actively engaged in three businesses, Business A, Business B, and Business C.

Immediately before the Proposed Transaction will be undertaken, Distributing directly will own all the issued and outstanding equity interests in newly formed domestic

corporation (“Controlled”) and will own directly Sub1, a domestic limited liability company that is disregarded as separate from Distributing for U.S. federal income tax purposes, which in turn directly or indirectly will hold all the assets, liabilities, and entities that constitute Business C.

As of Date 1, Distributing had two issues of convertible notes (i) Convertible Notes 1 in an aggregate principal amount of a, and (ii) Convertible Notes 2 in an aggregate principal amount of b (together with the Convertible Notes 1, the “Convertible Notes”). Distributing also has outstanding c in Senior Notes (together with the Convertible Notes, the “Historic Debt”).

The Convertible Notes 1 are contingent payment debt instruments under section 1.1275-4 that have an adjusted issue price that reflects original issue discount accruals based on the comparable yield method (reduced by cash interest).

Distributing is obligated to satisfy its obligations under the Convertible Notes in cash if the holders of the Convertible Notes do not exercise their conversion rights. To the extent holders of the Convertible Notes exercise their conversion rights (which is likely to occur if Distributing gives notice of its intention to redeem the Convertible Notes), Distributing may satisfy the conversions with cash, Distributing Common Stock, or a combination thereof. The amount due upon settlement of conversions, or required to be paid upon any repurchase, of the Convertible Notes will reflect the amount by which the conversion feature of the Convertible Notes has current value.

Proposed Transaction

Distributing intends to engage in the Proposed Transaction described below to separate Business C from Business A and Business B. In the description of the Proposed Transaction below, any repayment or retirement of Historic Debt includes payments of principal, interest, market premiums, premiums attributable to the conversion feature of the Convertible Notes, and associated legal fees.

- (i) Distributing may issue debt, including a new credit facility (the “New Debt 1”), to one or more financial institutions (the “Banks”) for cash and will hold the cash proceeds of the borrowing in general accounts. Before or contemporaneously with the Distribution, Distributing will use an amount of cash equal to any New Debt 1 to repay partially or fully some of the Historic Debt.
- (ii) Distributing will enter into an Exchange Agreement (as defined later in this paragraph) with the Banks pursuant to which Distributing will agree to transfer Controlled Securities (as defined below) to the Banks in exchange for (and in retirement and repayment of) all or a portion of any New Debt 1 and/or the Historic Debt. The Exchange Agreement will not be entered into any earlier than the day after the day on which the Banks acquire the Distributing Exchange Debt. (as defined in step (iv), below) The term “Exchange Agreement” means an agreement

between the Banks and Distributing pursuant to which Distributing will agree to transfer Controlled Securities and/or Controlled Common Stock (as defined in step (iii), below) to the Banks in exchange for, and in retirement and repayment of, all or a portion of the Distributing Exchange Debt. The exchange ratio for that exchange will be fixed on the date the Exchange Agreement is entered into with the Banks.

- (iii) Distributing will contribute to Controlled all of the equity interests in Sub1 (the "Contribution") in exchange for (i) all of the issued and outstanding shares of Controlled's only class of voting common stock (the "Controlled Common Stock"), (ii) cash proceeds from a third-party borrowing by Controlled in an amount not greater than the basis of the assets contributed to Controlled net of any liabilities assumed in the Contribution (if any, the "Controlled Cash"), and (iii) certain seven-year debt instruments or term loans (if any, the "Controlled Securities"). Distributing will hold any Controlled Cash in general accounts. It is possible that Distributing will receive an additional amount of cash proceeds from Controlled in excess of the amount of Controlled Cash.
- (iv) Distributing will distribute at least e percent of the Controlled Common Stock to its shareholders *pro rata* in accordance with their stock ownership.
- (v) Contemporaneously with the Distribution, Distributing will transfer any Controlled Securities to creditors, which may include the Banks, in exchange for (and in retirement of) a portion of any New Debt 1 and/or the Historic Debt (if any, the "Debt-for-Debt Exchange"). Distributing understands that, after any Debt-for-Debt Exchange, the Banks will sell any Controlled Securities to third-party investors for cash pursuant to an offering memorandum.
- (vi) Within d months following the Distribution, Distributing will transfer all of the shares of the Controlled Stock not distributed in the Distribution (the "Remainder Stock") to (a) its shareholders (the "Delayed Stock Distribution") or pursuant to a registered exchange offer (the "Stock Exchange") and/or (b) creditors, which may include the Banks, in exchange for (and in retirement of) a portion of the Historic Debt or newly issued debt (if any, the "New Debt 2"), the proceeds of which Distributing will use to repay the Historic Debt pursuant to the same steps as the Debt-for-Debt Exchange (such exchange, the "Debt-for-Equity Exchange" and, together with the Debt-for-Debt Exchange, the "Debt Exchanges," and such portion of the Historic Debt and/or any New Debt 2, together with the portion of the Historic Debt and/or any New Debt 1 exchanged in the Debt-for-Debt Exchange, if any, the "Distributing Exchange Debt"). Distributing understands that, in the event of any Debt-for-Equity Exchange involving one or more Banks, the Banks will thereafter sell their shares of the Controlled Stock to third-party investors for cash. Any Delayed Stock Distribution, Stock Exchange, and/or Debt-for-Equity Exchange are referred to collectively as the "Delayed Distributions."
- (vii) Within d months following the Distribution, Distributing will use an amount of cash

from its general accounts equal to the amount of any Controlled Cash to pay the Historic Debt and/or a portion of any New Debt 1, make distributions to Distributing's shareholders, and/or repurchase shares of Distributing Common Stock (the "Cash Purge").

- (viii) If Distributing determines that market and general economic conditions and sound business judgment do not support the disposition of all or any portion of any Remainder Stock, as described above, during the months immediately following the Distribution, Distributing will dispose of any remaining shares of Remainder Stock in *pro rata* distributions to, and/or stock repurchases from, shareholders, to creditors to retire debt, or to third parties in exchange for cash as soon as practicable, taking into account market and general economic conditions and sound business judgment, but in no event later than five years after the Distribution.

Distributing's delayed distribution of Remainder Stock, described above, is intended to facilitate the orderly distribution of Controlled Stock and establish an effective and appropriate capital structure for both Distributing and Controlled, including by reducing Distributing's liabilities and strengthening its balance sheet in the most efficient manner. These reasons will be referred to as the "Retention Business Purpose."

Distributing and Controlled will enter into an agreement that sets forth the terms of the Proposed Transaction and will be adopted by Distributing and Controlled as a "plan of reorganization" within the meaning of section 368 of the Code and section 1.368-2(g) of the regulations.

Representations

Except as otherwise provided below, Distributing has made all the representations provided in Section 3 of Rev. Proc. 2018-53 with respect to the Proposed Transaction. For purposes of the other representations, which Distributing has modified as set forth below, terms used but not otherwise defined in this letter have the meanings set forth in Rev. Proc. 2018-53:

Distributing has made the following modified representations:

Definition of Historic Debt: The Convertible Notes 1 are contingent payment debt instruments under section 1.1275-4 that have an adjusted issue price that reflects original issue discount accruals based on the comparable yield (reduced by cash interest). Distributing is obligated to satisfy its obligations under the Convertible Notes in cash if the holders of the Convertible Notes do not exercise their conversion rights. The Convertible Notes may be satisfied, on conversion, with cash, Distributing Common Stock, or a combination thereof. The amount due upon settlement of conversions or required to be paid upon any repurchase of the Convertible Notes, will reflect the amount by which the conversion feature of the Convertible Notes has current value.

Representation 3: The holders of any Distributing Exchange Debt will not hold the debt for the benefit of Distributing, Controlled, or any Related Person. The Banks will not acquire any Historic Debt included in any Distributing Exchange Debt from Distributing, Controlled, or any Related Person. Neither Distributing, nor Controlled, nor any Related Person will participate in any profit gained by the Banks upon an exchange of Controlled Securities, nor will any such profit be limited by agreement or other arrangement. The value of any Controlled Securities received by the Banks in satisfaction of any Distributing Exchange Debt will be determined pursuant to arm's-length negotiations.

Representation 4: Distributing incurred the Historic Debt that will be assumed, satisfied, or refinanced with the proceeds of any New Debt 1, and/or any New Debt 2 (a) before the request for any relevant ruling was submitted and (b) no later than 60 days before the earliest of the following dates: (i) the date of the "first public announcement" (as defined in section 1.355-7(h)(10)) of the Distribution or a similar transaction, (ii) the date of the entry by Distributing into a binding agreement to engage in the Distribution or a similar transaction, and (iii) the date of approval of the Distribution or a similar transaction by the board of directors of Distributing.

Representation 5: The historic average will be determined as an $\frac{1}{4}$ -quarter average before the approval of the Distribution by Distributing's Board of Directors, except that the "historic average" of the total adjusted issue price for the Convertible Notes will be calculated by treating, without duplication, the accretion in adjusted issue price of Convertible Notes 1 due to the unpaid original issue discount under section 1.1275-4 and the "in-the-money" amount attributable to the conversion feature of the Convertible Notes, in each case at the time of settlement, as having been in existence for the entire $\frac{1}{4}$ -quarter period.

Representation 6: There are one or more substantial business reasons for any delay in satisfying the Historic Debt, any New Debt 1, and any other Distributing Exchange Debt with the Delayed Distributions and the Cash Purge beyond 30 days after the date of the Distribution. In addition, there are one or more substantial business reasons for any delay in the distributions described as the Delayed Distributions and the Cash Purge beyond 180 days after the date of the Distribution, including prevailing market conditions, recommendations from Distributing's financial advisors in regard to the orderly establishment of Distributing's capital structure, and general economic conditions, and all such distributions will be completed no later than $\frac{1}{2}$ months after the date of the Distribution.

Representation 7: Distributing will not replace any Distributing Exchange Debt with previously committed borrowing, other than borrowing to finance acquisitions unrelated to the Distribution pursuant to a revolving credit agreement or similar

arrangement. Such a revolving credit agreement or similar arrangement would have been entered into whether or not Distributing decided to engage in the Distribution. Distributing historically has expanded its business, in part, through acquisitions financed with lines of credit. It has completed more than 9 acquisitions in the preceding 5 years.

Distributing has made the following additional representation:

The Controlled Securities issued to Distributing in the Contribution will qualify as “securities” within the meaning of section 361(a).

Distributing has made the following representations with respect to the Remainder Stock:

- (a) In no event will the retention of the Remainder Stock prevent Distributing from distributing in the Distribution an amount of Controlled stock that represents control within the meaning of section 368(c).
- (b) None of Distributing’s directors or officers will serve as directors or officers of Controlled as long as Distributing retains the Remainder Stock.
- (c) Distributing’s plan to retain the Remainder Stock is motivated by the Retention Business Purpose.
- (d) The Remainder Stock will be disposed of as soon as a disposition is warranted consistent with the Retention Business Purpose, but, in any event, not later than five years after the Distribution.
- (e) Distributing will vote the Remainder Stock in proportion to the votes cast by Controlled’s other shareholders.

Rulings

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

- (1) Distributing’s continued ownership of any Remainder Stock until its disposition, in no event later than five years after the Distribution, will not adversely affect the qualification of the Proposed Transaction under sections 355 and 368(a)(1)(D) and will not be in pursuance of a plan having as one of its principal purposes the avoidance of U.S. federal income tax for purposes of section 355(a)(1)(D)(ii).
- (2) Any Delayed Stock Distribution, Stock Exchange, or distributions of Remainder Stock to repay Distributing Exchange Debt that occur within 9

months following the Distribution will be treated as occurring pursuant to the plan of reorganization for purposes of sections 361(b) and (c).

- (3) The Cash Purge within d months after the Distribution will be treated as occurring pursuant to the plan of reorganization for purposes of sections 361(b) and (c).
- (4) Each Debt Exchange within d months after the Distribution will be treated as a distribution to shareholders or creditors of Distributing for purposes of section 361(c).

Caveats

No opinion is expressed as to whether distributions after d months from the date of the Distribution will be treated as pursuant to the plan of reorganization. No opinion is expressed as to whether the Controlled Securities are treated as securities under any provision of the Code or regulations. No opinion is expressed as to the tax effects of cash received by Distributing from Controlled to the extent such cash received is greater than the Controlled Cash.

Except as expressly provided in this letter, no opinion is expressed or implied concerning the tax treatment of the Proposed Transaction under any 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 is not specifically covered by the above rulings.

Procedural Statements

This letter 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 returns that provides the date on and control number (PLR-108824-21) of this letter ruling.

Pursuant to a Power of Attorney on file with this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

Douglas C. Bates, Chief, Branch 4
Office of Associate Chief Counsel (Corporate)

cc: