

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B03
PLR-116458-21

Date:
November 29, 2021

Distributing =

Business A =

Business B =

Dear :

This letter responds to your authorized representative’s letter received August 12, 2021, requesting rulings on certain federal income tax consequences of a proposed transaction (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, regarding one or more "Covered Transactions" under sections 355 and 368 of the Internal Revenue Code (the "Code"). This office expresses no opinion as any issue not specifically addressed by the rulings 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 office has made no determination regarding whether the Distribution (as defined below): (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of the

distributing corporation or the controlled corporation or both, see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d); or (iii) is part of a plan (or series of related transaction) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation, or any predecessor or successor of the distributing corporation or the controlled corporation, within the meaning of Treas. Reg. § 1.355-8T. See section 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7.

Summary of Facts

Distributing is a corporation engaged in Business A and Business B and has submitted financial information in accordance with Rev. Proc. 2017-52 indicating that each of Business A and Business B has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years. For what are represented to be valid business reasons, Distributing proposes to separate Business B from Business A in the following steps:

1. Distributing will form a new corporation ("Controlled") and contribute the assets of Business B to Controlled in exchange for all of the issued and outstanding stock of Controlled and the assumption of liabilities related to Business B by Controlled (the "Contribution").
2. Distributing will distribute the Controlled stock received in Step 1 to its shareholders on a pro rata basis (the "Distribution").

Representations

Except as set forth below, Distributing has made all the representations section 3 of the Appendix to Revenue Procedure 2017-52.

- a) Parent has made the following alternative representations: 3(a); 8(a); 11(a); 15(b); 22(a); 31(a); 41(a).
- b) Parent has not made the following representations, which do not apply to the Proposed Transaction: 7; 24; 25; 36; 37; 38; 39; 40

Rulings

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

1. The Contribution and Distribution together will constitute a reorganization within the meaning of section 368(a)(1)(D) of the Code. Distributing and Controlled will each be a "party to a reorganization" within the meaning of section 368(b).
2. Distributing will not recognize gain or loss on the Contribution. Sections 357(a) and 361(a).

3. Controlled will not recognize gain or loss on the Contribution. Section 1032(a).
4. Controlled's basis in each asset received in the Contribution will be the same as the basis of the asset in the hands of the Distributing immediately before the Contribution. Section 362(b).
5. Controlled's holding period in each asset received in the Contribution will include the period during which Distribution held the asset. Section 1223(2).
6. Distributing will not recognize gain or loss on the Distribution. Section 361(c).
7. The shareholders of Distribution will not recognize gain or loss (and no amount otherwise will be includable in their income) upon receipt of Controlled stock in the Distribution. Section 355(a).
8. The aggregate basis of the Distributing stock and the Controlled stock in the hands of each shareholder immediately after the Distribution will equal the aggregate basis of the Distributing stock held by such shareholder immediately before the Distribution, allocated between the Distributing stock and the Controlled stock in proportion to the fair market value of each immediately following the Distribution in accordance with Treas. Reg. §1.358-2(a). Section 358(a)(1) and (b).
9. Each shareholder's holding period in the Controlled stock received will include the holding period of the Distributing stock with respect to which the Distribution is made, provided that such Distributing stock is held by the shareholder as a capital asset on the date of the Distribution. Section 1223(1).
10. Earnings and profits, if any, will be allocated between Distributing and Controlled in accordance with section 312(h) and Treas. Reg. §1.312-10(a).

Caveat

No opinion is expressed about the 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

The letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be sued 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-116458-21) of this ruling letter.

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,

Austin Diamond-Jones,
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel (Corporate)

cc: