

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202218001**

Release Date: 5/6/2022

Index Number: 355.00-00, 833.00-00,
1502.75-10

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B01
PLR-103274-21

Date:
February 07, 2022

Legend

Distributing =

Controlled =

Mutual Holding =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Newco 1 =

Newco 2 =

LLC 1 =

LLC 2 =

Partnership 1 =

Foundation =

Division 1 =

Division 2 =

Division 3 =

Business A =

Business B =
Business C =
Business D =
State A =
State B =
a =
b =
c =
Regulatory Agency =

Dear :

This letter responds to your letter dated February 11, 2021, and subsequent information, requesting rulings on certain federal income tax consequences of a series of transactions (collectively, the “Proposed Transaction”). The material information submitted in that request and subsequent correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. The 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 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, regarding one or more “Covered Transactions” under § 355 of the Internal Revenue Code (the “Code”) and pursuant to § 6.03 of Rev. Proc. 2021-1, 2021-1 I.R.B. 1, regarding one or more significant issues under § 1502 and the application of § 833. This Office expresses no opinion as to any issue not specifically addressed by the rulings below.

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 § 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions)

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. § 1.355-8 (see § 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

Summary of Facts

Distributing is a not-for-profit, nonstock health insurance corporation organized under the laws of State A, taxable as a non-life insurance corporation for U.S. federal income tax purposes and the common parent of an affiliated group of corporations that files a consolidated U.S. federal income tax return (the “Consolidated Group”). Distributing issues policies to individuals entitling them to contractual rights in Distributing (such individuals, the “Policyholders”).

Distributing wholly owns Controlled, Sub 1, and Sub 2, all of which are corporations organized under the laws of State A. Distributing also wholly owns: (1) LLC 1, a limited liability company organized under the laws of State A which is classified as a disregarded entity for U.S. federal income tax purposes; and (2) LLC 2, a limited liability company organized under the laws of State B which is classified as a disregarded entity for U.S. federal income tax purposes. Distributing also owns a% of the issued and outstanding membership interests of Partnership 1. The remaining b% of the issued and outstanding membership interests of Partnership 1 are owned by unrelated persons. Distributing also possesses board control over Foundation, which is a § 501(c)(3) private foundation organized under the laws of State A.

Controlled wholly owns Sub 3, Sub 5, Sub 6, and Sub 7, all of which are corporations organized under the laws of State A. In addition, Controlled wholly owns Sub 4, a State A accident and health insurance company classified as a non-life insurance corporation for U.S. federal income tax purposes.

Partnership 1 wholly owns Sub 8, a State A accident and health insurance company classified as a non-life insurance corporation for U.S. federal income tax purposes.

The Consolidated Group offers products and services through Division 1, Division 2, and Division 3. Division 1 consists of Business A and Business B. Division 2 consists of Business C and Business D. For purposes of satisfying the active trade or business requirements of § 355(b), Distributing will rely on Business A and B and Controlled, through Sub 3, will rely on Business C and Business D. Financial information has been submitted indicating that Business A, Business B, Business C, and Business D each has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

Management believes reorganizing to a mutual holding company structure is necessary to achieve the following corporate business purposes: (1) further the mission of generating substantial improvements in healthcare quality, affordability, access, and

member experience; (2) enable the more efficient deployment of capital within the mutual holding company structure to facilitate greater flexibility for investments; and (3) reduce the regulatory burdens on Distributing and its subsidiaries' capability to serve the healthcare needs of State A employers and residents.

Proposed Transactions

For what are represented to be valid business purposes, Distributing proposes to engage in the following transaction (the "Proposed Transaction"):

(i) Mutual Holding will be formed as a mutual holding company pursuant to State A law. Mutual Holding immediately thereafter will form Newco 1, which will be organized as a corporation under State A law.

(ii) Distributing will reorganize into a State A stock insurance company by amending and restating its articles of incorporation and bylaws to authorize the issuance of capital stock.

(iii) By operation of State A law (and in accordance with the amended and restated articles of incorporation and bylaws of Distributing), Distributing will issue all of its initial shares of capital stock to Mutual Holding.

(iv) By operation of State A law (and in accordance with the amended and restated articles of incorporation and bylaws of Distributing), the Policyholders will gain membership interests in Mutual Holding.

(v) Sub 3 will distribute up to \$c of securities, cash, and cash equivalents to Controlled.

(vi) Controlled will form Newco 2, which will be organized as a corporation under State A law.

(vii) Distributing will contribute its entity interests in Sub 1, Sub 2, and Partnership 1 to Controlled ("Contribution 1").

(viii) Controlled will contribute its equity interests in Sub 1, Sub 2, and Sub 6 to Newco 2.

(ix) Distributing will distribute its equity interests in Controlled to Mutual Holding (the "Distribution").

(x) Controlled will liquidate into Mutual Holding (the "Controlled Liquidation").

(xi) Mutual Holding will contribute its equity interests in Distributing, Sub 3, Sub 4, Sub 5, Sub 7, and Partnership 1 to Newco 1 ("Contribution 2").

Following the Proposed Transaction, Policyholders will hold all the membership interests in Mutual Holding. Mutual Holding will own all the capital stock of Newco 1, and Newco 1 will own all the capital stock of Distributing.

Additionally, pursuant to the recommendation of Regulatory Agency, Mutual Holding intends to enter into a guaranty agreement with Distributing, Sub 3, Sub 4, and Sub 5 after the Proposed Transaction to satisfy regulatory requirements.

Representations

With respect to the Distribution, except as set forth below, Distributing has made all of the representations in § 3 of the Appendix to Rev. Proc. 2017-52, 2017-41 I.R.B. 283.

(1) Distributing has made the following alternative representations: Representations 3(a); 8(b); 15(b); 22(a); 31(a); 41(a).

(2) Distributing has not made the following representations, which do not apply to the Proposed Transaction: Representations 7; 19; 20; 24; 25; 35.

(3) Distributing has not made the following representations, but provided the required explanations: Representations 11; 33.

In addition, Distributing has made the following representations:

(4) Distributing was exempt from tax for its last taxable year beginning before January 1, 1987.

(5) No material change has occurred in the operations of Distributing or in its structure after August 16, 1986, through the present.

(6) Distributing qualifies as an existing Blue Cross and Blue Shield organization within the meaning of § 833(c)(2).

(7) Mutual Holding does not qualify as an existing Blue Cross and Blue Shield organization within the meaning of § 833(c)(2).

(8) Distributing's insurance policies will continue as the contractual obligations of Distributing, and the members of Distributing will continue to be policyholders of Distributing.

(9) The Proposed Transaction will not cause Distributing to cease insuring the health risks of its customers.

Rulings

Based solely upon the information submitted and the representations made, we rule as follows on the Proposed Transaction:

1. No gain or loss will be recognized by (and no amount will be included in the income of) Mutual Holding, Distributing's shareholder, on its receipt of the Controlled stock in the Distribution. § 355(a).
2. No gain or loss will be recognized by Distributing on the Distribution. § 361(c)(1).
3. The basis of the Distributing stock and the Controlled stock in the hands of Mutual Holding immediately after the Distribution will be the same as the basis of the Distributing stock held by Mutual Holding immediately before the Distribution. § 358(a). Such basis will be allocated between the Distributing stock and the Controlled stock in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2) under §§ 358(b)(2) and (c).
4. The holding period of the Controlled stock received by Mutual Holding in the Distribution will include the holding period of the Distributing stock with respect to which the Distribution is made, provided that the Distributing stock is held as a capital asset on the date of the Distribution. § 1223(1).
5. Earnings and profits, if any, will be allocated between Distributing and Controlled in accordance with § 312(h) and Treas. Reg. §§ 1.312-10 and 1.1502-33(b).
6. The affiliated group of which Distributing was the common parent immediately before the Distribution will remain in existence with Mutual Holding as the new common parent (Rev. Rul. 82-152, 1982-2 C.B. 205).
7. The Proposed Transaction will not be treated as a material change in the operations of Distributing or in its structure within the meaning of § 833(c)(2)(C).

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the Proposed Transaction under other provision of the Code or the 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.

No opinion is expressed or implied regarding: (1) the U.S. federal income tax consequences of Contribution 1 as described in step (vii) of the Proposed Transaction; (2) the U.S. federal income tax consequences or proper characterization of the Controlled Liquidation as described in step (x) of the Proposed Transaction; or (3) the U.S. federal income tax consequences of Contribution 2 as described in step (xi) of the Proposed Transaction.

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 this letter ruling.

In accordance with the power of attorney on file with this office, a copy of this ruling letter is being sent to your authorized representatives.

Sincerely,

Douglas C. Bates

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

cc: