

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B05
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Date:
August 02, 2024

Foreign Parent =

FSub1 =

FSub2 =

FSub3 =

FSub4 =

Parent =

Sub1 =

Sub2 =

Sub3 =

DRE =

Business A =

Business B =

Country A =

Intercompany Receivable =

Treaty =

x =

y =

Dear :

This letter responds to your authorized representatives' letter dated February 23, 2024, as supplemented by subsequent information and documentation, requesting rulings on certain federal income tax consequences of the Proposed Transactions (as defined below). The material information submitted in that request and subsequent correspondence is summarized below.

This letter is issued pursuant to Rev. Proc. 2024-1, 2024-1 I.R.B. 1, and Rev. Proc. 2017-52, 2017-41 I.R.B. 283, regarding one or more "Covered Transactions" under section 355 and section 368 of the Internal Revenue Code (the "Code"). This office expresses no opinion as to 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 Proposed Transactions satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b).

Summary of Facts

Foreign Parent is the global parent of a worldwide group of various legal entities (the "Foreign Parent Group"). Foreign Parent wholly owns FSub1 and FSub2. FSub1 wholly owns FSub3, which in turns wholly owns FSub4. Each of Foreign Parent, FSub1, FSub2, FSub3, and FSub4 is a foreign entity classified as a corporation for U.S. federal income tax purposes. FSub4 wholly owns Parent.

Parent is a domestic corporation and the common parent of an affiliated group of corporations that file a consolidated return for U.S. federal income tax purposes (the "Parent Group").

Parent wholly owns Sub1, a domestic corporation with multiple classes of stock outstanding. Sub1 wholly owns Sub2 and Sub3, each of which is a domestic corporation. Sub1 holds the Intercompany Receivable owed by Sub2.

Sub2 owns all of the interests in DRE, a domestic limited liability company that is disregarded as separate from its owner for federal income tax purposes.

Sub2, directly and through DRE, is engaged in Business A.

Sub3 is directly engaged in Business B.

Parent, Sub1, Sub2, and Sub3, in addition to other eligible affiliated domestic corporations, join in the filing of the Parent Group's consolidated U.S. federal income tax return.

With the exception of services provided by certain shared back-office functions, Sub2 and Sub3 have each engaged in the conduct of Business A and Business B, respectively, with their own employees.

Financial information has been submitted 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.

Proposed Transactions

For what are represented to be valid corporate business purposes, the members of the Foreign Parent Group described above will engage in the following transactions (collectively, the "Proposed Transactions"):

1. FSub4 will change its legal name under the laws of Country A.
2. Sub1 will convert all of its outstanding equity into a single class of common equity.
3. Sub1 will contribute the Intercompany Receivable to Sub2 as a contribution to capital (the "Capital Contribution").
4. Sub1 will distribute all of the stock of Sub2 to Parent (the "First Distribution").
5. Parent will distribute all of the stock of Sub2 to FSub4 (the "Second Distribution").
6. FSub4 will distribute all of the stock of Parent to FSub3 (the "Third Distribution").

7. FSub3 will distribute all of the stock of FSub4 to FSub1 (the “Fourth Distribution”).
8. FSub1 will distribute all of the stock of FSub4 to Foreign Parent (the “Fifth Distribution”).
9. Foreign Parent will contribute all of the stock of FSub4 to FSub2 in exchange for common shares.

Parent and Sub2 will enter into a transition services agreement (the “TSA”), pursuant to which x employees of Parent will continue to provide Sub2 with services relating to certain back-office functions. The TSA will specify that such services will be provided for the two-year period following the completion of the First Distribution and the Second Distribution, in exchange for the payment by Sub2 to Parent of arm’s-length service fees.

Representations

First Distribution:

With respect to the First Distribution, except as otherwise set forth below, Parent has made all of the representations in section 3 of the Appendix to Rev. Proc. 2017-52.

Parent has made the following alternative representations:

Representations 3(a), 8(a), 22(a), 31(a), and 41(a).

Parent has not made the following representations, which do not apply to the First Distribution:

Representations 7, 19, 20, 24, 25, and 35.

In lieu of Representations 14 and 15, Parent has made the following representations:

Additional Representation 1: Immediately after the First Distribution, the fair market value of the business assets of each of Sub1 and Sub2 will be greater than 80 percent of the fair market value of its total assets. For this purpose, the term “business assets” of a corporation means its gross assets used in one or more businesses. Such assets include cash and cash equivalents held as a reasonable amount of working capital for one or more businesses. Such assets also include assets required (by binding commitment or legal requirement) to be held to provide for exigencies related to a business or for regulatory purposes with respect to a business.

Additional Representation 2: There is no plan or intention by the shareholders or security holders of Sub1 to sell, exchange, transfer by gift, or otherwise dispose of any of their stock in, or securities of, either Sub1 or Sub2 after the transaction.

Additional Representation 3: There is no plan or intention by Sub1 or Sub2, directly or through any related person (within the meaning of section 267(b) or section 707(b)(1)), to purchase any of its outstanding stock after the transaction.

Additional Representation 4: There is no plan or intention to liquidate either Sub1 or Sub2, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the transaction, except in the ordinary course of business.

In lieu of Representation 29, Parent has made the following representation:

Additional Representation 5: There was and will be no agreement, understanding, arrangement, or substantial negotiations at any point during the two-year period ending on the date of the First Distribution regarding an acquisition of either Sub1 or Sub2 (including a predecessor or successor within the meaning of Treas. Reg. § 1.355-8) or a similar acquisition.

Parent is unable to make the following representations with respect to the First Distribution but has provided the required explanations:

Representation 40, and

Representation 42 (with respect to Sub2).

Parent has made the following modified representations:

Representation 11(a): Except for in connection with the continuing arrangements covered by the TSA, following the First Distribution, Sub1 or the DSAG and Sub2 each will continue, independently and with its separate employees, the active conduct of the business on which it relies to meet the active trade or business requirement of § 355(b).

Representation 32: Except as may arise as a result of the continuing arrangements covered by the TSA, no intercorporate debt will exist between each of Sub1 and Sub2 at the time of, or subsequent to, the First Distribution.

Second Distribution:

With respect to the Second Distribution, except as otherwise set forth below, Parent has made all of the representations in section 3 of the Appendix to Rev. Proc. 2017-52.

Parent has made the following alternative representations:

Representations 8(a), 22(a), 31(a), and 41(a).

Parent has not made the following representations, which do not apply to the Second Distribution:

Representations 7, 18, 19, 20, 24, 25, and 35.

In lieu of Representations 14 and 15, Parent has made the following representations:

Additional Representation 6: Immediately after the Second Distribution, the fair market value of the business assets of each of Parent and Sub2 will be greater than 80 percent of the fair market value of its total assets. For this purpose, the term “business assets” of a corporation means its gross assets used in one or more businesses. Such assets include cash and cash equivalents held as a reasonable amount of working capital for one or more businesses. Such assets also include assets required (by binding commitment or legal requirement) to be held to provide for exigencies related to a business or for regulatory purposes with respect to a business.

Additional Representation 7: There is no plan or intention by the shareholders or security holders of Parent to sell, exchange, transfer by gift, or otherwise dispose of any of their stock in, or securities of, either Parent or Sub2 after the transaction.

Additional Representation 8: There is no plan or intention by Parent or Sub2, directly or through any related person (within the meaning of section 267(b) or section 707(b)(1)), to purchase any of its outstanding stock after the transaction.

Additional Representation 9: There is no plan or intention to liquidate either Parent or Sub2, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the transaction, except in the ordinary course of business.

In lieu of Representation 29, Parent has made the following representation:

Additional Representation 10: There was and will be no agreement, understanding, arrangement, or substantial negotiations at any point during the two-year period ending on the date of the Second Distribution regarding an acquisition of either Parent or Sub2 (including a predecessor or successor within the meaning of Treas. Reg. § 1.355-8) or a similar acquisition.

Parent is unable to make the following representations with respect to the Second Distribution but has provided the required explanations:

Representation 40, and

Representation 42 (with respect to Sub2).

Parent has made the following modified representations:

Representation 3(a): Other than the First Distribution, Parent has not and will not engage in a transaction, in anticipation of the Second Distribution,

in which either (i) Parent obtained or will obtain control (as defined in section 368(c)) of Sub2 (including a recapitalization into control (as defined in section 368(c)) but excluding a transaction that includes the formation of Sub2), or (ii) a corporation of which Parent is not in control (as defined in section 368(c)) became or will become a member of the SAG of which Sub2 would be the common parent.

Representation 11(a): Except for in connection with the continuing arrangements covered by the TSA, following the Second Distribution, Parent or the DSAG and Sub2 each will continue, independently and with its separate employees, the active conduct of the business on which it relies to meet the active trade or business requirement of § 355(b).

Representation 32: Except as may arise as a result of the continuing arrangements covered by the TSA, no intercorporate debt will exist between each of Parent and Sub2 at the time of, or subsequent to, the Second Distribution.

Additional Representation:

In addition to the above, Parent makes the following representation related to the Proposed Transactions:

Additional Representation 11: Pursuant to the Treaty, dividend distributions from Parent to FSub4 qualify for a y -percent U.S. dividend withholding tax rate.

Rulings

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

1. The Capital Contribution, followed by the First Distribution, will qualify as a reorganization under sections 368(a)(1)(D) and 355. Sub1 and Sub2 each will be "a party to a reorganization" within the meaning of section 368(b).
2. Sub1 will not recognize gain or loss on the Capital Contribution (section 361(a)).
3. Sub2 will not recognize gain or loss on the Capital Contribution (section 1032(a)).
4. Parent will not recognize gain or loss (and no amount will be included in the income of Parent) on the First Distribution (section 355(a)).
5. Sub1 will not recognize gain or loss on the distribution of the Sub2 stock in the First Distribution (section 361(c)).

6. Immediately following the First Distribution, the aggregate basis that Parent had in the shares of Sub1 stock immediately before the First Distribution will be allocated between the shares of Sub1 stock with respect to which the First Distribution is made and the shares of Sub2 stock received with respect to the shares of Sub1 stock in proportion to the fair market value of each (section 358(b)(2) and (c); Treas. Reg. § 1.358-2(a)).
7. The holding period of the Sub2 stock received by Parent in the First Distribution will include the holding period of the Sub1 stock held by Parent, provided that such Sub1 stock is held as a capital asset on the date of the First Distribution (section 1223(1)).
8. Earnings and profits (“E&P”), if any, will be allocated between Sub1 and Sub2 in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(e)(3).
9. FSub4 will recognize no gain or loss (and no amount will be included in the income of FSub4) on the Second Distribution (section 355(a)).
10. Parent will recognize no gain or loss (and no amount will be included in the income of Parent) on the Second Distribution (section 355(c)).
11. Immediately following the Second Distribution, the aggregate basis that FSub4 had in the shares of Parent stock immediately before the Second Distribution will be allocated between the shares of Parent stock with respect to which the Second Distribution is made and the shares of Sub2 stock received with respect to the shares of Parent stock in proportion to the fair market value of each (section 358(b)(2) and (c); Treas. Reg. § 1.358-2(a)).
12. The holding period of the Sub2 stock received by FSub4 in the Second Distribution will include the holding period of the Parent stock held by FSub4 with respect to which the Second Distribution will be made, provided that such Parent stock is held as a capital asset on the date of the Second Distribution (section 1223(1)).
13. E&P, if any, will be allocated between Parent and Sub2 in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(b) and 1.1502-33(e)(3).

Caveats

Except as expressly provided herein, no opinion is expressed or implied about the tax treatment of the Proposed Transactions under any provision of the Code and regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings.

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 ruling must be attached to any federal 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 (PLR-103755-24) of this letter ruling.

Pursuant to the power of attorney on file with this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

Katherine Zhang
Senior Counsel, Branch 5
Office of Associate Chief Counsel (Corporate)

cc: