

Internal Revenue Service

Department of the Treasury

Index Number: 0301.00-00, 0355.00-00,
0355.01-00, 0368.04-00

Washington, DC 20224

Number: **200039032**
Release Date: 9/29/2000

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Telephone Number:

Refer Reply To:

CC:DOM:CORP:4 PLR-105271-00

Date:

June 30, 2000

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This letter responds to your March 2, 2000 request for a supplement to our prior letter ruling dated August 3, 1999 (the "Prior Letter Ruling"). The legend abbreviations, Summary of Facts, and Representations appearing in the Prior Letter Ruling are hereby incorporated by reference unless otherwise indicated.

The Prior Letter Ruling addresses certain federal income tax consequences of a then proposed restructuring of the Distributing group that has since culminated in (i) the transfer by Distributing of Business D to Controlled for Controlled stock, (ii) an initial public offering of less than a percent of the Controlled stock (the "IPO"), and (iii) distribution of the remaining Controlled stock pro rata to Distributing's shareholders.

Supplemental Facts

(1) Stock Repurchase. In the Prior Letter Ruling, Distributing represented that:

There is no plan or intention by either Distributing or Controlled, directly or through any subsidiary corporation, to purchase any of its outstanding stock after Distribution 2, other than through stock purchases meeting the requirements of section 4.05(1)(b) of Rev. Proc. 96-30, 1996-1 C.B. 696, 705.

Distributing is now considering entering into an agreement with an unrelated financial institution (the "Financial Party") under which the Financial Party would purchase approximately e shares of Distributing Common Stock (less than two percent of the stock outstanding) in the open market and then resell the shares to Distributing

for a price (initially market value) that would be adjusted one year later to reflect the average market price of the stock for the intervening period (the "Stock Repurchase"). Distributing would thus be able to reduce its total number of shares outstanding immediately for the economic cost it would have incurred had the repurchase been spread ratably over twelve months. Distributing would pay the Financial Party a fixed fee for its services.

To reflect this change, new step (ix) is added as follows:

(ix) After the completion of Distribution 2, Distributing will purchase approximately e shares of Distributing Common Stock from an unrelated financial institution (the "Stock Repurchase").

Further, Distributing amends representation (bb) in the Prior Letter Ruling to read as follows:

(bb) There is no plan or intention by either Distributing or Controlled, directly or through any subsidiary corporation, to purchase any of its outstanding stock after Distribution 2, other than through the Stock Repurchase or stock purchases meeting the requirements of section 4.05(1)(b) of Rev. Proc. 96-30, 1996-1 C.B. 696, 705.

(2) Board Composition. The proposed transactions are justified in part by a fit and focus business purpose. In such situations, Rev. Proc. 96-30, 1996-1 C.B. 696 (Appendix A, section 2.05(5)(a)) requires that the Service closely scrutinize continuing relationships between Distributing and Controlled such as common directors. As a result of changed circumstances, F, one of Distributing's more than ten directors, now serves on Controlled's more than five member board. In both cases, the member is an outside director.

We note that F is the son of A, a five-percent shareholder of Distributing, and that, if F actively participated in the management of Distributing, this relationship could cause F to be treated as a "significant shareholder" and could have prevented the Service from ruling favorably on the fit and focus business purpose. *Id.* at section 2.05(2) and (3). We have not treated F as a significant shareholder, however, for a variety of factual reasons, including, but not limited to, F's direct ownership of less than one one-hundredth percent of the Distributing stock, A's ownership of only slightly more than five percent of the Distributing stock, A's estate plan (which has been in place for at least three years), F's position as an outside director, the fact that F did not (and does not) propose strategic initiatives, the fact that the transactions were proposed by others, F's questions regarding (and g) the proposed transactions, and F's abstention from the vote to approve the proposed transactions.

(3) The Cash Payment. Step (vii) of the Prior Letter Ruling states that, in

connection with Contribution 2, Controlled will make a distribution of b dollars in cash to Distributing (the "Cash Payment"). Because the pricing of the Controlled shares sold in the IPO was better than expected, the amount of the Cash Payment was increased by f. The legend b amount is amended to reflect this change.

Supplemental Ruling

Based solely on the information and representations submitted in the original and supplemental requests, we rule that the above changes do not affect the rulings contained in the Prior Letter Ruling, and those rulings remain in full force and effect.

We express no opinion about the tax treatment of the transactions under any other section of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the transactions that are not specifically covered in the above rulings.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this ruling letter should be attached to the federal income tax return of each affected taxpayer for the taxable year in which the transactions covered by this letter are completed.

In accordance with the power of attorney on file in this office, a copy of this letter is being sent to the taxpayer and to the second authorized representative.

Sincerely yours,
Assistant Chief Counsel (Corporate)
By: Wayne T. Murray
Senior Technical Reviewer
Branch 4