

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:CORP-PLR-115712-00
Date:
January 12, 2001

Savings Bank =
MHC =
Mid-Tier Holding Company =
Holding Company =
Date A =
Date B =
y =
z =

Dear:

This letter replies to your August 14, 2000 request for rulings on the federal income tax consequences of a proposed transaction.

The facts presented indicate that MHC is a federally chartered mutual holding company using the accrual method of accounting. MHC files its tax return on a Date A fiscal year basis. As a mutual company, it has no capital stock outstanding. Instead, MHC is owned by its members.

MHC owns approximately y% of the outstanding stock of Mid-Tier Holding Company, a federally chartered corporation. The remaining z% of Mid-Tier Holding is owned by the public.

Mid-Tier Holding Company owns all of the stock of Savings Bank. Savings Bank is a federally chartered stock savings bank.

For valid business reasons, the following transactions are proposed:

- i. Savings Bank will incorporate Holding Company.

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- ii. MHC will convert its federal mutual holding company charter to that of an interim federal stock savings bank, and will thereby become Interim Bank #1.
- iii. Mid-Tier Holding Company will adopt an interim federal stock savings bank charter, and will thereby become Interim Bank #2. Interim Bank #2 will then merge with and into Savings Bank, with Savings Bank as the surviving entity (Merger One).
- iv. Immediately after MHC becomes Interim Bank #1, pursuant to changing its federal charter, Interim Bank #1 (formerly MHC) will merge with and into Savings Bank, with Savings Bank surviving (Merger Two). The shares of Mid-Tier Common Stock previously held by Interim Bank #1 (formerly MHC) will be canceled. As part of Merger Two, members of MHC who possess equity interests in MHC immediately prior to Merger Two will exchange these interests in MHC for substantially similar interests in a liquidation account to be established by Savings Bank (or "Savings Bank Liquidation Interests"). The amount in the liquidation account will be the amount of dividends waived by MHC plus the greater of (a) 100% of retained earnings as of Date B, or (b) y% of Mid-Tier Holding Company's total shareholders' equity as reflected in its latest statement of financial condition.
- v. Holding Company will form an interim federal stock savings bank as a wholly owned subsidiary, to be known as Interim Bank #3.
- vi. Immediately following Merger Two, Interim Bank #3 will merge with and into Savings Bank, with Savings Bank as the surviving entity (i.e., Merger Three). As a result of Merger Three, Bank Common Stock deemed held by public stockholders will be converted into Holding Company Stock based upon the exchange ratio which is designed to ensure that the same public stockholders will own approximately the same percentage of Holding Company Stock as the percentage of Mid-Tier Common Stock owned by them immediately prior to Merger #1 before giving effect to (a) cash paid in lieu of fractional shares and (b) any shares of Holding Company Stock purchased by public stockholders in Holding Company's initial public offering.
- vii. Simultaneously, with the Conversion and Reorganization, Holding Company shall sell its common stock in an initial public offering.
- viii. Members of MHC possessing Savings Bank Liquidation Account Interests as a result of Merger Two will continue to maintain such interests upon the completion of Merger Two and Merger Three.

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The taxpayer has submitted the following representations concerning the proposed series of transactions:

- (a) To the taxpayer's representatives knowledge and belief, Merger One will qualify as a reorganization within the meaning of section 368(a)(1)(A) of the Code.
- (b) To the taxpayer's representatives knowledge and belief, Merger Two will qualify as a reorganization within the meaning of section 368(a)(1)(A) of the Code.
- (c) To the taxpayer's representatives knowledge and belief, Merger Three will qualify as a reorganization within the meaning of section 368(a)(1)(A) and (a)(2)(E) of the Code.

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

- (1) The exchange of Membership Interest in MHC for interests in the Savings Bank Liquidation Interest will satisfy the continuity of interest requirement of section 1.368-1(b) of the Income Tax Regulations.
- (2) The Savings Bank Liquidation Account Interests and the shares of Savings Bank common stock held by MHC after Merger 1 but before Merger 2 will be disregarded in determining whether an amount of Savings Bank voting stock that constitutes "control" of Savings Bank is acquired by Holding Company in exchange for voting stock of Holding Company in Merger 3.
- (3) The exchange of Holding Company voting stock for Savings Bank stock in Merger 3 will satisfy the continuity of interest requirement of section 1.368-1(b) and (e).

No opinion is expressed on the tax treatment of the transactions under other provisions of the Internal Revenue Code and Income Tax Regulations or on the tax treatment of any conditions existing at the time of, or effects resulting from, the transactions that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding whether any of Merger 1, Merger 2, or Merger 3 qualifies as a reorganization under section 368.

This ruling is directed only to the taxpayer(s) 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

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relevant.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to the taxpayer.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,
Jasper L. Cummings
Associate Chief Counsel
By: Lewis K Brickates
Assistant to the Branch Chief