

**Internal Revenue Service**

Department of the Treasury  
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Date:

April 21, 2004

Distributing =

Controlled =

NewParent =

Country A Distributing 1 =

Country A Distributing 2 =

Country A Controlled 1 =

Country A Controlled 2 =

Business A =

Business B =

Business C =

Business D =

State A =

Jurisdiction C =

Country A =

Dear

This letter responds to your April 14, 2004, request that we supplement our letter ruling of February 5, 2004 (PLR-146773-03) (the "Prior Ruling"). The information submitted for consideration is summarized below. Capitalized terms not defined in this ruling have the meanings assigned to them in the Prior Ruling.

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, this material is subject to verification on examination.

The Prior Ruling addresses certain federal income tax consequences of (i) the creation of a holding company arrangement in which Distributing becomes a wholly owned subsidiary of NewParent and (ii) an internal restructuring.

As part of the internal restructuring, Distributing proposed to separate Country A Distributing 1's Business C from its Business D through a series of steps intended to be tax-free under Country A law. See steps (viii)(a) through (f) of the Prior Ruling. After the Prior Ruling was issued, however, the taxpayer was advised that the contemplated First Country A Distribution would not be tax-free under Country A law.

To achieve the same end result as steps (viii)(a) through (f) of the Prior Ruling, but without tax in Country A, the taxpayer now proposes replacing these steps with the following steps (viii)(a) through (g) (a "butterfly" transaction):

(viii) Country A Distributing 1's Business C will be transferred to Controlled through the following steps, which are intended to satisfy Country A legal requirements:

(a) Country A Distributing 2 will form Country A Controlled 1 in Jurisdiction C as a new subsidiary treated as a corporation for U.S. tax purposes;

(b) Country A Distributing 1 will be recapitalized so that each common share of Country A Distributing 1 (the "Old Common Shares") will be exchanged for one new common share (the "New Common Shares") and one special share (the "Reorganization Shares"). The Reorganization Shares will be redeemable and retractable and have terms and conditions such that the aggregate value and redemption price of these shares will reflect the net fair market value of Business C;

(c) Country A Distributing 2 will contribute the Reorganization Shares to Country A Controlled 1 in exchange for common shares of Country A Controlled 1;

(d) Country A Distributing 1 will transfer Business C to Country A Controlled 1 for a purchase price equal to the fair market value of Business C. Country A Controlled 1 will satisfy the purchase price by assuming certain liabilities of Country A Distributing 1 (the "Assumed Liabilities") and by issuing to Country A Distributing 1 redeemable, retractable preference shares (the "Preference Shares") with a fair market value and redemption price equal to the fair market value of Business C less the value of the Assumed Liabilities;

(e) Country A Controlled 1 will redeem the Country A Controlled 1 Preference Shares held by Country A Distributing 1 by issuing a demand promissory note to Country A Distributing 1;

(f) Country A Distributing 1 will redeem the Country A Distributing 1 Reorganization Shares held by Country A Controlled 1 by issuing a demand promissory note to Country A Controlled 1;

(g) Country A Controlled 1 and Country A Distributing 1 will set off their respective demand notes in full satisfaction of each other;

(h) Country A Distributing 2 will form Country A Controlled 2 under State A law and contribute to Country A Controlled 2 all the common stock of Country A Controlled 1 (the "Second Country A Contribution");

(i) Country A Distributing 2 will distribute all the stock of Country A Controlled 2 to Distributing (the "Second Country A Distribution"); and

(j) Distributing will contribute all the stock of Country A Controlled 2 to Controlled.

Steps (viii)(h) through (j) are unchanged from steps (viii)(g) through (i) in the Prior Ruling.

### **Representation**

With its request for a supplemental ruling, the taxpayer has made the following representation:

To the extent not amended by the supplemental ruling request, all of the representations made by Distributing, and all material facts contained in the request for the Prior Ruling (the "Initial Ruling Request"), as supplemented by letters dated November 12, 2003, December 22, 2003, and January 5, 2004, remain true and correct as of the current date.

### **Supplemental Rulings**

Based solely on the information submitted in the Initial Ruling Request, supplemental submissions, and the supplemental ruling request, we rule as follows:

(1) Ruling (10) of the Prior Ruling is replaced with the following ruling: For U.S. tax purposes, the transactions described above in steps (viii)(a) through (g) will be disregarded and treated instead as if (i) Country A Distributing 1 had formed Country A Controlled 1, (ii) Country A Distributing 1 had transferred the Business C assets to Country A Controlled 1 in exchange for Country A Controlled 1 common stock and the Assumed Liabilities (the First Country A Contribution), and (iii) Country A Distributing 1 had distributed all the stock of Country A Controlled 1 to Country A Distributing 2 (the First Country A Distribution) (see Rev. Rul. 83-142, 1983-2 C.B. 68; Rev. Rul. 77-191, 1977-1 C.B. 94; Rev. Rul. 57-311, 1957-2 C.B. 243).

(2) Use of the structure described in steps (viii)(a) through (g) of this ruling to achieve a tax-free division of Country A Distributing 1 will have no effect on the other rulings contained in the Prior Ruling. Accordingly, the other rulings retain full force and effect.

### **Caveat**

No opinion is expressed about the tax treatment of the Proposed Transactions under any other provision of the Code or Regulations, or the tax treatment of any condition existing at the time of, or effect resulting from, the Proposed Transactions that is not specifically covered by the above rulings. All other caveats included in the Prior Ruling are incorporated by reference in this supplemental ruling.

### **Procedural Statements**

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

A copy of this letter must be attached to the federal income tax return of each taxpayer involved for the taxable year in which the Proposed Transactions are completed.

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

Sincerely yours,  
Associate Chief Counsel (Corporate)

*Wayne T. Murray*

By: \_\_\_\_\_  
Wayne T. Murray  
Special Counsel  
Office of Associate Chief Counsel

(Corporate)

cc: