

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B03 – PLR-147127-03

Date:

October 08, 2003

Distributing =

Controlled =

a =

c =

d =

f =

g =

h =

Date C =

Date D =

Date E =

N =

Dear :

We respond to a letter dated August 6, 2003, submitted on your behalf by your authorized representative, requesting that we supplement our letter ruling dated June 2, 1999 (PLR-103061-99, *issued as* PLR 199935031)(the “Prior Letter Ruling”). The legend abbreviations, facts, proposed transaction, representations, and caveats appearing in the Prior Letter Ruling are hereby incorporated by reference. Additional information was submitted in a letter dated August 7, 2003. The information submitted for consideration is summarized below.

The Prior Letter Ruling contains rulings under § 355 of the Internal Revenue Code and related provisions of the Code and regulations regarding the distribution to Distributing’s shareholders of the Class B common stock of Controlled (the “Distribution”), following a recapitalization of Controlled to create a dual-class voting stock structure (the “First Recapitalization”). The First Recapitalization was designed to insure that the control requirements of § 355(a)(1)(A) and (D) of the Code would be satisfied despite a secondary offering of Controlled stock that was to occur before the Distribution. The First Recapitalization gave Controlled two classes of stock, Controlled Class A common stock, the holders of which were entitled to elect up to c percent of Controlled’s board of directors (the “Class A Stock”), and Controlled Class B common stock, the holders of which were entitled to elect the remaining d percent or more of Controlled’s board of directors (the “Class B Stock”). The two classes of stock are identical except for voting rights. In the First Recapitalization, all of the publicly-held shares of Controlled stock were redesignated as Class A Stock, and all of the shares of Controlled stock held by Distributing were exchanged for an equal number of shares of Class B Stock.

The Class A Stock began trading on N immediately following the First Recapitalization under the ticker symbol that had previously been associated with the original Controlled common stock. The Class B Stock did not begin trading publicly until immediately following the Distribution.

Distributing converted a number of shares of its Class B Stock into shares of Class A Stock and sold those shares in a secondary offering of Controlled stock on Date C (the “Secondary Offering”). The Secondary Offering reduced the amount of Controlled stock (Class A and Class B, taken together) held by Distributing from a percent to f percent of the total number of outstanding shares of Controlled. Distributing remained in control of Controlled within the meaning of § 368(c) by virtue of its ownership of all of the Class B Stock, which entitled Distributing to vote for at least d percent of Controlled’s directors.

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The Distribution occurred on Date D. The Prior Letter Ruling holds, among other things, that the Distribution would meet the requirements of §§ 355(a)(1) and (c)(1).

Accordingly, no gain or loss would be recognized by Distributing's shareholders on their receipt of Controlled stock, and no gain or loss would be recognized by Distributing on the Distribution of Controlled stock. The Class B Stock began trading on N on Date E under a new ticker symbol. It has been over g years since the First Recapitalization and over h years since the Distribution.

Controlled has experienced difficulties and complaints from shareholders as a result of having two classes of publicly traded voting common stock outstanding. Controlled seeks to eliminate its dual-class voting stock structure in order to alleviate the disparity that has developed in the trading prices of the Class A Stock and the Class B Stock since the Distribution, as well as to address other problems relating to the dual-class structure. The low-vote Class A Stock has consistently traded at a premium to the high-vote Class B Stock. As a result, Controlled proposes that its shareholders be presented with an opportunity to vote to amend Controlled's Certificate of Incorporation to: (1) reclassify the Class A Stock and Class B Stock as a single class of common stock or (2) convert all the shares of Class B Stock into shares of Class A Stock (the "Second Recapitalization"). Controlled would condition the Second Recapitalization upon the approval of: (1) the holders of a majority of the outstanding shares of Class A Stock, voting as a separate class; and (2) the holders of a majority of the outstanding shares of Class B Stock, voting as a separate class.

Distributing seeks a supplemental letter ruling that Controlled be allowed to recapitalize the Class A Stock and the Class B Stock into one class of common stock without affecting the tax-free treatment of the Distribution or the effectiveness of the Prior Letter Ruling. In support of this request, Controlled states that (i) substantial independent acts (e.g., the shareholder votes) are required to eliminate the dual-class structure, (ii) at the time of the First Recapitalization and the Distribution, Controlled did not expect the circumstance that now gives rise to the need to revise its capital structure (that is, at the time of the First Recapitalization, Controlled did not expect the high-vote Class B Stock to trade at a discount to the low-vote Class A Stock), and (iii) considerable time has elapsed since the dual-class structure was implemented (g years) and the Distribution took place (h years).

Based upon the information and representations submitted with the original and supplemental ruling requests, we rule as follows:

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The Second Recapitalization will not affect the qualification of the Distribution under § 355 of the Code or the effectiveness of the Prior Letter 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, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This supplemental 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 together with the Prior Letter Ruling must be attached to any income tax return to which it is relevant.

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

Sincerely,

Filiz A. Serbes

Filiz A. Serbes
Chief, Branch 3
Office of Associate Chief Counsel (Corporate)

cc: