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Internal Revenue Service
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Department of the Treasury

Washington, DC 20224

Telephone Number:

In Reference to:
CC:DOM:CORP:3 PLR-114417-98
Date:

OCT 15 1998

Parent =

Distributing =

Controlled =

Sub =

This letter responds to your July 10, 1998 request that we supplement our letter ruling dated June 10, 1993, as amended by a letter dated July 13, 1993 (TR-31-0425-93, published as PLR 9336023) (together, the "prior letter ruling"). Capitalized terms retain the meanings originally assigned them. Additional information was submitted in letters dated September 28, 1998, October 8, 1998 and October 9, 1998.

Effective January 1, 1997 all of the shareholders of Distributing contributed all of their common and preferred stock in Distributing to Parent in return for the same

number of shares of common and preferred stock of Parent. The shares of Parent transferred to the former shareholders of Distributing constituted all of Parent's issued and outstanding stock. All of the issued and outstanding stock of Distributing was thereafter contributed by Parent to Sub in return for all of Sub's issued and outstanding stock.

The prior letter ruling includes the following two representations:

(j) There is no plan or intention by the shareholders of Distributing to sell, exchange, transfer by gift, or otherwise dispose of any of their stock in either Distributing or Controlled subsequent to the transaction.

(l) Neither Distributing nor Controlled will elect to be treated as an S corporation under section 1361 of the Code for Federal income tax purposes.

The principal shareholder of Parent is considering whether the shareholders should cause Parent to redeem its outstanding preferred stock and make an S election. The same shareholder of Parent would like to transfer stock of Parent to certain family members by gift. The contemplated transfers of Parent's stock include the following: (1) the redemption of Parent's preferred stock in exchange for cash or other property; (2) the conversion of Parent's preferred stock into Parent's common stock; and (3) the transfer by gift of Parent's common stock or preferred stock from Parent's principal shareholder to his spouse as well as to his children and grandchildren and their spouses or to trusts for their respective benefit. To the extent Parent preferred stock is transferred by gift, and thus remains outstanding, Parent will not make an S corporation election.

Based on the information and representations included with the request for the prior ruling letter and with this submission, we hold as follows:

Neither the filing of an election by Parent to be treated as an S corporation under § 1361 of the Internal Revenue Code nor any of the proposed transfers of interests in Parent specifically described above after the date hereof will cause the Internal Revenue Service to revoke the prior letter ruling retroactively. We hereby reaffirm the rulings and caveats set forth in the prior letter ruling.

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

Pursuant to a power of attorney on file in this office, we have sent a copy of this letter to the taxpayer.

Sincerely yours,

Assistant Chief Counsel (Corporate)

By Ken Cohen
Ken Cohen
Senior Technician Reviewer, Branch 3