

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Old Sub 9 =

Sub 10 =

Sub 11 =

LLC 1 =

LLC 2 =

LLC 3 =

LLC 4 =

LLC 5 =

LLC 6 =

LLC 7 =

LPS I =

LPS II =

Business A =

Business B =

Business C =

Business D =

Business E =

Business F =

Business G =

Business H =

Business I =

Manufacturing Plant =

State X =

State Y =

a =

b =

c =

d =

e =

f =

g =

h =

PLR-108755-05 5

i =

i =

Date 1 =

Date 2 =

Date 3 =

Contribution 1 =

Contribution 2 =

Contribution 3 =

Contribution 4 =

Contribution 5 =

Contribution 6 =

Contribution 7 =

Distribution 1 =

Distribution 2 =

Distribution 3 =

Previous Acquisition =

Dear :

This letter responds to your February 11, 2005 request for rulings on certain federal income tax consequences of the series of proposed transactions described below (the "Transactions"). The information provided in that request and in later correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the material

submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether any distribution described below satisfies the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations, whether any of the distributions described below is used principally as a device for the distribution of earnings and profits of Distributing or Controlled or both (see § 355(a)(1)(B) of the Internal Revenue Code and § 1.355-2(d)), or whether any distribution described below is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in Distributing or Controlled (see § 355(e) and § 1.355-7).

Summary of Facts

Distributing is a publicly traded corporation and the common parent of an affiliated group of companies (the "Distributing Group") that files a consolidated federal income tax return on a calendar-year basis. Distributing is a holding company. The Distributing Group engages in Business A, Business B (which includes Business C and part of Business D), Business E, Business F (which includes Business G and Business H), and Business I.

Distributing owns all the stock of Sub 1, which directly conducts Business A, Business B (which includes Business C and part of Business D), and Business I. Sub 1 owns all the stock of Sub 2, which holds intellectual property ("IP") for Business A and Business C.

Distributing also owns all the stock of Sub 3, which owns a percent of the common stock and all the preferred stock of Sub 4. Sub 4 and the entities it owns directly and indirectly conduct Business F. Among other entities, Sub 4 owns all the membership interests in LLC 1, which has elected under § 301.7701-3 of the Procedure and Administrative Regulations to be taxed as an entity disregarded as separate from its owner (a "disregarded entity"). LLC 1 owns all the membership interests in LLC 2, a disregarded entity that conducts Business G (part of Business F). Employees of Sub 4 and Sub 11, a direct, wholly owned subsidiary of Distributing, perform active and substantial management functions for Business G.

Sub 4 also owns all the membership interests in Sub 5, a limited liability company that has elected under § 301.7701-3(c)(i) to be classified as an association taxed as a corporation (an "elective corporation"). Sub 5 leases the Manufacturing Plant and owns and leases (i) the assets used to manufacture certain products for Business A, Business C, and Business D and (ii) some of the assets used to manufacture certain products for Business F. Sub 5 also directly operates part of Business D.

Distributing also owns all the stock of Sub 6, and Sub 6 owns all the stock of Sub 7, an elective corporation that owns all the stock of Sub 8. Sub 7 and Sub 8 operate Business E, which has been conducted for more than five years but was acquired by Distributing in the Previous Acquisition, a partially taxable transaction.

Sub 6 also owns the single outstanding trust interest in Sub 9, a statutory trust and elective corporation. Sub 9 formerly was a corporation known as Old Sub 9. Before its conversion to a trust, Old Sub 9 had Class A and Class B shares outstanding. Sub 6 held the Class A shares, and various Sub 6 subsidiaries held the Class B shares. On Date 1, the subsidiaries, including Sub 7 and Sub 8, distributed the Class B shares to Sub 6. The distributions resulted in gain to each distributor under § 311(b), but that gain was deferred under § 1.1502-13.

Sub 6 also owns all the membership interests in LLC 3, which, with its directly and indirectly-owned entities, engages in Business F. LLC 3 owns all the membership interests in LLC 4, and LLC 4 owns all the membership interests in LLC 5. LLC 3, LLC 4, and LLC 5 are disregarded entities. LLC 5 conducts Business H (part of Business F).

Sub 9 owns a b-percent limited partner interest in each of two partnerships, LPS I and LPS II. Sub 10, another wholly owned subsidiary of Sub 6, owns a c-percent general partner interest in each of LPS I and LPS II. LPS I holds most of the IP for Business E (the remainder is held by Sub 6 and Sub 7), and LPS II owns all of the IP for Business D and part of the IP for Businesses A, F, and I.

Together, Business C, Business D, and Business E constitute the “Non-Core” businesses. Business A, Business B (other than Business C and Business D), and Business F together constitute the “Core” businesses.

The financial information submitted by Distributing indicates that Business A, Business C, Business G, and Business H each has had gross receipts and operating expenses representing the active conduct of a trade or business within the Distributing Group for each of the past five years.

The Transactions will separate the Non-Core businesses from the Core businesses, and this separation (the "Separation") is intended to (i) attract and retain a new management team (“New Management”) to oversee and grow the Non-Core businesses; (ii) resolve capital allocation issues between the Non-Core businesses and the Core businesses and provide the Non-Core businesses with direct access to capital markets; and (iii) resolve management, operational, and business issues caused by the operation of the Non-Core and Core businesses within the same affiliated group.

In an unrelated transaction, Distributing is considering the sale of Business I to a third party for cash (a “Third-Party Sale”). The Business I operating assets are held by Sub 1; the Business I IP is held by LPS II, Sub 2, and Distributing; and the assets used

to manufacture products for Business I are held by Sub 5 and LLC 3. Before a Third-Party Sale, these assets likely would be combined in Sub 1.

Transactions

To effect the Separation, Distributing proposes the following, partially completed series of transactions (i.e., the Transactions):

(1) Sub 9 has formed Controlled, a new subsidiary. Controlled issued d percent of its stock to New Management in exchange for e dollars. The remaining f percent of Controlled's stock was issued to Sub 9 pursuant to a contribution agreement under which Distributing and Sub 9 agreed to take all actions reasonably necessary to ensure that, immediately before the distribution of Controlled by Distributing described in step (31) below, Controlled would own all of the assets, properties, and rights needed to conduct the Non-Core businesses (the "Contribution Agreement"). Controlled was formed at this time and in this manner to facilitate the issuance of stock to New Management and to prepare for a contemplated distribution to Sub 8 of the Controlled stock held by Sub 9.

(2) Sub 9 will form Newco I as a wholly owned subsidiary.

(3) Sub 7 will merge into Sub 8 under State Y and State X law, with Sub 8 surviving (the "Sub 7 Merger").

(4) Sub 6 will merge into Sub 8 under State Y and State X law, with Sub 8 surviving (the "Sub 6 Merger").

(5) Sub 8 will contribute all the stock of Sub 10 to Sub 9 in constructive exchange for additional trust interests of Sub 9 ("Contribution 1").

(6) Sub 9 will form LLC 6, a wholly owned limited liability company that will not be an elective corporation.

(7) Sub 10 will merge into LLC 6 under State X law (the "Sub 10 Merger"). Because LLC 6 will be a disregarded entity owned by Sub 9, the Sub 10 Merger will be treated as a merger of Sub 10 into Sub 9.

(8) Sub 9 will distribute to Sub 8 the b-percent limited partner interest in LPS I (which holds the Business E IP) and the Business D IP (held by LPS II) (the "First Sub 9 Distribution").

(9) LPS II will elect under § 301.7701-3(c)(1)(i) to be treated as an association taxed as a corporation for federal tax purposes (the "LPS II Election"). The LPS II Election will be effective on the date of the election. Following this step, LPS II will still be referred to as LPS II.

(10) Sub 8 will contribute the Business D IP to LPS I (the "Business D IP Contribution"). A trademark associated with part of Business D will be contributed with the Business D IP, and LPS I will license the trademark to Distributing, royalty-free, for use on products manufactured by the Core businesses (the "Excluded Trademark").

(11) Before step (12), but no later than Date 3, Distributing, Controlled, and Sub 9 will effect a cancellation of Sub 9's outstanding Controlled stock and all the rights and obligations of Distributing, Controlled, and Sub 9 under the Contribution Agreement. This cancellation will respond to a change in circumstances unexpected at the time Controlled was originally formed (see step (1) above) and will occur before Sub 9 has transferred any business assets to Controlled and before the end of the Distributing Group's taxable year.

(12) Sub 8 will contribute all of the Business E operating assets and its b-percent limited partnership interest in LPS I to Controlled. This contribution and the contribution described in step (16) (together, "Contribution 2") will be in exchange for newly issued Controlled stock representing f (more than 95) percent of the stock of Controlled.

(13) Controlled will form Newco II as a wholly owned subsidiary.

(14) Controlled will contribute to Newco II the b-percent limited partner interest in LPS I ("Contribution 3").

(15) Sub 9 will distribute to Sub 8 the c-percent general partner interest in LPS I (held by LLC 6 but owned by Sub 9 for federal tax purposes) (the "Second Sub 9 Distribution").

(16) Sub 8 will contribute to Controlled the c-percent general partner interest in LPS I. This contribution and the contribution described in step (12) (together, "Contribution 2") will be in exchange for newly issued Controlled stock representing f (more than 95) percent of the stock of Controlled. Each share of Controlled stock will be associated with preferred stock purchase rights (the "Controlled Stock Purchase Rights"). The Controlled Stock Purchase Rights will be nonexercisable, nontransferable, and nonseparable from the Controlled stock until certain events occur that involve a change in ownership of Controlled stock.

(17) Sub 9 will contribute to Newco I (see step (2) above) its interest in LLC 6, which holds the c-percent general partner interest in LPS II ("Contribution 4").

(18) Sub 1 will purchase from Sub 5 for cash (i) the equipment used to manufacture products for Businesses C and D and (ii) that part of Business D now conducted by Sub 5.

(19) Sub 1 will form Newco III as a wholly owned subsidiary.

(20) Sub 1 will contribute to Newco III the Business C and Business D manufacturing and operating assets (together with step (23), "Contribution 5").

(21) Sub 1 will form LLC 7 as a wholly owned limited liability company that will not be an elective corporation.

(22) Sub 2 will merge into LLC 7 under State X law (the "Sub 2 Merger"). Because LLC 7 will be a disregarded entity owned by Sub 1, the Sub 2 Merger will be treated as a merger of Sub 2 into Sub 1.

(23) Sub 1 will contribute to Newco III the Business C IP (held by LLC 7 but owned by Sub 1 for federal tax purposes) (together with step (20), "Contribution 5")

(24) Sub 1 will form Newco IV as a wholly owned subsidiary.

(25) Sub 1 will contribute its interest in LLC 7 to Newco IV ("Contribution 6"). If, at the time of the Transactions, Distributing determines that a Third-Party Sale is likely, LLC 7 will distribute certain IP associated with Business I to Sub 1, which Sub 1 may dispose of in the Third-Party Sale.

(26) Sub 1 will distribute the stock of Newco III to Distributing ("Distribution 1").

(27) Distributing will contribute the stock of Newco III to Sub 8 ("Contribution 7").

(28) Newco III will merge into Controlled under State X law (the "Newco III Merger").

(29) Distributing will invest cash in LLC 2 in exchange for a 20-percent or greater interest in LLC 2. Thereafter, LLC 2 will be treated as a partnership for federal tax purposes under § 301.7701-3(b)(1)(i). Distributing will be the managing member of LLC 2, and employees of two affiliates of Distributing (Sub 4 and Sub 11) will continue to provide active and substantial management functions for LLC 2.

(30) Sub 8 will distribute the Controlled stock to Distributing ("Distribution 2").

(31) Distributing will distribute the Controlled stock pro rata to the shareholders of Distributing ("Distribution 3"). Controlled will be recapitalized before Distribution 3 to increase its authorized shares. Distributing will aggregate the fractional shares that each shareholder would otherwise be entitled to receive and sell them in the public market through a distribution agent. The aggregate net cash proceeds of these sales will be distributed ratably (in accordance with their fractional share interests) to those stockholders who would otherwise have received fractional shares of Controlled stock.

(32) New Management will be granted restricted stock representing approximately g percent of Controlled and stock options representing up to approximately h percent of Controlled (the "New Management Equity Grants").

Under a Stockholder's Agreement effective Date 2, the Board of Directors for Controlled at the date of Distribution 3 will be elected as follows: The CEO of Controlled as of Date 2 and the CEO of Distributing at the date of Distribution 3 will be directors of Controlled, and the two CEOs will nominate a slate of five additional directors by mutual agreement, up to two of whom may be affiliated with Distributing. The current directors of Distributing will then have discretion to either approve or veto the nomination. Thereafter, the Controlled directors will be elected by shareholders in the customary fashion.

Distributing and Controlled have entered into an expense reimbursement arrangement under which Controlled will reimburse Distributing for all fees and expenses incurred in connection with the Transactions (up to i dollars) and for any federal and state liabilities arising in connection with the Transactions (up to j dollars). The Stockholders Agreement contains an anti-dilution provision that requires Controlled to issue additional shares of Controlled stock to New Management in the event Controlled must make tax reimbursement payments for tax liabilities resulting from the Transactions.

Pending transfer from the Manufacturing Plant of certain manufacturing assets used in the Core businesses, and transfer to the Manufacturing Plant of the Business C manufacturing assets, Distributing and Controlled will enter into a transitional contract manufacturing arrangement under which Distributing will manufacture product for Controlled and vice versa. Controlled will assume the lease for the Manufacturing Plant as part of the Transactions. Distributing and Controlled will also enter into a Tax Sharing Agreement and various transition agreements for administrative services, including information technology, accounting, and employee benefits services.

Representations

Sub 7 Merger

Distributing makes the following representations for the Sub 7 Merger (described above in step (3)):

(a1) (i) No stock or securities will be issued for services rendered to or for the benefit of Sub 8 in connection with the Sub 7 Merger, and (ii) no stock or securities will be issued for indebtedness of Sub 8 that is not evidenced by a security or for interest on indebtedness of Sub 8 that accrued on or after the beginning of the holding period of Sub 7 for the debt.

(b1) The Sub 7 Merger is not the result of the solicitation by a promoter, broker, or investment house.

(c1) Sub 7 will not retain any rights in the property transferred to Sub 8.

(d1) The value of the Sub 8 stock constructively received in exchange for accounts receivable will equal the net value of the accounts transferred (i.e., the face amount of the accounts receivable previously included in income less the amount of the reserve for bad debts).

(e1) The total adjusted basis of the assets transferred to Sub 8 by Sub 7 will equal or exceed the total liabilities assumed (within the meaning of §357(d)) by Sub 8.

(f1) The total fair market value of the assets transferred to Sub 8 by Sub 7 will exceed the sum of (a) the amount of liabilities assumed (as determined under § 357(d)) by Sub 8 in connection with the exchange, (b) the amount of liabilities owed to Sub 8 by Sub 7 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under § 351(a) without the recognition of gain) received by Sub 7 in connection with the exchange. The fair market value of the assets of Sub 8 will exceed the amount of its liabilities immediately after the exchange.

(g1) The liabilities of Sub 7 assumed (as determined under § 357(d)) by Sub 8 will have been incurred in the ordinary course of business and will be associated with the assets transferred.

(h1) No indebtedness exists between Sub 7 and Sub 8 other than accounts payable arising in the ordinary course of business, and no indebtedness will be created in favor of Sub 7 as a result of the transaction.

(i1) The transfers and exchanges will occur under a plan agreed upon before the Sub 7 Merger in which the rights of the parties are defined.

(j1) All exchanges will occur on approximately the same date.

(k1) Sub 8 has no plan or intention to redeem or otherwise reacquire any stock or indebtedness issued in the Sub 7 Merger, except in the Sub 6 Merger.

(l1) Taking into account any issuance of additional stock of Sub 8; any issuance of stock for services; the exercise of any Sub 8 stock rights, warrants, or subscriptions; a public offering of Sub 8 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Sub 8 to be received in the exchange; Sub 7, or its successor, Sub 6, will be in "control" of Sub 8 within the meaning of § 368(c).

(m1) Sub 7 will constructively receive Sub 8 stock approximately equal to the fair market value of the property transferred to Sub 8 or for services rendered or to be rendered for the benefit of Sub 8.

(n1) Sub 8 will remain in existence and, except for Contribution 2 in which Sub 8 will contribute the Business E operating assets to Controlled, will retain and use the property transferred to it in a trade or business.

(o1) Sub 8 has no plan or intention to dispose of the transferred property other than in the normal course of business operations and in Contribution 2.

(p1) Sub 7 and Sub 8 will pay their respective expenses, if any, incurred in connection with the Sub 7 Merger.

(q1) Sub 8 will not be an investment company within the meaning of § 351(e)(1) and § 1.351-1(c)(1)(ii).

(r1) Sub 7 is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of § 368(a)(3)(A)), and the stock constructively received in the Sub 7 Merger will not be used to satisfy the indebtedness of such debtor.

(s1) Sub 8 will not be a "personal service corporation" within the meaning of § 269A.

(t1) The total fair market value of the assets transferred in the Sub 7 Merger will equal or exceed the aggregate adjusted basis of those assets.

(u1) Sub 6, on the date the Sub 7 plan of merger is adopted, and at all times until the effective date of the Sub 7 Merger, will be the owner of at least 80 percent of the single outstanding class of Sub 7 stock.

(v1) No shares of Sub 7 stock will have been redeemed during the three years preceding the date the Sub 7 plan of merger is adopted.

(w1) On the effective date of the Sub 7 Merger, all assets and liabilities of Sub 7 will transfer to Sub 8, and all distributions from Sub 7 to Sub 6 will occur.

(x1) Sub 7 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years before the date the Sub 7 plan of merger is adopted.

(y1) No assets of Sub 7 have been, or will be, disposed of by either Sub 7 or Sub 6 except for dispositions in the ordinary course of business and dispositions occurring more than three years before the date the Sub 7 plan of merger is adopted.

(z1) Before the Sub 7 Merger, no assets of Sub 7 will have been distributed in kind, transferred, or sold to Sub 6, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years before the date the Sub 7 plan of merger is adopted.

(aa1) Sub 7 will report all earned income represented by assets that will be distributed to its shareholders such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(bb1) The fair market value of the assets of Sub 7 will exceed its liabilities both on the date the Sub 7 plan of merger is adopted and immediately before the effective date of the Sub 7 Merger.

(cc1) There is no intercorporate debt existing between Sub 6 and Sub 7, and none will have been cancelled, forgiven, or discounted, except for transactions that occurred more than three years before the date the Sub 7 plan of merger is adopted.

(dd1) Sub 6 is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(ee1) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Sub 7 Merger have been fully disclosed.

Sub 6 Merger

Distributing makes the following representations for the Sub 6 Merger (described above in step (4)):

(a2) The fair market value of the Sub 8 stock received by Distributing will approximately equal the Sub 6 stock surrendered in the exchange. No other consideration will be received by Distributing.

(b2) All of the proprietary interest in Sub 6 will be exchanged for Sub 8 stock and will be preserved (within the meaning of § 1.368-1(e)(1)(i) and (ii)).

(c2) Sub 8 has no plan or intention to reacquire, directly or through a related person (within the meaning of § 1.368-1(e)(2) and (3)), any of its stock issued in the Sub 6 Merger.

(d2) Sub 8 will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by Sub 6 immediately before the Sub 6 Merger. For this representation, amounts used by Sub 6 to pay its reorganization expenses and all redemptions and distributions (except for

regular, normal dividends) made by Sub 6 immediately before the transfer will be included as assets of Sub 6 held immediately before the Sub 6 Merger.

(e2) After the Sub 6 Merger, Distributing will be in control of Sub 8 within the meaning of § 368(a)(2)(H).

(f2) At the time of the Sub 6 Merger, Sub 8 will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Sub 8 that, if exercised or converted, would affect Distributing's acquisition or retention of control of Sub 8, as defined in § 368(a)(2)(H).

(g2) Following the Sub 6 Merger, Sub 8 will continue the historic business of Sub 6 or use a significant portion of the Sub 6 historic business assets in a business.

(h2) Sub 8 has no plan or intention to sell or otherwise dispose of any of the assets of Sub 6 acquired in the transaction, except for (i) dispositions made in the ordinary course of business and (ii) Contribution 1.

(i2) Sub 8, Sub 6, and Distributing will pay their respective expenses, if any, incurred in connection with the Sub 6 Merger.

(j2) No intercorporate indebtedness exists between Sub 8 and Sub 6 that was issued, acquired, or will be settled at a discount.

(k2) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(l2) The Sub 6 Merger will be carried out to facilitate Distribution 3 (see representation (e7) below).

(m2) The total fair market value of the assets transferred to Sub 8 by Sub 6 will exceed the sum of (a) the amount of liabilities assumed (as determined under § 357(d)) by Sub 8 in connection with the exchange, (b) the amount of liabilities owed to Sub 8 by Sub 6 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under § 361(a) without the recognition of gain) received by Sub 6 in connection with the exchange. The fair market value of the assets of Sub 8 will exceed the amount of its liabilities immediately after the exchange.

(n2) The total fair market value of the assets of Sub 6 transferred to Sub 8 will equal or exceed the aggregate adjusted basis of the transferred assets.

(o2) The liabilities of Sub 6 assumed (as determined under § 357(d)) by Sub 8 were incurred by Sub 6 in the ordinary course of its business and are associated with the assets transferred.

(p2) Sub 6 is not under the jurisdiction of a court in a title 11 or similar case within the meaning of § 368(a)(3)(A).

Sub 10 Merger

Distributing makes the following representations for the Sub 10 Merger (described above in step (7)):

(a3) Sub 9 has no plan or intention to sell or otherwise dispose of any of the assets of Sub 10 acquired in the Sub 10 Merger, except for (i) dispositions made in the ordinary course of business; (ii) the First Sub 9 Distribution; (iii) the Second Sub 9 Distribution; and (iv) Contribution 4.

(b3) All of the proprietary interest in Sub 10 will be preserved (within the meaning of § 1.368-1(e)(1)(i) and (ii)).

(c3) Sub 9 has no plan or intention to reacquire, directly or through a related person (within the meaning of § 1.368-1(e)(2) and (3)), any of its stock issued in the Sub 10 Merger.

(d3) The liabilities of Sub 10 assumed (as determined under § 357(d)) by Sub 9 were incurred by Sub 10 in the ordinary course of its business.

(e3) Sub 9, through its ownership of Newco I, will continue the historic business of Sub 10 or use a significant portion of the Sub 10 historic business assets in a business.

(f3) Sub 9 and Sub 10 will pay their respective expenses, if any, incurred in connection with the Sub 10 Merger.

(g3) No intercorporate indebtedness exists between Sub 9 and Sub 10 that was issued, acquired, or will be settled at a discount.

(h3) No two parties to the Sub 10 Merger are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(i3) The Sub 10 Merger will be carried out to facilitate Distribution 3 (see representation (e7) below).

(j3) Sub 10 is not under the jurisdiction of a court in a title 11 or similar case within the meaning of § 368(a)(3)(A).

(k3) The total fair market value of the assets transferred to Sub 9 by Sub 10 will exceed the sum of (a) the amount of liabilities assumed (as determined under § 357(d))

by Sub 9 in connection with the exchange, (b) the amount of liabilities owed to Sub 9 by Sub 10 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under § 361(a) without the recognition of gain) received by Sub 10 in connection with the exchange. The fair market value of the assets of Sub 9 will exceed the amount of its liabilities immediately after the exchange.

Sub 2 Merger

Distributing makes the following representations for the Sub 2 Merger (described above in step (22)):

(a4) Sub 1 has no plan or intention to sell or otherwise dispose of any of the assets of Sub 2 acquired in the Sub 2 Merger, except for (i) dispositions made in the ordinary course of business, (ii) Contribution 5, (iii) the transfer of LLC 7 (holding all other assets received in the Sub 2 Merger, except the Business I IP that may be retained by Sub 1) to Newco IV, and (iv) the possible disposition of certain of the Business I IP in a Third-Party Sale.

(b4) All of the proprietary interest in Sub 2 will be preserved (within the meaning of § 1.368-1(e)(1)(i) and (ii)).

(c4) Sub 1 has no plan or intention to reacquire, directly or through a related person (within the meaning of § 1.368-1(e)(2) and (3)), any of its stock issued in the Sub 2 Merger.

(d4) The liabilities of Sub 2 assumed (as determined under § 357(d)) by Sub 1 were incurred by Sub 2 in the ordinary course of its business.

(e4) Except for any assets disposed in a possible Third-Party Sale, Sub 1, through its ownership of Newco IV, will continue the historic business of Sub 2 or use a significant portion of the Sub 2 historic business assets in a business. The property contributed to Newco III in Contribution 5 will pass ultimately to Controlled through Distribution 1, Contribution 7, and the Newco III Merger.

(f4) Sub 2 and Sub 1 will pay their respective expenses, if any, incurred in connection with the Sub 2 Merger.

(g4) No intercorporate indebtedness exists between Sub 2 and Sub 1 that was issued, acquired, or will be settled at a discount.

(h4) No two parties to the Sub 2 Merger are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(i4) The Sub 2 Merger will be carried out to facilitate Distribution 3 (see representation (e7) below).

(j4) Sub 2 is not under the jurisdiction of a court in a title 11 or similar case within the meaning of § 368(a)(3)(A).

(k4) The total fair market value of the assets transferred to Sub 1 by Sub 2 will exceed the sum of (a) the amount of liabilities assumed (as determined under § 357(d)) by Sub 1 in connection with the exchange, (b) the amount of liabilities owed to Sub 1 by Sub 2 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under § 361(a) without the recognition of gain) received by Sub 2 in connection with the exchange. The fair market value of the assets of Sub 1 will exceed the amount of its liabilities immediately after the exchange.

Contribution 5 and Distribution 1

Distributing makes the following representations for Contribution 5 (described above in steps (20) and (23)) and Distribution 1 (described above in step (26)).

(a5) Any indebtedness owed by Newco III to Sub 1 after Distribution 1 will not constitute stock or securities.

(b5) No part of the consideration distributed by Sub 1 will be received by Distributing as a creditor, employee, or in any capacity other than that of a shareholder of Sub 1.

(c5) The five years of financial information submitted for the business that Sub 1 will rely on to satisfy § 355(b) (Business A currently conducted by Sub 1) and the business that Newco III will rely on to satisfy § 355(b) (Business C currently conducted by Sub 1) represents the present operations of each business, and there have been no substantial operational changes since the date of the last financial statements submitted.

(d5) Following Distribution 1, Sub 1 and Newco III (or Controlled, as its successor) each will continue the active conduct of its business, independently and with its separate employees.

(e5) Distribution 1 will be carried out to facilitate Distribution 3 (see representation (e7) below). Distribution 1 is motivated, in whole or substantial part, by this corporate business purpose.

(f5) Distribution 1 will not be used principally as a device for the distribution of earnings and profits of Sub 1 or Newco III or both.

(g5) Except for the Newco III Merger and a possible Third-Party Sale, there is no plan or intention to liquidate either Sub 1 or Newco III, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the transaction, except in the ordinary course of business.

(h5) The total adjusted basis of the assets transferred to Newco III by Sub 1 will equal or exceed the sum of (a) the total liabilities assumed (within the meaning of §357(d)) by Newco III and (b) the total of the money and the fair market value of the other property (within the meaning of §361(b)) received by Sub 1 and transferred to its creditors in connection with the reorganization.

(i5) The total fair market value of the assets transferred to Newco III by Sub 1 will exceed the sum of (a) the amount of liabilities assumed (within the meaning of §357(d)) by Newco III in connection with the exchange, (b) the amount of liabilities owed to Newco III by Sub 1 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under § 361(a) without the recognition of gain) received by Sub 1 in connection with the exchange. The fair market value of the assets of Newco III will exceed the amount of its liabilities immediately after the exchange.

(j5) Any liabilities assumed (as determined under § 357(d)) by Newco III in Contribution 5 will have been incurred in the ordinary course of business and will be associated with the assets transferred.

(k5) No intercorporate debt will exist between Sub 1 and Newco III at the time of, or after, Distribution 1 other than accounts payable arising in the ordinary course of business.

(l5) Immediately before Distribution 1, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see § 1.1502-13 and -14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Sub 1 will not have an excess loss account in the Newco III stock immediately before Distribution 1.

(m5) Payments made in connection with any continuing transactions between Sub 1 and Newco III will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(n5) Neither Sub 1 nor Newco III is an investment company as defined in § 368(a)(2)(F)(iii) and (iv).

(o5) Distribution 1 will not be a disqualified distribution (as defined in

§ 355(d)(2)) because immediately after Distribution 1: (i) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Sub 1 that will constitute a 50-percent or greater interest (defined in § 355(d)(4)) in Sub 1, and (ii) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Newco III that will constitute a 50-percent or greater interest (defined in § 355(d)(4)) in Newco III.

(p5) Distribution 1 is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Sub 1 or Newco III (including any predecessor or successor of any such corporation).

Contribution 2 and Distribution 2

Distributing makes the following representations for Contribution 2 (described above in steps (12) and (16)) and Distribution 2 (described above in step (30)):

(a6) Any indebtedness owed by Controlled to Sub 8 after Distribution 2 will not constitute stock or securities.

(b6) No part of the consideration distributed by Sub 8 will be received by Distributing as a creditor, employee, or in any capacity other than that of a shareholder of Sub 8.

(c6) The five years of financial information submitted for the business that Sub 8 will rely on to satisfy § 355(b) (Business H currently conducted by Sub 6 through LLC 5) and the business that Controlled will rely on to satisfy § 355(b) (Business C currently conducted by Sub 1) represents the present operations of each business, and there have been no substantial operational changes since the date of the last financial statements submitted.

(d6) Following Distribution 2, Sub 8 and Controlled will each continue the active conduct of its business, independently and with its separate employees.

(e6) Distribution 2 will be carried out to facilitate Distribution 3 (see representation (e7) below). Distribution 2 is motivated, in whole or substantial part, by this corporate business purpose.

(f6) Distribution 2 will not be used principally as a device for the distribution of earnings and profits of Sub 8 or Controlled or both.

(g6) There is no plan or intention to liquidate either Sub 8 or Controlled, to merge either corporation with any other corporation, or to sell or otherwise dispose of

the assets of either corporation after the transaction, except in the ordinary course of business.

(h6) The total adjusted basis of the assets transferred to Controlled by Sub 8 will equal or exceed the sum of (a) the total liabilities assumed (within the meaning of §357(d)) by Controlled and (b) the total of the money and the fair market value of the other property (within the meaning of §361(b)) received by Sub 8 and transferred to its creditors in connection with the reorganization.

(i6) The total fair market value of the assets transferred to Controlled by Sub 8 will exceed the sum of (a) the amount of liabilities assumed (within the meaning of §357(d)) by Controlled in connection with the exchange, (b) the amount of liabilities owed to Controlled by Sub 8 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under § 361(a) without the recognition of gain) received by Sub 8 in connection with the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the exchange.

(j6) Any liabilities assumed (as determined under § 357(d)) by Controlled in Contribution 2 will have been incurred in the ordinary course of business and will be associated with the assets transferred.

(k6) No intercorporate debt will exist between Sub 8 and Controlled at the time of, or after, Distribution 2 other than accounts payable arising in the ordinary course of business.

(l6) Immediately before Distribution 2, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see § 1.1502-13 and -14 as in effect before the publication of T.D. 8597, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Sub 8 will not have an excess loss account in the Controlled stock immediately before Distribution 2.

(m6) Payments made in connection with any continuing transactions between Sub 8 and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(n6) Neither Sub 8 nor Controlled is an investment company as defined in § 368(a)(2)(F)(iii) and (iv).

(o6) Distribution 2 will not be a disqualified distribution (as defined in § 355(d)(2)) because immediately after Distribution 2: (i) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Sub 8 that will constitute a 50-percent or greater interest (defined in § 355(d)(4)) in Sub 8, and (ii)

no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Controlled that will constitute a 50-percent or greater interest (defined in § 355(d)(4)) in Controlled.

(p6) Distribution 2 is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Sub 8 or Controlled (including any predecessor or successor of any such corporation).

Distribution 3

Distributing makes the following representations for Distribution 3 (described above in step (31)):

(a7) Any indebtedness owed by Controlled to Distributing after Distribution 3 will not constitute stock or securities.

(b7) No part of the consideration distributed by Distributing will be received by any Distributing shareholder as a creditor, employee, or in any capacity other than that of a Distributing shareholder.

(c7) The five years of financial information submitted for the business that Distributing will rely on to satisfy § 355(b) (Business G currently conducted by Sub 4 through LLC 2) and the business that Controlled will rely on to satisfy § 355(b) (Business C currently conducted by Sub 1) represents the present operations of each business, and there have been no substantial operational changes since the date of the last financial statements submitted.

(d7) Following Distribution 3, Distributing and Controlled each will continue the active conduct of its business, independently and with its separate employees, except for certain employees that may be shared on a transitional basis.

(e7) Distribution 3 will be carried out to separate the Non-Core businesses from the Core businesses in order to (a) attract and retain a new management team to oversee and grow the Non-core businesses, (b) resolve capital allocation issues between the Core businesses and the Non-Core businesses and provide Controlled with access to capital markets, and (c) resolve management, operational, and other business issues caused by the operation of these businesses within the same affiliated group. Distribution 3 is motivated, in whole or substantial part, by one or more of these corporate business purposes.

(f7) Distribution 3 will not be used principally as a device for the distribution of earnings and profits of Distributing or Controlled or both.

(g7) There is no plan or intention to liquidate either Distributing or Controlled, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the transaction, except in the ordinary course of business or through the possible contribution of Business I IP from Distributing to Sub 1 to facilitate a Third-Party Sale.

(h7) Immediately before Distribution 3, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see § 1.1502-13 and -14 as in effect before the publication of T.D. 8597, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, any excess loss account Distributing may have in the Controlled stock or in any stock transferred to Controlled will be included in income immediately before Distribution 3 to the extent required by regulations (see § 1.1502-19).

(i7) Payments made in connection with any continuing transactions between Distributing or any of its affiliates, on the one hand, and Controlled or any of its affiliates, on the other, will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(j7) Neither Distributing nor Controlled is an investment company as defined in § 368(a)(2)(F)(iii) and (iv).

(k7) Distribution 3 will not be a disqualified distribution (as defined in § 355(d)(2)) because immediately after Distribution 3: (i) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Distributing that will constitute a 50-percent or greater interest (defined in § 355(d)(4)) in Distributing, and (ii) no person (determined after applying § 355(d)(7)) will hold disqualified stock (defined in § 355(d)(3)) in Controlled that will constitute a 50-percent or greater interest (defined in § 355(d)(4)) in Controlled.

(l7) Distribution 3 is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

(m7) The payment of cash in lieu of fractional shares of Controlled is solely to avoid the expense and inconvenience to Controlled of issuing fractional shares and does not represent separately bargained for consideration. The total cash that will be paid in Distribution 3 to shareholders in lieu of fractional shares of Controlled stock will not exceed one percent of the total consideration that will be distributed in Distribution 3. The fractional share interests of each Distributing shareholder will be aggregated, and it is intended that no Distributing shareholder will receive cash in an amount equal to or greater than the value of one full share of Controlled stock.

Additional Representations

(9) Contribution 1 will be a transfer of property to a controlled corporation under § 351.

(10) Contribution 3 will be a transfer of property to a controlled corporation under § 351.

(11) Contribution 4 will be a transfer of property to a controlled corporation under § 351.

(12) Contribution 6 will be a transfer of property to a controlled corporation under § 351.

(13) Contribution 7 will be a transfer of property to a controlled corporation under § 351.

(14) The Newco III Merger will be a reorganization under § 368(a)(1)(A).

(15) The deemed contribution of assets to LPS II resulting from the LPS II Election will be a transfer of property to a controlled corporation under § 351. Any sale of Business I IP from LPS II to Sub 1 to facilitate a Third-Party Sale will not affect qualification of the deemed contribution under § 351.

Rulings

Sub 7 Merger

Based solely on the information submitted and the representations set forth above, we rule as follows on the Sub 7 Merger (described above in step (3)):

(1) No gain or loss will be recognized by Sub 7 on the transfer of its assets to Sub 8 in exchange for Sub 8 stock and the assumption by Sub 8 of related liabilities (§§ 351(a) and 357(a)). The Sub 6 Merger will not disqualify the transfer (§ 351(c)).

(2) No gain or loss will be recognized by Sub 8 on its receipt of the Sub 7 assets in exchange for Sub 8 stock (§ 1032(a)).

(3) The basis that Sub 8 has in each asset received from Sub 7 will equal the basis of that asset in the hands of Sub 7 immediately before the Sub 7 Merger (§ 362(a)).

(4) The holding period that Sub 8 has in each asset received from Sub 7 will include the period during which Sub 7 held that asset (§ 1223(2)).

(5) The basis of the Sub 8 stock received by Sub 7 will equal the basis of the assets transferred in exchange therefor, reduced by the amount of liabilities assumed by Sub 8 (§§ 358(a)(1) and 358(d)).

(6) The holding period of the Sub 8 stock received by Sub 7 will include the holding period of the assets transferred to Sub 8, provided that the assets are held by Sub 7 as capital assets on the date of the exchange (§ 1223(1)).

(7) No gain or loss will be recognized by Sub 6 on its receipt of the assets and liabilities of Sub 7 in the Sub 7 Merger (§ 332(a)).

(8) No gain or loss will be recognized by Sub 7 on the distribution of its assets to, or the assumption of its liabilities by, Sub 6 (§§ 337(a), 337(b), and 336(d)(3)).

(9) The basis that Sub 6 has in each asset received from Sub 7 will equal the basis of that asset in the hands of Sub 7 immediately before the Sub 7 Merger (§ 334(b)(1)).

(10) The holding period that Sub 6 has in each asset received from Sub 7 will include the period during which Sub 7 held that asset (§ 1223(2)).

(11) Sub 6 will succeed to and take into account the items of Sub 7 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§§ 381(a) and 1.381(a)-1). Sub 6 will be a successor to Sub 7 within the meaning of § 1.1502-13(j)(2).

(12) Except to the extent the earnings and profits of Sub 7 are reflected in the earnings and profits of Sub 6, Sub 6 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub 7 as of the date of the liquidation (§§ 381(c)(2)(A), 1.381(c)(2)-1, and 1.1502-33(a)(2)). Any deficit in the earnings and profits of Sub 7 will be used only to offset earnings and profits accumulated after the date of the Sub 7 Merger (§ 381(c)(2)(B)).

Sub 6 Merger

Based solely on the information submitted and the representations set forth above, we rule as follows on the Sub 6 Merger (described above in step (4)):

(13) The Sub 6 Merger will be a reorganization under §§ 368(a)(1)(A) and (D). Sub 6 and Sub 8 each will be a “party to a reorganization” under § 368(b) (Rev. Rul. 57-465, 1957-2 C.B. 250).

(14) No gain or loss will be recognized by Sub 6 on the Sub 6 Merger or on the distribution of Sub 8 stock to Distributing (§§ 361(a), 357(a), and 361(c)).

(15) No gain or loss will be recognized by Sub 8 on the Sub 6 Merger (§ 1032(a)).

(16) The basis that Sub 8 has in each asset received from Sub 6 will equal the basis of that asset in the hands of Sub 6 immediately before the Sub 6 Merger (§ 362(b)).

(17) The holding period that Sub 8 has in each asset received from Sub 6 will include the period during which Sub 6 held that asset (§ 1223(2)).

(18) No gain or loss will be recognized by Distributing on the exchange of Sub 6 stock for Sub 8 stock (§ 354(a)(1)).

(19) The basis of the Sub 8 stock received by Distributing will equal the basis of the Sub 6 stock surrendered in exchange therefor (§ 358(a)(1)).

(20) The holding period of the Sub 8 stock received by Distributing will include the holding period of the Sub 6 stock surrendered in exchange therefor, provided the Sub 6 stock is held as a capital asset on the date of the exchange (§ 1223(1)).

(21) Sub 8 will be a successor to Sub 6 under § 1.1502-13(j)(2).

Sub 10 Merger

Based solely on the information submitted and the representations set forth above, we rule as follows on the Sub 10 Merger (described above in step (7)):

(22) The Sub 10 Merger will be a reorganization under § 368(a)(1)(A) (§§ 368(a)(2)(C) and 1.368-2T(b)(1)(iii), and Rev. Rul. 69-617, 1969-2 C.B. 57). Sub 10 and Sub 9 will each be a “party to a reorganization” under § 368(b).

(23) No gain or loss will be recognized by Sub 10 on the Sub 10 Merger (§§ 361(a) and 357(a)).

(24) No gain or loss will be recognized by Sub 9 on the Sub 10 Merger (§ 1032(a)).

(25) The basis that Sub 9 has in each asset received from Sub 10 will equal the basis of that asset in the hands of Sub 10 immediately before the Sub 10 Merger (§ 362(b)).

(26) The holding period that Sub 9 has in each asset received from Sub 10 will include the period during which Sub 10 held that asset (§ 1223(2)).

(27) Sub 9 will succeed to and take into account, as of the close of the date of the Sub 10 Merger, the items of Sub 10 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder.

(28) Except to the extent that Sub 10 has earnings and profits reflected in the Sub 9 earnings and profits, Sub 9 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub 10 as of the date of the Sub 10 Merger (§§ 381(c)(2)(A), 1.381(c)(2)-1, and 1.1502-33). Any deficit in the earnings and profits of Sub 9 or Sub 10 will be used only to offset earnings and profits accumulated after the date of the Sub 10 Merger (§ 381(c)(2)(B)).

Sub 2 Merger

Based solely on the information submitted and the representations set forth above, we rule as follows on the Sub 2 Merger (described above in step (22)):

(29) The Sub 2 Merger will be a reorganization under § 368(a)(1)(A) (§§ 368(a)(2)(C) and 1.368-2T(b)(1)(iii), and Rev. Rul. 69-617). Sub 1 and Sub 2 will each be a “party to a reorganization” under § 368(b).

(30) No gain or loss will be recognized by Sub 2 on the Sub 2 Merger (§§ 361(a) and 357(a)).

(31) No gain or loss will be recognized by Sub 1 on the Sub 2 Merger (§ 1032(a)).

(32) The basis that Sub 1 has in each asset received from Sub 2 will equal the basis of that asset in the hands of Sub 2 immediately before the Sub 2 Merger (§ 362(b)).

(33) The holding period that Sub 1 has in each asset received from Sub 2 will include the period during which Sub 2 held that asset (§ 1223(2)).

(34) Sub 1 will succeed to and take into account, as of the close of the date of the Sub 2 Merger, the items of Sub 2 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder.

(35) Except to the extent that Sub 2 has earnings and profits reflected in the Sub 1 earnings and profits, Sub 1 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub 2 as of the date of the Sub 2 Merger (§§ 381(c)(2)(A), 1.381(c)(2)-1, and 1.1502-33). Any deficit in the earnings and profits of Sub 1 or Sub 2 will be used only to offset earnings and profits accumulated after the date of the Sub 2 Merger (§ 381(c)(2)(B)).

Contribution 5 and Distribution 1

Based solely on the information submitted and the representations set forth above, we rule as follows on Contribution 5 (described above in steps (20) and (23)) and Distribution 1 (described above in step (26)):

(36) Contribution 5, followed by Distribution 1, will be a reorganization under § 368(a)(1)(D). Sub 1 and Newco III will each be a “party to a reorganization” under § 368(b).

(37) No gain or loss will be recognized by Sub 1 on Contribution 5 (§ 361(a)).

(38) No gain or loss will be recognized by Newco III on Contribution 5 (§ 1032(a)).

(39) No gain or loss will be recognized by Sub 1 on Distribution 1 (§ 361(c)(1)).

(40) The basis that Newco III has in each asset received in Contribution 5 will equal the basis of that asset in the hands of Sub 1 immediately before Contribution 5 (§ 362(b)).

(41) The holding period that Newco III has in each asset received in Contribution 5 will include the period during which Sub 1 held that asset (§ 1223(2)).

(42) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing on its receipt of the Newco III stock (§ 355(a)(1)).

(43) The aggregate basis of the Sub 1 stock and Newco III stock in the hands of Distributing after Distribution 1 will equal the aggregate basis of the Sub 1 stock in the hands of Distributing immediately before Distribution 1 (§ 358(a)). The basis will be allocated between the Sub 1 stock and the Newco III stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b), and (c)).

(44) The holding period of the Newco III stock received by Distributing from Sub 1 will include the holding period of the Sub 1 stock on which Distribution 1 is made, provided that the Sub 1 stock is held as a capital asset on the date of Distribution 1 (§ 1223(1)).

(45) Earnings and profits will be allocated between Newco III and Sub 1 in accordance with §§ 312(h), 1.312-10(a), and 1.1502-33(f)(2).

Contribution 2 and Distribution 2

Based solely on the information submitted and the representations set forth above, we rule as follows on Contribution 2 (described above in steps (12) and (16)) and Distribution 2 (described above in step (30)):

(46) Contribution 2, followed by Distribution 2, will be a reorganization under § 368(a)(1)(D). Sub 8 and Controlled will each be a “party to a reorganization” under § 368(b).

(47) No gain or loss will be recognized by Sub 8 on Contribution 2 (§ 361(a)).

(48) No gain or loss will be recognized by Controlled on Contribution 2 (§1032(a)).

(49) No gain or loss will be recognized by Sub 8 on Distribution 2 (§ 361(c)(1)).

(50) The basis that Controlled has in each asset received in Contribution 2 will equal the basis of that asset in the hands of Sub 8 immediately before Contribution 2 (§362(b)).

(51) The holding period that Controlled has in each asset received in Contribution 2 will include the period during which Sub 8 held that asset (§ 1223(2)).

(52) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing on Distribution 2 (§ 355(a)(1)).

(53) The aggregate basis that Distributing has in the Controlled stock and the Sub 8 stock after Distribution 2 will equal the aggregate basis that Distributing has in its Sub 8 stock immediately before Distribution 2 (§ 358(a)). The basis will be allocated between the Sub 8 stock and the Controlled stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b), and (c)).

(54) The holding period of the Controlled stock received by Distributing will include the period during which Distributing held the Sub 8 stock on which Distribution 2 is made, provided that the Sub 8 stock is held as a capital asset on the date of Distribution 2 (§ 1223(1)).

(55) Earnings and profits will be allocated between Sub 8 and Controlled in accordance with §§ 312(h), 1.312-10(a), and 1.1502-33(f)(2).

Distribution 3

Based solely on the information submitted and the representations set forth above, we rule as follows on Distribution 3 (described above in Step (31)):

(56) No gain or loss will be recognized by Distributing on Distribution 3 (§ 355(c)(1)).

(57) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) any shareholder of Distributing on Distribution 3 (§ 355(a)(1)).

(58) The aggregate basis that each Distributing shareholder has in its Controlled stock and Distributing stock after Distribution 3 (including any fractional interest in Controlled common stock to which the shareholder may be entitled) will equal the shareholder's aggregate basis in its Distributing stock immediately before Distribution 3 (§ 358(a)). The basis will be allocated between the Distributing stock and the Controlled stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b), and (c)).

(59) The holding period of the Controlled stock received by each Distributing shareholder will include the period during which the shareholder held the Distributing stock on which Distribution 3 is made, provided that the Distributing stock is held as a capital asset on the date of Distribution 3 (§ 1223(1)).

(60) Earnings and profits will be allocated between Distributing and Controlled in accordance with §§ 312(h), 1.312-10(b), and 1.1502-33(e)(3).

(61) Sub 8 will not be treated as receiving a distribution under § 301 by reason of the cancellation of the Controlled stock that was issued to Sub 9 and the issuance of $\frac{1}{f}$ (more than 95) percent of Controlled's stock to Sub 8.

(62) No gain or loss will be recognized by Sub 9 by reason of the cancellation of the Controlled stock that was issued to Sub 9 and the issuance of $\frac{1}{f}$ (more than 95) percent of Controlled's stock to Sub 8.

(63) Any gain recognized by Sub 9 as a result of the First Sub 9 Distribution and the Second Sub 9 Distribution will be taken into account by Sub 9 as a result of Distribution 3 (§§ 311(b) and 1.1502-13(d)).

(64) Any payment made by Distributing or an affiliate of Distributing to Controlled or an affiliate of Controlled, or vice versa, under the Tax Sharing Agreement or the expense reimbursement agreement provisions of the Stockholders Agreement for liabilities that (i) have arisen or will arise for a taxable period ending on or before Distribution 3 or for a taxable period beginning on or before and ending after Distribution 3 and (ii) will not become fixed and ascertainable until after Distribution 3 will be treated as occurring immediately before Distribution 3 (see Arrowsmith v. Commissioner, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84).

(65) If cash is received by a Distributing shareholder as a result of the sale of a fractional share of Controlled stock by a distribution agent on behalf of the shareholder, the shareholder will recognize gain or loss measured by the difference between the amount of the cash received and the basis of the fractional share (as determined under ruling 58 above) (§ 1001). If the fractional share interest is a capital asset in the hands

of the exchanging shareholder, the gain or loss will be capital gain or loss subject to the provisions and limitations of Subchapter P of Chapter 1 of the Code (§§ 1221 and 1222).

(66) Provided that, at the time of Distribution 3, the Controlled Stock Purchase Rights are, and will remain, contingent, nonexercisable, and subject to redemption if issued, the receipt of these rights by Distributing's shareholders will not be a distribution or receipt of property, an exchange of stock or property (either taxable or nontaxable), or any other event giving rise to the realization of gross income by Distributing, Controlled, or Distributing's shareholders (Rev. Rul. 90-11, 1990-1 C.B. 10).

(67) If a party to the Transactions does not at the time of Distribution 3 intend to transfer stock in Distributing or Controlled after Distribution 3, a transfer of any such stock following Distribution 3 that results from a change in circumstances not anticipated at the time of Distribution 3 will be disregarded in determining whether Distribution 3 (i) is part of a plan under § 355(e) or (ii) is used principally as a device for the distribution of earnings and profits (see Rev. Rul. 2003-55, 2003-1 C.B. 961).

(68) Should Distributing retain stock of Controlled following Distribution 3, the determination of whether the retention has as one of its principal purposes the avoidance of federal income tax (see § 355(a)(1)(D)(ii)) may be made in connection with the examination of Distributing's federal income tax return.

Caveats

We express no opinion about the tax treatment of any transaction described above under other provisions of the Code and regulations or the tax treatment of any condition existing at the time of, or effect resulting from, any of these transactions that is not specifically covered by the above rulings. In particular, no opinion is expressed regarding:

(i) Whether Distribution 1, Distribution 2, or Distribution 3 satisfies the business purpose requirement of § 1.355-2(b);

(ii) Whether Distribution 1, Distribution 2, or Distribution 3 is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) and § 1.355-2(d));

(iii) Whether Distribution 1, Distribution 2, or Distribution 3 and an acquisition or acquisitions are part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii);

(iv) Whether Contribution 1, Contribution 3, Contribution 4, Contribution 6, or Contribution 7 will be a transfer of property to a controlled corporation under § 351;

(v) The tax treatment of the Business D IP Contribution;

- (vi) The tax treatment of the New Management Equity Grants;
- (vii) Whether the Newco III Merger will be a reorganization under § 368(a)(1)(A);
- (viii) Whether the deemed contribution of assets to LPS II resulting from the LPS II Election will be a transfer of property to a controlled corporation under § 351; and
- (ix) The tax treatment of a Third-Party Sale.

Procedural Matters

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 must be attached to the federal income tax return of each party involved in the Transactions for the taxable year in which the Transactions are completed.

Under the power of attorney on file in this office, copies of this letter have been sent to your authorized representatives.

Sincerely,

Associate Chief Counsel (Corporate)

By: _____
Wayne T. Murray
Acting Deputy Associate Chief
Counsel (Corporate)

cc: