

S5 =

LLC1 =

SC =

Purchaser 1 =

Purchaser 2 =

Business A =

Date A =

Date B =

Date C =

Date D =

State X =

State Y =

\$X =

\$Y =

\$Z =

A =

Dear

We respond to your letter dated July 22, 2003, as supplemented by material dated October 20, 2003 and November 5, 2003, requesting rulings on certain federal income tax consequences of a proposed transaction. The information submitted for consideration is summarized below.

Prior to the transaction, Parent owned all of the stock of S1, which owned all of the stock of Seller. Seller owned all of the stock of S2 and S3 and S3 owned all of the stock of S4. S2 owned all of the membership interests in LLC1.

S2 and S4 are primarily engaged in Business A. S2 and S4 have entered into structured settlement transactions. In these transactions (each a "structured settlement"), S2 and S4 (i) accepted "qualified assignments" of personal injury liabilities within the meaning of section 130 of the Internal Revenue Code and (ii) purchased from, and currently hold, annuity contracts of S5, another wholly-owned subsidiary of Parent. The annuity contracts provide for periodic payments to S2 and S4 that match S2's and S4's obligations to the injured parties under their respective qualified assignments. The obligations under the qualified assignments are recourse obligations.

Seller has agreed to sell all of the S2 stock to Purchaser 1 and S3 has agreed to sell all of the S4 stock to Purchaser 2. However, for valid business reasons neither purchaser wants to acquire the structured settlements of S2 or S4. In order for the structured settlements to be transferred to another corporation in the Parent group it is necessary for Parent to obtain consents, releases, and novations ("consents and releases") from the payees under the qualified assignments. Parent anticipates that it will not have obtained all of the consents and releases before the sales.

Accordingly, in order to consummate the sale of S2 stock to Purchaser 1 and the sale of S4 stock to Purchaser 2, the following transaction has been proposed ("proposed transaction") of which steps (i.) through (x.) have already been completed:

- i. LLC1, which was disregarded for federal income tax purposes, converted into a corporation under State X law and its name was changed to SC. SC has one class of common stock outstanding.

- ii. Under State X law, Seller converted to a limited liability company and for federal tax purposes is disregarded as an entity separate from S1. Under State Y law, S3 converted to a limited liability company and for federal tax purposes is disregarded as an entity separate from S1.
- iii. In the case of the S2 structured settlements, S2 and SC agreed, under a plan, that all annuity contracts related to the qualified assignments for which consents and releases are obtained and cash in the amount of \$X for operating expenses will be transferred to SC in exchange for SC stock and the assumption by SC of S2's liabilities under such qualified assignments.
- iv. In the case of the S4 structured settlements, S4 and SC agreed, under the plan, that cash in the amount of \$Y for operating expenses and all the annuity contracts related to the qualified assignments for which consents and releases have been obtained before Date D will be transferred to SC in exchange for SC stock and the assumption by SC of S4's liabilities under such qualified assignments immediately before Date D.
- v. Parent sought to obtain required consents and releases from the payees under the qualified assignments in order for SC to assume the liabilities related to the S2 and S4 annuity contracts.
- vi. Pursuant to the plan, S2 transferred to SC the cash and annuity contracts related to the qualified assignments for which consents and releases were executed before Date D and SC assumed the liabilities under such qualified assignments immediately before Date D.
- vii. Pursuant to the plan, S4 transferred to SC the cash and annuity contracts related to the qualified assignments for which consents and releases were obtained before Date D and SC assumed the liabilities under such qualified assignments immediately before Date D.
- viii. S2 distributed all of the SC stock that it received in the exchange to Seller, which distributed the stock to S1, which distributed the stock to Parent, in each case immediately prior to Date D. S2 also distributed some other miscellaneous unwanted assets to Seller before Date D.
- ix. S4 distributed all of the SC stock that it received in the exchange to S3, which distributed the stock to Seller, which distributed the stock to S1, which distributed the stock to Parent, in each case immediately prior to Date D. S4 also paid a dividend shortly before Date D.

x. The stock of S2 was sold to Purchaser 1 on Date D. The stock of S4 was sold to Purchaser 2 on Date D.

xi. As part of the plan, S2 proposes to transfer annuity contracts related to the qualified assignments for which consents and releases are executed on or after Date D to SC, and SC will assume the liabilities under such qualified assignments after Date D (hereinafter referred to as "subsequent transfers"). Under the Plan, consistent with its obligation to Purchaser 1, Parent will continue, with respect to the S2 structured settlements, to seek consents and releases after Date D and before the earlier of Date B or Date C. Any such consents and releases received will be bundled for periodic transfer to SC.

Seller and Purchaser 1 agreed that, any time on or after Date B, but before Date C, upon demand by Purchaser 1, S5 will establish and maintain a trust ("Trust") as security for its obligations under annuity contracts still held by S2. The occurrence of certain trigger events after Date D and before Date C will accelerate the establishment of the Trust.

Under the terms of the Trust agreement, S2 will be the beneficiary of the Trust and S5 will be the grantor. The Trust assets will at all times consist of assets that are consistent with mutually agreed investment guidelines reasonably appropriate for a structured settlement-type portfolio, and they must qualify as admitted assets under the insurance laws of State Y. Subject to these restrictions, as long as the required balance is maintained, S5 will have the right at any time to substitute or exchange assets contained in the Trust. S5 also will have the right to make all investment decisions with respect to the Trust assets. S5, as grantor, also will have the full and unqualified right to vote and execute consents with respect to any shares of stock comprising the Trust assets. S5 will be entitled to receive all investment income, gains and losses arising out of the assets held in the Trust.

S2 will have the right to draw on the Trust assets only to the extent of any payment default by S5 under any of the annuity contracts still held by S2 that results in a demand being made on S2 under a qualified assignment still owned by S2. Any amount remaining in the Trust when Date C is reached or the Put Right, described below, is exercised will revert to S5.

Seller and Purchaser 1 also agreed that, in the event Date C has not occurred by A years after Date D, Purchaser 1 will have the right to require S5 or Parent to repurchase the S2 shares ("the Put Right"). Before exercise of the Put Right, Purchaser must cause S2 to cede on an indemnity reinsurance basis 100% of its in-force business and outstanding liabilities (unrelated to the structured settlements) and transfer its

related reserves to a reinsurer. The purchase price of the S2 shares pursuant to the Put Right will be equal to \$Z.

The taxpayers have submitted the following representations in connection with the transfer of cash and annuity contracts to SC in exchange for SC stock and the assumption by SC of related liabilities:

- (a) No stock or securities will be issued for services rendered to or for the benefit of SC in connection with the proposed transaction.
- (b) No stock or securities will be issued for indebtedness of SC.
- (c) No stock will be transferred to SC.
- (d) The transfer of assets to SC is not the result of the solicitation by a promoter, broker, or investment house.
- (e) S2 and S4 (hereinafter sometimes referred to as the "Transferors") will not retain any rights in the property transferred to SC in connection with the proposed transfers.
- (f) The adjusted basis and the fair market value of the assets to be transferred by the Transferors to SC will, in each instance, be equal to or exceed the sum of the liabilities to be assumed by SC (within the meaning of section 357(d)). For purposes of determining whether the adjusted basis of the transferred assets equals or exceeds the sum of the liabilities assumed by SC, liabilities described in section 357(c)(3) are not taken into account.
- (g) The liabilities of the Transferors to be assumed by SC (within the meaning of section 357(d)) were incurred in the ordinary course of business and are associated with the assets to be transferred.
- (h) There is no indebtedness between SC and the Transferors, and there will be no indebtedness created in favor of the Transferors as a result of the proposed transaction.
- (i) The transfers of assets to SC will occur under a plan agreed upon before the transaction in which the rights of the parties are defined.
- (j) All exchanges, other than the subsequent transfers, will occur on approximately the same date.

- (k) There is no plan or intention on the part of SC to redeem or otherwise reacquire any stock to be issued in the proposed transaction.
- (l) Taking into account any issuance of additional shares of SC stock; any issuance of stock for services; the exercise of any SC stock rights, warrants, or subscriptions; a public offering of SC stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of SC to be received in the exchange, the Transferors will be in "control" of SC within the meaning of section 368(c).
- (m) Each Transferor will receive stock of SC approximately equal to the fair market value of the net assets transferred to SC (less any liabilities assumed by SC within the meaning of section 357(d)).
- (n) SC will remain in existence and retain and use the property transferred to it in a trade or business.
- (o) There is no plan or intention by SC to dispose of the transferred property other than in the normal course of business operations.
- (p) Each of the parties to the transaction will pay its own expenses, if any, incurred in connection with the proposed transaction.
- (q) SC will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).
- (r) The Transferors are not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock received in the exchange will not be used to satisfy the indebtedness of such debtor.
- (s) SC will not be a "personal service corporation" within the meaning of section 269A.

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

1. No income, gain or loss will be recognized by the Transferors on the transfers of assets to SC (including subsequent transfers) in exchange for all of the stock of SC and the assumption by SC of the liabilities associated with the assets (sections 351(a), 351(c), and 357(a)). Rev. Rul. 2002-1, 2002-1 C.B. 268 and Rev. Rul. 83-73, 1983-1 C.B. 84.

2. No income, gain or loss will be recognized by SC on the receipt of assets transferred to SC in exchange for SC stock (section 1032(a)).
3. The basis of each asset received by SC will be the same as the basis of that asset in the hands of the relevant Transferor immediately prior to the proposed transaction (section 362(a)).
4. The holding period of each asset received by SC will include the period during which that asset was held by the relevant Transferor (section 1223(2)).
5. The basis of the SC stock received by each of the Transferors in the proposed transaction will be the same as the basis of the assets transferred to SC by such Transferor, decreased by the sum of liabilities of such Transferor assumed by SC (section 358(a) and (d)).
6. The holding period of the SC stock to be received by the Transferors will include the period during which the Transferors held the transferred assets, provided that the transferred assets were held by the Transferors as capital assets on the date of the transfers (section 1223(1)).
7. The Trust will be a trust within the meaning of section 301.7701-4(a), of which S5 will be the grantor.
8. Under sections 671 and 677, S5 will be treated as the owner of the Trust assets and must include all income, deductions, and credits of the Trust in computing its own taxable income and credits. Rev. Rul. 85-42, 1985-1 C.B. 36.

No opinion is expressed about the tax treatment of the proposed transaction under other provisions of the Code and regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction that are not directly covered by the above rulings.

This ruling letter is directed only to the taxpayers who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. A copy of this letter should be attached to the federal income tax returns of the taxpayers involved for the taxable year in which the transaction covered by this ruling letter is consummated.

The rulings given in this letter are based on facts and representations submitted by the taxpayers and accompanied by penalties of perjury statements executed by the appropriate parties. This office has not verified any of the materials 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.

Pursuant to the powers of attorney on file in this office, copies of this letter have been sent to the taxpayers and their authorized representatives.

Sincerely yours,

Mark S. Jennings

Mark S. Jennings

Chief, Branch 1

Office of Associate Chief Counsel (Corporate)

Cc: