

Internal Revenue Service

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Legend

Taxpayer =

Organization A =

Redacted
Paragraph 1 =

Redacted
Paragraph 2 =

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Paragraph 3 =

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Paragraph 4 =

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Paragraph 5 =

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Paragraph 6 =

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Paragraph 7 =

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Clause =

Dear

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This letter is in response to a request for a private letter ruling, dated September 26, 2014, submitted on behalf of Taxpayer by its authorized representative. Specifically, Taxpayer requests a ruling that certain payments made to executives will be exempt from the definition of "parachute payment" for purposes of section 280G of the Internal Revenue Code (the "Code").

Redacted Paragraph 1.

Taxpayer has previously entered into Change in Control Agreements ("Agreements") with certain senior executives. The Agreements provide for the payment of severance benefits in the event of termination of employment in connection with a "change in control" as defined in the Agreements.

Redacted Paragraph 2.

Section 280G(a) of the Code provides that no deduction will be allowed for any excess parachute payment. Section 280G(b)(1) defines the term "excess parachute payment" as an amount equal to the excess of any parachute payment over the portion of the base amount allocated to such payment.

Section 280G(b)(2)(A) of the Code defines the term "parachute payment" as any payment in the nature of compensation to (or for the benefit of) a disqualified individual if such payment is contingent on a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation and the aggregate present value of the payments in the nature of compensation to (or for the benefit of) such individual that are contingent on such change equals or exceeds an amount equal to three times the base amount.

Section 280G(b)(3)(A) of the Code defines "base amount" as a disqualified individual's annualized includible compensation for the base period. Section 280G(d)(1) of the Code defines the term "annualized includible compensation for the base period" as the average annual compensation which (A) was payable by the corporation with respect to which the change in ownership or control described in section 280G(b)(2)(A) occurs, and (B) was includible in the gross income of the disqualified individual for taxable years in the base period. Under section 280G(d)(2) of the Code, the "base period" is the period consisting of the most recent five taxable years ending before the date on which the change in ownership or control occurs (or such portion of such period during which the disqualified individual performed personal services for the corporation).

Section 280G(c) of the Code defines "disqualified individual" as any individual who is (1) an employee, independent contractor, or other person specified in regulations by the

Secretary who performs personal services for any corporation, and (2) is an officer, shareholder, or highly-compensated individual.

Redacted Paragraph 3.

Redacted Paragraph 4.

Redacted Paragraph 5.

Redacted Paragraph 6.

Redacted Paragraph 7.

Taxpayer represents as follows:

1. The executives who are subject to the Agreements are disqualified individuals for purposes of section 280G of the Code;
2. The severance payments provided under the Agreements are contingent on a change in control or ownership of Taxpayer, and a change in control of Taxpayer will occur to the extent the Merger is completed; and
3. Payments made under certain Agreements will have an aggregate present value of at least three times the applicable executive's base amount.

Taxpayer asserts as follows:

1. It is an organization described under section 501(c)(1) of the Code.

Any severance benefits paid by Taxpayer to its senior executives under the Agreements will, unless otherwise exempt, constitute parachute payments under section 280G(b)(2)(A) of the Code and be subject to the requirements of section 280G of the Code.

Based upon the facts submitted and the representations and assertion made, and conditioned upon Taxpayer [Redacted Clause], any severance benefits paid by Taxpayer under the Agreements in connection with the Merger will be exempt from the definition of "parachute payment" and, therefore, will not be subject to section 280G of the Code.

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

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

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.

Sincerely,

John B. Richards
Senior Technician Reviewer, Executive
Compensation (Employee Benefits)
(Tax Exempt & Government Entities)