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Letter Ruling 77-14: Transfer of Installment Obligation to a Corporate Trust in a Reorganization

July 28, 1977

In your letter of July 11, 1977, hereby incorporated by reference, you make a request for certain rulings with respect to the Massachusetts tax consequence of a proposed reorganization pursuant to the provisions of Section 368 (a)(1)(F) of the Internal Revenue Code.

[B] Corporation (“[B]”) is a Massachusetts corporation which was formed on May 8, 1947 as “[A]” and which changed its name to [B] Corporation effective April 8, 1977. From the time of its incorporation until March 31, 1977, [B] was in the business of manufacturing and selling materials used in the construction of asphalt payments, etc., and related products. On March 31, 1977, it sold substantially all of its working assets to [X], a newly incorporate Massachusetts corporation. The purchase price for its assets was \$500,000, of which \$136,364 was paid in cash at the closing and the balance was paid by a promissory note in the amount of \$363,636, payable in ten equal annual installments with interest at the rate of 7½% per annum. The sale was reported on the corporation’s federal and state income tax returns as an installment sale.

[D] Corporation (“[D]”) is a Massachusetts corporation formed on April 29, 1946 under the name of [C]. The corporation changed its name to [D] Corporation effective April 13, 1977. From the time of its incorporation until March 31, 1977, [C] was engaged in the business of *****. On March 31, 1977 it sold all of its business assets to [X] for a sales price of \$600,000. This price was paid \$163,636 down with the balance payable by a ten year, 7½% note. The sale of assets was reported by the corporation on its Federal and Massachusetts tax return as an installment sale.

All of the stock of both [B] and [D] is owned by ***** of ***** , Massachusetts.

It is proposed that all of the assets of [B] and [D] be transferred to a separate Massachusetts corporate trust. The corporate trust being an association taxable as a corporation for Federal income tax purposes, the transfer of assets would constitute a tax-free reorganization under Section 368(a)(1)(F) of the Internal Revenue Code.

Code Section 453(d) provides for the recognition of gain when an installment obligation is distributed, transmitted, sold or otherwise disposed of. The provisions of this sub-section would take precedence over the general provisions of the Code relating to the nonrecognition of gain or loss to a

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corporation a party to a reorganization.

Based on the forgoing it is ruled:

Gain on the disposition of the installment obligations will be realized by [B] and [D] in accordance with the provisions of Section 453(d)(1) of the Internal Revenue Code.

Very truly yours,

/s/Owen L. Clarke

Owen L. Clarke
Commissioner of Corporations
and Taxation

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