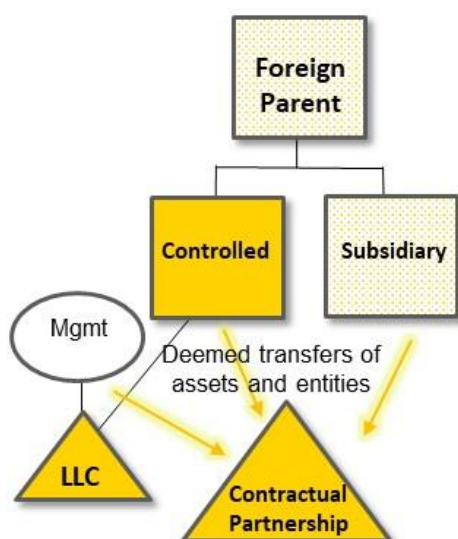


## Technical Developments and Musings

**Contractual partnerships are a thing.** [PLR 202505001](#) involves an internal §355 spin-off transaction of a US business within a publicly traded foreign-parented group, with standard rulings from the IRS. But the ruling request also sets forth in the facts that, (i) following the distribution of the controlled corporation (Controlled) within the group, (ii) Controlled, other

members of the foreign parent's group and management of an LLC will enter into an agreement pursuant to which the parties share in the economics of Controlled's active trade or business (which the ruling refers to as "Contractual Partnership"). The taxpayer represented that Contractual Partnership will be treated as a partnership for US federal income tax purposes, will file a partnership tax return, and that deemed contributions to it will qualify for nonrecognition treatment under §721. Although the IRS did not rule on the Contractual Partnership status as such, the ruling is a reminder that business entity status—at least for US federal income tax purposes—is not dependent upon the creation or existence of a juridical entity under governing law (e.g., state law). Rather, as here, a partnership can arise from contract among private parties. While it would then default to partnership treatment, presumably it could elect to be treated as a corporation for US federal tax purposes.

### Contractual partnership formation



**No deemed distribution from redemption.** A constructive distribution of property under §305(b)(2) (e.g., a dividend) to shareholders can arise from redeeming the shares of a single shareholder, because the non-redeemed shareholders typically increase their proportionate interests in the company as a result of the redemption. Isolated redemptions typically are not problematic, but any series of redemptions increase the risk of constructive taxable distributions, particularly with closely-held companies. In [PLR 202508001](#), the IRS ruled that a proposed redemption would not cause a deemed distribution to the company's other shareholders, given that there had been another redemption some months earlier. The company represented that both the proposed and prior redemptions were separately motivated, and that each transaction would have been undertaken whether or not the other transaction occurred.

**9100 relief for new Section 163(j) CFC group election.** [PLR 202509011](#) involves a request for "9100 relief," i.e., a request for an extension of time to file a regulatory election for which the deadline was missed. In this case, the deadline for making a "CFC group" election was one that had been established in relatively recent final regulations addressing the application of §163(j), the interest-expense limitation provision. While the IRS granted the relief to make a late election, the background of the ruling notes that there were four sets of §163(j) regulations (two proposed and two final) issued within a two-year period, which perhaps made the agency more inclined to grant the request, since the taxpayer, a consolidated group, had applied *proposed* regulations.