

Part IV – Items of General Interest

Section 29 – Test Procedures and Significant Chemical Change

Announcement 2003-46

Section 29 of the Internal Revenue Code provides a tax credit for the production and sale of solid synthetic fuels produced from coal. In Rev. Proc. 2001-30, 2001-1 C.B. 1163, the Internal Revenue Service provided that taxpayers need to satisfy certain conditions in order to obtain a letter ruling that a solid fuel (other than coke) produced from coal is a qualified fuel under § 29(c)(1)(C). Rev. Proc. 2001-30, as modified by Rev. Proc. 2001-34, 2001-1 C.B. 1293. Consistent with prior ruling practice, the revenue procedure requires taxpayers to present evidence that all, or substantially all, of the coal used as feedstock undergoes a significant chemical change. To meet this requirement and obtain favorable letter rulings, taxpayers have provided representations, as well as expert reports, asserting that their processes resulted in a significant chemical change.

The Service has had reason to question the scientific validity of test procedures and results that have been presented as evidence that fuel underwent a significant chemical change, and is currently reviewing information regarding these test procedures and results. If, upon further

inquiry, the Service determines that these test procedures and results do not demonstrate that a significant chemical change has occurred, the Service will take appropriate action, including revoking letter rulings relying on such procedures and results.

Until the Service's review is complete, rulings on the question of significant chemical change will be suspended for requests relying on the procedures and results being reviewed. Taxpayers may request a letter ruling pre-submission conference to determine if a ruling request relies on test procedures and results that are being reviewed. See Section 11.07, Rev. Proc. 2003-1, 2003-1 I.R.B. 1. During this review period, taxpayers that previously received letter rulings and want certainty with respect to test procedures and results used as evidence of a significant chemical change may request a Pre-Filing Agreement by following the procedures set forth in Rev. Proc. 2001-22, 2001-1 C.B. 745.

DRAFTING INFORMATION

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