

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B07

PLR-147741-04

Date: November 23, 2004

LEGEND:

Taxpayer:

Corporation:

a:

b:

c:

d:

e:

Dear :

We received a letter from your authorized representative requesting a ruling that Taxpayer's § 41(f)(5) controlled group may determine the credit for increasing research activities under the standard method of § 41(a) of the Internal Revenue Code for the taxable year ending on a and all subsequent taxable years. This letter responds to that request.

The facts and representations submitted are as follows:

Taxpayer was organized in b and is an accrual basis calendar year taxpayer. In c, Taxpayer acquired Corporation as a wholly-owned subsidiary and became the common parent of the controlled group. Corporation had elected on behalf of itself and the members of its controlled group for the taxable year ending d to determine its credit for increasing research activities (research credit) under the alternative incremental research credit (AIRC) rules of § 41(c)(4). Corporation determined the research credit for its controlled group using § 41(c)(4) for the taxable years ending d and e.

Before the due date of its return (including extensions) Taxpayer, on behalf of itself and the members of its controlled group, requested permission to determine its research credit for the taxable year ending on a and all subsequent taxable years under the standard method of § 41(a).

Section 41(f)(1)(A) provides that in determining the amount of the credit under § 41—

(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

(ii) the credit (if any) allowable by § 41 to each member shall be its proportionate shares of the qualified research expenses and basic research payments giving rise to the credit.

Section 41(f)(5) provides that the term “controlled group of corporations” has the same meaning given to such term by § 1563(a), except that—

(A) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in § 1563(a)(1), and

(B) the determination shall be made without regard to § 1563(a)(4) and (e)(3)(C).

Based solely on the facts submitted and representations made, Corporation may determine its credit for increasing research activities under the standard method of § 41(a), without regard to the AIRC method of § 41(c), for qualified research expenses paid or incurred during the taxable year ending on a and all succeeding years, provided that neither Taxpayer, Corporation, nor any other member of Taxpayer’s controlled group makes a new election to determine its credit for increasing research activities under the alternative incremental research credit rules of § 41(c)(4) in a later year.

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Further, we express or imply no opinion concerning expenditures Taxpayer or Corporation or any other member of Taxpayer’s controlled group treated as qualified research expenses.

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 representatives. A copy of this letter must be attached to any income tax return to which it is relevant.

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,

/s/

Brenda M. Stewart
Senior Counsel, Branch 7
Associate Chief Counsel
(Passthroughs and Special Industries)

cc: