

Internal Revenue Service

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Washington, DC 20224

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PLR-111919-19

Date:
July 30, 2019

Legend:

Fund =

Parent =

State =

Year 1 =

Dear :

This responds to a letter dated May 17, 2019, submitted on behalf of Fund. Fund requests consent to revoke, for Year 1 and subsequent years, an election made by Fund under section 4982(e)(4) of the Internal Revenue Code ("Code").

FACTS

Fund, a series fund of Parent, is incorporated under the laws of State. Fund is registered with the Securities and Exchange Commission as a diversified open-end management investment company under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., as amended. Fund has made an election under section 851 of the Code to be a regulated investment company ("RIC"). Fund's overall method of accounting is an accrual method and its taxable year is the calendar year.

Fund has previously elected under section 4982(e)(4) to compute its capital gain net income and net foreign currency gains and losses for purposes of section

4982(b)(1)(B) and 4982(e)(2), (e)(5), and (e)(6) using its taxable year in lieu of the one-year period ending October 31 of the calendar year.

At the time Fund originally made the election under section 4982(e)(4), Fund assumed that the election would relieve the administrative burden associated with separate calculations for excise tax and income tax purposes of Fund's ordinary income, capital gain net income, mark-to-market gains and losses, and specified gains and losses. However, Fund's experience has been that the election has created additional administrative complexities primarily due to time constraints in declaring dividends at least equal to the required distribution under section 4982.

Accordingly, Fund seeks consent to revoke its election under section 4982(e)(4). Fund makes the following representations:

1. Fund's desire to revoke its election is due to administrative and non-tax-related financial burdens caused by the election;
2. Fund is not seeking to revoke its election in order to preserve or secure a tax benefit;
3. Fund will neither benefit through hindsight, nor prejudice the interests of the government if permitted to revoke its election; and
4. Fund will not make a subsequent election under section 4982(e)(4)(A) for at least five calendar years following Year 1.

LAW AND ANALYSIS

Section 4982(a) imposes an excise tax on every RIC (subject to certain exceptions) for each calendar year, equal to 4 percent of the excess, if any, of the "required distribution" over the "distributed amount" for the calendar year.

Section 4982(b)(1) defines the term "required distribution" to mean, with respect to any calendar year, the sum of (A) 98 percent of the RIC's ordinary income for such calendar year (as defined in section 4982(e)(1)), plus (B) 98.2 percent of its capital gain net income for the one-year period ending on October 31 of such calendar year.

Section 4982(e)(4)(A) provides that, if the taxable year of a RIC ends with the month of November or December, the RIC may elect to have its taxable year taken into account in lieu of the one-year period ending on October 31 of the calendar year for purposes of satisfying the required distribution defined in section 4982(b)(1)(B). Section 4982(e)(4)(B) provides that such election, once made, may be revoked only with the consent of the Secretary.

Section 4982(e)(5)(A) provides that any specified gain or specified loss that would be properly taken into account for the portion of the calendar year after October 31 shall be treated as arising on January 1 of the following calendar year. Section 4982(e)(5)(B) defines “specified gain” and “specified loss” as ordinary gain or loss from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). The terms include any foreign currency gain or loss attributable to a section 988 transaction and any amount includible in gross income under section 1296(a)(1) or allowable as a deduction under section 1296(a)(2). Section 4982(e)(5)(C) provides that, if a RIC makes an election under section 4982(e)(4), section 4982(e)(5)(A) applies by substituting the last day of the RIC’s taxable year for October 31.

Section 4982(e)(6)(A) provides that, for the purposes of determining a RIC’s ordinary income, each specified mark-to-market provision shall be applied as if such RIC’s taxable year ended on October 31. Section 4982(e)(6)(A) also provides that in the case of a RIC making an election under section 4982(e)(4), the preceding sentence shall be applied by substituting the last day of the RIC’s taxable year for October 31. Section 4982(e)(6)(B) defines “specified mark to market provision” as sections 1256 and 1296 and any other provision of the Code (or regulations thereunder) that treats property as disposed of on the last day of the taxable year or that determines income by reference to the value of an item on the last day of the taxable year.

If a calendar year RIC revokes an election under section 4982(e)(4), the months of November and December of the last calendar year to which the election applies are part of both (a) that calendar year and (b) the one-year period ending on October 31 of the first calendar year to which the election does not apply. If capital gains and losses arising in those two months were included for two calendar years, however, section 4982 would not function as intended.

CONCLUSION

Based on the information submitted and the representations made, pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation, for Year 1 and subsequent years, of the election made by Fund under section 4982(e)(4). In addition, for purposes of section 4982(b)(1)(B) and 4982(e)(2), (e)(5), and (e)(6), Fund’s capital gain net income, mark-to-market gains and losses, and specified gains and specified losses for Year 1 will be determined for the period beginning on January 1, Year 1, and ending on October 31, Year 1.

As a condition to the Secretary’s consent to the revocation pursuant to section 4982(e)(4)(B), Fund may not make a subsequent election under section 4982(e)(4) for a period of 5 calendar years following Year 1.

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, including whether Fund qualifies as a RIC.

This ruling is directed only to the taxpayer that requested 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 in this office, a copy of this letter is being sent to your authorized representatives. A copy of this letter must be attached to any federal income or excise tax returns filed by Fund for the year to which this ruling applies.

Sincerely,

Matthew P. Howard
Senior Counsel, Branch 2
Office of Associate Chief Counsel
(Financial Institutions & Products)