

Internal Revenue Service**Department of the Treasury**

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:ITA:1 – PLR–118055-02

Date:

April 9, 2002

In Re:

EIN:

LEGEND:

Taxpayer =

Dear

This letter is in regard to LTR 9853007 (PLR-112482-97) issued to Taxpayer on September 29, 1998. In LTR 9853007, the Internal Revenue Service concluded that Taxpayer was permitted to deduct a certain payment made to charity as an ordinary and necessary business expense under § 162 of the Internal Revenue Code. In a letter dated March 18, 2002, the Service notified Taxpayer that it was considering revoking LTR 9853007. On March 25, 2002, Taxpayer requested that the Service exercise its discretionary authority under § 7805(b) to limit the retroactive effect of any revocation. The purpose of this letter is to revoke LTR 9853007 because it is not in accordance with the current views of the Service. This letter also addresses Taxpayer's request for relief under § 7805(b) to limit the retroactive effect of the revocation.

Section 12.04 of Rev. Proc. 2002-1, 2002-1 I.R.B. 1, 50, provides that unless it was part of a closing agreement, a letter ruling found to be in error or not in accordance with the current views of the Service may be revoked or modified. If a letter ruling is revoked or modified, the revocation or modification applies to all taxable years open under the statute of limitations unless the Service uses its discretionary authority under § 7805(b) to limit the retroactive effect of the revocation or modification. Section 7805(b)(8) provides that the Secretary of the Treasury may prescribe the extent, if any, to which any ruling relating to the internal revenue laws shall be applied without retroactive effect.

Section 12.05 of Rev. Proc. 2001-1 provides that except in rare or unusual circumstances, the revocation or modification of a letter ruling will not be applied retroactively to the taxpayer for whom the letter ruling was issued or to a taxpayer whose tax liability was directly involved in the letter ruling provided that--

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- (1) there has been no misstatement or omission of material facts;
- (2) the facts at the time of the transaction are not materially different from the facts on which the letter ruling was based;
- (3) there has been no change in the applicable law;
- (4) the letter ruling was originally issued for a proposed transaction; and
- (5) the taxpayer directly involved in the letter ruling acted in good faith in relying on the letter ruling, and revoking or modifying the letter ruling retroactively would be to the taxpayer's detriment.

Based upon Taxpayer's statements in its March 25, 2002 submission, the Service has determined that § 7805(b) relief is appropriate in this case. Therefore, the revocation of LTR 9853007 is effective as of the date of this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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 Taxpayer.

Sincerely,
Heather C. Maloy
Associate Chief Counsel
(Income Tax & Accounting)

Enclosures (2)