

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Date:

June 5, 2001

TY:

Fund A =

Fund B =

Year =

Dear

This is in reply to a letter dated February 12, 2001, on behalf of Fund A and Fund B (collectively, "Funds"). Funds request consent to revoke, for Year and subsequent calendar years, elections previously made by Funds under section 4982(e)(4)(A) of the Internal Revenue Code. Additionally, the Funds request that the calculation of their required distributions of capital gain net income under section 4982(e)(2) be determined using the period ending October 31 of their taxable year.

FACTS

Funds are corporations registered under the Investment Company Act of 1940, as amended, as open-end management investment companies. Funds have elected to be treated as regulated investment companies ("RICs") in accordance with Subchapter M of the Code. Each Fund's taxable year is a calendar year.

Funds use the accrual method of accounting for tax and financial accounting purposes. More than ten years ago, Funds elected under section 4982(e)(4)(A) of the Code to use their taxable years in lieu of the one-year period ending on October 31, for purposes of calculating the required distribution amount under sections 4982(b)(1)(B) and 4982(e)(2). Funds assumed that the election under section 4982 would relieve the administrative burden associated with dual calculations of capital gains and losses under the excise tax and subchapter M provisions of the Code.

The experience of Funds has been that the election has created additional administrative complexities primarily due to time constraints in declaring required excise tax distributions. Further, the promulgation of regulations coordinating the excise tax and subchapter M provisions has greatly reduced the administrative burden of having a tax year different from the period used for determining its required distribution under section 4982. Accordingly, Funds seek consent to revoke their elections under section 4982(e)(4) to use their taxable years (the calendar year) for purposes of sections 4982(b).

Funds make the following representations:

1. The desire to revoke their elections is due to administrative and non-tax related financial burdens caused by the election;
2. They are not seeking to revoke their elections for the purpose of preserving or securing a tax benefit;
3. They will neither benefit through hindsight nor prejudice the interests of the government as a result of being permitted to revoke the elections; and
4. They will not make subsequent elections under section 4982(e)(4)(A) of the Code for five calendar years following the year of the grant of revocation.

APPLICABLE LAW

Section 4982(a) of the Code, which was enacted as part of the Tax Reform Act of 1986 and is effective for tax years beginning after December 31, 1986, imposes an excise tax on every RIC for each calendar year equal to 4 percent of the excess (if any) of the "required distribution" for the calendar year over the "distributed amount" for the calendar year.

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

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

ANALYSIS and CONCLUSION

Based on the information submitted and the representations made, we conclude that the Funds' desire to revoke their elections under section 4982(e)(4)(A) is because of administrative burdens and not because of any federal tax-related financial burden caused by the election. The Funds do not seek to revoke their elections for the purpose of preserving or securing a federal tax benefit. Additionally, the Funds will neither benefit through hindsight nor prejudice the interests of the government as a result of being permitted to revoke their election.

Accordingly, it is held as follows:

1. Pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation of the elections made by Funds under section 4982(e)(4)(A) effective for Year and subsequent years.
2. Funds may calculate their required distributions of capital gain net income under section 4982(e)(2) using the period ending October 31 of their taxable year.

As a condition to the Secretary's consent to the revocation pursuant to section 4982(e)(4)(B), Funds may not make a subsequent election under section 4982(e)(4)(A) for a period of 5 calendar years following the year to which the grant of revocation applies.

Except as specifically ruled upon above, no opinion is expressed or implied as to the federal excise or income tax consequences regarding Funds.

This ruling is directed only to the taxpayers 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 terms of a power of attorney on file in this office, the original of this letter is being sent to you and a copy is being sent to the taxpayer.

Sincerely yours,
Acting Associate Chief Counsel
(Financial Institutions & Products)
By: William E. Coppersmith
Chief, Branch 2