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Department of the Treasury

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Date:

November 9, 2001

LEGEND

Taxpayer =

State =

Year 1 =

Date 1 =

Date 2 =

Date 3 =

Dear . :

This ruling responds to a letter submitted on behalf of the Taxpayer by its authorized representatives. The Taxpayer requests an extension of time to file an election to make a mixed straddle account under § 1092(b) of the Internal Revenue Code and § 1.1092(b)-4T(f) of the Temporary Income Tax Regulations for the calendar year ending December 31, Year 1.

The Taxpayer is a State limited liability company. In relevant part, the Taxpayer's activities involve the trading of equity positions and offsetting equity futures contracts.

While the Taxpayer was organized for State law purposes on Date 1, it did not begin any trading activity until on or about Date 2. On that date, the Taxpayer began entering into transactions through a designated account that would have qualified as a mixed straddle account under § 1092 and § 1.1092(b)-4T(b) had the appropriate election requirements been satisfied. However, at the time this trading activity began, the Taxpayer was not aware that these trades could constitute mixed straddles.

The Taxpayer became aware that these trades could constitute mixed straddles by Date 3, more than 60 days after the first mixed straddle in the new class of activity was entered into, when it was so informed by its new counsel. It was determined that the Taxpayer was eligible to make the mixed straddle account election for the new class

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of activity under § 1.1092(b)-4T. Upon learning this, the Taxpayer immediately authorized its new counsel to prepare and submit this ruling request.

LAW AND ANALYSIS

Section 1092(b)(1) provides that the Secretary shall prescribe such regulations with respect to gain or loss on positions which are part of a straddle as may be appropriate to carry out the purposes of §§ 1092 and 263(g).

Section 1092(b)(2)(A)(i) provides that the regulations prescribed under § 1092(b)(1) shall provide that the taxpayer may offset gains and losses from positions which are part of a mixed straddle (I) by straddle-by-straddle identification, or (II) by the establishment (with respect to any class of activities) of a mixed straddle account for which gains and losses would be recognized (and offset) on a periodic basis.

Section 1.1092(b)-4T(a) generally permits a taxpayer to elect (in accordance with paragraph (f) of § 1.1092(b)-4T) to establish one or more “mixed straddle accounts.” Section 1.1092(b)-4T(b)(1) defines a mixed straddle account to mean an account for determining gains and losses from all positions held as capital assets in a designated class of activities by the taxpayer at the time the taxpayer elects to establish a mixed straddle account.

Section 1.1092(b)-4T(f)(1) generally provides that except as otherwise provided, the election to establish one or more mixed straddle accounts for a taxable year must be made by the due date (without regard to any extension) of the taxpayer’s income tax return for the immediately preceding year (or part thereof).

Section 1.102(b)-4T(f)(1) further provides that if a taxpayer begins trading or investing in positions in a new class of activities during a taxable year, the taxpayer must make the election with respect to the new class of activities by the later of the due date (without regard to any extension) of the taxpayer’s return for the immediately preceding year or 60 days after the first mixed straddle in the new class of activities is entered into.

Finally, § 1.1092(b)-4T(f)(1) provides that if an election is made after the times specified above, the election will be permitted only if the Commissioner concludes that the taxpayer had reasonable cause for failing to make a timely election.

CONCLUSION

Based on the facts and representations submitted, we conclude that the Taxpayer has shown reasonable cause for failing to make a timely election under § 1.1092-4T(f). Therefore, we grant the Taxpayer’s request for an extension of time to make the election under § 1.1092(b)-4T(a) for the taxable year ending December 31, Year 1. This extension will expire 30 days from the date of this letter. The election must be made in the manner prescribed in § 1.1092(b)-4T(f)(2) and filed with the

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Director having audit jurisdiction over the Taxpayer's tax return.

Except as specifically ruled upon above, no opinion is expressed concerning the tax consequences of this transaction under any other provision of the Code or regulations. Specifically, no opinion is expressed concerning whether the positions designated by the Taxpayer as the class of activities is a permissible designation under § 1.1092(b)-4T(b)(2).

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely yours,
Alice M. Bennett
Branch Chief

By: Robert Williams
Assistant to the Branch Chief, Branch 3
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Enclosure: Copy of this letter
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