

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Person To Contact:

, ID No.

Telephone Number:

In Re:

Refer Reply To:

CC:CORP:B01 – PLR-152736-03

Date:

December 17, 2003

Legend:

P =

X =

State Y =

\$a =

b% =

c% =

d =

\$e =

f =

\$g =

\$h =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

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Dear

This letter responds to your letter dated August 29, 2003, which requests rulings on certain federal income tax consequences of a consummated transaction. The material information submitted for consideration is summarized below.

P is a State Y limited partnership that buys stock and securities for its own account. X is a corporation with a stock discount purchase plan (the "X Plan") that allows holders of X common stock to purchase X stock at a discount. The X Plan permitted shareholders to reinvest their dividends in X stock ("Dividend Reinvestment"), invest their own funds in X ("Discount Purchase"), or both. X shareholders could participate in Discount Purchase regardless of whether they participated in Dividend Reinvestment.

Under the X Plan, X shareholders who chose to participate in Discount Purchase could invest up to \$a in X during each month. The investors received X common stock at a price based on the volume weighted average price of the X common stock during the pricing period. Cash investments in excess of \$a could be made by investors that submit a Request for Waiver, and X may establish a waiver discount of up to b% from the market price for optional investments made pursuant to Requests for Waiver. The amount of a cash dividend, if any, received with respect to a share of X stock would not be affected by the shareholder's participation in Discount Purchase. X shareholders who did not participate in Discount Purchase did not receive any cash or other property from X in lieu of such participation.

Pursuant to a Request for Waiver, on Date 1, P sent funds to buy stock under the X Plan at a c% discount to the market price. The market price was determined over a pricing period from Date 2 to Date 3. Between Date 2 and Date 3, P sold short d shares at an average price of \$e. On Date 4, P purchased f shares of X stock at a price of \$g (a total cost of \$h). P did not reinvest any of its dividends on X stock through Dividend Reinvestment.

Based solely on the information submitted, we hold as follows:

P's purchase of X stock at a discount through Discount Purchase will not be treated as a distribution of X stock described by section 305(b) of the Internal Revenue Code. Therefore, P will realize no income as a result of purchases pursuant to Discount Purchase (section 305(a)).

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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.

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.

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.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to the taxpayer.

Sincerely,

Victor L. Penico

Victor L. Penico
Senior Counsel, Branch 1
Office of Associate Chief Counsel
(Corporate)