

Internal Revenue Service

Number: **201927016**
Release Date: 7/5/2019

Index Number: 831.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:FIP:B04
PLR-125623-18

Date:
April 03, 2019

Taxpayer =
Year 1 =
Year 2 =
Year 3 =
State =

Dear :

This letter is in reply to your request for consent to revoke Taxpayer's election under section 831(b) of the Internal Revenue Code, effective for the taxable year beginning Year 3.

FACTS

Taxpayer is a legal defense insurance program that was formed in Year 1 in State. Taxpayer is an insurance company other than a life insurance company. In Year 2, Taxpayer elected to be taxed only on its taxable investment income pursuant to section 831(b).

Since Year 2, Taxpayer's business has increased, and Taxpayer's premium revenue now exceeds the limitation of section 831(b)(2)(A)(i). Taxpayer requests to revoke its election under section 831(b). Taxpayer has no net operating losses. Taxpayer represents that it will not make a future section 831(b) election.

LAW AND ANALYSIS

Section 831(a) imposes a tax for each taxable year on the taxable income of every insurance company other than a life insurance company.

Section 831(b) provides an alternative tax to the tax imposed by section 831(a) for certain insurance companies. The alternative tax for these companies is a tax computed for each year by multiplying the taxable investment income (defined in section 834(a)) of the company for the taxable year by the rates in section 11(b).

Section 831(b)(2)(A) provides that the alternative tax applies to every insurance company other than a life insurance company if (i) the company's net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$2,200,000 (adjusted for inflation), (ii) the company meets the diversification requirements laid out in subparagraph (B) of the section, and (iii) the company elects the application of section 831(b) (the alternative tax) for the taxable year.

Section 1010(f)(1) of the Technical and Miscellaneous Revenue Act of 1988 added the flush paragraph following section 831(b)(2)(A)(ii) (now section 831(b)(2)(A)(iii)), which states the following:

The election under clause (iii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of the clauses (i) and (ii) are met. Such an election, once made, may be revoked only with the consent of the Secretary.

This clarification reflects Congress' intent that the election not be used as a means of eliminating tax liability (e.g., by making the election only for the years the taxpayer does not have net operating losses). S. Rep. No. 445, 100th Congress, 2d Sess. 127 (1988).

Taxpayer represents that its business has increased to the point that it exceeds the premium limitation of section 831(b)(2)(A)(i). Taxpayer represents it has no net operating losses and is not revoking its election as a means of eliminating tax liability. Further, Taxpayer represents that it will not make a future section 831(b) election.

CONCLUSION

Consent is hereby granted to Taxpayer to revoke its section 831(b) election effective for Year 3, provided that Taxpayer does not make an election under section 831(b) to be taxed on only its investment income for any of the first five years following the year to which the consent relates.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for ruling and it is subject to verification on examination.

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, but not limited to, whether any part of Taxpayer's business constitutes insurance, whether Taxpayer qualified as an insurance company for any Year involved, or whether Taxpayer was properly taxed under section 831(b) for any year.

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 federal income tax return to which it is relevant.

Sincerely,

John E. Glover
Senior Counsel, Branch 4
Associate Chief Counsel
(Financial Institutions and Products)

cc: