

Internal Revenue Service

Number: **200417012**

Release Date: 4/23/04

Index Number: 4982.00-00

Department of the Treasury
Washington, DC 20224

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In Re:

Refer Reply To:

CC:FIP:B03 – PLR-161457-03

Date:

December 24, 2003

:Legend:

Fund 1 =

Fund 2 =

Fund 3 =

Fund 4

Fund 5 =

Fund 6 =

Fund 7 =

Fund 8 =

Fund 9 =

Fund 10 =

Fund 11 =

Trust =

Year A =

Year B =

Year C =

Year D =

Year E =

Year F =

Year G =

Year H =

Dear Mr. :

This ruling responds to a letter dated June 26, 2003, submitted on behalf of Funds 1 through 11 (collectively referred to as the "Funds") by their authorized representatives. Each Fund requests consent to revoke, for tax Year F and subsequent calendar years, a previous election made by that Fund under section 4982(e)(4)(A) of the Internal Revenue Code. Additionally, the Funds request that the calculation of each of their required distributions of capital gain net income under section 4982(b)(1) and (e)(2) for the calendar year ending December 31, Year F, be determined on the basis of capital gains and losses realized and recognized during the ten-month period from January 1, Year F, through October 31, Year F.

The Funds were each organized as a separate portfolio of Trust. Trust is registered with the Securities and Exchange Commission under the investment Company Act of 1940, as amended, 15 U.S.C. Section 80a-1 et seq. Trust is a series

management investment company, which may issue multiple series, each of which would represent an interest in its separate portfolio. Each Fund has elected and intends to continue to qualify for treatment as a regulated investment company ("RIC") under subchapter M of the Code. Section 851(g) of the Code provides that each of the funds is treated as a separate corporation for federal income tax purposes.

The Funds use an accrual method of accounting for tax and financial accounting purposes and use a calendar year for tax purposes. Pursuant to section 4982(e)(4)(A), each of the Funds elected to use its tax year ending on December 31 in lieu of the 1-year period ending on October 31, for purposes of calculating the required distribution under sections 4982(b)(1)(B) and 4982(e)(2). Funds 1 and 2 made their elections in Year A, Funds 3-6 and Fund 9 made their elections in year B, Fund 7 made its election in Year C, Fund 8 made its election in Year D, and Funds 10 and 11 made their elections in Year E.

At the time the Funds originally made their respective elections, each believed that the election under section 4982 would relieve the administrative burdens associated with dual calculations of capital gains and losses under the excise tax and Subchapter M provisions of the Code. However, the Funds' experience has been that the section 4982(e)(4)(A) election has caused the Funds to experience significant administrative difficulties in accurately determining the amount of dividends that should be declared and the related distributions.

Moreover, 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 the required distributions under section 4982. Accordingly, the computation of capital gain net income by the Funds on the last business day of their tax year pursuant to their section 4982(e)(4)(A) elections has become administratively impracticable, and the Funds seek consent to revoke their elections to use the taxable year (the calendar year) for purposes of sections 4982(b)(1)(B) and 4982(e)(2).

Permitting the Funds to revoke their section 4982(e)(4)(A) elections and compute capital gain net income for the tax year on October 31, rather than December 31, would significantly lessen the administrative burden of computing capital gain net income in an accurate and timely manner. Additionally, the Funds represent that:

1. The desire to revoke their section 4982(e)(4)(A) elections is due to administrative and non-tax related financial burdens caused by the elections.
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 their elections.

4. They will not make any subsequent elections under section 4982(e)(4)(A) for five (5) calendar years following the year of the grant of revocation.

LAW AND ANALYSIS

Section 4982(a), 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” over the “distributed amount” for the calendar year.

Section 4982(b)(1) defines the term “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 its capital gain net income for its tax 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 .

Section 4982(e)(5) provides that any foreign currency gain or loss attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the ordinary income of the RIC for the calendar year but shall be taken into account in determining the RIC’s ordinary income in the following calendar year. However, if a RIC has made an election under section 4982(e)(4), the preceding sentence shall be applied by substituting the last day of the RIC’s taxable year for October 31.

Based upon the information submitted and the representations made, we conclude that each Fund’s desire to revoke its election under section 4982(e)(4)(A) of the Code 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 interest of the government as a result of being permitted to revoke their elections.

CONCLUSION

Accordingly, based upon the representations made and pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation of the elections made by the Funds under section 4982(e)(4)(A), effective for calendar Year F and subsequent years. In addition, in calculating the "required distribution" for calendar Year F, for purposes of section 4982(b)(1) and (e), the capital gain net income and foreign currency gains and losses of the Funds will be determined on the basis of the capital gains and losses and foreign currency gains and losses, if any, recognized and realized during the 10-month period from January 1, Year F, through October 31, Year F.

As a condition to the Secretary's consent to the revocation pursuant to section 4982(e)(4)(B), none of the Funds may make a subsequent election under section 4982(e)(4)(A) for a period of five (5) calendar years following the year to which the grant of revocation applies (i.e. Year G through Year H).

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

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

It is important that a copy of this letter be attached to the federal income and excise tax return filed by each of the Funds for the year to which this ruling applies.

Sincerely yours,

Alice M. Bennett
Chief, Branch 3
Office of Associate Chief Counsel
(Financial Institutions and Products)

Enclosures:

Copy of this letter
Copy for § 6110 purposes

Cc: