Office of Chief Counsel
Internal Revenue Service

memorandum

CC:MSR:ILD:TL-N-19-99 G:\CASES\[redacted]ND\[redacted]\Minimum Tax\ADVICE.fin.wpd
HBDow (312) 886-9225 x. 403 (FAX) 886-9244

date: April 9, 1999

to: District Director, Illinois
Attn: Alex Christopher, Case Coordinator E:1213

from: District Counsel, Illinois CC:MSR:ILD

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subject: Captive Insurance

Taxpayer: [redacted] (CEP)
Ein: [redacted]
Years: [redacted]

We have reviewed the write-up of the I.R.C. § 58(h) issue in this case. The agent proposes to continue to assert the position that the taxpayer's credit carryovers from [redacted] through [redacted] should be reduced on account of minimum tax liabilities incurred. The issue has not been resolved in prior cycles because it had no tax effect.

You are relying on Treas. Reg. § 1.58-9. The government's interpretation of the regulation was upheld by the Tax Court in *E.I. Dupont De Nemours & Company, 102 T.C 1 (1994), aff'd 41 F.3d 130 (3d Cir. 1994) and aff'd sub nom., Conoco, Inc. v. Commissioner, 42 F.3d 972, (5th Cir. 1995).*

Accordingly, we agree with your position. You might want to include the citation to *Du Pont* in the writeup.

Richard A. Witkowski
District Counsel

By: _____
HARMON B. DOW
Special Litigation Assistant

cc: Assistant Chief Counsel (Field Service) CC:DOM:FS
Assistant Regional Counsel (Tax Litigation) CC:MSR
Assistant Regional Counsel (Large Case) CC:MSR:LC:CHI-POD