

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

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Date:
July 9, 2003

LEGEND:

Taxpayer:

Parent:

Year 1:

Year 2:

Date 1:

Date 2:

Date 3:

Date 4:

Date 5:

State A:

State B:

Dear _____ :

We received letters dated September 16, 2002, April 3, 2003, and April 21, 2003, from you requesting permission for Taxpayer and its § 41(f)(5) controlled group to revoke their election under § 41(c)(4) of the Internal Revenue Code for the taxable year ending on Date 5. This letter responds to that request.

The facts submitted and representations made are as follows: Taxpayer is an accrual basis taxpayer with a taxable year ending June 30. Taxpayer, was incorporated in State A on Date 1 as a wholly owned subsidiary of Parent and reincorporated in State B on Date 2. In Year 1, Parent elected to determine its credit for increasing research activities under the alternative incremental research credit (AIRC) rules of § 41(c)(4) for itself and on behalf of its § 41(f)(5) controlled group. At the time of the election, Taxpayer was a member of Parent's § 41(f)(5) controlled group.

On Date 3, Parent commenced an initial public offering (IPO) of the Common Stock of Taxpayer. Since the IPO, Parent has sold several blocks of Taxpayer's Common Stock. By Date 4, the sale of Taxpayer's Common Stock had caused Parent's ownership of Taxpayer to fall below 50 percent. As a result of Parent's ownership of Taxpayer falling below 50 percent, Taxpayer is no longer a member of Parent's controlled group.

At the present time, Taxpayer is the parent of a § 41(f)(5) controlled group that joins in filing a consolidated federal income tax return.

Before the due date of its return (including extensions) for the taxable year ending on Date 5, Taxpayer requested permission for itself, and on behalf of its § 41(f)(5) controlled group, to revoke its AIRC election under § 41(c)(4), and to determine its credit for increasing research activities using § 41(a) for the taxable year ending on Date 5 and all subsequent years.

For taxable years beginning after June 30, 1996, taxpayers may elect to determine their research credit under the alternative incremental research credit rules of § 41(c)(4).

Section 41(c)(4)(B) provides that any election under § 41(c)(4)(A) shall apply for the taxable year in which made and all succeeding taxable years unless revoked with the consent of the Secretary.

Based solely on the facts submitted and representations made, we grant permission for Taxpayer to revoke its election to determine the credit for increasing research activities under the AIRC rules of § 41(c)(4) for itself and the members of its § 41(f)(5) controlled group. Taxpayer and the members of its § 41(f)(5) controlled group should compute their credit for increasing research activities under the general rule of § 41(a) for the taxable year ending on Date 5 and all subsequent years, provided that neither Taxpayer nor any member of its controlled group makes a new election to determine the credit for increasing research activities under the AIRC rules of § 41(c)(4).

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Further, we express or imply no opinion concerning expenditures

Taxpayer, Parent, or any member of the § 41(f)(5) controlled group treated as qualified research expenses.

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 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.

Sincerely,

Brenda M. Stewart
Senior Counsel
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosure:
Copy for § 6110 purposes

cc: