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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:FIP:B02
PLR-144162-04

Date:
November 02, 2004

TY:

X =

Y =

State =

Year =

Dear :

This is in reply to a letter dated August 12, 2004, requesting the revocation of an election under section 4982(e)(4)(A) of the Internal Revenue Code.

FACTS

X is one fund in the series of the Y Funds, a business trust organized under the laws of State and registered with the Securities and Exchange Commission as a diversified open-end management company under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq. For federal income tax purposes, X is treated as a

separate corporation under section 851(g) of the Code. X has elected to be treated as, and is operated in a manner intended to qualify it as a regulated investment company ("RIC") for purposes of Subtitle A, Chapter 1, Subchapter M of the Code.

X uses the accrual method of accounting for tax and financial accounting purposes, and uses the calendar year for tax and financial reporting purposes.

More than six years ago, X elected under section 4982(e)(4)(A) of the Code to use the twelve-month period ending December 31 for purposes of calculating the required distribution of capital gain net income under section 4982(b)(1)(B) to avoid payment of an excise tax under section 4982(a). This period was also used to determine the treatment of foreign currency gains and losses pursuant to section 4982(e)(5) and the treatment of gains or losses recognized under section 1296 pursuant to section 4982(e)(6).

X assumed that the election under section 4982 would relieve the administrative burden associated with dual calculations of capital gain net income, foreign currency gains and losses, and gains and losses under section 1296 under the excise tax and subchapter M provisions. X, however, has experienced additional administrative burdens due to time constraints in declaring required excise tax distributions. Furthermore, 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 its required distribution under section 4982.

Accordingly, X seeks consent to revoke its election under section 4982(e)(4)(A) to use its taxable year for purposes of sections 4982(b) and 4982(e).

X represents that:

1. X's desire to revoke its elections is due to administrative and non-tax-related financial burdens caused by the election;
2. X is not seeking to revoke its election in order to preserve or secure a tax benefit;
3. X will neither benefit through hindsight, nor prejudice the interests of the government if permitted to revoke its election; and
4. X will not make a subsequent election under section 4982(e)(4)(A) of the Code for at least five calendar years following the year of the grant of revocation.

APPLICABLE LAW

Section 4982(a) of the Code imposes an excise tax on every RIC for each calendar year equal to 4 percent of the excess of the “required distribution” for the calendar year over the “distributed amount” for the calendar year.

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

Section 4982(e)(6) provides that for purposes of determining a RIC’s ordinary income, section 1296 shall, notwithstanding section 4982(e)(1)(C), be applied as if the RIC’s taxable year ended on October 31. 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.

ANALYSIS and CONCLUSION

Based on the information submitted and the representations made, we conclude that X’s desire to revoke its election under section 4982(e)(4)(A) is because of administrative burdens and not because of any federal tax-related financial burden caused by the election. X does not seek to revoke its election for the purpose of preserving or securing a federal tax benefit. Additionally, X will neither benefit through hindsight nor prejudice the interests of the government as a result of being permitted to revoke its election.

Accordingly, it is held as follows:

1. Pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation of the election made by X under section 4982(e)(4)(A) effective for Year and subsequent years.

2. In calculating X's "required distribution: under section 4982 for Year, for purposes of section 4982(b)(1)(B), 4982(e)(2), 4982(e)(5), and 4982(e)(6), the capital gain net income, foreign currency gains and losses, and gains and losses recognized under section 1296 for X shall be determined on the basis of capital gains and losses, foreign currency gains and losses, and gains and losses recognized under section 1296 during the ten-month period from January 1 of Year through October 31 of Year.

As a condition to the Secretary's consent to the revocation pursuant to section 4982(e)(4)(B), X may not make a subsequent election under section 4982(e)(4)(A) for a period of 5 calendar years following the year to which the grant of revocation applies.

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 whether X qualifies as a RIC.

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.

In accordance with the Power of Attorney on file with this office, copies of this letter are being sent to your authorized representatives.

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

Sincerely,

William E. Coppersmith
William E. Coppersmith
Chief, Branch 2
Office of Associate Chief Counsel
(Financial Institutions & Products)