

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
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Date:
February 02, 2009

TY:

Legend

Corp A =
Corp B =
Country X =
State Y =
Year 1 =
Year 2 =

Dear :

This is in response to a letter dated November 7, 2008, that was submitted on your behalf by your authorized representative, requesting a ruling that Corp A be permitted to change to the tax book value method of asset valuation for purposes of apportioning interest expense for its taxable year beginning on January 1, 2009 and for all subsequent taxable years, subject to Corp B acquiring Corp A.

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. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Corp A is a domestic corporation organized under the laws of State Y and is classified as a corporation for U.S. federal income tax purposes. Corp A uses the accrual method as its overall method of accounting and its annual accounting period ends December 31. Corp A conducts multiple businesses.

Corp A is the common parent of a group of affiliated corporations that file a consolidated U.S. federal income tax return. All members of the Corp A affiliated group have utilized the fair market value method of asset valuation, as set forth in Temp. Treas. Reg. §1.861-9T(h), for purposes of apportioning interest expense since Year 1. Since Year 2, Corp A has expended significant amounts of employee resources and money for the purpose of inspecting Corp A's U.S. and foreign assets to measure their fair market values.

Corp B, based in Country X, engages in one of the same businesses as Corp A. Corp B is a corporation organized under the laws of Country X and is classified as a corporation for federal income tax purposes under Treas. Reg. §301.7701-3. Corp B, through a wholly-owned subsidiary, will become the parent of Corp A by acquiring all of the stock of Corp A. The acquisition will occur in such a manner as to allow Corp A's consolidated group to continue.

In an effort to reduce ongoing costs associated with Corp A's operations, including its U.S. tax function, Corp B has requested that Corp A seek permission to change to the tax book value method of asset valuation for purposes of apportioning interest expense. However, should Corp B's acquisition of Corp A not occur, for any reason, Corp A would prefer to remain on the fair market value method of asset valuation for apportioning interest expense.

Section 864(e) of the Internal Revenue Code provides that all allocations and apportionments of interest expense shall be made on the basis of assets rather than gross income. Temp. Treas. Reg. §1.861-9T sets forth the rules specific to the apportionment of interest expense. Temp. Treas. Reg. §1.861-9T(g)(1)(ii) provides that a taxpayer may elect to determine the value of its assets on the basis of either tax book value or the fair market value of its assets. Temp. Treas. Reg. §1.861-8T(c)(2) provides that once a taxpayer uses the fair market value method, the taxpayer and all related persons must continue to use such method unless expressly authorized by the Commissioner to change methods.

Temp Treas. Reg. §1.861-9T(g)(1)(iii) provides that, if the taxpayer elects the fair market value method of asset valuation, the taxpayer must establish the fair market value of its assets to the satisfaction of the Commissioner. Otherwise, the Commissioner may determine the appropriate values or require the taxpayer to use the tax book value method of apportionment. Temp. Treas. Reg. §1.861-9T(h) sets forth rules for determining the fair market value of the taxpayer's assets under the fair market value method.

Starting with Year 1, Corp A has determined the value of its assets on a fair market value basis, pursuant to the authority granted under Temp Treas. Reg. §1.861-9T(g)(1)(ii). Since then, Corp A has continued to use the fair market value method for

determining the value of its assets, as required under Temp. Treas. Reg. §1.861-8T(c)(2). However, Temp Treas. Reg. §1.861-9T(g)(1)(iii) provides that, if a taxpayer elects the fair market value method of asset valuation, then the taxpayer must establish the fair market value of its assets to the satisfaction of the Commissioner. Complying with this requirement has resulted in significant direct costs for Corp A; in addition, Corp A has incurred considerable indirect expenses as a result of travel costs and lost time for its employees who supervise these fair market value studies.

Consequently, Corp B desires to reduce the ongoing costs of Corp A's operations and increase certainty with respect to Corp A's interest expense apportionment methodology. Corp B therefore has requested that Corp A seek permission to change to the tax book value method of asset valuation for apportioning interest expense subsequent to Corp B's proposed acquisition of Corp A. Accordingly, Corp A requests, pursuant to Temp. Treas. Reg. §§1.861-8T(c)(2) and 1.861-9T(g)(1)(ii), that it be permitted to change to the tax book value method of asset valuation for its taxable year beginning January 1, 2009, and for all subsequent years. However, Corp A requests that such consent be provided only if Corp B acquires Corp A.

Based solely on the information submitted, the representations made, and the reasons given for this request, Corp A may change from the fair market value method to the tax book value method of asset valuation for purposes of apportioning interest expense, pursuant to Temp. Treas. Reg. §§1.861-8T(c)(2) and 1.861-9T(g)(1)(ii), for the taxable year beginning on January 1, 2009, and for all subsequent taxable years, subject to the condition precedent of Corp B acquiring Corp A. If Corp B does not acquire Corp A, Corp A will be required to remain on the fair market value method of interest apportionment for the taxable year beginning on January 1, 2009, and for all subsequent taxable years, subject to the consent of the Commissioner.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item described or referenced in this letter.

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

Sincerely,

Anne O'Connell Devereaux
Senior Technical Reviewer, Branch 3
(International)