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INTERNAL REVENUE SERVICE
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OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

This responds to your letter to Chief Counsel William Wilkins dated June 18, 2010. Your letter requested information regarding the availability of tax credits such as that provided by section 30D of the Internal Revenue Code to an individual who is a resident of the United States Virgin Islands (USVI). Mr. Wilkins requested that I respond to your letter. While many factors affect whether a particular individual resident of the USVI may claim the section 30D tax credit and therefore we cannot respond definitively regarding a particular individual, we can provide the following general information. In addition, we enclose a copy of our Publication 570, Tax Guide for Individuals with Income from U.S. Possessions, for your information.

Individuals who are bona fide residents of the USVI must file their income tax returns with the USVI territorial tax authorities and will receive a full exclusion from the federal gross income if they correctly report and pay tax on their income to the USVI. Because bona fide residents of the USVI generally have no income tax obligations to the United States, income tax credits like the one provided by section 30D cannot be claimed by such individuals on a United States federal income tax return. However, because the USVI territorial income tax code mirrors the US Internal Revenue Code (except for the substitution of the name of the USVI for the term "United States" where appropriate), bona fide residents may be able to claim income tax credits like the one provided under section 30D on their territorial income tax returns filed with the USVI.

United States citizens and resident alien individuals who are not bona fide residents of the USVI but have income from sources in the USVI or income effectively connected with the conduct of a trade or business in the USVI must file their income tax returns with both the IRS and the USVI. Such individuals must pay an allocable percentage of

their income taxes to the USVI, which is calculated on Form 8689. Nonrefundable credits like the one provided in section 30D generally are applied in calculating an individual's total income tax liability and therefore are applied prior to the calculation of the applicable percentage of income taxes due to the USVI. Individuals also are allowed a credit for the tax required to be paid to the USVI, so that only the remainder is due to the United States.

Businesses such as corporations and partnerships that are created or organized under the laws of the USVI generally are treated as foreign for US federal income tax purposes. For businesses, the credit in section 30D is treated as a general business credit under section 38, which is only creditable against United States income tax liabilities. Therefore, a USVI business would be eligible for the credit on a US-filed income tax return if the business has income that is effectively connected with a trade or business in the United States that generates a United States income tax liability against which the credit could be applied. Under the USVI's mirror income tax code, USVI businesses also may be eligible to use the mirror-code application of the credit against their territorial income tax liability.

We hope this information is helpful to you. Please contact me or _____ of my staff at _____ if we can be of further assistance.

Sincerely,

CURTIS G. WILSON
Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Brenda Stewart
Senior Counsel, Branch 6
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Enclosure (1)