

**Internal Revenue Service**

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Person To Contact:  
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Telephone Number:

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CC:INTL:B03  
PLR-149857-10

Date:  
February 08, 2011

DO:  
TY:

Corp A =  
State X =  
Country Y =  
Industry Z =

Dear :

This is in response to a letter dated December 2, 2010, that was submitted on your behalf by your authorized representative, requesting a ruling that:

- (1) Corp A is granted permission to change from the fair market value method to the alternative tax book value method of asset valuation for purposes of apportioning interest expense for its taxable year beginning on January 1, 2008, and for all subsequent taxable years; or, if Ruling (1) cannot be granted,
- (2) Corp A is granted permission to change from the fair market value method to the alternative tax book value method of asset valuation for purposes of apportioning interest expense for its taxable year beginning on January 1, 2010, and for all subsequent taxable years.

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.

Corp A is a domestic corporation organized under the laws of State X 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 is the common parent of a group of affiliated corporations that files a consolidated U.S. federal income tax return. Corp A, through its wholly owned subsidiaries, owns and operates businesses in Industry Z worldwide, including in Country Y. Since 2005, 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.

Section 864(e)(2) of the Internal Revenue Code provides that “[a]ll allocations and apportionments of interest expense shall be made on the basis of assets rather than gross income.” See also Temp. Treas. Reg. §1.861-8T(c)(2). Treas. Reg. §§1.861-9 through -12 and Temp. Treas. Reg. §§1.861-9T through -12T set 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 and that special rules for the alternative tax book value method are set forth in Temp. Treas. Reg. §1.861-9T(i)(1)(i). A domestic corporation indicates what method it is using by checking the appropriate box on Schedule H of the Form 1118, Foreign Tax Credit-Corporations. Under Temp. Treas. Reg. §1.861-8T(c)(2), 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 the method.

Treas. Reg. §1.861-9(i)(2)(i) states that a taxpayer may elect to use the alternative tax book value method with respect to any taxable year beginning on or after May 26, 2004. This section also requires that, pursuant to Temp. Treas. Reg. §1.861-8T(c)(2), a taxpayer that has elected the fair market value method must obtain the permission of the Commissioner prior to electing the alternative tax book value method. Any election made pursuant to Treas. Reg. §1.861-9(i)(2)(i) applies to all subsequent taxable years of the taxpayer unless revoked by the taxpayer. Revocation of such an election, other than in conjunction with an election to use the fair market value method, for a taxable year prior to the sixth taxable year for which the election applies, requires the consent of the Commissioner. This rule is illustrated in Treas. Reg. §1.861-9(i)(2)(i), Example.

Corp A requests, pursuant to Temp. Treas. Reg. §§1.861-8T(c)(2) and 1.861-9T(g)(1)(ii), that it be granted permission to change from the fair market value method to the alternative tax book value method of asset valuation for its taxable year beginning on January 1, 2008. However, the better reading of those regulations is that Commissioner authorization to change from the fair market value method to the alternative tax book value method of asset valuation cannot apply retroactively, as Corp A requests. Corp A’s request to change from the fair market value method to the alternative tax book value method for taxable years beginning January 1, 2008,

therefore is not permitted. Corp A is required to remain on the fair market value method for taxable years 2008 and 2009.

In the alternative, Corp A has requested permission to change from the fair market value method to the alternative tax book value method of asset valuation for purposes of apportioning interest expense for its taxable year beginning on January 1, 2010, and for all subsequent taxable years. This request for the Commissioner's consent to change was made on or before the due date (including extensions) of Corp A's tax return for 2010, the year for which change in method of accounting is requested. Therefore, based solely on the information submitted, the representations made, and the reasons given for this request, Corp A is granted permission to change from the fair market value method to the alternative 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 Corp A's taxable year beginning on January 1, 2010, and for all subsequent taxable years.

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. Further, no ruling is expressed or implied with respect to Taxpayer's overall foreign loss under section 904(f).

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. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Richard L. Chewning  
Senior Counsel, Branch 3  
(International)