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Department of the Treasury
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Third Party Communication: None
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Person To Contact:

ID No.
Telephone Number:

Refer Reply To:
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Date:
October 12, 2011

Legend:

Fund A =

Fund B =

Fund C =

Fund D =

Fund E =

Fund F =

Fund G =

Fund H =

Fund I =

Fund J =

Administrator =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

Year 6 =

Dear :

This ruling responds to a letter dated May 4, 2011, submitted on behalf of Fund A, Fund B, Fund C, Fund D, Fund E, Fund F, Fund G, Fund H, Fund I, and Fund J (collectively, the "Funds"). The Funds request consent to revoke previous elections made by the Funds under section 4982(e)(4)(A) of the Internal Revenue Code (the "Code"), for Year 4 and subsequent years. In addition, the Funds also request that the calculation of their required distributions for the calendar year ending December 31, Year 4, for purposes of section 4982(b)(1)(B), 4982(e)(2), 4982(e)(5), and 4982(e)(6) 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 tenth-month period from January 1, Year 4, through October 31, Year 4.

FACTS

The Funds are each registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq. Each Fund has made an election under section 851(a) to be treated as a regulated investment company ("RIC") for federal income tax purposes. Each Fund is an accrual basis taxpayer, and each Fund's taxable year ends on December 31.

Administrator is a registered investment advisor that provides investment advisory and administrative services to the Funds.

Pursuant to section 4982(e)(4)(A), the Funds elected to use their tax year ending on December 31 in lieu of the one-year period ending on October 31 for the purposes of calculating the required distribution under sections 4982(b)(1) and (e). All of the Funds,

except Fund J, made a section 4982(e)(4)(A) election in Year 1. Fund J made the election in Year 2.

The elections under section 4982(e)(4)(A) were made in an attempt to reduce administrative burden associated with calculating required distributions of ordinary income and capital gain net income. However, the Funds' experience has been that their section 4982(e)(4) elections created additional administrative burdens, primarily due to time constraints in declaring required excise tax distributions.

Accordingly, each Fund seeks consent to revoke its election to use the taxable year for purposes of calculating its required distribution. Each Fund makes the following representations:

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

LAW AND ANALYSIS

Section 4982(a), which was enacted as part of the Tax Reform Act of 1986 and is effective for tax years beginning after December 31, 1986, imposes an excise tax on every RIC for each calendar year, equal to 4 percent of the excess, if any, of the "required distribution" over the "distributed amount" for the calendar year.

Section 4982(b)(1) defines the term "required distribution" to mean, with respect to any calendar year, the sum of (A) 98 percent of the RIC's ordinary income for such calendar year (as defined in section 4982(e)(1)), plus (B) 98.2 percent of its capital gain net income for the one-year period ending on October 31 of such calendar year.

Section 4982(e)(4)(A) provides that if the taxable year of a RIC ends with the month of November or December, the RIC may elect to have its taxable year taken into account in lieu of the one-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)(A) provides that any specified gain or specified loss which would be properly taken into account for the portion of the calendar year after October 31 shall be treated as arising on January 1 of the following calendar year. Section

4982(e)(5)(B) defines "specified gain" and "specified loss" as ordinary gain or loss from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). The terms include any foreign currency gain or loss attributable to a section 988 transaction and any amount includible in gross income under section 1296(a)(1), in the case of gain, or allowable as a deduction under section 1296(a)(2), in the case of loss. Section 4982(e)(5)(C) provides that if a RIC makes an election under section 4982(e)(4), the last day of the RIC's taxable year will be substituted for October 31.

Section 4982(e)(6)(A) provides that, for the purposes of determining a RIC's ordinary income, each specified mark-to-market provision shall be applied as if such RIC's taxable year ended on October 31. It also provides that in the case of a RIC making 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)(B) defines "specified mark to market provision" as sections 1256 and 1296 and any other provision of the Code (or regulations thereunder) which treats property as disposed of on the last day of the taxable year.

Sections 4982(b)(1)(B) and 4982(e) provide that a RIC with a calendar year that does not have a section 4982(e)(4)(a) election in effect will compute capital gain net income for a one-year period ending on October 31. For a RIC that is revoking its election under section 4982(e)(4)(A), there is a possible inference that, for the first year following the revocation, such RIC's calculation of its capital gain net income will include the November-December period twice, once as part of the preceding calendar year and then again as part of the one-year period calculation for the year of change. To clarify that such a double inclusion is not required, the Funds have requested that the calculation of their required distribution with respect to capital gain net income be determined on the basis of capital gain net income realized and recognized during the ten-month period from January 1 through October 31 of Year 4.

The Funds also requested that the same shortened tax year be applied for the calculation of items of gain or loss described in sections 4982(e)(5) and (6). However, due to the differing statutory language of sections 4982(e)(5) and (6) from that of sections 4982(b)(1)(B) and (e)(2), such an additional ruling is unnecessary. Unlike section 4982(e)(2)(A), sections 4982(e)(5) and (6) do not refer to a one-year period calculation.

Section 4982(e)(5)(A) provides that amounts that otherwise would be taken into account for the portion of a calendar year after October 31 are treated as arising on January 1 of the following year, effectively deferring inclusion of these amounts until the subsequent year. Because the Funds had a section 4982(e)(4)(A) election in place for Year 3, section 4982(e)(5)(A) and (C) would be applied to treat specified gains or losses, which would be properly taken into account for the portion of the calendar year after December 31, Year 3, as arising on January 1 of Year 4. In other words, for the

years that the section 4982(e)(4)(A) election was in place, there was no deferral of specified gains or losses. And the Funds' revocation of section 4982(e)(4)(A) will have no effect on the calculation of the Year 4 section 4982(e)(5)(A) specified gains and losses.

In addition, section 4982(e)(6)(A) states that each specified mark-to-market provision shall be applied as if the company's taxable year ended on October 31. It also provides that in the case of a RIC making 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. Because the Funds had a section 4982(e)(4)(A) election in place for Year 3, section 4982(e)(6) would be applied to treat the specified mark-to-market provisions as applying on December 31 of Year 3, and the revocation of the section 4982(e)(4)(A) election for Year 4 will not cause the Year 3 gains to be attributed to Year 4.

CONCLUSION

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

Accordingly, based on the representations made and pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation of the elections made by the Funds under section 4982(e)(4)(A), effective for calendar Year 4 and subsequent years. In addition, in calculating the "required distribution" for calendar Year 4, for purposes of sections 4982(b)(1)(B) and (e)(2), the capital gain net income will be determined on the basis of the capital gains and losses realized and recognized during the 10-month period from January 1, Year 4 through October 31, Year 4.

As a condition to the Secretary's consent to the revocation pursuant to section 4982(e)(4)(B), the Funds may not make subsequent elections under section 4982(e)(4)(A) for a period of five (5) calendar years following the year to which the grant of revocation applies (i.e., Year 5 through Year 6, inclusive).

Except as specifically ruled upon above, no opinion is expressed or implied as to any other federal excise or income tax consequences.

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent. In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative. It is important that a copy of this letter be attached to the federal income and excise tax returns filed by the Funds for the year to which this ruling applies.

Sincerely,

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Alice M. Bennett
Branch Chief, Branch 3
Office of Associate Chief Counsel
(Financial Institutions and Products)

Enclosures:
Copy of this letter
Copy for section 6110 purposes

cc: