

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201210019**
Release Date: 3/9/2012

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:

Index Number: 864.04-00, 861.09-06

, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B03
PLR-136532-11
Date:
December 07, 2011

TY:

Taxpayer =
State X =
Industry Y =
Year 1 =

Dear :

This is in response to a letter dated August 31, 2011, that was submitted on your behalf by your authorized representative, requesting a ruling that Taxpayer be 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 ruling contained in this letter is based upon information and representations submitted by 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 ruling, it is subject to verification on examination.

Taxpayer is a domestic corporation organized under the laws of State X and is classified as a corporation for U.S. federal income tax purposes. Taxpayer uses the accrual method as its overall method of accounting and its annual accounting period ends December 31. Taxpayer is the common parent of a group of affiliated corporations that files a consolidated U.S. federal income tax return. Taxpayer, through its wholly owned subsidiaries, owns and operates businesses in Industry Y. Taxpayer represents that since Year 1, all members of the Taxpayer 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.

Taxpayer must allocate and apportion its deductions, including its deduction for interest expense, for all purposes of the Internal Revenue Code pursuant to Treas. Reg. §§ 1.861-8 through 1.861-17 and Temp. Treas. Reg. §§ 1.861-8T through 1.861-14T. Under Treas. Reg. § 1.861-8(f)(2), the same method of allocation and the same principles of apportionment must be used by the taxpayer for all operative sections. 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 1.861-12 and Temp. Treas. Reg. §§ 1.861-9T through 1.861-12T 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 the 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 Treas. Reg. § 1.861-9(i). 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.

Taxpayer requests, pursuant to Temp. Treas. Reg. §§ 1.861-8T(c)(2) and 1.861-9T(g)(1)(ii) and Treas. Reg. § 1.861-9(i) 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, 2010, and for all subsequent taxable years. This request for the Commissioner’s consent to the change was made on or before the due date (including extensions) of Taxpayer’s tax return for 2010, the year for which the change to the alternative tax book method is requested. Therefore, based solely on the information submitted and the representations made, Taxpayer 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) and Treas. Reg. § 1.861-9(i) for Taxpayer’s taxable year beginning on January 1, 2010, and for all subsequent taxable years and for all operative sections pursuant to Treas. Reg. § 1.861-8(f)(2).

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 Taxpayer. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Taxpayer must attach a statement to its return that provides the date and control number of this letter ruling.

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,

Richard L. Chewning
Senior Counsel, Branch 3
Office of Associate Chief Counsel (International)

cc: