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Date:
October 19, 2012

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Dear :

This is in reply to a letter dated June 22, 2012, requesting the revocation of elections under section 4982(e)(4)(A) of the Internal Revenue Code.

FACTS

Funds 1 through 37 ("Funds") are organized under the laws of State and registered with the Securities and Exchange Commission as diversified open-end management companies under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq. Funds have elected to be treated as regulated investment companies ("RICs") for purposes of Subtitle A, Chapter 1, Subchapter M of the Code.

Funds use the accrual method of accounting for tax and financial accounting purposes, and use the calendar year for tax and financial reporting purposes.

Since their inception Funds elected under section 4982(e)(4)(A) of the Code to use the twelve-month period ending December 31 for purposes of calculating the required distribution under section 4982(b)(1) to avoid payment of an excise tax under section 4982(a).

Funds assumed that the election under section 4982 would relieve the administrative burden associated with dual calculations of capital gain net income, foreign currency gains and losses, and gains and losses pursuant to section 1296 under the excise tax and subchapter M provisions of the Code. However, Funds' experience has been that the section 4982(e)(4)(A) election has created additional administrative complexities primarily due to time constraints in declaring required excise tax distributions. Furthermore, the promulgation of regulations coordinating the excise tax and subchapter M provisions has greatly reduced the administrative burden of having a tax year different from the period used for determining its required distribution under section 4982.

Accordingly, Funds seek consent to revoke their elections under section 4982(e)(4)(A) to use their taxable years for purposes of sections 4982(b) and 4982(e).

Funds represent that:

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

APPLICABLE LAW

Section 4982(a) of the Code imposes an excise tax on every RIC for each calendar year equal to 4 percent of the excess of the “required distribution” for the calendar year over the “distributed amount” for the calendar year.

Section 4982(b)(1) defines “required distribution” to mean, with respect to any calendar year, the sum of 98 percent of the RIC’s ordinary income for such calendar year, plus 98.2 percent of its capital gain net income for the 1-year period ending on October 31 of such calendar year.

Section 4982(e)(4)(A) provides that if the tax year of a RIC ends with the month of November or December, the RIC may elect to have the capital gain net income for its taxable year applied in lieu of the 1-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) provides that any foreign currency gain or loss attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the ordinary income of the RIC for the calendar year but shall be taken into account in determining the RIC’s ordinary income in the following calendar year. However, if a RIC has made 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) provides that mark to market gain or loss properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the ordinary income of the RIC for the calendar year but shall be taken into account in determining the RIC’s ordinary income in the following calendar

year. However, if a RIC has made 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.

ANALYSIS and CONCLUSION

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

Accordingly, it is held as follows:

1. Pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation of the elections made by Funds under section 4982(e)(4)(A) effective for Year and subsequent years.
2. Funds' calculation of their capital gain net income under section 4982(b)(1) and section 4982(e)(2), and specified gains or losses under section 4982(e)(5) shall be determined on the basis of capital gains and losses and foreign currency gains and losses realized and recognized during the ten-month period from January 1 of Year through October 31 of Year.

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

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter, including whether Funds qualify as RICs.

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with your specific request and the Power of Attorney on file with this office, both the original and a copy of this letter are being sent to your first-named authorized representative, and a copy is being sent to your second-named authorized representative.

A copy of this letter must be attached to any federal income or excise tax returns filed by the Funds for the year to which this ruling applies.

Sincerely,

David B. Silber
David B. Silber
Chief, Branch 2
Office of Associate Chief Counsel
(Financial Institutions & Products)