

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.

Telephone Number:

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Date:  
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Legend

Taxpayer =

Dear :

This is in response to a letter dated October 5, 2012 (as well as additional subsequent communications), that was submitted on your behalf by your authorized representative. Taxpayer requests a ruling that it may elect to retroactively change for its taxable years 20 through 20 from the tax book value (“TBV”) method to the alternative tax book value (“ATBV”) method of asset valuation for purposes of apportioning interest expense.

The rulings contained in this letter are 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 a ruling, it is subject to verification on examination.

Taxpayer is a domestic corporation and the parent of a group of affiliated corporations that files a consolidated U.S. federal income tax return. Taxpayer represents that on its tax returns for taxable years 20 through 20 it used the TBV method pursuant to Temp. Treas. Reg. §1.861-9T(g)(1)(ii) to apportion its interest expense deductions, including for purposes of sections 199 and 904. Taxpayer represents further that for its taxable year 2011 it elected to use the ATBV method as described in Treas. Reg. §1.861-9(i) to apportion its 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 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. Special rules permitting the use of the ATBV method are set forth in Treas. Reg. § 1.861-9(i).

Treas. Reg. § 1.861-9(i)(2)(i) states that, except as provided in that paragraph, a taxpayer may elect to use the ATBV method with respect to any taxable year beginning on or after May 26, 2004. The only exception provided in that paragraph is 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 ATBV method. Any election to use the ATBV method under 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. See Treas. Reg. § 1.861-9(i)(2)(i), *Example*.

Taxpayer requests a ruling that it may elect to retroactively change for its taxable years 20 through 20 (including by filing amended returns for those years) from TBV method to the ATBV method of asset valuation for purposes of apportioning interest expense. Under Treas. Reg. § 1.861-9(i)(2)(i) a retroactive change (by filing amended returns for affected years) from the TBV method to the ATBV method is permitted. Accordingly, Taxpayer may elect to retroactively change for its taxable years 20 through 20 (by filing amended returns for those years) from the TBV method to the ATBV method of asset valuation for purposes of apportioning interest expense for all purposes of the Internal Revenue Code, including sections 199 and 904.

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.

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

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,

Anne O'Connell Devereaux  
Senior Technical Reviewer, Branch 3  
Office of Associate Chief Counsel (International)