

ID: CCA-118131-13

Office:

UILC: 166.00-00, 385.01-00

Number: **201323021**

Release Date: 6/7/2013

From:

Sent: Friday, January 18, 2013 12:22:48 PM

To:

Cc:

Subject: - Bad debt (debt v equity)

We have reviewed the documents submitted in this matter and coordinated with CC: [redacted] and CC: [redacted]. Based on the facts submitted for our review, [redacted] does not object to the position taken in the draft memorandum, but defers to [redacted] regarding whether a bona fide debt exists.

[redacted] analysis of whether there is a bona fide debt is that:

Based on the facts submitted for our review, we support the Field's argument that a bona fide debt does not exist. The taxpayer has not provided any information to show that the parties treated the amount as debt. Specifically, the taxpayer did not provide a fixed maturity date for the purported loan, there is no evidence of any principal repayment, or interest charged/paid. The purported creditor made no attempt to collect the alleged debt. Furthermore, beginning in [redacted], the parties treated the purported debt as equity for foreign jurisdiction purposes.

As noted in the draft memorandum, if there is not a bona fide debt, then there can not be a bad debt loss under section 166. Treas. Reg. section 1.166-1(c). Therefore, based on the facts submitted for our review, and given that [redacted] supports the argument that a bona fide debt does not exist, we support the Field's argument that the taxpayer is not entitled to a bad debt loss deduction under section 166.

Sincerely,