



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Reference: PFIC -- Passive Foreign Investment Companies

Dear _____ :

We are responding to your recent inquiry regarding whether you can recover approximately _____ paid to IRS in _____ on the sale of your interest in a Passive Foreign Investment Company (PFIC).

PFIC rules were enacted in 1986 to address concerns regarding U.S. investors in foreign corporations and their ability to defer income and recharacterize ordinary income as income from capital gains.

We do not have all the facts in your situation. However, you can take the following steps to verify that you properly reported your PFIC transaction.

1. Determine the portion, if any, of the gain that was attributable to years in which the investment was not considered a PFIC. Based on available information this amount would be the portion of the gain attributable to the period from the date of purchase until you became a U.S. resident for U.S. tax purposes.
2. If the investment was held in a retirement account, then you should consult the United States income tax treaty with the _____ to determine if there are income tax treaty provisions would apply to the investment. The income tax treaty can be found at the IRS.gov website, <https://www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z>.
3. If either of the first two steps above results in a change in the way you reported the transaction on your tax return, you should complete and file an amended return (Form 1040X) to claim a refund.

With regard to the question on PFIC Annual Information Statements, PFICs are not required to issue this statement annually.

If you have additional questions, please contact me at _____ .

Sincerely,

By: _____
Jeffery G. Mitchell
Branch Chief, Branch 2
(International)