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Legend

Fund =

Trust =

State =

Year 1 =

Year 2 =

Year 3 =

Dear :

This responds to a letter dated August 1, 2016, submitted on behalf of Fund. Fund requests consent to revoke a previous election made by Fund under section 4982(e)(4)(A) of the Internal Revenue Code ("Code"), for Year 3 and subsequent years.

FACTS

Fund is a diversified series of Trust organized under the laws of State. Fund is registered with the Securities and Exchange Commission as a diversified open-end investment company under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., as amended. Each series of Trust, including the Fund, has made an election under section 851(a) to be treated as a regulated investment company ("RIC) for federal income tax purposes under Subtitle A, Chapter 1, Subchapter M of the Code. Each

series of Trust is treated as a separate corporation for federal income tax purposes. The overall method of accounting for each series is an accrual method and the taxable year end for each series is March 31.

Fund maintained its books based on a November 30 year end for tax years up to and including November 30, Year 2. Following a recent reorganization, Fund qualifies for an automatic change in taxable year-end and intends to change its tax year to a fiscal year ending March 31.

In Year 1, Fund separately elected under section 4982(e)(4)(A) to use its taxable year ending on November 30 in lieu of the one-year period ending on October 31 for the purposes of calculating the required distribution under sections 4982(b)(1) and (e) in order to avoid payment of an excise tax under section 4982(a).

Fund represents that the election under section 4982(e)(4)(A) was made in an attempt to simplify the computation of required distributions of capital gain net income by performing those computations to be consistent with its fiscal year tax returns. At the time of the election it was believed that the election would minimize the complexity of tax accounting and enhance the accuracy of the related excise tax distribution calculations.

The other RICs for which Fund's administrator performs services maintain their books and compute their taxable income based on a March 31 year end. The Fund believes that a change in the year end of the Fund to March 31 will relieve some administrative and financial burdens. Fund recognizes that the section 4982(e)(4)(A) election is only available to a RIC that has a tax year ending November 30 or December 31, therefore Fund will not be eligible to have an election under section 4982(e)(4)(A) after Fund changes its year ending to March 31. Additionally, Fund represents that the benefits of the section 4982(e)(4)(A) election, including the minimization of tax accounting complexity and the enhancement of the accuracy of the related distribution calculations, will be completely eliminated by the change in year end.

Accordingly, Fund seeks consent to revoke its election under section 4982(e)(4)(A) to use the taxable year for purposes of calculating its required distribution for purposes of sections 4982(b) and 4982(e). Fund makes the following representations:

1. Fund's desire to revoke its election is due to administrative and non-tax related financial burdens caused by the election;
2. Fund is not seeking to revoke its election in order to preserve or secure a tax benefit;

3. Fund will neither benefit through hindsight, nor prejudice the interest of the government if permitted to revoke its election; and
4. Fund will not make a subsequent election under section 4982(e)(4)(A) for at least five calendar years following the year of the grant of revocation.

LAW & ANALYSIS

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

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

Section 4982(e)(4)(A) provides that if the taxable year of a RIC ends with the month of November or December, the RIC may elect to have its taxable year taken into account in lieu of the one-year period ending on October 31 of the calendar year for purposes of satisfying the required distribution defined in section 4982(b)(1)(B). 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)(A) provides that any specified gain or specified loss which would be properly taken into account for the portion of the calendar year after October 31 shall be treated as arising on January 1 of the following calendar year. Section 4982(e)(5)(B) defines “specified gain” and “specified loss” as ordinary gain or loss from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). The terms include any foreign currency gain or loss attributable to a section 988 transaction and any amount includible in gross income under section 1296(a)(1), in the case of gain, or allowable as a deduction under section 1296(a)(2), in the case of loss. Section 4982(e)(5)(C) provides that if a RIC makes an election under section 4982(e)(4), the last day of the RIC’s taxable year will be substituted for October 31.

Section 4982(e)(6)(A) provides that, for the purposes of determining a RIC’s ordinary income, each specified mark-to-market provision shall be applied as if such RIC’s taxable year ended on October 31. Section 4982(e)(6)(A) also provides that in the case of a RIC making 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)(B) defines “specified mark to market provision” as sections 1256 and 1296 and any other provision of the Code (or regulations thereunder) which treats

property as disposed of on the last day of the taxable year or which determines income by reference to the value of an item on the last day of the taxable year.

Sections 4982(b)(1)(B) and 4982(e) provide that a RIC with a calendar year that does not have a section 4982(e)(4)(a) election in effect will compute capital gain net income for a one-year period ending on October 31. For a RIC that is revoking its election under section 4982(e)(4)(A), there is a possible inference that, for the first year following the revocation, such RIC's calculation of its capital gain net income will include the November-December period twice, once as part of the preceding calendar year and then again as part of the one-year period calculation for the year of change. To clarify that such a double inclusion is not required, Fund has requested that the calculation of its required distribution with respect to capital gain net income for the transitional year be determined on the basis of capital gain net income recognized during the eleven-month period from December 1, Year 2 through October 31 of Year 3.

For purposes of determining the amount that a RIC may designate as a capital gain dividend for a tax year, section 852(b)(3) and section 1.852-11(e) of the Treasury regulations provided special rules that exclude post-October losses from the computation. Section 852(b)(8) states that to the extent provided in the regulations, the taxable income of a RIC (other than a company that has made a 4982(e)(4)(A) election) shall be computed without regard to any specified late year losses attributable to transactions arising after October 31 of such year, and any such specified late year loss shall be treated as arising on the first day of the following tax year. Section 1.852-11(f) provides that a RIC may elect, in accordance with procedures in section 1.852-11(i), to compute its taxable income for a tax year without regard to part or all of any post-October foreign currency loss for that year. Similarly, sections 852(c)(2) and 1.852-11(g) provide that earnings and profits of a RIC for a tax year are determined without regard to any post-October capital loss or post-October foreign currency loss for that year. However, section 1.852-11(b) provides that the regulations under section 1.852-11 shall only apply to a taxable year for which an election under section 4982(e)(4)(A) does not apply. Consequently, for purposes of the aforementioned rules, it is necessary to determine the first tax year for which the election under section 4982(e)(4)(A) will not apply.

CONCLUSION

Based upon the information submitted and the representations made, we conclude that Fund's desire to revoke its election 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. Fund does not seek to revoke its election for the purpose of preserving or securing a federal tax benefit. Additionally, Fund will neither benefit through hindsight nor prejudice the interests of the government as a result of being permitted to revoke its elections.

Accordingly, it is held as follows:

1. Pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation of the election made by Fund under section 4982(e)(4)(A), effective for the calendar year Year 3 and subsequent years.

2. In addition, in calculating Fund's required distribution for calendar year Year 3, for purposes of sections 4982(b)(1) and (e)(2), the capital gain net income will be determined on the basis of the capital gains and losses realized and recognized during the eleven-month period from December 1, Year 2 through October 31, Year 3.

3. Calendar year ending December 31, Year 3 shall be considered the first taxable year in which the election under section 4982(e)(4)(A) will not apply for purposes of designating its capital gain dividends, for determining its post-October losses, and for determining its earnings and profits.

As a condition to the Secretary's consent to the revocation pursuant to section 4982(e)(4)(B), Fund 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 Fund qualifies as a RIC.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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 representatives. A copy of this letter must be attached to any federal income or excise tax returns file by Fund for the year to which this ruling applies.

Sincerely,

Susan Thompson Baker
Susan Thompson Baker
Senior Technician Reviewer, Branch 2
Office of Associate Chief Counsel
(Financial Institutions & Products)