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November 15, 2016

Legend

Fund 1 =

Fund 2 =

Sponsor

Trust =

State =

Year 1 =

Dear :

This responds to a letter dated August 1, 2016, submitted on behalf of Fund 1 and Fund 2 (collectively, "Funds"). Funds request consent to revoke a previous election made by Funds under section 4982(e)(4)(A) of the Internal Revenue Code ("Code"), for Year 1 and subsequent years.

FACTS

Each Fund is a diversified series of Trust organized under the laws of State. Each Fund is registered with the Securities and Exchange Commission as a diversified open-end management company under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., as amended. Each 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 Fund's overall method of accounting is an accrual method and its taxable year is the calendar year.

Funds represent that upon the addition of section 4982 to the Code by the Tax Reform Act of 1986¹, each Fund separately elected under section 4982(e)(4)(A) to use its taxable year ending on December 31 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).

Funds represent that the elections under section 4982(e)(4)(A) were made in an attempt to reduce the complexity of tax accounting associated with calculating required distributions of ordinary income, capital gain net income, foreign currency gains and losses, and gains and losses pursuant to section 1296 under the excise tax and subchapter M provision of the Code. However, Funds' experience has been that their section 4982(e)(4) elections have created additional administrative burdens, primarily due to time constraints in declaring required excise tax distributions. Further, 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 Funds' required distributions under section 4982.

Accordingly, each Fund seeks consent to revoke its election to use the taxable year for purposes of calculating its required distribution for purposes of sections 4982(b) and 4982(e). Each 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 and Analysis

¹ Section 4982 was added to the Code by § 651(a) of the Tax Reform Act of 1986, Pub. L. 99-514, 100 Stat. 2085, 2294 (October 22, 1986), effective for calendar years beginning after December 31, 1986.

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, each Fund has requested that the calculation of its required distribution with respect to capital gain net income be determined on the basis of capital gain net income realized and recognized during the ten-month period from January 1 through October 31 of Year 1.

CONCLUSION

Based upon the information submitted and the representations made, we conclude that Funds' desire to revoke their elections under section 4982(e)(4)(A) 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 the calendar year Year 1 and subsequent years.

2. In addition, in calculating each Fund's required distribution for calendar year Year 1, 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 ten-month period from January 1 through October 31 of Year 1.

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) 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 Funds for the year to which this ruling applies.

Sincerely,

Robert A. Martin
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel
(Financial Institutions & Products)

Enclosures (2)

A copy of this letter

A copy for § 6110 purposes

cc: