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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
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July 12, 2017

**Legend**

Fund A =

Fund B =

Fund C =

Fund D =

Fund E =

Corporation =

State =

Year 1 =

Dear :

This responds to a letter dated May 5, 2017, submitted on behalf of Fund A, Fund B, Fund C, Fund D, and Fund E (collectively, "Funds"). Funds request consent to revoke previous elections made by Funds under section 4982(e)(4)(A) of the Internal Revenue Code ("Code"), for Year 1 and subsequent years.

## FACTS

Each Fund constitutes a portfolio within Corporation, which is incorporated under the laws of State. Each Fund is registered with the Securities and Exchange Commission as an open-ended management investment company under the Investment Company Act of 1940, 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. The overall method of accounting for each Fund is an accrual method and the taxable year end for each Fund is December 31.

The Funds represent that since inception, each Fund has elected under Section 4982(e)(4)(A) to use its taxable year ending 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).

At the time each Fund originally made the election under section 4982(e)(4)(A), each Fund assumed that the election would relieve the administrative burden associated with dual calculations of capital gain net income, mark-to-market gains and losses, and specified gains and losses (or the predecessor foreign currency gains and losses and section 1296 gains and losses) under the excise and Subchapter M regimes. However, each Fund's experience has been that the election has created additional administrative complexities primarily due to time constraints in declaring required distributions to avoid the excise tax imposed by section 4982. Furthermore, each Fund has become aware of regulations that coordinate excise tax and Subchapter M rules that greatly reduce the administrative burden of having a tax year different from the period used for determining required distributions under section 4982.

Accordingly, each 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). 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 & 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, each 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 ten-month period from January 1, Year 1 through October 31 of Year 1.

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 provide 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 the Funds' desire to revoke their elections 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. The Funds do not seek to revoke their elections for the purpose of preserving or securing federal tax benefits. Additionally, the 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 the Funds under section 4982(e)(4)(A), effective for the calendar year Year 1 and subsequent years.

2. In addition, in calculating the Funds' required distributions 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, Year 1 through October 31, Year 1.

3. Calendar year ending December 31, Year 1 shall be considered the first taxable year in which the elections under section 4982(e)(4)(A) will not apply for purposes of designating capital gain dividends, for determining post-October losses, and for determining earnings and profits.

As a condition to the Secretary's consent to the revocations pursuant to section 4982(e)(4)(B), the Funds may not make subsequent elections under section 4982(e)(4)(A) for a period of five 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 the Funds qualifies 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 filed by the Funds for the year to which this ruling applies.

Sincerely,

Pamela Lew  
Pamela Lew  
Senior Counsel, Branch 2  
Office of Associate Chief Counsel  
(Financial Institutions & Products)