

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B01
PLR-102166-05

May 05, 2005

Legend:

Corp. A =

Corp. B =

State X =

Date 1 =

Date 2 =

Date 3 =

Year 1 =

Dear _____ :

This is in reply to your letter dated January 5, 2005, requesting a ruling under section 305 of the Internal Revenue Code (“Code”). The relevant information submitted in the request is summarized below.

Corp. A and Corp. B are investment companies registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Company Act of 1940. Corp. A and Corp. B are incorporated in State X and engage in business as diversified, closed-end management investment companies. As closed-end funds, their shares are not redeemable at the option of the shareholders. Corp. A and Corp. B have elected to be taxed as, and have qualified as, regulated investment companies under section 851 of the Code.

The management of Corp. A and Corp. B believe that the market may undervalue their respective stocks by trading at prices less than the value of the pro rata portion of their respective assets allocable to such shares. To encourage the market to value Corp. A and Corp. B's stock at a price more closely reflecting the value of their underlying asset values, Corp. A and Corp. B propose to offer to redeem a portion of their respective stocks pursuant to tender offers. The offerings will be at a price equal to the net asset value of the shares on a date subsequent to the receipt of all tenders.

The representations set forth below have been made by Corp. A and Corp. B in connection with the proposed tender offers described above.

- (a) Corp. A and Corp. B each intend to qualify annually and to be taxed as a RIC under part I of subchapter M of the Code. Furthermore, Corp. A and Corp. B each intend to distribute substantially all of their investment company taxable income and net realized capital gains at least annually.
- (b) Neither Corp. A nor Corp. B is required by its charter, bylaws, or otherwise to redeem any of its stock and neither Corp. A's nor Corp. B's shareholders have a right to require either Corp. A or Corp. B to make a tender offer or otherwise redeem any stock. The Boards of Directors of Corp. A and Corp. B have a fiduciary duty to their respective Corp. and its shareholders to consider the appropriateness of any share repurchase and have not, in any manner, relinquished their discretion in carrying out their fiduciary duties.
- (c) The redemptions undertaken pursuant to the proposed tender offers are isolated transactions and are not related to any other past or future transactions.
- (d) The proposed tender offers are motivated solely by Corp. A and Corp. B's business considerations and are not motivated by any intent on either Corp. A or Corp. B's part to confer a federal income tax benefit on any shareholder.

- (e) The proposed tender offers are not part of a plan to periodically increase the proportionate share of any shareholder in the assets or earnings and profits of either Corp. A or Corp. B.
- (f) At the present time, neither Corp. A or Corp. B has an absolute commitment to make any further tender offers subsequent to the presently proposed tender offer. However, it is possible that either Corp. A or Corp. B will make additional tender offers in future years based on the circumstances prevailing at the time.
- (g) Corp. A has not redeemed any of its shares since its creation on Date 1 other than its Date 3 tender.
- (h) Corp. B has not redeemed any of its shares since its creation on Date 2 other than its Date 3 tender. Corp. B also repurchased some of its shares on the open market pursuant to the Year 1 repurchase.

Based solely on the information submitted and the representations stated above, we rule on the application of section 305 to the proposed tender offers as follows:

If undertaken, the redemption of stock of either Corp. A or Corp. B pursuant to the proposed tender offers will constitute a single and isolated transaction. If consummated, the proposed tender offers will not result in a deemed distribution under section 305 of the Code with respect to any of Corp. A or Corp. B's shareholders, regardless of whether such shareholder has a portion of his or her stock redeemed in the transaction. See Treas. Reg. § 1.305-3(e), Examples (10) and (11). See also Rev. Rul. 77-19, 1979-1 C.B. 84.

The above ruling only applies section 305 to the shareholders of Corp. A and Corp. B who do not participate at all or to those who participate partially in the proposed tender offers. We express no opinion as to the federal income tax treatment of the proposed tender offers under sections 301 or 302 for those shareholders who participate in whole or in part in the proposed tender offers. Furthermore, we express no opinion about the tax treatment of the proposed tender offers under any other provision of the Code or regulations, or the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed tender offers that are not specifically covered by the foregoing ruling.

The ruling contained in this letter is based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This Office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter should be attached to the federal income tax returns of the taxpayers involved for the taxable year in which the transaction covered by this letter is consummated.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Victor L. Penico
Senior Counsel, Branch 1
Office of Associate Chief Counsel (Corporate)

cc: