

**Internal Revenue Service**

**Department of the Treasury**

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**March 8, 2000**

**TY:**

Fund 1 =	E.I.N.:
Fund 2 =	E.I.N.:
Fund 3 =	E.I.N.:
Trust =	
Year A =	
Year B =	
Year C =	
Year D =	
Year E =	
State =	

Dear

This is in reply to a letter dated January 13, 2000, seeking the Secretary's consent to revoke, for Year A and subsequent calendar years thereafter, an election previously made by Fund 1, Fund 2 and Fund 3 ("Fund" or "Funds") under section 4982(e)(4)(A) of the Internal Revenue Code of 1986 as amended ("the Code").

Additionally, the Funds request that the calculation of each of their required distributions of capital gain net income under section 4982(b)(1)(B) and 4982(e)(2) and gain or loss from foreign currency transactions under section 4982(e)(5) for the calendar year ending December 31, Year A, be determined on the basis of capital gains and losses and foreign currency gains and losses, respectively, realized and recognized during the ten-month period from January 1 through October 31, Year A.

FACTS

Funds are part of Trust, a series fund that is organized as a State business trust and is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 as an open-end management investment company, 15 U.S.C. 80a-1 et seq. Each Fund is treated as a separate corporation under section 851(g) of the Code and has elected to be treated and has qualified as a regulated investment company ("RIC") under subchapter M of the Code.

Funds maintain their books and records in accordance with the accrual method of accounting and use a calendar year for both tax and financial accounting purposes. For the tax year ending December 31, Year B, Fund 1 and Fund 2 elected, pursuant to section 4982(e)(4)(A), to use their tax year of December 31 in lieu of the one-year period ending on October 31, for purposes of calculating the required distribution amount under sections 4982(b)(1)(B), 4982(b)(2), and 4982(e)(5). Fund 3 made this election in Year C.

Funds assumed that the election under section 4982 would relieve the administrative burden associated with dual calculations of foreign currency gains and losses under the excise tax and Subchapter M provisions of the Code. Another motivation for making the election was to avoid making a second distribution.

The Funds represent that the election has created significant administrative difficulties resulting primarily from the short time between the Funds' year end and the date by which the ordinary income and capital gain net income distributions must be made ("required distributions") to avoid the excise tax imposed by section 4982. The Funds also represent that the process interferes with investment decisions and could potentially result in portfolio management activities that may not be in the best interest of the shareholders from an investment standpoint. In addition, the promulgation of Treasury 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 its required distribution under section 4982. Accordingly, each Fund seeks consent to revoke its election to use its taxable year (the calendar year) for purposes of sections 4982(b)(1)(B), 4982(e)(2), and 4982(e)(5).

Each Fund represents that:

1. The desire to revoke its election is due to administrative and non-tax related financial burdens caused by the election;
2. It is not seeking to revoke its election for the purpose of preserving or securing a tax benefit;
3. It will neither benefit through hindsight nor prejudice the interests of the government as a result of being permitted to revoke its election;

4. It will not make a subsequent election under section 4982(e)(4)(A) for a period of five calendar years following the year of the grant of revocation.

### LAW and ANALYSIS

Section 4982(a) of the Code, which was enacted as part of the Tax Reform Act of 1986 and is effective for tax years beginning after December 31, 1986 imposes an excise tax on every RIC for each calendar year equal to 4 percent of the excess (if any) of the "required distribution" for the calendar year over the "distributed amount" for the calendar year.

Under section 4982(b)(1), "required distribution" means, with respect to any calendar year, the sum of 98 percent of the RIC's ordinary income for such calendar year, plus 98 percent of its capital gain income for the 1-year period ending on October 31 of such calendar year.

Section 4982(b)(2) provides that the amount determined under section 4982(b)(1) for any calendar year shall be increased by the excess (if any) of the "grossed up required distribution for the preceding calendar year," over the distributed amount for such preceding year.

Section 4982(b)(3) defines "grossed up required distribution" for any calendar year to mean the required distribution for such year determined by applying section 4982(b)(2) to such year but substituting "100 percent" for each percentage set forth in section 4982(b)(1).

Section 4982(e)(4)(A) provides that if the tax year of a RIC ends with the month of November or December, the RIC may elect to have its capital gain net income for its tax year applied in lieu of the 1-year period ending on October 31 of the calendar year for purposes of satisfying the required distribution defined in section 4982(b)(1). 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) provides that any foreign currency gain or loss attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account when determining the amount of the ordinary income of the RIC for such calendar year, but shall be taken into account in determining the RIC's ordinary income in the following calendar year. However, if a RIC has made a 4982(e)(4)(A) election, the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31.

Based on the information submitted and the representations made, we conclude that each Fund's desire to revoke its election under section 4982(e)(4)(A) is due to administrative burdens and not because of any federal tax-related financial burden caused by the election.

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Neither Fund seeks to revoke its election for the purpose of preserving or securing a federal tax benefit. Nor will the Funds benefit through hindsight or prejudice the interests of the government as a result of being permitted to revoke the election.

#### CONCLUSION

Accordingly, pursuant to section 4982(e)(4)(B), the Secretary consents to the revocation of the election made by each Fund under section 4982(e)(4)(A) effective calendar Year A and subsequent years. In calculating the "required distribution" for calendar Year A, for purposes of section 4982(b)(1)(B) and 4982(e)(2), the capital gain net income will be determined on the basis of the capital gains and losses taken into account during the 10-month period from January 1, Year A through October 31, Year A. The net gain or loss from foreign currency transactions included in the ordinary income of each Fund may also be calculated during the 10-month period from January 1 through October 31 of Year A.

As a condition to the Secretary's consent to the revocation pursuant to section 4982(e)(4)(B), each 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, that is, Year D through Year E.

Except as specifically ruled upon above, no opinion is expressed or implied as to the federal excise or income tax consequences regarding the Funds.

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

It is important that a copy of this letter be attached to the federal income and excise tax return filed by each Fund for the first year to which this ruling applies.

Sincerely,  
Assistant Chief Counsel  
(Financial Institutions & Products)

By: William E. Coppersmith  
Chief, Branch 2

Enclosure:

Copy of this letter/Copy for section 6110 purposes