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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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INTERNAL REVENUE SERVICE NATIONAL OFFICE FIELD SERVICE ADVICE

MEMORANDUM FOR
ASSOCIATE DISTRICT COUNSEL

Attn:

FROM: DEBORAH A. BUTLER
ASSISTANT CHIEF COUNSEL (FIELD SERVICE)
CC:DOM:FS

SUBJECT: Capital Loss re:

This Field Service Advice responds to your memorandum dated Date12. Field Service Advice is not binding on Examination or Appeals and is not a final case determination. This document is not to be cited as precedent.

LEGEND:

CorpA =

CorpB =

CorpC =

Date1 =

Date2 =

Date3 =

Date4 =

Date5	=
Date6	=
Date7	=
Date8	=
Date9	=
Date10	=
Date11	=
Date12	=
Date13	=
Date14	=
Date15	=
$$aa	=
$$bb	=
$$cc	=
$$dd	=
$$ee	=
$$gg	=
$$hh	=
$$ii	=
$$kk	=
$$ll	=

$$mmm =
$$nnn =

$$ppp =

x% =

y% =
#m =

#n =
#p =

#q =

#r =

#s =

#t =

#u =

State A =

State B =

AAA =

TextB =

ISSUES:

Whether CorpA, a State A corporation, ("CorpA") is entitled to claim a short term capital loss of $$aa resulting from the sale of CorpA common stock by an affiliate in which the basis of the stock sold was increased under Treas. Reg. § 1.302-2 (c)?

Subsidiary issues include: (1) whether the creation of an artificial built-in loss asset by CorpA's repurchase of its stock from CorpB, a State B corporation, wholly owned by CorpA, ("CorpB") for CorpA's convertible note (the "Convertible Note" or "Note") should be disregarded for Federal income tax purposes as a sham, (2) whether the step transaction doctrine should apply, (3) whether section 1059 should apply, (4) whether the basis shift is a proper adjustment, and (5) whether the Convertible Note is property under section 317.

CONCLUSIONS:

Sham Transaction Doctrine. The sham doctrine should apply to disallow the loss because it lacked economic substance.

Application of Step Transaction Doctrine. The step transaction doctrine should apply to disregard the creation of the built-in loss asset through basis shifting, as an intermediate step of no meaningful purpose but tax avoidance.

Applicability of Section 1059 - Adjustments to Basis for Extraordinary Dividends. Section 1059 is applicable to the transaction.

Propriety of Basis Shift. The basis shift from the redeemed shares to the retained shares is a proper adjustment only if the underlying transactions had economic substance.

Convertible Note As Property. The Convertible Note is property under section 317.

FACTS:

CorpA, a AAA company, recognized capital gains in Date2, Date3 and Date4 in excess of $$bb dollars. CorpA adopted a program to buy back its own common stock in Date3. CorpA authorized its wholly owned subsidiary, CorpB, which was formed in Date1, served as a finance company making loans to affiliates, and as a holding company (since Date2) with substantial earnings and net worth, to repurchase CorpA stock in Date4 from the public, and to borrow as much as $$kk for that purpose. CorpB did so between Date5and Date6, Date4, for approximately $$cc, (#m shares @ average cost of $$dd per share) of which $$ee was borrowed by CorpB on its own credit. CorpA bought back x% (or #n shares) of its stock at market, which had been purchased by CorpB, on Date7 for its Convertible Note (which was out-of-the-money[1] and not convertible until Date10). This repurchase was treated as a dividend-equivalent redemption entitled to a full dividends-received deduction. The cost bases of the redeemed shares (representing x% of the stock purchased from the public) were added to the bases of the retained shares thereby creating an asset with an artificial built-in loss. CorpB sold the remaining CorpA shares (y% of the stock it had bought or #p shares) to a third

[1]The initial conversion price was $$ppp per share.

party ("CorpC") on Date8 (the day before TextB). CorpB realized a financial accounting gain of $$hh, and a short-term capital loss of $$aa million on this sale. CorpB converted the CorpA Note into #q shares in Date11, which it continues to hold.

LAW AND ANALYSIS

Sham Transaction. CorpA's use of CorpB to repurchase CorpA stock, and the redemption of x% of such stock for the Note, were tax driven. These steps were taken primarily to create an asset with a built-in artificial loss. Moreover, their culminating in the sale of the built-in loss asset (#p shares of CorpA stock with enriched bases) lacked a sufficient business purpose and a reasonable chance of making a reasonable profit, in excess of all associated fees and costs (of about $$gg) and not including any tax benefits that were claimed. Neither the actual or prospective economic (book) gain, nor the qualification of CorpB as an investment company for state tax purposes, as compared to the amount of the investment or the claimed tax loss, constituted a sufficient business purpose for the transaction. ACM Partnership v. Commissioner, 73 T.C. M. (CCH) 2189 (1997), aff'd in part, rev'd in part on another issue, 157 F3d 231 (3d Cir. 1998), cert. denied 119 S.Ct. 1251 (1999); Winn-Dixie Stores, Inc., et al. v. Commissioner, 113 T.C. No. 21, (October 19, 1999). Accordingly, the redemption from CorpB for the Note should be disregarded as a sham transaction without producing a loss for Federal income tax purposes.

In ACM Partnership, supra, the court found a purported installment sale, devised as the centerpiece of an elaborate corporate tax shelter, to be lacking in economic substance. The ACM Partnership purchased $205 million of short-term securities and promptly sold $175 million of them for a cash down payment equal to 80 percent of their value ($140 million) and contingent notes having a present value equal to the remaining 20 percent ($35 million). The notes, which called for a series of payments tied to the London Interbank Offered Rate (LIBOR), specified no maximum amount, but they were payable over a fixed period. Under the installment sales regulations, the basis of property sold (here $175 million) in a contingent price sale is spread ratably over the years in which payments could be received if the sales contract fixes the period over which payments will be received but does not establish a maximum selling price. Treas. Reg. §15a.453-1(c)(3)(i). As applied to ACM's sale, this rule would have produced a large capital gain for the year of the sale ($111 million) and would have created capital losses for subsequent years. Most of the capital gain was allocated to a foreign partner that was exempt from U.S. tax on capital gains, and most of the capital losses were allocated to a U.S. corporate partner that had realized a large capital gain in an unrelated transaction and hoped to offset this gain with deductions for the losses allocated to it from the partnership. The court affirmed the Tax Court's conclusion "that ACM's exchange of the [short-term securities] for contingent-payment LIBOR notes which gave rise to the tax consequences at issue generated only a 'phantom loss' that was not 'economically inherent in the object of the sale' and did not have 'economic substance separate and distinct from economic benefit achieved solely by tax reduction.'"

Under the section 453 basis rules, the nearly $146 million in basis which was not available to offset the gain on the sale was reallocated to the LIBOR notes. The LIBOR notes thus became built-in loss assets with a value of $35 million and a basis of $146 million.

The transaction may be described as a "basis strip" since a substantial amount of the tax basis related to the $175 million component of the short-term securities was stripped from these notes and allocated to the LIBOR notes creating a built-in loss asset.

> The inquiry into whether the taxpayer's transactions had sufficient economic substance to be respected for tax purposes turns on both the "objective economic substance of the transactions" and the "subjective business motivation" behind them.... However, these distinct aspects of the economic sham inquiry do not constitute discrete prongs of a "rigid two-step analysis," but rather represent related factors both of which inform the analysis of whether the transaction had sufficient substance, apart from its tax consequences, to be respected for tax purposes....ACM Partnership, supra.

Of particular importance, is the fact that the Tax Court bifurcated the ACM transaction into those components which provided the claimed tax benefit and all other components of the transaction. Having bifurcated the tax benefit components, the court then tested those components for economic substance essentially on a "stand alone" basis. Thus, although the court expressly found that the taxpayer had made an overall pre-tax economic profit on its ACM investment, even after taking into account transaction costs, the court also found that the pre-tax profit of the tax benefit components did not exceed their transaction costs. This bifurcation, in part, allowed the court to reach its economic sham conclusion.

A second and closely related point is that the Tax Court will scrutinize all of the components of a complex transaction in order to determine whether the taxpayer's stated non-tax objective makes rational economic sense in light of the taxpayer's conduct.

One case has indicated that there must be not only a reasonable chance of making a profit, but the chance must relate to a reasonable profit. See Sheldon v. Commissioner, 94 T.C. 738 (1990), *reviewed by the Court*. In that case, the court rejected as the sole standard of evaluating the substance of transactions the potential for gain. The court judged it as "infinitesimally nominal and vastly insignificant when considered in comparison with the claimed deductions."

> We have never held that the mere presence of an individual's profit objective will require us to recognize for tax purposes a transaction which lacks economic substance. Id. at 769.

A dissent argued that the proper test for examining the economic substance of transactions was whether, viewed objectively, they had a tax-independent purpose.

> The majority, rather than applying that settled principle, sets forth a new "*de minimus*" test for economic substance... Id. at 773

The dissent then cites to Gideon, "Mrs. Gregory's Grandchildren: Judicial Restriction of Tax Shelters," 5 Va. Tax Rev. 825 (1986) who suggests a *de minimus* test is feasible, but also would compare the potential profit to investment rather than tax benefits. Sheldon, supra at 773.

Under either legal standard of comparison, the taxpayers in the instant case fall far short. The book gain of $$hh is infinitesimal when compared to either the investment of $$ii or the tax loss of $$aa.

At least two courts have indicated that they would consider applying the sham transaction doctrine unless the profit motive was greater than the tax motive. See Fox v. Commissioner, 82 T.C. 1001 (Date4) and Estate of Baron v. Commissioner, 83 T.C. 542 (1984), aff'd, 798 F.2d 65 (2d Cir. 1986).

In Fox, the taxpayer engaged in three sets of essentially offsetting options transactions which established spread positions. The options were tied to specific Treasury bills and were traded in a specialized over-the-counter market maintained by one brokerage firm. The Tax Court found that the taxpayer was motivated primarily by tax considerations and not primarily by the desire for economic profit, and disallowed his deductions. Id. at 1023.

Likewise, in Estate of Baron, the Tax Court found that the taxpayer acquired the rights to a master recording for insufficient non-tax reasons (a potential $70,000 profit) as compared to net tax benefits (of $365,000 from depreciation). Id. at 560. Other courts have asserted the economic substance over form doctrine to deny tax benefits, e.g., the foreign tax credit, an exception to constructive dividend treatment under subpart F, and claimed business deductions. See, e.g., Jacobs Engineering Group, Inc. v. United States, 97-1 USTC 87,755 (CCH ¶ 50,340) (C.D. Cal. 1997), aff'd 99-1 USTC 87,786 (CCH ¶ 50,335) (9th Cir. 1999); United Parcel Service of America, Inc. v. Commissioner, T.C.M. No. 268 (1999); Compaq Computer Corporation v. Commissioner, U.S.T.C. No. 24238-96, September 21, 1999.

Application of the Step Transaction Doctrine. The step-transaction doctrine is an analytical judicial method to determine the substance of a multi-step transaction. The step-transaction doctrine "treats a series of formally separate 'steps' as a single transaction if such steps are in substance, integrated, interdependent, and focused toward a particular result." Penrod v. Comm'r, 88 T.C. 1415, 1428 (1987).

We believe that the steps that gave rise to CorpB's Date4 purchases of CorpA stock, CorpA's redemption of x% of such stock for its Convertible Note within #t months of the first (and #s months of the last) market purchase, the shift of rich cost bases from the repurchased stock to the stock retained by CorpB, and its sale at an artificial loss, all were consummated to achieve the overriding purpose of tax avoidance rather than for adequate non-tax reasons. Moreover, CorpB was selected to buy its parent corporation's stock as part of CorpA's stock buyback program. CorpB did so, and remains a larger stockholder to this day than it was after its market purchases and CorpA's redemption. This increase is due to CorpB's conversion of the Note, which includes terms to adjust for anti-dilution and the payment of interest by the conversion into stock. (The Note was issued to buy back x% of the CorpA shares bought by CorpB.) Thus, even after CorpB's sale of the stock (with enriched basis) that it had retained from its market purchases, it holds more stock. These steps viewed together manifest an intent not to reduce CorpB's stock ownership except for tax purposes. These steps were really component parts of an integrated transaction primarily intended to create an artificial loss to be carried back to offset prior capital gains.

The intricate outward appearance of the instant case masked a wholly owned subsidiary's simple purchases of its parent corporation's stock. Upon the market purchases of stock, and after the redemption, including the sale of the retained stock, and conversion of the Note, the wholly owned subsidiary became a corporate shareholder of its parent which it remains. The intervening redemption via the parent's intercorporate Convertible Note occurred primarily to create a built-in loss asset through basis shifting and for no other meaningful purpose. Accordingly, the intervening redemption should be ignored. Rather, CorpB should be treated as if it had purchased the Note for cash and that CorpA had bought back its shares from the public. "A given result at the end of a straight path is not made a different result because reached by following a devious path." The preliminary distribution to the stockholders was a meaningless and unnecessary incident in the transmission of the funds to the creditors, all along intended to come into their hands, so transparently artificial that further discussion would be a needless waste of time. Minnesota Tea Co. v. Helvering, 302 U.S. 609 at 613, 58 S. Ct. 393 (1938).

Applicability of Section 1059. Section 1059 which requires a basis reduction of stock for the non-taxable portion of an extraordinary dividend paid thereon, will apply here, notwithstanding that the distribution of the Note to redeem CorpA stock may have been a “qualifying dividend” (within the meaning of section 1059(e)(2)).

Under Section 1059 as it was when the instant repurchase occurred (Date7), a corporate shareholder must reduce the basis of stock it holds in other corporations by the “nontaxed portion” of any “extraordinary dividends” paid thereon.

There are two types of extraordinary dividends implicated here. One kind involved distributions on stock held for less than two years before the dividend announcement date provided the amount of the dividend met a threshold amount (the”normal extraordinary dividend”). One of the original purposes of section 1059 is to prevent a corporate shareholder from creating an artificial loss on stock. See General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984. The other type involves a *non pro rata* distribution regardless of the holding period or amount (the “automatic extraordinary dividend”). The distribution of the Note satisfied both definitions.

Under Section 1059(a)(1), the payee does not reduce basis below zero. However, the payee must recognize gain on a subsequent disposition of stock upon which an extraordinary dividend has been paid to the extent stock basis cannot absorb the entire non-taxed portion of the dividend. (The potential taxation of the gain represented by such unabsorbed amount that would have been negative basis (analogous to an Excess Loss Account subject to restoration) in respect of the retained shares but for this limitation, causes reference to them as “poisoned shares.”) Section 1059(a)(2).[2]

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[2] Section 1059 was enacted as part of the Tax Reform Act of 1984. The legislative history is comprised of H.R. Nol 98-861 (1984) (“House Report”), at 800, and General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984 (“Blue Book”), at 136. The Blue Book in particular spells out that Section 1059 was enacted specifically to stop a transaction called “dividend stripping.” The Blue Book describes a dividend strip as a corporate stock purchase before the ex-dividend date for an impending dividend, the collection of the dividend, and the sale of the stock as soon as it has been held for the period sufficient to earn a “dividends-received deduction” “DRD”). Generally, the price of the underlying stock will have declined by the amount of the dividend, so the sale produces a capital loss. Such loss is used to offset other capital gains so that the outcome is a conversion of fully taxable capital

Perceived Conflict Between Subsections 1059(e)(1) and 1059(e)(2).
The Tax Reform Act of 1986 added the automatic extraordinary dividend by providing in section 1059 (e) (1) (B) that "Except as otherwise provided in regulations," any amount taxed as a dividend on a redemption of stock "not pro rata as to all shareholders" is an extraordinary dividend without regard to the 2-year holding period. Both the normal and automatic extraordinary dividend produce artificial reductions of gain or phantom losses because of the purchase or cost basis for the stock in respect of which the impending distribution occurs. The tax loss is artificial, because it is largely compensated for by the receipt of the dividend and, therefore, would not correspond to the stock's decline in value (ex dividend). Both types violate the purpose of section 1059, as originally enacted.

However, section 1059 (e) (2) stated: "Except as provided in regulations, the term "extraordinary dividend" shall not include any qualifying dividend (within the meaning of section 243 (b) (1))." This exception can be read to apply to both normal and automatic extraordinary dividends. It should only apply to the extent the value of the non-taxable distribution was not reflected in the cost basis of the stock in respect to which it was made. Otherwise, an artificial reduction in gain or phantom loss will occur and contravene the purposes of section 1059. These concerns relate to the largely tax-free extraction (upon *non pro rata* redemption) of *purchased* earnings, which were reflected in the cost of the stock. Earnings produced while the stock is owned by an affiliate may not always produce this result. But in this case the artificial loss was produced because CorpB did not reduce its basis in the purchased stock of its parent (pursuant to either the consolidated return regulations or section 1059).

Hence section 1059 should apply to this case notwithstanding the statutory exception for qualifying dividends, because to apply it here would contravene a major purpose of section 1059.[3]

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gains into ordinary income taxed at a low effective rate due to the application of the DRD. In the 1984 Act, Congress attacked this transaction in several ways. The DRD holding period was lengthened to 46 days, the DRD holding period was suspended where the taxpayer eliminated its economic risk by certain types of hedging, and Section 1059 eliminated the opportunity for a capital loss immediately following the receipt of the dividend.

[3]This perceived statutory conflict regarding the application of subsection 1059(e)(1) (as opposed to section 1059(e)(2)) to *non pro rata* redemptions was partially resolved by interpretative regulations. Treas. Reg. §1.1059 (e) -(1), which provided among other things that the exception for qualifying dividends did not apply to redemptions which were not *pro rata* as to all shareholders. These regulations are

The Conference Report offers this explanation for the addition of section 1059(e):

> In general, a distribution in redemption of stock that is essentially equivalent to a dividend is treated as a dividend for tax purposes (sec. 302). A redemption of the stock of a shareholder is essentially equivalent to a dividend if it does not result in a meaningful reduction in the shareholder's interest in the distributing corporation. Apart from certain cases in which a shareholder's interest is completely terminated or is reduced by more than 20 percent, present law is unclear regarding what constitutes a meaningful reduction in interest. The conferees understand that in some cases individual distributees take the position that a redemption is a sale or exchange, while corporate distributees take the position it is a dividend.[4] (Emphasis added).

Congress also expressed concern that corporate shareholders might "realize unintended tax benefits on dispositions of stock that was not necessarily acquired for tax avoidance purposes, but with respect to which substantial nontaxable amounts have been received. The committee believes that if a corporate shareholder receives an extraordinary dividend with respect to stock, the nontaxed portion of the dividend should reduce the shareholder's basis in the stock, without regard to the holding period."[5] (Emphasis added).

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effective with respect to distributions announced on or after Date13; hence they do not apply to the distribution in this case which occurred Date7 . (T.D. 8724, 7-15-97). The preamble to the foregoing regulations when proposed stated that: "The IRS and Treasury Department believe that applying those provisions [sections 1059 (d) (6) or (e) (2)] is inconsistent with the purpose of section 1059 and may create inappropriate consequences, such as basis shifting that eliminates gain or creates an artificial loss. Accordingly, these regulations clarify that neither section 1059 (d)(6) (the entire-existence exception to section 1059 not applicable to this case) nor section 1059 (e) (2) apply to a distribution treated as an extraordinary dividend under section 1059 (e) (1)." 1996-2 C.B. 436 (Underscoring added). The issuance of these regulations does not preclude the Service from applying section 1059 (a) to the instant transaction.

[4] H.R. Conf. Rep. No. 841, 99th Cong., 2nd Sess. II-163 (1986), 1986-3 (Vol. 4) C.B. 163 (emphasis added).

[5] S. Rep. No. 313, 99th Cong., 2nd Sess. (1986), 250. The Report further states: "As under present law, if the corporate shareholder and the payer of the dividend are members of an affiliated group filing consolidated returns, the shareholder will not be required to reduce its basis in the stock under both this provision and under Treas. Reg. Section 1.1502-32(b)(2)(iii). Thus, no portion of a distribution may reduce basis

The report explained that “Except as provided in regulations, the provisions do not apply to distributions between members of an affiliated group filing consolidated returns. In addition, they do not apply to distributions that constitute qualifying dividends within the meaning of section 243(b)(1). Accordingly, the provision generally will not apply to dividend distributions (or deemed dividend distributions) during a consolidated return year by a subsidiary out of earnings and profits accumulated during separate return affiliation years.”[6] (Underscoring added).

Subsequent legislative history informs that section 1059 can apply to consolidated groups particularly when the consolidated return regulations require no basis reduction, as in the instant case. 1988 S. Report No. 445, 100th Cong., 2d Sess. 44 (1988).

> However, to the extent results produced under the consolidated return regulations are inconsistent with the purposes and principles of the extraordinary dividend provision, it is intended that a basis reduction may be required under this provision notwithstanding the fact that no reduction is mandated under the consolidated return regulations. Id.

Based upon the foregoing, section 1059 (a) requiring basis reduction for the nontaxable amount applies to the distribution of the Note in this case.

Propriety of the Basis Shift.

The shifting of basis from the redeemed shares of CorpA stock to the remaining shares later sold to CorpC would be a proper adjustment of basis, if the underlying transactions had economic substance. Treas. Reg. §1.302-2(c) provides for a proper adjustment of the basis of the remaining stock with respect to the stock redeemed. The examples accompanying the regulation make clear that the proper adjustment is to be made with respect to stock owned both actually and constructively. Each of the examples demonstrates that ultimately the total gain taxed on a dividend equivalent redemption and a subsequent sale of the remaining stock is the same as if the basis had been allocated proportionately between the redeemed and remaining shares. The basis adjustment is necessary to reflect that the shareholder maintains substantially the same proportional interest in the

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twice.” See Treas. Reg. Section 1.1502-13 (f) (6) which generally disallows loss on parent stock, but were not effective for this case, but to transactions occurring on or after July 12, 1995.

[6] H.R. Conf. Rep., *supra* note 3, at 166.

corporation, whether the interest is direct or indirect (through operation of the section 318 attribution rules).

In Example 2 of Treas. Reg. §1.302-2(c), H purchased all the stock in Corporation X for $100,000. When H gave his wife, W, half the stock, its value had appreciated in excess of its basis. When H redeems his half of the Corporation X stock for $150,000, the redemption is treated as a dividend equivalent redemption. After the redemption, W's basis in her half of the Corporation X stock is $100,000, the original cost basis for all the Corporation X stock. In this example, H’s basis in his stock is shifted to the remaining shares he constructively owns through W. Following the logic of Example 2, CorpB’s basis in the redeemed shares should be shifted to the remaining shares it owns, including those owned constructively, <u>i.e.</u>, to both the #p shares later sold to CorpC, and to the convertible note, representing the additional #r shares CorpB is deemed to own.

Example 3 makes clear, however, that basis is shifted to the remaining actually owned shares, no matter how small in number they are relative to the remaining constructively owned shares. In Example 3, Corporation X redeems 490 of H’s 500 shares. H’s basis in the 500 shares is shifted solely to his remaining 10 actually owned shares. The basis of the 500 shares H constructively owns through W remains unaffected. Applied to the present case, this example demonstrates that, if the transaction’s form is to be respected, CorpB’s shifting of basis from the redeemed shares to the remaining #p shares it actually owned would be a proper adjustment under Treas. Reg. §1.302-2(c).

In this case, section 243(a)(3) and Treas. Reg. § 1.1502-14(a) operated to exclude the distribution from CorpB’s income, ultimately resulting in a tax loss where there was an actual book gain. Nonetheless, the basis adjustment is proper. But for the functional elimination of the redemption gain through operation of the consolidated return rules, the total gain would have been the same whether the basis had been allocated proportionately between the redeemed shares and remaining shares, or had been shifted solely to the remaining shares. The disparity between economic reality and tax does not occur because of the proper adjustment provision of Treas. Reg. §1.302-2(c), but because of other Code provisions effective during the tax years at issue.

<u>Convertible Note As Property</u>.

Based upon the financial capacity of CorpA to honor its Note, it is property for purposes of section 317.

<u>CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS:</u>

The following additional information should be developed to the fullest extent possible.

Additional Information Re Sham Issue.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Section 305 Issue.

[redacted]
.
The taxpayers have cleverly taken economically meaningful steps to accomplish their tax avoidance purpose. [redacted]'s open market purchases from the public, and use of its own credit and funds to invest in [redacted] stock were real transactions with non-tax consequences. Moreover, [redacted]s claims that it had a state tax business reason for its participation in [redacted]'s stock buyback program. In addition, its sale of [redacted] stock to a third party, actually occurred with non-tax results. [redacted]

If you have any further questions or comments, regarding further factual development or expansion of the section 1059(e)(1) or any other argument, please call (202) 622-7930.

By:

ARTURO ESTRADA
Acting Chief
Corporate Branch