



Dear \_\_\_\_\_ :

This ruling responds to a letter dated December 30, 2004, submitted on behalf of Fund A and Fund B (the Funds) by their authorized representatives. Each of the Funds requests consent to revoke, for taxable Year B, a previous election made by each of the Funds under § 4982(e)(4)(A) of the Internal Revenue Code. Additionally, each of the Funds requests that the calculation of its required distributions of capital gain net income under § 4982(b)(1)(B) and (e)(2) for the calendar year ending December 31, Year B, be determined on the basis of capital gains and losses and foreign currency gains and losses, if any, realized and recognized during the 10-month period from January 1, Year B, through October 31, Year B.

### FACTS

Company is a family of mutual funds contained within a single investment company organized in Year C as a State X corporation. Company is an open-end management investment company, registered under the Investment Company Act of 1940, as amended. Fund A and Fund B are among funds controlled by Company as a series company.

Fund A elected to be treated as a regulated investment company (a "RIC") for federal income tax purposes under § 851 of the Code in Year D. Fund B elected to be a RIC in Year E.

Each of the Funds uses an accrual method of accounting for tax and financial accounting purposes, and each Fund's taxable year ends on December 31. Beginning in Year A, each of the Funds, pursuant to § 4982(e)(4)(A), elected to use the calendar year ending on December 31 in lieu of the one-year period ending on October 31, for purposes of calculating the required distribution under §§ 4982(b)(1)(B), 4982(e)(2), and 4982(e)(5).

At the time each of the Funds originally made its election, each of the Funds believed that the election under § 4982 would relieve the administrative burdens associated with dual calculations of capital gains and losses under the excise tax and Subchapter M provisions of the Code. However, the Funds' experience has been that the § 4982(e)(4)(A) election has created additional administrative complexities primarily due to time constraints in declaring required excise tax distributions.

Moreover, the promulgation of regulations coordinating the excise tax and Subchapter M provisions has greatly reduced the administrative burden of having a taxable year different from the period used for determining the required distributions under § 4982. Accordingly, each of the Funds seeks consent to

revoke its election to use the calendar year for purposes of §§ 4982(b)(1)(B) and 4982(e)(2).

Furthermore, each of the Funds intends to change its fiscal year end from December 31 to October 31, effective Date 1.

Permitting each of the Funds to revoke its § 4982(e)(4)(A) election and compute capital gain net income for the one-year period ending on October 31, rather than the Fund's taxable year ending December 31, would significantly lessen the administrative burden of computing capital gain net income in an accurate and timely manner. Additionally, each of the Funds represents that:

1. The desire to revoke its § 4982(e)(4)(A) 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 any subsequent elections under § 4982(e)(4)(A) for five (5) calendar years following the year of the grant of revocation.

#### LAW AND ANALYSIS

Section 4982(a), 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" 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 98 percent of the RIC's ordinary income for such calendar year, plus 98 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 in the month of November or December, the RIC may elect to have its capital gain net income for its taxable year applied in lieu of the one-year period ending on October 31 of the calendar year for purposes of satisfying the required distribution defined in § 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 § 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 in determining the ordinary income of the RIC for the 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 an election under § 4982(e)(4), the preceding sentence shall be applied by substituting the last day of the RIC's taxable year for October 31.

Based upon the information submitted and the representations made, we conclude that each Fund's desire to revoke its election under § 4982(e)(4)(A) is because of administrative burdens and not because of any federal tax-related financial burden caused by the election. Each of the Funds does not seek to revoke its election for the purpose of preserving or securing a federal tax benefit. Additionally, the Funds will neither benefit through hindsight nor prejudice the interest of the government as a result of being permitted to revoke their elections.

## CONCLUSION

Accordingly, based upon the representations made and pursuant to § 4982(e)(4)(B), the Secretary consents to the revocation of the election made by each of the Funds under § 4982(e)(4)(A), effective for calendar Year B and subsequent years. In addition, in calculating the "required distribution" for Year B, for purposes of § 4982(b)(1) and (e), the capital gain net income and foreign currency gains and losses of the Funds will be determined on the basis of the capital gains and losses, and foreign currency gains and losses, if any, recognized and realized during the 10-month period from January 1, Year B, through October 31, Year B.

As a condition to the Secretary's consent to the revocation pursuant to § 4982(e)(4)(B), none of the Funds may make a subsequent election under § 4982(e)(4)(A) for a period of five (5) calendar years following the year to which the grant of revocation applies (i.e. Year F through Year G).

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

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.

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

Sincerely yours,

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Alice M. Bennett  
Chief, Branch 3  
Office of Associate Chief Counsel  
(Financial Institutions and Products)

Enclosures:

Copy of this letter

Copy for § 6110 purposes

cc: