

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

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CC:FIP:B04
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Date:
November 23, 2021

Taxpayer =
Parent =
Manager =
State 1 =
State 2 =
Year 1 =
Year 2 =
Year 3 =
Year 4 =
Year 5 =

Dear :

This letter is in reply to your request for consent to revoke Taxpayer's election under section 831(b) of the Internal Revenue Code, effective for the taxable year beginning Year 3. This letter ruling is being issued electronically in accordance with section 6 of Rev. Proc. 2020-29, 2020-21 I.R.B. 859. A paper copy will not be mailed.

FACTS

Taxpayer is a licensed captive insurance company formed in Year 1 in State 1. Taxpayer redomiciled to State 2 in Year 2. Taxpayer is a wholly-owned subsidiary of Parent and is managed by Manager, an affiliated global private equity firm. Taxpayer provides directors' and officers' liability coverage to Manager and the majority-owned portfolio companies of Manager's affiliated funds under deductible reimbursement policies on a claims-made basis. Taxpayer elected in Year 1 to be taxed only on its taxable investment income pursuant to section 831(b) and wishes to revoke this election effective for Year 3. Taxpayer represents it has no net operating losses. Taxpayer represents that it will not make a future section 831(b) election for the 5 taxable years beginning with Year 4, through and including Year 5.

REQUESTED RULING

Taxpayer requests a ruling granting consent to revoke its section 831(b) election effective for Year 3.

LAW AND ANALYSIS

Section 831(a) imposes a tax for each taxable year on the taxable income of every insurance company other than a life insurance company.

Section 831(b) provides an alternative tax to the tax imposed by section 831(a) for certain insurance companies. The alternative tax for these companies is a tax computed for each year by multiplying the taxable investment income (defined in section 834(a)) of the company for the taxable year by the rates in section 11(b).

Section 831(b)(2)(A) provides that the alternative tax applies to every insurance company other than a life insurance company if (i) the company's net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$2,200,000 (adjusted for inflation), (ii) the company meets the diversification requirements laid out in subparagraph (B) of section 831(b)(2), and (iii) the company elects the application of section 831(b) (the alternative tax) for the taxable year.

Section 1010(f)(1) of the Technical and Miscellaneous Revenue Act of 1988 added the flush paragraph following section 831(b)(2)(A)(ii) (now section 831(b)(2)(A)(iii)), which states the following:

The election under clause (iii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of the clauses (i) and (ii) are met. Such an election, once made, may be revoked only with the consent of the Secretary.

This clarification reflects Congress' intent that the election not be used as a means of eliminating tax liability (e.g., by making the election only for the years the taxpayer does not have net operating losses). S. Rep. No. 445, 100th Congress, 2d Sess. 127 (1988).

RULING

Consent is granted for Taxpayer to revoke its section 831(b) election effective for Year 3, provided Taxpayer does not make an election under section 831(b) for the 5 years following Year 3 (i.e., through Year 5).

CAVEATS

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for ruling and it is subject to verification on examination.

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, but not limited to, whether any part of Taxpayer's business constitutes insurance, whether Taxpayer qualified as an insurance company for any Year involved, or whether Taxpayer was properly taxed under section 831(b) for any year.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent. A copy of this letter must be attached to any federal income tax return to which it is relevant.

In accordance with a power of attorney on file in this office, a copy of this ruling is being furnished to your authorized representatives.

Sincerely,

John E. Glover
Senior Counsel, Branch 4
Associate Chief Counsel
(Financial Institutions and Products)

cc: