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CC:ITA:B04
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Date:
June 27, 2024

LEGEND

Taxpayer	=
Predecessor	=
Date 1	=
Date 2	=
Service	=
Profession	=
X	=

Dear :

This ruling responds to Taxpayer's request for a letter ruling dated Date 1. Specifically, Taxpayer requests a ruling that, for purposes of determining Taxpayer's required payment under section 7519(b) of the Internal Revenue Code, Taxpayer's net income should be computed by taking into account only those items of income and loss of its subsidiaries that are allocated to Taxpayer.

This letter ruling is being issued electronically in accordance with Rev. Proc. 2024-1, 2024-1 I.R.B. 1. A paper copy will not be mailed to Taxpayer.

FACTS AND REPRESENTATIONS

Taxpayer has represented that the facts are as follows. Taxpayer is a domestic limited liability partnership treated as a partnership for federal income tax purposes. Taxpayer uses a tax year ending on as its annual accounting period, instead of December 31, its required tax year under section 706 and § 1.706-1 of the Income Tax Regulations. Taxpayer has a section 444 election in place.

Predecessor was a limited liability partnership treated as a partnership for federal income tax purposes. Predecessor also used a tax year ending on as its annual accounting period instead of its required tax year of December 31. Predecessor had a section 444 election in place. Predecessor operated X separate lines of business.

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On Date 2, Predecessor was restructured. In connection with the restructuring, Taxpayer was formed as a parent partnership to hold X subsidiaries, including Predecessor,

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Taxpayer represents that following the restructuring, no individual partner holds or will hold five percent or more of the capital of any of the X subsidiaries or will be allocated five percent or more of the income of such subsidiaries. As such, Taxpayer represents that Taxpayer is currently the only principal partner of any of the subsidiaries as defined in section 706(b)(3), and that if there is a majority interest partner, it will be Taxpayer. Taxpayer further represents that Taxpayer is a continuation of Predecessor under section 708 that succeeds to Predecessor’s tax methods and elections, including the section 444 election. As a result, Taxpayer intends to file Form 8752, *Required Payment or Refund Under Section 7519*, and submit the required payment under section 7519 going forward.

APPLICABLE LAW

Section 441(a) provides that taxable income is computed on the basis of the taxpayer's taxable year. Section 441(b) and § 1.441-1(b)(1) provide that the term "taxable year," in relevant part, means the taxpayer's required taxable year. Under § 1.441-1(b)(2), the required taxable year of a partnership is determined under section 706 and § 1.706-1.

Section 706(b)(1)(B) and § 1.706-1(b)(2)(i) generally provide that a partnership may not have a taxable year other than (i) the majority interest taxable year or, if that is not applicable (ii) the taxable year of all of the principal partners of the partnership or, if neither (i) nor (ii) are applicable, (iii) the taxable year that produces the least aggregate deferral of income. Section 706(b)(3) provides that a principal partner is a partner having an interest of five percent or more in partnership profits or capital.

However, § 1.706-1(b)(2)(ii) provides that a partnership may have a taxable year other than its required taxable year if the partnership makes an election under section 444. For purposes of section 706(b)(1)(B), § 1.706-1(b)(11) further provides that any section 444 election by a partner in a partnership is considered in determining the taxable year of the partnership.

Under section 444(a), a partnership may elect to have a taxable year other than the required taxable year. However, section 444(b) provides that the deferral period of the taxable year elected must be the shorter of three months or less, or if the partnership is changing its taxable year, the deferral period of the taxable year being changed. Section 444(b)(4) defines "deferral period," with respect to any taxable year of a partnership, as the months between the beginning of such year and the close of the first required taxable year ending within such year.

Section 444(d)(2)(A) provides that the section 444 election is effective until the partnership changes its taxable year or otherwise terminates such election.

Section 444(d)(3)(A)(i) provides that no section 444 election may be made with respect to a partnership that is part of a tiered structure. Section 444(d)(3)(A)(ii) and § 1.444-2T provide that an election under section 444 is terminated on the date a partnership becomes a member of a tiered structure, unless an exception applies. Under § 1.444-2T(b)(1), a partnership is a member of a tiered structure if the partnership directly owns any portion of a deferral entity or if any portion of the partnership is owned by a deferral entity. Under § 1.444-2T(b)(2), the term 'deferral entity' includes an entity that is a partnership.

Under § 1.444-1T(b)(5)(iii), if a partnership or its partners transfer assets to a related party and the principal purpose of such transfer is (A) to create a deferral period greater than that of the partnership's taxable year, or (B) to make a section 444 election following the termination of the partnership's section 444 election, then the transfer is disregarded for purposes of section 444, even if a required payment is made under section 7519.

Under section 444(d)(3)(B), the tiered structure prohibition is not applicable when such structure consists only of partnerships that all have the same taxable year. However, § 1.444-2T(b)(3) provides that a partnership is considered a member of a tiered structure if the partnership or related taxpayers have organized or reorganized their ownership structure or operations for the principal purpose of obtaining a significant unintended tax benefit from making or continuing a section 444 election. A significant unintended tax benefit results when a partnership makes a section 444 election and, as a result, a taxpayer obtains a significant deferral of income substantially all of which is not eliminated by a required payment under section 7519.

A partnership that makes an election under section 444 must, under section 444(c), make the payments required by section 7519. A required payment under section 7519(b) equals the excess of (1) the product of the applicable percentage of the adjusted highest rate under section 1, multiplied by the net base year income of the entity, over (2) the net required payment balance.

Under section 7519(d)(1), the net base year income of an entity is equal to the sum of (A) the deferral ratio multiplied by the entity's net income for the base year, plus (B) the excess of (i) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the base year, over (ii) the aggregate amount of such applicable payments made during the deferral period of the base year. The deferral ratio is the ratio that the number of months in the deferral period of the base year bears to the number of months in the partnership's taxable year.

The deferral period is defined, per sections 7519(e)(1) and 444(b)(4), as the months between the beginning of the taxable year of the entity and the close of the first required taxable year ending within such year. The base year of a partnership is defined by section 7519(e)(2) as the taxable year of the partnership preceding the taxable year of the partnership with respect to which the section 444 election is made.

Under section 7519(d)(2)(A), the net income of a partnership is the amount (not below zero) determined by taking into account the aggregate amount of the partnership's items described in section 702(a) (other than credits and tax-exempt income).

An applicable payment is defined in relevant part by section 7519(d)(3) as an amount paid by a partnership that is includible in the gross income of a partner or shareholder, but is not gain from the sale or exchange of property between the partner and the partnership.

ANALYSIS

In this case, Taxpayer represents that the principal purpose of the restructuring and the transfer of assets from Predecessor to Taxpayer and Taxpayer’s post-restructuring subsidiaries was to . Taxpayer further represents that these steps were not undertaken to create a deferral period greater than that of Predecessor's taxable year, or to make a section 444 election following the termination of Predecessor's section 444 election. Thus, Taxpayer represents that the restructuring and transfer of assets does not violate the anti-abuse rule of section 1.444-1T(b)(5)(iii).

In addition, although the restructuring caused Taxpayer to become part of a tiered structure with its subsidiaries under § 1.444-2T(b), Taxpayer represents that § 1.444-2T(b)(3) does not apply because the principal purpose of the restructuring was not to obtain a significant unintended tax benefit.

Finally, the information submitted indicates that, in determining Taxpayer's required payment under section 7519, Taxpayer's net income for the base year is arrived at, in part, by taking into account Taxpayer's distributive share of partnership items described in section 702(a) (other than credits and tax-exempt income) from each subsidiary, which does not include the subsidiaries’ partnership items allocated to their individual partners.

CONCLUSION

Based solely on the facts as represented and the applicable law, we conclude that, for purposes of determining Taxpayer’s required payment under section 7519(b), Taxpayer’s net income should be computed by taking into account only those items of income and loss of its subsidiaries that are allocated to Taxpayer, and any items of income or loss allocated to individual partners at the subsidiary level should not be taken into account for purposes of this computation.

This ruling is based upon information and representations submitted by Taxpayer. In particular, this ruling is based on the representation that the principal purpose of the restructuring and the transfer of assets from Predecessor to Taxpayer and Taxpayer’s post-restructuring subsidiaries was to , not to obtain unintended tax benefits under section 444 or the regulations under section 444. While this office has not verified any of the material submitted in support of the request for a ruling, 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.

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

Pursuant to the Form 2848, Power of Attorney and Declaration of Representative, on file, we are sending a copy of this letter to Taxpayer's authorized representative.

Sincerely,

Stephen J. Toomey
Senior Counsel
Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: