Internal Revenue Service

Number: **202446004**
Release Date: 11/15/2024

Index Number: 468B.01-00

Department of the Treasury
Washington, DC 20224

[Third Party Communication:
Date of Communication: Month DD, YYYY]

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B06
PLR-102712-24

Date:
August 06, 2024

Legend:

Trust 1	=
Product Z	=
Activities	=
Date 1	=
Court	=
Beneficiaries	=
Date 2	=
Trust Y	=
Date 3	=
Defendants	=
Date 4	=
Date 5	=
State	=
Special Master	=

Percentage 1 =

Percentage 2 =

Dear :

This letter responds to your letter dated January 30, 2024, and supplemented by correspondence dated June 14, July 26 and August 1, 2024, submitted on behalf of Trust 1, requesting certain rulings concerning the application of various sections of the Internal Revenue Code and the Income Tax Regulations to Trust 1. Specifically, you requested the following rulings:

1. Trust 1 is a qualified settlement fund under § 1.468B-1(c); and

2. Trust 1 may exclude under § 1.468B-2(b)(1) from its modified gross income the assets received or to be received.

A taxpayer conference of right was held on May 20, 2024.

FACTS

Various plaintiffs filed actions against manufacturers and distributors of Product Z alleging a variety of claims regarding the defendants' Activities of Product Z. The claims included public nuisance, negligence, civil conspiracy, fraud, products liability, unfair or deceptive trade practices, false advertising, and other violations. Collectively, these claims are referred to as the Liabilities. On Date 1, all Product Z-related litigation pending in U.S. federal courts was transferred to the Court for consolidated pretrial proceedings. Plaintiffs included Beneficiaries.

On Date 2, the Court ordered that Trust Y be established to aid in the administration of settlements between plaintiffs and defendants. Trust Y is not part of this ruling. On Date 3, Defendants and Trust 1 entered into a Master Settlement Agreement (MSA) contingent on acceptance of the MSA by a minimum number of Beneficiaries. On Date 4, the MSA was approved by the Court, and Trust 1's trust agreement was ordered to be established as a qualified settlement fund within the meaning of § 1.468B-1. On Date 5, Trust 1 was formed as a State statutory trust. The MSA and the payments from Defendants to Trust Y resolved the Liabilities with respect to Beneficiaries' claims against Defendants with respect to Product Z.

Pursuant to the Court's order, Special Master was appointed as Trust Y's trust administrator and is authorized to receive the payments under the MSA. Under the MSA, Defendants make payments to Trust Y, and Special Master transfers Percentage 1 of the funds to Trust 1. The remaining Percentage 2 of the funds are set aside for a separate attorney fee fund to pay attorneys' fees and litigation costs. Trust 1 and Trust Y both remain subject to the ongoing jurisdiction of the Court.

Under Trust 1's trust agreement, the trustees may invest and reinvest the principal and income of Trust 1. The transfer of funds from Trust Y to Trust 1 does not represent dividends on stock of a transferor (or related person), interest on debt of a transferor (or a related person), or payments in compensation for late or delayed transfers.

Upon dissolution, any assets remaining in Trust 1 will be distributed only to the Beneficiaries in accordance with Trust 1's trust agreement. The Beneficiaries do not retain any ownership or residual interest in the assets of Trust 1 nor any proceeds from those assets, nor investment income from those assets.

Trust 1 uses the cash receipts and disbursements method of accounting and a taxable year that ends on December 31.

RULINGS REQUESTED:

1. Trust 1 is a qualified settlement fund under § 1.468B-1(c); and

2. Trust 1 may exclude under § 1.468B-2(b)(1) from its modified gross income the assets received or to be received.

LAW & ANALYSIS

1. <u>Trust 1's Status as a Qualified Settlement Fund under § 1.468B-1(c)</u>

Section 468B(g)(1) provides that "[n]othing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax." Section 468B(g)(1) authorizes the issuance of regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise. Sections 1.468B-1 through 1.468B-5 regarding qualified settlement funds were issued pursuant to § 468B(g).

Section 1.468B-1(a) provides that a qualified settlement fund is a fund, account, or trust that satisfies the three requirements of § 1.468B-1(c). First, § 1.468B-1(c)(1) requires that the fund, account, or trust is established pursuant to an order of, or it is approved by, the United States, any state (including the District of Columbia), territory, possession, or political subdivision thereof, or any agency or instrumentality (including a court of law) of any of the foregoing and is subject to the continuing jurisdiction of that governmental authority. Second, § 1.468B-1(c)(2) requires that the fund, account, or trust is established to resolve or satisfy one or more contested or uncontested claims that have resulted or may result from an event (or related series of events) that has occurred and that has given rise to at least one claim asserting liability (i) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) arising out of a tort, breach of contract, or violation of law; or (iii) designated by the Commissioner in a revenue ruling or revenue procedure. Third, § 1.468B-1(c)(3) provides that the fund, account, or trust must be a trust under applicable state law, or its assets must be otherwise segregated from other assets of the transferor (and related persons).

Based on the facts represented by Trust 1, the three requirements of § 1.468B-1(c) are satisfied, and as such, Trust 1 is a qualified settlement fund for federal income tax purposes. First, the Court entered an order approving the establishment of Trust 1, and Trust 1 remains subject to the continuing jurisdiction of the Court. See § 1.468B-1(c)(1). Second, Trust 1 was established to resolve or satisfy claims of the Beneficiaries that arose from the Defendants' Activities regarding Product Z that have given rise to the Liabilities. See § 1.468B-1(c)(2). Third, Trust 1 was organized as a trust under applicable state law. See § 1.468B-1(c)(3).

2. Transferred Funds Excluded from Modified Gross Income under § 1.468B-2(b)(1)

Section 61(a) provides that gross income means all income from whatever source derived.

Section 1.468B-2(a) provides that a qualified settlement fund is a United States person and is subject to tax on its modified gross income for any taxable year at a rate equal to the maximum rate in effect for that taxable year under § 1(e).

Section 1.468B-2(b) provides that the term modified gross income means "gross income," as defined in § 61, computed with certain modifications.

Under § 1.468B-2(b)(1), amounts transferred to the qualified settlement fund by, or on behalf of, a transferor to resolve or satisfy a liability for which the fund is established are excluded from gross income. However, dividends on stock of a transferor (or a related person), interest on debt of a transferor (or a related person), and payments in compensation for late or delayed transfers, are not excluded from gross income.

Trust 1 was established to resolve or satisfy claims of the Beneficiaries that arose from the Defendants' Activities of Product Z. The transfers of funds from Trust Y were and will be made to resolve or satisfy the related Liabilities. Such transfers were or will be made by the Defendants to Trust 1 through Trust Y in accordance with the MSA. As represented by Trust 1, none of the transfers of funds fall within the three specific exceptions to the general provision in § 1.468B-2(b)(1) that excludes transfers into Trust 1 from the Trust 1's gross income.

Accordingly, based on the information submitted and representations made, we conclude that Trust 1 may exclude the transfers of funds from Trust Y from its gross income under § 1.468B-2(b)(1).

The rulings contained in this letter is based upon information and representations submitted by or on behalf of Trust 1 and accompanied by a penalty of perjury statement executed by an individual with authority to bind Trust 1 and upon the understanding that there will be no material changes in the facts. While this office has not verified any of the material submitted in support of the request for this ruling, it is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See section 11.05 of Rev. Proc. 2024-1, 2024-1 I.R.B. 1.

No opinion is expressed concerning the federal tax consequences under any Code provision other than the provisions specifically cited above. 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 concerns only the federal income tax treatment of Trust 1's income and may not be cited or relied upon by any other taxpayer, including Trust 1's beneficiaries.

This ruling is directed only to Trust 1 as the taxpayer 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 income tax return to which it is relevant.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to Trust 1's authorized representative.

Sincerely,

ANNA W. GLEYSTEEN
Senior Technician Reviewer, Branch 6
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: