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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
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Person To Contact:
, ID No.

Telephone Number:

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Date:
December 20, 2024

LEGEND

Trust =

Debtors =

Plan =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Date 8 =

Dear _____ :

This responds to a letter dated June 18, 2024, and subsequent correspondence, submitted on behalf of Trust, requesting a ruling regarding the classification of Trust as a liquidating trust under § 301.7701-4(d) of the Procedure and Administration Regulations.

FACTS

The information submitted states that Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court on Date 1. On Date 2, the Bankruptcy Court approved Plan with an effective date of Date 3. On Date 3, Trust was established by a liquidating trust agreement (Trust Agreement) as part of the Plan with an initial term ending on Date 4. The Bankruptcy Court subsequently approved an extension of the term of Trust to Date 5. Because of unresolved legal claims, on Date 6, trustees of the Trust filed a motion with the Bankruptcy Court to extend the termination date of Trust. On Date 7, the Bankruptcy Court approved of an extension of the term of the Trust to Date 8.

Pursuant to the provisions of the Plan and the Trust Agreement, Trust was created for the purpose of (a) investigating, asserting, prosecuting, and/or settling litigation claims, and (b) liquidating the Trust's assets, including (without limitation) the litigation claims, for the benefit of the claimants in accordance with § 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

Trust is not permitted to receive or retain cash in excess of a reasonable amount to meet claims and contingent liabilities (included disputed claims) or to maintain the value of the assets during liquidation. Cash not available for distribution and cash pending distribution is to be held in demand time deposits, such as short-term certificates of deposit, in banks or other savings institutions, or other temporary, liquid assets such as Treasury bills. Under the terms of Trust, the trustees are required to distribute the net income of Trust at least annually to the beneficiaries of Trust but may retain an amount of net proceeds or net income reasonably necessary to maintain the value of the property or to meet contingent liabilities (including disputed claims).

The Trust Agreement provides that the beneficiaries are treated as grantors and deemed owners of the Trust for federal income tax purposes. It further provides that the parties will value all assets transferred to Trust consistently and use such values for all federal income tax purposes.

The Trust Agreement provides that the trustee of the Trust shall file tax returns as a grantor trust pursuant to § 1.671-4(a) of the Income Tax Regulations.

The Trust Agreement, consistent with the requirements set out in Rev. Proc. 94-45, 199-2 C.B. 648, provides that the transfer of Trust assets to Trust will be treated for

all federal tax purposes as a deemed transfer by the Debtors to the beneficiaries followed by a deemed transfer by the beneficiaries to Trust.

Trust's trustees further represent that, from its establishment, Trust has been formed and operated consistent with the conditions set forth in Rev. Proc. 94-45. The Trust's trustees further represent that it will make continuing efforts to liquidate the assets of Trust, make timely distributions, and not unduly prolong the duration of the Trust. The Trust's trustees also represent that certain developments, generally beyond the control of the trustees of the Trust, have made it impossible to completely liquidate by Date 5.

LAW AND ANALYSIS

Section 671 of the Internal Revenue Code (the "Code") provides that where it is specified in subpart E that the grantor or another person shall be treated as the owner of any portion of a trust, there shall then be included in computing the taxable income and credits of the grantor or the other person those items of income, deductions, and credits against tax of the trust that are attributable to that portion of the trust to the extent that such items would be taken into account under chapter 1 of the Code in computing taxable income or credits against the tax of an individual.

Section 1.671-4(a) provides that, except as provided in §§ 1.671-4(b) and 1.671-5, items of income, deduction, and credit attributable to any portion of a trust that, under the provisions of subpart E (§ 671 and following), part I, subchapter J, chapter 1 of the Code, are treated as owned by the grantor or another person should not be reported by the trust on Form 1041, "U.S. Income Tax Return for Estates and Trusts," but should be shown on a separate statement attached to that form.

Section 301.7701-4(d) provides that certain organizations which are commonly known as liquidating trusts are treated as trusts for purposes of the Internal Revenue Code. An organization will be considered a liquidating trust if it is organized for the primary purpose of liquidating and distributing the assets transferred to it, and if its activities are all reasonably necessary to, and consistent with, the accomplishment of that purpose. A liquidating trust is treated as a trust for purposes of the Code because it is formed with the objective of liquidating particular assets and not as an organization having as its purposes the carrying on of a profit-making business which normally would be conducted through business organizations classified as corporations or partnerships. However, if the liquidation is unreasonably prolonged or if the liquidation purpose becomes so obscured by business activities that the declared purpose of liquidation can be said to be lost or abandoned, the status of the organization will no longer be that of a liquidating trust.

Rev. Proc. 94-45 states that the Service will issue a ruling classifying an entity created pursuant to a bankruptcy plan under Chapter 11 of the Bankruptcy Code, 11

U.S.C. § 1101, et. seq., as a liquidating trust under § 301.7701-4(d) if certain conditions are met.

Section 3.06 of Rev. Proc. 94-45 provides that the trust instrument must contain a fixed or determinable termination date that is generally not more than five years from the date of the creation of the trust and that is reasonable based on all of the facts and circumstances. If warranted by the facts and circumstances, provided for in the plan and trust instrument, and subject to the approval of the Bankruptcy Court with jurisdiction over the case upon a finding that the extension is necessary to the liquidating purpose of the trust, the term of the trust may be extended for a finite time based on its particular facts and circumstances. The trust instrument must require that each extension be approved by the court within 6 months of the beginning of the extended term.

CONCLUSIONS

Based on the information submitted and the representations made, we conclude that the conditions of Rev. Proc. 94-45 have been satisfied. Accordingly, based on the representations made and the information submitted, we rule that Trust is classified as a liquidating trust under § 301.7701-4(d) for federal tax purposes and that the extension of Trust's term to Date 8 will not adversely affect Trust's classification as a liquidating trust under § 301.7701-4(d). Therefore, Trust will continue to be treated as a grantor trust and the beneficiaries of Trust will continue to be treated as the owners of Trust under § 671 to the extent Trust otherwise qualifies as such.

Except as expressly set forth above, we express or imply no opinion concerning the federal income tax consequences of the facts described above under any other provision of the Code.

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

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

In accordance with the power of attorney on file with this office, we are sending a copy of the letter to Trust's authorized representatives.

Sincerely,

Robert D. Alinsky
Branch Chief, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure:

Copy of this letter for § 6110 purposes

cc