Internal Revenue Service

Index Number: 751.00-00

Department of the Treasury

Washington, DC 20224

Person to Contact:

199910056

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:Br.1-PLR-120037 -98
Date:

DEC 12 1998

LEGEND

X =

Y =

Z =

M =

PRS1 =

PRS2 =

PRS3 =

PRS4 =

PRS5 =

PRS6 =

m% =

n% =

o% =

x% =

228

y% =

Buyer =

Parent =

This responds to your letter dated October 3, 1998, in which you requested a supplemental ruling to take into account a change in facts with respect to our letter ruling issued to PRS2 dated October 22, 1998 (the "Ruling Letter"). Except as otherwise noted in the legend above, all terms used in this letter have the same meaning as in the previous letter.

In the Ruling Letter, we issued three rulings based on a series of transactions. The Ruling Letter was based on the facts before us at the time the private letter ruling was issued. Included was the fact that Family, Y, and PRS2 would enter into the Underwriting Agreement with Underwriter as the lead managing underwriter of SPO pursuant to which Family, Y, and PRS2 would sell a substantial portion of the Newco shares they received in Sale1, Exchange1, and Exchange2 in an SPO of the shares. Under the facts submitted, you requested rulings concerning the tax treatment of power purchase agreements held by PRS3 and PRS4.

Your recent submission indicates that the conditions surrounding the proposed transaction necessitate a change in the facts described above. You have represented that, instead of the above-described transaction, the following steps will occur in connection with the sale of the cogeneration business:

1) Y and PRS2 will enter into a separate agreement with Buyer to sell slightly less than m% of their respective x% and y% interests in PRS1 to Buyer, a wholly owned subsidiary of Parent, for cash and shares of Parent (Sale1).

2) X and PRS2 will enter into an agreement with Buyer to sell n% of their respective x% and y% partnership interests in PRS5 to Buyer in exchange for cash (Sale2).

3) Y's and PRS2's interests remaining in PRS1 following Sale1 will be redeemed by PRS1 (Redemption1) in consideration of a distribution to Y and PRS2 of cash and PRS1's note receivable from PRS6.

4) The shareholders of Z will cause M to be merged with and into Z.

5) Z will then redeem o% of each shareholder's Z shares in exchange for a promissory note (Seller Notes).

6) Each Z shareholder will then sell its remaining Z shares to Buyer or its designee for cash. The Seller Notes will then be repaid in full on the first business day after the closing of these transactions.

As a result of Sale1, Sale2, and Redemption1, PRS2 will recognize significant gain.

Based solely on the information submitted by the taxpayer with respect to this supplemental ruling request and the information submitted with respect to the Ruling Letter, we conclude that the change in facts as discussed above will not adversely affect rulings 1 and 2 contained in the Ruling Letter. Accordingly, under the additional facts submitted in your request for a supplemental ruling, we rule as follows:

1) PPA1 And PPA2 are not unrealized receivables for purposes of § 751(a)(1); and

2) PPA1 and PPA2 are not inventory items for purposes of § 751(a)(2).

Except as held immediately above, no opinion is rendered regarding the federal income tax effects of any of the transactions described above under other provisions of the Code or regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the transactions that are not specifically covered by the above rulings. Specifically, no opinion is rendered regarding the effect of the change of facts on the other rulings issued in the Ruling Letter.

This ruling is directed only to the taxpayers who requested it. Section 6110(j)(3) provides that it may not be used or cited as precedent.

Sincerely yours

Dianna K. Miosi

DIANNA K. MIOSI
Chief, Branch 1
Office of the Assistant Chief Counsel
(Passthroughs and Special Industries)