

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No. _____

Telephone Number: _____

In Re:

Refer Reply To:
CC:ITA:B06 – PLR-127050-03
Date: November 26, 2003

LEGEND:

Taxpayer =

Parent =

Trust =

Year 1 =

Year 2 =

Year 3 =

Company =

State A =

X =

Y =

\$a =

Date 1 =

Date 2 =

Court =

Dear

This letter is in reply to your letter dated April 17, 2003, submitted on behalf of Taxpayer, requesting the following ruling:

That upon execution of the Trust agreement and the transfer of the Trust assets thereto, the Trust will be a qualified settlement fund under section 1.468B-1(a) of the Income Tax Regulations.

The facts and representations submitted are as follows.

Taxpayer is an accrual basis taxpayer that files its federal income tax return as part of a consolidated return with Parent, as the common parent. From Year 1 to Year 2, Taxpayer or its affiliates either owned or operated Company. During this time, Taxpayer was primarily engaged in the marketing and distribution of products manufactured by Company. Company operates in State A where it primarily creates Y and other related materials.

Beginning in Year 3, former employees of Company filed lawsuits against Taxpayer asserting that Taxpayer was liable for personal injuries caused by exposure to X contained in products used at Company in the creation of Y and in other related activities. Due to Taxpayer's potential liability exposure for such lawsuits, which numbers in the \$a, Taxpayer solicited its creditors to approve a negotiated bankruptcy plan by sending to each creditor (including the employees of Company) a Disclosure Statement with Respect to Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code for Taxpayer. Pursuant to sections 1129 and 524(g) of the Bankruptcy Code, the Disclosure Statement received the necessary votes from Taxpayer's creditors for approval on Date 1.

On Date 2, the Court approved an Amended Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code (the "Plan") for Taxpayer. Under the Plan, Taxpayer will transfer certain assets and rights to the Trust, a trust which will be created under the laws of State A. Taxpayer's transfer of assets to the Trust will be in complete settlement and satisfaction of its liabilities for personal injuries caused by exposure to X (tort claims). Taxpayer represents that no assets transferred to the Trust or Trust assets will be used to satisfy or settle non-tort liabilities. The Trust will assume sole liability for all tort claims against Taxpayer and will satisfy such claims by making distributions to claimants in accordance with the Plan, the Trust agreement, and other relevant documents.

The Trust will be under the continuing jurisdiction of the Court. The assets of the Trust will be administered by independent trustees unrelated to Taxpayer. Any Trust assets remaining after payment of all claims will be used for charitable purposes as determined by the trustees.

Section 1.468B-1(c) sets forth the requirements of a qualified settlement fund. A fund, account, or trust satisfies these requirements if –

PLR-127050-03

- (1) It is established pursuant to an order of, or is approved by, the United States or 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 government authority;
- (2) It 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, as amended, 42 U.S.C. 9601 et.seq, or (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; and
- (3) It is a trust under applicable state law, or its assets are otherwise segregated from other assets of the transferor (and related persons).

Based solely on the information submitted and on the representations set forth above, we rule that the Trust, once effective, will be a qualified settlement fund under section 1.468B-1(a) because the three requirements outlined in the regulations for qualified settlement fund treatment will be met. First, the Plan, which contains provisions for the establishment of the Trust, was approved by the Court and the Trust will be subject to the continuing jurisdiction of the Court. Second, the Trust will be established to resolve or satisfy one or more contested or uncontested claims that have resulted or may result from a related series of events that have occurred and have given rise to at least one claim arising out of tort. Third, the Trust will be formed and administered in accordance with State law.

Except as specifically set forth above, no opinion is expressed regarding the federal tax treatment of this transaction. In particular, no opinion is expressed or implied regarding the taxation of the Trust under section 1.468B-2, and the tax treatment applicable to Taxpayer under section 1.468B-3.

PLR-127050-03

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

Sincerely,

Thomas A. Luxner
Branch Chief
Office of Chief Counsel (Income
Tax and Accounting)

Enclosures:

Copy of letter

Copy for section 6110 purposes

cc