

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B07 – PLR-150579-02

Date:
October 09, 2003

Legend

X

Y

Z

a

Taxpayer

b

Corporation

c

d

e

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Dear Sir or Madam:

We received a letter from your authorized representative requesting a ruling that X, Y, and Z may determine the credit for increasing research activities under the standard method of § 41(a) of the Internal Revenue Code for the taxable year ending on a and all subsequent taxable years. This letter responds to that request.

The information submitted and the representations made are summarized as follows:

Taxpayer is an accrual basis calendar year taxpayer. In b, Taxpayer acquired X, Y, and Z from Corporation. For all taxable years prior to its acquisition of X, Y, and Z, Taxpayer and all members of its § 41(f)(5) controlled group calculated their credit for increasing research activities under § 41(a).

Prior to their acquisition by Taxpayer, X, Y, and Z were members of Corporation's controlled group. For the taxable year ending c, Corporation had elected, on behalf of itself and the members of its controlled group, to determine the credit for increasing research activities under the AIRC rules of § 41(c)(4). Corporation determined the research credit using § 41(c)(4) for the taxable years ending d through e.

It is represented that Taxpayer's acquisition of X was treated as an asset acquisition for federal income tax purposes. It is further represented that § 338(h)(10) elections were made on behalf of Y and Z, resulting in deemed asset acquisitions for these two corporations for federal income tax purposes.

Section 41(f)(1)(A) provides that in determining the amount of the credit under § 41—

(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

(ii) the credit (if any) allowable by § 41 to each member shall be its proportionate shares of the qualified research expenses and basic research payments giving rise to the credit.

Section 41(f)(5) provides that the term "controlled group of corporations" has the same meaning given to such term by § 1563(a), except that—

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(A) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in § 1563(a)(1), and

(B) the determination shall be made without regard to § 1563(a)(4) and (e)(3)(C).

Based solely on the facts submitted and the representations made, we conclude that X, Y, and Z may determine the credit for increasing research activities under the standard method of § 41(a), without regard to the AIRC method of § 41(c), for qualified research expenses paid or incurred during the taxable year ending on a and all succeeding years, provided that neither Taxpayer nor any member of its controlled group makes a new election to determine the credit for increasing research activities under the AIRC rules of § 41(c)(4) in a later year.

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Further, we express or imply no opinion concerning expenditures Taxpayer or X, Y, and Z treated as qualified research expenses.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

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.

Sincerely,

Brenda M. Stewart
Senior Counsel, Branch 7
Office of Associate Chief Counsel
(Passthroughs & Special Industries)