Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B07
PLR-133809-04
Date:
August 30, 2004

LEGEND:

Corporation =

Date 1 =

Date 2 =

Target =

Subsidiary =

Date 3 =

Date 4 =

Date 5 =

Dear :

This letter responds to your letter, dated June 14, 2004, requesting a ruling under § 41 of the Internal Revenue Code.

The represented facts are as follows:

Corporation is an accrual method taxpayer that utilizes a Date 1 taxable year. Corporation is the parent of a § 41(f)(5) controlled group of corporations, all of which file on Corporation's consolidated return.

Since its formation, Corporation has utilized the standard method of § 41(a) to calculate its credit for increasing research activities (research credit). On Date 2, Corporation purchased Target, and merged Target into Subsidiary, a wholly owned subsidiary of

Corporation. Target had made an election to use the alternative incremental research credit, under § 41(c)(4), for its taxable year ending on Date 3. Subsequent to the purchase of Target, Corporation filed its tax return for its taxable year ending on Date 4 utilizing the standard § 41(a) method of calculating the research credit, though no research credit was claimed for Corporation's taxable year ending on Date 4.

Corporation requests a ruling that Corporation and its § 41(f)(5) controlled group may calculate the research credit for the taxable year ending on Date 5, and all succeeding years, under the standard method of § 41(a), without regard to § 41(c)(4).
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 -- (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 and representations made, we conclude that Corporation and its § 41(f)(5) controlled group may calculate the research credit for the taxable year ending on Date 5, and all succeeding years, under the standard method of § 41(a), without regard to § 41(c)(4), provided that Corporation does not make an election to determine its credit for increasing research activities under the alternative incremental research credit 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 Corporation, or any member of its § 41(f)(5) controlled group, treated as qualified research expenses.

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.

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,

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