Internal Revenue Service

Number: **201341032**
Release Date: 10/11/2013

Index Number: 856.00-00

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:FIP:B02
PLR-153488-12

Date:
April 15, 2013

Legend:

Taxpayer =

State A =

State B =

Date 1 =

Properties =

Country A =

TRS A =

x =

Dear :

This is in reply to a letter dated December 14, 2012, requesting a ruling on behalf of Taxpayer. You have requested a ruling under section 856(c)(3) regarding the qualification of income received from Taxpayer's Subsidiary REIT (as defined below). You have also requested a ruling concerning the treatment of stock in the Subsidiary REIT under section 856(c)(4).

Facts:

Taxpayer, a State A corporation, is a publicly traded real estate investment trust (REIT) that elected to be taxed as a REIT effective for its tax year ended Date 1. Taxpayer has intended to qualify as a REIT at all times since. Taxpayer owns a geographically diverse portfolio of Properties in Country A. Taxpayer's Country A operations are conducted through various disregarded entities. Taxpayer's non-REIT qualifying operations are conducted through TRS A.

Taxpayer intends to restructure its Properties holdings by forming two separate subsidiary REITs ("Subsidiary REITs") that will each hold Properties and an interest in TRS A. Each Subsidiary REIT will be organized as a State B corporation and will elect to be taxed as a REIT, with the REIT election of be effective the first day that the Subsidiary REIT holds assets and/or conducts operations. Taxpayer represents that each Subsidiary REIT will operate so that at all times it satisfies all of the requirements for qualification as a REIT.

Each Subsidiary REIT will be capitalized with common stock and preferred stock. Approximately x outside investors will hold one or more shares of the preferred stock of each Subsidiary REIT. In connection with the formation and capitalization of the Subsidiary REITs, Taxpayer will transfer to each Subsidiary REIT an interest in the TRS A securities that it holds.

Law & Analysis:

Section 856(c)(3) ("the 75% income test") provides, in relevant part, that at least 75 percent of a REIT's gross income must be derived from specified sources that includes dividends or other distributions on, and gain (other than gain from prohibited transactions) from the sale or other disposition of, transferable shares in other REITS which meet the requirements of section 856.

Section 856(c)(4)(A) ("the 75% asset test") provides that at the close of each quarter, at least 75 percent of a REIT's total assets must be represented by real estate assets, cash and cash items (including receivables), and Government securities. The term real estate assets includes shares in other REITs which meet the requirements for qualification as a REIT. See section 856(c)(5)(B).

Section 856(c)(4)(B)(i) provides that not more than 25 percent of the value of a REIT's total assets can be represented by securities that do not meet the 75% asset test. Section 856(c)(4)(B)(ii) further provides that not more than 25 percent of the value of a REITs total assets can be represented by securities of one or more taxable REIT subsidiaries (TRSs).

Section 856(i) provides that a corporation that is a qualified REIT subsidiary (QRS) shall not be treated as a separate corporation, and all assets, liabilities, and items of income, deduction, and credit of a QRS shall be treated as assets, liabilities, and such items (as the case may be) of the REIT. A QRS is any corporation, other than a TRS, if 100 percent of the stock of such corporation is held by the REIT.

Dividend income from shares of other REITs is qualifying income under the 75% income test. Likewise shares of other REITs are qualifying assets under the 75% asset test. Taxpayer has represented that each Subsidiary REIT will qualify as a REIT. Therefore, any dividend income received by Taxpayer from each Subsidiary REIT will meet the 75% income test, and any shares of a Subsidiary REIT held by Taxpayer will meet the 75% asset test.

Taxpayer does not hold % of the stock of either Subsidiary REIT. Therefore, neither Subsidiary REIT qualifies as a QRS, and section 856(i) does not apply to treat the assets, liabilities, and credits of each Subsidiary REIT as those of Taxpayer.

Accordingly, we rule that dividends received by Taxpayer from each Subsidiary REIT will qualify as good income under section 856(c)(3). Furthermore, the stock of each Subsidiary REIT owned by Taxpayer will qualify as a real estate asset for purposes of section 856(c)(4)(A), and Taxpayer will not be considered to own any of the assets owned by the Subsidiary REITs.

Except as specifically ruled upon above, no opinion is expressed concerning any federal income tax consequences relating to the facts herein under any other provision of the Code. Specifically, we do not rule whether Taxpayer and the Subsidiary REITs otherwise qualify as REITs under part II of subchapter M of Chapter 1 of the Code, including whether those REITs each satisfy the requirements of section 856(a)(5) and (6).

This ruling is directed only to the taxpayer requesting it. Taxpayer should attach a copy of this ruling to each tax return to which it applies. Section 6110(k)(3) of the Code provides that this ruling 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 representatives.

Sincerely,

Jonathan D. Silver________________

Jonathan D. Silver
Assistant to the Branch Chief, Branch 2
Office of Associate Chief Counsel
(Financial Institutions & Products)