

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201716032**
Release Date: 4/21/2017
Index Number: 851.02-00

[Third Party Communication:
Date of Communication: Month DD, YYYY]

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Refer Reply To:
CC:FIP:B03
PLR-132395-16

Date:
January 13, 2017

Legend

Fund =

Dear :

This letter revokes a part of PLR 201108018 (PLR-132486-10) issued to Fund on November 15, 2010.

In PLR 201108018, the Internal Revenue Service (the "Service") issued rulings that (i) income and gain from certain commodity-linked notes constitute qualifying income under section 851(b)(2) (the "CLN Ruling"), and (ii) subpart F income of the subsidiaries attributable to Fund is other income derived from Fund's businesses of investing in stock, securities, or currencies and, therefore, constitutes qualifying income under section 851(b)(2) (the "Subpart F Ruling"). In a letter dated September 29, 2016, the Service notified Fund that it was considering revoking the CLN Ruling.

Since issuing PLR 201108018, the Service has determined that having provided a private letter ruling on the issue in the CLN Ruling is not in accord with the current views of the Service. See Rev. Proc. 2016-50, 2016-43 I.R.B. 522, superseded by Rev. Proc. 2017-3, 2017-1 I.R.B.130, 140 (section 4.01(44)); see also REG-123600-16, 81 Fed. Reg. 66576-77 (Sept. 28, 2016). Section 11.04 of Rev. Proc. 2017-1, 2017-1 I.R.B. 1, 61, provides, in part, that unless it was part of a closing agreement, a letter ruling found to be in error or not in accordance with the current views of the Service may be revoked or modified. Accordingly, the CLN Ruling in PLR 201108018 is revoked. The Subpart F Ruling is not revoked and that portion of PLR 201108018 remains in effect at this time.

Section 11.04 of Rev. Proc. 2017-1 also provides that, if a letter ruling is revoked, the revocation applies to all years open under the statute of limitations on assessment unless the Service uses its discretionary authority under section 7805(b) to limit the retroactive effect of the revocation. To date, Fund has not responded to the September 29, 2016, letter from the Service with a request for relief under section 7805(b). Therefore, the revocation of the CLN Ruling in PLR 201108018 applies retroactively to all years open under the statute of limitations on assessment as of the date of this letter and to all future years.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to Fund's authorized representatives. We are also sending a copy of this letter to the appropriate operating division.

Sincerely,

Pamela Lew
Senior Counsel, Branch 2
Office of Associate Chief Counsel
(Financial Institutions and Products)