

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202118005**
Release Date: 5/7/2021
Index Number: 6045.00-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

In Re:

Refer Reply To:
CC:PA:02
PLR-118041-20
Date:
February 05, 2021

Legend

Entity =

Services =

Property =

Customer =

Dear _____ :

This letter is being sent to modify our private letter ruling (202004009) dated July 24, 2019 (the PLR). We are modifying the PLR to amend certain language used under the headings "Facts" and "Law & Analysis." The PLR contains a ruling that Entity is not obligated to report in scenarios 1 and 2 and is obligated to report in scenario 3. This ruling modifies and supersedes the PLR.

We make the following modifications to the PLR:

In the first sentence under the heading "Facts" – the term "dealer" is changed to "broker" and the word "Service" is changed to "Services."

In the numbered paragraphs under the heading "Facts" – the phrase "contract's expiration" is changed to "contract's closing transaction" each time it is used.

After the last sentence under the heading "Facts" – an extra period is deleted.

In the second paragraph under the heading “Law & Analysis” – the phrase “contract’s expiration” is changed to “contracts closing transaction” both times it is used.

The PLR, as modified, reads as follows:

Facts

Entity is a broker that provides Services for its Customers with respect to certain Property. Entity enters into a forward contract, under which Customer pays Entity for the right to acquire Property in the future. Entity sets aside and stores Property for future delivery to Customer. Three scenarios may occur with regard to these forward contracts:

1. At the contract’s closing transaction, Customer takes delivery of the Property that Entity set aside for Customer;
2. Prior to the contract’s closing transaction, pursuant to the contract, Entity substitutes the Property that was set aside for Customer with different Property that Entity sets aside for Customer. At the contract’s closing transaction, Customer takes delivery of the second Property that Entity set aside for Customer;
3. At the contract’s closing transaction, Customer receives United States Dollars equal to the value of the Property.

Entity requested rulings that under § 6045 and Treas. Reg. § 1.6045-1, it is not required to report the transactions in scenarios 1 and 2 on Forms 1099-B, and it is required to report the transactions in scenario 3.

Law & Analysis

Under § 6045 and Treas. Reg. § 1.6045-1(c)(2), brokers are required to make a return of information for each sale by a customer of the broker if, in the ordinary course of a trade or business in which the broker stands ready to effect sales to be made by others, the broker effects the sale. This reporting is done on Forms 1099-B. Under Treas. Reg. § 1.6045-1(a)(9), for the purposes of reporting under section 6045, a sale is defined as a disposition, but only to the extent the disposition is conducted for cash.

In scenarios 1 and 2 above, at the time of the contract’s closing transaction, there is no disposition by the customer for cash, and thus there is no sale within the meaning of § 6045 and Treas. Reg. § 1.6045-1(c)(2). Therefore, Entity is not required to report the transactions described in these two scenarios on Forms 1099-B. In scenario 3, at the time of the contract’s closing transaction, there is a disposition of the forward contract for cash, which is considered a sale under Treas. Reg. § 1.6045-1(a)(9). Entity effects

the customer's sale within the meaning of Treas. Reg. § 1.6045-1(a)(10). Therefore, Entity is required to report the sales that occur under scenario 3 on Forms 1099-B.

Conclusion

Based solely on the information provided and representations made, we conclude that Entity is not required to file Forms 1099-B to report customers' sales in scenarios 1 and 2, above, and is required to file Forms 1099-B to report customers' sales in scenario 3, above.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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.

The rulings contained in this letter are based upon information and representations submitted by Entity 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,

Adrienne Griffin
Branch Chief, Branch 2
(Procedure & Administration)

Enclosures: (1) Copy of letter for section 6110 purposes
(2) Notice of Intention to Disclose, Notice 437

cc: