

Internal Revenue Service

Department of the Treasury

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02-11-2000

Re: Section 29 Request for a Ruling; Credit for Producing Fuel From a Nonconventional Source

Company =

Plan =

Dear :

This letter responds to a letter from Company, dated December 1, 1999, requesting a ruling that Company will produce a qualified fuel within the meaning of section 29(c)(1)(C) of the Internal Revenue Code.

We understand the facts as represented by Company and Company's authorized representatives to be as follows:

Company is a limited liability company formed for the purpose of producing solid synthetic fuel from coal.

Company has a license authorizing it to use a variant of X's patented process (the "Process") for converting coal feedstock into synthetic fuel.

The Process uses a unique substrate derived from acrylonitrile, polyvinyl alcohol and injection pressure to chemically change coal into a synthetic solid fuel. The Process consists of two sequential steps.

In the first step, the coal is collected, sized, cleaned, and combined. During this step, an emulsion surfactant is used to remove undesirable tramp compounds such as clay and silicates carried with raw coal fines. Concentrated acid is then combined with the coal to produce fixed carbon receptor sites, which allow for attachment of an epi-oxygen structure to carbon matrices.

The second step of the Process uses a two-step chemical reaction to capture the carbon matrices into a cross linked epi-oxygen structure which is capable of withstanding the temperatures and handling associated with solid fuel uses. Two

PLR-119233-99

monomers freely attach to the receptor sites prepared in the first step as the catalysts used to derive the monomers evaporate. During this reaction, the monomers are co-polymerized and attached to the carbon component receptor sites. Coal is changed by covalently attaching a polymer at the modified carbon matrices of the coal and restructuring the resulting synthetic fuel into a cross linked epi-oxygen type structure.

Company had experts conduct numerous tests on fuel produced from coal fines of an eastern, low-volatile, bituminous coal, a medium-volatile, bituminous coal, and two western, high-volatile, bituminous coals. By the preponderance of these tests' results, Company and Company's representatives represent that there was a significant chemical change in the coal making up the fuel.

Section 29(a) of the Code allows a credit for qualified fuels sold by the taxpayer to an unrelated person during the tax year, the production of which is attributable to the taxpayer. The credit for the tax year is an amount equal to \$3.00 (adjusted for inflation) multiplied by the barrel-of-oil equivalent of qualified fuels sold.

Section 29(c)(1)(C) of the Code defines "qualified fuels" to include liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

In Rev. Rul. 86-100, 1986-2 C.B. 3, the Internal Revenue Service ruled that the definition of the term "synthetic fuel" under section 48(l) of the Code and its regulations are relevant to the interpretation of the term under section 29(c)(1)(C). Former section 48(l)(3)(A)(iii) provided a credit for the cost of equipment used for converting an alternate substance into a synthetic liquid, gaseous, or solid fuel. The ruling notes that both section 29 and former section 48(l) contain almost identical language and have the same overall congressional intent, namely to encourage energy conservation and aid development of domestic energy production. Under section 1.48-9(c)(5)(ii) of the Income Tax Regulations, a synthetic fuel "differs significantly in chemical composition," as opposed to physical composition, from the alternate substance used to produce it. Coal is an alternate substance under section 1.48-9(c)(2)(i).

Based on the representations of Company, including the preponderance of proffered data on the significant difference in the chemical composition of the fuel to be produced from that of the coal, the fuel to be produced using the Process will be a solid synthetic fuel from coal within the meaning of Rev. Rul. 86-100 and section 1.48-9(c)(5)(ii) of the regulations.

Accordingly, we conclude that the Process produces a "qualified fuel" as defined in section 29(c)(1)(C) of the Code.

PLR-119233-99

Except as specifically ruled upon above, we express no opinion concerning the federal income tax consequences of the transaction described above.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Temporary or final regulations pertaining to one or more of the issues addressed in this ruling have not been adopted. Therefore, this ruling will be modified or revoked by the adoption of temporary or final regulations to the extent the regulations are inconsistent with any conclusions in the ruling. See section 12.04 of Rev. Proc. 99-1, 1999-1 I.R.B. 6, 47. However, when the criteria in section 12.05 of Rev. Proc. 99-1 are satisfied, a ruling is not revoked or modified retroactively, except in rare or unusual circumstances.

In accordance with the power of attorney on file with this office, the original of this letter is being sent to Company, and copies are being sent to Company's authorized representatives.

Sincerely yours,

CHARLES B. RAMSEY
Branch Chief, Branch 6
Office of Assistant Chief Counsel
(Passthroughs and Special Industries)