Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:B07-PLR-129337-02
Date:
March 21, 2003

Legend

Taxpayer	=
Former Parent	=
Year 1	=
a	=
Parent	=
Sister Corporation 1	=
Sister Corporation 2	=
b	=
c	=
d	=

Dear :

We received a letter from your authorized representative requesting rulings under § 41 of the Internal Revenue Code. This letter responds to that request.

The represented facts are as follows. Taxpayer, as part of Former Parent's controlled group, elected to determine its credit for increasing research activities (research credit) under the alternative incremental research credit rules of § 41(c)(4) for its Year 1 taxable year. On a, Parent acquired Taxpayer from Former Parent. Taxpayer reports

on Parent's consolidated return, and Parent is part of a controlled group of corporations that includes Sister Corporation 1 and Sister Corporation 2. Sister Corporation 1 was acquired by Parent, and joined Parent's controlled group on b.

Parent, and the controlled group to which Parent belongs, determine the research credit under the standard method of § 41(a). No member of Parent's controlled group has ever made a § 41(c)(4) election, or been part of a controlled group that determined the research credit under the alternative incremental research credit rules of § 41(c)(4).

You requested the following rulings:

1. Taxpayer, Parent, and Sister Corporation 2 request a ruling that they and all other corporations or trades or businesses that, for purposes of calculating the research credit, are required to be aggregated under § 41(f)(1), may calculate the research credit for the taxable year ending on c, and all succeeding years, under the standard method of § 41(a), without regard to § 41(c)(4).

2. Sister Corporation 1 requests a ruling that it may calculate the research credit for the taxable year ending on d, 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 submitted and representations made:

1. Taxpayer, Parent, and Sister Corporation 2 and all other corporations or trades or businesses that, for purposes of calculating the research credit, are required to be aggregated under § 41(f)(1), may calculate the research credit for the taxable year ending on c, and all succeeding years, under the standard method of § 41(a), without regard to § 41(c)(4), provided that neither Taxpayer, Parent or Sister Corporation 2 makes a new election to determine the research credit under the alternative incremental research credit rules of § 41(c)(4) in a later year.

2. Sister Corporation 1 may calculate the research credit for the taxable year ending on d, and all succeeding years, under the standard method of § 41(a), without regard to § 41(c)(4), provided that Sister Corporation 1 does not make a new election to determine the research credit 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 Taxpayer, Parent, Sister Corporation 1 or Sister Corporation 2 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,

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