Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Person to Contact:

199915056

Telephone Number:

Refer Reply To:
CC:DOM:IT&A:2-PLR-112192-98
Date:
JAN 15 1999

In re:

Dear

This responds to your request for a letter ruling on behalf of the taxpayer, Y.

Ruling Requested:

That amounts of more than $10,000 received by Y in its currency trading business by wire transfer, monetary instrument, or set-off are not required to be reported under § 6050I of the Internal Revenue Code.

Facts:

Y, a corporation, intends to operate a U.S. business, the sole activity of which will be Interbank Foreign Exchange Trading in the peso/dollar market. Y will make trades only for its own account. The business purpose underlying Y 's trading business is to generate profits from long or short positions taken in the trades. Y's trades will be primarily conducted with U.S. and Mexican banks such as Bank of America, Banamex, Bancomer, Inbursa, Serfin, Nafinsa, and Bancrecer. Y and these banks, its counterparty traders, will utilize an electronic trading system that contemporaneously confirms each trade executed by each party or counterparty. A small percentage of trades, likely less than 5 percent, will be conducted by telephone with small independent traders. Y contemplates that the average daily volume of its trades will be between $400,000,000 and $500,000,000. At the end of the day, however, Y's final risk position will be no more than $3,000,000.

All gains or losses from Y's trades, whether conducted with banks or independent traders, will be realized only by means of wire transfers between financial institutions.

Settlement of the day's executed trades will be performed via wire transfers to each party or counterparty's account following permanent payment instructions entered in the electronic trading system. These settlements will not be made by means of payments in any currency. Thus, Y will never receive actual currency in the course of its trading operations.

Law and Analysis:

Section 6050I(a) requires any person who is engaged in a trade or business and who, in the course of that trade or business, receives more than $10,000 in cash in one transaction or in two or more related transactions to make a return with respect to the transaction or related transactions. Section 6050I(b) sets forth the form and manner of the return. Section 6050I(c) provides that the term "cash" includes foreign currency and, to the extent provided in regulations prescribed by the Secretary, any monetary instrument with a face amount of not more than $10,000.

Section 1.6050I-1(c) of the Income Tax Regulations states that for amounts received after February 2, 1992, "cash" means (A) the coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued; and (B) a cashier's check (by whatever name called, including "treasurer's check" and "bank check"), bank draft, traveler's check, or money order having a face amount of not more than $10,000 received in a designated reporting transaction[1] or received in any transaction in which the recipient knows that the instrument is being used in an attempt to avoid the reporting requirements of § 6050I.

Thus, § 6050I and the regulations thereunder require, in summary, the reporting of the receipt in a trade or business of (1) coin or currency of more than $10,000, and (2) certain monetary instruments of a face amount of $10,000 or less, but only if the instrument is received in a certain kind of transaction or if the recipient knows that the instrument is being used to avoid reporting under § 6050I.

The only issue for consideration is whether the receipt by Y of amounts of more than $10,000 by wire transfer is subject to the information reporting requirements of

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[1]A designated reporting transaction is defined in § 1.6050I-1(c)(1)(iii) as a retail sale (or the receipt of funds by an intermediary in connection with a retail sale) of (A) a consumer durable, (B) a collectible, or (C) a travel or entertainment activity. These terms are defined in, respectively, § 1.6050I-1(c)(2), (3), and (4).

§ 6050I.[2] We conclude that it is not. Although Y will clearly be receiving funds by wire transfers, it will clearly not be receiving coin and currency of the United States or foreign coin or currency merely by reason of the wire transfer.

Conclusion:

Amounts of more than $10,000 received by Y in its currency trading business by wire transfer between financial institutions are not required to be reported under § 6050I.

Caveats:

A copy of this letter must be attached to any income tax return to which it is relevant. 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. In particular, no opinion is express or implied concerning the receipt by or on behalf of Y of coin or currency in settlement of trades.

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[2]Because the facts do not indicate that Y will receive amounts by set-off or by monetary instruments, we decline to rule on the application of § 6050I to amounts so received. See § 3.02(3) of Rev. Proc. 98-3, 1998-1 I.R.B. 100, 106, which states that the Internal Revenue Service will not rule on hypothetical situations. In any event, § 6050I(d) does not require the reporting of a monetary instrument in the face amount of more than $10,000, and the requested ruling relates only to amounts of more than $10,000.

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This ruling is directed to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Assistant Chief Counsel
(Income Tax & Accounting)

By Robert A. Berkovsky
Robert A. Berkovsky
Chief, Branch 2

Enclosure
Copy for § 6110 purposes