

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2012-01 IT
August 23, 2012

NOTICE: Under [IC 4-22-7-7](#), this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

Adjusted Gross Income Tax – Indiana Coal Gasification Tax Credit

A company ("Taxpayer") is seeking a ruling confirming that its planned new coal gasification facility qualifies for the credit found at [IC 6-3.1-29](#) et seq. Specifically, Taxpayer seeks a ruling confirming that:

- (1) Taxpayer's proposed coal gasification facility will constitute an "integrated coal gasification powerplant" as defined at [IC 6-3.1-29-6](#); and
- (2) Taxpayer will qualify under [IC 6-3.1-29-20.7](#) for the refundable tax credit as calculated under [IC 6-3.1-29-15\(a\)\(1\)](#) and (2).

Authority: [IC 4-4-11.6-12](#); [IC 4-4-11.6-30](#); [IC 6-3.1-29-6](#) [IC 6-3.1-29-14](#); [IC 6-3.1-29-15](#); [IC 6-3.1-29-19](#); [IC 6-3.1-29-20.7](#); [IC 6-3.1-29-21](#); Indiana Utility Regulatory Commission, Cause No. 43976

STATEMENT OF FACTS

Taxpayer, which was organized for the purpose of developing, financing, constructing, owning and operating a substitute natural gas ("SNG") production facility in Indiana (the "Facility"), provides the following facts regarding the Facility, its operations, and its related transactions:

The Facility will be located on a site in [Indiana] and will convert coal into synthesis gas that can be used as a substitute for natural gas. The Facility will be designed to process 100% coal, as well as blends of coal and petroleum coke containing up to 49% petroleum coke by weight, for conversion into SNG and liquefied CO₂. The Facility is expected to produce up to 47 million MMBtu of SNG annually, approximately 80% of which will be purchased by the Indiana Finance Authority (see below). The Facility will also annually produce up to approximately 6.43 million tons of liquefied CO₂ that will be sold to third parties for use in enhanced oil recovery. SNG sales will represent approximately 80% of the gross revenues of the Facility; liquefied CO₂ will represent approximately 10% of the gross revenues of the Facility.

In addition to SNG and liquefied CO₂, the Facility will also process sulfur compounds in the feedstocks into sulfuric acid, which [Taxpayer] plans to sell into the industrial market. Argon will be recovered from the air separation unit and sold to one or more industrial gas companies. Heat generated during the gasification process will be used to produce steam for steam turbines that can produce approximately 300 MW of electricity, primarily to meet on-site power needs; depending on the process and ambient conditions, a small amount of power will be sold into or imported from the nearby electrical transmission system. Incidentally generated electricity will be sold for resale subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC). These transactions together will generate the remaining (approximately 10%) gross revenues of the Facility. Finally, slag that is generated by the coal gasification process at the facility may be utilized by the State of Indiana without charge for use in the building of roads and for other purposes, pursuant to the terms of the purchase agreement between [Taxpayer] and the Indiana Finance Authority that is discussed below. It is estimated that the total investment in the Facility will be in excess of \$2 billion. Construction of the Facility is expected to begin in 2013 and the Facility is expected to be completed and operational by 2016.

Taxpayer also provides the following information related to its anticipated sales of SNG to the Indiana Finance Authority and related authorities:

38 million MMBtu of SNG – more than 80% of the SNG expected to be produced by the Facility – will be sold to the Indiana Finance Authority ("IFA") under a purchase and sale agreement entered into by and between the IFA and [Taxpayer] under date of January 14, 2011 ("Purchase Agreement").

The IFA is established by [IC 4-4-11](#) et seq., as a body politic and corporate of the State of Indiana; the authority is not a state agency, but is an independent instrumentality of the state exercising essential public

functions. The IFA is separate and apart from the state in its corporate and sovereign capacity, and though separate from the state, the exercise by the IFA of its powers constitutes an essential governmental, public, and corporate function. [IC 4-4-11-4](#).

The Purchase Agreement was entered into by the IFA pursuant to its authority under [IC 4-4-11.6](#), as enacted by the Indiana General Assembly in 2009 and amended in 2010. Specifically, in 2009 the General Assembly enacted a new chapter entitled "Additional Authority – Substitute Natural Gas Contracts," to give the IFA authority to purchase SNG. At the time this legislation was enacted, the General Assembly set forth its findings regarding the purposes of this chapter at [IC 4-4-11.6-12](#) as follows:

Sec. 12. The general assembly makes the following findings:

- (1) The furnishing of reliable supplies of reasonably priced natural gas for sales to retail customers is essential for the well being of the people of Indiana. Natural gas prices are volatile, and energy utilities have been unable to mitigate completely the effects of the volatility.
- (2) Long term contracts for the purchase of SNG between the [IFA] and SNG producers will enhance the receipt of federal incentives for the development, construction, and financing of new coal gasification facilities in Indiana.
- (3) The [IFA's] participation in and oversight of the [purchase, sale, and delivery of SNG to retail end use customers is critical to obtain low cost financing for the construction of new coal gasification facilities.
- (4) Obtaining low cost financing for the construction of new coal gasification facilities is necessary to allow retail end use customers to enjoy the benefits of a reliable, reasonably priced, and long term energy supply. (Emphasis added.)

...

As originally enacted in 2009, [IC 4-4-11.6](#) gave the IFA authority to purchase SNG gas from producers, such as [Taxpayer], and deliver it to each gas utility for subsequent delivery to individual commercial and residential consumers. Utilities would then deliver the gas and on behalf of the IFA, bill consumers for their share of SNG and collect the bills, passing on the proceeds to the IFA.

In 2010, [IC 4-4-11.6](#) was amended to add another provision, giving the IFA authority to sell SNG to third parties, provided that the net effect of the proceeds and costs of those sales be reflected on Indiana consumers' bills. [IC 4-4-11.6-30](#) states in relevant part:

Sec. 30. (a) To carry out this chapter, the [IFA] may enter into a contract to sell SNG to third parties with the net effect of the proceeds and costs of those sales to be reflected in the line item on customers' bills as required by section 19(c) of this chapter.

(b) The following apply if the [IFA] enters into a contract under subsection (a):

- (1) The contract between the [IFA] and a producer of SNG for the sale and purchase of SNG must be a purchase contract and is subject to all the requirements of this chapter.
- (2) Contracts for services the [IFA] determines are necessary and appropriate to effectuate SNG sales and the related transportation and delivery of SNG, including contracts authorizing third parties to act as the [IFA's] agent in selling the SNG, must be related contracts.
- (3) Contracts between the [IFA] and regulated energy utilities for the crediting and charging of the proceeds and costs to all retail end use customers, including the billing and collecting of any net costs, must be management contracts subject to section 22 of this chapter.

(c) The:

- (1) proceeds of the sales of SNG;
- (2) costs of purchasing, transporting, and delivering the SNG;
- (3) [IFA's] administrative costs;
- (4) costs incurred in carrying out this section by an agent of the [IFA]; and
- (5) costs associated with supplying working capital, maintaining financial reserves, and allowing defaults by SNG purchasers or retail end use customers; shall be allocated to the retail end use customers of each regulated energy utility based on the proportion of the amount of gas delivered by the regulated energy utility to the total amount of gas delivered by all regulated energy utilities in the immediately preceding calendar year. The commission shall determine a just and reasonable method for allocating the credits and charges to the retail end use customers. The mechanism and processes the authority uses to calculate the costs must be capable of audit and verification. . . (Emphasis added.)

...

As [IC 4-4-11.6-30](#) prescribes, the IFA will also enter into billing and collection services agreements with

energy utilities that provide natural gas services to Indiana retail gas utility consumers. In other words, energy utilities providing gas service to Indiana retail gas utility consumers must include on their bills for service the credits or charges due to the sales of SNG by the IFA. See [IC 4-4-11.6-30\(a\)](#).

Another observation should be made about the Purchase Agreement between the IFA and [Taxpayer]. It contemplates that [Taxpayer] will qualify for the coal gasification tax credit found at [IC 6-3.1-29](#).... In other words, the IFA and [Taxpayer] negotiated the Purchase Agreement on the basis that [Taxpayer] will qualify for the coal gasification tax credit.

In further support of its request, Taxpayer provides the following information related to an order issued by the Indiana Utility Regulatory Commission addressing Taxpayer's operations and sales:

Under date of November 22, 2011, the Indiana Utility Regulatory Commission ("IURC") issued its order under Cause No. 43976 ("Order"),... in which it, inter alia, approved the Purchase Agreement between [Taxpayer] and the IFA as contemplated by [IC 4-4-11.6-14](#).

In the Order, the IURC also found that [Taxpayer] is not a public utility with respect to its production and sale of SNG to the IFA, but the IURC ruled that [Taxpayer] is a public utility with respect to its production and sale of electricity, even though the IURC declined to exercise its jurisdiction in part because [Taxpayer] does not intend, nor does it request authority, to sell the electricity generated by the Facility to the general public or to any retail customer, among other reasons. The IURC also found, however, that its jurisdiction should be exercised in part so as to, for example, require the IFA or [Taxpayer] to provide written notice to the IURC of any transfers of ownership of the Facility or ownership interest in the project, to permit the IURC to examine [Taxpayer]'s books, accounts, contracts and other records, and to subject [Taxpayer] and/or the IFA to various reporting requirements discussed in the Order.

The IURC also found that the public convenience and necessity require the construction of the Facility. See pp. 100-102 of the Order. The IURC made that finding expressly because [IC 6-3.1-29-19\(a\)\(8\)\(A\)](#) requires [Taxpayer] to receive from the IURC a determination under [IC 8-1-8.5-2](#) that the public convenience and necessity require the construction of the Facility in order for [Taxpayer] to receive the tax credit under [IC 6-3.1-29](#) et seq. See Order, p. 100.

In concluding that the public convenience and necessity require or will require the construction of the Facility, the IURC found, among other things, that:

- "[T]he legislature determined pursuant to its findings at [IC 4-4-11.6-12](#) that the availability of SNG would provide a reliable, reasonably priced, long term energy supply, thus benefiting retail end use customers in Indiana." See p. 101 of the Order.
- "[T]he construction of the SNG facility proposed here would fulfill the legislature's intent concerning energy facilities and the provision of service in Indiana..."
- "[T]he SNG facility is innovative and prototypical; there is no other SNG facility in the United States like the one proposed for construction in Indiana by [Taxpayer]."
- "[T]he SNG facility will provide for the diversification of natural gas production, which . . . will benefit Indiana ratepayers by mitigating gas price volatility." See p. 102 of the Order.

In sum, the IURC found that the public convenience and necessity require the construction of the facility, and thereby expressly fulfilled its role in the granting of the coal gasification tax credit under [IC 6-3.1-29](#).

DISCUSSION

At issue is whether Taxpayer qualifies for the coal gasification tax credit found at [IC 6-3.1-29](#) et seq. As general statements, [IC 6-3.1-29-20.7\(a\)](#) provides that "[t]he findings in [IC 4-4-11.6-12](#) are incorporated by reference into this section" and that "[t]he general assembly further finds that the refundable credit provided by this section is also necessary to achieve the purposes set forth in [IC 4-4-11.6-12](#)."

As noted by Taxpayer, [IC 4-4-11.6-12](#) provides the following findings made by the Indiana General Assembly:

- (1) The furnishing of reliable supplies of reasonably priced natural gas for sales to retail customers is

essential for the well being of the people of Indiana. Natural gas prices are volatile, and energy utilities have been unable to mitigate completely the effects of the volatility.

(2) Long term contracts for the purchase of SNG between the [IFA] and SNG producers will enhance the receipt of federal incentives for the development, construction, and financing of new coal gasification facilities in Indiana.

(3) The [IFA's] participation in and oversight of the purchase, sale, and delivery of SNG to retail end use customers is critical to obtain low cost financing for the construction of new coal gasification facilities.

(4) Obtaining low cost financing for the construction of new coal gasification facilities is necessary to allow retail end use customers to enjoy the benefits of a reliable, reasonably priced, and long term energy supply.

Taxpayer argues that based on the foregoing incorporation of [IC 4-4-11.6-12](#) into [IC 6-3.1-29-20.7](#), the two provisions "must be read together as they are inextricably bound – forming a seamless statutory embodiment of state policies to help Indiana retail gas consumers."

[IC 6-3.1-29-20.7\(b\)](#) provides that the credit available under [IC 6-3.1-29](#) et seq. is limited to a taxpayer that:

- (1) makes a qualified investment in an integrated coal gasification powerplant; and
- (2) enters into a contract to sell substitute natural gas (as defined in [IC 4-4-11.6-11](#)) to the Indiana finance authority under [IC 4-4-11.6](#).

Clearly, Taxpayer has entered into a contract to sell substitute natural gas to the Indiana Finance Authority. Given that, the issue is whether Taxpayer's Facility qualifies as an integrated coal gasification powerplant. [IC 6-3.1-29-6](#) provides the following definition:

As used in this chapter, "integrated coal gasification powerplant" means a facility that satisfies all the following requirements:

- (1) The facility is located in Indiana and is a newly constructed energy generating plant.
- (2) The facility converts coal into synthesis gas that can be used as a fuel to generate energy or as a substitute for natural gas.
- (3) The facility uses the synthesis gas as a fuel to generate electric energy or produces synthesis gas that can be used as a substitute for natural gas.
- (4) The facility is dedicated primarily to production of electricity or gas for use by energy utilities serving Indiana retail electric or gas utility consumers.

In support of its assertion that Taxpayer's Facility is an integrated coal gasification powerplant, Taxpayer provides:

With respect to subsection (1) of [IC 6-3.1-29-6](#), [Taxpayer's] Facility will be located in Indiana and will be a newly constructed energy (both SNG and to a much lesser extent electricity) generating plant.

With respect to subsections (2) and (3), the Facility will convert coal into synthesis gas that can and will be used as a substitute for natural gas, and to a lesser extent as a fuel to generate electricity.

Clearly, the first three requirements found at [IC 6-3.1-29-6](#) are met, leaving the fourth requirement at issue. Taxpayer provides the following arguments, including both economic and physical use of the SNG by energy utilities serving Indiana consumers, in support of its assertion that the Facility should qualify under the statutory definition of an integrated coal gasification powerplant.

With respect to subsection (4), the Department should find that the Facility will be dedicated primarily to the production of gas for use by energy utilities serving Indiana retail gas utility consumers for all of the following reasons:

The Facility is dedicated primarily to the production of gas, which as noted above will account for approximately 80% of the gross revenues of the Facility. The findings made by the Indiana General Assembly at [IC 4-4-11.6-12](#) and [IC 6-3.1-29-20.7\(a\)](#), the provisions of [IC 4-4-11.6](#), the terms and conditions of the Purchase Agreement, and the IURC's Order, all reflect that the SNG produced at the Facility will be for use by energy utilities serving Indiana retail gas utility consumers, because they will benefit from such gas.

The noun "use" in [IC 6-3.1-29](#) is not defined, but should be given the ordinary and usual meaning of "use" (the "privilege or benefit of using something" (Merriam-Webster Collegiate Dictionary, Eleventh Ed., p. 1378 (2004)). "Serving" is the act of a person or thing that serves, and "serves" means "to be of use."

(Merriam-Webster Collegiate Dictionary, Eleventh Ed., p. 1378 (2004).) To "serve" is synonymous with "help" or "aid." (Thesaurus.com.)

Energy utilities serving Indiana retail gas utility consumers will be a critical part of the arrangement between the IFA and [Taxpayer] under the Purchase Agreement, and benefit from the sales of SNG made under the Purchase Agreement, as such sales enable the utilities to achieve the goal of reliable, reasonably priced natural gas for their customers, thereby enhancing the services those utilities are able to provide their respective Indiana customers.

The findings made by the General Assembly recognize that energy utilities have not been able to mitigate price volatility in the gas market and, therefore, the SNG sold under the Purchase Agreement entered into by [Taxpayer] and the IFA addresses (and indeed is, according to [IC 6-3.1-29-20.7](#), necessary to address) this volatility, and will be used to directly help energy utilities provide better, more economical service. In short, the SNG to be produced and sold under the Purchase Agreement will, in fact, be used by energy utilities in this fundamental way to better serve their Indiana retail gas utility consumers.

Furthermore, the role played by energy utilities under the IFA's Purchase Agreement with [Taxpayer] will be critical and integral to the use of the SNG produced by [Taxpayer]. Consistent with [IC 4-4-11.6-30](#), the Purchase Agreement acknowledges that energy utilities will be required to enter into "management contracts" with the IFA, under which those energy utilities will allocate to their retail end-use customers the credits and charges resulting from the IFA's sale to third parties of SNG that has been purchased from [Taxpayer] ("Billing Agreement"). When the IFA purchases SNG from [Taxpayer], it will then sell that SNG to a third-party through a marketer with the objective of obtaining the maximum price possible. The difference between the two prices, either credits or charges, will then be passed on to retail end-use customers through their monthly gas bills. This allocation of credits or charges will appear on the energy utility's billing to its end-use customers.

The Billing Agreement is a "management contract" as described in [IC 4-4-11.6-22](#), which provides that the IURC shall order energy utilities to enter into such contracts. The final version of the Billing Agreement under [IC 4-4-11.6-22](#) that the regulated energy utilities shall enter into with the IFA has not yet been finalized. In its Order, the IURC declined at this time to order utilities into such agreements, noting that certain parties expressed concern with respect to the terms of the draft agreements. In its Order, the IURC encouraged the parties to resolve issues related to the agreements among themselves. If they are unable to reach an agreement, then the IFA was directed to file a petition in a separately docketed proceeding before the IURC asking the IURC to order the utilities to enter into the agreements pursuant to [IC 4-4-11.6-22](#).

Under the Billing Agreement once finalized, the utility will provide billing, collection and other services related to the credits or charges resulting from the IFA's sale of the SNG (purchased from [Taxpayer]) pursuant to the IFA's marketing agreements in accordance with the provisions of [IC 4-4-11.6](#) et seq., and any conditions imposed by the IURC.

This statutorily mandated role to be played by energy utilities with respect to the SNG produced by [Taxpayer] demonstrates that such gas will be used by those energy utilities as part of, and in furtherance of, the service they provide to their customers, again consistent with the concept of "service" as discussed above.

Moreover, pursuant to the Billing Agreement, the energy utilities will use the SNG produced by [Taxpayer]'s facility in arriving at the ultimate charges made on their billings to their customers – those bills will reflect the allocated credits or charges for that SNG. These allocations will have a direct impact upon the charges made and collected by the utilities from their customers.

The SNG produced at the Facility will be chemically identical to and indistinguishable from natural gas; both are methane, CH₄. The SNG will be transported in an interstate pipeline where it will be required to meet the minimum pipeline specifications, the same as natural gas (CH₄) molecules produced from a well. These specifications assure the chemical composition of gas is consistent across the system. Once the CH₄ molecules are co-mingled in the pipe, it is not possible to differentiate the source. The product is completely fungible. Because of the fungible nature of CH₄ molecules, and given the numerous Indiana off-take points along the pipelines through which the SNG will be transported (along with natural gas), it is a virtual certainty that gas taken from the pipeline at those off-take points will be a mix of the SNG and natural gas. Among those off-takers will be Indiana energy utilities that will have purchased quantities of

natural gas, and will be taking whichever CH₄ molecules happen to be at the off-take point when the gas is removed from the pipeline. These CH₄ molecules, some SNG and some natural gas, will go into the delivery infrastructure of energy utilities serving Indiana gas customers. Therefore, Indiana energy utilities that take gas out of the pipelines used to transport SNG produced at the Facility would be receiving and delivering and, therefore, physically using SNG produced at the Facility in serving their Indiana customers. Furthermore, the IFA has the right and power under the Purchase Agreement to elect during a State Emergency to take physical delivery of SNG at a point it designates in order to best serve Indiana customers whose natural gas service might otherwise be disrupted. Under such an emergency, the SNG produced at the Facility would, necessarily, be physically used by energy utilities serving Indiana retail gas utility consumers.

In summary, the statute requires that, in order to qualify as an integrated coal gasification powerplant, Taxpayer's Facility must (1) be dedicated primarily to production of electricity or gas (2) for use by energy utilities serving Indiana retail electric or gas utility consumers. Based on a plain reading of the statutory provisions and in light of the legislative findings at [IC 4-4-11.6-12](#), the Department finds that Taxpayer's Facility qualifies as an integrated coal gasification powerplant as defined at [IC 6-3.1-29-6](#) and also is dedicated primarily to serving Indiana retail electric or gas utility consumers.

Given that Taxpayer's Facility qualifies as an integrated coal gasification powerplant, and contingent upon the Indiana Economic Development Corporation ("Corporation") awarding a tax credit to Taxpayer, Taxpayer is eligible to receive the tax credit authorized under [IC 6-3.1-29-14\(a\)](#), which provides:

A taxpayer that:

- (1) is awarded a tax credit under this chapter by the corporation; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer places into service an integrated coal gasification powerplant or a fluidized bed combustion technology and for the taxable years provided in section 16 of this chapter.

The amount of credit to which Taxpayer is eligible to receive is calculated under [IC 6-3.1-29-15\(a\)](#), which provides:

Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in an integrated coal gasification powerplant is equal to the sum of the following:

- (1) Ten percent (10%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.
- (2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000) only if the facility is dedicated primarily to serving Indiana retail electric or gas utility consumers.

Taxpayer may choose to take the credit as a refundable credit pursuant to [IC 6-3.1-29-20.7\(c\)-\(g\)](#), which provide:

(c) Notwithstanding anything in this chapter to the contrary, a taxpayer may elect in the manner prescribed by the department to take and receive all credits to which the taxpayer is entitled under section 15 of this chapter (without regard to section 16 of this chapter) as a refundable credit against the taxpayer's state tax liability, if any, over a period of twenty (20) taxable years, beginning not later than the taxable year in which the taxpayer places into service its integrated coal gasification powerplant. If, in a taxable year, a taxpayer that makes an election under this subsection has no state tax liability, the department shall pay to the taxpayer the full amount of the refundable credit for that taxable year.

(d) The amount of a credit to which a taxpayer that makes an election under subsection (c) is entitled for a particular taxable year equals the result determined [as follows]:

STEP ONE: Determine the total credit amount to which the taxpayer is entitled under section 15 of this chapter (without regard to section 16 of this chapter).

STEP TWO: Divide the STEP ONE amount by twenty (20).

STEP THREE: Determine the ratio of Indiana coal to total coal used in the taxpayer's integrated coal gasification powerplant in the taxable year.

STEP FOUR: Multiply the STEP TWO and STEP THREE amounts.

(e) A taxpayer shall claim a refund under this section in the manner provided by the department. The department shall pay the refunded amount to the taxpayer not more than ninety (90) days after the date on which the refund is claimed.

- (f) The shareholders, members, or partners of a pass through entity that makes an election under subsection (c) are not entitled to a credit allowed under section 20(b) of this chapter.
- (g) A credit allowed under this section is not assignable under section 20.5 of this chapter.

Additionally, pursuant to [IC 6-3.1-29-21](#), in order to receive the credit discussed herein, the taxpayer must claim any credit on its annual state income tax return. Along with the return, the taxpayer must submit a copy of the commission's determination and certificate of compliance required under section [IC 6-3.1-29-19](#), as well as all information that the department determines is necessary for the calculation of the credit provided by this chapter.

RULINGS

Taxpayer's proposed Facility qualifies as an integrated coal gasification powerplant as defined at [IC 6-3.1-29-6](#).

Taxpayer qualifies for the refundable tax credit at [IC 6-3.1-29-20.7](#), as calculated under [IC 6-3.1-29-15\(a\)\(1\)](#) and (2).

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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