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FEB 04 2010

CC:SB:7:SEA:1:LMOshiro
GL-100200-07

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Mark Bailey, Attorney
Terri Spellman
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1201 Third Ave., Suite 3200
Seattle, WA 98101

Reference: Exxon Punitive Damage Distribution
Form 1099 question

Dear Messrs. Jamin and Bailey and Ms. Spellman:

This letter is in response to your question as to which Form 1099 should be used to report the interest on the punitive damage award paid during 2009. We agree with your determination that both the punitive damage award and the interest on that award should be reported on a Form 1099-MISC.

Section 504 of the Emergency Economic Stabilization Act of 2008 provides that "qualified settlement income" received in connection with the Exxon Valdez litigation is treated as income attributable to a fishing business for purposes of section 1301 of the Code (income averaging). "Qualified settlement income" is defined as any interest and punitive damages award which are otherwise includible in taxable income and received in connection with the civil action *In re Exxon Valdez*. "Qualified taxpayer" is defined as any individual who is a plaintiff in the civil action *In re Exxon Valdez* or the beneficiary of the estate of such plaintiff who acquired the right to receive qualified settlement income from the plaintiff and was the spouse or immediate relative of the plaintiff. The statute also provides that qualified settlement income is not subject to SECA or FICA tax. Publication 525 and the Instructions for Schedule J direct qualified taxpayers to report Exxon punitive damage and interest distributions on line 21 (Other Income) of Form 1040. Although the Instructions for Form 1099-MISC require payments of at least \$600 to anyone in the fishing business to be reported in Box 7 (nonemployee compensation), such amounts would be transferred to lines other than Line 21. Therefore, the Fund

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should report qualified settlement income (punitive damages and interest) in Box 3 (Other Income) of Form 1099-MISC. The Fund should report all distributions allocable to compensatory damages (lost income) in Box 7 of the Form 1099-MISC.

If you have any questions or would like to discuss this further, please contact the undersigned at (206) 220-5951 or by e-mail at lisa.m.oshiro@irscounsel.treas.gov.

Sincerely,

JULIE L. PAYNE
Associate Area Counsel
(Small Business/Self-Employed)

By: 

Lisa M. Oshiro
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