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Legend:

Taxpayer =

State A =

Date 1 =

Dear :

This is in reply to a letter dated May 15, 2012 in which Taxpayer requests certain rulings in connection with its intent to elect to be taxed as a real estate investment trust ("REIT") under §§ 856-860 of the Internal Revenue Code.

Taxpayer is a State A corporation that intends to elect to be taxed as a REIT beginning with the taxable year ending Date 1. Taxpayer uses the calendar year and an accrual method of accounting. Taxpayer has several taxable REIT subsidiaries ("TRSs") that do business in the United States and approximately ten foreign countries.

Taxpayer is a wireless and broadcast infrastructure company. Together with its TRSs, (together referred to as "Group"), it owns a global portfolio of communications sites, substantially all of which are freestanding and rooftop antenna towers.

Group's primary business is acquiring, developing and leasing antenna space at its multi-tenanted communications sites to various tenants, including wireless telecom providers, radio and television broadcast companies and paging companies. Group operates communications sites in several countries, including some emerging countries.

Recently, Taxpayer has acquired real estate portfolios consisting of land interests, i.e. fee interests in land, temporary or permanent easements in land, or secondary ground lease or rooftop lease positions in land or on rooftops, where the land or rooftop space has already been leased to Taxpayer or its competitors for purposes of antenna tower use. In these cases, Taxpayer in effect becomes a ground landlord to a tenant (e.g., a telecom carrier or a tower lessor) that owns a tower and either operates the tower or leases space on it.

Power Generation

Some of Taxpayer's communications sites have on-site generators that are intended to supply power to the site when the local power grid is offline or where local power may not be available on reasonable or predictable terms. Generating units may be managed and maintained by Taxpayer, a TRS of Taxpayer, an independent contractor (IK), or by some combination of the three.

On-site power generation is provided solely for the use of the communications site's tenants and for Taxpayer's assets at the communications site (including the antenna tower itself). Tenants of a communications site need electricity for their on-site communications equipment. Although Taxpayer has little or no communications equipment at a communications site, it does have various items such as HVAC systems, site lighting, and tower lighting that require power.

Licenses or leases to tenants of space on towers in geographic areas where there may be either frequent interruptions in power supply or no predictable power supply, such as in emerging countries or rural areas of the United States, may require Taxpayer to keep on-site generators fueled and ready for operation at all times. In these geographic areas, Taxpayer may also be obligated under its licenses or leases to keep antenna towers operational for a specified amount of time each day or month. In order to comply with Taxpayer's obligations to its tenants, Taxpayer, its TRSs, or its IKs maintain and keep fueled generators to guard against the risk of local power outages or to provide primary power. They may also maintain batteries to supply backup power at some communications sites and thus reduce the amount of generator use needed.

Taxpayer may sometimes separately charge for electricity and power generation. Where Taxpayer separately charges, it may do so by various means, including by actual usage by tenant; by apportionment among a site's tenants; by a prearranged monthly, quarterly or other periodic amount; or by some other formula negotiated at arm's length between the parties. More than one method of charging tenants may be applicable at a single tower; for example, one tenant's master license agreement may include an apportionment of fuel costs, while another tenant at the same tower may be charged based on actual usage.

Taxpayer makes the following representations with respect to on-site power generation:

- Taxpayer does not and will not generate power to sell back to the local electricity grid. Any electricity generated by Taxpayer at a communications site is contemporaneously consumed at the site or, at most, stored in on-site backup batteries for later consumption at the site when power is unavailable from the local grid.

- Taxpayer's on-site generation is intended to ensure that each communications site has a secure source of electric power, including during periods of peak area demand and during local transmission and distribution failures, and to decrease the communications sites' dependence on the continuing operation of the local power grid. As such, on-site power generation is provided solely for the use of the communications sites' tenants and for Taxpayer's assets at the communications sites.

- In the geographic markets where Taxpayer has on-site generators, use of on-site generators to provide power to tenants is usual and customary in connection with the rental of space at communications sites.

- In no event are charges for electricity or power generation based on the income or profits of any person. Depending on the actual supply of power at a site, Taxpayer's collections for power generation may exceed or fall short of its actual costs for requisite power.

- Taxpayer will compensate its TRS on an arms-length basis for any services provided by the TRS with regard to on-site power generation.

Ground Rent and Property Tax Pass-Throughs

As previously mentioned, there are situations in which Taxpayer is a tenant on leased land or building rooftops. Taxpayer's ground lease or rooftop lease obligations may contain one or more rent formulas, ranging from fixed rent to a percentage formula that could be based on a variety of different factors. Generally, the rent formulas are based on a fixed periodic rent with inflation adjustments or upon a percentage of gross receipts. However, at some sites the ground lease or rooftop lease rent formulas may be based on the income or net profits from the property.

Taxpayer passes through to its tenants, as part of the tenants' rental payment owed, all or a portion of the ground lease rent or rooftop space rent that Taxpayer owes its landlord. Therefore, Taxpayer may pass through to its tenants an amount that is based on its own or another person's income or profits. Any amount received by

Taxpayer from its tenant that is attributable to the ground lease rent or rooftop space rent is then offset by an equal amount paid by Taxpayer as part of its rent payment to the landlord.

Similarly, Taxpayer often passes through local property taxes or assessments to its tenants as an additional charge. Most of the taxes are ad valorem taxes based on gross property value. However, local taxes may be based on other metrics, including formulas that may be viewed as income or profits-based.

Taxpayer represents that when it passes through to its tenants charges that are determined by reference to the income or profits of any person, Taxpayer is required to pay an amount equal to the passed through charges in their entirety to the underlying obligees (i.e., the ground landlord or the local taxing jurisdiction).

Foreign Operations

Group operates in foreign countries through one or more foreign subsidiaries and associated intermediate holding companies for which TRS elections have been made pursuant to § 856(l)(1)(B) ("Foreign TRSs").

Taxpayer will occasionally (i) pledge shares of one or more Foreign TRSs or (ii) cause one or more Foreign TRSs to pledge assets, in each case as collateral for certain debt of Taxpayer that was incurred to finance Taxpayer's acquisition, improvement or development of interests in real property that produce qualifying income under § 856(c)(2). In such cases, the Foreign TRS may be a controlled foreign corporation ("CFC") within the meaning of § 957(a), with respect to which Taxpayer may be a United States shareholder within the meaning of § 951(b) (a "United States shareholder").

Depreciation Method Change

Taxpayer typically depreciates its antenna towers as land improvements in Asset Class 00.3 of Rev. Proc. 87-56, 1987-2 C.B. 674. However, Taxpayer has acquired and will acquire companies that owned antenna towers and used a different depreciation method for their antenna towers. When the acquired antenna towers have been depreciated using a different method of accounting from Taxpayer's other antenna towers, Taxpayer filed and expects to file Forms 3115, Application for Change in Accounting Method, to change its method of depreciating the acquired antenna towers. The changes in accounting methods result in positive §481(a) adjustments includible in Taxpayer's taxable income over a period of taxable years.

Hedging

Prior to the time that Taxpayer converts one or more of its TRSs that do business in foreign countries to either disregarded entities or partnerships, some of these TRSs will have entered into hedging transactions. In addition, some entities acquired by Taxpayer will have entered into hedging transactions. These hedging transactions will be pre-existing as of the first day that these entities are included as part of Taxpayer for REIT income or asset testing purposes.

Some of the pre-existing hedging transactions will have been clearly identified by the entity that entered into them pursuant to § 1221(a)(7). With respect to any pre-existing hedging transaction that has not been clearly identified prior to the time it becomes part of Taxpayer, Taxpayer will identify the hedging transaction pursuant to § 856(c)(5)(G) on the first day the hedging transaction is included as part of Taxpayer for REIT income or asset testing purposes.

Law & Analysis:

Power Generation

Section 856(c)(2) provides that at least 95 percent of a REIT's gross income must be derived from, among other sources, "rents from real property."

Section 856(c)(3) provides that at least 75 percent of a REIT's gross income must be derived from, among other sources, "rents from real property."

Section 856(d)(1) provides that "rents from real property" include (subject to exclusions provided in section 856(d)(2)): (A) rents from interests in real property; (B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated; and (C) rent attributable to personal property leased under, or in connection with, a lease of real property, but only if the rent attributable to the personal property for the taxable year does not exceed 15 percent of the total rent for the tax year attributable to both the real and personal property leased under, or in connection with, the lease.

Section 1.856-4(b)(1) of the Income Tax Regulations provides that, for purposes of sections 856(c)(2) and (c)(3), the term "rents from real property" includes charges for services customarily furnished or rendered in connection with the rental of real property, whether or not the charges are separately stated. Services rendered to tenants of a particular building will be considered customary if, in the geographic market in which the building is located, tenants in buildings of a similar class are customarily provided with the service. In particular geographic areas where it is customary to furnish electricity or other utilities to tenants in buildings of a particular class, the submetering of those utilities to tenants in the buildings will be considered a customary service. Section 1.856-4(b)(5)(ii) provides that the trustees or directors of a REIT are not required to

delegate or contract out their fiduciary duty to manage the trust itself, as distinguished from rendering or furnishing services to the tenants of its property or managing or operating the property. Thus, the trustees or directors may do all those things necessary, in their fiduciary capacities, to manage and conduct the affairs of the trust itself.

Section 856(d)(2)(C) provides that any impermissible tenant service income is excluded from the definition of "rents from real property". Section 856(d)(7)(A) defines "impermissible tenant service income" to mean, with respect to any real or personal property, any amount received or accrued directly or indirectly by the REIT for services furnished or rendered by the REIT to tenants at the property, or for managing or operating the property.

Section 856(d)(7)(B) provides that if the amount of impermissible tenant service income exceeds one percent of all amounts received or accrued during the tax year directly or indirectly by the REIT with respect to the property, the impermissible tenant service income of the REIT will include all of the amounts received or accrued with respect to the property. Section 856(d)(7)(D) provides that the amounts treated as received by a REIT for any impermissible tenant service shall not be less than 150 percent of the direct cost of the REIT in furnishing or rendering the service.

Section 856(d)(7)(C) provides certain exclusions from impermissible tenant service income. Section 856(d)(7)(C) provides that for purposes of section 856(d)(7)(A), services furnished or rendered, or management or operation provided, through an independent contractor from whom the REIT does not derive or receive any income shall not be treated as furnished, rendered, or provided by the REIT, and there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

Section 512(b)(3) provides, in part, that there shall be excluded from the computation of unrelated business taxable income all rents from real property and all rents from personal property leased with such real property, if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

Section 1.512(b)-1(c)(5) provides that payments for the use or occupancy of rooms and other space where services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist camps or tourist homes, motor courts or motels, or for the use or occupancy of space in parking lots, warehouses, or storage garages, do not constitute rent from real property. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are

other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such service; whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways and lobbies, and the collection of trash are not considered as services rendered to the occupant.

In this case, Taxpayer is providing on-site power generation solely for the use of its tenants and for the communications site itself. In effect, as a responsible landlord and only in connection with its lease of real property, Taxpayer bridges the gap between its tenants' requirements for predictable power versus the inconsistent or nonexistent power that is available from the local electricity grid. Furthermore, Taxpayer represents that providing on-site power generation is usual and customary in connection with the rental of space at communications sites. Under § 1.512(b)-1(c)(5), the furnishing of heat and light are not considered services rendered to the occupant and therefore will not cause amounts received from tenants for those utility services to be treated as impermissible tenant service income under §§ 856(d)(2)(C) and 856(d)(7). Accordingly, Taxpayer's on-site power generation as described above will not cause income from the communications sites to be treated as other than "rents from real property" under § 856(d), and any amounts derived from providing on-site power generation, as provided above, will quality as "rents from real property" under § 856(d).

Foreign Currency Gains

Sections 959(a), 1291(b)(3)(F) and 1293(c) provide that, when a United States shareholder is taxed on undistributed corporate earnings under the subpart F or QEF inclusion rules, subsequent distributions of the previously taxed earnings are tax-free to the shareholder.

Section 986(c)(1) provides that foreign currency gain or loss with respect to distributions of previously taxed earnings and profits (as described in § 959 or §1293(c)) attributable to movements in exchange rates between the times of the deemed inclusion and the actual distributions ("Section 986(c) Gain") will be recognized and treated as ordinary income or loss from the same source as the associated income inclusion.

Section 856(n)(1)(A) provides that "passive foreign exchange gain" for any taxable year will not constitute gross income for purposes of § 856(c)(2).

Section 856(n)(3) defines passive foreign exchange gain as: (A) real estate foreign exchange gain (as defined in § 856(n)(2)); (B) foreign currency gains (as defined in § 988(b)(1)) which is not described in subparagraph A and is attributable to (i) any item of income or gain described in § 856(c)(2), (ii) the acquisition or ownership of obligations (other than foreign currency gains attributable to any item described in clause (i)), or (iii) becoming or being the obligor under obligations (other than foreign

currency gain attributable to any item of income or gain described in clause (i)); and (C) any other foreign currency gains determined by the Secretary.

While Section 986(c) Gain is not a foreign currency gain defined in § 988(b)(1), such Section 986(c) Gain is attributable to items of income that are qualifying income for purposes of § 856(c)(2). This is substantially similar to passive foreign exchange gain described in § 856(n)(3)(B)(i). Therefore, pursuant to § 856(n)(3)(C), the Section 986(c) Gains are excluded from gross income for purposes of § 856(c)(2) because these currency gains are considered passive foreign exchange gain that is excluded from gross income for purposes of § 856(c)(2).

Rulings under Section 856(c)(5)(J):

Section 856(c)(5)(J) provides that to the extent necessary to carry out the purposes of Part II of subchapter M of the Code, the Secretary is authorized to determine, solely for purposes of such part, whether any item of income or gain which – (i) does not otherwise qualify under § 856(c)(2) or (3) may be considered as not constituting gross income for purposes of § 856(c)(2) or (3), or (ii) otherwise constitutes gross income not qualifying under § 856(c)(2) or (3) may be considered as gross income which qualifies under § 856(c)(2) or (3).

The legislative history underlying the tax treatment of REITs indicates that the central concern behind the gross income restrictions is that a REIT's gross income should largely be composed of passive income. For example, H.R. Rep. No. 2020, 86th Cong., 2d Sess. 4 (1960) at 6, 1960-2 C.B. 819, at 822-823 states, "[o]ne of the principal purposes of your committee in imposing restrictions on types of income of a qualifying real estate investment trust is to be sure the bulk of its income is from passive income sources and not from the active conduct of a trade or business."

Ground Rent and Property Tax Pass-Throughs

Section 856(d)(2)(A) provides that, subject to certain exceptions, the term “rents from real property” does not include any amount received or accrued, directly or indirectly, with respect to any real or personal property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term “rents from real property” solely by reason of being based on a fixed percentage or percentages of receipts or sales).

Section 1.61-8(c) provides as a general rule that if a lessee pays any of the expenses of his lessor, the payments are additional rental income to the lessor.

Section 1.856-2(c)(1) provides that the term gross income has the same meaning as that term has under § 61 and the regulations thereunder.

Section 1.856-4(a) provides that, subject to the exceptions of § 856(d) and § 1.856-4(b), the term "rents from real property" means, generally, the gross amounts received for the use of, or the right to use, real property of the REIT.

Section 1.856-4(b)(3) provides that an amount received or accrued as rent for the taxable year which consists, in whole or in part, of one or more percentages of the lessee's receipts or sales in excess of determinable dollar amounts may qualify as "rents from real property" if (i) the determinable amounts do not depend on the income or profits of the lessee and (ii) the percentages and determinable amounts are fixed at the time the lease is entered into and are not renegotiated during the term of the lease in a manner which has the effect of basing rent on income or profits. It further provides that an amount will not qualify as "rents from real property" if, considering the lease and all the surrounding circumstances, the arrangement does not conform with normal business practice but is, in reality, used as a means of basing rent on income or profits.

In situations where Taxpayer is a tenant on leased land or rooftops, or is obligated to pay local property taxes or assessments, Taxpayer may pass through to its tenants, as part of the tenants' rent, amounts of ground rent, rooftop space rent, local property taxes or assessments that are determined by reference to a person's income or profits. As such, the rental payments paid by Taxpayer's tenants are based in part on income and profits and are excluded from the definition of rents from real property. However, economically, the additional charges passed through to Taxpayer's tenants do not represent a revenue or profit element to Taxpayer because they merely represent the receipt of a pass-through of Taxpayer's expenses relating to the ground lease or local property taxes or assessments. Accordingly, pursuant to § 856(c)(5)(J)(ii), we rule that amounts received by Taxpayer that include the pass-through of charges to its tenants (such as ground rents, rooftop space rents, local property taxes or assessments) determined by reference to the income or profits of any person will be treated as qualifying income under §§ 856(c)(2) and (3), provided that Taxpayer pays an amount equal to the passed-through charges in their entirety to its underlying obligees.

Subpart F inclusions

Section 856(c)(2) provides that at least 95 percent of a REIT's gross income (excluding gross income from prohibited transactions) must be derived from dividends, interest, rents from real property, gain from the sale or other disposition of stock, securities, and real property (including interests in real property and interests in mortgages on real property) which is not property described in § 1221(a)(1), and certain other sources.

Section 951(a)(1)(B) provides that, if a foreign corporation is a CFC for an uninterrupted period of 30 days or more during a taxable year, every person who is a

United States shareholder of the corporation and who owns stock in the corporation on the last day of the taxable year on which the corporation is a CFC shall include in gross income the amount determined under § 956 with respect to the shareholder for such year (but only to the extent not excluded from gross income under § 959(a)(2)) (“Section 956 Inclusion”).

Section 956(a) provides that in the case of a CFC, the amount determined under § 956 with respect to any United States shareholder for any taxable year is the lesser of -- (1) the excess (if any) of-- (A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the CFC as of the close of each quarter of such taxable year, over (B) the amount of earnings and profits described in § 959(c)(1)(A) with respect to such shareholder, or (2) such shareholder's pro rata share of the applicable earnings of such CFC. The amount taken into account in the preceding sentence under (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

Section 1.956-2(c)(1) provides that except as provided in § 1.956-2(c)(4), any obligation (as defined in § 1.956-2(d)(2)) of a United States person (as defined in § 957) with respect to which a CFC is a pledgor or guarantor shall be considered for purposes of § 956(a) to be United States property held by such CFC. Section 1.956-2(c)(2) provides that if the assets of a CFC serve at any time, even though indirectly, as security for the performance of an obligation of a United States person, then, the CFC will be considered a pledgor or guarantor of that obligation.

Taxpayer has represented that assets or stock of one of its CFCs will be pledged as collateral for certain debt of Taxpayer incurred to finance Taxpayer’s acquisition of real estate assets. This pledge will cause Taxpayer to recognize a Section 956 Inclusion. The facts and representations in this case indicate that the Section 956 Inclusion will occur as a result of a debt of Taxpayer's that arises in connection with the acquisition of real estate assets. This has a close nexus to Taxpayer's business of investing in real property assets. The Section 956 Inclusion recognized in connection with the production of otherwise qualifying income is treated as qualifying income for purposes of § 856(c)(2) to the extent that the underlying income so qualifies. Accordingly, pursuant to § 856(c)(5)(J)(ii), we rule that to the extent Taxpayer recognizes a Section 956 Inclusion on the pledge of the assets or stock of a CFC to secure a debt of the Taxpayer that is used to finance the acquisition of real estate assets from which income is derived that qualifies under § 856(c)(2), there is a sufficient nexus to treat the Section 956 Inclusion as qualifying income for purposes of § 856(c)(2).

Section 481(a) adjustment

Section 481(a) provides that a taxpayer that changes its method of accounting takes into account necessary adjustments in computing its taxable income.

Section 1.481-1(d) of the Income Tax Regulations provides that a § 481(a) adjustment must be properly taken into account for purposes of computing gross income, adjusted gross income, or taxable income in determining the amount of any item of gain, loss, deduction, or credit that depends on gross income, adjusted gross income, or taxable income.

Section 856(c)(2) provides that at least 95 percent of a REIT's gross income must be derived from, among other sources, "rents from real property."

Any income resulting from a § 481(a) adjustment constitutes gross income that does not qualify under §§ 856(c)(2) or (c)(3). Pursuant to § 856(c)(5)(J), that income may either be considered as not constituting gross income under §§ 856(c)(2) or (c)(3) or as qualifying gross income under those provisions. Under the facts of the instant case, excluding the § 481(a) adjustment from gross income for purposes of §§ 856(c)(2) and (c)(3) does not interfere with Congressional policy objectives in enacting the income tests under those provisions. Accordingly, pursuant to § 856(c)(5)(J)(i), we rule that the § 481(a) adjustments do not constitute gross income for purposes of §§ 856(c)(2) and (3).

Hedging Transactions

Section 61(a) of the Code provides that, except as otherwise provided, gross income includes all income from whatever source derived.

Section 856(c) provides that, to qualify as a REIT for any taxable year under part II of subchapter M, an entity must derive at least 95 percent of its gross income from sources listed in § 856(c)(2) and at least 75 percent of its gross income from sources listed in § 856(c)(3).

Section 856(c)(5)(G)(i) provides that, except to the extent determined by the Secretary, income of a REIT from a hedging transaction (as defined in section 1221(b)(2)(A)(ii) or (iii)) that is clearly identified pursuant to § 1221(a)(7), including gain from the sale or disposition of such a transaction, does not constitute gross income under § 856(c)(2) or (3) to the extent the transaction hedges indebtedness incurred or to be incurred by the REIT to acquire or carry real estate assets.

Section 856(c)(5)(G)(ii) provides that, except to the extent determined by the IRS, income of a REIT from a transaction entered into by the REIT primarily to manage risk of currency fluctuations with respect to any item of income or gain described in § 856(c)(2) or (3) (or any property that generates such income), including gain from the termination of such a transaction, does not constitute gross income under § 856(c)(2) or

(3), provided that the transaction is clearly identified as such before the close of the day on which it was acquired, originated, or entered into.

Section 1221(b)(2)(A)(ii) and the regulations thereunder provide that a "hedging transaction" includes any transaction entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, by the taxpayer.

Section 1221(a)(7) and § 1.1221-2(f)(1) require a hedging transaction to be clearly identified as such before the close of the day on which it was acquired, originated, or entered into.

Section 1.1221-2(f)(2)(i) requires a taxpayer that enters into a hedging transaction to make a substantially contemporaneous identification of the item, items, or aggregate risk being hedged, and provides that an identification is not substantially contemporaneous if it is made more than 35 days after entering into the hedging transaction.

Income from Taxpayer's pre-existing hedging transactions would not constitute gross income for purposes of § 856(c)(2) or (3) if the hedging transactions were not clearly identified before the close of the day they were acquired, originated, or entered into. Because they are pre-existing, it was not possible for Taxpayer to identify them on the day there were acquired, originated, or entered into. Taxpayer represents, however, that either the pre-existing hedging transactions will have been identified by the entity that entered into them pursuant to § 1221(a)(7) or Taxpayer will identify the hedging transaction pursuant to § 856(c)(5)(G) on the first day the hedging transaction is included as part of Taxpayer for REIT income or asset testing purposes.

Pursuant to § 856(c)(5)(J), income from the pre-existing hedging transactions may be considered as not constituting gross income under §§ 856(c)(2) or (c)(3) or as qualifying gross income under those provisions. Under the facts of the instant case excluding the income from the preexisting hedging transactions from gross income for purposes of §§ 856(c)(2) and (c)(3) does not interfere with Congressional policy objectives in enacting the income tests under those provisions. Accordingly, pursuant to § 856(c)(5)(J)(i), we rule that the income from the preexisting hedging transactions does not constitute gross income for purposes of §§ 856(c)(2) and (3), as long as the preexisting hedging transaction was properly identified by the entity that entered into it or is identified by Taxpayer on the first day it is included by Taxpayer for REIT income or asset testing purposes.

No opinion is expressed or implied as to the federal tax consequences of this transaction under any provision not specifically addressed herein. Specifically, no opinion is expressed or implied concerning whether Taxpayer has correctly calculated its Subpart F inclusions; properly depreciated its antenna towers; or properly calculated

any adjustment under §481(a). Furthermore, no opinion is expressed concerning whether Taxpayer otherwise qualifies as a REIT under subchapter M, part II of Chapter 1 of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) 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 representatives.

Sincerely,

Jonathan D. Silver_____
Jonathan D. Silver
Assistant Branch Chief, Branch 2
Office of Associate Chief Counsel
(Financial Institutions & Products)