

Internal Revenue Service

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Legend:

X =

State =

a =

b =

c =

d =

e =

Year1 =

Year2 =

Dear :

This letter responds to a letter dated and subsequent
correspondence, submitted on behalf of X, requesting a ruling under § 7704(d)(1)(E) of
the Internal Revenue Code.

Facts

X is a limited partnership organized under the laws of State. Interests in X are listed and traded on a nationally recognized exchange.

X, through affiliated partnerships or disregarded entities, is principally engaged in the storage, transportation, blending and distribution of crude oil and refined petroleum products and the acquisition and marketing of crude oils to refiners and resellers. One of X's business activities is butane blending services, which include supplying butane, installation of its proprietary automated blending systems, and monitoring the blending operations 24 hours a day.

X's butane blending services include the procurement of a reliable supply of butane which is certified as meeting all EPA regulations for blending butane into gasoline, and the delivery of the butane to customer terminals through its distribution system. X operates a site to transfer butane from rail cars to trucks and uses b of its patented portable transloaders to transfer butane to trucks from rail cars at remote locations. X's butane distribution infrastructure employs up to c leased rail cars and multiple trucks. X also installs an automated gauging system on each butane storage tank at the customer's terminals and monitors butane levels for inventory reconciliation and replenishment purposes.

Providing butane blending services generally requires the design, construction and installation of additional butane blending equipment. Typically, X installs its system or a system and may upgrade the customer's existing blending equipment at the customer's terminals.

X provides butane blending services for its own terminals and offers such services at d terminals owned by unrelated parties. X plans to implement butane blending services at e new blending locations in each of Year1 and Year2.

X requests a ruling that income derived from its butane blending services constitutes qualifying income under § 7704(d)(1)(E).

Law and Analysis

Section 7704(a) provides that, except as provided in § 7704(c), a publicly traded partnership, will be treated as a corporation.

Section 7704(b) provides that, for purposes of § 7704, the term “publicly traded partnership” means any partnership if (1) interests in the partnership are traded on an established securities market, or (2) interests in the partnership are readily tradable on a secondary market (or the substantial equivalent thereof).

Section 7704(c)(1) provides that § 7704(a) does not apply to a publicly traded partnership for any taxable year if such partnership meets the gross income requirements of § 7704(c)(2) for the taxable year and each preceding taxable year beginning after December 31, 1987, during which the partnership (or any predecessor) was in existence.

Section 7704(c)(2) provides that a partnership meets the gross income requirements of § 7704(c)(2) for any taxable year if 90 percent or more of the gross income of the partnership for the taxable year consists of qualifying income.

Section 7704(d)(1)(E) provides that the term “qualifying income” includes income and gains derived from the exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil, or products thereof), or the marketing of any mineral or natural resources (including fertilizer, geothermal energy, and timber).

Conclusion

Based solely on the facts submitted and the presentations made, we conclude that the income derived by X from butane blending services will constitute qualifying income within the meaning of § 7704(d)(1)(E).

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 expressed or implied as to whether X meets the 90 percent gross income requirement of § 7704(c)(1) in any taxable year for which this ruling may apply.

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 X's authorized representative.

Sincerely,

David R. Haglund

David R. Haglund
Chief, Branch 1
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: