

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Third Party Communication: None  
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Person To Contact: \_\_\_\_\_, ID No.

Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:PS:B02  
PLR-124921-08  
Date:  
November 21, 2008

Legend

X =

Y =

a =

b =

c =

State1 =

State2 =

Dear \_\_\_\_\_ :

This responds to your letter dated May 29, 2008, submitted on behalf of X, requesting a ruling concerning the qualifying income exception to the publicly traded partnership rules of § 7704 of the Internal Revenue Code.

Facts

According to the information submitted and the representations made by X, X is a limited partnership organized under the laws of State1. X is principally engaged in the business of acquiring and licensing land and marine seismic data to oil and gas producers, and X maintains a seismic data library that has a concentration of land and

marine seismic data covering major oil and gas producing areas of the United States. X's acquisition of new data is typically partially paid by X and partially paid by an oil and gas producer that is interested in exploring a new area. Usually, X grants the client an exclusive license to the data for a short period of time, about six months, in exchange for the client funding a portion of the data acquisition costs. X also employs geoscientists that consult with the oil and gas producer clients to achieve cost effective and data-rich seismic surveys. X then markets and licenses its seismic data to other oil and gas producers to assist in their exploration and production of oil and gas resources.

According to X, seismic data is well established as an important component in the exploration for oil and natural gas resources. Seismic surveys allow geoscientists to visualize the subsurface of the earth and more accurately determine the location of oil and gas reserves. According to X, an investment by oil and gas producers in seismic data can significantly decrease the risk of drilling a dry hole. Presently, greater than 90 percent of the wells drilled in the United States are based on seismic data, but no oil and gas producer in the United States currently conducts its own seismic exploration. Such oil and gas producers generally rely on seismic exploration data generated by third parties such as X.

To increase the seismic data in its library, X designs and executes new seismic surveys for oil and gas producers. X supplements that data by purchasing existing surveys from third parties, and by trading its seismic surveys for surveys owned by third parties. X generally does not purchase data or trade for data in isolation, but rather to enhance its existing data library. In addition, the supplementing of data acquired by X through the execution of seismic surveys with purchased or traded data may be necessary to achieve a complete overview of a particular area. With targeted data purchases and trades, X makes its own seismic surveys even more useful to its clients. X represents that the licensing of self-created seismic data generated approximately a% of the taxpayer's revenues, while licensing purchased and traded data accounted for the remaining b%.

X represents that, aside from oil and gas exploration, there is no other commercial use for X's seismic data. X also represents that the seismic data services provided by X are integral to the exploration of oil and gas resources, because the exploration (and ultimately the development and production) of oil and gas resources would be significantly curtailed in the absence of such services. X further represents that a significant portion of the X's revenues are based on the licensee being successful with the seismic data licensed from X. For example, X regularly receives approximately c% of its total revenue from the receipt of overriding royalty interests, production payments, bonuses on wells and bonuses on spud costs.

X intends to form a Publicly Traded Partnership (PTP), within the meaning of § 7704, either by creating a new entity which is expected to be named Y, or by consummating an initial public offering of interests in X. If a new entity is created, the

new entity will be formed as a limited partnership organized under the laws of State2. In either case, after the initial public offering of the interests in the PTP, the PTP will carry on X's current business of acquiring and licensing seismic data to oil and gas producers. The interests in the PTP are expected to be listed and traded on an established securities market.

X has requested a ruling that its income derived from its business of acquiring and licensing seismic data to oil and gas producers constitutes qualifying income under section 7704(d)(1)(E) as income from the exploration of a mineral or natural resource.

### Law and Analysis

Section 7704(a) provides that a publicly traded partnership shall be treated as a corporation. Section 7704(b) provides that the term "publicly traded partnership" means any partnership if (1) interests in that partnership are traded on an established securities market, or (2) interests in that partnership are readily tradable on a secondary market (or substantial equivalent thereof).

Section 7704(c)(1) provides that § 7701(a) shall not apply to any publicly traded partnership for any taxable year if such partnership met the gross income requirements of § 7704(c)(2) for such 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) explains that a partnership meets the gross income requirements of § 7704(c) for any taxable year if 90 percent or more of the gross income of such partnership for such taxable year is qualifying income.

Section 7704(d)(1)(E) provides that the term "qualifying income" means income or 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 resource (including fertilizer, geothermal energy or timber).

### Conclusion

Based solely on the facts submitted and representations made, we conclude that the income derived by X from its business of acquiring and licensing seismic data to oil and gas producers for use in their exploration for and production of oil and gas resources constitutes qualifying income under § 7704(d)(1)(E) as income from the exploration of a mineral or natural resource.

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 as to whether X meets the 90 percent gross income requirement of section 7704(c)(1) in any taxable year for which this ruling may apply. In addition, this office has not verified or determined whether any other commercial use may exist for the seismic data that X licenses to oil and gas producers. To the extent that other commercial uses may exist or come into being for X's seismic data, this letter ruling will not apply in determining whether the income that may be derived by X from such other uses constitutes qualifying income under § 7704(d)(1)(E). Examples of such alternative commercial uses include, but are not limited to, determining appropriate locations for carbon sequestration activities or exploring for sources of underground freshwater.

Temporary or final regulations pertaining to one or more of the issues addressed in this ruling have not yet been adopted. Therefore, this ruling will be modified or revoked by the adoption of temporary or final regulations, to the extent the regulations are inconsistent with any conclusion in the letter ruling. See section 11.04 of Rev. Proc. 2007-1, 2007-1 I.R.B. 1, 49. However, when the criteria in section 11.06 of Rev. Proc. 2007-1, 2007-1 I.R.B. 1, 50 are satisfied, a ruling is not revoked or modified retroactively except in rare or unusual circumstances.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

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 your authorized representative.

Sincerely,

Melissa C. Liquerman  
Branch Chief, Branch 2  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter  
Copy for § 6110 purposes

cc: