



On Date, X became a partner in Y, a joint venture with Z. X will serve as Y's managing member. Y will earn income from providing services to customers engaged in the exploration for, and the development and production of oil and natural gas. Y will also earn income from providing services to customers engaged in the exploration for, and the development and production of coal. Specifically, Y will earn income from the supply and transportation of fractionation fluid for oil and natural gas wells and subsequent removal, treatment and disposal of spent fracturing flowback for such customers. Fracturing is a technique by which fluids are pumped into an oil or gas well at high pressure to fracture geologic formations and open up pathways for the oil or gas to flow. To this end, Y will process and supply production fluid appropriate for the fracturing process to operators of oil and gas wells and will remove flowback generated in the fracturing process. Y will treat the flowback so that it can be reused in a fracturing process or be disposed of consistent with environmental regulations. Y will also remove acid mine discharges for customers that are engaged in the development and production of coal. Y will treat the acid mine discharges so that they can be reused as fractionation fluid or be disposed of consistent with environmental regulations. Y will charge its customers a fee for the provision of fractionation fluid and a fee for the process of treating flowback or acid mine discharges depending on the level of processing required.

Section 7704(a) provides generally 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 the partnership are traded on an established securities market, or (2) interests in the partnership are readily tradable on a secondary market (or substantial equivalent thereof).

Section 7704(c)(1) exempts from treatment as a corporation any publicly traded partnership for any tax year if the partnership meets the gross income requirements of § 7704(c)(2) for that year and each preceding tax 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 for any tax year if 90% or more of the partnership's gross income for that year consists of qualifying income.

Section 7704(d)(1)(E) defines "qualifying income" to include income and gains derived from the exploration, development, mining or production, processing, refining, transportation, or marketing of any mineral or natural resource.

Based solely on the facts submitted and representations made, we conclude that X's distributive share of the gross income derived by Y from providing, removing, treating and disposing of fracturing fluid and from removing, treating and disposing of acid mine discharge is qualifying income within the meaning of § 7704(d)(1)(E).

Except for the specific ruling above, we express or imply no opinion concerning the federal tax consequences of the facts of this case under any other provision of the Code. Specifically, we express or imply no opinion as to whether X is taxable as a partnership for federal tax purposes.

Under a power of attorney on file with this office, we are sending a copy of this letter to your authorized representatives.

This ruling is directed only to the taxpayer who requested it. According to § 6110(k)(3), this ruling may not be used or cited as precedent.

Sincerely,

Richard T. Probst  
Branch Reviewer, Branch 2  
(Passthroughs & Special Industries)

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