

Internal Revenue Service

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LEGEND

Company =

State =

X =

Dear :

This responds to a letter dated June 3, 2011, submitted on behalf of Company, and subsequent correspondence, requesting a ruling concerning the qualifying income exception to the publicly traded partnership rules of § 7704 of the Internal Revenue Code.

FACTS

Company is a limited partnership organized under the laws of State. Company is a “publicly traded partnership” within the meaning of § 7704(b). Company, through affiliated limited partnerships or disregarded entities, is principally engaged in the transportation, storage and distribution of refined petroleum products. This ruling request involves fees Company charges as part of its fuel additization and ethanol blending activities at its refined product terminals.

Company owns X refined product terminals. Company’s refined product terminals receive petroleum products from refineries, major common-carrier pipelines or other vessels. Company stores these products at its refined product terminals which it then loads onto delivery vehicles for transportation to the next point in the fuel supply chain. Company charges a fee for receiving and loading fuels onto delivery vehicles for

transportation. During the loading process, Company also injects fuel additives and blends ethanol into the petroleum products. Company represents that it acts as a wholesale distributor of refined petroleum products and is not engaged in retail activity.

Company generates fees at its refined product terminals for various additization activities. Company handles a number of different types of additives at its terminals including detergent additives, dyes, cetane improvers, cold flow improvers, fuel oil stabilizers, isotopic markers, lubricity/conductivity improvers, anti-icing agents and proprietary gasoline additives. Fuel additization activities involve receiving additives from various suppliers and blending those additives into petroleum products in accordance with the requirements of Company's customers. Company receives some proprietary additives from customers for mixture in accordance with the customer's specifications. Company also uses generic additives that are blended into fuels for sale to its customers. Additives are injected into fuels while the fuels are being loaded onto transportation vehicles for delivery to customers.

Company generates fees at its refined product terminals from ethanol blending activities. Company receives ethanol from customers via truck or rail, which it then pumps into storage tanks. Company blends ethanol into gasoline by injecting the ethanol into gasoline via pipelines attached to the storage tanks while that gasoline is being loaded onto transportation vehicles for delivery to customers. Company also generates fees from customers for loading neat ethanol into vehicles for transshipment to another location.

Company has requested a ruling that Company's income derived from its fuel additization activities and its ethanol blending activities constitute qualifying income under § 7704(d)(1)(E).

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), industrial source carbon dioxide, or the transportation or storage of any fuel described in §§ 6426(b), (c), (d), or (e), or any alcohol fuel defined in § 6426(b)(4)(A) or any biodiesel fuel as defined in § 40A(d)(1).

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the income derived by Company from its additization activities and ethanol blending activities is qualifying income within the meaning of § 7704(d)(1)(E).

Except as expressly provided herein, no opinion is expressed or implied concerning the federal 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 Company meets the 90 percent gross income requirement of § 7704(c)(1) in any taxable year for which this ruling may apply.

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) that it may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office, a copy of this ruling will be sent to the taxpayer's authorized representative.

Sincerely,

James A. Quinn
Senior Counsel, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for Section 6110 purposes

cc: