

Internal Revenue Service

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LEGEND

Company =

a =

b =

c =

d =

State =

Country =

Dear :

This letter responds to a letter dated November 4, 2011, submitted on behalf of Company, 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 publicly-traded limited partnership organized under the laws of State. Company, through various limited partnerships and disregarded entities, is engaged in a substantial pipeline operations business involving approximately a miles of pipelines transporting refined petroleum products, a natural gas storage business, and a terminalling and storage business involving the operation of refined petroleum and related products terminals. Company acts as a wholesale distributor of refined

petroleum products in areas of the Country that are served by its pipelines and terminals, but Company represents that it is not engaged in retail activity.

As a terminal operator and wholesale distributor of refined products, Company sells over b gallons of gasoline, most of which contain c% ethanol. Company blends ethanol into gasoline or biodiesel fuel at more than d terminals (owned or leased by third parties). Company recognizes its primary source of income generated from biofuel blending in Company's profit margin from the sale of blended gasoline and diesel fuel.

As the terminal operator and biofuel blender, Company accumulates renewable identification numbers (RINs) as Company blends the biofuel into the conventional fuel. Each RIN is a 38 character code generated by the producer or importer of renewable fuel, which uniquely identifies the batch of renewable fuel and each gallon in that batch. The code identifies, among other things, the company producing the renewable fuel, the facility in which the fuel was produced, the year in which the fuel was produced and a five digit batch number assigned by the producer. The complete RIN is assigned to a batch of renewable fuel no later than when ownership of that renewable fuel is transferred to another party. The RIN must be transferred with the renewable fuel until the point the renewable fuel is blended into a conventional fuel or sold in the retail fuel market, at which point the RIN is "separated" from the fuel and becomes freely transferrable separate and apart from the renewable fuel.

Company accumulates a significant amount of RINs that exceed any obligation Company has in connection with its renewable volume obligation under the Renewable Fuel Standard program. From time to time, Company sells its excess RINs to third parties through a broker involved in trading RINs or directly to a producer or importer of conventional fuel. Company represents that the sale of the RINs is merely a second revenue stream derived from Taxpayer's processing and marketing of a natural resource.

Company requests a ruling that income from the sale of RINs resulting from Company's processing and marketing of gasoline and diesel fuel constitutes qualifying income under § 7704(d)(1)(E).

LAW AND ANALYSIS

Section 7704(a) provides generally that a publicly traded partnership shall be treated as a corporation.

Section 7704(c)(1) provides, in part, that § 7704(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) provides that a partnership meets the gross income requirements of § 7704(c)(2) for any taxable year if 90% or more of the gross income of such partnership for such taxable year consists of qualifying income.

Section 7704(d)(1)(E) provides, in part, that, except as otherwise provided in § 7704(d), the term “qualifying income” means 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 resource (including fertilizer, geothermal energy, and 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 Company's income from the sale of RINs is qualifying income within the meaning of § 7704(d)(1)(E).

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, we express no opinion 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. To the extent that Company's gross income from the sale of RINs is attributable to sales to brokers, traders, or any other purchasers of RINs for the purpose of resale, this letter ruling will not apply in determining whether such income constitutes qualifying income under § 7704(d)(1)(E).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

The ruling contained in this letter is 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 ruling request, it is subject to verification on examination.

Sincerely,

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

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes

cc: