

ID: CCA-314327-13

Number: **201315026**

Office:

Release Date: 4/12/2013

UILC: 708.00-00

From:

Sent: Thursday, March 14, 2013 3:38 PM

To:

Cc:

Subject: Continuation of a partnership

asked for assistance in determining whether there is a continuation of a partnership for the purpose of appointing a TMP. The case involves a merger in which the Original Partnership merges with an existing disregarded entity held by the New Partnership, while at the same time the partners contribute their interests in the Original Partnership in exchange for interests in the New Partnership. This results in the partners holding the same interests in the New Partnership as they held in the Original Partnership, and the Original Partnership becoming a disregarded entity held by the New Partnership.

Section 708(b)(1)(A) provides that a partnership terminates if no part of any business of the partnership continues to be carried on by any of its partners in a partnership. Rev. Rul. 66-264 held that a partnership did not terminate when three partners of a five-partner partnership purchased the partnership's assets at a judicial sale, and then continued the partnership's business through a new three-person partnership. It thus appears that as long as the historic partners of a partnership continue the old partnership's business through a new partnership, the old partnership should not be treated as terminating under § 708(b)(1)(A).

Section 708(b)(1)(B) provides that a partnership terminates if within a 12 month period there is a sale or exchange of 50 percent or more of the total interest in partnership capital and profits. Section 1.708-1(b)(2) provides, in relevant part, that the contribution of property to a partnership does not constitute a sale or exchange. As a result, the transfer of the partnership interests in the Original Partnership to the New Partnership is not treated as a sale or exchange. Thus, there is no termination under § 708(b)(1)(B). See PLR 9834039.

Each of these considerations point to the same conclusion. The New Partnership is considered a continuation of the Original Partnership, even though the New Partnership bears a different EIN.

Please let us know if you have any questions.