

Internal Revenue Service

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Washington, DC 20224

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Person To Contact:
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Legend

X =

State =

Natural Resource 1 =

Natural Resource 2 =

Product 1 =

Product 2 =

Product 3 =

Process 1 =

Process 2 =

Dear _____ :

This responds to your letter dated November 30, 2012, 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

X is a publicly-traded corporation organized under the laws of State. X represents that it intends to form a “publicly traded partnership” (the “Partnership”) within the meaning of § 7704(b). As part of an initial public offering of units in the Partnership, the Partnership will be formed and organized as a limited partnership under the laws of State.

X currently owns and operates facilities that process Natural Resource 1, producing Product 1. X intends to convey these facilities to Partnership. X intends that Partnership will process Natural Resource 1 to produce Product 1 and that Partnership will also process Natural Resource 2 to produce Product 2.

More specifically, X intends that Partnership will process Natural Resource 1 using Process 1. Product 1 is produced as a product of Process 1 and is sold to third parties for use as in the production of products sold at retail. Product 3 is produced as a byproduct of Process 1 and is sold for use in refineries.

Additionally, X intends that Partnership will process Natural Resource 2 into Product 2 using Process 2. These resulting compounds are then sold to manufacturers which further process them into other products sold at retail. Product 3 is produced as a byproduct of Process 2 and is sold for use in refineries.

Finally, X intends that Partnership will engage in the storage and transportation of Product 1 and Product 2. X represents that the Partnership will not sell either Product 1 or Product 2 at the retail level.

X has requested a ruling that the gross income that the Partnership will earn from the processing, sales, storage and transportation of Product 1 and Product 2 will constitute qualifying income within the meaning of § 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).

Section 7704(d) further provides that for purposes of § 7704(d)(1)(E), the phrase “mineral or natural resource” is defined to mean any product of a character with respect to which a deduction for depletion is allowable under § 611, except that such term does not include any product described in section 613(b)(7)(A) or (B).

Conclusion

Based solely on the facts submitted and representations made, we conclude that the gross income that Partnership will derive from processing Natural Resource 1 into Product 1 and processing Natural Resource 2 into Product 2 will be qualifying income within the meaning of § 7704(d)(1)(E). We further conclude that income derived by Partnership from marketing, storing and transporting Product 1, Product 2, and Product 3 will constitute qualifying income within the meaning of § 7704(d)(1)(E).

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, including whether X meets the 90 percent gross income requirement of § 7704(c)(1) in any taxable year for which this ruling may apply. In addition, no opinion is expressed or implied concerning whether any ownership structure discussed or referenced in this letter constitutes a partnership for federal tax purposes.

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.

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,

Charlotte Chyr
Senior Technician Reviewer, Branch 2
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes

cc: