

## Internal Revenue Service

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## Legend

X =

Y =

A =

B =

C =

D =

E =

F =

G =

H =

I =

J =

K =

L =

M =

State1 =

State2 =

Date =

Year =

SystemA =

SystemB =

SystemC =

SystemD =

SystemE =

SystemF =

Location1 =

Location2 =

Location3 =

n1 =

n2 =

n3 =

n4 =

n5 =

n6 =

n7 =

n8 =

n9 =

n10 =

n11 =

Dear \_\_\_\_\_ :

This responds to your letter dated December 3, 2013, and subsequent correspondence, submitted on behalf of Y, requesting a ruling under § 7704(d)(1)(E) of the Internal Revenue Code.

### FACTS

X is a corporation organized under the laws of State1. X is the common parent of an affiliated group of corporations that files a U.S. consolidated Federal income tax return and has numerous corporate and non-corporate, direct and indirect subsidiaries. X owns energy-infrastructure companies, including \_\_\_\_\_ ,

Y is a limited partnership organized on Date under the laws of State2. Y is owned by two subsidiaries of X. Y is currently inactive and is treated as a disregarded entity for Federal income tax purposes. Upon consummation of an initial public offering (IPO), Y will become a publicly traded partnership within the meaning of § 7704(b). X will undertake an organizational restructuring to transfer the assets described in this ruling to Y in connection with Y's IPO.

Y will derive its income from the transportation, storage, and marketing \_\_\_\_\_ , processing and marketing of \_\_\_\_\_ through various partnership interests or directly.

X requests a ruling that income derived from each of the following facilities and activities will constitute qualifying income under § 7704(d)(1)(e).

#### *Storage*

Y will own an n1% interest in A, a limited partnership, an n2% interest in B, currently a wholly owned indirect subsidiary of X, and an n3% interest in C, an LLC. A owns and

operates SystemA, B owns and operates SystemB, and C owns and operates SystemC.  
SystemA, SystemB, and SystemC are storage facilities and related pipelines and operating assets.

Y's income through its interests in A, B, and C will include revenue derived from storage services provided on SystemA, SystemB, and SystemC to multiple third party customers.

#### *Transportation of*

Y will own an n4% interest in D, an LLC. D owns and operates SystemD. Y will own an n2% interest in E, currently a wholly owned indirect subsidiary of X and a disregarded entity for Federal income tax purposes. E owns and operates SystemE. SystemD and SystemE are pipeline systems.

Y's income through its interests in D and E will include revenue derived from transportation services provided to shippers transported through SystemD or SystemE. Y will not own

Y will own an n5% interest in F, a partnership for Federal income tax purposes. F owns and operates SystemF. SystemF is a pipeline that generates transportation fees

Y's income through its interest in F will include revenue from fees for the transportation. Y will not own the transported through SystemF.

#### *Marketing of*

G is a marketer organized as a corporation. G purchases

G sells to unrelated third parties.

Y will own G's business and assets that generate income from purchasing and selling

#### *Marketing of*

Y will own the rights to Location1, H, owned by X, owns the operating rights to Location1.

H owns all of the facilities involved

will generate revenue from the marketing of Location1. Y

*Marketing of*

I is an indirect subsidiary of X engaged in the business of marketing

. The majority of I's income is generated under two contracts:

Sale and Purchase Agreement between I and J

Sale and Purchase Agreement Among I and K

. J is a third party. K is an affiliate of X treated as a disregarded entity for Federal income tax purposes. I also has a sales agreement with K to sell K

I purchases from J and then sells the to K. L, another X affiliate, owns Location2. Pursuant to the terms of a agreement between K and L, K has the it purchases from I and then markets

Under the terms of the Agreement, J is obligated to sell and deliver a specified quantity

and I is obligated to purchase . The Agreement provides that J has a mandate to deliver at least a minimum but has the right, in its sole and absolute discretion, to . If J elects to , J is required to pay to I.

Under the terms of the Agreement, I is obligated to sell a specified quantity each year to K at Location2 and K is obligated to purchase

In advance of the IPO, I will be converted to a partnership interest and will issue Class I and Class II interests. Y will own the Class I interests in I. The Class I interest will have an interest in all of I's income, including from *the* Agreement and from the Agreement, and will be entitled to a preferred distribution of I's cash flow.

### *Terminal Services*

M is an indirect subsidiary of X formed to develop, own, and operate Location3, a terminal. Location3 terminal and generates revenue through a services agreement.

. This project will incorporate M's facilities and, upon completion, Location3 will be able to perform services.

Upon completion, terminal services provided will consist of ,

will also include . Terminal services

M will provide terminal services to the customers under the Agreements on a basis. Under this arrangement, the customers will retain legal title

. In addition, the customers will have title . M will be deemed in control of, have responsibility for, and bear the risk of loss for

. Specifically, M will bear the risk of loss

. During , M will be deemed in control of, have responsibility for, and assume the risk of loss

As part of X's restructuring, a portion of X's interest in M will be transferred to Y. Y's income earned through its indirect interest in M will include revenue from the Agreements described above.

## **LAW & ANALYSIS**

Section 7704(a) provides that, except as provided in § 7704(c), a publicly traded partnership will 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 the substantial equivalent thereof).

Section 7704(c)(1) provides that § 7704(a) does not apply to a publicly traded partnership for any taxable year if such partnership meets the gross income requirements of § 7704(c)(2) for the 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, in relevant part, that a partnership meets the gross income requirements of § 7704(c)(2) for any taxable year if 90 percent or more of the gross income of the partnership for the taxable year consists of qualifying income.

Section 7704(d)(1)(E) provides that the term “qualifying income” includes 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 the representations made, we conclude that income derived by Y, directly or indirectly, from the following activities will constitute qualifying income under § 7704(d)(1)(E):

- Storage of                      on SystemA, SystemB, and SystemC;
- Transportation of                      through SystemD, SystemE, and SystemF;
- marketing activities;
- Marketing of                      from Location1;
- Marketing of                      , including income derived from the Agreement and the                      Agreement; and
- Revenue from the                      Agreements for the                      at Location3.

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 Y meets the 90 percent gross income requirement of § 7704(c)(1) in any taxable year for which this ruling may apply.

This ruling is directed only to the taxpayer requesting it. However, in the event of a technical termination of Y under § 708(b)(1)(B), the resulting partnership may continue to rely on this ruling in determining its qualifying income under § 7704(d)(1)(E). Section 6110(k)(3) of the Code provides that this letter may not be used or cited as precedent.



In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Laura C. Fields

Laura C. Fields

Senior Technician Reviewer, Branch 1  
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes

cc: