Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-100511-13

Date:
May 30, 2013

Legend

X =

State =

Dear :

This letter responds to a letter dated December 26, 2012, submitted on behalf of X by X's authorized representatives, requesting a ruling under § 7704(d)(1)(E) of the Internal Revenue Code.

FACTS

X is a limited partnership organized under the laws of State. X is a publicly traded partnership within the meaning of § 7704(b).

X's primary business is the wholesale distribution of . X purchases from and makes wholesale sales to its customers. X represents that significantly all of its gross income from wholesale sales is from . The balance of X's gross income from wholesale sales is from . The sold to . X also sells , to

. X sells substantially all of its to
and substantially all of its to
.

X represents that its wholesale of
are not consistent with a retail sale . X
determines the sales price for its products in a similar manner,
. Any variance in the sale price of its products is attributable primarily to the volume purchased, the creditworthiness of the customer, and the location of the customer.

X also sells fuel, lubricating oils, other refined petroleum products, including kerosene and naptha, and other products, including synthetic lubricating oils, methanol, and antifreeze, to customers engaged in oil and gas exploration and production. X represents that these products are essential to the exploration for and production of oil and gas. Fuel is used to operate the drilling rigs, heavy machinery, trucks, and other equipment at a well site. Lubricating oil is essential to proper operating of the equipment. Naptha and kerosene are used as cleaning agents that degrease equipment and keep it operating efficiently. Methanol is injected into drilling lines to prevent the lines from freezing and blocking the flow of oil and gas. Antifreeze is used in generators that power the drilling equipment and in the diesel trucks that transport workers and equipment to the well sites.

X delivers these products to specific well sites. X represents that fuel is delivered in specially designed trucks that are ill-suited for (and normally not used for) more conventional types of fuel and lubricant delivery, including to retail gas stations. X may also monitor the tanks that store fuel and lubricating oil to ensure that its customers have an adequate supply.

X requests a ruling that its gross income derived from the marketing of
to
constitutes qualifying income from the marketing of a natural resource pursuant to § 7704(d)(1)(E). X also requests a ruling that gross income from the marketing of fuel, lubricating oils, other refined petroleum products, including naptha and kerosene, and other products, including methanol, antifreeze, and synthetic lubricating oils, to companies engaged in oil and gas exploration and production constitutes qualifying income pursuant to § 7704(d)(1)(E).

LAW AND 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)(1) 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).

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that gross income derived by X from the marketing of to constitutes qualifying income from the marketing of a natural resource pursuant to § 7704(d)(1)(E). We further conclude gross income derived by X from the marketing of fuel, lubricating oils, other refined petroleum products, including naptha and kerosene, and other products, including methanol, antifreeze, and synthetic lubricating oils, for use in oil and gas exploration and production constitutes qualifying income pursuant to § 7704(d)(1)(E).

Except for the specific ruling above, we express or imply no opinion concerning the federal tax consequences of this case under any other provision of the Code. Specifically, we express or imply no opinion as to whether X is taxable as a partnership for federal income tax purposes.

This ruling is directed only to the taxpayer requesting it. However, in the event of a technical termination of X 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 it 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
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: