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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
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Date:
August 05, 2015

Legend

X =

Y =

State =

Dear :

This responds to your letter dated February 28, 2014, and subsequent correspondence, submitted on behalf of X, requesting a ruling under section 7704(d)(1)(E) of the Internal Revenue Code (the "Code").

Facts

According to the information submitted, X is a limited liability company organized under the laws of State. X intends to form a publicly traded partnership within the meaning of § 7704(b) by effecting an initial public offering of units in Y. Y will be a limited partnership organized under the laws of State. Y will provide a full suite of fluid handling, treatment, processing and disposal services throughout the exploration, development and production process of oil and natural gas.

As part of its upstream services, Y will deliver fresh water and other solutions to well sites for use in fracturing. The water and other fluids will be delivered by truck, tanks and, in some cases, temporary and permanent pipelines that will be owned, operated and maintained by Y. During the provision of these services, Y's employees will either remain present at both the fluid source and the well site to oversee the functioning of the pipelines and equipment or will monitor the fluid source and well site on an ongoing basis.

Y intends to provide inter-well site water transportation services including transporting fluids between producers' well sites on a single producing property, transporting fluids between frac tanks for a producer at a single well site, and transporting fluids for a producer between one or more well sites or a treatment plant. Y anticipates using pipelines for its water transfer services which will significantly reduce costs and produce less carbon emission. Y's employees will either remain present at well sites to ensure water is pumped at a sufficient rate or will monitor the fluid source and well site on an ongoing basis.

At the well site, Y will provide hot oiler and superheater services in certain cold-climate regions to facilitate the fracturing process. Hot oilers are heating units that are used to remove contaminants such as paraffin, a naturally occurring wax-like substance, from drilling equipment. Superheaters are used to pre-heat the fracturing fluid prior to being pumped into the well. Y's employees will perform hot oiler and superheater services at well sites on an "as-needed" basis depending on the producer's daily drilling activities.

At the well site, Y also intends to earn income from the provision of condensate vapor control and battery vapor services to oil and natural gas producers. Condensate vapor control is used to reduce fluid waste in the field, and battery vapor control is necessary to satisfy environmental regulators. Y will own the equipment and its employees will operate, monitor and maintain the equipment at the well sites to reduce the temperature of the vapor gas, which will cause heavier liquids (e.g., ethane, propane) to fall out of the gas and return to an accumulation tank.

Y will also process, treat, and dispose of waste solids and waste fluids associated with the exploration and production of oil and natural gas produced through drilling, fracturing and production. Y will develop, construct and manage water lines, gathering systems and special waste landfills in connection with the treatment and disposal of waste solids and waste fluids. The processed fluids will be cleaned and purified for reuse, or will be disposed of by injecting the fluids into secure underground formations or discharged into surface water sites. The waste solids will be disposed of in special waste landfills. Y expects to conduct extensive monitoring of its disposal sites to comply with environmental and federal regulations. Y's employees will operate, maintain, and monitor the disposal and treatment facilities on a continuous basis.

As part of its downstream services, Y expects to earn income from washing out trucks, containment bins, tanks and other equipment used in the oil and natural gas extraction and production process ("washout activities"). This equipment must periodically be washed out to remove debris and preserve the full capacity of the equipment. Y's employees will perform washout activities at the well sites. For offshore equipment, environmental regulations may require the oil and gas producer use Y's equipment to perform the washout activities, but the resulting waste fluids will be delivered to Y for treatment and disposal. In such a case, Y will earn income solely from treatment and disposal activities.

Y will also provide cleaning and decontamination services for drilling pipelines used by oil and natural gas producers. During the oil and natural gas drilling process, the drilling pipes that are used will become contaminated with oilfield waste, including NORM (naturally occurring radioactive material). After a certain level of oilfield waste builds up in the drilling pipes, environmental regulations restrict its use until the producer decontaminates the drilling pipe. Y will perform cleaning and decontamination services at specially designed facilities that Y's employees will operate, maintain and monitor on a continuous basis. Y will dispose of waste removed from the drilling pipes in Y's special waste landfill.

Y also expects to earn income from slurry injection activities in order to refill a well site. In the slurry injection process, specific waste material is collected from waste fluids, and is then screened to remove large particles. Liquid will be added to the remaining solids to produce the slurry which will be injected into the well site. Once the well is filled to capacity, the well is plugged and abandoned. Y's employees operate and continuously monitor the injection equipment as well as data from the underground formation to ensure the slurry injection process is accomplished safely and according to environmental regulations.

Lastly, Y expects to earn income from the marketing of hydrocarbons recovered during the waste fluid treatment and disposal process. Y intends to sell these reclaimed hydrocarbons in relevant markets other than to end users at the retail level.

X makes the following representations with respect to Y's operations:

1. The services provided by Y will require substantial assets and equipment that are dedicated exclusively to use in the exploration and production of oil and gas and have limited utility outside of those uses.
2. The services provided by Y will require personnel with specialized knowledge, training, and experience.
3. The production of oil and gas using the hydraulic fracturing process would not be commercially viable without fluid handling services.

Law and Analysis

Section 7704(a) provides that, except as provided in section 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 section 7704(a) does not apply to a publicly traded partnership for any taxable year if such partnership meets the gross income requirements of section 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 section 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).

Conclusion

Based solely on the facts submitted and the representations made, we conclude that gross income derived by Y from the delivery of fluids, provision of inter-well water transfer services, and the processing, treatment and disposal of waste solids and waste fluids will constitute qualifying income for purposes of § 7704(d)(1)(E). Further, gross income derived by Y for the provision of hot oiler and superheater services, slurry injection activities, drilling pipe decontamination, washout services and condensate and battery vapor control services during the exploration and production of oil and natural gas constitutes qualifying income within the meaning of § 7704(d)(1)(E). Lastly, gross income derived by Y from the recovery and marketing of hydrocarbons other than to end users at the retail level constitutes qualifying income within the meaning of § 7704(d)(1)(E). This ruling is not applicable to any income derived by Y from the delivery of water to affiliates or third parties where Y does not also collect and clean, recycle, or otherwise dispose of the delivered water after use.

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

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.

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
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: