

Tax Regulatory Developments

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- I. PROPOSED REGULATIONS INTERPRETING SECTION 7704(d)(1)(E)
 - A. Background
 - 1. IRS published proposed regulations on May 6, 2015 under IRC section 7704(d)(1)(E).
 - 2. First time IRS has addressed this section via regulations.
 - 3. Prior guidance issued in Private Letter Rulings (PLRs).
 - 4. Between 2008 and 2014, the number of PLR requests greatly increased.
 - 5. IRS declared an informal moratorium or “pause” on section 7704 PLRs in March 2014 to determine what standards should be used in determining whether an activity gives rise to qualified income.
 - 6. Proposed regulations promulgated May 6, 2015.

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B. In general -

1. The term “qualifying activities” in the regulations describes activities relating to minerals or natural resources that generate qualifying income. Qualifying activities include:
 - a) The exploration, development, mining or production, processing , refining, transportation, or marketing of minerals or natural resources (section 77094(d)(1)(E) activities); and
 - b) Certain limited support activities that are intrinsic to section 7704 (d)(1)(E).

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B. In general (cont'd)

2. An activity is intrinsic to section 7704(d)(1)(E) only if it:
 - a) Is specialized to support the activity;
 - b) Is essential to the completion of the activity; and
 - c) Requires the provision of significant services to support the activity.

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C. Major concerns with proposed regulations include:

1. Use of an “exclusive list” of qualifying activities;
2. How “processing” and “refining” activities are defined;
3. How the term “mineral or natural resource” is defined;
4. Whether existing PLRs will be revoked.

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D. Outlook

1. Deadline for written comments on the proposed regulations was August 4, 2015.
2. Proposed regulations have not been finalized, withdrawn, or modified in whole or in part.
3. Recent PLRs have addressed hedging and regasification activities that are not expressly covered in the proposed regulations.

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II. NEW LARGE PARTNERSHIP AUDIT RULES

A. Background

1. Prior law problems.
2. GAO and TIGTA reports.
3. BBA.

B. Overview of New Rules

1. What does statute say?
2. What does statute not say?
3. What are the big considerations in implementing the new rules?

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III. OTHER REGULATORY GUIDANCE AFFECTING PARTNERSHIPS

- A. Section 707 regulations.
- B. Section 752 regulations.
- C. Targeted allocation guidance.

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QUESTIONS?