

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **201227001**  
Release Date: 7/6/2012  
Index Number: 7704.03-00

Third Party Communication: None  
Date of Communication: Not Applicable

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, ID No.  
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Refer Reply To:  
CC:PSI:B02  
PLR-107635-12  
Date:  
March 1, 2012

LEGEND

X =

State =

Dear :

This letter responds to a letter from your authorized representative dated February 15, 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.

X is a limited partnership organized under the laws of State. X, through affiliated operating limited partnerships, limited liability companies or disregarded entities, will engage principally in activities that produce qualifying income under § 7704(d)(1)(E) from the exploration, development, mining or production, transportation or marketing of a mineral or natural resource.

X expects to derive gross income from the transportation of refined petroleum products and other products to customers engaged in drilling, exploration and production, and mining activities at the site of such activities. X seeks a ruling that its gross income derived from such activities is qualifying income under § 7704. X represents that the substantial majority of the vehicles to be used to provide these services are specially designed and custom-built to deliver products to above-ground tanks and other non-conventional delivery points in remote locations and that substantially all of the use of those vehicles is to deliver products to customers who are engaged in drilling, exploration and production, or mining activities. Those vehicles are ill-suited for (and

normally not used for) more conventional types of fuel and lubricant deliveries (e.g., deliveries to retail gas stations). X also represents that the services to be provided by X are integral to the exploration, production and development of oil, gas and coal resources, because the exploration, development and production of oil, gas and coal resources would be significantly curtailed in the absence of such services.

Section 7704(a) provides generally that a publicly traded partnership shall be treated as a corporation.

According to § 7704(b), the term "publicly traded partnership" means any partnership if (1) interests in the partnership are traded on an established securities market, or (2) interests in the partnership are readily tradable on a secondary market (or its substantial equivalent).

Section 7704(c)(1) exempts from treatment as a corporation any publicly traded partnership for any tax year if the partnership meets the gross income requirements of § 7704(c)(2) for that year and each preceding tax year beginning after December 31, 1987, during which the partnership (or any predecessor) was in existence. Section 7704(c)(2) provides that a partnership meets the gross income requirements of § 7704 for any tax year if 90% or more of the partnership's gross income for that year consists of qualifying income.

Section 7704(d)(1)(E) defines "qualifying income" to include 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 subsection (b), (c), (d), or (e) of § 6426, or any alcohol fuel defined in § 6426(b)(4)(A) or any biodiesel fuel as defined in § 40A(d)(1),

The Senate Report accompanying the Technical and Miscellaneous Revenue Act of 1988 states:

With respect to marketing of minerals and natural resources (e.g., oil and gas and products thereof), the Committee intends that qualifying income be income from marketing at the level of exploration, development, processing or refining the mineral or natural resource. By contrast, income from marketing minerals and natural resources to end users at the retail level is not intended to be qualifying income. For example, income from retail marketing with respect to refined petroleum products (e.g., gas station operations) is not intended to be treated as qualifying income.

S.Rep. No. 445, 100th Cong., 2nd Sess. 424 (1988).

Based solely on the representations made and the facts submitted, we conclude that X's gross income derived from the transportation of refined petroleum products and other products to customers engaged in drilling, exploration and production, and mining activities at the site of such activities is qualifying income within the meaning of § 7704(d)(1)(E).

Except for the specific ruling above, we express or imply no opinion concerning the federal tax consequences of the facts 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 tax purposes. In addition, no opinion is expressed as to whether X 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 who requested it. According to § 6110(k)(3), this ruling may not be used or cited as precedent. Under a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely,

Bradford R. Poston  
Senior Counsel, Branch 2  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

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