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:B02
PLR-115680-11

Date:
June 01, 2011

Legend:

X =

State =

Dear :

This letter responds to a letter from your authorized representative dated April 6, 2011, 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 earn income from providing services to customers engaged in the exploration for, and the development and production of, oil and natural gas. Specifically, X will earn income from the supply, transportation and storage of fractionation fluid and other fluids for oil and natural gas wells, including any associated fractionation fluid heating services. X will also earn income from the subsequent removal, treatment and disposal of fracturing flowback and produced water, including, as part of its fluid handling services, the provision of frac tanks and transportation services.

Fracturing is a technique by which fluids are pumped into an oil or gas well at high pressure to fracture geologic formations and open up pathways for the oil or gas to flow. To this end, X will supply, and provide transportation and tank storage services with respect to, production fluid appropriate for the fracturing process to operators of oil and gas wells, as well as superheater services, whereby fracturing fluid is pre-heated prior to it being pumped into the well. X will also remove, store and transport flowback generated in the fracturing process, as well as naturally occurring produced water contained in the geological formation from which the oil and gas is produced. X will treat the flowback and produced water so that it can be reused in a fracturing process or be disposed of consistent with environmental regulations. X will also provide fluids for use in drilling muds used in the drilling of oil and gas wells and casing cement used in oil and gas wellbores. Finally, as part of the extraction and production of oil and natural gas, X expects to provide hot oiler services, whereby heating units are used to remove paraffin from drilling equipment and to provide heat-based produced water separation services at crude oil stock tanks at a producer's well site.

X will charge its customers fees for the provision of fractionation fluid (including fees for the provision of fracturing fluid superheater services in certain of the geographic areas in which X operates) and other fluids necessary for the drilling and completion of oil and natural gas wells, which fees may include tank storage and transportation components. X will also charge its customers fees for the removal, treatment and disposal of flowback and produced water, which fees may include tank storage and transportation components. In addition, X earns income from fees paid to provide hot oiler services during and after the extraction and production of oil and natural gas.

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

Section § 7704(b) provides that 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 substantial equivalent thereof).

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, or marketing of any mineral or natural resource.

Based solely on the facts submitted and representations made, we conclude that X's gross income from the supply, transportation and storage of fractionation fluid and other fluids for oil and natural gas wells, including any associated fractionation fluid heating services, and from the removal, treatment and disposal of fracturing flowback and produced water, including the provision of frac tanks and transportation services, 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.

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 representatives.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 2
(Passthroughs & Special Industries)

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