

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.  
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Refer Reply To:  
CC:PSI:B02  
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Date:  
April 22, 2013

Legend:

X =

State =

Dear :

This letter responds to a letter dated April 1, 2013, submitted on behalf of X, requesting a ruling under § 7704(d)(1)(E) 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, engages principally in activities that X represents as producing 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 (i) the removal, transportation, storage, treatment and disposal of brine, water, and other residual waste produced in connection with the fracturing of oil and gas wells, and (ii) the marketing of oil recovered as a result of the treatment of brine, water, and other residual waste produced in connection with the fracturing of oil and gas wells. X requests a ruling that income derived from these activities will constitute qualifying income under § 7704(d)(1)(E).

Fracturing is a technique by which fluids are pumped into an oil and gas well at high pressure to fracture geologic formations and open up pathways for the oil and gas to flow. Typically, the fracturing of oil and gas wells results in the production of significant amounts of water, brine, and other residual waste. X represents that the removal,

transportation, storage, treatment and disposal of brine, water, and other residual waste produced in connection the development of oil and gas wells is integral to the exploration, production and development of minerals and natural resources, because the exploration, development and production of minerals and natural resources would be significantly curtailed in the absence of such services. X also represents that it will treat any income derived from the sale of crude oil to end users at the retail level as nonqualifying income.

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 representations made and the facts submitted, we conclude that X’s gross income derived from (i) the removal, transportation, storage, treatment and disposal of brine, water, and other residual waste produced in connection the development of oil and gas wells, and (ii) the marketing of oil recovered as a result of the treatment of brine, water, and other residual waste produced in connection the development of oil and gas wells, excluding income earned from marketing minerals and natural resources to end users at the retail level, 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 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).

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