

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

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Date:

January 23, 2001

LEGEND:

<u>X</u>	=
<u>E</u>	=
<u>assets</u>	=
<u>b</u>	=

Dear

This responds to your letter dated September 15, 2000, submitted on behalf of X requesting a ruling under § 7704 of the Internal Revenue Code.

FACTS

X is a publicly traded partnership (PTP) that has made an election under § 7704(g) to remain exempt from § 7704(a). X owns and manages assets that are leased to b. X is listed on E. X plans to sell a substantial amount of its assets and to remove its listing from E. As a result, X represents that it will no longer be traded on an established securities market or readily tradable on a secondary market. After it is delisted, X intends to revoke its election under § 7704(g).

X requests the following rulings with respect to the revocation of its election under § 7704(g): (1) its status as a PTP is tested only on or after the effective date of the revocation, and not for the entire taxable year, and (2) the 3.5 percent tax on gross income under § 7704(g) does not apply to gross income accrued on or after the effective date of the revocation.

LAW AND ANALYSIS

Section 7704(a) provides that, except as provided in § 7704(c), a PTP is treated as a corporation.

Section 7704(b) defines a partnership as a PTP if interests in the partnership are either traded on an established securities market or are readily tradable on a secondary market (or the substantial equivalent thereof).

Section 7704(f) provides that as of the first day that a partnership is treated as a

corporation under § 7704(a), the partnership will be treated as (1) transferring all of its assets (subject to its liabilities) to a newly formed corporation in exchange for the stock of the corporation, and (2) distributing such stock to its partners in liquidation of their interests in the partnership.

Section 7704(g) provides that an existing 1987 partnership may elect to remain exempt from § 7704(a) by agreeing to pay each taxable year a 3.5 percent tax on gross income from the active conduct of all trades and businesses of the partnership. A PTP may make the election under § 7704(g) if: (1) the partnership is an existing partnership (as defined in § 10211(c)(2) of the Revenue Reconciliation Act of 1987), (2) § 7704(a) has not applied (and without regard to § 7704(c)(1) would not have applied) to the partnership for all prior taxable years beginning after December 31, 1987, and before January 1, 1998, and (3) the partnership elects the application of § 7704(g) for its first taxable year beginning on or after December 31, 1997, and consents to the application of the 3.5 percent tax imposed for each taxable year on gross income from the active conduct of all trades or businesses of the partnership.

Notice 98-3, 1998-1 C.B. 333, provides that a partnership may voluntarily terminate its § 7704(g) election at any time by filing a notice of revocation. The revocation will be effective as of the date designated in the notice, but not earlier than the date that the notice is filed with the Internal Revenue Service.

Once X revokes its § 7704(g) election, X will no longer be an electing 1987 partnership under § 7704(g) effective as of the date designated in X's notice of revocation. Notice 98-3 provides that if the partnership remains a PTP on the date of termination and does not meet the exception for partnerships with passive-type income contained in § 7704(c), then absent an actual transaction that eliminates the partnership, the conversion from a partnership to a corporation will be determined under § 7704(f).

CONCLUSION

After applying the law to the facts submitted and representations made, we conclude that (1) X's status as a PTP within the meaning of § 7704(a) is tested as of the effective date of the revocation of X's election under § 7704(g), and not for the entire taxable year, and (2) the 3.5 percent tax on gross income under § 7704(g) does not apply to X's gross income that accrues on or after the effective date of the revocation.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the Code. Specifically, no opinion is expressed concerning whether X is an electing 1987 partnership under § 7704(g).

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Under the power of attorney on file in this office, we are sending a copy of this letter to X's authorized representative.

Sincerely yours,
Mary Beth Collins
Assistant to the Chief, Branch 3
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

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