

## Internal Revenue Service

Department of the Treasury

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Person to Contact:

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CC:DOM:P&SI:1 PLR-121974-98

Date:

May 13, 1999

### Legend

X =

State =

Year 1 =

y% =

This responds to the letter dated April 26, 1999, and prior correspondence, submitted on behalf of X, requesting a ruling under § 7704(d)(1)(E) of the Internal Revenue Code.

### **FACTS**

X is a limited partnership organized under State law in Year 1. X owns and operates timberland properties and timber processing operations in the United States. X's business consists primarily of the growing of timber for sale in domestic and export markets and the processing of timber into lumber and chips. X owns y% of the interests in several operating limited partnerships ("OLPs") through which all of these activities are conducted.

Through the OLPs, X also owns and operates a wood products purchase and resale business. This business acquires wood products and poles (among other items) from lumber mills (including lumber mills owned indirectly by X through its interests in the OLPs).

CC:DOM:P&SI:1 PLR-121974-98

X intends, principally through acquisitions by the OLPs, to expand into the business of selling glued wood products ("GWPs"). X will produce GWPs using its own timber and timber acquired from others. In addition, X will purchase GWPs from other producers.

GWPs are panel products and lumber products. Panel products are sheets of varying thicknesses produced by gluing small pieces of wood together. Panel products include plywood, medium density fiberboard (MDF), oriented strand board (OSB), particle board, and pressed hardboard. Plywood is made by gluing together veneer sheets of wood and bonding the sheets in a hot press. It is then graded and sometimes sanded. MDF is made by bonding wood chips, sawdust, and planer shavings, most of which are byproducts of a lumber mill or plywood operation. These materials are combined, softened, mixed with resins, dried, and then pressed together. Like plywood, MDF panels are graded and sometimes sanded. MDF is also subjected to an ammonia process to remove any formaldehyde. OSB, which is similar to both plywood and MDF, is produced by blending wood wafers together with resins, and forming the materials into panels. Similarly, particle board is composed of fine wood chips that are bound together and formed in a process very similar to MDF and OSB. Pressed hardboard consists of pressed wood fiber and resin. Typically, pressed products are shaped in the form of panels, but also may be shaped in the form of boards.

Lumber products are wood or wood products that have been subjected to a different, secondary milling operation. Some wood pieces or wood and panel products are glued together to create larger and wider wood pieces. Thin pieces of wood, or veneers, are glued together in layers to make stronger, larger or more attractive wood pieces and other wood products as set forth in the ruling request. Low grade wood may be further processed to remove defects such as knots. In these gluing processes, wood or wood products are joined by applying glue and pressure.

X will sell the GWPs to a variety of purchasers, including: (1) resellers such as distribution yards, home improvement chains, and local lumber yards; (2) wood product manufacturers such as furniture companies, cabinet makers, and prefabricated homebuilders; and (3) residential and commercial construction companies.

### **RULING REQUESTED**

X requests a ruling that the income and gains recognized by X that relate to the sale of GWPs is qualifying income under § 7704(d)(1)(E).

## LAW AND ANALYSIS

Section 7704(a) generally treats a publicly traded partnership as a corporation for federal tax purposes. Section 7704(b) defines the term publicly traded partnership as any partnership whose interests: (1) are traded on an established securities market; or (2) are readily tradeable on a secondary market (or the substantial equivalent thereof).

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

Section 7704(d)(1)(E) provides that qualifying income includes 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).

## CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X's income and gains from the sale of GWPs will be treated as qualifying income for purposes of § 7704(d)(1)(E).

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code.

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

CC:DOM:P&SI:1 PLR-121974-98

Pursuant to the power of attorney on file with this office, a copy of this ruling is being sent to your authorized representative.

Sincerely,

Signed/Daniel J. Coburn  
Daniel J. Coburn, 50-10384  
Assistant to the Chief, Branch 1  
Office of the Assistant Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2)  
Copy of this letter  
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