

# Senators Note Incongruity in Proposed PTP Qualifying Income Regs

---

DATED OCT. 29, 2015

---

## **SUMMARY BY TAX ANALYSTS**

Sen. David Vitter, R-La., and Sen. Bill Cassidy, R-La., have expressed concern that proposed publicly traded partnership qualifying income regulations (REG-132634-14) will adversely affect the ability of some energy production companies to raise the necessary investment capital to develop, construct, and operate complex energy production facilities in Louisiana.

## **FULL TEXT PUBLISHED BY TAX ANALYSTS**

October 29, 2015

The Honorable Jacob Lew  
Secretary of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Lew:

We write regarding our strong concern with a proposed rulemaking that would make significant changes to the status of qualifying income under section 7704(d)(1)(E) of the Internal Revenue Code of 1986 for publicly-traded partnerships engaged in the exploration, development, mining or production, processing, refining, transportation and marketing of minerals or natural resources.

Specifically, we are concerned that the proposed rulemaking issued on May 6, 2015, will adversely impact the ability of certain energy production companies to raise the necessary investment capital to develop, construct, and operate complex energy production facilities in Louisiana. The industrial infrastructure needed to explore, develop, and produce essential energy commodities is very capital intensive, often taking years of investment before a facility is fully operational. Congress recognized the substantial costs and commitments needed to develop critical domestic energy infrastructure and since 1987 allowed such businesses to be taxed as partnerships. However, the proposed rulemaking could change this well-established tax status for certain energy companies and have a huge chilling effect for investment and development of future energy infrastructure in my state.

For instance, G2X Energy, Inc. and G2X Energy LP (together "G2X") committed to construct, and has already begun the initial land development to construct, a \$1.53 billion facility in Lake Charles, Louisiana, that will produce methanol, synthesis gas, gasoline, and LPG from natural gas. G2X committed to and invested in this facility based on two private letter rulings it received from the Internal Revenue Service in 2013. The IRS concluded in those letter rulings that the income derived from producing methanol and synthesis gas from natural gas and marketing the methanol and synthesis gas would constitute qualifying income under section 7704(d)(1)(E). This ruling was consistent with the law, the legislative history, and another letter ruling also issued in 2013.

However, in May 2015, without any notice to G2X, the IRS issued a new proposed interpretation of section 7704(d)(1)(E) reversing its previous positions. Under its new interpretation, the IRS concludes that the production of methanol and synthesis gas from natural gas and marketing the methanol and synthesis gas does not generate qualifying income under section 7704(d)(1)(E). G2X and its partners in the Lakes Charles facility relied to their detriment on the IRS's previous private letter rulings that were completely consistent with the statute, legislative history, and other similarly issued rulings.

This proposed reinterpretation was not requested by Congress. To our knowledge, there has been no indication that the relied upon private letter rulings were incorrect in any material way. The proposed changes to what will now generate qualifying income have the strong potential to harm future energy development in our state and in particular the \$1.5 billion investment G2X is making in the Lake Charles area.

We look forward to hearing from you on this important matter.

Sincerely,

David Vitter  
U.S. Senator

Bill Cassidy, M.D.  
U.S. Senator

## **DOCUMENT ATTRIBUTES**

### CODE SECTIONS

SECTION 7704 -- PUBLICLY TRADED PARTNERSHIPS  
SECTION 611 -- DEPLETION

### JURISDICTIONS

[UNITED STATES](#)

### SUBJECT AREAS

PARTNERSHIPS NATURAL RESOURCES

### AUTHORS

[SEN. DAVID VITTER](#) AND [SEN. BILL CASSIDY](#)

### INSTITUTIONAL AUTHORS

SENATE

CROSS REFERENCE

REG-132634-14 

JULY 20, 2015, LETTER FROM THE SENATORS 

---

TAX ANALYSTS DOCUMENT NUMBER

DOC 2015-24333

---

TAX ANALYSTS ELECTRONIC CITATION

2015 TNT 213-29

---