

# IRS Letter Rulings and TAMs (1954-1997), UIL No. 7704.03-00, Letter Ruling 9450029, (Sep. 19, 1994), Internal Revenue Service, (Sep. 19, 1994)

Letter Ruling 9450029, September 19, 1994

CCH IRS Letter Rulings Report No. 929, 12-21-94

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## Uniform Issue List Information:

UIL No. 7704.03-00

[Code Sec. 7704 ]

This letter responds to your letter dated July 26, 1994, written on behalf of the Partnership, requesting a ruling that the income and gains from the Partnership's sawmill and plywood processes constitute qualifying income within the meaning of §7704(d)(1)(E) of the Code.

## FACTS

Partnership will be a limited partnership formed under the laws of State A. The Partnership intends to sell limited partnership units in an initial public offering and expects to register certain limited partnership units to be traded on the New York Stock Exchange. Partnership will be the sole limited partner of an operating limited partnership ("OLP") which will also be formed under the laws of State A. The OLP will own and operate a sawmill and a plywood mill.

The sawmill operations involve removing undesired components of timber, such as bark and knots, from logs, cutting the logs to lumber lengths, and then further cutting the logs into individual boards. The individual boards are dried in dry kilns to reduce their moisture content. The dry lumber is then surfaced by a rotary planer which smooths all four edges of the board. All waste wood is chipped for sale to pulp or particle board mills or sent to a waste wood fired boiler.

Lumber products derived from the sawmill operations will be sold in bulk sales on a wholesale basis primarily to stocking distributors and remanufacturers in the United States. Any lumber sold to buyers in the export market will be transported in containers by ship. Lumber sold to domestic markets will be sold primarily f.o.b. at the sawmill facilities.

The plywood operations debark the harvested logs. After the bark has been removed, the logs are cut into eight and a half foot lengths and steamed. The steamed logs are placed on a lathe and rotated against the lathe knife, which peels the log into veneer of uniform thickness. After the veneer sheets are dried, they are glued together. In a hot press, the glued veneer sheets are bonded into a single sheet of plywood. Finally, the plywood sheets are trimmed, sanded, and patched to varying degrees depending on the intended grade and use. The plywood will be sold in large quantities to resellers, primarily in the domestic market. Trimmings and some random-width veneer are sold to companies that make manufactured wood products or to pulp mills.

## LAW AND ANALYSIS

Section 7704(a) provides that a publicly traded partnership shall be treated as a corporation. Section 7704(b) provides that, for purposes of §7704, the term "publicly traded partnership" means any partnership if (1) interests in such partnership are traded on an established securities market, or (2) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof).

Section 7704(c)(1) provides that §7704(a) shall not apply to any publicly traded partnership for any taxable year if such partnership met 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. For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the first taxable year in which such partnership (or predecessor) was a publicly traded partnership. Section 7704(c)(2) explains that a partnership meets the gross income requirements of this section for any taxable year if 90 percent or more of the gross income of such partnership for such taxable year consists of qualifying income.

Section 7704(d)(1)(E) provides, in part, that the term "qualifying income" includes income and gains derived from the processing, transportation or marketing of any mineral or natural resource (including timber).

We conclude that the sawmilling operations and the plywood process constitute the processing of timber. Income and gains derived from the processing of timber constitute qualifying income within the meaning of §7704(d)(1)(E) .

Except as specifically ruled upon above, no opinion is expressed concerning the federal income tax consequences of the transactions described above under any other provision of the Code. In particular, no opinion is expressed as to whether the Partnership is classified as a partnership for federal tax purposes.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent. Temporary or final regulations pertaining to one or more of the issues in this ruling have not been adopted. Therefore, this ruling may be modified or revoked by adoption of temporary or final regulations to the extent the regulations are inconsistent with any conclusion in this ruling.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to the taxpayer.

Sincerely yours, Dianna K. Miosi, Senior Technician Reviewer, Branch 1, Office of the Assistant Chief Counsel (Passthroughs and Special Industries)