

Congress of the United States
Washington, DC 20515

September 22, 2015

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

The Honorable John A. Koskinen
Commissioner of Internal Revenue
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Secretary Lew and Commissioner Koskinen:


We are writing to express concerns about certain aspects of the recently released notice of proposed rulemaking entitled “Qualifying Income from Activities of Publicly Traded Partnerships With Respect to Minerals or Natural Resources” (REG-132634-14, 80 F.R. 25970). These proposed regulations affect publicly traded partnerships (generally known as MLPs) and their partners, by defining the types of income that will be considered to be qualifying income derived from the exploration, development, mining or production, processing, refining, transportation, or marketing of any mineral or natural resource. Prior to the issuance of these proposed regulations, the Internal Revenue Service (“IRS”) provided such guidance through private letter rulings to MLPs.

While we strongly support the IRS providing regulatory guidance to taxpayers, we are concerned that the proposed regulations do not comport with legislative intent in their definitions of processing and refining activities with respect to minerals and natural resources. When Congress first considered the tax treatment of MLPs, the House bill provided partnership treatment to MLPs engaged in the exploration, development, mining or production, refining,

transportation or marketing of minerals and natural resources. The Senate had no provision, but in Conference the list of qualified activities was expanded to include the processing of minerals and natural resources so that all activities resulting in chemical or physical changes to a mineral or natural resource would give rise to qualifying income provided such activities did not produce plastics or similar petroleum derivatives. We understand that the proposed regulations articulate much narrower definitions of processing and refining that, if adopted without changes, would effectively revoke previously issued and relied upon PLRs and result in restricting the activities that could be conducted by MLPs. This approach is not consistent with the legislative intent in providing partnership treatment to MLPs engaged in the many activities that constitute the processing and refining of minerals and natural resources and must be reconsidered.

Our country is in the midst of an energy renaissance. This revolution is providing our Nation with abundant inexpensive fuels and feedstocks and is creating welcome new jobs for our citizens, while moving the United States towards energy independence and bolstering our influence abroad. As you proceed with the rulemaking process, we strongly encourage you to be mindful of the clear expression of congressional intent and develop workable definitions of processing and refining activities that fully reflect that intent.


Sincerely,




KEVIN BRADY
Member of Congress




SAM JOHNSON
Member of Congress

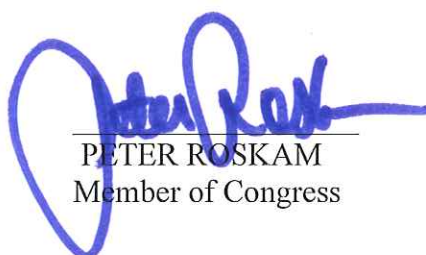


DEVIN NUNES
Member of Congress


PAT TIBERI
Member of Congress


DAVE REICHERT
Member of Congress

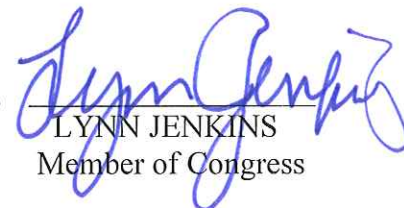

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