STRADLEY RONON

Tax Insights

A Publication of the Stradley Ronon
Tax Practice Group

WWW.STRADLEY.COM

JANAURY 3, 2018

Stradley Ronon Stevens & Young, LLP
2005 Market Street
Suite 2600
Philadelphia, PA 19103-7018
215.564.8000 Telephone
215.564.8120 Facsimile
www.stradley.com

With other offices in:
Washington, D.C.
New York
New Jersey
Illinois
Delaware

IRS Rules Fluid Delivery Services Income Is PTP Qualifying Income

In Private Letter Ruling 201751006 (https://www.irs.gov/pub/irs-wd/201751006.pdf), the IRS ruled that gross income derived by a publicly traded partnership from its fluid delivery services, oilfield waste treatment and disposal services, and equipment washout services will constitute qualifying income within the meaning of Section 7704(d)(1)(E). (Section references are to the Internal Revenue Code of 1986, as amended.) Furthermore, gross income derived by the partnership from the recovery and marketing of hydrocarbons and the mining and marketing of brine produced from solution mining other than to end users at the retail level constitutes qualifying income within the meaning of Section 7704(d)(1)(E).

IRS Rules Carbon Emission Units Not Real Property for a REIT

In Private Letter Ruling 201751011 (https://www.irs.gov/pub/irs-wd/201751011.pdf), the IRS revoked and modified rulings in Private Letter Ruling 201123003 (https://www.irs.gov/pub/irs-wd/1123003.pdf) issued to a real estate investment trust (REIT) as a result of the issuance of Regulation 1.856-10(f), which was published on Aug. 31, 2016. Under Treasury Regulation Section 1.856-10(f), certain carbon emission units will no longer qualify as real estate assets for purposes of Sections 856(c)(5) and 856(c)(4)(A) because the units can be sold separately from the forest land to which the units relate; therefore, the IRS has reconsidered certain rulings in PLR 201123003 and determined that these rulings are not in accord with its current views. The IRS revoked its rulings that the sale of the units is qualifying income under Section 856(c)(2) and (c)(3) and that gain from the sale of the units is not income from a prohibited transaction for purposes of Section 857(b)(6). Lastly, it modified a ruling that income from the issuance of the units will be considered as qualifying income prospectively, beginning with the REIT's first taxable year beginning after Aug. 31, 2016.

IRS Updates QI FAQs

The IRS updated the Qualified Intermediary (QI) FAQs (https://www.irs.gov/businesses/corporations/frequently-asked-questions-faqs-fatca-compliance-legal#PQ1) with additional questions addressing provisions for the 2017 QI agreements. The IRS clarified that it will allow a QI to continue to apply the requirement from the prior QI agreements to the 2017 QI agreement for direct account holders subject to the QI agreement, notwithstanding the cross-reference to Treasury Regulation Section 1.1441-7(b)(3) in the 2017 QI agreement. Under the prior QI agreements, a QI was required to treat a Form W-8 provided by a direct account holder as unreliable for purposes of a claim of foreign status if the QI had a U.S. mailing or permanent address for the account holder (i.e., not just a U.S. address in the account file). Additionally, the IRS will not require a QI to redocument a direct account holder claiming treaty benefits for purposes of Section 5.10(B) of the 2017 QI agreement, provided that the QI has documented the account holder before Jan. 1, 2018, in accordance with the prior guidance applicable to a QI. For direct account holders documented on or after Jan. 1, 2018, a QI must have a permanent residence address for the direct account holder in the jurisdiction associated with the documentary evidence upon which a QI may otherwise rely for a claim of treaty benefits.

For more information, contact Christopher C. Scarpa at 215.564.8106 or cscarpa@stradley.com or Kristin M. McKenna at 215.564.8145 or kmckenna@stradley.com.