

**Internal Revenue Service**

Department of the Treasury

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Person to Contact:

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Legend

Partnership =

A =

B =

C =

D =

E =

State =

Date =

x =

y =

z =

m =

n =

r =

s =

t =

h =

i =

Dear

This letter responds to a letter, dated June 25, 1998, and supplemental correspondence that was submitted by your authorized representative requesting a ruling concerning the federal income tax consequences of a proposed contribution of property to a partnership.

The information submitted indicates that Partnership is a State limited partnership. A, B, C, and D are the general partners of Partnership owning x percent of Partnership collectively. B and E own the remaining y percent of Partnership as limited partners. Marketable securities comprise more than z percent of Partnership's assets. Partnership's five largest holdings are in unrelated issuers and represent from a high of m percent to a low of n percent of Partnership's total asset value.

A proposes to contribute a portfolio of assets (the "Portfolio") to Partnership in exchange for a limited Partnership interest. The Portfolio is composed of marketable securities (r percent), money funds (s percent), and cash (t percent). As of Date, the five largest marketable securities that A proposes to transfer represented less than 50 percent of the total value of the Portfolio, and no one issuer represented more than 25 percent of the total assets. After the contribution, Partnership's five largest holdings will be composed of stock of unrelated issuers ranging in value from a high of h percent to a low of i percent of Partnership's total asset value.

It has been represented that A will transfer a diversified portfolio of assets to Partnership. A portfolio of assets is diversified if it satisfies the requirements of § 368(a)(2)(F)(ii) of the Internal Revenue Code, applying the relevant provisions of § 368(a)(2)(F). In applying § 368(a)(2)(F)(iv), Government securities are included in determining total assets unless the securities are acquired to meet the requirements of § 368(a)(2)(F)(ii). It has also been represented that A has no intent to transfer assets other than cash, money funds, or a diversified portfolio of assets to Partnership.

The Service has been requested to rule that 1) the contribution of the Portfolio to Partnership will not be treated as a transfer to an “investment company” within the meaning of §§ 721(b) and 351(e); and 2) no gain or loss will be recognized by A, B, C, D, E, or Partnership under § 721 on the proposed contribution of the Portfolio by A to Partnership.

Section 721(a) provides that no gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

Section 721(b) provides that § 721(a) shall not apply to gain realized on a transfer of property to a partnership that would be treated as an investment company (within the meaning of § 351) if the partnership were incorporated.

Section 351(a) provides that no gain or loss is recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation and immediately after the exchange the transferors are in control (as defined in § 368(c)) of the corporation.

Section 351(e)(1) provides that § 351 does not apply to transfers of property to an investment company.

After applying the law to the facts submitted and representations made, we conclude that A's transfer of the Portfolio to Partnership would not be treated as a transfer to an investment company within the meaning of § 351(e) if Partnership were incorporated. Accordingly, no gain or loss will be recognized by A, B, C, D, E, or Partnership from A's contribution of the Portfolio to Partnership in exchange for a Partnership interest under § 721.

Except as otherwise provided, we express no opinion regarding the federal income tax treatment of the proposed transaction under any other provision of the Code or regulations. Specifically, no opinion is expressed regarding estate and gift tax valuation issues that may arise regarding transfers of partnership interests.

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

Under the power of attorney on file in this office, a copy of this letter is being sent to Partnership's authorized representative.

Sincerely yours,

Jeff Erickson  
Assistant to the Branch Chief  
Branch 3  
Office of Assistant Chief Counsel  
(Passthroughs & Special Industries)

Enclosure  
Copy for section 6110 purposes