

**Internal Revenue Service**

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

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Date:

April 11, 2005

Legend

X =

State =

a% =

b% =

c% =

N1 =

N2 =

N3 =

N4 =

Agreement1 =

Agreement2 =

TY1 =

Dear :

This letter responds to a submission from your authorized representative, dated September 21, 2004, requesting a ruling that permits X to be the sponsor and operator of a qualified matching service, within the meaning of § 1.7704-1(g) of the Income Tax Regulations, with respect to its interests.

## FACTS

X is a Limited Liability Company, organized under the laws of State, classified as a partnership for Federal income tax purposes. Approximately a% of X's units are held by lineal descendants and extended family members of the original founders of the company. There are approximately N1 members of X, consisting of N2 individuals.

Approximately b% of the members of X are subject to Agreement1, which is designed to restrict ownership of X to family members to the fullest extent possible. Agreement2, to which c% of the members of X are subject, also imposes restrictions upon the transferability of interests in X. Agreement2 prevents the transfer of an interest by any member of X if (1) the transfer would cause X to be treated as a publicly traded partnership within the meaning of § 7704, (2) the transfer would result in the termination of the partnership within the meaning of § 708, or (3) the transferee does not accept and agree in writing to the terms of Agreement2. X proposes to engage in the following practices in order to facilitate the purchase and sale of its interests.

X intends to offer a qualified matching service that will match members who want to sell their interests in X with members or other family members who want to buy those interests. X represents that this matching service would be structured and operated in compliance with the requirements for a qualified matching service in § 1.7704-1(g), including the timing restrictions and the limitations on the total number of units transferred per year. X requests a ruling that it be permitted to be the sponsor and operator of this qualified matching service, rather than a member or a third party, in order to maintain the members' privacy as a family-owned, non-public company. By operating its own matching service, X can restrict access to the matching service to current members and to lineal descendants of the original founders of X. Furthermore, X can limit access to the personal information of each member to X's professional managers.

X further intends to offer a redemption program in TY1 that complies with the safe harbor provisions of § 1.7704-1(f), and may continue to offer similar programs in future years. X represents that a redemption program will not be offered more than once a year. Such a program will commence when materials describing the program are provided to the members of X (the "Offer Date"). Upon the issuance of these materials, the members of X will have N3 days to submit tender offers, and X will notify members of acceptance of tendered offers within N4 days (the "Acceptance Date"). Once X has notified the members of acceptance of an offer, neither X nor the members may revoke the tender or modify any of the terms of redemption. Actual cash redemption will occur 60 days after the Acceptance Date.

To ensure that the built-in delays of the safe harbor provisions of §§ 1.7704-1(f) and (g) are not circumvented, X represents that when it implements a redemption program, the matching service will be suspended for the period beginning on the Offer Date and ending on the Acceptance Date or 60 days after the Offer Date, if later (the "Suspension Period"). X represents that all posted bid or ask quotes will expire and be removed from the matching service during the Suspension Period. Members wanting to utilize the matching service to buy or sell interests must submit a new bid or ask quote following the Suspension Period.

## LAW & ANALYSIS

Section 7704(a) of the Internal Revenue Code provides that a publicly traded partnership will be treated as a corporation for Federal tax purposes.

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

Section 1.7704-1(b) provides that for purposes of § 7704(b), an established securities market includes: (1) a national securities exchange registered under section 6 of the Securities Exchange Act of 1934; (2) a national securities exchange exempt from registration under section 6 of the Securities Exchange Act of 1934 because of the limited volume of transactions; (3) a foreign securities exchange that, under the law of the jurisdiction where it is organized, satisfies regulatory requirements that are analogous to the regulatory requirements under the Securities Exchange Act of 1934; (4) a regional or local exchange; and (5) an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise.

Section 1.7704-1(c)(1) provides that for purposes of § 7704(b), interests in a partnership that are not traded on an established securities market are readily tradable on a secondary market or the substantial equivalent thereof if, taking into account all of the facts and circumstances, the partners are readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an established securities market.

Section 1.7704-1(c)(2) further clarifies that interests in a partnership are readily tradable on a secondary market or the substantial equivalent thereof if: (1) interests in the partnership are regularly quoted by any person, such as a broker or dealer, making a market in the interests; (2) any person regularly makes available to the public (including customers or subscribers) bid or offer quotes with respect to interests in the partnership and stands ready to effect buy or sell transactions at the quoted prices for itself or on behalf of others; (3) the holder of an interest in the partnership has a readily available,

regular, and ongoing opportunity to sell or exchange the interest through a public means of obtaining or providing information of offers to buy, sell, or exchange interests in the partnership; or (4) prospective buyers and sellers otherwise have the opportunity to buy, sell, or exchange interests in the partnership in a time frame and with the regularity and continuity that is comparable to that described in the other provisions of § 1.7704-1(c)(2).

Section 1.7704-1(d) provides, in relevant part, that for purposes of §§ 7704 and 1.7704-1, interests in a partnership are not readily tradable on a secondary market or the substantial equivalent thereof within the meaning of § 1.7704-1(c) (even if the interests in the partnership are traded or readily tradable in a manner described in § 1.7704-1(c)) unless (1) the partnership participates in the establishment of the market or the inclusion of its interests thereon or (2) the partnership recognizes any transfers made on the market by redeeming the transferor partner or admitting the transferee as a partner or otherwise recognizing any rights of the transferee.

Section 1.7704-1 provides certain safe harbors (described in paragraphs (e), (f), (g), (h), and (j)) that allow certain types of transfers of partnership interests to be disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof. However, these safe harbors do not apply to any transfer of partnership interests on an established securities market.

Section 1.7704-1(f) provides that the transfer of an interest in a partnership pursuant to a redemption or repurchase agreement (as defined in § 1.7704-1(e)(3)) that is not described in § 1.7704-1(e)(1)(vii) or (viii) is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof only if (1) the redemption or repurchase cannot occur until at least 60 calendar days after the partner notifies the partnership in writing of the partner's intention to exercise the redemption or repurchase right, (2) either (i) the redemption or repurchase agreement requires that the redemption or repurchase price not be established until at least 60 calendar days after receipt of such notification by the partnership or partner or (ii) the redemption or repurchase price is established not more than four times during the partnership's taxable year, and (3) the sum of the percentage of interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in § 1.7704-1(e)) does not exceed 10 percent of the total interests in partnership capital or profits.

Section 1.7704-1(g)(1) provides that for purposes of §§ 7704(b) and 1.7704-1, the transfer of an interest in a partnership through a qualified matching service is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof. Notice 88-75, 1988-2 C.B. 386 states that a matching service typically involves the use of a computerized or printed listing system that lists customers' bid and/or ask prices in order to match partners who want to dispose of their interests in a partnership with persons who want to buy such interests.

Pursuant to § 1.7704-1(g)(2), a matching service must meet several requirements to be a qualified matching service for purposes of this section's safe harbor. For example, the service must maintain waiting periods of 15 days between the date an interest is listed and the date a binding agreement is entered into and of 45 days between the date an interest is listed and the closing of the sale. In addition, the § 1.7704-1(g) safe harbor requires that the sum of the percentage interests in the partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in § 1.7704-1(e)) does not exceed 10 percent of the total interests in partnership capital or profits.

Section 1.7704-1(g)(4), entitled "Optional features," provides that a qualified matching service may be sponsored or operated by a partner of the partnership (either formally or informally), the underwriter that handled the issuance of the partnership interests, or an unrelated third party.

#### CONCLUSION

Based solely upon the facts submitted and representations made, and provided that X's matching service otherwise satisfies the requirements of § 1.7704-1(g), we conclude that X is permitted to be the sponsor or operator of the qualified matching service described above. In addition, this ruling is contingent upon X fulfilling the above stated representations.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

/s/ Dianna K. Miosi

Dianna K. Miosi  
Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2)  
Copy of this letter  
Copy for section 6110 purposes