

INTERNAL REVENUE SERVICE

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(202) 622-3130

CC:PSI:8/PLR-136233-01

October 15, 2001

Legend:

Taxpayer =

LLC1 =

LLC2 =

LLC3 =

State =

Dear _____ :

This is in response to a letter ruling request in which you request that the IRS issue the following rulings:

1. The excise tax imposed by § 4261 of the Internal Revenue Code is not applicable to payments for transportation made or deemed made by Taxpayer to LLC3.
2. The excise tax imposed by § 4261 is not applicable to payments for transportation made or deemed made by LLC1 or LLC2 to LLC3.

The following facts and representations have been submitted in the request.

Taxpayer is a limited partnership organized under the laws of State. Taxpayer is the sole owner of three limited liability companies, LLC1, LLC2, and LLC3. No elections have been or will be filed under § 301.7701-3(c) of the Procedure and Administration Regulations for any of those entities to be treated as associations. LLC3 has been formed to own and operate an aircraft. Taxpayer will hire and pay the pilot and pay all expenses of operating the aircraft. The only income of LLC3 will be amounts paid by Taxpayer for expenses of operating the aircraft and by LLC1 and LLC2 as reimbursement of operating expenses when their employees are transported on the aircraft. All transportation on the aircraft will begin and end in the United States. Section 4261(a) imposes a tax on the amount paid for taxable transportation (as

defined in § 4262) of any person by air.

Section 4262(a)(1) in part defines the term "taxable transportation" as transportation by air which begins in the United States and ends in the United States.

Section 4291 requires any person receiving any payment for taxable services (such as taxable air transportation) to collect the amount of the tax from the person making the payment.

In order to determine whether the excise tax imposed by § 4261 applies to amounts paid by Taxpayer, LLC1, and LLC2 to LLC3, we must first determine the classification of those limited liability companies.

Section 301.7701-3(b)(1)(ii) provides that a domestic eligible entity (a business organization not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8)) with a single owner is disregarded as an entity separate from its owner for federal tax purposes unless the entity elects to be treated as a corporation. If the entity is disregarded, its activities are treated in the same manner as a sole proprietorship, branch, or division of the owner. § 301.7701-2(a).

Based on the facts presented and representations made, LLC1, LLC2, and LLC3 will be disregarded as entities separate from Taxpayer for federal tax purposes. Because LLC1, LLC2, and LLC3 are treated in the same manner as a sole proprietorship, branch, or division of Taxpayer, the payments made to LLC3 for air transportation are not considered amounts paid for purposes of § 4261.

Accordingly, based on Taxpayer's representations, we conclude as follows:

1. The excise tax imposed by § 4261 of the Internal Revenue Code is not applicable to payments for transportation made or deemed made by Taxpayer to LLC3.
2. The excise tax imposed by § 4261 is not applicable to payments for transportation made or deemed made by LLC1 or LLC2 to LLC3.

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

Sincerely,
Associate Chief Counsel
(Passthroughs and Special Industries)
By: Richard A. Kocak
Chief, Branch 8

Enclosures(2):

Copy of this letter
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