

DRAFT

April 25 2007

Re: Our file number LR 06-210 Income Tax - Capital Gains Deduction

Dear

This is in response to your inquiry of December 19, 2006 wherein you requested a series of rulings relating to the Oklahoma Capital Gains Deduction (68 O.S. § 2358 (F)). Following is a restatement of the facts contained in your letter, the rulings requested and our responses thereto.

FACTS:

1. _____ was organized _____, 1984 as an Oklahoma corporation.
2. _____) was organized _____, 2002 as an Oklahoma limited liability company and is a flow-through partnership for federal tax purposes.
3. _____ was organized on _____, 2005 as an Oklahoma limited liability company and is a flow-through partnership for federal tax purposes.
4. On October 12, 2005, a majority of the _____ shareholders (the "Shareholders") and a majority of the _____ members (the "Members") made a tax-free contribution of their stock in _____ and their membership interests in _____ to _____ in exchange for a pro rata share of _____ membership interests (the "Contribution").
5. Prior to the Contribution, (a) certain of the Shareholders owned their _____ stock for more than five (5) years; and (b) certain of the Shareholders owned their _____ stock for less than two (2) years.
6. Prior to the Contribution, (a) certain of the Members owned their _____ membership interests for more than two (2) years; and (b) certain of the Members owned their _____ membership interests for less than two (2) years.

7. After the Contribution, _____ owned stock in _____ and membership interests in _____. The Shareholders and the Members owned a pro rata share of their stock and membership interests, respectively, in issued and outstanding membership interests of _____.

8. A diagram of the ownership structure prior to the Contribution and after the Contribution is attached as Exhibit "A."

9. _____ intends to sell all of the stock it owns in _____ and all of the membership interests it owns in _____ (the "Sale") to a third party in a taxable transaction.

10. Immediately prior to the Sale, (a) certain of the Shareholders will have owned their _____ stock directly or indirectly via _____ for more than five (5) years (the "Five Year Shareholders"); (b) certain of the Shareholders will have owned their _____ stock directly or indirectly via _____ for more than two (2) years (the "Two Year Shareholders") and (c) certain of the Shareholders will have owned their _____ stock directly or indirectly via _____ for less than two (2) years (the "Other Shareholders").

11. Immediately prior to the Sale, (a) certain of the Members will have owned their _____ membership interests directly or indirectly via _____ for more than two (2) years (the "Two Year Members"); and (b) certain of the Members will have owned their _____ membership interests directly or indirectly via _____ for less than two (2) years (the "Other Members").

12. A diagram of the ownership structure immediately after the Contribution and immediately prior to the Sale is attached as Exhibit "B."

13. The proceeds of the Sale will be distributed pro rata to the members of _____.

RULINGS REQUESTED AND OTC RESPONSE

1. After the Contribution, _____ will receive a holding period in the _____ stock equal to the holding periods of the Shareholders in their _____ stock.

Yes. Under IRC § 1223(2) and IRS letter ruling 2000-24-3001 the holding period of the contributing partner is allowed to carryover to the partnership for the assets contributed.

2. After the Contribution, _____ will receive a holding period in the _____ membership interests equal to the various holding periods of the Members in their _____ membership interests.

Yes. Under IRC § 1223(2) and IRS letter ruling 2000-24-3001 the holding period of the contributing partner is allowed to carryover to the partnership for the assets contributed.

3. The Five Year Shareholders have a holding period of at least five (5) years in their _____ stock after the contribution of the _____ stock to _____.

Yes. Under IRC § 1223(2) and IRS letter ruling 2000-24-3001 the holding period of the contributing partner is allowed to carryover to the partnership for the assets contributed.

4. Assuming the Sale results in capital gains, such gains are deductible by the Five Year Shareholders under 68 O.S. § 2358 as "qualifying gains receiving capital treatment."

Yes.

5. The Two Year Shareholders have a holding period of at least two (2) years in their stock ~~after~~ the contribution of the stock to

Yes.

6. Assuming the Sale results in capital gains, such gains are deductible by the Two Year Shareholders under 68 O.S. § 2358 as "qualifying gains receiving capital treatment."

Yes.

7. The Two Year Members have a holding period of at least two (2) years in their membership interests after the contribution of the membership interests to

Yes.

8. Assuming the Sale results in capital gains, such gains are deductible by the Two Year Members under 68 O.S. § 2358 as "qualifying gains receiving capital treatment."

Yes.

This response applies only to the circumstances set out in your request of December 19, 2006. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

If I can be of further assistance, please feel free to call me at (405) 521-3133.

Sincerely,

FOR THE OKLAHOMA TAX COMMISSION

Michael C. Kaufmann
Tax Policy Analyst