the transferee (as defined in section 1.613A–7(o)) shall keep records showing the terms of the transfer, any geological and geophysical data in the possession of the transferee or other exploratory data with respect to the property transferred, and any other information which bears upon the question of whether at the time of the transfer the principal value of the property transferred had been demonstrated by prospecting, exploration, and discovery work.

(b) *Production from secondary or tertiary processes.* Every taxpayer who claims depletion with respect to oil or gas produced by secondary or tertiary processes (as defined in §1.613A–7(k)) shall keep records of the secondary and tertiary processes applied and maintain records of the amount of production so resulting.

(c) *Retention of records.* The records required by this section shall be kept at all times available for inspection by authorized Internal Revenue officers or employees, and shall be retained so long as the contents may become material in the administration of any Internal Revenue law.

[T.D. 7487, 42 FR 24264, May 13, 1977]

§ 1.613A–7 Definitions.

For purposes of section 613A and the regulations thereunder—

(a) *Domestic.* The term *domestic,* as applied to oil and gas wells (or to production from such wells), refers to wells located in the United States or in a possession of the United States, as defined in section 638 and the regulations thereunder.

(b) *Natural gas.* The term *natural gas* means any product (other than crude oil as defined in paragraph (g) of this section) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

(c) *Regulated natural gas.* Natural gas is considered to be ''regulated'' only if all of the following requirements are met:

(1) The gas must be domestic gas produced and sold by the producer (whether for himself or on behalf of another person) before July 1, 1976,

(2) The price for which the gas is sold by the producer must not be adjusted to reflect to any extent the increase in liability of the seller for tax under chapter 1 of the Code by reason of the repeal of percentage depletion for gas,

(3) The sale of the gas must have been subject to the jurisdiction of the Federal Power Commission for regulatory purposes,

(4) An order or certificate of the Federal Power Commission must be in effect (or a proceeding to obtain such an order or certificate must have been instituted), and

(5) The price at which the gas is sold must be taken into account, directly or indirectly, in the issuance of the order or certificate by the Federal Power Commission. Price increases after February 1, 1975, are presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence that the increases are wholly attributable to a purpose or purposes unrelated to the repeal of percentage depletion for gas (*e.g.,* where the record of the Federal Power Commission clearly establishes that the Commission did not take the repeal into account). Increases to reflect additional State and local real property or severance taxes, increases for additional operating costs (such as costs of secondary or tertiary processes), adjustments for inflation, increases for additional drilling and related costs, or increases to reflect changes in the quality of gas sold, are some examples of increases that are not attributable to the repeal of percentage depletion for gas. In the absence of a statement in writing by the Federal Power Commission that the price of the gas in question was not in fact regulated, the requirement of paragraph (c)(5) of this section is deemed to have been met in any case in which the Federal Power Commission issued an order or certificate approving the sale to an interstate pipeline company or, in a case in which it is established by the taxpayer that the Federal Power Commission has influenced the price of such gas, an order or certificate permitting the interstate transportation of such gas. In addition, an ''emergency'' sale of natural gas to an interstate pipeline, which, pursuant to the authority contained in 18 CFR 2.68, 2.70, 157.22, and 157.29, may be

made without prior order approving the sale, is deemed to have met the requirements of paragraph (c) (3), (4), and (5) of this section. For purposes of meeting the requirements under this paragraph, it is not necessary that the total gas production from a property qualify as ''regulated natural gas.'' The determination of whether mineral production is ''regulated natural gas'' shall be made with respect to each sale of the mineral or minerals produced.

(d) *Natural gas sold under a fixed contract.* The term *natural gas sold under a fixed contract* means domestic natural gas sold by the producer (whether for himself or on behalf of another person) under a contract, in effect on February 1, 1975, and at all times thereafter before such sale, under which the price for the gas during such period cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under chapter 1 of the Code by reason of the repeal of percentage depletion for gas. The term may include gas sold under a fixed contract even though production sold under the contract had previously been treated as regulated natural gas. Price increases after February 1, 1975, are presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence. Paragraph (c) of this section provides examples of increases which do not take increases in tax liabilities into account. However, if an adjustment provided for in the contract permits the possible increase in federal income tax liability of the seller to be taken into account to any extent, the gas sold under the contract after such an increase becomes permissible is not gas sold under a fixed contract. If the adjustment provided for in the contract provides for an increase in the price of the contract to the highest price paid to a producer for natural gas in the area, or if the price may be renegotiated, then gas sold under the contract after such an increase becomes permissible is presumed not to be sold under a fixed contract unless the taxpayer demonstrates by clear and convincing evidence that the price increase in no event takes increases in tax liabilities into account. For purposes of meeting the requirements of this paragraph, it is not necessary that the total gas production from a property qualify as ''natural gas sold under a fixed contract,'' for the determination of ''natural gas sold under a fixed contract'' is to be made with respect to each sale of each type of natural gas sold pursuant to each contract.

(e) *Qualified natural gas from geopressured brine.* The term ''qualified natural gas from geopressured brine'' means any natural gas which is determined in accordance with section 503 of the Natural Gas Policy Act of 1978 to be produced from geopressured brine and which is produced from any well the drilling of which began after September 30, 1978, and before January 1, 1984.

(f) *Average daily production.* (1) The term *average daily production* means the taxpayer's aggregate production of domestic crude oil or natural gas, as the case may be, which is extracted after December 31, 1974, and to which gross income from the property is attributable during the taxable year divided by the number of days in such year. As used in the preceding sentence the term *taxpayer* includes a small business corporation as defined in section 1371 (as in effect prior to the enactment of the subchapter S Revision Act of 1982) and the regulations thereunder. Notwithstanding the provisions of § 1.612–3 and except as provided in § 1.613A–3(j)(2), in computing the average daily production for a taxable year only oil or gas which has been actually produced by the close of such taxable year is taken into account. Average daily production does not include production resulting from secondary or tertiary processes to which gross income from the property is attributable before January 1, 1984.

(2) In the case of a fiscal-year taxpayer, paragraph (f)(1) of this section shall be applied separately to each short taxable year under section 613A(c)(11), as in effect prior to the Revenue Reconciliation Act of 1990.

(3) In the case of a taxpayer holding a partial interest in the production from any property (including an interest of a partner in property of a partnership or a net profit interest) such

taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production (which is produced after December 31, 1974, and to which gross income from the property is attributable during the taxable year) of the property by the taxpayer's percentage participation in the gross revenues from the property during the year. However, the portion of trust (or estate) production allocable to a beneficiary shall not exceed that amount of the trust's (or estate's) depletable oil quantity determined by multiplying such quantity by the beneficiary's percentage interest in the trust's (or estate's) gross income from the property.

(g) *Crude oil.* For purposes of section 613A and the regulations thereunder, the term *crude oil* means—

(1) A mixture of hydrocarbons which existed in the liquid phase in natural underground reservoirs and which remains liquid at atmospheric pressure after passing through surface separating facilities,

(2) Hydrocarbons which existed in the gaseous phase in natural underground reservoirs but which are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators, and

(3) Natural gas liquid recovered from gas well effluent in lease separators or field facilities before any conversion process has been applied to such production.

(h) *Depletable oil quantity.* The taxpayer's depletable oil quantity, within the meaning of section 613A(c)(1)(A), shall be equal to the tentative quantity determined under the table contained in section 613A(c)(3)(B) and paragraph (b) of § 1.613A–3 (except that, in the case of determinations with respect to days prior to January 1, 1984, such quantity shall be reduced (but not below zero) by the taxpayer's average daily secondary or tertiary production for the taxable year).

(i) *Depletable natural gas quantity.* The taxpayer's depletable natural gas quantity, within the meaning of section 613A(c)(1)(B), shall be equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the taxpayer elects to have section 613A(c)(4) apply. The taxpayer's depletable oil quantity for any taxable year shall be reduced (in addition to any reduction required to be made under paragraph (h) of this section) by the number of barrels with respect to which an election under section 613A(c)(4) for natural gas has been made. See § 1.613A–5.

(j) *Barrel.* The term *barrel* means 42 United States gallons.

(k) *Secondary or tertiary production.* For purposes of section 613A the term *secondary or tertiary production* means the increased production of domestic crude oil or natural gas from a property at any time after the application of a secondary or tertiary process. The increased production is the excess of actual production over the maximum primary production which would have resulted during the taxable year if the secondary or tertiary process had not been applied. The increased production may be due to an increase in either the rate or the duration of recovery. A secondary or tertiary process is a process applied for the recovery of hydrocarbons in which liquids, gases, or other matter is injected into the reservoir to supplement or augment the natural forces required to move the hydrocarbons through the reservoir. However, no process which must be introduced early in the productive life of the mineral property in order to be reasonably effective (such as cycling of gas in the case of a gas-condensate reservoir) is a secondary or tertiary process. A process (such as fire flooding or miscible fluid injection) introduced early in the productive life of the mineral property will not be disqualified as a secondary or tertiary process if a later introduction of the process in the property would still have been reasonably effective.

(l) *Controlled group of corporations.* The term *controlled group of corporations* has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that ''more than 50 percent'' shall be substituted for '' at least 80 percent'' each place it appears in section 1563(a).

(m) *Related person.* (1) A person is a *related person* to another person, within the meaning of section 613A(d) (2) and (4), paragraphs (b) and (c) of § 1.613A–4,

and paragraphs (r) and (s) of this section, if either a significant ownership interest in such person is held by the other, or a third person has a significant ownership interest in both such persons. For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be. The term *significant ownership* means—

(i) With respect to any corporation, direct or indirect ownership of 5 percent or more in value of the outstanding stock of such corporation,

(ii) With respect to a partnership, direct or indirect ownership of 5 percent or more interest in the profits or capital of such partnership, and

(iii) With respect to an estate or trust, direct or indirect ownership of 5 percent or more of the beneficial interests in such estate or trust. The relative percentage ownership of beneficiaries of an estate or trust in the beneficial interests therein shall be determined under actuarial principles.

(2) A person is a ''related person'' to another person, within the meaning of section 613A(c)(8)(B) and paragraph (h)(2) of §1.613A–3, if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only the individual's spouse and minor children.

(n) *Transfer*. The term *transfer* means any change in ownership for federal tax purposes after December 31, 1974, by sale, exchange, gift, lease, sublease, assignment, contract, or other disposition (including any contribution to or any distribution by a corporation, partnership, or trust), any change in the membership of a partnership or the beneficiaries of a trust, or any other change by which a taxpayer's proportionate share of the income subject to depletion of an oil or gas property is increased. For taxable years beginning after 1982, the term ''transfer'' includes an election by a C corporation to be an S corporation (properties deemed transferred by the C corporation on the day the election first becomes effective) and a termination of an S election (each shareholder's pro rata share of assets of S corporation deemed transferred to C corporation on the day that the termination first becomes effective). However, the term does not include—

(1) A transfer of property at death (including a distribution by an estate, whether or not a pro rata distribution),

(2) An exchange to which section 351 applies,

(3) A change of beneficiaries of a trust by reason of the death, birth, or adoption of any vested beneficiary if the transferee was a beneficiary of the trust or is a lineal descendant of the settlor or any other vested beneficiary of the trust, except in the case of any trust where any beneficiary of the trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and the settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which the trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust,

(4) A transfer of property between corporations which are members of the same controlled group of corporations (as defined in section 613A(c)(8)(D)(i)),

(5) A transfer of property between business entities which are under common control (within the meaning of section 613A(c)(8)(B)) or between related persons in the same family (within the meaning of section 613A(c)(8)(C)),

(6) A transfer of property between a trust and members of the same family (within the meaning of section 613A(c)(8)(C)) to the extent that both (i) the beneficiaries of the trust are and continue to be members of the family that transferred the property, and (ii) the tentative oil quantity is allocated among the members of such family,

(7) A reversion of all or part of an interest with respect to which the taxpayer was eligible for percentage depletion pursuant to section 613A(c), or

(8) A conversion of a retained interest which is eligible for such depletion into an interest which constituted all or part of an interest previously owned by the taxpayer also eligible for such depletion.

However, paragraph (n) (2), (4), and (5) of this section shall apply only so long as the tentative quantity determined under the table contained in section 613A(c)(3)(B) (as in effect prior to the Revenue Reconciliation Act of 1990) is required to be allocated under section 613A(c)(8) between the transferor and transferee, or among members of a controlled group of corporations. In the case of an individual transferor, the allocation test of the preceding sentence shall not be failed merely because of the death of the transferor. For purposes of paragraph (n) (3) and (6), an individual adopted by a beneficiary is a lineal descendant of that beneficiary. For purposes of paragraph (n) (7) and (8), a taxpayer previously ineligible for percentage depletion solely by reason of section 613A(d) (2) or (4) will be considered to have been eligible for such depletion. A transfer is deemed to occur on the day on which a contract or other commitment to transfer the property becomes binding upon both the transferor and transferee, or, if no such contract or commitment is made, on the day on which ownership of the interest in oil or gas property passes to the transferee.

(o) *Transferee*. The term ''transferee'', as used in section 613A(c)(9), paragraph (i)(1) of §1.613A–3, and this section includes the original transferee of proven property and his or her successors in interest (excluding successors in interest of proven property transferred after October 11, 1990). A person shall not be treated as a transferee of an interest in a proven oil or gas property to the extent that such person was entitled to a percentage depletion allowance on mineral produced with respect to the property immediately before the transfer. However, a person shall be treated as a transferee of an interest in a proven property to the extent that the interest such person receives is greater than the interest in the property the person held immediately before the transfer. For example, where the owner of a proven oil property transfers his or her entire interest therein to a partnership of which he or she is a member and, as a consequence, becomes entitled to a depletion allowance based on only one-third of the oil produced with respect to that property, the owner (the transferor) is not denied percentage depletion with respect to the one-third interest in oil production which the owner still possesses. If the partnership agreement had made an effective allocation (under section 704 and §1.704.1) of all the income in respect of such property to the transferor partner, that partner would be entitled to percentage depletion on the entire oil production from that property. For this purpose, a person who has transferred oil or gas property pursuant to a unitization or pooling agreement shall be treated as having been entitled to a depletion allowance immediately before the transfer to that person of the interest in the unit or pool with respect to all of the mineral in respect of which the person receives gross income from the property pursuant to the unitization or pooling agreement, except to the extent such income is attributable to consideration paid by that person for such interest in addition to that person's contribution of the oil or gas property and equipment affixed thereto.

(p) *Interest in proven oil or gas property*. The term *interest in an oil or gas property* means an economic interest in oil or gas property. An economic interest includes working or operating interests, royalties, overriding royalties, net profits interests, and, to the extent not treated as loans under section 636, production payments from oil or gas properties. The term also includes an interest in a partnership, S corporation, small business corporation, or trust holding an economic interest in oil or gas property but does not include shares of stock in a corporation (other than an S corporation and small business corporation) owning such an interest. An oil or gas property is ''proven'' if its principal value has been demonstrated by prospecting, exploration, or discovery work. The principal value of the property has been demonstrated by prospecting, exploration, or discovery work only if at the time of the transfer—

(1) Any oil or gas has been produced from a deposit, whether or not produced by the taxpayer or from the property transferred;

(2) Prospecting, exploration, or discovery work indicate that it is probable that the property will have gross income from oil or gas from the deposit sufficient to justify development of the property; and

(3) The fair market value of the property is 50 percent or more of the fair market value of the property, minus actual expenses of the transferee for equipment and intangible drilling and development costs, at the time of the first production from the property subsequent to the transfer and before the tansferee transfers his or her interest.

For purposes of this paragraph, the property is to be determined by applying section 614 and the regulations thereunder to the transferee at the time of the transfer. If the transfer is of an interest in a partnership, S corporation, small business corporation, or trust, the determination shall be made with respect to each property owned by the partnership, S corporation, small business corporation, or trust. The term *prospecting, exploration, or discovery work* includes activities which produce information relating to the existence, location, extent, or quality of any deposit of oil or gas, such as seismograph surveys and drilling activities (whether for exploration or for the production of oil or gas).

(q) *Amount disallowed.* The amount disallowed, within the meaning of section 613A(d)(1) and paragraph (a) of §1.613A–4, is the excess of the amount of the aggregate of the taxpayer's allowable depletion deductions (whether based upon cost or percentage depletion) computed without regard to section 613A(d)(1) over the amount of the aggregate of such deductions computed with regard to such section. The disallowed amount shall be carried over to the succeeding year and treated as an amount allowable as a deduction pursuant to section 613A(c) for the succeeding year, subject to the 65-percent limitation of section 613A(d)(1) and the rules contained in §1.613A–4(a).

(r) *Retailer.* (1) Except as otherwise provided in paragraph (r)(2) of this section, the term *retailer* means any taxpayer who directly, or through a related person (as defined in paragraph (m)(1) of this section), sells oil or natural gas, or any product derived from oil or natural gas—

(i) Through any retail outlet operated by the taxpayer or a related person, or

(ii) To any person—

(A) Obligated under an agreement or contract with the taxpayer or a related person to use a trademark, trade name, or service mark or name owned by such taxpayer or a related person, in marketing or distributing oil or natural gas or any product derived from oil or natural gas, or

(B) Given authority, pursuant to an agreement or contract with the taxpayer or a related person, to occupy any retail outlet owned, leased, or in any way controlled by the taxpayer or a related person.

For purposes of the preceding sentence, bulk sales (*i.e.*, sales in very large quantities) of oil or natural gas (but not bulk sales of any product derived from oil or natural gas) to commercial or industrial users shall be disregarded. Bulk sales made after September 18, 1982, of aviation fuels to the Department of Defense shall be also disregarded. In addition, sales of oil or natural gas (whether or not produced by the taxpayer), or of any product derived from oil or natural gas, which are made outside the United States shall be disregarded if no domestic production of oil, natural gas (or products derived therefrom) of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year.

(2) Notwithstanding paragraph (r)(1) of this section, the taxpayer shall not be considered a retailer in any case where, during the taxable year of the taxpayer, the combined gross receipts from sales (excluding sales for resale) of oil or natural gas, or products derived therefrom, of all retail outlets taken into account under paragraph (r)(1) of this section (including sales through a retail outlet of oil, natural gas, or a product derived from oil or natural gas which had previously been the subject of a sale described in paragraph (r)(1)(ii) of this section) do not exceed $5 million. If the taxpayer's

combined gross receipts for the taxable year exceed $5 million, the taxpayer will be treated as a retailer as of the first day in which a retail sale was made. For purposes of paragraph (r)(1) of this section, a taxpayer shall be deemed to be selling oil or natural gas (or a product derived therefrom) through a related person in any case in which any sale of oil or natural gas (or a derivative product) by the related person produces gross income from which the taxpayer may benefit by reason of the taxpayer's direct or indirect ownership interest in the related person. In such cases (and in any other case in which the taxpayer is selling through a retail outlet referred to in section 613A(d)(2)(A) or is selling such items to a person described in section 613A(d)(2)(B)), it is immaterial whether the oil or natural gas which is sold, or from which is derived a product which is sold, was produced by the taxpayer. A taxpayer shall be deemed to be selling oil or natural gas (or a derivative product) through a retail outlet operated by a related person in any case in which a related person who operates a retail outlet acquires for resale oil or natural gas (or a derivative product) which the taxpayer produced or caused to be made available for acquisition by the related person pursuant to an arrangement whereby some or all of the taxpayer's production is marketed. An owner of a nonoperating mineral interest (such as a royalty) shall not be treated as an operator of a retail outlet merely because the owner's oil or gas is sold on the owner's behalf through a retail outlet operated by an unrelated person. In addition, the mere fact that a member of a partnership is a retailer shall not result in characterization of the remaining partners as retailers. However, any partner of a partnership who has a 5 percent or more interest in any entity actually engaging in retail activities (including the partnership or another entity to which the partnership is related) is treated as a retailer. See paragraph (m)(1) of this section for rules on the ownership interest by partners in an entity related to a partnership. Similarly, if a trust or estate is a retailer, only its beneficiaries having a 5 percent or more current income interest from the trust or estate are treated as retailers. A person who is a retailer during a portion of the taxable year shall be treated as a retailer with respect to a fraction of that person's gross and taxable income from oil or gas properties for the taxable year, the numerator of which is the number of days during the taxable year in which the taxpayer is a retailer and the denominator of which is the total number of days during the taxable year; except that a person who ceases to be a retailer during the taxable year before the first production of oil or gas during such year shall not be treated as a retailer for any portion of such year.

(3) For purposes of this paragraph (r), the term *any product derived from oil or natural gas* means gasoline, kerosene, Number 2 fuel oil, refined lubricating oils, diesel fuel, butane, propane, and similar products which are recovered from petroleum refineries or extracted from natural gas in field facilities or natural gas processing plants. The term *retail outlet* means any place where sales of oil or natural gas (excluding bulk sales of such items to commercial or industrial users), or a product of oil or natural gas (excluding bulk sales of aviation fuels to the Department of Defense), accounting for more than 5 percent of the gross receipts from all sales made at such place during the taxpayer's taxable year, are systematically made for any purpose other than for resale. For this purpose, sales of oil or natural gas, or any product derived from oil or natural gas, to a person for refining are considered as sales made for resale.

(s) *Refiner*. A person is a refiner if such person or a related person (as defined in paragraph (m)(1) of this section) engages in the refining of crude oil (whether or not owned by such person or related person) and if the total refinery runs of such person and any related persons exceed 50,000 barrels on any day during the taxable year. A refinery run is the volume of inputs of crude oil (excluding any product derived from oil) into the refining stream. For purposes of this paragraph, crude oil refined outside the United States shall be taken into account. Refining is any operation by which the physical or chemical characteristics of crude oil are changed, exclusive of such

operations as passing crude oil through separators to remove gas, placing crude oil in settling tanks to recover basic sediment and water, dehydrating crude oil, and blending of crude oil products.

[T.D. 8348, 56 FR 21949, May 13, 1991; 57 FR 4913, Feb. 10, 1992, as amended by T.D. 8437, 57 FR 43903, Sept. 23, 1992; 58 FR 6678, Feb. 1, 1993]

§ 1.614–0 Introduction.

Section 614 relates to the definition of property and to the various special rules by means of which taxpayers are permitted to aggregate or combine separate properties or to treat such properties as separate. These rules are set forth in detail in §§ 1.614–1 through 1.614–8. Section 1.614–1 sets forth rules under section 614(a) relating to the definition of the term *property*. Section 1.614–2 contains the rules relating to the election under section 614(b), as it existed prior to its amendment by section 226(a) of the Revenue Act of 1964, to aggregate operating mineral interests. In the case of mines, the rules contained in § 1.614–2 are applicable only to taxable years beginning before January 1, 1958, to which the Internal Revenue Code of 1954 applies. In the case of oil and gas wells, the rules contained in § 1.614–2 are applicable only to taxable years beginning before January 1, 1964, to which the Internal Revenue Code of 1954 applies. In the case of oil and gas wells, the taxpayer may, however, for taxable years beginning before January 1, 1964, treat any operating mineral interests as if section 614 (a) and (b) (as it existed prior to its amendment by section 226(a) of the Revenue Act of 1964) had not been enacted. If any operating mineral interests are so treated, the rules contained in § 1.614–2 are not applicable to such interests and such interests are, in respect of taxable years beginning before January 1, 1964, subject to the rules set forth in § 1.614–4 relating to the Internal Revenue Code of 1939 treatment of separate operating mineral interests in the case of oil and gas wells. Section 1.614–3 prescribes the rules relating to the election under section 614(c)(1) permitting the aggregation of operating mineral interests in the cases of mines for taxable years beginning after December 31, 1957. Section 1.614–3 also sets forth rules relating to the election under section 614(c)(2) in the case of mines by means of which a taxpayer is permitted to treat a single operating mineral interest as more than one such interest for taxable years beginning after December 31, 1957. At the election of the taxpayer with respect to an operating unit, the rules contained in § 1.614–3 are also applicable to taxable years beginning before January 1, 1958, to which the Internal Revenue Code of 1954 applies. If the taxpayer makes such an election, the rules contained in § 1.614–2 are not applicable to any of the operating mineral interests which are part of the operating unit with respect to which the election described in § 1.614–3 is made. Section 1.614–5 sets forth the rules relating to the aggregation of nonoperating mineral interests. Section 1.614–6 contains the rules relating to basis, holding period, and abandonment and casualty losses where properties have been aggregated or combined. Section 1.614–7 relates to the extension of time for performing certain acts. Section 1.614–8 contains the rules relating to the elections under section 614(b) as amended by section 226(a) of the Revenue Act of 1964 to treat separate operating mineral interests in the case of oil and gas wells as separate properties or in combination for taxable years beginning after December 31, 1963.

[T.D. 6859, 30 FR 13699, Oct. 28, 1965]

§ 1.614–1 Definition of property.

(a) *General rule.* (1) For purposes of subtitle A of the Code, in the case of mines, wells, and other natural deposits, the term *property* means each separate interest owned by the taxpayer in each mineral deposit in each separate tract or parcel of land.

(2) The term *interest* means an economic interest in a mineral deposit. See paragraph (b) of § 1.611–1. The term includes working or operating interests, royalties, overriding royalties, net profits interests, and, to the extent not treated as loans under section 636, production payments.

(3) The term *tract or parcel of land* is merely descriptive of the physical scope of the land to which the taxpayer's interest relates. It is not descriptive of the nature of his rights or