

(e) *Administrative provisions; etc.* (1) Section 36(b) of the Technical Amendments Act of 1958 (72 Stat. 1633) provides as follows:

*Sec. 36. Percentage depletion rates for certain taxable years ending in 1954. * * **

(b) *Statute of limitations, etc.; interest.* If refund or credit of any overpayment resulting from the application of the amendment made by subsection (a) of this section is prevented on the date of the enactment of this Act, or within 6 months from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code of 1939 or section 7121 of the Internal Revenue Code of 1954, relating to closing agreements, and other than section 3761 of the Internal Revenue Code of 1939 or section 7122 of the Internal Revenue Code of 1954, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within 6 months from such date. No interest shall be paid on any overpayment resulting from the application of the amendment made by subsection (a) of this section.

(2) If refund or credit of any overpayment resulting from the application of section 613(d) is prevented on September 2, 1958, or on or before March 2, 1959, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code of 1939 or section 7121 of the Internal Revenue Code of 1954, relating to closing agreements, and other than section 3761 of the Internal Revenue Code of 1939 or section 7122 of the Internal Revenue Code of 1954, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed on or before March 2, 1959. If such refund or credit is not prevented on or before March 2, 1959, the time for filing claim therefor shall be governed by the rules of law generally applicable to credits and refunds.

(3) The amount of any refund or credit which is allowable by reason of section 613(d) shall not exceed the decrease in income tax liability resulting solely from the application of the percentage rates specified in section 613(b). No interest shall be allowed or paid on any overpayment resulting from the application of section 613(d).

(4) For purposes of this section the decrease in income tax liability shall be the amount by which the tax previously determined (as defined in sec-

tion 3801(d) of the Internal Revenue Code of 1939) exceeds the tax as recomputed under section 613(d) and this section.

(f) *Adjustment to basis.* Proper adjustment shall be made to the basis of any property as required by section 113(b)(1) of the Internal Revenue Code of 1939 and 26 CFR (1939) 39.113(b)(1)-1(c) (Regulations 118) to reflect any change in the depletion allowance resulting from the application of section 613(d) of the Internal Revenue Code of 1954.

[T.D. 6500, 25 FR 11737, Nov. 26, 1960. Redesignated by T.D. 7170, 37 FR 5374, Mar. 15, 1972]

§ 1.613A-0 Limitations on percentage depletion in the case of oil and gas wells; table of contents.

This section lists the paragraphs contained in §§ 1.613A-0 through 1.613A-7.

§ 1.613A-1 Post-1974 limitations on percentage depletion in case of oil and gas wells; general rule.

§ 1.613A-2 Exemption for certain domestic gas wells.

§ 1.613A-3 Exemption for independent producers and royalty owners.

- (a) General rules.
- (b) Phase-out table.
- (c) Applicable percentage.
- (d) Production in excess of depletable quantity.
 - (1) Primary production.
 - (2) Secondary or tertiary production.
 - (3) Taxable income from the property.
 - (4) Examples.
- (e) Partnerships.
 - (1) General rule.
 - (2) Initial allocation of adjusted basis of oil or gas property among partners.
 - (i) General rule.
 - (ii) Allocation methods.
 - (3) Adjustments by partnership to allocated adjusted bases.
 - (i) Capital expenditures by partnership.
 - (ii) Admission of a new partner or increase in partner's interest.
 - (A) In general.
 - (B) Allocation of basis to contributing partner.
 - (C) Reduction of existing partners' bases.
 - (iii) Determination of aggregate of partners' adjusted bases in the property.
 - (A) In general.
 - (B) Written data.
 - (C) Assumptions.
 - (iv) Withdrawal of partner or decrease in partner's interest.
 - (A) In general.

§ 1.613A-1

26 CFR Ch. I (4-1-09 Edition)

(B) Special rule for determining a withdrawing partner's basis in the property.

(v) Effective date.

(4) Determination of a partner's interest in partnership capital or income.

(5) Special rules on allocation of adjusted basis to partners.

(6) Miscellaneous rules.

(7) Examples.

(f) S corporations.

(g) Trusts and estates.

(h) Businesses under common control; members of the same family.

(1) Component members of a controlled group.

(2) Aggregation of business entities under common control.

(3) Allocation among members of the same family.

(4) Special rules.

(5) Examples.

(i) Transfer of oil or gas property.

(1) General rule.

(i) In general.

(ii) Examples.

(2) Transfers after October 11, 1990.

(i) General rule.

(ii) Transfer.

(iii) Transferee.

(iv) Effective date.

(v) Examples.

(j) Percentage depletion with respect to bonuses and advanced royalties.

(1) Amounts received or accrued after August 16, 1986.

(2) Amounts received or accrued before August 17, 1986.

(k) Special rules for fiscal year taxpayers.

(l) Information furnished by partnerships, trusts, estates, and operators.

§ 1.613A-4 Limitations on application of § 1.613A-3 exemption.

(a) Limitation based on taxable income.

(b) Retailers excluded.

(c) Certain refiners excluded.

§ 1.613A-5 Election under section 613A (c) (4).

§ 1.613A-6 Recordkeeping requirements.

(a) Principal value of property demonstrated.

(b) Production from secondary or tertiary processes.

(c) Retention of records.

§ 1.613A-7 Definitions.

(a) Domestic.

(b) Natural gas.

(c) Regulated natural gas.

(d) Natural gas sold under fixed contract.

(e) Qualified natural gas from geopressured brine.

(f) Average daily production.

(g) Crude oil.

(h) Depletable oil quantity.

(i) Depletable natural gas quantity.

(j) Barrel.

(k) Secondary or tertiary production.

(l) Controlled group of corporations.

(m) Related person.

(n) Transfer.

(o) Transferee.

(p) Interest in proven oil or gas property.

(q) Amount disallowed.

(r) Retailer.

(s) Refiner.

[T.D. 8348, 56 FR 21938, May 13, 1991, as amended by T.D. 8437, 57 FR 43899, Sept. 23, 1992]

§ 1.613A-1 Post-1974 limitations on percentage depletion in case of oil and gas wells; general rule.

Except as otherwise provided in section 613A and the regulations thereunder, in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613. In the case of a taxable year beginning before January 1, 1975, and ending after that date, the percentage depletion allowance (but not the cost depletion allowance) with respect to oil and gas wells for such taxable year shall be determined by treating the portion thereof in 1974 as if it were a short taxable year for purposes of section 613 and the portion thereof in 1975 as if it were a short taxable year for purposes of section 613A.

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

§ 1.613A-2 Exemption for certain domestic gas wells.

(a) The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to:

(1) Regulated natural gas (as defined in paragraph (c) of § 1.613A-7),

(2) Natural gas sold under a fixed contract (as defined in paragraph (d) of § 1.613A-7), and

(3) Any geothermal deposit in the United States or in a possession of the United States that is determined to be a gas well within the meaning of former section 613(b)(1)(A) (as in effect before enactment of the Tax Reduction Act of 1975) for taxable years ending