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 interests in the land. All contiguous areas (even though separately described) included in a single conveyance or grant or in separate conveyances or grants at the same time from the same owner constitute a single separate tract or parcel of land. Areas included in separate conveyances or grants (whether or not at the same time) from separate owners are separate tracts or parcels of land even though the areas described may be contiguous. If the taxpayer's rights or interests within the same tract or parcel of land are dissimilar, then each such dissimilar interest constitutes a separate property. If the taxpayer's rights or interests (whether or not dissimilar) within the same tract or parcel of land relate to more than one separate mineral deposit, then his interest with respect to each such separate deposit is a separate property.