

## § 1.613A-5

## 26 CFR Ch. I (4-1-04 Edition)

AA's lifetime which, actuarially determined, represents more than 5 percent of the beneficial interests in the trust. BB's interest in the trust, which entitles BB to 5 percent of the corpus of the trust 5 years after AA's death, represents less than 5 percent of the beneficial interests in the trust prior to AA's death and represents more than 5 percent after AA's death. The trust is a related person of AA but not BB while AA is alive. Accordingly, during AA's lifetime BB is not disqualified from the exemption provided by section 613A(c), but AA is.

*Example 17.* Assume the same facts as in *Example 16*, except that AA's interest in the income of the trust represents 4 percent of the beneficial interests in the trust. AA is disqualified from the exemption provided by section 613A(c) with respect to the income from the trust but not with respect to income from other sources.

(c) *Certain refiners excluded.* (1) Section 613A(c) and § 1.613A-3 shall not apply in the case of any taxpayer who is a refiner as defined in paragraph (s) of § 1.613A-7.

(2) The provisions of this paragraph may be illustrated by the following examples:

*Example 1.* Corporation M owns a refinery which has refinery runs in excess of 50,000 barrels on at least one day during the taxable year. Corporation M also owns a 5 percent interest in Corporation N, owner of producing oil and gas properties. None of Corporation N's production is sold to Corporation M. The exemption under section 613A(c) does not apply to Corporation N because Corporation M, a related person of Corporation N, engages in the refining of crude oil.

*Example 2.* A and B are equal partners in Partnership AB, which owns oil and gas producing properties. A owns a refinery which has refinery runs in excess of 50,000 barrels on at least one day during the taxable year and which buys all of Partnership AB's production. B has no ownership interest in any refinery. B is not a refiner.

[T.D. 8348, 56 FR 21946, May 13, 1991; 57 FR 4913, Feb. 10, 1992]

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

The election under section 613A(c)(4) is an annual election which the taxpayer may make by claiming percentage depletion deductions for the taxable year based upon such election. The election may be made, on an original or amended tax return or a claim for credit or refund, at any time prior to the expiration of the statutory period

(including any extensions thereof) for the filing of a claim for credit or refund by the taxpayer. The election may be changed by the taxpayer by filing an amended return or a claim for credit or refund. The election allows the taxpayer to treat as his depletable natural gas quantity an amount equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the election applies. The election applies to secondary or tertiary production, as well as primary production, but in determining the taxpayer's depletable natural gas quantity with respect to secondary or tertiary production the taxpayer's depletable oil quantity shall be determined without regard to section 613A(c)(3)(A)(ii) with respect to production from secondary or tertiary processes.

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

### § 1.613A-6 Recordkeeping requirements.

(a) *Principal value of property demonstrated.* In the case of a transfer (as defined in § 1.613A-7(n)) after December 31, 1974, of an interest in an oil or gas property (as defined in § 1.613A-7(p)), 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