

facts upon which the taxpayer relies to show that avoidance of tax is not a principal purpose of forming the aggregation. Such application shall also include a description of the nonoperating mineral interests within the tract or tracts of land involved. A general description, accompanied by maps appropriately marked, which accurately circumscribes the scope of the aggregation and shows that the taxpayer is aggregating all the nonoperating mineral interests in a particular kind of mineral deposit within the tract or tracts of land involved will be sufficient. If the Commissioner grants permission, a copy of the letter granting such permission shall be attached to the taxpayer's income tax return for the first taxable year for which such permission applies. If the taxpayer has already filed such return, a copy of the letter of permission shall be filed with the district director for the district in which such return was filed and shall be accompanied by an amended return or returns if necessary or, if appropriate, a claim for credit or refund.

(5) *Election; binding effect.* The election to aggregate separate nonoperating mineral interests under section 614 (e) and paragraph (d) of this section shall be binding upon the taxpayer for the first taxable year for which made and for all subsequent taxable years unless consent to make a change is obtained from the Commissioner. The application for consent to make a change must set forth in detail the reason or reasons for such change. Consent to a different treatment shall not be granted where the principal purpose for such change is due to tax consequences. For rules relating to the binding effect of an election where the basis of an aggregated property in the hands of the transferee is determined by reference to the basis in the hands of the transferor, see paragraph (c) of § 1.614-6.

(6) *Aggregations under the Internal Revenue Code of 1939.* An application for permission to aggregate nonoperating mineral interests under section 614 (e) and paragraph (d) of this section shall be submitted in accordance with the requirements of this paragraph notwithstanding the fact that the taxpayer may have aggregated such interests for taxable years to which the In-

ternal Revenue Code of 1939 is applicable. If such interests were aggregated for taxable years to which the Internal Revenue Code of 1939 applies and the aggregation was approved by the Internal Revenue Service for such years after full consideration thereof on its merits, such approval will generally be accepted as evidence that avoidance of tax is not a principal purpose of forming the aggregation.

(f) *Elections; when effective.* If the taxpayer has elected to form an aggregation under either paragraph (a) or paragraph (d) of this section, the date on which the aggregation becomes effective is the first day of the first taxable year for which the election is made; except that if any separate nonoperating mineral interest included in such aggregation was acquired after such first day, the date on which the inclusion of such interest in such aggregation becomes effective is the date of its acquisition.

(g) *Definition of nonoperating mineral interests.* For purposes of this section, *nonoperating mineral interests* includes only those interests described in section 614(a) which are not operating mineral interests within the meaning of paragraph (b) of § 1.614-2. The taxpayer who holds the operating or working rights in a mineral deposit, but is not actually conducting operations with respect to such deposit, does not have a nonoperating mineral interest in such deposit notwithstanding the fact that he intends to transfer such operating rights at a later time.

[T.D. 6524, 26 FR 158, Jan. 10, 1961]

§ 1.614-6 Rules applicable to basis, holding period, and abandonment losses where mineral interests have been aggregated or combined.

(a) *Basis of property resulting from aggregation or combination—(1) General rule.* (i) When a taxpayer has aggregated as one property two or more interests under section 614(b) (prior to its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e), the unadjusted basis of such aggregated property shall be the sum of the unadjusted bases of the various mineral interests aggregated. The adjusted basis of the aggregated property on the effective date of the aggregation shall

be the unadjusted basis of the aggregated property, adjusted by the total of all adjustments to the bases of the several mineral interests aggregated as required by section 1016 to the effective date of aggregation. Thereafter, the adjustments to basis required by section 1016 shall apply to the total adjusted basis of the aggregated property for all purposes of subtitle A of the Code.

(ii) When a taxpayer has combined as one property two or more interests under section 614(b) (as amended by section 226(a) of the Revenue Act of 1964), the adjusted basis of such combined property shall be the sum of:

(a) The unadjusted bases of all such interests which have never been included in an aggregation; and

(b) The adjusted bases of all such interests which at some time have been included in an aggregation, as of the date on which they ceased to participate in an aggregation;

adjusted by the total of all adjustments to the bases of the several mineral interests combined, as required by section 1016,

(c) In the case of interests described in (a), for the entire period of the taxpayer's ownership of such interest; and

(d) In the case of interests described in (b), for the period, if any, between the time of deaggregation and the time of combination.

Thereafter, the adjustments to basis required by section 1016 shall apply to the total adjusted basis of the combined property for all purposes of subtitle A of the Code.

(2) *Bases upon disposition of part of, or termination of, or change in, an aggregated or combined property*—(i) *In general.* (a) When a taxpayer has aggregated or combined two or more separate mineral interests as one property under section 614(b) (either before or after its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e) and thereafter sells, exchanges, or otherwise disposes of part of such property, the total adjusted basis of the property as of the date of sale, exchange, or other disposition shall be apportioned to determine the adjusted basis of the part disposed of and the part retained for purposes of computing gain or loss, depletion and for all other purposes of subtitle A of the

Code. Such adjusted basis shall be determined by apportioning the total adjusted basis of the property between the part of the property disposed of and the part retained in the same proportion as the fair market value of each part (as of the date of sale, exchange, or other disposition) bears to the total fair market value of the property as of such date. For determining gain or loss on the sale or exchange of any part of the aggregated or combined property, the adjusted basis of the aggregated or combined property (from which the adjusted basis of the part is determined) shall not be reduced below zero.

(b) If, for any taxable year after the first taxable year for which an aggregation under section 614(b) (prior to its amendment by section 226(a) of the Revenue Act of 1964), (c), or (e) is effective:

(1) Any such aggregation is terminated for any reason other than the expiration of an aggregation by reason of section 614(b) as amended by section 226(a) of the Revenue Act of 1964 (see subdivision (ii) of this subparagraph), or

(2) The treatment of any mineral interests in any such aggregation is changed after obtaining the consent of the Commissioner,

then the adjusted basis of the aggregated property as of the first day of the first taxable year for which such termination or change is effective shall be apportioned to determine the adjusted bases of the resultant separate mineral interests, as of such first day, for purposes of computing gain or loss, depletion, and for all other purposes of subtitle A of the Code. The adjusted bases of such separate mineral interests shall be determined by apportioning the adjusted basis of the aggregated property (as of the first day of the first taxable year for which such termination or change is effective) between or among such interests in the same proportion as the fair market value of each such interest (as of such first day) bears to the total fair market value of the aggregated property as of such first day. For the purpose of determining the adjusted bases of the separate mineral interests, the adjusted basis of the aggregated property (from which the adjusted basis of each separate mineral

interest is determined) shall not be reduced below zero.

(ii) *Allocation of basis of aggregation of operating mineral interests in oil and gas wells as of the first day of the first taxable year beginning after December 31, 1963—*

(a) *Fair market value method.* Unless the taxpayer elects to use the allocation of adjustments method of determining basis provided in (b) of this subdivision (ii), the adjusted basis as of the first day of the first taxable year beginning after December 31, 1963, of each interest which was participating in an aggregation of operating mineral interests on the day preceding such first day shall be determined by multiplying the adjusted basis of the aggregation by a fraction the numerator of which is the fair market value of such interest and the denominator of which is the fair market value of such aggregation. For purposes of this subdivision (a), the adjusted basis and the fair market value of the aggregation, and the fair market value of such interest, shall be determined as of the day preceding the first day of the first taxable year which begins after December 31, 1963. Unless the taxpayer elects to use the allocation of adjustments method, he shall obtain accurate and reliable information, and keep records with respect thereto, establishing all facts necessary for making the computation prescribed in this subdivision (a). See example 5 of subparagraph (3) of this paragraph.

(b) *Allocation of adjustments method.* (i) The taxpayer may elect to determine basis by an allocation of adjustments in lieu of the fair market value method prescribed in (a) of this subdivision (ii). In such a case, the adjusted basis (as of the first day of the first taxable year beginning after December 31, 1963) of each interest which was participating in an aggregation of operating mineral interests on the day preceding such first day is the unadjusted basis of such interest immediately after its acquisition by the taxpayer, adjusted by the total of all adjustments to its basis as required by section 1016 to the effective date of aggregation, and by that portion of those section 1016 adjustments to the basis of the aggregation which is reasonably attributable to such interest. For this purpose, two or more interests which are being combined upon

deaggregation shall be treated as one interest. An adjustment to the basis of the aggregation is reasonably attributable to such interest to the extent that the adjustment thereto resulted from inclusion of the interest in the aggregation, even though such interest would not have been entitled to the adjustment to the same extent if such interest had been treated separately because of the 50 percent of taxable income limitation or for any other reason. In a case in which the amount of a percentage depletion deduction which was allowed with respect to an aggregation was limited by the 50 percent of taxable income limitation of section 613(a), the portion of such amount which is attributable to each of the interests in the aggregation shall be determined by multiplying such amount by a fraction, the numerator of which is the gross income from such interest and the denominator of which is the gross income from the aggregation. The determination as to which property a particular adjustment is attributable may be based upon records of production or any other facts which establish the reasonableness of the determination. See example 6 of subparagraph (3) of this paragraph.

(ii) If, under the adjustment described in (i) of this subdivision (b), the total of the adjusted bases of the interests which were included in the aggregation exceeds the adjusted basis of the aggregation, the adjusted bases of the interests shall be further adjusted so that the total of the adjusted bases of the interests equals the adjusted basis of the aggregation. This further adjustment shall be made by reducing the basis of each interest (other than an interest having a basis of zero) by an amount which is determined by multiplying such excess by a fraction, the numerator of which is the adjusted basis of such interest after making the adjustment described in (i) of this subdivision (b) and the denominator of which is the total of the adjusted bases of all such interests after making the adjustment described in (i) of this subdivision (b). See example 6 of subparagraph (3) of this paragraph.

(iii) The election provided for in this subdivision (b) shall be made not later

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than the time prescribed by law for filing the taxpayer's income tax return (including extensions thereof) for the first taxable year beginning after December 31, 1963, and shall be made in a statement attached to such return.

(3) The application of subparagraphs (1) and (2) of this paragraph may be illustrated by the following examples:

Example 1. A taxpayer owning three operating mineral interests, designated Nos. 1, 2, and 3, within a single operating unit, properly elects to aggregate such properties under section 614(b) for the calendar year 1954 in his income tax return filed on April 15, 1955. The unadjusted bases and adjustments under section 1016 for depletion through December 31, 1953, in respect of such properties are as follows:

	Unadjusted basis	Adjustments under Section 1016
No. 1	\$25,000	\$27,000

	Unadjusted basis	Adjustments under Section 1016
No. 2	18,000	10,000
No. 3	15,000	4,000
Total	58,000	41,000

The adjusted basis of the aggregated property as of January 1, 1954, is \$17,000 (\$58,000-\$41,000).

Example 2. Assume the same facts as in example 1, except that a portion of the aggregated property is sold on June 1, 1956, for \$15,000 which is also the fair market value of such portion on the date of sale. In order to determine the gain or loss from this sale as well as the adjusted basis of the retained property, an apportionment must be made. The aggregated property had a fair market value of \$25,000 on the date of sale. From January 1, 1954, through May 31, 1956, \$10,000 of depletion has been allowed with respect to the aggregated property. The adjusted basis of the portion sold is determined as follows:

$$\$7,000 \text{ (adjusted basis of aggregated property)} \times \frac{\$15,000}{\$25,000} = \$4,200 \text{ (adjusted basis of portion sold)}$$

Therefore, the gain on this sale of the portion sold is \$10,800 (\$15,000-\$4,200). The adjusted basis of the property retained is \$2,800 (\$7,000-\$4,200).

Example 3. Assume the same facts as in example 2, except that instead of selling, the taxpayer subleases one of the leases making

up the aggregated property, retaining a one-eighth royalty interest therein. The fair market value of such lease is \$15,000 on the date of the sublease. The adjusted basis of such royalty interest is \$4,200 which is computed as follows:

$$\$7,000 \text{ (adjusted basis of aggregated property)} \times \frac{\$15,000}{\$25,000} \text{ (FMV of portion transferred)} = \$4,200 \text{ (FMV of aggregated property)}$$

Example 4. In 1953, a taxpayer owned mineral interests Nos. 1, 2, and 3 which he operated as a unit. He owned no other operating interests during that year. The unadjusted bases of these properties were \$10,000, \$15,000, and \$20,000, respectively, and depletion allowed through December 31, 1953, was \$5,000 with respect to each property. The taxpayer operated these properties during the year 1954 and, in addition, operated as part of the unit mineral interest No. 4 which he acquired on July 1, 1954, on which date he made the first exploration expenditure with respect thereto. He paid \$20,000 for No. 4. In his return for the calendar year 1954, the tax-

payer elected under section 614(b) to aggregate all of these mineral interests. The taxpayer must compute cost depletion for the calendar year 1954 on the basis of an aggregated property with an adjusted basis of \$30,000 (\$45,000-\$15,000) for the period from January 1 to June 30, and with an adjusted basis of \$50,000 (less depletion for the first six months) for the period from July 1 to December 31. If applicable, the taxpayer must compute percentage depletion on the basis of gross income and taxable income from the aggregated property for the entire year, including the gross income and deductions with respect to operating mineral interest

No. 4 for the period from July 1 to December 31. If a portion of the aggregated property is sold during the first six months, its adjusted basis must be determined at the time of sale with an adjustment for depletion to the date of sale. If percentage depletion is applicable, it must be allocated on an equitable basis to the periods prior and subsequent to the date of sale in order to determine the adjustment for depletion to the date of sale.

Example 5. A taxpayer owns two operating mineral interests in oil wells, designated Nos. 1 and 2, in tract A, and another such interest, designated No. 3, in tract B. All three interests are in the same operating unit (as defined in paragraph (c) of § 1.614-2). The taxpayer, who is on a calendar year basis, has properly elected under § 1.614-2 to aggregate such interests for the calendar years 1954 through 1963. The unadjusted bases and adjustments under section 1016 for depletion through December 31, 1953, in respect of such interests are as follows:

	Unadjusted basis	Adjustments under section 1016
No. 1	\$42,000	\$11,000
No. 2	37,000	4,000
No. 3	19,000	23,000
Total	98,000	38,000

The adjusted basis of the aggregated property as of January 1, 1954, is therefore \$60,000 (\$98,000 minus \$38,000). The taxpayer properly elects under section 614(b) and § 1.614-8 to treat Nos. 1 and 2 as separate properties for the calendar year 1964 and thereafter and does not elect to use the allocation of adjustments method of determining basis provided in subparagraph (2) (ii) (b) of this paragraph. No. 3 will be treated as a separate property, also, because it is in a different tract than the taxpayer's other interests. From January 1, 1954, through December 31, 1963, \$50,000 of depletion has been allowed with respect to the aggregated property, leaving an adjusted basis of \$10,000 (\$60,000 minus \$50,000) on January 1, 1964. On December 31, 1963, the aggregated property has a fair market value of \$40,000. Nos. 1, 2, and 3 have fair market values of \$16,000, \$22,000, and \$2,000, respectively. Accordingly, the adjusted bases of Nos. 1, 2, and 3 on January 1, 1964, are \$4,000,

$$\left(\$10,000 \text{ (adjusted basis of aggregated property)} \times \frac{16,000}{40,000} \right),$$

\$5,500 [$\$10,000 \times (22,000/40,000)$], and \$500 [$\$10,000 \times (2,000/40,000)$] respectively.

Example 6. A taxpayer owns four operating mineral interests in oil wells, designated Nos. 1, 2, 3, and 4. All four interests are in

the same operating unit and the same tract or parcel of land. The taxpayer, who is on a calendar year basis, has properly elected under § 1.614-2 to aggregate such interests for the calendar years 1954 through 1963. The taxpayer properly elects under section 614(b) and paragraph (a) of § 1.614-8 to treat Nos. 1 and 2 as separate properties for the calendar year 1964 and thereafter. The taxpayer also properly elects to use the allocation of adjustments method of determining basis as provided in subparagraph (2) (ii) (b) of this paragraph. The unadjusted bases of Nos. 1, 2, and combined 3 and 4, the adjustments attributable to each, and the deaggregated basis of each (prior to further adjustment as provided in subparagraph (2) (ii) (b)(iii) of this paragraph) are as follows:

	Basis upon acquisition	Adjustments to time of aggregation	Attributable adjustments during aggregation	Basis upon deaggregation after first adjustment
No. 1	\$35,000	\$1,000	\$16,000	\$18,000
No. 2	30,000	11,000	23,000	0
No. 3	25,000	3,000	5,000
No. 4	10,000	12,000	9,000	6,000
Total	100,000	27,000	53,000	24,000

The total of the adjusted bases (prior to further adjustment) of the interests which were included in the aggregation is \$24,000 while the adjusted basis of the aggregation is \$20,000 (\$100,000 minus the sum of \$27,000 and \$53,000). Therefore, the adjusted bases of the interests are further reduced by \$4,000 (\$24,000 minus \$20,000). The adjusted basis of No. 1 of \$18,000 is further reduced by \$3,000 [$\$4,000 \times (18,000 \div 24,000)$] to \$15,000. Similarly, the adjusted basis of combined Nos. 3 and 4 of \$6,000 is further reduced by \$1,000 [$\$4,000 \times (6,000 \div 24,000)$] to \$5,000. Assume further that the taxpayer also owns interest No. 5 in the same tract or parcel of land, that such interest was not a part of any aggregation, that such interest had a basis of \$15,000 upon acquisition and had subsequent adjustments in reduction of basis totalling \$17,000, and that the taxpayer does not elect to treat such interest as a separate property. In such case, Nos. 3, 4, and 5 will be combined. The combination will have an adjusted basis of \$3,000, determined by adding the unadjusted basis of No. 5 (\$15,000) and the adjusted bases of combined Nos. 3 and 4 upon deaggregation (\$5,000), and subtracting from the total thereof (\$20,000) the adjustments to No. 5 (\$17,000).

(4) *Basis for gain and loss where mineral interests acquired before March 1, 1913, are included in an aggregation.* Where mineral interests acquired before March 1, 1913, are included in an aggregation under section 614 (b), (c),

or (e), the aggregated property has two bases, one for the determination of gain and another for the determination of loss upon the disposition of the whole or a part of the aggregated property. For the purpose of determining gain, the adjusted basis of the aggregated property on the effective date of aggregation shall be the sum of:

(i) The unadjusted bases of those mineral interests acquired on or after March 1, 1913, plus

(ii) The cost of any interest acquired before March 1, 1913 (adjusted for the period before March 1, 1913), or the fair market value of such interest as of March 1, 1913, whichever is greater,

and such sum shall be adjusted by the total of all adjustments to the bases of the several mineral interests aggregated as required by section 1016 to the effective date of aggregation. For the purpose of determining loss, the adjusted basis of the aggregated property on the effective date of aggregation shall be the sum of:

(iii) The unadjusted bases of those mineral interests acquired on or after March 1, 1913, plus

(iv) The cost of those interests acquired before March 1, 1913, adjusted for the period before March 1, 1913,

and such sum shall be adjusted by the total of all adjustments to the bases of the several mineral interests aggregated as required by section 1016 to the effective date of aggregation. Thereafter, the adjustments to basis required by section 1016 shall apply to the total adjusted basis of the aggregated property for all purposes of the Code. Upon disposition of a part of the aggregated property, or upon termination of the aggregation for any reason, or upon change in the treatment of any mineral interests in the aggregation with con-

sent of the Commissioner, the adjusted basis for determining gain and the adjusted basis for determining loss with respect to each resultant part of the aggregated property shall be determined in accordance with subparagraph (2) of this paragraph. The provisions of this subparagraph may be illustrated by the following examples:

Example 1. At the close of 1953 a taxpayer owned two operating mineral interests designated as Nos. 1 and 2 in the same operating unit. Operating mineral interest No. 1 was acquired by the taxpayer before March 1, 1913, and on such date its basis with reference to its fair market value was \$50,000 and its adjusted basis with reference to its cost was \$44,000. The unadjusted basis of operating mineral interest No. 2, acquired after March 1, 1913, was \$30,000. Adjustments under section 1016 for depletion from March 1, 1913, through December 31, 1953, were \$37,000 for operating mineral interest No. 1 and \$20,000 for operating mineral interest No. 2. Assume that the taxpayer elected for the taxable year 1954 to aggregate operating mineral interests Nos. 1 and 2. The adjusted basis of the aggregated property as of January 1, 1954, for the purpose of determining gain would be \$23,000 (\$50,000 plus \$30,000) minus (\$37,000 plus \$20,000). For the purpose of determining loss, the adjusted basis would be \$17,000 (\$44,000 plus \$30,000) minus (\$37,000 plus \$20,000).

Example 2. Assume the same facts as in example 1 and further assume that for the taxable years 1954 and 1955, the taxpayer was allowed \$5,000 of depletion on the aggregated property, that on January 1, 1956, he sold a portion of the aggregated property for \$20,000, and that, as of January 1, 1956, the aggregated property had a fair market value of \$24,000. At the time of sale, the adjusted basis of the aggregated property for the purpose of determining gain was \$18,000 (\$23,000-\$5,000); and the adjusted basis for the purpose of determining loss was \$12,000 (\$17,000-\$5,000). The adjusted basis of the portion sold would be computed as follows:

$$\frac{\$20,000 \text{ (FMV of portion sold)}}{\$24,000 \text{ (FMV of aggregated property)}} \times \$18,000 \text{ (adjusted basis for gain)} = \$15,000 \text{ (adjusted basis of portion sold)}$$

Taxpayer's gain would then be computed as follows:

	\$20,000	(amount received for portion sold)
Less:	<u>\$15,000</u>	(adjusted basis of portion sold)
	\$5,000	(gain on portion sold)

The adjusted basis of the portion retained as of January 1, 1956, for the purpose of determining gain is \$3,000 (\$18,000-\$15,000). For the purpose of determining loss, the adjusted basis is \$2,000 (\$12,000-\$10,000).

Example 3. Assume the same facts as in example 2, except that a portion of the aggre-

gated property was sold for \$5,000 and that the fair market value of the aggregated property at the time of sale was \$10,000. The adjusted basis of the portion sold would be computed as follows:

$$\frac{\$5,000 \text{ (FMV of portion sold)}}{\$10,000 \text{ (FMV of aggregated property)}} \times \$12,000 \text{ (adjusted basis for loss)} = \$6,000 \text{ (adjusted basis of portion sold)}$$

Taxpayers loss would then be computed as follows:

	\$5,000	(amount received for portion sold)
Less:	<u>\$6,000</u>	(adjusted basis of portion sold)
	(\$1,000)	(loss on portion sold)

(5) *Basis for gain and loss where mineral interests acquired before March 1, 1913, are included in a combination and one or more of such interests have not previously been included in an aggregation.* Where mineral interests acquired before March 1, 1913, are included in a combination under section 614(b) and § 1.614-8 and one or more of such interests have not previously been included in an aggregation, the combined property has two bases, one for the determination of gain and another for the determination of loss upon the disposition of the whole or a part of the combined property. For the purpose of determining gain, the adjusted basis of the combined property on the effective date of combination shall be the sum of:

(i) The adjusted bases at the time of deaggregation, as determined under subparagraph (2) of this paragraph, of all interests which have previously been included in an aggregation,

(ii) The unadjusted bases of other mineral interests acquired on or after March 1, 1913, and

(iii) The cost of each other interest acquired before March 1, 1913 (adjusted for the period before March 1, 1913), or the fair market value of such interest as of March 1, 1913, whichever is greater,

and such sum shall be adjusted by the total of all adjustments to the bases of the mineral interests as required by section 1016 to the effective date of combination. For the purpose of determining loss, the adjusted basis of the combined property on the effective date of combination shall be the sum of:

(iv) The adjusted bases at the time of deaggregation, as determined under subparagraph (2) of this paragraph, of all interests which have previously been included in an aggregation.

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(v) The unadjusted bases of other mineral interests acquired on or after March 1, 1913, and

(vi) The cost of other mineral interests acquired before March 1, 1913, adjusted for the period before March 1, 1913,

and such sum shall be adjusted by the total of all adjustments to the bases of the mineral interests as required by section 1016 to the effective date of combination. Thereafter, the adjustments to basis required by section 1016 shall apply to the total adjusted basis of the combined property for all purposes of the Code. Upon disposition of a part of the combined property, the adjusted basis for determining gain and the adjusted basis for determining loss with respect to each resultant part of the combined property shall be determined in accordance with subparagraph (2) of this paragraph.

(b) *Holding period of aggregated or combined properties.* Where a taxpayer sells or exchanges either a part or all of an aggregated or combined property which includes part or all of a mineral interest which the taxpayer has held for (1 year 6 months for taxable years begin-

ning before 1977; 9 months for taxable years beginning in 1977) or less, the sales price and adjusted basis attributable to the interest sold must be apportioned in proportion to the relative fair market values as of the date of sale to determine the amount of income represented by the sale of property held for (1 year 6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977) or less. The application of this rule may be illustrated by the following example:

Example. Taxpayer A owns operating mineral interests Nos. 1, 2, and 3. He acquired interests Nos. 1 and 2 in 1953 but purchased and made development expenditures on interest No. 3 on December 1, 1954. In his return for the taxable year 1954, taxpayer A elects to aggregate interests Nos. 1, 2, and 3 which are operated as a unit. On May 1, 1955, taxpayer A sells the north half of the aggregated property which includes portions of interests Nos. 1, 2, and 3. The sales price of the north half was \$80,000; the adjusted basis of the aggregated property as of the date of sale was \$20,000; and the fair market value of the aggregated property as of the date of sale was \$100,000. The adjusted basis applicable to the north half is computed as follows:

$$\frac{\$80,000 \text{ (FMV of portion sold)}}{\$100,000 \text{ (FMV of aggregated property)}} \times \$20,000 \text{ (adjusted basis of aggregated property)} = \$16,000 \text{ (adjusted basis of portion sold)}$$

The total gain on the sale is \$64,000 (\$80,000 - \$16,000).

The gain attributable to the sale of the portion held for six months or less is com-

puted as follows (assuming that the fair market value of the portion of No. 3 included in the sale as of the date of sale was \$30,000):

$$\frac{\$30,000 \text{ (FMV of portion of No. 3 sold)}}{\$80,000 \text{ (FMV of north half)}} \times \$16,000 \text{ (adjusted basis of north half)} = \$6,000 \text{ (adjusted basis of portion of No. 3 sold)}$$

The gain on the portion of No. 3 sold is \$24,000 (\$30,000 - \$6,000).

(c) *Acquisition of property with transferor's basis.* If a separate property or an aggregated or combined property is

acquired in a transaction in which the basis of such property in the hands of the taxpayer is determined by reference to the basis of such property in the hands of a transferor, then the election of such transferor as to the

treatment of such separate, aggregated, or combined property shall be binding upon the taxpayer for all taxable years ending after the transfer unless, in the case of an aggregation, the aggregation terminates or consent to make a change is obtained under paragraph (d) (4) of § 1.614-2, paragraph (f) (7) of § 1.614-3, or paragraph (b) (3) or (e) (5) of § 1.614-5, whichever is applicable.

(d) *Abandonment and casualty losses.* In the case of mineral interests which are aggregated or combined as one property, no losses resulting from worthlessness or abandonment are allowable until all the mineral rights in the entire aggregated or combined property are proven to be worthless or until the entire aggregated or combined property is disposed of or abandoned. Casualty losses are allowable in accordance with the rules applicable to casualty losses in general. For rules applicable to losses in general, see section 165 and the regulations thereunder.

[T.D. 6524, 26 FR 159, Jan. 10, 1961, as amended by T.D. 6859, 30 FR 13701, Oct. 28, 1965; T.D. 7728, 45 FR 72650, Nov. 3, 1980]

§ 1.614-7 Extension of time for performing certain acts.

Sections 1.614-2 to 1.614-5, inclusive, require certain acts to be performed on or before May 1, 1961 (the first day of the first month which begins more than 90 days after the regulations under section 614 were published in the FEDERAL REGISTER as a Treasury decision). The district director may, upon good cause shown, extend for a period not exceeding 6 months the period within which such acts are to be performed, and shall, if the interests of the Government would otherwise be jeopardized thereby, grant such an extension only if the taxpayer and the district director agree in writing to a corresponding or greater extension of the period prescribed for the assessment of the tax, or in the case of taxable years described in section 614(c)(3)(E), the assessment of the tax resulting from the exercise or change in an election.

[T.D. 6561, 26 FR 3523, Apr. 25, 1961]

§ 1.614-8 Elections with respect to separate operating mineral interests for taxable years beginning after December 31, 1963, in the case of oil and gas wells.

(a) *Election to treat separate operating mineral interests as separate properties—*

(1) *General rule.* If a taxpayer has more than one operating mineral interest in oil and gas wells in one tract or parcel of land, he may elect to treat one or more of such interests as separate properties for taxable years beginning after December 31, 1963. Any such interests with respect to which the taxpayer does not so elect shall be combined and treated as one property. Non-operating mineral interests may not be included in such combination. There may be only one such combination in one tract or parcel. Any such combination of interests shall be considered as one property for all purposes of subtitle A of the Code for the period to which the election applies. The preceding sentence does not preclude the use of more than one account under a single method of computing depreciation or the use of more than one method of computing depreciation under section 167, if otherwise proper. Any reasonable and consistently applied method or methods of computing depreciation of the improvements made with respect to the separate interests which are combined may be continued in accordance with section 167 and the regulations thereunder. Except as provided in paragraph (b) of this section, such an interest in one tract or parcel may not be combined with such an interest in another tract or parcel. For rules with respect to the allocation of the basis of an aggregation of separate operating mineral interests under this section among such interests as of the first day of the first taxable year beginning after December 31, 1963, see paragraph (a) (2) (ii) of § 1.614-6. For the definition of *operating mineral interest* see paragraph (b) of § 1.614-2.

(2) *Election in respect of newly discovered or acquired interest or interest ceasing to participate in cooperative or unit plan of operation.* (i) If the taxpayer makes an election under this paragraph in respect of an operating mineral interest in a tract or parcel of land and, after the taxable year for which