Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
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Telephone Number:

Refer Reply To:
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PLR-103872-25

Date: April 25, 2025

In Re:

Legend

Taxpayer =
Partnership =
Date 1 =
Date 2 =
Date 3 =
State =
Location =
A =
B =
Lease 1 =
Lease 2 =
Year 1 =
Year 2 =
a =
b =
c =
d =
e =
f =

Dear :

This letter replies to a letter, dated Date 1, in which Taxpayer requests permission to aggregate separate nonoperating mineral interests under § 614(e) of the Internal Revenue Code (Code) and § 1.614-5(d) of the Income Tax Regulations (Regulations). The request is submitted in respect of nonoperating mineral interests held in Location.

FACTUAL BACKGROUND

Taxpayer represents the following facts:

Taxpayer is organized as a limited liability company, treated as a partnership for U.S. federal income tax purposes, and incorporated pursuant to the laws of State.

Taxpayer is an investment company organized primarily for the object and purpose of making investments in assets of all types. Taxpayer is a calendar year taxpayer and utilizes the accrual method of accounting and prepares its financial statements using the U.S. Generally Accepted Accounting Principles.

The mineral interests that are the subject of the request consist of the following leases:

1. Lease 1
2. Lease 2

For U.S. federal income tax purposes, the properties listed in this letter consist of mineral royalty interests, Taxpayer acquired the mineral royalty interests in respect of each of these properties via a lease with Partnership originally entered on Date 2 (Royalty Agreement). The Royalty Agreement was subsequently amended, most recently on Date 3.

Taxpayer paid a in consideration in exchange for Partnership granting Taxpayer an irrevocable royalty on certain lands based on the sale of A that has been derived from the B extracted from the leased lands covered by the Royalty Agreement. Partnership acts as the developer, producer, and marketer of B. For U.S. federal income tax purposes, crude B is a form of crude oil. It is refined into A, which is B diluted into A, which can then be transported to refineries and further refined into heavy crude oil. For U.S. federal income tax purposes, A is a form of crude oil. Partnership provided that b of the Royalty Agreement cost should be allocated to Lease 1. Taxpayer received royalty income from the Royalty Agreement for each of the Year 1 through Year 2 tax years, and as such, Taxpayer was entitled to claim depletion deductions for each of these respective tax years. Taxpayer claimed c of cost depletion for Year 1 through Year 2 tax years, giving an adjusted basis in Lease 1 of d. Partnership further provided that e of the Royalty Agreement cost should be allocated to

Lease 2. The adjusted basis for the leases for which Taxpayer is submitting this aggregation request is f.

Each mineral royalty interest held by Taxpayer will be referred to hereinafter as a "royalty interest." These royalty interests afford Taxpayer the right to mineral royalties. Taxpayer does not bear the costs of exploration, development, or production on the properties. Per the Royalty Agreement, the royalties Partnership agreed to pay to Taxpayer are unrelated to and unaffected by the costs of production. Each of the properties at which the royalty interests are located is operated by companies unrelated to Taxpayer. Furthermore, the interests are located in tracts of land that are contiguous. Taxpayer submitted tract descriptions and a map or maps for each property that shows the total area circumscribed by each aggregation of nonoperating interests requested by Taxpayer. Taxpayer considers these interests to be nonoperating mineral interests and has represented that these interests are nonoperating mineral interests.

Taxpayer notes that Lease 1 has producing portions and Lease 2 is planned for future production. Taxpayer has claimed cost depletion in respect of the royalty payments received from the Partnership on Lease 1 and has not claimed percentage depletion deductions in respect of any properties.

The request seeks the aggregation of the nonoperating mineral interests held at each of the properties, each treated as one property for U.S. federal income tax purposes, to enable Taxpayer to compute its cost depletion deduction in accordance with §§ 611 and 612 of the Code and § 1.611-2 of the Regulations. Taxpayer represents that it will use the cost method for depletion. Taxpayer's adjusted basis in the leases Lease 1 and Lease 2 is equal to the allocated portion of consideration paid to Partnership minus the depletion deductions already taken, which equates to f. Granting permission to aggregate nonoperating mineral interests at each of the properties will reduce administrative burden in calculating depletion and allows Taxpayer to implement consistent treatment for financial accounting and U.S. federal income tax purposes.

Taxpayer represents that a principal purpose of submitting the request for the aggregation of royalty interests held at each property is not the avoidance of tax. Taxpayer makes this representation for two reasons. First, the interests subject to this ruling cost of exploration, development, or production at the properties are not born by Taxpayer. Second, aggregating the interests at each property will not alter the total amount of cost depletion deductions allowed at each property over its life, as the total cost depletion deductions allowed for a property cannot exceed the depletable tax basis allocated to the interest at that property. Accordingly, no cost depletion deductions in excess of those to which Taxpayer is entitled are expected at each property.

RULINGS REQUESTED

1. Pursuant to § 614(e) of the Code and § 1.614-5(d) of the Regulations, Taxpayer requests an election to aggregate the nonoperating mineral interests of leases Lease 1 and Lease 2 into a single property for the purposes of computing depletion under § 611.

LAW AND ANALYSIS

In the case of mines, wells, and other natural deposits, § 614(a) of the Code and § 1.614-1(a)(1) of the Regulations define the term “property” to mean each separate interest owned by the taxpayer in each mineral deposit in each separate tract of parcel of land.

Section 1.614-1(a)(2) of the Regulations defines the term “interest” as an economic interest in a mineral deposit. It includes working interests or operating interests, royalties, overriding royalties, net profits interests, and, to the extent not treated as loans under § 636 of the Code, production payments.

Section 614(e)(1) of the Code provides that if a taxpayer owns two or more separate nonoperating mineral interests in a single tract or parcel of land or in two or more adjacent tracts or parcels of land, the Secretary shall, on a showing by the taxpayer that a principal purpose of forming the aggregation is not the avoidance of tax, permit the taxpayer to treat all such interests as one property for all subsequent taxable years unless the Secretary consents to a different treatment.

Section 614(e)(2) of the Code and § 1.614-5(g) of the Regulations define the term “nonoperating mineral interests” to include only interests described in § 614(a) of the Code that are not operating mineral interests within the meaning of § 1.614-2 of the Regulations.

Section 1.614-2(b) of the Regulations defines the term “operating mineral interest” to mean a separate mineral interest as described in § 614 of the Code, in respect of with the costs of production are required to be taken into account by the taxpayer for purposes of computing the limitation of 50 percent of taxable income from the property in determining the deduction for percentage depletion under § 613 of the Code, or such costs would be so required to be taken into account if the mine, well, or other natural deposit were in the production stage. The term does not include royalty interests or similar interests, such as production payments or net profits interests.

Section 1.614-5(d) of the Regulations provides that upon proper showing to the Commissioner, a taxpayer who owns two or more separate nonoperating mineral interests in a single tract or parcel of land, or in two or more adjacent tracts or parcels of land, shall be permitted, under § 614(e) of the Code, to form an aggregation of all such interests in each separate kind of mineral deposit and treat such aggregation as one property. Permission shall be granted by the Commissioner only if the taxpayer

establishes that a principal purpose in forming the aggregation is not the avoidance of tax. The fact that the aggregation of nonoperating mineral interests will result in a substantial reduction in tax is evidence that the avoidance of tax is a principal purpose of the taxpayer. An aggregation formed under § 1.614-5(d) of the Regulations shall be considered as one property for all purposes of the Internal Revenue Code. In no event may nonoperating interests in tracts or parcels of land that are not adjacent be aggregated and treated as one property. The term "two or more adjacent tracts or parcels of land" means tracts or parcels of land that are in reasonably close proximity to each other depending on the facts and circumstances of each case. Adjacent tracts or parcels of land do not necessarily have any common boundaries and may be separated by intervening mineral rights.

Section 1.614-5(e)(1) of the Regulations provides that an application for permission to aggregate separate nonoperating interests under § 614(e) of the Code and § 1.614-5(d) of the Regulations must be made in writing to the Commissioner and must be filed within 90 days after the beginning of the first taxable year beginning after December 31, 1957, for which aggregation is desired or within 90 days after the acquisition of one of the nonoperating mineral interests that is to be included in the aggregation, whichever is later.

Section 1.614-5(e)(4) of the Regulations provides that the application for permission to aggregate nonoperating mineral interests under § 614(e) of the Code and § 1.614-5(d) of the Regulations shall include a complete statement of the facts upon which the taxpayer relies to show that the 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 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 permission shall be attached to the taxpayer's 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.

Section 1.614-5(e)(5) of the Regulations provides that the election to aggregate separate nonoperating mineral interests under § 614(e) of the Code and § 1.614-5(d) of the Regulations is binding upon the taxpayer for the first taxable year for which the request is made and for all subsequent taxable years unless consent to make a change is obtained from the Commissioner.

Therefore, to obtain permission, the taxpayer must:

1) Apply for permission within 90 days after the beginning of the first taxable year for which aggregation is desired, or within 90 days after the acquisition of one of the properties to be included in the aggregation (§ 1.614-5(e)(1) of the Regulations);
2) Provide maps, descriptions of the nonoperating interests, and a complete statement of facts (§ 1.614-5(e)(4) of the Regulations); and
3) Establish that a principal purpose for forming the aggregation is not tax avoidance. A substantial reduction in taxes is evidence that the avoidance of taxes is a principal purpose (§ 1.614-5(d) and § 1.614-5(e) of the Regulations).

Taxpayer represents that the interests owned at each of the properties are "nonoperating mineral interests" as that term is defined in § 1.614-5(g) of the Regulations, and that the royalty interests are interests that do not bear the costs of exploration, development, or production. Taxpayer also represents that the interests at each property are owned in two or more tracts of parcels of land that are "adjacent" or "in reasonably close proximity to each other" as provided in § 1.614-5(d) of the Regulations. Additionally, Taxpayer represents that the maps for each property included in the ruling request demonstrate that the nonoperating interests at each property are in reasonably close proximity to each other, as these interests are either contiguous, touch at a corner, or are separated by intervening mineral rights but included in a single operating mine.

Finally, Taxpayer represents that the principal purpose of forming the requested aggregation at each property is not tax avoidance. The purpose of forming the requested aggregation is to reduce administrative burden in calculating depletion and allow Taxpayer to implement consistent treatment for financial accounting and federal income tax purposes.

Based on the representations made and consideration of the descriptions and maps submitted, we conclude that the requirements of § 614(e) of the Code and § 1.614-5 of the Regulations have been met. Based solely on the facts and representations submitted, we grant consent for Taxpayer to aggregate the separate nonoperating mineral interests located at Lease 1 and Lease 2, such that each of the properties is treated as one property for U.S. federal income tax purposes.

Except as specifically set forth above, we neither express nor imply any opinion concerning the federal income tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we neither express nor imply any opinion concerning Taxpayer's calculation of depletion or whether Taxpayer's interests in the properties are economic interests. This ruling is conditioned on each royalty interest qualifying as an economic interest under § 611 of the Code before the aggregation. General descriptions of the nonoperating interests accompanied by maps

are to be on file with the books and other records that are necessary for examination by the Service.

The rulings contained in this letter are directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

In accordance with the power of attorney, we are sending copies of this letter to Taxpayer's authorized representatives. We are also sending a copy of this letter to the appropriate Industry Director, LB&I. A copy of this ruling must be attached to any federal income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Maggie Stehn
Senior Counsel, Branch 2
Office of Associate Chief Counsel
(Energy, Credits, & Excise Tax)

cc: