

## Internal Revenue Service

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Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:PT&E:B01  
PLR-122658-24

Date:  
May 28, 2025

### Legend

X =

Y =

a =

b =

c =

Dear \_\_\_\_\_:

This letter responds to a letter dated December 13, 2024, and subsequent correspondence, submitted on behalf of X by X's authorized representatives, requesting rulings under sections 469 and 1411 of the Internal Revenue Code.

### FACTS

According to the information submitted, X is classified as a partnership for federal income tax purposes. X conducts some of its business through Y, an entity that is

disregarded as an entity separate from X for federal tax purposes. X has one or more direct or indirect partners that are subject to sections 469 and 1411.

X is engaged in the ownership, operation, and management of oil, gas, and mineral interests. X owns mineral interests including rights to oil and gas royalties, oil and gas overriding royalties, and working interests (collectively, "Mineral Interests"). X currently has more than a mineral interests covering approximately b acres and employs c full-time employees to oversee the Mineral Interests. The Mineral Interests produce gross income for X in the form of royalties (the "Mineral Royalties"). X represents that the Mineral Royalties are royalties within the meaning of sections 469 and 1411. X also represents that it holds the Mineral Interests in the ordinary course of a trade or business (within the meaning of section 162) and that the Mineral Royalties are derived in the ordinary course of a trade or business (within the meaning of section 162). X also represents that it does not hold the Mineral Interests in a trade or business of trading or dealing in such property.

### RULINGS REQUESTED

X requests the following rulings:

1. X's Mineral Royalties are income derived in the ordinary course of a trade or business under § 1.469-2T(c)(3)(ii)(G) of the Income Tax Regulations and, consequently, are not described in section 469(e)(1)(A)(i)(I) and are not portfolio income within the meaning of § 1.469-2T(c)(3). Furthermore, X's gain or loss from the disposition of any Mineral Interests is derived in the ordinary course of a trade or business for purposes of section 469, and, consequently, is not described in section 469(e)(1)(A)(ii) and is not portfolio income within the meaning of § 1.469-2T(c)(3).

2. Receipt of a favorable ruling on Issue #1 is an event allowing X to group its activities related to the Mineral Royalties and Mineral Interests under § 1.469-4 for the taxable year in which the ruling is received.

3. X's Mineral Royalties are income derived in the ordinary course of a trade or business for purposes of section 1411(c)(1)(A)(i) and are not described in § 1.1411-6. Furthermore, X's gain or loss from the disposition of any Mineral Interests is attributable to the disposition of property held in a trade or business for purposes of section 1411(c)(1)(A)(iii) and is not described in § 1.1411-6.

### LAW AND ANALYSIS

#### Issue #1

Section 469(a)(1) disallows passive activity losses and passive activity credits of individuals, trusts, estates, closely held C corporations, and personal service corporations.

Section 469(c)(1) and § 1.469-1T(e)(1) define a passive activity to include a trade or business activity in which the taxpayer does not materially participate. Sections 1.469-1(e)(2) and 1.469-4(b)(1)(i) provide that a trade or business activity includes an activity that involves the conduct of a trade or business (within the meaning of section 162). Section 1.469-4(a) provides, in pertinent part, that a taxpayer's activities include those conducted through partnerships.

Section 1.469-2T(c)(1) provides that, except as otherwise provided in the regulations under section 469, passive activity gross income for a taxable year includes an item of gross income if and only if such income is from a passive activity.

Section 1.469-2T(c)(2)(i)(A) provides that, except as otherwise provided in the regulations under section 469, any gain recognized upon the sale, exchange or other disposition of an interest in property used in an activity at the time of the disposition or of an interest in an activity held through a partnership or S corporation is treated in the following manner:

(1) The gain is treated as gross income from such activity for the taxable year or years in which it is recognized;

(2) If the activity is a passive activity of the taxpayer for the taxable year of the disposition, the gain is treated as passive activity gross income for the taxable year or years in which it is recognized; and

(3) If the activity is not a passive activity of the taxpayer for the taxable year of the disposition, the gain is treated as not from a passive activity.

Section 469(e)(1)(A)(i)(I) provides that, for purposes of section 469, in determining the income or loss from any activity, there shall not be taken into account any gross income from interest, dividends, annuities, or royalties not derived in the ordinary course of a trade or business.

Section 469(e)(1)(B) provides that, for purposes of section 469(e)(1)(A), any income, gain, or loss which is attributable to an investment of working capital shall be treated as not derived in the ordinary course of a trade or business

Section 1.469-2T(c)(3)(i) provides that passive activity gross income does not include portfolio income. Section 1.469-2T(c)(3)(i) also provides in part that portfolio income includes all gross income, other than income derived in the ordinary course of a trade or business (within the meaning of § 1.469-2T(c)(3)(ii)), that is attributable to royalties and the disposition of property that produces royalties.

Section 1.469-2T(c)(3)(ii) provides an exclusive list of seven scenarios where gross income described in § 1.469-2T(c)(3)(i) will be treated as derived in the ordinary course of a trade or business. Only under two of these scenarios would gross income from mineral royalties be treated as derived in the ordinary course of a trade or business. First, § 1.469-2T(c)(3)(ii)(D) provides that income derived in the ordinary course of a trade or business includes income or gain derived in the ordinary course of

an activity of trading or dealing in any property if such activity constitutes a trade or business, subject to an exception in § 1.469-2T(c)(3)(iii)(A). This scenario does not apply here because X does not carry on a trade or business of trading or dealing in Mineral Interests. Second, § 1.469-2T(c)(3)(ii)(G) provides that gross income derived in the ordinary course of a trade or business includes income identified by the Commissioner as income derived by the taxpayer in the ordinary course of a trade or business. For this scenario to apply, X needs to obtain this ruling.

### Issue #2

Section 1.469-4(a) provides, in pertinent part, that § 1.469-4 sets forth the rules for grouping a taxpayer's trade or business activities for purposes of applying the passive activity loss rules of section 469.

Section 1.469-4(c)(1) provides that one or more trade or business activities or rental activities may be treated as a single activity if the activities constitute an appropriate economic unit for the measurement of gain or loss for purposes of section 469. Section 1.469-4(c)(2) provides guidance on the meaning of appropriate economic unit. Section 1.469-4(d)(1) through (4) and (6) provides limitations on groupings.

Section 1.469-4(d)(5)(i) provides in part, generally, that a partnership must group its activities under the rules of § 1.469-4. Once a partnership groups its activities, a partner may group those activities with each other, with activities conducted directly by the partner, and with activities conducted through other section 469 entities, in accordance with the rules of § 1.469-4. A partner may not treat activities grouped together by a partnership as separate activities.

Section 1.469-4(e)(1) provides that, except as provided in §§ 1.469-4(e)(2) and 1.469-11, once a taxpayer has grouped activities under § 1.469-4, the taxpayer may not regroup those activities in subsequent taxable years. Taxpayers must comply with disclosure requirements that the Commissioner may prescribe with respect to both their original groupings and the addition and disposition of specific activities within those chosen groupings in subsequent taxable years.

Prior to receipt of this ruling, under § 1.469-2T(c)(3)(ii), X's Mineral Royalties and X's gain or loss from disposition of the Mineral Interests were not eligible to be treated as derived in the ordinary course of a trade or business. Upon receipt of this ruling, such items will be treated for the first time as attributable to a trade or business for purposes of section 469. Accordingly, it is appropriate to allow X to group its activities associated with the Mineral Royalties and Mineral Interests.

### Issue #3

Section 1411(a) imposes a 3.8 percent tax on the net investment income of individuals, estates, and trusts, subject to certain thresholds.

Section 1411(c)(1)(A)(i) provides in part that gross income from royalties (other than royalties derived in the ordinary course of a trade or business not described in section 1411(c)(2)) is included in the computation of “net investment income.”

Section 1411(c)(1)(A)(iii) provides in part that net gain (to the extent taken into account in computing taxable income) attributable to the disposition of property other than property held in a trade or business not described in section 1411(c)(2) is included in the computation of “net investment income.”

Section 1411(c)(2) describes the following two trades or businesses: (A) a passive activity (within the meaning of section 469) with respect to the taxpayer; and (B) a trade or business of trading in financial instruments or commodities (as defined in section 475(e)(2)).

Section 1411(c)(3) states that a rule similar to the rule of section 469(e)(1)(B) applies for purposes of section 1411(c).

Section 1.1411-4(b) provides in part that royalties are excluded from net investment income if they are derived in the ordinary course of a trade or business not described in § 1.1411-5.

Section 1.1411-4(d)(4)(i)(A) provides that net gain does not include gain or loss attributable to property (other than property from the investment of working capital (as described in § 1.1411-6)) held in a trade or business not described in § 1.1411-5.

Section 1.1411-5(a) provides that a trade or business is described in § 1.1411-5 if such trade or business involves the conduct of a trade or business, and such trade or business is either—

- (1) A passive activity with respect to the taxpayer; or
- (2) The trade or business of a trader trading in financial instruments or commodities.

Section 1.1411-6(a) provides, in relevant part, that for purposes of section 1411, any item of gross income from the investment of working capital will be treated as not derived in the ordinary course of a trade or business, and any net gain that is attributable to the investment of working capital will be treated as not derived in the ordinary course of a trade or business. In determining whether any item is gross income from or net gain attributable to an investment of working capital, principles similar to those described in § 1.469-2T(c)(3)(ii) apply.

As described above, § 1.469-2T(c)(3)(ii)(G) provides the Commissioner authority to issue a ruling treating X's Mineral Royalties, and X's gain or loss from the disposition of Mineral Interests as derived in the ordinary course of a trade or business. Applying similar principles under § 1.1411-6, the Commissioner also has authority to issue a ruling treating X's Mineral Royalties, and X's gain or loss from the disposition of Mineral

Interests, as not being attributable to the investment of working capital. The application of similar principles will generally result in similar determinations for both these issues.

### CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X's Mineral Royalties are income derived in the ordinary course of a trade or business under § 1.469-2T(c)(3)(ii)(G) and, consequently, are not described in section 469(e)(1)(A)(i)(I) and are not portfolio income within the meaning of § 1.469-2T(c)(3). Furthermore, X's gain or loss from the disposition of any Mineral Interests is derived in the ordinary course of a trade or business for purposes of section 469, and, consequently, is not described in section 469(e)(1)(A)(ii) and is not portfolio income within the meaning of § 1.469-2T(c)(3).

We further conclude that X may group activities related to the Mineral Royalties and Mineral Interests under § 1.469-4 for X's taxable year that includes today's date, provided that the grouping satisfies the requirements of section 469 and the regulations thereunder. X should disclose the grouping in a statement attached to its Form 1065, *U.S. Return of Partnership Income*, for X's taxable year that includes today's date. A copy of this ruling should be attached to the Form 1065.

Additionally, we conclude that X's Mineral Royalties are derived in the ordinary course of a trade or business for purposes of section 1411(c)(1)(A)(i) and are not described in § 1.1411-6. Furthermore, X's gain or loss from the disposition of any Mineral Interests is attributable to the disposition of property held in a trade or business for purposes of section 1411(c)(1)(A)(iii) and is not described in § 1.1411-6.

Except as expressly provided herein, we express or imply no opinion concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, we express or imply no opinion concerning whether any activity of X is a passive activity under section 469 with respect to any taxpayer, whether any grouping of any activity of X under section 469 by any taxpayer is appropriate, whether any trade or business of X is described in section 1411(c)(2) or § 1.1411-5 with respect to any taxpayer, or whether any income, gain, loss, or deduction of X is taken into account in computing net investment income tax under section 1411 for any taxpayer.

The rulings contained in this letter are based on information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. In particular, these rulings are contingent upon the Mineral Royalties being derived in the ordinary course of a trade or business (within the meaning of section 162), and the Mineral Interests being held in the ordinary course of a trade or business (within the meaning of section 162). While this office has not verified any of the material submitted in support of the requested rulings, it is subject to verification on examination.

These rulings are directed only to the taxpayer requesting it. Section 6110(k)(3) provides that they may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

/S/

Christiaan T. Cleary  
Senior Technician Reviewer, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs, Trusts, and Estates)

Enclosure:

Copy of this Letter for 6110 purposes

cc: