

who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

**(2) Exclusion**

For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

(B) are retired partners who had performed such substantial services, or

(C) are spouses of partners who are performing (or had previously performed) such substantial services.

**(3) Special rule for lower tier partnerships**

For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

**(c) Exclusion of commodity pools**

For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(a)(1)), or options, futures, or forwards with respect to such commodities.

**(d) Secretary may rely on treatment on return**

If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

(Added Pub. L. 105-34, title XII, § 1221(a), Aug. 5, 1997, 111 Stat. 1006; amended Pub. L. 106-170, title V, § 532(c)(2)(G), Dec. 17, 1999, 113 Stat. 1930.)

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-170 substituted “section 1221(a)(1)” for “section 1221(1)”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

**§ 776. Special rules for partnerships holding oil and gas properties**

**(a) Computation of percentage depletion**

In the case of an electing large partnership, except as provided in subsection (b)—

(1) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

(2) such allowance shall be determined without regard to the provisions of section 613A(c)

limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

(3) paragraph (3) of section 705(a) shall not apply.

**(b) Treatment of certain partners**

**(1) In general**

In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

**(2) Disqualified person**

For purposes of paragraph (1), the term “disqualified person” means, with respect to any partnership taxable year—

(A) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

(B) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

**(3) Average daily production**

For purposes of paragraph (2), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

(A) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

(B) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

(C) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

(Added Pub. L. 105-34, title XII, § 1221(a), Aug. 5, 1997, 111 Stat. 1007.)

**§ 777. Regulations**

The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part.

(Added Pub. L. 105-34, title XII, § 1221(a), Aug. 5, 1997, 111 Stat. 1008.)

**Subchapter L—Insurance Companies**

Part

- I. Life insurance companies.
- II. Other insurance companies.
- III. Provisions of general application.

AMENDMENTS

1988—Pub. L. 100-647, title I, § 1018(u)(32), Nov. 10, 1988, 102 Stat. 3592, redesignated parts III and IV as II and III, respectively, and struck out former Part II “Mutual insurance companies (other than life and certain marine insurance companies and other than fire or flood insurance companies which operate on basis of perpetual policies of premium deposits).”