Oil and Gas Tax

Percentage Depletion Basics

Excerpts from Oil and Gas Tax Class
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Percentage Depletion -- Code and Regulations

IRC §613 Percentage Depletion.

(a) General Rule. – In the case of . . . oil and gas wells . . . the allowance for depletion under section 611 shall be the percentage, specified in subsection (b), of the gross income from the property excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 percent (100 percent in the case of oil and gas properties) of the taxpayer's taxable income from the property (computed without allowances for depletion and without the deduction under section 199). For purposes of the preceding sentence, the allowable deductions taken into account with respect to expenses of mining and computing taxable income from the property shall be decreased by an amount equal to so much of any gain which (1) is treated under section 1245 (relating to gain from disposition of certain depreciable property) as ordinary income, and (2) is properly allocable to the property. In no case shall the allowance for depletion under section 611 be less than it would be if computed without reference to this section.

Percentage Depletion -- Code and Regulations (continued)

IRC §613(b) Percentage Depletion Rates.—

The mines, wells, and other natural deposits, and the percentages, referred to in subsection (a) are as follows:

. . . (2) 15 percent—If from deposits in the United States--. . . , and (B) oil shale

[oil and gas well production not included and specifically excluded from list of other minerals qualified for a 14% depletion rate]

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