

*26 CFR 601.201: Rulings and determination letters.  
(Also Part I, § 636; 1.636–3.)*

Rev. Proc. 97–55

## SECTION 1. PURPOSE

This revenue procedure sets forth the conditions under which the Internal Revenue Service will consider issuing an advance ruling that a right to mineral is a production payment as defined in § 1.636–3(a) of the Income Tax Regulations.

## SECTION 2. BACKGROUND

Section 1.636–3(a)(1) defines a production payment as a right to a specified share of the production from mineral in place, which is an economic interest in mineral in place and which has an expected economic life (at the time of its creation) of shorter duration than the economic life of the burdened property. The right may be limited by a dollar amount, a quantum of mineral, or a period of time. It may not reasonably be expected to extend in substantial amounts over the entire productive life of the burdened property.

## SECTION 3. SCOPE

This revenue procedure applies to any production payment described in § 636 of the Internal Revenue Code.

## SECTION 4. APPLICATION

The Internal Revenue Service generally will issue an advance ruling that a right to mineral is a production payment if the following conditions are met:

.01 The right is an economic interest in mineral in place as defined in § 1.611–1(b), without regard to the application of § 636;

.02 The right is limited by a specified dollar amount, a specified quantum of mineral, or a specified period of time;

.03 It is reasonably expected, at the time the right is created, that it will terminate upon the production of not more than 90 percent of the reserves then known to exist; and

.04 The present value of the production expected to remain after the right terminates is 5 percent or more of the present value of the entire burdened property (determined at the time the right is created). The determination of present value takes into account all the facts and circumstances, in accordance with the provisions of § 1.611–2(e).

## DRAFTING INFORMATION

The principal author of this revenue procedure is Brenda M. Stewart of the Office of Assistant Chief Counsel (Pass-throughs and Special Industries). For further information regarding this revenue procedure contact Roger E. Baker on (202) 622-3120 (not a toll-free call).