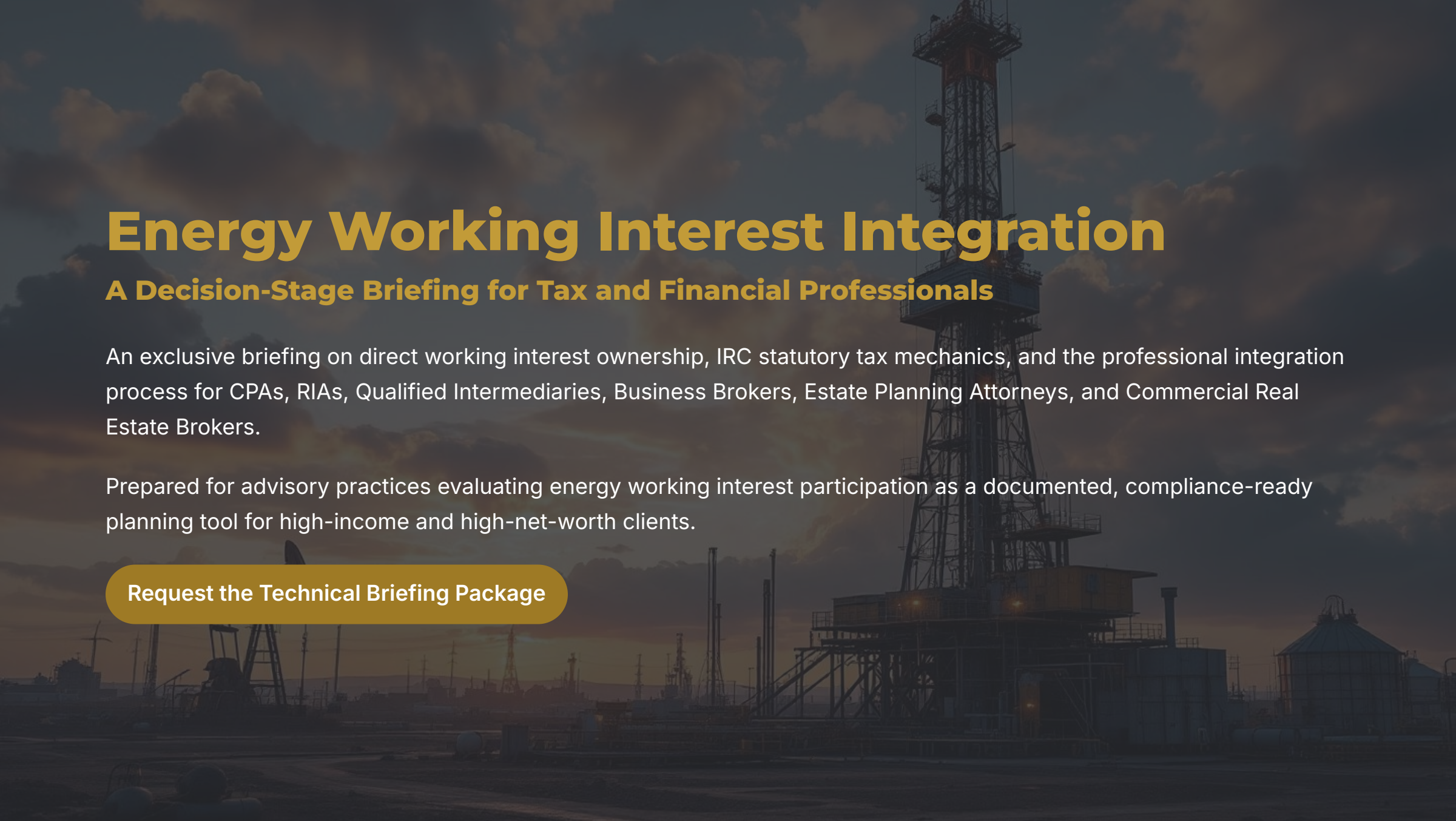

Energy Working Interest Integration

A Decision-Stage Briefing for Tax and Financial Professionals

An exclusive briefing on direct working interest ownership, IRC statutory tax mechanics, and the professional integration process for CPAs, RIAs, Qualified Intermediaries, Business Brokers, Estate Planning Attorneys, and Commercial Real Estate Brokers.

Prepared for advisory practices evaluating energy working interest participation as a documented, compliance-ready planning tool for high-income and high-net-worth clients.

Request the Technical Briefing Package

Executive Summary

This briefing is built for advisors who have already done the preliminary homework on direct working interest ownership and are now evaluating whether, and how, to integrate it into an active practice. It is not an introduction to oil and gas as an asset class. It is a working-session document: what the statutory mechanics actually say, what documentation an advisor should expect before relying on any representation, how K-1 allocation and reporting are structured, and what the onboarding and governance process looks like once a client decides to move forward.

> The core message is straightforward. Direct working interest ownership sits on long-standing, well-litigated statutory ground — specifically IRC Section 263(c), IRC Section 469(c)(3), and Revenue Ruling 68-331. These provisions are not marketing claims. They are Internal Revenue Code sections and a 1968 IRS ruling that predate most of the products advisors are asked to evaluate today.

What differentiates a credible working interest program from a speculative one is not the tax code — it is the documentation, the structural discipline around how the interest is held, and the reporting infrastructure behind the K-1. This briefing walks through all three.

IRC 263(c)

Intangible drilling cost election — expense in year incurred

IRC 469(c)(3)

Active-income offset exception for direct working interest holders

Rev. Ruling 68-331

Working interest classified as real property for 1031 like-kind analysis

Why This Conversation Is Happening Now

Advisory practices serving high-income clients are fielding a recurring set of year-end and transaction-driven questions: a client with a concentrated bonus or K-1 income spike asking what else can be done before December 31, a business owner post-sale asking where ordinary-income proceeds should go, and a 1031 exchange client watching identification windows narrow with no suitable replacement property in sight. These are not hypothetical scenarios. They are the recurring friction points named directly in this ICP's own practice experience: year-end income spikes, 1031 clock pressure, and business exit proceeds.

One Big Beautiful Bill Act — July 2025

Made 100% bonus depreciation under IRC Section 168(k) **permanent** for qualified property acquired after January 19, 2025, reversing the prior phase-down schedule.

U.S. Energy Production — EIA AEO 2026

Federal production data continues to show sustained U.S. oil output. The U.S. Energy Information Administration's Annual Energy Outlook 2026 cites approximately **13.6 million barrels per day** in 2025 — a record level.

Neither fact is a reason to recommend anything. Both are reasons the underlying asset class remains part of a serious planning conversation rather than a fringe one.



Year-End Income Spikes

Concentrated bonus or K-1 income with a December 31 deadline and limited remaining options.



1031 Clock Pressure

Identification windows narrowing with no suitable conventional replacement property in sight.



Business Exit Proceeds

Post-sale ordinary-income components requiring a documented, statutory planning option.

The Advisor's Actual Exposure

The risk advisors describe most often is not that oil and gas investing is inherently unsound. It is reputational and professional exposure: recommending, or simply not objecting to, a structure that turns out to be poorly documented, inconsistently reported, or built around claims the advisor cannot independently verify.

Late or Incomplete K-1

A K-1 that arrives late or incomplete during filing season becomes the advisor's problem, not the sponsor's.

Wrong Entity Type

A working interest held through the wrong entity type can quietly fail the very tax test the client was told it would satisfy.

Unanswerable Questions

An advisor who cannot answer a straightforward question about how an interest is held, or who allocates which cost, has handed a liability to their own practice.

⚠ This is the decision point this briefing addresses: not whether working interests are theoretically valid — which they are under longstanding statutory authority — but whether a given program is built to withstand the scrutiny an advisor's own license and reputation require.

Key Statutory Findings

The following IRC provisions and Revenue Rulings form the documented statutory foundation for direct working interest planning. Each is a matter of law, not marketing.

1	**IRC § 263(c) / Treas. Reg. 1.612-4** Permits a working interest holder to elect to **expense intangible drilling costs** — labor, drilling mud, chemicals, site preparation, hauling — in the year incurred rather than capitalizing them. Tangible costs (casing, wellhead equipment) are capitalized and depreciated under IRC § 168.
2	**IRC § 469(c)(3)(A)** The provision that permits working interest losses to **offset active income** such as W-2 wages, 1099 income, or K-1 distributions. Applies only when the interest is held directly or through an entity that does not limit the holder's liability. No material participation or hours test applies.
3	**IRC § 465 — At-Risk Rules** Caps any deduction at real economic exposure — cash and recourse debt only. **Nonrecourse financing does not count** toward basis.
4	**IRC § 57(a)(2)(B) — AMT** Treats excess intangible drilling costs as an **alternative minimum tax preference item** for independent producers, with an exception generally applying where excess IDC does not exceed 65% of net income from oil and gas properties for the year.
5	**IRC §§ 611 & 613A — Depletion** Permit a **15% percentage depletion allowance** on gross production income for independent producers once a well is producing — an ongoing benefit distinct from the upfront IDC election.
6	**Rev. Ruling 68-331 & 78-135** Rev. Ruling 68-331 classifies a lessee's working interest as **real property, like-kind to fee real estate** under § 1031(a). Rev. Ruling 78-135 holds that a general partnership interest itself does not qualify — the client must hold the actual direct or undivided working interest.

The same structural fact threads through nearly every one of these provisions: **how the interest is held** — direct ownership or an unlimited-liability entity versus a liability-shielding fund, LP, or LLC — determines whether the active-income offset and the 1031 like-kind analysis are even available to discuss with a client.

Analysis by Advisory Discipline

The statutory mechanics apply differently depending on an advisor's role and the client scenario at hand. Here is what each discipline needs to evaluate.



CPAs & Tax Professionals

The practical question is not whether 263(c) and 469(c)(3) exist — they do. It is whether the specific interest your client is being offered is actually documented as a direct working interest, or through an unlimited-liability entity, with K-1 allocation that correctly identifies IDC, depletion, and the active-versus-passive classification on the relevant boxes. That documentation is the advisor's real protection.



RIAs & Qualified Intermediaries

For RIAs, the question is usually one of portfolio construction and client suitability within a tax-efficiency conversation, not asset management. For QIs, the Revenue Ruling 68-331 analysis is specific to the exchange facts at hand and depends on the interest being held directly rather than through a fund. Neither role requires becoming an energy operator. Both require a program that can produce the paperwork a reviewing attorney or auditor would ask for.



Business Brokers & M&A Advisors

Post-sale planning conversations involving ordinary income or installment proceeds benefit from a documented, statutory option that does not require the client to take on an active role in a new business, while still meeting the direct-holding standard the tax code requires.

Estate Planning Attorneys

A working interest's treatment as real property under Revenue Ruling 68-331 is relevant to how it is titled, transferred, and described within trust and estate documents — which is a drafting and classification question an attorney is equipped to evaluate directly.

Commercial Real Estate Brokers

Clients facing a narrowing 1031 identification window sometimes find that conventional replacement property has become scarce or overpriced in their target market. A directly held working interest is one documented category of replacement property under long-standing IRS guidance — to be evaluated alongside, not instead of, conventional real estate options and always confirmed by the client's own counsel.

Three Paths Advisors Face

Advisors generally face three paths when a client raises one of these scenarios.

1 2 3

Path 1: Do Nothing

Refer the client elsewhere without a specific resource — leaving the advisor without visibility into what the client ultimately does.

Path 2: Pooled Fund / LP / LLC

May be simpler to source, but generally forecloses both the 469(c)(3)(A) active-income offset and the Revenue Ruling 68-331 like-kind analysis because the holding entity limits liability.

Path 3: Direct Working Interest

A program built specifically to preserve direct or unlimited-liability holding status, with the documentation to support it — the option most advisors have not had a clearly documented resource for until now.

> This briefing addresses Path 3 — not as the only valid answer, but as the one most advisors have not had a clearly documented resource for until now.

For the CPA or tax professional, the active-income offset under IRC 469(c)(3)(A) is a question of legal form before it is a question of economics. For the Qualified Intermediary or CRE broker working a 1031 timeline, Revenue Ruling 68-331 gives a working interest held directly a documented, decades-old basis for the like-kind analysis — provided counsel confirms the specific facts — while Revenue Ruling 78-135 is the cautionary counterpart: a fund or partnership interest in the same underlying wells does not carry the same analysis.

None of this is a projection of outcome. It is a description of how the statute and the rulings work. Individual facts — the specific drilling program, the entity structure used, and the client's own tax position — determine the actual result in any case, which is why every piece of Summit Ventures' advisor-facing material defers the final determination to the client's own CPA and legal counsel.

Implementation Roadmap

Advisors who determine this category is appropriate for a specific client conversation follow a structured, six-step process with Summit Ventures.



1 Advisor Review

Summit provides a technical briefing package — including the relevant IRC citations, Revenue Ruling references, and a sample K-1 allocation schedule — for the advisor's own review before any client introduction occurs.

2 Structural Confirmation

Summit provides written confirmation of how the specific working interest offering is held — direct or unlimited-liability entity — for the advisor and the client's counsel to review.

3 Tax Opinion Letter

A tax opinion letter from qualified outside counsel is made available for the specific offering being evaluated, for review by the client's own CPA or attorney.

4 Client Introduction

If the advisor determines the structure is a fit for a specific client conversation, Summit's team is available for a joint technical discussion — with the advisor present — focused on education rather than recommendation.

5 Capital Contribution & Onboarding

Clients who proceed complete member onboarding directly with Summit, including governance rights disclosure under the operating agreement.

6 K-1 Delivery & CPA Support

Summit maintains a standardized K-1 schedule and a direct CPA support line for advisors reconciling allocations during filing season.

Compliance & Regulatory Safeguards

Summit Ventures' advisor-facing process is built around three documentary safeguards rather than a sales conversation.

Written Structural Confirmation

Specifying exactly how each offering is held — which an advisor can rely on when evaluating IRC 469(c)(3)(A) eligibility.

Tax Opinion Letter

From qualified outside counsel, accompanying offerings where Section 1031 or active-income offset questions are relevant — intended for review by the client's own legal and tax advisors rather than as a substitute for that review.

Standardized K-1 Schedule

An audit-ready K-1 allocation schedule and a direct CPA support line, so that reporting questions during filing season reach a specific point of contact rather than a general inbox.

None of this constitutes legal or tax advice, and Summit does not make the final determination of a client's eligibility for any specific tax treatment. That determination remains with the client's own qualified CPA, attorney, or tax advisor, reviewing the client's specific facts.

Discussion Questions by Discipline

CPAs & Tax Professionals

Does the specific working interest being evaluated confirm, in writing, that it is held directly or through an entity that does not limit liability, as required under IRC 469(c)(3)(A)?

RIAs

How does this category fit within a client's broader tax-efficiency and diversification planning, without requiring the advisor to manage energy assets directly?

Qualified Intermediaries

Has a tax opinion letter addressing the Revenue Ruling 68-331 analysis been obtained for the specific exchange facts, and has the client's own counsel reviewed it?

Business Brokers & M&A Advisors

Does the client's post-sale income profile include an ordinary-income component that a documented working interest structure may be relevant to discuss, pending the client's own advisor review?

Estate Planning Attorneys

How should a directly held working interest, as real property under Revenue Ruling 68-331, be described and titled within the client's existing trust and estate documents?

CRE Brokers

When conventional replacement property is scarce and the identification window is narrowing, is a directly held working interest a category worth raising alongside — not instead of — conventional options?

Closing Perspective & Next Steps

Advisors who work with high-income and high-net-worth clients are regularly asked to evaluate categories outside their core specialty, and energy working interests are no exception. The statutory foundation here — IRC 263(c), IRC 469(c)(3), IRC 465, IRC 57(a)(2)(B), IRC 611 and 613A, and Revenue Rulings 68-331 and 78-135 — is not new or untested.

> What separates a program worth introducing to a client from one that is not comes down to documentation: how the interest is actually held, whether a tax opinion letter exists for the specific offering, and whether the K-1 reporting is built to a standard a CPA can rely on without surprises.

Advisors who want to review the technical briefing package, the sample structural confirmation language, or the K-1 allocation schedule directly are welcome to request it before any client conversation takes place.

Sources & References

IRC § 263(c) and Treasury Regulation 1.612-4 (intangible drilling cost election) · IRC § 469(c)(3)(A) (working interest exception to passive activity loss rules) · IRC § 465 (at-risk limitation) · IRC § 57(a)(2)(B) (excess IDC as AMT preference item) · IRC §§ 611 & 613A (percentage depletion allowance) · Revenue Ruling 68-331, 1968-1 C.B. 352 · Revenue Ruling 78-135 · Treasury Regulation 1.1031(k)-1 · One Big Beautiful Bill Act (July 2025) & IRS Notice 2026-11 · U.S. EIA Annual Energy Outlook 2026 · IRS IR-2025-111.

Disclaimer

This briefing is provided for educational discussion among professional advisors. It is not legal, tax, or investment advice, and it is not an offer to sell or a solicitation of an offer to buy any security or interest. Advisors and their clients should consult their own qualified CPA, tax advisor, and legal counsel regarding the specific facts of any transaction before taking action.

Request the Technical Briefing Package from Summit Ventures

Schedule an Advisor Discussion