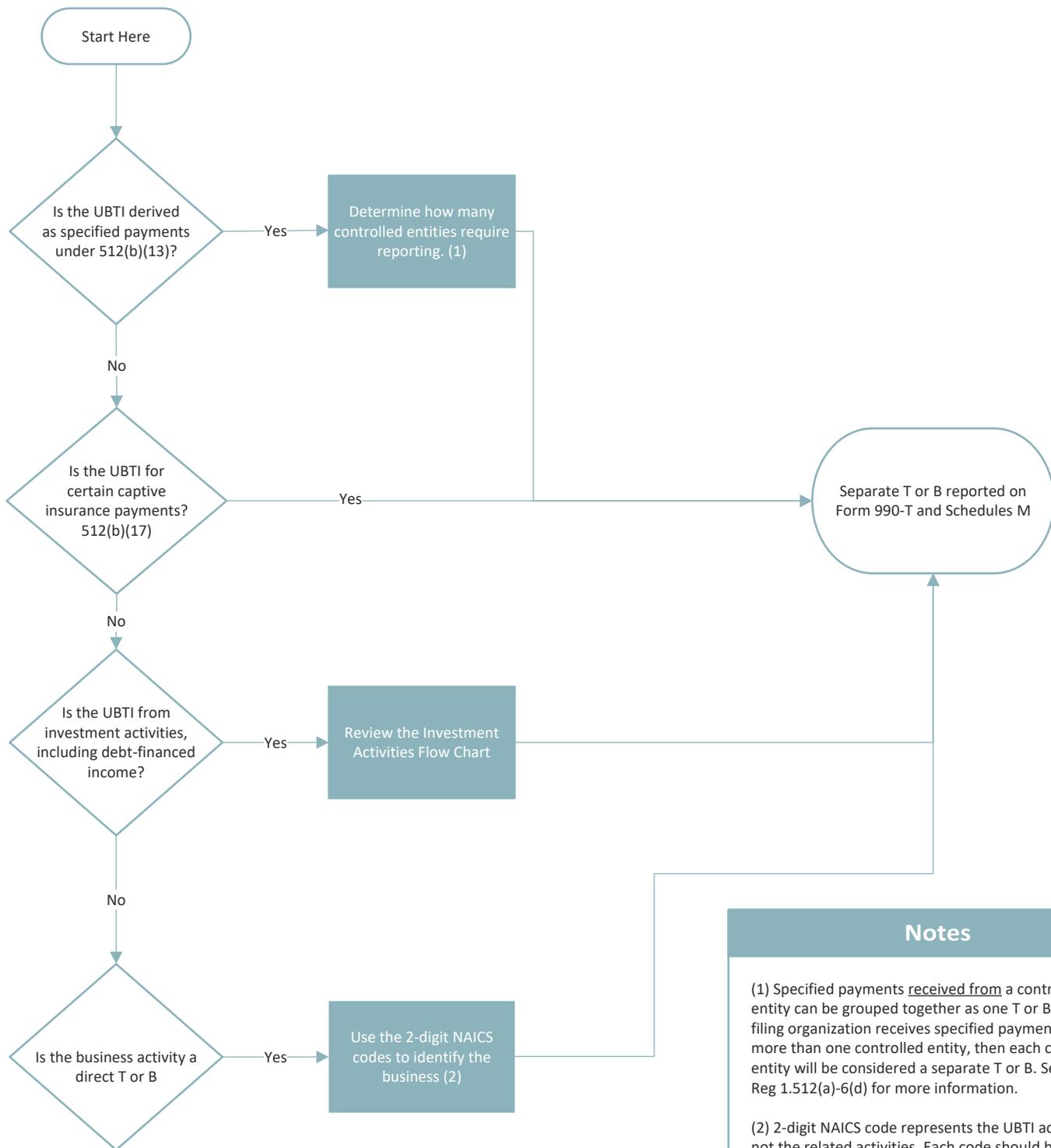


Determining Trade or Business for purposes of IRC § 512(a)(6)

Overview Flow Chart

Prop. Treas. Reg. § 1.512(a)-6

(for organizations other than 501(c)(7), (9) or (17))



Notes

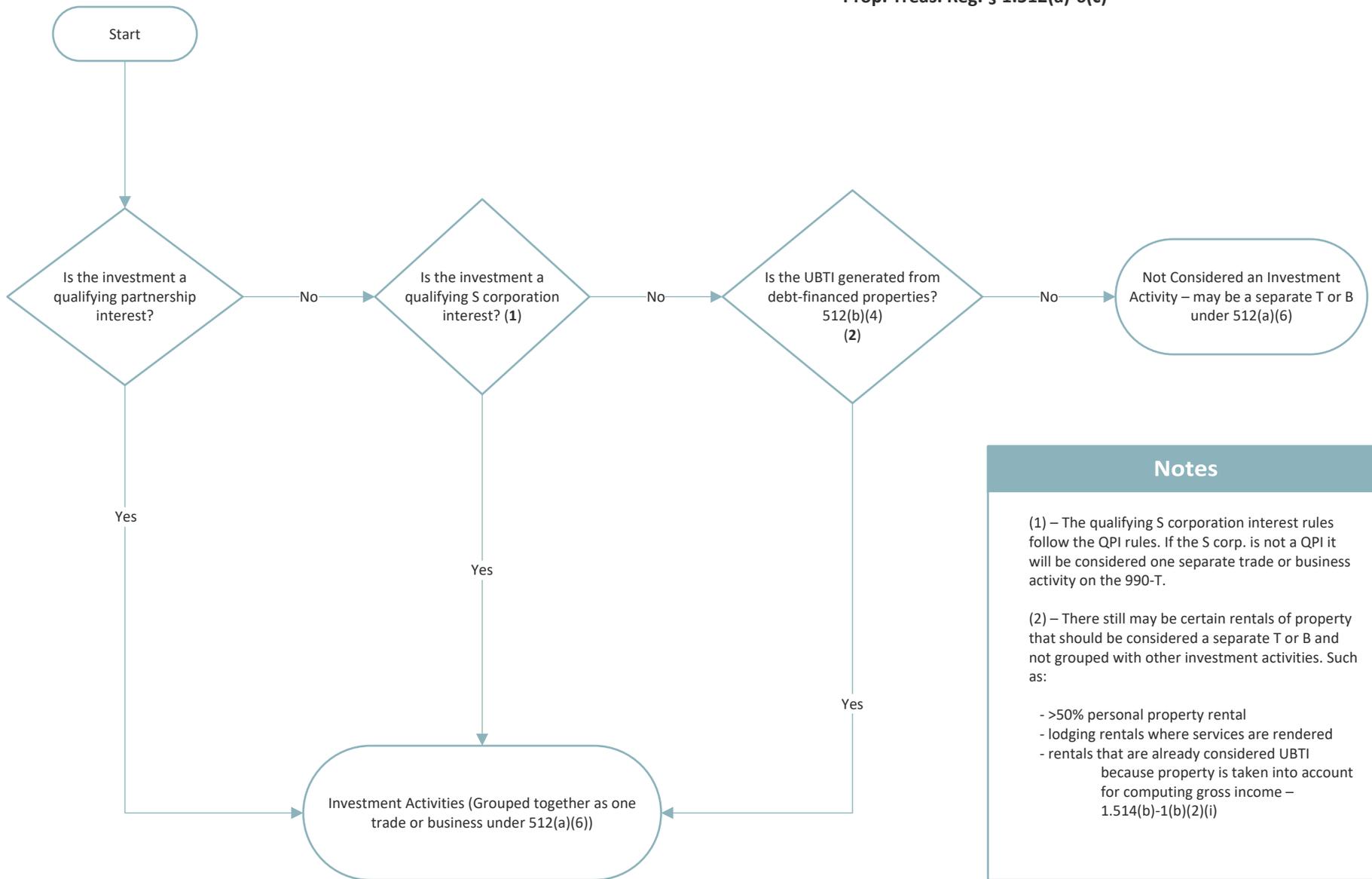
(1) Specified payments received from a controlled entity can be grouped together as one T or B. If the filing organization receives specified payments from more than one controlled entity, then each controlled entity will be considered a separate T or B. See Prop Reg 1.512(a)-6(d) for more information.

(2) 2-digit NAICS code represents the UBTI activity and not the related activities. Each code should be reported once on the Form 990-T.

Key

UBTI – Unrelated Business Taxable Income
NAICS - North American Industry Classification System
T or B - Trade or Business
QPI – Qualifying Partnership Interests

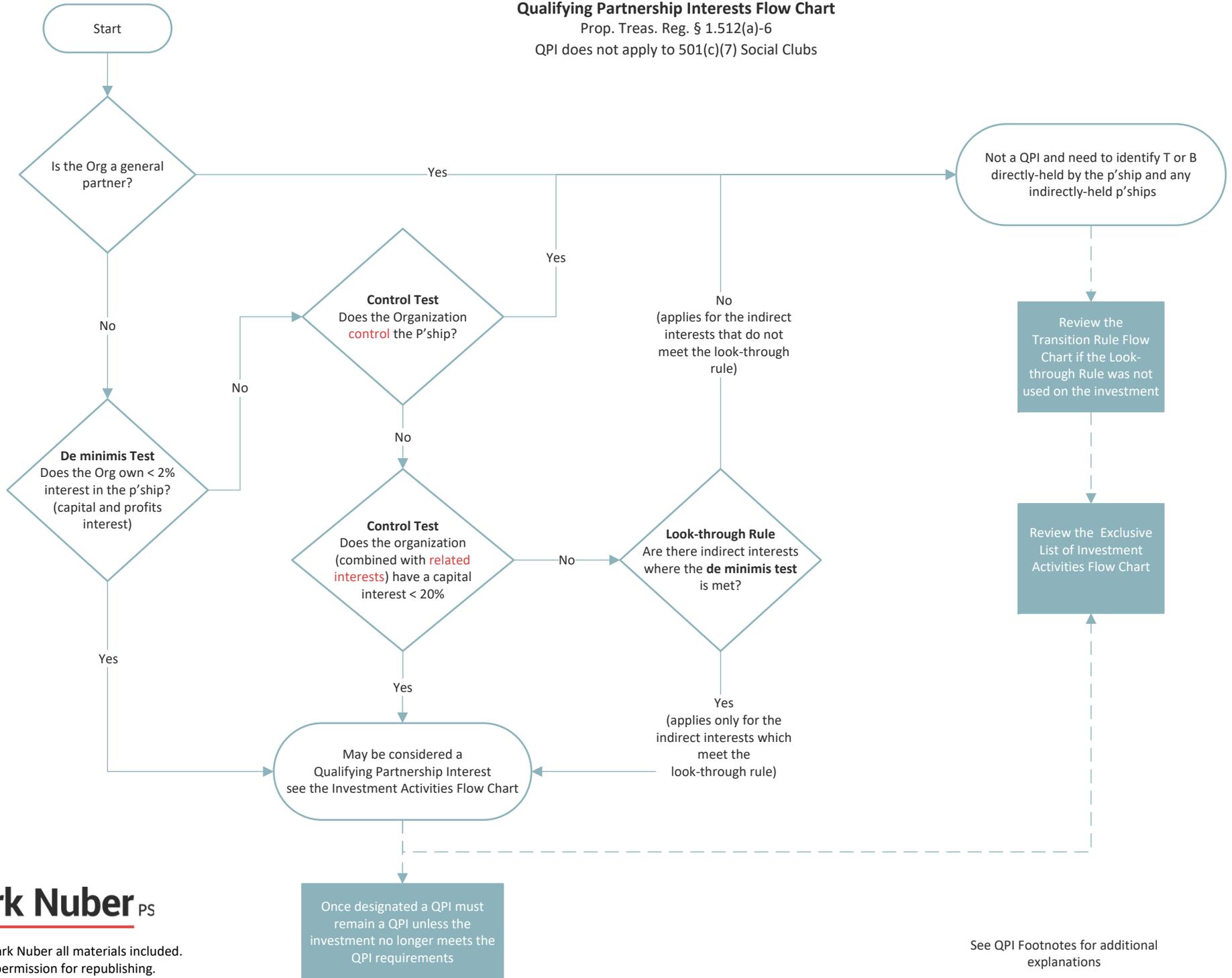
Exclusive List of Investment Activities Flow Chart
Prop. Treas. Reg. § 1.512(a)-6(c)



Qualifying Partnership Interests Flow Chart

Prop. Treas. Reg. § 1.512(a)-6

QPI does not apply to 501(c)(7) Social Clubs



Separate UBTI rules apply to organizations subject to 512(a)(3), which applies to social clubs (501(c)(7)); VEBAs (509(c)(9)); and SUBs (501(c)(17)). The QPI flow chart provided covers most other organizations, which are subject to the UBTI rules under 512(a)(1).

The proposed regulations provide for an exclusive list investments which may be grouped together as one trade or business activity for purposes of 512(a)(6), and qualifying partnership investments is part of exclusive list. Please note many of the qualifying partnership interest rules also apply to S Corporations. Please see the regulations for additional information. See the Exclusive List of Investments Flow Chart.

De minimis Test: If the organization owns no more than a 2% capital interest AND no more than 2 percent profits interest. See how to calculate the percentages below.

Control Test:

To meet the control test the organization (along with related interests) holds no more than 20% capital interest and does not control the partnership. See how to calculate the percentages below.

Related Interests: To determine the percentage owned, combine interests owned by supporting organizations (509(a)(3)) and controlled entities (512(b)(13)(D)).

Control: It is based on facts and circumstances, per Prop Reg, 1.512(a)-6(c)(4)(iii) if:

- 1) The organization, by itself, may require the partnership to perform, or may prevent the partnership from performing, any act that significantly affects the operations of the partnership;
- 2) Any of the organization's officers, directors, trustees, or employees have rights to participate in the management of the partnership at any time;
- 3) Any of the organization's officers, directors, trustees, or employees have rights to conduct the partnership's business at any time; or
- 4) The organization, by itself, has the power to appoint or remove any of the partnership's officers or employees or a majority of directors.

Calculation of Percentage Interests: The organization can rely on the Schedule K-1 (Form 1065), Line J. In the case of partnership held for less than a year, use the beginning balances of the ownership period.

De Minimis Test:

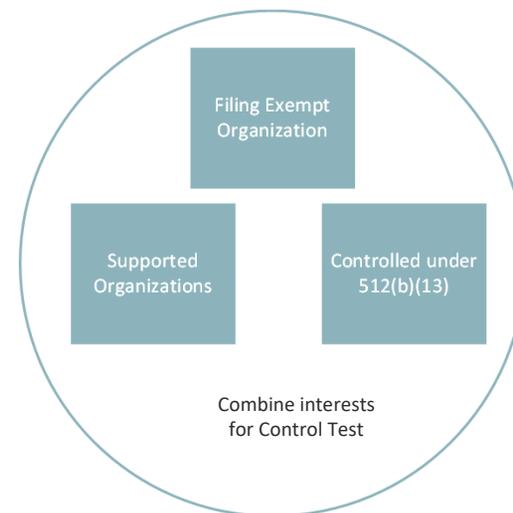
Average of the beginning and ending profits interests

And

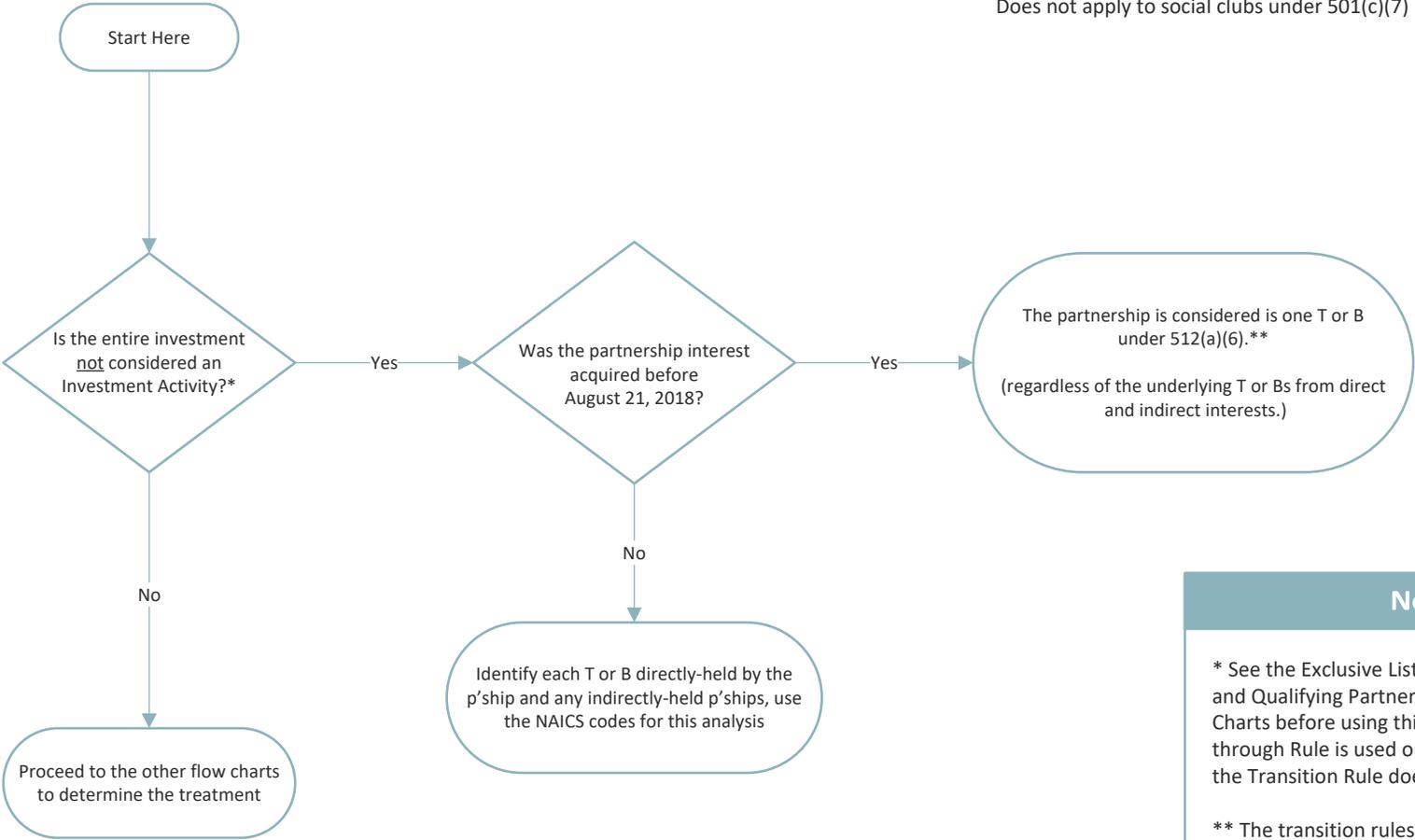
Average of the beginning and ending capital interests

Control Test:

Average of the beginning and ending capital interests



Transition Rule for Certain Partnerships Flow Chart
Prop. Treas. Reg. § 1.512(a)-6(c)(7)
 Does not apply to social clubs under 501(c)(7)



Notes
<p>* See the Exclusive List of Investment Activities and Qualifying Partnership Interests Flow Charts before using this flow chart. If the Look-through Rule is used on the investment then the Transition Rule does not apply.</p>
<p>** The transition rules apply even if the organization's percentage interest changes before the transition period ends.</p>
<p>The organization may rely on the transition rule until the first day of the organization's tax year beginning after the final regulations are issued.</p>