

after May 10, 1989, except that such amendments shall not apply to transfers on or after such date pursuant to an acquisition to which the amendment made by subsection (a)(1) [amending section 368 of this title] does not apply.

“(B) INTERIM RULE.—In the case of any payment pursuant to a transaction on or after May 10, 1989, and before the date on which the Secretary of the Treasury (or his delegate) takes action in exercise of his regulatory authority under section 597 of the Internal Revenue Code of 1986 (as amended by subsection (a)(3)), the taxpayer may rely on the legislative history for the amendments made by subsection (a)(3) in determining the proper treatment of such payment.

“(4) SUBSECTION (b)(1).—The provisions of subsection (b)(1) [set out below] shall take effect on the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986].

“(5) SUBSECTION (b)(2).—The amendment made by subsection (b)(2) [amending provisions set out below] shall take effect on the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988 [Nov. 10, 1988].”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 4012(b)(2)(E) of Pub. L. 100-647 provided that: “The amendments made by this paragraph [amending this section] shall apply to any transfer—

“(i) after the date of the enactment of this Act [Nov. 10, 1988], and before January 1, 1990, unless such transfer is pursuant to an acquisition occurring on or before such date of enactment, and

“(ii) after December 31, 1989, if such transfer is pursuant to an acquisition occurring after such date of enactment and before January 1, 1990.”

Section 4012(c)(3) of Pub. L. 100-647, as amended by Pub. L. 101-73, title XIV, §1401(b)(2), Aug. 9, 1989, 103 Stat. 549, provided that: “The amendments made by this subsection [amending this section and provisions set out below] shall apply to any transfer—

“(A) after December 31, 1988, and before January 1, 1990, unless such transfer is pursuant to an acquisition occurring before January 1, 1989, and

“(B) after December 31, 1989, if such transfer is pursuant to an acquisition occurring after December 31, 1988, and before January 1, 1990.

In the case of any bank or any institution treated as a domestic building and loan association for purposes of section 597 of the 1986 Code by reason of the amendment made by subsection (b)(2)(B), the amendments made by this subsection shall also apply to any transfer before January 1, 1989, to which the amendments made by subsection (b)(2) [amending this section] apply.”

#### EFFECTIVE DATE OF REPEAL

Pub. L. 99-514, title IX, §904(c)(2), Oct. 22, 1986, 100 Stat. 2385, as amended by Pub. L. 100-647, title IV, §4012(a)(2), (c)(2), Nov. 10, 1988, 102 Stat. 3656, 3660, which provided that repeal of this section was to be applicable to transfers after Dec. 31, 1989, in taxable years ending after such date, with exceptions, and which related to clarification of treatment of amounts excluded under this section, was repealed by Pub. L. 101-73, title XIV, §1401(a)(3)(B), (b)(1), Aug. 9, 1989, 103 Stat. 549.

#### EFFECTIVE DATE

Section 246(c) of Pub. L. 97-34 provided that: “The amendment made by section 244 [enacting this section] shall apply to any payment made on or after January 1, 1981.”

#### TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and its functions transferred, see sections 401

to 406 of Pub. L. 101-73, set out as a note under section 1437 of Title 12, Banks and Banking.

#### REPEAL OF PROVISIONS RELATING TO REPEAL OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS

Section 1401(b)(1) of Pub. L. 101-73 provided that: “Section 904 of the Tax Reform Act of 1986 [Pub. L. 99-514, amending section 368 of this title, repealing this section and enacting provisions set out as notes under sections 368 and 597 of this title] (other than subsection (c)(2)(B) thereof [section 904(c)(2)(B) of Pub. L. 99-514, formerly set out as a note above]) is hereby repealed and the Internal Revenue Code of 1986 shall be applied as if the amendments made by such section had not been enacted.”

#### REFERENCES TO FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Section 1401(c)(7) of Pub. L. 101-73 provided that: “Any reference to the Federal Savings and Loan Insurance Corporation in section 597 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act [Aug. 9, 1989]) shall be treated as including a reference to the Resolution Trust Corporation and the FSLIC Resolution Fund.”

#### ANNUAL REPORTS ON TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED

Pub. L. 101-73, title XIV, §1403, Aug. 9, 1989, 103 Stat. 551, which required the Secretary of the Treasury to submit annual reports to the Senate and to the Committee on Ways and Means of the House of Representatives on transactions with respect to which Federal financial assistance subject to this section was provided, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 142 of House Document No. 103-7.

#### [§ 601. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(85), Oct. 4, 1976, 90 Stat. 1778]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 206, related to a special deduction for bank affiliates.

#### EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

#### Subchapter I—Natural Resources

Part I.	Deductions.
[II.]	Repealed.]
III.	Sales and exchanges.
IV.	Mineral production payments.
V.	Continental shelf areas.

#### PART I—DEDUCTIONS

Sec. 611.	Allowance of deduction for depletion.
612.	Basis for cost depletion.
613.	Percentage depletion.
613A.	Limitations on percentage depletion in case of oil and gas wells. <sup>1</sup>
614.	Definition of property.
[615.]	Repealed.]
616.	Development expenditures.
617.	Deduction and recapture of certain mining exploration expenditures.

#### AMENDMENTS

1990—Pub. L. 101-508, title XI, §11801(b)(7), Nov. 5, 1990, 104 Stat. 1388-522, struck out item for part II “Exclusions from gross income”.

<sup>1</sup>Editorially supplied. Section 613A added by Pub. L. 94-12 without corresponding amendment of part analysis.

1976—Pub. L. 94-455, title XIX, §1901(b)(21)(H), Oct. 4, 1976, 90 Stat. 1798, struck out item 615 “Exploration expenditures”.

1969—Pub. L. 91-172, title V, §§503(b), 505(c), Dec. 30, 1969, 83 Stat. 631, 634, added items for parts IV and V.

Pub. L. 91-172, title V, §504(c)(5), Dec. 30, 1969, 83 Stat. 633, substituted “Pre-1970 exploration expenditures” for “Exploration expenditures” in item 615 and substituted “Deduction and recapture of certain mining exploration expenditures” for “Additional exploration expenditures in the case of domestic mining” in item 617.

1966—Pub. L. 89-570, §1(d), Sept. 12, 1966, 80 Stat. 762, added item 617.

### § 611. Allowance of deduction for depletion

#### (a) General rule

In the case of mines, oil and gas wells, other natural deposits, and timber, there shall be allowed as a deduction in computing taxable income a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under regulations prescribed by the Secretary. For purposes of this part, the term “mines” includes deposits of waste or residue, the extraction of ores or minerals from which is treated as mining under section 613(c). In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this section for subsequent taxable years shall be based on such revised estimate.

#### (b) Special rules

##### (1) Leases

In the case of a lease, the deduction under this section shall be equitably apportioned between the lessor and lessee.

##### (2) Life tenant and remainderman

In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant.

##### (3) Property held in trust

In the case of property held in trust, the deduction under this section shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

##### (4) Property held by estate

In the case of an estate, the deduction under this section shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the income of the estate allocable to each.

#### (c) Cross reference

For other rules applicable to depreciation of improvements, see section 167.

(Aug. 16, 1954, ch. 736, 68A Stat. 207; Pub. L. 85-866, title I, §35, Sept. 2, 1958, 72 Stat. 1632; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1958—Subsec. (d)(4). Pub. L. 85-866 substituted “devises” for “devises”.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85-866, set out as a note under section 165 of this title.

### § 612. Basis for cost depletion

Except as otherwise provided in this subchapter, the basis on which depletion is to be allowed in respect of any property shall be the adjusted basis provided in section 1011 for the purpose of determining the gain upon the sale or other disposition of such property.

(Aug. 16, 1954, ch. 736, 68A Stat. 208.)

### § 613. Percentage depletion

#### (a) General rule

In the case of the mines, wells, and other natural deposits listed in subsection (b), 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 allowance 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 in computing the 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.

#### (b) Percentage depletion rates

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

##### (1) 22 percent

(A) sulphur and uranium; and

(B) if from deposits in the United States—  
anorthosite, clay, laterite, and nephelite syenite (to the extent that alumina and aluminum compounds are extracted therefrom), asbestos, bauxite, celestite, chromite, corundum, fluorspar, graphite, ilmenite, kyanite, mica, olivine, quartz crystals (radio grade), rutile, block steatite talc, and zircon, and ores of the following metals: antimony, beryllium, bismuth, cadmium, cobalt, columbium, lead, lithium, manganese, mercury, molybdenum, nickel, platinum and platinum group metals, tantalum, thorium, tin, titanium, tungsten, vanadium, and zinc.

##### (2) 15 percent

If from deposits in the United States—