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 ''devisees'' 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—