

terests", and providing for termination of election with respect to mines, excepting oil and gas wells. For definition of "operating mineral interests", see subsec. (d) of this section.

Subsec. (c). Pub. L. 88-272, §226(b)(1), (2), struck out par. (5) which defined operating mineral interests, and "1958" before "Special rules" in heading.

Subsec. (d). Pub. L. 88-272, §226(b)(3), amended subsec. (d) generally, substituting the definition of operating mineral interests, for provisions relating to the 1939 Code treatment respecting operating mineral interest in case of oil and gas wells.

Subsec. (e)(2). Pub. L. 88-272, §226(b)(4), struck out "within the meaning of subsection (b)(3)" at end.

1958—Subsec. (b)(4). Pub. L. 85-866, §37(a), added par. (4).

Subsecs. (c) to (e). Pub. L. 85-866, §37(b)-(d), added subsecs. (c) and (d), redesignated former subsec. (c) as (e), and substituted in first sentence of par. (1) "or in two or more adjacent tracts" for "or in two or more contiguous tracts" and "shall, on showing by the taxpayer that a principal purpose is not the avoidance of tax, permit the taxpayer to treat (for all purposes of this subtitle) all such mineral interests in each separate kind of mineral deposit as one property" for "may, on showing of undue hardship, permit the taxpayer to treat (for all purposes of this subtitle) all such mineral interests as one property".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11522(c) of Pub. L. 101-508, set out as a note under section 613 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-618 effective Oct. 1, 1978, and applicable to taxable years ending on or after such date, see section 403(c) of Pub. L. 95-618, set out as a note under section 613 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIX, §1901(a)(87)(A)(ii), Oct. 4, 1976, 90 Stat. 1779, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by clause (i) [amending this section] shall apply with respect to elections to form aggregations of operating mineral interests made under section 614(c)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for taxable years beginning after December 31, 1976."

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-272, title II, §226(d), Feb. 26, 1964, 78 Stat. 97, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply to taxable years beginning after December 31, 1963."

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §37(e), Sept. 2, 1958, 72 Stat. 1638, provided that: "The amendments made by subsections (a) and (c) [amending this section] shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. The amendments made by subsection (b) [amending this section] shall apply with respect to taxable years beginning after December 31, 1957, except that such amendments shall, at the election of the taxpayer made in conformity with such amendments, apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. The amendment made by subsection (d) [amending this section] shall apply with respect to taxable years beginning after December 31, 1957, except that with respect to any taxpayer such amendment shall, at the election of the taxpayer, apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954."

ALLOCATION OF BASIS IN CERTAIN CASES

Pub. L. 88-272, title II, §226(c), Feb. 26, 1964, 78 Stat. 96, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100

Stat. 2095, provided that: "For purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]—

"(1) FAIR MARKET VALUE RULE.—Except as provided in paragraph (2), if a taxpayer has a section 614(b) aggregation, then the adjusted basis (as of the first day of the first taxable year beginning after December 31, 1963) of each property included in such aggregation shall be determined by multiplying the adjusted basis of the aggregation by a fraction—

"(A) the numerator of which is the fair market value of such property, and

"(B) the denominator of which is the fair market value of such aggregation.

For purposes of this paragraph, the adjusted basis and the fair market value of the aggregation, and the fair market value of each property included therein, shall be determined as of the day preceding the first day of the first taxable year which begins after December 31, 1963.

"(2) ALLOCATION OF ADJUSTMENTS, ETC.—If the taxpayer makes an election under this paragraph with respect to any section 614(b) aggregation, then the adjusted basis (as of the first day of the first taxable year beginning December 31, 1963) of each property included in such aggregation shall be the adjusted basis of such property at the time it was first included in the aggregation by the taxpayer, adjusted for that portion of those adjustments to the basis of the aggregation which are reasonably attributable to such property. If, under the preceding sentence, the total of the adjusted bases of the interests included in the aggregation exceeds the adjusted basis of the aggregation (as of the day preceding the first day of the first taxable year which begins after December 31, 1963), the adjusted bases of the properties which include such interests shall be adjusted, under regulations prescribed by the Secretary of the Treasury or his delegate, so that the total of the adjusted bases of such interests equals the adjusted basis of the aggregation. An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) SECTION 614(b) AGGREGATION.—The term 'section 614(b) aggregation' means any aggregation to which section 614(b)(1)(A) of the Internal Revenue Code of 1986 (as in effect before the amendments made by subsection (a) of this section) applied for the day preceding the first day of the first taxable year beginning after December 31, 1963.

"(B) PROPERTY.—The term 'property' has the same meaning as is applicable, under section 614 of the Internal Revenue Code of 1986, to the taxpayer for the first taxable year beginning after December 31, 1963."

§ 615. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(88), Oct. 4, 1976, 90 Stat. 1779]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 211; July 6, 1960, Pub. L. 86-594, §1, 74 Stat. 333; Sept. 12, 1966, Pub. L. 89-570, §2(a), 80 Stat. 763; Dec. 30, 1969, Pub. L. 91-172, title V, §504(a), 83 Stat. 632, related to pre-1970 exploration expenditures.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to 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.

§ 616. Development expenditures

(a) In general

Except as provided in subsections (b) and (d), there shall be allowed as a deduction in computing taxable income all expenditures paid or incurred during the taxable year for the develop-

ment of a mine or other natural deposit (other than an oil or gas well) if paid or incurred after the existence of ores or minerals in commercially marketable quantities has been disclosed. This section shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in section 167, but allowances for depreciation shall be considered, for purposes of this section, as expenditures.

(b) Election of taxpayer

At the election of the taxpayer, made in accordance with regulations prescribed by the Secretary, expenditures described in subsection (a) paid or incurred during the taxable year shall be treated as deferred expenses and shall be deductible on a ratable basis as the units of produced ores or minerals benefited by such expenditures are sold. In the case of such expenditures paid or incurred during the development stage of the mine or deposit, the election shall apply only with respect to the excess of such expenditures during the taxable year over the net receipts during the taxable year from the ores or minerals produced from such mine or deposit. The election under this subsection, if made, must be for the total amount of such expenditures, or the total amount of such excess, as the case may be, with respect to the mine or deposit, and shall be binding for such taxable year.

(c) Adjusted basis of mine or deposit

The amount of expenditures which are treated under subsection (b) as deferred expenses shall be taken into account in computing the adjusted basis of the mine or deposit, except that such amount, and the adjustments to basis provided in section 1016(a)(9), shall be disregarded in determining the adjusted basis of the property for the purpose of computing a deduction for depletion under section 611.

(d) Special rules for foreign development

In the case of any expenditures paid or incurred with respect to the development of a mine or other natural deposit (other than an oil, gas, or geothermal well) located outside of the United States—

(1) subsections (a) and (b) shall not apply, and

(2) such expenditures shall—

(A) at the election of the taxpayer, be included in adjusted basis for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred.

(e) Cross reference

For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 59(e).

(Aug. 16, 1954, ch. 736, 68A Stat. 212; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title II, §201(d)(9)(C), formerly §201(c)(9)(C), Sept. 3, 1982, 96 Stat. 420, renumbered §201(d)(9)(C), Pub. L. 97-448, title III,

§306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 99-514, title IV, §411(b)(2)(A), (C)(i), Oct. 22, 1986, 100 Stat. 2226; Pub. L. 100-647, title I, §1007(g)(7), Nov. 10, 1988, 102 Stat. 3435.)

AMENDMENTS

1988—Subsec. (e). Pub. L. 100-647 substituted “section 59(e)” for “section 58(i)”.

1986—Subsec. (a). Pub. L. 99-514, §411(b)(2)(C)(i), inserted reference to subsec. (d).

Subsecs. (d), (e). Pub. L. 99-514, §411(b)(2)(A), added subsec. (d) and redesignated former subsec. (d) as (e).

1982—Subsec. (d). Pub. L. 97-248 added subsec. (d).

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

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to costs paid or incurred after Dec. 31, 1986, in taxable years ending after such date, with transition rule, see section 411(c) of Pub. L. 99-514 set out as a note under section 263 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97-248, set out as a note under section 5 of this title.

§ 617. Deduction and recapture of certain mining exploration expenditures

(a) Allowance of deduction

(1) General rule

At the election of the taxpayer, expenditures paid or incurred during the taxable year for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, and paid or incurred before the beginning of the development stage of the mine, shall be allowed as a deduction in computing taxable income. This subsection shall apply only with respect to the amount of such expenditures which, but for this subsection, would not be allowable as a deduction for the taxable year. This subsection shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in section 167, but allowances for depreciation shall be considered, for purposes of this subsection, as expenditures paid or incurred. In no case shall this subsection apply with respect to amounts paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas or of any mineral with respect to which a deduction for percentage depletion is not allowable under section 613.

(2) Elections

(A) Method

Any election under this subsection shall be made in such manner as the Secretary may by regulations prescribe.

(B) Time and scope

The election provided by paragraph (1) for the taxable year may be made at any time