Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(86) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Pub. L. 94–455, title XXI, § 2115(f), Oct. 4, 1976, 90 Stat. 1910, provided that: ''The amendments made by this section [amending this section and sections 703 and 705 of this title] shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.''

EFFECTIVE DATE

Pub. L. 94–12, title V, § 501(c), Mar. 29, 1975, 89 Stat. 53, provided that: ''The amendments made by this section [enacting this section and amending sections 613 and 703 of this title] shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.''

SAVINGS PROVISION

For provisions that nothing in amendment by section 11815(a) of Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions which were transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

COORDINATION WITH OTHER PROVISION

Pub. L. 95–618, title IV, § 403(d), Nov. 9, 1978, 92 Stat. 3204, provided that: ''Any allowance for depletion allowed by reason of the amendments made by subsection (b) [amending this section] shall not be treated as a credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax which is specifically allowable with respect to any high-cost natural gas (or category thereof) for purposes of section 107(d) of the Natural Gas Policy Act of 1978 [section 3317(d) of Title 15, Commerce and Trade].''

§ 614. Definition of property

(a) General rule

For the purpose of computing the depletion allowance in the case of mines, wells, and other natural deposits, the term ''property'' means each separate interest owned by the taxpayer in each mineral deposit in each separate tract or parcel of land.

(b) Special rules as to operating mineral interests in oil and gas wells or geothermal deposits

In the case of oil and gas wells or geothermal deposits—

(1) In general

Except as otherwise provided in this subsection—

(A) all of the taxpayer's operating mineral interests in a separate tract or parcel of land shall be combined and treated as one property, and

(B) the taxpayer may not combine an operating mineral interest in one tract or parcel of land with an operating mineral interest in another tract or parcel of land.

(2) Election to treat operating mineral interests as separate properties

If the taxpayer has more than one operating mineral interest in a single tract or parcel of land, he may elect to treat one or more of such operating mineral interests as separate properties. The taxpayer may not have more than one combination of operating mineral interests in a single tract or parcel of land. If the taxpayer makes the election provided in this paragraph with respect to any interest in a tract or parcel of land, each operating mineral interest which is discovered or acquired by the taxpayer in such tract or parcel of land after the taxable year for which the election is made shall be treated—

(A) if there is no combination of interests in such tract or parcel, as a separate property unless the taxpayer elects to combine it with another interest, or

(B) if there is a combination of interests in such tract or parcel, as part of such combination unless the taxpayer elects to treat it as a separate property.

(3) Certain unitization or pooling arrangements

(A) In general

Under regulations prescribed by the Secretary, if one or more of the taxpayer's operating mineral interests participate, under a voluntary or compulsory unitization or pooling agreement, in a single cooperative or unit plan of operation, then for the period of such participation—

(i) they shall be treated for all purposes of this subtitle as one property, and

(ii) the application of paragraphs (1), (2), and (4) in respect of such interests shall be suspended.

(B) Limitation

Subparagraph (A) shall apply to a voluntary agreement only if all the operating mineral interests covered by such agreement—

(i) are in the same deposit, or are in 2 or more deposits the joint development or production of which is logical from the standpoint of geology, convenience, economy, or conservation, and

(ii) are in tracts or parcels of land which are contiguous or in close proximity.

(4) Manner, time, and scope of election

(A) Manner and time

Any election provided in paragraph (2) shall be made for each operating mineral interest, in the manner prescribed by the Secretary by regulations, not later than the time prescribed by law for filing the return (including extensions thereof) for the first taxable year in which any expenditure for development or operation in respect of such operating mineral interest is made by the taxpayer after the acquisition of such interest.

(B) Scope

Any election under paragraph (2) shall be for all purposes of this subtitle and shall be

binding on the taxpayer for all subsequent taxable years.

(c) Special rules as to operating mineral interests in mines

(1) Election to aggregate separate interests

Except in the case of oil and gas wells and geothermal deposits, if a taxpayer owns two or more separate operating mineral interests which constitute part or all of an operating unit, he may elect (for all purposes of this subtitle)—

(A) to form an aggregation of, and to treat as one property, all such interests owned by him which comprise any one mine or any two or more mines; and

(B) to treat as a separate property each such interest which is not included within an aggregation referred to in subparagraph (A).

For purposes of this paragraph, separate operating mineral interests which constitute part or all of an operating unit may be aggregated whether or not they are included in a single tract or parcel of land and whether or not they are included in contiguous tracts or parcels. For purposes of this paragraph, a taxpayer may elect to form more than one aggregation of operating mineral interests within any one operating unit; but no aggregation may include any operating mineral interest which is a part of a mine without including all of the operating mineral interests which are a part of such mine in the first taxable year for which the election to aggregate is effective, and any operating mineral interest which thereafter becomes a part of such mine shall be included in such aggregation.

(2) Election to treat a single interest as more than one property

Except in the case of oil and gas wells and geothermal deposits, if a single tract or parcel of land contains a mineral deposit which is being extracted, or will be extracted, by means of two or more mines for which expenditures for development or operation have been made by the taxpayer, then the taxpayer may elect to allocate to such mines, under regulations prescribed by the Secretary, all of the tract or parcel of land and of the mineral deposit contained therein, and to treat as a separate property that portion of the tract or parcel of land and of the mineral deposit so allocated to each mine. A separate property formed pursuant to an election under this paragraph shall be treated as a separate property for all purposes of this subtitle (including this paragraph). A separate property so formed may, under regulations prescribed by the Secretary, be included as a part of an aggregation in accordance with paragraphs (1) and (3). The election provided by this paragraph may not be made with respect to any property which is a part of an aggregation formed by the taxpayer under paragraph (1) except with the consent of the Secretary.

(3) Manner and scope of election

The elections provided by paragraphs (1) and (2) shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) for the first taxable year—

(A) in which, in the case of an election under paragraph (1), any expenditure for development or operation in respect of the separate operating mineral interest is made by the taxpayer after the acquisition of such interest, or

(B) in which, in the case of an election under paragraph (2), expenditures for development or operation of more than one mine in respect of a property are made by the taxpayer after the acquisition of the property.

An election made under paragraph (1) or (2) for a taxable year shall be binding upon the taxpayer for such year and all subsequent taxable years, except that the Secretary may consent to a different treatment of any interest with respect to which an election has been made.

(d) Operating mineral interests defined

For purposes of this section, the term ''operating mineral interest'' includes only an interest in respect of which the costs of production of the mineral are required to be taken into account by the taxpayer for purposes of computing the taxable income limitation provided for in section 613, or would be so required if the mine, well, or other natural deposit were in the production stage.

(e) Special rule as to nonoperating mineral interests

(1) Aggregation of separate interests

If a taxpayer owns two or more separate nonoperating mineral interests in a single tract or parcel of land or in two or more adjacent tracts or parcels of land, the Secretary 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. If such permission is granted for any taxable year, the taxpayer shall treat such interests as one property for all subsequent taxable years unless the Secretary consents to a different treatment.

(2) Nonoperating mineral interests defined

For purposes of this subsection, the term ''nonoperating mineral interests'' includes only interests which are not operating mineral interests.

(Aug. 16, 1954, ch. 736, 68A Stat. 210; Pub. L. 85–866, title I, §37(a)–(d), Sept. 2, 1958, 72 Stat. 1633–1637; Pub. L. 88–272, title II, §226(a), (b), Feb. 26, 1964, 78 Stat. 94, 96; Pub. L. 94–455, title XIX, §§1901(a)(87)(A)(i), (B), (C), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1779, 1834; Pub. L. 95–618, title IV, §403(a)(2)(C), (D), Nov. 9, 1978, 92 Stat. 3204; Pub. L. 101–508, title XI, §11522(b)(2), Nov. 5, 1990, 104 Stat. 1388–486; Pub. L. 113–295, div. A, title II, §221(a)(65), Dec. 19, 2014, 128 Stat. 4048.)

AMENDMENTS

2014—Subsec. (b)(3)(C). Pub. L. 113–295, §221(a)(65)(A), struck out subpar. (C) which related to a special rule for voluntary or compulsory unitization or pooling ar-

rangements entered into in taxable years beginning before Jan. 1, 1964.

Subsec. (b)(4)(A). Pub. L. 113–295, §221(a)(65)(B), which directed amendment of par. (4) by striking out ''whichever of the following years is later: The first taxable year beginning after December 31, 1963, or'', was executed by striking out ''whichever of the following taxable years is the later: The first taxable year beginning after December 31, 1963, or'' before ''the first taxable year'' in subpar. (A), to reflect the probable intent of Congress.

Subsec. (b)(5). Pub. L. 113–295, §221(a)(65)(A), struck out par. (5). Text read as follows: ''If, on the day preceding the first day of the first taxable year beginning after December 31, 1963, the taxpayer has any operating mineral interests which he treats under subsection (d) of this section (as in effect before the amendments made by the Revenue Act of 1964), such treatment shall be continued and shall be deemed to have been adopted pursuant to paragraphs (1) and (2) of this subsection (as amended by such Act).''

1990—Subsec. (d). Pub. L. 101–508 substituted ''taxable income'' for ''50 percent''.

1978—Subsec. (b). Pub. L. 95–618, §403(a)(2)(C), inserted ''or geothermal deposits'' after ''gas wells'' in heading and introductory provisions.

Subsec. (c). Pub. L. 95–618, §403(a)(2)(D), substituted ''oil and gas wells and geothermal deposits'' for ''oil and gas wells'' wherever appearing.

1976—Subsecs. (b)(3)(A), (4)(A), (e). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(2). Pub. L. 94–455, §§1901(a)(87)(B), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing and '', but the provisions of paragraph (4) shall not apply with respect to such separate property'' after ''in accordance with paragraphs (1) and (3)''.

Subsec. (c)(3). Pub. L. 94–455, §1901(a)(87)(C), among other changes, struck out references to the first taxable year beginning after Dec. 31, 1957, and provisions relating to elections for taxable years beginning before Jan. 1, 1958, relating to election after final regulations, and relating to statute of limitations.

Subsec. (c)(4). Pub. L. 94–455, §1901(a)(87)(A)(i), struck out par. (4) which related to a special rule as to deductions under section 615(a) of this title prior to aggregation.

1964—Subsec. (b). Pub. L. 88–272, §226(a), amended subsec. (b) generally, and among other changes, substituted provisions stating that except as otherwise provided, all of the taxpayer's operating mineral interests in a separate tract or parcel of land will be combined and treated as one property, that the taxpayer may not combine any operating mineral interest in one tract or parcel of land with an operating mineral interest in another tract or parcel of land, that if he has more than one operating mineral interest in a single tract of land he may elect to treat one or more of such interests as separate properties, limited, however, to one combination of interests in a single tract of land, and providing, in the event the election in par. (2) is made with respect to any tract of land, for the treatment of interests discovered or acquired by the taxpayer in such a tract after the taxable year for which the election is made, for provisions which permitted a taxpayer who owned two or more separate operating mineral interests which constituted all or a part of an operating unit, to elect to form one aggregation and treat as one property any two or more of these interests, treating as separate properties any interests which he did not include in the one aggregation, to aggregate separate interests whether or not in a single tract of land, or contiguous tracts of land, and which forbade him to form more than one aggregation within a single operating unit, inserted provisions in par. (3) relating to unitization or pooling arrangements, and in par (5), providing that if the taxpayer has operating mineral interests on the day preceding the first day of the first taxable year beginning after Dec. 31, 1963, which he treats under subsec. (d) of this section as in effect before amendment by Pub. L. 88–272, he shall continue such treatment and it shall be deemed adopted pursuant to pars. (1) and (2) of this subsection, and struck out provisions defining ''operating mineral interests'', 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 2014 AMENDMENT

Amendment by Pub. L. 113–295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113–295, set out as a note under section 1 of this title.

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 tax-

able 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 development 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.