

coal is subsequently sold before January 1, 1990, by either such person—

“(i) to a person who is not a related person with respect to either such person, and

“(ii) pursuant to a qualified fixed contract.

“(B) ALLOCATION WHERE MORE THAN 1 CONTRACT.—If, for any taxable year, there is a disposition described in subparagraph (A) which is not specifically allocable to a qualified fixed contract or to a contract which is not a qualified fixed contract, such disposition shall be treated as first allocable to the qualified fixed contract.

“(C) QUALIFIED FIXED CONTRACT DEFINED.—The term ‘qualified fixed contract’ means any contract for the sale of coal which—

“(i) was entered into before June 12, 1984,

“(ii) is binding at all times thereafter, and

“(iii) cannot be adjusted to reflect to any extent the increase in liabilities of the person disposing of the coal for tax under chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by reason of the amendment made by subsection (a).

“(D) RELATED PERSON.—For purposes of this paragraph, the term ‘related person’ means a person who bears a relationship to another person described in the last sentence of section 631(c).”

Amendment by section 1001(c) of Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIV, §1402(b)(1), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(b)(2), Oct. 4, 1976, 90 Stat. 1732, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Pub. L. 94-455, title XIV, §1402(b)(3), Oct. 4, 1976, 90 Stat. 1733, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1976.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88-272, set out as a note under section 272 of this title.

#### REVOCATION OF ELECTIONS UNDER SECTION 631(a)

Pub. L. 108-357, title I, §102(c), Oct. 22, 2004, 118 Stat. 1428, provided that: “Any election under section 631(a) of the Internal Revenue Code of 1986 made for a taxable year ending on or before the date of the enactment of this Act [Oct. 22, 2004] may be revoked by the taxpayer for any taxable year ending after such date. For purposes of determining whether such taxpayer may make a further election under such section, such election (and any revocation under this section) shall not be taken into account.”

Pub. L. 99-514, title III, §311(d)(2), Oct. 22, 1986, 100 Stat. 2220, provided that: “Any election under section 631(a) of the Internal Revenue Code of 1954 made (whether by a corporation or a person other than a corporation) for a taxable year beginning before January 1, 1987, may be revoked by the taxpayer for any taxable year ending after December 31, 1986. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this paragraph) shall not be taken into account.”

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

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 214; Dec. 30, 1969, Pub. L. 91-172, title VIII, §803(d)(4), 83 Stat. 684, related to tax in case of sale of oil and gas properties.

#### 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.

### PART IV—MINERAL PRODUCTION PAYMENTS

Sec.

636. Income tax treatment of mineral production payments.

#### AMENDMENTS

1969—Pub. L. 91-172, title V, §503(a), Dec. 30, 1969, 83 Stat. 630, added part heading and section analysis.

### § 636. Income tax treatment of mineral production payments

#### (a) Carved-out production payments

A production payment carved out of mineral property shall be treated, for purposes of this subtitle, as if it were a mortgage loan on the property, and shall not qualify as an economic interest in the mineral property. In the case of a production payment carved out for exploration or development of a mineral property, the preceding sentence shall apply only if and to the extent gross income from the property (for purposes of section 613) would be realized, in the absence of the application of such sentence, by the person creating the production payment.

#### (b) Retained production payment on sale of mineral property

A production payment retained on the sale of a mineral property shall be treated, for purposes of this subtitle, as if it were a purchase money mortgage loan and shall not qualify as an economic interest in the mineral property.

#### (c) Retained production payment on lease of mineral property

A production payment retained in a mineral property by the lessor in a leasing transaction shall be treated, for purposes of this subtitle, insofar as the lessee (or his successors in interest) is concerned, as if it were a bonus granted by the lessee to the lessor payable in installments. The treatment of the production payment in the hands of the lessor shall be determined without regard to the provisions of this subsection.

#### (d) Definition

As used in this section, the term “mineral property” has the meaning assigned to the term “property” in section 614(a).

#### (e) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Added Pub. L. 91-172, title V, §503(a), Dec. 30, 1969, 83 Stat. 630; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### AMENDMENTS

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

#### EFFECTIVE DATE

Pub. L. 91-172, title V, §503(c), Dec. 30, 1969, 83 Stat. 631, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: