89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1925

INCOME TAX TREATMENT OF EXPLORATION EXPENDITURES IN THE CASE OF MINING

AUGUST 31, 1966.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 4665]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4665) relating to the income tax treatment of exploration expenditures in the case of mining, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, and 9.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

On page 3 of the Senate engrossed amendments, strike out the matter after line 3 and insert the following:

> ***"For additional rules applicable for purposes of this section, see subsections (f) and (g) of section 615."***

And the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2. (a) Section 615 of the Internal Revenue Code of 1954 (relating to exploration expenditures) is amended by adding at the end thereof the following new subsections:

"(e) *ELECTION TO HAVE SECTION APPLY.*—*This section (other than subsections (f) and (g)) shall apply only if the taxpayer so elects in such manner as the Secretary or his delegate may by regulations prescribe. Such election shall be made before the expiration of 3 years after the time prescribed by law (determined without any extension thereof) for filing the return for the first taxable year ending after the date of the enactment of this subsection in which expenditures described in subsection (a) are paid or incurred after such date. Such election may not be revoked after the expiration of such 3 years.*

"(f) *SECTION 615 AND SECTION 617 ELECTIONS TO BE MUTUALLY EXCLUSIVE.*—*A taxpayer who has made an election under subsection (e) (which he has not revoked) may not make an election under section 617(a). A taxpayer who has made an election under section 617(a) (which he has not revoked) may not make an election under subsection (e) of this section.*

"(g) *EFFECT OF TRANSFER OF MINERAL PROPERTY.*—

"(1) *TRANSFER BEFORE ELECTION.*—*If*—

"(A) *any person transfers any mineral property to another person in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor, and*

"(B) *the transferor has not, at the time of the transfer, made an election under either subsection (a) of section 617 or subsection (e) of this section,*

then no election by the transferor under either such subsection shall apply with respect to expenditures which are made by the transferor after the date of the enactment of this subsection and before the date of the transfer and which are properly chargeable to such property. For purposes of the preceding sentence, a transferor of mineral property who made an election under subsection (a) of section 617 or subsection (e) of this section before the transfer but who revokes such election after the transfer shall be treated with respect to such property as not having made an election under either such subsection.

"(2) *EFFECT OF ELECTION BY TRANSFEREE UNDER SECTION 617.*—If—

"(A) *the taxpayer receives mineral property in a transaction described in paragraph (1)(A),*

"(B) *an election made by the transferor under subsection (e) applies with respect to expenditures which are made by him after the date of the enactment of this subsection and before the date of the transfer and which are properly chargeable to such property, and*

"(C) *the taxpayer has made or makes an election under section 617(a),*

then in applying section 617 with respect to the transferee, the amounts allowed as deductions under this section to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the transferee, shall be treated as expenditures allowed as deductions under section 617(a) to the transferor. Notwithstanding subsections (b) and (d) of this section (and section 381(c)(10)), any deferred expenses described in subsection (b) which are not allowed as deductions to the transferor for a period before the transfer may not be deducted by the transferee and in his hands shall be charged to capital account."

(*b*) *Section 703(b) of such Code (relating to elections of partnerships) is amended by inserting, after "United States", the following: "and any election under section 615 (relating to exploration expenditures) or under section 617 (relating to additional exploration expenditures in the case of domestic mining),".*

And the Senate agree to the same.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
EUGENE J. KEOGH,
JOHN W. BYRNES,
THOS. B. CURTIS,
JAMES UTT,
Managers on the Part of the House.

RUSSELL B. LONG,
GEORGE SMATHERS,
CLINTON ANDERSON,
FRANK CARLSON,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4665) relating to the income tax treatment of exploration expenditures in the case of mining, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Senate amendments Nos. 1, 2, 4, 5, 6, 7, 8, and 9 made technical, clerical, or conforming amendments. With respect to these amendments the House recedes, except that with respect to amendment No. 8 the House recedes with a conforming amendment.

Amendment No. 3: The bill as passed by both the House and the Senate adds a new section 617 to the Internal Revenue Code of 1954 under which, at the election of the taxpayer, certain exploration expenditures paid or incurred before the beginning of the development stage of a mine are to be allowed as a deduction (without limitation on dollar amount) in computing taxable income. The amount deducted is subject to "recapture" (for example, by reduction of the depletion deduction after the mine reaches the producing state). Under the bill as passed by the House the new section did not apply to amounts paid or incurred for the purpose of locating, etc., any deposit of oil, gas, or coal or any mineral with respect to which a deduction for percentage depletion is not allowable. The effect of Senate amendment No. 3 is to extend the application of new section 617 to exploration expenditures with respect to coal. The House recedes.

Amendment No. 10: The bill as passed by the House amended section 615 of the Code to restrict its application to exploration expenditures with respect to coal. Thus, in the case of minerals (other than coal) now covered by section 615, exploration expenditures after the date of the enactment of the bill would be deductible only under new section 617. The amount deductible is not subject to dollar limitations but is limited to explorations in the United States or on the Outer Continental Shelf and is subject to the "recapture" provisions of new section 617.

The effect of Senate amendment No. 10 is to permit taxpayers, at their election, to continue to deduct exploration expenditures (including expenditures for foreign exploration) under section 615 subject to the existing $100,000 annual and $400,000 overall limitations and without "recapture" rules being applied. In addition, the Senate amendment adds a new subsection (e) to section 615 to provide correlation with section 617. In general, if an election is made under section 617 for any taxable year (1) an election may not be made or continued in effect under section 615 for such taxable year or any subsequent taxable year, and (2) the recapture rules of section 617 apply to all expenditures which were made by the taxpayer after

the date of the enactment of the bill and were deducted or treated as deferred expenditures under section 615.

Under the conference agreement, taxpayers may elect to deduct exploration expenditures (including expenditures for foreign exploration) under section 615 subject to the existing $100,000 annual and $400,000 overall limitations. Under the conference agreement (sec. 615(f)), a taxpayer may make an election under either section 615 or 617, but having made an election (which he has not revoked within the time permitted) under either section he may not thereafter make an election under the other section.

Under section 615(e), as agreed to in conference, the election is to be made in such manner as the Secretary or his delegate may by regulations prescribe. The election is required to be made before the expiration of 3 years after the time prescribed by law (determined without any extension thereof) for filing the return for the first taxable year ending after the date of enactment in which expenditures described in section 615(a) are paid or incurred after such date. The election may not be revoked after the expiration of such 3 years.

Section 615(g), as agreed to in conference, relates to the effect of certain tax-free transfers of mineral property. Paragraph (1) applies where (1) a person transfers mineral property to another person in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor, and (2) the transferor has not, at the time of the transfer, made an election under either section 617(a) or section 615(e). In such a case no election (which is made after the transfer) by the transferor under either section is to apply with respect to expenditures which are made by the transferor after the date of the enactment of the new subsection (g) and before the date of the transfer and which are properly chargeable to the mineral property transferred. In applying this rule, a transferor of mineral property who made an election under section 617(a) or section 615(e) before the transfer but who revokes the election after the transfer is to be treated with respect to such property as not having made an election under either such section.

Paragraph (2) of subsection (g), as agreed to in conference, applies where (1) the taxpayer receives mineral property in a transaction as a result of which the basis of such property in his hands is determined by reference to the basis in the hands of the transferor, (2) an election made by the transferor under section 615(e) applies with respect to expenditures which are properly chargeable to such property and which are made by him after the date of the enactment of the new subsection and before the date of the transfer, and (3) the taxpayer has made or makes an election under section 617(a). In such a case, in applying section 617 with respect to the transferee, the amounts allowed as deductions under section 615 to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the transferee, are to be treated as expenditures allowed as deductions under section 617(a) to the transferor, thus making the recapture rules of section 617 apply to the transferee with respect to such property after the transfer. Notwithstanding section 615 (b) and (d) and section 381(c)(10), any deferred expenses described in section 615(b) which are not allowed as deductions to the transferor for any period before the transfer may not be

deducted by the transferee and in his hands must be charged to capital account.

Subsection (b) of section 2 of the bill as agreed to in conference amends section 703(b) of the code (relating to elections of partnerships) to provide that any elections under section 615 or under section 617 are to be made by each partner separately rather than by the partnership.

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