

TITLE 26 - INTERNAL REVENUE CODE**Subtitle A - Income Taxes****CHAPTER 1 - NORMAL TAXES AND SURTAXES****Subchapter E - Accounting Periods and Methods of Accounting****PART II - METHODS OF ACCOUNTING****Subpart C - Taxable Year for Which Deductions Taken****§ 468. Special rules for mining and solid waste reclamation and closing costs****(a) Establishment of reserves for reclamation and closing costs****(1) Allowance of deduction**

If a taxpayer elects the application of this section with respect to any mining or solid waste disposal property, the amount of any deduction for qualified reclamation or closing costs for any taxable year to which such election applies shall be equal to the current reclamation or closing costs allocable to—

(A) in the case of qualified reclamation costs, the portion of the reserve property which was disturbed during such taxable year, and

(B) in the case of qualified closing costs, the production from the reserve property during such taxable year.

(2) Opening balance and adjustments to reserve**(A) Opening balance**

The opening balance of any reserve for its first taxable year shall be zero.

(B) Increase for interest

A reserve shall be increased each taxable year by an amount equal to the amount of interest which would have been earned during such taxable year on the opening balance of such reserve for such taxable year if such interest were computed—

(i) at the Federal short-term rate or rates (determined under section 1274) in effect, and

(ii) by compounding semiannually.

(C) Reserve to be charged for amounts paid

Any amount paid by the taxpayer during any taxable year for qualified reclamation or closing costs allocable to portions of the reserve property for which the election under paragraph (1) was in effect shall be charged to the appropriate reserve as of the close of the taxable year.

(D) Reserve increased by amount deducted

A reserve shall be increased each taxable year by the amount allowable as a deduction under paragraph (1) for such taxable year which is allocable to such reserve.

(3) Allowance of deduction for excess amounts paid

There shall be allowed as a deduction for any taxable year the excess of—

(A) the amounts described in paragraph (2)(C) paid during such taxable year, over

(B) the closing balance of the reserve for such taxable year (determined without regard to paragraph (2)(C)).

(4) Limitation on balance as of the close of any taxable year**(A) Reclamation reserves**

In the case of any reserve for qualified reclamation costs, there shall be included in gross income for any taxable year an amount equal to the excess of—

(i) the closing balance of the reserve for such taxable year, over

- (ii) the current reclamation costs of the taxpayer for all portions of the reserve property disturbed during any taxable year to which the election under paragraph (1) applies.

(B) Closing costs reserves

In the case of any reserve for qualified closing costs, there shall be included in gross income for any taxable year an amount equal to the excess of—

- (i) the closing balance of the reserve for such taxable year, over
- (ii) the current closing cost of the taxpayer with respect to the reserve property, determined as if all production with respect to the reserve property for any taxable year to which the election under paragraph (1) applies had occurred in such taxable year.

(C) Order of application

This paragraph shall be applied after all adjustments to the reserve have been made for the taxable year.

(5) Income inclusions on completion or disposition

Proper inclusion in income shall be made upon—

- (A) the revocation of an election under paragraph (1), or
- (B) completion of the closing, or disposition of any portion, of a reserve property.

(b) Allocation for property where election not in effect for all taxable years

If the election under subsection (a)(1) is not in effect for 1 or more taxable years in which the reserved property is disturbed (or production occurs), items with respect to the reserve property shall be allocated to the reserve in such manner as the Secretary may prescribe by regulations.

(c) Revocation of election; separate reserves

(1) Revocation of election

(A) In general

The taxpayer may revoke an election under subsection (a)(1) with respect to any property. Such revocation, once made, shall be irrevocable.

(B) Time and manner of revocation

Any revocation under subparagraph (A) shall be made at such time and in such manner as the Secretary may prescribe.

(2) Separate reserves required

If a taxpayer makes an election under subsection (a)(1), the taxpayer shall establish with respect to the property for which the election was made—

- (A) a separate reserve for qualified reclamation costs, and
- (B) a separate reserve for qualified closing costs.

(d) Definitions and special rules relating to reclamation and closing costs

For purposes of this section—

(1) Current reclamation and closing costs

(A) Current reclamation costs

The term “current reclamation costs” means the amount which the taxpayer would be required to pay for qualified reclamation costs if the reclamation activities were performed currently.

(B) Current closing costs

(i) In general

The term “current closing costs” means the amount which the taxpayer would be required to pay for qualified closing costs if the closing activities were performed currently.

- (ii) Costs computed on unit-of-production or capacity method

Estimated closing costs shall—

- (I) in the case of the closing of any mine site, be computed on the unit-of-production method of accounting, and
- (II) in the case of the closing of any solid waste disposal site, be computed on the unit-of-capacity method.

(2) Qualified reclamation or closing costs

The term “qualified reclamation or closing costs” means any of the following expenses:

(A) Mining reclamation and closing costs

Any expenses incurred for any land reclamation or closing activity which is conducted in accordance with a reclamation plan (including an amendment or modification thereof)—

(i) which—

- (I) is submitted pursuant to the provisions of section 511 or 528 of the Surface Mining Control and Reclamation Act of 1977 (as in effect on January 1, 1984), and
- (II) is part of a surface mining and reclamation permit granted under the provisions of title V of such Act (as so in effect), or

(ii) which is submitted pursuant to any other Federal or State law which imposes surface mining reclamation and permit requirements substantially similar to the requirements imposed by title V of such Act (as so in effect).

(B) Solid waste disposal and closing costs

(i) In general

Any expenses incurred for any land reclamation or closing activity in connection with any solid waste disposal site which is conducted in accordance with any permit issued pursuant to—

- (I) any provision of the Solid Waste Disposal Act (as in effect on January 1, 1984) requiring such activity, or
- (II) any other Federal, State, or local law which imposes requirements substantially similar to the requirements imposed by the Solid Waste Disposal Act (as so in effect).

(ii) Exception for certain hazardous waste sites

Clause (i) shall not apply to that portion of any property which is disturbed after the property is listed in the national contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(3) Property

The term “property” has the meaning given such term by section 614.

(4) Reserve property

The term “reserve property” means any property with respect to which a reserve is established under subsection (a)(1).

(Added Pub. L. 98–369, div. A, title I, § 91(b)(1), July 18, 1984, 98 Stat. 601; amended Pub. L. 99–514, title XVIII, §§ 1807(a)(3)(A), (C), 1899A (14), Oct. 22, 1986, 100 Stat. 2811, 2959; Pub. L. 101–508, title XI, § 11802(c), Nov. 5, 1990, 104 Stat. 1388–529.)

References in Text

The Surface Mining Control and Reclamation Act of 1977, referred to in subsec. (d)(2)(A), is Pub. L. 95–87, Aug. 3, 1977, 91 Stat. 445, as amended. Title V of that Act is classified generally to subchapter V (§ 1251 et seq.) of chapter 25 of Title 30, Mineral Lands and Mining. Sections 511 and 528 of that Act are classified to sections 1261 and 1278, respectively, of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of Title 30 and Tables.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

The Solid Waste Disposal Act, referred to in subsec. (d)(2)(B)(i), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (d)(2)(B)(ii), is classified to section 9605 of Title 42.

Amendments

1990—Subsec. (a)(2)(B). Pub. L. 101–508 amended subpar. (B) generally, substituting present provisions for provisions providing for increase for interest and a phase-in of interest rates for taxable years ending before 1987.

1986—Subsec. (a)(1). Pub. L. 99–514, § 1807(a)(3)(C), substituted “this section” for “this subsection”.

Subsec. (a)(2)(D). Pub. L. 99–514, § 1807(a)(3)(A), added subpar. (D).

Subsec. (d)(2)(B)(ii). Pub. L. 99–514, § 1899A(14), substituted “Comprehensive Environmental Response, Compensation, and Liability Act of 1980” for “Comprehensive Environmental, Compensation, and Liability Act of 1980”.

Effective Date of 1986 Amendment

Amendment by section 1807(a)(3)(A), (C) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

Effective Date

Section effective July 18, 1984, with respect to taxable years ending after such date, except as otherwise provided, see section 91(g)(4) of Pub. L. 98–369, as amended, set out as an Effective Date of 1984 Amendment note under section 461 of this title.

Savings Provision

For provisions that nothing in amendment by 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.

Plan Amendments Not Required Until January 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.