

made before, on, or after the date of the enactment of the bill.

Under the action recommended in the accompanying conference report, the first sentence of section 351(a) of the code is amended by striking out "to a corporation" and inserting in lieu thereof "to a corporation (including, in the case of transfers made before July 1, 1967, an investment company)". The conference action also inserts a new subsection (d) in section 351 providing special rules relating to the application of section 351 in the case of investment companies which are required to file registration statements with the Securities and Exchange Commission. Under the conference action, these amendments to section 351 are to apply to transfers to investment companies whether made before, on, or after the date of the enactment of the bill.

Minimum amount treated as earned income for retirement plans of certain self-employed individuals

The Senate amendment (in proposed section 205) raised from \$2,500 to \$6,600 the minimum amount of earnings from a trade or business, in which both personal services and capital are material income-producing factors, which a self-employed person may treat as earned income, for purposes of section 401 of the code, without regard to the general rule that only 30 percent of the net profits of the trade or business may be treated as a self-employed person's earned income. This provision was to apply to taxable years beginning after December 31, 1965.

This provision is not included in the action recommended in the accompanying conference report. For a related provision which is included in such section, however, see the explanation which immediately follows this paragraph.

Removal of special limitations with respect to deductibility of contributions to pension plans by self-employed individuals

Existing section 404(a)(10) of the code limits the deduction with respect to contributions made on behalf of an individual who is an employee within the meaning of section 401(c)(1) (principally, the self-employed) to an amount equal to one-half of such contributions.

The Senate amendment repeals section 404(a)(10) of the code, effective with respect to taxable years beginning after December 31, 1967. The Senate amendment also amends section 401(c)(2) of the code (relating to definition of earned income for purposes of certain pension and profit-sharing plans) to treat as earned income all of the net profits from a trade or business in which both the performance of personal services and capital are material income-producing factors. However, the earned income to be taken into account for this purpose includes only net earnings with respect to a trade or business in which personal services of the taxpayer are a material income-producing factor. Under the Senate amendment this provision is effective for taxable years beginning after December 31, 1967.

The action recommended in the accompanying conference report includes both the repeal of section 404(a)(10) and the amendment of the earned income provisions of section 401(c)(2), effective with respect to taxable years beginning after December 31, 1967.

Treatment of certain income of authors, inventors, etc., as earned income for retirement Plan purposes

Section 401(c)(2) of the code contains the

definition of "earned income" for purposes of pension and profit-sharing plans which cover self-employed individuals and owner-employees.

The Senate amendment adds a new subparagraph providing that the term "earned income" includes gains (other than capital gains) and net earnings derived from the sale or other disposition of, the transfer of any interest in, or the licensing of the use of property (other than good will) by an individual whose personal efforts created such property.

Under the conference action, this provision is retained.

Exclusion of certain rents from personal holding company income

Section 543(b)(3) of the code defines the term "adjusted income from rents" for purposes of the provisions of the code relating to personal holding companies. The Senate amendment adds a provision providing that such term does not include compensation, however designated, for the use of, or the right to use, any tangible personal property manufactured or produced by the taxpayer, if during the taxable year the taxpayer is engaged in substantial manufacturing or production of tangible personal property of the same type.

Under the conference action this provision is retained.

Percentage depletion rate for certain clay bearing alumina

Section 613(b)(6) of the code provides a 15 percent depletion rate for all other minerals not otherwise provided a percentage depletion rate. Under that provision, clay, laterite, and nephelitic syenite used for the extraction of alumina would receive a 15 percent depletion rate. Section 613(c)(4) of the code sets forth the treatment processes which are considered as mining.

The Senate amendment (in proposed section 209(a)) amends section 613(b) to provide a 23 percent depletion rate for clay, laterite, and nephelitic syenite produced from deposits in the United States to the extent that alumina and aluminum compounds are extracted therefrom. Section 209(b) would have amended section 613(c)(4) to provide that in the case of clay, laterite, and nephelitic syenite extracted from deposits in the United States, all processes applied to derive alumina of aluminum compounds would be considered as mining. Such amendments would apply to taxable years beginning after the date of enactment of the bill.

Under the conference action proposed section 209(a) is retained but proposed section 209(b) is deleted. The amendment is to apply to taxable years beginning after the date of enactment of the bill.

Percentage depletion rate for clam and oyster shells

Section 613(b)(5) of the code provides a 5 percent depletion rate for mollusk shells (including clam shells and oyster shells).

The Senate amendment (in proposed section 210) amends section 613(b) to provide a 15 percent depletion rate for mollusk shells, except when used for rip rap, ballast, road material, rubble, concrete aggregates or for similar purposes, in which event a 5 percent rate applies. The amendment applies to taxable years beginning after the date of enactment of the bill.

Under the conference action this provision is retained.