

paid or incurred prior to September 13, 1966, shall not affect his right to make an election under section 617(a) to deduct under section 617 expenditures paid or incurred after September 12, 1966.

(2) *Allocation in case of inadequate records.* If a taxpayer pays or incurs exploration expenditures during a taxable year beginning before September 13, 1966, and ending after September 12, 1966, but his records as to any mine or property are inadequate to permit a determination of the amount paid or incurred during the portion of the year ending after September 12, 1966, and the amount paid or incurred on or before such date, the exploration expenditures as to which the records are inadequate paid or incurred with respect to the mine or property during the taxable year shall be allocated to each part year (that is, the part occurring before September 13, 1966, and the part occurring after September 12, 1966) in the ratio which the number of days in such part year bears the number of days in the entire taxable year. For example, if the records of a calendar year taxpayer for 1966 are inadequate to permit a determination of the amount of exploration expenditures paid or incurred with respect to a certain mine or property after September 12, 1966, and the amount paid or incurred before September 13, 1966, $\frac{255}{365}$ of the total exploration expenditures paid or incurred by the taxpayer with respect to the mine or property during 1966 shall be allocated to the period beginning January 1, 1966, and ending September 12, 1966, and $\frac{110}{365}$ of the total exploration expenditures paid or incurred with respect to the mine or property during 1966 shall be allocated to the period beginning September 13, 1966, and ending December 31, 1966.

(3) *Partnership elections.* With respect to exploration expenditures paid or incurred by a partnership before September 13, 1966, the option to deduct under section 615(a) and the election to defer under section 615(b) shall be made by the partnership, rather than by the individual partners. All elections under sections 615(e), 617(a), or 617(b) as to the tax treatment of a partner's distributive share of exploration expenditures paid or incurred by any partner-

ship of which he is a member shall be made by the individual partner, rather than by the partnership.

(b) *Effect of transfer of mineral property.* The binding effect of a taxpayer's election under section 615(e) shall not be affected by his receiving property with respect to which deductions have been allowed under section 617(a). The binding effect of a taxpayer's election under section 617(a) shall not be affected by his receiving property with respect to which deductions have been allowed under section 615 pursuant to an election made under section 615(e). However, see section 615(g)(2) for rules under which amounts deducted under section 615 by a transferor may be subject to recapture in the hands of a transferee who has made an election under section 617(a).

PART 15a—TEMPORARY INCOME TAX REGULATIONS UNDER THE INSTALLMENT SALES REVISION ACT

Sec.

15a.453-0 Taxable years affected.

15a.453-1 Installment method reporting for sales of real property and casual sales of personal property.

15a.453-2 Installment obligations received as liquidating distribution. [Reserved]

AUTHORITY: 26 U.S.C. 453(i) and 7805.

§ 15a.453-0 Taxable years affected.

(a) *In general.* Except as otherwise provided, the provisions of § 15a.453-1 (a) through (e) generally apply to installment method reporting for sales of real property and casual sales of personal property occurring after October 19, 1980. See 26 CFR § 1.453-1 (rev. as of April 1, 1980) for the provisions relating to installment method reporting for sales of real property and casual sales before October 20, 1980 (except as provided in paragraph (b) of this section) and for provisions relating to installment sales by dealers in personal property occurring before October 20, 1980.

(b) *Certain limitations.* The provisions of prior law (section 453(b) of the Internal Revenue Code of 1954, in effect as of October 18, 1980) which required that the buyer receive no more than 30 percent of the selling price in the taxable year of the installment sale and that at

least two payments be received shall not apply to reporting for casual installment sales of personal property and installment sales of real property occurring in a taxable year ending after October 19, 1980.

[T.D. 7768, 46 FR 10709, Feb. 4, 1981; 46 FR 43036, Aug. 26, 1981]

§ 15a.453-1 Installment method reporting for sales of real property and casual sales of personal property.

(a) *In general.* Unless the taxpayer otherwise elects in the manner prescribed in paragraph (d)(3) of this section, income from a sale of real property or a casual sale of personal property, where any payment is to be received in a taxable year after the year of sale, is to be reported on the installment method.

(b) *Installment sale defined*—(1) *In general.* The term “installment sale” means a disposition of property (except as provided in paragraph (b)(4) of this section) where at least one payment is to be received after the close of the taxable year in which the disposition occurs. The term “installment sale” includes dispositions from which payment is to be received in a lump sum in a taxable year subsequent to the year of sale. For purposes of this paragraph, the taxable year in which payments are to be received is to be determined without regard to section 453(e) (relating to related party sales), section (f)(3) (relating to the definition of a “payment”) and section (g) (relating to sales of depreciable property to a spouse or 80-percent-owned entity).

(2) *Installment method defined*—(i) *In general.* Under the installment method, the amount of any payment which is income to the taxpayer is that portion of the installment payment received in that year which the gross profit realized or to be realized bears to the total contract price (the “gross profit ratio”). See paragraph (c) of this section for rules describing installment method reporting of contingent payment sales.

(ii) *Selling price defined.* The term “selling price” means the gross selling price without reduction to reflect any existing mortgage or other encumbrance on the property (whether assumed or taken subject to by the

buyer) and, for installment sales in taxable years ending after October 19, 1980, without reduction to reflect any selling expenses. Neither interest, whether stated or unstated, nor original issue discount is considered to be a part of the selling price. See paragraph (c) of this section for rules describing installment method reporting of contingent payment sales.

(iii) *Contract price defined.* The term “contract price” means the total contract price equal to selling price reduced by that portion of any qualifying indebtedness (as defined in paragraph (b)(2)(iv) of this section), assumed or taken subject to by the buyer, which does not exceed the seller’s basis in the property (adjusted, for installment sales in taxable years ending after October 19, 1980, to reflect commissions and other selling expenses as provided in paragraph (b)(2)(v) of this section). See paragraph (c) of this section for rules describing installment method reporting of contingent payment sales.

(iv) *Qualifying indebtedness.* The term “qualifying indebtedness” means a mortgage or other indebtedness encumbering the property and indebtedness, not secured by the property but incurred or assumed by the purchaser incident to the purchaser’s acquisition, holding, or operation in the ordinary course of business or investment, of the property. The term “qualifying indebtedness” does not include an obligation of the taxpayer incurred incident to the disposition of the property (*e.g.*, legal fees relating to the taxpayer’s sale of the property) or an obligation functionally unrelated to the acquisition, holding, or operating of the property (*e.g.*, the taxpayer’s medical bill). Any obligation created subsequent to the taxpayer’s acquisition of the property and incurred or assumed by the taxpayer or placed as an encumbrance on the property in contemplation of disposition of the property is not qualifying indebtedness if the arrangement results in accelerating recovery of the taxpayer’s basis in the installment sale.

(v) *Gross profit defined.* The term “gross profit” means the selling price less the adjusted basis as defined in