

result of the compensable injury with respect to which, as of the beginning of the taxable year, the period for carryover under section 172 has expired without benefit to the taxpayer, but only to the extent that such portion of the unrecovered losses did not reduce an amount computed under section 186(e)(1) for any prior taxable year.

(4) *Increase in income under section 172(b)(2)*. If there is a reduction for any taxable year under subparagraph (1) of this paragraph in the portion of the net operating loss carryovers to such year attributable to a compensable injury, then, solely for purposes of determining the amount of such portion which may be carried to subsequent taxable years, the income of such taxable year, as computed under section 172(b)(2), shall be increased by the amount of the reduction computed under subparagraph (1) of this paragraph, for such year.

(f) *Illustration*. The provisions of section 186 and this section may be illustrated by the following example:

Example. (i) As of the beginning of his taxable year 1969, taxpayer A has a net operating loss carryover from his taxable year 1966 of \$550 of which \$250 is attributable to a compensable injury. In addition, he has a net operating loss attributable to the compensable injury of \$150 with respect to which the period for carryover under section 172 has expired without benefit to the taxpayer. In 1969, he receives a \$100 compensatory amount with respect to that injury and he has \$75 in other income. Thus, A has gross income of \$175 and he is entitled to a \$100 deduction (the compensatory amount received) under section 186(a) and this section since this amount is less than the unrecovered losses sustained as a result of the compensable injury (\$250+\$150=\$400). No portion of the net operating loss carryover to the current taxable year attributable to the compensable injury is reduced under section 186(e) since the amount determined under section 186(e)(1) (\$100) does not exceed the amount determined under section 186(e)(2) (\$150). Therefore, A applies a net operating loss carryover of \$550 against his remaining income of \$75 and retains a net operating loss carryover of \$475 to following years of which amount \$250 remains attributable to the compensable injury. In addition, he retains \$50 of net operating losses attributable to the compensable injury with respect to which the period for carryover under section 172 has expired without benefit to the taxpayer.

(ii) In 1970, A receives a \$200 compensatory amount with respect to the same compensable injury and has \$75 of other income. Thus, A has gross income of \$275 and he is entitled to a \$200 deduction (the compensatory amount received) under section 186(a) and this section since this amount is less than the remaining unrecovered loss sustained as a result of the compensable injury (\$250+\$50=\$300). The net operating loss carryover to the current taxable year of \$250 attributable to the compensable injury is reduced under section 186(e) by \$150, which is the excess of the amount determined under section 186(e)(1) (\$200) over the amount determined under section 186(e)(2) (\$50). Therefore, A applies net operating loss carryovers of \$325 (\$225 not attributable to the compensable injury, +\$100 attributable to such injury) against his remaining income of \$75. A retains net operating loss carryovers of \$250 for following years, of which amount \$100 is attributable to the compensable injury. A has used all of his net operating losses attributable to the compensable injury with respect to which the period for carryover under section 172 has expired without benefit to the taxpayer.

(iii) In 1971, A receives a \$200 compensatory amount with respect to the same compensable injury and has \$75 of other income. Thus, A has gross income of \$275 and he is entitled to a \$100 deduction (the amount of unrecovered losses) under section 186(a) and this section since this amount is less than the compensatory amount received (\$200). The net operating loss carryover to the current taxable year of \$100 attributable to the compensable injury is reduced under section 186(e) by \$100, which is the excess of the amount determined under section 186(e)(1) (\$100) over the amount determined under section 186(e)(2) (\$0). Therefore, A applies net operating loss carryovers of \$150 against his remaining income of \$175 (\$100 compensatory amount plus \$75 other income) which leaves \$25 taxable income. No net operating loss carryover remains for following years.

(g) *Effective date*. The provisions of this section are applicable as to compensatory amounts received or accrued in taxable years beginning after December 31, 1968, even though the compensable injury was sustained in taxable years beginning before such date.

[T.D. 7220, 37 FR 24744, Nov. 21, 1972]

§ 1.187-1 Amortization of certain coal mine safety equipment.

(a) *Allowance of deduction*—(1) *In general*. Under section 187(a), every person, at his election, shall be entitled to a

deduction with respect to the amortization of the adjusted basis (for determining gain) of any certified coal mine safety equipment (as defined in §1.187-2), based on a period of 60 months. Such 60-month period shall, at the election of the taxpayer, begin either with the month following the month in which such equipment was placed in service or with the succeeding taxable year. For rules as to making or discontinuing the election, see paragraphs (b) and (c) of this section. For the computation of the adjusted basis (for determining gain) of any certified coal mine safety equipment, see paragraph (b) of §1.187-2.

(2) *Amount of deduction.* (i) Such amortization deduction shall be an amount, with respect to each month of such 60-month period which falls within the taxable year, equal to the adjusted basis for determining gain of the certified coal mine safety equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in such 60-month period. Such adjusted basis at the end of any month shall be computed without regard to the amortization deduction for such month. The total amortization deduction with respect to any certified coal mine safety equipment for a particular taxable year is the sum of the amortization deductions allowable for each month of the 60-month period which falls within such taxable year.

(ii) If any certified coal mine safety equipment is sold or exchanged or otherwise disposed of during a particular month, then the amortization deduction (if any) allowable to the transferor in respect of that month shall be that portion of the amount to which such person would be entitled for a full month which the number of days in such month during which the equipment was held by such person bears to the total number of days in such month.

(3) *Effect on other deductions.* (i) The amortization deduction provided by section 187(a) with respect to any month shall be in lieu of the depreciation deduction which would otherwise be allowable with respect to such equipment under section 167 for such month.

(ii) If the adjusted basis of such coal mine safety equipment as computed under section 1011 for purposes other than the amortization deduction provided by section 187(a) is in excess of the adjusted basis, as computed under paragraph (b) of §1.187-2, then such excess shall be recovered through depreciation deductions under the rules of section 167. See section 187(e), and paragraph (b)(2) of §1.187-2.

(iii) See section 179 and paragraph (e)(1)(ii) of §1.179-1 for additional first-year depreciation in respect of certified coal mine safety equipment.

(4) *Special rules.* (i) If the assets of a corporation which has elected to take the amortization deduction under section 187(a) are acquired by another corporation in a transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies, the acquiring corporation is to be treated as if it were the transferor or distributor corporation for purposes of this section.

(ii) For the right of estates and trusts to take the amortization deduction provided by section 187 see section 642(f) and §1.642(f)-1.

(iii) For the allowance of the amortization deduction in the case of coal mine safety equipment of partnerships see section 703 and §1.703-1.

(iv) In the case of certified coal mine safety equipment held by one person for life with the remainder to another person, the amortization deduction under section 187(a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant during his life.

(5) *Effective date.* The provisions of this paragraph shall apply to taxable years ending after December 31, 1969.

(6) *Meaning of terms.* Except as otherwise provided in §1.187-2, all terms used in section 187 and the regulations thereunder shall have the meaning provided by this section and §1.187-2.

(b) *Election of amortization—(1) In general.* Under section 187(b), an election by the taxpayer to make amortization deductions with respect to any certified coal mine safety equipment and to begin the 60-month amortization period shall be made by a statement to that effect attached to his return for

the taxable year in which falls the first month of the 60-month amortization period so elected. Such statement shall include the following information:

(i) A description clearly identifying each piece of certified coal mine safety equipment for which an amortization deduction is claimed;

(ii) The date on which such equipment was "placed in service" (see paragraph (a)(2)(i) of § 1.187-2);

(iii) The date on which the amortization period began;

(iv) The total costs paid or incurred in the acquisition and installation of such equipment;

(v) A computation showing the adjusted basis (as defined in paragraph (b) of § 1.187-2) of the equipment as of the beginning of the amortization period;

(vi) In the case of electric face equipment which is newly acquired by the taxpayer, a statement that the equipment has been certified by the Secretary of the Interior or the Director of the Bureau of Mines as being permissible within the meaning of section 305(a)(2) of the Federal Coal Mine Health and Safety Act of 1969; and

(vii) In the case of property placed in service in connection with used electric face equipment (within the meaning of paragraph (a)(2)(ii) of § 1.187-2), a statement that such property has resulted in the used electric face equipment becoming permissible and a copy of the notification that such property is permissible.

(2) *Late certification.* If, 90 days before the date on which the return described in this paragraph is due, a piece of coal mine safety equipment has not been certified as permissible by the Secretary of the Interior or the Director of the Bureau of Mines, then the election may be made by a statement in an amended income tax return for the taxable year in which falls the first month of the 60-month amortization period so elected. The statement and amended return in such case must be filed not later than 90 days after the date the equipment is certified as permissible by the Secretary of the Interior or the Director of the Bureau of Mines. Amended income tax returns or claims for credit or refund should also be filed at this time for other taxable years which are within the amortization pe-

riod and which are subsequent to the taxable year for which the election is made. Nothing in this paragraph shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(3) *Other requirements and considerations.* No method of making the election provided for in section 187(a) other than that prescribed in this section shall be permitted on or after August 11, 1971. A taxpayer who does not elect in the manner prescribed in this section to take amortization deductions with respect to certified coal mine safety equipment shall not be entitled to such deductions. In the case of a taxpayer who has elected prior to August 11, 1971 the statement required by subparagraph (1) of this paragraph shall be attached to his income tax return for his taxable year in which August 11, 1971 occurs.

(c) *Election to discontinue or revoke amortization—*(1) *Election to discontinue.*

(i) Under section 187(c), if a taxpayer has elected to take the amortization deduction provided by section 187(a) with respect to any certified coal mine safety equipment, he may, after such election and prior to the expiration of the 60-month amortization period, elect to discontinue the amortization deduction for the remainder of the 60-month period for such equipment.

(ii) An election to discontinue the amortization deduction shall be made by a statement in writing filed with the District Director or with the director of the Internal Revenue Service center with whom the return of the taxpayer is required to be filed for its taxable year in which falls the first month for which the election terminates. In addition, a copy of such statement shall be attached to the taxpayer's income tax return filed for such taxable year. Such statement shall specify the month as of the beginning of which the taxpayer elects to discontinue such deductions, and shall be filed before the beginning of the month specified therein. In addition, such notice shall contain a description clearly identifying the certified coal mine safety equipment with respect to which the taxpayer elects to discontinue the

amortization deduction. If the taxpayer so elects to discontinue the amortization deduction, he shall not be entitled to any further amortization deductions under section 187 with respect to such equipment.

(2) *Revocation of elections made prior to August 11, 1971.* If before August 11, 1971 an election under section 187(a) has been made, consent is hereby given for the taxpayer to revoke such election without the consent of the Commissioner. Such election may be revoked by filing a notice of revocation on or before November 9, 1971. Such notice shall be in the form and shall be filed in the manner required by subparagraph (1)(ii) of this paragraph. If such revocation is for a period which falls within one or more taxable years for which an income tax return has been filed, an amended income tax return shall be filed for any taxable year in which a deduction was taken under section 187 on or before November 9, 1971.

(3) *Depreciation subsequent to discontinuance or in the case of revocation of amortization.* (i) A taxpayer who elects in the manner prescribed under subparagraph (1) of this section to discontinue amortization deductions under section 187(a) or under subparagraph (2) of this paragraph to revoke an election made prior to August 11, 1971 with respect to an item of certified coal mine safety equipment may be entitled to a deduction for depreciation with respect to such equipment. See section 167 and the regulations thereunder.

(ii) In the case of an election to discontinue an amortization deduction under section 187, the deduction for depreciation shall be computed beginning with the first month as to which such amortization deduction is not applicable, and shall be based upon the adjusted basis (see section 1011 and the regulations thereunder) of the property as of the beginning of such month. Such depreciation deduction shall be based upon the remaining portion of the period authorized under section 167 for the facility, as determined as of the first day of the first month as of which the amortization deduction is not applicable.

(iii) In the case of a revocation of an election under section 187 referred to in

paragraph (c)(2) of this section the deduction for depreciation shall begin as of the time such depreciation deduction would have been taken but for the election under section 187. See subparagraph (2) of this section for rules as to filing amended returns for years for which amortization deductions have been taken.

(d) *Examples.* This section may be illustrated by the following examples:

Example 1. On September 30, 1970, the X Corporation, which uses the calendar year as its taxable year, places in service a piece of coal mine safety equipment required as a result of the Federal Coal Mine Health and Safety Act of 1969 which is certified as indicated in paragraph (a) of § 1.187-2. The cost of the equipment is \$120,000. On its income tax return filed for 1970, the corporation elects to take the amortization deductions allowed by section 187(a) with respect to the equipment and to begin the 60-month amortization period with October 1970, the month following the month in which it was placed in service. The adjusted basis at the end of October 1970 (determined without regard to the amortization deduction allowed by section 187(a) for that month) is \$120,000. The allowable amortization deduction with respect to such equipment for the taxable year 1970 is \$6,000, computed as follows:

Monthly amortization deductions:	
October: \$120,000 divided by 60	\$2,000
November: \$118,000 (\$120,000 minus \$2,000) divided by 59	2,000
December: \$116,000 (\$118,000 minus \$2,000) divided by 58	2,000
Total amortization deduction for 1970	6,000

Example 2. Assume the same facts as in *Example 1*. Assume further that on May 20, 1972, X properly files notice of its election to discontinue the amortization deductions with the month of June 1972. The adjusted basis of the equipment as of June 1, 1972 (assuming no capital additions or improvements) is \$80,000, computed as follows: Yearly amortization deductions computed in accordance with *Example 1*:

1970	\$6,000
1971	24,000
1972 (for the first 5 months)	10,000
Total amortization deductions for 20 months	40,000
Adjusted basis at beginning of amortization period	120,000
Less: Amortization deductions	40,000
Adjusted basis as of June 1, 1972	80,000

Beginning as of June 1, 1972, the deduction for depreciation under section 167 is allowable with respect to the property on its adjusted basis of \$80,000.

Example 3. Assume the same facts as in *Example 1*, except that on its income tax return filed in 1970, X does not elect to take amortization deductions allowed by section 187(a) but that on its income tax return filed for 1971 X elects to begin the amortization period as of January 1, 1971, the taxable year succeeding the taxable year the equipment was placed in service. Assume further that the only adjustment to basis for the period October 1, 1970, to January 1, 1971, is \$3,000 for depreciation (the amount allowable, of which \$2,000 is for additional first year depreciation under section 179) for the last 3 months of 1970. The adjusted basis (for determining gain) for purposes of section 187 as of that date is \$120,000 less \$3,000 or \$117,000.

[T.D. 7137, 36 FR 14733, Aug. 11, 1971; 36 FR 16656, Aug. 25, 1971]

§ 1.187-2 Definitions.

(a) *Certified coal mine safety equipment*—(1) *In general*—(i) The term *certified coal mine safety equipment* means property which:

(a) Is electric face equipment (within the meaning of section 305 of the Federal Coal Mine Health and Safety Act of 1969) required in order to meet the requirements of section 305(a)(2) of such Act,

(b) The Secretary of the Interior or the Director of the Bureau of Mines certifies is permissible within the meaning of such section 305(a)(2), and

(c) Is placed in service (as defined in subparagraph (2)(i) of this paragraph) before January 1, 1975.

(ii) In addition, property placed in service in connection with any used electric face equipment which the Secretary of the Interior or the Director of the Bureau of Mines certifies makes such used electric face equipment permissible shall be treated as a separate item of certified coal mine safety equipment. See subparagraph (2)(ii) of this paragraph.

(2) *Meaning of terms.* (i) For purposes of subparagraph (1)(i)(c) of this paragraph, the term *placed in service* shall have the meaning assigned to such term in paragraph (d) of § 1.46-3.

(ii) For purposes of subparagraph (1)(ii) of this paragraph, the term *property* includes those costs of converting existing nonpermissible electric face equipment to a permissible condition which are chargeable to capital account under the principles of § 1.1016-2. Property is considered to be placed in

service in connection with used electric face equipment (which was not permissible) if its use causes such electric face equipment to be certified as permissible.

(b) *Adjusted basis*—(1) *In general.* The basis upon which the deduction with respect to amortization allowed by section 187 is to be computed with respect to any item of certified coal mine safety equipment shall be the adjusted basis provided in section 1011 for the purpose of determining gain on the sale or other disposition of such property (see part II (section 1011 and following) subchapter O, chapter 1 of the Code) computed as of the first day of the amortization period. For an example showing the determination of the adjusted basis referred to in the preceding sentence in the case where the amortization period begins with the taxable year succeeding the taxable year in which the property is placed in service see *Example 3* in paragraph (d) of § 1.187-1.

(2) *Capital additions.* The adjusted basis of any certified coal mine safety equipment, with respect to which an election is made under section 187(b), shall not be increased, for purposes of section 187, for amounts chargeable to the capital account for additions or improvements after the amortization period has begun. However, nothing contained in this section or § 1.187-1 shall be deemed to disallow a deduction for depreciation for such capital additions. Thus, for example, if a taxpayer places a piece of certified coal mine safety equipment in service in 1971 and in 1972 makes improvements to it the expenditures for which are chargeable to the capital account, such improvements shall not increase the adjusted basis of the equipment for purposes of computing the amortization deduction allowed by section 187(a). However, the depreciation deduction provided by section 167 shall be allowed with respect to such improvements in accordance with the principles of section 167.

[T.D. 7137, 36 FR 14734, Aug. 11, 1971; 36 FR 19251, Oct. 1, 1971]