[JOINT COMMITTEE PRINT]

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SUMMARY

OF

H.R. 5159

THE BLACK LUNG BENEFITS REVENUE ACT OF 1981

(Including Other Tax Provisions Adopted)

PREPARED BY THE

STAFF OF THE

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This pamphlet summarizes the provisions of H.R. 5159, the Black Lung Benefits Revenue Act of 1981, as passed by the House and Senate. It also presents the estimated revenue effects of the Act.

The summary descriptions contained in this pamphlet are intended to be informative, rather than inclusive. The official legislative history of the Act is contained in the committee reports and in the respective House and Senate floor debates on the Act.

The first part of the pamphlet is background on the legislation, including an overview of the provisions of the Act and the legislative history of the Act. This is followed by a descriptive summary of the provisions of the Act. The third part presents the estimated revenue effects of the tax provisions of the Act.

I. BACKGROUND

A. Overview

Black Lung Disability Trust Fund and Excise Tax Provisions

Under the Act, the coal excise tax is doubled on January 1, 1982, to one dollar per ton for underground-mined coal and 50 cents per ton for surface-mined coal, with a cap of 4 percent of the price for which the coal is sold. The tax will revert to present law levels by January 1, 1996, or, if earlier, when the trust fund has repaid all advances and interest from the general fund of the Treasury.

In addition, the Act modifies the computation of interest on certain amounts owed to or by the trust fund. The Act amends the obligations of the fund to include certain claims that had been previously denied and subsequently approved and to exclude payments of certain retroactive lump sum benefits. Finally, the Act transfers provisions which establish the Black Lung Disability Trust Fund to the Internal Revenue Code.

Black Lung Benefits Provisions

The Act amends many of the criteria for determining whether a claimant is eligible for black lung disability benefits. Under the Act, the presumption that death from a respirable disease was due to pneumoconiosis for miners having at least 10 years of coal mine employment, the presumption of pneumoconiosis for miners having at least 15 years of coal mine employment, and the presumption of eligibility for survivors of certain miners having at least 25 years of coal mine employment will not apply. The restriction on the re-reading of X-rays is eliminated. In the case of a deceased miner, if medical evidence is lacking, affidavits will be accepted from third parties who could not receive benefits, but affidavits from interested parties only will not be accepted as sufficient to establish that the miner was totally disabled due to pneumoconiosis or that death was due to that disease. Survivors' entitlement to benefits, when a miner dies while receiving black lung disability benefits or while totally disabled by the disease, will be limited under the Act to those cases where death resulted from pneumoconiosis and not from an unrelated event.

In general, these provisions apply to claims filed on or after the date of enactment of this Act, with the exception that the 25-year survivor presumption will cease to apply to claims filed more than 6 months after the date of enactment.

Two-Year Postponement of Net Operating Loss Rules Added by the Tax Reform Act of 1976

The Act provides for a two-year deferral, until January 1, 1984, of the effective date of the 1976 Tax Reform Act amendments to the net operating loss carryover rules.

Filing of Information Return Relating to Transactions Under the Safe Harbor Leasing Provisions of Public Law 97-34

Under the Act, an information return must be filed with the Internal Revenue Service in order for an agreement to qualify as a lease under the safe harbor leasing provisions of the accelerated cost recovery system. The return must contain certain specified information, much of which is the same as that required to be filed under Treasury regulations interpreting the safe harbor lease provisions. The return must be filed with the National Office of the Internal Revenue Service not later than the 30th day after the date the agreement is executed, or January 31, 1982, whichever is later. The provision applies to recovery property placed in service after December 31, 1980.

Deduction for Business Use of Homes; Rental of Residences to Family Members

The Act makes three amendments to section 280A, which limits the deduction of certain expenses incurred for the use of dwelling units in connection with a trade or business or income-producing activity of the taxpayer if the taxpayer also uses the dwelling unit for personal purposes. First, under the Act, a taxpayer will not be treated as using a residence for personal purposes during any period the dwelling unit is rented, at a fair rental, to another person for use as that person's principal residence. This exception also applies to the rental of an undivided interest in a dwelling unit by one of the co-owners for use as a principal residence. Secondly, the Act provides that personal use does not include any use of any portion of a dwelling unit that is used exclusively as the principal place of business of any trade or business of the taxpayer. Third, the Act provides that a day on which the taxpayer spends in the dwelling unit making repairs and performing maintenance is not a day of personal use even if other family members are present but not working. These amendments are effective for open years beginning after December 31, 1975.

The Act also coordinates the application of section 280A with the deductions allowable under section 162(a)(2) and other provisions of the Internal Revenue Code by reason of the taxpayer being away from home in the pursuit of a trade or business and provides for the Treasury to issue rules to allow Members of Congress to deduct appropriate amounts for expenses away from home without substantiation.

B. Legislative History

House Bill

The bill, H.R. 5159 (the Black Lung Benefits Revenue Act of 1981), was introduced on December 10, 1981, and referred jointly to the Committees on Ways and Means and Education and Labor. The Committee on Ways and Means ordered the bill favorably reported without amendment on December 10. (On December 9, the Committee on Ways and Means had instructed the Chairman, Mr. Rostenkowski, to introduce the provisions so introduced.) The Committee on Ways and Means reported the bill on December 14, 1981 (H. Rep. No. 97–406, Part 1). As reported, the bill contained only amendments relating to the Black Lung Disability Trust Fund and the coal excise tax and other related excise tax amendments.

Prior to introduction and consideration of the bill by the Committee on Ways and Means, the Ways and Means Subcommittee on Oversight had conducted a series of public hearings on the topic and issued a Subcommittee Report with recommendations. (See Ways and Means Committee Print 97–22, dated December 7, 1981.)

H.R. 5159, as reported by the Committee on Ways and Means, was considered and passed by the House under suspension of the rules on December 15, 1981 (Cong. Record, daily ed., H 9600–9606).

Senate Consideration

The Senate considered and passed H.R. 5159, as amended, on December 16, 1981. The Senate adopted amendments relating to the following: (1) tax treatment of expenses regarding business use of the home and family rentals; [1] (2) tax treatment of certain expenses while away from home in a trade or business; [1] (3) two-year postponement in the application of the net operating loss rules enacted in the Tax Reform Act of 1976; [1] (4) filing of information returns regarding the safe harbor leasing provisions under the accelerated cost recovery system; [2] and (5) black lung disability benefits and eligibility. (See Cong. Record, daily ed., December 16, 1981, S 15474–15498.)

On December 14, the Committee on Finance had approved committee amendments relating to items (1)–(4) above. The Finance Committee also approved, with an amendment, the black lung revenue (tax and trust fund) provisions included in H.R. 5159 as reported by the Committee on Ways and Means, and reported an original bill, S. 1957. In addition, also on December 14, the Senate Labor and Human Resources Subcommittee on Labor held a public hearing on the provisions of a related black lung revenue bill, S. 1922.

House Consideration of Senate-Amended Bill

On December 16, the House voted to suspend the rules and agreed to the Senate amendments to H.R. 5159. (See Cong. Record, daily ed., H 9788–9798.)

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[1] The same or similar provisions were passed by the House in H.R. 4961 on December 15, 1981. (See also H. Rep. No. 97–404.)

[2] A similar provision was passed by the House in H.R. 4717 on December 15, 1981. (See also H. Rep. No. 97–405.)

II. DESCRIPTIVE SUMMARY OF THE ACT

A. Black Lung Disability Trust Fund and Tax Provisions

(Secs. 101–104 of the Act and Sec. 4121 and new Chapter 98 of the Code)

Excise Tax on Coal

Under present law, a manufacturers excise tax is imposed on domestically mined coal (other than lignite) which is sold or used by the producer (Code secs. 4121 and 4218). The rate of tax is the lesser of (1) 50 cents per ton for coal from underground mines and 25 cents per ton for coal from surface mines or (2) 2 percent of the price for which the coal is sold.

Amounts equal to the revenues from this excise tax (plus any revenues from the penalty tax on taxable expenditures from a coal mine operator self-insurance trust, described below) are automatically appropriated to the Black Lung Disability Trust Fund.

Under the Act, the manufacturers excise tax on coal is increased on January 1, 1982, to the lesser of (1) $1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines or (2) 4 percent of the price for which the coal is sold. These rates will revert to present law rates on January 1, 1996, or, if earlier, on the first January 1 after 1981 as of which there is no balance of repayable advances made to the Black Lung Disability Trust Fund and no unpaid interest on such balances.

Coal Mine Operators' Self-Insurance Trusts

Present law provides that a responsible operator may fund its liability for black lung benefits through deductible contributions to a qualified tax-exempt trust (sec. 501(c)(21)). To qualify, this trust must be established for the sole purpose of satisfying the operator's liability under Black Lung Acts, paying premiums for insurance exclusively covering such liability, and paying administrative expenses of the trust. Monies of a qualified trust that are not needed to satisfy current liability may be invested only in government securities or insured savings deposits.

Misuse of a trust due to self-dealing (sec. 4951), expenditures for an improper purpose (sec. 4952) or excessive contributions to the trust (sec. 4953), triggers certain excise taxes. Amounts collected under these provisions, which in the past have been very small, are deposited in the general fund, except that amounts equal to the taxes collected under the operation of section 4952 are appropriated to the Black Lung Disability Trust Fund.

Effective January 1, 1982, the Act also appropriates to the Black Lung Disability Trust Fund amounts equal to the excise taxes collected under the operation of sections 4951 (relating to self-dealing) and 4953 (relating to excess contributions), in addition to the amounts appropriated under present law under the operation of section 4952 (relating to taxable expenditures from a coal mine operator's self-insurance trust).

Black Lung Disability Trust Fund

The Black Lung Disability Trust Fund was created in 1978 pursuant to the Black Lung Benefits Revenue Act of 1977 (Public Law 95–227). The trustees of the fund are the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary of the Treasury is the managing trustee.

Amounts in the fund are available pursuant to appropriation acts to pay for benefits to certain coal miners who are totally disabled by pneumoconiosis ("black lung" disease) arising out of coal mine employment and to their survivors. Generally, the fund is required to pay benefits with respect to claims filed after June 30, 1973, provided that the miner's last coal mine employment was before January 1, 1970. With respect to other claims filed after June 30, 1973, the fund pays benefits if there is no coal mine operator among the miner's employers who is responsible for paying such benefits (a "responsible operator") or if the reponsible operator is in default.

The expenses of the Department of Labor and the administrative expenses of the Department of Health and Human Services for the claims programs financed through the trust fund are paid out of trust monies. The fund also bears the cost of its own administration as well as the costs of administering the collection of the excise tax on coal.

Under the Act, certain claims which had been assigned to individual coal operators will be transferred to the Black Lung Disability Trust Fund. In general, these are claims which had been denied prior to March 1, 1978, but which had been re-reviewed and approved under the liberalized eligibility criteria and evidentiary standards of the Black Lung Benefits Reform Act of 1977 (Public Law 95–239).

In addition, for claims filed after the date of enactment, the Act eliminates the present law obligation of the fund to pay retroactive lump sum benefits when an initial determination of eligibility is made but the responsible operator contests the award. However, the Act does not affect the present law obligation of the fund to pay benefits that accrue after this initial determination.

The Act provides that fund monies will be available to meet obligations incurred under sections 402(i), 422, and 435 of the Black Lung Benefits Act, as such sections are in effect immediately after the enactment of this Act. This provision requires amendment of the Internal Revenue Code before trust fund monies can be spent to carry out substantive changes that may subsequently be made through the Black Lung Benefits Act.

Methods of Computing Interest

Under present law, when an operator is determined to be responsible for the payment of benefits which in fact have been paid out of the fund, then the operator is obligated to reimburse the fund for those amounts plus interest computed at the rate of 6 percent per annum. When receipts of the trust fund are less than its expenditures, advances are appropriated from the general fund of the Treasury to the trust fund. These advances are repayable, and interest on such advances is charged at a rate equal to the average rate of interest, computed as of the end of the calendar month preceding the month in which the advance is made, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt.

Under the Act, interest for any period charged by the Black Lung Disability Trust Fund on amounts which the funds has paid and for which a mine operator is liable generally will be computed at the interest rate that applies for the period to tax deficiencies and overpayments under section 6621. However, for any period during calendar year 1982, this interest rate will be 15 percent. This provision applies to amounts outstanding on January 1, 1982, or arising thereafter.

In addition, the Act amends the method for computing interest payable by the fund to the general fund on repayable advances made after December 31, 1981. Under the Act, the interest rate that will be applied is a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.

Transfer of Trust Fund Provisions to the Internal Revenue Code

Under the Act, provisions which establish the Black Lung Disability Trust Fund and relate to its management and provisions by which amounts appropriated to the fund are transferred from the general fund of the Treasury will become provisions of the Internal Revenue Code of 1954. Also, the Act will standardize and update provisions of the Black Lung Disability Trust Fund to conform to the language of other trust funds. The Black Lung Disability Trust Fund established by the bill will be treated for all purposes of law as the continuation of the Black Lung Disability Trust Fund established by section 3 of the Black Lung Benefits Revenue Act of 1977.

B. Black Lung Benefits Provisions

(Title II of the Act)

Under present law, a claim must meet three general conditions in order to be approved for black lung disability benefits: the miner must have (or, if deceased, must have had) pneumoconiosis; the miner must be totally disabled by the disease (or must have been totally disabled by it at the time of death); and the pneumoconiosis must have arisen out of coal mine employment.

The Act repeals three of the presumptions used in establishing eligibility for benefits. These presumptions are the following:

(1) *Ten-year presumption that death from a respirable disease was due to pneumoconiosis*—If a deceased miner was employed in a coal mine for 10 years or more and died from a respirable disease, there is a rebuttable presumption that death was due to pneumoconiosis.

(2) *Fifteen-year presumption of pneumoconiosis*—If a miner was employed for 15 years or more in a coal mine and other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impairment, there is a rebuttable presumption that the miner is totally disabled due to pneumoconiosis, that death was due to pneumoconiosis, or that at the time of death the miner was totally disabled by pneumoconiosis.

(3) *Twenty-five-year survivor presumption*—In the case of a miner who died on or before March 1, 1978, who was employed for 25 or more years in a coal mine prior to June 30, 1971, the eligible survivors are presumed to be entitled to benefits unless it is established that at the time of death the miner was not partially or totally disabled due to pneumoconiosis.

In addition, the restriction on the re-reading of X-rays is eliminated. In the case of a deceased miner, where medical evidence is lacking, affidavits will be accepted from third parties who could not receive benefits, but affidavits solely from interested parties will not be accepted as sufficient to establish that the miner was totally disabled due to pneumoconiosis or that death was due to that disease. Survivors' entitlement to benefits, where a miner dies while receiving black lung disability benefits or while totally disabled by the disease, will be limited under the Act to those cases where death resulted from pneumoconiosis and not from an unrelated event.

Black lung disability benefits payable under Part C of the program will be reduced on account of a miner's excess earnings, using rules which determine the excess earnings offset under Social Security.

In general, these provisions apply to claims filed on or after the date of enactment of this Act, with the exception that the 25-year survivor presumption will cease to apply to claims filed more than 6 months after the date of enactment.

C. Two-Year Postponement of the Net Operating Loss Rules Added by the Tax Reform Act of 1976

(Sec. 111 of the bill and sec. 382 of the Code)

If owners consisting of the 10 largest shareholders purchased 50 percent or more of the stock of a loss corporation during a 2-year period and if the corporation's trade or business was not continued, loss carryovers generally were completely eliminated. (sec. 382(a)).

In the case of a tax-free reorganization, loss carryovers were reduced on a declining scale if the former owners of the loss company received less than 20 percent of the fair market value of the stock of the acquiring company. It was immaterial whether the business of the loss company was continued after the reorganization. (sec. 382(b)).

The Tax Reform Act of 1976 extensively revised the Code provisions dealing with the carryover of net operating losses in cases of acquisitions of loss corporations. The limitations on loss carryover attributes were to apply to acquisitions made by purchase or through corporate reorganizations, would delete the prior continuity of business requirements for purchases, and would establish a new continuity of ownership test applicable to both purchases and reorganizations.

Under the 1976 Act, these new provisions were to apply to plans of reorganization adopted on or after January 1, 1978, and to sales or exchanges for taxable years beginning after June 30, 1978. These effective dates have been extended until January 1, 1982, with respect to plans of reorganization adopted on or after that date, and until taxable years beginning after June 30, 1982, with respect to sales and exchanges taking place after January 1, 1982. The effective dates of the 1976 Act provisions were postponed because a number of technical problems made it advisable to consider additional revisions of the rules.

The Act delays the effective dates of the 1976 Act provision for an additional two years, until January 1, 1984, with respect to plans of reorganization adopted on or after that date, or until taxable years beginning after June 30, 1984, with respect to sales or exchanges after January 1, 1984.

D. Filing of Information Return Relating to Transactions Under the Safe Harbor Leasing Provisions of Public Law 97-34

(Sec. 112 of the Act)

Section 201 of the Economic Recovery Tax Act of 1981 provides a safe harbor that guarantees a transaction will be treated as a lease, rather than a financing arrangement, even though the transaction would not otherwise be true lease. If the safe harbor requirements are met, the nominal lessor will be treated as the owner of the property for Federal income tax purposes. Thus, the lessor will be entitled to the associated cost recovery allowances and investment credit.

Overview

Under the Act, an information return is required to be filed with the Internal Revenue Service in order for an agreement to qualify as a lease under the provisions of the accelerated cost recovery system (sec. 168(f)(8)). The return must be filed with the National Office of the Internal Revenue Service not later than the 30th day after the date the agreement is executed, or January 31, 1982, whichever is later.

Contents of Return

The following information must be included in the return. The temporary Treasury regulations interpreting the safe harbor leasing provisions also require much of this same information to be set forth in an information return (Temp. Reg. § 5c. 168(f)(8)-2(a)).

(1) The name, address, and taxpayer identifying number of the lessor and the lessee (and parent company of the lessor or lessee if a consolidated return is filed);

(2) The district director's office (or service center, if applicable) with which the income tax returns of the lessor and lessee are filed;

(3) A description of each individual property with respect to which the election is made;

(4) The date on which the lessee places the property in service, the date on which the lease begins and the term of the lease;

(5) Recovery property class and the ADR midpoint life of the leased property;

(6) The payment terms between the parties to the lease transaction;

(7) Whether the ACRS deductions and the investment tax credit are allowable to the same taxpayer;

(8) The aggregate amount paid by the lessor or lessee to outside parties to arrange the transaction, such as legal and investment banking fees, but only if it is reasonable to estimate that the ag-

gregate adjusted basis of the property of either the lessor or lessee exceeds $1 million;

(9) For the lessor only: the unadjusted basis of the property as defined in section 168(d)(1);

(10) For the lessor only: if the lessor is a partnership or a grantor trust, the name, address, and taxpayer identifying number of the partners or the beneficiaries, and the district director's office with which the income tax return of each partner or beneficiary is filed; and

(11) Such other information as may be required by the return or its instructions.

Effect of Failure to File

Under the general rule applicable to leases executed after December 31, 1981, if the lessor and lessee fail to file the return within 30 days after execution of the agreement, the safe harbor provisions will not apply to the agreement for any period of time.

Under a transitional rule for leases executed before January 1, 1982, the agreement will cease to be treated as a lease on February 1, 1982, unless either the lessor or the lessee file the return by January 31, 1982. If the agreement ceases to be characterized as a lease under the safe harbor as a result of a failure to file the information return, the consequences will depend upon the characterization of the parties without regard to the safe harbor. If the lessee would be the owner without regard to the safe harbor, there may be recapture of tax benefits to the lessor. If, without regard to the safe harbor, the lessor would be the owner and the transfer by the lessor would be a lease, the transaction will continue to be treated as a lease.

Exceptions for Failure to File

Under both the general rule and transitional rule, if the failure to file is shown to be due to reasonable cause, and not due to willful neglect, the lessor or lessee will be treated as having filed a timely return if a return is filed with the Internal Revenue Service within a reasonable time after the failure to file is ascertained.

Effective Date

The provision applies to recovery property placed in service after December 31, 1980.

E. Deduction for Business Use of Homes; Rental of Residences to Family Members

(Sec. 113 of the Act and Secs. 280A and 162(a)(2) of the Code)

In General

Section 280A, enacted as part of the Tax Reform Act of 1976, disallows the deduction of certain expenses incurred in connection with the use of the taxpayer's home in a trade or business or income-producing activity or in connection with the rental of vacation homes and other residential real estate.

Business Use of the Home

Unless specifically excepted from section 280A and otherwise allowable, no deductions are allowed with respect to a dwelling unit because of its connection to a taxpayer's trade or business or income producing activities, if the taxpayer uses the dwelling as a residence. One exception to the general rule of section 280A allows deductions attributable to a portion of the taxpayer's residence which is exclusively used on a regular basis as the taxpayer's principal place of business.

Under the Act, this rule is clarified as it applies to a business that is not the taxpayer's principal business. Under the Act, it is made clear that a taxpayer can have a principal place of business for each separate trade or business of the taxpayer and if the regular and exclusive use tests are met, can deduct the expenses attributable to using his residence as the principal place of business for one or more such businesses.

Personal Use of Residence

Section 280A, in general, limits the amount an individual or subchapter S corporation may deduct for expenses attributable to the business use of a dwelling unit, which is in many cases the rental of a vacation home, if the taxpayer's use of the unit for personal purposes is in excess of a specified period of time during a taxable year. This limitation applies only if the taxpayer's use of the dwelling unit for personal purposes during a taxable year exceeds the greater of fourteen days or ten percent of the number of the days during the year for which the unit is rented at a fair rental.

Under prior law, the taxpayer generally was deemed to have used a dwelling unit for personal purposes for a day if, for any part of the day, the unit is used for personal purposes by (1) the taxpayer or any other person who has an interest in the home, (2) the brothers and sisters, spouse, ancestors, or lineal descendants of the taxpayer or other owners, (3) any individual who uses the unit under a reciprocal ar-

rangement (whether or not a rental is charged), or (4) any other individual who uses the dwelling unit during a day unless a fair rental is charged.

The Revenue Act of 1978 amended section 280A to provide that the use of a dwelling unit as a taxpayer's principal residence (within the meaning of section 1034) is not to be treated as personal use in determining whether the limitations of section 280A apply to deductions attributable to a "qualified rental period" which immediately precedes or follows a period of use as the taxpayer's principal residence. Under prior law, a qualified rental period generally was a period of 12 or more consecutive months during which the unit is rented to a person other than a family member, or held for rental, at a fair rental. Thus, under prior law, section 280A did not apply in the year a taxpayer converted a personal residence into a rental unit or a rental unit into a personal residence unless the dwelling unit is rented to a family member.

Under the Act, section 280A(d) is amended to provide that a taxpayer will not be treated as using a dwelling unit for personal purposes by reason of a rental arrangement under which the dwelling unit is rented to any person at a fair rental for use as such person's principal residence. Thus, the rental of a dwelling unit to a member of the taxpayer's family or the family of a co-owner of the dwelling unit does not constitute the personal use of the dwelling unit by the taxpayer if the dwelling unit is rented at a fair rental for use as the family member's principal residence. Of course, if the taxpayer continues to use the dwelling unit, such use will be considered personal use by the taxpayer not withstanding the rental agreement. Similarly under the rules relating to rentals of the taxpayer's principal residence, the definition of "qualified rental period" is amended so that a rental to a member of the taxpayer's family is treated in the same manner as a rental to an unrelated third party. The Congress intends that fair rental be determined by taking into account such factors as: (1) comparable rentals in the area; and (2) whether substantial gifts were made by the taxpayer to the family member at or about the time of the lease or periodically during the year.

In the case of rentals to a person who has an ownership interest in the dwelling unit, the Act provides that the new rule applies only if the rental is under a shared equity financing agreement. In addition, the determination of whether the dwelling unit is rented at a fair rental to the co-owner is to be determined by taking into account the co-owner's ownership interest in the dwelling unit. The committee amendment defines a "shared equity financing agreement" as an agreement under which two or more persons acquire a dwelling unit and one or more of such persons is entitled to occupy the dwelling unit as a principal residence and is required to pay rent to the non-occupant co-owners. Each of the co-owners must acquire an undivided interest for more than 50 years in the entire dwelling unit and any appurtenant land acquired in the transaction to which the shared equity financing agreement relates.

Repairs and Maintenance

Section 280A also provides that the Secretary of the Treasury must prescribe by regulation the circumstances under which use of a dwelling unit for repairs and annual maintenance will not constitute personal use of the unit.

The Act provides that a dwelling shall not be treated as used for the personal purposes of the taxpayer on a day the taxpayer repairs or maintains the dwelling on a substantially full-time basis merely because other persons who are on the premises, do not work on a substantially full-time basis.

Travel Expense While Away From Home

The Act also provides that section 280A is not to be applied to limit any deduction allowable under section 162(a)(2) by reason of the taxpayer's being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units). To simplify the deduction for travel expenses for members of Congress, the Act provides that the Secretary shall prescribe amounts that are deductible without substantiation. These provisions, however, do not permit the deduction of any amount in excess of amounts determined to be appropriate under the circumstances.

Effective Date

The provisions apply to taxable years beginning after December 31, 1975. Taxpayers can file claims for refund based on the amendments made by this provision, but only to the extent such claims are not otherwise barred under the pertinent limitations provisions of the Code. However, no refund would be available to Members of Congress since under prior law a $3,000 limitation applied to taxable years prior to 1981.

III. REVENUE EFFECTS OF THE ACT

The net estimated revenue effect of the Act is to increase fiscal year budget receipts by $45 million in 1982, $164 million in 1983, $157 million in 1984, $136 million in 1985, and $104 million in 1986. The revenue effects of the specific provisions of the Act are indicated in the following table.

Estimated Revenue Effect of H.R. 5159, Black Lung Benefits Revenue Act of 1981, as Adopted

[Millions of dollars]

Provision	Fiscal year—				
	1982	1983	1984	1985	1986
Increase in excise tax on coal [1]	141	218	228	239	255
Additional 2-year postponement in 1976 net operating loss rules	([2])	([2])	([2])	([2])	([2])
Filing information returns relating to transactions under the safe harbor leasing provisions of the Economic Recovery Act of 1981					
Rental of residences to family members; business use of residences	−93	−51	−68	−100	−148
Total [3]	**45**	**164**	**157**	**136**	**104**

[1] After accounting for lower income tax receipts. Increases in fiscal year receipts to the Black Lung Disability Trust Fund are estimated at $193 million in 1982, $299 million in 1983, $313 million in 1984, $327 million in 1985, and $349 million in 1986.

[2] Loss of less than $5 million.

[3] For budget scorekeeping purposes, these totals include $3 million for the provision estimated at "less than $5 million."