EARTHWORKS

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PERCENTAGE DEPLETION ALLOWANCE REPEAL

END DOUBLE SUBSIDIES TO THE MINING INDUSTRY

What is it?

The Percentage Depletion Allowance constitutes an exceptional tax break for U.S. mineral producers beyond those granted to other private industries. Authorized by section 613 of the Internal Revenue Code, this form of corporate welfare costs taxpayers at least $500 million in lost revenue over five years.

How does it work?

Enacted in its present form in 1932, the Percentage Depletion Allowance permits a mining company to deduct a set percentage amount of its gross annual income when calculating its federal income tax. The break applies nationwide to mining operations on private and public lands. The depletion allowance is premised on the accepted corporate tax principle that business taxes should be reduced in scale as the value of company equipment, structures and other assets diminish over time. As applied to the mining industry, the principle suggests that a mine's value declines as mineral production progresses.

The rationale is that by allowing corporations to deduct the cost of capital investments as those investments diminish in value, the government encourages new capital investment – one of the engines that keeps our economy strong.

What's the problem?

The depletion allowance allows mining companies to take tax deductions on mineral deposits they received for free. Under the General Mining Law of 1872, mining companies are allowed to take minerals from our public lands without paying the owners, the taxpayers. Furthermore, they are allowed to buy the lands containing the minerals (in a process called patenting) for no more than $5 per acre. The depletion allowance makes sense only so long as the deducting company actually pays for the investment for which it claims the deduction. However, the mining industry pays nothing for minerals on public lands.

For example, take the analogy of the interest on a mortgage. Under the tax code, you're permitted to deduct the interest on your mortgage payments from your income taxes. In essence, mining companies deduct an amount equivalent to the interest on a mortgage if they had bought a house and had a mortgage, when actually they got the house for free and didn't have to take out a mortgage in the first place. The deducted interest on those "payments" is worth approximately $500 million over 5 years.

What is the solution?

Senator Shaheen (D-NH) has introduced the Elimination of Double Subsidies for the Hardrock Mining Industry Act, which would repeal the percentage depletion allowance on hardrock mining on public lands, and on those lands bought under the 1872 General Mining Law at $2.50 to $5 per acre. It would prevent mining companies from receiving a tax deduction on the depletion in value of an investment for which they paid nothing, or next to nothing.