



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4920

by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

760 ILCS 15/10
760 ILCS 15/15

from Ch. 30, par. 510
from Ch. 30, par. 515

Amends the Principal and Income Act. Provides that, only for oil or gas from non-coal formations held in nontrust estates and by legal tenants and remaindermen (instead of "with respect only to nontrust estates, for oil or gas from non-coal formations"), proceeds from the sale of such minerals produced and received as royalty, overriding royalty, limited royalty, working interest, net profit interest, time-limited interest or term interest, or lease bonus shall be deemed income. Deletes language providing that a Section concerning non-trust estates does not apply to life estates and remainder interests in oil or gas from non-coal formations, or royalties or overriding royalties created under leases of such minerals. Makes other changes.

LRB100 19136 HEP 34401 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Principal and Income Act is amended by
5 changing Sections 10 and 15 as follows:

6 (760 ILCS 15/10) (from Ch. 30, par. 510)

7 (Text of Section before amendment by P.A. 100-519)

8 Sec. 10. Disposition of natural resources.

9 (a) If any part of the principal consists of a right to
10 receive royalties, overriding or limited royalties, working
11 interests, production payments, net profit interests, or other
12 interest in minerals, oil, gas or other natural resources in,
13 on or under land, except timber, water, soil, sod, dirt, peat,
14 turf or mosses, the receipts from taking the natural resources
15 from the land shall be allocated as follows:

16 (1) if received as rent on a lease or extension
17 payments on a lease, the receipts are income;

18 (2) if received from a production payment, the receipts
19 are income to the extent of any factor for interest or its
20 equivalent provided in the governing instrument. There
21 shall be allocated to principal the fraction of the balance
22 of the receipts which the unrecovered cost of the
23 production payment bears to the balance owed on the

1 production payment, exclusive of any factor for interest or
2 its equivalent. The receipts not allocated to principal are
3 income;

4 (3) if received as a royalty, overriding or limited
5 royalty, or bonus, or from a working, net profit, or any
6 other interest in minerals, oil, gas, or other natural
7 resources, receipts not provided for in the preceding
8 paragraphs of this Section shall be apportioned on a yearly
9 basis in accordance with this paragraph whether or not any
10 natural resource was being taken from the land at the time
11 the trust was established. The trustee shall allocate to
12 principal as an allowance for depletion the greater of (i)
13 that portion, if any, of the gross receipts that is allowed
14 as a depletion deduction for federal income tax purposes
15 and (ii) 10% of the gross receipts, except that that
16 allocation shall not exceed 50% of the net receipts
17 remaining after payment of all expenses, direct and
18 indirect, computed without the allowance for depletion.
19 The trustee shall allocate the balance of the gross
20 receipts, after payment therefrom of all expenses, direct
21 and indirect, to income.

22 (b) If an item of depletable property of a type specified
23 in this Section is held on the effective date of this Act,
24 receipts from the property shall be allocated in the manner
25 used before the effective date of this Act, but as to all
26 depletable property acquired after the effective date of this

1 Act by an existing or new trust, the method of allocation
2 provided herein shall be used.

3 (c) If any part of the principal consists of timber, water,
4 soil, sod, dirt, peat, turf, or mosses, the receipts from those
5 resources shall be allocated in accordance with Section 3.

6 (Source: P.A. 87-714.)

7 (Text of Section after amendment by P.A. 100-519)

8 Sec. 10. Disposition of natural resources.

9 (a) If any part of the principal consists of a right to
10 receive royalties, overriding or limited royalties, working
11 interests, production payments, net profit interests, or other
12 interest in minerals, oil, gas or other natural resources in,
13 on or under land, except timber, water, soil, sod, dirt, peat,
14 turf or mosses, the receipts from taking the natural resources
15 from the land shall be allocated as follows:

16 (1) if received as rent on a lease or extension
17 payments on a lease, the receipts are income;

18 (2) if received from a production payment, the receipts
19 are income to the extent of any factor for interest or its
20 equivalent provided in the governing instrument. There
21 shall be allocated to principal the fraction of the balance
22 of the receipts which the unrecovered cost of the
23 production payment bears to the balance owed on the
24 production payment, exclusive of any factor for interest or
25 its equivalent. The receipts not allocated to principal are

1 income;

2 (3) except for oil or gas from non-coal formations held
3 in nontrust estates and by legal tenants and remaindermen
4 as described in Section 15 of this Act, if received as a
5 royalty, overriding or limited royalty, or bonus, or from a
6 working, net profit, or any other interest in minerals,
7 oil, gas, or other natural resources, receipts not provided
8 for in the preceding paragraphs of this Section shall be
9 apportioned on a yearly basis in accordance with this
10 paragraph whether or not any natural resource was being
11 taken from the land at the time the trust was established.
12 The trustee shall allocate to principal as an allowance for
13 depletion the greater of (i) that portion, if any, of the
14 gross receipts that is allowed as a depletion deduction for
15 federal income tax purposes and (ii) 10% of the gross
16 receipts, except that that allocation shall not exceed 50%
17 of the net receipts remaining after payment of all
18 expenses, direct and indirect, computed without the
19 allowance for depletion. The trustee shall allocate the
20 balance of the gross receipts, after payment therefrom of
21 all expenses, direct and indirect, to income;

22 (4) Only for oil or gas from non-coal formations held
23 in nontrust estates and by legal tenants and remaindermen
24 as described in Section 15 of this Act, proceeds from the
25 sale of such minerals produced and received as royalty,
26 overriding royalty, limited royalty, working interest, net

1 profit interest, time-limited interest or term interest,
2 or lease bonus shall be deemed income ~~with respect only to~~
3 ~~nontrust estates described in Section 15 of this Act, for~~
4 ~~oil or gas from non-coal formations, proceeds from the sale~~
5 ~~of such minerals produced and received as royalty,~~
6 ~~overriding royalty, limited royalty, working interest, net~~
7 ~~profit interest, time limited interest or term interest,~~
8 ~~or lease bonus shall be deemed income.~~

9 (b) If an item of depletable property of a type specified
10 in this Section is held on the effective date of this Act,
11 receipts from the property shall be allocated in the manner
12 used before the effective date of this Act, but as to all
13 depletable property acquired after the effective date of this
14 Act by an existing or new trust, the method of allocation
15 provided herein shall be used.

16 (c) If any part of the principal consists of timber, water,
17 soil, sod, dirt, peat, turf, or mosses, the receipts from those
18 resources shall be allocated in accordance with Section 3.

19 (Source: P.A. 100-519, eff. 6-1-18.)

20 (760 ILCS 15/15) (from Ch. 30, par. 515)

21 (Text of Section before amendment by P.A. 100-519)

22 Sec. 15. Non-trust estates.

23 (a) The provisions of this Act, as far as applicable, shall
24 apply to nontrust estates subject to any agreement of the
25 parties or any specific direction by statute or otherwise, and

1 the references to trusts and trustees shall be read as applying
2 to nontrust estates and to legal tenants (including life
3 tenants, tenants for terms of years, or any other period of
4 tenancy) and remaindermen as the context requires; except that
5 if either a legal tenant or a remainderman has incurred a
6 charge for his benefit without the consent or agreement of the
7 other, he shall pay that charge in full.

8 (b) If the costs of an improvement, including special taxes
9 or assessments, representing an addition to value of property
10 forming part of the principal cannot reasonably be expected to
11 outlast the legal tenancy, the costs shall be paid by the legal
12 tenant. If the improvement can reasonably be expected to
13 outlast the legal tenancy, only a portion of the costs shall be
14 paid by the legal tenant and the balance by the remainderman.
15 The portion payable by the legal tenant shall be that fraction
16 of the total found by dividing the present value of the legal
17 tenancy by the present value of an estate of the same form as
18 that of the legal tenancy but limited to a period corresponding
19 to the reasonably expected duration of the improvement. The
20 computation of present value of the legal tenancy shall be
21 computed on the basis of two-thirds of the value determined by
22 use of the tables set forth under Section 7520 of the Internal
23 Revenue Code of 1986 and the regulations thereunder for the
24 calculation of the values of annuities, life estates, and terms
25 for years, and no other evidence of duration or expectancy
26 shall be considered, except that any legal tenancy or remainder

1 interest acquired for consideration based on those tables shall
2 be computed on the basis of the tables in effect at the time
3 acquired. The method of computing the present value of a legal
4 tenancy established in this subsection shall apply to all legal
5 tenancies and remainders created after January 1, 1992 and to
6 all legal tenancies and remainders which were acquired for
7 consideration if the amount of the consideration was based on
8 the tables set forth under Section 2031 or 7520 of the Internal
9 Revenue Code then in effect.

10 (c) If a legal tenant has leased any lands for agricultural
11 or farming operations and his legal tenancy terminates on or
12 after the day any rent has become due and payable, he or his
13 representative is entitled to recover that rent from the
14 lessee; and if a legal tenancy terminates before the rent under
15 the lease is fully paid, the legal tenant or his representative
16 is entitled to recover from the lessee:

17 (1) that portion of the rent not due which the number
18 of days from the beginning of the period for which the rent
19 is not due to the date of the termination of the legal
20 tenancy bears to the total number of days in the period for
21 which the rent is unpaid; and

22 (2) that portion of the landlord's share of actual
23 expenses paid before the termination of the legal tenancy
24 and not previously recovered by him, which the number of
25 days in the lease period on and after the termination bears
26 to the total number of days in the lease period.

1 (Source: P.A. 82-390; 87-714.)

2 (Text of Section after amendment by P.A. 100-519)

3 Sec. 15. Non-trust estates.

4 (a) The provisions of this Act, as far as applicable, shall
5 apply to nontrust estates subject to any agreement of the
6 parties or any specific direction by statute or otherwise, and
7 the references to trusts and trustees shall be read as applying
8 to nontrust estates and to legal tenants (including life
9 tenants, tenants for terms of years, or any other period of
10 tenancy) and remaindermen as the context requires; except that
11 if either a legal tenant or a remainderman has incurred a
12 charge for his benefit without the consent or agreement of the
13 other, he shall pay that charge in full.

14 (b) If the costs of an improvement, including special taxes
15 or assessments, representing an addition to value of property
16 forming part of the principal cannot reasonably be expected to
17 outlast the legal tenancy, the costs shall be paid by the legal
18 tenant. If the improvement can reasonably be expected to
19 outlast the legal tenancy, only a portion of the costs shall be
20 paid by the legal tenant and the balance by the remainderman.
21 The portion payable by the legal tenant shall be that fraction
22 of the total found by dividing the present value of the legal
23 tenancy by the present value of an estate of the same form as
24 that of the legal tenancy but limited to a period corresponding
25 to the reasonably expected duration of the improvement. The

1 computation of present value of the legal tenancy shall be
2 computed on the basis of two-thirds of the value determined by
3 use of the tables set forth under Section 7520 of the Internal
4 Revenue Code of 1986 and the regulations thereunder for the
5 calculation of the values of annuities, life estates, and terms
6 for years, and no other evidence of duration or expectancy
7 shall be considered, except that any legal tenancy or remainder
8 interest acquired for consideration based on those tables shall
9 be computed on the basis of the tables in effect at the time
10 acquired. The method of computing the present value of a legal
11 tenancy established in this subsection shall apply to all legal
12 tenancies and remainders created after January 1, 1992 and to
13 all legal tenancies and remainders which were acquired for
14 consideration if the amount of the consideration was based on
15 the tables set forth under Section 2031 or 7520 of the Internal
16 Revenue Code then in effect.

17 (c) If a legal tenant has leased any lands for agricultural
18 or farming operations and his legal tenancy terminates on or
19 after the day any rent has become due and payable, he or his
20 representative is entitled to recover that rent from the
21 lessee; and if a legal tenancy terminates before the rent under
22 the lease is fully paid, the legal tenant or his representative
23 is entitled to recover from the lessee:

24 (1) that portion of the rent not due which the number
25 of days from the beginning of the period for which the rent
26 is not due to the date of the termination of the legal

1 tenancy bears to the total number of days in the period for
2 which the rent is unpaid; and

3 (2) that portion of the landlord's share of actual
4 expenses paid before the termination of the legal tenancy
5 and not previously recovered by him, which the number of
6 days in the lease period on and after the termination bears
7 to the total number of days in the lease period.

8 (d) (Blank). ~~This Section does not apply to life estates~~
9 ~~and remainder interests in oil or gas from non coal formations,~~
10 ~~or royalties or overriding royalties created under leases of~~
11 ~~such minerals.~~

12 (Source: P.A. 100-519, eff. 6-1-18.)

13 Section 95. No acceleration or delay. Where this Act makes
14 changes in a statute that is represented in this Act by text
15 that is not yet or no longer in effect (for example, a Section
16 represented by multiple versions), the use of that text does
17 not accelerate or delay the taking effect of (i) the changes
18 made by this Act or (ii) provisions derived from any other
19 Public Act.