The Depletion Deduction as Applied to Strip Mining

Since its inception in 1913,1 the depletion deduction has been the subject of much litigation, not all of which has helped to clarify the application of the statutes.2 By far the greater part of the case law on the subject concerns oil and gas, but perhaps that can be explained on the basis of the applicable depletion percentage, 27½%.3 However, the same basic principles apply in those cases as in mining and such decisions have been cited interchangeably by the courts.4

The original purpose of the deduction was to return to the taxpayer the capital that is exhausted by production of the natural resource,5 but this view does not now prevail as to percentage de-