−CITE−

26 USC Sec. 45E 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart D − Business Related Credits

−HEAD−

Sec. 45E. Small employer pension plan startup costs

−STATUTE−

(a) General rule

For purposes of section 38, in the case of an eligible employer, the small employer pension plan startup cost credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified startup costs paid or incurred by the taxpayer during the taxable year.

(b) Dollar limitation

The amount of the credit determined under this section for any taxable year shall not exceed −

(1) $500 for the first credit year and each of the 2 taxable years immediately following the first credit year, and

(2) zero for any other taxable year.

(c) Eligible employer

For purposes of this section −

(1) In general

The term "eligible employer" has the meaning given such term by section 408(p)(2)(C)(i).

(2) Requirement for new qualified employer plans

Such term shall not include an employer if, during the 3−taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

(d) Other definitions

For purposes of this section −

(1) Qualified startup costs

(A) In general

The term "qualified startup costs" means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with −

(i) the establishment or administration of an eligible employer plan, or

(ii) the retirement−related education of employees with respect to such plan.

(B) Plan must have at least 1 participant

Such term shall not include any expense in connection with a plan that does not have at least 1 employee eligible to participate who is not a highly compensated employee.

(2) Eligible employer plan

The term "eligible employer plan" means a qualified employer plan within the meaning of section 4972(d).

(3) First credit year

The term "first credit year" means −

(A) the taxable year which includes the date that the eligible employer plan to which such costs relate becomes effective, or

(B) at the election of the eligible employer, the taxable year preceding the taxable year referred to in subparagraph (A).

(e) Special rules

For purposes of this section −

(1) Aggregation rules

All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

(2) Disallowance of deduction

No deduction shall be allowed for that portion of the qualified startup costs paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

(3) Election not to claim credit

This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

−SOURCE−

(Added Pub. L. 107−16, title VI, Sec. 619(a), June 7, 2001, 115 Stat. 108; amended Pub. L. 107−147, title IV, Sec. 411(n)(1), Mar. 9, 2002, 116 Stat. 48.)

−STATAMEND−

TERMINATION OF SECTION

For termination of section by section 901 of Pub. L. 107−16, see Effective and Termination Dates note below.

−MISC1−

AMENDMENTS

2002 − Subsec. (e)(1). Pub. L. 107−147 substituted "subsection (m)" for "subsection (n)".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107−147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107−16, to which such amendment relates, see section 411(x) of Pub. L. 107−147, set out as a note under section 25B of this title.

EFFECTIVE AND TERMINATION DATES

Section applicable to costs paid or incurred in taxable years beginning after Dec. 31, 2001, with respect to qualified employer plans first effective after such date, see section 619(d) of Pub. L. 107−16, as amended, set out as an Effective and Termination

Dates of 2001 Amendment note under section 38 of this title.

Section inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if it had never been enacted, see section 901 of Pub. L. 107−16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38, 39, 196 of this title.

−End−

−CITE−

26 USC Sec. 45F 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart D − Business Related Credits

−HEAD−

Sec. 45F. Employer−provided child care credit

−STATUTE−

(a) In general

For purposes of section 38, the employer−provided child care credit determined under this section for the taxable year is an

amount equal to the sum of −

(1) 25 percent of the qualified child care expenditures, and

(2) 10 percent of the qualified child care resource and

referral expenditures,

of the taxpayer for such taxable year.

(b) Dollar limitation

The credit allowable under subsection (a) for any taxable year

shall not exceed $150,000.

(c) Definitions

For purposes of this section −

(1) Qualified child care expenditure

(A) In general

The term "qualified child care expenditure" means any amount

paid or incurred −

(i) to acquire, construct, rehabilitate, or expand property

−

(I) which is to be used as part of a qualified child care

facility of the taxpayer,

(II) with respect to which a deduction for depreciation

(or amortization in lieu of depreciation) is allowable, and

(III) which does not constitute part of the principal

residence (within the meaning of section 121) of the

taxpayer or any employee of the taxpayer,

(ii) for the operating costs of a qualified child care

facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training, or

(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer.

(B) Fair market value

The term "qualified child care expenditures" shall not include expenses in excess of the fair market value of such care.

(2) Qualified child care facility

(A) In general

The term "qualified child care facility" means a facility −

(i) the principal use of which is to provide child care assistance, and

(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

(B) Special rules with respect to a taxpayer

A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless −

(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

(3) Qualified child care resource and referral expenditure

(A) In general

The term "qualified child care resource and referral expenditure" means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

(B) Nondiscrimination

The services shall not be treated as qualified unless the provision of such services (or the eligibility to use such services) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

(d) Recapture of acquisition and construction credit

(1) In general

If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of −

(A) the applicable recapture percentage, and

(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

(2) Applicable recapture percentage

(A) In general

For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

The applicable

If the recapture event recapture

occurs in: percentage is:

Years 1−3 100

Year 4 85

Year 5 70

Year 6 55

Year 7 40

Year 8 25

Years 9 and 10 10

Years 11 and thereafter 0.

(B) Years

For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

(3) Recapture event defined

For purposes of this subsection, the term "recapture event" means −

(A) Cessation of operation

The cessation of the operation of the facility as a qualified child care facility.

(B) Change in ownership

(i) In general

Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

(ii) Agreement to assume recapture liability

Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

(4) Special rules

(A) Tax benefit rule

The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) No credits against tax

Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

(C) No recapture by reason of casualty loss

The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

(e) Special rules

For purposes of this section −

(1) Aggregation rules

All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

(2) Pass−thru in the case of estates and trusts

Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

(3) Allocation in the case of partnerships

In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

(f) No double benefit

(1) Reduction in basis

For purposes of this subtitle −

(A) In general

If a credit is determined under this section with respect to

any property by reason of expenditures described in subsection

(c)(1)(A), the basis of such property shall be reduced by the

amount of the credit so determined.

(B) Certain dispositions

If, during any taxable year, there is a recapture amount

determined with respect to any property the basis of which was

reduced under subparagraph (A), the basis of such property

(immediately before the event resulting in such recapture)

shall be increased by an amount equal to such recapture amount.

For purposes of the preceding sentence, the term "recapture

amount" means any increase in tax (or adjustment in carrybacks

or carryovers) determined under subsection (d).

(2) Other deductions and credits

No deduction or credit shall be allowed under any other

provision of this chapter with respect to the amount of the

credit determined under this section.

−SOURCE−

(Added Pub. L. 107−16, title II, Sec. 205(a), June 7, 2001, 115

Stat. 50; amended Pub. L. 107−147, title IV, Sec. 411(d)(1), Mar.

9, 2002, 116 Stat. 46.)

−STATAMEND−

TERMINATION OF SECTION

For termination of section by section 901 of Pub. L. 107−16, see Effective and Termination Dates note below.

−MISC1−

AMENDMENTS

2002 − Subsec. (d)(4)(B). Pub. L. 107−147 substituted "this chapter or for purposes of section 55" for "subpart A, B, or D of this part".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107−147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107−16, to which such amendment relates, see section 411(x) of Pub. L. 107−147, set out as a note under section 25B of this title.

EFFECTIVE AND TERMINATION DATES

Section applicable to taxable years beginning after Dec. 31, 2001, see section 205(c) of Pub. L. 107−16, set out as an Effective and Termination Dates of 2001 Amendment note under section 38 of this title.

Section inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if it had never been enacted, see section 901 of Pub. L. 107−16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38, 1016 of this title.

−End−

−CITE−

26 USC Subpart E − Rules for Computing Investment Credit 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart E − Rules for Computing Investment Credit

−HEAD−

SUBPART E − RULES FOR COMPUTING INVESTMENT CREDIT

−MISC1−

Sec.

46. Amount of credit.

47. Rehabilitation credit.

48. Energy credit; reforestation credit.

49. At−risk rules.

50. Other special rules.

AMENDMENTS

1990 − Pub. L. 101−508, title XI, Sec. 11813(a), Nov. 5, 1990,

104 Stat. 1388−536, amended heading and analysis generally,

substituting in heading "Investment Credit" for "Credit for

Investment in Certain Depreciable Property", in item 47

"Rehabilitation Credit" for "Certain dispositions, etc., of section

38 property", in item 48 "Energy credit; reforestation credit" for "Definitions; special rules", in item 49 "At−risk rules" for "Termination of regular percentage", and adding item 50.

1986 − Pub. L. 99−514, title II, Sec. 211(c), Oct. 22, 1986, 100 Stat. 2168, added item 49.

1984 − Pub. L. 98−369, div. A, title IV, Sec. 474(n)(1), July 18, 1984, 98 Stat. 833, substituted "E" for "B" as subpart designation.

1978 − Pub. L. 95−600, title III, Sec. 312(c)(5), Nov. 6, 1978, 92 Stat. 2826, struck out item 49 "Termination for period beginning April 19, 1969, and ending during 1971" and item 50 "Restoration of credit".

1971 − Pub. L. 92−178, title I, Sec. 101(b)(5), Dec. 10, 1971, 85 Stat. 499, substituted "Termination for period beginning April 19, 1969, and ending during 1971" for "Termination of credit" in item 49 and added item 50.

1969 − Pub. L. 91−172, title VII, Sec. 703(d), Dec. 30, 1969, 83 Stat. 667, added item 49.

1962 − Pub. L. 87−834, Sec. 2(b), Oct. 16, 1962, 76 Stat. 963, added subpart B.

−SECREF−

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 53 of this title.

−End−

−CITE−

26 USC Sec. 46 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart E − Rules for Computing Investment Credit

−HEAD−

Sec. 46. Amount of credit

−STATUTE−

For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be the sum of −

(1) the rehabilitation credit,

(2) the energy credit, and

(3) the reforestation credit.

−SOURCE−

(Added Pub. L. 87−834, Sec. 2(b), Oct. 16, 1962, 76 Stat. 963; amended Pub. L. 88−272, title II, Sec. 201(d)(4), Feb. 26, 1964, 78 Stat. 32; Pub. L. 89−384, Sec. 1(c)(1), Apr. 8, 1966, 80 Stat. 102; Pub. L. 89−389, Sec. 2(b)(5), Apr. 14, 1966, 80 Stat. 114; Pub. L. 89−800, Sec. 3, Nov. 8, 1966, 80 Stat. 1514; Pub. L. 90−225, Sec. 2(a), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91−172, title III, Sec. 301(b)(4), title IV, Sec. 401(e)(1), title VII, Sec. 703(b), Dec. 30, 1969, 83 Stat. 585, 603, 666; Pub. L. 92−178, title I, Secs. 102(a)(1), (b), 105(a)−(c), 106(a)−(c), 107(a)(1), 108(a), Dec. 10, 1971, 85 Stat. 499, 503, 506, 507; Pub. L. 93−406, title II, Secs.

2001(g)(2)(B), 2002(g)(2), 2005(c)(4), Sept. 2, 1974, 88 Stat. 957, 968, 991; Pub. L. 94−12, title III, Sec. 301(a), (b)(1)−(3), 302(a), (b)(1), Mar. 29, 1975, 89 Stat. 36, 37, 40, 43; Pub. L. 94−455, title V, Sec. 503(b)(4), title VIII, Secs. 802(a), (b)(1)−(5), 803(a), (b)(1), 805(a), title XVI, Sec. 1607(b)(1)(B), title XVII, Secs. 1701(b), 1703, title XIX, Secs. 1901(a)(4), (b)(1)(C), 1906(b)(13)(A), title XXI, Sec. 2112(a)(2), Oct. 4, 1976, 90 Stat. 1562, 1580−1583, 1596, 1756, 1759, 1761, 1764, 1790, 1834, 1905; Pub. L. 95−600, title I, Sec. 141(e), (f)(2), title III, Secs. 311(a), (c), 312(a), (b), (c)(2), 313(a), 316(a), (b)(1), (2), title VII, Sec. 703(a)(1), (2), (j)(9), Nov. 6, 1978, 92 Stat. 2794, 2795, 2824−2826, 2829, 2939, 2941; Pub. L. 95−618, title II, Sec. 241(a), title III, Sec. 301(a), (c)(1), Nov. 9, 1978, 92 Stat. 3192, 3194, 3199; Pub. L. 96−222, title I, Secs. 101(a)(7)(A), (L)(iii)(I), (v)(I), (M)(i), 103(a)(2)(A), (B)(i)−(iii), (3), (4)(A), 107(a)(3)(A), Apr. 1, 1980, 94 Stat. 197, 200, 201, 208, 209, 223; Pub. L. 96−223, title II, Secs. 221(a), 222(e)(2), 223(b)(1), Apr. 2, 1980, 94 Stat. 260, 263, 266; Pub. L. 97−34, title II, Secs. 207(c)(1), 211(a)(1), (b), (d), (e)(1), (2), (f)(1), 212(a)(1), (2), title III, Secs. 302(c)(3), (d)(1), 332(a), Aug. 13, 1981, 95 Stat. 225, 227−229, 235, 236, 272, 274, 296; Pub. L. 97−248, title II, Sec. 201(d)(8)(A), formerly Sec. 201(c)(8)(A), Secs. 205(b), 265(b)(2)(A)(i), Sept. 3, 1982, 96 Stat. 420, 430, 547, renumbered Sec. 201(d)(8)(A), Pub. L. 97−448, title III, Sec. 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97−354, Sec. 5(a)(4)−(6), Oct. 19, 1982, 96 Stat.

1692; Pub. L. 97−424, title V, Secs. 541(b), 546(b), Jan. 6, 1983,
96 Stat. 2192, 2199; Pub. L. 97−448, title I, Sec. 102(e)(1),
(f)(5), title II, Sec. 202(f), Jan. 12, 1983, 96 Stat. 2370, 2372,
2396; Pub. L. 98−21, title I, Sec. 122(c)(1), Apr. 20, 1983, 97
Stat. 87; Pub. L. 98−369, div. A, title I, Secs. 16(a), 31(f),
113(b)(2)(B), title IV, Secs. 431(a), (b)(1), (d)(1)−(3),
474(o)(1)−(7), title VII, Sec. 713(c)(1)(C), July 18, 1984, 98
Stat. 505, 521, 637, 805, 807, 810, 834−836, 957; Pub. L. 99−514,
title II, Secs. 201(d)(7)(B), 251(a), title IV, Sec. 421(a), (b),
title XVIII, Secs. 1802(a)(6), (8), 1844(a), (b)(3), (5),
1847(b)(11), 1848(a), Oct. 22, 1986, 100 Stat. 2141, 2183, 2229,
2789, 2855, 2857; Pub. L. 100−647, title I, Secs. 1002(a)(4), (15),
(17), (25), 1009(a)(1), 1013(a)(44), title IV, Sec. 4006, Nov. 10,
1988, 102 Stat. 3353, 3355, 3356, 3445, 3545, 3652; Pub. L.
101−239, title VII, Secs. 7106, 7814(d), Dec. 19, 1989, 103 Stat.
2306, 2413; Pub. L. 101−508, title XI, Secs. 11406, 11813(a), Nov.
5, 1990, 104 Stat. 1388−474, 1388−536.)

−MISC1−

AMENDMENTS

1990 − Pub. L. 101−508, Sec. 11813(a), amended section generally,
substituting present provisions for provisions relating to amount
of investment credit, determination of percentages, qualified
investments and qualified progress expenditures, limitations with
respect to certain persons, a limitation in the case of certain
regulated companies, a 50 percent credit in the case of certain
vessels, and special rule for cooperatives.

Subsec. (b)(2)(A). Pub. L. 101−508, Sec. 11406, substituted "Dec. 31, 1991" for "Sept. 30, 1990" in table items (viii) C. and (ix) B.

1989 − Subsec. (b)(2)(A). Pub. L. 101−239, Sec. 7106, substituted "Sept. 30, 1990" for "Dec. 31, 1989" in table items (viii) C., (ix) B., and (x).

Pub. L. 101−239, Sec. 7814(d), made technical correction to language of Pub. L. 100−647, Sec. 4006, see 1988 Amendment note below.

1988 − Subsec. (b)(2)(A). Pub. L. 100−647, Sec. 4006, as amended by Pub. L. 101−239, Sec. 7814(d), substituted "1989" for "1988" in table items (viii) C., (ix) B., and (x).

Subsec. (c)(5)(B). Pub. L. 100−647, Sec. 1013(a)(44), substituted "private activity bonds" for "industrial development bonds" in heading, and in text substituted "a private activity bond (within the meaning of section 141)" for "an industrial development bond (within the meaning of section 103(b)(2))".

Subsec. (c)(7). Pub. L. 100−647, Sec. 1002(a)(17), substituted "property to which section 168 applies" for "recovery property" in heading, substituted "property to which section 168 applies" for "recovery property" and "168(e)" for "168(c)" in subpar. (A), substituted "168(e)" for "168(c)" in subpar. (B), and inserted "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)" after "section 168(f)(3)(B)" in concluding provisions.

Subsec. (d)(1)(B)(i). Pub. L. 100−647, Sec. 1002(a)(25)(A), substituted "property to which section 168 applies" for "recovery property (within the meaning of section 168)".

Subsec. (d)(1)(B)(ii). Pub. L. 100−647, Sec. 1002(a)(25)(B), substituted "to which section 168 does not apply" for "which is not recovery property (within the meaning of section 168)".

Subsec. (e)(3). Pub. L. 100−647, Sec. 1002(a)(15), substituted "property to which section 168 applies" for "recovery property (within the meaning of section 168)", "class life" for "present class life", and "168(i)(1)" for "168(g)(2)".

Subsec. (e)(4)(B). Pub. L. 100−647, Sec. 1002(a)(4)(A), substituted "168(i)(3)" for "168(j)(6)".

Subsec. (e)(4)(C). Pub. L. 100−647, Sec. 1009(a)(1), inserted provisions at end which provided that any such election shall terminate effective with respect to the 1st taxable year of the organization making such election which begins after 1986, and which defined "regular investment tax credit property".

Subsec. (e)(4)(D). Pub. L. 100−647, Sec. 1002(a)(4)(B), substituted "paragraphs (5) and (6) of section 168(h)" for "paragraphs (8) and (9) of section 168(j)".

Subsec. (e)(4)(E). Pub. L. 100−647, Sec. 1002(a)(4)(C), (D), substituted "168(h)" for "168(j)" and "168(h)(2)" for "168(j)(4)".

1986 − Subsec. (b)(2)(A). Pub. L. 99−514, Sec. 1847(b)(11), substituted "48(l)(3)(A)(viii)" for "48(l)(3)(A)(vii)" in table item (ii).

Pub. L. 99−514, Sec. 421(a), inserted table items (viii) to (xi).

Subsec. (b)(2)(E). Pub. L. 99−514, Sec. 421(b), added subpar. (E).

Subsec. (b)(4). Pub. L. 99−514, Sec. 251(a), in amending par. (4) generally, substituted in subpar. (A) definition of "rehabilitation percentage" for former table specifying specific rehabilitation percentages, reenacted subpar. (B), and struck out subpar. (C) which related to definitions.

Subsec. (c)(8)(D)(v). Pub. L. 99−514, Sec. 1844(a), substituted "this subparagraph" for "clause (i)".

Pub. L. 99−514, Sec. 201(d)(7)(B), substituted "section 465(b)(3)(C)" for "section 168(e)(4)".

Subsec. (c)(9)(A). Pub. L. 99−514, Sec. 1844(b)(3), substituted "an increase in the credit base for" for "additional qualified investment in".

Subsec. (c)(9)(C)(i). Pub. L. 99−514, Sec. 1844(b)(5), substituted "any increase in a taxpayer's credit base for any property by reason of this paragraph shall be taken into account as if it were property placed in service by the taxpayer in the taxable year in which the property referred to in subparagraph (A) was first placed in service" for "any increase in a taxpayer's qualified investment in property by reason of this paragraph shall be deemed to be additional qualified investment made by the taxpayer in the year in which the property referred to in subparagraph (A) was first placed in service".

Subsec. (e)(4)(D), (E). Pub. L. 99−514, Sec. 1802(a)(6), (8), added subpars. (D) and (E).

Subsec. (f)(9). Pub. L. 99−514, Sec. 1848(a), struck out par. (9) which related to a special rule for additional credit.

1984 − Subsec. (a). Pub. L. 98−369, Sec. 474(o)(1), amended subsec. (a) generally, so as to contain provisions relating to amount of investment credit, which formerly constituted only par. (2)(A)(i), (ii), and (iv) of subsec. (a).

Subsec. (a)(4). Pub. L. 98−369, Sec. 713(c)(1)(C), substituted "premature distributions to key employees" for "premature distributions to owner−employees".

Subsec. (b). Pub. L. 98−369, Sec. 474(o)(1), amended subsec. (b) generally, substituting provisions relating to determination of percentages for purposes of subsec. (a), for provisions relating to carryback and carryover of unused credits.

Subsec. (c)(7)(A). Pub. L. 98−369, Sec. 13(b)(2)(B), inserted "recovery" before first reference to "property".

Subsec. (c)(8). Pub. L. 98−369, Sec. 431(a), substituted "Certain nonrecourse financing excluded from credit base" for "Limitation to amount at risk" in heading.

Subsec. (c)(8)(A). Pub. L. 98−369, Sec. 431(a), substituted provisions reducing the credit base of any property to which this paragraph applies by the nonqualified nonrecourse financing with respect to such property for provisions relating to limitation of the basis to the amount at risk in the case of new or used section 38 property placed in service during the taxable year by a taxpayer described in section 465(a)(1) and used in connection with an activity with respect to which any loss was subject to limitation under section 465.

Subsec. (c)(8)(B). Pub. L. 98−369, Sec. 431(a), substituted provisions relating to the property to which this paragraph applies for provisions defining "at risk" and stating the circumstances under which a taxpayer would be considered to be at risk for purposes of this paragraph.

Subsec. (c)(8)(C). Pub. L. 98−369, Sec. 431(a), substituted provisions defining "credit base" for provisions relating to a special rule for partnerships and subchapter S corporations.

Subsec. (c)(8)(D). Pub. L. 98−369, Sec. 431(a), substituted provisions defining "nonqualified nonrecourse financing" for provisions defining "qualified person".

Subsec. (c)(8)(D)(i)(I). Pub. L. 98−369, Sec. 16(a), repealed amendments made by Pub. L. 97−34, Sec. 302(c). See 1981 Amendment note below.

Subsec. (c)(8)(E). Pub. L. 98−369, Sec. 431(a), substituted provisions relating to the application of this paragraph to partnerships and subchapter S corporations for provisions defining "related person".

Subsec. (c)(8)(F)(i). Pub. L. 98−369, Sec. 431(d)(1), substituted provisions that subpar. (A) shall not apply with respect to qualified energy property for provisions that subpar. (A) would not apply to amounts borrowed with respect to qualified energy property (other than amounts described in subpar. (B)).

Subsec. (c)(8)(F)(ii)(II). Pub. L. 98−369, Sec. 474(o)(2), substituted "subsection (b)(2)" for "section 46(a)(2)(C)".

Subsec. (c)(8)(F)(ii)(III). Pub. L. 98−369, Sec. 431(d)(2), substituted provisions that qualified energy property means energy property to which (but for this subpar.) subpar. (A) applies and not more than 75 percent of the basis of which is attributable to nonqualified nonrecourse financing for provisions that qualified energy property meant energy property to which (but for this subpar.) subpar. (A) applied and with respect to which the taxpayer was at risk (within the meaning of section 465(b) without regard to par. (5) thereof) in an amount equal to at least 25 percent of the basis of the property.

Subsec. (c)(8)(F)(ii)(IV). Pub. L. 98−369, Sec. 431(d)(3), substituted "nonqualified nonrecourse financing" for "nonrecourse financing (other than financing described in section 46(c)(8)(B)(ii))".

Subsec. (c)(9). Pub. L. 98−369, Sec. 431(b)(1), substituted provisions relating to subsequent decreases in nonqualified nonrecourse financing with respect to the property for provisions relating to subsequent increases in the taxpayer's amount at risk with respect to the property.

Subsec. (e)(1). Pub. L. 98−369, Sec. 474(o)(3)(A), struck out "and the $25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(3)", and substituted "such qualified investment" for "such items", in provisions following subpar. (B).

Subsec. (e)(2). Pub. L. 98−369, Sec. 474(o)(3)(B), substituted "qualified investment" for "the items described therein" in introductory provisions.

Subsec. (e)(4). Pub. L. 98−369, Sec. 31(b), added par. (4).

Subsec. (f)(1). Pub. L. 98−369, Sec. 474(o)(4)(A), substituted "no credit determined under subsection (a) shall be allowed by section 38" for "no credit shall be allowed by section 38" in introductory provisions.

Subsec. (f)(1)(A), (B). Pub. L. 98−369, Sec. 474(o)(4)(B), substituted "the credit determined under subsection (a) and allowable by section 38" for "the credit allowable by section 38".

Subsec. (f)(2). Pub. L. 98−369, Sec. 474(o)(4)(A), substituted "no credit determined under subsection (a) shall be allowed by section 38" for "no credit shall be allowed by section 38" in introductory provisions.

Subsec. (f)(2)(A), (B). Pub. L. 98−369, Sec. 474(o)(4)(B), substituted "the credit determined under subsection (a) and allowable by section 38" for "the credit allowable by section 38".

Subsec. (f)(4)(B). Pub. L. 98−369, Sec. 474(o)(4)(C), substituted "the credit determined under subsection (a) and allowed by section 38" for "the credit allowed by section 38" in introductory provisions.

Subsec. (f)(8). Pub. L. 98−369, Sec. 474(o)(5), substituted "the credit determined under subsection (a) and allowable under section 38" for "the credit allowable under section 38" in two places, and "(within the meaning of the first sentence of subsection (c)(3)(B))" for "(within the meaning of subsection (a)(7)(C))".

Subsec. (g)(2). Pub. L. 98−369, Sec. 474(o)(6), substituted "the limitation of section 38(c)" for "the limitation of subsection (a)(3)".

Subsec. (h)(1). Pub. L. 98−369, Sec. 474(o)(7), substituted "the credit determined under subsection (a) and allowable to the organization under section 38" for "the credit allowable to the organization under section 38" and "the limitation contained in section 38(c)" for "the limitation contained in subsection (a)(3)".

1983 − Subsec. (a)(2)(C)(i). Pub. L. 97−424, Sec. 546(b), added section VII to the table.

Subsec. (a)(2)(C)(iii)(I). Pub. L. 97−448, Sec. 202(f), substituted "before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and" for "before January 1, 1983, the taxpayer has completed all engineering studies in connection with the commencement of the construction of the project, and has applied for all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project, and".

Subsec. (a)(2)(F)(iii)(II). Pub. L. 97−448, Sec. 102(f)(5)(A), substituted "a qualified rehabilitated building" for "any building".

Subsec. (a)(2)(F)(iii)(III). Pub. L. 97−448, Sec. 102(f)(5)(B), substituted "means a qualified rehabilitated building which meets the requirements of section 48(g)(3)" for "has the meaning given to such term by section 48(g)(3)".

Subsec. (a)(4)(B). Pub. L. 98−21 substituted "relating to credit for the elderly and the permanently and totally disabled" for "relating to credit for the elderly".

Subsec. (c)(7). Pub. L. 97−448, Sec. 102(e)(1), substituted "in the case of property other than 3−year property (within the meaning of section 168(c))" for "in the case of 15−year public utility, 10−year, or 5−year property (within the meaning of section 168(c))" in subpar. (A) and, in provisions following subpar. (B), substituted "shall be treated as property which is not 3−year property" for "shall be treated as 5−year property".

Subsec. (f)(10). Pub. L. 97−424, Sec. 541(b), added par. (10).

1982 − Subsec. (a)(3)(B). Pub. L. 97−248, Sec. 205(b)(1), substituted "85 percent" for "the following percentage", substituted a period for the colon, and struck out table of percentages at end of subpar. (B).

Subsec. (a)(4). Pub. L. 97−354, Sec. 5(a)(4), substituted "section 1374 (relating to tax on certain capital gains of S corporations)" for "section 1378 (relating to tax on certain capital gains of subchapter S corporations)".

Pub. L. 97−248, Secs. 201(d)(8)(A), formerly 201(c)(8)(A), 265(b)(2)(A), substituted "(relating to corporate minimum tax)" for "(relating to minimum tax for tax preferences)" after "section 56", and inserted "section 72(q)(1) (relating to 5−percent tax on premature distributions under annuity contracts)," after "owner−employees)".

Subsec. (a)(7). Pub. L. 97−248, Sec. 205(b)(2), redesignated par. (9) as (7), and, in par. (7)(B), as so redesignated, substituted reference to 85 percent for former reference to the percentage determined under subsec. (a)(3)(B) in cl. (i), struck out former cl. (ii), which provided that pars. (7) and (8) would not apply in certain instances, and redesignated former cl. (iii) as (ii).

Former par. (7), which provided for alternative limitations in the case of certain utilities, was struck out.

Subsec. (a)(8). Pub. L. 97−248, Sec. 205(b)(2)(A), struck out par. (8) which provided for alternative limitations in the case of certain railroads and airlines.

Subsec. (a)(9). Pub. L. 97−248, Sec. 205(b)(2)(A), redesignated par. (9) as (7).

Subsec. (c)(8)(C). Pub. L. 97−354, Sec. 5(a)(5), substituted "S corporation" for "electing small business corporation (within the meaning of section 1371(b))".

Subsec. (e)(3). Pub. L. 97−354, Sec. 5(a)(6), substituted "an S corporation" for "an electing small business corporation (as defined in section 1371)".

1981 − Subsec. (a)(2)(A)(iv). Pub. L. 97−34, Sec. 212(a)(1), added cl. (iv).

Subsec. (a)(2)(E). Pub. L. 97−34, Sec. 332(a), substituted "December 31, 1982" for "December 31, 1983" in cls. (i) and (ii) and added cl. (iii).

Subsec. (a)(2)(F). Pub. L. 97−34, Sec. 212(a)(2), added subpar. (F).

Subsec. (b)(1). Pub. L. 97−34, Sec. 207(c)(1), inserted provision after subpar. (D) directing that, in the case of an unused credit for an unused credit year ending after Dec. 31, 1973, this paragraph be applied by substituting "15" for "7" in subpar. (B) and by substituting "18" for "10" and "17" for "9" in second sentence.

Subsec. (c)(2). Pub. L. 97−34, Sec. 211(e)(1), inserted references in provisions preceding table to exceptions provided in paragraphs (3), (6), and (7).

Subsec. (c)(6)(A). Pub. L. 97−34, Sec. 211(e)(2), substituted "Notwithstanding paragraph (2) or (3)" for "Notwithstanding paragraph (2)" and inserted "or which is recovery property (within the meaning of section 168)," after "3 years or more,".

Subsec. (c)(7). Pub. L. 97−34, Sec. 211(a)(1), added par. (7).

Subsec. (c)(8). Pub. L. 97−34, Sec. 211(f)(1), added par. (8).

Subsec. (c)(8)(D)(i)(I). Pub. L. 97−34, Sec. 302(c)(3), (d)(1), provided that, applicable to taxable years beginning after Dec. 31, 1984, subsection (c)(8)(D)(i)(I) of this section (relating to limitation to amount at risk) is amended by striking out "clause (i), (ii), or (iii) of subparagraph (A) or subparagraph (B) of section 128(c)(2)" and inserting in lieu thereof "subparagraph (A) or (B) of section 128(c)(1)". Section 16(a) of Pub. L. 98−369, repealed section 302(c) of Pub. L. 97−34, and provided that this title shall be applied and administered as if section 302(c), and the amendments made by section 302(c), had not been enacted.

Subsec. (c)(9). Pub. L. 97−34, Sec. 211(f)(1), added par. (9).

Subsec. (d)(1). Pub. L. 97−34, Sec. 211(b)(1), designated existing provisions as subpar. (A), substituted "an amount equal to the aggregate of the applicable percentage of each qualified progress expenditure for the taxable year" for "an amount equal to his aggregate qualified progress expenditures for the taxable year" in subpar. (A) as so designated, and added subpar. (B).

Subsec. (d)(2)(A)(ii). Pub. L. 97−34, Sec. 211(b)(2), struck out "having a useful life of 7 years or more" after "it is reasonable to believe will be new section 38 property".

Subsec. (e)(3). Pub. L. 97−34, Sec. 211(d), in provisions following subpar. (B), inserted provision that, for purposes of subpar. (B), in the case of any recovery property (within the meaning of section 168), the useful life be the present class life for such property (as defined in section 168(g)(2)).

1980 − Subsec. (a)(2)(A). Pub. L. 96−222, Sec. 101(a)(7)(L)(iii)(I), substituted "employee plan" for "ESOP".

Subsec. (a)(2)(C). Pub. L. 96−223, Sec. 221(a), revised provisions relating to energy percentage by substituting a tabular format embracing separate coverage for solar, wind, or geothermal property, ocean thermal property, qualified hydroelectric generating property, and biomass property using percentages varying between 10 and 15 percent and covering periods from Oct. 1, 1978, to Dec. 31, 1985, with longer periods for certain long−term projects and certain hydroelectric generating property for provisions that had set the energy percentage at 10 percent for the period beginning Oct. 1, 1978, and ending Dec. 31, 1982, and zero with respect to any other period.

Subsec. (a)(2)(D). Pub. L. 96−223, Sec. 222(e)(2), inserted provision that in the case of any qualified hydroelectric generating property which is a fish passageway, the special rule for certain energy property embraced in the first sentence would not apply to any period after 1979 for which the energy percentage for such property is greater than zero.

Subsec. (a)(2)(E). Pub. L. 96−222, Sec. 101(a)(7)(L)(v)(I), (M)(i), substituted in heading "employee plan" for "ESOP" and in cls. (i) and (ii) inserted "and ending on" before "December 31, 1983".

Subsec. (a)(9). Pub. L. 96−222, Sec. 103(a)(2)(B)(i), redesignated par. (10) as (9). A former par. (9) was previously repealed by section 312(b)(2) of Pub. L. 95−600.

Subsec. (a)(9)(A). Pub. L. 96−223, Sec. 223(b)(1)(A), inserted "and" at end of cl. (i), substituted a period for "(other than solar wind energy property), and" at end of cl. (ii), and struck out cl. (iii) which had provided for the application of so much of the credit allowed by section 38 as was attributable to the application of the energy percentage to solar or wind energy property.

Subsec. (a)(9)(B). Pub. L. 96−223. Sec. 223(b)(1)(B), struck out "other than solar or wind energy property" after "energy property" in heading.

Pub. L. 96−222, Sec. 103(a)(2)(B)(ii), (iii), substituted "paragraph (3)(B) shall be applied by substituting '100 percent' for the percentage determined under the table contained in such paragraph" for "paragraph (3)(C) shall be applied by substituting

'100 percent' for '50 percent' " in cl. (i) and "(7) and (8)" for "(7), (8), and (9)" in cl. (ii).

Subsec. (a)(9)(C). Pub. L. 96−223, Sec. 223(b)(1)(C), struck out subpar. (C) which related to a refundable credit for solar or wind energy property.

Subsec. (a)(10). Pub. L. 96−222, Sec. 103(a)(2)(B)(i), redesignated par. (10) as (9).

Subsec. (c)(5)(B). Pub. L. 96−222, Sec. 103(a)(3), inserted provisions requiring that this subparagraph not apply for purposes of applying the energy percentage.

Subsec. (e)(3). Pub. L. 96−222, Sec. 103(a)(4)(A), inserted provisions requiring that this paragraph not apply with respect to any property which is treated as section 38 property by reason of section 48(a)(1)(E).

Subsec. (f)(1), (2). Pub. L. 95−600, Sec. 312(c)(2), as amended by Pub. L. 96−222, Sec. 103(a)(2)(A), substituted " 'described in section 50 (as in effect before its repeal by the Revenue Act of 1978)' " for " 'described in section 50' ".

Subsec. (f)(8). Pub. L. 96−222, Sec. 107(a)(3)(A), substituted "subsection (a)(7)(C)" for "subsection (a)(7)(D)".

Subsec. (f)(9). Pub. L. 96−222, Sec. 101(a)(7)(A), substituted in provisions preceding subpar. (A) "subparagraph (E) of subsection (a)(2)" for "subparagraph (B) of subsection (a)(2)" and in subpar. (A) "a tax credit employee stock ownership plan which meets the requirements of section 409A" for "an employee ownership plan which meets the requirements of section 301(d) of the Tax Reduction Act of 1975".

1978 − Subsec. (a)(2). Pub. L. 95−618, Sec. 301(a)(1), among other changes, inserted provisions relating to an alternative energy property tax credit which would pay for a certain percentage of the cost of equipment which uses sources of energy other than oil and gas and of associated pollution control, handling, and preparation equipment.

Subsec. (a)(2)(B). Pub. L. 95−600, Sec. 311(a), made 10 percent limitation on investment tax credit permanent.

Subsec. (a)(2)(E). Pub. L. 95−600, Sec. 141(e), (f)(2), substituted "December 31, 1983" for "and ending on December 31, 1980" wherever appearing, "section 48(n)(1)(B)" for "section 301(e) of the Tax Reduction Act of 1975" and "section 409A" for "section 301(d) of the Tax Reduction Act of 1975".

Subsec. (a)(3). Pub. L. 95−600, Sec. 312(a), increased the present 50 percent tax liability limitation to 90 percent, to be phased in at an additional 10 percentage points per year beginning with taxable years which end in 1979.

Subsec. (a)(7). Pub. L. 95−600, Sec. 312(b)(1), in subpar. (A) substituted "the taxable year ending in 1979" for "a taxable year ending after calendar year 1974 and before calendar year 1981", "subparagraph (B)" for "subparagraph (C)", and "for '60 percent' the taxpayer's" for "for 50 percent his" and inserted "the application of this paragraph results in a percentage higher than 60 percent," before "then subparagraph (B)"; in subpar. (B) substituted "70 percent" for "50 percent plus the tentative percentage for such year"; struck out former subpar. (C), which related to the determination of the tentative percentage, and redesignated former subpar. (D) as (C).

Subsec. (a)(8). Pub. L. 95−600, Sec. 312(b)(2), in subpar. (A) substituted "the taxable year ending in 1979" for "a taxable year ending after calendar year 1976, and before calendar year 1983", "subparagraph (B)" for "subparagraph (C)", and "for '60 percent' ('70 percent' in the case of a taxable year ending in 1980) the taxpayer's" for "for 50 percent his" and inserted reference to airline property and "the application of this paragraph results in a percentage higher than 60 percent (70 percent in the case of a taxable year ending in 1980)," before "then subparagraph (B)"; in subpar. (B) inserted reference to airline property and substituted "90 percent (80 percent in the case of a taxable year ending in 1980)" for "50 percent plus the tentative percentage for such year"; in subpar. (C) table struck out tentative percentage of 50 for 1977 or 1978, 20 for 1981, and 10 for 1982; and added subpar. (E).

Subsec. (a)(9). Pub. L. 95−600, Sec. 312(b)(2), struck out par. (9) which related to the alternative limitation in the case of certain airlines.

Subsec. (a)(10). Pub. L. 95−618, Sec. 301(c)(1), added par. (10).

Subsec. (c)(3)(A). Pub. L. 95−618, Sec. 301(a)(2)(A), substituted "For the period beginning on January 1, 1981, in the case of any property" for "To the extent that subsection (a)(2)(C) applies to property" and inserted provisions that the preceding sentence not apply for purposes of applying the energy percentage. See Codification note above.

Pub. L. 95−600, Sec. 311(c)(1), substituted "To the extent that the credit allowed by section 38 with respect to any public utility property is determined at the rate of 7 percent" for "For the period beginning on January 1, 1981". See Codification note above.

Subsec. (c)(5). Pub. L. 95−600, Sec. 313(a), increased the investment credit available to pollution control facilities which a taxpayer has elected to amortize over a five−year period to a full investment credit from a one−half investment credit.

Subsec. (c)(6). Pub. L. 95−618, Sec. 241(a), added par. (6).

Subsec. (e)(1)(C). Pub. L. 95−600, Sec. 316(b)(1), struck out subpar. (C) which related to a cooperative organization described in section 1381(a).

Subsec. (e)(2)(C). Pub. L. 95−600, Sec. 316(b)(2), struck out subpar. (C) which related to a cooperative organization.

Subsec. (f)(1), (2). Pub. L. 95−600, Sec. 312(c)(2), struck out "described in section 50" after "with respect to any property". See 1980 Amendment note above.

Subsec. (f)(8). Pub. L. 95−618, Sec. 301(a)(2)(B), substituted ", the Tax Reform Act of 1976, and the Energy Tax Act of 1978" for "and the Tax Reform Act of 1976". See Codification note above.

Pub. L. 95−600, Secs. 311(c)(2), 703(a)(1), substituted "subsection (a)(7)(D)" for "subsection (a)(6)(D)" and inserted reference to the Revenue Act of 1978. See Codification note above.

Subsec. (g)(5). Pub. L. 95−600, Sec. 703(a)(2), substituted

"Merchant Marine Act, 1936" for "Merchant Marine Act, 1970".

Subsec. (h). Pub. L. 95−600, Sec. 316(a), added subsec. (h).

1976 − Subsec. (a)(1). Pub. L. 94−455, Sec. 802(a)(2), added par. (1) and struck out former par. (1) which related to the percentage of allowable credit under section 38.

Subsec. (a)(2). Pub. L. 94−455, Sec. 802(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 94−455, Sec. 802(a)(1), redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 94−455, Secs. 503(b)(4), 802(a)(1), (b)(1), 1901(a)(4)(A), (b)(1)(C), as amended by Pub. L. 95−600, Sec. 703(j)(9), redesignated former par. (3) as (4), and in par. (4) as so redesignated, redesignated former subpar. (C) as (B) and substituted in provisions preceding subpar. (A) "paragraph (3)" for "paragraph (2)", in subpar. (B) as so redesignated "credit for the elderly" for "retirement income", and in provisions following subpar. (B) "section 408(f)" for "section 408(e)". Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 94−455, Sec. 802(a)(1), (b)(1), redesignated former par. (4) as (5) and substituted "paragraph (3)" for "paragraph (2)". Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 94−455, Secs. 802(a)(1), (b)(1), 1906(b)(13)(A), redesignated former par. (5) as (6) and substituted "paragraph (3)" for "paragraph (2)" and struck out "or his delegate" after "Secretary". Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 94−455, Sec. 802(a)(1), (b)(1), redesignated former par. (6) as (7) and substituted "paragraph (3)" for "paragraph (2)".

Subsec. (a)(8). Pub. L. 94−455, Sec. 1701(b), added par. (8).

Subsec. (a)(9). Pub. L. 94−455, Sec. 1703, added par. (9).

Subsec. (b). Pub. L. 94−455, Sec. 802(b)(2), among other changes, inserted requirement that tax credits carried over are applied first to the tax liability for that year, after which tax credits earned currently are then applied.

Subsec. (c)(3)(A). Pub. L. 94−455, Sec. 802(b)(3), substituted "subsection (a)(2)(C)" for "subsection (a)(1)(C)".

Subsec. (c)(3)(B)(iii). Pub. L. 94−455, Sec. 1901(a)(4)(B), substituted "47 U.S.C. 222(a)(5)" for "47 U.S.C., sec. 222(a)(5)".

Subsec. (c)(5). Pub. L. 94−455, Sec. 2112(a)(2), added par. (5).

Subsec. (d)(4)(D), (6). Pub. L. 94−455, Sec. 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (e)(1)(C). Pub. L. 94−455, Sec. 802(b)(4), substituted "subsection (a)(3)" for "subsection (a)(2)".

Subsec. (e)(2). Pub. L. 94−455, Sec. 1607(b)(1)(B), substituted in subpar. (B) "857(b)(2)(B)" for "857(b)(2)(C)" and inserted in provisions following subpar. (C) reference to determine without regard to any deduction for capital gains dividends (as defined in section 857(b)(3)(C)) and by excluding any net capital gain.

Subsec. (f)(1)(B), (2), (3). Pub. L. 94−455, Sec. 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (f)(4)(A). Pub. L. 94−455, Sec. 803(b)(1)(A), (B), substituted "paragraphs (1), (2), and (9)" for "paragraphs (1) and

(2)" and "paragraph (1), (2), or (9)" for "paragraph (1) or (2)" wherever appearing.

Subsec. (f)(4)(B)(ii). Pub. L. 94−455, Sec. 803(b)(1)(C), substituted "paragraph (2) or the election described in paragraph (9)," for "paragraph (2),".

Subsec. (f)(7). Pub. L. 94−455, Sec. 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (f)(8). Pub. L. 94−455, Secs. 802(b)(5), 1906(b)(13)(A), inserted reference to the Tax Reform Act of 1976 and struck out "or his delegate" after "Secretary".

Subsec. (f)(9). Pub. L. 94−455, Sec. 803(a), added par. (9).

Subsec. (g). Pub. L. 94−455, Sec. 805(a), added subsec. (g).

1975 − Subsec. (a)(1). Pub. L. 94−12, Sec. 301(a), designated existing provisions as subpar. (A), substituted "Except as otherwise provided in this paragraph, in the case of a property described in subparagraph (D), the" for "The", "10 percent" for "7 percent", and "(as determined under subsections (c) and (d))" for "(as defined in subsection (c))" in subpar. (A) as so designated, and added subpars. (B), (C), and (D).

Subsec. (a)(6). Pub. L. 94−12, Sec. 301(b)(2), added par. (6).

Subsec. (c)(3)(A). Pub. L. 94−12, Sec. 301(b)(1), substituted "To the extent that subsection (a)(1)(C) applies to property which is public utility property, the" for "In the case of section 38 property which is public utility property, the".

Subsec. (c)(4). Pub. L. 94−12, Sec. 302(b)(1), added par. (4).

Subsecs. (d), (e). Pub. L. 94−12, Sec. 302(a), added subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f) and amended.

Subsec. (f). Pub. L. 94−12, Secs. 301(b)(3), 302(a), redesignated former subsec. (e) as (f) and in subsec. (f) as so redesignated added par. (8).

1974 − Subsec. (a)(3). Pub. L. 93−406 inserted reference to section 402(e) (relating to tax on lump sum distributions), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner−employees), and section 408(e) (relating to additional tax on income from certain retirement accounts).

1971 − Subsec. (b)(1). Pub. L. 92−178, Sec. 106(b), inserted concluding sentence "In the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment credit carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), this paragraph shall be applied by substituting '10 taxable years' for '7 taxable years' in subparagraph (B) and by substituting '13 taxable years' for '10 taxable years' and '12 taxable years' for '9 taxable years' in the preceding sentence."

Subsec. (b)(3). Pub. L. 92−178, Sec. 106(a), added par. (3).

Subsec. (b)(5). Pub. L. 92−178, Sec. 106(c)(1), substituted "Certain taxable years ending in 1969, 1970, or 1971" for "Taxable years beginning after December 31, 1968, and ending after April 18, 1969" in heading; substituted "ending after April 18, 1969, and before January 1, 1972," for "ending after April 18, 1969,"; and provided that "In the case of a taxable year ending after August

15, 1971, and before January 1, 1972, the percentage contained in the preceding sentence shall be increased by 6 percentage points for each month (or portion thereof) in the taxable year after August 15, 1971".

Subsec. (b)(6). Pub. L. 92−178, Sec. 106(c)(2), substituted "ending after April 18, 1969, and before January 1, 1971," for "ending after April 18, 1969," and "following the 7th taxable year after the unused credit year" for "following the last taxable year for which such portion may be added under paragraph (1)", respectively.

Subsec. (c)(2). Pub. L. 92−178, Sec. 102(a)(1), (b), substituted "3 years", "5 years", and "7 years" for "4 years" (once), "6 years" (twice), and "8 years" (twice), respectively in tables of first sentence and substituted in second sentence "subpart" for "paragraph" and "useful life of any property shall be the useful life used in computing the allowance for depreciation under section 167 for the taxable year in which the property is placed in service" for "useful life of any property shall be determined as of the time such property is placed in service by the taxpayer".

Subsec. (c)(3)(A). Pub. L. 92−178, Sec. 105(a), substituted the fraction of " 4/7 " for " 3/7 ".

Subsec. (c)(3)(B). Pub. L. 92−178, Sec. 105(b)(1), (2), struck out cl. (iii) provisions respecting telephone service, redesignated cl. (iv) as (iii), included in cl. (iii) provision of former cl. (iii) respecting telephone service, included other communication services (other than international telegraph service), and defined

term "public utility property" to also mean communication property
of type used by persons engaged in providing telephone or microwave
communication services to which cl. (iii) applies, if such property
is used predominantly for communication purposes, respectively.
Subsec. (c)(3)(C). Pub. L. 92−178, Sec. 105(b)(3), added subpar.
(C).
Subsec. (c)(4). Pub. L. 92−178, Sec. 107(a)(1), struck out
provisions respecting reduction in basis or cost of certain
replacement property.
Subsec. (d)(3). Pub. L. 92−178, Sec. 108(a), added par. (3).
Subsec. (e). Pub. L. 92−178, Sec. 105(c), added subsec. (e).
1969 − Subsec. (a)(3). Pub. L. 91−172, Sec. 301(b)(4), inserted
"section 56 (relating to minimum tax for tax preference),".
Subsec. (a)(5). Pub. L. 91−172, Sec. 401(e)(1), reenacted
subsection with minor changes and substituted reference to section
1563(a) for reference to section 1504.
Subsec. (b)(5), (6). Pub. L. 91−172, Sec. 703(b), added pars. (5)
and (6).
1967 − Subsec. (b). Pub. L. 90−225 struck out par. (3) which
provided that to the extent that the excess described in par. (1)
of this subsection arises by reason of net operating loss
carryback, subpar. (A) of par. (1) of this subsection shall not
apply.
1966 − Subsec. (a)(2). Pub. L. 89−800, Sec. 3(a), inserted "for
taxable years ending on or before the last day of the suspension
period (as defined in section 48(j))," at beginning of subpar. (B),

and added subpar. (C) and provisions following subpar. (C) covering the application of subpar. (C) and the reduction of the amount otherwise determined under par. (2) by the credit allowable but for the application of section 48(h)(1).

Subsec. (a)(3). Pub. L. 89−389 inserted reference to tax imposed for the taxable year by section 1378 (relating to tax on certain capital gains of subchapter S corporations) in the list of taxes not to be considered tax imposed by this chapter for purposes of par. (3).

Pub. L. 89−384 added any additional tax imposed for the taxable year by section 1351 (relating to recoveries of foreign expropriation losses) to the list of taxes not to be considered a tax imposed by this chapter for purposes of par. (3).

Subsec. (b)(1). Pub. L. 89−800, Sec. 3(b), substituted "7 taxable years" for "5 taxable years" in subpar. (B) and "10 taxable years" and "other 9 taxable years" for "8 taxable years" and "other 7 taxable years" respectively in text following subpar. (B).

1964 − Subsec. (a)(3)(B) to (D). Pub. L. 88−272 struck out subpar. (B) relating to section 34, and redesignated subpars. (C) and (D) as (B) and (C), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11813(a) of Pub. L. 101−508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101−508, set out as a note under section 29 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7814(d) of Pub. L. 101−239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100−647, to which such amendment relates, see section 7817 of Pub. L. 101−239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 1002(a)(4), (15), (17), (25), 1009(a)(1), and 1013(a)(44) of Pub. L. 100−647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99−514, to which such amendment relates, see section 1019(a) of Pub. L. 100−647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(7)(B) of Pub. L. 99−514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99−514, set out as a note under section 168 of this title.

Section 251(d) of Pub. L. 99−514, as amended by Pub. L. 100−647, title I, Sec. 1002(k), Nov. 10, 1988, 102 Stat. 3371, provided that:

"(1) In general. − Except as otherwise provided in this subsection, the amendments made by this section [amending this section and section 48 of this title] shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

"(2) General transitional rule. − The amendments made by this section and section 201 [amending this section and sections 48, 167, 168, 178, 179, 280F, 291, 312, 465, 467, 514, 751, 1245, 4162, 6111, and 7701 of this title] shall not apply to any property placed in service before January 1, 1994, if such property is placed in service as part of −

"(A) a rehabilitation which was completed pursuant to a written contract which was binding on March 1, 1986, or

"(B) a rehabilitation incurred in connection with property (including any leasehold interest) acquired before March 2, 1986, or acquired on or after such date pursuant to a written contract that was binding on March 1, 1986, if −

"(i) parts 1 and 2 of the Historic Preservation Certification Application were filed with the Department of the Interior (or its designee) before March 2, 1986, or

"(ii) the lesser of $1,000,000 or 5 percent of the cost of the rehabilitation is incurred before March 2, 1986, or is required to be incurred pursuant to a written contract which was binding on March 1, 1986.

"(3) Certain additional rehabilitations. − The amendments made by this section and section 201 [amending this section and sections

48, 167, 168, 178, 179, 280F, 291, 312, 465, 467, 514, 751, 1245, 4162, 6111, and 7701 of this title] shall not apply to −

"(A) the rehabilitation of 8 bathhouses within the Hot Springs National Park or of buildings in the Central Avenue Historic District at such Park,

"(B) the rehabilitation of the Upper Pontalba Building in New Orleans, Louisiana,

"(C) the rehabilitation of at least 60 buildings listed on the National Register at the Frankford Arsenal,

"(D) the rehabilitation of De Baliveriere Arcade, St. Louis Centre, and Drake Apartments in Missouri,

"(E) the rehabilitation of The Tides in Bristol, Rhode Island,

"(F) the rehabilitation and renovation of the Outlet Company building and garage in Providence, Rhode Island,

"(G) the rehabilitation of 10 structures in Harrisburg, Pennsylvania, with respect to which the Harristown Development Corporation was designated redeveloper and received an option to acquire title to the entire project site for $1 on June 27, 1984,

"(H) the rehabilitation of a project involving the renovation of 3 historic structures on the Minneapolis riverfront, with respect to which the developer of the project entered into a redevelopment agreement with a municipality dated January 4, 1985, and industrial development bonds were sold in 3 separate issues in May, July, and October 1985,

"(I) the rehabilitation of a bank's main office facilities of approximately 120,000 square feet, in connection with which the bank's board of directors authorized a $3,300,000 expenditure for the renovation and retrofit on March 20, 1984,

"(J) the rehabilitation of 10 warehouse buildings built between 1906 and 1910 and purchased under a contract dated February 17, 1986,

"(K) the rehabilitation of a facility which is customarily used for conventions and sporting events if an analysis of operations and recommendations of utilization of such facility was prepared by a certified public accounting firm pursuant to an engagement authorized on March 6, 1984, and presented on June 11, 1984, to officials of the city in which such facility is located,

"(L) Mount Vernon Mills in Columbia, South Carolina,

"(M) the Barbara Jordan II Apartments,

"(N) the rehabilitation of the Federal Building and Post Office, 120 Hanover Street, Manchester, New Hampshire,

"(O) the rehabilitation of the Charleston Waterfront project in South Carolina,

"(P) the Hayes Mansion in San Jose, California,

"(Q) the renovation of a facility owned by the National Railroad Passenger Corporation ('Amtrak') for which project Amtrak engaged a development team by letter agreement dated August 23, 1985, as modified by letter agreement dated September 9, 1985,

"(R) the rehabilitation of a structure or its components which is listed in the National Register of Historic Places, is located in Allegheny County, Pennsylvania, will be substantially rehabilitated (as defined in section 48(g)(1)(C) prior to

amendment by this Act), prior to December 31, 1989; and was

previously utilized as a market and an auto dealership,

"(S) The Bellevue Stratford Hotel in Philadelphia,

Pennsylvania,

"(T) the Dixon Mill Housing project in Jersey City, New Jersey,

"(U) Motor Square Garden,

"(V) the Blackstone Apartments, and the Shriver−Johnson

building, in Sioux Falls, South Dakota,

"(W) the Holy Name Academy in Spokane, Washington,

"(X) the Nike/Clemson Mill in Exeter, New Hampshire,

"(Y) the Central Bank Building in Grand Rapids, Michigan, and

"(Z) the Heritage Hotel, in the City of Marquette, Michigan.

"(4) Additional rehabilitations. − The amendments made by this

section and section 201 [amending sections 46, 48, 167, 168, 178,

179, 280F, 291, 312, 465, 467, 514, 751, 1245, 4162, 6111, and 7701

of this title] shall not apply to −

"(A) the Fort Worth Town Square Project in Texas,

"(B) the American Youth Hostel in New York, New York,

"(C) The Riverwest Loft Development (including all three

phases, two of which do not involve rehabilitations),

"(D) the Gaslamp Quarter Historic District in California,

"(E) the Eberhardt & Ober Brewery, in Pennsylvania,

"(F) the Captain's Walk Limited Partnership−Harris Place

Development, in Connecticut,

"(G) the Velvet Mills in Connecticut,

"(H) the Roycroft Inn, in New York,

"(I) Old Main Village, in Mankato, Minnesota,

"(J) the Washburn−Crosby A Mill, in Minneapolis, Minnesota,

"(K) the Marble Arcade office building in Lakeland, Florida,

"(L) the Willard Hotel, in Washington, D.C.,

"(M) the H. P. Lau Building in Lincoln, Nebraska,

"(N) the Starks Building, in Louisville, Kentucky,

"(O) the Bellevue High School, in Bellevue, Kentucky,

"(P) the Major Hampden Smith House, in Owensboro, Kentucky,

"(Q) the Doe Run Inn, in Brandenburg, Kentucky,

"(R) the State National Bank, in Frankfort, Kentucky,

"(S) the Captain Jack House, in Fleming, Kentucky,

"(T) the Elizabeth Arlinghaus House, in Covington, Kentucky,

"(U) Limerick Shamrock, in Louisville, Kentucky,

"(V) the Robert Mills Project, in South Carolina,

"(W) the 620 Project, consisting of 3 buildings, in Kentucky,

"(X) the Warrior Hotel, Ltd., the first two floors of the Martin Hotel, and the 105,000 square foot warehouse constructed in 1910, all in Sioux City, Iowa,

"(Y) the waterpark condominium residential project, to the extent of $2 million of expenditures,

"(Z) the Bigelow−Hartford Carpet Mill in Enfield, Connecticut,

"(AA) properties abutting 125th street in New York County from 7th Avenue west to Morningside and the pier area on the Hudson River at the end of such 125th Street,

"(BB) the City of Los Angeles Central Library project pursuant to an agreement dated December 28, 1983,

"(CC) the Warehouse Row project in Chattanooga, Tennessee,

"(DD) any project described in section 204(a)(1)(F) of this Act

[26 U.S.C. 168 note],

"(EE) the Wood Street Commons project in Pittsburgh,

Pennsylvania,

"(FF) any project described in section 803(d)(6) of this Act

[26 U.S.C. 263A note],

"(GG) Union Station, Indianapolis, Indiana,

"(HH) the Mattress Factory project in Pittsburgh, Pennsylvania,

"(II) Union Station in Providence, Rhode Island,

"(JJ) South Pack Plaza, Asheville, North Carolina,

"(KK) Old Louisville Trust Project, Louisville, Kentucky,

"(LL) Stewarts Rehabilitation Project, Louisville, Kentucky,

"(MM) Bernheim Officenter, Louisville, Kentucky,

"(NN) Springville Mill Project, Rockville, Connecticut, and

"(OO) the D.J. Stewart Company Building, State and Main

Streets, Rockford, Illinois.

"(5) Reduction in credit for property under transitional rules. −

In the case of property placed in service after December 31, 1986,

and to which the amendments made by this section [amending this

section and sections 47 and 48 of this title] do not apply,

subparagraph (A) of section 46(b)(4) of the Internal Revenue Code

of 1954 [now 1986] (as in effect before the enactment of this Act)

shall be applied −

"(A) by substituting '10 percent' for '15 percent', and

"(B) by substituting '13 percent' for '20 percent'.

"(6) Expensing of rehabilitation expenses for the frankford arsenal. − In the case of any expenditures paid or incurred in connection with improvements (including repairs and maintenance) of the Frankford Arsenal pursuant to a contract and partnership agreement during the 8−year period specified in the contract or agreement, all such expenditures to be made during the period 1986 through and including 1993 shall −

"(A) be treated as made (and allowable as a deduction) during 1986,

"(B) be treated as qualified rehabilitation expenditures made during 1986, and

"(C) be allocated in accordance with the partnership agreement regardless of when the interest in the partnership was acquired, except that −

"(i) if the taxpayer is not the original holder of such interest, no person (other than the taxpayer) had claimed any benefits by reason of this paragraph,

"(ii) no interest under section 6611 of the 1986 Code on any refund of income taxes which is solely attributable to this paragraph shall be paid for the period −

"(I) beginning on the date which is 45 days after the later of April 15, 1987, or the date on which the return for such taxes was filed, and

"(II) ending on the date the taxpayer acquired the interest in the partnership, and "(iii) if the expenditures to be made under this provision are not paid or incurred before January 1, 1994, then the tax imposed by chapter 1 of such Code for the taxpayer's last taxable year beginning in 1993 shall be increased by the amount of the tax benefits by reason of this paragraph which are attributable to the expenditures not so paid or incurred.

"(7) Special rule. − In the case of the rehabilitation of the Willard Hotel in Washington, D.C., section 205(c)(1)(B)(ii) of the Tax Equity and Fiscal Responsibility Act of 1982 [section 205(c)(1)(B)(ii) of Pub. L. 97−248, set out as a note under section 196 of this title] shall be applied by substituting '1987' for '1986'."

Section 421(c) of Pub. L. 99−514 provided that: "The amendments made by this section [amending this section] shall apply to periods beginning after December 31, 1985, under rules similar to rules under section 48(m) of the Internal Revenue Code of 1986."

Amendment by sections 1802(a)(6), (8), 1844(a), (b)(3), (5), 1847(b)(11), 1848(a) of Pub. L. 99−514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98−369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99−514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 16 of Pub. L. 98−369 applicable to taxable years ending after Dec. 31, 1983, see section 18(a) of Pub. L. 98−369, set out as a note under section 48 of this title.

Amendment by section 31(f) of Pub. L. 98−369 effective, except as otherwise provided in section 31(g) of Pub. L. 98−369, as to property placed in service by the taxpayer after Nov. 5, 1983, in taxable years ending after such date and to property placed in service by the taxpayer on or before Nov. 5, 1983, if the lease to the organization described in section 593 of this title is entered into after Nov. 5, 1983, see section 31(g)(1), (14) of Pub. L. 98−369, set out as a note under section 168 of this title.

Amendment by section 113(b)(2)(B) of Pub. L. 98−369 applicable as if included in the amendments by sections 201(a), 211(a)(1), and 211(f)(1) of Pub. L. 97−34, which amended this section and enacted section 168 of this title, see section 113(c)(2)(B) of Pub. L. 98−369, set out as a note under section 168 of this title.

Section 431(e) of Pub. L. 98−369 provided:

"(1) In general. − The amendments made by this section [amending this section and sections 47 and 48 of this title] shall apply to property placed in service after the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date; except that such amendments shall not apply to any property to which the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981 [section 211(f) of Pub. L. 97−34, amending sections 46 and 47 of this title] do not apply.

"(2) Amendments may be elected retroactively. − At the election of the taxpayer, the amendments made by this section shall apply as if included in the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981. Any election made under the preceding sentence shall apply to all property of the taxpayer to which the amendments made by such section 211(f) apply and shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe."

Amendment by section 474(o)(1)−(7) of Pub. L. 98−369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98−369, set out as a note under section 21 of this title.

Amendment by section 713 of Pub. L. 98−369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97−248, to which such amendment relates, see section 715 of Pub. L. 98−369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by section 122(c)(1) of Pub. L. 98−21 applicable to taxable years beginning after Dec. 31, 1983, except that if an individual's annuity starting date was deferred under section 105(d)(6) of this title as in effect on the day before Apr. 20, 1983, such deferral shall end on the first day of such individual's first taxable year beginning after Dec. 31, 1983, see section 122(d) of Pub. L. 98−21, set out as a note under section 22 of this title.

Amendment by title I of Pub. L. 97−448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97−34, to which such amendment relates, see section 109 of Pub. L. 97−448, set out as a note under section 1 of this title.

Amendment by section 202(f) of Pub. L. 97−448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. 96−223, to which such amendment relates, see section 203(a) of Pub. L. 97−448, set out as a note under section 6652 of this title.

Section 541(c) of Pub. L. 97−424, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) General rule. − The amendments made by subsections (a) and (b) [amending this section and sections 167 and 168 of this title] shall apply to taxable years beginning after December 31, 1979.

"(2) Special rule for periods beginning before march 1, 1980. −

"(A) In general. − Subject to the provisions of paragraphs (3) and (4), notwithstanding the provisions of sections 167(l) and 46(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of −

"(i) any estimates or projections relating to the amounts of the taxpayer's tax expense, depreciation expense, deferred tax reserve, credit allowable under section 38 of such code, or rate base, or

"(ii) any adjustments to the taxpayer's rate of return,

shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(l)(3) nor inconsistent with the requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate of return adjustments, were included in a qualified order.

"(B) Qualified order defined. − For purposes of this subsection, the term "qualified order" means an order −

"(i) by a public utility commission which was entered before March 13, 1980,

"(ii) which used the estimates, projections, or rate of return adjustments referred to in subparagraph (A) to determine the amount of the rates to be collected by the taxpayer or the amount of a refund with respect to rates previously collected, and

"(iii) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

"(3) Limitations on application of paragraph (2). −

"(A) Paragraph (2) not to apply to amounts actually flowed through. − Paragraph (2) shall not apply to the amount of any −

"(i) rate reduction, or

"(ii) refund,

which was actually made pursuant to a qualified order.

"(B) Taxpayer must enter into closing agreement before paragraph (2) applies. − Paragraph (2) shall not apply to any taxpayer unless, before the later of −

"(i) July 1, 1983, or

"(ii) 6 months after the refunds or rate reductions are actually made pursuant to a qualified order.

the taxpayer enters into a closing agreement (within the meaning of section 7121 of the Internal Revenue Code of 1986) which provides for the payment by the taxpayer of the amount of which paragraph (2) does not apply by reason of subparagraph (A).

"(4) Special rules relating to payment of refunds or interest by the united states or the taxpayer. −

"(A) Refund defined. − For purposes of this subsection, the term "refund" shall include any credit allowed by the taxpayer under a qualified order but shall not include interest payable with respect to any refund (or credit) under such order.

"(B) No interest payable by united states. − No interest shall be payable under section 6611 of the Internal Revenue Code of 1986 on any overpayment of tax which is attributable to the application of paragraph (2).

"(C) Payments may be made in two equal installments. −

"(i) In general. − The taxpayer may make any payment required by reason of paragraph (3) in 2 equal installments, the first installment being due on the last date on which a taxpayer may enter into a closing agreement under paragraph (3)(B), and the second payment being due 1 year after the last date for the first payment.

"(ii) Interest payments. − For purposes of section 6601 of such Code, the last date prescribed for payment with respect to any payment required by reason of paragraph (3) shall be the last date on which such payment is due under clause (i).

"(5) No inference. − The application of subparagraph (G) of section 167(l)(3) of the Internal Revenue Code of 1986, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by subsections (a) and (b) of this section [amending this section and sections 167 and 168 of this title] or from the rules contained in paragraphs (2), (3), and (4). Nothing in the preceding sentence shall be construed to limit the relief provided by paragraphs (2), (3), and (4)."

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97−354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97−354, set out as an Effective Date note under section 1361 of this title.

Amendment by section 201(d)(8)(A), formerly section 201(c)(8)(A), of Pub. L. 97−248, applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97−248, set out as a note under section 5 of this title.

Section 205(c)(2) of Pub. L. 97−248 provided that: "The amendments made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1982."

Amendment by section 265(b)(2)(A)(i) of Pub. L. 97−248 applicable to distributions after Dec. 31, 1982, see section 265(c)(2) of Pub. L. 97−248, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 207(c)(1) of Pub. L. 97−34 applicable to unused credit years ending after Dec. 31, 1973, see section 209(c)(2)(A) of Pub. L. 97−34, set out as an Effective Date note under section 168 of this title.

Section 211(i) of Pub. L. 97−34 provided that:

"(1) In general. − Except as provided in this subsection, the amendments made by this section [amending this section and sections 47 and 48 of this title] shall apply to property placed in service after December 31, 1980.

"(2) Progress expenditures. − The amendments made by subsection (b) [amending this section] shall apply to progress expenditures made after December 31, 1980.

"(3) Petroleum storage facilities. − The amendments made by subsection (c) [amending this section] shall apply to periods after December 31, 1980, under rules similar to the rules under section 48(m).

"(4) Noncorporate lessors. − The amendments made by subsection (d) [amending this section] shall apply to leases entered into after June 25, 1981.

"(5) At risk rules. −

"(A) In general. − The amendment made by subsection (f) [amending this section and section 47 of this title] shall not apply to −

"(i) property placed in service by the taxpayer on or before February 18, 1981, and

"(ii) property placed in service by the taxpayer after

February 18, 1981, where such property is acquired by the taxpayer pursuant to a binding contract entered into on or before that date.

"(B) Binding contract. − For purposes of subparagraph (A)(ii), property acquired pursuant to a binding contract shall, under regulations prescribed by the Secretary, include property acquired in a manner so that it would have qualified as pretermination property under section 49(b) (as in effect before its repeal by the Revenue Act of 1978) [Pub. L. 95−600].

"(6) Leased rolling stock. − The amendment made by subsection (h) [amending section 48 of this title] shall apply to taxable years beginning after December 31, 1980."

Section 212(e) of Pub. L. 97−34, as amended by Pub. L. 97−448, title I, Sec. 102(f)(1), Jan. 12, 1983, 96 Stat. 2371; Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) In general. − Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 48, 57, 167, 280B, 642, 1016, 1082, 1245, and 1250 of this title and repealing section 191 of this title] shall apply to expenditures incurred after December 31, 1981, in taxable years ending after such date.

"(2) Transitional rule. − The amendments made by this section shall not apply with respect to any rehabilitation of a building if −

"(A) the physical work on such rehabilitation began before January 1, 1982, and

"(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this Act [Pub. L. 97−34])."

Section 332(c)(1) of Pub. L. 97−34 provided that: "The amendments made by subsection (a) [amending this section] shall be effective on the date of enactment of this Act [Aug. 13, 1981]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 222(e)(2) of Pub. L. 96−223 applicable to periods after Dec. 31, 1979, under rules similar to the rules of section 48(m) of this title, see section 222(j)(1) of Pub. L. 96−223, set out as a note under section 48 of this title.

Section 223(b)(3) of Pub. L. 96−223 provided that: "The amendments made by this subsection [amending this section and section 6401 of this title] shall apply to qualified investment for taxable years beginning after December 31, 1979."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 141(e), (f)(2) of Pub. L. 95−600 effective with respect to qualified investment for taxable years beginning after Dec. 31, 1978, see section 141(g)(1) of Pub. L. 95−600, set out as an Effective Date note under section 409 of this title.

Section 312(d) of Pub. L. 95−600 provided that: "The amendments made by this section [amending this section and sections 48 and 167 of this title and repealing sections 49 and 50 of this title] shall apply to taxable years ending after December 31, 1978."

Section 313(b) of Pub. L. 95−600 provided that:

"The amendment made by subsection (a) [amending this section] shall apply to −

"(1) property acquired by the taxpayer after December 31, 1978, and

"(2) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1978 (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date)."

Section 316(c) of Pub. L. 95−600 provided that: "The amendments made by this section [amending this section and section 1388 of this title] shall apply to taxable years ending after October 31, 1978."

Section 703(r) of Pub. L. 95−600 provided that: "Except as otherwise provided, the amendments made by this section [amending this section and sections 48, 103, 447, 453, 501, 801, 911, 995, 996, 999, 1033, 1212, 1375, 1402, 1561, 4041, 4911, 6104, 6427, 6501, 6504, 6511, 7609 of this title and sections 402, 405, 410, and 411 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 103, 311, 443, 501, and 4973 of this title, and amending provisions set out as notes under section 120, 311, 907, 995, 2011, 2501, and 4940 of this title] shall take effect on October 4, 1976."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 503(b)(4) of Pub. L. 94−455 applicable to taxable years beginning after Dec. 31, 1975, see section 508 of Pub. L. 94−455, set out as a note under section 3 of this title.

Section 802(c) of Pub. L. 94−455 provided that: "The amendments made by this section [amending this section and section 48 of this title and provisions set out below] shall apply to taxable years beginning after December 31, 1975."

Section 803(j) of Pub. L. 94−455 provided that:

"(1) General rule. − Except as provided in paragraph (2), the amendments made by this section [see Tables for classification of section 803 of Pub. L. 94−455] shall apply for taxable years beginning after December 31, 1974.

"(2) Exceptions. −

"(A) Section 301(e) of the Tax Reduction Act of 1975 [set out below], as added by subsection (d), shall apply for taxable years beginning after December 31, 1976.

"(B) The amendments made by subsections (a) and (b)(1) shall apply for taxable years beginning after December 31, 1975.

"(C) The amendments made by subsections (b)(4) and (f) shall apply for years beginning after December 31, 1975."

Section 805(b) of Pub. L. 94−455, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) In general. − Except as provided in subparagraph (B), the amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1975, in the case of property placed in service after such date.

"(2) Section 46(g)(4). − Section 46(g)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) shall apply to taxable years beginning after December 31, 1975."

Amendment by section 1607(b)(1)(B) of Pub. L. 94−455 applicable to taxable years ending after Oct. 4, 1976, with certain exceptions, see section 1608(c) of Pub. L. 94−455, set out as a note under section 857 of this title.

Amendment by section 1901(a)(4)(A), (B), (b)(1)(C) of Pub. L. 94−455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94−455, set out as a note under section 2 of this title.

Section 2112(d)(1) of Pub. L. 94−455 provided that: "The amendments made by subsection (a) [amending this section and section 48 of this title] shall apply to −

"(A) property acquired by the taxpayer after December 31, 1976, and

"(B) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1976, (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date), in taxable years beginning after such date."

EFFECTIVE DATE OF 1975 AMENDMENT

Section 301(b)(4) of Pub. L. 94−12 provided that: "The amendment made by paragraph (1) of this subsection [amending this section] shall apply to property placed in service after January 21, 1975, in taxable years ending after January 21, 1975. The amendments made by paragraphs (2) and (3) [amending this section] shall apply to taxable years ending after December 31, 1974."

Section 305(a) of Pub. L. 94−12 provided that: "The amendments made by section 302 [amending this section and sections 47, 48, and 50B of this title] shall apply to taxable years ending after December 31, 1974."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 2001(g)(2)(B) of Pub. L. 93−406 applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 2001(i)(5) of Pub. L. 93−406, set out as a note under section 72 of this title.

Amendment by section 2002(g)(2) of Pub. L. 93−406 effective on Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93−406, set out as an Effective Date note under section 4973 of this title.

Amendment by section 2005(c)(4) of Pub. L. 93−406 applicable only with respect to distributions or payments made after Dec. 31, 1973, in taxable years beginning after Dec. 31, 1973, see section 2005(d) of Pub. L. 93−406, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 102(d)(1), (2) of Pub. L. 92−178, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) The amendments made by subsections (a) and (b) [amending this section and section 48 of this title] shall apply to property described in section 50 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

"(2) In redetermining qualified investment for purposes of section 47(a) of the Internal Revenue Code of 1986 in the case of any property which ceases to be section 38 property with respect to the taxpayer after August 15, 1971, or which becomes public utility property after such date, section 46(c)(2) of such Code shall be applied as amended by subsection (a)."

Section 105(d) of Pub. L. 92−178, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section and enacting provisions set out below] shall apply to property described in section 50 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]."

Section 106(d) of Pub. L. 92−178 provided that: "The amendments made by subsections (a), (b), and (c)(2) [amending this section] shall apply to taxable years beginning after December 31, 1970. The amendments made by subsection (c)(1) [amending this section] shall apply to taxable years ending after August 15, 1971."

Section 107(a)(2) of Pub. L. 92−178 provided that: "The repeals made by paragraph (1) [amending this section and section 47 of this title] shall apply to casualties and thefts occurring after August 15, 1971."

Section 108(d) of Pub. L. 92−178 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 48 of this title] shall apply to leases entered into after September 22, 1971. The amendment made by subsection (c) [amending section 48 of this title] shall apply to leases entered into after November 8, 1971."

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 301(b)(4) of Pub. L. 91−172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of Pub. L. 91−172, set out as a note under section 5 of this title.

Amendment by section 401(e)(1) of Pub. L. 91−172 applicable with respect to taxable years ending on or after Dec. 31, 1970, see section 401(h)(3) of Pub. L. 91−172, set out as a note under section 1561 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 2(g) of Pub. L. 90−225 provided that: "The amendments made by this section [amending this section and sections 6411, 6501, 6511, 6601, and 6611 of this title] shall apply with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967."

EFFECTIVE DATE OF 1966 AMENDMENTS

Section 4 of Pub. L. 89−800 provided that: "The amendments made by this Act [amending this section and sections 48 and 167 of this title] shall apply to taxable years ending after October 9, 1966, except that the amendments made by section 3(b) [amending this section] shall apply only if the fifth taxable year following the unused credit year ends after December 31, 1966."

Section 2(c) of Pub. L. 89−389 provided that: "The amendments made by this section [enacting section 1378 of this title and amending this section and sections 1372, 1373, and 1375 of this title] shall apply with respect to taxable years of electing small business corporations beginning after the date of enactment of this Act [Apr. 14, 1966], but such amendments shall not apply with respect to sales or exchanges occurring before February 24, 1966."

Amendment by Pub. L. 89−384 applicable with respect to amounts received after December 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after December 31, 1958, see section 2 of Pub. L. 89−384, set out as an Effective Date note under section 1351 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88−272 applicable with respect to dividends received after Dec. 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88−272, set out as a note under section 22 of this title.

EFFECTIVE DATE

Section 2(h) of Pub. L. 87−834 provided that: "The amendments made by this section [enacting this section and sections 38, 47, 48, and 181 of this title, amending sections 381, 1016, 6501, 6511, 6601, and 6611 of this title, and renumbering former section 38 as section 39 of this title] shall apply with respect to taxable years ending after December 31, 1961."

SAVINGS PROVISION

For provisions that nothing in amendment by section 11813(a) of Pub. L. 101−508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101−508, set out as a note under section 29 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [Secs. 1101−1147 and 1171−1177] or title XVIII [Secs. 1800−1899A] of Pub. L. 99−514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99−514, as amended, set out as a note under section 401 of this title.

CLARIFICATION OF EFFECT OF 1984 AMENDMENT ON INVESTMENT TAX CREDIT

Section 475(c) of Pub. L. 98−369 provided that: "Nothing in the amendments made by section 474(o) [amending this section and sections 47 and 48 of this title] shall be construed as reducing the amount of any credit allowable for qualified investment in taxable years beginning before January 1, 1984."

REGULATED PUBLIC UTILITIES; SPECIAL TRANSITIONAL RULE

Section 209(d)(2) of Pub. L. 97−34, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "If, by the terms of the applicable rate order last entered before the date of the enactment of this Act [Aug. 13, 1981] by a regulatory commission having appropriate jurisdiction, a regulated public utility would (but for this provision) fail to meet the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to property for an accounting period ending after December 31, 1980, such regulated public utility shall not fail to meet such requirements if, by the terms of its first rate order determining cost of service with respect to such property which becomes

effective after the date of the enactment of this Act and on or
before January 1, 1983, such regulated public utility meets such
requirements. This provision shall not apply to any rate order
which, under the rules in effect before the date of the enactment
of this Act was inconsistent with the requirements of paragraph (1)
or (2) of section 46(f) of such Code (whichever would have been
applicable)."

PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL CREDITS

Section 301(d), (e), (f) of Pub. L. 94−12, as amended by Pub. L.
94−455, Secs. 802(b)(7), 803(c), (d), (e), relating to plan
requirements for taxpayers electing additional credit, was repealed
by Pub. L. 95−600, title I, Sec. 141(f)(1), Nov. 6, 1978, 92 Stat.
2795.

PUBLIC UTILITY PROPERTY SUBJECT TO SUBSEC. (E); PROVISIONS
RESPECTING TREATMENT OF INVESTMENT CREDIT BY FEDERAL REGULATORY
AGENCIES INAPPLICABLE

Section 105(e) of Pub. L. 92−178, as amended by Pub. L. 99−514,
Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Section
203(e) of the Revenue Act of 1964 [set out as note under section 38
of this title] shall not apply to public utility property to which
section 46(e) of the Internal Revenue Code of 1986 [formerly I.R.C.
1954] (as added by subsection (c)) [subsec. (e) of this section]
applies."

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38, 47, 48, 49, 50, 52, 111, 196 of this title.

−End−

−CITE−

26 USC Sec. 47 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart E − Rules for Computing Investment Credit

−HEAD−

Sec. 47. Rehabilitation credit

−STATUTE−

(a) General rule

For purposes of section 46, the rehabilitation credit for any taxable year is the sum of −

(1) 10 percent of the qualified rehabilitation expenditures with respect to any qualified rehabilitated building other than a certified historic structure, and

(2) 20 percent of the qualified rehabilitation expenditures with respect to any certified historic structure.

(b) When expenditures taken into account

(1) In general

Qualified rehabilitation expenditures with respect to any qualified rehabilitated building shall be taken into account for the taxable year in which such qualified rehabilitated building is placed in service.

(2) Coordination with subsection (d)

The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified rehabilitated building shall be reduced (but not below zero) by any amount of qualified rehabilitation expenditures taken into account under subsection (d) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

(c) Definitions

For purposes of this section −

(1) Qualified rehabilitated building

(A) In general

The term "qualified rehabilitated building" means any building (and its structural components) if −

(i) such building has been substantially rehabilitated,

(ii) such building was placed in service before the beginning of the rehabilitation,

(iii) in the case of any building other than a certified historic structure, in the rehabilitation process −

(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

(iv) depreciation (or amortization in lieu of depreciation) is allowable with respect to such building.

(B) Building must be first placed in service before 1936

In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

(C) Substantially rehabilitated defined

(i) In general

For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24−month period selected by the taxpayer (at the time and in the manner prescribed by regulation) and ending with or within the taxable year exceed the greater of −

(I) the adjusted basis of such building (and its structural components), or

(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24−month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

(ii) Special rule for phased rehabilitation

In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting "60−month period" for "24−month period".

(iii) Lessees

The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

(D) Reconstruction

Rehabilitation includes reconstruction.

(2) Qualified rehabilitation expenditure defined

(A) In general

The term "qualified rehabilitation expenditure" means any amount properly chargeable to capital account −

(i) for property for which depreciation is allowable under section 168 and which is −

(I) nonresidential real property,

(II) residential rental property,

(III) real property which has a class life of more than 12.5 years, or

(IV) an addition or improvement to property described in subclause (I), (II), or (III), and

(ii) in connection with the rehabilitation of a qualified rehabilitated building.

(B) Certain expenditures not included

The term "qualified rehabilitation expenditure" does not include −

(i) Straight line depreciation must be used

Any expenditure with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

(ii) Cost of acquisition

The cost of acquiring any building or interest therein.

(iii) Enlargements

Any expenditure attributable to the enlargement of an existing building.

(iv) Certified historic structure, etc.

Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if −

(I) such building was not a certified historic structure,

(II) the Secretary of the Interior certified to the

Secretary that such building is not of historic

significance to the district, and

(III) if the certification referred to in subclause (II)

occurs after the beginning of the rehabilitation of such

building, the taxpayer certifies to the Secretary that, at

the beginning of such rehabilitation, he in good faith was

not aware of the requirements of subclause (II).

(v) Tax−exempt use property

(I) In general

Any expenditure in connection with the rehabilitation of

a building which is allocable to the portion of such

property which is (or may reasonably be expected to be)

tax−exempt use property (within the meaning of section

168(h)).

(II) Clause not to apply for purposes of paragraph (1)(C)

This clause shall not apply for purposes of determining

under paragraph (1)(C) whether a building has been

substantially rehabilitated.

(vi) Expenditures of lessee

Any expenditure of a lessee of a building if, on the date

the rehabilitation is completed, the remaining term of the

lease (determined without regard to any renewal periods) is

less than the recovery period determined under section

168(c).

(C) Certified rehabilitation

For purposes of subparagraph (B), the term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

(D) Nonresidential real property; residential rental property; class life

For purposes of subparagraph (A), the terms "nonresidential real property," "residential rental property," and "class life" have the respective meanings given such terms by section 168.

(3) Certified historic structure defined

(A) In general

The term "certified historic structure" means any building (and its structural components) which −

(i) is listed in the National Register, or

(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

(B) Registered historic district

The term "registered historic district" means −

(i) any district listed in the National Register, and

(ii) any district −

(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(d) Progress expenditures

(1) In general

In the case of any building to which this subsection applies, except as provided in paragraph (3) −

(A) if such building is self−rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year for which such expenditure is properly chargeable to capital account with respect to such building, and

(B) if such building is not self−rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year in which paid.

(2) Property to which subsection applies

(A) In general

This subsection shall apply to any building which is being rehabilitated by or for the taxpayer if −

(i) the normal rehabilitation period for such building is 2 years or more, and

(ii) it is reasonable to expect that such building will be a qualified rehabilitated building in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) shall be applied on the basis of facts known as of the close of the taxable year of the taxpayer in which the rehabilitation begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

(B) Normal rehabilitation period

For purposes of subparagraph (A), the term "normal rehabilitation period" means the period reasonably expected to be required for the rehabilitation of the building −

(i) beginning with the date on which physical work on the rehabilitation begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

(ii) ending on the date on which it is expected that the property will be available for placing in service.

(3) Special rules for applying paragraph (1)

For purposes of paragraph (1) −

(A) Component parts, etc.

Property which is to be a component part of, or is otherwise to be included in, any building to which this subsection applies shall be taken into account −

(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the building, and

(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such building.

(B) Certain borrowing disregarded

Any amount borrowed directly or indirectly by the taxpayer from the person rehabilitating the property for him shall not be treated as an amount expended for such rehabilitation.

(C) Limitation for buildings which are not self−rehabilitated

(i) In general

In the case of a building which is not self−rehabilitated, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to the portion of the rehabilitation which is completed during such taxable year.

(ii) Carryover of certain amounts

In the case of a building which is not a self−rehabilitated building, if for the taxable year −

(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or

(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

(D) Determination of percentage of completion

The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to rehabilitation completed during any taxable year shall be made, under regulations prescribed by the Secretary, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the rehabilitation shall be deemed to be completed not more rapidly than ratably over the normal rehabilitation period.

(E) No progress expenditures for certain prior periods

No qualified rehabilitation expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

(F) No progress expenditures for property for year it is placed in service, etc.

In the case of any building, no qualified rehabilitation expenditures shall be taken into account under this subsection for the earlier of −

(i) the taxable year in which the building is placed in service, or

(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such property,

or for any taxable year thereafter.

(4) Self−rehabilitated building

For purposes of this subsection, the term "self−rehabilitated building" means any building if it is reasonable to believe that more than half of the qualified rehabilitation expenditures for such building will be made directly by the taxpayer.

(5) Election

This subsection shall apply to any taxpayer only if such taxpayer has made an election under this paragraph. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

−SOURCE−

(Added Pub. L. 87−834, Sec. 2(b), Oct. 16, 1962, 76 Stat. 966; amended Pub. L. 91−172, title VII, Sec. 703(c), Dec. 30, 1969, 83 Stat. 666; Pub. L. 91−676, Sec. 1, Jan. 12, 1971, 84 Stat. 2060; Pub. L. 92−178, title I, Secs. 102(c), 107(a)(1), (b)(1), Dec. 10, 1971, 85 Stat. 500, 507; Mar. 29, 1975, Pub. L. 94−12, title III, Sec. 302(b)(2)(A), (c)(1), (2), 89 Stat. 43, 44; Pub. L. 94−455, title VIII, Sec. 804(b), title XIX, Sec. 1906(b)(13)(A), Oct. 4,

1976, 90 Stat. 1594, 1834; Pub. L. 95−600, title III, Sec. 317(a),
Nov. 6, 1978, 92 Stat. 2830; Pub. L. 95−618, title II, Sec. 241(b),
Nov. 9, 1978, 92 Stat. 3193; Pub. L. 97−34, title II, Sec.
211(f)(2), (g), Aug. 13, 1981, 95 Stat. 231, 233; Pub. L. 97−248,
title II, Sec. 208(a)(2)(B), Sept. 3, 1982, 96 Stat. 435; Pub. L.
97−448, title I, Sec. 102(e)(3), Jan. 12, 1983, 96 Stat. 2371; Pub.
L. 98−369, div. A, title IV, Secs. 421(b)(7), 431(b)(2), (d)(4),
(5), 474(o)(8), (9), July 18, 1984, 98 Stat. 794, 807, 810, 836;
Pub. L. 98−443, Sec. 9(p), Oct. 4, 1984, 98 Stat. 1708; Pub. L.
99−121, title I, Sec. 103(b)(6), Oct. 11, 1985, 99 Stat. 510; Pub.
L. 99−514, title XV, Sec. 1511(c)(2), title XVIII, Secs.
1802(a)(5)(A), 1844(b)(1), (2), (4), Oct. 22, 1986, 100 Stat. 2744,
2788, 2855; Pub. L. 100−647, title I, Secs. 1002(a)(18), (26)−(28),
1007(g)(3)(A), Nov. 10, 1988, 102 Stat. 3356, 3357, 3435; Pub. L.
101−508, title XI, Sec. 11801(c)(8)(A), 11813(a), Nov. 5, 1990, 104
Stat. 1388−524, 1388−536.)

−MISC1−

AMENDMENTS

1990 − Pub. L. 101−508, Sec. 11813(a), amended section generally,
substituting section catchline for one which read: "Certain
dispositions, etc., of section 38 property" and in text
substituting present provisions for provisions relating to general
rules regarding disposition of section 38 property,
nonapplicability of section in certain cases, the treatment of any
increase in tax under the section, increases in nonqualified
nonrecourse financing, and transfers between spouses or incident to

divorce.

Subsec. (b)(1) to (3). Pub. L. 101−508, Sec. 11801(c)(8)(A), inserted "or" at end of par. (1), substituted a period for ", or" at end of par. (2), and struck out par. (3) which related to nonapplicability of subsec. (a) in the case of a transfer of section 38 property related to exchanges under final system plan for ConRail.

1988 − Subsec. (a)(5)(D). Pub. L. 100−647, Sec. 1002(a)(26)(B), struck out at end "If, prior to a disposition to which this subsection applies, any portion of any credit is not allowable with respect to any property by reason of section 168(i)(3), such portion shall be treated (for purposes of this subparagraph) as not having been used to reduce tax liability."

Subsec. (a)(5)(E)(iii). Pub. L. 100−647, Sec. 1002(a)(26)(C), substituted "168(e)" for "168(c)".

Subsec. (a)(5)(E)(v). Pub. L. 100−647, Sec. 1002(a)(26)(A), added cl. (v).

Subsec. (a)(9)(A). Pub. L. 100−647, Sec. 1002(a)(27), substituted "section 168(h)(2)" for "section 168(j)(4)(C)".

Subsec. (c). Pub. L. 100−647, Sec. 1007(g)(3)(A), substituted "D, or G" for "or D".

Subsec. (d)(1). Pub. L. 100−647, Sec. 1002(a)(18), substituted "section 46(c)(8)(C)" for "section 48(c)(8)(C)".

Subsec. (d)(3)(C)(i). Pub. L. 100−647, Sec. 1002(a)(28), substituted "class life (as defined in section 168(i)(1))" for "present class life (as defined in section 168(g)(2))" and "no class life" for "no present class life".

1986 − Subsec. (a)(9). Pub. L. 99−514, Sec. 1802(a)(5)(A), added par. (9).

Subsec. (d)(1). Pub. L. 99−514, Sec. 1844(b)(1), substituted "reducing the credit base (as defined in section 48(c)(8)(C))" for "reducing the qualified investment" and inserted "For purposes of determining the amount of credit subject to the early disposition or cessation rules of subsection (a), the net increase in the amount of the nonqualified nonrecourse financing with respect to the property shall be treated as reducing the property's credit base (and correspondingly reducing the qualified investment in the property) in the year in which the property was first placed in service."

Subsec. (d)(3)(E)(i). Pub. L. 99−514, Sec. 1844(b)(4), inserted "reduced by the sum of the credit recapture amounts with respect to such property for all preceding years".

Subsec. (d)(3)(F). Pub. L. 99−514, Sec. 1844(b)(2), struck out subpar. (F) which read as follows: "The amount of any increase in tax under subsection (a) with respect to any property to which this paragraph applies shall be determined by reducing the qualified investment with respect to such property by the aggregate credit recapture amounts for all taxable years under this paragraph."

Subsec. (d)(3)(G). Pub. L. 99−514, Sec. 1511(c)(2), substituted "determined at the underpayment rate established under section 6621" for "determined under section 6621".

1985 − Subsec. (a)(5)(B). Pub. L. 99−121 substituted "For property other than 3−year property" for "For 15−year, 10−year, and 5−year property" in table heading.

1984 − Subsec. (a)(5)(D), (6). Pub. L. 98−369, Sec. 474(o)(8), substituted "under section 39" for "under section 46(b)".

Subsec. (a)(7)(C). Pub. L. 98−443 substituted "Secretary of Transportation" for "Civil Aeronautics Board".

Subsec. (c). Pub. L. 98−369, Sec. 474(o)(9), substituted "subpart A, B, or D" for "subpart A".

Subsec. (d). Pub. L. 98−369, Sec. 431(b)(2), substituted "Increases in nonqualified nonrecourse financing" for "Property ceasing to be at risk" in heading.

Subsec. (d)(1). Pub. L. 98−369, Sec. 431(b)(2), substituted provisions relating to increases in tax liability resulting from increases in nonqualified nonrecourse financing for provisions relating to increases in tax liability resulting from the taxpayer ceasing to be at risk with respect to certain property.

Subsec. (d)(2). Pub. L. 98−369, Sec. 431(b)(2), substituted provisions that for purposes of par. (1), transfers of debt, or agreements to transfer, occurring more than one year after the initial borrowing shall not be treated as increasing nonqualified nonrecourse financing with respect to the taxpayer for provisions that for purposes of par. (1), such transfers (or agreements to transfer) by a qualified person to a nonqualified person would not cause the taxpayer to be treated as ceasing to be at risk.

Subsec. (d)(3)(A). Pub. L. 98−369, Sec. 431(d)(4), substituted "increasing the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8))" for "ceasing to be at risk".

Subsec. (d)(3)(B)(i). Pub. L. 98−369, Sec. 431(d)(5), struck out "other than a loan described in section 46(c)(8)(B)(ii)" after "section 46(c)(8)(F)(iv)".

Subsec. (e). Pub. L. 98−369, Sec. 421(b)(7), added subsec. (e).

1983 − Subsec. (d)(2). Pub. L. 97−448, Sec. 102(e)(3)(A), substituted "section 46(c)(8)(D)" and "section 46(c)(8)(B)" for "section 48(c)(8)(D)" and "section 48(c)(8)(B)", respectively.

Subsec. (d)(3)(A). Pub. L. 97−448, Sec. 102(e)(3)(B), substituted "section 46(c)(8)(F)" for "section 46(c)(8)(E)".

1982 − Subsec. (a)(5)(D). Pub. L. 97−248, Sec. 208(a)(2)(B), inserted provision that if, prior to a disposition to which this subsection applies, any portion of any credit is not allowable with respect to any property by reason of section 168(i)(3), such portion shall be treated, for purposes of this subparagraph, as not having been used to reduce tax liability.

1981 − Subsec. (a)(3)(D). Pub. L. 97−34, Sec. 211(g)(2)(A), inserted provisions relating to disposition, cessation, or change in expected use described in paragraph (5).

Subsec. (a)(5), (6). Pub. L. 97−34, Sec. 211(g)(1), (2)(B), added par. (5), redesignated former par. (5) as (6) and substituted "paragraph (1), (3), or (5)" for "paragraph (1) or (3)". Former par. (6) redesignated (7).

Subsec. (a)(7), (8). Pub. L. 97−34, Sec. 211(g)(1), (2)(C), redesignated former par. (6) as (7), substituted "paragraph (6)" for "paragraph (5)", and redesignated former par. (7) as (8).

Subsec. (d). Pub. L. 97−34, Sec. 211(f)(2), added subsec. (d).

1978 − Subsec. (a)(4), (5). Pub. L. 95−618, Sec. 241(b)(1), added par. (4), redesignated former par. (4) as (5) and substituted "paragraph (2) or (4)" for "paragraph (2)".

Subsec. (a)(6)(B). Pub. L. 95−618, Sec. 241(b)(3), substituted "paragraph (5)" for "paragraph (4)".

Subsec. (b)(3). Pub. L. 95−600, Sec. 317(a), added par. (3).

1976 − Subsec. (a). Pub. L. 94−455, Sec. 1906(b)(13)(A), struck out in introductory provision and in par. (3)(C) "or his delegate" after "Secretary".

Subsec. (a)(7). Pub. L. 94−455, Sec. 804(b), added par. (7).

1975 − Subsec. (a)(3), (4). Pub. L. 94−12, Sec. 302(b)(2)(A), (c)(1), added par. (3), redesignated former par. (3) as (4) and substituted "paragraph (1) or (3)" for "paragraph (1)". A former par. (4), relating to increase or adjustment of tax where property is destroyed by casualty, etc., was repealed by Pub. L. 92−178.

Subsec. (a)(5), (6)(B). Pub. L. 94−12, Sec. 302(c)(2), substituted "paragraph (4)" for "paragraph (3)".

1971 − Subsec. (a)(4). Pub. L. 92−178, Sec. 107(a)(1), struck out par. (4) relating to property destroyed by casualty, etc.

Subsec. (a)(5). Pub. L. 92−178, Sec. 107(b)(1), provided for the repeal of par. (5) with the repeal not to apply, however, in the case of certain replacement property. See section 107(b)(2) of Pub. L. 92−178, set out in the Effective Date of 1971 Amendment note below.

Subsec. (a)(6)(A). Pub. L. 92−178, Sec. 102(c), substituted "3 1/2 years" for "4 years".

Subsec. (a)(6). Pub. L. 91−676 added par. (6).

1969 − Subsec. (a)(5). Pub. L. 91−172, Sec. 703(c)(2), added par. (5).

Subsec. (a)(4). Pub. L. 91−172, Sec. 703(c)(1), inserted provision making subpars. (B) and (C) inapplicable to any casualty or theft occurring after April 18, 1969.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11813(a) of Pub. L. 101−508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101−508, set out as a note under section 29 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100−647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99−514, to which such amendment relates, see section 1019(a) of Pub. L. 100−647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1511(d) of Pub. L. 99−514 provided that: "The amendments made by this section [amending this section and sections 48, 167, 644, 852, 4497, 6214, 6332, 6343, 6601, 6602, 6611, 6621, 6654, 6655, and 7426 of this title and sections 1961 and 2411 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under section 6621 of this title] shall apply for purposes of determining interest for periods after December 31, 1986."

Amendment by sections 1802(a)(5)(A) and 1844(b)(1), (2), (4) of Pub. L. 99−514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98−369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99−514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99−121 applicable as if included in the amendments made by section 111 of the Tax Reform Act of 1984, Pub. L. 98−369, see section 105(b)(4) of Pub. L. 99−121, set out as a note under section 168 of this title, and section 111(g) of Pub. L. 98−369, set out as an Effective Date of 1984 Amendment note under section 168 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98−443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98−443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

Amendment by section 421(b)(7) of Pub. L. 98−369 applicable to transfers after July 18, 1984, in taxable years ending after such date, subject to election to have amendment apply to transfers after 1983 or to transfers pursuant to existing decrees, see section 421(d) of Pub. L. 98−369, set out as an Effective Date note under section 1041 of this title.

Amendment by section 431(b)(2), (d)(4), (5) of Pub. L. 98−369 applicable to property placed in service after July 18, 1984, in taxable years ending after such date, but not applicable to property to which subsec. (d) of this section and section 46(c)(8), (9) of this title, as enacted by section 211(f) of Pub. L. 97−34, do not apply, with the taxpayer having an option to elect retroactive application of amendment by Pub. L. 98−369, see section 431(e) of Pub. L. 98−369, set out as a note under section 46 of this title.

Amendment by section 474(o)(8), (9) of Pub. L. 98−369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98−369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97−448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97−34, to which such amendment relates, see section 109 of Pub. L. 97−448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97−248 applicable to agreements entered into after July 1, 1982, or to property placed in service after that date, but not to transitional safe harbor lease property, nor to qualified leased property described in section 168(f)(8)(D)(v) of this title which is placed in service before Jan. 1, 1988, or is placed in service after such date pursuant to a binding contract or commitment entered into before April 1, 1983, and solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee, see section 208(d)(1), (2)(A), (5) of Pub. L. 97−248, set out as a note under section 168 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 211(g) of Pub. L. 97−34 applicable to property placed in service after Dec. 31, 1980, see section 211(i)(1) of Pub. L. 97−34, set out in a note under section 46 of this title.

Amendment by section 211(f)(2) of Pub. L. 97−34 not to apply to property placed in service by the taxpayer on or before Feb. 18, 1981, and property placed in service by the taxpayer after Feb. 18, 1981, where such property was acquired by the taxpayer pursuant to a binding contract entered into on or before that date, see section 211(i)(5) of Pub. L. 97−34, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 317(b) of Pub. L. 95−600 provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after March 31, 1976."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 804(b) of Pub. L. 94−455 applicable to taxable years beginning after Dec. 31, 1974, see section 804(e) of Pub. L. 94−455, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94−12 applicable to taxable years ending after Dec. 31, 1974, see section 305(a) of Pub. L. 94−12, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1971 AMENDMENTS

In redetermining qualified investment for purposes of subsec. (a) of this section in the case of any property which ceases to be section 38 property with respect to the taxpayer after Aug. 15, 1971, or which becomes public utility property after such date, section 46(c)(2) of this title as amended by section 102(a) of Pub. L. 92−178 as applicable, see section 102(d)(2) of Pub. L. 92−178, set out as a note under section 46 of this title.

Amendment by section 107(a)(1) of Pub. L. 92−178 applicable to casualties and thefts occurring after Aug. 15, 1971, see section 107(a)(2) of Pub. L. 92−178, set out as a note under section 46 of this title.

Section 107(b)(2) of Pub. L. 92−178, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The repeal made by paragraph (1) [repealing subsec. (a)(5) of this section] shall not apply if replacement property described in subparagraph (B) of such section 47(a)(5) is not property described in section 50 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]."

Section 102(d)(3) of Pub. L. 92−178 provided that: "The amendment made by subsection (c) [amending this section] shall apply to leases executed after April 18, 1969."

Section 2 of Pub. L. 91−676 provided that: "The amendment made by the first section of this Act [amending this section] shall apply to taxable years ending after April 18, 1969."

EFFECTIVE DATE

Section applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87−834, set out as a note under section 46 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101−508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101−508, set out as a note under section 29 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [Secs. 1101−1147 and 1171−1177] or title XVIII [Secs. 1800−1899A] of Pub. L. 99−514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99−514, as amended, set out as a note under section 401 of this title.

CLARIFICATION OF EFFECT OF 1984 AMENDMENT ON INVESTMENT TAX CREDIT

For provision that nothing in the amendments made by section 474(o) of Pub. L. 98−369, which amended this section, be construed as reducing the investment tax credit in taxable years beginning before Jan. 1, 1984, see section 475(c) of Pub. L. 98−369, set out as a note under section 46 of this title.

−TRANS−

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Federal Aviation Agency and of Administrator and other offices and officers thereof transferred by Pub. L. 89−670, Oct. 15, 1966, 80 Stat. 931, to Secretary of Transportation, with functions, powers, and duties of Secretary of Transportation pertaining to aviation safety to be exercised by Federal Aviation Administrator in Department of Transportation, see section 106 of Title 49, Transportation.

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 49, 50, 170, 469, 772, 1400I of this title.

−End−

−CITE−

26 USC Sec. 48 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart E − Rules for Computing Investment Credit

−HEAD−

Sec. 48. Energy credit; reforestation credit

−STATUTE−

(a) Energy credit

(1) In general

For purposes of section 46, the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year.

(2) Energy percentage

(A) In general

The energy percentage is 10 percent.

(B) Coordination with rehabilitation credit

The energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

(3) Energy property

For purposes of this subpart, the term "energy property" means any property −

(A) which is −

(i) equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, or

(ii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage,

(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

(D) which meets the performance and quality standards (if any) which −

(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

(ii) are in effect at the time of the acquisition of the property.

The term "energy property" shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) Special rule for property financed by subsidized energy financing or industrial development bonds

(A) Reduction of basis

For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by −

(i) subsidized energy financing, or

(ii) the proceeds of a private activity bond (within the
meaning of section 141) the interest on which is exempt from
tax under section 103,

the amount taken into account as the basis of such property
shall not exceed the amount which (but for this subparagraph)
would be so taken into account multiplied by the fraction
determined under subparagraph (B).

(B) Determination of fraction

For purposes of subparagraph (A), the fraction determined
under this subparagraph is 1 reduced by a fraction −

(i) the numerator of which is that portion of the basis of
the property which is allocable to such financing or
proceeds, and

(ii) the denominator of which is the basis of the property.

(C) Subsidized energy financing

For purposes of subparagraph (A), the term "subsidized energy
financing" means financing provided under a Federal, State, or
local program a principal purpose of which is to provide
subsidized financing for projects designed to conserve or
produce energy.

(5) Certain progress expenditure rules made applicable

Rules similar to the rules of subsections (c)(4) and (d) of
section 46 (as in effect on the day before the date of the
enactment of the Revenue Reconciliation Act of 1990) shall apply
for purposes of this subsection.

(b) Reforestation credit

(1) In general

For purposes of section 46, the reforestation credit for any taxable year is 10 percent of the portion of the amortizable basis of any qualified timber property which was acquired during such taxable year and which is taken into account under section 194 (after the application of section 194(b)(1)).

(2) Definitions

For purposes of this subpart, the terms "amortizable basis" and "qualified timber property" have the respective meanings given to such terms by section 194.

−SOURCE−

(Added Pub. L. 87−834, Sec. 2(b), Oct. 16, 1962, 76 Stat. 967; amended Pub. L. 88−272, title II, Sec. 203(a)(1), (3)(A), (b), (c), Feb. 26, 1964, 78 Stat. 33, 34; Pub. L. 89−800, Sec. 1 Nov. 8, 1966, 80 Stat. 1508; Pub. L. 89−809, title II, Sec. 201(a), Nov. 13, 1966, 80 Stat. 1575; Pub. L. 90−26, Secs. 1, 2(a), 3, June 13, 1967, 81 Stat. 57, 58; Pub. L. 91−172, title I, Sec. 121(d)(2)(A), title IV, Sec. 401(e)(2)−(4), Dec. 30, 1969, 83 Stat. 547, 603; Pub. L. 92−178, title I, Secs. 102(a)(2), 103, 104(a)(1), (b)−(f)(1), (g), 108(b), (c), Dec. 10, 1971, 85 Stat. 499−502, 507; Pub. L. 94−12, title III, Secs. 301(c)(1), 302(c)(3), title VI, Sec. 604(a), Mar. 29, 1975, 89 Stat. 38, 44, 65; Pub. L. 94−455, title VIII, Secs. 802(b)(6), 804(a), title X, Sec. 1051(h)(1), title XIX, Secs. 1901(a)(5), (b)(11)(A), 1906(b)(13)(A), title XXI, Sec. 2112(a)(1), Oct. 4, 1976, 90 Stat. 1583, 1591, 1647, 1764, 1795, 1834, 1905; Pub. L. 95−473, Sec. 2(a)(2)(A), Oct. 17, 1978, 92 Stat. 1464; Pub. L. 95−600, title I, Sec. 141(b), title III, Secs. 312(c)(1)−(3), 314(a), (b), 315(a)−(c), title VII, Sec. 703(a)(3), (4), Nov. 6, 1978, 92 Stat. 2791, 2826−2829, 2939; Pub. L. 95−618, title III, Sec. 301(b), (d)(1), (2), Nov. 9, 1978, 92 Stat. 3195, 3199, 3200; Pub. L. 96−222, title I, Secs. 101(a)(7)(G), (H), (L)(i)(I)−(IV), (ii)(III)−(VI), (iii)(II), (III), (v)(II)−(V), (M)(ii), (iii), 103(a)(2)(A), (4)(B), 108(c)(6), Apr. 1, 1980, 94 Stat. 198−201, 208, 209, 228; Pub. L. 96−223, title II, Secs. 221(b), 222(a)−(e)(1), (f)−(i), 223(a)(1), (c)(1), Apr. 2, 1980, 94 Stat. 261−266; Pub. L. 96−451, title III, Sec. 302(a), Oct. 14, 1980, 94 Stat. 1991; Pub. L. 96−605, title I, Sec. 109(a), title II, Sec. 223(a), Dec. 28, 1980, 94 Stat. 3525, 3528; Pub. L. 97−34, title II, Secs. 211(a)(2), (c), (e)(3), (4), (h), 212(a)(3), (b), (c), (d)(2)(A), 213(a), 214(a), (b), title III, Sec. 332(b), Aug. 13, 1981, 95 Stat. 227−229, 235, 236, 239, 240, 296; Pub. L. 97−248, title II, Secs. 205(a)(1), (4), (5)(A), 209(c), Sept. 3, 1982, 96 Stat. 427, 429, 447; Pub. L. 97−354, Secs. 3(d), 5(a)(7), (8), Oct. 19, 1982, 96 Stat. 1689, 1692; Pub. L. 97−362, title I, Sec. 104(a), Oct. 25, 1982, 96 Stat. 1729; Pub. L. 97−424, title V, Sec. 546(a), Jan. 6, 1983, 96 Stat. 2198; Pub. L. 97−448, title I, Sec. 102(e)(2)(A), (f)(2), (3), (6), title II, Sec. 202(c), title III, Sec. 306(a)(3), Jan. 12, 1983, 96 Stat. 2371, 2372, 2396, 2400; Pub. L. 98−369, div. A, title I, Secs. 11, 31(b), (c), 111(e)(8), 113(a)(1), (b)(3), (4), 114(a), title IV, Secs. 431(c), 474(o)(10)−(18), title VII, Secs. 712(b), 721(x)(1), 735(c)(1), title X, Sec. 1043(a), July 18, 1984, 98 Stat. 503, 517,

518, 633, 635, 637, 638, 808, 836, 837, 946, 971, 981, 1044; Pub. L. 99−121, title I, Sec. 103(b)(5), Oct. 11, 1985, 99 Stat. 510; Pub. L. 99−514, title II, Sec. 251(b), (c), title VII, Sec. 701(e)(4)(C), title VIII, Sec. 803(b)(2)(B), title XII, Secs. 1272(d)(5), 1275(c)(5), title XV, Sec. 1511(c)(3), title XVIII, Secs. 1802(a)(4)(C), (5)(B), (9)(A), (B), 1809(d)(2), (e), 1847(b)(6), 1879(j)(1), Oct. 22, 1986, 100 Stat. 2184, 2186, 2343, 2355, 2594, 2599, 2745, 2788, 2789, 2821, 2856, 2908; Pub. L. 100−647, title I, Secs. 1002(a)(14), (16)(A), (20), (29), (30), 1013(a)(41), Nov. 10, 1988, 102 Stat. 3355−3357, 3544; Pub. L. 101−508, title XI, Secs. 11801(c)(6)(A), 11813(a), Nov. 5, 1990, 104 Stat. 1388−523, 1388−541; Pub. L. 102−227, title I, Sec. 106, Dec. 11, 1991, 105 Stat. 1687; Pub. L. 102−486, title XIX, Sec. 1916(a), Oct. 24, 1992, 106 Stat. 3024.)

−REFTEXT−

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (a)(3), (5), is the date of enactment of Pub. L. 101−508, which was approved Nov. 5, 1990.

−MISC1−

AMENDMENTS

1992 − Subsec. (a)(2). Pub. L. 102−486 substituted "The" for "Except as provided in subparagraph (B), the" in subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: "(B) Termination. − Effective with respect to periods after June 30, 1992, the energy percentage is zero. For purposes of the preceding sentence, rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply."

1991 − Subsec. (a)(2)(B). Pub. L. 102−227 substituted "June 30, 1992" for "December 31, 1991".

1990 − Pub. L. 101−508, Sec. 11813(a), amended section generally, substituting section catchline for one which read: "Definitions; special rules" and in text substituting present provisions for provisions defining section 38 property, new section 38 property, used section 38 property, provisions relating to certain leased property, estates and trusts, special rules for qualified rehabilitated buildings, credit for movie and television films, treatment of energy property, application of certain transitional rules, definitions of certain credits, definition of single purpose agricultural or horticultural structure, basis adjustment to section 38 property, certain section 501(d) organizations, special rules relating to sound recordings, and a cross reference to section 381 of this title.

Subsec. (a)(8). Pub. L. 101−508, Sec. 11801(c)(6)(A), struck out par. (8) "Amortized property" which read as follows: "Any property with respect to which an election under section 167(k), 184, or 188 applies shall not be treated as section 38 property."

1988 − Subsec. (a)(1). Pub. L. 100−647, Sec. 1002(a)(29), which directed amendment of par. (1) by substituting "property to which section 168 applies" for "recovery property (within the meaning of section 168)" in penultimate sentence, was executed by making the substitution for "recovery property (within the meaning of section 168", which results in retaining remaining parenthetical material and closing parenthesis.

Subsec. (a)(5)(A)(ii). Pub. L. 100−647, Sec. 1002(a)(14)(A)−(C), substituted "168(h)(2)(C)" for "168(j)(4)(C)", "168(h)(2)(A)(iii)" for "168(j)(4)(A)(iii)", and "168(h)(2)(B)" for "168(j)(4)(B)".

Subsec. (a)(5)(B)(i). Pub. L. 100−647, Sec. 1002(a)(14)(D), substituted "168(i)(3)" for "168(j)(6)".

Subsec. (a)(5)(B)(ii). Pub. L. 100−647, Sec. 1002(a)(14)(E), substituted "168(h)(1)(C)(ii)" for "168(j)(3)(C)(ii)".

Subsec. (a)(5)(D). Pub. L. 100−647, Sec. 1002(a)(14)(F), substituted "paragraphs (5) and (6) of section 168(h)" for "paragraphs (8) and (9) of section 168(j)".

Subsec. (a)(5)(E). Pub. L. 100−647, Sec. 1002(a)(14)(G), amended subpar. (E) generally, substituting "provision" for "provisions" and "168(h)" for "168(j)".

Subsec. (l)(2)(C). Pub. L. 100−647, Sec. 1002(a)(30), substituted "to which section 168 applies" for "which is recovery property (within the meaning of section 168)".

Subsec. (l)(11)(A)(ii). Pub. L. 100−647, Sec. 1013(a)(41), substituted "a private activity bond (within the meaning of section 141)" for "an industrial development bond (within the meaning of section 103(b)(2))".

Subsec. (s). Pub. L. 100−647, Sec. 1002(a)(20), redesignated subsec. (s), relating to cross reference, as (t).

Subsec. (s)(9). Pub. L. 100−647, Sec. 1002(a)(16)(A), added par.

(9).

Subsec. (t). Pub. L. 100−647, Sec. 1002(a)(20), redesignated subsec. (s), relating to cross reference, as (t).

1986 − Subsec. (a)(2)(B)(vii). Pub. L. 99−514, Secs. 1272(d)(5), 1275(c)(5), struck out "932," after "931," and "or which is entitled to the benefits of section 934(b)" after "in effect under section 936", and substituted "or 933" for ", 933, or 934(c)".

Subsec. (a)(4). Pub. L. 99−514, Sec. 1802(a)(9)(A), substituted "514(b)" for "514(c)" and "514(a)" for "514(b)".

Subsec. (a)(5)(B)(iii). Pub. L. 99−514, Sec. 1802(a)(5)(B), struck out cl. (iii) which provided that (I) in the case of any aircraft used under a qualifying lease (as defined in section 47(a)(7)(C)) and which is leased to a foreign person or entity before January 1, 1990, clause (i) shall be applied by substituting "3 years" for "6 months" and that (II) for purposes of applying section 47(a)(1) and (5)(B) there shall not be taken into account any period of a lease to which subclause (I) applies.

Subsec. (a)(5)(D), (E). Pub. L. 99−514, Sec. 1802(a)(4)(C), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (b)(1). Pub. L. 99−514, Sec. 1809(e)(1), inserted "Such term includes any section 38 property the reconstruction of which is completed by the taxpayer, but only with respect to that portion of the basis which is properly attributable to such reconstruction."

Subsec. (b)(2). Pub. L. 99−514, Sec. 1809(e)(2), in introductory provisions substituted "the first sentence of paragraph (1)" for "paragraph (1)", in subpar. (B) substituted "3 months after" for "3 months of", in closing provisions substituted "used under the leaseback (or lease) referred to in subparagraph (B)" for "used under the lease" and inserted "The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary."

Subsec. (d)(4)(D). Pub. L. 99−514, Sec. 701(e)(4)(C), inserted "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

Subsec. (d)(6)(C)(ii). Pub. L. 99−514, Sec. 1511(c)(3), substituted "the underpayment rate" for "the rate" in closing provisions.

Subsec. (g)(1). Pub. L. 99−514, Sec. 251(b), amended par. (1) generally, restating in subpars. (A) to (D) provisions relating to qualified rehabilitated buildings which had in subpar. (A) provided general definition of qualified rehabilitated building, in subpar. (B) directed that 30 years must have elapsed since construction, in subpar. (C) provided general definition of substantially rehabilitated with special rule for phased rehabilitation and application of provision to lessees, and in subpar. (D) provided that rehabilitation included reconstruction, and striking out former subpar. (E) which had provided an alternative test for definition of qualified rehabilitated building.

Subsec. (g)(2). Pub. L. 99−514, Sec. 251(b), amended par. (2) generally, in subpar. (A) striking out reference to amounts "incurred after December 31, 1981" in introductory provision, and in cl. (i) substituting subcls. (I) to (IV) for "for real property (or additions or improvements to real property) which have a recovery period (within the meaning of section 168) of 19 (15 years in the case of low−income housing) years,", in subpar. (B), in cl. (i), substituting provision relating to use of straight line depreciation for provision relating to use of accelerated methods of depreciation, redesignating former cl. (vi) as (v) and substituting "section 168(h)" for "section 168(j)", redesignating former cl. (v) as (vi) and substituting "less than the recovery period determined under section 168(c)" for "less than 19 years (15 years in the case of low−income housing", restating subpar. (C) without change, and in subpar. (D) substituting provisions defining nonresidential real property, residential rental property and class life for provisions defining low−income housing.

Subsec. (g)(2)(B)(vi)(I). Pub. L. 99−514, Sec. 1802(a)(9)(B), substituted "section 168(j)" for "section 168(j)(3)".

Subsec. (g)(3). Pub. L. 99−514, Sec. 251(b), in amending par. (3) generally, inserted introductory phrase "For purposes of this subsection − ".

Subsec. (g)(4). Pub. L. 99−514, Sec. 251(b), in amending subsec. (g) generally, reenacted par. (4) without change.

Subsec. (l)(5). Pub. L. 99−514, Sec. 1847(b)(6), substituted "section 23(c)" for "section 44C(c)" and "section 23(c)(4)(A)(viii)" for "section 44C(c)(4)(A)(viii)".

Subsec. (q)(3). Pub. L. 99−514, Sec. 251(c), struck out "other than a certified historic structure" after "qualified rehabilitated building".

Subsec. (q)(7). Pub. L. 99−514, Sec. 1809(d)(2), renumbered par. (6), relating to special rule for qualified films, as (7).

Subsec. (r). Pub. L. 99−514, Sec. 1879(j)(1), added subsec. (r). Former subsec. (r) redesignated (s).

Subsec. (s). Pub. L. 99−514, Sec. 1879(j)(1), redesignated former subsec. (r) as (s).

Subsec. (s)(5). Pub. L. 99−514, Sec. 803(b)(2)(B), which directed the general amendment of par. (5) of subsec. (r), was executed by amending par. (5) of subsec. (s) to reflect the probable intent of Congress and the intervening redesignation of subsec. (r) as (s) by Pub. L. 99−514, Sec. 1879(j)(1), see note above. Prior to amendment, par. (5) read as follows: "For purposes of this subsection, the term "sound recording" means any sound recording described in section 280(c)(2)."

1985 − Subsec. (g)(2)(A)(i), (B)(v). Pub. L. 99−121 substituted "19" for "18".

1984 − Subsec. (a)(5). Pub. L. 98−369, Sec. 31(b), amended par. (5) generally, to extend its scope to encompass property used by foreign persons or entities and to create an exception for short−term leases by substituting provisions covered by subpars. (A) to (D) for former provisions which had directed that property used by the United States, any State or political subdivision thereof, any international organization, or any agency or instrumentality of any of the foregoing not be treated as section

38 property, that for purposes of that prohibition the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, and any successor organization of such Consortium or Organization not be treated as an international organization, and that if any qualified rehabilitated building were used by the governmental unit pursuant to a lease, this paragraph would not apply to that portion of the basis of such building attributable to qualified rehabilitation expenditures.

Subsec. (b). Pub. L. 98−369, Sec. 114(a), amended subsec. (b) generally, substituting a general definition of "new section 38 property" for definitions which made reference to property constructed, reconstructed or erected after December 31, 1961, and adding pars. (2) and (3).

Subsec. (c)(2)(A). Pub. L. 98−369, Sec. 11(a), substituted "$125,000 ($150,000 for taxable years beginning after 1987)" for "$150,000 ($125,000 for taxable years beginning in 1981, 1982, 1983, or 1984)" in first sentence, and "$125,000 (or $150,000" for "$150,000 (or $125,000" in two places in second sentence.

Subsec. (c)(2)(B). Pub. L. 98−369, Sec. 11(b), substituted "$62,500 ($75,000 for taxable years beginning after 1987)" for "$75,000 ($62,500 for taxable years beginning in 1981, 1982, 1983, or 1984)".

Subsec. (c)(3)(B). Pub. L. 98−369, Sec. 474(o)(10), substituted "section 39" for "section 46(b)".

Subsec. (d)(1)(B). Pub. L. 98−369, Sec. 474(o)(11), substituted "section 38(c)(3)(B)" for "section 46(a)(6)".

Subsec. (d)(6). Pub. L. 98−369, Sec. 431(c), added par. (6).

Subsec. (f)(3). Pub. L. 98−369, Sec. 474(o)(12), struck out par. (3) which provided that the $25,000 amount specified under subparagraphs (A) and (B) of section 46(a)(3) applicable to an estate or trust be reduced to an amount which bore the same ratio to $25,000 as the amount of the qualified investment allocated to the estate or trust under paragraph (1) to the entire amount of the qualified investment.

Subsec. (g)(1)(E). Pub. L. 98−369, Sec. 1043(a), added subpar. (E).

Subsec. (g)(2)(A)(i). Pub. L. 98−369, Sec. 111(e)(8)(A), (B), substituted "real property" for "property" in two places, and "18 (15 years in the case of low−income housing)" for "15".

Subsec. (g)(2)(B)(i). Pub. L. 98−369, Sec. 31(c)(2), inserted "The preceding sentence shall not apply to any expenditure to the extent subsection (f)(12) or (j) of section 168 applies to such expenditure."

Subsec. (g)(2)(B)(v). Pub. L. 98−369, Sec. 111(e)(8)(C), substituted "18 years (15 years in the case of low−income housing)" for "15 years".

Subsec. (g)(2)(B)(vi). Pub. L. 98−369, Sec. 31(c)(1), added cl. (vi).

Subsec. (g)(2)(D). Pub. L. 98−369, Sec. 111(e)(8)(D), added subpar. (D).

Subsec. (k)(4). Pub. L. 98−369, Sec. 113(b)(3)(B), inserted "or at−risk rules" after "test" in heading.

Subsec. (k)(4)(A). Pub. L. 98−369, Sec. 113(b)(3)(A), inserted ", section 46(c)(8), or section 46(c)(9)".

Subsec. (k)(4)(B). Pub. L. 98−369, Sec. 113(b)(3)(C), substituted "used" for "issued".

Subsec. (k)(5)(D)(i). Pub. L. 98−369, Sec. 721(x)(1), substituted "S corporation" for "electing small business corporation".

Subsec. (l)(1). Pub. L. 98−369, Sec. 474(o)(13), substituted "section 46(b)(2)" for "section 46(a)(2)(C)".

Subsec. (l)(16)(B)(i). Pub. L. 98−369, Sec. 735(c)(1), substituted "the chassis of which is an automobile bus chassis and the body of which is an automobile bus body" for "the chassis and body of which is exempt under section 4063(a)(6) from the tax imposed by section 4061(a)".

Subsec. (m). Pub. L. 98−369, Sec. 474(o)(14), substituted "subsection (b)" for "subsection (a)(2)".

Subsec. (n). Pub. L. 98−369, Sec. 474(o)(15), repealed subsec. (n). For continuing applicability of par. (4) of subsec. (n), see section 474(o)(15) of Pub. L. 98−369, set out in Effective Date of 1984 Amendment note below.

Subsec. (o)(3) to (8). Pub. L. 98−369, Sec. 474(o)(16), redesignated par. (8) as (3) and struck out former pars. (3) to (7) which defined "employee plan credit", "basic employee plan credit", "matching employee plan credit", "basic employee plan percentage", and "matching employee plan percentage", respectively.

Subsec. (q)(1), (3). Pub. L. 98−369, Sec. 474(o)(17)(A), substituted "section 46(a)" for "section 46(a)(2)".

Subsec. (q)(4)(A)(i). Pub. L. 98−369, Sec. 474(o)(17), substituted "section 46(a)" for "section 46(a)(2)" and "section 46(b)(1)" for "section 46(a)(2)(B)".

Subsec. (q)(4)(B)(ii). Pub. L. 98−369, Sec. 474(o)(17)(B), substituted "section 46(b)(1)" for "section 46(a)(2)(B)".

Subsec. (q)(6). Pub. L. 98−369, Sec. 712(b), added par. (6) relating to adjustment in basis of interest in partnership or S corporation.

Pub. L. 98−369, Sec. 113(b)(4), added par. (6) relating to special rule for qualified films.

Subsec. (r). Pub. L. 98−369, Sec. 113(a)(1), added subsec. (r). Former subsec. (r) redesignated (s).

Pub. L. 98−369, Sec. 474(o)(18), substituted "section 381(c)(26)" for "section 381(c)(23)".

Subsec. (s). Pub. L. 98−369, Sec. 113(a)(1), redesignated former subsec. (r) as (s).

1983 − Subsec. (a)(1)(G). Pub. L. 97−448, Sec. 102(e)(2)(A), inserted "(not including a building and its structural components) used in connection" after "storage facility".

Subsec. (a)(10). Pub. L. 97−448, Sec. 202(c), amended directory language of Pub. L. 96−223, Sec. 223(a)(1), to correct an error, and did not involve any change in text. See 1980 Amendment note below.

Subsec. (g)(1)(C)(i). Pub. L. 97−448, Sec. 102(f)(2), (6), substituted "the 24−month period selected by the taxpayer (at the time and in the manner prescribed by regulation) and ending with or within the taxable year" for "the 24−month period ending on the last day of the taxable year" in provisions preceding subcl. (I), substituted "adjusted basis of such building (and its structural components)" for "adjusted basis of such property" both in subcl. (I) and in provision following subcl. (II), and, in provisions following subcl. (II), substituted "holding period of the building" for "holding period of the property" and inserted provision that, for purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

Subsec. (g)(5)(A). Pub. L. 97−448, Sec. 102(f)(3), substituted "a credit is determined under section 46(a)(2)" for "a credit is allowed under this section" and "the credit so determined" for "the credit so allowed". See 1982 Amendment note for subsec. (g)(5) below and see Effective Date of 1982 and 1983 Amendment notes set out under sections 1 and 196 of this title.

Subsec. (l)(5). Pub. L. 97−424, Sec. 546(a)(3), substituted reference to subpar. (N) for reference to subpar. (M) in provision following subparagraphs.

Subsec. (l)(5)(M), (N). Pub. L. 97−424, Sec. 546(a)(1), (2), added subpar. (M) and redesignated former subpar. (M) as (N).

Subsec. (q)(3). Pub. L. 97−448, Sec. 306(a)(3), substituted "paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d)" for "paragraphs (1) and (2)".

1982 − Subsec. (b). Pub. L. 97−248, Sec. 209(c), inserted provision that for purposes of determining whether section 38 property subject to a lease is new section 38 property, such property shall be treated as originally placed in service not earlier than the date such property is used under the lease, but only if such property is leased within 3 months after such property is placed in service.

Subsec. (c)(2)(D). Pub. L. 97−354 substituted "Partnerships and S corporations" for "Partnerships" in subpar. heading, and inserted "A similar rule shall apply in the case of an S corporation and its shareholders".

Subsec. (d)(5). Pub. L. 97−248, Sec. 205(a)(4), added par. (5).

Subsec. (e). Pub. L. 97−354, Sec. 5(a)(7), struck out subsec. (e) relating to apportionment among shareholders of qualified investments by an electing small business corporation.

Subsec. (g)(5). Pub. L. 97−248, Sec. 205(a)(5)(A), struck out par. (5) which, as amended by Sec. 102(f)(3) of Pub. L. 97−448, had provided that for purposes of this subtitle, if a credit were determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, the increase in basis of such property which would (but for this paragraph) have resulted from such expenditure had to be reduced by the amount of the credit so determined, that if during any taxable year there was a recapture amount determined with respect to any qualified rehabilitated building the basis of which was reduced under subpar.

(A), the basis of such building (immediately before the event resulting in such recapture), had to be increased by an amount equal to such recapture amount, and that for purposes of this paragraph "recapture amount" was defined as any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47(a)(5). See 1983 Amendment note for subsec. (g)(5) above and see Effective Date of 1982 and 1983 Amendment notes set out under sections 1 and 196 of this title.

Subsec. (k)(5)(D)(i). Pub. L. 97−354, Sec. 5(a)(8), substituted "an S corporation" for "an electing small business corporation (within the meaning of section 1371)".

Subsec. (l)(7). Pub. L. 97−362, Sec. 104(a), temporarily substituted the qualification that such term does not include equipment for hydrogenation, refining, or other process subsequent to retorting other than hydrogenation or other process which is applied in the vicinity of the property from which the shale was extracted and which is applied to bring the shale oil to a grade and quality suitable for transportation to and processing in a refinery, for the qualification that such equipment did not include equipment for hydrogenation, refining, or other processes subsequent to retorting. See Effective and Termination Dates of 1982 Amendment note below.

Subsecs. (q), (r). Pub. L. 97−248, Sec. 205(a)(1), added subsec. (q) and redesignated former subsec. (q) as (r).

1981 − Subsec. (a)(1). Pub. L. 97−34, Sec. 211(e)(4), in provisions following subpar. (G), substituted "Such term includes only recovery property (within the meaning of section 168 without regard to any useful life) and any other property" for "Such term includes only property".

Subsec. (a)(1)(G). Pub. L. 97−34, Sec. 211(c), added subpar. (G).

Subsec. (a)(2)(B)(ii). Pub. L. 97−34, Sec. 211(h), designated existing provisions as subcl. (I) and added subcl. (II).

Subsec. (a)(3)(D). Pub. L. 97−34, Sec. 212(c), added subpar. (D).

Subsec. (a)(4). Pub. L. 97−34, Sec. 214(a), inserted provision that, if any qualified rehabilitated building is used by the tax−exempt organization pursuant to a lease, this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures.

Subsec. (a)(5). Pub. L. 97−34, Sec. 214(b), inserted provision that, if any qualified rehabilitated building is used by the governmental unit pursuant to a lease, this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures.

Subsec. (a)(8). Pub. L. 97−34, Sec. 212(d)(2)(A), substituted "or 188" for "188, or 191".

Subsec. (a)(9). Pub. L. 97−34, Sec. 211(a)(2), struck out par. (9) which set out a special rule for the depreciation of railroad track.

Subsec. (c)(2)(A) to (C). Pub. L. 97−34, Sec. 213(a), amended subpars. (A) to (C) generally raising in subpar. (A) the existing $100,000 dollar limitation to $125,000 in 1981 and to $150,000 in 1985 and in subpar. (B) the existing $50,000 dollar limitation to

$62,500 in 1981 and to $75,000 in 1985.

Subsec. (g). Pub. L. 97−34, Sec. 212(b), in amending subsec. (c) generally incorporated the concept of "substantial rehabilitation" into par. (1)(A), substituted "30 years" for "20 years" as the requisite period in par. (1)(B), substituted a definition of "substantially rehabilitated" for former provisions that a major portion could be treated as a separate building in certain cases in par. (1)(C), reenacted par. (1)(D) without change, substituted "December 31, 1981" for "October 31, 1978" in provisions of par. (2)(A) preceding cl. (i), substituted provisions for a recovery period of 15 years for provisions that had provided for a useful life of 5 years or more in cl. (i) of par. (2)(A), reenacted cl. (ii) without change, substituted provisions that accelerated methods of depreciation may not be used for provisions relating to property otherwise section 38 property in cl. (i) of par. (2)(B), reenacted cls. (ii) and (iii) without change, revised the provisions of cl. (iv) relating to certified historic structures, and added cl. (v) relating to expenditures of lessees, added par. (3), redesignated former par. (3) as (4), and added par. (5).

Subsec. (l)(2)(C). Pub. L. 97−34, Sec. 211(e)(3), inserted "or which is recovery property (within the meaning of section 168)" after "3 years or more".

Subsec. (n)(1)(A)(i). Pub. L. 97−34, Sec. 332(b), substituted "which does not exceed" for "equal to".

Subsec. (o)(8). Pub. L. 97−34, Sec. 212(a)(3), added par. (8).

1980 − Subsec. (a)(1). Pub. L. 96−451 added subpar. (F) and provision for treatment of the useful life of subpar. (F) property as its normal growing period.

Subsec. (a)(2)(B)(xi). Pub. L. 96−223, Sec. 222(i)(2), added cl. (xi).

Subsec. (a)(5). Pub. L. 96−605, Sec. 109(a), included the International Maritime Satellite Organization or any successor organization within organizations not to be treated as international organizations.

Subsec. (a)(7)(B). Pub. L. 95−600, Sec. 312(c)(2), as amended by Pub. L. 96−222, Sec. 103(a)(2)(A), substituted " 'described in section 50 (as in effect before its repeal by the Revenue Act of 1978' " for " 'described in section 50' ".

Subsec. (a)(10)(A). Pub. L. 96−223, Sec. 223(a)(1), as amended by Pub. L. 97−448, Sec. 202(c), provided that "petroleum or petroleum products" does not include petroleum coke or petroleum pitch.

Subsec. (a)(10)(B). Pub. L. 96−222, Sec. 108(c)(6), substituted "5" for "51".

Subsec. (g)(2)(B)(i). Pub. L. 96−222, Sec. 103(a)(4)(B), substituted "subsections (a)(1)(E) and (l)" for "subsection (a)(1)(E)".

Subsec. (l)(1). Pub. L. 96−223, Sec. 221(b)(1), substituted "For any period for which the energy percentage determined under section 46(a)(2)(C) for any energy property is greater than zero" for "For the period beginning on October 1, 1978, and ending on December 31, 1982" in provisions preceding subpar. (A) and, in subpars. (A) and (B), substituted "such energy property" and "such property" for "any energy property".

Subsec. (l)(2)(A). Pub. L. 96−223, Sec. 222(a), added cls. (vii), (viii), and (ix).

Subsec. (l)(3)(A). Pub. L. 96−223, Sec. 222(b), (g)(2), struck out "(other than coke or coke gas)" after "solid fuel" in cl. (iii) and, in cl. (v), substituted provisions relating to equipment which converts coal into a substitute for a petroleum or natural gas derived feedstock for the manufacture of chemicals or other products and equipment which converts coal into methanol, ammonia, or hydroprocessed coal liquid or solid for provisions which had related simply to equipment which used coal as feedstock for the manufacture of chemicals or other products other than coke or coke gas, added cl. (ix), and, following cl. (ix), inserted provision that the equipment described in cl. (vii) includes equipment used for the storage of fuel derived from garbage at the site at which such fuel was produced from garbage.

Subsec. (l)(3)(B). Pub. L. 96−223, Sec. 222(i)(1)(A), redesignated subpar. (C) as (B). Former subpar. (B), which excluded public utility property from the terms "alternative energy property", "solar or wind energy property", or "recycling equipment", was struck out.

Subsec. (l)(3)(C), (D). Pub. L. 96−223, Sec. 222(i)(1)(A), (3), redesignated subpar. (D) as (C) and inserted following cl. (ii) provision that, for the purposes of the preceding sentence, in the case of property which is alternative energy property solely by reason of the amendments made by section 222(b) of the Crude Oil

Windfall Profit Tax Act of 1980, "January 1, 1980" was to be substituted for "October 1, 1978". Former subpar. (C) redesignated (B).

Subsec. (l)(4)(C). Pub. L. 96−223, Sec. 222(c), added subpar. (C).

Subsec. (l)(5). Pub. L. 96−223, Sec. 222(d), added subpar. (L), redesignated former subpar. (L) as (M), and inserted provision that the Secretary shall not specify any property under subpar. (M) unless he determines that such specification meets the requirements of par. (9) of section 44C(c) for specification of items under section 44C(c)(4)(A)(viii).

Subsec. (l)(11). Pub. L. 96−223, Sec. 221(b)(2), substituted "one−half of the energy percentage determined under section 46(a)(2)(C)" for "5 percent".

Pub. L. 96−223, Sec. 223(c)(1), completely revised par. (11) to incorporate property financed by subsidized energy financing, effective with regard to periods after Dec. 31, 1982. Prior to the revision par. (11) read as follows: "In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the energy percentage shall be one−half of the energy percentage determined under section 46(a)(2)(C)."

Subsec. (l)(13). Pub. L. 96−223, Sec. 222(e)(1), added par. (13).

Subsec. (l)(14). Pub. L. 96−223, Sec. 222(f), added par. (14).

Subsec. (l)(15). Pub. L. 96−223, Sec. 222(g)(1), added par. (15).

Subsec. (l)(16). Pub. L. 96−223, Sec. 222(h), added par. (16).

Subsec. (l)(17). Pub. L. 96−223, Sec. 222(i)(1)(B), added par. (17).

Subsec. (n). Pub. L. 96−222, Sec. 101(a)(7)(G), (H), (L)(i)(I)−(IV), (ii)(III)−(VI), (iii)(II), (v)(II)−(IV), (M)(ii), amended subsec. (n) generally to reflect the renaming of an investment tax credit ESOP to a tax credit employee stock ownership plan and a leveraged employee stock ownership plan (commonly referred to as an ESOP) to an employee stock ownership plan.

Subsec. (n)(6)(B)(i). Pub. L. 96−605, Sec. 223(a), substituted "the date on which the securities are contributed to the plan" for "the due date for filing the return for the taxable year (determined with regard to extensions)".

Subsec. (o). Pub. L. 96−222, Sec. 101(a)(7)(L)(iii)(III), (v)(IV), (V), (M)(iii), substituted "employee plan" for "ESOP" wherever appearing and inserted "percentage" after "attributable to the matching employee plan" in par. (5).

1978 − Subsec. (a)(1)(A). Pub. L. 95−618, Sec. 301(d)(1), inserted "(other than an air conditioning or heating unit)" after "personal property".

Subsec. (a)(1)(D). Pub. L. 95−600, Sec. 314(a), added par. (D).

Subsec. (a)(1)(E). Pub. L. 95−600, Sec. 315(a), added par. (E).

Subsec. (a)(2)(B)(ii). Pub. L. 95−473, Sec. 2(a)(2)(A), substituted "providing transportation subject to subchapter I of chapter 105 of title 49" for "subject to part I of the Interstate Commerce Act".

Subsec. (a)(7)(A). Pub. L. 95−600, Sec. 312(c)(3), struck out "(other than pretermination property)" after "Property".

Subsec. (a)(7)(B). Pub. L. 95−600, Sec. 312(c)(2), struck out "described in section 50" after "with respect to property". See 1980 Amendment note above.

Subsec. (a)(8). Pub. L. 95−600, Sec. 315(c), substituted "188, or 191" for "or 188".

Subsec. (a)(10). Pub. L. 95−618, Sec. 301(d)(2), added par. (10).

Subsec. (d)(1)(B). Pub. L. 95−600, Sec. 703(a)(3), substituted "section 46(a)(6)" for "section 46(a)(5)".

Subsec. (d)(4)(D). Pub. L. 95−600, Sec. 703(a)(4), substituted "section 57(c)(1)(B)" for "section 57(c)(2)".

Subsec. (g). Pub. L. 95−600, Sec. 315(b), added subsec. (g).

Subsec. (h). Pub. L. 95−600, Sec. 312(c)(1), struck out subsec. (h) which related to suspension of investment credit.

Subsec. (i). Pub. L. 95−600, Sec. 312(c)(1), struck out subsec. (i) which related to an exemption from suspension of $20,000 of investment.

Subsec. (j). Pub. L. 95−600, Sec. 312(c)(1), struck out subsec. (j) which defined "suspension period".

Subsecs. (l), (m). Pub. L. 95−618, Sec. 301(b), added subsecs. (l) and (m) and redesignated former subsec. (l) as (n).

Subsec. (n). Pub. L. 95−618, Sec. 301(b), redesignated former subsec. (l) as (n).

Pub. L. 95−600, Sec. 141(b), added subsec. (n). Former subsec. (n) redesignated (p).

Subsec. (o). Pub. L. 95−600, Sec. 141(b), added subsec. (o).

Subsecs. (p), (q). Pub. L. 95−600, Secs. 141(b), 314(b), added subsec. (p). Former subsec. (n) redesignated (p) and subsequently as (q).

1976 − Subsec. (a)(2)(B)(vi). Pub. L. 94−455, Sec. 1901(a)(5)(A), substituted "(43 U.S.C. 1331))" for "; 43 U.S.C., sec. 1331)".

Subsec. (a)(2)(B)(vii). Pub. L. 94−455, Sec. 1051(h)(1), substituted "(other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b))" for "(other than a corporation entitled to the benefits of section 931 or 934(b))".

Subsec. (a)(2)(B)(viii). Pub. L. 94−455, Sec. 1901(a)(5)(B), substituted "47 U.S.C. 702" for "47 U.S.C., sec. 702".

Subsec. (a)(8). Pub. L. 94−455, Secs. 1901(b)(11)(A), 2112(a)(1), struck out "169," after "section 167(k),", "187," before "or 188 applies", and provisions relating to the limitation of the applicability of this paragraph on property to which section 169 applies.

Subsecs. (c)(2)(A), (d)(1), (2)(A). Pub. L. 94−455, Sec. 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (f). Pub. L. 94−455, Sec. 802(b)(6), substituted "section 46(a)(3)" for "section 46(a)(2)".

Subsec. (i)(2). Pub. L. 94−455, Sec. 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsecs. (k), (l). Pub. L. 94−455, Sec. 804(a), added subsec. (k) and redesignated former subsec. (k) as subsec. (l).

1975 − Subsec. (a)(2)(B). Pub. L. 94−12, Sec. 604(a), substituted "territorial waters within the northern portion of the Western Hemisphere" for "territorial waters" in cl. (x) and inserted definition of "northern portion of the Western Hemisphere" following cl. (x).

Subsec. (c)(2)(A). Pub. L. 94−12 Sec. 301(c)(1)(A), substituted "$100,000" for "$50,000".

Subsec. (c)(2)(B). Pub. L. 94−12, Sec. 301(c)(1)(A), (B), substituted "$50,000" for "$25,000" and "$100,000" for "$50,000".

Subsec. (c)(2)(C). Pub. L. 94−12, Sec. 301(c)(1)(A), substituted "$100,000" for "$50,000".

Subsec. (d)(1), (2)(A). Pub. L. 94−12, Sec. 302(c)(3), substituted "section 46(e)(1)" for "section 46(d)(1)".

1971 − Subsec. (a)(1). Pub. L. 92−178, Sec. 102(a)(2), substituted "3 years" for "4 years" in second sentence.

Subsec. (a)(1)(B)(ii), (iii). Pub. L. 92−178, Sec. 104(a)(1), substituted "research facility" for "research or storage facility" in cl. (ii) and added cl. (iii).

Subsec. (a)(2)(B). Pub. L. 92−178, Sec. 104(c)(2), (3), (d), added cls. (viii) to (x), respectively.

Subsec. (a)(3)(C). Pub. L. 92−178, Sec. 104(b), added subpar. (C).

Subsec. (a)(5). Pub. L. 92−178, Sec. 104(c)(1), inserted "(other than the International Telecommunications Satellite Consortium or any successor organization)" after "international organization".

Subsec. (a)(6). Pub. L. 92−178, Sec. 104(e), substituted provisions for treatment of livestock (other than horses) acquired by the taxpayer as section 38 property, with exception provision for reduction of acquisition cost by amount equal to amount realized on sale or other disposition under certain circumstances, and for nontreatment of horses as section 38 property for former provision that livestock shall not be treated as section 38 property.

Subsec. (a)(7) to (9). Pub. L. 92−178, Secs. 103, 104(f)(1), (g), added pars. (7) to (9), respectively.

Subsec. (d). Pub. L. 92−178, Sec. 108(b) and (c), substituted "section 46(d)(1)" for "section 46(d)"; and designated as par. (1) the present first sentence, redesignated as subpars. (A) and (B) provisions formerly designated cls. (1) and (2), again substituted "section 46(d)(1)" for "section 46(d)" in par. (1) and inserted "(other than property described in paragraph (4))" in par. (1), added pars. (2) and (4), incorporated provisions of former second, third, and fourth sentences in provisions designated as par. (3), substituted in par. (3) "the lessee shall be treated for all purposes of this subpart as having acquired a fractional portion of such property equal to the fraction determined under paragraph (2)(B) with respect to such property" for "the lessee shall be treated for all purposes of this subpart as having acquired such property", and struck out former fifth and sixth sentences respecting election regarding treatment of leases of suspension period property and section 38 property. See Effective Date of 1971 Amendment note below.

1969 − Subsec. (a)(4). Pub. L. 91−172, Sec. 121(d)(2)(A), inserted provision relating to the percentage of the basis or cost of debt−financed property that may be considered in computing qualified investment under section 46(c) of this title.

Subsec. (c)(2)(C). Pub. L. 91−172, Sec. 401(e)(2), reenacted subpar. (C) with minor changes and substituted reference to controlled group for reference to affiliated group.

Subsec. (c)(3)(C). Pub. L. 91−172, Sec. 401(e)(3), substituted definition of controlled group for definition of affiliated group.

Subsec. (d)(2). Pub. L. 91−172, Sec. 401(e)(4), substituted reference to a component member of a controlled group for reference to a member of an affiliated group.

1967 − Subsec. (a)(2)(B)(i). Pub. L. 90−26, Sec. 3, inserted "or is operated under contract with the United States" after "the United States".

Subsec. (h)(2). Pub. L. 90−26, Sec. 2(a), limited definition of suspension period property to section 38 property where the physical construction, reconstruction or erection was begun before May 24, 1967, pursuant to an order placed during the suspension period, subject to the proviso that in applying the definition to property the physical construction, reconstruction or erection of which was begun before May 24, 1967, only that portion of the basis properly attributable to construction, reconstruction or erection before May 24, 1967 be taken into account.

Subsec. (j). Pub. L. 90−26, Sec. 1, substituted "March 9, 1967" for "December 31, 1967".

1966 − Subsec. (a)(2)(B). Pub. L. 89−809 added cl. (vii).

Subsec. (d). Pub. L. 89−800, Sec. 1(b), inserted provisions covering the treatment of suspension period property, and the elections to be deemed made in connection therewith.

Subsecs. (h) to (k). Pub. L. 89−800, Sec. 1(a), added subsecs. (h) to (j) and redesignated former subsec. (h) as (k).

1964 − Subsec. (a)(1)(C). Pub. L. 88−272, Sec. 203(c)(2), added subpar. (C).

Subsec. (d). Pub. L. 88−272, Sec. 203(a)(3)(A), (b), substituted "except as provided in paragraph (2)" for "if such property was constructed by the lessor (or by a corporation which controls or is controlled by the lessor within the meaning of section 368(c))" in par. (1), "if such property is leased by a corporation which is a member of an affiliated group (within the meaning of section 46(a)(5) to another corporation which is a member of the same affiliated group" for "if paragraph (1) does not apply" in par. (2), and deleted provisions which stated that if a lessor made an election under this subsection, subsec. (g) would not apply with respect to such property, and deductions otherwise allowable under section 162 to the lessee for amounts paid the lessor would be adjusted consistent with subsec. (g).

Subsec. (g). Pub. L. 88−272, Sec. 203(a)(1), repealed subsec. (g) which required that the basis of section 38 property be reduced by 7 percent of the qualified investment.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1916(b) of Pub. L. 102−486 provided that: "The amendments

made by this section [amending this section] shall take effect on June 30, 1992."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11813(a) of Pub. L. 101−508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101−508, set out as a note under section 29 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100−647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99−514, to which such amendment relates, see section 1019(a) of Pub. L. 100−647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

If any interest costs incurred after Dec. 31, 1986, are attributable to costs incurred before Jan. 1, 1987, the amendment by section 803(b)(2)(B) of Pub. L. 99−514 is applicable to such interest costs only to the extent such interest costs are attributable to costs which were required to be capitalized under section 263 of the Internal Revenue Code of 1954 and which would have been taken into account in applying section 189 of the

Internal Revenue Code of 1954 (as in effect before its repeal by section 803 of Pub. L. 99−514) or, if applicable, section 266 of such Code, see section 7831(d)(2) of Pub. L. 101−239, set out as an Effective Date note under section 263A of this title.

Amendment by section 251(b), (c) of Pub. L. 99−514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, except as otherwise provided for certain rehabilitations, see section 251(d) of Pub. L. 99−514, set out as a note under section 46 of this title.

Amendment by section 701(e)(4)(C) of Pub. L. 99−514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99−514, set out as an Effective Date note under section 55 of this title.

Amendment by section 803(b)(2)(B) of Pub. L. 99−514 applicable to costs incurred after Dec. 31, 1986, in taxable years ending after such date, except as otherwise provided, see section 803(d) of Pub. L. 99−514, set out as an Effective Date note under section 263A of this title.

Amendment by sections 1272(d)(5) and 1275(c)(5) of Pub. L. 99−514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99−514, set out as a note under section 931 of this title.

Amendment by section 1511(c)(3) of Pub. L. 99−514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99−514, set out as a note under

section 47 of this title.

Section 1879(j)(2) of Pub. L. 99−514 provided that: "The amendments made by this subsection [amending this section] shall apply to periods after December 31, 1978 (under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954 [now 1986]), in taxable years ending after such date."

Section 1881 of title XVIII of Pub. L. 99−514 provided that: "Except as otherwise provided in this subtitle, any amendment made by this subtitle [subtitle A (Secs. 1801−1881) of title XVIII of Pub. L. 99−514, see Tables for classification] shall take effect as if included in the provision of the Tax Reform Act of 1984 [Pub. L. 98−369, div. A] to which such amendment relates."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99−121 applicable with respect to property placed in service by the taxpayer after May 8, 1985, with specified exceptions, but amendment of subsec. (g)(2)(B)(v) not applicable to leases entered into before May 22, 1985, if the lessee signed the lease before May 17, 1985, see section 105(b)(1), (5) of Pub. L. 99−121, set out as a note under section 168 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 18 of Pub. L. 98−369 provided that:

"(a) General Rule. − The amendments made by this part [part I (Secs. 11−18) of subtitle A of title I of div. A of Pub. L. 98−369, amending this section and sections 41, 46, 57, 128, 168, 179, 265, 415, 854, 857, and 911 of this title, enacting provisions set out as a note under section 168 of this title, and amending provisions set out as notes under sections 128 and 168 of this title] shall apply to taxable years ending after December 31, 1983.

"(b) Special Rule for Section 14. − The amendment made by section 14 [amending section 41 of this title] shall not apply in the case of a tax credit employee stock ownership plan if −

"(1) such plan was favorably approved on September 23, 1983, by employees, and

"(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan."

Amendment by section 31(b), (c)(1) of Pub. L. 98−369 effective, except as otherwise provided in section 31(g) of Pub. L. 98−369, as to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date and to property placed in service by the taxpayer on or before May 23, 1983, if the lease to the tax−exempt entity is entered into after May 23, 1983, and amendment by section 31(c)(2) of Pub. L. 98−369, to the extent it relates to section 168(f)(12) of this title, effective as if it had been included in the amendments to section 168 of this title by section 216(a) of Pub. L. 97−248, see section 31(g)(1), (12) of Pub. L. 98−369, set out as a note under section 168 of this title.

Amendment by section 111(e)(8) of Pub. L. 98−369 applicable with respect to property placed in service by the taxpayer after Mar. 15, 1984, subject to certain exceptions, see section 111(g) of Pub. L. 98−369, set out as a note under section 168 of this title.

Amendment by section 113(b)(3) of Pub. L. 98−369 applicable as if included in the amendments made by sections 201(a), 211(a)(1), and

211(f)(1) of Pub. L. 97−34, which enacted section 168 and amended section 46 of this title, see section 113(c)(2)(B) of Pub. L. 98−369, set out as a note under section 168 of this title.

Amendment by section 113(b)(4) of Pub. L. 98−369 applicable as if included in the amendments made by section 205(a)(1) of Pub. L. 97−248, see section 113(c)(2)(C) of Pub. L. 98−369, set out as a note under section 168 of this title.

Section 113(c)(1) of Pub. L. 98−369 provided that: "The amendments made by subsection (a) [amending this section and section 168 of this title] shall apply to property placed in service after March 15, 1984, in taxable years ending after such date."

Section 114(b) of Pub. L. 98−369 provided that: "The amendment made by this section [amending this section] shall apply to property originally placed in service after April 11, 1984 (determined without regard to such amendment)."

Amendment by section 431(c) of Pub. L. 98−369 applicable to property placed in service after July 18, 1984, in taxable years ending after such date, but not applicable to property to which sections 46(c)(8), (9) and 47(d) of this title, as enacted by section 211(f) of Pub. L. 97−34, do not apply, with the taxpayer having an option to elect retroactive application of amendment by Pub. L. 98−369, see section 431(e) of Pub. L. 98−369, set out as a note under section 46 of this title.

Amendment by section 474(o)(10)−(18) of Pub. L. 98−369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98−369, set out as a note under section 21 of this title.

Section 474(o)(15) of Pub. L. 98−369, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Subsection (n) of section 48 (relating to requirements for allowance of employee plan percentage) is hereby repealed; except that paragraph (4) of section 48(n) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as in effect before its repeal by this paragraph) shall continue to apply in the case of any recapture under section 47(f) of such Code of a credit allowable for a taxable year beginning before January 1, 1984."

Amendment by section 712(b) of Pub. L. 98−369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97−248, to which such amendment relates, see section 715 of Pub. L. 98−369, set out as a note under section 31 of this title.

Amendment by section 721(x)(1) of Pub. L. 98−369 effective as if included in the Subchapter S Revision Act of 1982, Pub. L. 97−354, see section 721(y)(1) of Pub. L. 98−369, set out as a note under section 1361 of this title.

Amendment by section 735(c)(1) of Pub. L. 98−369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97−424, to which such amendment relates, see section 736 of Pub. L. 98−369, set out as a note under section 4051 of this title.

Section 1043(b) of Pub. L. 98−369 provided that: "The amendments

made by this section [amending this section] shall apply to expenditures incurred after December 31, 1983, in taxable years ending after such date."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by title I of Pub. L. 97−448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97−34, to which such amendment relates, see section 109 of Pub. L. 97−448, set out as a note under section 1 of this title.

Amendment by section 202(c) of Pub. L. 97−448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. 96−223 to which such amendment relates, see section 203(a) of Pub. L. 97−448, set out as a note under section 6652 of this title.

Amendment by section 306(a)(3) of Pub. L. 97−448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97−248, to which such amendment relates, see section 311(d) of Pub. L. 97−448, set out as a note under section 31 of this title.

EFFECTIVE AND TERMINATION DATES OF 1982 AMENDMENTS

Section 104(b) of Pub. L. 97−362, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by this section [amending this section] shall apply to periods beginning after December 31, 1980, and before January 1, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]."

Amendment by Pub. L. 97−354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97−354, set out as an Effective Date note under section 1361 of this title.

Amendment by section 205(a)(1), (4), (5)(A) of Pub. L. 97−248, applicable to periods after Dec. 31, 1982, under rules similar to the rules of subsec. (m) of this section, with certain exceptions and qualifications, see section 205(c)(1) of Pub. L. 97−248, set out as an Effective Date note under section 196 of this title.

Amendment by section 209(c) of Pub. L. 97−248 applicable to property placed in service after Dec. 31, 1983, but not to qualified leased property described in section 168(f)(8)(D)(v) of this title which is placed in service before Jan. 1, 1988, or is placed in service after such date pursuant to a binding contract or commitment entered into before April 1, 1983, and solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee, see sections 208(d)(5) and 209(d)(2) of Pub. L. 97−248, set out as notes under section 168 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 213(b) of Pub. L. 97−34, as amended by Pub. L. 97−448, title I, Sec. 102(g), Jan. 12, 1983, 96 Stat. 2372, provided that: "The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1980."

Section 214(c) of Pub. L. 97−34 provided that: "The amendments made by this section [amending this section] shall apply to uses after July 29, 1980, in taxable years ending after such date."

Section 332(c)(2) of Pub. L. 97−34 provided that: "The amendment made by subsection (b) [amending this section] shall apply to qualified investments made after December 31, 1981."

Amendment by section 211(a)(2), (e)(3), (4) of Pub. L. 97−34 applicable to property placed in service after Dec. 31, 1980, see section 211(i)(1) of Pub. L. 97−34, set out as a note under section 46 of this title.

Amendment by section 211(c) of Pub. L. 97−34 applicable to periods after Dec. 31, 1980, under rules similar to the rules under subsec. (m) of this section, see section 211(i)(3) of Pub. L. 97−34, set out as a note under section 46 of this title.

Amendment by section 211(h) of Pub. L. 97−34 applicable to taxable years beginning after Dec. 31, 1980, see section 211(i)(6) of Pub. L. 97−34, set out as a note under section 46 of this title.

Amendment by section 212(a)(3), (b), (c), (d)(2)(A) of Pub. L. 97−34 applicable to expenditures incurred after Dec. 31, 1981, in taxable years ending after such date, see section 212(e) of Pub. L. 97−34, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 109(b) of Pub. L. 96−605 provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1979."

Section 223(b) of Pub. L. 96−605 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1980."

Section 302(b) of Pub. L. 96−451 provided that: "The amendments

made by this section [amending this section] shall apply with respect to additions to capital account made after December 31, 1979."

Section 222(j) of Pub. L. 96−223, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) In general. − Except as provided in paragraph (2), the amendments made by this section [amending this section and section 46 of this title] shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

"(2) Alumina electrolytic cells. − The amendments made by subsection (d)(1) [amending this section] shall apply to periods after September 30, 1978, under rules similar to the rules of section 48(m) of such Code."

Section 223(a)(2) of Pub. L. 96−223, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]."

Section 223(c)(2) of Pub. L. 96−223, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(A) In general. − Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]."

"(B) Earlier application for certain property. − In the case of property which is −

"(i) qualified hydroelectric generating property (described in section 48(l)(2)(A)(vii) of such Code),

"(ii) cogeneration equipment (described in section 48(l)(2)(A)(viii) of such Code),

"(iii) qualified intercity buses (described in section 48(l)(2)(A)(ix) of such Code),

"(iv) ocean thermal property (described in section 48(l)(3)(A)(ix) of such Code), or

"(v) expanded energy credit property,

the amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986.

"(C) Expanded energy credit property. − For purposes of subparagraph (B), the term 'expanded energy credit property' means −

"(i) property to which section 48(l)(3)(A) of such Code applies because of the amendments made by paragraphs (1) and (2) of section 222(b) [amending this section],

"(ii) property described in section 48(l)(4)(C) of such Code (relating to solar process heat),

"(iii) property described in section 48(l)(5)(L) of such Code (relating to alumina electrolytic cells), and

"(iv) property described in the last sentence of section

48(l)(3)(A) of such Code (relating to storage equipment for refuse−derived fuel).

"(D) Financing taken into account. − For the purpose of applying the provisions of section 48(l)(11) of such Code in the case of property financed in whole or in part by subsidized energy financing (within the meaning of section 48(l)(11)(C) of such Code), no financing made before January 1, 1980, shall be taken into account. The preceding sentence shall not apply to financing provided from the proceeds of any tax exempt industrial development bond (within the meaning of section 103(b)(2) of such Code)."

Amendment by Pub. L. 96−222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95−600, to which such amendment relates, see section 201 of Pub. L. 96−222, set out as a note under section 32 of this title.

Section 108(c)(7) of Pub. L. 96−222 provided that: "Any amendment made by this subsection [amending sections 4071, 4221, 6416, and 6421 of this title] shall take effect as if included in the provision of the Energy Tax Act of 1978 [See Short Title of 1978 Amendment note set out under section 1 of this title] to which such amendment relates; except that the amendment made by paragraph (6) [amending this section] shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act [Apr. 1, 1980]."

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 301(d)(4) of Pub. L. 95−618 provided that:

"(A) In general. − The amendments made by this subsection [amending this section and section 167 of this title] shall apply to property which is placed in service after September 30, 1978.

"(B) Binding contracts. − The amendments made by this subsection [amending this section and section 167 of this title] shall not apply to property which is constructed, reconstructed, erected, or acquired pursuant to a contract which, on October 1, 1978, and at all times thereafter, was binding on the taxpayer."

Amendment by section 141(b) of Pub. L. 95−600 effective with respect to qualified investment for taxable years beginning after Dec. 31, 1978, see section 141(g)(1) of Pub. L. 95−600, set out as an Effective Date note under section 409 of this title.

Amendment by section 312(c)(1), (2), (3) of Pub. L. 95−600 applicable to taxable years ending after Dec. 31, 1978, see section 312(d) of Pub. L. 95−600, set out as a note under section 46 of this title.

Section 314(c) of Pub. L. 95−600 provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply to taxable years ending after August 15, 1971."

Section 315(d) of Pub. L. 95−600 provided that: "The amendments made by this section [amending this section] shall apply to taxable years ending after October 31, 1978; except that the amendment made by subsection (c) shall only apply with respect to property placed in service after such date."

Amendment by section 703(a)(3), (4) of Pub. L. 95−600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95−600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 802(b)(6) of Pub. L. 94−455 applicable to taxable years beginning after Dec. 31, 1975, see section 802(c) of Pub. L. 94−455, set out as a note under section 46 of this title.

Section 804(e) of Pub. L. 94−455, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) In general. − The amendments made by subsections (a) and (b) [amending this section and section 47 of this title] shall apply to taxable years beginning after December 31, 1974.

"(2) Election may also apply to property described in section 50(a). − At the election of the taxpayer, made within 1 year after the date of the enactment of this Act [Oct. 4, 1976] in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, the amendments made by subsections (a) and (b) shall also apply to property which is property described in section 50(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] and which is placed in service in taxable years beginning before January 1, 1975."

Amendment by section 1051(h)(1) of Pub. L. 94−455 applicable to taxable years beginning after Dec. 31, 1975 with certain exceptions, see section 1051(i) of Pub. L. 94−455, set out as a note under section 27 of this title.

Amendment by section 1901(a)(5), (b)(11)(A) of Pub. L. 94−455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94−455, set out as a note under section 2 of this title.

Amendment by section 2112(a) of Pub. L. 94−455 applicable to property acquired by the taxpayer after Dec. 31, 1976, and property, the construction, reconstruction, or erection of which was completed by the taxpayer after Dec. 31, 1976, (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date), in taxable years beginning after such date, see section 2112(d)(1) of Pub. L. 94−455, set out as a note under section 46 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Section 301(c)(2) of Pub. L. 94−12, as amended by Pub. L. 94−455, title VIII, Sec. 801, Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95−600, title III, Sec. 311(b), Nov. 6, 1978, 92 Stat. 2824, provided that: "The amendments made by paragraph (1) [amending this section] shall apply only to taxable years beginning after December 31, 1974."

Amendment by section 302(c)(3) of Pub. L. 94−12 applicable to taxable years ending after Dec. 31, 1974, see section 305(a) of Pub. L. 94−12, set out as an Effective Date of 1975 Amendment note under section 46 of this title.

Section 604(b) of Pub. L. 94−12, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) In general. − The amendments made by subsection (a) [amending this section] shall apply to property, the construction, reconstruction, or erection of which was completed after March 18, 1975, or the acquisition of which by the taxpayer occurred after such date.

"(2) Binding contract. − The amendments made by subsection (a) [amending this section] shall not apply to property constructed, reconstructed, erected, or acquired pursuant to a contract which was on April 1, 1974, and at all times thereafter, binding on the taxpayer.

"(3) Certain lease−back transactions, etc. − Where a person who is a party to a binding contract described in paragraph (2) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (2), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under section 48(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], only if a party to such contract retains a right to use the property under a long−term lease."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 104(h) of Pub. L. 92−178, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section and sections 169 and 1245 of this title] (other than by subsections (c)(1), (c)(2), and (g) [amending this section]) shall apply to property described in section 50 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]. The amendments made by subsections (c)(1), (c)(2), and (g) [amending this section] shall apply to taxable years ending after December 31, 1961."

Amendment by section 108(b), (c) of Pub. L. 92−178, applicable to leases entered into after Sept. 22, 1971, and after Nov. 8, 1971, respectively, see section 108(d) of Pub. L. 92−178, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 121(d)(2)(A) of Pub. L. 91−172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91−172, set out as a note under section 511 of this title.

Amendment by section 401(e)(2)−(4) of Pub. L. 91−172 applicable with respect to taxable years ending on or after Dec. 31, 1970, see section 401(h)(3) of Pub. L. 91−172, set out as a note under section 1561 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 4 of Pub. L. 90−26 provided that: "The amendments made by the first three sections of this Act [amending this section and section 167 of this title] shall apply to taxable years ending after March 9, 1967."

EFFECTIVE DATE OF 1966 AMENDMENTS

Section 201(b) of Pub. L. 89−809, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by subsection (a) [amending this section] shall apply to taxable years ending after December 31, 1965, but only with respect to property placed in service after such date. In applying section 46(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to carryback and carryover of unused credits), the amount of any investment credit carryback to any taxable year ending on or before December 31, 1965, shall be determined without regard to the amendments made by this section."

Amendment by Pub. L. 89−800 applicable to taxable years ending after Oct. 9, 1966, see section 4 of Pub. L. 89−800, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 203(a)(4) of Pub. L. 88−272 provided that: "Paragraphs (1) [amending this section] and (3) [amending this section and section 1016 of this title and repealing section 181 of this title] of this subsection shall apply −

"(A) in the case of property placed in service after December 31, 1963, with respect to taxable years ending after such date, and

"(B) in the case of property placed in service before January 1, 1964, with respect to taxable years beginning after December 31, 1963."

Section 203(f) of Pub. L. 88−272 provided that:

"(1) The amendments made by subsection (b) [amending this section] shall apply with respect to property possession of which is transferred to a lessee on or after the date of enactment of this Act [Feb. 26, 1964].

"(2) The amendments made by subsection (c) [amending this section] shall apply with respect to taxable years ending after June 30, 1963.

"(3) The amendments made by subsection (d) [amending section 1245 of this title] shall apply with respect to dispositions after December 31, 1963, in taxable years ending after such date."

EFFECTIVE DATE

Section applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87−834, set out as a note under section 46 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101−508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101−508, set out as a note under section 29 of this title.

−TRANS−

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Federal Aviation Agency and of Administrator and other offices and officers thereof transferred by Pub. L. 89−670, Oct. 15, 1966, 80 Stat. 931, to Secretary of Transportation, with functions, powers, and duties of Secretary of Transportation pertaining to aviation safety to be exercised by Federal Aviation Administrator in Department of Transportation, see section 106 of Title 49, Transportation.

−MISC2−

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [Secs. 1101−1147 and 1171−1177] or title XVIII [Secs. 1800−1899A] of Pub. L. 99−514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99−514, as amended, set out as a note under section 401 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99−514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(e)(4)(C) of Pub. L. 99−514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100−647 be treated as if it had been included in the provision of Pub. L. 99−514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100−647, set out as a note under section 861 of this title.

SPECIAL RULE

Section 1879(j)(3) of Pub. L. 99−514 provided that: "If refund or credit of any overpayment of tax resulting from the application of this subsection [amending this section] is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of the amendments made by this subsection [amending this section]) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1−year period."

CLARIFICATION OF EFFECT OF 1984 AMENDMENT ON INVESTMENT TAX CREDIT

For provision that nothing in the amendments made by section

474(o) of Pub. L. 98−369, which amended this section, be construed

as reducing the investment tax credit in taxable years beginning

before Jan. 1, 1984, see section 475(c) of Pub. L. 98−369, set out

as a note under section 46 of this title.

ALTERNATIVE METHODS OF COMPUTING CREDIT FOR PAST PERIODS

Section 804(c) of Pub. L. 94−455, as amended by Pub. L. 99−514,

Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) General rule for determining useful life, predominant

foreign use, etc. − In the case of a qualified film (within the

meaning of section 48(k)(1)(B) of the Internal Revenue Code of

1986 [formerly I.R.C. 1954]) placed in service in a taxable year

beginning before January 1, 1975, with respect to which neither

an election under paragraph (2) of this subsection nor an

election under subsection (e)(2) applies −

"(A) the applicable percentage under section 46(c)(2) of such

Code shall be determined as if the useful life of the film

would have expired at the close of the first taxable year by

the close of which the aggregate amount allowable as a

deduction under section 167 of such Code would equal or exceed

90 percent of the basis of such property (adjusted for any

partial dispositions),

"(B) for purposes of section 46(c)(1) of such Code, the basis

of the property shall be determined by taking into account the total production costs (within the meaning of section 48(k)(5)(B) of such Code),

"(C) for purposes of section 48(a)(2) of such Code, such film shall be considered to be used predominantly outside the United States in the first taxable year for which 50 percent or more of the gross revenues received or accrued during the taxable year from showing the film were received or accrued from showing the film outside the United States, and

"(D) Section 47(a)(7) of such Code shall apply.

"(2) Election of 40−percent method. −

"(A) In general. − A taxpayer may elect to have this paragraph apply to all qualified films placed in service during taxable years beginning before January 1, 1975 (other than films to which an election under subsection (e)(2) of this section applies).

"(B) Effect of election. − If the taxpayer makes an election under this paragraph, then section 48(k) of the Internal Revenue Code of 1986 shall apply to all qualified films described in subparagraph (A) with the following modifications:

"(i) subparagraph (B) of paragraph (4) shall not apply, but in determining qualified investment under section 46(c)(1) of such Code there shall be used (in lieu of the basis of such property) an amount equal to 40 percent of the aggregate production costs (within the meaning of paragraph (5)(B) of such section 48(k)),

"(ii) paragraph (2) shall be applied by substituting '100 percent' for '66 2/3 percent', and

"(iii) paragraph (3) and paragraph (5) (other than subparagraph (B)) shall not apply.

"(C) Rules relating to elections. − An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act [Oct. 4, 1976] and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Such an election may be revoked only with the consent of the Secretary of the Treasury or his delegate.

"(D) The taxpayer must consent to join in certain proceedings. − No election may be made under this paragraph or subsection (e)(2) by any taxpayer unless he consents, under regulations prescribed by the Secretary of the Treasury or his delegate, to treat the determination of the investment credit allowable on each film subject to an election as a separate cause of action, and to join in any judicial proceeding for determining the person entitled to, and the amount of, the credit allowable under section 38 of the Internal Revenue Code of 1986 with respect to any film covered by such election.

"(3) Election to have credit determined in accordance with previous litigation. −

"(A) In general. − A taxpayer described in subparagraph (B) may elect to have this paragraph apply to all films (whether or not qualified) placed in service in taxable years beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made.

"(B) Who may elect. − A taxpayer may make an election under this paragraph if he has filed an action in any court of competent jurisdiction, before January 1, 1976, for a determination of such taxpayer's rights to the allowance of a credit against tax under section 38 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1975, with respect to any film.

"(C) Effect of election. − If the taxpayer makes an election under this paragraph −

"(i) paragraphs (1) and (2) of this subsection, and subsection (d) shall not apply to any film placed in service by the taxpayer, and

"(ii) subsection 48(k) of the Internal Revenue Code of 1986 shall not apply to any film placed in service by the taxpayer in any taxable year beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made,

and the right of the taxpayer to the allowance of a credit against tax under section 38 of such Code with respect to any film placed in service in any taxable year beginning before January 1, 1975, and as to which an election under subsection (e)(2) is not made, shall be determined as though this section (other than this paragraph) has not been enacted.

"(D) Rules relating to elections. − An election under this paragraph shall be made not later than the day which is 90 days after the date of the enactment of this Act [Oct. 4, 1976], by filing a notification of such election with the national office of the Internal Revenue Service. Such an election, once made, shall be irrevocable."

ENTITLEMENT TO CREDIT

Section 804(d) of Pub. L. 94−455, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Paragraph (1) of section 48(k) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to entitlement to credit) shall apply to any motion picture film or video tape placed in service in any taxable year beginning before January 1, 1975."

INCREASE IN BASIS OF PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 1964

Section 203(a)(2) of Pub. L. 88−272, as amended by Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(A) The basis of any section 38 property (as defined in section 48(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) placed in service before January 1, 1964, shall be increased, under regulations prescribed by the Secretary of the Treasury or his delegate, by an amount equal to 7 percent of the qualified investment with respect to such property under section 46(c) of the Internal Revenue Code of 1986. If there has been any increase with respect to such property under section 48(g)(2) of such Code, the increase under the preceding sentence shall be appropriately reduced therefor.

"(B) If a lessor made the election provided by section 48(d) of the Internal Revenue Code of 1986 with respect to property placed

in service before January 1, 1964 −

"(i) subparagraph (A) shall not apply with respect to such

property, but

"(ii) under regulations prescribed by the Secretary of the

Treasury or his delegate, the deductions otherwise allowable

under section 162 of such Code to the lessee for amounts paid to

the lessor under the lease (or, if such lessee has purchased such

property, the basis of such property) shall be adjusted in a

manner consistent with subparagraph (A).

"(C) The adjustments under this paragraph shall be made as of the

first day of the taxpayer's first taxable year which begins after

December 31, 1963."

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29, 50, 168, 409, 1274A

of this title.

−End−

−CITE−

26 USC Sec. 49 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart E − Rules for Computing Investment Credit

−HEAD−

Sec. 49. At−risk rules

−STATUTE−

(a) General rule

(1) Certain nonrecourse financing excluded from credit base

(A) Limitation

The credit base of any property to which this paragraph applies shall be reduced by the nonqualified nonrecourse financing with respect to such credit base (as of the close of the taxable year in which placed in service).

(B) Property to which paragraph applies

This paragraph applies to any property which −

(i) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and

(ii) is used in connection with an activity with respect to which any loss is subject to limitation under section 465.

(C) Credit base defined

For purposes of this paragraph, the term "credit base" means −

(i) the portion of the basis of any qualified rehabilitated building attributable to qualified rehabilitation expenditures,

(ii) the basis of any energy property, and

(iii) the amortizable basis of any qualified timber property.

(D) Nonqualified nonrecourse financing

(i) In general

For purposes of this paragraph and paragraph (2), the term "nonqualified nonrecourse financing" means any nonrecourse financing which is not qualified commercial financing.

(ii) Qualified commercial financing

For purposes of this paragraph, the term "qualified commercial financing" means any financing with respect to any property if −

(I) such property is acquired by the taxpayer from a person who is not a related person,

(II) the amount of the nonrecourse financing with respect to such property does not exceed 80 percent of the credit base of such property, and

(III) such financing is borrowed from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government.

Such term shall not include any convertible debt.

(iii) Nonrecourse financing

For purposes of this subparagraph, the term "nonrecourse financing" includes −

(I) any amount with respect to which the taxpayer is protected against loss through guarantees, stop−loss agreements, or other similar arrangements, and

(II) except to the extent provided in regulations, any amount borrowed from a person who has an interest (other than as a creditor) in the activity in which the property is used or from a related person to a person (other than the taxpayer) having such an interest.

In the case of amounts borrowed by a corporation from a shareholder, subclause (II) shall not apply to an interest as a share−holder.(!1)

(iv) Qualified person

For purposes of this paragraph, the term "qualified person" means any person which is actively and regularly engaged in the business of lending money and which is not −

(I) a related person with respect to the taxpayer,

(II) a person from which the taxpayer acquired the property (or a related person to such person), or

(III) a person who receives a fee with respect to the taxpayer's investment in the property (or a related person to such person).

(v) Related person

For purposes of this subparagraph, the term "related person" has the meaning given such term by section 465(b)(3)(C). Except as otherwise provided in regulations prescribed by the Secretary, the determination of whether a person is a related person shall be made as of the close of the taxable year in which the property is placed in service.

(E) Application to partnerships and S corporations

For purposes of this paragraph and paragraph (2) −

(i) In general

Except as otherwise provided in this subparagraph, in the case of any partnership or S corporation, the determination of whether a partner's or shareholder's allocable share of any financing is nonqualified nonrecourse financing shall be made at the partner or shareholder level.

(ii) Special rule for certain recourse financing of S corporation

A shareholder of an S corporation shall be treated as liable for his allocable share of any financing provided by a qualified person to such corporation if −

(I) such financing is recourse financing (determined at the corporate level), and

(II) such financing is provided with respect to qualified business property of such corporation.

(iii) Qualified business property

For purposes of clause (ii), the term "qualified business property" means any property if −

(I) such property is used by the corporation in the active conduct of a trade or business,

(II) during the entire 12−month period ending on the last day of the taxable year, such corporation had at least 3 full−time employees who were not owner−employees (as defined in section 465(c)(7)(E)(i)) and substantially all the services of whom were services directly related to such trade or business, and

(III) during the entire 12−month period ending on the last day of such taxable year, such corporation had at least 1 full−time employee substantially all of the services of whom were in the active management of the trade or business.

(iv) Determination of allocable share

The determination of any partner's or shareholder's allocable share of any financing shall be made in the same manner as the credit allowable by section 38 with respect to such property.

(F) Special rules for energy property

Rules similar to the rules of subparagraph (F) of section 46(c)(8) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this paragraph.

(2) Subsequent decreases in nonqualified nonrecourse financing with respect to the property

(A) In general

If, at the close of a taxable year following the taxable year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be taken into account as an increase in the credit base for such property in accordance with subparagraph (C).

(B) Certain transactions not taken into account

For purposes of this paragraph, nonqualified nonrecourse financing shall not be treated as decreased through the surrender or other use of property financed by nonqualified nonrecourse financing.

(C) Manner in which taken into account

(i) Credit determined by reference to taxable year property placed in service

For purposes of determining the amount of credit allowable under section 38 and the amount of credit subject to the early disposition or cessation rules under section 50(a), any increase in a taxpayer's credit base for any property by reason of this paragraph shall be taken into account as if it were property placed in service by the taxpayer in the taxable year in which the property referred to in subparagraph (A) was first placed in service.

(ii) Credit allowed for year of decrease in nonqualified nonrecourse financing

Any credit allowable under this subpart for any increase in qualified investment by reason of this paragraph shall be treated as earned during the taxable year of the decrease in the amount of nonqualified nonrecourse financing.

(b) Increases in nonqualified nonrecourse financing

(1) In general

If, as of the close of the taxable year, there is a net increase with respect to the taxpayer in the amount of nonqualified nonrecourse financing (within the meaning of subsection (a)(1)) with respect to any property to which subsection (a)(1) applied, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from reducing the credit base (as defined in subsection (a)(1)(C)) taken into account with respect to such property by the amount of such net increase. For purposes of determining the amount of credit subject to the early disposition or cessation rules of section 50(a), the net increase in the amount of the nonqualified nonrecourse financing with respect to the property shall be treated as reducing the property's credit base in the year in which the property was first placed in service.

(2) Transfers of debt more than 1 year after initial borrowing not treated as increasing nonqualified nonrecourse financing

For purposes of paragraph (1), the amount of nonqualified nonrecourse financing (within the meaning of subsection (a)(1)(D)) with respect to the taxpayer shall not be treated as increased by reason of a transfer of (or agreement to transfer) any evidence of any indebtedness if such transfer occurs (or such agreement is entered into) more than 1 year after the date such indebtedness was incurred.

(3) Special rules for certain energy property

Rules similar to the rules of section 47(d)(3) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.

(4) Special rule

Any increase in tax under paragraph (1) shall not be treated as

tax imposed by this chapter for purposes of determining the

amount of any credit allowable under this chapter.

−SOURCE−

(Added Pub. L. 99−514, title II, Sec. 211(a), Oct. 22, 1986, 100

Stat. 2166; amended Pub. L. 100−647, title I, Sec. 1002(e)(1)−(3),

(8)(B), Nov. 10, 1988, 102 Stat. 3367, 3369; Pub. L. 101−508, title

XI, Sec. 11813(a), Nov. 5, 1990, 104 Stat. 1388−543; Pub. L.

105−206, title VI, Sec. 6004(g)(6), July 22, 1998, 112 Stat. 796.)

−REFTEXT−

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of

1990, referred to in subsecs. (a)(1)(F) and (b)(3), is the date of

enactment of Pub. L. 101−508, which was approved Nov. 5, 1990.

−MISC1−

PRIOR PROVISIONS

A prior section 49, Pub. L. 91−172, title VII, Sec. 703(a), Dec.

30, 1969, 83 Stat. 660; Pub. L. 92−178, title I, Sec.

101(b)(1)−(4), Dec. 10, 1971, 85 Stat. 498, 499, related to

termination of rules for computing credit for investment in certain

depreciable property for period beginning Apr. 19, 1969, and ending

during 1971, prior to repeal by Pub. L. 95−600, title III, Sec.

312(c)(1), Nov. 6, 1978, 92 Stat. 2826, applicable to taxable years

ending after Dec. 31, 1978.

AMENDMENTS

1998 − Subsec. (b)(4). Pub. L. 105−206 substituted "this chapter" for "subpart A, B, D, or G".

1990 − Pub. L. 101−508, Sec. 11813(a), amended section generally, substituting section catchline for one which read: "Termination of regular percentage" and in text substituting present provisions for provisions relating to the nonapplicability of the regular percentage to any property placed in service after Dec. 31, 1985, for purposes of determining the investment tax credit, exceptions to such rule, the 35 percent reduction in credit for taxable years after 1986, the full basis adjustment in determining investment tax credit, and the definition of transition property and treatment of progress expenditures.

1988 − Subsec. (c)(4)(B). Pub. L. 100−647, Sec. 1002(e)(2), substituted "years" for "year" in heading and amended text generally. Prior to amendment, text read as follows: "The amount of the reduction of the regular investment credit under paragraph (3)

−

"(i) may not be carried back to any taxable year, but

"(ii) shall be added to the carryforwards from the taxable year before applying paragraph (2)."

Subsec. (c)(5)(B)(i). Pub. L. 100−647, Sec. 1002(e)(3), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "The term 'regular investment credit' has the meaning given such term by section 48(o)".

Subsec. (c)(5)(C). Pub. L. 100−647, Sec. 1002(e)(8)(B), struck out subpar. (C) which related to portion of credits attributable to regular investment credit.

Subsec. (d)(1). Pub. L. 100−647, Sec. 1002(e)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "In the case of periods after December 31, 1985, section 48(q) (relating to basis adjustment to section 38 property) shall be applied with respect to transaction property −

"(A) by substituting '100 percent' for '50 percent' in paragraph (1), and

"(B) without regard to paragraph (4) thereof (relating to election of reduced credit in lieu of basis adjustment)."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105−206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105−34, to which such amendment relates, see section 6024 of Pub. L. 105−206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101−508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101−508, set out as a note under section 29 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1002(e)(1)−(3) of Pub. L. 100−647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99−514, to which such amendment relates, see section 1019(a) of Pub. L. 100−647, set out as a note under section 1 of this title.

Amendment by section 1002(e)(8)(B) of Pub. L. 100−647 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 1002(e)(8)(C) of Pub. L. 100−647, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 211(e) of Pub. L. 99−514, as amended by Pub. L. 100−647, title I, Sec. 1002(e)(4)−(7), Nov. 10, 1988, 102 Stat. 3367, 3368, provided that:

"(1) In general. − Except as provided in this subsection, the amendments made by this section [enacting this section and provisions set out below] shall apply to property placed in service after December 31, 1985, in taxable years ending after such date. Section 49(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to taxable years ending after June 30, 1987, and to amounts carried to such taxable years.

"(2) Exceptions for certain films. − For purposes of determining whether any property is transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986 −

"(A) in the case of any motion picture or television film, construction shall be treated as including production for purposes of section 203(b)(1) of this Act [enacting provisions set out as a note under section 168 of this title], and written contemporary evidence of an agreement (in accordance with industry practice) shall be treated as a written binding contract for such purposes,

"(B) in the case of any television film, a license agreement or agreement for production services between a television network and a producer shall be treated as a binding contract for purposes of section 203(b)(1)(A) of this Act, and

"(C) a motion picture film shall be treated as described in section 203(b)(1)(A) of this Act if −

"(i) funds were raised pursuant to a public offering before September 26, 1985, for the production of such film,

"(ii) 40 percent of the funds raised pursuant to such public offering are being spent on films the production of which commenced before such date, and

"(iii) all of the films funded by such public offering are required to be distributed pursuant to distribution agreements entered into before September 26, 1985.

"(3) Normalization rules. − The provisions of subsection (b) [see Normalization Rules note below] shall apply to any violation of the normalization requirements under paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1986 occurring in taxable years ending after December 31, 1985.

"(4) Additional exceptions. −

"(A) Subsections (c) and (d) of section 49 of the Internal

Revenue Code of 1986 shall not apply to any continuous caster facility for slabs and blooms which is subject to a lease and which is part of a project the second phase of which is a continuous slab caster which was placed in service before December 31, 1985.

"(B) For purposes of determining whether an automobile manufacturing facility (including equipment and incidental appurtenances) is transition property within the meaning of section 49(e), property with respect to which the Board of Directors of an automobile manufacturer formally approved the plan for the project on January 7, 1985 shall be treated as transition property and subsections (c) and (d) of section 49 of such Code shall not apply to such property, but only with respect to $70,000,000 of regular investment tax credits.

"(C) Any solid waste disposal facility which will process and incinerate solid waste of one or more public or private entities including Dakota County, Minnesota, and with respect to which a bond carryforward from 1985 was elected in an amount equal to $12,500,000 shall be treated as transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986.

"(D) For purposes of section 49 of such Code, the following property shall be treated as transition property:

"(i) 2 catamarans built by a shipbuilder incorporated in the State of Washington in 1964, the contracts for which were signed on April 22, 1986 and November 12, 1985, and 1 barge built by such shipbuilder the contract for which was signed on

August 7, 1985.

"(ii) 2 large passenger ocean−going United States flag cruise ships with a passenger rated capacity of up to 250 which are built by the shipbuilder described in clause (i), which are the first such ships built in the United States since 1952, and which were designed at the request of a Pacific Coast cruise line pursuant to a contract entered into in October 1985. This clause shall apply only to that portion of the cost of each ship which does not exceed $40,000,000.

"(iii) Property placed in service during 1986 by Satellite Industries, Inc., with headquarters in Minneapolis, Minnesota, to the extent that the cost of such property does not exceed $1,950,000.

"(E) Subsections (c) and (d) of section 49 of such Code shall not apply to property described in section 204(a)(4) of this Act [enacting provisions set out as a note under section 168 of this title]."

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101−508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101−508, set out as a note under section 29 of this title.

NORMALIZATION RULES

Section 211(b) of Pub. L. 99−514 provided that: "If, for any taxable year beginning after December 31, 1985, the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1986 are not met with respect to public utility property to which the regular percentage applied for purposes of determining the amount of the investment tax credit −

"(1) all credits for open taxable years as of the time of the final determination referred to in section 46(f)(4)(A) of such Code shall be recaptured, and

"(2) if the amount of the taxpayer's unamortized credits (or the credits not previously restored to rate base) with respect to such property (whether or not for open years) exceeds the amount referred to in paragraph (1), the taxpayer's tax for the taxable year shall be increased by the amount of such excess.

If any portion of the excess described in paragraph (2) is attributable to a credit which is allowable as a carryover to a taxable year beginning after December 31, 1985, in lieu of applying paragraph (2) with respect to such portion, the amount of such carryover shall be reduced by the amount of such portion. Rules similar to the rules of this subsection shall apply in the case of any property with respect to which the requirements of section 46(f)(9) of such Code are met."

EXCEPTION FOR CERTAIN AIRCRAFT USED IN ALASKA

Section 211(d) of Pub. L. 99−514 provided that:

"(1) The amendments made by subsection (a) [enacting this section and provisions set out above] shall not apply to property

originally placed in service after December 29, 1982, and before
August 1, 1985, by a corporation incorporated in Alaska on May 21,
1953, and used by it −
"(A) in part, for the transportation of mail for the United
States Postal Service in the State of Alaska, and
"(B) in part, to provide air service in the State of Alaska on
routes which had previously been served by an air carrier that
received compensation from the Civil Aeronautics Board for
providing service.
"(2) In the case of property described in subparagraph (A) −
"(A) such property shall be treated as recovery property
described in section 208(d)(5) of the Tax Equity and Fiscal
Responsibility Act of 1982 ('TEFRA') [section 208(d)(5) of Pub.
L. 97−248, enacting provisions set out as a note under section
168 of this title];
"(B) '48 months' shall be substituted for '3 months' each place
it appears in applying −
"(i) section 48(b)(2)(B) of the Code [26 U.S.C. 48(b)(2)(B)],
and
"(ii) section 168(f)(8)(D) of the Code [26 U.S.C.
168(f)(8)(D)] (as in effect after the amendments made by the
Technical Corrections Act of 1982 [Pub. L. 97−448] but before
the amendments made by TEFRA); and
"(C) the limitation of section 168(f)(8)(D)(ii)(III) (as then
in effect) shall be read by substituting 'the lessee's original
cost basis.', for 'the adjusted basis of the lessee at the time

of the lease.'

"(3) The aggregate amount of property to which this paragraph

shall apply shall not exceed $60,000,000."

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29, 42, 43, 465, 773,

1371 of this title.

−FOOTNOTE−

(!1) So in original. Probably should not be hyphenated.

−End−

−CITE−

26 USC Sec. 50 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart E − Rules for Computing Investment Credit

−HEAD−

Sec. 50. Other special rules

−STATUTE−

(a) Recapture in case of dispositions, etc.

Under regulations prescribed by the Secretary −

(1) Early disposition, etc.

(A) General rule

If, during any taxable year, investment credit property is

disposed of, or otherwise ceases to be investment credit

property with respect to the taxpayer, before the close of the

recapture period, then the tax under this chapter for such

taxable year shall be increased by the recapture percentage of

the aggregate decrease in the credits allowed under section 38

for all prior taxable years which would have resulted solely

from reducing to zero any credit determined under this subpart

with respect to such property.

(B) Recapture percentage

For purposes of subparagraph (A), the recapture percentage

shall be determined in accordance with the following table:

If the property ceases to be 2The recapture

investment credit property within −

percentage is:

−−

(i) One full year after placed in service 100

(ii) One full year after the close of the 80

period described in clause (i)

(iii) One full year after the close of the 60

period described in clause (ii)

(iv) One full year after the close of the 40

period described in clause (iii)

(v) One full year after the close of the 20

period described in clause (iv)

−−

(2) Property ceases to qualify for progress expenditures

(A) In general

If during any taxable year any building to which section 47(d) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be a qualified rehabilitated building, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the credit determined under this subpart with respect to such building.

(B) Certain excess credit recaptured

Any amount which would have been applied as a reduction under paragraph (2) of section 47(b) but for the fact that a reduction under such paragraph cannot reduce the amount taken into account under section 47(b)(1) below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year during which the building is placed in service.

(C) Certain sales and leasebacks

Under regulations prescribed by the Secretary, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom the rules referred to in subsection (d)(5) apply shall not be treated as a cessation described in subparagraph (A) to the extent that the amount which will be passed through to the lessee under such rules with respect to such property is not less than the qualified rehabilitation expenditures properly taken into account by the lessee under section 47(d) with respect to such property.

(D) Coordination with paragraph (1)

If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), then paragraph (1) shall be applied as if any credit which was allowable by reason of section 47(d) and which has not been required to be recaptured before such disposition, cessation, or change in use were allowable for the taxable year the property was placed in service.

(E) Special rules

Rules similar to the rules of this paragraph shall apply in cases where qualified progress expenditures were taken into account under the rules referred to in section 48(a)(5).

(3) Carrybacks and carryovers adjusted

In the case of any cessation described in paragraph (1) or (2), the carrybacks and carryovers under section 39 shall be adjusted by reason of such cessation.

(4) Subsection not to apply in certain cases

Paragraphs (1) and (2) shall not apply to −

(A) a transfer by reason of death, or

(B) a transaction to which section 381(a) applies.

For purposes of this subsection, property shall not be treated as ceasing to be investment credit property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as investment credit property and the taxpayer retains a substantial interest in such trade or business.

(5) Definitions and special rules

(A) Investment credit property

For purposes of this subsection, the term "investment credit property" means any property eligible for a credit determined under this subpart.

(B) Transfer between spouses or incident to divorce

In the case of any transfer described in subsection (a) of section 1041 −

(i) the foregoing provisions of this subsection shall not apply, and

(ii) the same tax treatment under this subsection with respect to the transferred property shall apply to the transferee as would have applied to the transferor.

(C) Special rule

Any increase in tax under paragraph (1) or (2) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this chapter.

(b) Certain property not eligible

No credit shall be determined under this subpart with respect to −

(1) Property used outside United States

(A) In general

Except as provided in subparagraph (B), no credit shall be determined under this subpart with respect to any property which is used predominantly outside the United States.

(B) Exceptions

Subparagraph (A) shall not apply to any property described in section 168(g)(4).

(2) Property used for lodging

No credit shall be determined under this subpart with respect to any property which is used predominantly to furnish lodging or in connection with the furnishing of lodging. The preceding sentence shall not apply to −

(A) nonlodging commercial facilities which are available to persons not using the lodging facilities on the same basis as they are available to persons using the lodging facilities.(!1)

(B) property used by a hotel or motel in connection with the trade or business of furnishing lodging where the predominant portion of the accommodations is used by transients;

(C) a certified historic structure to the extent of that portion of the basis which is attributable to qualified rehabilitation expenditures; and

(D) any energy property.

(3) Property used by certain tax−exempt organization

No credit shall be determined under this subpart with respect to any property used by an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter unless such property is used predominantly in an unrelated trade or business the income of which is subject to tax under section 511. If the property is debt−financed property (as defined in section 514(b)), the amount taken into account for purposes of determining the amount of the credit under this subpart with respect to such property shall be that percentage of the amount (which but for this paragraph would be so taken into account) which is the same percentage as is used under section 514(a), for the year the property is placed in service, in computing the amount of gross income to be taken into account during such taxable year with respect to such property. If any qualified rehabilitated building is used by the tax−exempt organization pursuant to a lease, this paragraph shall not apply for purposes of determining the amount of the rehabilitation credit.

(4) Property used by governmental units or foreign persons or entities

(A) In general

No credit shall be determined under this subpart with respect to any property used −

(i) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

(ii) by any foreign person or entity (as defined in section 168(h)(2)(C)), but only with respect to property to which section 168(h)(2)(A)(iii) applies (determined after the application of section 168(h)(2)(B)).

(B) Exception for short−term leases

This paragraph and paragraph (3) shall not apply to any property by reason of use under a lease with a term of less than 6 months (determined under section 168(i)(3)).

(C) Exception for qualified rehabilitated buildings leased to governments, etc.

If any qualified rehabilitated building is leased to a governmental unit (or a foreign person or entity) this paragraph shall not apply for purposes of determining the rehabilitation credit with respect to such building.

(D) Special rules for partnerships, etc.

For purposes of this paragraph and paragraph (3), rules similar to the rules of paragraphs (5) and (6) of section 168(h) shall apply.

(E) Cross reference

For special rules for the application of this paragraph and paragraph (3), see section 168(h).

(c) Basis adjustment to investment credit property

(1) In general

For purposes of this subtitle, if a credit is determined under this subpart with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

(2) Certain dispositions

If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term "recapture amount" means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (a).

(3) Special rule

In the case of any energy credit or reforestation credit −

(A) only 50 percent of such credit shall be taken into account under paragraph (1), and

(B) only 50 percent of any recapture amount attributable to such credit shall be taken into account under paragraph (2).

(4) Recapture of reductions

(A) In general

For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

(B) Special rule for section 1250

For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section.

(5) Adjustment in basis of interest in partnership or S corporation

The adjusted basis of −

(A) a partner's interest in a partnership, and

(B) stock in an S corporation,

shall be appropriately adjusted to take into account adjustments made under this subsection in the basis of property held by the partnership or S corporation (as the case may be).

(d) Certain rules made applicable

For purposes of this subpart, rules similar to the rules of the following provisions (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply:

(1) Section 46(e) (relating to limitations with respect to certain persons).

(2) Section 46(f) (relating to limitation in case of certain regulated companies).

(3) Section 46(h) (relating to special rules for cooperatives).

(4) Paragraphs (2) and (3) of section 48(b) (relating to special rule for sale−leasebacks).

(5) Section 48(d) (relating to certain leased property).

(6) Section 48(f) (relating to estates and trusts).

(7) Section 48(r) (relating to certain 501(d) organizations).

Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.

−SOURCE−

(Added Pub. L. 101−508, title XI, Sec. 11813(a), Nov. 5, 1990, 104 Stat. 1388−546; amended Pub. L. 104−188, title I, Secs. 1616(b)(1), 1702(h)(11), 1704(t)(29), Aug. 20, 1996, 110 Stat. 1856, 1874, 1889; Pub. L. 105−206, title VI, Sec. 6004(g)(7), July 22, 1998, 112 Stat. 796.)

−REFTEXT−

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (d), is the date of enactment of Pub. L. 101−508, which was approved Nov. 5, 1990.

−MISC1−

PRIOR PROVISIONS

A prior section 50, Pub. L. 92−178, title I, Sec. 101(a), Dec. 10, 1971, 85 Stat. 498, related to restoration of credit for investment in certain depreciable property, prior to repeal by Pub. L. 95−600, title III, Sec. 312(c)(1), Nov. 6, 1978, 92 Stat. 2826, applicable to taxable years ending after Dec. 31, 1978.

AMENDMENTS

1998 − Subsec. (a)(5)(C). Pub. L. 105−206 substituted "this chapter" for "subpart A, B, D, or G".

1996 − Subsec. (a)(2)(C). Pub. L. 104−188, Sec. 1704(t)(29), substituted "subsection (d)(5)" for "subsection (c)(4)".

Subsec. (a)(2)(E). Pub. L. 104−188, Sec. 1702(h)(11), substituted "48(a)(5)" for "48(a)(5)(A)".

Subsec. (d). Pub. L. 104−188, Sec. 1616(b)(1), inserted closing provisions.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105−206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105−34, to which such amendment relates, see section 6024 of Pub. L. 105−206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1616(b)(1) of Pub. L. 104−188 applicable to taxable years beginning after Dec. 31, 1995, see section 1616(c) of Pub. L. 104−188, set out as a note under section 593 of this title.

Amendment by section 1702(h)(11) of Pub. L. 104−188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101−508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104−188, set out as a note under section 38 of this title.

EFFECTIVE DATE

Section applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101−508, set out as an Effective Date of 1990 Amendment note under section 29 of this title.

SAVINGS PROVISION

For provisions that nothing in this section be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101−508, set out as a note under section 29 of this title.

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29, 30, 47, 49, 55, 179, 179A, 196, 312, 774, 1371, 1503 of this title.

−FOOTNOTE−

(!1) So in original. The period probably should be a semicolon.

−End−

−CITE−

26 USC [Secs. 50A, 50B 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart E − Rules for Computing Investment Credit

−HEAD−

[Secs. 50A, 50B. Repealed. Pub. L. 98−369, div. A, title IV, Sec. 474(m)(2), July 18, 1984, 98 Stat. 833]

−MISC1−

Section 50A, added Pub. L. 92−178, title VI, Sec. 601(b), Dec. 10, 1971, 85 Stat. 554; amended Pub. L. 93−406, title II, Secs. 2001(g)(2)(B), 2002(g)(2), 2005(c)(4), Sept. 2, 1974, 88 Stat. 957, 968, 991; Pub. L. 94−12, title IV, Sec. 401(a)(1), (2), Mar. 29, 1975, 89 Stat. 45; Pub. L. 94−401, Sec. 4(a), Sept. 7, 1976, 90 Stat. 1217; Pub. L. 94−455, title V, Sec. 503(b)(4), title XIX, Secs. 1901(a)(6), (b)(1)(D), 1906(b)(13)(A), title XXI, Sec. 2107(a)(1)−(3), (b), (c), Oct. 4, 1976, 90 Stat. 1562, 1765, 1790, 1834, 1903, 1904; Pub. L. 95−600, title III, Sec. 322(a)−(c), Nov. 6, 1978, 92 Stat. 2836, 2837; Pub. L. 96−178, Sec. 6(c)(1), Jan. 2, 1980, 93 Stat. 1298; Pub. L. 96−222, title I, Sec. 103(a)(7)(D)(i), Apr. 1, 1980, 94 Stat. 211; Pub. L. 97−34, title II, Sec. 207(c)(1), Aug. 13, 1981, 95 Stat. 225; Pub. L. 97−248, title I, Sec. 265(b)(2)(A)(ii), Sept. 3, 1982, 96 Stat. 547; Pub. L. 97−354, Sec. 5(a)(9), Oct. 19, 1982, 96 Stat. 1693, provided for a credit for expenses of work incentive programs, for the determination of the amount of that credit, and for the carryover and carryback of unused credit.

Section 50B, added Pub. L. 92−178, title VI, Sec. 601(b), Dec. 10, 1971, 85 Stat. 556; amended Pub. L. 94−12, title III, Sec. 302(c)(4), title IV, Sec. 401(a)(3)−(5), Mar. 29, 1975, 89 Stat. 44, 46; Pub. L. 94−401, Sec. 4(b), Sept. 7, 1976, 90 Stat. 1218; Pub. L. 94−455, title XIX, Sec. 1906(b)(13)(A), title XXI, Sec. 2107(a)(4), (d)−(f), Oct. 4, 1976, 90 Stat. 1834, 1903, 1904; Pub. L. 95−171, Sec. 1(e), Nov. 12, 1977, 91 Stat. 1353; Pub. L. 95−600, title III, Sec. 322(d), Nov. 6, 1978, 92 Stat. 2837; Pub. L.

96−178, Secs. 3(a)(1), (3), 6(c)(2), (3), Jan. 2, 1980, 93 Stat. 1295, 1298; Pub. L. 96−222, title I, Sec. 103(a)(5), (7)(C), (D)(ii), (iii), Apr. 1, 1980, 94 Stat. 209, 211; Pub. L. 96−272, title II, Sec. 208(b)(1), (2), June 17, 1980, 94 Stat. 526, 527; Pub. L. 97−34, title II, Sec. 261(b)(2)(B)(i), Aug. 13, 1981, 95 Stat. 261; Pub. L. 97−354, Sec. 5(a)(10), Oct. 19, 1982, 96 Stat. 1693; Pub. L. 101−239, title VII, Sec. 7644, Dec. 19, 1989, 103 Stat. 2381, provided for the definition of terms related to the expenses of work incentive programs, limitations on such expenses, and special rules to be applied in connection with the computation of the credit.

Subsequent to repeal, Pub. L. 101−239, title VII, Sec. 7644(a), Dec. 19, 1989, 103 Stat. 2381, provided that:

"(a) In General. − So much of subparagraph (A) of section 50B(h)(1) of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1982) as precedes clause (i) thereof is amended to read as follows:

" '(A) who has been certified (or for whom a written request for certification has been made) on or before the day the individual began work for the taxpayer by the Secretary of Labor or by the appropriate agency of State or local government as − '.

"(b) Effective Date. − The amendment made by subsection (a) shall apply for purposes of credits first claimed after March 11, 1987."

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L.

98−369, set out as an Effective Date of 1984 Amendment note under

section 21 of this title.

−End−

−CITE−

26 USC Subpart F − Rules for Computing Work Opportunity

Credit 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart F − Rules for Computing Work Opportunity Credit

−HEAD−

SUBPART F − RULES FOR COMPUTING WORK OPPORTUNITY CREDIT

−MISC1−

Sec.

51. Amount of credit.

51A. Temporary incentives for employing long−term family

assistance recipients.

52. Special rules.

AMENDMENTS

1997 − Pub. L. 105−34, title VIII, Sec. 801(b), Aug. 5, 1997, 111

Stat. 871, added item 51A.

1996 − Pub. L. 104−188, title I, Sec. 1201(e)(2), Aug. 20, 1996,

110 Stat. 1772, substituted "Work Opportunity Credit" for "Targeted

Jobs Credit" in subpart heading.

1984 − Pub. L. 98−369, div. A, title IV, Sec. 474(n)(1), (2),

(p)(9), July 18, 1984, 98 Stat. 833, 838, substituted "F" for "D"

as subpart designation, substituted "Rules for Computing Targeted

Jobs Credit" for "Rules for Computing Credit for Employment of

Certain New Employees" in heading, and struck out item 53

"Limitation based on amount of tax".

−SECREF−

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 53, 1400L of this title.

−End−

−CITE−

26 USC Sec. 51 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart F − Rules for Computing Work Opportunity Credit

−HEAD−

Sec. 51. Amount of credit

−STATUTE−

(a) Determination of amount

For purposes of section 38, the amount of the work opportunity

credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first−year wages for such

year.

(b) Qualified wages defined

For purposes of this subpart −

(1) In general

The term "qualified wages" means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

(2) Qualified first−year wages

The term "qualified first−year wages" means, with respect to any individual, qualified wages attributable to service rendered during the 1−year period beginning with the day the individual begins work for the employer.

(3) Only first $6,000 of wages per year taken into account

The amount of the qualified first−year wages which may be taken into account with respect to any individual shall not exceed $6,000 per year.

(c) Wages defined

For purposes of this subpart −

(1) In general

Except as otherwise provided in this subsection and subsection (h)(2), the term "wages" has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

(2) On−the−job training and work supplementation payments

(A) Exclusion for employers receiving on−the−job training payments

The term "wages" shall not include any amounts paid or

incurred by an employer for any period to any individual for

whom the employer receives federally funded payments for

on−the−job training of such individual for such period.

(B) Reduction for work supplementation payments to employers

The amount of wages which would (but for this subparagraph)

be qualified wages under this section for an employer with

respect to an individual for a taxable year shall be reduced by

an amount equal to the amount of the payments made to such

employer (however utilized by such employer) with respect to

such individual for such taxable year under a program

established under section 482(e) (!1) of the Social Security

Act.

(3) Payments for services during labor disputes

If −

(A) the principal place of employment of an individual with

the employer is at a plant or facility, and

(B) there is a strike or lockout involving employees at such

plant or facility,

the term "wages" shall not include any amount paid or incurred by

the employer to such individual for services which are the same

as, or substantially similar to, those services performed by

employees participating in, or affected by, the strike or lockout

during the period of such strike or lockout.

(4) Termination

The term "wages" shall not include any amount paid or incurred

to an individual who begins work for the employer −

(A) after December 31, 1994, and before October 1, 1996, or

(B) after December 31, 2003.

(d) Members of targeted groups

For purposes of this subpart −

(1) In general

An individual is a member of a targeted group if such

individual is −

(A) a qualified IV−A recipient,

(B) a qualified veteran,

(C) a qualified ex−felon,

(D) a high−risk youth,

(E) a vocational rehabilitation referral,

(F) a qualified summer youth employee,

(G) a qualified food stamp recipient, or

(H) a qualified SSI recipient.

(2) Qualified IV−A recipient

(A) In general

The term "qualified IV−A recipient" means any individual who

is certified by the designated local agency as being a member

of a family receiving assistance under a IV−A program for any 9

months during the 18−month period ending on the hiring date.

(B) IV−A program

For purposes of this paragraph, the term "IV−A program" means

any program providing assistance under a State program funded under part A of title IV of the Social Security Act and any successor of such program.

(3) Qualified veteran

(A) In general

The term "qualified veteran" means any veteran who is certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3−month period ending during the 12−month period ending on the hiring date.

(B) Veteran

For purposes of subparagraph (A), the term "veteran" means any individual who is certified by the designated local agency as −

(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

(II) having been discharged or released from active duty in the Armed Forces of the United States for a service−connected disability, and

(ii) not having any day during the 60−day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term "extended active duty" means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

(4) Qualified ex−felon

The term "qualified ex−felon" means any individual who is

certified by the designated local agency −

(A) as having been convicted of a felony under any statute of

the United States or any State,

(B) as having a hiring date which is not more than 1 year

after the last date on which such individual was so convicted

or was released from prison, and

(C) as being a member of a family which had an income during

the 6 months immediately preceding the earlier of the month in

which such income determination occurs or the month in which

the hiring date occurs, which, on an annual basis, would be 70

percent or less of the Bureau of Labor Statistics lower living

standard.

Any determination under subparagraph (C) shall be valid for the

45−day period beginning on the date such determination is made.

(5) High−risk youth

(A) In general

The term "high−risk youth" means any individual who is

certified by the designated local agency −

(i) as having attained age 18 but not age 25 on the hiring

date, and

(ii) as having his principal place of abode within an

empowerment zone, enterprise community, or renewal community.

(B) Youth must continue to reside in zone or community

In the case of a high−risk youth, the term "qualified wages"

shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.

(6) Vocational rehabilitation referral

The term "vocational rehabilitation referral" means any individual who is certified by the designated local agency as −

(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to −

(i) an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

(7) Qualified summer youth employee

(A) In general

The term "qualified summer youth employee" means any individual −

(i) who performs services for the employer between May 1 and September 15,

(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

(iii) who has not been an employee of the employer during any period prior to the 90−day period described in subparagraph (B)(i), and

(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

(B) Special rules for determining amount of credit

For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee −

(i) subsection (b)(2) shall be applied by substituting "any 90−day period between May 1 and September 15" for "the 1−year period beginning with the day the individual begins work for the employer", and

(ii) subsection (b)(3) shall be applied by substituting "$3,000" for "$6,000".

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

(C) Youth must continue to reside in zone or community

Paragraph (5)(B) shall apply for purposes of subparagraph (A)(iv).

(8) Qualified food stamp recipient

(A) In general

The term "qualified food stamp recipient" means any individual who is certified by the designated local agency −

(i) as having attained age 18 but not age 25 on the hiring date, and

(ii) as being a member of a family −

(I) receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6−month period ending on the hiring date, or

(II) receiving such assistance for at least 3 months of the 5−month period ending on the hiring date, in the case of a member of a family who ceases to be eligible for such assistance under section 6(o) of the Food Stamp Act of 1977.

(B) Participation information

Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Agriculture shall enter into an agreement to provide information to designated local agencies with respect to participation in the food stamp program.

(9) Qualified SSI recipient

The term "qualified SSI recipient" means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93−66) for any month ending within the 60−day period ending on the hiring date.

(10) Hiring date

The term "hiring date" means the day the individual is hired by the employer.

(11) Designated local agency

The term "designated local agency" means a State employment

security agency established in accordance with the Act of June 6,

1933, as amended (29 U.S.C. 49−49n).

(12) Special rules for certifications

(A) In general

An individual shall not be treated as a member of a targeted

group unless −

(i) on or before the day on which such individual begins

work for the employer, the employer has received a

certification from a designated local agency that such

individual is a member of a targeted group, or

(ii)(I) on or before the day the individual is offered

employment with the employer, a pre−screening notice is

completed by the employer with respect to such individual,

and

(II) not later than the 21st day after the individual

begins work for the employer, the employer submits such

notice, signed by the employer and the individual under

penalties of perjury, to the designated local agency as part

of a written request for such a certification from such

agency.

For purposes of this paragraph, the term "pre−screening notice"

means a document (in such form as the Secretary shall

prescribe) which contains information provided by the

individual on the basis of which the employer believes that the individual is a member of a targeted group.

(B) Incorrect certifications

If −

(i) an individual has been certified by a designated local agency as a member of a targeted group, and

(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

(C) Explanation of denial of request

If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial.

[(e) Repealed. Pub. L. 97−34, title II, Sec. 261(e)(1), Aug. 13, 1981, 95 Stat. 262]

(f) Remuneration must be for trade or business employment

(1) In general

For purposes of this subpart, remuneration paid by an employer to an employee during any taxable year shall be taken into account only if more than one−half of the remuneration so paid is for services performed in a trade or business of the employer.

(2) Special rule for certain determination

Any determination as to whether paragraph (1), or subparagraph

(A) or (B) of subsection (h)(1), applies with respect to any employee for any taxable year shall be made without regard to subsections (a) and (b) of section 52.

(g) United States Employment Service to notify employers of availability of credit

The United States Employment Service, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of the availability of the work opportunity credit determined under this subpart.

(h) Special rules for agricultural labor and railway labor

For purposes of this subpart −

(1) Unemployment insurance wages

(A) Agricultural labor

If the services performed by any employee for an employer during more than one−half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term "unemployment insurance wages" means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes "wages" within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

(B) Railway labor

If more than one−half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term "unemployment insurance wages" means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month.

(2) Wages

In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term "wages" means unemployment insurance wages (determined without regard to any dollar limitation).

(i) Certain individuals ineligible

(1) Related individuals

No wages shall be taken into account under subsection (a) with respect to an individual who −

(A) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation, or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity,(!2) (determined with the application of section 267(c)),

(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) is a dependent (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(2) Nonqualifying rehires

No wages shall be taken into account under subsection (a) with respect to any individual if, prior to the hiring date of such individual, such individual had been employed by the employer at any time.

(3) Individuals not meeting minimum employment periods

(A) Reduction of credit for individuals performing fewer than 400 hours of service

In the case of an individual who has performed at least 120 hours, but less than 400 hours, of service for the employer, subsection (a) shall be applied by substituting "25 percent" for "40 percent".

(B) Denial of credit for individuals performing fewer than 120 hours of service

No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has performed at least 120 hours of service for the employer.

(j) Election to have work opportunity credit not apply

(1) In general

A taxpayer may elect to have this section not apply for any taxable year.

(2) Time for making election

An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3−year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

(3) Manner of making election

An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.

(k) Treatment of successor employers; treatment of employees performing services for other persons

(1) Treatment of successor employers

Under regulations prescribed by the Secretary, in the case of a successor employer referred to in section 3306(b)(1), the determination of the amount of the credit under this section with respect to wages paid by such successor employer shall be made in the same manner as if such wages were paid by the predecessor employer referred to in such section.

(2) Treatment of employees performing services for other persons

No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by such employee for another person unless the amount reasonably expected to be received by the employer for such services from such other person exceeds the remuneration paid by the employer to such employee for such services.

−SOURCE−

(Added Pub. L. 95−30, title II, Sec. 202(b), May 23, 1977, 91 Stat. 141; amended Pub. L. 95−600, title III, Sec. 321(a), Nov. 6, 1978, 92 Stat. 2830; Pub. L. 96−222, title I, Sec. 103(a)(6)(A), (E), (F), (G)(iii)−(ix), Apr. 1, 1980, 94 Stat. 209, 210; Pub. L. 97−34, title II, Sec. 261(a)−(b)(2)(A), (B)(ii)−(f)(1), Aug. 13, 1981, 95 Stat. 260−262; Pub. L. 97−248, title II, Sec. 233(a)−(d), (f), Sept. 3, 1982, 96 Stat. 501, 502; Pub. L. 97−448, title I, Sec. 102(l)(1), (3), (4), Jan. 12, 1983, 96 Stat. 2374; Pub. L. 98−369, div. A, title IV, Sec. 474(p)(1)−(3), title VII, Sec. 712(n), title X, Sec. 1041(a), (c)(1)−(4), div. B, title VI, Secs. 2638(b), 2663(j)(5)(A), July 18, 1984, 98 Stat. 837, 955, 1042, 1043, 1144, 1171; Pub. L. 99−514, title XVII, Sec. 1701(a)−(c), title XVIII, Sec. 1878(f)(1), Oct. 22, 1986, 100 Stat. 2772, 2904; Pub. L. 100−203, title X, Sec. 10601(a), Dec. 22, 1987, 101 Stat. 1330−451; Pub. L. 100−485, title II, Sec. 202(c)(6), Oct. 13, 1988, 102 Stat. 2378; Pub. L. 100−647, title I, Sec. 1017(a), title IV, Sec. 4010(a), (c)(1), (d)(1), Nov. 10, 1988, 102 Stat. 3575, 3655; Pub. L. 101−239, title VII, Sec. 7103(a), (c)(1), Dec. 19, 1989, 103 Stat. 2305; Pub. L. 101−508, title XI, Sec. 11405(a), Nov. 5, 1990, 104 Stat. 1388−473; Pub. L. 102−227, title I, Sec. 105(a), Dec. 11, 1991, 105 Stat. 1687; Pub. L. 103−66, title XIII, Secs. 13102(a), 13302(d), Aug. 10, 1993, 107 Stat. 420, 556; Pub. L. 104−188, title

I, Sec. 1201(a)−(e)(1), (5), (f), Aug. 20, 1996, 110 Stat.

1768−1772; Pub. L. 104−193, title I, Sec. 110(l)(1), Aug. 22, 1996,

110 Stat. 2173; Pub. L. 105−33, title V, Sec. 5514(a)(1), Aug. 5,

1997, 111 Stat. 620; Pub. L. 105−34, title VI, Sec. 603(a)−(d),

Aug. 5, 1997, 111 Stat. 862; Pub. L. 105−277, div. J, title I, Sec.

1002(a), title IV, Sec. 4006(c)(1), Oct. 21, 1998, 112 Stat.

2681−888, 2681−912; Pub. L. 106−170, title V, Sec. 505(a), (b),

Dec. 17, 1999, 113 Stat. 1921; Pub. L. 106−554, Sec. 1(a)(7) [title

I, Sec. 102(a)−(c), title III, Sec. 316(a)], Dec. 21, 2000, 114

Stat. 2763, 2763A−600, 2763A−644; Pub. L. 107−147, title VI, Sec.

604(a), Mar. 9, 2002, 116 Stat. 59.)

−REFTEXT−

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c)(2)(B) and

(d)(2)(B), (9), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as

amended. Part A of title IV of the Act is classified generally to

part A (Sec. 601 et seq.) of subchapter IV of chapter 7 of Title

42, The Public Health and Welfare. Title XVI of the Act is

classified generally to subchapter XVI (Sec. 1381 et seq.) of

chapter 7 of Title 42. Section 482 of the Act, which was classified

to section 682 of Title 42, was repealed by Pub. L. 104−193, title

I, Sec. 108(e), Aug. 22, 1996, 110 Stat. 2167. Section 1616 of the

Act is classified to section 1382e of Title 42. For complete

classification of this Act to the Code, see section 1305 of Title

42 and Tables.

The Food Stamp Act of 1977, referred to in subsec. (d)(3)(A), (8)(A)(ii), is Pub. L. 88−525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (Sec. 2011 et seq.) of Title 7, Agriculture. Section 6(o) of the Act is classified to section 2015(o) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d)(6)(B)(i), is Pub. L. 93−112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (Sec. 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Section 212 of Public Law 93−66, referred to in subsec. (d)(9), is set out as a note under section 1382 of Title 42, The Public Health and Welfare.

Act of June 6, 1933, referred to in subsec. (d)(11), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, popularly known as the Wagner−Peyser Act, which is classified generally to chapter 4B (Sec. 49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

−MISC1−

PRIOR PROVISIONS

A prior section 51, added Pub. L. 90−364, title I, Sec. 102(a), June 28, 1968, 82 Stat. 252; amended Pub. L. 91−53, Sec. 5(a), Aug. 7, 1969, 83 Stat. 93; Pub. L. 91−172, title III, Sec. 301(b)(5), title VII, Sec. 701(a), Dec. 30, 1969, 83 Stat. 585, 657, related to the imposition of a tax surcharge, prior to repeal by Pub. L. 94−455, title XIX, Sec. 1901(a)(7), Oct. 4, 1976, 90 Stat. 1765.

AMENDMENTS

2002 − Subsec. (c)(4)(B). Pub. L. 107−147 substituted "2003" for "2001".

2000 − Subsec. (d)(2)(B). Pub. L. 106−554, Sec. 1(a)(7) [title III, Sec. 316(a)], substituted "program funded" for "plan approved" and struck out "(relating to assistance for needy families with minor children)" after "Social Security Act".

Subsec. (d)(5)(A)(ii). Pub. L. 106−554, Sec. 1(a)(7) [title I, Sec. 102(a)], substituted "empowerment zone, enterprise community, or renewal community" for "empowerment zone or enterprise community".

Subsec. (d)(5)(B). Pub. L. 106−554, Sec. 1(a)(7) [title I, Sec. 102(a), (c)], inserted "or community" after "zone" in heading and substituted "empowerment zone, enterprise community, or renewal community" for "empowerment zone or enterprise community" in text.

Subsec. (d)(7)(A)(iv). Pub. L. 106−554, Sec. 1(a)(7) [title I, Sec. 102(b)], substituted "empowerment zone, enterprise community, or renewal community" for "empowerment zone or enterprise community".

Subsec. (d)(7)(C). Pub. L. 106−554, Sec. 1(a)(7) [title I, Sec. 102(c)], inserted "or community" after "zone" in heading.

1999 − Subsec. (c)(4)(B). Pub. L. 106−170, Sec. 505(a), substituted "December 31, 2001" for "June 30, 1999".

Subsec. (i)(2). Pub. L. 106−170, Sec. 505(b), struck out "during which he was not a member of a targeted group" before period at end.

1998 − Subsec. (c)(4)(B). Pub. L. 105−277, Sec. 1002(a), substituted "June 30, 1999" for "June 30, 1998".

Subsec. (d)(6)(B)(i). Pub. L. 105−277, Sec. 4006(c)(1), substituted "plan for employment" for "rehabilitation plan".

1997 − Subsec. (a). Pub. L. 105−34, Sec. 603(d)(1), substituted "40 percent" for "35 percent".

Subsec. (c)(4)(B). Pub. L. 105−34, Sec. 603(a), substituted "June 30, 1998" for "September 30, 1997".

Subsec. (d)(1)(H). Pub. L. 105−34, Sec. 603(c)(1), added subpar. (H).

Subsec. (d)(2)(A). Pub. L. 105−34, Sec. 603(b)(1), substituted "for any 9 months during the 18−month period ending on the hiring date" for "for at least a 9−month period ending during the 9−month period ending on the hiring date".

Subsec. (d)(3)(A). Pub. L. 105−34, Sec. 603(b)(2), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: "The term 'qualified veteran' means any veteran who is certified by the designated local agency as being −

"(i) a member of a family receiving assistance under a IV−A program (as defined in paragraph (2)(B)) for at least a 9−month period ending during the 12−month period ending on the hiring date, or

"(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3−month period ending during the 12−month period ending on the hiring date."

Subsec. (d)(9). Pub. L. 105−34, Sec. 603(c)(2), added par. (9). Former par. (9) redesignated (10).

Pub. L. 105−33 repealed Pub. L. 104−193, Sec. 110(l)(1). See 1996 Amendment note below.

Subsec. (d)(10) to (12). Pub. L. 105−34, Sec. 603(c)(2), redesignated pars. (9) to (11) as (10) to (12), respectively.

Subsec. (i)(3). Pub. L. 105−34, Sec. 603(d)(2), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: "No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either −

"(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

"(B) has completed at least 400 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer."

1996 − Subsec. (a). Pub. L. 104−188, Sec. 1201(a), (e)(1), substituted "work opportunity credit" for "targeted jobs credit" and "35 percent" for "40 percent".

Subsec. (c)(1). Pub. L. 104−188, Sec. 1201(f), struck out ", subsection (d)(8)(D)," after "this subsection".

Subsec. (c)(4). Pub. L. 104−188, Sec. 1201(d), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

"Termination. − The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 1994."

Subsec. (d). Pub. L. 104−188, Sec. 1201(b), reenacted heading without change and amended text generally, revising and restating as pars. (1) to (11) provisions formerly contained in pars. (1) to (16).

Subsec. (d)(9). Pub. L. 104−193, Sec. 110(l)(1), which directed amendment of par. (9) by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90−day period which immediately precedes the date on which such individual is hired by the employer.", was repealed by Pub. L. 105−33.

Subsec. (g). Pub. L. 104−188, Sec. 1201(e)(1), substituted "work opportunity credit" for "targeted jobs credit".

Subsec. (i)(3). Pub. L. 104−188, Sec. 1201(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

"Individuals not meeting minimum employment period. − No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either −

"(A) is employed by the employer at least 90 days (14 days in the case of an individual described in subsection (d)(12)), or

"(B) has completed at least 120 hours (20 hours in the case of an individual described in subsection (d)(12)) of services performed for the employer."

Subsec. (j). Pub. L. 104−188, Sec. 1201(e)(5), substituted "Work opportunity credit" for "Targeted jobs credit" in heading.

1993 − Subsec. (c)(4). Pub. L. 103−66, Sec. 13102(a), substituted "December 31, 1994" for "June 30, 1992".

Subsec. (i)(1)(A). Pub. L. 103−66, Sec. 13302(d), inserted ", or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity," after "of the corporation".

1991 − Subsec. (c)(4). Pub. L. 102−227 substituted "June 30, 1992" for "December 31, 1991".

1990 − Subsec. (c)(4). Pub. L. 101−508 substituted "December 31, 1991" for "September 30, 1990".

1989 − Subsec. (c)(4). Pub. L. 101−239, Sec. 7103(a), substituted "September 30, 1990" for "December 31, 1989".

Subsec. (d)(16)(C). Pub. L. 101−239, Sec. 7103(c)(1), added subpar. (C).

1988 − Subsec. (c)(2)(B). Pub. L. 100−485 substituted "section 482(e)" for "section 414".

Subsec. (c)(4). Pub. L. 100−647, Sec. 4010(a), substituted "1989" for "1988".

Subsec. (d)(3)(B). Pub. L. 100−647, Sec. 4010(c)(1), substituted "age 23" for "age 25".

Subsec. (d)(12)(B). Pub. L. 100−647, Sec. 4010(d)(1), redesignated former cls. (ii) and (iii) as (i) and (ii), respectively, and struck out former cl. (i) which provided that subsection (a) shall be applied by substituting "85 percent" for

"40 percent".

Pub. L. 100−647, Sec. 1017(a), substituted "subsection (a)" for "subsection (a)(1)" in cl. (i).

1987 − Subsec. (c)(3), (4). Pub. L. 100−203 added par. (3) and redesignated former par. (3) as (4).

1986 − Subsec. (a). Pub. L. 99−514, Sec. 1701(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be the sum of −

"(1) 50 percent of the qualified first−year wages for such year, and

"(2) 25 percent of the qualified second−year wages for such year."

Subsec. (b)(3), (4). Pub. L. 99−514, Sec. 1701(b)(2)(A), redesignated par. (4) as (3) and struck out ", and the amount of the qualified second−year wages," after "first−year wages" and struck out par. (3) which defined "qualified second−year wages".

Subsec. (c)(3). Pub. L. 99−514, Sec. 1701(a), substituted "December 31, 1988" for "December 31, 1985".

Subsec. (d)(12)(B). Pub. L. 99−514, Sec. 1701(b)(2)(B), in cl. (i), substituted "40 percent" for "50 percent", struck out cl. (ii) which directed that subsecs. (a)(2) and (b)(3) were not to apply, redesignated cl. (iii) as cl. (ii), redesignated cl. (iv) as cl. (iii), and in cl. (iii) as so redesignated substituted "subsection (b)(3)" for "subsection (b)(4)".

Subsec. (i)(3). Pub. L. 99−514, Sec. 1701(c), added par. (3).

Subsec. (k). Pub. L. 99−514, Sec. 1878(f)(1), redesignated subsec. (j) added by section 1041(c)(1) of Pub. L. 98−369 and relating to treatment of successor employers, and employees performing services for other persons, as subsec. (k).

1984 − Subsec. (a). Pub. L. 98−369, Sec. 474(p)(1), substituted "For purposes of section 38, the amount of the targeted jobs credit determined under this section" for "The amount of the credit allowable by section 44B" in introductory provisions.

Subsec. (b)(2). Pub. L. 98−369, Sec. 1041(c)(4), struck out "(or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan)" after "begins work for the employer".

Subsec. (c)(2). Pub. L. 98−369, Sec. 2638(b), designated existing provisions as subpar. (A), inserted par. (2) heading, and added subpar. (B).

Subsec. (c)(3). Pub. L. 98−369, Sec. 1041(a), substituted "December 31, 1985" for "December 31, 1984".

Subsec. (d)(6)(B)(ii). Pub. L. 98−369, Sec. 2663(j)(5)(A), substituted "Secretary of Health and Human Services" for "Secretary of Health Education and Welfare".

Subsec. (d)(11). Pub. L. 98−369, Sec. 712(n), made determination respecting membership of a qualified summer youth employee or youth participating in a qualified cooperative education program with respect to an employer applicable for purposes of determining whether such individual is a member of another targeted group with respect to such employer.

Subsec. (d)(12)(A)(ii). Pub. L. 98−369, Sec. 1041(c)(3), substituted "(or if later, on May 1 of the calendar year involved)" for "(as defined in paragraph (14))".

Subsec. (d)(16)(A). Pub. L. 98−369, Sec. 1041(c)(2), inserted "For purposes of the preceding sentence, if on or before the day on which such individual begins work for the employer, such individual has received from a designated local agency (or other agency or organization designated pursuant to a written agreement with such designated local agency) a written preliminary determination that such individual is a member of a targeted group, then 'the fifth day' shall be substituted for 'the day' in such sentence."

Subsec. (g). Pub. L. 98−369, Sec. 474(p)(2), substituted "the targeted jobs credit determined under this subpart" for "the credit provided by section 44B".

Subsec. (j). Pub. L. 98−369, Sec. 1041(c)(1), added subsec. (j) relating to treatment of successor employers, and employees performing services for other persons.

Pub. L. 98−369, Sec. 474(p)(3), added subsec. (j) relating to election to have targeted jobs credit not apply.

1983 − Subsec. (d)(8)(D). Pub. L. 97−448, Sec. 102(l)(1), substituted "clauses (i), (ii), and (iii) of subparagraph (A)" for "subparagraph (A)".

Subsec. (d)(9)(B). Pub. L. 97−448, Sec. 102(l)(3), substituted "section 432(b)(1) or 445" for "section 432(b)(1)".

Subsec. (d)(11). Pub. L. 97−448, Sec. 102(l)(4), substituted "the earlier of the month in which such determination occurs or the month in which the hiring date occurs" for "the month in which such determination occurs".

1982 − Subsec. (c)(3). Pub. L. 97−248, Sec. 233(a), substituted "1984" for "1982".

Subsec. (d)(1)(J). Pub. L. 97−248, Sec. 233(b)(3), added subpar. (J).

Subsec. (d)(6)(B)(i)(II). Pub. L. 97−248, Sec. 233(d), substituted "consists of money payments or voucher or scrip, and" for "consists of money payments".

Subsec. (d)(10). Pub. L. 97−248, Sec. 233(c), inserted provision respecting nonapplicability of paragraph to individuals who begin work for the employer after December 31, 1982.

Subsec. (d)(12) to (15). Pub. L. 97−248, Sec. 233(b)(4), (5), added par. (12) and redesignated former pars. (12) to (15) as (13) to (16), respectively.

Subsec. (d)(16). Pub. L. 97−248, Sec. 233(b)(4), redesignated former par. (15) as (16).

Pub. L. 97−248, Sec. 233(f), substituted "on or before" for "before" in subpar. (A).

1981 − Subsec. (c)(3), (4). Pub. L. 97−34, Sec. 261(b)(2)(B)(ii), redesignated par. (4) as (3). Former par. (3), which excluded from term "wages" any amount paid or incurred by the employer to an individual with respect to whom the employer claims credit under section 40 of this title, was struck out.

Pub. L. 97−34, Sec. 261(a), extended termination date to Dec. 31, 1982, from Dec. 31, 1981, and inserted "to an individual who begins work for the employer" after "paid or incurred".

Subsec. (d)(1)(H), (I). Pub. L. 97−34, Sec. 261(b)(1), added subpars. (H) and (I).

Subsec. (d)(3)(A)(ii). Pub. L. 97−34, Sec. 261(b)(2)(B)(iii), substituted "paragraph (11)" for "paragraph (9)".

Subsec. (d)(4). Pub. L. 97−34, Sec. 261(b)(2)(B)(iii), (3), in subpar. (B) inserted "and" after "States," in subpar. (C) substituted "paragraph (11)" for "paragraph (9)", and struck out "(D) not having attained the age of 35 on the hiring date."

Subsec. (d)(7)(B). Pub. L. 97−34, Sec. 261(b)(2)(B)(iii), substituted "paragraph (11)" for "paragraph (9)".

Subsec. (d)(8)(A)(iv). Pub L. 97−34, Sec. 261(b)(4), added cl. (iv).

Subsec. (d)(9), (10). Pub. L. 97−34, Sec. 261(b)(2)(A), added pars. (9) and (10) and redesignated former pars. (9) and (10) as (11) and (12), respectively.

Subsec. (d)(11). Pub. L. 97−34, Sec. 261(b)(2)(A), (c)(2), redesignated former par. (9) as (11), substituted "70 percent or less" for "less than 70 percent", and provided for validity of any determination for 45−day period beginning on the date the determination is made. Former par. (11) redesignated (13).

Subsec. (d)(12), (13). Pub. L. 97−34, Sec. 261(b)(2)(A), redesignated former pars. (10) and (11) as pars. (12) and (13), respectively. Former par. (12) redesignated (14).

Subsec. (d)(14). Pub. L. 97−34, Sec. 261(f)(1)(A), substituted as definition for term " 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49−49n)" for " 'designated local agency' means the agency for any locality designated jointly by the Secretary and the Secretary of Labor to perform certification of employees for employers in that locality".

Pub. L. 97−34, Sec. 261(b)(2)(A), redesignated former par. (12) as (14).

Subsec. (d)(15). Pub. L. 97−34, Sec. 261(c)(1), added par. (15).

Subsec. (e). Pub. L. 97−34, Sec. 261(e)(1), struck out subsec. (e) which set forth limitation that qualified first−year wages could not exceed 30 percent of FUTA wages for all employees.

Subsec. (f). Pub. L. 97−34, Sec. 261(e)(2), substituted "any taxable year" for "any year" in pars. (1) and (2) and struck out par. (3), defining "year" which is covered in pars. (1) and (2).

Subsec. (g). Pub. L. 97−34, Sec. 261(f)(1)(B), substituted "United States Employment Service" for "Secretary of Labor" in heading and text.

Subsec. (i). Pub. L. 97−34, Sec. 261(d), added subsec. (i).

1980 − Subsec. (c)(1). Pub. L. 96−222, Sec. 103(a)(6)(E)(ii), substituted ", subsection (d)(8)(D), and subsection (h)(2)" for "subsection (h)(2)".

Subsec. (c)(2). Pub. L. 96−222, Sec. 103(a)(6)(G)(iii), inserted "or incurred" after "amounts paid".

Subsec. (c)(4). Pub. L. 96−222, Sec. 103(a)(6)(A), substituted

"December 31, 1981" for "December 31, 1980".

Subsec. (d)(1)(E). Pub. L. 96−222, Sec. 103(a)(6)(G)(iv), struck out "or" after "recipient,".

Subsec. (d)(4)(A)(i). Pub. L. 96−222, Sec. 103(a)(6)(G)(v), substituted "active duty" for "active day".

Subsec. (d)(4)(B). Pub. L. 96−222, Sec. 103(a)(6)(G)(vi), substituted "preemployment" for "premployment".

Subsec. (d)(5). Pub. L. 96−222, Sec. 103(a)(6)(G)(vii), substituted "preemployment" for "pre−employment".

Subsec. (d)(8)(A). Pub. L. 96−222, Sec. 103(a)(6)(F), substituted "age 20" for "age 19".

Subsec. (d)(8)(D). Pub. L. 96−222, Sec. 103(a)(6)(E)(i), in heading substituted "Wages" for "Individual must be currently pursuing program" and in text substituted "In the case of remuneration" for "Wages shall be taken into account with respect to a qualified cooperative education program only if the wages are" and inserted ", wages, and unemployment insurance wages, shall be determined without regard to section 3306(c)(10)(C)".

Subsec. (d)(12). Pub. L. 96−222, Sec. 103(a)(6)(G)(viii), substituted "employers" for "employer".

Subsec. (e). Pub. L. 96−222, Sec. 103(a)(6)(G)(ix), inserted "except as provided in subsection (h)(1)" after "the preceding sentence,".

1978 − Pub. L. 95−600 amended section generally and limited allowance of credit to the hiring of seven target groups with high unemployment rates.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107−147, title VI, Sec. 604(b), Mar. 9, 2002, 116 Stat. 59, provided that: "The amendment made by subsection (a) [amending this section] shall apply to individuals who begin work for the employer after December 31, 2001."

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106−554, Sec. 1(a)(7) [title I, Sec. 102(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A−600, provided that: "The amendments made by this section [amending this section] shall apply to individuals who begin work for the employer after December 31, 2001."

Pub. L. 106−554, Sec. 1(a)(7) [title III, Sec. 316(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A−645, provided that: "The amendments made by this section [amending this section and sections 219, 401 and 1361 of this title] shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 [Pub. L. 104−188] to which they relate."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106−170, title V, Sec. 505(c), Dec. 17, 1999, 113 Stat. 1921, provided that: "The amendments made by this section [amending this section and section 51A of this title] shall apply to individuals who begin work for the employer after June 30, 1999."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105−277, div. J, title I, Sec. 1002(b), Oct. 21, 1998, 112 Stat. 2681−888, provided that: "The amendment made by this section [amending this section] shall apply to individuals who begin work for the employer after June 30, 1998."

EFFECTIVE DATE OF 1997 AMENDMENTS

Section 603(e) of Pub. L. 105−34 provided that: "The amendments made by this section [amending this section] shall apply to individuals who begin work for the employer after September 30, 1997."

Section 5518(c) of Pub. L. 105−33 provided that: "The amendments made by section 5514(a) of this Act [amending this section and sections 3304, 6103, 6334, 6402, and 7523 of this title] shall take effect as if the amendments had been included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104−193] at the time such section 110 became law."

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104−193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104−193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 104−188 applicable to individuals who begin work for the employer after Sept. 30, 1996, see section 1201(g) of Pub. L. 104−188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13102(b) of Pub. L. 103−66 provided that: "The amendment made by subsection (a) [amending this section] shall apply to individuals who begin work for the employer after June 30, 1992."

EFFECTIVE DATE OF 1991 AMENDMENT

Section 105(b) of Pub. L. 102−227 provided that: "The amendment made by this section [amending this section] shall apply to individuals who begin work for the employer after December 31, 1991."

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11405(c) of Pub. L. 101−508 provided that:

"(1) Credit. − The amendment made by subsection (a) [amending this section] shall apply to individuals who begin work for the employer after September 30, 1990.

"(2) Authorization. − The amendment made by subsection (b) [amending provisions set out below] shall apply to fiscal years beginning after 1990."

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7103(c)(2) of Pub. L. 101−239 provided that: "The amendment made by paragraph (1) [amending this section] shall apply to individuals who begin work for the employer after December 31, 1989."

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1017(a) of Pub. L. 100−647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99−514, to which such amendment relates, see section 1019(a) of Pub. L. 100−647, set out as a note under section 1 of this title.

Section 4010(c)(2) of Pub. L. 100−647 provided that: "The amendment made by paragraph (1) [amending this section] shall apply to individuals who begin work for the employer after December 31, 1988."

Section 4010(d)(2) of Pub. L. 100−647 provided that: "The amendment made by paragraph (1) [amending this section] shall apply to individuals who begin work for the employer after December 31, 1988."

Amendment by Pub. L. 100−485 effective Oct. 1, 1990, with provision for earlier effective dates in case of States making certain changes in their State plans and formally notifying the Secretary of Health and Human Services of their desire to become subject to the amendments made by title II of Pub. L. 100−485 on the earlier effective dates, see section 204 of Pub. L. 100−485, set out as a note under section 671 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10601(b) of Pub. L. 100−203 provided that: "The amendment made by subsection (a) [amending this section] shall apply to amounts paid or incurred on or after January 1, 1987, for services rendered on or after such date."

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1701(e) of Pub. L. 99−514 provided that: "The amendments made by this section [amending this section and provisions set out below] shall apply with respect to individuals who begin work for the employer after December 31, 1985."

Amendment by section 1878(f)(1) of Pub. L. 99−514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98−369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99−514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(p)(1)−(3) of Pub. L. 98−369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98−369, set out as a note under section 21 of this title.

Amendment by section 712 of Pub. L. 98−369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97−248, to which such amendment relates, see section 715 of Pub. L. 98−369, set out as a note under section 31 of this title.

Section 1041(c)(5) of Pub. L. 98−369, as amended by Pub. L. 99−514, Sec. 2, title XVIII, Sec. 1878(f)(2), Oct. 22, 1986, 100 Stat. 2095, 2904, provided that:

"(A) In general. − Except as provided in subparagraph (B), the amendments made by this section [amending this section] shall apply to individuals who begin work for the employer after the date of the enactment of this Act [July 18, 1984].

"(B) Special rule for employees performing services for other persons. − Paragraph (2) of section 51(k) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this subsection) and the amendment made by paragraph (3) of this subsection [amending this section] shall apply to individuals who begin work for the employer after December 31, 1984."

Section 2638(c)(2) of Pub. L. 98−369 provided that: "The amendments made by subsection (b) [amending this section] shall apply with respect to payments made on or after the date of the enactment of this Act [July 18, 1984]."

Amendment by section 2663 of Pub. L. 98−369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98−369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 102(l)(4) of Pub. L. 97−448 provided that the amendment made by that section is effective with respect to certifications made after Jan. 12, 1983, with respect to individuals beginning work for an employer after May 11, 1982.

Amendment by title I of Pub. L. 97−448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97−34, to which such amendment relates, see section 109 of Pub. L. 97−448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 233(f) of Pub. L. 97−248 provided that the amendments made by that section are effective only with respect to individuals who begin work for the taxpayer after May 11, 1982.

Section 233(g) of Pub. L. 97−248 provided that:

"(1) Subsection (b). − The amendments made by subsection (b) [amending this section] shall apply to amounts paid or incurred after April 30, 1983, to individuals beginning work for the employer after such date.

"(2) Subsection (d). − The amendments made by subsection (d) [amending this section] shall apply to amounts paid or incurred after July 1, 1982, to individuals beginning work for the employer after such date."

EFFECTIVE DATE OF 1981 AMENDMENT

Section 261(g) of Pub. L. 97−34, as amended by Pub. L. 97−448, title I, Sec. 102(l)(2), Jan. 12, 1983, 96 Stat. 2374; Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) Amendments relating to members of targeted groups. −

"(A) In general. − Except as provided in subparagraphs (B), (C), and (D), the amendments made by subsections (b), (c)(2), and (d) [amending this section and section 50B of this title] shall apply to wages paid or incurred with respect to individuals first beginning work for an employer after the date of the enactment of this Act [Aug. 13, 1981] in taxable years ending after such date.

"(B) Eligible work incentive employees. − The amendments made by subsection (b)(2) [amending this section] to the extent relating to the designation of eligible work incentive employees (within the meaning of section 51(d)(9) [now 51(d)(10)] of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) as members of a targeted group and subsection (b)(2)(B)(ii) [amending this section] shall apply to taxable years beginning after December 31, 1981. In the case of an eligible work incentive employee, subsections (a) and (b) of section 51 of such Code shall be applied for taxable years beginning after December 31, 1981, as if such employees had been members of a targeted group for taxable years beginning before January 1, 1982.

"(C) Cooperative education program participants. − The amendments made by subsection (b)(4) [amending this section] shall apply to wages paid or incurred after December 31, 1981, in taxable years ending after such date.

"(D) Designated local agency. − The amendments made by subsection (f)(1) [amending this section] shall take effect on the date 60 days after the date of the enactment of this act [Aug. 13, 1981].

"(2) Certifications. −

"(A) In general. − The amendment made by subsection (c)(1) [amending this section] shall apply to all individuals whether such individuals began work for their employer before, on, or after the date of the enactment of this Act [Aug. 13, 1981].

"(B) Special rule for individuals who began work for the employer before 45th day before date of enactment. − In the case of any individual (other than an individual described in section 51(d)(8) of the Internal Revenue Code of 1986) who began work for the employer before the date 45 days before the date of the enactment of this Act [Aug. 13, 1981], paragraph (15) of section

51(d) of the Internal Revenue Code of 1986 (as added by subsection (c)(1)) shall be applied by substituting "July 23, 1981," for the day on which such individual begins work for the employer.

"(C) Individuals who begin work for employer within 45 days before or after date of enactment. − In the case of any individual (other than an individual described in section 51(d)(8) of the Internal Revenue Code of 1986) who begins work for the employer during the 90−day period beginning with the date 45 days before the date of the enactment of this Act [Aug. 13, 1981], and in the case of an individual described in section 51(d)(8) of such Code who begins work before the end of such 90−day period, paragraph (15) of section 51(d) of such Code (as added by subsection (c)(1)) shall be applied by substituting "the last day of the 90−day period beginning with the date 45 days before the date of the enactment of this Act" for the day on which such individual begins work for the employer.

"(3) Limitation on qualified first−year wages. − The amendment made by subsection (e) [amending this section] shall apply to taxable years beginning after December 31, 1981."

EFFECTIVE DATE OF 1980 AMENDMENT

Section 103(b)(1) of Pub. L. 96−222 provided that: "The amendment made by subsection (a)(5)(F) [probably means subsec. (a)(6)(F), amending this section] shall apply to wages paid or incurred on or after November 27, 1979, in taxable years ending on or after such date."

Amendment by Pub. L. 96−222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95−600, to which such amendment relates, see section 201 of Pub. L. 96−222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 321(d)(1) of Pub. L. 95−600 provided that: "Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 44B, 52, 53, and 6501 of this title] shall apply to amounts paid or incurred after December 31, 1978, in taxable years ending after such date."

EFFECTIVE DATE

Section 202(e) of Pub. L. 95−30 provided that: "The amendments made by this section [enacting this section and sections 44B, 52, 53, and 280C of this title and amending sections 56, 381, 383, 6096, 6411, 6501, 6511, 6601, and 6611 of this title] shall apply to taxable years beginning after December 31, 1976, and to credit carrybacks from such years."

REFERENCE TO PLAN FOR EMPLOYMENT

Pub. L. 105−277, div. J, title IV, Sec. 4006(c)(1), Oct. 21, 1998, 112 Stat. 2681−912, provided that: "The reference to 'plan for employment' in such clause [26 U.S.C. 51(d)(6)(B)(i)] shall be treated as including a reference to the rehabilitation plan referred to in such clause as in effect before the amendment made by the preceding sentence."

AUTHORIZATION OF APPROPRIATIONS

Section 261(f)(2) of Pub. L. 97−34, as amended by Pub. L. 97−248, title II, Sec. 233(e), Sept. 3, 1982, 96 Stat. 502; Pub. L. 98−369, div. A, title X, Sec. 1041(b), July 18, 1984, 98 Stat. 1042; Pub. L. 99−514, title XVII, Sec. 1701(d), Oct. 22, 1986, 100 Stat. 2772; Pub. L. 100−647, title IV, Sec. 4010(b), Nov. 10, 1988, 102 Stat. 3655; Pub. L. 101−239, title VII, Sec. 7103(b), Dec. 19, 1989, 103 Stat. 2305; Pub. L. 101−508, title XI, Sec. 11405(b), Nov. 5, 1990, 104 Stat. 1388−473, provided that: "There is authorized to be appropriated for each fiscal year such sums as may be necessary, to carry out the functions described by the amendments made by paragraph (1) [amending this section], except that, of the amounts appropriated pursuant to this paragraph −

"(A) $5,000,000 shall be used to test whether individuals certified as members of targeted groups under section 51 of such Code are eligible for such certification (including the use of statistical sampling techniques), and

"(B) the remainder shall be distributed under performance standards prescribed by the Secretary of Labor.

The Secretary of Labor shall each calendar year beginning with calendar year 1983 report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate with respect to the results of the testing conducted under subparagraph (A) during the preceding calendar year."

[For termination, effective May 15, 2000, of reporting provisions in section 261(f)(2) of Pub. L. 97−34, set out above, see section 3003 of Pub. L. 104−66, as amended, set out as a note under section

1113 of Title 31, Money and Finance, and page 124 of House Document No. 103−7.]

[Amendment by Pub. L. 101−508 applicable to fiscal years beginning after 1990, see section 11405(c)(2) of Pub. L. 101−508, set out as an Effective Date of 1990 Amendment note above.]

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [Secs. 1101−1147 and 1171−1177] or title XVIII [Secs. 1800−1899A] of Pub. L. 99−514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99−514, as amended, set out as a note under section 401 of this title.

SPECIAL RULES FOR NEWLY TARGETED GROUPS

Section 321(d)(2) of Pub. L. 95−600, as amended by Pub. L. 96−222, title I, Sec. 103(a)(6)(C), (G)(xi), Apr. 1, 1980, 94 Stat. 209, 211; Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(A) Individual must be hired after september 26, 1978. − In the case of a member of a newly targeted group, for purposes of applying the amendments made by this section −

"(i) such individual shall be taken into account for purposes of the credit allowable by section 44B of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] only if such individual is first hired by the employer after September 26, 1978, and

"(ii) such individual shall be treated for purposes of such credit as having first begun work for the employer not earlier than January 1, 1979.

"(B) Member of newly targeted group defined. − For purposes of subparagraph (A), an individual is a member of a newly targeted group if −

"(i) such individual meets the requirements of paragraph (1) of section 51(d) of such Code, and

"(ii) in the case of an individual meeting the requirements of subparagraph (A) of such paragraph (1), a credit was not claimed for such individual by the taxpayer for a taxable year beginning before January 1, 1979."

CREDIT ALLOWABLE BY SECTION 44B IN CASE OF TAXABLE YEAR BEGINNING IN 1978 AND ENDING AFTER DECEMBER 31, 1978

Section 321(d)(3) of Pub. L. 95−600, as amended by Pub. L. 96−222, title I, Sec. 103(a)(6)(D), Apr. 1, 1980, 94 Stat. 209; Pub. L. 99−514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of the credit determined under section 51 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be the sum of −

"(A) the amount of the credit which would be so determined without regard to the amendments made by this section, plus

"(B) the amount of the credit which would be so determined by reason of the amendments made by this section."

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38, 41, 45A, 51A, 52, 196, 280C, 936, 1396, 1397, 1400L, 6501 of this title; title 42 section 13725.

−FOOTNOTE−

(!1) See References in Text note below.

(!2) So in original. The comma probably should not appear.

−End−

−CITE−

26 USC Sec. 51A 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart F − Rules for Computing Work Opportunity Credit

−HEAD−

Sec. 51A. Temporary incentives for employing long−term family assistance recipients

−STATUTE−

(a) Determination of amount

For purposes of section 38, the amount of the welfare−to−work credit determined under this section for the taxable year shall be equal to −

(1) 35 percent of the qualified first−year wages for such year, and

(2) 50 percent of the qualified second−year wages for such year.

(b) Qualified wages defined

For purposes of this section −

(1) In general

The term "qualified wages" means the wages paid or incurred by the employer during the taxable year to individuals who are long−term family assistance recipients.

(2) Qualified first−year wages

The term "qualified first−year wages" means, with respect to any individual, qualified wages attributable to service rendered during the 1−year period beginning with the day the individual begins work for the employer.

(3) Qualified second−year wages

The term "qualified second−year wages" means, with respect to any individual, qualified wages attributable to service rendered during the 1−year period beginning on the day after the last day of the 1−year period with respect to such individual determined under paragraph (2).

(4) Only first $10,000 of wages per year taken into account

The amount of the qualified first−year wages, and the amount of qualified second−year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

(5) Wages

(A) In general

The term "wages" has the meaning given such term by section

51(c), without regard to paragraph (4) thereof.

(B) Certain amounts treated as wages

The term "wages" includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under −

(i) section 105 (relating to amounts received under accident and health plans),

(ii) section 106 (relating to contributions by employer to accident and health plans),

(iii) section 127 (relating to educational assistance programs), but only to the extent paid or incurred to a person not related to the employer, or

(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

(C) Special rules for agricultural and railway labor

If such recipient is an employee to whom subparagraph (A) or (B) of section 51(h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that −

(i) such subparagraph (A) shall be applied by substituting "$10,000" for "$6,000", and

(ii) such subparagraph (B) shall be applied by substituting "$833.33" for "$500".

(c) Long−term family assistance recipients

For purposes of this section −

(1) In general

The term "long−term family assistance recipient" means any individual who is certified by the designated local agency (as defined in section 51(d)(11)) −

(A) as being a member of a family receiving assistance under a IV−A program (as defined in section 51(d)(2)(B)) for at least the 18−month period ending on the hiring date,

(B)(i) as being a member of a family receiving such assistance for 18 months beginning after the date of the enactment of this section, and

(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18−month period, or

(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this section for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

(2) Hiring date

The term "hiring date" has the meaning given such term by section 51(d).

(d) Certain rules to apply

(1) In general

Rules similar to the rules of section 52, and subsections (d)(11), (f), (g), (i) (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997), (j), and (k) of section 51, shall apply for purposes of this section.

(2) Credit to be part of general business credit, etc.

References to section 51 in section 38(b), 280C(a), and 1396(c)(3) shall be treated as including references to this section.

(e) Coordination with work opportunity credit

If a credit is allowed under this section to an employer with respect to an individual for any taxable year, then for purposes of applying section 51 to such employer, such individual shall not be treated as a member of a targeted group for such taxable year.

(f) Termination

This section shall not apply to individuals who begin work for the employer after December 31, 2003.

−SOURCE−

(Added Pub. L. 105−34, title VIII, Sec. 801(a), Aug. 5, 1997, 111 Stat. 869; amended Pub. L. 105−277, div. J, title I, Sec. 1003, Oct. 21, 1998, 112 Stat. 2681−888; Pub. L. 106−170, title V, Sec. 505(a), Dec. 17, 1999, 113 Stat. 1921; Pub. L. 107−16, title IV, Sec. 411(c), June 7, 2001, 115 Stat. 63; Pub. L. 107−147, title IV, Sec. 417(4), title VI, Sec. 605(a), Mar. 9, 2002, 116 Stat. 56, 60.)

−STATAMEND−

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107−16,

see Effective and Termination Dates of 2001 Amendment note below.

−REFTEXT−

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec.

(c)(1)(B)(i), (C)(i), is the date of enactment of Pub. L. 105−34,

which was approved Aug. 5, 1997.

The date of the enactment of the Taxpayer Relief Act of 1997,

referred to in subsec. (d)(1), is the date of enactment of Pub. L.

105−34, which was approved Aug. 5, 1997.

−MISC1−

AMENDMENTS

2002 − Subsec. (c)(1). Pub. L. 107−147, Sec. 417(4), substituted

"51(d)(11)" for "51(d)(10)" in introductory provisions.

Subsec. (f). Pub. L. 107−147, Sec. 605(a), substituted "2003" for

"2001".

2001 − Subsec. (b)(5)(B)(iii). Pub. L. 107−16, Secs. 411(c), 901,

temporarily struck out "or would be so excludable but for section

127(d)" before ", but only". See Effective and Termination Dates of

2001 Amendment note below.

1999 − Subsec. (f). Pub. L. 106−170 substituted "December 31,

2001" for "June 30, 1999".

1998 − Subsec. (f). Pub. L. 105−277 substituted "June 30, 1999"

for "April 30, 1999".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107−147, title VI, Sec. 605(b), Mar. 9, 2002, 116 Stat.

60, provided that: "The amendment made by subsection (a) [amending this section] shall apply to individuals who begin work for the employer after December 31, 2001."

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Pub. L. 107−16, title IV, Sec. 411(d), June 7, 2001, 115 Stat. 63, provided that: "The amendments made by this section [amending this section and section 127 of this title] shall apply with respect to expenses relating to courses beginning after December 31, 2001."

Amendment by Pub. L. 107−16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107−16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106−170 applicable to individuals who begin work for the employer after June 30, 1999, see section 505(c) of Pub. L. 106−170, set out as a note under section 51 of this title.

EFFECTIVE DATE

Section 801(c) of Pub. L. 105−34 provided that: "The amendments made by this section [enacting this section] shall apply to individuals who begin work for the employer after December 31, 1997."

−End−

−CITE−

26 USC Sec. 52 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart F − Rules for Computing Work Opportunity Credit

−HEAD−

Sec. 52. Special rules

−STATUTE−

(a) Controlled group of corporations

For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) determined under section 51(a) with respect to each such member shall be its proportionate share of the wages giving rise to such credit. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that −

(1) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(2) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(b) Employees of partnerships, proprietorships, etc., which are under common control

For purposes of this subpart, under regulations prescribed by the

Secretary −

(1) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

(2) the credit (if any) determined under section 51(a) with respect to each trade or business shall be its proportionate share of the wages giving rise to such credit.

The regulations prescribed under this subsection shall be based on principles similar to the principles which apply in the case of subsection (a).

(c) Tax−exempt organizations

No credit shall be allowed under section 38 for any work opportunity credit determined under this subpart to any organization (other than a cooperative described in section 521) which is exempt from income tax under this chapter.

(d) Estates and trusts

In the case of an estate or trust −

(1) the amount of the credit determined under this subpart for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) any beneficiary to whom any amount has been apportioned under paragraph (1) shall be allowed, subject to section 38(c), a credit under section 38(a) for such amount.

(e) Limitations with respect to certain persons

Under regulations prescribed by the Secretary, in the case of −

(1) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(2) a cooperative organization described in section 1381(a),

rules similar to the rules provided in subsections (e) and (h) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply in determining the amount of the credit under this subpart.

−SOURCE−

(Added Pub. L. 95−30, title II, Sec. 202(b), May 23, 1977, 91 Stat. 143; amended Pub. L. 95−600, title III, Sec. 321(c)(1), Nov. 6, 1978, 92 Stat. 2835; Pub. L. 96−222, title I, Sec. 103(a)(5), Apr. 1, 1980, 94 Stat. 209; Pub. L. 97−354, Sec. 5(a)(11), Oct. 19, 1982, 96 Stat. 1693; Pub. L. 98−369, div. A, title IV, Sec. 474(p)(4)−(7), July 18, 1984, 98 Stat. 838; Pub. L. 101−508, title XI, Sec. 11813(b)(4), Nov. 5, 1990, 104 Stat. 1388−551; Pub. L. 104−188, title I, Sec. 1616(b)(2), Aug. 20, 1996, 110 Stat. 1856; Pub. L. 105−34, title XVI, Sec. 1601(b), Aug. 5, 1997, 111 Stat. 1087.)

−REFTEXT−

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (e), is the date of enactment of Pub. L. 101−508, which was approved Nov. 5, 1990.

−MISC1−

AMENDMENTS

1997 − Subsec. (c). Pub. L. 105−34 substituted "work opportunity credit" for "targeted jobs credit".

1996 − Subsec. (e)(1) to (3). Pub. L. 104−188 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "an organization to which section 593 (relating to reserves for losses on loans) applies,".

1990 − Subsec. (e). Pub. L. 101−508 substituted "section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" for "section 46" in concluding provisions.

1984 − Subsec. (a). Pub. L. 98−369, Sec. 474(p)(4), substituted "the credit (if any) determined under section 51(a) with respect to each such member" for "the credit (if any) allowable by section 44B to each such member".

Subsec. (b)(2). Pub. L. 98−369, Sec. 474(p)(5), substituted "the credit (if any) determined under section 51(a)" for "the credit (if any) allowable by section 44B".

Subsec. (c). Pub. L. 98−369, Sec. 474(p)(6), substituted "credit shall be allowed under section 38 for any targeted jobs credit determined under this subpart" for "credit shall be allowed under section 44B".

Subsec. (d)(2). Pub. L. 98−369, Sec. 474(p)(7), substituted ", subject to section 38(c), a credit under section 38(a)" for ", subject to section 53 a credit under section 44B".

1982 − Subsecs. (d) to (f). Pub. L. 97−354 struck out subsec. (d) relating to apportionment of credit among shareholders, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1980 − Subsec. (f). Pub. L. 96−222 substituted "subsections (e) and (h) of section 46" for "section 46(e)".

1978 − Subsecs. (a), (b). Pub. L. 95−600, Sec. 321(c)(1)(B), substituted "proportionate share of the wages" for "proportionate contribution to the increase in unemployment insurance wages".

Subsecs. (c), (d). Pub. L. 95−600, Sec. 321(c)(1)(A), struck out subsec. (c) which related to dispositions by an employer, and redesignated subsecs. (d) and (f) as (c) and (d), respectively.

Subsec. (e). Pub. L. 95−600, Sec. 321(c)(1)(A), (C), redesignated subsec. (g) as (e) and struck out par. (3) which provided that the $100,000 amount specified in section 51(d) applicable to such estate or trust be reduced to an amount which bears the same ratio to $100,000 as the portion of the credit allocable to the estate or trust under paragraph (1) bears to the entire amount of such credit. Former subsec. (e), which related to a change in status from self−employed to employee, was struck out.

Subsecs. (f) to (h). Pub. L. 95−600, Sec. 321(c)(1)(A), redesignated subsecs. (f) to (h) as (d) to (f), respectively.

Subsec. (i). Pub. L. 95−600, Sec. 321(c)(1)(A)(i), struck out subsec. (i) which related to a $50,000 limitation in the case of married individuals filing separate returns.

Subsec. (j). Pub. L. 95−600, Sec. 321(c)(1)(A)(i), struck out subsec. (j) which related to certain short taxable years.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105−34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104−188, to which it relates, see section 1601(j) of Pub. L. 105−34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104−188 applicable to taxable years beginning after Dec. 31, 1995, see section 1616(c) of Pub. L. 104−188, set out as a note under section 593 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101−508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101−508, set out as a note under section 29 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98−369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98−369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97−354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97−354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96−222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95−600, to which such amendment relates, see section 201 of Pub. L. 96−222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95−600 applicable to amounts paid or incurred after Dec. 31, 1978, in taxable years ending after such date, see section 321(d)(1) of Pub. L. 95−600, set out as a note under section 51 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95−30, set out as a note under section 51 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101−508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101−508, set out as a note under section 29 of this title.

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29, 40, 41, 42, 44, 45, 45A, 45E, 45F, 51, 51A, 264, 280C, 448, 453A, 460, 465, 474, 685,

856, 860L, 943, 1044, 1397, 1400L, 5000, 6053, 9701 of this title;

title 42 section 1395y.

−End−

−CITE−

26 USC Subpart G − Credit Against Regular Tax for Prior

Year Minimum Tax Liability 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart G − Credit Against Regular Tax for Prior Year Minimum Tax

Liability

−HEAD−

SUBPART G − CREDIT AGAINST REGULAR TAX FOR PRIOR YEAR MINIMUM TAX

LIABILITY

−MISC1−

Sec.

53. Credit for prior year minimum tax liability.

−SECREF−

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6401 of this title.

−End−

−CITE−

26 USC Sec. 53 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART IV − CREDITS AGAINST TAX

Subpart G − Credit Against Regular Tax for Prior Year Minimum Tax

Liability

−HEAD−

Sec. 53. Credit for prior year minimum tax liability

−STATUTE−

(a) Allowance of credit

There shall be allowed as a credit against the tax imposed by

this chapter for any taxable year an amount equal to the minimum

tax credit for such taxable year.

(b) Minimum tax credit

For purposes of subsection (a), the minimum tax credit for any

taxable year is the excess (if any) of −

(1) the adjusted net minimum tax imposed for all prior taxable

years beginning after 1986, over

(2) the amount allowable as a credit under subsection (a) for

such prior taxable years.

(c) Limitation

The credit allowable under subsection (a) for any taxable year

shall not exceed the excess (if any) of −

(1) the regular tax liability of the taxpayer for such taxable

year reduced by the sum of the credits allowable under subparts

A, B, D, E, and F of this part, over

(2) the tentative minimum tax for the taxable year.

(d) Definitions

For purposes of this section −

(1) Net minimum tax

(A) In general

The term "net minimum tax" means the tax imposed by section

55.

(B) Credit not allowed for exclusion preferences

(i) Adjusted net minimum tax

The adjusted net minimum tax for any taxable year is −

(I) the amount of the net minimum tax for such taxable

year, reduced by

(II) the amount which would be the net minimum tax for

such taxable year if the only adjustments and items of tax

preference taken into account were those specified in

clause (ii) and if section 59(a)(2) did not apply.

(ii) Specified items

The following are specified in this clause −

(I) the adjustments provided for in subsection (b)(1) of

section 56, and

(II) the items of tax preference described in paragraphs

(1), (5), and (7) of section 57(a).

(iii) Special rule

The adjusted net minimum tax for the taxable year shall be increased by the amount of the credit not allowed under section 29 (relating to credit for producing fuel from a nonconventional source) solely by reason of the application of section 29(b)(6)(B), or not allowed under section 30 solely by reason of the application of section 30(b)(3)(B).

(iv) Credit allowable for exclusion preferences of corporations

In the case of a corporation −

(I) the preceding provisions of this subparagraph shall not apply, and

(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii).

(2) Tentative minimum tax

The term "tentative minimum tax" has the meaning given to such term by section 55(b).

−SOURCE−

(Added Pub. L. 99−514, title VII, Sec. 701(b), Oct. 22, 1986, 100 Stat. 2339; amended Pub. L. 100−647, title I, Sec. 1007(g)(4), title VI, Sec. 6304(a), Nov. 10, 1988, 102 Stat. 3435, 3756; Pub. L. 101−239, title VII, Secs. 7612(a)(1), (2), (b)(1), 7811(d)(2), Dec. 19, 1989, 103 Stat. 2373, 2374, 2408; Pub. L. 102−486, title XIX, Sec. 1913(b)(2)(C), Oct. 24, 1992, 106 Stat. 3020; Pub. L. 103−66, title XIII, Secs. 13113(b)(2), 13171(c), Aug. 10, 1993, 107 Stat. 429, 455; Pub. L. 104−188, title I, Secs. 1205(d)(5), 1704(j)(1), Aug. 20, 1996, 110 Stat. 1776, 1881.)

−MISC1−

PRIOR PROVISIONS

A prior section 53, added Pub. L. 95−30, title II, Sec. 202(b), May 23, 1977, 91 Stat. 146; amended Pub. L. 95−600, title III, Sec. 321(c)(2), Nov. 6, 1978, 92 Stat. 2835; Pub. L. 97−34, title II, Sec. 207(c)(2), Aug. 13, 1981, 95 Stat. 225; Pub. L. 97−248, title II, Sec. 201(d)(8)(A), formerly Sec. 201(c)(8)(A), and Sec. 265(b)(2)(A)(iii), Sept. 3, 1982, 96 Stat. 420, 547, renumbered Sec. 201(d)(8)(A), Pub. L. 97−448, title III, Sec. 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; 97−354, Sec. 5(a)(12), Oct. 19, 1982, 96 Stat. 1693; 97−448, title I, Sec. 102(d)(3), Jan. 12, 1983, 96 Stat. 2370; Pub. L. 98−21, title I, Sec. 122(c)(1), Apr. 20, 1983, 97 Stat. 87; Pub. L. 98−369, div. A, title VII, Sec. 713(c)(1)(C), July 18, 1984, 98 Stat. 957, placed limitations on the amount of credit allowed by former section 44B for employment of certain new employees, prior to repeal by Pub. L. 98−369, div. A, title IV, Sec. 474(p)(8), July 18, 1984, 98 Stat. 838, applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years.

AMENDMENTS

1996 − Subsec. (d)(1)(B)(iii). Pub. L. 104−188, Sec. 1205(d)(5)(A), which directed that cl. (iii) be amended by striking out "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," was executed by striking out "not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," after "29(b)(6)(B),", to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(iv)(II). Pub. L. 104−188, Sec. 1704(j)(1), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: "the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased by the amount of any credit not allowed under section 29 solely by reason of the application of section 29(b)(5)(B) or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)."

Pub. L. 104−188, Sec. 1205(d)(5)(B), which directed that subcl. (II) be amended by striking out "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)", could not be executed because the phrase sought to be struck out did not appear in text subsequent to the general amendment of subcl. (II) by Pub. L. 104−188, Sec. 1704(j)(1), see above, which, pursuant to section 1701 of Pub. L. 104−188, set out as a note under section 1 of this title, is treated as having been enacted before section 1205(d)(5)(B) of Pub. L. 104−188.

1993 − Subsec. (d)(1)(B)(ii)(II). Pub. L. 103−66, Sec. 13171(c), substituted "(5), and (7)" for "(5), (6), and (8)".

Pub. L. 103−66, Sec. 13113(b)(2), substituted "(6), and (8)" for "and (6)".

1992 − Subsec. (d)(1)(B)(iii). Pub. L. 102−486, Sec. 1913(b)(2)(C)(i), substituted "section 29(b)(6)(B)," for "section 29(b)(5)(B) or".

Pub. L. 102−486, Sec. 1913(b)(2)(C)(ii), inserted before period at end ", or not allowed under section 30 solely by reason of the application of section 30(b)(3)(B)".

1989 − Subsec. (d)(1)(B)(i)(II). Pub. L. 101−239, Sec. 7811(d)(2), inserted before period at end "and if section 59(a)(2) did not apply".

Subsec. (d)(1)(B)(ii). Pub. L. 101−239, Sec. 7612(a)(2), substituted "subsection (b)(1)" for "subsections (b)(1) and (c)(3)" in subcl. (I) and struck out at end "In the case of taxable years beginning after 1989, the adjustments provided in section 56(g) shall be treated as specified in this clause to the extent attributable to items which are excluded from gross income for any taxable year for purposes of the regular tax, or are not deductible for any taxable year under the adjusted current earnings method of section 56(g)."

Subsec. (d)(1)(B)(iii). Pub. L. 101−239, Sec. 7612(b)(1), which directed amendment of cl. (iii) by inserting "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" after "section 29(d)(5)(B)", was executed by making the insertion after "section 29(b)(5)(B)", as the probable intent of Congress.

Subsec. (d)(1)(B)(iv). Pub. L. 101−239, Sec. 7612(b)(1), which directed amendment of cl. (iv) by inserting "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" after "section 29(d)(5)(B)", was executed by making the insertion after "section 29(b)(5)(B)" in subcl. (II), as the probable intent of Congress.

Pub. L. 101−239, Sec. 7612(a)(1), added cl. (iv).

1988 − Subsec. (d)(1)(B)(ii). Pub. L. 100−647, Sec. 1007(g)(4), substituted "current earnings" for "earnings and profits" in last sentence.

Subsec. (d)(1)(B)(iii). Pub. L. 100−647, Sec. 6304(a), added cl. (iii).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1205(d)(5) of Pub. L. 104−188 applicable to amounts paid or incurred in taxable years ending after June 30, 1996, see section 1205(e) of Pub. L. 104−188, set out as a note under section 29 of this title.

Section 1704(j)(1) of Pub. L. 104−188 provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1990.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13113(e) of Pub. L. 103−66 provided that: "The amendments made by this section [enacting section 1202 of this title and amending this section and sections 57, 172, 642, 643, 691, 871, and 6652 of this title] shall apply to stock issued after the date of the enactment of this Act [Aug. 10, 1993]."

Section 13171(d) of Pub. L. 103−66 provided that: "The amendments made by this section [amending this section and sections 56 and 57 of this title] shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992."

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1702(e)(5) of Pub. L. 104−188 provided that: "The amendment made by section 1913(b)(2)(C)(i) of the Energy Policy Act of 1992 [Pub. L. 102−486] shall apply to taxable years beginning after December 31, 1990."

Amendment by section 1913(b)(2)(C)(ii) of Pub. L. 102−486 applicable to property placed in service after June 30, 1993, see section 1913(c) of Pub. L. 102−486, set out as an Effective Date note under section 30 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7612(a)(3) of Pub. L. 101−239 provided that: "The amendments made by this subsection [amending this section] shall apply for purposes of determining the adjusted net minimum tax for taxable years beginning after December 31, 1989."

Section 7612(b)(2) of Pub. L. 101−239 provided that: "The amendment made by paragraph (1) [amending this section] shall apply for purposes of determining the amount of the minimum tax credit for taxable years beginning after December 31, 1989; except that, for such purposes, section 53(b)(1) of the Internal Revenue Code of 1986 shall be applied as if such amendment had been in effect for all prior taxable years."

Amendment by section 7811(d)(2) of Pub. L. 101−239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L.

100−647, to which such amendment relates, see section 7817 of Pub. L. 101−239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1007(g)(4) of Pub. L. 100−647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99−514, to which such amendment relates, see section 1019(a) of Pub. L. 100−647, set out as a note under section 1 of this title.

Section 6304(b) of Pub. L. 100−647 provided that: "The amendment made by this section [amending this section] shall take effect as if included in the amendments made by section 701 of the Tax Reform Act of 1986 [Pub. L. 99−514]."

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99−514, set out as an Effective Date of 1986 Amendment note under section 55 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99−514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(b) of Pub. L. 99−514 [enacting this section] notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100−647 be treated as if it had been included in the provision of Pub. L. 99−514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100−647, set out as a note under

section 861 of this title.

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 108, 381, 383, 772,

1374 of this title.

−End−

−CITE−

26 USC [PART V − REPEALED] 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

[PART V − REPEALED]

−HEAD−

[PART V − REPEALED]

−COD−

CODIFICATION

Part V, consisting of a prior section 51, was repealed by Pub. L.

94−455, title XIX, Sec. 1901(a)(7), Oct. 4, 1976, 90 Stat. 1765.

See Prior Provisions note set out under section 51 of this title.

−End−

−CITE−

26 USC PART VI − ALTERNATIVE MINIMUM TAX 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART VI − ALTERNATIVE MINIMUM TAX

−HEAD−

PART VI − ALTERNATIVE MINIMUM TAX

−MISC1−

Sec.

−SECREF−

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 860E, 860J of this title.

−End−

−CITE−

26 USC Sec. 55 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART VI − ALTERNATIVE MINIMUM TAX

−HEAD−

Sec. 55. Alternative minimum tax imposed

−STATUTE−

(a) General rule

There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of −

(1) the tentative minimum tax for the taxable year, over

(2) the regular tax for the taxable year.

(b) Tentative minimum tax

For purposes of this part −

(1) Amount of tentative tax

(A) Noncorporate taxpayers

(i) In general

In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of −

(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

(ii) Taxable excess

For purposes of this subsection, the term "taxable excess" means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(iii) Married individual filing separate return

In the case of a married individual filing a separate return, clause (i) shall be applied by substituting "$87,500" for "$175,000" each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

(B) Corporations

In the case of a corporation, the tentative minimum tax for the taxable year is −

(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

(ii) the alternative minimum tax foreign tax credit for the taxable year.

(2) Alternative minimum taxable income

The term "alternative minimum taxable income" means the taxable income of the taxpayer for the taxable year −

(A) determined with the adjustments provided in section 56 and section 58, and

(B) increased by the amount of the items of tax preference described in section 57.

If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence).

(3) Maximum rate of tax on net capital gain of noncorporate taxpayers

The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of −

(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of −

(i) the net capital gain; or

(ii) the sum of −

(I) the adjusted net capital gain, plus

(II) the unrecaptured section 1250 gain, plus

(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

(C) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.

(c) Regular tax

(1) In general

For purposes of this section, the term "regular tax" means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a), the section 936 credit allowable under section 27(b), and the Puerto Rico economic activity credit under section 30A. Such term shall not include any increase in tax under section 49(b) or 50(a) or subsection (j) or (k) of section 42.

(2) Cross references

For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 29(b)(6), 30(b)(3), and 38(c).

(d) Exemption amount

For purposes of this section −

(1) Exemption amount for taxpayers other than corporations

In the case of a taxpayer other than a corporation, the term "exemption amount" means −

(A) $45,000 ($49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004) in the case of −

(i) a joint return, or

(ii) a surviving spouse,

(B) $33,750 ($35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004) in the case of an individual who −

(i) is not a married individual, and

(ii) is not a surviving spouse,

(C) 50 percent of the dollar amount applicable under paragraph (1)(A) in the case of a married individual who files a separate return, and

(D) $22,500 in the case of an estate or trust.

For purposes of this paragraph, the term "surviving spouse" has the meaning given to such term by section 2(a), and marital status shall be determined under section 7703.

(2) Corporations

In the case of a corporation, the term "exemption amount" means $40,000.

(3) Phase−out of exemption amount

The exemption amount of any taxpayer shall be reduced (but not below zero) by an amount equal to 25 percent of the amount by which the alternative minimum taxable income of the taxpayer exceeds −

(A) $150,000 in the case of a taxpayer described in paragraph (1)(A) or (2),

(B) $112,500 in the case of a taxpayer described in paragraph (1)(B), and

(C) $75,000 in the case of a taxpayer described in subparagraph (C) or (D) of paragraph (1).

In the case of a taxpayer described in paragraph (1)(C), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph).

(e) Exemption for small corporations

(1) In general

(A) $7,500,000 gross receipts test

The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3−taxable−year periods ending before such taxable year does not exceed $7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.

(B) $5,000,000 gross receipts test for first 3−year period

Subparagraph (A) shall be applied by substituting "$5,000,000" for "$7,500,000" for the first 3−taxable−year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).

(C) First taxable year corporation in existence

If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.

(D) Special rules

For purposes of this paragraph, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

(2) Prospective application of minimum tax if small corporation

ceases to be small

In the case of a corporation whose tentative minimum tax is zero for any prior taxable year by reason of paragraph (1), the application of this part for taxable years beginning with the first taxable year such corporation ceases to be described in paragraph (1) shall be determined with the following modifications:

(A) Section 56(a)(1) (relating to depreciation) and section 56(a)(5) (relating to pollution control facilities) shall apply only to property placed in service on or after the change date.

(B) Section 56(a)(2) (relating to mining exploration and development costs) shall apply only to costs paid or incurred on or after the change date.

(C) Section 56(a)(3) (relating to treatment of long−term contracts) shall apply only to contracts entered into on or after the change date.

(D) Section 56(a)(4) (relating to alternative net operating loss deduction) shall apply in the same manner as if, in section 56(d)(2), the change date were substituted for "January 1, 1987" and the day before the change date were substituted for "December 31, 1986" each place it appears.

(E) Section 56(g)(2)(B) (relating to limitation on allowance of negative adjustments based on adjusted current earnings) shall apply only to prior taxable years beginning on or after the change date.

(F) Section 56(g)(4)(A) (relating to adjustment for depreciation to adjusted current earnings) shall not apply.

(G) Subparagraphs (D) and (F) of section 56(g)(4) (relating to other earnings and profits adjustments and depletion) shall apply in the same manner as if the day before the change date were substituted for "December 31, 1989" each place it appears therein.

(3) Exception

The modifications in paragraph (2) shall not apply to −

(A) any item acquired by the corporation in a transaction to which section 381 applies, and

(B) any property the basis of which in the hands of the corporation is determined by reference to the basis of the property in the hands of the transferor,

if such item or property was subject to any provision referred to in paragraph (2) while held by the transferor.

(4) Change date

For purposes of paragraph (2), the change date is the first day of the first taxable year for which the taxpayer ceases to be described in paragraph (1).

(5) Limitation on use of credit for prior year minimum tax liability

In the case of a taxpayer whose tentative minimum tax for any taxable year is zero by reason of paragraph (1), section 53(c) shall be applied for such year by reducing the amount otherwise taken into account under section 53(c)(1) by 25 percent of so much of such amount as exceeds $25,000. Rules similar to the rules of section 38(c)(3)(B) (!1) shall apply for purposes of the preceding sentence.

−SOURCE−

(Added and amended Pub. L. 99−514, title II, Sec. 252(c), title VII, Sec. 701(a), Oct. 22, 1986, 100 Stat. 2205, 2321; Pub. L. 100−647, title I, Secs. 1002(l)(27), 1007(a), Nov. 10, 1988, 102 Stat. 3381, 3428; Pub. L. 101−508, title XI, Secs. 11102(a), 11813(b)(5), Nov. 5, 1990, 104 Stat. 1388−406, 1388−551; Pub. L. 102−318, title V, Sec. 521(b)(1), July 3, 1992, 106 Stat. 310; Pub. L. 102−486, title XIX, Sec. 1913(b)(2)(D), Oct. 24, 1992, 106 Stat. 3020; Pub. L. 103−66, title XIII, Sec. 13203(a)−(c)(1), Aug. 10, 1993, 107 Stat. 461, 462; Pub. L. 104−188, title I, Secs. 1205(d)(6), 1401(b)(3), 1601(b)(2)(A), Aug. 20, 1996, 110 Stat. 1776, 1788, 1832; Pub. L. 105−34, title III, Sec. 311(b)(1), (2)(A), title IV, Sec. 401(a), title XVI, Sec. 1601(f)(1)(C), Aug. 5, 1997, 111 Stat. 834, 835, 843, 1090; Pub. L. 105−206, title VI, Secs. 6005(d)(2), 6006(a), July 22, 1998, 112 Stat. 804, 806; Pub. L. 107−16, title VII, Sec. 701(a), (b), June 7, 2001, 115 Stat. 148.)

−STATAMEND−

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107−16, see Effective and Termination Dates of 2001 Amendment note below.

−REFTEXT−

REFERENCES IN TEXT

Section 38(c)(3)(B), referred to in subsec. (e)(5), was redesignated section 38(c)(4)(B) by Pub. L. 107−147, title III, Sec. 301(b)(1), Mar. 9, 2002, 116 Stat. 39.

−MISC1−

PRIOR PROVISIONS

A prior section 55, Pub. L. 95−600, title IV, Sec. 421(a), Nov. 6, 1978, 92 Stat. 2871; amended Pub. L. 96−222, title I, Sec. 104(a)(4)(A)−(D), (G), (H)(i), (ii), (viii), Apr. 1, 1980, 94 Stat. 215−218; Pub. L. 96−223, title II, Sec. 232(b)(2)(A), (c)(2), Apr. 2, 1980, 94 Stat. 276, 277; Pub. L. 96−603, Sec. 4(a), (b), Dec. 28, 1980, 94 Stat. 3513, 3514; Pub. L. 97−34, title I, Sec. 101(d)(1), title II, Sec. 221(b)(1)(A), title III, Sec. 331(d)(1)(A), Aug. 13, 1981, 95 Stat. 183, 246, 294; Pub. L. 97−248, title II, Sec. 201(a), Sept. 3, 1982, 96 Stat. 411; Pub. L. 97−354, Sec. 5(a)(13), Oct. 19, 1982, 96 Stat. 1693; Pub. L. 97−448, title I, Sec. 103(g)(2)(E), title III, Secs. 305(c), 306(a)(1)(B), (C), Jan. 12, 1983, 96 Stat. 2379, 2399, 2400; Pub. L. 98−369, div. A, title IV, Secs. 474(q), 491(d)(1), title VI, Sec. 612(e)(3), title VII, Sec. 711(a)(1), (4), (5), July 18, 1984, 98 Stat. 838, 849, 912, 942, 943; Pub. L. 99−514, title XVIII, Sec. 1847(a), Oct. 22, 1986, 100 Stat. 2856, related to alternative minimum tax for taxpayers other than corporations, prior to the general revision of this part by Pub. L. 99−514, Sec. 701(a).

AMENDMENTS

2001 − Subsec. (d)(1)(A). Pub. L. 107−16, Secs. 701(a)(1), 901, temporarily substituted "$45,000 ($49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)" for "$45,000" in introductory provisions. See Effective and Termination Dates of

2001 Amendment note below.

Subsec. (d)(1)(B). Pub. L. 107−16, Secs. 701(b)(1), 901,

temporarily struck out "and" at end. See Effective and Termination

Dates of 2001 Amendment note below.

Pub. L. 107−16, Secs. 701(a)(2), 901, temporarily substituted

"$33,750 ($35,750 in the case of taxable years beginning in 2001,

2002, 2003, and 2004)" for "$33,750" in introductory provisions.

See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (d)(1)(C), (D). Pub. L. 107−16, Secs. 701(b)(1), 901,

temporarily added subpars. (C) and (D) and struck out former

subpar. (C) which read as follows: "$22,500 in the case of −

"(i) a married individual who files a separate return, or

"(ii) an estate or trust."

See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (d)(3). Pub. L. 107−16, Secs. 701(b)(3), 901, in

concluding provisions, temporarily substituted "paragraph (1)(C)"

for "paragraph (1)(C)(i)" and "the minimum amount of such income

(as so determined) for which the exemption amount under paragraph

(1)(C) is zero, or (ii) such exemption amount (determined without

regard to this paragraph)" for "$165,000 or (ii) $22,500". See

Effective and Termination Dates of 2001 Amendment note below.

Subsec. (d)(3)(C). Pub. L. 107−16, Secs. 701(b)(2), 901,

temporarily substituted "subparagraph (C) or (D) of paragraph (1)"

for "paragraph (1)(C)". See Effective and Termination Dates of 2001

Amendment note below.

1998 − Subsec. (b)(3). Pub. L. 105−206, Sec. 6005(d)(2),

reenacted par. heading without change and amended text of par. (3)

generally. Prior to amendment, text read as follows: "The amount

determined under the first sentence of paragraph (1)(A)(i) shall

not exceed the sum of −

"(A) the amount determined under such first sentence computed

at the rates and in the same manner as if this paragraph had not

been enacted on the taxable excess reduced by the lesser of −

"(i) the net capital gain, or

"(ii) the sum of −

"(I) the adjusted net capital gain, plus

"(II) the unrecaptured section 1250 gain, plus

"(B) 25 percent of the lesser of −

"(i) the unrecaptured section 1250 gain, or

"(ii) the amount of taxable excess in excess of the sum of −

"(I) the adjusted net capital gain, plus

"(II) the amount on which a tax is determined under

subparagraph (A), plus

"(C) 10 percent of so much of the taxpayer's adjusted net

capital gain (or, if less, taxable excess) as does not exceed the

amount on which a tax is determined under section 1(h)(1)(D),

plus

"(D) 20 percent of the taxpayer's adjusted net capital gain

(or, if less, taxable excess) in excess of the amount on which

tax is determined under subparagraph (C).

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (C) and (D). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h)."

Subsec. (e)(1). Pub. L. 105−206, Sec. 6006(a), reenacted par. heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: "The tentative minimum tax of a corporation shall be zero for any taxable year if −

"(A) such corporation met the $5,000,000 gross receipts test of section 448(c) for its first taxable year beginning after December 31, 1996, and

"(B) such corporation would meet such test for the taxable year and all prior taxable years beginning after such first taxable year if such test were applied by substituting '$7,500,000' for '$5,000,000'."

1997 − Subsec. (b)(1)(A)(ii). Pub. L. 105−34, Sec. 311(b)(2)(A), substituted "this subsection" for "clause (i)".

Subsec. (b)(3). Pub. L. 105−34, Sec. 311(b)(1), added par. (3).

Subsec. (c)(1). Pub. L. 105−34, Sec. 1601(f)(1)(C), substituted "Puerto Rico" for "Puerto Rican".

Subsec. (e). Pub. L. 105−34, Sec. 401(a), added subsec. (e).

1996 − Subsec. (c)(1). Pub. L. 104−188, Sec. 1601(b)(2)(A), substituted ", the section 936 credit allowable under section 27(b), and the Puerto Rican economic activity credit under section 30A" for "and the section 936 credit allowable under section 27(b)".

Pub. L. 104−188, Sec. 1401(b)(3), struck out "shall not include any tax imposed by section 402(d) and" before "shall not include any increase in tax under section 49(b)".

Subsec. (c)(2). Pub. L. 104−188, Sec. 1205(d)(6), struck out "28(d)(2)," after "26(a),".

1993 − Subsec. (b)(1). Pub. L. 103−66, Sec. 13203(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "The tentative minimum tax for the taxable year is −

"(A) 20 percent (24 percent in the case of a taxpayer other than a corporation) of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(B) the alternative minimum tax foreign tax credit for the taxable year."

Subsec. (d)(1). Pub. L. 103−66, Sec. 13203(b), substituted "$45,000" for "$40,000" in subpar. (A), "$33,750" for "$30,000" in subpar. (B), and "$22,500" for "$20,000" in subpar. (C).

Subsec. (d)(3). Pub. L. 103−66, Sec. 13203(c)(1), substituted "$165,000 or (ii) $22,500" for "$155,000 or (ii) $20,000" in last sentence.

1992 − Subsec. (c)(1). Pub. L. 102−318 substituted "402(d)" for "402(e)".

Subsec. (c)(2). Pub. L. 102−486 substituted "29(b)(6), 30(b)(3)," for "29(b)(5),".

1990 − Subsec. (b)(1)(A). Pub. L. 101−508, Sec. 11102(a), substituted "24 percent" for "21 percent".

Subsec. (c)(1). Pub. L. 101−508, Sec. 11813(b)(5), substituted "section 49(b) or 50(a)" for "section 47".

1988 − Subsec. (b)(2). Pub. L. 100−647, Sec. 1007(a)(2), inserted at end "If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

Subsec. (c)(1). Pub. L. 100−647, Sec. 1007(a)(1), inserted "and the section 936 credit allowable under section 27(b)" before period at end of first sentence.

Pub. L. 100−647, Sec. 1002(l)(27), substituted "subsection (j) or (k) of section 42" for "section 42(j)".

Subsec. (d)(3). Pub. L. 100−647, Sec. 1007(a)(3), inserted at end "In the case of a taxpayer described in paragraph (1)(C)(i), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over $155,000, or (ii) $20,000."

1986 − Subsec. (c)(1). Pub. L. 99−514, Sec. 252(c), inserted "or section 42(j)".

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Pub. L. 107−16, title VII, Sec. 701(c), June 7, 2001, 115 Stat. 148, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December

31, 2000."

Amendment by Pub. L. 107−16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107−16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105−206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105−34, to which such amendment relates, see section 6024 of Pub. L. 105−206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 311(b)(1), (2)(A) of Pub. L. 105−34 applicable to taxable years ending after May 6, 1997, see section 311(d) of Pub. L. 105−34, set out as a note under section 1 of this title.

Section 401(b) of Pub. L. 105−34 provided that: "The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997."

Amendment by section 1601(f)(1)(C) of Pub. L. 105−34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104−188, to which it relates, see section 1601(j) of Pub. L. 105−34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1205(d)(6) of Pub. L. 104−188 applicable to amounts paid or incurred in taxable years ending after June 30, 1996, see section 1205(e) of Pub. L. 104−188, set out as a note under section 29 of this title.

Amendment by section 1401(b)(3) of Pub. L. 104−188 applicable to taxable years beginning after Dec. 31, 1999, with retention of certain transition rules, see section 1401(c) of Pub. L. 104−188, set out as a note under section 402 of this title.

Amendment by section 1601(b)(2)(A) of Pub. L. 104−188 applicable to taxable years beginning after Dec. 31, 1995, except as otherwise provided, see section 1601(c) of Pub. L. 104−188, set out as an Effective Date note under section 30A of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13203(d) of Pub. L. 103−66 provided that: "The amendments made by this section [amending this section and section 897 of this title] shall apply to taxable years beginning after December 31, 1992."

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102−486 applicable to property placed in service after June 30, 1993, see section 1913(c) of Pub. L. 102−486, set out as an Effective Date note under section 30 of this title.

Amendment by Pub. L. 102−318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102−318, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11102(b) of Pub. L. 101−508 provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1990."

Amendment by section 11813(b)(5) of Pub. L. 101−508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101−508, set out as a note under section 29 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1002(l)(27) of Pub. L. 100−647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99−514, to which such amendment relates, see section 1019(a) of Pub. L. 100−647, set out as a note under section 1 of this title.

Section 1007(a)(3) of Pub. L. 100−647 provided that the amendment made by that section is effective with respect to taxable years ending after Nov. 10, 1988.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99−514 applicable to buildings placed in service after Dec. 31, 1986, in taxable years ending after such date, see section 252(e) of Pub. L. 99−514, set out as an Effective Date note under section 42 of this title.

EFFECTIVE DATE

Section 701(f) of Pub. L. 99−514, as amended by Pub. L. 100−647, title I, Sec. 1007(f)(2), (3), Nov. 10, 1988, 102 Stat. 3433, provided that:

"(1) In general. − Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and sections 53 and 56 to 59 of this title and amending sections 5, 12, 26, 28, 29, 38, 48, 173, 174, 263, 381, 443, 703, 882, 897, 904, 936, 1016, 1363, 1366, 1561, 6154, 6425, and 6655 of this title] shall apply to taxable years beginning after December 31, 1986.

"(2) Adjustment of net operating loss. −

"(A) Individuals. − In the case of a net operating loss of an individual for a taxable year beginning after December 31, 1982, and before January 1, 1987, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1986, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 55(d)(2) of the Internal Revenue Code of 1954 [now 1986] as in effect on the day before the date of the enactment of this Act [Oct. 22, 1986].

"(B) Corporations. − If the minimum tax of a corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 [now 1986] (as in effect on the day before the date of the enactment of this Act [Oct. 22, 1986]) for any taxable year beginning before January 1, 1987, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1987, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1986, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

"(3) Installment sales. − Section 56(a)(6) of the Internal Revenue Code of 1986 (as amended by this section) shall not apply to any disposition to which the amendments made by section 811 of this Act [enacting section 453C of this title] (relating to allocation of dealer's indebtedness to installment obligations) do not apply by reason of section 811(c)(2) of this Act [enacting provisions set out as a note under section 453C of this title].

"(4) Exception for charitable contributions before august 16, 1986. − Section 57(a)(6) of the Internal Revenue Code of 1986 (as amended by this section) shall not apply to any deduction attributable to contributions made before August 16, 1986.

"(5) Book income. −

"(A) In general. − In the case of a corporation to which this paragraph applies, the amount of any increase for any taxable year under section 56(c)(1)(A) of the Internal Revenue Code of 1986 (as added by this section) shall be reduced (but not below zero) by the excess (if any) of −

"(i) 50 percent of the excess of taxable income for the 5−taxable year period ending with the taxable year preceding the 1st taxable year to which such section applies over the adjusted net book income for such period, over

"(ii) the aggregate amounts taken into account under this paragraph for preceding taxable years.

"(B) Taxpayer to whom paragraph applies. − This paragraph applies to a taxpayer which was incorporated in Delaware on May 31, 1912.

"(C) Terms. − Any term used in this paragraph which is used in section 56 of such Code (as so added) shall have the same meaning as when used in such section.

"(6) Certain public utility. −

"(A) In the case of investment tax credits described in subparagraph (B) or (C), subsection 38(c)(3)(A)(ii) of the Internal Revenue Code of 1986 shall be applied by substituting '25 percent' for '75 percent', and section 38(c)(3)(B) of the Internal Revenue Code of 1986 shall be applied by substituting '75 percent' for '25 percent'.

"(B) If, on September 25, 1985, a regulated electric utility owned an undivided interest, within the range of 1,111 and 1,149, in the 'maximum dependable capacity, net, megawatts electric' of an electric generating unit located in Illinois or Mississippi for which a binding written contract was in effect on December 31, 1980, then any investment tax credit with respect to such unit shall be described in this subparagraph. The aggregate amount of investment tax credits with respect to the unit in Mississippi allowed solely by reason of being described in this subparagraph shall not exceed $141,000,000.

"(C) If, on September 25, 1985, a regulated electric utility owned an undivided interest, within the range of 1,104 and 1,111, in the 'maximum dependable capacity, net, megawatts electric' of an electric generating unit located in Louisiana for which a binding written contract was in effect on December 31, 1980, then any investment tax credit of such electric utility shall be described in this subparagraph. The aggregate amount of investment tax credits allowed solely by reason of being described by this subparagraph shall not exceed $20,000,000.

"(7) Agreement vessel depreciation adjustment. −

"(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

"(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936 [46 App. U.S.C. 1177], as amended, and if depreciation with respect to such vessel had been computed using the 25−year straight−line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed $100,000,000.

"(C) For purposes of this paragraph, the term 'qualified taxpayer' means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991."

SAVINGS PROVISION

For provisions that nothing in amendment by section 11813(b)(5) of Pub. L. 101−508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101−508, set out as a note under section 29 of this title.

TRANSITIONAL PROVISIONS

Section 1007(f)(1) of Pub. L. 100−647 provided that: "In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986]) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform

Act of 1986 [Pub. L. 99−514]) on such beneficiary for such beneficiary's taxable year in which such taxable year of the estate or trust ends."

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [Secs. 1401−1465] of title I of Pub. L. 104−188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104−188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [Secs. 521−523] of title V of Pub. L. 102−318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102−318, set out as a note under section 401 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99−514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(a) of Pub. L. 99−514 [enacting this section] notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100−647 be treated as if it had been included in the provision of Pub. L. 99−514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100−647, set out as a note under

section 861 of this title.

HIGH INCOME TAXPAYER REPORT

Section 2123 of Pub. L. 94−455, as amended by Pub. L. 98−369, div. A, title IV, Sec. 441(b)(1), July 18, 1984, 98 Stat. 815, provided that: "The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of such income to the extent of the investment income. These data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax."

[Section 441(b)(2) of Pub. L. 98−369 provided that: "The amendment made by paragraph (1) [amending section 2123 of Pub. L. 94−455, set out above] shall apply to information published after the date of the enactment of this Act [July 18, 1984]."]

−SECREF−

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 5, 11, 12, 23, 24, 25B, 26, 38, 45A, 45D, 45F, 53, 59, 59A, 168, 443, 641, 666, 815, 847, 860E, 860J, 871, 877, 882, 897, 962, 1260, 1397E, 1400I, 1561, 6015, 6425, 6428, 6655, 6662 of this title.

−FOOTNOTE−

(!1) See References in Text note below.

−End−

−CITE−

26 USC Sec. 56 01/06/03

−EXPCITE−

TITLE 26 − INTERNAL REVENUE CODE

Subtitle A − Income Taxes

CHAPTER 1 − NORMAL TAXES AND SURTAXES

Subchapter A − Determination of Tax Liability

PART VI − ALTERNATIVE MINIMUM TAX

−HEAD−

Sec. 56. Adjustments in computing alternative minimum taxable income

−STATUTE−

(a) Adjustments applicable to all taxpayers

In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) Depreciation

(A) In general

(i) Property other than certain personal property

Except as provided in clause (ii), the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section

168(g). In the case of property placed in service after

December 31, 1998, the preceding sentence shall not apply but

clause (ii) shall continue to apply.

(ii) 150−percent declining balance method for certain

property

The method of depreciation used shall be −

(I) the 150 percent declining balance method,

(II) switching to the straight line method for the 1st

taxable year for which using the straight line method with

respect to the adjusted basis as of the beginning of the

year will yield a higher allowance.

The preceding sentence shall not apply to any section 1250

property (as defined in section 1250(c)) (and the straight

line method shall be used for such section 1250 property) or

to any other property if the depreciation deduction

determined under section 168 with respect to such other

property for purposes of the regular tax is determined by

using the straight line method.

(B) Exception for certain property

This paragraph shall not apply to property described in

paragraph (1), (2), (3), or (4) of section 168(f).

(C) Coordination with transitional rules

(i) In general

This paragraph shall not apply to property placed in

service after December 31, 1986, to which the amendments made

by section 201 of the Tax Reform Act of 1986 do not apply by reason of section 203, 204, or 251(d) of such Act.

(ii) Treatment of certain property placed in service before 1987

This paragraph shall apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

(D) Normalization rules

With respect to public utility property described in section 168(i)(10), the Secretary shall prescribe the requirements of a normalization method of accounting for this section.

(2) Mining exploration and development costs

(A) In general

With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) (determined without regard to section 291(b)) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10−year period beginning with the taxable year in which the expenditures were made.

(B) Loss allowed

If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of −

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(3) Treatment of certain long−term contracts

In the case of any long−term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)). For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(1) by using the simplified procedures for allocation of costs prescribed under section 460(b)(3). The first sentence of this paragraph shall not apply to any home construction contract (as defined in section 460(e)(6)).

(4) Alternative tax net operating loss deduction

The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

(5) Pollution control facilities

In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 (without regard to section 291) shall be determined under the alternative system of section 168(g). In the case of such a facility placed in service after December 31, 1998, such deduction shall be determined under section 168 using the straight line method.

(6) Adjusted basis

The adjusted basis of any property to which paragraph (1) or (5) applies (or with respect to which there are any expenditures to which paragraph (2) or subsection (b)(2) applies) shall be determined on the basis of the treatment prescribed in paragraph (1), (2), or (5), or subsection (b)(2), whichever applies.

(7) Section 87 not applicable

Section 87 (relating to alcohol fuel credit) shall not apply.

(b) Adjustments applicable to individuals

In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) Limitation on deductions

(A) In general

No deduction shall be allowed −

(i) for any miscellaneous itemized deduction (as defined in section 67(b)), or

(ii) for any taxes described in paragraph (1), (2), or (3) of section 164(a).

Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

(B) Medical expenses

In determining the amount allowable as a deduction under section 213, subsection (a) of section 213 shall be applied by substituting "10 percent" for "7.5 percent".

(C) Interest

In determining the amount allowable as a deduction for interest, subsections (d) and (h) of section 163 shall apply, except that −

(i) in lieu of the exception under section 163(h)(2)(D), the term "personal interest" shall not include any qualified housing interest (as defined in subsection (e)),

(ii) sections 163(d)(6) and 163(h)(5) (relating to phase−ins) shall not apply,

(iii) interest on any specified private activity bond (and any amount treated as interest on a specified private activity bond under section 57(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A), shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d),

(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term "investment interest" shall not include any qualified housing interest (as defined in subsection (e)), and

(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d).

(D) Treatment of certain recoveries

No recovery of any tax to which subparagraph (A)(ii) applied shall be included in gross income for purposes of determining alternative minimum taxable income.

(E) Standard deduction and deduction for personal exemptions not allowed

The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed.

(F) Section 68 not applicable

Section 68 shall not apply.

(2) Circulation and research and experimental expenditures

(A) In general

The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and −

(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3−year period beginning with the taxable year in which the expenditures were made, or

(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10−year period beginning with the taxable year in which the expenditures were made.

(B) Loss allowed

If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of −

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(C) Special rule for personal holding companies

In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

(D) Exception for certain research and experimental expenditures

If the taxpayer materially participates (within the meaning of section 469(h)) in an activity, this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity.

(3) Treatment of incentive stock options

Section 421 shall not apply to the transfer of stock acquired pursuant to the exercise of an incentive stock option (as defined in section 422). Section 422(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case. The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by this paragraph.

(c) Adjustments applicable to corporations

In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

(1) Adjustment for adjusted current earnings

Alternative minimum taxable income shall be adjusted as provided in subsection (g).

(2) Merchant marine capital construction funds

In the case of a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 (!1) U.S.C. 1177) −

(A) subparagraphs (A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such section 607) shall not apply to −

(i) any amount deposited in such fund after December 31, 1986, or

(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

(B) no reduction in basis shall be made under section 7518(f) (or the corresponding provisions of such section 607) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before)

January 1, 1987.

(3) Special deduction for certain organizations not allowed

The deduction determined under section 833(b) shall not be

allowed.

(d) Alternative tax net operating loss deduction defined

(1) In general

For purposes of subsection (a)(4), the term "alternative tax

net operating loss deduction" means the net operating loss

deduction allowable for the taxable year under section 172,

except that −

(A) the amount of such deduction shall not exceed the sum of

−

(i) the lesser of −

(I) the amount of such deduction attributable to net

operating losses (other than the deduction attributable to

carryovers described in clause (ii)(I)), or

(II) 90 percent of alternative minimum taxable income

determined without regard to such deduction, plus

(ii) the lesser of −

(I) the amount of such deduction attributable to the sum

of carrybacks of net operating losses for taxable years

ending during 2001 or 2002 and carryforwards of net

operating losses to taxable years ending during 2001 and

2002, or

(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount

determined under clause (i), and

(B) in determining the amount of such deduction −

(i) the net operating loss (within the meaning of section

172(c)) for any loss year shall be adjusted as provided in

paragraph (2), and

(ii) appropriate adjustments in the application of section

172(b)(2) shall be made to take into account the limitation

of subparagraph (A).

(2) Adjustments to net operating loss computation

(A) Post−1986 loss years

In the case of a loss year beginning after December 31, 1986,

the net operating loss for such year under section 172(c) shall

−

(i) be determined with the adjustments provided in this

section and section 58, and

(ii) be reduced by the items of tax preference determined

under section 57 for such year.

An item of tax preference shall be taken into account under

clause (ii) only to the extent such item increased the amount

of the net operating loss for the taxable year under section

172(c).

(B) Pre−1987 years

In the case of loss years beginning before January 1, 1987,

the amount of the net operating loss which may be carried over

to taxable years beginning after December 31, 1986, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.

(e) Qualified housing interest

For purposes of this part −

(1) In general

The term "qualified housing interest" means interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially improving any property which −

(A) is the principal residence (within the meaning of section 121) of the taxpayer at the time such interest accrues, or

(B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(4)).

Such term also includes interest on any indebtedness resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence; but only to the extent that the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness immediately before the refinancing.

(2) Qualified dwelling

The term "qualified dwelling" means any −

(A) house,

(B) apartment,

(C) condominium, or

(D) mobile home not used on a transient basis (within the

meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

(3) Special rule for indebtedness incurred before July 1, 1982

The term "qualified housing interest" includes interest which

is qualified residence interest (as defined in section 163(h)(3))

and is paid or accrued on indebtedness which −

(A) was incurred by the taxpayer before July 1, 1982, and

(B) is secured by property which, at the time such

indebtedness was incurred, was −

(i) the principal residence (within the meaning of section

121) of the taxpayer, or

(ii) a qualified dwelling used by the taxpayer (or any

member of his family (within the meaning of section

267(c)(4))).

[(f) Repealed. Pub. L. 101−508, title XI, Sec. 11801(a)(3), Nov. 5,

1990, 104 Stat. 1388−520]

(g) Adjustments based on adjusted current earnings

(1) In general

The alternative minimum taxable income of any corporation for

any taxable year shall be increased by 75 percent of the excess

(if any) of −

(A) the adjusted current earnings of the corporation, over

(B) the alternative minimum taxable income (determined

without regard to this subsection and the alternative tax net

operating loss deduction).

(2) Allowance of negative adjustments

(A) In general

The alternative minimum taxable income for any corporation of any taxable year, shall be reduced by 75 percent of the excess (if any) of −

(i) the amount referred to in subparagraph (B) of paragraph (1), over

(ii) the amount referred to in subparagraph (A) of paragraph (1).

(B) Limitation

The reduction under subparagraph (A) for any taxable year shall not exceed the excess (if any) of −

(i) the aggregate increases in alternative minimum taxable income under paragraph (1) for prior taxable years, over

(ii) the aggregate reductions under subparagraph (A) of this paragraph for prior taxable years.

(3) Adjusted current earnings

For purposes of this subsection, the term "adjusted current earnings" means the alternative minimum taxable income for the taxable year −

(A) determined with the adjustments provided in paragraph (4), and

(B) determined without regard to this subsection and the alternative tax net operating loss deduction.

(4) Adjustments

In determining adjusted current earnings, the following adjustments shall apply:

(A) Depreciation

(i) Property placed in service after 1989

The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under the alternative system of section 168(g). The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).

(ii) Property to which new ACRS system applies

In the case of any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined −

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight−line method over the remainder of the recovery period applicable to such property under the alternative system of section 168(g).

(iii) Property to which original ACRS system applies

In the case of any property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 and without regard to subsection (d)(1)(A)(ii) thereof) applies and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined −

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing the regular tax) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight line method over the remainder of the recovery period which would apply to such property under the alternative system of section 168(g).

(iv) Property placed in service before 1981

In the case of any property not described in clause (i), (ii), or (iii), the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing taxable income.

(v) Special rule for certain property

In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g).

(B) Inclusion of items included for purposes of computing earnings and profits

(i) In general

In the case of any amount which is excluded from gross income for purposes of computing alternative minimum taxable income but is taken into account in determining the amount of earnings and profits −

(I) such amount shall be included in income in the same manner as if such amount were includible in gross income for purposes of computing alternative minimum taxable income, and

(II) the amount of such income shall be reduced by any deduction which would have been allowable in computing alternative minimum taxable income if such amount were includible in gross income.

The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law) or under section 114. In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).

(ii) Inclusion of buildup in life insurance contracts

In the case of any life insurance contract −

(I) the income on such contract (as determined under section 7702(g)) for any taxable year shall be treated as includible in gross income for such year, and

(II) there shall be allowed as a deduction that portion of any premium which is attributable to insurance coverage.

(C) Disallowance of items not deductible in computing earnings and profits

(i) In general

A deduction shall not be allowed for any item if such item would not be deductible for any taxable year for purposes of computing earnings and profits.

(ii) Special rule for certain dividends

(I) In general

Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100−percent dividend or which is received from a 20−percent owned corporation (as defined in section 243(c)(2)), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 30A, 936 (including subsections (a)(4), (i), and (j) thereof) and 921).(!2)

(II) 100−percent dividend

For purposes of subclause (I), the term "100 percent dividend" means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent.

(iii) Treatment of taxes on dividends from 936 corporations

(I) In general

For purposes of determining the alternative minimum foreign tax credit, 75 percent of any withholding or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

(II) Limitation

If the aggregate amount of the dividends referred to in subclause (I) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as tax paid to a foreign country under subclause (I) shall not exceed the amount which would be so treated without regard to this subclause multiplied by a fraction the numerator of which is the excess referred to in paragraph (1) and the denominator of which is the aggregate amount of such dividends.

(III) Treatment of taxes imposed on 936 corporation

For purposes of this clause, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated).

(IV) Separate application of foreign tax credit limitations

In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

(V) Coordination with limitation on 936 credit

Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I).

(VI) Application to section 30A corporations

References in this clause to section 936 shall be treated as including references to section 30A.

(iv) Special rule for certain dividends received by certain cooperatives

In the case of a cooperative described in section 927(a)(4),(!3) clause (i) shall not apply to any amount allowable as a deduction under section 245(c).

(D) Certain other earnings and profits adjustments

(i) Intangible drilling costs

The adjustments provided in section 312(n)(2)(A) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1989. In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.

(ii) Certain amortization provisions not to apply

Sections 173 and 248 shall not apply to expenditures paid or incurred in taxable years beginning after December 31, 1989.

(iii) LIFO inventory adjustments

The adjustments provided in section 312(n)(4) shall apply, but only with respect to taxable years beginning after December 31, 1989.

(iv) Installment sales

In the case of any installment sale in a taxable year beginning after December 31, 1989, adjusted current earnings shall be computed as if the corporation did not use the installment method. The preceding sentence shall not apply to the applicable percentage (as determined under section 453A) of the gain from any installment sale with respect to which section 453A(a)(1) applies.

(E) Disallowance of loss on exchange of debt pools

No loss shall be recognized on the exchange of any pool of debt obligations for another pool of debt obligations having substantially the same effective interest rates and maturities.

(F) Depletion

(i) In general

The allowance for depletion with respect to any property placed in service in a taxable year beginning after December

31, 1989, shall be cost depletion determined under section 611.

(ii) Exception for independent oil and gas producers and royalty owners

In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c).

(G) Treatment of certain ownership changes

If −

(i) there is an ownership change (within the meaning of section 382) in a taxable year beginning after 1989 with respect to any corporation, and

(ii) there is a net unrealized built−in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change.

(H) Adjusted basis

The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph.

(I) Treatment of charitable contributions

Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.

(5) Other definitions

For purposes of paragraph (4) −

(A) Earnings and profits

The term "earnings and profits" means earnings and profits computed for purposes of subchapter C.

(B) Treatment of alternative minimum taxable income

The treatment of any item for purposes of computing alternative minimum taxable income shall be determined without regard to this subsection.

(6) Exception for certain corporations

This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, REMIC, or FASIT.

−SOURCE−

(Added Pub. L. 99−514, title VII, Sec. 701(a), Oct. 22, 1986, 100 Stat. 2322; amended Pub. L. 100−203, title X, Secs. 10202(d), 10243(a), Dec. 22, 1987, 101 Stat. 1330−392, 1330−423; Pub. L. 100−647, title I, Secs. 1002(a)(12), 1007(b)(1)−(14)(A), (15)−(19), title II, Secs. 2001(c)(3)(A), 2004(b)(2), (3), title V, Sec. 5041(b)(4), title VI, Secs. 6079(a)(1), 6303(a), Nov. 10, 1988, 102 Stat. 3355, 3428−3432, 3594, 3599, 3674, 3709, 3755; Pub. L. 101−239, title VII, Secs. 7205(b), 7611(a)−(f)(4), 7612(c)(1), (d)(1), 7811(d)(3), 7815(e)(2), (4), Dec. 19, 1989, 103 Stat. 2335, 2371−2374, 2408, 2419; Pub. L. 101−508, title XI, Secs. 11103(b), 11301(b), 11531(a), (b)(1), 11704(a)(1), 11801(a)(3), (c)(2)(A)−(C), (9)(G), 11812(b)(4), Nov. 5, 1990, 104 Stat. 1388−406, 1388−449, 1388−488, 1388−490, 1388−518, 1388−520, 1388−522, 1388−523, 1388−526, 1388−535; Pub. L. 102−486, title XIX, Sec. 1915(a)(2), (b)(2), (c)(1), (2), Oct. 24, 1992, 106 Stat. 3023, 3024; Pub. L. 103−66, title XIII, Secs. 13115(a), 13171(b), 13227(c), Aug. 10, 1993, 107 Stat. 432, 454, 493; Pub. L. 104−188, title I, Secs. 1601(b)(2)(B), (C), 1621(b)(2), 1702(c)(1), (e)(1)(A), (g)(4), (h)(12), 1704(t)(1), (48), Aug. 20, 1996, 110 Stat. 1832, 1833, 1867, 1869, 1870, 1873, 1874, 1887, 1889; Pub. L. 105−34, title III, Sec. 312(d)(1), title IV, Secs. 402, 403(a), title XII, Sec. 1212(a), Aug. 5, 1997, 111 Stat. 839, 844, 1000; Pub. L. 105−277, div. J, title IV, Sec. 4006(c)(2), Oct. 21, 1998, 112 Stat. 2681−912; Pub. L. 106−519, Sec. 4(1), Nov. 15, 2000, 114 Stat. 2432; Pub. L. 106−554, Sec. 1(a)(7) [title III, Sec. 314(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A−643; Pub. L. 107−147, title I, Sec. 102(c)(1), title IV, Sec. 417(5), Mar. 9, 2002, 116 Stat. 26, 56.)

−REFTEXT−

REFERENCES IN TEXT

Section 201 of the Tax Reform Act of 1986, referred to in subsecs. (a)(1)(C) and (g)(4)(A)(ii), is section 201 of Pub. L. 99−514, which amended sections 46, 167, 168, 178, 179, 280F, 291, 312, 465, 467, 514, 751, 1245, 4162, 6111, and 7701 of this title.

Sections 203, 204, and 251(d) of such Act, referred to in subsec. (a)(1)(C), are sections 203, 204, and 251(d) of the Tax Reform Act of 1986, Pub. L. 99−514. Sections 203 and 204 are set out as notes under section 168 of this title. Section 251(d) is set out as a note under section 46 of this title.

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (g)(4)(A)(iii), is the date of enactment of Pub. L. 99−514, which was approved Oct. 22, 1986.

Sections 921 and 927, referred to in subsec. (g)(4)(C), were repealed by Pub. L. 106−519, Sec. 2, Nov. 15, 2000, 114 Stat. 2423.

−MISC1−

PRIOR PROVISIONS

A prior section 56, added Pub. L. 91−172, title III, Sec. 301(a), Dec. 30, 1969, 83 Stat. 580; amended Pub. L. 91−614, title V, Sec. 501(a), Dec. 31, 1970, 84 Stat. 1846; Pub. L. 92−178, title VI, Sec. 601(c)(4), (5), Dec. 10, 1971, 85 Stat. 558; Pub. L. 93−406, title II, Secs. 2001(g)(2)(D), 2002(g)(4), 2005(c)(7), Sept. 2, 1974, 88 Stat. 957, 968, 991; Pub. L. 94−12, title II, Secs. 203(b)(2), (3), 208(d)(2), (3), Mar. 29, 1975, 89 Stat. 30, 35; Pub. L. 94−455, title III, Sec. 301(a), (b), (c)(4)(B), Oct. 4, 1976, 90 Stat. 1549, 1552; Pub. L. 95−30, title II, Sec. 202(d)(2), May 23, 1977, 91 Stat. 148; Pub. L. 95−600, title I, Sec. 141(d), Nov. 6, 1978, 92 Stat. 2794; Pub. L. 95−618, title I, Sec. 101(b)(2), Nov. 9, 1978, 92 Stat. 3179; Pub. L. 96−222, title I, Sec. 101(a)(7)(L)(iii)(IV), Apr. 1, 1980, 94 Stat. 200; Pub. L. 97−34, title III, Sec. 331(c)(2), Aug. 13, 1981, 95 Stat. 293; Pub.

L. 97−248, title II, Sec. 201(d)(1), formerly Sec. 201(c)(1), Sept. 3, 1982, 96 Stat. 419, renumbered Sec. 201(d)(1), Pub. L. 97−448, title III, Sec. 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 98−369, div. A, title IV, Sec. 474(r)(1), July 18, 1984, 98 Stat. 839; Pub. L. 99−514, title XI, Sec. 1171(b)(3), Oct. 22, 1986, 100 Stat. 2513, related to a corporate minimum tax, prior to the general revision of this part by Pub. L. 99−514, Sec. 701(a).

AMENDMENTS

2002 − Subsec. (a)(1)(A)(ii). Pub. L. 107−147, Sec. 417(5), substituted "such section 1250" for "such 1250" in concluding provisions.

Subsec. (d)(1)(A). Pub. L. 107−147, Sec. 102(c)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

2000 − Subsec. (a)(1)(A)(ii). Pub. L. 106−554 inserted "(and the straight line method shall be used for such 1250 property)" before "or to any other property" in concluding provisions.

Subsec. (g)(4)(B)(i). Pub. L. 106−519 inserted "or under section 114" before the period at end of first sentence in concluding provisions.

1998 − Subsec. (a)(3). Pub. L. 105−277 substituted "section 460(b)(1)" for "section 460(b)(2)" and "section 460(b)(3)" for "section 460(b)(4)".

1997 − Subsec. (a)(1)(A)(i). Pub. L. 105−34, Sec. 402(a), inserted at end "In the case of property placed in service after December 31, 1998, the preceding sentence shall not apply but clause (ii) shall continue to apply."

Subsec. (a)(5). Pub. L. 105−34, Sec. 402(b), inserted at end "In the case of such a facility placed in service after December 31, 1998, such deduction shall be determined under section 168 using the straight line method."

Subsec. (a)(6) to (8). Pub. L. 105−34, Sec. 403(a), redesignated pars. (7) and (8) as (6) and (7), respectively, and struck out former par. (6) which read as follows:

"(6) Installment sales of certain property. − In the case of any disposition after March 1, 1986, of any property described in section 1221(1), income from such disposition shall be determined without regard to the installment method under section 453. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453(l)(2)(B)."

Subsec. (e)(1)(A), (3)(B)(i). Pub. L. 105−34, Sec. 312(d)(1), substituted "section 121" for "section 1034".

Subsec. (g)(4)(B)(i). Pub. L. 105−34, Sec. 1212(a), inserted at end of concluding provisions "In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b)."

1996 − Subsec. (b)(3). Pub. L. 104−188, Sec. 1702(h)(12), provided that the amendment made by section 11801(c)(9)(G)(ii) of Pub. L. 101−508 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)". See 1990 Amendment note below.

Subsec. (d)(1)(B)(ii). Pub. L. 101−508, Sec. 1702(e)(1)(A), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "in the case of taxable years beginning after December 31, 1986, section 172(b)(2) shall be applied by substituting '90 percent of alternative minimum taxable income determined without regard to the alternative tax net operating loss deduction' for 'taxable income' each place it appears."

Subsec. (g)(1), (2)(A). Pub. L. 104−188, Sec. 1704(t)(48), provided that section 11801(c)(2)(B) of Pub. L. 101−508 shall be applied as if "section 56(g)" appeared instead of "section 59(g)". See 1990 Amendment note below.

Subsec. (g)(4)(C)(ii)(I). Pub. L. 104−188, Sec. 1601(b)(2)(B), inserted "30A," before "936" and substituted ", (i), and (j)" for "and (i)".

Subsec. (g)(4)(C)(ii)(II). Pub. L. 104−188, Sec. 1704(t)(1), substituted "of subclause" for "of the subclause".

Subsec. (g)(4)(C)(iii)(VI). Pub. L. 104−188, Sec. 1601(b)(2)(C), added subcl. (VI).

Subsec. (g)(4)(D)(iii). Pub. L. 104−188, Sec. 1702(g)(4), inserted ", but only with respect to taxable years beginning after December 31, 1989" before period at end.

Subsec. (g)(4)(H) to (J). Pub. L. 104−188, Sec. 1702(c)(1), redesignated subpars. (I) and (J) as (H) and (I), respectively.

Subsec. (g)(6). Pub. L. 104−188, Sec. 1621(b)(2), substituted "REMIC, or FASIT" for "or REMIC".

1993 − Subsec. (g)(4)(A)(i). Pub. L. 103−66, Sec. 13115(a), inserted at end "The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

Subsec. (g)(4)(C)(ii)(I). Pub. L. 103−66, Sec. 13227(c)(1), substituted "sections 936 (including subsections (a)(4) and (i) thereof) and 921" for "sections 936 and 921".

Subsec. (g)(4)(C)(iii)(IV), (V). Pub. L. 103−66, Sec. 13227(c)(2), added subcls. (IV) and (V).

Subsec. (g)(4)(J). Pub. L. 103−66, Sec. 13171(b), added subpar. (J).

1992 − Subsec. (d)(1)(A). Pub. L. 102−486, Sec. 1915(c)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the amount of such deduction shall not exceed the excess (if any) of −

"(i) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under subsection (h), over

"(ii) the deduction under subsection (h), and".

Subsec. (g)(4)(D)(i). Pub. L. 102−486, Sec. 1915(b)(2), inserted at end "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992."

Subsec. (g)(4)(F). Pub. L. 102−486, Sec. 1915(a)(2), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "The allowance for depletion with respect to any property placed in service in a taxable year beginning after 1989 shall be cost depletion determined under section 611."

Subsec. (h). Pub. L. 102−486, Sec. 1915(c)(1), struck out subsec. (h) which related to adjustment based on energy preferences.

1990 − Subsec. (a)(1)(D). Pub. L. 101−508, Sec. 11812(b)(4), substituted "section 168(i)(10)" for "section 167(l)(3)(A)".

Subsec. (b)(1)(F). Pub. L. 101−508, Sec. 11103(b), added subpar. (F).

Subsec. (b)(3). Pub. L. 101−508, Sec. 11801(c)(9)(G)(i), substituted "section 422" for "section 422A".

Pub. L. 101−508, Sec. 11801(c)(9)(G)(ii), which directed the substitution of "section 422(c)(2)" for "section 422A(c)(2)", was executed by substituting "Section 422(c)(2)" for "Section 422A(c)(2)". See 1996 Amendment note above.

Subsec. (c)(1). Pub. L. 101−508, Sec. 11801(c)(2)(A), substituted heading for one which read: "Adjustment for book income or adjusted current earnings" and amended text generally. Prior to amendment, text read as follows:

"(A) Book income adjustment. − For taxable years beginning in 1987, 1988, and 1989, alternative minimum taxable income shall be adjusted as provided under subsection (f).

"(B) Adjusted current earnings. − For taxable years beginning after 1989, alternative minimum taxable income shall be adjusted as provided under subsection (g)."

Subsec. (d)(1)(A). Pub. L. 101−508, Sec. 11531(b)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the amount of such deduction shall not exceed 90 percent of alternative minimum taxable income determined without regard to such deduction, and".

Subsec. (f). Pub. L. 101−508, Sec. 11801(a)(3), struck out subsec. (f) which related to adjustments for book income of corporations with respect to minimum taxable income, adjusted net book income, adjustments for certain taxes, special rules for related corporations for consolidated returns, treatment of dividends, statements covering different periods, special rule for cooperatives, treatment and limitation of taxes on dividends from 936 corporations, rules for Alaska native corporations, special rules for life insurance companies, exclusion of certain income from transfer of stock for debt, secretarial authority to adjust items, applicable financial statements, earnings and profits used, special rules for more than one statement and exception for certain corporations.

Subsec. (g)(1), (2)(A). Pub. L. 101−508, Sec. 11801(c)(2)(B), which directed that pars. (1) and (2) "of section 59(g) are each amended by striking 'beginning after 1989' ", was executed to pars. (1) and (2)(A) of subsec. (g) of this section after "any taxable year". See 1996 Amendment note above.

Subsec. (g)(4)(C)(iii). Pub. L. 101−508, Sec. 11801(c)(2)(C), substituted heading for one which read: "Special rule for dividends from section 936 companies" and amended text generally. Prior to amendment, text read as follows: "In the case of any dividend received from a corporation eligible for the credit provided by section 936, rules similar to the rules of subparagraph (F) of subsection (f)(1) shall apply, except that '75 percent' shall be substituted for '50 percent' in clause (i) thereof."

Subsec. (g)(4)(D)(ii). Pub. L. 101−508, Sec. 11704(a)(1), substituted "years" for "year".

Subsec. (g)(4)(F) to (H). Pub. L. 101−508, Sec. 11301(b), redesignated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which provided that acquisition expenses for life insurance companies be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subparagraph applied to all taxable years.

Subsec. (h). Pub. L. 101−508, Sec. 11531(a), added subsec. (h).

1989 − Subsec. (a)(3). Pub. L. 101−239, Sec. 7815(e)(2)(B), substituted "The first sentence of this paragraph shall not" for "The preceding sentence shall not".

Pub. L. 101−239, Sec. 7815(e)(2)(A), made clarifying amendment to directory language of Pub. L. 100−647, Sec. 5041(b)(4), see 1988 Amendment note below.

Pub. L. 101−239, Sec. 7612(c)(1), struck out "with respect to which the requirements of clauses (i) and (ii) of section 460(e)(1)(B) are met" after "section 460(e)(6))".

Subsec. (b)(2)(D). Pub. L. 101−239, Sec. 7612(d)(1), added subpar. (D).

Subsec. (b)(3). Pub. L. 101−239, Sec. 7811(d)(3), inserted after first sentence "Section 422A(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case." and substituted "this paragraph" for "the preceding sentence" in last sentence.

Subsec. (g)(4)(A)(i). Pub. L. 101−239, Sec. 7611(a)(1)(A), amended cl. (i) generally. Prior to amendment cl. (i) read as follows: "The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under whichever of the following methods yields deductions with a smaller present value:

"(I) The alternative system of section 168(g), or

"(II) The method used for book purposes."

Subsec. (g)(4)(A)(iii). Pub. L. 101−239, Sec. 7611(a)(2), inserted "and which is placed in service in a taxable year beginning before 1990" after "thereof) applies".

Subsec. (g)(4)(A)(v) to (vii). Pub. L. 101−239, Sec. 7611(a)(1)(B), redesignated cl. (vii) as (v), and struck out former cl. (v), which related to use of slower method if used for book purposes, and cl. (vi), which related to election to have cumulative limitation.

Subsec. (g)(4)(B)(i). Pub. L. 101−239, Sec. 7611(f)(2), inserted at end "The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law)."

Subsec. (g)(4)(B)(iii). Pub. L. 101−239, Sec. 7611(f)(3), repealed cl. (iii) which read as follows: "In the case of any annuity contract, the income on such contract (as determined under section 72(u)(2)) shall be treated as includible in gross income for such year. The preceding sentence shall not apply to any annuity contract which is held under a plan described in section 403(a) or which is described in section 72(u)(3)(C)."

Subsec. (g)(4)(C)(ii). Pub. L. 101−239, Sec. 7611(d), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows:

"Clause (i) shall not apply to any deduction allowable under section 243 or 245 for a 100−percent dividend −

"(I) if the corporation receiving such dividend and the corporation paying such dividend could not be members of the same affiliated group under section 1504 by reason of section 1504(b),

"(II) but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 936 and 921).

For purposes of the preceding sentence, the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent."

Subsec. (g)(4)(C)(iv). Pub. L. 101−239, Sec. 7611(e), added cl. (iv).

Subsec. (g)(4)(D). Pub. L. 101−239, Sec. 7611(b), amended subpar.

(D) generally, in cl. (i), substituting provisions directing that adjustments in section 312(n)(2)(A) be applied, for provisions directing adjustments in section 312(n) be applied, with certain exceptions, in cl. (ii), substituting provisions directing that sections 173 and 248 not apply to expenditures paid or incurred in taxable years beginning after December 31, 1989, for material relating to special rule for intangible drilling costs and mineral exploration and development costs, and adding cls. (iii) and (iv).

Subsec. (g)(4)(D)(i)(IV), (V). Pub. L. 101−239, Sec. 7815(e)(4), added subcl. (IV) relating to inapplicability of pars. (6) to (8) and struck out former subcls. (IV) and (V), which read as follows:

"(IV) paragraph (6) shall apply only to contracts entered into on or after March 1, 1986, and

"(V) paragraphs (7) and (8) shall not apply."

Subsec. (g)(4)(G). Pub. L. 101−239, Sec. 7611(c), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows:

"The allowances for depletion with respect to any property placed in service in a taxable year beginning after 1989, shall be determined under whichever of the following methods yields deductions with a smaller present value:

"(i) cost depletion determined under section 611, or

"(ii) the method used for book purposes."

Subsec. (g)(4)(H). Pub. L. 101−239, Sec. 7205(b), added cl. (ii) and concluding provision and struck out former cl. (ii) and concluding provision which read as follows:

"(ii)(I) the aggregate adjusted bases of the assets of such corporation (immediately after the change), exceed

"(II) the value of the stock of such corporation (as determined for purposes of section 382), properly adjusted for liabilities and other relevant items,

then the adjusted basis of each asset of such corporation (as of such time) shall be its proportionate share (determined on the basis of respective fair market values) of the amount referred to in clause (ii)(II)."

Subsec. (g)(4)(H)(i). Pub. L. 101−239, Sec. 7611(f)(1), substituted "in a taxable year beginning after 1989" for "after the date of the enactment of the Tax Reform Act of 1986".

Subsec. (g)(5)(A). Pub. L. 101−239, Sec. 7611(f)(4), redesignated subpar. (B) as (A) and struck out former subpar. (A) which defined "book purposes".

Subsec. (g)(5)(B). Pub. L. 101−239, Sec. 7611(f)(4), redesignated subpar. (D) as (B). Former subpar. (B) redesignated (A).

Subsec. (g)(5)(C). Pub. L. 101−239, Sec. 7611(f)(4), struck out subpar. (C) which read as follows: "Present value. − Present value shall be determined as of the time the property is placed in service (or, if later, as of the beginning of the first taxable year beginning after 1989) and under regulations prescribed by the Secretary."

Subsec. (g)(5)(D). Pub. L. 101−239, Sec. 7611(f)(4), redesignated subpar. (D) as (B).

1988 − Subsec. (a)(1)(A)(i). Pub. L. 100−647, Sec. 1007(b)(15), substituted "personal" for "real" in heading.

Subsec. (a)(1)(C)(i). Pub. L. 100−647, Sec. 1002(a)(12), inserted "by reason of section 203, 204, or 251(d) of such Act" after "do not apply".

Subsec. (a)(3). Pub. L. 100−647, Sec. 5041(b)(4), as amended by Pub. L. 101−239, Sec. 7815(e)(2)(A), inserted at end "The preceding sentence shall not apply to any home construction contract (as defined in section 460(e)(6)) with respect to which the requirements of clauses (i) and (ii) of section 460(e)(1)(B) are met."

Pub. L. 100−647, Sec. 1007(b)(1), inserted at end "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

Subsec. (a)(8). Pub. L. 100−647, Sec. 1007(b)(19), added par. (8).

Subsec. (b)(1). Pub. L. 100−647, Sec. 1007(b)(16), struck out "itemized" after "Limitation on" in heading.

Subsec. (b)(1)(C)(ii). Pub. L. 100−647, Sec. 2004(b)(2), substituted "163(h)(5)" for "163(h)(6)".

Subsec. (b)(1)(C)(iii). Pub. L. 100−647, Sec. 1007(b)(4), substituted "specified private activity bond" for "specified activity bond" before "under", and "57(a)(5)(B)" for "56(a)(5)(B)".

Subsec. (b)(1)(C)(iv), (v). Pub. L. 100−647, Sec. 1007(b)(3), added cls. (iv) and (v).

Subsec. (b)(1)(E). Pub. L. 100−647, Sec. 1007(b)(2), substituted "and deduction for personal exemptions not allowed" for "not allowed" in heading and amended text generally. Prior to amendment, text read as follows: "The standard deduction provided in section 63(c) shall not be allowed."

Subsec. (b)(3). Pub. L. 100−647, Sec. 1007(b)(14)(A), added par. (3).

Subsec. (c)(1). Pub. L. 100−647, Sec. 1007(b)(13)(A), substituted "adjusted current earnings" for "adjusted earnings and profits" in heading.

Subsec. (c)(1)(B). Pub. L. 100−647, Sec. 1007(b)(13)(B), substituted "Adjusted current earnings" for "Adjusted earnings and profits" in heading.

Subsec. (d)(2)(A). Pub. L. 100−647, Sec. 1007(b)(5), struck out "(other than subsection (a)(6) thereof)" after "for such year" in cl. (ii) and inserted sentence at end providing that an item of tax preference shall be taken into account under clause (ii).

Subsec. (e)(1). Pub. L. 100−647, Sec. 2004(b)(3)(A), substituted "improving" for "rehabilitating" in introductory text.

Pub. L. 100−647, Sec. 1007(b)(6)(A)(i), inserted "qualified residence interest (as defined in section 163(h)(3)) and is" after "interest which is" in introductory text.

Subsec. (e)(1)(A). Pub. L. 100−647, Sec. 2004(b)(3)(B), struck out "or is paid" after "accrues".

Subsec. (e)(1)(B). Pub. L. 100−647, Sec. 1007(b)(6)(A)(ii), substituted "section 163(h)(4)" for "section 163(h)(3)".

Subsec. (e)(3). Pub. L. 100−647, Sec. 1007(b)(6)(B), substituted "interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued" for "interest paid or accrued".

Subsec. (f)(2)(B). Pub. L. 100−647, Sec. 2001(c)(3)(A), inserted at end "No adjustment shall be made under this subparagraph for the tax imposed by section 59A."

Pub. L. 100−647, Sec. 1007(b)(7), inserted "(otherwise eligible for the credit provided by section 901 without regard to section 901(j))" after "any such taxes".

Subsec. (f)(2)(F). Pub. L. 100−647, Sec. 1007(b)(11)(A), substituted "Treatment of taxes on dividends from 936 corporations" for "Treatment of dividends from 936 corporations" in heading and amended text generally, substituting cls. (i) to (iii) for former cls. (i) and (ii).

Subsec. (f)(2)(I), (J). Pub. L. 100−647, Sec. 6303(a), added subpar. (I) and redesignated former subpar. (I) as (J).

Subsec. (f)(3)(A)(iii). Pub. L. 100−647, Sec. 1007(b)(8), inserted "for a substantial nontax purpose" after "an income statement".

Subsec. (f)(3)(B). Pub. L. 100−647, Sec. 1007(b)(9), substituted "this subsection" for "paragraph (3)(A)" in penultimate sentence.

Subsec. (f)(3)(C). Pub. L. 100−647, Sec. 1007(b)(10), inserted at end "If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations."

Subsec. (g)(4)(A)(vi), (vii). Pub. L. 100−647, Sec. 1007(b)(17), added cls. (vi) and (vii).

Subsec. (g)(4)(B)(iii). Pub. L. 100−647, Sec. 6079(a)(1), amended last sentence generally, inserting "which is" after "any annuity contract" and "or which is described in section 72(u)(3)(C)" after "in section 403(a)".

Pub. L. 100−647, Sec. 1007(b)(12), inserted at end "The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a)."

Subsec. (g)(4)(C)(iii). Pub. L. 100−647, Sec. 1007(b)(11)(B), substituted "clause (i)" for "clause (ii)(I)".

Subsec. (g)(4)(I). Pub. L. 100−647, Sec. 1007(b)(18), added subpar. (I).

1987 − Subsec. (a)(6). Pub. L. 100−203, Sec. 10202(d), amended par. (6) generally. Prior to amendment, par. (6) read as follows:

"In the case of any −

"(A) disposition after March 1, 1986, of property described in section 1221(1), or

"(B) other disposition if an obligation arising from such disposition would be an applicable installment obligation (as defined in section 453C(e)) to which section 453C applies, income from such disposition shall be determined without regard to the installment method under section 453 or 453A and all payments to be received for the disposition shall be deemed received in the taxable year of the disposition. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453C(e)(4)."

Subsec. (f)(2)(H), (I). Pub. L. 100−203, Sec. 10243(a), added subpar. (H) and redesignated former subpar. (H) as (I).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107−147, title I, Sec. 102(c)(2), Mar. 9, 2002, 116 Stat. 26, provided that: "The amendment made by this subsection [amending this section] shall apply to taxable years ending before January 1, 2003."

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106−554, Sec. 1(a)(7) [title III, Sec. 314(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A−643, provided that: "The amendments made by this section [amending this section and sections 403, 414, 415, 3405, 6211 and 7436 of this title and provisions set out as a note under section 1 of this title] shall take effect as if included in the provisions of the Taxpayer Relief [Act] of 1997 [Pub. L. 105−34] to which they relate."

Amendment by Pub. L. 106−519 applicable to transactions after Sept. 30, 2000, with special rules relating to existing foreign sales corporations, see section 5 of Pub. L. 106−519, set out as an Effective Date note under section 941 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(1) of Pub. L. 105−34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105−34, set out as a note under section 121 of this title.

Section 403(b) of Pub. L. 105−34 provided that:

"(1) In general. − The amendment made by this section [amending this section] shall apply to dispositions in taxable years beginning after December 31, 1987.

"(2) Special rule for 1987. − In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting 'or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii)' after 'section 453C(e)(4)'."

Section 1212(b) of Pub. L. 105−34 provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1997."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1601(b)(2)(B), (C) of Pub. L. 104−188 applicable to taxable years beginning after Dec. 31, 1995, except as otherwise provided, see section 1601(c) of Pub. L. 104−188, set out as an Effective Date note under section 30A of this title.

Amendment by section 1621(b)(2) of Pub. L. 104−188 effective Sept. 1, 1997, see section 1621(d) of Pub. L. 104−188, set out as a note under section 26 of this title.

Amendment by section 1702(c)(1), (e)(1)(A), (g)(4), and (h)(12) of Pub. L. 104−188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101−508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104−188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13115(b) of Pub. L. 103−66 provided that:

"(1) In general. − Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to property placed in service after December 31, 1993.

"(2) Coordination with transitional rules. − The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) thereof."

Amendment by section 13171(b) of Pub. L. 103−66 applicable to contributions made after June 30, 1992, except that in case of any contribution of capital gain property which is not tangible personal property, such amendment applicable only if the contribution is made after Dec. 31, 1992, see section 13171(d) of Pub. L. 103−66, set out as a note under section 53 of this title.

Section 13227(f) of Pub. L. 103−66 provided that: "The amendments made by this section [amending this section and sections 904, 936, and 7652 of this title] shall apply to taxable years beginning after December 31, 1993; except that the amendment made by subsection (e) [amending section 7652 of this title] shall take effect on October 1, 1993."

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1915(d) of Pub. L. 102−486 provided that: "The amendments made by this section [amending this section and sections 57, 59, and 59A of this title] shall apply to taxable years beginning after December 31, 1992."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11103(b) of Pub. L. 101−508 applicable to taxable years beginning after Dec. 31, 1990, see section 11103(e) of Pub. L. 101−508, set out as a note under section 1 of this title.

Section 11301(d)(2) of Pub. L. 101−508 provided that:

"(A) In general. − The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning on or after September 30, 1990, except that, in the case of a small insurance company, such amendment shall apply to taxable years beginning after December 31, 1989. For purposes of this paragraph, the term 'small insurance company' means any insurance company which meets the requirements of section 806(a)(3) of the Internal Revenue Code of 1986; except that paragraph (2) of section 806(c) of such Code shall not apply.

"(B) Special rules for year which includes september 30, 1990. − In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) by a company which is not a small insurance company shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F)."

Section 11531(c) of Pub. L. 101−508 provided that: "The amendments made by this section [amending this section and sections 59 and 59A of this title] shall apply to taxable years beginning after December 31, 1990."

Section 11704(b) of Pub. L. 101−508 provided that: "The amendments made by this section [amending this section, sections 172, 351, 413, 461, 469, 597, 857, 860D, 860G, 892, 927, 936, 1017, 1245, 1441, 2056A, 2642, 3231, 4091, 4093, 5061, 6013, 6038A, 6039D, 6045, 6323, 6332, 6655, 7519, 7522, 7608, and 7701 of this title, and provisions set out as a note under section 231n of Title 45, Railroads] shall take effect on the date of the enactment of this Act."

Amendment by section 11812(b)(4) of Pub. L. 101−508 applicable to property placed in service after Nov. 5, 1990, but not applicable to any property to which section 168 of this title does not apply by reason of subsec. (f)(5) of section 168, and not applicable to rehabilitation expenditures described in section 252(f)(5) of Pub. L. 99−514, see section 11812(c) of Pub. L. 101−508, set out as a note under section 42 of this title.