

Public Law 96-223
96th Congress

An Act

To impose a windfall profit tax on domestic crude oil, and for other purposes.

Apr. 2, 1980

[H.R. 3919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Crude Oil
Windfall Profit
Tax Act of 1980.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Crude Oil Windfall Profit Tax Act of 1980”.

26 USC 1 note.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 et seq.

(c) TABLE OF CONTENTS.—

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TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

SEC. 101. WINDFALL PROFIT TAX.

(a) IN GENERAL.—

(1) AMENDMENT OF SUBTITLE D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

“CHAPTER 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

“SUBCHAPTER A. Imposition and amount of tax.

“SUBCHAPTER B. Categories of oil.

“SUBCHAPTER C. Miscellaneous provisions.

“Subchapter A—Imposition and Amount of Tax

“Sec. 4986. Imposition of tax.

“Sec. 4987. Amount of tax.

“Sec. 4988. Windfall profit; removal price.

“Sec. 4989. Adjusted base price.

“Sec. 4990. Phaseout of tax.

26 USC 4986.

“SEC. 4986. IMPOSITION OF TAX.

“(a) IMPOSITION OF TAX.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

“(b) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the crude oil.

26 USC 4987.

“SEC. 4987. AMOUNT OF TAX.

“(a) IN GENERAL.—The amount of tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be the applicable percentage of the windfall profit on such barrel.

“(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

“(1) GENERAL RULE FOR TIERS 1 AND 2.—The applicable percentage for tier 1 oil and tier 2 oil which is not independent producer oil is—

"Tier 1..... 70

"Tier 2..... 60

"(2) INDEPENDENT PRODUCER OIL.—The applicable percentage for independent producer oil which is tier 1 oil or tier 2 oil is—

"Tier 1..... 50

"Tier 2..... 30

"(3) TIER 3 OIL.—The applicable percentage for tier 3 oil is 30 percent.

"(c) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on the whole barrel.

"SEC. 4988. WINDFALL PROFIT; REMOVAL PRICE.

26 USC 4988.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4996(c).

"(b) NET INCOME LIMITATION ON WINDFALL PROFIT.—

"(1) IN GENERAL.—The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to such barrel.

"(2) DETERMINATION OF NET INCOME.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil from such property taken into account for such taxable year.

"(3) TAXABLE INCOME FROM THE PROPERTY.—For purposes of paragraph (2)—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a).

26 USC 613.

"(B) CERTAIN DEDUCTIONS NOT ALLOWED.—No deduction shall be allowed for—

"(i) depletion,

"(ii) the tax imposed by section 4986,

"(iii) section 263(c) costs, or

26 USC 263.

"(iv) qualified tertiary injectant expenses to which an election under subparagraph (E) applies.

"(C) TAXABLE INCOME REDUCED BY COST DEPLETION.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all—

"(I) section 263(c) costs, and

"(II) qualified tertiary injectant expenses to which an election under subparagraph (E) applies, incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used by the taxpayer with respect to such property for all taxable periods.

"(D) SECTION 263(c) COSTS.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be

deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(E) ELECTION TO CAPITALIZE QUALIFIED TERTIARY INJECTANT EXPENSES.—

"(i) IN GENERAL.—Any taxpayer may elect, with respect to any property, to capitalize qualified tertiary injectant expenses for purposes of this paragraph. Any such election shall apply to all qualified tertiary injectant expenses allocable to the property for which the election is made, and may be revoked only with the consent of the Secretary. Any such election shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(ii) QUALIFIED TERTIARY INJECTANT EXPENSES.—The term 'qualified tertiary injectant expenses' means any expense allowable as a deduction under section 193.

Post, p. 286.

"(4) SPECIAL RULE FOR APPLYING PARAGRAPH (3)(C) TO CERTAIN TRANSFERS OF PROVEN OIL OR GAS PROPERTIES.—

"(A) IN GENERAL.—In the case of any proven oil or gas property transfer which (but for this subparagraph), would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only those amounts which would have been allowable with respect to the transferor under paragraph (3)(C) and those costs incurred during periods after such transfer.

"(B) PROVEN OIL OR GAS PROPERTY TRANSFER.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease or the creation of a production payment which gives the transferee an economic interest in the property) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

26 USC 613A.

"(5) SPECIAL RULE WHERE THERE IS PRODUCTION PAYMENT.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property of both the person holding such production payment and the person holding the interest from which such production payment was created.

"(c) REMOVAL PRICE.—For purposes of this chapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

26 USC 103.

26 USC 613.

"(3) OIL REMOVED FROM PREMISES BEFORE SALE.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

“(4) **REFINING BEGUN ON PREMISES.**—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

“(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

“(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

26 USC 613.

“(5) **MEANING OF TERMS.**—The terms ‘premises’ and ‘refined product’ have the same meaning as when used for purposes of determining gross income from the property under section 613.

“**SEC. 4989. ADJUSTED BASE PRICE.**

26 USC 4989.

“(a) **ADJUSTED BASE PRICE DEFINED.**—For purposes of this chapter, the term ‘adjusted base price’ means the base price for the barrel of crude oil plus an amount equal to—

“(1) such base price, multiplied by

“(2) the inflation adjustment for the calendar quarter in which the crude oil is removed from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

“(b) **INFLATION ADJUSTMENT.**—

“(1) **IN GENERAL.**—For purposes of subsection (a), the inflation adjustment for any calendar quarter is the percentage by which—

“(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

“(B) such deflator for the calendar quarter ending June 30, 1979.

“(2) **ADDITIONAL ADJUSTMENT FOR TIER 3 OIL.**—The adjusted base price for tier 3 oil shall be determined by substituting for the implicit price deflator referred to in paragraph (1)(A) an amount equal to such deflator multiplied by 1.005 to the n th power where ‘ n ’ equals the number of calendar quarters beginning after September 1979 and before the calendar quarter in which the oil is removed from the premises.

“(3) **FIRST REVISION OF PRICE DEFLATOR USED.**—For purposes of paragraphs (1) and (2), the first revision of the price deflator shall be used.

“(c) **BASE PRICE FOR TIER 1 OIL.**—For purposes of this chapter, the base price for tier 1 oil is—

“(1) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, reduced by

“(2) 21 cents.

“(d) **BASE PRICES FOR TIER 2 OIL AND TIER 3 OIL.**—For purposes of this chapter—

“(1) **GENERAL RULE.**—Except as provided in paragraph (2), the base prices for tier 2 oil and tier 3 oil shall be prices determined pursuant to the method prescribed by the Secretary by regulations. Any method so prescribed shall be designed so as to yield, with respect to oil of any grade, quality, and field, a base price which approximates the price at which such oil would have sold in December 1979 if—

“(A) all domestic crude oil were uncontrolled, and

“(B) the average removal price for all domestic crude oil (other than Sadlerochit oil) were—

“(i) \$15.20 a barrel for purposes of determining base prices for tier 2 oil, and

“(ii) \$16.55 a barrel for purposes of determining base prices for tier 3 oil.

“(2) INTERIM RULE.—For months beginning before October 1980 (or such earlier date as may be provided in regulations taking effect before such earlier date), the base prices for tier 2 oil and tier 3 oil, respectively, shall be the product of—

“(A)(i) the highest posted price for December 31, 1979, for uncontrolled crude oil of the same grade, quality, and field, or

“(ii) if there is no posted price described in clause (i), the highest posted price for such date for uncontrolled crude oil at the nearest domestic field for which prices for oil of the same grade and quality were posted for such date, multiplied by

“(B) a fraction the denominator of which is \$35, and the numerator of which is—

“(i) \$15.20 for purposes of determining base prices for tier 2 oil, and

“(ii) \$16.55 for purposes of determining base prices for tier 3 oil.

For purposes of the preceding sentence, no price which was posted after January 14, 1980, shall be taken into account.

“(3) MINIMUM INTERIM BASE PRICE.—The base price determined under paragraph (2) for tier 2 oil or tier 3 oil shall not be less than the sum of—

“(A) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, plus

“(B)(i) \$1 in the case of tier 2 oil, or

“(ii) \$2 in the case of tier 3 oil.

26 USC 4990.

“SEC. 4990. PHASEOUT OF TAX.

“(a) PHASEOUT.—Notwithstanding any other provision of this chapter, the tax imposed by this chapter with respect to any crude oil removed from the premises during any month during the phaseout period shall not exceed—

“(1) the amount of tax which would have been imposed by this chapter with respect to such crude oil but for this subsection, multiplied by

“(2) the phaseout percentage for such month.

“(b) TERMINATION OF TAX.—Notwithstanding any other provision of this chapter, no tax shall be imposed by this chapter with respect to any crude oil removed from the premises after the phaseout period.

“(c) DEFINITIONS.—For purposes of this section—

“(1) PHASEOUT PERIOD.—The term ‘phaseout period’ means the 33-month period beginning with the month following the target month.

“(2) PHASEOUT PERCENTAGE.—The phaseout percentage for any month is 100 percent reduced by 3 percentage points for each month after the target month and before the month following the month for which the phaseout percentage is being determined.

“(3) TARGET MONTH.—The term ‘target month’ means the later of—

“(A) December 1987, or

“(B) the first month for which the Secretary publishes an estimate under subsection (d)(2).

In no event shall the target month be later than December 1990.

“(d) DETERMINATION OF AGGREGATE NET WINDFALL REVENUE.—

“(1) ESTIMATE BY THE SECRETARY.—For each month after 1986, the Secretary shall make an estimate of the aggregate net windfall revenue as of the close of such month. Any such estimate shall be made during the preceding month and shall be made on the basis of the best available data as of the date of making such estimate.

“(2) PUBLICATION.—If the Secretary estimates under paragraph (1) that the aggregate net windfall revenue as of the close of any month will exceed \$227,300,000,000, the Secretary shall (not later than the last day of the preceding month) publish notice in the Federal Register that he has made such an estimate for such month.

Publication in
Federal
Register.

“(3) AGGREGATE NET WINDFALL REVENUE DEFINED.—For purposes of this subsection, the term ‘aggregate net windfall revenue’ means the amount which the Secretary estimates to be the excess of—

“(A) the gross revenues from the tax imposed by section 4986 during the period beginning on March 1, 1980, and ending on the last day of the month for which the estimate is being made, over

“(B) the sum of—

“(i) the refunds of and other adjustments to such tax for such period, plus

“(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986.

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

“Subchapter B—Categories of Oil

“Sec. 4991. Taxable crude oil; categories of oil.

“Sec. 4992. Independent producer oil.

“Sec. 4993. Incremental tertiary oil.

“Sec. 4994. Definitions and special rules relating to exemptions.

“SEC. 4991. TAXABLE CRUDE OIL; CATEGORIES OF OIL.

26 USC 4991.

“(a) TAXABLE CRUDE OIL.—For purposes of this chapter, the term ‘taxable crude oil’ means all domestic crude oil other than exempt oil.

“(b) EXEMPT OIL.—For purposes of this chapter, the term ‘exempt oil’ means—

“(1) any crude oil from a qualified governmental interest or a qualified charitable interest,

“(2) any exempt Indian oil,

“(3) any exempt Alaskan oil, and

“(4) any exempt front-end oil.

“(c) TIER 1 OIL.—For purposes of this chapter, the term ‘tier 1 oil’ means any taxable crude oil other than—

“(1) tier 2 oil, and

“(2) tier 3 oil.

“(d) TIER 2 OIL.—For purposes of this chapter—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘tier 2 oil’ means—

“(A) any oil which is from a stripper well property within the meaning of the June 1979 energy regulations, and

“(B) any oil from an economic interest in a National Petroleum Reserve held by the United States.

“(2) EXCLUSION OF CERTAIN OIL.—The term ‘tier 2 oil’ does not include tier 3 oil.

“(e) TIER 3 OIL.—For purposes of this chapter—

“(1) IN GENERAL.—The term ‘tier 3 oil’ means—

“(A) newly discovered oil,

“(B) heavy oil, and

“(C) incremental tertiary oil.

“(2) NEWLY DISCOVERED OIL.—The term ‘newly discovered oil’ has the meaning given to such term by the June 1979 energy regulations.

“(3) HEAVY OIL.—The term ‘heavy oil’ means all crude oil which is produced from a property if crude oil produced and sold from such property during—

“(A) the last month before July 1979 in which crude oil was produced and sold from such property, or

“(B) the taxable period,

had a weighted average gravity of 16 degrees API or less (corrected to 60 degrees Fahrenheit).

“(4) INCREMENTAL TERTIARY OIL.—

“For definition of incremental tertiary oil, see section 4993.

26 USC 4992.

“SEC. 4992. INDEPENDENT PRODUCER OIL.

“(a) GENERAL RULE.—For purposes of this chapter, the term ‘independent producer oil’ means that portion of an independent producer’s qualified production for the quarter which does not exceed such person’s independent producer amount for such quarter.

“(b) INDEPENDENT PRODUCER DEFINED.—For purposes of this section—

“(1) IN GENERAL.—The term ‘independent producer’ means, with respect to any quarter, any person other than a person to whom subsection (c) of section 613A does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).

26 USC 613A.

“(2) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied—

“(A) by substituting ‘quarter’ for ‘taxable year’ each place it appears in such paragraphs, and

“(B) by substituting ‘\$1,250,000’ for ‘\$5,000,000’ in paragraph (2) of section 613A(d).

“(c) INDEPENDENT PRODUCER AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—A person’s independent producer amount for any quarter is the product of—

“(A) 1,000 barrels, multiplied by

“(B) the number of days in such quarter (31 in the case of the first quarter of 1980).

“(2) PRODUCTION EXCEEDS AMOUNT.—If a person’s qualified production for any quarter exceeds such person’s independent producer amount for such quarter, the independent producer amount shall be allocated—

“(A) between tiers 1 and 2 in proportion to such person’s production for such quarter of domestic crude oil in each such tier, and

“(B) within any tier, on the basis of the removal prices for such person’s domestic crude oil in such tier removed during such quarter, beginning with the highest of such prices.

“(d) **QUALIFIED PRODUCTION OF OIL DEFINED.**—For purposes of this section—

“(1) **IN GENERAL.**—An independent producer’s qualified production of oil for any quarter is the number of barrels of taxable crude oil—

“(A) of which such person is the producer,

“(B) which is removed during such quarter,

“(C) which is tier 1 oil or tier 2 oil, and

“(D) which is attributable to the independent producer’s working interest in a property.

“(2) **WORKING INTEREST DEFINED.**—

“(A) **IN GENERAL.**—The term ‘working interest’ means an operating mineral interest (within the meaning of section 614(d))—

26 USC 614.

“(i) which was in existence as such an interest on January 1, 1980, or

“(ii) which is attributable to a qualified overriding royalty interest.

“(B) **QUALIFIED OVERRIDING ROYALTY INTEREST.**—For purposes of subparagraph (A)(ii), the term ‘qualified overriding royalty interest’ means an overriding royalty interest in existence as such an interest on January 1, 1980, but only if on February 20, 1980, there was in existence a binding contract under which such interest was to be converted into an operating mineral interest (within the meaning of section 614(d)).

“(3) **PRODUCTION FROM TRANSFERRED PROPERTY.**—

“(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, in the case of a transfer on or after January 1, 1980, of an interest in any property, the qualified production of the transferee shall not include any production attributable to such interest.

“(B) **SMALL PRODUCER TRANSFER EXEMPTION.**—

“(i) **IN GENERAL.**—Subparagraph (A) shall not apply to any transfer of an interest in property if the transferee establishes (in such manner as may be prescribed by the Secretary by regulations) that at no time after December 31, 1979, has the property been held by a person who was a disqualified transferor for any quarter ending after September 30, 1979, and ending before the date such person transferred the interest.

“(ii) **DISQUALIFIED TRANSFEROR.**—The term ‘disqualified transferor’ means, with respect to any quarter, any person who—

“(I) had qualified production for such quarter which exceeded such person’s independent producer amount for such quarter, or

“(II) was not an independent producer for such quarter.

“(iii) **SPECIAL RULES.**—For purposes of this paragraph—

“(I) **PROPERTY HELD BY PARTNERSHIPS.**—Property held by a partnership at any time shall be treated as owned proportionately by the partners of such partnership at such time.

"(II) PROPERTY HELD BY TRUST OR ESTATE.—Property held by any trust or estate shall be treated as owned both by such trust or estate and proportionately by its beneficiaries.

"(III) CONSTRUCTIVE APPLICATION.—This chapter shall be treated as having been in effect for periods after September 30, 1979, for purposes of making any determination under subclause (I) or (II) of clause (ii).

"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply in the case of—

"(i) a transfer of property at death,

"(ii) a change of beneficiaries of a trust which qualifies under clause (iii) of section 613A(c)(9)(B) (determined without regard to the exception at the end of such clause), and

"(iii) any transfer so long as the transferor and transferee are required by subsection (e) to share the 1,000 barrel amount contained in subsection (c)(1)(A).

The preceding sentence shall apply in the case of any property only if the production from the property was qualified production for the transferor.

"(D) TRANSFERS INCLUDE SUBLEASES, ETC.—For purposes of this paragraph—

"(i) a sublease shall be treated as a transfer, and

"(ii) an interest in a partnership or trust shall be treated as an interest in property held by the partnership or trust.

"(e) ALLOCATION WITHIN RELATED GROUP.—

"(1) IN GENERAL.—In the case of persons who are members of the same related group at any time during any quarter, the 1,000 barrel amount contained in subsection (c)(1)(A) for days during such quarter shall be reduced for each such person by allocating such amount among all such persons in proportion to their respective qualified production for such quarter.

"(2) RELATED GROUP.—For purposes of this subsection, persons shall be treated as members of a related group if they are described in any of the following clauses:

"(A) a family,

"(B) a controlled group of corporations,

"(C) a group of entities under common control, or

"(D) if 50 percent or more of the beneficial interest in 1 or more corporations, trusts, or estates is owned by the same family, all such entities and such family.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given such term by section 613A(c)(8)(D)(i).

"(B) GROUP OF ENTITIES UNDER COMMON CONTROL.—The term 'group of entities under common control' means any group of corporations, trusts, or estates which (as determined under regulations prescribed by the Secretary) are under common control. Such regulations shall be based on principles similar to the principles which apply under subparagraph (A).

"(C) FAMILY.—The term 'family' means an individual and the spouse and minor children of such individual.

“(D) CONSTRUCTIVE OWNERSHIP.—For purposes of paragraph (2)(D), an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly by the entity and proportionately by its shareholders, partners, or beneficiaries, as the case may be.

“(E) MEMBERS OF MORE THAN 1 RELATED GROUP.—If a person is a member of more than 1 related group during any quarter, the determination of such person’s allocation under paragraph (1) shall be made by reference to the related group which results in the smallest allocation for such person.

“SEC. 4993. INCREMENTAL TERTIARY OIL.

26 USC 4993.

“(a) IN GENERAL.—For purposes of this chapter, the term ‘incremental tertiary oil’ means the excess of—

“(1) the amount of crude oil which is removed from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

“(2) the base level for such property for such month.

“(b) DETERMINATION OF AMOUNT.—For purposes of this section—

“(1) BASE LEVEL.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed from such property during the 6-month period ending March 31, 1979, reduced (but not below zero) by the sum of—

“(A) 1 percent of such amount for each month which begins after 1978 and before the first month beginning after the project beginning date, and

“(B) 2½ percent of such amount for each month which begins after the project beginning date (or after 1978 if the project beginning date is before 1979) and before the month for which the base level is being determined.

“(2) MINIMUM AMOUNT IN CASE OF PROJECTS CERTIFIED BY DOE.—In the case of a project described in subsection (c)(1)(A), for the period during which the project is in effect, the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

“(3) ALLOCATION RULES.—The determination of which barrels of crude oil removed during any month are incremental tertiary oil shall be made—

“(A) first by allocating the amount of incremental tertiary oil between—

“(i) oil which (but for this subsection) would be tier 1 oil, and

“(ii) oil which (but for this subsection) would be tier 2 oil,

in proportion to the respective amounts of each such oil removed from the property during such month, and

“(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices, beginning with the highest of such prices.

“(c) QUALIFIED TERTIARY RECOVERY PROJECT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified tertiary recovery project’ means—

“(A) a qualified tertiary enhanced recovery project with respect to which a certification as such has been approved and is in effect under the June 1979 energy regulations, or

“(B) any project for enhancing recovery of crude oil which meets the requirements of paragraph (2).

“(2) REQUIREMENTS.—A project meets the requirements of this paragraph if—

“(A) the project involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

“(B) the project beginning date is after May 1979,

“(C) the portion of the property to be affected by the project is adequately delineated,

“(D) the operator submits (at such time and in such manner as the Secretary may by regulations prescribe) to the Secretary—

“(i) a certification from a petroleum engineer that the project meets the requirements of subparagraphs (A), (B), and (C), or

“(ii) a certification that a jurisdictional agency (within the meaning of subsection (d)(5)) has approved the project as meeting the requirements of subparagraphs (A), (B), and (C), and that such approval is still in effect, and

“(E) the operator submits (at such time and in such manner as the Secretary may by regulations prescribe) to the Secretary a certification from a petroleum engineer that the project continues to meet the requirements of subparagraphs (A), (B), and (C).

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) TERTIARY RECOVERY METHOD.—The term ‘tertiary recovery method’ means—

“(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

“(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this chapter.

“(2) PROJECT BEGINNING DATE.—The term ‘project beginning date’ means the later of—

“(A) the date on which the injection of liquids, gases, or other matter begins, or

“(B) the date on which—

“(i) in the case of a project described in subsection (c)(1)(A), the project is certified as a qualified tertiary enhanced recovery project under the June 1979 energy regulations, or

“(ii) in the case of a project described in subsection (c)(1)(B), a petroleum engineer certifies, or a jurisdictional agency approves, the project as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2).

“(3) PROJECT ONLY AFFECTS PORTION OF PROPERTY.—If a qualified tertiary recovery project can reasonably be expected to increase the ultimate recovery of crude oil from only a portion of a property, such portion shall be treated as a separate property.

“(4) SIGNIFICANT EXPANSION TREATED AS SEPARATE PROJECT.—A significant expansion of any project shall be treated as a separate project.

“(5) JURISDICTIONAL AGENCY.—The term ‘jurisdictional agency’ means—

“(A) in the case of an application involving a tertiary recovery project on lands not under Federal jurisdiction—

“(i) the appropriate State agency in the State in which such lands are located which is designated by the Governor of such State in a written notification submitted to the Secretary as the agency which will approve projects under this subsection, or

“(ii) if the Governor of such State does not submit such written notification within 180 days after the date of the enactment of the Crude Oil Windfall Profit Tax Act of 1980, the United States Geological Survey (until such time as the Governor submits such notification), or

Ante, p. 229.

“(B) in the case of an application involving a tertiary recovery project on lands under Federal jurisdiction, the United States Geological Survey.

“(6) BASIS OF REVIEW OF CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any project which is approved under subsection (c)(2)(D)(ii) and for which a certification is submitted to the Secretary, the project shall be considered as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) unless the Secretary determines that—

“(A) the approval of the jurisdictional agency was not supported by substantial evidence on the record upon which such approval was based, or

“(B) additional evidence not contained in the record upon which such approval was based demonstrates that such project does not meet the requirements of subparagraph (A), (B), or (C) of subsection (c)(2).

If the Secretary makes a determination described in subparagraph (A) or (B) of the preceding sentence, the determination of whether the project meets the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) shall be made without regard to the preceding sentence.

“(7) RULINGS RELATING TO CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any tertiary recovery project for which a certification is submitted to the Secretary under subsection (c)(2)(D)(ii), a taxpayer may request a ruling from the Secretary with respect to whether such project is a qualified tertiary recovery project. The Secretary shall issue such ruling within 180 days of the date after he receives the request and such information as may be necessary to make a determination.

“SEC. 4994. DEFINITIONS AND SPECIAL RULES RELATING TO EXEMPTIONS. 26 USC 4994.

“(a) QUALIFIED GOVERNMENTAL INTEREST.—For purposes of section 4991(b)—

“(1) IN GENERAL.—The term ‘qualified governmental interest’ means an economic interest in crude oil if—

“(A) such interest is held by a State or political subdivision thereof or by an agency or instrumentality of a State or political subdivision thereof, and

“(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to a public purpose.

“(2) NET INCOME.—For purposes of this paragraph, the term ‘net income’ means gross income reduced by production costs, and severance taxes of general application, allocable to the interest.

“(3) AMOUNTS PLACED IN CERTAIN PERMANENT FUNDS TREATED AS DEDICATED TO PUBLIC PURPOSE.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to a public purpose.

“(b) QUALIFIED CHARITABLE INTEREST.—For purposes of section 4991(b)—

“(1) IN GENERAL.—The term ‘qualified charitable interest’ means an economic interest in crude oil if—

“(A) such interest is—

“(i) held by an organization described in clause (ii), (iii), or (iv) of section 170(b)(1)(A) which is also described in section 170(c)(2), or

“(ii) held—

“(I) by an organization described in clause (i) of section 170(b)(1)(A) which is also described in section 170(c)(2), and

“(II) for the benefit of an organization described in clause (i) of this subparagraph, and

“(B) such interest was held by the organization described in clause (i) or subclause (I) of clause (ii) of subparagraph (A) on January 21, 1980, and at all times thereafter before the last day of the taxable period.

“(2) SPECIAL RULE.—For purposes of paragraph (1)(A)(ii), an interest shall be treated as held for the benefit of an organization described in paragraph (1)(A)(i) only if all the proceeds from such interest were dedicated on January 21, 1980, and at all times thereafter before the last day of the taxable period, to the organization described in paragraph (1)(A)(i).

“(c) FRONT-END TERTIARY OIL.—

“(1) EXEMPTION FOR TERTIARY PROJECTS OF INDEPENDENTS.—For purposes of this chapter, the term ‘exempt front-end oil’ means any domestic crude oil—

“(A) which is removed from the premises before October 1, 1981, and

“(B) which is treated as front-end oil by reason of a front-end tertiary project on one or more properties each of which is a qualified property.

“(2) REFUNDS FOR TERTIARY PROJECTS OF INTEGRATED PRODUCERS.—

“(A) IN GENERAL.—In the case of any front-end tertiary project which does not meet the requirements of paragraph (1)(B), the excess of—

“(i) the allowed expenses of the taxpayer with respect to such project, over

“(ii) the tertiary incentive revenue, shall be treated as a payment by the taxpayer with respect to the tax imposed by this chapter made on September 30, 1981.

“(B) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the payment determined under subparagraph (A) with

respect to any producer shall not exceed the aggregate tax imposed by section 4986 with respect to front-end oil of that producer removed after February 1980 and before October 1981.

“(C) TERTIARY INCENTIVE REVENUE.—For purposes of this paragraph, the term ‘tertiary incentive revenue’ has the meaning given such term by the front-end tertiary provisions of the energy regulations.

“(3) DEFINITION OF ALLOWED EXPENSES; PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—For purposes of this subsection (including the application of the front-end tertiary provisions for purposes of this subsection)—

“(A) ALLOWED EXPENSES.—Except as provided in subparagraph (B), allowed expenses shall be determined under the front-end tertiary provisions of the energy regulations.

“(B) PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—The term ‘allowed expenses’ shall not include any amount attributable to periods after September 30, 1981.

“(C) PERIOD TO WHICH ITEM IS ATTRIBUTABLE.—For purposes of subparagraph (B)—

“(i) any injectant and any fuel shall be treated as attributable to periods before October 1, 1981, if the injectant is injected, or the fuel is used, before October 1, 1981, and

“(ii) any other item shall be treated as attributable to periods before October 1, 1981, only to the extent that under chapter 1 deductions for such item (including depreciation in respect of such item) are properly allocable to periods before October 1, 1981.

For purposes of the preceding sentence, an act shall be treated as taken before a date if it would have been taken before such date but for an act of God, a severe mechanical breakdown, or an injunction.

“(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) FRONT-END TERTIARY PROVISIONS.—The term ‘front-end tertiary provisions’ means—

“(i) the provisions of section 212.78 of the energy regulations which exempt crude oil from ceiling price limitations to provide financing for tertiary projects (as such provisions took effect on October 1, 1979), and

“(ii) any modification of such provisions, but only to the extent that such modification is for purposes of coordinating such provisions with the tax imposed by this chapter.

“(B) FRONT-END OIL.—The term ‘front-end oil’ means any domestic crude oil which is not subject to a first sale ceiling price under the energy regulations solely by reason of the front-end tertiary provisions of such regulations.

“(C) QUALIFIED PROPERTY.—The term ‘qualified property’ means any property if, on January 1, 1980, 50 percent or more of the operating mineral interest in such property is held by persons who were independent producers (within the meaning of section 4992(b)) for the last quarter of 1979.

“(D) FRONT-END TERTIARY PROJECT.—The term ‘front-end tertiary project’ means any project which qualifies under the front-end tertiary provisions of the energy regulations.

“(E) ORDERING RULE.—Front-end oil of any taxpayer shall be treated as attributable first to projects which meet the requirements of paragraph (1)(B).

“(d) EXEMPT INDIAN OIL.—For purposes of this chapter, the term ‘exempt Indian oil’ means any domestic crude oil—

“(1) the producer of which is an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization under an economic interest held by such a tribe, member, or organization on January 21, 1980, and which is produced from mineral interests which are—

“(A) held in trust by the United States for the tribe, member, or organization, or

“(B) held by the tribe, member, or organization subject to a restriction on alienation imposed by the United States because it is held by an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization,

“(2) the producer of which is a native corporation organized under the Alaska Native Claims Settlement Act (as in effect on January 21, 1980), and which—

“(A) is produced from mineral interests held by the corporation which were received under that Act, and

“(B) is removed from the premises before 1992, or

“(3) the proceeds from the sale of which are deposited in the Treasury of the United States to the credit of tribal or native trust funds pursuant to a provision of law in effect on January 21, 1980.

“(e) EXEMPT ALASKAN OIL.—For purposes of this chapter, the term ‘exempt Alaskan oil’ means any crude oil (other than Sadlerochit oil) which is produced—

“(1) from a reservoir from which oil has been produced in commercial quantities through a well located north of the Arctic Circle, or

“(2) from a well located on the northerly side of the divide of the Alaska-Aleutian Range and at least 75 miles from the nearest point on the Trans-Alaska Pipeline System.

“Subchapter C—Miscellaneous Provisions

“Sec. 4995. Withholding; depositary requirements.

“Sec. 4996. Other definitions and special rules.

“Sec. 4997. Records and information; regulations.

“Sec. 4998. Cross references.

26 USC 4995.

“SEC. 4995. WITHHOLDING; DEPOSITARY REQUIREMENTS.

“(a) WITHHOLDING BY PURCHASER.—

“(1) WITHHOLDING REQUIRED.—Except to the extent provided in regulations prescribed by the Secretary—

“(A) the first purchaser of any domestic crude oil shall withhold a tax equal to the amount of the tax imposed by section 4986 with respect to such oil from amounts payable by such purchaser to the producer of such oil, and

“(B) the first purchaser of such oil shall be liable for the payment of the tax required to be withheld under subparagraph (A) and shall not be liable to any person for the amount of any such payment.

“(2) DETERMINATION OF AMOUNT TO BE WITHHELD.—

“(A) IN GENERAL.—The purchaser shall determine the amount to be withheld under paragraph (1)—

43 USC 1601
note.

"(i) on the basis of the certification furnished to the purchaser under section 6050C, unless the purchaser has reason to believe that any information contained in such certification is not correct, or

Post, p. 251.

"(ii) if clause (i) does not apply, under regulations prescribed by the Secretary.

"(B) NET INCOME LIMITATION NOT TO BE APPLIED.—For purposes of determining the amount to be withheld under paragraph (1), subsection (b) of section 4988 shall not apply.

"(3) ADJUSTMENTS FOR WITHHOLDING ERRORS.—

"(A) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, withholding errors made by a purchaser with respect to the crude oil of a producer removed during any calendar year shall be corrected by that purchaser by making proper adjustments in the amounts withheld from subsequent payments to such producer for crude oil removed during the same calendar year.

"(B) WITHHOLDING ERROR.—For purposes of subparagraph (A), there is a withholding error if the amount withheld by the purchaser under paragraph (1) with respect to any payment for any crude oil exceeds (or is less than) the tax imposed by section 4986 with respect to such oil (determined without regard to section 4988(b)).

"(C) LIMITATION ON AMOUNT OF ADJUSTMENTS.—No adjustment shall be required under subparagraph (A) with respect to any payment for any crude oil to the extent that such adjustment would result in amounts withheld from such payment in excess of the windfall profit from such crude oil.

"(D) VOLUNTARY WITHHOLDING.—The Secretary may by regulations provide for withholding under this subsection of additional amounts from payments by any purchaser to any producer if the purchaser and producer agree to such withholding. For purposes of this title, any amount withheld pursuant to such an agreement shall be treated as an amount required to be withheld under paragraph (1).

"(4) PRODUCER TREATED AS HAVING PAID WITHHELD AMOUNT.—

"(A) IN GENERAL.—The producer of any domestic crude oil shall be treated as having paid any amount withheld with respect to such oil under this subsection.

"(B) TIME PAYMENT DEEMED MADE.—The producer shall be treated as having made any payment described in subparagraph (A) on the last day of the first February after the calendar year in which the oil is removed from the premises.

"(5) PRODUCER REQUIRED TO FILE RETURN ONLY TO EXTENT PROVIDED IN REGULATIONS.—Except to the extent provided in regulations, the producer of crude oil with respect to which withholding is required under paragraph (1) shall not be required to file a return of the tax imposed by section 4986 with respect to such oil.

"(6) PURCHASER'S QUARTERLY RETURNS TO CONTAIN SUMMARY.—The purchaser's return of tax under this chapter for any calendar quarter of any calendar year shall contain such information (with respect to such quarter and the prior quarters of such calendar year) as may be necessary to facilitate the coordination of the withholding of tax by such purchaser with respect to each producer with the determination of the tax imposed by section 4986 with respect to such producer.

“(7) ELECTION FOR PURCHASER AND OPERATOR TO HAVE OPERATOR TAKE PLACE OF PURCHASER.—

“(A) IN GENERAL.—If the purchaser of domestic crude oil and the operator of the property from which the crude oil was produced make a joint election under this paragraph with respect to such property (or portion thereof)—

26 USC 6001.

“(i) the operator shall be substituted for the purchaser for purposes of applying this subsection and subsection (b) (and so much of subtitle F as relates to such subsections), and

“(ii) if the operator is not an integrated oil company, the operator shall be treated as having the same status as the purchaser for purposes of applying subsection (b) with respect to amounts withheld by the operator by reason of such election.

“(B) REGULATIONS MAY LIMIT ELECTION.—The Secretary may by regulations limit the circumstances under which an election under this paragraph may be made to situations where substituting the operator for the purchaser is administratively more practicable.

“(8) NO ASSESSMENTS OR REFUNDS BEFORE CLOSE OF THE YEAR.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any oil subject to withholding under this subsection—

26 USC 6212.

“(A) no notice of any deficiency with respect to the tax imposed by section 4986 may be mailed under section 6212, and

“(B) no proceeding in any court for the refund of the tax imposed by section 4986 may be begun, before the last day of the first February after the calendar year in which such oil was removed from the premises.

“(b) DEPOSITARY REQUIREMENTS.—

“(1) INTEGRATED OIL COMPANIES.—In the case of an integrated oil company, deposit of the estimated amount of—

“(A) withholding under subsection (a) by such company, and

“(B) such company’s liability for the tax imposed by section 4986 with respect to oil for which withholding is not required,

shall be made twice a month.

“(2) PERSONS WHO ARE NOT INTEGRATED OIL COMPANIES.—In the case of a person, other than an integrated oil company—

“(A) DEPOSITS OF WITHHELD AMOUNTS.—Deposit of the amounts required to be withheld under subsection (a) shall be made not later than—

“(i) except as provided in clause (ii), 45 days after the close of the month in which the oil was removed, or

“(ii) in the case of oil purchased under a contract therefor by an independent refiner under which no payment is required to be made before the 46th day after the close of the month in which the oil is purchased, before the first day of the 3rd month which begins after the close of the month in which such oil was removed.

“(B) ESTIMATED SECTION 4986 TAX.—Deposits of the estimated amount of such person’s liability for the tax imposed by section 4986 with respect to oil for which withholding is not required shall be made not later than 45 days after the

close of the month in which the oil was removed from the premises.

“(3) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term ‘integrated oil company’ means a taxpayer described in paragraph (2) or (4) of section 613A(d) who is not an independent refiner. 26 USC 613A.

“(4) INDEPENDENT REFINER.—For purposes of this subsection, the term ‘independent refiner’ has the same meaning as in paragraph (3) of section 3 of the Emergency Petroleum Allocation Act of 1973 (as in effect on January 1, 1980), except that ‘the preceding calendar quarter’ shall be substituted for ‘November 27, 1973’ in applying such paragraph for purposes of this paragraph. 15 USC 752.

“(c) CROSS REFERENCE.—

“For provision authorizing the Secretary to establish by regulations the mode and time for collecting the tax imposed by section 4986 (to the extent not otherwise provided in this chapter), see section 6302(a).

“SEC. 4996. OTHER DEFINITIONS AND SPECIAL RULES.

26 USC 4996.

“(a) PRODUCER AND OPERATOR.—For purposes of this chapter—

“(1) PRODUCER.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘producer’ means the holder of the economic interest with respect to the crude oil.

“(B) PARTNERSHIPS.—

“(i) IN GENERAL.—If (but for this subparagraph) a partnership would be treated as the producer of any crude oil—

“(I) such crude oil shall be allocated among the partners of such partnership, and

“(II) any partner to whom such crude oil is allocated (and not the partnership) shall be treated as the producer of such crude oil.

“(ii) ALLOCATION.—Except to the extent otherwise provided in regulations, any allocation under clause (i)(I) shall be determined on the basis of a person’s proportionate share of the income of the partnership.

“(2) OPERATOR.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘operator’ means the person primarily responsible for the management and operation of crude oil production on a property.

“(B) DESIGNATION OF OTHER PERSON.—Under regulations prescribed by the Secretary, the term ‘operator’ means the person (or persons) designated with respect to a property (or portion thereof) as the operator for purposes of this chapter by persons holding operating mineral interests in the property.

“(b) OTHER DEFINITIONS.—For purposes of this chapter—

“(1) CRUDE OIL.—The term ‘crude oil’ has the meaning given to such term by the June 1979 energy regulations.

“(2) BARREL.—The term ‘barrel’ means 42 United States gallons.

“(3) DOMESTIC.—The term ‘domestic’, when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

26 USC 638.

"(4) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given to such term by section 106(b)(2)(C)(ii) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316(b)(2)(C)(ii)).

"(7) TAXABLE PERIOD.—The term 'taxable period' means—
"(A) March 1980, and

"(B) each calendar quarter beginning after March 1980.

"(8) ENERGY REGULATIONS.—

"(A) IN GENERAL.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(B) MARCH 1979 ENERGY REGULATIONS.—The March 1979 energy regulations shall be the terms of the energy regulations as such terms existed on March 1, 1979.

"(C) JUNE 1979 ENERGY REGULATIONS.—The June 1979 energy regulations—

"(i) shall be the terms of the energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) CONTINUED APPLICATION OF REGULATIONS AFTER DECONTROL.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) SEVERANCE TAX ADJUSTMENT.—For purposes of this chapter—

"(1) IN GENERAL.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been valued at its adjusted base price.

"(2) SEVERANCE TAX DEFINED.—For purposes of this subsection, the term 'severance tax' means a tax—

"(A) imposed by a State with respect to the extraction of oil, and

"(B) determined on the basis of the gross value of the extracted oil.

"(3) LIMITATIONS.—

"(A) 15 PERCENT LIMITATION.—A severance tax shall not be taken into account to the extent that the rate thereof exceeds 15 percent.

"(B) INCREASES AFTER MARCH 31, 1979, MUST APPLY EQUALLY.—The amount of the severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under a State severance tax in effect on March 31, 1979, unless such excess is attributable to an increase in the rate of the severance tax (or to the imposition of a severance tax) which applies equally to all portions of the gross value of each barrel of oil subject to such tax.

“(d) ALASKAN OIL FROM SADLEROCHIT RESERVOIR.—For purposes of this chapter—

“(1) IN GENERAL.—In the case of Sadlerochit oil—

“(A) ADJUSTED BASE PRICE INCREASED BY TAPS ADJUSTMENT.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

“(B) REMOVAL PRICE DETERMINED ON MONTHLY BASIS.—The removal price of such oil removed during any calendar month shall be the average of the producer's removal prices for such month.

“(2) TAPS ADJUSTMENT.—

“(A) IN GENERAL.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

“(i) \$6.26 over

“(ii) the TAPS tariff for the preceding calendar quarter.

“(B) TAPS TARIFF.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

“(C) TAPS DEFINED.—For purposes of this paragraph, the term ‘TAPS’ means the Trans-Alaska Pipeline System.

“(3) SADLEROCHIT OIL DEFINED.—The term ‘Sadlerochit oil’ means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.

“(e) SPECIAL RULES FOR POST-1978 TRANSFERS OF PROPERTY.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer crude oil produced from any portion of such property shall not constitute oil from a stripper well property, newly discovered oil, or heavy oil, if such oil would not be so classified if the property had not been transferred.

“(f) ADJUSTMENT OF REMOVAL PRICE.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

“(g) NO EXEMPTIONS FROM TAX.—No taxable crude oil, and no producer of such crude oil, shall be exempt from the tax imposed by this chapter except to the extent provided in this chapter or in any provision of law enacted after the date of the enactment of this chapter which grants a specific exemption, by reference to this chapter, from the tax imposed by this chapter.

“(h) CROSS REFERENCE.—

“For the holder of the economic interest in the case of a production payment, see section 636.

“SEC. 4997. RECORDS AND INFORMATION; REGULATIONS.

26 USC 4997.

“(a) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the oil) with respect to such oil as the Secretary may by regulations prescribe.

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

26 USC 4998.

"SEC. 4998. CROSS REFERENCES.

"(1) For additions to the tax and additional amount for failure to file tax return or to pay tax, see section 6651.

"(2) For additions to the tax and additional amounts for failure to file certain information returns, registration statements, etc., see section 6652.

"(3) For additions to the tax and additional amounts for negligence and fraud, see section 6653.

"(4) For additions to the tax and additional amounts for failure to make deposit of taxes, see section 6656.

"(5) For additions to the tax and additional amounts for failure to collect and pay over tax, or attempt to evade or defeat tax, see section 6672.

"(6) For criminal penalties for attempt to evade or defeat tax, willful failure to collect or pay over tax, willful failure to file return, supply information, or pay tax, and for fraud and false statements, see sections 7201, 7202, 7203, and 7206.

"(7) For criminal penalties for failure to furnish certain information regarding windfall profit tax on domestic crude oil, see section 7241."

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 45. Windfall profit tax on domestic crude oil."

26 USC 164.

(b) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

Ante, p. 230.

"(5) The windfall profit tax imposed by section 4986."

(c) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX; DEPOSITARY REQUIREMENTS.—

(1) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

26 USC 6076.

"SEC. 6076. TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.*Ante*, p. 244.

"(a) GENERAL RULE.—Except in the case of a return required by regulations prescribed under section 4995(a)(5), each return—

Ante, p. 230.

"(1) of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4996(b)(7)), or

"(2) by a person required under section 4995(a) to withhold the windfall profit tax for any taxable period, shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) CROSS REFERENCE.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 4995(b)."

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax."

26 USC 6302.

(2) CROSS REFERENCE.—Subsection (d) of section 6302 is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).

"(2) For depositary requirements applicable to the windfall profit tax imposed by section 4986, see section 4995(b)."

(3) **TECHNICAL AMENDMENT.**—Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended— 26 USC 7512.

(A) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(B) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) **CERTAIN INFORMATION REQUIRED TO BE FURNISHED.**—

(1) **GENERAL RULE.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050C. INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL. 26 USC 6050C.

"(a) **CERTIFICATION FURNISHED BY OPERATOR.**—Under regulations prescribed by the Secretary, the operator of a property from which domestic crude oil was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser—

"(1) the adjusted base price (within the meaning of section 4989) with respect to such crude oil,

Ante, p. 233.

"(2) the tier and category of such crude oil for purposes of the tax imposed by section 4986,

Ante, p. 230.

"(3) if any certification is furnished to the operator by the producer with respect to whether such oil is exempt oil or independent producer oil, a copy of such certification,

"(4) the amount of such crude oil, and

"(5) such other information as the Secretary by regulations may require.

"(b) **AGREEMENT BETWEEN OPERATOR AND PURCHASER.**—The Secretary may by regulations provide that, if the operator and purchaser agree thereto, the operator shall be relieved of the duty of furnishing some or all of the information required under subsection (a).

"(c) **SPECIAL RULE FOR OIL NOT SUBJECT TO WITHHOLDING.**—If the tax imposed by section 4986 with respect to any oil for which withholding is not required under section 4995(a)—

Ante, p. 244.

"(1) subsections (a) and (b) shall be applied by substituting 'producer' for 'purchaser', and

"(2) paragraph (3) of subsection (a) shall not apply.

"(d) **CROSS REFERENCES.**—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, see section 7241."

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(A) Section 6652(b) is amended—

26 USC 6652.

(i) by striking out "or section 6050A" and inserting in lieu thereof the following: ", section 6050A", and

(ii) by inserting ", or section 6050C (relating to information regarding windfall profit tax on crude oil)" after "fishing boat operators)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information regarding windfall profit tax on domestic crude oil."

(e) CRIMINAL PENALTY FOR FAILURE TO FURNISH CERTAIN INFORMATION.—

(1) **IN GENERAL.**—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

26 USC 7241.

"SEC. 7241. WILLFUL FAILURE TO FURNISH CERTAIN INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

Ante, p. 251.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any information or certification to any other person and who willfully fails to furnish such information or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(2) **CLERICAL AMENDMENT.**—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil."

(f) DEFICIENCY PROCEDURES.—

(1) The following provisions are each amended by striking out "or 44" each place it appears and inserting in lieu thereof "44, or 45":

26 USC 6211.

(A) section 6211(a),

26 USC 6212.

(B) section 6211(b)(2),

26 USC 6213.

(C) section 6212(a),

(D) section 6213(a),

26 USC 6214.

(E) section 6213(f),

(F) section 6214(c),

(G) section 6214(d),

26 USC 6161.

(H) section 6161(b)(1),

26 USC 6344.

(I) section 6344(a)(1), and

26 USC 7422.

(J) section 7422(e).

26 USC 6211.

(2) Subsection (a) of section 6211 is amended by striking out "and 44" and inserting in lieu thereof "44, and 45".

(3) Subsection (b) of section 6211 is amended by adding at the end thereof the following new paragraphs:

Ante, p. 244.

"(5) The amount withheld under section 4995(a) from amounts payable to any producer for crude oil removed during any taxable period (as defined in section 4996(b)(7)) which is not otherwise shown on a return by such producer shall be treated as tax shown by the producer on a return for the taxable period.

Ante, p. 247.

"(6) Any liability to pay amounts required to be withheld under section 4995(a) shall not be treated as a tax imposed by chapter 45."

Ante, p. 230.

26 USC 6212.

(4) Paragraph (1) of section 6212(b) is amended—

(A) by striking out "or chapter 44" and inserting in lieu thereof "chapter 44, or chapter 45",

(B) by striking out "chapter 44, and this chapter" and inserting in lieu thereof "chapter 44, chapter 45, and this chapter", and

(C) by striking out "TAXES IMPOSED BY CHAPTER 42" in the paragraph heading and inserting in lieu thereof "CERTAIN EXCISE TAXES".

(5) Paragraph (1) of section 6212(c) is amended— 26 USC 6212.

(A) by striking out “or of chapter 42 tax” and inserting in lieu thereof “of chapter 42 tax”, and

(B) by inserting “, or of chapter 45 tax for the same taxable period” after “to which such petition relates”.

(6)(A) Subsection (a) of section 6512 is amended— 26 USC 6512.

(i) by striking out “chapter 41, 42, 43, or 44 taxes” and inserting in lieu thereof “certain excise taxes”,

(ii) by striking out “or of tax imposed by chapter 41” and inserting in lieu thereof “of tax imposed by chapter 41”, and

(iii) by inserting “, or of tax imposed by chapter 45 for the same taxable period” after “to which such petition relates”.

(B) Paragraph (1) of section 6512(b) is amended—

(i) by striking out “or of tax imposed by chapter 41” and inserting in lieu thereof “of tax imposed by chapter 41”, and

(ii) by inserting “, or of tax imposed by chapter 45 for the same taxable period” after “to which such petition relates”.

(7) The subsection heading for subsection (c) of section 6601 is amended by striking out “CHAPTER 41, 42, 43, OR 44 TAX” and inserting in lieu thereof “CERTAIN EXCISE TAX”. 26 USC 6601.

(8) Subsection (a) of section 6653 is amended— 26 USC 6653.

(A) by striking out “or by chapter 12” and inserting in lieu thereof “, by chapter 12”,

(B) by striking out “is due” and inserting in lieu thereof “, or by chapter 45 (relating to windfall profit tax) is due”, and

(C) by striking out “OR GIFT” in the subsection heading and inserting in lieu thereof “, GIFT, OR WINDFALL PROFIT”.

(9) Subsection (a) of section 6862 is amended by striking out “certain excise taxes” and inserting in lieu thereof “the excise taxes imposed by chapters 41, 42, 43, 44, and 45”. 26 USC 6862.

(g) SPECIAL RULES FOR STATUTE OF LIMITATIONS.—

(1) ASSESSMENT.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection: 26 USC 6501.

“(q) SPECIAL RULES FOR WINDFALL PROFIT TAX.—

“(1) OIL SUBJECT TO WITHHOLDING.—

“(A) IN GENERAL.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in this section shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year ends.

Ante, p. 230.

“(B) REMOVAL YEAR.—For purposes of subparagraph (A), the term ‘removal year’ means the calendar year in which the oil is removed from the premises.

“(2) EXTENSION OF LIABILITY ATTRIBUTABLE TO DOE RECLASSIFICATION.—

“(A) IN GENERAL.—In the case of the tax imposed by chapter 45, if a Department of Energy change becomes final, the period for assessing any deficiency attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final.

Ante, p. 230.

“(B) DEPARTMENT OF ENERGY CHANGE.—For purposes of subparagraph (A) and section 6511(h)(2), the term ‘Department of Energy change’ means any change by the Department of Energy in the classification under the June 1979 energy regulations (as defined in section 4996(b)(8)(C)) of a property or of domestic crude oil from a property.

Post, p. 254.

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (o) shall apply to the tax imposed by section 4986."

Ante, p. 230.
26 USC 6511.

(2) REFUND.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR WINDFALL PROFIT TAXES.—

"(1) OIL SUBJECT TO WITHHOLDING.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in subsection (a) shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year (as defined in section 6501(q)(1)(B)) ends.

Ante, p. 253.

"(2) SPECIAL RULE FOR DOE RECLASSIFICATION.—In the case of any tax imposed by chapter 45, if a Department of Energy change (as defined in section 6501(q)(2)(B)) becomes final, the period for filing a claim for credit or refund for any overpayment attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final.

Ante, p. 230.

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986."

(h) INTEREST ON OVERPAYMENTS.—Section 6611 (relating to interest on overpayment) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

26 USC 6611.

"(h) SPECIAL RULE FOR WINDFALL PROFIT TAX.—

"(1) IN GENERAL.—If any overpayment of tax imposed by section 4986 is refunded within 45 days after—

"(A) the last date (determined without regard to any extension of time for filing the return) prescribed for filing the return of the tax imposed by section 4986 for the taxable period with respect to which the overpayment was made, or

"(B) if such return is filed after such last date, the date on which the return is filed,

no interest shall be allowed under subsection (a) on such overpayment.

"(2) SPECIAL RULE WHERE NO RETURN IS REQUIRED.—In the case of any oil for which no return of the tax imposed by section 4986 is required, the return referred to in paragraph (1) shall be the return of the tax imposed by subtitle A for the taxable year of the producer in which the removal year (with respect to which the overpayment was made) ends. For purposes of the preceding sentence, the term 'removal year' means the calendar year in which the oil is removed from the premises."

26 USC 4986
note.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to periods after February 29, 1980.

(2) TRANSITIONAL RULES.—For the period ending June 30, 1980, the Secretary of the Treasury or his delegate shall prescribe rules relating to the administration of chapter 45 of the Internal Revenue Code of 1954. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 45 of such Code (or in so much of subtitle F of such Code as relates to such chapter 45).

26 USC 6001.

SEC. 102. ALLOCATION OF NET REVENUES FROM WINDFALL PROFIT TAX TO CERTAIN USES. 31 USC 555.

(a) **SEPARATE ACCOUNT IN TREASURY ESTABLISHED.**—The net revenues from the windfall profit tax for each fiscal year beginning after September 30, 1980, and before October 1, 1990, are hereby allocated for accounting purposes to a separate account in the Treasury to be known as the Windfall Profit Tax Account (hereinafter in this section referred to as the "Account").

(b) **SPECIFIED USES FOR AMOUNTS IN THE ACCOUNT.**—

(1) **BASIC NET REVENUES.**—In the case of the amount of basic net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	Percent
Income tax reductions.....	60
Low-income assistance.....	25
Energy and transportation programs.....	15

(2) **ADDITIONAL NET REVENUES.**—In the case of the amount of additional net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	Percent
Income tax reductions.....	66½
Low-income assistance.....	33½

(3) **SPECIAL RULE FOR LOW-INCOME ASSISTANCE FOR 1982 AND SUBSEQUENT YEARS.**—In the case of any amount allocated under paragraph (1) to the subaccount for low-income assistance for the fiscal year beginning October 1, 1981, or any subsequent fiscal year—

(A) 50 percent shall be allocated to a program to assist AFDC and SSI recipients under the Social Security Act, and

42 USC 1305.

(B) 50 percent shall be allocated to a program of emergency energy assistance.

(c) **NET REVENUES DEFINED.**—For purposes of this section—

(1) **IN GENERAL.**—The term "net revenues of the windfall profit tax" means, for any fiscal year, the amount which the Secretary estimates to be the excess of—

(A) the gross revenues from the tax imposed by section 4986 for the fiscal year, over

Ante, p. 230.

(B) the sum of—

(i) the refunds of and other adjustments to such tax for such fiscal year, plus

(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986.

26 USC 1 *et seq.*

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

(2) **BASIC NET REVENUES.**—The term "basic net revenues" means the estimated net revenues which would result for any period under the assumptions for such period which were made in enacting the Crude Oil Windfall Profit Tax Act of 1980.

Ante, p. 229.

(3) **ADDITIONAL NET REVENUES.**—The term "additional net revenues" means for any period the net revenues in excess of the basic net revenues for such period.

(d) **PRESIDENT TO PROPOSE ALLOCATION OF NET REVENUES.**—

(1) **IN GENERAL.**—The President shall propose for each fiscal year to which this section applies an allocation of the net revenues among the uses set forth in subsection (b).

(2) **TIME AND MANNER FOR PROPOSING.**—Except for the fiscal year beginning October 1, 1980, the proposal for each fiscal year shall be contained in the annual budget for such fiscal year. The proposal for the fiscal year beginning October 1, 1980, shall be submitted by the President within 90 days after the date of the enactment of this Act.

Reports to
Congress.

(e) **REPORTS.**—The Secretary of the Treasury shall report to the Congress not later than January 1 of 1982 and of each calendar year thereafter before 1992—

(1) the net revenues derived from the windfall profit tax for the fiscal year ending on September 30 of the preceding year, and

(2) the actual disposition for such fiscal year of such revenues among the uses specified in subsection (b).

26 USC 4986
note.

SEC. 103. STUDY OF EFFECTS OF DECONTROL OF OIL PRICES AND OF WINDFALL PROFIT TAX.

Report to
Congress.

(a) **GENERAL RULE.**—The President shall, not later than January 1, 1983, submit to the Congress a report on the effect of decontrol of oil prices and the windfall profit tax on—

(1) domestic oil production,

(2) foreign oil imports,

(3) profits of the oil industry,

(4) inflation,

(5) employment,

(6) economic growth,

(7) Federal revenues, and

(8) national security.

(b) **REPORT TO INCLUDE RECOMMENDATIONS.**—The report required under subsection (a) shall include such legislative recommendations as the President determines to be advisable.

TITLE II—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 201. GENERAL PROVISIONS RELATING TO CREDIT.

26 USC 44C.

(a) **JOINT OWNERSHIP OF ENERGY ITEMS.**—Section 44C(d) (relating to special rules) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) **JOINT OWNERSHIP OF ENERGY ITEMS.**—

“(A) **IN GENERAL.**—Any expenditure otherwise qualifying as an energy conservation expenditure or a renewable energy source expenditure shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

“(B) **LIMITS APPLIED SEPARATELY.**—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made by each individual.”

(b) **SECRETARIAL AUTHORITY.**—

(1) IN GENERAL.—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

“(9) LIMITATIONS ON SECRETARIAL AUTHORITY.—

“(A) IN GENERAL.—The Secretary shall not specify any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i) unless the Secretary determines that—

“(i) there will be a reduction in oil or natural gas consumption as a result of such specification, and such reduction is sufficient to justify any resulting decrease in Federal revenues,

“(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety, and

“(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

“(B) FACTORS TAKEN INTO ACCOUNT.—In making any determination under subparagraph (A)(i), the Secretary (after consultation with the Secretary of Energy)—

“(i) shall make an estimate of the amount by which the specification will reduce oil and natural gas consumption, and

“(ii) shall determine whether such specification compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost to the Federal Government (including revenue loss), with other Federal programs in existence or being proposed.

“(C) FACTORS TAKEN INTO ACCOUNT IN MAKING ESTIMATES.—In making any estimate under subparagraph (B)(i), the Secretary shall take into account (among other factors)—

“(i) the extent to which the use of any item will be increased as a result of the specification,

“(ii) whether sufficient capacity is available to increase production to meet any increase in demand caused by such specification,

“(iii) the amount of oil and natural gas used directly or indirectly in the manufacture of such item and other items necessary for its use, and

“(iv) the estimated useful life of such item.”

(2) PERIOD FOR SPECIFYING ITEMS.—Paragraph (6) of section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraphs:

“(C) ACTION ON REQUESTS.—

“(i) IN GENERAL.—The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) for specifying an item under paragraph (4)(A)(viii) or for specifying a form of renewable energy under paragraph (5)(A)(i) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

“(ii) REPORTS.—Each month the Secretary shall publish a report of any request which has been denied

during the preceding month and the reasons for the denial.

“(D) EFFECTIVE DATE.—

“(i) IN GENERAL.—In the case of any item or energy source specified under paragraph (4)(A)(viii) or (5)(A)(i), the credit allowed by subsection (a) shall apply with respect to expenditures which are made on or after the date on which final notice of such specification is published in the Federal Register.

“(ii) EXPENDITURES TAKEN INTO ACCOUNT IN FOLLOWING TAXABLE YEARS.—The Secretary may prescribe by regulations that expenditures made on or after the date referred to in clause (i) and before the close of the taxable year in which such date occurs shall be taken into account in the following taxable year.”

SEC. 202. RENEWABLE ENERGY SOURCE EXPENDITURES.

26 USC 44C.

(a) AMOUNT OF CREDIT.—Paragraph (2) of section 44C(b) (relating to qualified renewable energy source expenditures) is amended to read as follows:

“(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are 40 percent of so much of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed \$10,000.”

(b) SOLAR ELECTRIC ENERGY.—Clause (i) of section 44C(c)(5)(A) (defining renewable energy source property) is amended by striking out “providing hot water” and inserting in lieu thereof “providing hot water or electricity”.

(c) COSTS OF DRILLING GEOTHERMAL WELL.—Subparagraph (B) of section 44C(c)(2) (relating to renewable energy source expenditure) is amended to read as follows:

“(B) CERTAIN LABOR AND OTHER COSTS INCLUDED.—The term ‘renewable energy source expenditure’ includes—

“(i) expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property, and

“(ii) expenditures for an onsite well drilled for any geothermal deposit (as defined in section 613(e)(3)), but only if the taxpayer has not elected under section 263(c) to deduct any portion of such expenditures.”

(d) SOLAR PANELS INSTALLED ON ROOFS.—Paragraph (2) of section 44C(c) (relating to renewable energy source expenditure) is amended by adding at the end thereof the following new subparagraph:

“(D) CERTAIN SOLAR PANELS.—No solar panel installed as a roof (or portion thereof) shall fail to be treated as renewable energy source property solely because it constitutes a structural component of the dwelling on which it is installed.”

26 USC 613.

26 USC 263.

26 USC 44C note.

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

(2) SUBSECTIONS (b), (c), AND (d).—The amendments made by subsections (b), (c), and (d) shall apply to expenditures made after December 31, 1979, in taxable years ending after such date.

SEC. 203. PROVISIONS TO PREVENT DOUBLE BENEFITS.

(a) CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.—

(1) **IN GENERAL.**—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

26 USC 44C.

“(10) **PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.**—

“(A) **REDUCTION OF QUALIFIED EXPENDITURES.**—For purposes of determining the amount of energy conservation or renewable energy source expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

“(B) **DOLLAR LIMITS REDUCED.**—Paragraph (1) or (2) of subsection (b) (whichever is appropriate) shall be applied with respect to such dwelling unit for any taxable year of such taxpayer by reducing each dollar amount contained in such paragraph (reduced as provided in subsection (b)(3)) by an amount equal to the sum of—

“(i) the amount of the expenditures which were made by the taxpayer during such taxable year or any prior taxable year with respect to such dwelling unit and which were not taken into account by reason of subparagraph (A), and

“(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year or any prior taxable year which was used to make energy conservation or renewable energy source expenditures with respect to the dwelling unit and which was not included in the gross income of such taxpayer.

“(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.”

(b) **RETURN REQUIREMENT.**—

(1) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new section:

“SEC. 6050D. RETURNS RELATING TO ENERGY GRANTS AND FINANCING. 26 USC 6050D.

“(a) **IN GENERAL.**—Every person who administers a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants for projects to conserve or produce energy shall, to the extent required under regulations prescribed by the Secretary, make a return setting forth the name and address of each taxpayer receiving financing or a grant under such program and the aggregate amount so received by such individual.

“(b) **DEFINITION OF PERSON.**—For purposes of this section, the term ‘person’ means the officer or employee having control of the program, or the person appropriately designated for purposes of this section.”

(2) **CONFORMING AMENDMENT.**—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

“Sec. 6050D. Returns relating to energy grants and financing.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1980, but only with respect to financing or grants made after such date.

26 USC 44C note.

PART II—BUSINESS ENERGY INVESTMENT CREDITS

SEC. 221. CHANGES IN AMOUNT AND PERIOD OF APPLICATION OF ENERGY PERCENTAGE.

26 USC 46.

(a) IN GENERAL.—Subparagraph (C) of section 46(a)(2) (relating to energy percentage) is amended to read as follows:

“(C) ENERGY PERCENTAGE.—For purposes of this paragraph—

“(i) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

Column A—Description In the case of:	Column B—Percentage The energy percentage is:	Column C—Period For the period:	
		Beginning on:	And ending on:
I. GENERAL RULE.—Property not described in any of the following provisions of this column.....	10 percent.....	Oct. 1, 1978.....	Dec. 31, 1982.
II. SOLAR, WIND, OR GEOTHERMAL PROPERTY.—Property described in section 48(1)(2)(A)(ii) or 48(1)(3)(A)(viii).....	A. 10 percent..... B. 15 percent.....	Oct. 1, 1978..... Jan. 1, 1980.....	Dec. 31, 1979. Dec. 31, 1985.
III. OCEAN THERMAL PROPERTY.—Property described in section 48(1)(3)(A)(ix).....	15 percent.....	Jan. 1, 1980.....	Dec. 31, 1985.
IV. QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—Property described in section 48(1)(2)(A)(vii).....	11 percent.....	Jan. 1, 1980.....	Dec. 31, 1985.
V. QUALIFIED INTERCITY BUSES.—Property described in section 48(1)(2)(A)(ix).....	10 percent.....	Jan. 1, 1980.....	Dec. 31, 1985.
VI. BIOMASS PROPERTY.—Property described in section 48(1)(15).....	10 percent.....	Oct. 1, 1978.....	Dec. 31, 1985.

“(ii) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under clause (i) (as modified by clauses (iii) and (iv)).

“(iii) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage contained in subclause (I) of clause (i) with respect to property which is a part of a project with a normal construction period of 2 years or more (within the meaning of section 46(d)(2)(A)(i)), ‘December 31, 1990’ shall be substituted for ‘December 31, 1982’ if—

“(I) 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

“(II) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition,

construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

“(iv) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in subclause (IV) of clause (i) with respect to such property, ‘December 31, 1988’ shall be substituted for ‘December 31, 1985’.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 48(l) (relating to treatment as section 38 property) is amended to read as follows: 26 USC 48.

“(1) TREATMENT AS SECTION 38 PROPERTY.—For any period for which the energy percentage determined under section 46(a)(2)(C) for any energy property is greater than zero— 26 USC 46.

“(A) such energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

“(B) paragraph (3) of subsection (a) shall not apply to such property.”

(2) Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds) is amended by striking out “5 percent” and inserting in lieu thereof “one-half of the energy percentage determined under section 46(a)(2)(C)”. *Post*, p. 266.

SEC. 222. CHANGES IN ENERGY PROPERTY ITEM DESCRIPTIONS.

(a) **IN GENERAL.**—Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(1) by striking out “or” at the end of clause (v), and

(2) by adding at the end thereof the following new clauses:

“(vii) qualified hydroelectric generating property,

“(viii) cogeneration equipment, or

“(ix) qualified intercity buses.”

(b) **ALTERNATIVE ENERGY PROPERTY.**—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended—

(1) by striking out “(other than coke or coke gas)” in clause (iii),

(2) by striking out clause (v) and inserting in lieu thereof the following:

“(v) equipment to convert—

“(I) coal (including lignite), or any nonmarketable substance derived therefrom, into a substitute for a petroleum or natural gas derived feedstock for the manufacture of chemicals or other products, or

“(II) coal (including lignite), or any substance derived therefrom, into methanol, ammonia, or a hydroprocessed coal liquid or solid,”

(3) by striking out “and” at the end of clause (vii),

(4) by striking out the period at the end of clause (viii) and inserting in lieu thereof “, and”, and

(5) by adding at the end thereof the following new clause:

“(ix) equipment, placed in service at either of 2 locations designated by the Secretary after consultation

with the Secretary of Energy, which converts ocean thermal energy to usable energy."

26 USC 48.

(c) **SOLAR OR WIND ENERGY PROPERTY.**—Paragraph (4) of section 48(l) (defining solar or wind energy property) is amended—

- (1) by striking out "or" at the end of subparagraph (A),
- (2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "or", and
- (3) by adding at the end thereof the following new subparagraph:

"(C) to provide solar process heat."

(d) **SPECIALLY DEFINED ENERGY PROPERTY.**—

(1) **ALUMINA ELECTROLYTIC CELLS.**—Paragraph (5) of section 48(l) (defining specially defined energy property) is amended—

- (A) by striking out "or" at the end of subparagraph (K), and
- (B) by redesignating subparagraph (L) as subparagraph (M) and by inserting after subparagraph (K) the following new subparagraph:

"(L) modifications to alumina electrolytic cells, or".

(2) **STANDARDS FOR SECRETARIAL DISCRETION.**—Paragraph (5) of section 48(l) is amended by adding at the end thereof the following new sentence: "The Secretary shall not specify any property under subparagraph (M) unless he determines that such specification meets the requirements of paragraph (9) of section 44C(c) for specification of items under section 44C(c)(4)(A)(viii)."

Ante, p. 257.

(e) **QUALIFIED HYDROELECTRIC GENERATING PROPERTY.**—

(1) **IN GENERAL.**—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(13) **QUALIFIED HYDROELECTRIC GENERATING PROPERTY.**—

"(A) **IN GENERAL.**—The term 'qualified hydroelectric generating property' means property installed at a qualified hydroelectric site which is—

"(i) equipment for increased capacity to generate electricity by water (up to, but not including, the electrical transmission stage), and

"(ii) structures for housing such generating equipment, fish passageways, and dam rehabilitation property, required by reason of the installation of equipment described in clause (i).

"(B) **QUALIFIED HYDROELECTRIC SITE.**—The term 'qualified hydroelectric site' means any site—

"(i) at which—

"(I) there is a dam the construction of which was completed before October 18, 1979, and which was not significantly enlarged after such date, or

"(II) electricity is to be generated without any dam or other impoundment of water, and

"(ii) the installed capacity of which is less than 125 megawatts.

"(C) **LIMITATION ON CREDIT WHEN INSTALLED CAPACITY EXCEEDS 25 MEGAWATTS.**—For purposes of applying the energy percentage to any qualified hydroelectric generating property placed in service in connection with a site the installed capacity of which exceeds 25 megawatts, the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by a fraction—

“(i) the numerator of which is 25 reduced by 1 for each whole megawatt by which such installed capacity exceeds 100 megawatts, and

“(ii) the denominator of which is the number of megawatts of such installed capacity but not in excess of 100.

“(D) DAM REHABILITATION PROPERTY.—For purposes of this paragraph, the term ‘dam rehabilitation property’ means any amount properly chargeable to capital account for property (or additions or improvements to property) in connection with the rehabilitation of a dam.

“(E) INSTALLED CAPACITY.—The term ‘installed capacity’ means, with respect to any site, the installed capacity of all electrical generating equipment placed in service at such site. Such term includes the capacity of equipment installed during the 3 taxable years following the taxable year in which the equipment is placed in service.”

(2) REGULAR INVESTMENT CREDIT TO APPLY TO FISH PASSAGEWAYS.—Subparagraph (D) of section 46(a)(2) (relating to special rule for certain energy property) is amended by adding at the end thereof the following new sentence: “In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero.”

26 USC 46.

(f) COGENERATION PROPERTY.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

26 USC 48.

“(14) COGENERATION EQUIPMENT.—

“(A) IN GENERAL.—The term ‘cogeneration equipment’ means property which is an integral part of a system for using the same fuel to produce both qualified energy and electricity at an industrial or commercial facility at which, as of January 1, 1980, electricity or qualified energy was produced.

“(B) ONLY COGENERATION INCREASES TAKEN INTO ACCOUNT.—The term ‘cogeneration equipment’ includes property only to the extent that such property increases the capacity of the system to produce qualified energy or electricity, whichever is the secondary energy product of the system.

“(C) LIMITATION ON USE OF OIL OR GAS.—The term ‘cogeneration equipment’ does not include any property which is part of a system if—

“(i) such system uses oil or natural gas (or a product of oil or natural gas) as a fuel for any purpose other than—

“(I) start-up,

“(II) flame control, or

“(III) back-up, or

“(ii) more than 20 percent (determined on a Btu basis) of the fuel for such system for any taxable year consists of oil or natural gas (or a product of oil or natural gas).

“(D) QUALIFIED ENERGY.—The term ‘qualified energy’ means steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial, commercial, or space-heating purposes (other than in the production of electricity).

"(E) INDUSTRIAL INCLUDES PURIFICATION AND DESALINIZATION OF WATER.—The term 'industrial' includes the purification of water and the desalinization of water."

(g) BIOMASS PROPERTY.—

26 USC 48.

(1) IN GENERAL.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(15) BIOMASS PROPERTY.—

"(A) IN GENERAL.—The term 'biomass property' means—

"(i) any property described in clause (i), (ii), or (iii) of paragraph (3)(A), as modified by the last sentence of paragraph (3)(A) and by subparagraph (B) of this paragraph, and

"(ii) any equipment described in so much of clause (vi) or (vii) of paragraph (3)(A) as relates to property described in clause (i) of this subparagraph.

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) the term 'alternate substance' has the meaning given to such term by paragraph (3)(B), except that such term does not include any inorganic substance and does not include coal (including lignite) or any product of such coal, and

"(ii) clause (iii) of paragraph (3)(A) shall be applied by substituting 'a qualified fuel' for 'a synthetic liquid, gaseous, or solid fuel'.

"(C) QUALIFIED FUEL.—For purposes of subparagraph (B), the term 'qualified fuel' means—

"(i) any synthetic solid fuel, and

"(ii) alcohol for fuel purposes if the primary source of energy for the facility producing the alcohol is not oil or natural gas or a product of oil or natural gas."

(2) STORAGE OF FUEL DERIVED FROM GARBAGE.—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended by adding at the end thereof the following new sentence:

"The equipment described in clause (vii) includes equipment used for the storage of fuel derived from garbage at the site at which such fuel was produced from garbage."

(h) QUALIFIED INTERCITY BUSES.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(16) QUALIFIED INTERCITY BUSES.—

"(A) IN GENERAL.—Paragraph (2)(A)(ix) shall apply only with respect to the qualified investment in qualified intercity buses of a taxpayer—

"(i) which is a common carrier regulated by the Interstate Commerce Commission or an appropriate State agency (as determined by the Secretary), and

"(ii) which is engaged in the trade or business of furnishing intercity passenger transportation or intercity charter service by bus.

"(B) QUALIFIED INTERCITY BUS.—The term 'qualified intercity bus' means an automobile bus—

"(i) the chassis and body of which is exempt under section 4063(a)(6) from the tax imposed by section 4061(a),

"(ii) which has—

Ante, p. 261.

26 USC 4063.

26 USC 4061.

“(I) a seating capacity of more than 35 passengers (in addition to the driver), and

“(II) 1 or more baggage compartments, separated from the passenger area, with a capacity of at least 200 cubic feet, and

“(iii) which is used predominantly by the taxpayer in the trade or business of furnishing intercity passenger transportation or intercity charter service.

“(C) OPERATING CAPACITY MUST INCREASE.—Under regulations prescribed by the Secretary—

“(i) IN GENERAL.—The amount of qualified investment taken into account under paragraph (2)(A)(ix) for any taxable year shall not exceed the amount of the qualified investment which is attributable to an increase in the taxpayer's total operating seating capacity for the taxable year over such capacity as of the close of the preceding taxable year.

“(ii) SPECIAL RULES.—The regulations prescribed under this subparagraph—

“(I) shall provide that only buses used predominantly on a full-time basis in the trade or business of furnishing intercity passenger or intercity charter service shall be taken into account in determining the taxpayer's total operating seating capacity, and

“(II) shall provide rules treating related taxpayers as 1 person.”

(i) TECHNICAL AMENDMENTS.—

(1) PUBLIC UTILITY PROPERTY.—

(A) Paragraph (3) of section 48(l) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively. 26 USC 48.

(B) Subsection (l) of section 48 is amended by adding at the end thereof the following new paragraph:

“(17) EXCLUSION FOR PUBLIC UTILITY PROPERTY.—The terms ‘alternative energy property’, ‘biomass property’, ‘solar or wind energy property’, ‘recycling equipment’, and ‘cogeneration property’ do not include property which is public utility property (within the meaning of section 46(f)(5)).” 26 USC 46.

(2) OCEAN THERMAL PROPERTY.—Section 48(a)(2)(B) (relating to property used outside the United States) is amended—

(A) by striking out “and” at the end of clause (ix),

(B) by striking out the period at the end of clause (x) and inserting in lieu thereof “, and”, and

(C) by inserting immediately after clause (x) the following new clause:

“(xi) any property described in subsection (l)(3)(A)(ix) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States.”

(3) POLLUTION CONTROL EQUIPMENT.—Subparagraph (C) of section 48(l)(3) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new sentence: *Supra.*

“For 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’ shall be substituted for ‘October 1, 1978’.” *Ante, p. 261.*

26 USC 48 note.

(j) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by 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 1954.

26 USC 48.

(2) **ALUMINA ELECTROLYTIC CELLS.**—The amendments made by subsection (d)(1) shall apply to periods after September 30, 1978, under rules similar to the rules of section 48(m) of such Code.

SEC. 223. OTHER CHANGES WITH RESPECT TO THE INVESTMENT CREDIT FOR INVESTMENT IN ENERGY PROPERTY.(a) **BOILERS FUELED BY PETROLEUM COKE OR PETROLEUM PITCH.**—

(1) **IN GENERAL.**—Paragraph (10) of section 48(a) (relating to boilers fueled by oil or gas) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'petroleum or petroleum products' does not include petroleum coke or petroleum pitch."

26 USC 48 note.

(2) **EFFECTIVE DATE.**—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 1954.

(b) **REPEAL OF REFUNDABLE CREDIT FOR SOLAR OR WIND PROPERTY.**—

26 USC 46.

(1) **IN GENERAL.**—Paragraph (10) of section 46(a) (relating to special rules in case of energy property) is amended—

(A) in subparagraph (A)—

(i) by inserting "and" at the end of clause (i),

(ii) by striking out "(other than solar or wind energy property), and" and inserting in lieu thereof a period in clause (ii), and

(iii) by striking out clause (iii);

(B) by striking out "OTHER THAN SOLAR OR WIND ENERGY PROPERTY" in the heading of subparagraph (B); and

(C) by striking out subparagraph (C).

26 USC 6401.

(2) **CONFORMING AMENDMENT.**—Section 6401 (relating to amounts treated as overpayments) is amended by striking out subsection (d).

26 USC 46 note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to qualified investment for taxable years beginning after December 31, 1979.

(c) **CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.**—*Ante*, p. 261.

(1) **IN GENERAL.**—Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds), as amended by section 221(b)(2), is amended to read as follows:

"(11) **SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.**—

"(A) **REDUCTION OF QUALIFIED INVESTMENT.**—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 an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103,

26 USC 103.

the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment 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 qualified investment in the property which is allocable to such financing or proceeds, and

“(ii) the denominator of which is the qualified investment in 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.”

(2) EFFECTIVE DATES.—

26 USC 48 note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

26 USC 48.

(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 1954.

(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),

Ante, p. 261.

(ii) property described in section 48(l)(4)(C) of such Code (relating to solar process heat),

Ante, p. 262.

(iii) property described in section 48(l)(5)(L) of such Code (relating to alumina electrolytic cells), and

Ante, p. 262.

(iv) property described in the last sentence of section 48(l)(3)(A) of such Code (relating to storage equipment for refuse-derived fuel).

Ante, p. 264.

(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).

Ante, p. 266.

26 USC 103.

PART III—PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES; ALCOHOL FUELS

SEC. 231. PRODUCTION TAX CREDIT.

(a) **IN GENERAL.**—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 44C the following new section:

26 USC 44D.

“SEC. 44D. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

“(a) **ALLOWANCE OF CREDIT.**—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

“(1) \$3, multiplied by

“(2) the barrel-of-oil equivalent of qualified fuels—

“(A) sold by the taxpayer to an unrelated person during the taxable year, and

“(B) the production of which is attributable to the taxpayer.

“(b) **LIMITATIONS AND ADJUSTMENTS.**—

“(1) **PHASEOUT OF CREDIT.**—The amount of the credit allowable under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

“(A) the amount by which the reference price for the calendar year in which the taxable year begins exceeds \$23.50, bears to

“(B) \$6.

“(2) **CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.**—The \$3 amount in subsection (a) and the \$23.50 and \$6 amounts in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which a taxable year begins. In the case of gas from a tight formation, the \$3 amount in subsection (a) shall not be adjusted.

“(3) **CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.**—

“(A) **IN GENERAL.**—The amount of the credit allowable under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

“(i) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

“(I) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

“(II) proceeds of any issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

“(III) the aggregate amount of subsidized energy financing (within the meaning of section 48(l)(11)(C)) provided in connection with the project, and

“(ii) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

26 USC 103.

Ante, p. 266.

“(B) AMOUNTS DETERMINED AT CLOSE OF YEAR.—The amounts under subparagraph (A) for any taxable year shall be determined as of the close of the taxable year.

“(4) CREDIT REDUCED FOR ENERGY CREDIT.—The amount allowable as a credit under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1), (2), and (3)) shall be reduced by the excess of—

“(A) the aggregate amount allowed under section 38 for the taxable year or any prior taxable year by reason of the energy percentage with respect to property used in the project, over

26 USC 38.

“(B) the aggregate amount recaptured with respect to the amount described in subparagraph (A)—

“(i) under section 47 for the taxable year or any prior taxable year, or

26 USC 47.

“(ii) under this paragraph for any prior taxable year.

The amount recaptured under section 47 with respect to any property shall be appropriately reduced to take into account any reduction in the credit allowed by this section by reason of the preceding sentence.

“(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term ‘tax imposed by this chapter’ shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

26 USC 31, 39, 43.

26 USC 53.

“(c) DEFINITION OF QUALIFIED FUELS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified fuels’ means—

“(A) oil produced from shale and tar sands,

“(B) gas produced from—

“(i) geopressured brine, Devonian shale, coal seams, or a tight formation, or

“(ii) biomass,

“(C) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks,

“(D) qualifying processed wood fuels, and

“(E) steam produced from solid agricultural byproducts (not including timber byproducts).

“(2) GAS FROM GEOPRESSURED BRINE, ETC.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation shall be made in accordance with section 503 of the Natural Gas Policy Act of 1978.

15 USC 3413.

“(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term ‘gas produced from a tight formation’ shall only include—

“(i) gas the price of which is regulated by the United States, and

“(ii) gas for which the maximum lawful price applicable under the Natural Gas Policy Act of 1978 is at least 150 percent of the then applicable price under section 103 of such Act.

15 USC 3301 note.

15 USC 3313.

26 USC 48.

"(3) BIOMASS.—The term 'biomass' means any organic material which is an alternate substance (as defined in section 48(1)(3)(B)) other than coal (including lignite) or any product of such coal.

"(4) QUALIFYING PROCESSED WOOD FUEL.—

"(A) IN GENERAL.—The term 'qualifying processed wood fuel' means any processed solid wood fuel (other than charcoal, fireplace products, or a product used for ornamental or recreational purposes) which has a Btu content per unit of volume or weight, determined without regard to any non-wood elements, which is at least 40 percent greater per unit of volume or weight than the Btu content of the wood from which it is produced (determined immediately before the processing).

"(B) ELECTION.—A taxpayer shall elect, at such time and in such manner as the Secretary by regulations may prescribe, as to whether Btu content per unit shall be determined for purposes of this paragraph on a volume or weight basis. Any such election—

"(i) shall apply to all production from a facility; and

"(ii) shall be effective for the taxable year with respect to which it is made and for all subsequent taxable years and, once made, may be revoked only with the consent of the Secretary.

"(5) AGRICULTURAL BYPRODUCT STEAM.—Steam produced from solid agricultural byproducts which is used by the taxpayer in his trade or business shall be treated as having been sold by the taxpayer to an unrelated person on the date on which it is used.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to qualified fuels the production of which is within—

26 USC 638.

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

Publication in
Federal
Register.

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for the preceding calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for calendar year 1979. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(C) REFERENCE PRICE.—The term 'reference price' means with respect to a calendar year the Secretary's estimate of the annual average wellhead price per barrel for all domestic crude oil the price of which is not subject to regulation by the United States.

“(3) **PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.**—In the case of a property or facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the property or facility (as the case may be) shall be allocated among such persons in proportion to their respective interests in the gross sales from such property or facility.

“(4) **SPECIAL RULES APPLICABLE TO GAS FROM GEOPRESSURED BRINE, DEVONIAN SHALE, COAL SEAMS, OR A TIGHT FORMATION.**—

“(A) **CREDIT ALLOWED ONLY FOR NEW PRODUCTION.**—The amount of the credit allowable under subsection (a) shall be determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before January 1, 1980.

“(B) **REFERENCE PRICE AND APPLICATION OF PHASEOUT FOR DEVONIAN SHALE.**—

“(i) **REFERENCE PRICE FOR DEVONIAN SHALE.**—For purposes of this section, the term ‘reference price’ for gas from Devonian shale sold during calendar years 1980, 1981, and 1982 shall be the average wellhead price per thousand cubic feet for such year of high cost natural gas (as defined in section 107(c) (2), (3), and (4) of the Natural Gas Policy Act of 1978 and determined under section 503 of that Act) as estimated by the Secretary after consultation with the Federal Energy Regulatory Commission.

15 USC 3317.

15 USC 3413.

“(ii) **DIFFERENT PHASEOUT TO APPLY FOR 1980, 1981, AND 1982.**—For purposes of applying paragraphs (1) and (2) of subsection (b) with respect to sales during calendar years 1980, 1981, and 1982 of gas from Devonian shale, ‘\$4.05’ shall be substituted for ‘\$23.50’ and ‘\$1.03’ shall be substituted for ‘\$6.00’.

“(5) **PHASEOUT DOES NOT APPLY FOR FIRST 3 YEARS OF PRODUCTION FROM FACILITY PRODUCING QUALIFYING PROCESSED WOOD OR STEAM FROM SOLID AGRICULTURAL BYPRODUCTS.**—In the case of a facility for the production of—

“(A) qualifying processed wood fuel,

or

“(B) steam from solid agricultural byproducts, paragraph (1) of subsection (b) shall not apply with respect to the amount of the credit allowable under subsection (a) for fuels sold during the 3-year period beginning on the date the facility is placed in service.

“(6) **BARREL-OF-OIL EQUIVALENT.**—The term ‘barrel-of-oil equivalent’ with respect to any fuel means that amount of such fuel which has a Btu content of 5.8 million; except that in the case of qualified fuels described in subparagraph (C), (D), or (E) of subsection (c)(1), the Btu content shall be determined without regard to any material from a source not described in such subparagraph.

“(7) **BARREL DEFINED.**—The term ‘barrel’ means 42 United States gallons.

“(8) **RELATED PERSONS.**—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

26 USC 52.

26 USC 1371.

26 USC 52.

15 USC 3301
note.

15 USC 3317.

15 USC 3331.

“(9) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

“(e) CREDIT NOT ALLOWABLE IF TAXPAYER MAKES ELECTION UNDER NATURAL GAS POLICY ACT OF 1978.—If the taxpayer makes an election under section 107(d) of the Natural Gas Policy Act of 1978 to have subsections (a) and (b) of section 107 of that Act, and subtitle B of title I of that Act, apply with respect to gas described in subsection (c)(1)(B)(i) produced from any well on a property, then the credit allowable by subsection (a) shall not be allowed with respect to any gas produced on that property.

“(f) APPLICATION OF SECTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply with respect to qualified fuels—

“(A) which are—

“(i) produced from a well drilled after December 31, 1979, and before January 1, 1990, or

“(ii) produced in a facility placed in service after December 31, 1979, and before January 1, 1990, and

“(B) which are sold after December 3, 1979, and before January 1, 2001.

“(2) SPECIAL RULES APPLICABLE TO QUALIFIED PROCESSED WOOD AND SOLID AGRICULTURAL BYPRODUCT STEAM.—

“(A) CREDIT ALLOWED ONLY FOR CERTAIN PRODUCTION.—In the case of qualifying processed wood fuel and steam from solid agricultural byproducts, this section shall apply only with respect to—

“(i) qualifying processed wood fuel produced in facilities placed in service after December 3, 1979, and before January 1, 1982, which is sold before the later of—

“(I) October 1, 1983, or

“(II) the date which is 3 years after the date on which the facility is placed in service; and

“(ii) steam produced in facilities placed in service after December 31, 1979, from solid agricultural byproducts which is sold before January 1, 1985.

“(B) EXPANDED PRODUCTION OF STEAM TREATED AS NEW FACILITY PRODUCTION.—For purposes of this subsection and subsection (d)(5), in the case of a facility for the production of steam from solid agricultural byproducts which was placed in service before January 1, 1980, any production of steam attributable to an expansion of the capacity of the facility to produce such steam through placing additional or replacement equipment in service after December 31, 1979, shall be treated as if it were produced by a facility placed in service on the date on which such equipment is placed in service.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44C the following new item:

“Sec. 44D. Credit for producing fuel from a nonconventional source.”

(2) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out “and 44C” and inserting in lieu thereof “44C, and 44D”.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after December 31, 1979.

26 USC 6096.

26 USC 44D note.

SEC. 232. ALCOHOL FUELS.**(a) EXTENSION OF EXEMPTION THROUGH 1992.—**

(1) **GASOLINE.**—Subsection (c) of section 4081 (relating to gasoline mixed with alcohol) is amended by adding at the end thereof the following new paragraph: 26 USC 4081.

“(4) **TERMINATION.**—Paragraph (1) shall not apply to any sale after December 31, 1992.”

(2) **SPECIAL FUELS.**—Subsection (k) of section 4041 (relating to fuels containing alcohol) is amended by adding at the end thereof the following new paragraph: 26 USC 4041.

“(3) **TERMINATION.**—Paragraph (1) shall not apply to any sale or use after December 31, 1992.”

(3) **TECHNICAL AMENDMENT.**—Subsections (a)(2) and (b)(2) of the Energy Tax Act of 1978 are each amended by striking out “, and before October 1, 1984”. 26 USC 4041 note, 4081 note.

(b) CREDIT AGAINST INCOME TAX.—

(1) **IN GENERAL.**—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting before section 45 the following new section:

“SEC. 44E. ALCOHOL USED AS FUEL.

26 USC 44E.

“(a) **GENERAL RULE.**—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) the alcohol mixture credit, plus

“(2) the alcohol credit.

“(b) **DEFINITION OF ALCOHOL MIXTURE CREDIT AND ALCOHOL CREDIT.**—For purposes of this section—

“(1) **ALCOHOL MIXTURE CREDIT.**—

“(A) **IN GENERAL.**—The alcohol mixture credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol used by the taxpayer in the production of a qualified mixture.

“(B) **QUALIFIED MIXTURE.**—The term ‘qualified mixture’ means a mixture of alcohol and gasoline or of alcohol and a special fuel which—

“(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

“(ii) is used as a fuel by the taxpayer producing such mixture.

“(C) **SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.**—Alcohol used in the production of a qualified mixture shall be taken into account—

“(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

“(ii) for the taxable year in which such sale or use occurs.

“(D) **CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.**—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified mixture.

“(2) **ALCOHOL CREDIT.**—

“(A) **IN GENERAL.**—The alcohol credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol which is not in a mixture with gasoline or a special fuel (other than any denaturant) and which during the taxable year—

“(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO ALCOHOL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any alcohol which was sold in a retail sale described in subparagraph (A)(ii).

"(3) SMALLER CREDIT FOR LOWER PROOF ALCOHOL.—In the case of any alcohol with a proof which is at least 150 but less than 190, paragraphs (1)(A) and (2)(A) shall be applied by substituting "30 cents" for "40 cents".

"(4) ADDING OF DENATURANTS NOT TREATED AS MIXTURE.—The adding of any denaturant to alcohol shall not be treated as the production of a mixture.

"(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit allowable under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such alcohol solely by reason of the application of section 4041(k) or 4081(c).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ALCOHOL DEFINED.—

"(A) IN GENERAL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal, or

"(ii) alcohol with a proof of less than 150.

"(B) DETERMINATION OF PROOF.—The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(2) SPECIAL FUEL DEFINED.—The term 'special fuel' includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

"(3) MIXTURE OR ALCOHOL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was allowable under this section with respect to alcohol used in the production of any qualified mixture, and

"(ii) any person—

"(I) separates the alcohol from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of alcohol in such mixture.

"(B) ALCOHOL.—If—

"(i) any credit was allowable under this section with respect to the retail sale of any alcohol, and

"(ii) any person mixes such alcohol or uses such alcohol other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of such alcohol.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

Ante, p. 273.

“(4) VOLUME OF ALCOHOL.—For purposes of determining—

“(A) under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), or

“(B) under section 4041(k) or 4081(c) the percentage of any mixture which consists of alcohol, *Ante*, p. 273.

the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).

“(5) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply. 26 USC 1371. 26 USC 52.

“(e) LIMITATION BASED ON AMOUNT OF TAX.—

“(1) IN GENERAL.—The amount of the credit allowed by this section for the taxable year shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term ‘tax imposed by this chapter’ shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a). 26 USC 31, 39, 43. 26 USC 53.

“(2) CARRYOVER OF UNUSED CREDIT.—

“(A) IN GENERAL.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the ‘unused credit year’), such excess shall be an alcohol fuel credit carryover to each of the 7 taxable years following the unused credit year, and shall be added to the amount allowable as credit under subsection (a) for such years. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 7 taxable years to which (by reason of the preceding sentence) such credit may be carried, and then to each of the other 6 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

“(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such succeeding taxable year exceeds the sum of—

“(i) the credit allowable under subsection (a) for such taxable year, and

“(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

“(f) TERMINATION.—

“(1) IN GENERAL.—This section shall not apply to any sale or use after December 31, 1992.

“(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under subsection (e)(2) to any taxable year beginning after December 31, 1994.”

(2) TECHNICAL AMENDMENTS RELATED TO CARRYOVER OF CREDIT.—

26 USC 55.

(A) Paragraph (3) of section 55(c) is amended by adding at the end thereof the following new sentence:

Ante, p. 273.

"In determining any carryover under section 44E(e)(2), a rule similar to the rule set forth in subparagraph (A) shall be treated as inserted in this paragraph before subparagraph (A), and the applications of subparagraphs (A), (B), and (C) shall be adjusted accordingly."

26 USC 381.

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 44E FOR ALCOHOL USED AS FUEL.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44E, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44E in respect of the distributor or transferor corporation."

26 USC 383.

(C) Section 383 (relating to special limitations on unused investment credits, work incentive credits, new employee credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44E(e)(2)," after "section 53(c)," and

(ii) by striking out "NEW EMPLOYEE CREDITS" in the section heading and inserting in lieu thereof "NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS".

26 USC 1 note.

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44E(e)(2)," after "section 53(c)," and

(ii) by striking out "NEW EMPLOYEE CREDITS" in the section heading and inserting in lieu thereof "NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS".

(3) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 4081.

(A) Paragraph (3) of section 4081(c) (defining alcohol) is amended by adding at the end thereof the following new sentence: "Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants)."

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 44D the following new item:

"Sec. 44E. Alcohol used as fuel."

26 USC 6096.

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 231, is amended by striking out "and 44D" and inserting "44D, and 44E".

(C) CREDIT TO BE INCLUDED IN INCOME.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 86. ALCOHOL FUEL CREDIT.

26 USC 86.

"Gross income includes an amount equal to the amount of the credit allowable to the taxpayer under section 44E for the taxable year (determined without regard to subsection (e) thereof)."

Ante, p. 273.

(2) **TECHNICAL AMENDMENT.**—Subparagraph (B) of section 55(b)(1) (defining alternative minimum taxable income) is amended by striking out "section 667" and inserting in lieu thereof "section 86 or 667".

26 USC 55.

(3) **CONFORMING AMENDMENT.**—The table of sections for such part II is amended by inserting at the end thereof the following new item:

"Sec. 86. Alcohol fuel credit."

(d) REFUND OF TAX ON GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) **GENERAL RULE.**—Section 6427 (relating to fuels not used for taxable purposes) is amended—

26 USC 6427.

(A) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(B) by inserting after subsection (e) the following new subsection:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) **IN GENERAL.**—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992.

26 USC 4081.

Ante, pp. 273, 276.*Infra*.

"(2) **COORDINATION WITH OTHER REPAYMENT PROVISIONS.**—No amount shall be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1)."

26 USC 6420, 6421.

(2) **QUARTERLY REFUND ALLOWED WHERE \$200 OR MORE IS PAYABLE.—**

(A) Subparagraph (A) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

26 USC 6427.

"(iii) \$200 or more is payable under subsection (f)."

(B) Subparagraph (B) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended to read as follows:

"(B) **SPECIAL RULE.**—If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter."

(3) **TREATMENT OF SUBSEQUENT SEPARATION.**—Paragraph (2) of section 4081(c) (relating to later separation of gasoline) is amended by inserting "(or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1))" after "this subsection".

26 USC 4081.

(4) **TECHNICAL AMENDMENTS.—**

26 USC 39.

(A) Subsections (a)(4) and (b) of section 39 are each amended by striking out "6427(h)" and inserting in lieu thereof "6427(i)".

26 USC 6427.

(B) Subsections (a), (b)(1), (c), (d), and (e)(1) of section 6427 are each amended by striking out "(h)" and inserting in lieu thereof "(i)".

Ante, p. 277.

(C) Subsection (g)(1) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(a), (b), (c), (d), or (e)" and inserting in lieu thereof "(a), (b), (c), (d), (e), or (f)".

(D) Subsection (i)(2) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(f)(2)" and inserting in lieu thereof "(g)(2)".

26 USC 7210,
7603, 7604, 7605,
7609, 7610.

(E) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(g)(2)" each place it appears and inserting in lieu thereof "6427(h)(2)".

(e) EXEMPTION FROM DISTILLED SPIRITS RULES.—

26 USC 5182.

(1) **IN GENERAL.**—Subchapter B of chapter 51 (relating to distilled spirits, wines, and beers) is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following new section:

26 USC 5181.

"SEC. 5181. DISTILLED SPIRITS FOR FUEL USE.

"(a) IN GENERAL.—

"(1) PURPOSES FOR WHICH PLANT MAY BE ESTABLISHED.—On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of—

"(A) producing, processing, and storing, and

"(B) using or distributing,

distilled spirits to be used exclusively for fuel use.

"(2) REGULATIONS.—In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

"(A) expedite all applications;

"(B) establish a minimum bond; and

"(C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

"(b) AUTHORITY TO EXEMPT.—The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

"(c) SPECIAL RULES FOR SMALL PLANT PRODUCTION.—

"(1) APPLICATIONS.—

"(A) IN GENERAL.—An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

"(B) RECEIPT OF APPLICATION.—Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent

and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

“(C) MULTIPLE APPLICATIONS.—If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

“(2) DETERMINATION.—

“(A) IN GENERAL.—In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

“(B) FAILURE TO MAKE DETERMINATION.—If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

“(C) REJECTION OF APPLICATION.—If the Secretary determines under subparagraph (A) that a permit should not be issued—

“(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

“(ii) such determination shall not prejudice any further application for such operating permit.

“(3) BOND.—No bond shall be required for an eligible distilled spirits plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises.

26 USC 5212.

“(4) ELIGIBLE DISTILLED SPIRITS PLANT.—The term ‘eligible distilled spirits plant’ means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

“(d) WITHDRAWAL FREE OF TAX.—Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

26 USC 5214.

“(e) PROHIBITED WITHDRAWAL, USE, SALE, OR DISPOSITION.—

“(1) IN GENERAL.—Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

“(2) RENDERING UNFIT FOR USE.—For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be

rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

"(f) DEFINITION OF DISTILLED SPIRITS.—For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 5601.

(A) Section 5601(a) (relating to criminal penalties) is amended by adding the word "or" at the end of paragraph (14) and by inserting immediately after paragraph (14) the following new paragraph:

"(15) UNAUTHORIZED WITHDRAWAL, USE, SALE, OR DISTRIBUTION OF DISTILLED SPIRITS FOR FUEL USE.—Withdraws, uses, sells, or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;"

Ante, p. 278.

26 USC 5214.

(B) Section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax) is amended by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(12) free of tax in the case of distilled spirits produced under section 5181."

Ante, p. 278.

26 USC 5004.

(C) Section 5004(a)(2)(B) (relating to lien for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

26 USC 5005.

(D) Section 5005(d) (relating to person liable for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

Repeal.

26 USC 4081
note.

(E) Section 221(d) of the Energy Tax Act of 1978 is repealed.

(F) The table of sections for subchapter B of chapter 51 is amended by striking out the item relating to section 5181 and by inserting after section 5180 the following new items:

"Sec. 5181. Distilled spirits for fuel use.

"Sec. 5182. Cross references."

Submittal to
congressional
committees.
26 USC 4041
note.

(f) STUDY OF IMPORTED ALCOHOL.—Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall furnish to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the United States House of Representatives recommendations as to what methods, if any, may be used to limit the importing of alcohol into the United States for fuel purposes, including, but not limited to—

(1) denial of the exemption under sections 4081(c) and 4041(k) of the Internal Revenue Code of 1954 or of the credit under section 44E of such Code to fuels produced from imported alcohol,

(2) import quotas and duties on such alcohol, and

(3) strict surveillance of such imports to monitor their effect on the domestic fuel alcohol industry.

Ante, pp. 273,
276, 277.

(g) REPORTS.—Subsection (c) of section 221 of the Energy Tax Act of 1978 is amended to read as follows:

26 USC 4041
note.

Submittal to
Congress.

"(c) REPORTS.—On April 1 of each year, beginning with April 1, 1981, and ending with April 1, 1992, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

"(1) a description of the firms engaged in the alcohol fuel industry,

"(2) the amount of alcohol fuel sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

"(3) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954 and the credit allowable under section 44E of such Code and the impact of such revenue loss on the Highway Trust Fund, and

"(4) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels not mixed with alcohol."

Ante, pp. 273, 276, 277.

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to sales or uses after September 30, 1980, in taxable years ending after such date.

26 USC 44E note.

(2) SUBSECTION (d).—

(A) IN GENERAL.—The amendments made by subsection (d) shall take effect on January 1, 1979.

26 USC 6427 note.

(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act which is described in section 6427(f)(1) of the Internal Revenue Code of 1954 (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act.

Ante, p. 277.

(3) DISTILLED SPIRITS PLANTS.—The amendments made by subsection (e) shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act.

26 USC 5181 note.

PART IV—ENERGY-RELATED USES OF TAX-EXEMPT BONDS

SEC. 241. SOLID WASTE DISPOSAL FACILITIES.

(a) IN GENERAL.—Section 103 (relating to interest on governmental obligations) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

26 USC 103.

"(g) QUALIFIED STEAM-GENERATING OR ALCOHOL-PRODUCING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (b)(4)(E), the term 'solid waste disposal facility' includes—

Definitions.

"(A) a qualified steam-generating facility, and

"(B) a qualified alcohol-producing facility.

"(2) QUALIFIED STEAM-GENERATING FACILITY DEFINED.—For purposes of paragraph (1), the term 'qualified steam-generating facility' means a steam-generating facility for which—

"(A) more than half of the fuel (determined on a Btu basis) is solid waste or fuel derived from solid waste, and

"(B) substantially all of the solid waste derived fuel is produced at a facility which is—

"(i) located at or adjacent to the site for such steam-generating facility, and

"(ii) owned and operated by the person who owns and operates the steam-generating facility.

"(3) QUALIFIED ALCOHOL-PRODUCING FACILITY.—For purposes of paragraph (1), the term 'qualified alcohol-producing facility' means a facility—

"(A) the primary product of which is alcohol,

“(B) more than half of the feedstock for which is solid waste or a feedstock derived from solid waste, and

“(C) substantially all of the solid waste derived feedstock for which is produced at a facility which is—

“(i) located at or adjacent to the site for such alcohol-producing facility, and

“(ii) owned and operated by the person who owns and operates the alcohol-producing facility.

“(4) SPECIAL RULE IN CASE OF STEAM-GENERATING FACILITY.—A facility for producing solid waste derived fuel shall be treated as a facility which meets the requirements of clauses (i) and (ii) of paragraph (2)(B) if—

“(A) such facility and the steam-generating facility are owned and operated by or for a State or the same political subdivision or subdivisions of a State, and

“(B) substantially all of the solid waste used in producing the solid waste derived fuel at the facility producing such fuel is collected from the area in which the steam-generating facility is located.”

26 USC 103 note.

Ante, p. 281.
Post, p. 286.

(b) CERTAIN SOLID WASTE AND ENERGY-PRODUCING FACILITIES.—

(1) GENERAL RULE.—For purposes of section 103 of the Internal Revenue Code of 1954, any obligation issued by an authority for 2 or more political subdivisions of a State which is part of an issue substantially all of the proceeds of which are to be used to provide solid waste-energy producing facilities shall be treated as an obligation of a political subdivision of a State which meets the requirements of section 103(b)(4)(E) of such Code (relating to solid waste disposal, etc., facilities). Nothing in the preceding sentence shall be construed to override the limitations of section 103(c) of such Code (relating to arbitrage bonds).

(2) SOLID WASTE-ENERGY PRODUCING FACILITIES.—For purposes of paragraph (1), the term “solid waste-energy producing facilities” means any solid waste disposal facility and any facility for the production of steam and electrical energy if—

(A) substantially all of the fuel for the facility producing steam and electrical energy is derived from solid waste from such solid waste disposal facility,

(B) both such solid waste disposal facility and the facility producing steam and electrical energy are owned and operated by the authority referred to in paragraph (1), and

(C) all of the electrical energy and steam produced by the facility for producing steam and electricity which is not used by such facility is sold, for purposes other than resale, to an agency or instrumentality of the United States.

(3) SOLID WASTE DISPOSAL FACILITY.—For purposes of paragraph (2), the term “solid waste disposal facility” means any solid waste disposal facility within the meaning of section 103(b)(4)(E) of the Internal Revenue Code of 1954 (determined without regard to section 103(g) of such Code).

(4) OBLIGATIONS MUST BE IN REGISTERED FORM.—This subsection shall not apply to any obligation which is not issued in registered form.

26 USC 103 note.

Ante, p. 281.

(c) SPECIAL RULE FOR CERTAIN ALCOHOL-PRODUCING FACILITIES.—

(1) IN GENERAL.—Subparagraph (C) of section 103(g)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to any facility for the production of alcohol from solid waste if—

(A) substantially all of the solid waste derived feedstock for such facility is produced at a facility which—

- (i) went into full production in 1977,
- (ii) is located within the limits of a city, and
- (iii) is located in the same metropolitan area as the alcohol-producing facility, and

(B) before March 1, 1980, there were negotiations between a governmental body and an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 with respect to the utilization of a special process for the production of alcohol at such alcohol-producing facility.

26 USC 501.

(2) **LIMITATION.**—The aggregate amount of obligations which may be issued by reason of paragraph (1) with respect to any project shall not exceed \$30,000,000.

(3) **TERMINATION.**—This subsection shall not apply to obligations issued after December 31, 1985.

(d) **EFFECTIVE DATE.**—The amendments made by subsection (a) and the provisions of subsections (b) and (c) shall apply with respect to obligations issued after October 18, 1979.

26 USC 103 note.

SEC. 242. QUALIFIED HYDROELECTRIC GENERATING FACILITIES.

(a) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—

(1) **IN GENERAL.**—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

26 USC 103.

(A) by striking out “or” at the end of subparagraph (F),

(B) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof “, or”, and

(C) by inserting after subparagraph (G) the following new subparagraph:

“(H) qualified hydroelectric generating facilities.”

(2) **DEFINITIONS.**—Subsection (b) of section 103 is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) **QUALIFIED HYDROELECTRIC GENERATING FACILITIES.**—For purposes of this section—

“(A) **QUALIFIED HYDROELECTRIC GENERATING FACILITY.**—The term ‘qualified hydroelectric generating facility’ means any qualified hydroelectric generating property which is owned by a State, political subdivision thereof, or agency or instrumentality of any of the foregoing.

“(B) **QUALIFIED HYDROELECTRIC GENERATING PROPERTY.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), the term ‘qualified hydroelectric generating property’ has the meaning given to such term by section 48(l)(13).

Ante, p. 262.

“(ii) **DAM MUST BE OWNED BY GOVERNMENTAL BODY.**—The term ‘qualified hydroelectric generating property’ does not include any property installed at the site of any dam described in section 48(l)(13)(B)(i)(I) unless such dam was owned by one or more governmental bodies described in subparagraph (A) on October 18, 1979, and at all times thereafter until the obligations are no longer outstanding.

“(C) **LIMITATION.**—Paragraph (4)(H) of this subsection shall not apply to any issue of obligations (otherwise qualifying under paragraph (4)(H)) if the portion of the proceeds of such issue which is used to provide qualified hydroelectric generating facilities exceeds (by more than an insubstantial amount) the product of—

“(i) the eligible cost of the facilities being provided in whole or in part from the proceeds of the issue, and
 “(ii) the installed capacity fraction.

“(D) **INSTALLED CAPACITY FRACTION.**—The term ‘installed capacity fraction’ means the fraction—

“(i) the numerator of which is 25, reduced by 1 for each megawatt by which the installed capacity exceeds 100 megawatts, and

“(ii) the denominator of which is the number of megawatts of the installed capacity (but not in excess of 100).

For purposes of the preceding sentence, the term ‘installed capacity’ has the meaning given to such term by section 48(l)(13)(E).

Ante, p. 262.

“(E) **ELIGIBLE COST.**—

“(i) **IN GENERAL.**—The eligible cost of any facilities is that portion of the total cost of such facilities which is reasonably expected—

“(I) to be the cost to the governmental body described in subparagraph (A), and

“(II) to be attributable to periods after October 18, 1979, and before 1986 (determined under rules similar to the rules of section 48(m)).

“(ii) **LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.**—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, clause (i)(II) shall be applied with respect to such property by substituting ‘1989’ for ‘1986’.

“(F) **CERTAIN PRIOR ISSUES TAKEN INTO ACCOUNT.**—If the proceeds of 2 or more issues (whether or not the issuer of each issue is the same) are or will be used to finance the same facilities, then, for purposes of subparagraph (C), in determining the amount of the proceeds of any later issue used to finance such facilities, there shall be taken into account the proceeds used to finance such facilities of all prior such issues which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).”

26 USC 103 note.

Ante, p. 283.

(b) **APPLICATION OF SECTION 103(b)(4)(H) TO CERTAIN FACILITIES.**—

(1) **IN GENERAL.**—For purposes of section 103(b)(4)(H) of the Internal Revenue Code of 1954 (relating to qualified hydroelectric generating facilities), in the case of a hydroelectric generating facility described in paragraph (2)—

(A) the facility shall be treated as a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) without regard to clause (ii) of section 48(l)(13)(B) of such Code (relating to maximum generating capacity), and

(B) the fraction referred to in subparagraph (C) of section 103(b)(8) of such Code shall be deemed to be 1.

(2) **FACILITIES TO WHICH PARAGRAPH (1) APPLIES.**—A facility is described in this paragraph if—

(A) it would be a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) if clause (ii) of section 48(l)(13)(B) did not apply,

(B) it constitutes an expansion of generating capacity at an existing hydroelectric generating facility,

(C) such facility is located at 1 of 2 dams located in the same county where—

(i) the rated capacity of the hydroelectric generating facilities at each such dam on October 18, 1979, was more than 750 megawatts,

(ii) the construction of the first such dam began in 1956, power at such first dam was first generated in 1959, and full power production at such first dam began in 1961, and

(iii) the construction of the second such dam began in 1959, power at such second dam was first generated in 1963, and full power production at such second dam began in 1964,

(D) acquisition or construction of the existing facility referred to in subparagraph (B) was financed with the proceeds of an obligation described in section 103(a)(1) of such Code,

26 USC 103.

(E) the existing facility is owned and operated by a State, political subdivision of a State, or agency or instrumentality of any of the foregoing,

(F) no more than 60 percent of the electric power and energy produced by such existing facility and of the qualified hydroelectric generating facility is to be sold to anyone other than an exempt person (within the meaning of section 103(b)(3) of such Code), and

(G) the agency of the State in which the facility is located which has jurisdiction over water rights had granted, before October 18, 1979, a water right under which expanded power and energy generating capacity for the facility was contemplated.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) and the provisions of subsection (b) shall apply with respect to obligations issued after October 18, 1979.

26 USC 103 note.

SEC. 243. RENEWABLE ENERGY PROPERTY.

26 USC 103 note.

(a) CERTAIN STATE OBLIGATIONS FOR RENEWABLE ENERGY PROPERTY.—

(1) **IN GENERAL.**—Paragraph (1) of subsection (b) of section 103 of the Internal Revenue Code of 1954 shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide renewable energy property, if—

(A) the obligations are general obligations of a State,

(B) the authority for the issuance of the obligations requires that taxes be levied in sufficient amount to provide for the payment of principal and interest on such obligations,

(C) the amount of such obligations, when added to the sum of the amounts of all such obligations previously issued by the State which are outstanding, does not exceed the smaller of—

(i) \$500,000,000 or

(ii) one-half of 1 percent of the value of all property in the State,

(D) such obligations are issued pursuant to a program to provide financing for small scale energy projects which was established by a State the legislature of which, before Octo-

ber 18, 1979, approved a constitutional amendment to provide for such a program, and

Ante, p. 281.
Infra.

(E) such obligations meet the requirements of paragraph (1) of section 103(h) of the Internal Revenue Code of 1954.

(2) **RENEWABLE ENERGY PROPERTY.**—For purposes of this subsection, the term “renewable energy property” means property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy sources (including wind, solar, and geothermal energy, waste heat, biomass, and water).

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply with respect to obligations issued after the date of enactment of this Act.

SEC. 244. CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.

Ante, p. 281.

(a) **GENERAL RULE.**—Section 103 (relating to interest on governmental obligations), as amended by section 241, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.**—

“(1) **IN GENERAL.**—An obligation to which this subsection applies shall be treated as an obligation not described in subsection (a) if—

“(A) such obligation is not issued in registered form,

“(B) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States under a program a principal purpose of which is to encourage the production or conservation of energy, or

“(C) the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) with funds provided under such a program of the United States, a State, or a political subdivision of a State.

“(2) **OBLIGATIONS TO WHICH THIS SUBSECTION APPLIES.**—This subsection shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

Ante, p. 283.

“(A) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

“(B) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities).”

26 USC 103 note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to obligations issued on or after October 18, 1979.

PART V—TERTIARY INJECTANTS

SEC. 251. TERTIARY INJECTANTS.

(a) **DEDUCTION FOR TERTIARY INJECTANTS.**—

(1) **IN GENERAL.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 193.

“SEC. 193. TERTIARY INJECTANTS.

“(a) **ALLOWANCE OF DEDUCTION.**—There shall be allowed as a deduction for the taxable year an amount equal to the qualified tertiary injectant expenses of the taxpayer for tertiary injectants injected during such taxable year.

Definitions.

“(b) **QUALIFIED TERTIARY INJECTANT EXPENSES.**—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary injectant expenses' means any cost paid or incurred during the taxable year (whether or not chargeable to capital account) for any tertiary injectant (other than a hydrocarbon injectant which is recoverable) which is used as a part of a tertiary recovery method.

"(2) HYDROCARBON INJECTANT.—The term 'hydrocarbon injectant' includes natural gas, crude oil, and any other injectant which is comprised of more than an insignificant amount of natural gas or crude oil. The term does not include any tertiary injectant which is hydrocarbon-based, or a hydrocarbon-derivative, and which is comprised of no more than an insignificant amount of natural gas or crude oil. For purposes of this paragraph, that portion of a hydrocarbon injectant which is not a hydrocarbon shall not be treated as a hydrocarbon injectant.

"(3) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations (as defined by section 4996(b)(8)(C)), or

10 CFR 212.78.
Ante, p. 247.

"(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this section.

"(C) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under subsection (a) with respect to any expenditure—

"(1) with respect to which the taxpayer has made an election under section 263(c), or

26 USC 263.

"(2) with respect to which a deduction is allowed or allowable to the taxpayer under any other provision of this chapter."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 193. Tertiary injectants."

(B) Section 263(a)(1) (relating to capital expenditures) is amended—

- (i) by striking out "or" at the end of subparagraph (E),
- (ii) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and
- (iii) by adding at the end thereof the following new subparagraph:

"(G) expenditures for tertiary injectants with respect to which a deduction is allowed under section 193."

Ante, p. 286.

(C) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

26 USC 1245.

(i) by striking out "or 190" each place it appears in paragraphs (2)(D) and (3)(D) and inserting in lieu thereof "190, or 193",

(ii) by inserting "193," after "190," each place it appears in paragraph (2), and

(iii) by inserting "or 193" after "190" in the last sentence of paragraph (2).

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190, or 193".

26 USC 1250.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

26 USC 193 note.

Home Energy
Assistance Act of
1980.

TITLE III—LOW-INCOME ENERGY ASSISTANCE

SHORT TITLE

42 USC 8601
note.

SEC. 301. This title may be cited as the "Home Energy Assistance Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

42 USC 8601.

SEC. 302. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income, and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety;

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health, or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

Grants.

(b) It is the purpose of this title to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

42 USC 8602.

SEC. 303. As used in this title—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means a source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, and nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor;

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENERGY GRANTS AUTHORIZED

SEC. 304. (a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States on behalf of eligible households to assist such households to meet the rising costs of home energy. 42 USC 8603.

(b) There are authorized to be appropriated \$3,000,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(c) For the purpose of affording adequate notice of assistance available under this title, appropriations under this title are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 305. (a) Eligible household means any household which the State determines is— 42 USC 8604.

(1) a household in which one or more individuals are eligible for (A) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act), (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and

42 USC 601.

42 USC 608.

42 USC 1381.

7 USC 2011 note.

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act, but not eligible under subsection (a)(1)(A), (C), or (D) of this section, shall not be considered eligible for home energy assistance under this title if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual,

42 USC 1382.

42 USC 1396.

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

42 USC 1382a.

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

42 USC 1382c.

(c) In verifying income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act.

42 USC 601.

ALLOTMENTS

SEC. 306. (a)(1) From 95 per centum of the sums appropriated pursuant to section 304(b) for the fiscal year 1981, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States. 42 USC 8605.

(2) From 95 per centum of such sums, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State squared, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level, bears to the sum of such products for all States.

(3)(A) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is less than \$100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection, be the greater of its allotment as so determined under paragraphs (1) and (2) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

(B) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is equal to or more than \$100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection and subparagraph (C) of this paragraph, be the greater of its allotment as so determined under such paragraphs (6) and (8) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

Appropriation
authorization.

(C) There is authorized to be appropriated amounts not in excess of \$90,000,000 for the fiscal year 1981 for the additional amounts to be allocated pursuant to subparagraph (B) of this paragraph.

(4) The alternative allotment percentage for any State shall be equal to (A) the percentage of 95 per centum of the total amount appropriated for the fiscal year pursuant to section 304(b) which the State would receive if its allotment were increased from the \$25,000,000 authorized under this subsection to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least \$120, or, unless the percentage determined under subparagraph (A) would be higher, (B) the percentage of 90 per centum of the total amount authorized to be appropriated for fiscal year 1981 under section 304(b) which would be allotted to such State if—

(i) of such 90 per centum (I) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (a) of this section and (II) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (a) if, for purposes of such paragraph, the word "squared" were deleted and the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(ii) the allotment of each State as determined under subdivision (i) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual

household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least \$120.

There are authorized to be appropriated \$25,000,000 for the fiscal year 1981 for the additional amounts to be allocated to States pursuant to the application of subparagraph (A) of this paragraph. In the event that the aggregate of such additional amounts would exceed the amount appropriated under the preceding sentence, the additional amount applicable to each State shall be reduced on a pro rata basis.

Appropriation
authorization.

(5) For purposes of this subsection, the term "recipient household" means—

"Recipient
household."

(A) a household that is an eligible household under section 3(i) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph;

7 USC 2012.

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and

42 USC 601.

(C) a household that contains an individual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93-66.

42 USC 1381.

42 USC 1382e.
87 Stat. 155.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(6) The allotment of any State shall be increased under paragraph (3) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraph (A) or (B)(ii) of paragraph (4).

(7) If the allotment for any State determined under paragraphs (1) and (2) of this subsection (without the application of paragraph (8)), is less than the lower of—

(A) the amount which would be allotted to such State if "one-half" in paragraph (1) of this subsection were replaced by "one-quarter" and "one-half" in paragraph (2) of this subsection were replaced by "three-quarters"; or

(B) the amount which would be allotted to such State if the word "squared" in paragraph (2) of this subsection were deleted, then the allotment of such State shall, subject to paragraph (8) of this subsection, be increased to the lower of the allotment it would receive under subparagraph (A) or (B).

(8) The allotments for any fiscal year determined under paragraphs (1) and (2) of this subsection which are not increased pursuant to paragraphs (3)(A) and (7) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (3)(A) and (7) of this subsection do not exceed the sum of (A) 95 per centum of the sums appropriated for such fiscal year pursuant to section 304(b) plus (B) the amount appropriated pursuant to the authorization in paragraph (4).

(9) If the amount appropriated for fiscal year 1981 is less than the sum of \$3,000,000,000 plus such additional amounts as are necessary to carry out paragraphs (3) and (4), then each State's allotment shall be determined on the basis of an appropriation of such sum and shall be reduced on a pro rata basis as necessary.

(b)(1) From the remainder of the sums appropriated pursuant to section 304(b) for each fiscal year, the Secretary shall—

(A) first reserve \$2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration \$100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964.

42 USC 2809.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use in each State shall be the same percentage as the percentage allotted to such State under this section for the total amounts available for allotment to States under subsection (a) of this section. Twenty per centum of the total amount transferred under subparagraph (B) may be utilized without regard to the requirements of the preceding sentence.

(2) Each jurisdiction to which paragraph (1)(A) applies may receive grants under this title upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this title, and which are consistent with the requirements of section 308(b) of this title.

Incentive grants
to States.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 304(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this title.

(ii) No grant may be made under this subparagraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) That part of the remainder of the sums appropriated pursuant to section 304(b) which is not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

Outreach
activities.

(4)(A) From the sums appropriated pursuant to section 304(b) and made available under paragraph (1)(B) of this subsection, the Director shall reserve a sum not to exceed \$3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this title. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities required under section 308(b)(16).

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this title, shall be available for reallocation from time to time, on such dates during such period as the Secretary may fix, to other States

based on need and ability to expend the funds consistent with the provisions of this title and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this title, and the total reduction shall be similarly reallocated among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this title. Any amount reallocated to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary.

Reallocations,
advance notice
and comment
period.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register.

Publication in
Federal
Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this title that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

Indian tribe
members,
benefits
provision.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

(3) In order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

Eligibility,
submission of
plan.

USES OF HOME ENERGY GRANTS

SEC. 307. Grants for fiscal year 1981 under this title may be used for home energy assistance in accordance with plans approved under section 308.

42 USC 8606.

STATE PLANS

42 USC 8607.

SEC. 308. (a) Each State desiring to receive a home energy grant under this title shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

Requirements.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables, and standards established by the Secretary pursuant to subsection (d)(4) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this title and describe local administrative arrangements;

Assistance payments.

(3) provide for a State program for furnishing home energy assistance to eligible households through payments made in accordance with the provisions of the plan, to—

(A)(i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the chief executive determines such payments to be feasible, and

12 USC 1701q.

42 USC 1485.

42 USC 1437

note.

(B) building operators, in housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent times of quotient of the exact costs of residential fuel costs paid as an undesignated part of rent divided by the number of tenants, the amount of such monthly quotient not to exceed a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households, if such operators give assurances to the State that tenants eligible for assistance under this title are not discriminated against with respect to rent;

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped individual, and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(i) the average home energy expenditure,

(ii) the proportional burden of energy costs in relation to ranges of income,

(iii) the variation in degree days in regions of the State in any State where appropriate, and

(iv) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3)(A), for agreements with home energy suppliers under which—

Home energy suppliers, agreements.

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6) and shall notify each participating household of the amount of assistance paid on its behalf;

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) subject to such subsection (f) of this section the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this title will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A) (ii) and (iii) of clause (3) applies;

Direct payments.

(9) provide for public participation in the development of the plan;

Public participation.

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this title;

Owners and renters, equal treatment.

(11) provide that—

(A) the State may use for planning and administering the plan an amount of the funds received by such State under this title not to exceed 5 per centum of the cost of carrying out the plan except that—

(i) upon proof of unusual circumstances and upon application to the Secretary, the State may use an additional amount for planning and administering the plan not to exceed 2½ per centum of the cost of carrying out the plan, and

- (ii) in no case may the Federal share of the cost of planning and administering the plan exceed 50 per centum of such cost, and
- (B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;
- (12) describe the administrative procedures to be used in carrying out the plan;
- Hearing. (13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;
- Weather-related and supply shortage emergencies. (14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—
- (A) the procedures for planning for such emergencies,
- (B) the administrative procedures designating the emergency and implementing an emergency plan,
- (C) the procedures for determining the assistance to be provided in such emergencies, and
- (D) the procedures for the use of the funds under this clause for the purposes of this title in the event that there are no emergencies;
- (15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;
- Outreach activities. (16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this title by using community action agencies, area agencies on aging, State and local welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;
- 42 USC 4951 note. (17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;
- (18) provide assurances that the State will not reduce regular benefit levels, from the levels of such benefits as of February 26, 1980, in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program for the purposes of this paragraph;
- Fiscal control and fund accounting. (19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this title;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 309; and

Reports.

(21) provide assurances in the case described in section 305(a)(2) that the State will not establish any standards of eligibility under this title based on an assets test which counts cars, household and personal belongings, or primary residences and in the case of a household which the State determines to be eligible under section 305(a)(1), no such test will be established under this title.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary.

Grants.

(d)(1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this title without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan.

Plan approval
and disapproval.

(2) Where the Secretary determines that a waiver is likely to assist in promoting the objectives of this title, the Secretary may waive compliance with any of the requirements of subsection (b) to the extent and for the period the Secretary finds necessary to enable any such State to carry out the program assisted under this title.

Waiver.

(3) The Secretary shall carry out the functions of the Secretary under this section promptly.

(4) The Secretary, as soon as possible after the date of enactment of this title, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities relating to the development of a State plan and for other activities under this title in substantial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 306(a) when funds are appropriated to carry out the provisions of this title.

(f) A State agency may exempt small home energy suppliers from the requirements of subsection (b)(7)(D), of this section if the State agency determines that compliance with such subsection, will seriously jeopardize the ability of the small home energy supplier to conduct such business.

Exemption.

(g) A State may use funds available under this title for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to eligible households and suppliers will not be impeded by the implementation of such plan.

Credits against
State tax.

(h) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households (except for individuals described in

Direct payments.

42 USC 1381. section 305(b) (1), (2), and (3)) containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

Form of payment. (i) At the option of the State, payments described in subsection (b) of this section may be made, without limitation, in the form of a duly issued coupon, stamp, or certificate.

UNIFORM DATA COLLECTION

42 USC 8608. SEC. 309. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this title.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income levels of households assisted by this title, and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

(2) In carrying out this section, the Secretary shall analyze information supplied by the Secretary of Energy on the price structure of various types of fuel, particularly the increases in such price structure as it relates to the financial assistance provided under this title.

Report to Congress. (c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

42 USC 8609. SEC. 310. (a) From the amount allotted to each State pursuant to section 306, the Secretary shall pay to the State which has an application approved under section 308 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this title may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

42 USC 8610. SEC. 311. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a substantial failure to comply with any provision set forth in the State plan of that State approved under section 308, the Secretary shall notify the State that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

CRIMINAL PENALTIES

42 USC 8611. SEC. 312. Whoever violates provisions of this title or who knowingly provides false information in any report required under this title shall be fined not more than \$10,000 or imprisoned not more than five years or both.

ADMINISTRATION

Delegation of authority. 42 USC 8612. SEC. 313. (a)(1) The Secretary may delegate any functions under this title, except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this title, within sixty days after the date of enactment of this title.

Regulations.

(b) In administering the provisions of this title, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

Federal agency
services and
facilities,
utilization.

(c)(1) Notwithstanding any other provision of law, the amount of any fuel assistance payments or allowances provided to an eligible household under this title shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) during fiscal year 1981, any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)".

7 USC 2014.

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this title.

Federal
monitoring.
42 USC 8612.

(e) The Secretary shall coordinate the administration of the program established under this title with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs.

42 USC 2701
note.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 308(b)(15).

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981.

Total annual
energy
expenditure
estimates.
Submission to
Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed.

26 USC 306 and
note, 691, 1001,
1014, 1016, 1023,
1024, 1223, 1246,
6039A, 6698A.

(b) REVIVAL OF PRIOR LAW.—Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted.

26 USC 1023
note.

(c) CONFORMING CHANGES.—

- 26 USC 1016. (1) Subsection (c) of section 1016 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:
- “(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—
- “(1) IN GENERAL.—If—
- 26 USC 1033. “(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and
- 26 USC 2032A. “(B) an additional estate tax is imposed on such conversion under section 2032A(c),
- then the adjusted basis of such property shall be increased by the amount of such tax.
- “(2) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.”
- (2)(A) Section 1040 (relating to satisfaction of a pecuniary bequest) is amended to read as follows:
- 26 USC 1040. “SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.
- “(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)) to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).
- “(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—
- “(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and
- “(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.
- “(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange.”
- (B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 is amended to read as follows:
- “Sec. 1040. Use of farm, etc., real property to satisfy pecuniary bequest.”
- 26 USC 2614. (3) The second sentence of section 2614(a) (relating to special rules for generation-skipping transfers) is amended to read as follows: “If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a).”
- 26 USC 1014 note. (d) ELECTION OF CARRYOVER BASIS RULES BY CERTAIN ESTATES.—Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within
- 26 USC 2203.

120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury or his delegate shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent.

26 USC 1014.

90 Stat. 1872.

92 Stat. 2925.

26 USC 1023
note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

SEC. 402. DISAPPROVAL OF PRESIDENTIAL ACTIONS ADJUSTING OIL IMPORTS.

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

“(e)(1) An action taken by the President under subsection (b) to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

“(2)(A) This paragraph is enacted by the Congress—

“(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

“(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

“(B) For purposes of this subsection, the term ‘disapproval resolution’ means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: ‘That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under _____ dated _____’, the first blank space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (b) of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date.

“Disapproval
resolution.”

19 USC 1862.

“(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance.

Resolutions,
referral to
congressional
committees.

“(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent.”

SEC. 403. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

(a) **TREATMENT OF QUALIFIED LIQUIDATIONS.**—

26 USC 473.

(1) IN GENERAL.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 473. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

"(a) GENERAL RULE.—If, for any liquidation year—

"(1) there is a qualified liquidation of goods which the taxpayer inventories under the LIFO method, and

"(2) the taxpayer elects to have the provisions of this section apply with respect to such liquidation, then the gross income of the taxpayer for such taxable year shall be adjusted as provided in subsection (b).

"(b) ADJUSTMENT FOR REPLACEMENTS.—If the liquidated goods are replaced (in whole or in part) during any replacement year and such replacement is reflected in the closing inventory for such year, then the gross income for the liquidation year shall be—

"(1) decreased by an amount equal to the excess of—

"(A) the aggregate replacement cost of the liquidated goods so replaced during such year, over

"(B) the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

"(2) increased by an amount equal to the excess of—

"(A) the aggregate cost reflected in such opening inventory of the liquidated goods so replaced during such year, over

"(B) such aggregate replacement cost.

"(c) QUALIFIED LIQUIDATION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified liquidation' means—

"(A) a decrease in the closing inventory of the liquidation year from the opening inventory of such year, but only if

"(B) the taxpayer establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

"(2) QUALIFIED INVENTORY INTERRUPTION DEFINED.—

"(A) IN GENERAL.—The term 'qualified inventory interruption' means a regulation, request, or interruption described in subparagraph (B) but only to the extent provided in the notice published pursuant to subparagraph (B).

"(B) DETERMINATION BY SECRETARY.—Whenever the Secretary, after consultation with the appropriate Federal officers, determines—

"(i) that—

"(I) any Department of Energy regulation or request with respect to energy supplies, or

"(II) any embargo, international boycott, or other major foreign trade interruption,

has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and

"(ii) that the application of this section to that class of goods and taxpayers is necessary to carry out the purposes of this section,

he shall publish a notice of such determinations in the Federal Register, together with the period to be affected by such notice.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) **LIQUIDATION YEAR.**—The term ‘liquidation year’ means the taxable year in which occurs the qualified liquidation to which this section applies.

“(2) **REPLACEMENT YEAR.**—The term ‘replacement year’ means any taxable year in the replacement period; except that such term shall not include any taxable year after the taxable year in which replacement of the liquidated goods is completed.

“(3) **REPLACEMENT PERIOD.**—The term ‘replacement period’ means the shorter of—

“(A) the period of the 3 taxable years following the liquidation year, or

“(B) the period specified by the Secretary in a notice published in the Federal Register with respect to that qualified inventory interruption.

Any period specified by the Secretary under subparagraph (B) may be modified by the Secretary in a subsequent notice published in the Federal Register.

“(4) **LIFO METHOD.**—The term ‘LIFO method’ means the method of inventorying goods described in section 472.

26 USC 472.

“(5) **ELECTION.**—

“(A) **IN GENERAL.**—An election under subsection (a) shall be made subject to such conditions, and in such manner and form and at such time, as the Secretary may prescribe by regulation.

“(B) **IRREVOCABLE ELECTION.**—An election under this section shall be irrevocable and shall be binding for the liquidation year and for all determinations for prior and subsequent taxable years insofar as such determinations are affected by the adjustments under this section.

“(e) **REPLACEMENT; INVENTORY BASIS.**—For purposes of this chapter—

“(1) **REPLACEMENTS.**—If the closing inventory of the taxpayer for any replacement year reflects an increase over the opening inventory of such goods for such year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a qualified liquidation) and not previously replaced.

“(2) **AMOUNT AT WHICH REPLACEMENT GOODS TAKEN INTO ACCOUNT.**—In the case of any qualified liquidation, any goods considered under paragraph (1) as having been acquired in replacement of the goods liquidated in such liquidation shall be taken into purchases and included in the closing inventory of the taxpayer for the replacement year at the inventory cost basis of the goods replaced.

“(f) **SPECIAL RULES FOR APPLICATION OF ADJUSTMENTS.**—

“(1) **PERIOD OF LIMITATIONS.**—If—

“(A) an adjustment is required under this section for any taxable year by reason of the replacement of liquidated goods during any replacement year, and

“(B) the assessment of a deficiency, or the allowance of a credit or refund of an overpayment of tax attributable to such adjustment, for any taxable year, is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises),

26 USC 7122.

then such deficiency may be assessed, or credit or refund allowed, within the period prescribed for assessing a deficiency or allowing a credit or refund for the replacement year if a notice for

deficiency is mailed, or claim for refund is filed, within such period.

“(2) INTEREST.—Solely for purposes of determining interest on any overpayment or underpayment attributable to an adjustment made under this section, such overpayment or underpayment shall be treated as an overpayment or underpayment (as the case may be) for the replacement year.

26 USC 472.

“(g) COORDINATION WITH SECTION 472.—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this section with the provisions of section 472.”

(2) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 473. Qualified liquidations of LIFO inventories.”

26 USC 473 note.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to qualified liquidations (within the meaning of section 473(c) of the Internal Revenue Code of 1954) in taxable years ending after October 31, 1979.

Ante, p. 302.

(b) RECOGNITION OF GAIN ON CERTAIN DISPOSITIONS OF LIFO INVENTORIES.—

(1) AMENDMENT OF SECTION 336.—Section 336 (relating to general rule for liquidations) is amended to read as follows:

26 USC 336.

“SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

26 USC 453.

“(a) GENERAL RULE.—Except as provided in subsection (b) of this section and in section 453(d) (relating to disposition of installment obligations), no gain or loss shall be recognized to a corporation on the distribution of property in partial or complete liquidation.

“(b) LIFO INVENTORY.—

“(1) IN GENERAL.—If a corporation inventorying goods under the LIFO method distributes inventory assets in partial or complete liquidation, then the LIFO recapture amount with respect to such assets shall be treated as gain to the corporation recognized from the sale of such inventory assets.

26 USC 334.

26 USC 332.

“(2) EXCEPTION WHERE BASIS DETERMINED UNDER SECTION 334(b)(1).—Paragraph (1) shall not apply to any liquidation under section 332 for which the basis of property received is determined under section 334(b)(1).

“(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term ‘LIFO recapture amount’ means the amount (if any) by which—

26 USC 471.

“(A) the inventory amount of the inventory assets under the first-in, first-out method authorized by section 471, exceeds

“(B) the inventory amount of such assets under the LIFO method.

“(4) DEFINITIONS.—For purposes of this subsection—

26 USC 472.

“(A) LIFO METHOD.—The term ‘LIFO method’ means the method authorized by section 472 (relating to last-in, first-out inventories).

26 USC 311.

“(B) OTHER DEFINITIONS.—The term ‘inventory assets’ has the meaning given to such term by subparagraph (A) of section 311(b)(2), and the term ‘inventory amount’ has the meaning given to such term by subparagraph (B) of section 311(b)(2) (as modified by paragraph (3) of section 311(b)).”

26 USC 337.

(2) SECTION 337 LIQUIDATIONS.—

(A) Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is

amended by adding at the end thereof the following new subsection:

“(f) SPECIAL RULE FOR LIFO INVENTORIES.—

“(1) IN GENERAL.—In the case of a corporation inventorying goods under the LIFO method, this section shall apply to gain from the sale or exchange of inventory assets (which under subsection (b)(2) constitute property) only to the extent that such gain exceeds the LIFO recapture amount with respect to such assets.

“(2) DEFINITIONS.—The terms used in this subsection shall have the same meaning as when used in section 336(b).

Ante, p. 304.

“(3) CROSS REFERENCE.—

“For treatment of gain from the sale or exchange of an installment obligation as gain resulting from the sale or exchange of the property in respect of which the obligation was received, see the last sentence of section 453(d)(1).”

(B) Subparagraph (B) of section 453(d)(4) (relating to liquidations to which section 337 applies) is amended by adding at the end thereof the following new sentence: “In the case of any installment obligation which would have met the requirements of clauses (i) and (ii) of the first sentence of this subparagraph but for section 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under section 337(f) if such corporation had sold or exchanged such installment obligation on the day of such distribution.”

26 USC 453.

26 USC 337.

Ante, p. 304.

(3) **EFFECTIVE DATE.—**The amendments made by paragraphs (1) and (2) shall apply to distributions and dispositions pursuant to plans of liquidation adopted after December 31, 1981.

26 USC 336 note.

SEC. 404. EXEMPTION OF CERTAIN INTEREST INCOME FROM TAX.

(a) **IN GENERAL.—**Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

“SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

26 USC 116.

“(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

“(1) a dividend from a domestic corporation, or

“(2) interest.

“(b) LIMITATIONS.—

“(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed \$200 (\$400 in the case of a joint return under section 6013).

26 USC 6013.

“(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

26 USC 501.

26 USC 521.

“(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

“(1) INTEREST DEFINED.—The term ‘interest’ means—

“(A) interest on deposits with a bank (as defined in section 581),

“(B) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

“(i) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

“(ii) any other savings or thrift institution which is chartered and supervised under Federal or State law, the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

“(C) interest on—

“(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

“(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

“(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

“(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

“(2) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to any dividend from—

“(A) a regulated investment company, subject to the limitations provided in section 854(b)(2), or

“(B) real estate investment trust, subject to the limitations provided in section 857(c).

“(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

“(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

“(B) in determining the tax imposed for the taxable year pursuant to section 877(b).”

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting “and interest” after “dividends” in the item relating to section 116.

(2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after “subtitle” the following: “, or to purchase or carry obligations or shares, or to make deposits or other investments, the interest on which is described in section 116(c) to the extent such interest is excludable from gross income under section 116”.

(3) Paragraph (2) of section 584(c) (relating to income of participants in fund) is amended by inserting “or interest” after “dividends” each place it appears in the caption and text thereof.

(4) Paragraph (7) of section 643(a) (relating to definition of distributable net income) is amended by inserting “or interest” after “dividends” each place it appears in the caption or text thereof.

Post, p. 307.

Post, p. 307.

26 USC 871.

26 USC 877.

Ante, p. 305.

26 USC 265.

26 USC 584.

26 USC 643.

(5) Paragraph (5) of section 702(a) (relating to income and credits of partners) is amended by inserting "or interest" after "dividends". 26 USC 702.

(6) Subsection (b) of section 854 (relating to other dividends) is amended— 26 USC 854.

(A) by inserting "AND TAXABLE INTEREST" in the caption after "DIVIDENDS",

(B) by striking out the caption of paragraph (1) and inserting in lieu thereof "DEDUCTION UNDER SECTION 243.—",

(C) by striking out "the exclusion under section 116 and" in paragraph (1),

(D) by redesignating paragraphs (2) and (3) as (3) and (4),

(E) by inserting after paragraph (1) the following new paragraph:

"(2) EXCLUSION UNDER SECTION 116.—In the case of a dividend (other than a dividend described in subsection (a)) received from a regulated investment company— *Ante*, p. 305.

"(A) which meets the requirements of section 852(a) for the taxable year in which it paid the dividend, 26 USC 852.

"(B) the aggregate interest received by which during the taxable year is less than 75 percent of its gross income, and

"(C) the aggregate dividends received by which during the taxable year is less than 75 percent of its gross income, then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the sum of the aggregate dividends received and aggregate interest received bears to gross income. For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year as does not exceed aggregate interest received for the taxable year." 26 USC 163.

(F) by striking out "section 116(b)" in subparagraph (B) of paragraph (4) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "section 116(b)(2)",

(G) by striking out "section 116(c)" in subparagraph (B) of paragraph (4) (as so redesignated) and inserting in lieu thereof "section 116(c)(2)", and

(H) by adding at the end of paragraph (4) (as redesignated) the following new subparagraph:

"(C) The term 'aggregate interest received' includes only interest described in section 116(c)(1)." "Aggregate interest received."

(7) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(8) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows: 26 USC 857.

"(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

"(1) CAPITAL GAIN DIVIDEND.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals), a capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust shall not be considered a dividend.

"(2) OTHER DIVIDENDS.—In the case of a dividend received from a real estate investment trust (other than a dividend described in paragraph (1)), if—

"(A) the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest received by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

Ante, p. 305.

then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as aggregate interest received bears to gross income.

"(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

"(A) gross income does not include the net capital gain,

26 USC 163.

"(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received for the taxable year, and

26 USC 857.

"(C) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857(b).

"(4) AGGREGATE INTEREST RECEIVED.—For purposes of this subsection, the term 'aggregate interest received' means only interest described in section 116(c)(1).

"(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(6) CROSS REFERENCE.—

"For restriction on dividends received by a corporation, see section 243(c)(2)."

26 USC 116 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980, and before January 1, 1983.

Approved April 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-304 (Comm. on Ways and Means) and No. 96-817 (Comm. of Conference).

SENATE REPORT No. 96-394 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 28, considered and passed House.

Nov. 15, 16, 19, 20, 26-30, Dec. 3-7, 10-15, 17, considered and passed Senate, amended.

Vol. 126 (1980): Mar. 12, 13, House agreed to conference report.

Mar. 19-21, 24-27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 14 (1980): Apr. 2, Presidential statement.