ciency improvements and the amount of energy property expenditures and provided limits on credits and expenditures.

Subsec. (c)(2)(A). Pub. L. 111–5, §1121(d)(2), inserted ''and meets the prescriptive criteria for such material or system established by the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009'' after ''such dwelling unit''.

Subsec. (c)(4). Pub. L. 111–5, §1121(d)(1), added par. (4).

Subsec. (d)(2)(A)(ii). Pub. L. 111–5, §1121(c)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''a qualified natural gas, propane, or oil furnace or hot water boiler, or''.

Subsec. (d)(3)(B). Pub. L. 111–5, §1121(b)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13,''.

Subsec. (d)(3)(C). Pub. L. 111–5, §1121(b)(2), substituted ''2009'' for ''2006''.

Subsec. (d)(3)(D). Pub. L. 111–5, §1121(b)(3), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''a natural gas, propane, or oil water heater which has an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent, and''.

Subsec. (d)(3)(E). Pub. L. 111–5, §1121(b)(4), inserted '', as measured using a lower heating value'' after ''75 percent''.

Subsec. (d)(4). Pub. L. 111–5, §1121(c)(1), amended par. (4) generally. Prior to amendment, text read as follows: ''The term 'qualified natural gas, propane, or oil furnace or hot water boiler' means a natural gas, propane, or oil furnace or hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 95.''

Subsec. (e)(1). Pub. L. 111–5, §1103(b)(2)(A), substituted ''and (8)'' for ''(8), and (9)''.

Subsec. (g)(2). Pub. L. 111–5, §1121(e), substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (c)(1). Pub. L. 110–343, §302(e)(1), in introductory provisions, inserted '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

Subsec. (c)(2)(D). Pub. L. 110–343, §302(e)(2), inserted ''or asphalt roof'' after ''metal roof'' and ''or cooling granules'' after ''pigmented coatings''.

Subsec. (d)(2)(C). Pub. L. 110–343, §302(d)(2), amended heading and text of subpar. (C) generally. Prior to amendment, subpar. (C) related to requirements for standards for central air conditioners, electric heat pumps, and geothermal heat pumps.

Subsec. (d)(3)(C), (D). Pub. L. 110–343, §302(d)(1), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: ''a geothermal heat pump which—

''(i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

''(ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and

''(iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,''.

Subsec. (d)(3)(E). Pub. L. 110–343, §302(d)(1), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 110–343, §302(c), inserted ''or a thermal efficiency of at least 90 percent'' after ''0.80''.

Subsec. (d)(3)(F). Pub. L. 110–343, §302(d)(1), redesignated subpar. (F) as (E).

Pub. L. 110–343, §302(b)(1), added subpar. (F).

Subsec. (d)(6). Pub. L. 110–343, §302(b)(2), added par. (6).

Subsec. (g). Pub. L. 110–343, §302(a), substituted ''placed in service—'' for ''placed in service after December 31, 2007'' and added pars. (1) and (2).

2007—Subsec. (c)(3). Pub. L. 110–172 substituted ''part 3280'' for ''section 3280''.

2005—Subsec. (b)(2). Pub. L. 109–135 substituted ''subsection (c)(2)(B)'' for ''subsection (c)(3)(B)''.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–312, title VII, §710(c), Dec. 17, 2010, 124 Stat. 3315, provided that: ''The amendments made by this section [amending this section] shall apply to property placed in service after December 31, 2010.''

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–5, div. B, title I, §1103(c), Feb. 17, 2009, 123 Stat. 321, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section [amending this section and sections 25D and 48 to 48B of this title] shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990 [Nov. 5, 1990]).

''(2) CONFORMING AMENDMENTS.—The amendments made by subparagraphs (A) and (B) of subsection (b)(2) [amending this section and section 25D of this title] shall apply to taxable years beginning after December 31, 2008.''

Pub. L. 111–5, div. B, title I, §1121(f), Feb. 17, 2009, 123 Stat. 324, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2008.

''(2) EFFICIENCY STANDARDS.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) and subsections (c) and (d) shall apply to property placed in service after the date of the enactment of this Act [Feb. 17, 2009].''

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. B, title III, §302(f), Oct. 3, 2008, 122 Stat. 3845, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made [by] this section [amending this section] shall apply to expenditures made after December 31, 2008.

''(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (e) [amending this section] shall apply to property placed in service after the date of the enactment of this Act [Oct. 3, 2008].''

EFFECTIVE DATE

Pub. L. 109–58, title XIII, §1333(c), Aug. 8, 2005, 119 Stat. 1030, provided that: ''The amendments made by this section [enacting this section and amending section 1016 of this title] shall apply to property placed in service after December 31, 2005.''

§ 25D. Residential energy efficient property

(a) Allowance of credit

In the case of an individual, 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) 30 percent of the qualified solar electric property expenditures made by the taxpayer during such year,

(2) 30 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year, and

(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.

(b) Limitations

(1) Maximum credit for fuel cells

In the case of any qualified fuel cell property expenditure, the credit allowed under subsection (a) (determined without regard to subsection (c)) for any taxable year shall not exceed $500 with respect to each half kilowatt of capacity of the qualified fuel cell property (as defined in section 48(c)(1)) to which such expenditure relates.

(2) Certification of solar water heating property

No credit shall be allowed under this section for an item of property described in subsection (d)(1) unless such property is certified for performance by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed.

(c) Limitation based on amount of tax; carryforward of unused credit

(1) Limitation based on amount of tax

In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

(2) Carryforward of unused credit

(A) Rule for years in which all personal credits allowed against regular and alternative minimum tax

In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

(B) Rule for other years

In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

(d) Definitions

For purposes of this section—

(1) Qualified solar water heating property expenditure

The term ''qualified solar water heating property expenditure'' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

(2) Qualified solar electric property expenditure

The term ''qualified solar electric property expenditure'' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

(3) Qualified fuel cell property expenditure

The term ''qualified fuel cell property expenditure'' means an expenditure for qualified fuel cell property (as defined in section 48(c)(1)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

(4) Qualified small wind energy property expenditure

The term ''qualified small wind energy property expenditure'' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

(5) Qualified geothermal heat pump property expenditure

(A) In general

The term ''qualified geothermal heat pump property expenditure'' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

(B) Qualified geothermal heat pump property

The term ''qualified geothermal heat pump property'' means any equipment which—

(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

(ii) meets the requirements of the Energy Star program which are in effect at the time that the expenditure for such equipment is made.

(e) Special rules

For purposes of this section—

(1) Labor costs

Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in subsection (d) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

(2) Solar panels

No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (d) solely because it constitutes a structural com-

ponent of the structure on which it is installed.

(3) Swimming pools, etc., used as storage medium

Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

(4) Fuel cell expenditure limitations in case of joint occupancy

In the case of any dwelling unit with respect to which qualified fuel cell property expenditures are made and which is jointly occupied and used during any calendar year as a residence by two or more individuals, the following rules shall apply:

(A) Maximum expenditures for fuel cells

The maximum amount of such expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be $1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) with respect to which such expenditures relate.

(B) Allocation of expenditures

The expenditures allocated to any individual for the taxable year in which such calendar year ends shall be an amount equal to the lesser of—

(i) the amount of expenditures made by such individual with respect to such dwelling during such calendar year, or

(ii) the maximum amount of such expenditures set forth in subparagraph (A) multiplied by a fraction—

(I) the numerator of which is the amount of such expenditures with respect to such dwelling made by such individual during such calendar year, and

(II) the denominator of which is the total expenditures made by all such individuals with respect to such dwelling during such calendar year.

(5) Tenant-stockholder in cooperative housing corporation

In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

(6) Condominiums

(A) In general

In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

(B) Condominium management association

For purposes of this paragraph, the term ''condominium management association'' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

(7) Allocation in certain cases

If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

(8) When expenditure made; amount of expenditure

(A) In general

Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

(B) Expenditures part of building construction

In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

(f) Basis adjustments

For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

(g) Termination

The credit allowed under this section shall not apply to property placed in service after December 31, 2016.

(Added Pub. L. 109–58, title XIII, §1335(a), Aug. 8, 2005, 119 Stat. 1033; amended Pub. L. 109–135, title IV, §402(i)(1), (2), (3)(E), Dec. 21, 2005, 119 Stat. 2612, 2614; Pub. L. 109–432, div. A, title II, §206, Dec. 20, 2006, 120 Stat. 2945; Pub. L. 110–343, div. B, title I, §106(a)–(c)(3)(A), (c)(4)–(e)(1), Oct. 3, 2008, 122 Stat. 3814–3816; Pub. L. 111–5, div. B, title I, §§1103(b)(2)(B), 1122(a), Feb. 17, 2009, 123 Stat. 320, 324.)

AMENDMENT OF SECTION

For termination of amendment by section 402(i)(3)(H) of Pub. L. 109–135, see Effective and Termination Dates of 2005 Amendment note below.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–5, §1122(a)(1), amended par. (1) generally. Prior to amendment, par. (1) related to maximum credit with respect to qualified solar water heating property expenditures, qualified fuel cell property, qualified small wind energy property expenditures, and qualified geothermal heat pump property expenditures.

Subsec. (e)(4). Pub. L. 111–5, §1122(a)(2)(A), added par. heading and introductory provisions and struck out former heading and introductory provisions. Former introductory provisions read as follows: ''In the case of any dwelling unit which is jointly occupied and used

during any calendar year as a residence by two or more individuals the following rules shall apply:''.

Subsec. (e)(4)(A). Pub. L. 111–5, §1122(a)(2)(A), added subpar. (A) and struck out former subpar. (A) which related to maximum amount of expenditures allowed for credit in jointly occupied dwelling units with respect to qualified solar water heating property expenditures, qualified fuel cell property, qualified small wind energy property expenditures, and qualified geothermal heat pump property expenditures.

Subsec. (e)(4)(C). Pub. L. 111–5, §1122(a)(2)(B), struck out subpar. (C) which read as follows: ''Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (d).''

Subsec. (e)(9). Pub. L. 111–5, §1103(b)(2)(B), struck out par. (9). Text read as follows: ''For purposes of determining the amount of 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 (as defined in section 48(a)(4)(C)).''

2008—Subsec. (a)(4). Pub. L. 110–343, §106(c)(1), added par. (4).

Subsec. (a)(5). Pub. L. 110–343, §106(d)(1), added par. (5).

Subsec. (b)(1). Pub. L. 110–343, §106(b)(1), amended par. (1) as amended by Pub. L. 110–343, §106(c)(2) and (d)(2), by redesignating subpars. (B) to (E) as (A) to (D), respectively, and striking out former subpar. (A) which read as follows: ''$2,000 with respect to any qualified solar electric property expenditures,''.

Subsec. (b)(1)(D). Pub. L. 110–343, §106(c)(2), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 110–343, §106(d)(2), added subpar. (E).

Subsec. (c). Pub. L. 110–343, §106(e)(1), amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) related to carryforward of unused credit.

Subsec. (d)(4). Pub. L. 110–343, §106(c)(3)(A), added par. (4).

Subsec. (d)(5). Pub. L. 110–343, §106(d)(3), added par. (5).

Subsec. (e)(4)(A). Pub. L. 110–343, §106(b)(2), amended subpar. (A) as amended by Pub. L. 110–343, §106(c)(4) and (d)(4), by redesignating cls. (ii) to (v) as (i) to (iv), respectively, and striking out former cl. (i) which read as follows: ''$6,667 in the case of any qualified solar electric property expenditures,''.

Subsec. (e)(4)(A)(iv). Pub. L. 110–343, §106(c)(4), added cl. (iv).

Subsec. (e)(4)(A)(v). Pub. L. 110–343, §106(d)(4), added cl. (v).

Subsec. (g). Pub. L. 110–343, §106(a), substituted ''December 31, 2016'' for ''December 31, 2008''.

2006—Subsecs. (a)(1), (b)(1)(A). Pub. L. 109–432, §206(b)(1), substituted ''solar electric property expenditures'' for ''photovoltaic property expenditures''.

Subsec. (d)(2). Pub. L. 109–432, §206(b)(2), substituted ''solar electric property expenditure'' for ''photovoltaic property expenditure'' in heading and text.

Subsec. (e)(4)(A)(i). Pub. L. 109–432, §206(b)(1), substituted ''solar electric property expenditures'' for ''photovoltaic property expenditures''.

Subsec. (g). Pub. L. 109–432, §206(a), substituted ''2008'' for ''2007''.

2005—Subsec. (b)(1). Pub. L. 109–135, §402(i)(1), inserted ''(determined without regard to subsection (c))'' after ''subsection (a)'' in introductory provisions.

Subsec. (c). Pub. L. 109–135, §402(i)(3)(E), (H), temporarily reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.'' See Effective and Termination Dates of 2005 Amendment note below.

Subsec. (e)(4)(A), (B). Pub. L. 109–135, §402(i)(2), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

''(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.''

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 1103(b)(2)(B) of Pub. L. 111–5 applicable to taxable years beginning after Dec. 31, 2008, see section 1103(c)(2) of Pub. L. 111–5, set out as a note under section 25C of this title.

Pub. L. 111–5, div. B, title I, §1122(b), Feb. 17, 2009, 123 Stat. 324, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2008.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–343 applicable to taxable years beginning after Dec. 31, 2007, except that amendment by section 106(b) of Pub. L. 110–343 applicable to taxable years beginning after Dec. 31, 2008, see section 106(f)(1), (2) of Pub. L. 110–343, set out as an Effective and Termination Dates of 2008 Amendment note under section 36C of this title.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by section 402(i)(3)(E) of Pub. L. 109–135 subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, §901, in the same manner as the provisions of such Act to which such amendment relates, see section 402(i)(3)(H) of Pub. L. 109–135, set out as a note under section 36C of this title.

Amendments by Pub. L. 109–135 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109–58, to which they relate, except that amendment by section 402(i)(3)(E) of Pub. L. 109–135 is applicable to taxable years beginning after Dec. 31, 2005, see section 402(m) of Pub. L. 109–135, set out as a note under section 36C of this title.

EFFECTIVE DATE

Section applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1335(c) of Pub. L. 109–58, set out as an Effective and Termination Dates of 2005 Amendments note under section 36C of this title.

§ 26. Limitation based on tax liability; definition of tax liability

(a) Limitation based on amount of tax

(1) In general

The aggregate amount of credits allowed by this subpart (other than sections 24, 25A(i), 25B, 25D, 30, 30B, and 30D) for the taxable year shall not exceed the excess (if any) of—

(A) the taxpayer's regular tax liability for the taxable year, over

(B) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit).

For purposes of subparagraph (B), the taxpayer's tentative minimum tax for any tax-