April 1, 1983, and solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee, see section 208(d)(1), (2)(A), (5) of Pub. L. 97–248, set out as a note under section 168 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

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

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

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–600, title III, §317(b), Nov. 6, 1978, 92 Stat. 2830, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after March 31, 1976.''

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1975 AMENDMENT

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

EFFECTIVE DATE OF 1971 AMENDMENT

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

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

Pub. L. 92–178, title I, §107(b)(2), Dec. 10, 1971, 85 Stat. 507, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The repeal made by paragraph (1) [repealing subsec. (a)(5) of this section] shall not apply if replacement property described in subparagraph (B) of such section 47(a)(5) is not property described in section 50 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].''

Pub. L. 92–178, title I, §102(d)(3), Dec. 10, 1971, 85 Stat. 500, provided that: ''The amendment made by subsection (c) [amending this section] shall apply to leases executed after April 18, 1969.''

Pub. L. 91–676, §2, Jan. 12, 1971, 84 Stat. 2060, provided that: ''The amendment made by the first section of this Act [amending this section] shall apply to taxable years ending after April 18, 1969.''

EFFECTIVE DATE

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

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

CLARIFICATION OF EFFECT OF 1984 AMENDMENT ON INVESTMENT TAX CREDIT

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

TRANSFER OF FUNCTIONS

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

## § 48. Energy credit

### (a) Energy credit

#### (1) In general

For purposes of section 46, except as provided in paragraphs (1)(B), (2)(B), and (3)(B) of subsection (c), the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year.

#### (2) Energy percentage

##### (A) In general

Except as provided in paragraphs (6) and (7), the energy percentage is—

(i) 6 percent in the case of—

(I) qualified fuel cell property,

(II) energy property described in clause (i) or (iii) of paragraph (3)(A) but only with respect to property the construction of which begins before January 1, 2025,

(III) energy property described in paragraph (3)(A)(ii),

(IV) qualified small wind energy property,

(V) waste energy recovery property,

(VI) energy storage technology,

(VII) qualified biogas property,

(VIII) microgrid controllers, and

(IX) energy property described in clauses (v) and (vii) of paragraph (3)(A), and

(ii) in the case of any energy property to which clause (i) does not apply, 2 percent.

##### (B) Coordination with rehabilitation credit

The energy percentage shall not apply to that portion of the basis of any property

which is attributable to qualified rehabilitation expenditures.

**(3) Energy property**

For purposes of this subpart, the term ''energy property'' means any property—

(A) which is—

(i) equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, excepting property used to generate energy for the purposes of heating a swimming pool,

(ii) equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight, or electrochromic glass which uses electricity to change its light transmittance properties in order to heat or cool a structure, but only with respect to property the construction of which begins before January 1, 2025,

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

(iv) qualified fuel cell property or qualified microturbine property,

(v) combined heat and power system property,

(vi) qualified small wind energy property,

(vii) equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to property the construction of which begins before January 1, 2035,

(viii) waste energy recovery property,

(ix) energy storage technology,

(x) qualified biogas property, or

(xi) microgrid controllers,

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

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

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

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

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

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

Such term shall not include any property which is part of a facility the production from which is allowed as a credit under section 45 for the taxable year or any prior taxable year.

**(4) Special rule for property financed by tax-exempt bonds**

Rules similar to the rule under section 45(b)(3) shall apply for purposes of this section.

**(5) Election to treat qualified facilities as energy property**

**(A) In general**

In the case of any qualified property which is part of a qualified investment credit facility—

(i) such property shall be treated as energy property for purposes of this section, and

(ii) the energy percentage with respect to such property shall be 6 percent.

**(B) Denial of production credit**

No credit shall be allowed under section 45 for any taxable year with respect to any qualified investment credit facility.

**(C) Qualified investment credit facility**

For purposes of this paragraph, the term ''qualified investment credit facility'' means any facility—

(i) which is a qualified facility (within the meaning of section 45) described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d),

(ii) which is placed in service after 2008 and the construction of which begins before January 1, 2025, and

(iii) with respect to which—

(I) no credit has been allowed under section 45, and

(II) the taxpayer makes an irrevocable election to have this paragraph apply.

**(D) Qualified property**

For purposes of this paragraph, the term ''qualified property'' means property—

(i) which is—

(I) tangible personal property, or

(II) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified investment credit facility,

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

(iii) which is constructed, reconstructed, erected, or acquired by the taxpayer, and

(iv) the original use of which commences with the taxpayer.

**(E) Phaseout of credit for wind facilities**

In the case of any facility using wind to produce electricity which is placed in service before January 1, 2022, and treated as energy property by reason of this paragraph, the amount of the credit determined under this section (determined after the application of paragraphs (1) and (2) and without regard to this subparagraph) shall be reduced by—

(i) in the case of any facility the construction of which begins after December 31, 2016, and before January 1, 2018, 20 percent,

(ii) in the case of any facility the construction of which begins after December 31, 2017, and before January 1, 2019, 40 percent,

(iii) in the case of any facility the construction of which begins after December

31, 2018, and before January 1, 2020, 60 percent, and

(iv) in the case of any facility the construction of which begins after December 31, 2019, and before January 1, 2022, 40 percent.

**(F) Qualified offshore wind facilities**

**(i) In general**

In the case of any qualified offshore wind facility, subparagraph (E) shall not apply.

**(ii) Qualified offshore wind facility**

For purposes of this subparagraph, the term ''qualified offshore wind facility'' means a qualified facility (within the meaning of section 45) described in paragraph (1) of section 45(d) (determined without regard to any date by which the construction of the facility is required to begin) which is located in the inland navigable waters of the United States or in the coastal waters of the United States.

**(6) Phaseout for certain energy property**

In the case of any qualified fuel cell property, qualified small wind property, or energy property described in clause (i) or clause (ii) of paragraph (3)(A) the construction of which begins after December 31, 2019, and which is placed in service before January 1, 2022, the energy percentage determined under paragraph (2) shall be equal to 26 percent.

**(7) Phaseout for certain energy property**

In the case of any energy property described in clause (vii) of paragraph (3)(A), the energy percentage determined under paragraph (2) shall be equal to—

(A) in the case of any property the construction of which begins before January 1, 2033, and which is placed in service after December 31, 2021, 6 percent,

(B) in the case of any property the construction of which begins after December 31, 2032, and before January 1, 2034, 5.2 percent, and

(C) in the case of any property the construction of which begins after December 31, 2033, and before January 1, 2035, 4.4 percent.

**(8) Interconnection property**

**(A) In general**

For purposes of determining the credit under subsection (a), energy property shall include amounts paid or incurred by the taxpayer for qualified interconnection property in connection with the installation of energy property (as defined in paragraph (3)) which has a maximum net output of not greater than 5 megawatts (as measured in alternating current), to provide for the transmission or distribution of the electricity produced or stored by such property, and which are properly chargeable to the capital account of the taxpayer.

**(B) Qualified interconnection property**

The term ''qualified interconnection property'' means, with respect to an energy project which is not a microgrid controller, any tangible property—

(i) which is part of an addition, modification, or upgrade to a transmission or distribution system which is required at or beyond the point at which the energy project interconnects to such transmission or distribution system in order to accommodate such interconnection,

(ii) either—

(I) which is constructed, reconstructed, or erected by the taxpayer, or

(II) for which the cost with respect to the construction, reconstruction, or erection of such property is paid or incurred by such taxpayer, and

(iii) the original use of which, pursuant to an interconnection agreement, commences with a utility.

**(C) Interconnection agreement**

The term ''interconnection agreement'' means an agreement with a utility for the purposes of interconnecting the energy property owned by such taxpayer to the transmission or distribution system of such utility.

**(D) Utility**

For purposes of this paragraph, the term ''utility'' means the owner or operator of an electrical transmission or distribution system which is subject to the regulatory authority of a State or political subdivision thereof, any agency or instrumentality of the United States, a public service or public utility commission or other similar body of any State or political subdivision thereof, or the governing or ratemaking body of an electric cooperative.

**(E) Special rule for interconnection property**

In the case of expenses paid or incurred for interconnection property, amounts otherwise chargeable to capital account with respect to such expenses shall be reduced under rules similar to the rules of section 50(c).

**(9) Increased credit amount for energy projects**

**(A) In general**

**(i) Rule**

In the case of any energy project which satisfies the requirements of subparagraph (B), the amount of the credit determined under this subsection (determined after the application of paragraphs (1) through (8) and paragraph (15) and without regard to this clause) shall be equal to such amount multiplied by 5.

**(ii) Energy project defined**

For purposes of this subsection, the term ''energy project'' means a project consisting of one or more energy properties that are part of a single project.

**(B) Project requirements**

A project meets the requirements of this subparagraph if it is one of the following:

(i) A project with a maximum net output of less than 1 megawatt of electrical (as measured in alternating current) or thermal energy.

(ii) A project the construction of which begins before the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (10)(A) and (11).

(iii) A project which satisfies the requirements of paragraphs (10)(A) and (11).

**(10) Prevailing wage requirements**

**(A) In general**

The requirements described in this subparagraph with respect to any energy project are that the taxpayer shall ensure that any laborers and mechanics employed by the taxpayer or any contractor or subcontractor in—

(i) the construction of such energy project, and

(ii) for the 5-year period beginning on the date such project is originally placed in service, the alteration or repair of such project,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such project is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. Subject to subparagraph (C), for purposes of any determination under paragraph (9)(A)(i) for the taxable year in which the energy project is placed in service, the taxpayer shall be deemed to satisfy the requirement under clause (ii) at the time such project is placed in service.

**(B) Correction and penalty related to failure to satisfy wage requirements**

Rules similar to the rules of section 45(b)(7)(B) shall apply.

**(C) Recapture**

The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under this subsection by reason of this paragraph with respect to any project which does not satisfy the requirements under subparagraph (A) (after application of subparagraph (B)) for the period described in clause (ii) of subparagraph (A) (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a).

**(11) Apprenticeship requirements**

Rules similar to the rules of section 45(b)(8) shall apply.

**(12) Domestic content bonus credit amount**

**(A) In general**

In the case of any energy project which satisfies the requirement under subparagraph (B), for purposes of applying paragraph (2) with respect to such property, the energy percentage shall be increased by the applicable credit rate increase.

**(B) Requirement**

Rules similar to the rules of section 45(b)(9)(B) shall apply.

**(C) Applicable credit rate increase**

For purposes of subparagraph (A), the applicable credit rate increase shall be—

(i) in the case of an energy project which does not satisfy the requirements of paragraph (9)(B), 2 percentage points, and

(ii) in the case of an energy project which satisfies the requirements of paragraph (9)(B), 10 percentage points.

**(13) Phaseout for elective payment**

In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, rules similar to the rules of section 45(b)(10) shall apply.

**(14) Increase in credit rate for energy communities**

**(A) In general**

In the case of any energy project that is placed in service within an energy community (as defined in section 45(b)(11)(B), as applied by substituting ''energy project'' for ''qualified facility'' each place it appears), for purposes of applying paragraph (2) with respect to energy property which is part of such project, the energy percentage shall be increased by the applicable credit rate increase.

**(B) Applicable credit rate increase**

For purposes of subparagraph (A), the applicable credit rate increase shall be equal to—

(i) in the case of any energy project which does not satisfy the requirements of paragraph (9)(B), 2 percentage points, and

(ii) in the case of any energy project which satisfies the requirements of paragraph (9)(B), 10 percentage points.

**(15) Election to treat clean hydrogen production facilities as energy property**

**(A) In general**

In the case of any qualified property (as defined in paragraph (5)(D)) which is part of a specified clean hydrogen production facility—

(i) such property shall be treated as energy property for purposes of this section, and

(ii) the energy percentage with respect to such property is—

(I) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (A) of section 45V(b)(2), 1.2 percent,

(II) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (B) of such section, 1.5 percent,

(III) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (C) of such section, 2 percent, and

(IV) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which

is described in subparagraph (D) of such section, 6 percent.

**(B) Denial of production credit**

No credit shall be allowed under section 45V or section 45Q for any taxable year with respect to any specified clean hydrogen production facility or any carbon capture equipment included at such facility.

**(C) Specified clean hydrogen production facility**

For purposes of this paragraph, the term ''specified clean hydrogen production facility'' means any qualified clean hydrogen production facility (as defined in section 45V(c)(3))—

(i) which is placed in service after December 31, 2022,

(ii) with respect to which—

(I) no credit has been allowed under section 45V or 45Q, and

(II) the taxpayer makes an irrevocable election to have this paragraph apply, and

(iii) for which an unrelated third party has verified (in such form or manner as the Secretary may prescribe) that such facility produces hydrogen through a process which results in lifecycle greenhouse gas emissions which are consistent with the hydrogen that such facility was designed and expected to produce under subparagraph (A)(ii).

**(D) Qualified clean hydrogen**

For purposes of this paragraph, the term ''qualified clean hydrogen'' has the meaning given such term by section 45V(c)(2).

**(E) Regulations**

The Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of this section, including regulations or other guidance which recaptures so much of any credit allowed under this section as exceeds the amount of the credit which would have been allowed if the expected production were consistent with the actual verified production (or all of the credit so allowed in the absence of such verification).

**(16) Regulations and guidance**

The Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.

**(b) Certain progress expenditure rules made applicable**

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

**(c) Definitions**

For purposes of this section—

**(1) Qualified fuel cell property**

**(A) In general**

The term ''qualified fuel cell property'' means a fuel cell power plant which—

(i) has a nameplate capacity of at least 0.5 kilowatt (1 kilowatt in the case of a fuel cell power plant with a linear generator assembly) of electricity using an electrochemical or electromechanical process, and

(ii) has an electricity-only generation efficiency greater than 30 percent.

**(B) Limitation**

In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under subsection (a) for such year with respect to such property shall not exceed an amount equal to $1,500 for each 0.5 kilowatt of capacity of such property.

**(C) Fuel cell power plant**

The term ''fuel cell power plant'' means an integrated system comprised of a fuel cell stack assembly, or linear generator assembly, and associated balance of plant components which converts a fuel into electricity using electrochemical or electromechanical means.

**(D) Linear generator assembly**

The term ''linear generator assembly'' does not include any assembly which contains rotating parts.

**(E) Termination**

The term ''qualified fuel cell property'' shall not include any property the construction of which does not begin before January 1, 2025.

**(2) Qualified microturbine property**

**(A) In general**

The term ''qualified microturbine property'' means a stationary microturbine power plant which—

(i) has a nameplate capacity of less than 2,000 kilowatts, and

(ii) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

**(B) Limitation**

In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under subsection (a) for such year with respect to such property shall not exceed an amount equal to $200 for each kilowatt of capacity of such property.

**(C) Stationary microturbine power plant**

The term ''stationary microturbine power plant'' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located

between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

**(D) Termination**

The term ''qualified microturbine property'' shall not include any property the construction of which does not begin before January 1, 2025.

**(3) Combined heat and power system property**

**(A) Combined heat and power system property**

The term ''combined heat and power system property'' means property comprising a system—

(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

(ii) which produces—

(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

(iii) the energy efficiency percentage of which exceeds 60 percent, and

(iv) the construction of which begins before January 1, 2025.

**(B) Limitation**

**(i) In general**

In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

**(ii) Applicable capacity**

For purposes of clause (i), the term ''applicable capacity'' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

**(iii) Maximum capacity**

The term ''combined heat and power system property'' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

**(C) Special rules**

**(i) Energy efficiency percentage**

For purposes of this paragraph, the energy efficiency percentage of a system is the fraction—

(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

(II) the denominator of which is the lower heating value of the fuel sources for the system.

**(ii) Determinations made on Btu basis**

The energy efficiency percentage and the percentages under subparagraph (A)(ii) shall be determined on a Btu basis.

**(iii) Input and output property not included**

The term ''combined heat and power system property'' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

**(D) Systems using biomass**

If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

(i) subparagraph (A)(iii) shall not apply, but

(ii) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this subparagraph) as the energy efficiency percentage of such system bears to 60 percent.

**(4) Qualified small wind energy property**

**(A) In general**

The term ''qualified small wind energy property'' means property which uses a qualifying small wind turbine to generate electricity.

**(B) Qualifying small wind turbine**

The term ''qualifying small wind turbine'' means a wind turbine which has a nameplate capacity of not more than 100 kilowatts.

**(C) Termination**

The term ''qualified small wind energy property'' shall not include any property the construction of which does not begin before January 1, 2025.

**(5) Waste energy recovery property**

**(A) In general**

The term ''waste energy recovery property'' means property that generates electricity solely from heat from buildings or equipment if the primary purpose of such building or equipment is not the generation of electricity.

**(B) Capacity limitation**

The term ''waste energy recovery property'' shall not include any property which has a capacity in excess of 50 megawatts.

**(C) No double benefit**

Any waste energy recovery property (determined without regard to this subparagraph) which is part of a system which is a combined heat and power system property shall not be treated as waste energy recovery property for purposes of this section unless the taxpayer elects to not treat such system as a combined heat and power system property for purposes of this section.

**(D) Termination**

The term ''waste energy recovery property'' shall not include any property the construction of which does not begin before January 1, 2025.

**(6) Energy storage technology**

**(A) In general**

The term ''energy storage technology'' means—

(i) property (other than property primarily used in the transportation of goods or individuals and not for the production of electricity) which receives, stores, and delivers energy for conversion to electricity (or, in the case of hydrogen, which stores energy), and has a nameplate capacity of not less than 5 kilowatt hours, and

(ii) thermal energy storage property.

**(B) Modifications of certain property**

In the case of any property which either—

(i) was placed in service before the date of enactment of this section[1] and would be described in subparagraph (A)(i), except that such property has a capacity of less than 5 kilowatt hours and is modified in a manner that such property (after such modification) has a nameplate capacity of not less than 5 kilowatt hours, or

(ii) is described in subparagraph (A)(i) and is modified in a manner that such property (after such modification) has an increase in nameplate capacity of not less than 5 kilowatt hours,

such property shall be treated as described in subparagraph (A)(i) except that the basis of any existing property prior to such modification shall not be taken into account for purposes of this section. In the case of any property to which this subparagraph applies, subparagraph (D) shall be applied by substituting ''modification'' for ''construction''.

**(C) Thermal energy storage property**

**(i) In general**

Subject to clause (ii), for purposes of this paragraph, the term ''thermal energy storage property'' means property comprising a system which—

(I) is directly connected to a heating, ventilation, or air conditioning system,

(II) removes heat from, or adds heat to, a storage medium for subsequent use, and

(III) provides energy for the heating or cooling of the interior of a residential or commercial building.

**(ii) Exclusion**

The term ''thermal energy storage property'' shall not include—

(I) a swimming pool,

(II) combined heat and power system property, or

(III) a building or its structural components.

**(D) Termination**

The term ''energy storage technology'' shall not include any property the construction of which begins after December 31, 2024.

**(7) Qualified biogas property**

**(A) In general**

The term ''qualified biogas property'' means property comprising a system which—

(i) converts biomass (as defined in section 45K(c)(3), as in effect on the date of enactment of this paragraph) into a gas which—

(I) consists of not less than 52 percent methane by volume, or

(II) is concentrated by such system into a gas which consists of not less than 52 percent methane, and

(ii) captures such gas for sale or productive use, and not for disposal via combustion.

**(B) Inclusion of cleaning and conditioning property**

The term ''qualified biogas property'' includes any property which is part of such system which cleans or conditions such gas.

**(C) Termination**

The term ''qualified biogas property'' shall not include any property the construction of which begins after December 31, 2024.

**(8) Microgrid controller**

**(A) In general**

The term ''microgrid controller'' means equipment which is—

(i) part of a qualified microgrid, and

(ii) designed and used to monitor and control the energy resources and loads on such microgrid.

**(B) Qualified microgrid**

The term ''qualified microgrid'' means an electrical system which—

(i) includes equipment which is capable of generating not less than 4 kilowatts and not greater than 20 megawatts of electricity,

(ii) is capable of operating—

(I) in connection with the electrical grid and as a single controllable entity with respect to such grid, and

(II) independently (and disconnected) from such grid, and

(iii) is not part of a bulk-power system (as defined in section 215 of the Federal Power Act (16 U.S.C. 824o)).

**(C) Termination**

The term ''microgrid controller'' shall not include any property the construction of which begins after December 31, 2024.

[1] See References in Text note below.

**(d) Coordination with Department of Treasury grants**

In the case of any property with respect to which the Secretary makes a grant under section 1603 of the American Recovery and Reinvestment Tax Act of 2009—

**(1) Denial of production and investment credits**

No credit shall be determined under this section or section 45 with respect to such property for the taxable year in which such grant is made or any subsequent taxable year.

**(2) Recapture of credits for progress expenditures made before grant**

If a credit was determined under this section with respect to such property for any taxable year ending before such grant is made—

(A) the tax imposed under subtitle A on the taxpayer for the taxable year in which such grant is made shall be increased by so much of such credit as was allowed under section 38,

(B) the general business carryforwards under section 39 shall be adjusted so as to recapture the portion of such credit which was not so allowed, and

(C) the amount of such grant shall be determined without regard to any reduction in the basis of such property by reason of such credit.

**(3) Treatment of grants**

Any such grant—

(A) shall not be includible in the gross income or alternative minimum taxable income of the taxpayer, but

(B) shall be taken into account in determining the basis of the property to which such grant relates, except that the basis of such property shall be reduced under section 50(c) in the same manner as a credit allowed under subsection (a).

**(e) Special rules for certain solar and wind facilities placed in service in connection with low-income communities**

**(1) In general**

In the case of any qualified solar and wind facility with respect to which the Secretary makes an allocation of environmental justice solar and wind capacity limitation under paragraph (4)—

(A) the energy percentage otherwise determined under paragraph (2) or (5) of subsection (a) with respect to any eligible property which is part of such facility shall be increased by—

(i) in the case of a facility described in subclause (I) of paragraph (2)(A)(iii) and not described in subclause (II) of such paragraph, 10 percentage points, and

(ii) in the case of a facility described in subclause (II) of paragraph (2)(A)(iii), 20 percentage points, and

(B) the increase in the credit determined under subsection (a) by reason of this subsection for any taxable year with respect to all property which is part of such facility shall not exceed the amount which bears the same ratio to the amount of such increase (determined without regard to this subparagraph) as—

(i) the environmental justice solar and wind capacity limitation allocated to such facility, bears to

(ii) the total megawatt nameplate capacity of such facility, as measured in direct current.

**(2) Qualified solar and wind facility**

For purposes of this subsection—

**(A) In general**

The term ''qualified solar and wind facility'' means any facility—

(i) which generates electricity solely from property described in section 45(d)(1) or in clause (i) or (vi) of subsection (a)(3)(A),

(ii) which has a maximum net output of less than 5 megawatts (as measured in alternating current), and

(iii) which—

(I) is located in a low-income community (as defined in section 45D(e)) or on Indian land (as defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2))), or

(II) is part of a qualified low-income residential building project or a qualified low-income economic benefit project.

**(B) Qualified low-income residential building project**

A facility shall be treated as part of a qualified low-income residential building project if—

(i) such facility is installed on a residential rental building which participates in a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a housing assistance program administered by the Department of Agriculture under title V of the Housing Act of 1949, a housing program administered by a tribally designated housing entity (as defined in section 4(22) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22))) or such other affordable housing programs as the Secretary may provide, and

(ii) the financial benefits of the electricity produced by such facility are allocated equitably among the occupants of the dwelling units of such building.

**(C) Qualified low-income economic benefit project**

A facility shall be treated as part of a qualified low-income economic benefit project if at least 50 percent of the financial benefits of the electricity produced by such facility are provided to households with income of—

(i) less than 200 percent of the poverty line (as defined in section 36B(d)(3)(A)) applicable to a family of the size involved, or

(ii) less than 80 percent of area median gross income (as determined under section 142(d)(2)(B)).

**(D) Financial benefit**

For purposes of subparagraphs (B) and (C), electricity acquired at a below-market rate shall not fail to be taken into account as a financial benefit.

**(3) Eligible property**

For purposes of this section, the term ''eligible property'' means energy property which—

(A) is part of a facility described in section 45(d)(1) for which an election was made under subsection (a)(5), or

(B) is described in clause (i) or (vi) of subsection (a)(3)(A),

including energy storage technology (as described in subsection (a)(3)(A)(ix)) installed in connection with such energy property.

**(4) Allocations**

**(A) In general**

Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish a program to allocate amounts of environmental justice solar and wind capacity limitation to qualified solar and wind facilities. In establishing such program and to carry out the purposes of this subsection, the Secretary shall provide procedures to allow for an efficient allocation process, including, when determined appropriate, consideration of multiple projects in a single application if such projects will be placed in service by a single taxpayer.

**(B) Limitation**

The amount of environmental justice solar and wind capacity limitation allocated by the Secretary under subparagraph (A) during any calendar year shall not exceed the annual capacity limitation with respect to such year.

**(C) Annual capacity limitation**

For purposes of this paragraph, the term ''annual capacity limitation'' means 1.8 gigawatts of direct current capacity for each of calendar years 2023 and 2024, and zero thereafter.

**(D) Carryover of unused limitation**

If the annual capacity limitation for any calendar year exceeds the aggregate amount allocated for such year under this paragraph, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2024 except as provided in section 48E(h)(4)(D)(ii).

**(E) Placed in service deadline**

**(i) In general**

Paragraph (1) shall not apply with respect to any property which is placed in service after the date that is 4 years after the date of the allocation with respect to the facility of which such property is a part.

**(ii) Application of carryover**

Any amount of environmental justice solar and wind capacity limitation which expires under clause (i) during any calendar year shall be taken into account as an excess described in subparagraph (D) (or as an increase in such excess) for such calendar year, subject to the limitation imposed by the last sentence of such subparagraph.

**(5) Recapture**

The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under subsection (a) by reason of this subsection with respect to any property which ceases to be property eligible for such increase (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture may not apply with respect to any property if, within 12 months after the date the taxpayer becomes aware (or reasonably should have become aware) of such property ceasing to be property eligible for such increase, the eligibility of such property for such increase is restored. The preceding sentence shall not apply more than once with respect to any facility.

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

98–369, div. A, title I, §§ 11, 31(b), (c), 111(e)(8), 113(a)(1), (b)(3), (4), 114(a), title IV, §§ 431(c), 474(*o*)(10)–(18), title VII, §§ 712(b), 721(x)(1), 735(c)(1), title X, § 1043(a), July 18, 1984, 98 Stat. 503, 517, 518, 633, 635, 637, 638, 808, 836, 837, 946, 971, 981, 1044; Pub. L. 99–121, title I, § 103(b)(5), Oct. 11, 1985, 99 Stat. 510; Pub. L. 99–514, title II, § 251(b), (c), title VII, § 701(e)(4)(C), title VIII, § 803(b)(2)(B), title XII, §§ 1272(d)(5), 1275(c)(5), title XV, § 1511(c)(3), title XVIII, §§ 1802(a)(4)(C), (5)(B), (9)(A), (B), 1809(d)(2), (e), 1847(b)(6), 1879(j)(1), Oct. 22, 1986, 100 Stat. 2184, 2186, 2343, 2355, 2594, 2599, 2745, 2788, 2789, 2821, 2856, 2908; Pub. L. 100–647, title I, §§ 1002(a)(14), (16)(A), (20), (29), (30), 1013(a)(41), Nov. 10, 1988, 102 Stat. 3355–3357, 3544; Pub. L. 101–508, title XI, §§ 11801(c)(6)(A), 11813(a), Nov. 5, 1990, 104 Stat. 1388–523, 1388–541; Pub. L. 102–227, title I, § 106, Dec. 11, 1991, 105 Stat. 1687; Pub. L. 102–486, title XIX, § 1916(a), Oct. 24, 1992, 106 Stat. 3024; Pub. L. 108–357, title III, § 322(d)(2)(A), (B), title VII, § 710(e), Oct. 22, 2004, 118 Stat. 1475, 1557; Pub. L. 109–58, title XIII, §§ 1336(a)–(d), 1337(a)–(c), Aug. 8, 2005, 119 Stat. 1036–1038; Pub. L. 109–135, title IV, § 412(m), (n), Dec. 21, 2005, 119 Stat. 2638; Pub. L. 109–432, div. A, title II, § 207, Dec. 20, 2006, 120 Stat. 2945; Pub. L. 110–172, § 11(a)(8), (9), Dec. 29, 2007, 121 Stat. 2485; Pub. L. 110–343, div. B, title I, §§ 103(a), (c)–(e), 104(a)–(d), 105(a), Oct. 3, 2008, 122 Stat. 3811, 3813, 3814; Pub. L. 111–5, div. B, title I, §§ 1102(a), 1103(a), (b)(1), 1104, Feb. 17, 2009, 123 Stat. 319–321; Pub. L. 112–240, title IV, § 407(b), (c)(1), Jan. 2, 2013, 126 Stat. 2341; Pub. L. 113–295, div. A, title I, § 155(b), title II, § 209(d), Dec. 19, 2014, 128 Stat. 4021, 4028; Pub. L. 114–113, div. P, title III, §§ 302(a), (b), 303(a)–(c), div. Q, title I, § 187(b), Dec. 18, 2015, 129 Stat. 3038, 3039, 3074; Pub. L. 115–123, div. D, title I, §§ 40409(b), 40411(a)–(f), Feb. 9, 2018, 132 Stat. 150, 151; Pub. L. 115–141, div. U, title IV, § 401(a)(20)–(23), (350), Mar. 23, 2018, 132 Stat. 1185, 1201; Pub. L. 116–94, div. Q, title I, § 127(b), (c)(2)(B), Dec. 20, 2019, 133 Stat. 3232; Pub. L. 116–260, div. EE, title I, §§ 131(b), (c)(2), 132(a), (b), title II, §§ 203(a)–(d), 204(a), Dec. 27, 2020, 134 Stat. 3052, 3057; Pub. L. 117–169, title I, §§ 13101(d), (e)(2)(B), (3), 13102(a)–(f)(3), (g), (h), (j)–(m), (*o*), (p), 13103(a), 13204(c)(1), (2), Aug. 16, 2022, 136 Stat. 1906, 1913–1915, 1917, 1918, 1920, 1921, 1940, 1941.)

**Editorial Notes**

REFERENCES IN TEXT

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

The date of enactment of this section, referred to in subsec. (c)(6)(B)(i), probably should be ''the date of enactment of this paragraph'' which is the date of enactment of Pub. L. 117–169, which was approved Aug. 16, 2022.

The date of enactment of this paragraph, referred to in subsec. (c)(7)(A)(i), is the date of enactment of Pub. L. 117–169, which was approved Aug. 16, 2022.

Section 1603 of the American Recovery and Reinvestment Tax Act of 2009, referred to in subsec. (d), is section 1603 of Pub. L. 111–5, which is set out as a note below.

The Housing Act of 1949, referred to in subsec. (e)(2)(B)(i), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Act is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (e)(4)(A), is the date of enactment of Pub. L. 117–169, which was approved Aug. 16, 2022.

AMENDMENTS

2022—Subsec. (a)(2)(A)(i). Pub. L. 117–169, § 13102(d)(1)(A)(i), substituted ''6 percent'' for ''30 percent'' in introductory provisions.

Subsec. (a)(2)(A)(i)(II). Pub. L. 117–169, § 13102(a)(1), (e) substituted ''clause (i) or (iii) of paragraph (3)(A)'' for ''paragraph (3)(A)(i)'' and ''January 1, 2025'' for ''January 1, 2024''.

Subsec. (a)(2)(A)(i)(VI) to (IX). Pub. L. 117–169, § 13102(f)(2), added subcls. (VI) to (IX).

Subsec. (a)(2)(A)(ii). Pub. L. 117–169, § 13102(d)(1)(A)(ii), substituted ''2 percent'' for ''10 percent''.

Subsec. (a)(3)(A)(ii). Pub. L. 117–169, § 13102(h), inserted '', or electrochromic glass which uses electricity to change its light transmittance properties in order to heat or cool a structure,'' after ''sunlight''.

Pub. L. 117–169, § 13102(a)(2), substituted ''January 1, 2025'' for ''January 1, 2024''.

Subsec. (a)(3)(A)(vii). Pub. L. 117–169, § 13102(b), substituted ''January 1, 2035'' for ''January 1, 2024''.

Subsec. (a)(3)(A)(ix) to (xi). Pub. L. 117–169, § 13102(f)(1), added cls. (ix) to (xi).

Subsec. (a)(4). Pub. L. 117–169, § 13102(m), amended par. (4) generally. Prior to amendment, par. (4) related to special rule for property financed by subsidized energy financing or industrial development bonds.

Subsec. (a)(5)(A)(ii). Pub. L. 117–169, § 13102(d)(1)(B), substituted ''6 percent'' for ''30 percent''.

Subsec. (a)(5)(C)(ii). Pub. L. 117–169, § 13101(d), substituted ''January 1, 2025'' for ''January 1, 2022''.

Subsec. (a)(5)(E). Pub. L. 117–169, § 13101(e)(2)(B), inserted ''placed in service before January 1, 2022, and'' before ''treated as energy property'' in introductory provisions.

Subsec. (a)(5)(F)(i). Pub. L. 117–169, § 13101(e)(3), substituted ''offshore wind facility, subparagraph (E) shall not apply.'' for ''offshore wind facility—

''(I) subparagraph (C)(ii) shall be applied by substituting 'January 1, 2026' for 'January 1, 2022',

''(II) subparagraph (E) shall not apply, and

''(III) for purposes of this paragraph, section 45(d)(1) shall be applied by substituting 'January 1, 2026' for 'January 1, 2022'.''

Subsec. (a)(6). Pub. L. 117–169, § 13102(c), added par. (6) and struck out former par. (6) which related to phaseout for solar energy property the construction of which began before Jan. 1, 2024.

Subsec. (a)(7). Pub. L. 117–169, § 13102(d)(2), added par. (7).

Pub. L. 117–169, § 13102(c), struck out par. (7) which related to phaseout for any qualified fuel cell property, qualified small wind property, waste energy recovery property, and certain other energy property.

Subsec. (a)(8). Pub. L. 117–169, § 13102(j), added par. (8).

Subsec. (a)(9). Pub. L. 117–169, § 13102(k), added par. (9).

Subsec. (a)(9)(A)(i). Pub. L. 117–169, § 13204(c)(2), inserted ''and paragraph (15)'' after ''paragraphs (1) through (8)''.

Subsec. (a)(10), (11). Pub. L. 117–169, § 13102(k), added pars. (10) and (11).

Subsec. (a)(12), (13). Pub. L. 117–169, § 13102(*l*), added pars. (12) and (13).

Subsec. (a)(14). Pub. L. 117–169, § 13102(*o*), added par. (14).

Subsec. (a)(15). Pub. L. 117–169, § 13204(c)(1), added par. (15). Former par. (15) redesignated (16).

Pub. L. 117–169, § 13102(p), added par. (15).

Subsec. (a)(16). Pub. L. 117–169, § 13204(c)(1), redesignated par. (15) as (16).

Subsec. (c)(1)(A)(i). Pub. L. 117–169, § 13102(g)(1)(A), inserted ''(1 kilowatt in the case of a fuel cell power plant with a linear generator assembly)'' after ''0.5 kilowatt'' and ''or electromechanical'' after ''electrochemical''.

Subsec. (c)(1)(C). Pub. L. 117–169, §13102(g)(1)(B), inserted ‘‘, or linear generator assembly,’’ after ‘‘a fuel cell stack assembly’’ and ‘‘or electromechanical’’ after ‘‘electrochemical’’.

Subsec. (c)(1)(D). Pub. L. 117–169, §13102(g)(2), added subpar. (D). Former subpar. (D) redesignated (E).

Pub. L. 117–169, §13102(a)(3), substituted ‘‘January 1, 2025’’ for ‘‘January 1, 2024’’.

Subsec. (c)(1)(E). Pub. L. 117–169, §13102(g)(2), redesignated subpar. (D) as (E).

Subsec. (c)(2)(D). Pub. L. 117–169, §13102(a)(4), substituted ‘‘January 1, 2025’’ for ‘‘January 1, 2024’’.

Subsec. (c)(3)(A)(iv). Pub. L. 117–169, §13102(a)(5), substituted ‘‘January 1, 2025’’ for ‘‘January 1, 2024’’.

Subsec. (c)(4)(C). Pub. L. 117–169, §13102(a)(6), substituted ‘‘January 1, 2025’’ for ‘‘January 1, 2024’’.

Subsec. (c)(5)(D). Pub. L. 117–169, §13102(a)(7), substituted ‘‘January 1, 2025’’ for ‘‘January 1, 2024’’.

Subsec. (c)(6) to (8). Pub. L. 117–169, §13102(f)(3), added pars. (6) to (8).

Subsec. (e). Pub. L. 117–169, §13103(a), added subsec. (e).

2020—Subsec. (a)(2)(A)(i)(II). Pub. L. 116–260, §132(a)(1)(A), substituted ‘‘January 1, 2024’’ for ‘‘January 1, 2022’’.

Subsec. (a)(2)(A)(i)(V). Pub. L. 116–260, §203(b), added subcl. (V).

Subsec. (a)(3)(A)(ii), (vii). Pub. L. 116–260, §132(a)(1)(B), substituted ‘‘January 1, 2024’’ for ‘‘January 1, 2022’’.

Subsec. (a)(3)(A)(viii). Pub. L. 116–260, §203(a), added cl. (viii).

Subsec. (a)(5)(C)(ii). Pub. L. 116–260, §131(b), substituted ‘‘January 1, 2022’’ for ‘‘January 1, 2021’’.

Subsec. (a)(5)(E)(iv). Pub. L. 116–260, §131(c)(2), substituted ‘‘January 1, 2022’’ for ‘‘January 1, 2021’’.

Subsec. (a)(5)(F). Pub. L. 116–260, §204(a), added subpar. (F).

Subsec. (a)(6)(A). Pub. L. 116–260, §132(b)(1)(A)(i), substituted ‘‘January 1, 2024, the energy percentage’’ for ‘‘January 1, 2022, the energy percentage’’ in introductory provisions.

Subsec. (a)(6)(A)(i). Pub. L. 116–260, §132(b)(1)(A)(ii), substituted ‘‘January 1, 2023’’ for ‘‘January 1, 2021’’.

Subsec. (a)(6)(A)(ii). Pub. L. 116–260, §132(b)(1)(A)(iii), substituted ‘‘after December 31, 2022, and before January 1, 2024’’ for ‘‘after December 31, 2020, and before January 1, 2022’’.

Subsec. (a)(6)(B). Pub. L. 116–260, §132(b)(1)(B), substituted ‘‘begins before January 1, 2024, and which is not placed in service before January 1, 2026’’ for ‘‘begins before January 1, 2022, and which is not placed in service before January 1, 2024’’.

Subsec. (a)(7). Pub. L. 116–260, §203(c)(2), substituted ‘‘certain other’’ for ‘‘fiber-optic solar, qualified fuel cell, and qualified small wind’’ in heading.

Subsec. (a)(7)(A). Pub. L. 116–260, §203(c)(1), inserted ‘‘waste energy recovery property,’’ after ‘‘qualified small wind property,’’ in introductory provisions.

Subsec. (a)(7)(A)(i). Pub. L. 116–260, §132(b)(2)(A)(i), substituted ‘‘January 1, 2023’’ for ‘‘January 1, 2021’’.

Subsec. (a)(7)(A)(ii). Pub. L. 116–260, §132(b)(2)(A)(ii), substituted ‘‘after December 31, 2022, and before January 1, 2024’’ for ‘‘after December 31, 2020, and before January 1, 2022’’.

Subsec. (a)(7)(B). Pub. L. 116–260, §132(b)(2)(B), substituted ‘‘January 1, 2026’’ for ‘‘January 1, 2024’’.

Subsec. (c)(1)(D), (2)(D), (3)(A)(iv), (4)(C). Pub. L. 116–260, §132(a)(2), substituted ‘‘January 1, 2024’’ for ‘‘January 1, 2022’’.

Subsec. (c)(5). Pub. L. 116–260, §203(d), added par. (5).

2019—Subsec. (a)(5)(C)(ii). Pub. L. 116–94, §127(b), substituted ‘‘January 1, 2021’’ for ‘‘January 1, 2018 (January 1, 2020, in the case of any facility which is described in paragraph (1) of section 45(d))’’.

Subsec. (a)(5)(E)(iv). Pub. L. 116–94, §127(c)(2)(B), added cl. (iv).

2018—Subsec. (a)(1). Pub. L. 115–141, §401(a)(20), substituted ‘‘and (3)(B)’’ for ‘‘(3)(B), and (4)(B)’’.

Subsec. (a)(2)(A). Pub. L. 115–123, §40411(b)(2), substituted ‘‘paragraphs (6) and (7)’’ for ‘‘paragraph (6)’’ in introductory provisions.

Subsec. (a)(3)(A)(ii), (vii). Pub. L. 115–123, §40411(a), substituted ‘‘property the construction of which begins before January 1, 2022’’ for ‘‘periods ending before January 1, 2017’’.

Subsec. (a)(5)(C)(ii). Pub. L. 115–141, §401(a)(350)(A), made technical amendment to directory language of Pub. L. 114–113, §302(a). See 2015 Amendment note below.

Pub. L. 115–123, §40409(b), substituted ‘‘January 1, 2018’’ for ‘‘January 1, 2017’’.

Subsec. (a)(5)(E). Pub. L. 115–141, §401(a)(350)(B), made technical amendment to directory language of Pub. L. 114–113, §302(b). See 2015 Amendment note below.

Pub. L. 115–123, §40411(b)(3), inserted ‘‘which is treated as energy property by reason of this paragraph’’ after ‘‘using wind to produce electricity’’ in introductory provisions.

Subsec. (a)(6)(B). Pub. L. 115–141, §401(a)(21), substituted ‘‘energy property’’ for ‘‘property energy property’’.

Subsec. (a)(7). Pub. L. 115–123, §40411(b)(1), added par. (7).

Subsec. (c)(1)(D). Pub. L. 115–123, §40411(c), substituted ‘‘the construction of which does not begin before January 1, 2022’’ for ‘‘for any period after December 31, 2016’’.

Subsec. (c)(2)(B). Pub. L. 115–141, §401(a)(22), substituted ‘‘equal to $200’’ for ‘‘equal $200’’.

Subsec. (c)(2)(D). Pub. L. 115–123, §40411(d), substituted ‘‘the construction of which does not begin before January 1, 2022’’ for ‘‘for any period after December 31, 2016’’.

Subsec. (c)(3)(A)(iv). Pub. L. 115–123, §40411(e), substituted ‘‘the construction of which begins before January 1, 2022’’ for ‘‘which is placed in service before January 1, 2017’’.

Subsec. (c)(4)(C). Pub. L. 115–123, §40411(f), substituted ‘‘the construction of which does not begin before January 1, 2022’’ for ‘‘for any period after December 31, 2016’’.

Subsec. (d)(3). Pub. L. 115–141, §401(a)(23)(A), struck out ‘‘shall’’ after ‘‘grant’’ in introductory provisions.

Subsec. (d)(3)(A). Pub. L. 115–141, §401(a)(23)(B), inserted ‘‘shall’’ before ‘‘not’’.

2015—Subsec. (a)(2)(A). Pub. L. 114–113, §303(c), substituted ‘‘Except as provided in paragraph (6), the energy percentage’’ for ‘‘The energy percentage’’ in introductory provisions.

Subsec. (a)(2)(A)(i)(II). Pub. L. 114–113, §303(a), substituted ‘‘property the construction of which begins before January 1, 2022’’ for ‘‘periods ending before January 1, 2017’’.

Subsec. (a)(5)(C)(ii). Pub. L. 114–113, §187(b), substituted ‘‘January 1, 2017’’ for ‘‘January 1, 2015’’.

Pub. L. 114–113, §302(a), as amended by Pub. L. 115–141, §401(a)(350)(A), inserted ‘‘(January 1, 2020, in the case of any facility which is described in paragraph (1) of section 45(d))’’ before ‘‘, and’’.

Subsec. (a)(5)(E). Pub. L. 114–113, §302(b), as amended by Pub. L. 115–141, §401(a)(350)(B), added subpar. (E).

Subsec. (a)(6). Pub. L. 114–113, §303(b), added par. (6).

2014—Subsec. (a)(5)(C)(ii). Pub. L. 113–295, §155(b), substituted ‘‘January 1, 2015’’ for ‘‘January 1, 2014’’.

Subsec. (d)(3)(A). Pub. L. 113–295, §209(d), inserted ‘‘or alternative minimum taxable income’’ after ‘‘includible in the gross income’’.

2013—Subsec. (a)(5)(C). Pub. L. 112–240, §407(b), amended subpar. (C) generally. Prior to amendment, text read as follows: ‘‘For purposes of this paragraph, the term ‘qualified investment credit facility’ means any of the following facilities if no credit has been allowed under section 45 with respect to such facility and the taxpayer makes an irrevocable election to have this paragraph apply to such facility:

‘‘(i) WIND FACILITIES.—Any qualified facility (within the meaning of section 45) described in paragraph (1) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, or 2012.

‘‘(ii) OTHER FACILITIES.—Any qualified facility (within the meaning of section 45) described in para-

graph (2), (3), (4), (6), (7), (9), or (11) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, 2012, or 2013.''

Subsec. (a)(5)(D)(iii), (iv). Pub. L. 112–240, § 407(c)(1), added cls. (iii) and (iv).

2009—Subsec. (a)(4)(D). Pub. L. 111–5, § 1103(b)(1), added subpar. (D).

Subsec. (a)(5). Pub. L. 111–5, § 1102(a), added par. (5).

Subsec. (c)(4)(B) to (D). Pub. L. 111–5, § 1103(a), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B). Text of former subpar. (B) read as follows: ''In the case of qualified small wind energy property placed in service during the taxable year, the credit otherwise determined under subsection (a)(1) for such year with respect to all such property of the taxpayer shall not exceed $4,000.''

Subsec. (d). Pub. L. 111–5, § 1104, added subsec. (d).

2008—Subsec. (a)(1). Pub. L. 110–343, § 104(d), substituted ''paragraphs (1)(B), (2)(B), (3)(B), and (4)(B)'' for ''paragraphs (1)(B), (2)(B), and (3)(B)''.

Pub. L. 110–343, § 103(c)(3), substituted ''paragraphs (1)(B), (2)(B), and (3)(B)'' for ''paragraphs (1)(B) and (2)(B)''.

Subsec. (a)(2)(A)(i)(II). Pub. L. 110–343, § 103(a)(1), substituted ''January 1, 2017'' for ''January 1, 2009''.

Subsec. (a)(2)(A)(i)(IV). Pub. L. 110–343, § 104(b), added subcl. (IV).

Subsec. (a)(3). Pub. L. 110–343, § 103(e)(1), in concluding provisions, struck out ''The term 'energy property' shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).'' before ''Such term''.

Subsec. (a)(3)(A)(ii). Pub. L. 110–343, § 103(a)(1), substituted ''January 1, 2017'' for ''January 1, 2009''.

Subsec. (a)(3)(A)(v). Pub. L. 110–343, § 103(c)(1), added cl. (v).

Subsec. (a)(3)(A)(vi). Pub. L. 110–343, § 104(a), added cl. (vi).

Subsec. (a)(3)(A)(vii). Pub. L. 110–343, § 105(a), added cl. (vii).

Subsec. (c). Pub. L. 110–343, § 103(c)(2)(A), inserted heading and struck out former heading ''Qualified fuel cell property; qualified microturbine property''.

Subsec. (c)(1)(B). Pub. L. 110–343, § 103(d), substituted ''$1,500'' for ''$500''.

Subsec. (c)(1)(D). Pub. L. 110–343, § 103(e)(2)(A), redesignated subpar. (E) as (D) and struck out heading and text of former subpar. (D). Text read as follows: ''The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified fuel cell property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).''

Subsec. (c)(1)(E). Pub. L. 110–343, § 103(e)(2)(A), redesignated subpar. (E) as (D).

Pub. L. 110–343, § 103(a)(2), substituted ''December 31, 2016'' for ''December 31, 2008''.

Subsec. (c)(2)(D). Pub. L. 110–343, § 103(e)(2)(B), redesignated subpar. (E) as (D) and struck out heading and text of former subpar. (D). Text read as follows: ''The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified microturbine property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).''

Subsec. (c)(2)(E). Pub. L. 110–343, § 103(e)(2)(B), redesignated subpar. (E) as (D).

Pub. L. 110–343, § 103(a)(3), substituted ''December 31, 2016'' for ''December 31, 2008''.

Subsec. (c)(3). Pub. L. 110–343, § 103(c)(2)(B), added par. (3).

Subsec. (c)(4). Pub. L. 110–343, § 104(c), added par. (4).

2007—Subsec. (c). Pub. L. 110–172, § 11(a)(8), substituted ''section'' for ''subsection'' in introductory provisions.

Subsec. (c)(1)(B), (2)(B). Pub. L. 110–172, § 11(a)(9), substituted ''subsection (a)'' for ''paragraph (1)''.

2006—Subsec. (a)(2)(A)(i)(II), (3)(A)(ii). Pub. L. 109–432, § 207(1), substituted ''January 1, 2009'' for ''January 1, 2008''.

Subsec. (c)(1)(E), (2)(E). Pub. L. 109–432, § 207(2), substituted ''December 31, 2008'' for ''December 31, 2007''.

2005—Subsec. (a)(1). Pub. L. 109–135, § 412(m), substituted ''paragraphs (1)(B) and (2)(B) of subsection (c)'' for ''paragraph (1)(B) or (2)(B) of subsection (d)''.

Pub. L. 109–58, § 1336(d), inserted ''except as provided in paragraph (1)(B) or (2)(B) of subsection (d),'' before ''the energy credit''.

Subsec. (a)(2)(A). Pub. L. 109–58, § 1337(a), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: ''The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''

Pub. L. 109–58, § 1336(c), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: ''The energy percentage is 10 percent.''

Subsec. (a)(3)(A)(i). Pub. L. 109–58, § 1337(c), inserted ''excepting property used to generate energy for the purposes of heating a swimming pool,'' after ''solar process heat,''.

Subsec. (a)(3)(A)(ii). Pub. L. 109–135, § 412(n)(2), struck out ''or'' at end.

Pub. L. 109–58, § 1337(b), added cl. (ii). Former cl. (ii) redesignated (iii) relating to equipment used to produce, distribute, or use energy derived from a geothermal deposit.

Subsec. (a)(3)(A)(iii). Pub. L. 109–58, § 1337(b), redesignated cl. (ii) as (iii) relating to equipment used to produce, distribute, or use energy derived from a geothermal deposit.

Pub. L. 109–58, § 1336(a), added cl. (iii) relating to qualified fuel cell property or qualified microturbine property.

Subsec. (a)(3)(A)(iv). Pub. L. 109–135, § 412(n)(1), redesignated cl. (iii), relating to qualified fuel cell property or qualified microturbine property, as (iv).

Subsec. (c). Pub. L. 109–58, § 1336(b), added subsec. (c).

2004—Pub. L. 108–357, § 322(d)(2)(B), struck out ''; reforestation credit'' after ''Energy credit'' in section catchline.

Subsec. (a)(3). Pub. L. 108–357, § 710(e), inserted at end of concluding provisions ''Such term shall not include any property which is part of a facility the production from which is allowed as a credit under section 45 for the taxable year or any prior taxable year.''

Subsec. (a)(5). Pub. L. 108–357, § 322(d)(2)(A)(iii), redesignated subsec. (a)(5) as (b).

Pub. L. 108–357, § 322(d)(2)(A)(ii), substituted ''subsection (a)'' for ''this subsection''.

Subsec. (b). Pub. L. 108–357, § 322(d)(2)(A)(iii), redesignated subsec. (a)(5) as (b).

Pub. L. 108–357, § 322(d)(2)(A)(i), struck out heading and text of subsec. (b). Text read as follows:

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

''(2) DEFINITIONS.—For purposes of this subpart, the terms 'amortizable basis' and 'qualified timber property' have the respective meanings given to such terms by section 194.''

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

the enactment of the Revenue Reconciliation Act of 1990) shall apply.''

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

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

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

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

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

Subsec. (a)(5)(B)(i). Pub. L. 100–647, §1002(a)(14)(D), substituted ''168(i)(3)'' for ''168(j)(6)''.

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

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

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

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

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

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

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

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

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

Subsec. (a)(4). Pub. L. 99–514, §1802(a)(9)(A), substituted ''514(b)'' for ''514(c)'' and ''514(a)'' for ''514(b)''.

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

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

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

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

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

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

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

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

Subsec. (g)(2)(B)(vi)(I). Pub. L. 99–514, §1802(a)(9)(B), substituted ''section 168(j)'' for ''section 168(j)(3)''.

Subsec. (g)(3). Pub. L. 99–514, §251(b), in amending par. (3) generally, inserted introductory phrase ''For purposes of this subsection—''.

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

Subsec. (*l*)(5). Pub. L. 99–514, §1847(b)(6), substituted ''section 23(c)'' for ''section 44C(c)'' and ''section 23(c)(4)(A)(viii)'' for ''section 44C(c)(4)(A)(viii)''.

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

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

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

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

Subsec. (s)(5). Pub. L. 99–514, §803(b)(2)(B), which directed the general amendment of par. (5) of subsec. (r), was executed by amending par. (5) of subsec. (s) to reflect the probable intent of Congress and the intervening redesignation of subsec. (r) as (s) by Pub. L. 99–514, §1879(j)(1), see note above. Prior to amendment, par. (5) read as follows: ''For purposes of this sub-

section, the term 'sound recording' means any sound recording described in section 280(c)(2).''

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

1984—Subsec. (a)(5). Pub. L. 98–369, §31(b), amended par. (5) generally, to extend its scope to encompass property used by foreign persons or entities and to create an exception for short-term leases by substituting provisions covered by subpars. (A) to (D) for former provisions which had directed that property used by the United States, any State or political subdivision thereof, any international organization, or any agency or instrumentality of any of the foregoing not be treated as section 38 property, that for purposes of that prohibition the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, and any successor organization of such Consortium or Organization not be treated as an international organization, and that if any qualified rehabilitated building were used by the governmental unit pursuant to a lease, this paragraph would not apply to that portion of the basis of such building attributable to qualified rehabilitation expenditures.

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

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

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

Subsec. (c)(3)(B). Pub. L. 98–369, §474(*o*)(10), substituted ''section 39'' for ''section 46(b)''.

Subsec. (d)(1)(B). Pub. L. 98–369, §474(*o*)(11), substituted ''section 38(c)(3)(B)'' for ''section 46(a)(6)''.

Subsec. (d)(6). Pub. L. 98–369, §431(c), added par. (6).

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

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

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

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

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

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

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

Subsec. (k)(4). Pub. L. 98–369, §113(b)(3)(B), inserted ''or at-risk rules'' after ''test'' in heading.

Subsec. (k)(4)(A). Pub. L. 98–369, §113(b)(3)(A), inserted '', section 46(c)(8), or section 46(c)(9)''.

Subsec. (k)(4)(B). Pub. L. 98–369, §113(b)(3)(C), substituted ''used'' for ''issued''.

Subsec. (k)(5)(D)(i). Pub. L. 98–369, §721(x)(1), substituted ''S corporation'' for ''electing small business corporation''.

Subsec. (*l*)(1). Pub. L. 98–369, §474(*o*)(13), substituted ''section 46(b)(2)'' for ''section 46(a)(2)(C)''.

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

Subsec. (m). Pub. L. 98–369, §474(*o*)(14), substituted ''subsection (b)'' for ''subsection (a)(2)''.

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

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

Subsec. (q)(1), (3). Pub. L. 98–369, §474(*o*)(17)(A), substituted ''section 46(a)'' for ''section 46(a)(2)''.

Subsec. (q)(4)(A)(i). Pub. L. 98–369, §474(*o*)(17), substituted ''section 46(a)'' for ''section 46(a)(2)'' and ''section 46(b)(1)'' for ''section 46(a)(2)(B)''.

Subsec. (q)(4)(B)(ii). Pub. L. 98–369, §474(*o*)(17)(B), substituted ''section 46(b)(1)'' for ''section 46(a)(2)(B)''.

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

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

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

Pub. L. 98–369, §474(*o*)(18), substituted ''section 381(c)(26)'' for ''section 381(c)(23)''.

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

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

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

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

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

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

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

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

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

within 3 months after such property is placed in service.

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

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

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

Subsec. (g)(5). Pub. L. 97–248, §205(a)(5)(A), struck out par. (5) which, as amended by §102(f)(3) of Pub. L. 97–448, had provided that for purposes of this subtitle, if a credit were determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, the increase in basis of such property which would (but for this paragraph) have resulted from such expenditure had to be reduced by the amount of the credit so determined, that if during any taxable year there was a recapture amount determined with respect to any qualified rehabilitated building the basis of which was reduced under subpar. (A), the basis of such building (immediately before the event resulting in such recapture), had to be increased by an amount equal to such recapture amount, and that for purposes of this paragraph ''recapture amount'' was defined as any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47(a)(5). See 1983 Amendment note for subsec. (g)(5) above and see Effective Date of 1982 and 1983 Amendment notes set out under sections 1 and 196 of this title.

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

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

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

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

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

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

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

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

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

Subsec. (a)(8). Pub. L. 97–34, §212(d)(2)(A), substituted ''or 188'' for ''188, or 191''.

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

Subsec. (c)(2)(A) to (C). Pub. L. 97–34, §213(a), amended subpars. (A) to (C) generally raising in subpar. (A) the existing $100,000 dollar limitation to $125,000 in 1981 and to $150,000 in 1985 and in subpar. (B) the existing $50,000 dollar limitation to $62,500 in 1981 and to $75,000 in 1985.

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

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

Subsec. (n)(1)(A)(i). Pub. L. 97–34, §332(b), substituted ''which does not exceed'' for ''equal to''.

Subsec. (*o*)(8). Pub. L. 97–34, §212(a)(3), added par. (8).

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

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

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

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

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

Subsec. (a)(10)(B). Pub. L. 96–222, §108(c)(6), substituted ''5'' for ''51''.

Subsec. (g)(2)(B)(i). Pub. L. 96–222, §103(a)(4)(B), substituted ''subsections (a)(1)(E) and (*l*)'' for ''subsection (a)(1)(E)''.

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

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

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

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

Subsec. (*l*)(3)(C), (D). Pub. L. 96–223, § 222(i)(1)(A), (3), redesignated subpar. (D) as (C) and inserted following cl. (ii) provision that, for the purposes of the preceding sentence, in the case of property which is alternative energy property solely by reason of the amendments made by section 222(b) of the Crude Oil Windfall Profit Tax Act of 1980, ''January 1, 1980'' was to be substituted for ''October 1, 1978''. Former subpar. (C) redesignated (B).

Subsec. (*l*)(4)(C). Pub. L. 96–223, § 222(c), added subpar. (C).

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

Subsec. (*l*)(11). Pub. L. 96–223, § 221(b)(2), substituted ''one-half of the energy percentage determined under section 46(a)(2)(C)'' for ''5 percent''.

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

Subsec. (*l*)(13). Pub. L. 96–223, § 222(e)(1), added par. (13).

Subsec. (*l*)(14). Pub. L. 96–223, § 222(f), added par. (14).

Subsec. (*l*)(15). Pub. L. 96–223, § 222(g)(1), added par. (15).

Subsec. (*l*)(16). Pub. L. 96–223, § 222(h), added par. (16).

Subsec. (*l*)(17). Pub. L. 96–223, § 222(i)(1)(B), added par. (17).

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

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

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

1978—Subsec. (a)(1)(A). Pub. L. 95–618, § 301(d)(1), inserted ''(other than an air conditioning or heating unit)'' after ''personal property''.

Subsec. (a)(1)(D). Pub. L. 95–600, § 314(a), added par. (D).

Subsec. (a)(1)(E). Pub. L. 95–600, § 315(a), added par. (E).

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

Subsec. (a)(7)(A). Pub. L. 95–600, § 312(c)(3), struck out ''(other than pretermination property)'' after ''Property''.

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

Subsec. (a)(8). Pub. L. 95–600, § 315(c), substituted ''188, or 191'' for ''or 188''.

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

Subsec. (d)(1)(B). Pub. L. 95–600, § 703(a)(3), substituted ''section 46(a)(6)'' for ''section 46(a)(5)''.

Subsec. (d)(4)(D). Pub. L. 95–600, § 703(a)(4), substituted ''section 57(c)(1)(B)'' for ''section 57(c)(2)''.

Subsec. (g). Pub. L. 95–600, § 315(b), added subsec. (g).

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

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

Subsec. (j). Pub. L. 95–600, § 312(c)(1), struck out subsec. (j) which defined ''suspension period''.

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

Subsec. (n). Pub. L. 95–618, § 301(b), redesignated former subsec. (*l*) as (n).

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

Subsec. (*o*). Pub. L. 95–600, § 141(b), added subsec. (*o*).

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

1976—Subsec. (a)(2)(B)(vi). Pub. L. 94–455, § 1901(a)(5)(A), substituted ''(43 U.S.C. 1331))'' for ''; 43 U.S.C., sec. 1331)''.

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

Subsec. (a)(2)(B)(viii). Pub. L. 94–455, § 1901(a)(5)(B), substituted ''47 U.S.C. 702'' for ''47 U.S.C., sec. 702''.

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

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

Subsec. (f). Pub. L. 94–455, § 802(b)(6), substituted ''section 46(a)(3)'' for ''section 46(a)(2)''.

Subsec. (i)(2). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsecs. (k), (*l*). Pub. L. 94–455, § 804(a), added subsec. (k) and redesignated former subsec. (k) as subsec. (*l*).

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

Subsec. (c)(2)(A). Pub. L. 94–12 § 301(c)(1)(A), substituted ''$100,000'' for ''$50,000''.

Subsec. (c)(2)(B). Pub. L. 94–12, § 301(c)(1)(A), (B), substituted ''$50,000'' for ''$25,000'' and ''$100,000'' for ''$50,000''.

Subsec. (c)(2)(C). Pub. L. 94–12, § 301(c)(1)(A), substituted ''$100,000'' for ''$50,000''.

Subsec. (d)(1), (2)(A). Pub. L. 94–12, § 302(c)(3), substituted ''section 46(e)(1)'' for ''section 46(d)(1)''.

1971—Subsec. (a)(1). Pub. L. 92–178, § 102(a)(2), substituted ''3 years'' for ''4 years'' in second sentence.

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

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

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

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

Subsec. (a)(6). Pub. L. 92–178, § 104(e), substituted provisions for treatment of livestock (other than horses) acquired by the taxpayer as section 38 property, with exception provision for reduction of acquisition cost by

amount equal to amount realized on sale or other disposition under certain circumstances, and for nontreatment of horses as section 38 property for former provision that livestock shall not be treated as section 38 property.

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

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

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

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

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

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

1967—Subsec. (a)(2)(B)(i). Pub. L. 90–26, §3, inserted ''or is operated under contract with the United States'' after ''the United States''.

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

Subsec. (j). Pub. L. 90–26, §1, substituted ''March 9, 1967'' for ''December 31, 1967''.

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

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

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

1964—Subsec. (a)(1)(C). Pub. L. 88–272, §203(c)(2), added subpar. (C).

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

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

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by section 13101(d), (e)(2)(B), (3) of Pub. L. 117–169 applicable to facilities placed in service after Dec. 31, 2021, see section 13101(k)(1) of Pub. L. 117–169, set out in a note under section 45 of this title.

Amendment by section 13102(a)–(e), (k), (p) of Pub. L. 117–169 applicable to property placed in service after Dec. 31, 2021, see section 13102(q)(1) of Pub. L. 117–169, set out in a note under section 45 of this title.

Amendment by section 13102(f)(3), (g), (h), (j), (*l*), (*o*) of Pub. L. 117–169 applicable to property placed in service after Dec. 31, 2022, see section 13102(q)(2) of Pub. L. 117–169, set out in a note under section 45 of this title.

Amendment by section 13102(m) of Pub. L. 117–169 applicable to property the construction of which begins after Aug. 16, 2022, see section 13102(q)(3) of Pub. L. 117–169, set out in a note under section 45 of this title.

Pub. L. 117–169, title I, §13103(b), Aug. 16, 2022, 136 Stat. 1924, provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 2023.''

Pub. L. 117–169, title I, §13204(c)(3), Aug. 16, 2022, 136 Stat. 1941, provided that: ''The amendments made by this subsection [amending this section] shall apply to property placed in service after December 31, 2022, and, for any property the construction of which begins prior to January 1, 2023, only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 2022.''

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by section 131 of Pub. L. 116–260 effective Jan. 1, 2021, see section 131(d) of div. EE of Pub. L. 116–260, set out as a note under section 45 of this title.

Pub. L. 116–260, div. EE, title I, §132(c), Dec. 27, 2020, 134 Stat. 3053, provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 2020.''

Pub. L. 116–260, div. EE, title II, §203(e), Dec. 27, 2020, 134 Stat. 3057, provided that: ''The amendments made by this section [amending this section] shall apply to periods after December 31, 2020, under rules similar to the rules of section 48(m) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990 [Nov. 5, 1990].''

Pub. L. 116–260, div. EE, title II, §204(b), Dec. 27, 2020, 134 Stat. 3058, provided that: ''The amendment made by this section [amending this section] shall apply to periods after December 31, 2016, 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]).''

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116–94 effective on Jan. 1, 2018, see section 127(d) of Pub. L. 116–94, set out as a note under section 45 of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 40409(b) of Pub. L. 115–123 effective on Jan. 1, 2017, see section 40409(c) of Pub. L. 115–123, set out as a note under section 45 of this title.

Pub. L. 115–123, div. D, title I, §40411(g), Feb. 9, 2018, 132 Stat. 151, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section] shall apply to periods after December 31, 2016, 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) EXTENSION OF COMBINED HEAT AND POWER SYSTEM PROPERTY.—The amendment made by subsection (e) [amending this section] shall apply to property placed in service after December 31, 2016.

''(3) PHASEOUTS AND TERMINATIONS.—The amendments made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Feb. 9, 2018].''

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. P, title III, § 302(c), Dec. 18, 2015, 129 Stat. 3039, provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 2015.''

Pub. L. 114–113, div. P, title III, § 303(d), Dec. 18, 2015, 129 Stat. 3039, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 18, 2015].''

Amendment by section 187(b) of Pub. L. 114–113 effective Jan. 1, 2015, see section 187(c) of Pub. L. 114–113, set out as a note under section 45 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 155(b) of Pub. L. 113–295 effective Jan. 1, 2014, see section 155(c) of Pub. L. 113–295, set out as a note under section 45 of this title.

Amendment by section 209(d) of Pub. L. 113–295 effective as if included in the provisions of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. 111–5, div. B, title I, to which such amendment relates, see section 209(k) of Pub. L. 113–295, set out as a note under section 24 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–240 effective on Jan. 2, 2013, and amendment by section 407(c)(1) of Pub. L. 112–240 applicable as if included in the enactment of the provisions of the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5, to which it relates, see section 407(d) of Pub. L. 112–240, set out as a note under section 45 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–5, div. B, title I, § 1102(b), Feb. 17, 2009, 123 Stat. 320, provided that: ''The amendments made by this section [amending this section] shall apply to facilities placed in service after December 31, 2008.''

Amendment by section 1103(a), (b)(1) of Pub. L. 111–5 applicable to periods after Dec. 31, 2008, under rules similar to the rules of subsec. (m) of this section as in effect on the day before Nov. 5, 1990, see section 1103(c)(1) of Pub. L. 111–5, set out as a note under section 25C of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. B, title I, § 103(f), Oct. 3, 2008, 122 Stat. 3813, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and section 38 of this title] shall take effect on the date of the enactment of this Act [Oct. 3, 2008].

''(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) [amending section 38 of this title] shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

''(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) [amending this section] shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, 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]).

''(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) [amending this section] shall apply to periods after February 13, 2008, in taxable years ending after such date, 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).''

Pub. L. 110–343, div. B, title I, § 104(e), Oct. 3, 2008, 122 Stat. 3814, provided that: ''The amendments made by this section [amending this section] shall apply to periods after the date of the enactment of this Act [Oct. 3, 2008], in taxable years ending after such date, 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]).''

Pub. L. 110–343, div. B, title I, § 105(b), Oct. 3, 2008, 122 Stat. 3814, provided that: ''The amendments made by this section [amending this section] shall apply to periods after the date of the enactment of this Act [Oct. 3, 2008], in taxable years ending after such date, 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]).''

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title XIII, § 1336(e), Aug. 8, 2005, 119 Stat. 1038, provided that: ''The amendments made by this section [amending this section] shall apply to periods after December 31, 2005, in taxable years ending after such date, 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]).''

Pub. L. 109–58, title XIII, § 1337(d), Aug. 8, 2005, 119 Stat. 1038, provided that: ''The amendments made by this section [amending this section] shall apply to periods after December 31, 2005, in taxable years ending after such date, 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]).''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 322(d)(2)(A), (B) of Pub. L. 108–357 applicable with respect to expenditures paid or incurred after Oct. 22, 2004, see section 322(e) of Pub. L. 108–357, set out as a note under section 46 of this title.

Amendment by section 710(e) of Pub. L. 108–357 applicable, except as otherwise provided, to electricity produced and sold after Oct. 22, 2004, in taxable years ending after such date, see section 710(g) of Pub. L. 108–357, as amended, set out as a note under section 45 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–486, title XIX, § 1916(b), Oct. 24, 1992, 106 Stat. 3024, provided that: ''The amendments made by this section [amending this section] shall take effect on June 30, 1992.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11813(a) of Pub. L. 101–508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101–508, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

If any interest costs incurred after Dec. 31, 1986, are attributable to costs incurred before Jan. 1, 1987, the amendment by section 803(b)(2)(B) of Pub. L. 99–514 is applicable to such interest costs only to the extent such interest costs are attributable to costs which were required to be capitalized under section 263 of the Internal Revenue Code of 1954 and which would have been taken into account in applying section 189 of the Internal Revenue Code of 1954 (as in effect before its repeal by section 803 of Pub. L. 99–514) or, if applicable, section 266 of such Code, see section 7831(d)(2) of Pub. L. 101–239, set out as an Effective Date note under section 263A of this title.

Amendment by section 251(b), (c) of Pub. L. 99–514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, except as otherwise provided for certain rehabilitations, see section 251(d) of Pub. L. 99–514, set out as a note under section 46 of this title.

Amendment by section 701(e)(4)(C) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99–514, set out as an Effective Date note under section 55 of this title.

Amendment by section 803(b)(2)(B) of Pub. L. 99–514 applicable to costs incurred after Dec. 31, 1986, in taxable years ending after such date, except as otherwise provided, see section 803(d) of Pub. L. 99–514, set out as an Effective Date note under section 263A of this title.

Amendment by sections 1272(d)(5) and 1275(c)(5) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99–514, set out as a note under section 931 of this title.

Amendment by section 1511(c)(3) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Pub. L. 99–514, title XVIII, §1879(j)(2), Oct. 22, 1986, 100 Stat. 2909, provided that: ''The amendments made by this subsection [amending this section] shall apply to periods after December 31, 1978 (under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954 [now 1986]), in taxable years ending after such date.''

Pub. L. 99–514, title XVIII, §1881, Oct. 22, 1986, 100 Stat. 2914, provided that: ''Except as otherwise provided in this subtitle, any amendment made by this subtitle [subtitle A (§§1801–1881) of title XVIII of Pub. L. 99–514, see Tables for classification] shall take effect as if included in the provision of the Tax Reform Act of 1984 [Pub. L. 98–369, div. A] to which such amendment relates.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–121 applicable with respect to property placed in service by the taxpayer after May 8, 1985, with specified exceptions, but amendment of subsec. (g)(2)(B)(v) not applicable to leases entered into before May 22, 1985, if the lessee signed the lease before May 17, 1985, see section 105(b)(1), (5) of Pub. L. 99–121, set out as a note under section 168 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–369, div. A, title I, §18, July 18, 1984, 98 Stat. 506, provided that:

''(a) GENERAL RULE.—The amendments made by this part [part I (§§11–18) of subtitle A of title I of div. A of Pub. L. 98–369, amending this section and sections 41, 46, 57, 128, 168, 179, 265, 415, 854, 857, and 911 of this title, enacting provisions set out as a note under section 168 of this title, and amending provisions set out as notes under sections 128 and 168 of this title] shall apply to taxable years ending after December 31, 1983.

''(b) SPECIAL RULE FOR SECTION 14.—The amendment made by section 14 [amending section 41 of this title] shall not apply in the case of a tax credit employee stock ownership plan if—

''(1) such plan was favorably approved on September 23, 1983, by employees, and

''(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan.''

Amendment by section 31(b), (c)(1) of Pub. L. 98–369 effective, except as otherwise provided in section 31(g) of Pub. L. 98–369, as to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date and to property placed in service by the taxpayer on or before May 23, 1983, if the lease to the tax-exempt entity is entered into after May 23, 1983, and amendment by section 31(c)(2) of Pub. L. 98–369, to the extent it relates to section 168(f)(12) of this title, effective as if it had been included in the amendments to section 168 of this title by section 216(a) of Pub. L. 97–248, see section 31(g)(1), (12) of Pub. L. 98–369, set out as a note under section 168 of this title.

Amendment by section 111(e)(8) of Pub. L. 98–369 applicable with respect to property placed in service by the taxpayer after Mar. 15, 1984, subject to certain exceptions, see section 111(g) of Pub. L. 98–369, set out as a note under section 168 of this title.

Amendment by section 113(b)(3) of Pub. L. 98–369 applicable as if included in the amendments made by sections 201(a), 211(a)(1), and 211(f)(1) of Pub. L. 97–34, which enacted section 168 and amended section 46 of this title, see section 113(c)(2)(B) of Pub. L. 98–369, set out as a note under section 168 of this title.

Amendment by section 113(b)(4) of Pub. L. 98–369 applicable as if included in the amendments made by section 205(a)(1) of Pub. L. 97–248, see section 113(c)(2)(C) of Pub. L. 98–369, set out as a note under section 168 of this title.

Pub. L. 98–369, div. A, title I, §113(c)(1), July 18, 1984, 98 Stat. 637, provided that: ''The amendments made by subsection (a) [amending this section and section 168 of this title] shall apply to property placed in service after March 15, 1984, in taxable years ending after such date.''

Pub. L. 98–369, div. A, title I, §114(b), July 18, 1984, 98 Stat. 638, provided that: ''The amendment made by this section [amending this section] shall apply to property originally placed in service after April 11, 1984 (determined without regard to such amendment).''

Amendment by section 431(c) of Pub. L. 98–369 applicable to property placed in service after July 18, 1984, in taxable years ending after such date, but not applicable to property to which sections 46(c)(8), (9) and 47(d) of this title, as enacted by section 211(f) of Pub. L. 97–34, do not apply, with the taxpayer having an option to elect retroactive application of amendment by Pub. L. 98–369, see section 431(e) of Pub. L. 98–369, set out as a note under section 46 of this title.

Amendment by section 474(*o*)(10)–(18) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Pub. L. 98–369, div. A, title IV, §474(*o*)(15), July 18, 1984, 98 Stat. 837, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Subsection (n) of section 48 (relating to requirements for allowance of employee plan percentage) is hereby repealed; except that paragraph (4) of section 48(n) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as in effect before its repeal by this paragraph) shall continue to apply in the case of any recapture under section 47(f) of such Code of a credit allowable for a taxable year beginning before January 1, 1984.''

Amendment by section 712(b) of Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

Amendment by section 721(x)(1) of Pub. L. 98–369 effective as if included in the Subchapter S Revision Act of 1982, Pub. L. 97–354, see section 721(y)(1) of Pub. L. 98–369, set out as a note under section 1361 of this title.

Amendment by section 735(c)(1) of Pub. L. 98–369 effective, except as otherwise provided, as if included in

the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

Pub. L. 98–369, div. A, title X, §1043(b), July 18, 1984, 98 Stat. 1044, provided that: ''The amendments made by this section [amending this section] shall apply to expenditures incurred after December 31, 1983, in taxable years ending after such date.''

EFFECTIVE DATE OF 1983 AMENDMENT

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

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

Amendment by section 306(a)(3) of Pub. L. 97–448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 311(d) of Pub. L. 97–448, set out as a note under section 31 of this title.

EFFECTIVE AND TERMINATION DATES OF 1982 AMENDMENT

Pub. L. 97–362, title I, §104(b), Oct. 25, 1982, 96 Stat. 1729, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendment made by this section [amending this section] shall apply to periods beginning after December 31, 1980, and before January 1, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].''

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

Amendment by section 205(a)(1), (4), (5)(A) of Pub. L. 97–248, applicable to periods after Dec. 31, 1982, under rules similar to the rules of subsec. (m) of this section, with certain exceptions and qualifications, see section 205(c)(1) of Pub. L. 97–248, set out as an Effective Date note under section 196 of this title.

Amendment by section 209(c) of Pub. L. 97–248 applicable to property placed in service after Dec. 31, 1983, but not to qualified leased property described in section 168(f)(8)(D)(v) of this title which is placed in service before Jan. 1, 1988, or is placed in service after such date pursuant to a binding contract or commitment entered into before April 1, 1983, and solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee, see sections 208(d)(5) and 209(d)(2) of Pub. L. 97–248, set out as notes under section 168 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–34, title II, §213(b), Aug. 13, 1981, 95 Stat. 240, as amended by Pub. L. 97–448, title I, §102(g), Jan. 12, 1983, 96 Stat. 2372, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1980.''

Pub. L. 97–34, title II, §214(c), Aug. 13, 1981, 95 Stat. 241, provided that: ''The amendments made by this section [amending this section] shall apply to uses after July 29, 1980, in taxable years ending after such date.''

Pub. L. 97–34, title III, §332(c)(2), Aug. 13, 1981, 95 Stat. 296, provided that: ''The amendment made by subsection (b) [amending this section] shall apply to qualified investments made after December 31, 1981.''

Amendment by section 211(a)(2), (e)(3), (4) of Pub. L. 97–34 applicable to property placed in service after Dec. 31, 1980, see section 211(i)(1) of Pub. L. 97–34, set out as a note under section 46 of this title.

Amendment by section 211(c) of Pub. L. 97–34 applicable to periods after Dec. 31, 1980, under rules similar to the rules under subsec. (m) of this section, see section 211(i)(3) of Pub. L. 97–34, set out as a note under section 46 of this title.

Amendment by section 211(h) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1980, see section 211(i)(6) of Pub. L. 97–34, set out as a note under section 46 of this title.

Amendment by section 212(a)(3), (b), (c), (d)(2)(A) of Pub. L. 97–34 applicable to expenditures incurred after Dec. 31, 1981, in taxable years ending after such date, see section 212(e) of Pub. L. 97–34, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–605, title I, §109(b), Dec. 28, 1980, 94 Stat. 3525, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1979.''

Pub. L. 96–605, title II, §223(b), Dec. 28, 1980, 94 Stat. 3528, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1980.''

Pub. L. 96–451, title III, §302(b), Oct. 14, 1980, 94 Stat. 1991, provided that: ''The amendments made by this section [amending this section] shall apply with respect to additions to capital account made after December 31, 1979.''

Pub. L. 96–223, title II, §222(j), Apr. 2, 1980, 94 Stat. 266, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 46 of this title] shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

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

Pub. L. 96–223, title II, §223(a)(2), Apr. 2, 1980, 94 Stat. 266, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].''

Pub. L. 96–223, title II, §223(c)(2), Apr. 2, 1980, 94 Stat. 267, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].''

''(B) EARLIER APPLICATION FOR CERTAIN PROPERTY.—In the case of property which is—

''(i) qualified hydroelectric generating property (described in section 48(*l*)(2)(A)(vii) of such Code),

''(ii) cogeneration equipment (described in section 48(*l*)(2)(A)(viii) of such Code),

''(iii) qualified intercity buses (described in section 48(*l*)(2)(A)(ix) of such Code),

''(iv) ocean thermal property (described in section 48(*l*)(3)(A)(ix) of such Code), or

''(v) expanded energy credit property,

the amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986.

''(C) EXPANDED ENERGY CREDIT PROPERTY.—For purposes of subparagraph (B), the term 'expanded energy credit property' means—

''(i) property to which section 48(*l*)(3)(A) of such Code applies because of the amendments made by

paragraphs (1) and (2) of section 222(b) [amending this section],

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

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

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

''(D) FINANCING TAKEN INTO ACCOUNT.—For the purpose of applying the provisions of section 48(*l*)(11) of such Code in the case of property financed in whole or in part by subsidized energy financing (within the meaning of section 48(*l*)(11)(C) of such Code), no financing made before January 1, 1980, shall be taken into account. The preceding sentence shall not apply to financing provided from the proceeds of any tax exempt industrial development bond (within the meaning of section 103(b)(2) of such Code).''

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

Pub. L. 96–222, title I, §108(c)(7), Apr. 1, 1980, 94 Stat. 228, provided that: ''Any amendment made by this subsection [amending sections 4071, 4221, 6416, and 6421 of this title] shall take effect as if included in the provision of the Energy Tax Act of 1978 [See Short Title of 1978 Amendment note set out under section 1 of this title] to which such amendment relates; except that the amendment made by paragraph (6) [amending this section] shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act [Apr. 1, 1980].''

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–618, title III, §301(d)(4), Nov. 9, 1978, 92 Stat. 3200, provided that:

''(A) IN GENERAL.—The amendments made by this subsection [amending this section and section 167 of this title] shall apply to property which is placed in service after September 30, 1978.

''(B) BINDING CONTRACTS.—The amendments made by this subsection [amending this section and section 167 of this title] shall not apply to property which is constructed, reconstructed, erected, or acquired pursuant to a contract which, on October 1, 1978, and at all times thereafter, was binding on the taxpayer.''

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

Amendment by section 312(c)(1), (2), (3) of Pub. L. 95–600 applicable to taxable years ending after Dec. 31, 1978, see section 312(d) of Pub. L. 95–600, set out as a note under section 46 of this title.

Pub. L. 95–600, title III, §314(c), Nov. 6, 1978, 92 Stat. 2828, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply to taxable years ending after August 15, 1971.''

Pub. L. 95–600, title III, §315(d), Nov. 6, 1978, 92 Stat. 2829, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years ending after October 31, 1978; except that the amendment made by subsection (c) shall only apply with respect to property placed in service after such date.''

Amendment by section 703(a)(3), (4) of Pub. L. 95–600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95–600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 802(b)(6) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1975, see section 802(c) of Pub. L. 94–455, set out as a note under section 46 of this title.

Pub. L. 94–455, title VIII, §804(e), Oct. 4, 1976, 90 Stat. 1596, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section and section 47 of this title] shall apply to taxable years beginning after December 31, 1974.

''(2) ELECTION MAY ALSO APPLY TO PROPERTY DESCRIBED IN SECTION 50(a).—At the election of the taxpayer, made within 1 year after the date of the enactment of this Act [Oct. 4, 1976] in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, the amendments made by subsections (a) and (b) shall also apply to property which is property described in section 50(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] and which is placed in service in taxable years beginning before January 1, 1975.''

Amendment by section 1051(h)(1) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1975 with certain exceptions, see section 1051(i) of Pub. L. 94–455, set out as a note under section 27 of this title.

Amendment by section 1901(a)(5), (b)(11)(A) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Amendment by section 2112(a) of Pub. L. 94–455 applicable to property acquired by the taxpayer after Dec. 31, 1976, and property, the construction, reconstruction, or erection of which was completed by the taxpayer after Dec. 31, 1976, (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date), in taxable years beginning after such date, see section 2112(d)(1) of Pub. L. 94–455, set out as a note under section 46 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Pub. L. 94–12, title III, §301(c)(2), Mar. 29, 1975, 89 Stat. 38, as amended by Pub. L. 94–455, title VIII, §801, Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95–600, title III, §311(b), Nov. 6, 1978, 92 Stat. 2824, provided that: ''The amendments made by paragraph (1) [amending this section] shall apply only to taxable years beginning after December 31, 1974.''

Amendment by section 302(c)(3) of Pub. L. 94–12 applicable to taxable years ending after Dec. 31, 1974, see section 305(a) of Pub. L. 94–12, set out as an Effective Date of 1975 Amendment note under section 46 of this title.

Pub. L. 94–12, title VI, §604(b), Mar. 29, 1975, 89 Stat. 65, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by subsection (a) [amending this section] shall apply to property, the construction, reconstruction, or erection of which was completed after March 18, 1975, or the acquisition of which by the taxpayer occurred after such date.

''(2) BINDING CONTRACT.—The amendments made by subsection (a) [amending this section] shall not apply to property constructed, reconstructed, erected, or acquired pursuant to a contract which was on April 1, 1974, and at all times thereafter, binding on the taxpayer.

''(3) CERTAIN LEASE-BACK TRANSACTIONS, ETC.—Where a person who is a party to a binding contract described in paragraph (2) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (2), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under section 48(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], only if a party to such contract retains a right to use the property under a long-term lease.''

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92–178, title I, § 104(h), Dec. 10, 1971, 85 Stat. 503, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and sections 169 and 1245 of this title] (other than by subsections (c)(1), (c)(2), and (g) [amending this section]) shall apply to property described in section 50 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]. The amendments made by subsections (c)(1), (c)(2), and (g) [amending this section] shall apply to taxable years ending after December 31, 1961.''

Amendment by section 108(b), (c) of Pub. L. 92–178, applicable to leases entered into after Sept. 22, 1971, and after Nov. 8, 1971, respectively, see section 108(d) of Pub. L. 92–178, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 121(d)(2)(A) of Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91–172, set out as a note under section 511 of this title.

Amendment by section 401(e)(2)–(4) of Pub. L. 91–172 applicable with respect to taxable years ending on or after Dec. 31, 1970, see section 401(h)(3) of Pub. L. 91–172, set out as a note under section 1561 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90–26, § 4, June 13, 1967, 81 Stat. 58, provided that: ''The amendments made by the first three sections of this Act [amending this section and section 167 of this title] shall apply to taxable years ending after March 9, 1967.''

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–809, title II, § 201(b), Nov. 13, 1966, 80 Stat. 1576, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to taxable years ending after December 31, 1965, but only with respect to property placed in service after such date. In applying section 46(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to carryback and carryover of unused credits), the amount of any investment credit carryback to any taxable year ending on or before December 31, 1965, shall be determined without regard to the amendments made by this section.''

Amendment by Pub. L. 89–800 applicable to taxable years ending after Oct. 9, 1966, see section 4 of Pub. L. 89–800, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88–272, title II, § 203(a)(4), Feb. 26, 1964, 78 Stat. 34, provided that: ''Paragraphs (1) [amending this section] and (3) [amending this section and section 1016 of this title and repealing section 181 of this title] of this subsection shall apply—

''(A) in the case of property placed in service after December 31, 1963, with respect to taxable years ending after such date, and

''(B) in the case of property placed in service before January 1, 1964, with respect to taxable years beginning after December 31, 1963.''

Pub. L. 88–272, title II, § 203(f), Feb. 26, 1964, 78 Stat. 35, provided that:

''(1) The amendments made by subsection (b) [amending this section] shall apply with respect to property possession of which is transferred to a lessee on or after the date of enactment of this Act [Feb. 26, 1964].

''(2) The amendments made by subsection (c) [amending this section] shall apply with respect to taxable years ending after June 30, 1963.

''(3) The amendments made by subsection (d) [amending section 1245 of this title] shall apply with respect to dispositions after December 31, 1963, in taxable years ending after such date.''

EFFECTIVE DATE

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

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

TRANSFER OF FUNCTIONS

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

GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS

Pub. L. 111–5, div. B, title I, § 1603, Feb. 17, 2009, 123 Stat. 364, as amended by Pub. L. 111–312, title VII, § 707, Dec. 17, 2010, 124 Stat. 3312; Pub. L. 112–81, div. A, title X, § 1096(a), Dec. 31, 2011, 125 Stat. 1608; Pub. L. 112–240, title IV, § 407(c)(2), Jan. 2, 2013, 126 Stat. 2342, provided that:

''(a) IN GENERAL.—Upon application, the Secretary of the Treasury shall, subject to the requirements of this section, provide a grant to each person who places in service specified energy property to reimburse such person for a portion of the expense of such property as provided in subsection (b). No grant shall be made under this section with respect to any property unless such property—

''(1) is originally placed in service by such person during 2009, 2010, or 2011, or

''(2) is originally placed in service by such person after 2011 and before the credit termination date with respect to such property, but only if the construction of such property began during 2009, 2010, or 2011.

''(b) GRANT AMOUNT.—

''(1) IN GENERAL.—The amount of the grant under subsection (a) with respect to any specified energy property shall be the applicable percentage of the basis of such property.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 30 percent in the case of any property described in paragraphs (1) through (4) of subsection (d), and

''(B) 10 percent in the case of any other property.

''(3) DOLLAR LIMITATIONS.—In the case of property described in paragraph (2), (6), or (7) of subsection (d), the amount of any grant under this section with respect to such property shall not exceed the limitation described in section 48(c)(1)(B), 48(c)(2)(B), or 48(c)(3)(B) of the Internal Revenue Code of 1986, respectively, with respect to such property.

''(c) TIME FOR PAYMENT OF GRANT.—The Secretary of the Treasury shall make payment of any grant under subsection (a) during the 60-day period beginning on the later of—

''(1) the date of the application for such grant, or

''(2) the date the specified energy property for which the grant is being made is placed in service.

''(d) SPECIFIED ENERGY PROPERTY.—For purposes of this section, the term 'specified energy property' means any of the following:

''(1) QUALIFIED FACILITIES.—Any qualified property (as defined in section 48(a)(5)(D) of the Internal Rev-

enue Code of 1986) which is part of a qualified facility (within the meaning of section 45 of such Code) described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d) of such Code.

''(2) QUALIFIED FUEL CELL PROPERTY.—Any qualified fuel cell property (as defined in section 48(c)(1) of such Code).

''(3) SOLAR PROPERTY.—Any property described in clause (i) or (ii) of section 48(a)(3)(A) of such Code.

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY.—Any qualified small wind energy property (as defined in section 48(c)(4) of such Code).

''(5) GEOTHERMAL PROPERTY.—Any property described in clause (iii) of section 48(a)(3)(A) of such Code.

''(6) QUALIFIED MICROTURBINE PROPERTY.—Any qualified microturbine property (as defined in section 48(c)(2) of such Code).

''(7) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Any combined heat and power system property (as defined in section 48(c)(3) of such Code).

''(8) GEOTHERMAL HEAT PUMP PROPERTY.—Any property described in clause (vii) of section 48(a)(3)(A) of such Code.

Such term shall not include any property unless depreciation (or amortization in lieu of depreciation) is allowable with respect to such property.

''(e) CREDIT TERMINATION DATE.—For purposes of this section, the term 'credit termination date' means—

''(1) in the case of any specified energy property which is part of a facility described in paragraph (1) of section 45(d) of the Internal Revenue Code of 1986, January 1, 2013,

''(2) in the case of any specified energy property which is part of a facility described in paragraph (2), (3), (4), (6), (7), (9), or (11) of section 45(d) of such Code, January 1, 2014, and

''(3) in the case of any specified energy property described in section 48 of such Code, January 1, 2017.

In the case of any property which is described in paragraph (3) and also in another paragraph of this subsection, paragraph (3) shall apply with respect to such property.

''(f) APPLICATION OF CERTAIN RULES.—In making grants under this section, the Secretary of the Treasury shall apply rules similar to the rules of section 50 of the Internal Revenue Code of 1986 (other than subsection (d)(2) thereof). In applying such rules, if the property is disposed of, or otherwise ceases to be specified energy property, the Secretary of the Treasury shall provide for the recapture of the appropriate percentage of the grant amount in such manner as the Secretary of the Treasury determines appropriate.

''(g) EXCEPTION FOR CERTAIN NON-TAXPAYERS.—The Secretary of the Treasury shall not make any grant under this section to—

''(1) any Federal, State, or local government (or any political subdivision, agency, or instrumentality thereof),

''(2) any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

''(3) any entity referred to in paragraph (4) of [former] section 54(j) of such Code, or

''(4) any partnership or other pass-thru entity any partner (or other holder of an equity or profits interest) of which is described in paragraph (1), (2) or (3).

''(h) DEFINITIONS.—Terms used in this section which are also used in section 45 or 48 of the Internal Revenue Code of 1986 shall have the same meaning for purposes of this section as when used in such section 45 or 48. Any reference in this section to the Secretary of the Treasury shall be treated as including the Secretary's delegate.

''(i) APPROPRIATIONS.—There is hereby appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this section.

''(j) TERMINATION.—The Secretary of the Treasury shall not make any grant to any person under this section unless the application of such person for such grant is received before October 1, 2012.''

[Pub. L. 112–81, div. A, title X, §1096(b), Dec. 31, 2011, 125 Stat. 1608, provided that: ''The amendment made by this section [amending section 1603 of Pub. L. 111–5, set out above] shall take effect as if included in section 1603 of the American Recovery and Reinvestment Tax Act of 2009 [Pub. L. 111–5].'']

### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

### APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99–514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(e)(4)(C) of Pub. L. 99–514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100–647 be treated as if it had been included in the provision of Pub. L. 99–514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100–647, set out as a note under section 861 of this title.

### SPECIAL RULE

Pub. L. 99–514, title XVIII, §1879(j)(3), Oct. 22, 1986, 100 Stat. 2909, provided that: ''If refund or credit of any overpayment of tax resulting from the application of this subsection [amending this section] is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of the amendments made by this subsection [amending this section]) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.''

### CLARIFICATION OF EFFECT OF 1984 AMENDMENT ON INVESTMENT TAX CREDIT

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

### ALTERNATIVE METHODS OF COMPUTING CREDIT FOR PAST PERIODS

Pub. L. 94–455, title VIII, §804(c), Oct. 4, 1976, 90 Stat. 1594, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) GENERAL RULE FOR DETERMINING USEFUL LIFE, PREDOMINANT FOREIGN USE, ETC.—In the case of a qualified film (within the meaning of section 48(k)(1)(B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) placed in service in a taxable year beginning before January 1, 1975, with respect to which neither an election under paragraph (2) of this subsection nor an election under subsection (e)(2) applies—

''(A) the applicable percentage under section 46(c)(2) of such Code shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 of such Code would equal or exceed 90 percent of the basis of such property (adjusted for any partial dispositions),

''(B) for purposes of section 46(c)(1) of such Code, the basis of the property shall be determined by

taking into account the total production costs (within the meaning of section 48(k)(5)(B) of such Code),

''(C) for purposes of section 48(a)(2) of such Code, such film shall be considered to be used predominantly outside the United States in the first taxable year for which 50 percent or more of the gross revenues received or accrued during the taxable year from showing the film were received or accrued from showing the film outside the United States, and

''(D) Section 47(a)(7) of such Code shall apply.

''(2) ELECTION OF 40-PERCENT METHOD.—

''(A) IN GENERAL.—A taxpayer may elect to have this paragraph apply to all qualified films placed in service during taxable years beginning before January 1, 1975 (other than films to which an election under subsection (e)(2) of this section applies).

''(B) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph, then section 48(k) of the Internal Revenue Code of 1986 shall apply to all qualified films described in subparagraph (A) with the following modifications:

''(i) subparagraph (B) of paragraph (4) shall not apply, but in determining qualified investment under section 46(c)(1) of such Code there shall be used (in lieu of the basis of such property) an amount equal to 40 percent of the aggregate production costs (within the meaning of paragraph (5)(B) of such section 48(k)),

''(ii) paragraph (2) shall be applied by substituting '100 percent' for '66⅔ percent', and

''(iii) paragraph (3) and paragraph (5) (other than subparagraph (B)) shall not apply.

''(C) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act [Oct. 4, 1976] and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Such an election may be revoked only with the consent of the Secretary of the Treasury or his delegate.

''(D) THE TAXPAYER MUST CONSENT TO JOIN IN CERTAIN PROCEEDINGS.—No election may be made under this paragraph or subsection (e)(2) by any taxpayer unless he consents, under regulations prescribed by the Secretary of the Treasury or his delegate, to treat the determination of the investment credit allowable on each film subject to an election as a separate cause of action, and to join in any judicial proceeding for determining the person entitled to, and the amount of, the credit allowable under section 38 of the Internal Revenue Code of 1986 with respect to any film covered by such election.

''(3) ELECTION TO HAVE CREDIT DETERMINED IN ACCORDANCE WITH PREVIOUS LITIGATION.—

''(A) IN GENERAL.—A taxpayer described in subparagraph (B) may elect to have this paragraph apply to all films (whether or not qualified) placed in service in taxable years beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made.

''(B) WHO MAY ELECT.—A taxpayer may make an election under this paragraph if he has filed an action in any court of competent jurisdiction, before January 1, 1976, for a determination of such taxpayer's rights to the allowance of a credit against tax under section 38 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1975, with respect to any film.

''(C) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph—

''(i) paragraphs (1) and (2) of this subsection, and subsection (d) shall not apply to any film placed in service by the taxpayer, and

''(ii) subsection 48(k) of the Internal Revenue Code of 1986 shall not apply to any film placed in service by the taxpayer in any taxable year beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made,

and the right of the taxpayer to the allowance of a credit against tax under section 38 of such Code with respect to any film placed in service in any taxable year beginning before January 1, 1975, and as to which an election under subsection (e)(2) is not made, shall be determined as though this section (other than this paragraph) has not been enacted.

''(D) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 90 days after the date of the enactment of this Act [Oct. 4, 1976], by filing a notification of such election with the national office of the Internal Revenue Service. Such an election, once made, shall be irrevocable.''

ENTITLEMENT TO CREDIT

Pub. L. 94–455, title VIII, § 804(d), Oct. 4, 1976, 90 Stat. 1596, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Paragraph (1) of section 48(k) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to entitlement to credit) shall apply to any motion picture film or video tape placed in service in any taxable year beginning before January 1, 1975.''

INCREASE IN BASIS OF PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 1964

Pub. L. 88–272, title II, § 203(a)(2), Feb. 26, 1964, 78 Stat. 33, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(A) The basis of any section 38 property (as defined in section 48(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) placed in service before January 1, 1964, shall be increased, under regulations prescribed by the Secretary of the Treasury or his delegate, by an amount equal to 7 percent of the qualified investment with respect to such property under section 46(c) of the Internal Revenue Code of 1986. If there has been any increase with respect to such property under section 48(g)(2) of such Code, the increase under the preceding sentence shall be appropriately reduced therefor.

''(B) If a lessor made the election provided by section 48(d) of the Internal Revenue Code of 1986 with respect to property placed in service before January 1, 1964—

''(i) subparagraph (A) shall not apply with respect to such property, but

''(ii) under regulations prescribed by the Secretary of the Treasury or his delegate, the deductions otherwise allowable under section 162 of such Code to the lessee for amounts paid to the lessor under the lease (or, if such lessee has purchased such property, the basis of such property) shall be adjusted in a manner consistent with subparagraph (A).

''(C) The adjustments under this paragraph shall be made as of the first day of the taxpayer's first taxable year which begins after December 31, 1963.''

## § 48A. Qualifying advanced coal project credit

### (a) In general

For purposes of section 46, the qualifying advanced coal project credit for any taxable year is an amount equal to—

(1) 20 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(i),

(2) 15 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(ii), and

(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clause (iii) of subsection (d)(3)(B).

### (b) Qualified investment

#### (1) In general

For purposes of subsection (a), the qualified investment for any taxable year is the basis of