''(C) ADDITIONAL UNITS ELIGIBLE FOR CREDIT.—In the case of a building to which subparagraph (A) applies and which is part of a project which meets the requirements of subparagraph (D), for each low-income unit in such building which is occupied by individuals whose income is 30 percent or less of area median gross income, one additional unit (not otherwise a low-income unit) in such building shall be treated as a low-income unit for purposes of such section 42.

''(D) PROJECT DESCRIBED.—A project is described in this subparagraph if—

''(i) rents charged for units in such project are restricted by State regulations,

''(ii) the annual cash flow of such project is restricted by State law,

''(iii) the project is located on land owned by or ground leased from a public housing authority,

''(iv) construction of such project begins on or before December 31, 1986, and units within such project are placed in service on or before June 1, 1990, and

''(v) for a 20-year period, 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

''(E) MAXIMUM ADDITIONAL CREDIT.—The maximum present value of additional credits allowable under section 42 of such Code by reason of subparagraph (C) shall not exceed 25 percent of the eligible basis of the building.

''(2) ADDITIONAL ALLOCATION OF HOUSING CREDIT CEILING.—

''(A) IN GENERAL.—There is hereby allocated to each housing credit agency described in subparagraph (B) an additional housing credit dollar amount determined in accordance with the following table:

"For calendar year:	The additional allocation is:
1987	$3,900,000
1988	$7,600,000
1989	$1,300,000.

''(B) HOUSING CREDIT AGENCIES DESCRIBED.—The housing credit agencies described in this subparagraph are:

''(i) A corporate governmental agency constituted as a public benefit corporation and established in 1971 under the provisions of Article XII of the Private Housing Finance Law of the State.

''(ii) A city department established on December 20, 1979, pursuant to chapter XVIII of a municipal code of such city for the purpose of supervising and coordinating the formation and execution of projects and programs affecting housing within such city.

''(iii) The State housing finance agency referred to in subparagraph (C), but only with respect to projects described in subparagraph (C).

''(C) PROJECT DESCRIBED.—A project is described in this subparagraph if such project is a qualified low-income housing project which—

''(i) receives financing from a State housing finance agency from the proceeds of bonds issued pursuant to chapter 708 of the Acts of 1966 of such State pursuant to loan commitments from such agency made between May 8, 1984, and July 8, 1986, and

''(ii) is subject to subsidy commitments issued pursuant to a program established under chapter 574 of the Acts of 1983 of such State having award dates from such agency between May 31, 1984, and June 11, 1985.

''(D) SPECIAL RULES.—

''(i) Any building—

''(I) which is allocated any housing credit dollar amount by a housing credit agency described in clause (iii) of subparagraph (B), and

''(II) which is placed in service after June 30, 1986, and before January 1, 1987,

shall be treated for purposes of the amendments made by this section as placed in service on January 1, 1987.

''(ii) Section 42(c)(2)(B) of the Internal Revenue Code of 1986 shall not apply to any building which is allocated any housing credit dollar amount by any agency described in subparagraph (B).

''(E) ALL UNITS TREATED AS LOW INCOME UNITS IN CERTAIN CASES.—In the case of any building—

''(i) which is allocated any housing credit dollar amount by any agency described in subparagraph (B), and

''(ii) which after the application of subparagraph (D)(ii) is a qualified low-income building at all times during any taxable year,

such building shall be treated as described in section 42(b)(1)(B) of such Code and having an applicable fraction for such year of 1. The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building.

''(3) CERTAIN PROJECTS PLACED IN SERVICE BEFORE 1987.—

''(A) IN GENERAL.—In the case of a building which is part of a project described in subparagraph (B)—

''(i) section 42(c)(2)(B) of such Code shall not apply,

''(ii) such building shall be treated as placed in service during the first calendar year after 1986 and before 1990 in which such building is a qualified low-income building (determined after the application of clause (i)), and

''(iii) for purposes of section 42(h) of such Code, such building shall be treated as having allocated to it a housing credit dollar amount equal to the dollar amount appearing in the clause of subparagraph (B) in which such building is described.

''(B) PROJECT DESCRIBED.—A project is described in this subparagraph if the code number assigned to such project by the Farmers' Home Administration appears in the following table:

"The code number is:	The housing credit dollar amount is:
(i) 49284553664	$16,000
(ii) 4927742022446	$22,000
(iii) 49270742276087	$64,000
(iv) 490270742387293	$48,000
(v) 4927074218234	$32,000
(vi) 49270742274019	$36,000
(vii) 51460742345074	$53,000.

''(C) DETERMINATION OF ADJUSTED BASIS.—The adjusted basis of any building to which this paragraph applies for purposes of section 42 of such Code shall be its adjusted basis as of the close of the taxable year ending before the first taxable year of the credit period for such building.

''(D) CERTAIN RULES TO APPLY.—Rules similar to the rules of subparagraph (E) of paragraph (2) shall apply for purposes of this paragraph.

''(4) DEFINITIONS.—For purposes of this subsection, terms used in such subsection which are also used in section 42 of the Internal Revenue Code of 1986 (as added by this section) shall have the meanings given such terms by such section 42.

''(5) TRANSITIONAL RULE.—In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana—

''(A) the amendments made by this section [enacting this section and amending sections 38 and 55 of this title] shall not apply, and

''(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150.''

§ 43. Enhanced oil recovery credit

(a) General rule

For purposes of section 38, the enhanced oil recovery credit for any taxable year is an amount

equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year.

(b) Phase-out of credit as crude oil prices increase

(1) In general

The amount of the credit determined under subsection (a) for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as—

(A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds $28, bears to

(B) $6.

(2) Reference price

For purposes of this subsection, the term ''reference price'' means, with respect to any calendar year, the reference price determined for such calendar year under section 45K(d)(2)(C).

(3) Inflation adjustment

(A) In general

In the case of any taxable year beginning in a calendar year after 1991, there shall be substituted for the $28 amount under paragraph (1)(A) an amount equal to the product of—

(i) $28, multiplied by

(ii) the inflation adjustment factor for such calendar year.

(B) Inflation adjustment factor

The term ''inflation adjustment factor'' means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990. For purposes of the preceding sentence, the term ''GNP implicit price deflator'' means the first revision of the implicit price deflator for the gross national product as computed and published by the Secretary of Commerce. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

(c) Qualified enhanced oil recovery costs

For purposes of this section—

(1) In general

The term ''qualified enhanced oil recovery costs'' means any of the following:

(A) Any amount paid or incurred during the taxable year for tangible property—

(i) which is an integral part of a qualified enhanced oil recovery project, and

(ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable under this chapter.

(B) Any intangible drilling and development costs—

(i) which are paid or incurred in connection with a qualified enhanced oil recovery project, and

(ii) with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

(C) Any qualified tertiary injectant expenses (as defined in section 193(b)) which are paid or incurred in connection with a qualified enhanced oil recovery project and for which a deduction is allowable for the taxable year.

(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude,

(ii) prepares Alaska natural gas for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.

(2) Qualified enhanced oil recovery project

For purposes of this subsection—

(A) In general

The term ''qualified enhanced oil recovery project'' means any project—

(i) which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

(ii) which is located within the United States (within the meaning of section 638(1)), and

(iii) with respect to which the first injection of liquids, gases, or other matter commences after December 31, 1990.

(B) Certification

A project shall not be treated as a qualified enhanced oil recovery project unless the operator submits to the Secretary (at such times and in such manner as the Secretary provides) a certification from a petroleum engineer that the project meets (and continues to meet) the requirements of subparagraph (A).

(3) At-risk limitation

For purposes of determining qualified enhanced oil recovery costs, rules similar to the rules of section 49(a)(1), section 49(a)(2), and section 49(b) shall apply.

(4) Special rule for certain gas displacement projects

For purposes of this section, immiscible nonhydrocarbon gas displacement shall be treated as a tertiary recovery method under section 193(b)(3).

(5) Alaska natural gas

For purposes of paragraph (1)(D)—

(A) In general

The term ''Alaska natural gas'' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(16) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

(i) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

(ii) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

(B) Natural gas

The term ''natural gas'' has the meaning given such term by section 613A(e)(2).

(d) Other rules

(1) Disallowance of deduction

Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

(2) Basis adjustments

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

(e) Election to have credit not apply

(1) In general

A taxpayer may elect to have this section not apply for any taxable year.

(2) Time for making election

An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

(3) Manner of making election

An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.

(Added Pub. L. 101–508, title XI, §11511(a), Nov. 5, 1990, 104 Stat. 1388–483; amended Pub. L. 106–554, §1(a)(7) [title III, §317(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645; Pub. L. 108–357, title VII, §707(a), (b), Oct. 22, 2004, 118 Stat. 1550; Pub. L. 109–58, title XIII, §1322(a)(3)(B), Aug. 8, 2005, 119 Stat. 1011; Pub. L. 109–135, title IV, §412(i), Dec. 21, 2005, 119 Stat. 2637.)

INFLATION ADJUSTED ITEMS FOR CERTAIN TAX YEARS

For inflation adjustment of certain items in this section, see Internal Revenue Notices listed in a table below.

Editorial Notes

PRIOR PROVISIONS

A prior section 43 was renumbered section 32 of this title.

Another prior section 43 was renumbered section 37 of this title.

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109–58 substituted ''section 45K(d)(2)(C)'' for ''section 29(d)(2)(C)''.

Subsec. (c)(5). Pub. L. 109–135 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''For purposes of paragraph (1)(D)—

''(1) IN GENERAL.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(16) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

''(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

''(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

''(2) NATURAL GAS.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).''

2004—Subsec. (c)(1)(D). Pub. L. 108–357, §707(a), added subpar. (D).

Subsec. (c)(5). Pub. L. 108–357, §707(b), added par. (5).

2000—Subsec. (c)(1)(C). Pub. L. 106–554 inserted ''(as defined in section 193(b))'' after ''expenses'' and struck out ''under section 193'' after ''allowable''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–58 applicable to credits determined under the Internal Revenue Code of 1986 for taxable years ending after Dec. 31, 2005, see section 1322(c)(1) of Pub. L. 109–58, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VII, §707(c), Oct. 22, 2004, 118 Stat. 1550, provided that: ''The amendment made by this section [amending this section] shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(7) [title III, §317(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645, provided that: ''The amendment made by this section [amending this section] shall take effect as if included in section 11511 of the Revenue Reconciliation Act of 1990 [Pub. L. 101–508].''

EFFECTIVE DATE

Pub. L. 101–508, title XI, §11511(d), Nov. 5, 1990, 104 Stat. 1388–485, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section and amending sections 38, 39, 196, and 6501 of this title] shall apply to costs paid or incurred in taxable years beginning after December 31, 1990.

''(2) SPECIAL RULE FOR SIGNIFICANT EXPANSION OF PROJECTS.—For purposes of section 43(c)(2)(A)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), any significant expansion after December 31, 1990, of a project begun before January 1, 1991, shall be treated as a project with respect to which the first injection commences after December 31, 1990.''

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

Provisions relating to inflation adjustment of items in this section for certain years were contained in the following:

2022—Internal Revenue Notice 2022–19.
2021—Internal Revenue Notice 2021–47.
2020—Internal Revenue Notice 2020–31.
2019—Internal Revenue Notice 2019–36.

2018—Internal Revenue Notice 2018–49.
2017—Internal Revenue Notice 2017–25.
2016—Internal Revenue Notice 2016–44.
2015—Internal Revenue Notice 2015–64.
2014—Internal Revenue Notice 2014–64.
2013—Internal Revenue Notice 2013–50.
2012—Internal Revenue Notice 2012–49.
2011—Internal Revenue Notice 2011–57.
2010—Internal Revenue Notice 2010–72.
2009—Internal Revenue Notice 2009–73.
2008—Internal Revenue Notice 2008–72.
2007—Internal Revenue Notice 2007–64.
2006—Internal Revenue Notice 2006–62.
2005—Internal Revenue Notice 2005–56.
2004—Internal Revenue Notice 2004–49.
2003—Internal Revenue Notice 2003–43.
2002—Internal Revenue Notice 2002–53.
2001—Internal Revenue Notice 2001–54.
2000—Internal Revenue Notice 2000–51.
1999—Internal Revenue Notice 99–45.
1998—Internal Revenue Notice 98–41.
1997—Internal Revenue Notice 97–39.
1996—Internal Revenue Notice 96–41.

§ 44. Expenditures to provide access to disabled individuals

(a) General rule

For purposes of section 38, in the case of an eligible small business, the amount of the disabled access credit determined under this section for any taxable year shall be an amount equal to 50 percent of so much of the eligible access expenditures for the taxable year as exceed $250 but do not exceed $10,250.

(b) Eligible small business

For purposes of this section, the term ''eligible small business'' means any person if—

(1) either—

(A) the gross receipts of such person for the preceding taxable year did not exceed $1,000,000, or

(B) in the case of a person to which subparagraph (A) does not apply, such person employed not more than 30 full-time employees during the preceding taxable year, and

(2) such person elects the application of this section for the taxable year.

For purposes of paragraph (1)(B), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

(c) Eligible access expenditures

For purposes of this section—

(1) In general

The term ''eligible access expenditures'' means amounts paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements under the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

(2) Certain expenditures included

The term ''eligible access expenditures'' includes amounts paid or incurred—

(A) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities,

(B) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,

(C) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments,

(D) to acquire or modify equipment or devices for individuals with disabilities, or

(E) to provide other similar services, modifications, materials, or equipment.

(3) Expenditures must be reasonable

Amounts paid or incurred for the purposes described in paragraph (2) shall include only expenditures which are reasonable and shall not include expenditures which are unnecessary to accomplish such purposes.

(4) Expenses in connection with new construction are not eligible

The term ''eligible access expenditures'' shall not include amounts described in paragraph (2)(A) which are paid or incurred in connection with any facility first placed in service after the date of the enactment of this section.

(5) Expenditures must meet standards

The term ''eligible access expenditures'' shall not include any amount unless the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any barrier (or the provision of any services, modifications, materials, or equipment) meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

(d) Definition of disability; special rules

For purposes of this section—

(1) Disability

The term ''disability'' has the same meaning as when used in the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

(2) Controlled groups

(A) In general

All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person for purposes of this section.

(B) Dollar limitation

The Secretary shall apportion the dollar limitation under subsection (a) among the members of any group described in subparagraph (A) in such manner as the Secretary shall by regulations prescribe.

(3) Partnerships and S corporations

In the case of a partnership, the limitation under subsection (a) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S corporation and its shareholders.