

§53 Credit for prior year minimum tax liability.

- (a) Allowance of credit. There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the minimum tax credit for such taxable year.
- (b) Minimum tax credit. For purposes of subsection (a), the minimum tax credit for any taxable year is the excess (if any) of—
- (1) the adjusted net minimum tax imposed for all prior taxable years beginning after 1986, over
 - (2) the amount allowable as a credit under subsection (a) for such prior taxable years.
- (c) Limitation. The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—
- (1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over
 - (2) the tentative minimum tax for the taxable year.
- (d) Definitions. For purposes of this section —
- (1) Net minimum tax.
 - (A) In general. The term “net minimum tax” means the tax imposed by section 55.
 - (B) Credit not allowed for exclusion preferences.
 - (i) Adjusted net minimum tax. The adjusted net minimum tax for any taxable year is—
 - (I) the amount of the net minimum tax for such taxable year, reduced by
 - (II) the amount which would be the net minimum tax for such taxable year if the only adjustments and items of tax preference taken into account were those specified in clause (ii).
 - (ii) Specified items. The following are specified in this clause—
 - (I) the adjustments provided for in subsection (b)(1) of section 56 , and
 - (II) the items of tax preference described in paragraphs (1), (5) and (7) of section 57(a) .
 - (iii) Special rule. The adjusted net minimum tax for the taxable year shall be increased by the amount of the credit not allowed under section 30 solely by reason of the application of section 30(b)(3)(B) .
 - (iv) Credit allowable for exclusion preferences of corporations. In the case of a corporation—

- (I) the preceding provisions of this subparagraph shall not apply, and
 - (II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii) .
- (2) Tentative minimum tax. The term “tentative minimum tax” has the meaning given to such term by section 55(b) .
- (e) Special rule for individuals with long-term unused credits.
 - (1) In general. If an individual has a long-term unused minimum tax credit for any taxable year beginning before January 1, 2013, the amount determined under subsection (c) for such taxable year shall not be less than the AMT refundable credit amount for such taxable year.
 - (2) AMT refundable credit amount. For purposes of paragraph (1), the term “AMT refundable credit amount” means, with respect to any taxable year, the amount (not in excess of the long term unused minimum tax credit for such taxable year) equal to the greater of—
 - (A) 50 percent of the long-term unused minimum tax credit for such taxable year, or
 - (B) the amount (if any) of the AMT refundable credit amount determined under this paragraph for the taxpayer's preceding taxable year (determined without regard to subsection (f)(2)).
 - (3) Long-term unused minimum tax credit.
 - (A) In general. For purposes of this subsection , the term “long-term” unused minimum tax credit” means, with respect to any taxable year, the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years before the 3rd taxable year immediately preceding such taxable year.
 - (B) First-in, first-out ordering rule. For purposes of subparagraph (A) , credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.
 - (4) Credit refundable. For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as if it were allowed under subpart C.
- (f) Treatment of certain underpayments, interest, and penalties attributable to the treatment of incentive stock options.
 - (1) Abatement. Any underpayment of tax outstanding on the date of the enactment of this subsection which is attributable to the application of section 56(b)(3) for any taxable year ending before January 1, 2008, and any interest or penalty with respect to such underpayment which is outstanding on such date of enactment, is hereby abated. The amount determined under subsection (b)(1) shall not include any tax abated under the preceding sentence.

- (2) Increase in credit for certain interest and penalties already paid. The AMT refundable credit amount, and the minimum tax credit determined under subsection (b), for the taxpayer's first 2 taxable years beginning after December 31, 2007, shall each be increased by 50 percent of the aggregate amount of the interest and penalties which were paid by the taxpayer before the date of the enactment of this subsection and which would (but for such payment) have been abated under paragraph (1).

§55 Alternative minimum tax imposed

- (a) General rule. There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

- (1) the tentative minimum tax for the taxable year, over
- (2) the regular tax for the taxable year.

- (b) Tentative minimum tax. For purposes of this part—

- (1) Amount of tentative tax.

(A) Noncorporate taxpayers.

- (i) In general. In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

- (I) 26 percent of so much of the taxable excess as does not exceed \$175,000, plus
- (II) 28 percent of so much of the taxable excess as exceeds \$175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

- (ii) Taxable excess. For purposes of this subsection, the term “taxable excess” means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

- (iii) Married individual filing separate return. In the case of a married individual filing a separate return, clause (i) shall be applied by substituting “\$87,500” for “\$175,000” each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

- (B) Corporations. In the case of a corporation, the tentative minimum tax for the taxable year is—

- (i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

(ii) the alternative minimum tax foreign tax credit for the taxable year.

(2) Alternative minimum taxable income. The term “alternative minimum taxable income” means the taxable income of the taxpayer for the taxable year—

(A) determined with the adjustments provided in section 56 and section 58 , and

(B) increased by the amount of the items of tax preference described in section 57 .

If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence).

(3) Maximum rate of tax on net capital gain of noncorporate taxpayers. The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

(i) the net capital gain; or

(ii) the sum of—

(I) the adjusted net capital gain, plus

(II) the unrecaptured section 1250 gain, plus

(B) 5 percent (0 percent in the case of taxable years beginning after 2007) of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed an amount equal to the excess described in section 1(h)(1)(B) , plus

(C) 15 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B) , plus

(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph .

Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.

(4) Maximum rate of tax on qualified timber gain of corporations. In the case of any taxable year to which section 1201(b) applies, the amount determined under clause (i) of subparagraph (B) shall not exceed the sum of—

- (A) 20 percent of so much of the taxable excess (if any) as exceeds the qualified timber gain (or, if less, the net capital gain), plus
- (B) 15 percent of the taxable excess in excess of the amount on which a tax is determined under subparagraph (A).

Any term used in this paragraph which is also used in section 1201 shall have the meaning given such term by such section, except to the extent such term is subject to adjustment under this part.

(c) Regular tax.

- (1) In general. For purposes of this section , the term “regular tax” means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a) , the section 936 credit allowable under section 27(b) , and the Puerto Rico economic activity credit under section 30A . Such term shall not include any increase in tax under section 45(e)(11)(C) , 49(b) or 50(a) or subsection (j) or (k) of section 42 .
- (2) Coordination with income averaging for farmers and fishermen. Solely for purposes of this section , section 1301 (relating to averaging of farm and fishing income) shall not apply in computing the regular tax liability.
- (3) Cross references. For provisions providing that certain credits are not allowable against the tax imposed by this section , see sections 26(a) , 30(b)(3) , 30B(g)(2) , 30C(d)(2) , and 38(c) .

(d) Exemption amount. For purposes of this section —

- (1) Exemption amount for taxpayers other than corporations. In the case of a taxpayer other than a corporation, the term “exemption amount” means—
 - (A) \$45,000 (\$69,950 in the case of taxable years beginning in 2008) in the case of—
 - (i) a joint return, or
 - (ii) a surviving spouse,
 - (B) \$33,750 (\$46,200 in the case of taxable years beginning in 2008) in the case of an individual who—
 - (i) is not a married individual, and
 - (ii) is not a surviving spouse,
 - (C) 50 percent of the dollar amount applicable under paragraph (1)(A) in the case of a married individual who files a separate return, and
 - (D) \$22,500 in the case of an estate or trust.

For purposes of this paragraph , the term “surviving spouse” has the meaning given to such term by section 2(a) , and marital status shall be determined under section 7703 .

- (2) Corporations. In the case of a corporation, the term “exemption amount” means \$40,000.
- (3) Phase-out of exemption amount. The exemption amount of any taxpayer shall be reduced (but not below zero) by an amount equal to 25 percent of the amount by which the alternative minimum taxable income of the taxpayer exceeds—
- (A) \$150,000 in the case of a taxpayer described in paragraph (1)(A) or (2) ,
 - (B) \$112,500 in the case of a taxpayer described in paragraph (1)(B) , and
 - (C) \$75,000 in the case of a taxpayer described in subparagraph (C) or (D) of paragraph (1).

In the case of a taxpayer described in paragraph (1)(C) , alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph).

(e) Exemption for small corporations.

(1) In general.

- (A) \$7,500,000 gross receipts test. The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year does not exceed \$7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.
- (B) \$5,000,000 gross receipts test for first 3-year period. Subparagraph (A) shall be applied by substituting “\$5,000,000” for “\$7,500,000” for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A) .
- (C) First taxable year corporation in existence. If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.
- (D) Special rules. For purposes of this paragraph , the rules of paragraphs (2) and (3) of section 448(c) shall apply.

- (2) Prospective application of minimum tax if small corporation ceases to be small. In the case of a corporation whose tentative minimum tax is zero for any prior taxable year by reason of paragraph (1) , the application of this part for taxable years beginning with the first taxable year such corporation ceases to be described in paragraph (1) shall be determined with the following modifications:

- (A) Section 56(a)(1) (relating to depreciation) and section 56(a)(5) (relating to pollution control facilities) shall apply only to property placed in service on or after the change date.
 - (B) Section 56(a)(2) (relating to mining exploration and development costs) shall apply only to costs paid or incurred on or after the change date.
 - (C) Section 56(a)(3) (relating to treatment of long-term contracts) shall apply only to contracts entered into on or after the change date.
 - (D) Section 56(a)(4) (relating to alternative net operating loss deduction) shall apply in the same manner as if, in section 56(d)(2) , the change date were substituted for “January 1, 1987” and the day before the change date were substituted for “December 31, 1986” each place it appears.
 - (E) Section 56(g)(2)(B) (relating to limitation on allowance of negative adjustments based on adjusted current earnings) shall apply only to prior taxable years beginning on or after the change date.
 - (F) Section 56(g)(4)(A) (relating to adjustment for depreciation to adjusted current earnings) shall not apply.
 - (G) Subparagraphs (D) and (F) of section 56(g)(4) (relating to other earnings and profits adjustments and depletion) shall apply in the same manner as if the day before the change date were substituted for “December 31, 1989” each place it appears therein.
- (3) Exception. The modifications in paragraph (2) shall not apply to—
- (A) any item acquired by the corporation in a transaction to which section 381 applies, and
 - (B) any property the basis of which in the hands of the corporation is determined by reference to the basis of the property in the hands of the transferor,
- if such item or property was subject to any provision referred to in paragraph (2) while held by the transferor.
- (4) Change date. For purposes of paragraph (2) , the change date is the first day of the first taxable year for which the taxpayer ceases to be described in paragraph (1) .
- (5) Limitation on use of credit for prior year minimum tax liability. In the case of a taxpayer whose tentative minimum tax for any taxable year is zero by reason of paragraph (1) , section 53(c) shall be applied for such year by reducing the amount otherwise taken into account under section 53(c)(1) by 25 percent of so much of such amount as exceeds \$25,000. Rules similar to the rules of section 38(c)(3)(B) shall apply for purposes of the preceding sentence.

**§56 Adjustments in computing alternative minimum taxable income
(excerpt)**

(a) Adjustments applicable to all taxpayers. In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) Depreciation.

(A) In general.

- (i) Property other than certain personal property. Except as provided in clause (ii) , the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g) . In the case of property placed in service after December 31, 1998, the preceding sentence shall not apply but clause (ii) shall continue to apply.
- (ii) 150-percent declining balance method for certain property. The method of depreciation used shall be—
 - (I) the 150 percent declining balance method,
 - (II) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance.

The preceding sentence shall not apply to any section 1250 property (as defined in section 1250(c)) (and the straight line method shall be used for such section 1250 property) or to any other property if the depreciation deduction determined under section 168 with respect to such other property for purposes of the regular tax is determined by using the straight line method.

(B) Exception for certain property. This paragraph shall not apply to property described in paragraph (1) , (2) , (3) , or (4) of section 168(f) , or in section 168(e)(3)(C)(iv) .

(C) Coordination with transitional rules.

- (i) In general. This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply by reason of section 203, 204, or 251(d) of such Act.
- (ii) Treatment of certain property placed in service before 1987. This paragraph shall

apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

(D) Normalization rules. With respect to public utility property described in section 168(i)(10), the Secretary shall prescribe the requirements of a normalization method of accounting for this section.

(2) Mining exploration and development costs.

(A) In general. With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) (determined without regard to section 291(b)) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

(B) Loss allowed. If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(3) Treatment of certain long-term contracts. In the case of any long-term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)). For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(1) by using the simplified procedures for allocation of costs prescribed under section 460(b)(3). The first sentence of this paragraph shall not apply to any home construction contract (as defined in section 460(e)(6)).

(4) Alternative tax net operating loss deduction. The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

(5) Pollution control facilities. In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 (without regard to section 291) shall be determined under the alternative system of section 168(g). In the case of such a facility placed in service after December 31, 1998, such

deduction shall be determined under section 168 using the straight line method.

(6) Adjusted basis. The adjusted basis of any property to which paragraph (1) or (5) applies (or with respect to which there are any expenditures to which paragraph (2) or subsection (b)(2) applies) shall be determined on the basis of the treatment prescribed in paragraph (1) , (2) , or (5) , or subsection (b)(2) , whichever applies.

(7) Section 87 not applicable. Section 87 (relating to alcohol fuel credit) shall not apply.

(b) Adjustments applicable to individuals. In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) Limitation on deductions.

(A) In general. No deduction shall be allowed—

- (i) for any miscellaneous itemized deduction (as defined in section 67(b)), or
- (ii) for any taxes described in paragraph (1) , (2) , or (3) of section 164(a) or clause (ii) of section 164(b)(5)(A) .

Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

(B) Medical expenses. In determining the amount allowable as a deduction under section 213 , subsection (a) of section 213 shall be applied by substituting “10 percent” for “7.5 percent”.

(C) Interest. In determining the amount allowable as a deduction for interest, subsections (d) and (h) of section 163 shall apply, except that—

- (i) in lieu of the exception under section 163(h)(2)(D) , the term “personal interest” shall not include any qualified housing interest (as defined in subsection (e)),
- (ii) sections 163(d)(6) and 163(h)(5) (relating to phase-ins) shall not apply,
- (iii) interest on any specified private activity bond (and any amount treated as interest on a specified private activity bond under section 57(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A) , shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d) ,
- (iv) in lieu of the exception under section 163(d)(3)(B)(i) , the term “investment interest” shall not include any qualified housing interest (as defined in subsection (e)), and

- (v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d) .
 - (D) Treatment of certain recoveries. No recovery of any tax to which subparagraph (A)(ii) applied shall be included in gross income for purposes of determining alternative minimum taxable income.
 - (E) Standard deduction and deduction for personal exemptions not allowed. The standard deduction under section 63(c) , the deduction for personal exemptions under section 151 , and the deduction under section 642(b) shall not be allowed. The preceding sentence shall not apply to so much of the standard deduction as is determined under section 63(c)(1)(D) .
 - (F) Section 68 not applicable. Section 68 shall not apply.
- (2) Circulation and research and experimental expenditures.
- (A) In general. The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—
 - (i) in the case of circulation expenditures described in section 173 , shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or
 - (ii) in the case of research and experimental expenditures described in section 174(a) , shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.
 - (B) Loss allowed. If a loss is sustained with respect to any property described in subparagraph (A) , a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—
 - (i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or
 - (ii) the amount of such expenditures which have not previously been amortized under subparagraph (A) .
 - (C) Special rule for personal holding companies. In the case of circulation expenditures described in section 173 , the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542) .
 - (D) Exception for certain research and experimental expenditures. If the taxpayer materially participates (within the meaning of section 469(h)) in an activity,

this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity.

- (3) Treatment of incentive stock options. Section 421 shall not apply to the transfer of stock acquired pursuant to the exercise of an incentive stock option (as defined in section 422). Section 422(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case. The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by this paragraph.

(d) Alternative tax net operating loss deduction defined.

- (1) In general. For purposes of subsection (a)(4), the term “alternative tax net operating loss deduction” means the net operating loss deduction allowable for the taxable year under section 172, except that—

(A) the amount of such deduction shall not exceed the sum of—

(i) the lesser of—

(I) the amount of such deduction attributable to net operating losses (other than the deduction described in clause (ii)(I)), or

(II) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under section 199 , plus

(ii) the lesser of—

(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001 or 2002 and carryovers of net operating losses to taxable years ending during 2001 and 2002, or

(II) alternative minimum taxable income determined without regard to such deduction and the deduction under section 199 reduced by the amount determined under clause (i), and

(B) in determining the amount of such deduction—

(i) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2) , and

(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A) .

- (2) Adjustments to net operating loss computation.
- (A) Post-1986 loss years. In the case of a loss year beginning after December 31, 1986, the net operating loss for such year under section 172(c) shall—
- (i) be determined with the adjustments provided in this section and section 58 , and
 - (ii) be reduced by the items of tax preference determined under section 57 for such year.
- An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c) .
- (B) Pre-1987 years. In the case of loss years beginning before January 1, 1987, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1986, for purposes of paragraph (2) , shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.
- (3) Net operating loss attributable to federally declared disasters. In the case of a taxpayer which has a qualified disaster loss (as defined by section 172(b)(1)(J)) for the taxable year, paragraph (1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of such loss.

(e) Qualified housing interest. For purposes of this part—

- (1) In general. The term “qualified housing interest” means interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially improving any property which—
- (A) is the principal residence (within the meaning of section 121) of the taxpayer at the time such interest accrues, or
 - (B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(4)).

Such term also includes interest on any indebtedness resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence; but only to the extent that the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness immediately before the refinancing.

- (2) Qualified dwelling. The term “qualified dwelling” means any—
- (A) house,
 - (B) apartment,
 - (C) condominium, or
 - (D) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

- (3) Special rule for indebtedness incurred before July 1, 1982.
The term “qualified housing interest” includes interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued on indebtedness which—
- (A) was incurred by the taxpayer before July 1, 1982, and
 - (B) is secured by property which, at the time such indebtedness was incurred, was—
 - (i) the principal residence (within the meaning of section 121) of the taxpayer, or
 - (ii) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

§57 Items of tax preference

- (a) General rule. For purposes of this part, the items of tax preference determined under this section are—
- (1) Depletion. With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year). Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c) .
 - (2) Intangible drilling costs.
 - (A) In general. With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than 65 percent of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.
 - (B) Excess intangible drilling costs. For purposes of subparagraph (A) , the amount of the excess intangible drilling costs arising in the taxable year is the excess of—
 - (i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c) or 291(b) for the taxable year, over
 - (ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (b)) had been used with respect to such costs.

(C) Net income from oil, gas, and geothermal properties. For purposes of subparagraph (A) , the amount of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year is the excess of—

- (i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over
- (ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

(D) Paragraph applied separately with respect to geothermal properties and oil and gas properties. This paragraph shall be applied separately with respect to—

- (i) all oil and gas properties which are not described in clause (ii) , and
- (ii) all properties which are geothermal deposits (as defined in section 613(e)(2)).

(E) Exception for independent producers. In the case of any oil or gas well—

- (i) In general. In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).
- (ii) Limitation on benefit. The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4) .

(3) Repealed.

(4) Repealed.

(5) Tax-exempt interest.

(A) In general. Interest on specified private activity bonds reduced by any deduction (not allowable in computing the regular tax) which would have been allowable if such interest were includible in gross income.

(B) Treatment of exempt-interest dividends. Under regulations prescribed by the Secretary, any exempt-interest dividend (as defined in section 852(b)(5)(A)) shall be treated as interest on a specified private activity bond to the extent of its proportionate share

of the interest on such bonds received by the company paying such dividend.

(C) Specified private activity bonds.

(i) In general. For purposes of this part, the term “specified private activity bond” means any private activity bond (as defined in section 141) which is issued after August 7, 1986, and the interest on which is not includible in gross income under section 103 .

(ii) Exception for qualified 501(c)(3) bonds. For purposes of clause (i) , the term “private activity bond” shall not include any qualified 501(c)(3) bond (as defined in section 145).

(iii) Exception for certain housing bonds. For purposes of clause (i) , the term “private activity bond” shall not include any bond issued after the date of the enactment of this clause if such bond is—

(I) an exempt facility bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)),

(II) a qualified mortgage bond (as defined in section 143(a)), or

(III) a qualified veterans' mortgage bond (as defined in section 143(b)).

The preceding sentence shall not apply to any refunding bond unless such preceding sentence applied to the refunded bond (or in the case of a series of refundings, the original bond).

(iv) Exception for refundings. For purposes of clause (i), the term “private activity bond” shall not include any refunding bond (whether a current or advance refunding) if the refunded bond (or in the case of a series of refundings, the original bond) was issued before August 8, 1986.

(v) Certain bonds issued before September 1, 1986. For purposes of this subparagraph, a bond issued before September 1, 1986, shall be treated as issued before August 8, 1986, unless such bond would be a private activity bond if—

(I) paragraphs (1) and (2) of section 141(b) were applied by substituting “25 percent” for “10 percent” each place it appears,

(II) paragraphs (3), (4), and (5) of section 141(b) did not apply, and

(III) subparagraph (B) of section 141(c)(1) did not apply.

(6) Accelerated depreciation or amortization on certain property placed in service before January 1, 1987. The amounts which would be treated as items of tax preference with respect to the taxpayer under paragraphs (2), (3), (4), and (12) of this subsection (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986). The preceding sentence shall not apply to any property to which section 56(a)(1) or (5) applies.

(7) Exclusion for gains on sale of certain small business stock. An amount equal to 7 percent of the amount excluded from gross income for the taxable year under section 1202.

(b) Straight line recovery of intangibles defined. For purposes of paragraph (2) of subsection (a) —

(1) In general. The term “straight line recovery of intangibles”, when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

(2) Election. If the taxpayer elects with respect to the intangible drilling and development costs for any well, the term “straight line recovery of intangibles” means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(2).

§58 Denial of certain losses

(a) Denial of farm loss.

(1) In general. For purposes of computing the amount of the alternative minimum taxable income for any taxable year of a taxpayer other than a corporation—

(A) Disallowance of farm loss. No loss of the taxpayer for such taxable year from any tax shelter farm activity shall be allowed.

(B) Deduction in succeeding taxable year. Any loss from a tax shelter farm activity disallowed under subparagraph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

(2) Tax shelter farm activity. For purposes of this subsection, the term “tax shelter farm activity” means—

(A) any farming syndicate as defined in section 464(c), and

(B) any other activity consisting of farming which is a passive activity (within the meaning of section 469(c)).

- (3) Application to personal service corporations. For purposes of paragraph (1) , a personal service corporation (within the meaning of section 469(j)(2)) shall be treated as a taxpayer other than a corporation.
 - (4) Determination of loss. In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply.
- (b) Disallowance of passive activity loss. In computing the alternative minimum taxable income of the taxpayer for any taxable year, section 469 shall apply, except that in applying section 469 —
- (1) the adjustments of sections 56 and 57 shall apply,
 - (2) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and
 - (3) in lieu of applying section 469(j)(7) , the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e)).
- (c) Special rules. For purposes of this section —
- (1) Special rule for insolvent taxpayers.
 - (A) In general. The amount of losses to which subsection (a) or (b) applies shall be reduced by the amount (if any) by which the taxpayer is insolvent as of the close of the taxable year.
 - (B) Insolvent. For purposes of this paragraph , the term “insolvent” means the excess of liabilities over the fair market value of assets.
 - (2) Loss allowed for year of disposition of farm shelter activity. If the taxpayer disposes of his entire interest in any tax shelter farm activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsection (a)(1)(B)) shall (to the extent otherwise allowable) be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity.

§59 Other definitions and special rules

- (a) Alternative minimum tax foreign tax credit. For purposes of this part—
- (1) In general. The alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—
 - (A) the pre-credit tentative minimum tax were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1986,
 - (B) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and
 - (C) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were

made on the basis of the applicable rate specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies).

- (2) Pre-credit tentative minimum tax. For purposes of this subsection, the term “pre-credit tentative minimum tax” means—
- (A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or
 - (B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i).
- (3) Election to use simplified section 904 limitation.
- (A) In general. In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—
 - (i) subparagraph (B) of paragraph (1) shall not apply, and
 - (ii) the limitation of section 904 shall be based on the proportion which—
 - (I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to
 - (II) the taxpayer's entire alternative minimum taxable income for the taxable year.
 - (B) Election.
 - (i) In general. An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.
 - (ii) Election revocable only with consent. An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.
- (b) Minimum tax not to apply to income eligible for credits under section 30A or 936. In the case of any corporation for which a credit is allowable for the taxable year under section 30A or 936, alternative minimum taxable income shall not include any income with respect to which a credit is determined under section 30A or 936.
- (c) Treatment of estates and trusts. In the case of any estate or trust, the alternative minimum taxable income of such estate or trust and any beneficiary thereof shall be determined by applying part I of subchapter J with the adjustments provided in this part.

(d) Apportionment of differently treated items in case of certain entities.

(1) In general.

The differently treated items for the taxable year shall be apportioned (in accordance with regulations prescribed by the Secretary)—

(A) Regulated investment companies and real estate investment trusts. In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, between such company or trust and shareholders and holders of beneficial interest in such company or trust.

(B) Common trust funds. In the case of a common trust fund (as defined in section 584(a)), pro rata among the participants of such fund.

(2) Differently treated items.

For purposes of this section , the term “differently treated item” means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

(e) Optional 10-year writeoff of certain tax preferences.

(1) In general. For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made (or, in the case of a qualified expenditure described in paragraph (2)(C) , over the 60-month period beginning with the month in which such expenditure was paid or incurred).

(2) Qualified expenditure. For purposes of this subsection , the term “qualified expenditure” means any amount which, but for an election under this subsection , would have been allowable as a deduction (determined without regard to section 291) for the taxable year in which paid or incurred under—

(A) section 173 (relating to circulation expenditures),

(B) section 174(a) (relating to research and experimental expenditures),

(C) section 263(c) (relating to intangible drilling and development expenditures),

(D) section 616(a) (relating to development expenditures), or

(E) section 617(a) (relating to mining exploration expenditures).

(3) Other sections not applicable. Except as provided in this subsection , no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

(4) Election.

- (A) In general. An election may be made under paragraph (1) with respect to any portion of any qualified expenditure.
- (B) Revocable only with consent. Any election under this subsection may be revoked only with the consent of the Secretary.
- (C) Partners and shareholders of S corporations. In the case of a partnership, any election under paragraph (1) shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

(5) Dispositions.

- (A) Application of section 1254 . In the case of any disposition of property to which section 1254 applies (determined without regard to this section), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 1254 , be treated as a deduction allowable under section 263(c) , 616(a) , or 617(a) , whichever is appropriate.
- (B) Application of Section 617(d) . In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 617(d) , be treated as a deduction allowable under section 617(a)

- (6) Amounts to which election apply not treated as tax preference. Any portion of any qualified expenditure to which an election under paragraph (1) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

- (f) Coordination with section 291 . Except as otherwise provided in this part, section 291 (relating to cutback of corporate preferences) shall apply before the application of this part.
- (g) Tax benefit rule. The Secretary may prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for the taxable year for which the item is taken into account or for any other taxable year.
- (h) Coordination with certain limitations. The limitations of sections 704(d) , 465 , and 1366(d) (and such other provisions as may be specified in regulations) shall be applied for purposes of computing the alternative minimum taxable income of the taxpayer for the taxable year with the adjustments of sections 56 , 57 , and 58 .
- (i) Special rule for amounts treated as tax preference. For purposes of this subtitle (other than this part), any amount shall not fail to be treated as wholly exempt from tax imposed by this subtitle solely by reason of being included in alternative minimum taxable income.
- (j) Treatment of unearned income of minor children.

- (1) In general. In the case of a child to whom section 1(g) applies, the exemption amount for purposes of section 55 shall not exceed the sum of—
- (A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus
 - (B) \$5,000.
- (2) Inflation adjustment. In the case of any taxable year beginning in a calendar year after 1998, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to the product of—
- (A) such dollar amount, and
 - (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “1997” for “1992” in subparagraph (B) thereof .

If any increase determined under the preceding sentence is not a multiple of \$50, such increase shall be rounded to the nearest multiple of \$50.