

of the amount applicable for such year under clause (i) of section 414(q)(1)(B).

**(e) Family and medical leave**

**(1) In general**

Except as provided in paragraph (2), for purposes of this section, the term “family and medical leave” means leave for any 1 or more of the purposes described under subparagraph (A), (B), (C), (D), or (E) of paragraph (1), or paragraph (3), of section 102(a) of the Family and Medical Leave Act of 1993, as amended, whether the leave is provided under that Act or by a policy of the employer.

**(2) Exclusion**

If an employer provides paid leave as vacation leave, personal leave, or medical or sick leave (other than leave specifically for 1 or more of the purposes referred to in paragraph (1)), that paid leave shall not be considered to be family and medical leave under paragraph (1).

**(3) Definitions**

In this subsection, the terms “vacation leave”, “personal leave”, and “medical or sick leave” mean those 3 types of leave, within the meaning of section 102(d)(2) of that Act.

**(f) Determinations made by Secretary of Treasury**

For purposes of this section, any determination as to whether an employer or an employee satisfies the applicable requirements for an eligible employer (as described in subsection (c)) or qualifying employee (as described in subsection (d)), respectively, shall be made by the Secretary based on such information, to be provided by the employer, as the Secretary determines to be necessary or appropriate.

**(g) Wages**

For purposes of this section, the term “wages” has the meaning given such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). Such term shall not include any amount taken into account for purposes of determining any other credit allowed under this subpart.

**(h) Election to have credit not apply**

**(1) In general**

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

**(2) Other rules**

Rules similar to the rules of paragraphs (2) and (3) of section 51(j) shall apply for purposes of this subsection.

**(i) Termination**

This section shall not apply to wages paid in taxable years beginning after December 31, 2019.

(Added Pub. L. 115-97, title I, §13403(a)(1), Dec. 22, 2017, 131 Stat. 2135.)

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993 and that Act, referred to in subsecs. (c)(2)(B) and (e)(1), (3), is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6. Title I of the Act is classified generally to subchapter I (§2611 et seq.) of chapter 28 of Title 29, Labor. Section 102 of the Act is

classified to section 2612 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

Section 3(e) of the Fair Labor Standards Act of 1938, referred to in subsec. (d), is classified to section 203(e) of Title 29, Labor.

EFFECTIVE DATE

Section applicable to wages paid in taxable years beginning after Dec. 31, 2017, see section 13403(e) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 38 of this title.

SUBPART E—RULES FOR COMPUTING INVESTMENT CREDIT

Sec.

46.	Amount of credit.
47.	Rehabilitation credit.
48.	Energy credit.
48A.	Qualifying advanced coal project credit.
48B.	Qualifying gasification project credit.
48C.	Qualifying advanced energy project credit.
48D.	Qualifying therapeutic discovery project credit.
49.	At-risk rules.
50.	Other special rules.

[50A, 50B. Repealed.]

AMENDMENTS

2010—Pub. L. 111-148, title IX, §9023(d), Mar. 23, 2010, 124 Stat. 881, added item 48D.

2009—Pub. L. 111-5, div. B, title I, §1302(c)(2), Feb. 17, 2009, 123 Stat. 348, added item 48C.

2005—Pub. L. 109-58, title XIII, §1307(c)(2), Aug. 8, 2005, 119 Stat. 1006, added items 48A and 48B.

2004—Pub. L. 108-357, title III, §322(d)(2)(C), Oct. 22, 2004, 118 Stat. 1475, which directed amendment of item 48 by striking out “; reforestation credit”, was executed by striking out “; reforestation credit” after “Energy credit” to reflect the probable intent of Congress.

1990—Pub. L. 101-508, title XI, §11813(a), Nov. 5, 1990, 104 Stat. 1388-536, amended heading and analysis generally, substituting in heading “Investment Credit” for “Credit for Investment in Certain Depreciable Property”, in item 47 “Rehabilitation Credit” for “Certain dispositions, etc., of section 38 property”, in item 48 “Energy credit; reforestation credit” for “Definitions; special rules”, in item 49 “At-risk rules” for “Termination of regular percentage”, and adding item 50.

1986—Pub. L. 99-514, title II, §211(c), Oct. 22, 1986, 100 Stat. 2168, added item 49.

1984—Pub. L. 98-369, div. A, title IV, §474(n)(1), July 18, 1984, 98 Stat. 833, substituted “E” for “B” as subpart designation.

1978—Pub. L. 95-600, title III, §312(c)(5), Nov. 6, 1978, 92 Stat. 2826, struck out item 49 “Termination for period beginning April 19, 1969, and ending during 1971” and item 50 “Restoration of credit”.

1971—Pub. L. 92-178, title I, §101(b)(5), Dec. 10, 1971, 85 Stat. 499, substituted “Termination for period beginning April 19, 1969, and ending during 1971” for “Termination of credit” in item 49 and added item 50.

1969—Pub. L. 91-172, title VII, §703(d), Dec. 30, 1969, 83 Stat. 667, added item 49.

1962—Pub. L. 87-834, §2(b), Oct. 16, 1962, 76 Stat. 963, added subpart B.

**§ 46. Amount of credit**

For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be the sum of—

- (1) the rehabilitation credit,
- (2) the energy credit,
- (3) the qualifying advanced coal project credit,
- (4) the qualifying gasification project credit,