''(2) if the amount of the taxpayer's unamortized credits (or the credits not previously restored to rate base) with respect to such property (whether or not for open years) exceeds the amount referred to in paragraph (1), the taxpayer's tax for the taxable year shall be increased by the amount of such excess.

If any portion of the excess described in paragraph (2) is attributable to a credit which is allowable as a carryover to a taxable year beginning after December 31, 1985, in lieu of applying paragraph (2) with respect to such portion, the amount of such carryover shall be reduced by the amount of such portion. Rules similar to the rules of this subsection shall apply in the case of any property with respect to which the requirements of section 46(f)(9) of such Code are met.''

EXCEPTION FOR CERTAIN AIRCRAFT USED IN ALASKA

Pub. L. 99–514, title II, § 211(d), Oct. 22, 1986, 100 Stat. 2168, provided that:

''(1) The amendments made by subsection (a) [enacting this section and provisions set out above] shall not apply to property originally placed in service after December 29, 1982, and before August 1, 1985, by a corporation incorporated in Alaska on May 21, 1953, and used by it—

''(A) in part, for the transportation of mail for the United States Postal Service in the State of Alaska, and

''(B) in part, to provide air service in the State of Alaska on routes which had previously been served by an air carrier that received compensation from the Civil Aeronautics Board for providing service.

''(2) In the case of property described in subparagraph (A)—

''(A) such property shall be treated as recovery property described in section 208(d)(5) of the Tax Equity and Fiscal Responsibility Act of 1982 ('TEFRA') [section 208(d)(5) of Pub. L. 97–248, enacting provisions set out as a note under section 168 of this title];

''(B) '48 months' shall be substituted for '3 months' each place it appears in applying—

''(i) section 48(b)(2)(B) of the Code [26 U.S.C. 48(b)(2)(B)], and

''(ii) section 168(f)(8)(D) of the Code [26 U.S.C. 168(f)(8)(D)] (as in effect after the amendments made by the Technical Corrections Act of 1982 [Pub. L. 97–448] but before the amendments made by TEFRA); and

''(C) the limitation of section 168(f)(8)(D)(ii)(III) (as then in effect) shall be read by substituting 'the lessee's original cost basis.', for 'the adjusted basis of the lessee at the time of the lease.'

''(3) The aggregate amount of property to which this paragraph shall apply shall not exceed $60,000,000.''

§ 50. Other special rules

(a) Recapture in case of dispositions, etc.

Under regulations prescribed by the Secretary—

(1) Early disposition, etc.

(A) General rule

If, during any taxable year, investment credit property is disposed of, or otherwise ceases to be investment credit property with respect to the taxpayer, before the close of the recapture period, then the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this subpart with respect to such property.

(B) Recapture percentage

For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

If the property ceases to be investment credit property within—	The recapture percentage is:
(i) One full year after placed in service	100
(ii) One full year after the close of the period described in clause (i)	80
(iii) One full year after the close of the period described in clause (ii)	60
(iv) One full year after the close of the period described in clause (iii)	40
(v) One full year after the close of the period described in clause (iv)	20

(2) Property ceases to qualify for progress expenditures

(A) In general

If during any taxable year any building to which section 47(d) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be a qualified rehabilitated building, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the credit determined under this subpart with respect to such building.

(B) Certain excess credit recaptured

Any amount which would have been applied as a reduction under paragraph (2) of section 47(b) but for the fact that a reduction under such paragraph cannot reduce the amount taken into account under section 47(b)(1) below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year during which the building is placed in service.

(C) Certain sales and leasebacks

Under regulations prescribed by the Secretary, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom the rules referred to in subsection (d)(5) apply shall not be treated as a cessation described in subparagraph (A) to the extent that the amount which will be passed through to the lessee under such rules with respect to such property is not less than the qualified rehabilitation expenditures properly taken into account by the lessee under section 47(d) with respect to such property.

(D) Coordination with paragraph (1)

If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), then paragraph (1) shall be applied as if any credit which was allowable by reason of section 47(d) and which has not been required to be recaptured before such disposition, cessation, or change in use were allowable for the taxable year the property was placed in service.

(E) Special rules

Rules similar to the rules of this paragraph shall apply in cases where qualified

progress expenditures were taken into account under the rules referred to in section 48(b), 48A(b)(3), 48B(b)(3), or 48C(b)(2).

(3) Carrybacks and carryovers adjusted

In the case of any cessation described in paragraph (1) or (2), the carrybacks and carryovers under section 39 shall be adjusted by reason of such cessation.

(4) Subsection not to apply in certain cases

Paragraphs (1) and (2) shall not apply to—

(A) a transfer by reason of death, or

(B) a transaction to which section 381(a) applies.

For purposes of this subsection, property shall not be treated as ceasing to be investment credit property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as investment credit property and the taxpayer retains a substantial interest in such trade or business.

(5) Definitions and special rules

(A) Investment credit property

For purposes of this subsection, the term ''investment credit property'' means any property eligible for a credit determined under this subpart.

(B) Transfer between spouses or incident to divorce

In the case of any transfer described in subsection (a) of section 1041—

(i) the foregoing provisions of this subsection shall not apply, and

(ii) the same tax treatment under this subsection with respect to the transferred property shall apply to the transferee as would have applied to the transferor.

(C) Special rule

Any increase in tax under paragraph (1) or (2) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this chapter.

(b) Certain property not eligible

No credit shall be determined under this subpart with respect to—

(1) Property used outside United States

(A) In general

Except as provided in subparagraph (B), no credit shall be determined under this subpart with respect to any property which is used predominantly outside the United States.

(B) Exceptions

Subparagraph (A) shall not apply to any property described in section 168(g)(4).

(2) Property used for lodging

No credit shall be determined under this subpart with respect to any property which is used predominantly to furnish lodging or in connection with the furnishing of lodging. The preceding sentence shall not apply to—

(A) nonlodging commercial facilities which are available to persons not using the lodging facilities on the same basis as they are available to persons using the lodging facilities;

(B) property used by a hotel or motel in connection with the trade or business of furnishing lodging where the predominant portion of the accommodations is used by transients;

(C) a certified historic structure to the extent of that portion of the basis which is attributable to qualified rehabilitation expenditures; and

(D) any energy property.

(3) Property used by certain tax-exempt organization

No credit shall be determined under this subpart with respect to any property used by an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter unless such property is used predominantly in an unrelated trade or business the income of which is subject to tax under section 511. If the property is debt-financed property (as defined in section 514(b)), the amount taken into account for purposes of determining the amount of the credit under this subpart with respect to such property shall be that percentage of the amount (which but for this paragraph would be so taken into account) which is the same percentage as is used under section 514(a), for the year the property is placed in service, in computing the amount of gross income to be taken into account during such taxable year with respect to such property. If any qualified rehabilitated building is used by the tax-exempt organization pursuant to a lease, this paragraph shall not apply for purposes of determining the amount of the rehabilitation credit.

(4) Property used by governmental units or foreign persons or entities

(A) In general

No credit shall be determined under this subpart with respect to any property used—

(i) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

(ii) by any foreign person or entity (as defined in section 168(h)(2)(C)), but only with respect to property to which section 168(h)(2)(A)(iii) applies (determined after the application of section 168(h)(2)(B)).

(B) Exception for short-term leases

This paragraph and paragraph (3) shall not apply to any property by reason of use under a lease with a term of less than 6 months (determined under section 168(i)(3)).

(C) Exception for qualified rehabilitated buildings leased to governments, etc.

If any qualified rehabilitated building is leased to a governmental unit (or a foreign person or entity) this paragraph shall not apply for purposes of determining the rehabilitation credit with respect to such building.

(D) Special rules for partnerships, etc.

For purposes of this paragraph and paragraph (3), rules similar to the rules of para-

graphs (5) and (6) of section 168(h) shall apply.

(E) Cross reference

For special rules for the application of this paragraph and paragraph (3), see section 168(h).

(c) Basis adjustment to investment credit property

(1) In general

For purposes of this subtitle, if a credit is determined under this subpart with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

(2) Certain dispositions

If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term ''recapture amount'' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (a).

(3) Special rule

In the case of any energy credit—

(A) only 50 percent of such credit shall be taken into account under paragraph (1), and

(B) only 50 percent of any recapture amount attributable to such credit shall be taken into account under paragraph (2).

(4) Recapture of reductions

(A) In general

For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

(B) Special rule for section 1250

For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section.

(5) Adjustment in basis of interest in partnership or S corporation

The adjusted basis of—

(A) a partner's interest in a partnership, and

(B) stock in an S corporation,

shall be appropriately adjusted to take into account adjustments made under this subsection in the basis of property held by the partnership or S corporation (as the case may be).

(d) Certain rules made applicable

For purposes of this subpart, rules similar to the rules of the following provisions (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply:

(1) Section 46(e) (relating to limitations with respect to certain persons).

(2) Section 46(f) (relating to limitation in case of certain regulated companies).

(3) Section 46(h) (relating to special rules for cooperatives).

(4) Paragraphs (2) and (3) of section 48(b) (relating to special rule for sale-leasebacks).

(5) Section 48(d) (relating to certain leased property).

(6) Section 48(f) (relating to estates and trusts).

(7) Section 48(r) (relating to certain 501(d) organizations).

Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.

(Added Pub. L. 101–508, title XI, §11813(a), Nov. 5, 1990, 104 Stat. 1388–546; amended Pub. L. 104–188, title I, §§1616(b)(1), 1702(h)(11), 1704(t)(29), Aug. 20, 1996, 110 Stat. 1856, 1874, 1889; Pub. L. 105–206, title VI, §6004(g)(7), July 22, 1998, 112 Stat. 796; Pub. L. 108–357, title III, §322(d)(2)(D), Oct. 22, 2004, 118 Stat. 1475; Pub. L. 109–135, title IV, §412(*o*), Dec. 21, 2005, 119 Stat. 2638; Pub. L. 113–295, div. A, title II, §220(d), Dec. 19, 2014, 128 Stat. 4036; Pub. L. 115–141, div. U, title IV, §401(a)(25), (d)(3)(B)(ii), Mar. 23, 2018, 132 Stat. 1185, 1209.)

References in Text

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

Prior Provisions

A prior section 50, Pub. L. 92–178, title I, §101(a), Dec. 10, 1971, 85 Stat. 498, related to restoration of credit for investment in certain depreciable property, prior to repeal by Pub. L. 95–600, title III, §312(c)(1), Nov. 6, 1978, 92 Stat. 2826, applicable to taxable years ending after Dec. 31, 1978.

Amendments

2018—Subsec. (a)(2)(E). Pub. L. 115–141, §401(d)(3)(B)(ii), substituted ''or 48C(b)(2)'' for ''48C(b)(2), or 48D(b)(4)''.

Subsec. (b)(2)(A). Pub. L. 115–141, §401(a)(25), substituted semicolon for period at end.

2014—Subsec. (a)(2)(E). Pub. L. 113–295 inserted '', 48A(b)(3), 48B(b)(3), 48C(b)(2), or 48D(b)(4)'' after ''in section 48(b)''.

2005—Subsec. (a)(2)(E). Pub. L. 109–135 substituted ''section 48(b)'' for ''section 48(a)(5)''.

2004—Subsec. (c)(3). Pub. L. 108–357 struck out ''or reforestation credit'' after ''energy credit'' in introductory provisions.

1998—Subsec. (a)(5)(C). Pub. L. 105–206 substituted ''this chapter'' for ''subpart A, B, D, or G''.

1996—Subsec. (a)(2)(C). Pub. L. 104–188, §1704(t)(29), substituted ''subsection (d)(5)'' for ''subsection (c)(4)''.

Subsec. (a)(2)(E). Pub. L. 104–188, §1702(h)(11), substituted ''48(a)(5)'' for ''48(a)(5)(A)''.

Subsec. (d). Pub. L. 104–188, §1616(b)(1), inserted closing provisions.

Effective Date of 2004 Amendment

Amendment by 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.

Effective Date of 1998 Amendment

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which

such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1616(b)(1) of Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1995, see section 1616(c) of Pub. L. 104–188, set out as a note under section 593 of this title.

Amendment by section 1702(h)(11) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1990 Amendment note under section 45K of this title.

SAVINGS PROVISION

For provisions that amendment made by section 401(d)(3)(B)(ii) of Pub. L. 115–141 not apply to expenditures made in taxable years beginning before Jan. 1, 2011, in the case of the repeal of section 48D(e)(1) of this title, see section 401(d)(3)(C) of Pub. L. 115–141, set out as a note under section 48D of this title.

For provisions that nothing in amendment by section 401(d)(3)(B)(ii) of Pub. L. 115–141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115–141, set out as a note under section 23 of this title.

For provisions that nothing in this section 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.

[§§ 50A, 50B. Repealed. Pub. L. 98–369, div. A, title IV, § 474(m)(2), July 18, 1984, 98 Stat. 833]

Section 50A, added Pub. L. 92–178, title VI, § 601(b), Dec. 10, 1971, 85 Stat. 554; amended Pub. L. 93–406, title II, §§ 2001(g)(2)(B), 2002(g)(2), 2005(c)(4), Sept. 2, 1974, 88 Stat. 957, 968, 991; Pub. L. 94–12, title IV, § 401(a)(1), (2), Mar. 29, 1975, 89 Stat. 45; Pub. L. 94–401, § 4(a), Sept. 7, 1976, 90 Stat. 1217; Pub. L. 94–455, title V, § 503(b)(4), title XIX, §§ 1901(a)(6), (b)(1)(D), 1906(b)(13)(A), title XXI, § 2107(a)(1)–(3), (b), (c), Oct. 4, 1976, 90 Stat. 1562, 1765, 1790, 1834, 1903, 1904; Pub. L. 95–600, title III, § 322(a)–(c), Nov. 6, 1978, 92 Stat. 2836, 2837; Pub. L. 96–178, § 6(c)(1), Jan. 2, 1980, 93 Stat. 1298; Pub. L. 96–222, title I, § 103(a)(7)(D)(i), Apr. 1, 1980, 94 Stat. 211; Pub. L. 97–34, title II, § 207(c)(1), Aug. 13, 1981, 95 Stat. 225; Pub. L. 97–248, title I, § 265(b)(2)(A)(ii), Sept. 3, 1982, 96 Stat. 547; Pub. L. 97–354, § 5(a)(9), Oct. 19, 1982, 96 Stat. 1693, provided for a credit for expenses of work incentive programs, for the determination of the amount of that credit, and for the carryover and carryback of unused credit.

Section 50B, added Pub. L. 92–178, title VI, § 601(b), Dec. 10, 1971, 85 Stat. 556; amended Pub. L. 94–12, title III, § 302(c)(4), title IV, § 401(a)(3)–(5), Mar. 29, 1975, 89 Stat. 44, 46; Pub. L. 94–401, § 4(b), Sept. 7, 1976, 90 Stat. 1218; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XXI, § 2107(a)(4), (d)–(f), Oct. 4, 1976, 90 Stat. 1834, 1903, 1904; Pub. L. 95–171, § 1(e), Nov. 12, 1977, 91 Stat. 1353; Pub. L. 95–600, title III, § 322(d), Nov. 6, 1978, 92 Stat. 2837; Pub. L. 96–178, §§ 3(a)(1), (3), 6(c)(2), (3), Jan. 2, 1980, 93 Stat. 1295, 1298; Pub. L. 96–222, title I, § 103(a)(5), (7)(C), (D)(ii), (iii), Apr. 1, 1980, 94 Stat. 209, 211; Pub. L. 96–272, title II, § 208(b)(1), (2), June 17, 1980, 94 Stat. 526, 527; Pub. L. 97–34, title II, § 261(b)(2)(B)(i), Aug. 13, 1981, 95 Stat. 261; Pub. L. 97–354, § 5(a)(10), Oct. 19, 1982, 96 Stat. 1693; Pub. L. 101–239, title VII, § 7644, Dec. 19, 1989, 103 Stat. 2381, provided for the definition of terms related to the expenses of work incentive programs, limitations on such expenses, and special rules to be applied in connection with the computation of the credit.

Subsequent to repeal, Pub. L. 101–239, title VII, § 7644(a), Dec. 19, 1989, 103 Stat. 2381, provided that:

"(a) IN GENERAL.—So much of subparagraph (A) of section 50B(h)(1) of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1982) as precedes clause (i) thereof is amended to read as follows:

"'(A) who has been certified (or for whom a written request for certification has been made) on or before the day the individual began work for the taxpayer by the Secretary of Labor or by the appropriate agency of State or local government as—'.

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of credits first claimed after March 11, 1987."

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 1984 Amendment note under section 21 of this title.

SUBPART F—RULES FOR COMPUTING WORK OPPORTUNITY CREDIT

Sec.
51. Amount of credit.
[51A. Repealed.]
52. Special rules.

AMENDMENTS

2006—Pub. L. 109–432, div. A, title I, § 105(e)(4)(B), Dec. 20, 2006, 120 Stat. 2937, struck out item 51A "Temporary incentives for employing long-term family assistance recipients".

1997—Pub. L. 105–34, title VIII, § 801(b), Aug. 5, 1997, 111 Stat. 871, added item 51A.

1996—Pub. L. 104–188, title I, § 1201(e)(2), Aug. 20, 1996, 110 Stat. 1772, substituted "Work Opportunity Credit" for "Targeted Jobs Credit" in subpart heading.

1984—Pub. L. 98–369, div. A, title IV, § 474(n)(1), (2), (p)(9), July 18, 1984, 98 Stat. 833, 838, substituted "F" for "D" as subpart designation, substituted "Rules for Computing Targeted Jobs Credit" for "Rules for Computing Credit for Employment of Certain New Employees" in heading, and struck out item 53 "Limitation based on amount of tax".

§ 51. Amount of credit

(a) Determination of amount

For purposes of section 38, the amount of the work opportunity credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first-year wages for such year.

(b) Qualified wages defined

For purposes of this subpart—

(1) In general

The term "qualified wages" means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.