

### **§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—



(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

(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

- (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:











- (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

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

## (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 indebtednesswelln.356603(i)-11.7149(f)7.07018(i)0.356672(i)-11.71497.002395whi00239(n)5

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

- (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

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,

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(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.

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(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 prefer149(h)5.06262(a)-2.64358(n)5.06907(c)-2.64358(e)-2.64358( )-3.5031(.)-3.500



- (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.