(E) No recapture by reason of casualty loss. -- the increase in tax under this subsection shall not apply to a reduction in qualified basis by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.
(F) No recapture where de minimis changes in floor space. -- The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if --
(i) such increase results form a de minimis change in the floor space fraction under subsection (c)91), and
(ii) the building is a qualified low-income building after such change.
(5) Certain partnerships treated as the taxpayer. --
(A) In general. -- For purposes of applying this subsection to a partnership to which this paragraph applies --
(i) such partnership shall be treated as the taxpayer to which the credit allowable under subsection (a) was allowed.
(ii) the amount of such credit allowed shall be treated as the amount which would have been allowed to the partnership were such credit allowable to such partnership,
(iii) paragraph (4)(A) shall not apply, and
(iv) the amount of the increase in tax under this subsection for any taxable year shall be allocated among the partners of such partnership in the same manner as such partnership's taxable income of such year is allocated among such partners.
(B) Partnerships to which paragraph applies. -- This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply.
(C) Special rules. --
(i) Husband and wife treated as 1 partner. -- For purposes of this subparagraph (B)(i), a husband and wife (and their estates) shall be treated as 1 partner.
(ii) Election irrevocable. -- Any election under subparagraph (B), once made, shall be irrevocable.
(6) No recapture on disposition of building (or interest therein) where bond posted. -- In the case of a disposition of a building or an interest therein, the taxpayer shall be discharged form liability for nay additional tax under this subsection by reason of such disposition if --
(A) the taxpayer furnishes to the Secretary a bond in an amount satisfactory to the Secretary and for the period required by the Secretary, and
(B) it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.
(k) Application of at-risk rules. -- For purposes of this section --

(1) In general. -- Except as otherwise provided in this subsection, rules similar to the rules of section 49(a)(1) (other than subparagraphs (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2), and section 49(b)(1) shall apply in determining the qualified basis of any building in the same manner as such sections apply in determining the credit base of property.
(2) Special rules for determining qualified person. -- For purposes of paragraph (1) --
(A) In general. -- If the requirements of subparagraphs (B), (C), and (D) are met with respect to any financing borrowed form a qualified nonprofit organization (as defined in subsection (h)(5)), the determination of whether such financing is qualified commercial financing with respect to any qualified low-income building shall be made without regard to whether such organization --
(i) is actively and regularly engaged in the business if lending money, or
(ii) is a person described in section 49(a)(1)(D)(iv)(II).
(B) Financing secured by property. -- The requirements of this subparagraph are met with respect to any financing if such financing is secured by the qualified low-income building, except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if --
(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and
(ii) the proceeds form the financing (if any) are applied to acquire or improve such building.
(C) Portion of building attributable to financing. -- The requirements of this subparagraph are met with respect to any financing for any taxable year in the compliance period if, as of the close of such taxable year, not more than 60 percent of the eligible basis of the qualified low-income building is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).
(D) repayment of principal and interest. -- The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid on or before the earliest of --
(i) the date on which such financing matures,
(ii) the 90th day after the close of the compliance period with respect to the qualified low-income building, or
(iii) the date of its refinancing or the sale of the building to which such financing relates.
In the case of a qualified nonprofit organization which is not described in section 49(a)(1)(D)(iv)(II) with respect to a

building, clause (ii) of this subparagraph shall be applied as if the date described therein were the 90th day after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the close of a compliance period with respect thereto.

(3) Present value of financing. -- If the rate of interest on any financing described in paragraph (2)(A) is less than the rate which is 1 percentage point below the applicable Federal rate as of the time such financing is incurred, then the qualified basis (to which such financing relates) of the qualified low-income building shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate. For purposes of the preceding sentence, the rate of interest on any financing shall be determined by treating interest to the extent of government subsidies as not payable.

(4) Failure to fully repay. --(A) In general. -- To the extent that the requirements of paragraph (2)(D) are not met, then the taxpayer's tax under this chapter for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such building, increased by an amount of interest for the period --

(i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the 1st taxable year for which such credit was allowable, and

(ii) ending with the due date for the taxable year in which such failure occurs,

determined by using the underpayment rate and method under section 6621.

(B) Applicable portion. -- For purposes of subparagraph (A), the term "applicable portion" means the aggregate decrease in the credits allowed to a taxpayer under section 38 for all prior taxable years which would have resulted if the eligible basis of the building were reduced by the amount of financing which does not meet requirements of paragraph (2)(D).

(C) Certain rules to apply. -- Rules similar to the rules of subparagraphs (A) and (D) of subsection (j)(4) shall apply for purposes of this subsection.

(l) Certifications and other reports to Secretary. --

(1) Certification with respect to 1st year of credit period. -- Following the close of the 1st taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes) --

(A) the taxable year, and calendar year, in which such building was placed in service,

(B) the adjusted basis and eligible basis of such building as

of the close of the 1st year of the credit period,
(C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (h),
(D) the election made under subsection (g) with respect to the qualified low-income housing project of which such building is a part, and
(E) such other information as the Secretary may require.
In the case of a failure to make the certifications required by the preceding sentence on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made
(2) Annual reports to the Secretary. -- The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth --
(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,
(B) the information described in paragraph (1)(C) for the taxable year, and
(C) such other information as the Secretary may require. The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the dater prescribed therefore.
(3) Annual reports from housing credit agencies. -- Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying --
(A) the amount of housing credit amount allocated to each building for such year,
(B) sufficient information to identify each such building and the taxpayer with respect thereto, and
(C) such other information as the Secretary may require.
The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed thoroughfare.
(m) Responsibilities of housing credit agencies. --
(1) Plans for allocation of credit among projects. --
(A) In general. -- Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless --
(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii)

thereof)) of which such agency is a part, and
(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.
(B) Qualified allocation plan. -- For purposes of this paragraph, the term "qualified allocation plan" means any plan --
(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,
(ii) which also gives preference in allocating housing credit dollar amounts among selected projects to --
(I) projects serving the lowest income tenants, and
(II) projects obligated to serve qualified tenants for the longest periods, and
(iii) which provides a procedure that the agency (or an agent or another private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of.
(C) Certain selection criteria must be used. -- The selection criteria set forth in a qualified allocation plan must include --
(i) project location.
(ii) housing needs characteristics,
(iii) project characteristics,
(iv) sponsor characteristics,
(v) participation of local tax-exempt organizations,
(vi) tenant populations with special housing needs, and
(vii) public housing waiting lists.
(D) Application to bond financed projects. -- Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.
(2) Credit allocated to building not to exceed amount necessary to assure project feasibility. --
(A) In general. -- The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.
(B) Agency evaluation. -- In making the determination under subparagraph (A), the housing credit agency shall consider --
(i) the sources and uses of funds and the total financing planned for the project,
(ii) any proceeds or receipts expected to be generated by

reason of tax benefits, and
(iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries.
Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas.
Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.
(C) Determination made when credit amount applied for and when building placed in service. --
(i) In general. -- A determination under subparagraph (A) shall be made as of each of the following times:
(I) The application for the housing credit dollar amount.
(II) The allocation of the housing credit dollar amount.
(III) the date the building is placed in service.
(ii) Certification as to amount of other subsidies. -- Prior to each determination under clause (i), the taxpayer shall certify to the hosing credit agency the full extent for all federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.
(D) Application to bond financed projects. -- Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B).
(n) regulations. -- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations --
(1) dealing with --
(A) projects which include more than 1 building or only a portion of a building,
(B) buildings which are placed in service in portions,
(2) providing for the application of this section to short taxable years,
(3) preventing the avoidance of the rules of this section, and
(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary. (o) Termination. --
(1) In general. -- Except as provided in paragraph (2), --
(A) clause (i) of subsection (h)(3)(C) shall not apply to any amount allocated after June 30, 1992, and
(B) subsection (h)(4) shall not apply to any building placed in service after June 30, 1992.
(2) Exception for bond-financed buildings in progress. -- For purposes of paragraph (1)(B), a building shall be treated as

placed in service before July 1, 1992 if --
(A) the bonds with respect to such building are issued before July 1, 1992,
(B) the taxpayer's basis in the project (of which the building is a part) as of June 30, 1992, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of June 30, 1994, and
(C) such building is placed in service before July 1, 1994.

43. Enhanced oil recovery credit
(a) general rule. -- For purposes of section 38, the enhanced oil recovery credit for any taxable year is an amount equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year.
(b) Phase-out of credit as crude oil prices increase. --
(1) In general. -- The amount of the credit determined under subsection (a) for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as --
(A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds $28, bears to
(B) $6.
(2) Reference price. -- For purposes of this subsection, term "reference price" means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).
(3) Inflation adjustment. --
(A) In general. -- In the case of any taxable year beginning in a calendar year after 1991, there shall be substituted for thee $28 amount under paragraph (1)(A) an amount equal to the product of --
(i) $28, multiplied by
(ii) the inflation adjustment factor for such calendar year.
(B) Inflation adjustment factor. -- The term "inflation adjustment factor" means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990. For purposes of the preceding sentence, the term "GNP implicit price deflator" means the first revision of the implicit price deflator the gross national product as computed and published by the Secretary of Commerce. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.
(c) Qualified enhanced oil recovery costs. -- For purposes of this section --(1) In general. -- The term "qualified enhanced oil recovery costs" means any of the following:

(A) Any amount paid or incurred during thee taxable year for tangible property --
(i) which is an integral part of a qualified enhanced oil recovery project, and
(ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable under this chapter.
(B) Any intangible drilling and development costs --
(i) which are paid or incurred in connection with a qualified enhanced oil recovery project, and
(ii) with respect to which the taxpayer may make an election under section 263(c) for the taxable year.
(C) Any qualified tertiary injectant expenses which are paid or incurred in connection with a qualified enhanced oil recovery project and for which a deduction is allowable under section 193 for the taxable year.
(2) Qualified enhanced oil recovery project. -- For purposes of this subsection --
(A) In general. -- The term "qualified enhanced oil recovery project" means any project --
(i) which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonable be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,
(ii) which is located within the United States (within the meaning of section 638(1)), and
(iii) with respect to which the first injection of liquids, gases, or other matter commences after December 31, 1990.
(B) Certification. -- A project shall not be treated as a qualified enhanced oil recovery project unless the operator submits to the Secretary (at such times and in such manner as the Secretary provides) a certification from a petroleum engineer that the project meets (and continues to meet) the requirements of subparagraph (A).
(3) At-risk limitation. -- For purposes of determining qualified enhanced oil recovery costs, rules similar to the rules of section 49(a)(1), section 49(a)(2), and section 49(b) shall apply.
(4) Special rule for certain gas displacement projects. -- for purposes of this section, immiscible nonhydrocarbon gas displacement shall be treated as a tertiary recovery method under section 193(b)(3).
(d) Other rules. --
(1) Disallowance of deduction. -- Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

(2) Basis adjustments. -- For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection result form such expenditure shall be reduced by the amount of the credit so allowed. (e) Election to have credit not apply. --
(1) In general. -- A taxpayer may elect to have this section not apply for any taxable year.
92) time for making election. -- An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).
(3) Manner of making election. -- An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may be regulations prescribe.

44. Expenditures to provide access to disabled individuals
(a) General rule. -- For purposes of section 38, in the case of an eligible small business, the amount of the disabled access credit determined under this section for any taxable year shall be an amount equal to 50 percent of so much of the eligible access expenditures for the taxable year as exceed $250 but do not exceed $10,250.
(b) Eligible small business. -- For purposes of this section, the term "eligible small business" means any person if --
(1) either --
(A) the gross receipts of such person for the preceding taxable year did not exceed $1,000,000, or
(B) in the case of a person to which subparagraph (A) does not apply such person employed not more than 30 full-time employees during the preceding taxable year, and
(2) such person elects the application of this section of the taxable year.
For purposes of paragraph (1)(B), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.
(c) Eligible access expenditures. -- For purposes of this section --
(1) In general. -- The term "eligible access expenditures" means amounts paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements under the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).
(2) Certain expenditures included. -- The term "eligible access expenditures" includes amounts paid or incurred --

(A) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities,
(B) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,
(C) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments,
(D) to acquire or modify equipment or devices for individuals with disabilities, or
(E) to provide other similar services, modifications, materials, or equipment.
(3) Expenditures must be reasonable. -- Amounts paid or incurred for the purposes described in paragraph (2) shall include only expenditures which are reasonable and shall not include expenditures which are unnecessary to accomplish such purposes.
(4) Expenses in connection with new construction are not eligible. -- The term "eligible access expenditures" shall not include amounts described in paragraph (2)(A) which are paid or incurred in connection with any facility first placed in service after the date of the enactment of this section.
(5) Expenditures must meet standards. -- The term "eligible access expenditures" shall not include any amount unless the taxpayer establishes, to the satisfaction of the Secretary, the result in the removal of any barrier (or the provision of any services, modifications, materials,m or equipment) meets the standards promulgated by the secretary with the concurrence of the Architectural and transportation barriers Compliance Board and set forth in regulations prescribed by the Secretary.
(d) Definition of disability; special rules. -- For purposes of this section --
(1) Disability. -- The term "disability" has the same meaning as when used in the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).
(2) Controlled groups. --
(A) In general. -- All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person for purposes of this section.
(B) Dollar limitation. -- The Secretary shall apportion the dollar limitation under subsection (a) among the members of any group described in subparagraph (A) in such manner as the Secretary shall by regulations prescribe.
(3) Partnerships and S corporations. -- In the case of a

partnership, the limitation under subsection (a) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S corporation and its shareholders.
(4) Short years. -- the Secretary shall prescribe such adjustments as may be appropriate for purposes of paragraph (1) of subsection (b) if the preceding taxable year is a taxable year of less than 12 months.
(5) Gross receipts. -- Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.
(6) Treatment of predecessors. -- The reference to any person in paragraph (1) of subsection (b) shall be treated as including a reference to any predecessor.
(7) Denial of double benefit. -- In the case of the amount of the credit determined under this section --
(A) no deduction or credit shall be allowed for such amount under any other provision of this chapter, and
(B) no increase in the adjusted basis of any property shall result from such amount.
(e) Regulations. -- The Secretary shall prescribe regulations necessary to carry out the purposes of this section.

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, and
(3) the reforestation credit.

47. Rehabilitation credit
(a) General rule. -- For purposes of section 46, the rehabilitation credit for any taxable year is the sum of --
(1) 10 percent of the qualified rehabilitation expenditures with respect to any qualified rehabilitated building other than a certified historic structure, and
(2) 20 percent of the qualified rehabilitation expenditures with respect to any certified historic structure.
(b) When expenditures taken into account. --
(1) In general. -- Qualified rehabilitation expenditures with respect to any qualified rehabilitated building shall be taken into account for the taxable year in which such qualified rehabilitated building is placed in service.
(2) Coordination with subsection (d). -- The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified rehabilitated building shall be reduced (but not below zero) by any amount of qualified

rehabilitation expenditures taken into account under subsection (d) by the taxpayers or a predecessor of the taxpayer (or, in the case of a sale and lease back described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).(c) Definitions. -- For purposes of this section --
(1) Qualified rehabilitated building. --
(A) In general. -- The term "qualified rehabilitated building" means any building (and its structural components) if --
(i) such buildings has been substantially rehabilitated,
(ii) such building was placed in service before thee beginning of the rehabilitation,
(iii) in the case of any building other than a certified historic structure, in the rehabilitation process --
(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,
(II) 75 percent of more of the existing external walls of such building are retained in place as internal or external walls, and
(III) depreciation (or amortization in lieu of depreciation) is allowable with respect to such building.
(B) Building must be first placed in service before 1936. -- In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.
(C) Substantially rehabilitated defined. --
(1) In general. -- For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulation) and ending with or within the taxable year exceed the greater of --
(I) the adjusted basis of such building (and its structural components), or
(II) $5,000.
The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.
(ii) Special rule for phased rehabilitation. -- In the case of any rehabilitation which may be reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting "60-month period"

for "24-month period".
(iii) Lessees. The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.
(D) Reconstruction. -- Rehabilitation includes reconstruction.
(2) Qualified rehabilitation expenditure defined. --
(A) In general. -- The term "qualified rehabilitation expenditure" means any amount properly chargeable to capital account --
(i) for property for which depreciation is allowable under section 168 and which is --
(I) nonresidential real property,
(II) residential rental property,
(III) real property which has a class life of more than 12.5 years, or
(IV) an addition or improvement to property described in subclause (I), (II), or (III), and
(ii) in connection with the rehabilitation of a qualified rehabilitated building.
(B) Certain expenditures not included. -- The term "qualified rehabilitation expenditure" does not include --
(i) Straight line depreciation must be used. -- Any expenditure with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).
(ii) Cost of acquisition. -- The cost of acquiring any building or interest therein.
(iii) Enlargements. -- Any expenditure attributable to thee enlargement of an existing building.
(iv) Certified historic structure, etc. -- Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if --
(I) such building was not a certified historic structure,
(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and
(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).
(v) Tax-exempt use property. --

(I) In general. -- Any expenditure in connection with the rehabilitation of a building which is allocable to the portion of such property which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).
(II) Clause not to apply for purposes of paragraph (1)(C). -- This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.
(vi) Expenditures of lessee. -- Any expenditure of a lessee of a building, if on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).
(C) certified rehabilitation. -- For purposes of subparagraph (B), the term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.
(D) Nonresidential real property; residential rental property; class life. -- For purposes of subparagraph (A), the terms "nonresidential real property," "residential rental property," and "class life" have the respective meanings given such terms by section 168.
(3) Certified historic structure defined. --
(A) In general. -- The term "certified historic structure" means any building (and its structural components) which --
(i) is listed in the National Register, or
(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.
(B) Registered historic district. -- The term "registered historic district" means --
(i) any district listed in the National Register, and
(ii) any district --
(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and
(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.
(d) Progress expenditures. --
(1) In general. -- In the case of any building to which this subsection applies, except as provided in paragraph (3) --(A) if such building is self-rehabilitated property, any qualified

rehabilitation expenditure with respect to such building shall be taken into account for the taxable year for which such expenditure is properly chargeable to capital account with respect to such building, and
(B) if such building is not self-rehabilitated properly, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year in which paid.
(2) Property to which subsection applies. --
(A) In general. -- This subsection shall apply to any building which is being rehabilitated by or for the taxpayer if --
(i) the normal rehabilitation period for such building is 2 years or more, and
(ii) it is reasonable to expect that such building will be a qualified rehabilitated building in the hands of the taxpayer when it is placed in service.
Clauses (i) and (ii) shall be applied on the basis of facts known as of the close of the taxable year of the taxpayer in which the rehabilitation begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).
(B) Normal rehabilitation period. -- For purposes of subparagraph (A), the term "normal rehabilitation period" means the period reasonably expected to be required for the rehabilitation of the building --
(i) beginning with the date on which physical work on the rehabilitation begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and
(ii) ending on the date on which it is expected that the property will be available for placing in service.
(3) Special rules for applying paragraph (1). -- For purposes of paragraph (1) --
(A) Component parts, etc. -- Property which is to be a component part of or is otherwise to be included in, any building to which this subsection applies shall be taken into account --
(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the building, and
(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such building.
(B) Certain borrowing disregarded. -- Any amount borrowed directly or indirectly by the taxpayer form the person rehabilitating the property for him shall not be treated as an amount expended for such rehabilitation.

(C) Limitation for buildings which are not self-rehabilitated. --
(i) In general. -- In the case of a building which is not self-rehabilitated, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to the portion of the rehabilitation which is completed during such taxable year.
(ii) Carry-over of certain amounts. -- In the case of a building which is not a self-rehabilitated building, if for the taxable year --
(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or
(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.
(D) Determination of percentage of completion. -- The determination under subparagraph (C)(i) of the portion of the over all cost to the taxpayer of the rehabilitation which is properly attributable to rehabilitation completed during any taxable year shall be made, under regulations prescribed by the Secretary, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the rehabilitation shall be deemed to be completed not more rapidly than ratably over the normal rehabilitation period.
(E) No progress expenditures for certain prior periods. -- No qualified rehabilitation expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.
(F) No progress expenditures for property for year it is placed in service, etc. -- In the case of any building, no qualified rehabilitation expenditures shall be taken into account under this subsection for the earlier of --
(i) the taxable year in which the building is placed in service, or
(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such property,
or for any taxable year thereafter.
(4) Self-rehabilitated building. -- For purposes of this subsection, the term "self-rehabilitated building" means any building if it is reasonable to believe that more than half of

the qualified rehabilitation expenditures for such building will be made directly by the taxpayer.
(5) Election. -- This subsection shall apply to any taxpayer only if such taxpayer has made an election under this paragraph. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

48. Energy credit; reforestation credit
(a) Energy credit. --
(1) In general. -- For purposes of section 46, the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year.
(2) Energy percentage. --
(A) In general. -- Except as provided in subparagraph (B), the energy percentage is 10 percent.
(B) Termination. -- Effective with respect to periods after June 30, 1992, the energy percentage is zero. For purposes of the preceding sentence, rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply.
(C) Coordination with rehabilitation credit. -- The energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.
(3) Energy property. -- For purposes of this subpart, the term "energy property" means any property --
(A) which is --
(i) equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, or
(ii) equipment used to produce, distribute, or use energy derived form a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage,(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or
(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,
(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and
(D) which meets the performance and qualify standards (if any) which --
(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and
(ii) are in effect at the time of the acquisition of the property.

The term "energy property" shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on ;the day before the date of the enactment of the Revenue Reconciliation Act of 1990).
(4) Special rule for property financed by subsided energy financing or industrial development bonds. --
(A) Reduction of basis. -- For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by --
(i) subsidized energy financing, or
(ii) the proceeds of a private activity bond (within the meaning of section 141) the interest on which is exempt form tax under section 103,
the amount taken into account as the basis of such property shall not exceed the amount which (but for this subparagraph) would be so taken into account multiplied by the fraction determined under subparagraph (B).
(B) Determination of fraction. -- For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction --
(i) the numerator of which is that portion of the basis of the property which is allocable to such financing or proceeds, and
(ii) the denominator of which is the basis of the property.
(C) Subsidized energy financing. -- For purposes of subparagraph (A), the term "subsidized energy financing" means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.
(5) Certain progress expenditure rules made applicable. -- Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.
(b) Reforestation credit. --
(1) In general. -- For purposes of section 46, the reforestation credit for nay taxable year is 10 percent of the portion of the amortizable basis of any qualified timber property which was acquired during such taxable year and which is taken into account under section 194 (after the application of section 194(b)(1)).
(2) Definitions. -- For purposes of this subpart, the terms "amortizable basis" and "qualified timber property" have the respective meanings given to such terms by section 194.

49. At-risk rules
(a) General rule. --
(1) Certain nonrecourse financing excluded form credit base. --
(A) Limitation. -- The credit base of any property to which

this paragraph applies shall be reduced by the nonqualified nonrecourse financing with respect to such credit base (as of the close of the taxable year in which placed in service)_.
(B) Property to which paragrpah applies. -- This paragrpah applies to any property which --
(i) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and
(ii) is used in connection with an activity with respect to which any loss is subject to limitation under section 465.
(C) Credit base defined. -- For purposes of this paragraph, the term "credit base" means --
(i) the portion of the basis of any qualified rehabilitated building attributable to qualified rehabilitation expenditures,
(ii) the basis of any energy property, and
(iii) the amortizable basis of any qualified timber property.
(D) Nonqualified nonrecourse financing. --
(i) In general. -- For purposes of this paragrpah and paragraph (2), the term "nonqualified nonrecourse financing" means any nonrecourse financing which is not qualified commercial financing.
(ii) Qualified commercial financing. -- For purposes of this paragraph, the term "qualified commercial financing" means any financing with respect to any property if --
(I) such property is acquired by the taxpayer from a person who is not a related person,
(II) the amount of the nonrecourse financing with respect to such property does not exceed 80 percent of the credit base of such property, and
(III) such financing is borrowed form a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government.
Such term shall not include any convertible debt.
(iii) Nonrecourse financing. -- For purposes of this subparagraph, the term "nonrecourse financing" includes --
(I) any amount with respect to which the taxpayer is protected against loss through guarantees, stop-loss agreements, or other similar arrangements, and
(II) except to the extent provided in regulations, any amount borrowed from a person who has an interest (other than as a creditor) in the activity in which the property is used or form a related person to a person (other than the taxpayer) having such an interest.
In the case of amounts borrowed by a corporation from a shareholder, subclause (II) shall not apply to an interest as a shareholder.
(iv) Qualified person. -- For purposes of this paragraph, the term "qualified person" means any person which is actively and

regularly engaged in the business of lending money and which is not --
(I) a related person with respect to the taxpayer,
(II) a person from which the taxpayer acquired the property (or a related person to such person), or
(III) a person who receives a fee with respect to the taxpayer's investment in the property (or a related person to such person).
(v) Related person. -- For purposes of this subparagraph, the term "related person" has the meaning given such term by section 465(b)(3)(C). Except as otherwise provided in regulations prescribed by the Secretary, the determination of whether a person is a related person shall be made as of the close of the taxable year in which the property is placed in service.
(E) Application to partnerships and S corporations. -- For purposes of this paragraph and paragraph (2) --
(i) In general. -- Except as otherwise provided in this subparagraph, in the case of any partnership of S corporation, the determination of whether a partner's or shareholder's allocable share of any financing is nonqualified nonrecourse financing shall be made at the partner or shareholder level.
(ii) Special rule for certain recourse financing of S corporation. -- A shareholder of an S corporation shall be treated as liable for his allocable share of any financing provided by a qualified person to such corporation if --
(I) such financing is recourse financing (determined at the corporate level), and
(II) such financing is provided with respect to qualified business property of such corporation.
(iii) Qualified business property. -- For purposes of clause (ii), the term "qualified business property" means any property if --
(I) such property is used by the corporation in the active conduct of a trade or business,
(II) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time employees who were not owner-employees (as defined in section 465(c)(7)(E)(i)) and substantially all the services of whom were in the active management of the trade or business.
(iv) Determination of allocable share. -- The determination of any partner's or shareholder's allocable share of any financing shall be made in the dame manner as the credit allowable by section 38 with respect to such property.
(F) Special rules for energy property. -- Rules similar to the rules of subparagraph (F) of section 46(c)(8) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this paragraph.

(2) Subsequent decreases in nonqualified nonrecourse financing with respect to the property. --

(A) In general. -- If, at the close of the taxable year following the taxable year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be taken into account as an increase in the credit base for such property in accordance with subparagraph (C).

(B) Certain transactions not taken into account. -- For purposes of this paragraph, nonqualified nonrecourse financing shall not be treated as decreased through the surrender or other use of property financed by nonqualified nonrecourse financing.

(C) Manner in which taken into account. --

(i) Credit determined by reference to taxable year property placed in service. -- For purposes of determining the amount of credit allowable under section 38 and the amount of credit subject to the early disposition or cessation rules under section 50(a), and increase in a taxpayer's credit base for nay property by reason of this paragraph shall be taken into account as if it were property placed in service by the taxpayer in the taxable year in which the property referred to in subparagraph (A) was first placed in service.

(ii) Credit allowed for year of decrease in nonqualified nonrecourse financing. -- Any credit allowable under this subpart for nay increase in qualified investment by reason of this paragraph shall be treated as earned during the taxable year of the decrease in the amount of nonqualified nonrecourse financing.

(b) Increases in nonqualified nonrecourse financing. --

(1) In general. -- If, as of the close of the taxable year, there is a net increase with respect to the taxpayer in the amount of nonqualified nonrecourse financing (within the meaning of subsection (a)(1)) with respect to any property to which subsection (a)(1) applied, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from reducing the credit base (as defined in subsection (a)(1)(C)) taken into account with respect to such property by the amount of such net increase. For purposes of determining the amount of credit subject to the early disposition or cessation rules of section 50(a), the net increase in the amount of the nonqualified nonrecourse financing with respect to the property shall be treated as reducing the property's credit base in the year in which the property was first placed in service.