

HB

300.S

SENATE COMMITTEE REPORT

FURTHER:

5/11/87

DATE TURNED INTO OFFICE 5/16/87

Mr. President:

FINANCE Committee considered HB 300(Title am)

changing certain references in the state corporate income tax statutes to conform to changes in federal law; changing the corporate minimum tax to the definition of the Internal Revenue Code.

and recommended:

[] replace with CS FOR _____) [] same title
[] or adopt _____ CS FOR _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous
[] zero [] fiscal impact

MEMBERS SIGNING DO PASS

[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS

[Signature] (No Rec)
[Signature]

[Signature] No Rec
Chairman signature and recommendation

[] Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST

Bill Version: HB 300
Publish Date: HOUSE 5/11/87

Revision Date: May 6, 1978
Title: Alternative Minimum Tax

Agency Affected: Department of Revenue
BRU: Division of Audit

Sponsor: Administration
Requestor: House Finance

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: See attached.

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Division: Division of Audit

Phone: 465-2320
Date: May 6, 1987

Approved by Commissioner: _____
Agency: _____

Date: 5/6/87

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

RECEIVED

MAY 07 1987

LEGISLATIVE FINANCE

No. 1
HB 300
5/11/87

Analysis of the Bill

The objective of a minimum tax is to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using deductions, exclusions, and credits. The Tax Reform Act of 1986 replaced the corporate minimum tax with a more stringent minimum tax.

Taxable income for purposes of the prior and current minimum tax is equal to taxable income increased by certain tax preferences and adjusted in a manner that negates the tax deferral available under the regular tax. The new minimum tax, termed an alternative minimum tax, essentially expands the number of tax preferences. It is not a new tax but rather a fine tuning of the old tax.

The federal minimum tax is statutorily incorporated into Alaska law and the tax rate is 18% of the federal rate. However, the Alaska statute makes specific reference to the IRC provisions existing on the date of enactment. The IRC section numbers have now changed and there could be a question whether a basically procedural federal change results in a substantive change in Alaska law. The amendment to AS 43.20.021(f) clarifies this question and fixes the tax at 18% of the federal tax.

A review of ten of the largest companies filing corporate income tax returns in 1983 and 1984 revealed payment of five million dollars in minimum taxes. This amendment will not only raise an undetermined amount of additional revenue but will also protect the present minimum tax base. No change in current Alaska law is envisioned by the technical amendment.

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 HOUSE BILL NO. 300 (title am)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act changing certain references in the state
7 corporate income tax statutes to conform to changes
8 in federal law; changing the corporate minimum tax to
9 the corporate alternative minimum tax; and changing
10 the definition of the Internal Revenue Code."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. AS 43.20.021(a) is amended to read:

13 (a) Sections 26 U.S.C. 1 - 1399 and 6001 - 7872 (Internal Reve-
14 nue Code) [SUBTITLE F AND CHAPTER 1 OF SUBTITLE A OF THE 1954 INTERNAL
15 REVENUE CODE, PUBLIC LAW 83-591], as amended, are adopted by reference
16 as a part of this chapter [AS 43.20]. These portions of the Internal
17 Revenue Code have full force and effect under this chapter [AS 43.20]
18 unless excepted to or modified by other provisions of this chapter
19 [AS 43.20].

20 * Sec. 2. AS 43.20.021(f) is amended to read:

21 (f) For the purpose of calculating the alternative minimum tax
22 on tax preferences provided for in 26 U.S.C. 55 - 59 [26 U.S.C. 56-58]
23 (Internal Revenue Code), the tax [RATE] is 18 percent for corporations
24 of the applicable alternative minimum federal tax [RATE].

25 * Sec. 3. AS 43.20.036(a) is amended to read:

26 (a) For purposes of calcula'ing the income tax payable under
27 this chapter, the taxpayer may not apply as a credit against tax
28 liability the foreign tax credit allowed as to federal taxes under 26
29 U.S.C. 27 [26 U.S.C. 33] (Internal Revenue Code).

1 * Sec. 4. AS 43.20.200(b) is amended to read:

2 (b) The same period of limitation upon the assessment and col-
3 lection of taxes imposed under this chapter and the same exceptions to
4 it shall apply as provided in 26 U.S.C. 6501 - 6503 (Internal Revenue
5 Code [OF 1954]). In the case of additional tax due by reason of a
6 modification, recomputation, or determination of deficiency in a
7 taxpayer's federal income tax return, the period of limitation on
8 assessment commences from the date that the notice required in AS 43.-
9 20.030(d) is filed, and if no notice is filed the tax may be assessed
10 at any time.

11 * Sec. 5. AS 43.20.270(m) is amended to read:

12 (m) The period of limitation upon distraint is the same as
13 provided under 26 U.S.C. 6501(c), 6502(a), and 6503(a) (Internal Reve-
14 nue Code [OF 1954]). In determining the running of a period of limi-
15 tation in respect of distraint, the distraint is considered to begin
16 when the levy upon property is made.

17 * Sec. 6. AS 43.20.340(6) is amended to read:

18 (6) "Internal Revenue Code" means the Internal Revenue Code
19 of the United States (26 U.S.C.) [(53 STAT. 1)] as the code exists now
20 [AMENDED] or as hereafter amended, [INCLUDING ALL AMENDMENTS AFTER
21 MARCH 29, 1949,] as the code and amendments apply to the normal taxes
22 and surtax on net incomes, [BUT NOT INCLUDING EXCESS PROFITS TAXES,]
23 which amendments are operative for the purposes of this chapter as of
24 the time they became operative or will become operative under federal
25 law;

26 * Sec. 7. This Act applies to tax years beginning after December 31,
27 1986.

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).

In '86, PL 99-514, Sec. 701(a), added Code Sec. 57, as part of the amendments to Part VI of subchapter A of chapter 1, effective for tax yrs. begin. after 12/31/86. Sec. 701(f)(4) of this Act provides:

"(4) Exception for charitable contributions before August 16, 1986.—Section 57(a)(6) of the Internal Revenue Code of 1986 (as amended by this section) shall not apply to any deduction attributable to contributions made before August 16, 1986."

Sec. 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) (as modified by section 461(i)(4)(A)), and

(B) any other activity consisting of farming which is a passive activity (within the meaning of section 469(d), without regard to paragraph (1)(B) thereof).

(3) Application to personal service corporations. For purposes of paragraph (1), a personal service corporation (within the meaning of section 469(g)(1)(C)) shall be treated as a taxpayer other than a corporation.

(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 section 56 shall apply,

(2) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

(3) the provisions of section 469(l) (relating to phase-in of disallowance) shall not apply.

(c) Special rules.

For purposes of this section—

(1) Special rule for insolvent taxpayers.

(A) In general. The amount of losses to which subsection (a) or (b) applies shall be reduced by the amount (if any) by which the taxpayer is insolvent as of the close of the taxable year.

(B) Insolvent. For purposes of this paragraph, the term "insolvent" means the excess of liabilities over the fair market value of assets.

(2) Loss allowed for year of disposition of farm shelter activity. If the taxpayer disposes of his entire interest in any tax shelter farm activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsection (a)(1)(B)) shall (to the extent otherwise allowable) be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity.

In '86, PL 99-514, Sec. 701(a) added Code Sec. 58 as part of the amendments to Part VI of subchapter A of chapter 1, effective for tax yrs. begin. after 12/31/86.

Sec. 59. Other definitions and special rules.

(a) Alternative minimum tax foreign tax credit.

For purposes of this part—

(1) In general. The alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

(A) the amount determined under section 55(b)(1)(A) were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1986,

(B) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

(C) for purposes of section 904, any increase in alternative minimum taxable income by reason of section 56(c)(1)(A) (relating to adjustment for book income) shall have the same proportionate source (and character) as alternative minimum taxable income determined without regard to such increase.

(2) Limitation to 90 percent of tax.

(A) In General. The alternative minimum tax foreign tax credit for any taxable year shall not exceed the excess (if any) of—

(i) the amount determined under section 55(b)(1)(A) for the taxable year, over

(ii) 10 percent of the amount which would be determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction.

(B) Carryback and carryforward. If the alternative minimum tax foreign tax credit exceeds the amount determined under subparagraph (A), such excess shall, for purposes of this part, be treated as an amount to which section 904(c) applies.

(b) Minimum tax not to apply to income eligible for Section 936 credit.

In the case of any corporation for which a credit is allowable for the taxable year under section 936, alternative minimum taxable income shall not include any amount with respect to which the requirements of subparagraph (A) or (B) of section 936(a)(1) are met.

(c) Treatment of estates and trusts.

In the case of any estate or trust, the alternative minimum taxable income of such estate or trust and any beneficiary thereof shall be determined by applying part I of subchapter J with the adjustments provided in this part.

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

Code Sec. 59

- (1) In general. The differently treated items for the taxable year shall be apportioned (in accordance with regulations prescribed by the Secretary)—
- (A) Regulated investment companies and real estate investment trusts. In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, between such company or trust and shareholders and holders of beneficial interest in such company or trust.
- (B) Common trust funds. In the case of a common trust fund (as defined in section 584(a)), pro rata among the participants of such fund.
- (2) Differently treated items. For purposes of this section, the term "differently treated item" means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.
- (e) Optional 10-year writeoff of certain tax preferences.
- (1) In general. For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made.
- (2) Qualified expenditure. For purposes of this subsection, the term "qualified expenditure" means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—
- (A) section 173 (relating to circulation expenditures),
- (B) section 174(a) (relating to research and experimental expenditures),
- (C) section 263(c) (relating to intangible drilling and development expenditures),
- (D) section 616(a) (relating to development expenditures), or
- (E) section 617(a) (relating to mining exploration expenditures).
- (3) Other sections not applicable. Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.
- (4) Election.
- (A) In general. An election may be made under paragraph (1) with respect to any portion of any qualified expenditure.
- (B) Revocable only with consent. Any election under this subsection may be revoked only with the consent of the Secretary.
- (C) Partners and shareholders of S corporations. In the case of a partnership, any election under paragraph (1) shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.
- (5) Dispositions.
- (A) Application of section 1254. In the case of any disposition of property to which section 1254 applies (determined without regard to this section), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), 616(a), or 617(a), whichever is appropriate.
- (B) Application of Section 617(d). In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).
- (6) Amounts to which election apply not treated as tax preference. Any portion of any qualified expenditure to which an election under paragraph (1) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.
- (f) Coordination with section 291.
- Except as otherwise provided in this part, section 291 (relating to cutback of corporate preferences) shall apply before the application of this part.
- (g) Tax benefit rule.
- The Secretary may prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for any taxable year.
- (h) Coordination with certain limitations.
- The limitations of sections 704(d), 465, and 1366(d) (and such other provisions as may be specified in regulations) shall be applied for purposes of computing the alternative minimum taxable income of the taxpayer for the taxable year—
- (1) with the adjustments of section 56, and
- (2) by not taking into account any deduction to the extent such deduction is an item of tax preference under section 57(a).
- (i) Special rule for interest treated as tax preference.
- For purposes of this subtitle, interest shall not fail to be treated as wholly exempt from tax imposed by this title solely by reason of being included in alternative minimum taxable income.

In '86, PL 99-514, Sec. 701(a), added Code Sec. 59, as part of the amendments to Part VI of subchapter A of chapter 1, effective for tax. yrs. begin. after 12/31/86.

SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) Tax imposed.

"In the case of a taxpayer other than a corporation, there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) an amount equal to 20 percent of so much of the alternative minimum taxable income as exceeds the exemption amount, over

"(2) the regular tax for the taxable year.

"(b) Alternative minimum taxable income.

"For purposes of this title, the term "alternative minimum taxable income" means the adjusted gross income (determined without regard to the deduction allowed by section 172) of the taxpayer for the taxable year—

"(1) reduced by the sum of—

"(A) the alternative tax net operating loss deduction, plus

"(B) the alternative tax itemized deductions, plus

"(C) any amount included in income under section 87 or 667, and

"(2) increased by the amount of items of tax preference.

"(c) Credits.

(II) paragraph (4) shall apply only to taxable years beginning after December 31, 1989,

(III) paragraph (5) shall apply only to installment sales in taxable years beginning after December 31, 1989,

(IV) paragraph (6) shall apply only to contracts entered into on or after March 1, 1986, and

(V) paragraphs (7) and (8) shall not apply.

(ii) Special rule for intangible drilling costs and mineral exploration and development costs. If—

(I) the present value of the deductions provided under subparagraph (A)(ii) or (B)(ii) of section 312(n)(2) with respect to amounts paid or incurred in taxable years beginning after December 31, 1989, exceeds

(II) the present value of the deductions for such amounts under the method used for book purposes,

such amounts shall be deductible under the method used for book purposes in lieu of that provided in such subparagraph.

(E) Disallowance of loss on exchange of debt pools. No loss shall be recognized on the exchange of any pool of debt obligations for another pool of debt obligations having substantially the same effective interest rates and maturities.

(F) Acquisition expenses of life insurance companies. Acquisition expenses of life insurance companies shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subparagraph applied to all taxable years.

(G) Depletion. The allowances for depletion with respect to any property placed in service in a taxable year beginning after 1989, shall be determined under whichever of the following methods yields deductions with a smaller present value:

- (i) cost depletion determined under section 611, or
- (ii) the method used for book purposes.

(H) Treatment of certain ownership changes. If—

(i) there is an ownership change (within the meaning of section 382) after the date of the enactment of the Tax Reform Act of 1986 with respect to any corporation, and

(ii)(I) the aggregate adjusted bases of the assets of such corporation (immediately after the change), exceed

(II) the value of the stock of such corporation (as determined for purposes of section 382), properly adjusted for liabilities and other relevant items,

then the adjusted basis of each asset of such corporation (as of such time) shall be its proportionate share (determined on the basis of respective fair market values) of the amount referred to in clause (ii)(I).

(5) Other definitions. For purposes of paragraph (4)—

(A) Book purposes. The term "book purposes" means the treatment for purposes of preparing the applicable financial statement referred to in subsection (f).

(B) Earnings and profits. The term "earnings and profits" means earnings and profits computed for purposes of subchapter C.

(C) Present value. Present value shall be determined as

of the time the property is placed in service (or, if later, as of the beginning of the first taxable year beginning after 1989) and under regulations prescribed by the Secretary.

(D) Treatment of alternative minimum taxable income. The treatment of any item for purposes of computing alternative minimum taxable income shall be determined without regard to this subsection.

(6) Exception for certain corporations. This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.

In '86, P.L. 99-514, Sec. 701(a), added Code Sec. 56, as part of the amendments to Part VI of subchapter A of chapter 1, effective for tax yrs. begin. after 12/31/86. Sec. 701(f)(2), (3) and (5) of this Act provides:

"(2) Adjustment of net operating loss.

"(A) Individuals.—In the case of a net operating loss of an individual for a taxable year beginning after December 31, 1982, and before January 1, 1987, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1986, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 53(d)(2) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

"(B) Corporations.—If the minimum tax of a corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any taxable year beginning before January 1, 1987, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1987, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1986, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

"(3) Installment sales.—Section 56(a)(6) of the Internal Revenue Code of 1986 (as amended by this section) shall not apply to any disposition to which the amendments made by section 811 of this Act (relating to allocation of dealer's indebtedness to installment obligations) do not apply by reason of section 811(c)(2) of this Act."

"(5) Book income.

"(A) In general.—In the case of a corporation to which this paragraph applies, the amount of any increase for any taxable year under section 56(c)(1)(A) of the Internal Revenue Code of 1986 (as added by this section) shall be reduced (but not below zero) by the excess (if any) of—

"(i) 50 percent of the excess of taxable income for the 5-taxable year period ending with the taxable year preceding the 1st taxable year to which such section applies over the adjusted net book income for such period, over

"(ii) the aggregate amounts taken into account under this paragraph for preceding taxable years.

"(B) Taxpayer to whom paragraph applies.—This paragraph applies to a taxpayer which was incorporated in Delaware on May 31, 1912.

"(C) Terms.—Any term used in this paragraph which is used in section 56 of such Code (as so added) shall have the same meaning as when used in such section."

Sec. 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).

(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

Code Sec. 57

drilling costs arising in the taxable year is greater than 65 percent of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

(B) Excess intangible drilling costs. For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c) or 291(b) for the taxable year, over

(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (b)) had been used with respect to such costs.

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

(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

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

(i) all oil and gas properties which are not described in clause (ii), and

(ii) all properties which are geothermal deposits (as defined in section 613(e)(3)).

(3) Incentive stock options.

(A) In general. With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price. For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

(B) Basis adjustment. In determining the amount of gain or loss recognized for purposes of this part on any disposition of a share of stock acquired pursuant to an exercise (in a taxable year beginning after December 31, 1986) of an incentive stock option, the basis of such stock shall be increased by the amount of the excess referred to in subparagraph (A).

(4) Reserves for losses on bad debts of financial institutions. In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

(5) Tax-exempt interest.

(A) In general. Interest on specified private activity

bonds reduced by any deduction (not allowable in computing the regular tax) which would have been allowable if such interest were includible in gross income.

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

(C) Specified private activity bonds.

(i) In general. For purposes of this part, the term "specified private activity bonds" means any private activity bond (as defined in section 141) issued after August 7, 1986.

(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 refundings. For purposes of clause (i), the term "private activity bond" shall not include any refunding bond if the refunded bond (or in the case of a series of refundings, the original bond) was issued before August 8, 1986.

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

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

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

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

(6) Appreciated property charitable deduction.

(A) In general. The amount by which the deduction allowable under section 170 would be reduced if all capital gain property were taken into account at its adjusted basis.

(B) Capital gain property. For purposes of subparagraph (A), the term "capital gain property" has the meaning given to such term by section 170(b)(1)(C)(iv). Such term shall not include any property to which an election under section 170(b)(1)(C)(iii) applies.

(7) 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.

(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

Code Sec. 56

the alternative minimum taxable income for the taxable year—

(A) determined with the adjustments provided in paragraph (4), and

(B) determined without regard to this subsection and the alternative tax net operating loss deduction.

(4) Adjustments. In determining adjusted current earnings, the following adjustments shall apply:

(A) Depreciation.

(i) Property placed in service after 1989. The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under whichever of the following methods yields deductions with a smaller present value:

(I) The alternative system of section 168(g), or

(II) The method used for book purposes.

(ii) Property to which new ACRS system applies. In the case of any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight-line method over the remainder of the recovery period applicable to such property under the alternative system of section 168(g).

(iii) Property to which original ACRS system applies. In the case of any property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 and without regard to subsection (d)(1)(A)(ii) thereof) applies, the depreciation deduction shall be determined—

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing the regular tax) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight line method over the remainder of the recovery period which would apply to such property under the alternative system of section 168(g).

(iv) Property placed in service before 1981. In the case of any property not described in clause (i), (ii), or (iii), the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing taxable income.

(v) Slower method used if used for book purposes. In the case of any property to which clause (ii), (ii'), or (iv) applies, if the depreciation method used for book purposes yields deductions for taxable years beginning after 1989 with a smaller present value than the method which would otherwise be used under such clause, the method used for book purposes shall be used in lieu of the method which would otherwise be used under such clause.

(B) Inclusion of items included for purposes of computing earnings and profits.

(i) In general. In the case of any amount which is excluded from gross income for purposes of computing alternative minimum taxable income but is taken into account in determining the amount of earnings and profits—

(I) such amount shall be included in income in the same manner as if such amount were includible in gross income for purposes of computing alternative minimum taxable income, and

(II) the amount of such income shall be reduced by any deduction which would have been allowable in computing alternative minimum taxable income if such amount were includible in gross income.

(ii) Inclusion of buildup in life insurance contracts. In the case of any life insurance contract—

(I) the income on such contract (as determined under section 7702(g)) for any taxable year shall be treated as includible in gross income for such year, and

(II) there shall be allowed as a deduction that portion of any premium which is attributable to insurance coverage.

(iii) Inclusion of income on annuity contract. In the case of any annuity contract, the income on such contract (as determined under section 72(u)(2)) shall be treated as includible in gross income for such year.

(C) Disallowance of items not deductible in computing earnings and profits.

(i) In general. A deduction shall not be allowed for any item if such item would not be deductible for any taxable year for purposes of computing earnings and profits.

(ii) Special rule for 100-percent dividends. Clause (i) shall not apply to any deduction allowable under section 243 or 245 for a 100-percent dividend—

(I) if the corporation receiving such dividend and the corporation paying such dividend could not be members of the same affiliated group under section 1504 by reason of section 1504(b),

(II) but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 936 and 921).

For purposes of the preceding sentence, the term "100 percent dividend" means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent.

(iii) Special rule for dividends from section 936 companies. In the case of any dividend received from a corporation eligible for the credit provided by section 936, rules similar to the rules of subparagraph (F) of subsection (f)(1) shall apply, except that "75 percent" shall be substituted for "50 percent" in clause (ii)(I) thereof.

(D) Certain other earnings and profits adjustments.

(i) In general. The adjustments provided in section 312(n) shall apply; except that—

(I) paragraphs (1), (2), and (3) shall apply only to amounts paid or incurred in taxable years beginning after December 31, 1989,

(E) Special rule for cooperatives. In the case of a cooperative to which section 1381 applies, the amount determined under subparagraph (A) shall be reduced by the amounts referred to in section 1382(b) (relating to patronage dividends and per-unit retain allocations) to the extent such amounts were not otherwise taken into account in determining adjusted net book income.

(F) Treatment of dividends from 936 corporations.

(i) In general. In determining the amount of adjusted net book income, any dividend received from a corporation eligible for the credit provided by section 936 shall be increased by the amount of any withholding tax paid to a possession of the United States with respect to such dividend.

(ii) Treatment as foreign taxes.

(I) In general. 50 percent of any withholding tax paid to a possession of the United States with respect to dividends referred to in clause (i) (to the extent such dividends do not exceed the excess referred to in paragraph (1), determined without regard to clause (i)) shall, for purposes of this part, be treated as a tax paid by the corporation receiving the dividend to a foreign country.

(II) Treatment of taxes imposed on 936 corporation. For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States, shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902.

(G) Rules for Alaska native corporations. The amount determined under subparagraph (A) shall be appropriately adjusted to allow:

(i) cost recovery and depletion attributable to property the basis of which is determined under section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), and

(ii) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of such Act (43 U.S.C. 1606(i) and 1606(j)) only at such time as the deductions are allowed for tax purposes.

(H) Secretarial authority to adjust items. Under regulations, adjusted net book income shall be properly adjusted to prevent the omission or duplication of any item.

(3) Applicable financial statement. For purposes of this subsection—

(A) In general. The term "applicable financial statement" means, with respect to any taxable year, any statement covering such taxable year—

(i) which is required to be filed with the Securities and Exchange Commission,

(ii) which is a certified audited income statement to be used for the purposes of a statement or report—

(I) for credit purposes,

(II) to shareholders, or

(III) for any other substantial nontax purpose,

(iii) which is an income statement required to be provided to—

(I) the Federal Government or any agency thereof,

(II) a State government or any agency thereof, or
(III) a political subdivision of a State or any agency thereof, or

(iv) which is an income statement to be used for the purposes of a statement or report—

(I) for credit purposes,

(II) to shareholders, or

(III) for any other substantial nontax purpose.

(B) Earnings and profits used in certain cases. If—

(i) a taxpayer has no applicable financial statement, or

(ii) a taxpayer has only a statement described in subparagraph (A)(iv) and the taxpayer elects the application of this subparagraph,

the net income or loss set forth on the taxpayer's applicable financial statement shall, for purposes of paragraph (3)(A), be treated as being equal to the taxpayer's earnings and profits for the taxable year (without diminution by reason of distributions during the tax year). Such election, once made, shall remain in effect for any taxable year for which the taxpayer is described in this subparagraph unless revoked with the consent of the Secretary.

(C) Special rule where more than 1 statement. For purposes of subparagraph (A), if a taxpayer has a statement described in more than 1 clause or subclause, the applicable financial statement shall be the statement described in the clause or subclause with the lowest number designation.

(4) Exception for certain corporations. This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.

(g) Adjustments based on adjusted current earnings.

(1) In general. The alternative minimum taxable income of any corporation for any taxable year beginning after 1989 shall be increased by 75 percent of the excess (if any) of—

(A) the adjusted current earnings of the corporation, over

(B) the alternative minimum taxable income (determined without regard to this subsection and the alternative tax net operating loss deduction).

(2) Allowance of negative adjustments.

(A) In general. The alternative minimum taxable income for any corporation of any taxable year beginning after 1989, shall be reduced by 75 percent of the excess (if any) of—

(i) the amount referred to in subparagraph (B) of paragraph (1), over

(ii) the amount referred to in subparagraph (A) of paragraph (1).

(B) Limitation. The reduction under subparagraph (A) for any taxable year shall not exceed the excess (if any) of—

(i) the aggregate increases in alternative minimum taxable income under paragraph (1) for prior taxable years, over

(ii) the aggregate reductions under subparagraph (A) of this paragraph for prior taxable years.

(3) Adjusted current earnings. For purposes of this subsection, the term "adjusted current earnings" means

tion 169 (without regard to section 291) shall be determined under the alternative system of section 168(g).

(6) **Installment sales of certain property.** In the case of any—

(A) disposition after March 1, 1986, of property described in section 1221(1), or

(B) other disposition if an obligation arising from such disposition would be an applicable installment obligation (as defined in section 453C(e)) to which section 453C applies,

income from such disposition shall be determined without regard to the installment method under section 453 or 453A and all payments to be received for the disposition shall be deemed received in the taxable year of the disposition. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453C(e)(4).

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

(b) **Adjustments applicable to individuals.**

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

(1) **Limitation on itemized deductions.**

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

(i) for any miscellaneous itemized deduction (as defined in section 67(b)), or

(ii) for any taxes described in paragraph (1), (2), or (3) of section 164(a). Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

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

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

(i) in lieu of the exception under section 163(h)(2)(D), the term "personal interest" shall not include any qualified housing interest (as defined in subsection (e)),

(ii) sections 163(d)(6) and 163(h)(6) (relating to phase-ins) shall not apply, and

(iii) interest on any specified private activity bond (and any amount treated as interest on a specified activity bond under section 56(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A), shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d).

(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 not allowed.** The standard deduction provided in section 63(c) shall not be allowed.

(2) **Circulation and research and experimental expenditures.**

(A) In general. The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—

(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

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

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

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

(C) **Special rule for personal holding companies.** In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

(c) **Adjustments applicable to corporations.**

In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

(1) **Adjustment for book income or adjusted earnings and profits.**

(A) **Book income adjustment.** For taxable years beginning in 1987, 1988, and 1989, alternative minimum taxable income shall be adjusted as provided under subsection (f).

(B) **Adjusted earnings and profits.** For taxable years beginning after 1989, alternative minimum taxable income shall be adjusted as provided under subsection (g).

(2) **Merchant marine capital construction funds.** In the case of a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)—

(A) subparagraphs (A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such section 607) shall not apply to—

(i) any amount deposited in such fund after December 31, 1986, or

(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

(B) no reduction in basis shall be made under section 7518(f) (or the corresponding provisions of such section 607) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

(3) **Special deduction for certain organizations not al-**

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lowed. The deduction determined under section 833(b) shall not be allowed.

(d) Alternative tax net operating loss deduction defined.

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

(A) the amount of such deduction shall not exceed 90 percent of alternative minimum taxable income determined without regard to such deduction, and

(B) in determining the amount of such deduction—

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

(ii) in the case of taxable years beginning after December 31, 1986, section 172(b)(2) shall be applied by substituting '90 percent of alternative minimum taxable income determined without regard to the alternative tax net operating loss deduction' for 'taxable income' each place it appears.

(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 (other than subsection (a)(6) thereof).

(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.

(e) Qualified housing interest.

For purposes of this part—

(1) In general. The term "qualified housing interest" means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

(A) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

(B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(3)).

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

(2) Qualified dwelling. The term "qualified dwelling" means any—

(A) house,

(B) apartment,

(C) condominium, or

(D) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)), including all structures or other property appurtenant thereto.

(3) Special rule for indebtedness incurred before July 1, 1982. The term "qualified housing interest" includes interest 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 1034) 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))).

(f) Adjustments for book income of corporations.

(1) In general. The alternative minimum taxable income of any corporation for any taxable year beginning in 1987, 1988, or 1989 shall be increased by 50 percent of the amount (if any) by which—

(A) the adjusted net book income of the corporation, exceeds

(B) the alternative minimum taxable income for the taxable year (determined without regard to this subsection and the alternative tax net operating loss deduction).

(2) Adjusted net book income. For purposes of this subsection—

(A) In general. The term "adjusted net book income" means the net income or loss of the taxpayer set forth on the taxpayer's applicable financial statement, adjusted as provided in this paragraph.

(B) Adjustments for certain taxes. The amount determined under subparagraph (A) shall be appropriately adjusted to disregard any Federal income taxes, or income, war profits, or excess profits taxes imposed by any foreign country or possession of the United States, which are directly or indirectly taken into account on the taxpayer's applicable financial statement. The preceding sentence shall not apply to any such taxes imposed by a foreign country or possession of the United States if the taxpayer does not choose to take, to any extent, the benefits of section 901.

(C) Special rules for related corporations.

(i) Consolidated returns. If the taxpayer files a consolidated return for any taxable year, adjusted net book income for such taxable year shall take into account items on the taxpayer's applicable financial statement which are properly allocable to members of such group included on such return.

(ii) Treatment of dividends. In the case of any corporation which is not included on a consolidated return with the taxpayer, adjusted net book income shall take into account the earnings of such other corporation only to the extent of the sum of the dividends received from such other corporation and other amounts required to be included in gross income under this chapter in respect of the earnings of such other corporation.

(D) Statements covering different periods. Appropriate adjustments shall be made in adjusted net book income in any case in which an applicable financial statement covers a period other than the taxable year.

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and shall not include any increase in tax under section 47.

(2) Cross references.

For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

(d) Exemption amount.

For purposes of this section—

(1) Exemption amount for taxpayers other than corporations. In the case of a taxpayer other than a corporation, the term "exemption amount" means—

(A) \$40,000 in the case of—

- (i) a joint return, or
- (ii) a surviving spouse,

(B) \$30,000 in the case of an individual who—

- (i) is not a married individual, and
- (ii) is not a surviving spouse, and

(C) \$20,000 in the case of—

- (i) a married individual who files a separate return, or
- (ii) an estate or trust.

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

(2) Corporations. In the case of a corporation, the term "exemption amount" means \$40,000.

(3) Phase-out of exemption amount. The exemption amount of any taxpayer shall be reduced (but not below zero) by an amount equal to 25 percent of the amount by which the alternative minimum taxable income of the taxpayer exceeds—

(A) \$150,000 in the case of a taxpayer described in paragraph (1)(A) or (2),

(B) \$112,500 in the case of a taxpayer described in paragraph (1)(B), and

(C) \$75,000 in the case of a taxpayer described in paragraph (1)(C).

In '86, P.L. 99-514, Sec. 701(a) added Code Sec. 55 as part of the amendments to Part VI of subchapter A of Chapter 1, effective for tax yrs. begin. after 12/31/86.

Sec. 56. Adjustments in computing alternative minimum taxable income.

(a) Adjustments applicable to all taxpayers.

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

(1) Depreciation.

(A) In general.

(i) Property other than certain real property. Except as provided in clause (ii), the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g).

(ii) 150-percent declining balance method for certain property. The method of depreciation used shall be—

(I) the 150 percent declining balance method,

(II) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance.

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

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

(C) Coordination with transitional rules.

(i) In general. This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply.

(ii) Treatment of certain property placed in service before 1987. This paragraph shall apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

(D) Normalization rules. With respect to public utility property described in section 167(1)(3)(A), the Secretary shall prescribe the requirements of a normalization method of accounting for this section.

(2) Mining exploration and development costs.

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

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

- (i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or
- (ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(3) Treatment of certain long-term contracts. In the case of any long-term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)).

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

(5) Pollution control facilities. In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under sec-

"(1) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed \$9,000; or

"(2) \$35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (c) of section 151."

"(c) Special rule for married individuals filing separate returns.

"(1) In general. Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (1) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (2) of subsection (a).

"For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting "\$4,500" for "\$9,000."

"(2) Application of paragraph (1)(B). Subparagraph (B) of paragraph (1) shall apply to any taxpayer for any taxable year if—

"(A) such taxpayer elects to have such subparagraph apply for such taxable year, and

"(B) the spouse of such taxpayer elects to have such subparagraph apply for any taxable year corresponding, for purposes of section 142(a), to the taxable year of the taxpayer.

"Any such election shall be made at such time, and in such manner, as the Secretary shall by regulations prescribe.

"(3) Marital status. For purposes of this subsection, the determination of marital status shall be made under section 143."

—P.L. 95-30, Secs. 103(a) and 103(c), extended the effective date for general tax credits to include tax yrs. end. after '75 and before '79.

In '76, P.L. 94-455, Sec. 401(a)(2)(B), amended the heading of Code Sec. 42 and amended subsec. (a), effective under Sec. 401(a)(1) of the Act for tax yrs. end. after '75 and before '78. Prior to amendment the heading of Code Sec. 42 and subsec. (a) read as follows:

SEC. 42. TAXABLE INCOME CREDIT.

"(a) Allowance of credit.

"(1) In general. In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(A) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed \$9,000; or

"(B) \$35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (c) of section 151.

"(2) Application of six-month rule. Notwithstanding the provisions of paragraph (1) of this subsection, the percentage "1 percent" shall be substituted for "2 percent" in subparagraph (A) of such paragraph, and the amount "\$17.50" shall be substituted for the amount "\$35" in subparagraph (B) of such paragraph."

—P.L. 94-455, Sec. 401(a)(2)(B), amended para. (c)(1), for tax yrs. end. after '75. Prior to amendment para. (c)(1) read as follows:

"(1) In general. Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (a)(A) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (1)(B) of subsection (a).

"For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting "\$4,500" for "\$9,000."

—P.L. 94-455, Sec. 503(b)(4), substituted "credit for the elderly" for "retirement income" in para. (b)(2), for tax yrs. begin. after '75.

—P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" in subsec. (c), for tax yrs. begin. after '76.

In '75, P.L. 94-164, Sec. 3(a)(1), substituted new material for Code Sec. 42, effective under Sec. 3(b) of the Act for tax yrs. end. after '75 and before '77. Prior to amendment, Code Sec. 42 read as follows:

SEC. 42. CREDIT FOR PERSONAL EXEMPTIONS.

"(a) General rule.

"In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year \$30,

multiplied by each exemption for which the taxpayer is entitled for the taxable year under subsection (b) or (c) of section 151.

"(b) Application with other credits.

"The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to retirement income),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs), and

"(5) section 41 (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section."

—P.L. 94-164, Sec. 2(e), extended the effective date for amendments made by P.L. 94-12, Sec. 203(e), to include tax yrs. end. after 12/31/74 and before 1/1/77.

—P.L. 94-12, Sec. 203(a), redesignated former Code Sec. 42 as Code Sec. 43 and added new Code Sec. 42, effective for tax yrs. end. after 12/31/74 and before 1/1/76.

Sec. 46. Amount of credit.

(Reproduced at chapter L)

Sec. 47. Certain dispositions, etc., of section 38 property.

(Reproduced at chapter L)

● **Caution:** Code Secs. 55-59, following, are effective for tax yrs. begin. after 12/31/86. Code Secs. 55-58 effective for tax yrs. begin. before 1/1/87 are reproduced following Code Sec. 59.

Sec. 55. Alternative minimum tax imposed.

(a) General rule.

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

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

(b) Tentative minimum tax.

For purposes of this part—

(1) In general. The tentative minimum tax for the taxable year is—

- (A) 20 percent (21 percent in the case of a taxpayer other than a corporation) of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by
- (B) 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.

(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). Such term shall not include any tax imposed by section 402(e)