property and that such shareholders did not own any interests in other electing small business corporations, partnerships, estates, or trusts. Under section 46(c), the qualified investment of shareholder A is $23,400, of shareholder B is $15,600, and of shareholder C is $39,000, computed as follows:

Basis (or cost)	Applicable percentage	Qualified investment
SHAREHOLDER A		
$18,000 (new)	33⅓	$6,000
$9,000 (new)	100	9,000
$7,200 (used)	66⅔	4,800
$3,600 (used)	100	3,600
Total	....	23,400
SHAREHOLDER B		
$12,000 (new)	33⅓	$4,000
$6,000 (new)	100	6,000
$4,800 (used)	66⅔	3,200
$2,400 (used)	100	2,400
Total	....	15,600
SHAREHOLDER C		
$30,000 (new)	33⅓	$10,000
$15,000 (new)	100	15,000
$12,000 (used)	66⅔	8,000
$6,000 (used)	100	6,000
Total		39,000

[T.D. 6731, 29 FR 6082, May 8, 1964, as amended by T.D. 6931, 32 FR 14040, Oct. 10, 1967; T.D. 7203, 37 FR 17133, Aug. 25, 1972]

§ 1.48–6 Estates and trusts.

(a) *In general.* (1) In the case of an estate or trust, the basis of ''new section 38 property'' and the cost of ''used section 38 property'' placed in service during the taxable year shall be apportioned among the estate or trust and its beneficiaries on the basis of the income of such estate or trust allocable to each. Section 38 property shall not (by reason of such apportionment) lose its character as new section 38 property or used section 38 property, as the case may be. The estimated useful life of such property in the hands of a beneficiary shall be deemed to be the estimated useful life of such property in the hands of the estate or trust. The bases of all new section 38 properties which have a useful life falling within a particular useful life category shall be aggregated; likewise, the cost of all used section 38 properties which have a useful life falling within a particular useful life category shall be aggregated. The total bases of new section 38 properties within each useful life category and the total cost of used section 38 properties within each useful life category shall be apportioned separately. The useful life categories are:

(i) 3 years or more but less than 5 years; (ii) 5 years or more but less than 7 years; and (iii) 7 years or more. There shall be apportioned to the estate or trust for its taxable year, and to each beneficiary of such estate or trust for his taxable year in which or with which the taxable year of such estate or trust ends, his share (as determined under paragraph (b) of this section) of the total bases of new section 38 properties within each useful life category, and his share of the total cost of used section 38 properties within each useful life category.

(2) The total cost of used section 38 property that may be apportioned among an estate or trust and its beneficiaries for any taxable year of such estate or trust shall not exceed $50,000. If the total cost of used section 38 property placed in service during the taxable year by the estate or trust exceeds $50,000, such estate or trust must select, under paragraph (c)(4) of § 1.48–3, the used section 38 property the cost of which is to be apportioned among such estate or trust and its beneficiaries.

(3) A beneficiary to whom the basis (or cost) of section 38 property is apportioned shall, for purposes of the credit allowed by section 38, be treated as the taxpayer with respect to such property. Thus, the total cost of used section 38 property apportioned to him by the estate or trust must be taken into account as cost of used section 38 property in determining whether the $50,000 limitation on the cost of used property which may be taken into account by the beneficiary in computing qualified investment for any taxable year is exceeded. If a beneficiary takes into account in determining his qualified investment any portion of the basis (or cost) of section 38 property placed in service by an estate or trust and if such property subsequently is disposed of or otherwise ceases to be section 38 property in the hands of estate or trust, such beneficiary shall be

subject to the provisions of section 47. See § 1.47–5.

(4) For purposes of this section, the term ''beneficiary'' includes heir, legatee, and devisee.

(5) If during the taxable year of an estate or trust a beneficiary's interest in the income of such estate or trust terminates, the basis (or cost) of section 38 property placed in service by such estate or trust after such termination shall not be apportioned to such beneficiary.

(b) *Share.* A trust's, estate's, or beneficiary's share of the total bases of new section 38 properties, and the total cost of used section 38 properties, within a useful life category shall be—

(1) The total bases of new (or the total cost of used) section 38 properties which have a useful life falling within such useful life category placed in service in the taxable year of the estate or trust, multiplied by

(2) The amount of income allocable to such estate or trust or to such beneficiary for such taxable year, divided by

(3) The sum of the amounts of income allocable to such estate or trust and all its beneficiaries taken into account under subparagraph (2) of this paragraph.

(c) *Limitation based on amount of tax.* In the case of an estate or trust, the $25,000 amount specified in section 46(a)(2), relating to limitation based on amount of tax, shall be reduced for the taxable year to—

(1) $25,000, multiplied by

(2) The qualified investment with respect to the total bases of new section 38 properties plus the qualified investment with respect to the total cost of used section 38 properties, apportioned to such estate or trust under paragraph (a) of this section, divided by

(3) The qualified investment with respect to the total bases of all new section 38 properties plus the qualified investment with respect to the total cost of all used section 38 properties, apportioned among such estate or trust and its beneficiaries.

For purposes of subparagraph (3) of this paragraph, cost of used section 38 property shall not be considered as apportioned to any beneficiary to the extent that such cost is not taken into account by such beneficiary in computing qualified investment in used section 38 property.

(d) *Summary statement.* An estate or trust shall attach to its return a statement showing the apportionment to such estate or trust and to each beneficiary of the total bases of new, and the total cost of used, section 38 properties within each useful life category.

(e) *Example.* This section may be illustrated by the following example:

Example. 1 XYZ Trust, which makes its return on the basis of the calendar year, acquires and places in service on June 1, 1962, three new assets which qualify as new section 38 property and three used assets which qualify as used section 38 property. The basis of the new, and the cost of the used, section 38 property and the estimated useful life of each property are as follows:

Asset No.	Basis (or cost)	Estimated useful life
1 (new)	$30,000	4 years.
2 (new)	30,000	4 years.
3 (new)	30,000	8 years.
4 (used)	12,000	6 years.
5 (used)	12,000	6 years.
6 (used)	12,000	8 years.

For the taxable year 1962 the income of XYZ Trust is $20,000 which is allocable as follows: $10,000 to XYZ Trust, $6,000 to beneficiary A, and $4,000 to beneficiary B. Beneficiaries A and B make their returns on the basis of a calendar year.

(2) Under this section, the total bases of the new, and the total cost of the used, section 38 properties are apportioned to XYZ Trust and its beneficiaries as follows:

Useful life category	New—4 to 6 years	New—8 years or more	Used—6 to 8 years	Used—8 years or more
Total bases or total cost	$60,000	$30,000	$24,000	$12,000
XYZ Trust ($10,000÷20,000)	30,000	15,000	12,000	6,000
Beneficiary A ($6,000÷20,000)	18,000	9,000	7,200	3,600
Beneficiary B ($4,000÷20,000)	12,000	6,000	4,800	2,400

Assume that beneficiary A placed in service during his taxable year 1962 new section 38 property with a basis of $10,000 and an estimated useful life of 8 years. Also, assume that beneficiary B did not place in service during his taxable year 1962 any section 38 property and that beneficiaries A and B did not own any interests in other trusts, estates, partnerships, or electing small business corporations. Under section 46(c), the qualified investment of XYZ Trust is $39,000, of beneficiary A is $33,400, and of beneficiary B is $15,600, computed as follows:

Basis (or cost)	Applicable percentage	Qualified investment
XYZ TRUST		
$30,000 (new)	33⅓	$10,000
$15,000 (new)	100	15,000
$12,000 (used)	66⅔	8,000
$6,000 (used)	100	6,000
Total	....	39,000
BENEFICIARY A		
$18,000 (new)	33⅓	$6,000
$9,000 (new)	100	9,000
$7,200 (used)	66⅔	4,800
$3,600 (used)	100	3,600
		23,400
$10,000 (new)	100	10,000
Total	....	33,400
BENEFICIARY B		
$12,000 (new)	33⅓	$4,000
$6,000 (new)	100	6,000
$4,800 (used)	66⅔	3,200
$2,400 (used)	100	2,400
Total	....	15,600

(3) In the case of XYZ Trust, the $25,000 amount specified in section 46(a)(2) is reduced to $12,500, computed as follows: (i) $25,000, multiplied by (ii) $39,000 (qualified investment apportioned to the trust), divided by (iii) $78,000 (total qualified investment apportioned among such trust ($39,000), beneficiary A ($23,400), and beneficiary B ($15,600)).

[T.D. 6731, 29 FR 6083, May 8, 1964, as amended by T.D. 6931, 32 FR 14040, Oct. 10, 1967; T.D. 6958, 33 FR 9171, June 21, 1968; T.D. 7203, 37 FR 17133, Aug. 25, 1972]

§ 1.48–9 Definition of energy property.

(a) *General rule*—(1) *In general*. Under section 48(l)(2), energy property means property that is described in at least one of 6 categories of energy property and that meets the other requirements of this section. If property is described in more than one of these categories, or is described more than once in a single category, only a single energy investment credit is allowed. In that case, the energy investment credit will be allowed under the category the taxpayer chooses by indicating the chosen category on Form 3468, Schedule B. The 6 categories of energy property are:

(i) Alternative energy property,

(ii) Solar or wind energy property,

(iii) Specially defined energy property,

(iv) Recycling equipment,

(v) Shale oil equipment, and

(vi) Equipment for producing natural gas from geopressured brine.

(2) *Depreciable property with 3-year useful life*. Property is not energy property unless depreciation (or amortization in lieu of depreciation) is allowable and the property has an estimated useful life (determined at the time when the property is placed in service) of 3 years or more.

(3) *Effective date rules*. To be energy property—

(i) If property is constructed, reconstructed or erected by the taxpayer, the construction, reconstruction, or erection must be completed after September 30, 1978, or

(ii) If the property is acquired, the original use of the property must (A) commence with the taxpayer and (B) commence after September 30, 1978, and before January 1, 1983.

For transitional rules, see section 48(m).

(4) *Cross references*. (i) To determine if depreciation (or amortization in lieu of depreciation) is allowable for property, see § 1.48–1(b).

(ii) For the meaning of ''estimated useful life'', see § 1.46–3(e)(7).

(iii) The meaning of ''acquired'', ''original use'', ''construction'', ''reconstruction'', and ''erection'' is determined under the principles of § 1.48–2(b).

(iv) For the definition of energy investment credit (energy credit), see section 48(o)(2).

(v) For special rules relating to public utility property, see paragraph (n) of this section.

(b) *Relationship to section 38 property*—(1) *In general*. (i) Energy property is