

Internal Revenue Service, Treasury

§ 1.43-0

(5) Section 41 (relating to contributions to candidates for public office), the tax imposed for the taxable year shall first be reduced (before any other reduction) by the credit allowed by section 42 and this section for the taxable year.

(g) *Income tax tables to reflect credit.* The tables prescribed under section 3 shall reflect the credit allowed by section 42 and this section.

(h) *Effective dates.* The credit allowed by section 42 and this section applies only for taxable years ending after December 31, 1975, and before January 1, 1979.

[T.D. 7547, 43 FR 19653, May 8, 1978]

§ 1.43-0 Table of contents.

This section lists the captions contained in §§ 1.43-0 through 1.43-7.

§ 1.43-1 The enhanced oil recovery credit—general rules.

- (a) Claiming the credit.
 - (1) In general.
 - (2) Examples.
- (b) Amount of the credit.
- (c) Phase-out of the credit as crude oil prices increase.
 - (1) In general.
 - (2) Inflation adjustment.
 - (3) Examples.
- (d) Reduction of associated deductions.
 - (1) In general.
 - (2) Certain deductions by an integrated oil company.
- (e) Basis adjustment.
- (f) Passthrough entity basis adjustment.
 - (1) Partners' interests in a partnership.
 - (2) Shareholders' stock in an S corporation.
- (g) Examples.

§ 1.43-2 Qualified enhanced oil recovery project.

- (a) Qualified enhanced oil recovery project.
- (b) More than insignificant increase.
- (c) First injection of liquids, gases, or other matter.
 - (1) In general.
 - (2) Example.
- (d) Significant expansion exception.
 - (1) In general.
 - (2) Substantially unaffected reservoir volume.
 - (3) Terminated projects.
 - (4) Change in tertiary recovery method.
 - (5) Examples.
- (e) Qualified tertiary recovery methods.
 - (1) In general.
 - (2) Tertiary recovery methods that qualify.
 - (3) Recovery methods that do not qualify.

- (4) Examples.

§ 1.43-3 Certification.

- (a) Petroleum engineer's certification of a project.
 - (1) In general.
 - (2) Timing of certification.
 - (3) Content of certification.
- (b) Operator's continued certification of a project.
 - (1) In general.
 - (2) Timing of certification.
 - (3) Content of certification.
- (c) Notice of project termination.
 - (1) In general.
 - (2) Timing of notice.
 - (3) Content of notice.
- (d) Failure to submit certification.
- (e) Effective date.

§ 1.43-4 Qualified enhanced oil recovery costs.

- (a) Qualifying costs.
 - (1) In general.
 - (2) Costs paid or incurred for an asset which is used to implement more than one qualified enhanced oil recovery project or for other activities.
- (b) Costs defined.
 - (1) Qualified tertiary injectant expenses.
 - (2) Intangible drilling and development costs.
 - (3) Tangible property costs.
 - (4) Examples.
- (c) Primary purpose.
 - (1) In general.
 - (2) Tertiary injectant costs.
 - (3) Intangible drilling and development costs.
 - (4) Tangible property costs.
 - (5) Offshore drilling platforms.
 - (6) Examples.
- (d) Costs paid or incurred prior to first injection.
 - (1) In general.
 - (2) First injection after filing of return for taxable year costs are allowable.
 - (3) First injection more than 36 months after close of taxable year costs are paid or incurred.
 - (4) Injections in volumes less than the volumes specified in the project plan.
 - (5) Examples.
- (e) Other rules.
 - (1) Anti-abuse rule.
 - (2) Costs paid or incurred to acquire a project.
 - (3) Examples.

§ 1.43-5 At-risk limitation.

§ 1.43-6 Election out of section 43.

- (a) Election to have the credit not apply.
 - (1) In general.
 - (2) Time for making the election.
 - (3) Manner of making the election.
- (b) Election by partnerships and S corporations.

§ 1.43-1

26 CFR Ch. I (4-1-02 Edition)

§ 1.43-7 Effective date of regulations.

[T.D. 8448, 57 FR 54923, Nov. 23, 1992]

§ 1.43-1 The enhanced oil recovery credit—general rules.

(a) *Claiming the credit*—(1) *In general.* The enhanced oil recovery credit (the “credit”) is a component of the section 38 general business credit. A taxpayer that owns an operating mineral interest (as defined in § 1.614-2(b)) in a property may claim the credit for qualified enhanced oil recovery costs (as described in § 1.43-4) paid or incurred by the taxpayer in connection with a qualified enhanced oil recovery project (as described in § 1.43-2) undertaken with respect to the property. A taxpayer that does not own an operating mineral interest in a property may not claim the credit. To the extent a credit included in the current year business credit under section 38(b) is unused under section 38, the credit is carried back or forward under the section 39 business credit carryback and carryforward rules.

(2) *Examples.* The following examples illustrate the principles of this paragraph (a).

Example 1. Credit for operating mineral interest owner. In 1992, A, the owner of an operating mineral interest in a property, begins a qualified enhanced oil recovery project using cyclic steam. B, who owns no interest in the property, purchases and places in service a steam generator. B sells A steam, which A uses as a tertiary injectant described in section 193. Because A owns an operating mineral interest in the property with respect to which the project is undertaken, A may claim a credit for the cost of the steam. Although B owns the steam generator used to produce steam for the project, B may not claim a credit for B’s costs because B does not own an operating mineral interest in the property.

Example 2. Credit for operating mineral interest owner. C and D are partners in CD, a partnership that owns an operating mineral interest in a property. In 1992, CD begins a qualified enhanced oil recovery project using cyclic steam. D purchases a steam generator and sells steam to CD. Because CD owns an operating mineral interest in the property with respect to which the project is undertaken, CD may claim a credit for the cost of the steam. Although D owns the steam generator used to produce steam for the project, D may not claim a credit for the costs of the steam generator because D paid these costs

in a capacity other than that of an operating mineral interest owner.

(b) *Amount of the credit.* A taxpayer’s credit is an amount equal to 15 percent of the taxpayer’s qualified enhanced oil recovery costs for the taxable year, reduced by the phase-out amount, if any, determined under paragraph (c) of this section.

(c) *Phase-out of the credit as crude oil prices increase*—(1) *In general.* The amount of the credit (determined without regard to this paragraph (c)) for any taxable year is reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph (c)) as—

(i) The amount by which the reference price determined under section 29(d)(2)(C) for the calendar year immediately preceding the calendar year in which the taxable year begins exceeds \$28 (as adjusted under paragraph (c)(2) of this section); bears to

(ii) \$6.

(2) *Inflation adjustment*—(i) *In general.* For any taxable year beginning in a calendar year after 1991, an amount equal to \$28 multiplied by the inflation adjustment factor is substituted for the \$28 amount under paragraph (c)(1)(i) of this section.

(ii) *Inflation adjustment factor.* For purposes of this paragraph (c), the inflation adjustment factor for any calendar year is 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. The “GNP implicit price deflator” is the first revision of the implicit price deflator for the gross national product as computed and published by the Secretary of Commerce. As early as practicable, the inflation adjustment factor for each calendar year will be published by the Internal Revenue Service in the Internal Revenue Bulletin.

(3) *Examples.* The following examples illustrate the principles of this paragraph (c).

Example 1. Reference price exceeds \$28. In 1992, E, the owner of an operating mineral interest in a property, incurs \$100 of qualified enhanced oil recovery costs. The reference price for 1991 determined under section