

Internal Revenue Service, Treasury

§ 1.40-1

Credit base of W	1,400
Combined credit base	2,100
Credit for the elderly (15 pct. of \$2,100)	315

Example 3. (a) Assume the same facts as in example (2) of this paragraph, except that H and W live apart at all times during 1978 and file separate returns. Under these circumstances, H and W must give effect to the applicable community property law in determining their credits under section 37(e). Thus, each spouse must take into account one-half of each item of income.

(b) Subject to the limitation of section 37(c)(2) and paragraph (b) of §1.37-1, H's credit for the elderly is \$157.50, computed as follows:

Maximum retirement income level under section 37(e)(7)	\$1,875	
Reductions required by section 37(e)(5):		
Social security payments	\$700	
One-half of excess of earnings over \$1,200 (taking into account one-half of combined earnings of \$2,900)	125	825
Amount determined under section 37(e)(5)		1,050
Retirement income		3,700
Credit of H (15 pct. of \$1,050)		157.50

(c) Subject to the limitation of section 37(c)(2) and paragraph (b) of §1.37-1, W's credit for the elderly is computed as follows:

Maximum retirement income level under section 37(e)(7)	\$1,875	
Reductions required by section 37(e)(5):		
Social security payments	\$700	
One-half of excess of earnings over \$1,200 ...	125	825
Amount determined under section 37(e)(5)		1,050
Retirement income (limited to W's share of public pension)		700
Credit of W (15 pct. of \$700)		105

[T.D. 7743, 45 FR 84050, Dec. 22, 1980]

§ 1.38-1 Investment in certain depreciable property.

Regulations under sections 46 through 50 are prescribed under the authority granted the Secretary by section 38(b) to prescribe regulations as may be necessary to carry out the purposes of section 38 and subpart B, part IV, subchapter A, chapter 1 of the Code.

[44 FR 20417, Apr. 5, 1979]

§ 1.40-1 Questions and answers relating to the meaning of the term "qualified mixture" in section 40(b)(1).

Q-1. What is a "qualified mixture" within the meaning of section 40(b)(1)?

A-1. A "qualified mixture" is a mixture of alcohol and gasoline or of alcohol and special fuel which (1) is sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture.

Q-2. Must alcohol be present in a product in order for that product to be considered a mixture of alcohol and either gasoline or a special fuel?

A-2. No. A product is considered to be a mixture of alcohol and gasoline or of alcohol and a special fuel if the product is derived from alcohol and either gasoline or a special fuel even if the alcohol is chemically transformed in producing the product so that the alcohol is no longer present as a separate chemical in the final product, provided that there is no significant loss in the energy content of the alcohol. Thus, a product may be considered to be "mixture of alcohol and gasoline or of alcohol and a special fuel" within the meaning of section 40(b)(1)(B) if such product is produced in a chemical reaction between alcohol and either gasoline or a special fuel. Similarly a product may be considered to be a "mixture of alcohol and gasoline or of alcohol and a special fuel" if such product is produced by blending a chemical compound derived from alcohol with either gasoline or a special fuel.

Thus, for example, a blend of gasoline and ethyl tertiary butyl ether (ETBE), a compound derived from ethanol (a qualified alcohol), in a chemical reaction in which there is no significant loss in the energy content of the ethanol, is considered for purposes of section 40(b)(1)(B) to be a mixture of gasoline and the ethanol used to produce the ETBE, even though the ethanol is chemically transformed in the production of ETBE and is not present in the final product.

[T.D. 8291, 55 FR 8948, Mar. 9, 1990]