

§ 1.38-1

26 CFR Ch. I (4-1-04 Edition)

37(e). The couple allocates \$1,600 of the \$3,750 referred to in section 37(e)(6) to W and \$2,150 to H. Subject to the limitation of section 37(c)(2) and paragraph (b) of § 1.37-1, their credit for the elderly is \$315, computed as follows:

Credit base of H:	
Amount allocated to H under section 37(e)(6) .....	\$2,150
Reductions required by section 37(e)(5):	
Social Security payments .....	\$1,400
One-half of excess of earnings over \$1,200 .....	50
_____	1,450
Amount determined under section 37(e)(5) .....	700
Retirement income .....	6,000
Credit base of H .....	700
Credit base of W:	
Amount allocated to W under section 37(e)(6) .....	\$1,600
Reduction required by section 37(e)(5)(B):	
One-half of excess of earnings over \$1,200 .....	\$200
Amount determined under section 37(e)(5) .....	1,400
Retirement income .....	1,400
Credit base of W .....	1,400
Computation of credit:	
Credit base of H .....	700
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]

#### § 1.41-0 Table of contents.

This section lists the paragraphs contained in §§ 1.41-1 through 1.41-8 as follows:

##### *§ 1.41-1 Credit for increasing research activities.*

- (a) Amount of credit.
- (b) Introduction to regulations under section 41.

##### *§ 1.41-2 Qualified research expenses.*

- (a) Trade or business requirement.
  - (1) In general.
  - (2) New business.
  - (3) Research performed for others.
    - (i) Taxpayer not entitled to results.
    - (ii) Taxpayer entitled to results.
  - (4) Partnerships.
    - (i) In general.
    - (ii) Special rule for certain partnerships and joint ventures.
  - (b) Supplies and personal property used in the conduct of qualified research.
    - (1) In general.
    - (2) Certain utility charges.
      - (i) In general.
      - (ii) Extraordinary expenditures.
    - (3) Right to use personal property.
    - (4) Use of personal property in taxable years beginning after December 31, 1985.
      - (c) Qualified services.
        - (1) Engaging in qualified research.
        - (2) Direct supervision.

- (3) Direct support.
- (d) Wages paid for qualified services.
  - (1) In general.
  - (2) “Substantially all.”
- (e) Contract research expenses.
  - (1) In general.
  - (2) Performance of qualified research.
  - (3) “On behalf of.”
  - (4) Prepaid amounts.
  - (5) Examples.

##### *§ 1.41-3 Base amount for taxable years beginning on or after January 3, 2001.*

- (a) New taxpayers.
- (b) Special rules for short taxable years.
  - (1) Short credit year.
  - (2) Short taxable year preceding credit year.
  - (3) Short taxable year in determining fixed-base percentage.
- (c) Definition of gross receipts.
  - (1) In general.
  - (2) Amounts excluded.
  - (3) Foreign corporations.
  - (d) Consistency requirement.
    - (1) In general.
    - (2) Illustrations.
    - (e) Effective date.

##### *§ 1.41-4 Qualified research for expenditures paid or incurred in taxable years ending on or after December 31, 2003.*

- (a) Qualified research.
  - (1) General rule.
  - (2) Requirements of section 41(d)(1).
  - (3) Undertaken for the purpose of discovering information.
    - (i) In general.
    - (ii) Application of the discovering information requirement.
    - (iii) Patent safe harbor.
  - (4) Technological in nature.
  - (5) Process of experimentation.
    - (i) In general.
    - (ii) Qualified purpose.
  - (6) Substantially all requirement.
  - (7) Use of computers and information technology.
  - (8) Illustrations.
  - (b) Application of requirements for qualified research.
    - (1) In general.
    - (2) Shrinking-back rule.
    - (3) Illustration.
    - (c) Excluded activities.
      - (1) In general.
      - (2) Research after commercial production.
        - (i) In general.
        - (ii) Certain additional activities related to the business component.
        - (iii) Activities related to production process or technique.
        - (iv) Clinical testing.
          - (3) Adaptation of existing business components.
          - (4) Duplication of existing business component.