

4. Removal of architectural and transportation barriers to the handicapped and elderly

The conference agreement makes permanent the election to deduct up to \$35,000 of qualifying expenditures for removing architectural and transportation barriers to the handicapped and elderly, effective for taxable years beginning after December 31, 1985.

E. Real Estate Provisions

1. Tax credit for rehabilitation expenditures

The conference agreement replaces the existing three-tier rehabilitation credit with a two-tier credit for qualified rehabilitation expenditures. The credit percentage is 10 percent for expenditures incurred in rehabilitation of buildings (other than certified historic structures) built before 1936, and 20 percent for certified historic structures.

In general, the conference agreement retains the structure of the existing rehabilitation credit, except that the external walls requirement is modified in the case of certified historic structures. In addition, the conference agreement requires a basis adjustment for the full amount of the rehabilitation credit in the case of both historic and nonhistoric buildings.

For a summary of the rules applicable with respect to the credit under the passive loss limitations of the conference agreement, see Title V.B., below.

The modifications to the rehabilitation credit generally are applicable to property placed in service after December 31, 1986.

2. Tax credit for low-income rental housing

The conference agreement provides a new tax credit that may be claimed by owners of residential rental property providing low-income housing. This new tax credit replaces existing tax incentives for low-income housing—i.e., preferential depreciation, five-year amortization of rehabilitation expenditures, and special treatment of construction period interest and taxes. Separate credits are provided for new construction and rehabilitation of low-income housing and for certain costs of acquisition of existing housing to serve low-income individuals.

The credits are claimed annually for a period of 10 years. The annual credit has a maximum rate for property placed in service in 1987 of nine percent for new construction and rehabilitation, and a maximum rate of four percent for the acquisition cost of existing housing. (These credit rates are equivalent to a credit with a present value of 70 percent and 30 percent, respectively.) All credits apply only to the expenditures on the low-income units. In addition, in order to qualify for the credit for new construction or rehabilitation, such expenditures must exceed \$2,000 per low-income unit. Certain costs of new construction and rehabilitation of low-income housing financed with tax-exempt bonds or receiving other Federal subsidies are eligible for a credit having a present value of 30 percent (i.e., for property placed in service in 1987, four percent each year for 10 years).

Residential rental property is eligible for the credit if either (1) at least 20 percent of the housing units in the project are occupied

by individuals with incomes of 50 percent or less of area median income, or (2) at least 40 percent of the housing units in the project are occupied by individuals with incomes of 60 percent or less of area median income. Income limits are adjusted for family size and may be adjusted for areas with unusually low family income or high housing costs relative to family income. The rent charged to tenants in units with respect to which the credit is allowable may not exceed 30 percent of the qualifying income. Eligible projects must continuously comply with these requirements for a 15-year period. The penalty for noncompliance is recapture of prior credits. Certain single room occupancy housing is eligible for the credit.

Each State is permitted to issue low-income rental housing tax credits in an annual amount equal to \$1.25 per resident of the State. At least 10 percent of this credit authority must be reserved for projects developed by certain nonprofit organizations, one of whose exempt purposes is the fostering of low-income housing. This credit authority is sufficient to cover approximately \$14 per capita of new construction or rehabilitation expenditures (for property not receiving other Federal subsidies) or \$31 per capita of acquisition cost. Additionally, expenditures financed with the proceeds of tax-exempt bonds are eligible for the credit without reducing a State's credit authority, since the volume of these bonds is directly limited under the conference agreement.

The basis with respect to which credits are allowed must be reduced by the amount of any rehabilitation credit under section 46 for which the property is eligible. The basis of a project for depreciation is not reduced by the amount of low-income housing tax credits claimed.

For a summary of the rules applicable with respect to the credit under the passive loss limitations of the conference agreement, see Title V.B., below. For purposes of the credit, a limited exception to the credit at-risk rules is provided.

The credit is effective for property placed in service after December 31, 1986, and before January 1, 1990. Property placed in service after 1989 may qualify for the credit if expenditures of 10 percent or more of total project costs are incurred before January 1, 1989, and the property is placed in service before January 1, 1991.

F. Merchant Marine Capital Construction Fund

The Merchant Marine Act of 1936, as amended, provides Federal income tax incentives for U.S. taxpayers who own or lease vessels operated in the foreign or domestic commerce of the United States or in U.S. fisheries. The conference agreement coordinates the application of the Internal Revenue Code of 1986 with the capital construction fund program of the Merchant Marine Act of 1936, as amended. In addition, new requirements are imposed relating to (1) the tax treatment of nonqualified withdrawals, (2) certain reports to be made to the Secretary of the Treasury by the Secretaries of Transportation and Commerce, and (3) a 25-year time limit on the amount of time monies can remain in a fund without being withdrawn for a qualified purpose, effective for taxable years beginning after December 31, 1986.