

year beginning in the calendar year during which the wages were received. If more than one taxable year begins in the calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

(c) Special rule for backup withholding

Any credit allowed by subsection (a) for any amount withheld under section 3406 shall be allowed for the taxable year of the recipient of the income in which the income is received.

(Aug. 16, 1954, ch. 736, 68A Stat. 12; Pub. L. 94-455, title XIX, §1906(b)(13)(D), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §§302(a), 308(a), Sept. 3, 1982, 96 Stat. 585, 591; Pub. L. 97-354, §3(i)(4), Oct. 19, 1982, 96 Stat. 1691; Pub. L. 97-448, title III, §306(b)(1), Jan. 12, 1983, 96 Stat. 2405; Pub. L. 98-67, title I, §§102(a), 104(d)(2), Aug. 5, 1983, 97 Stat. 369, 379; Pub. L. 98-369, div. A, title IV, §471(c), title VII, §714(j)(2), July 18, 1984, 98 Stat. 826, 962.)

AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98-369, §714(j)(2), substituted “as tax under chapter 24” for “under section 3402 as tax on the wages of any individual”.

1983—Pub. L. 98-67 added subsec. (c) and repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Pub. L. 97-448 amended subsec. (d) generally. See 1982 Amendment note below.

1982—Pub. L. 97-248, as amended by Pub. L. 97-354 and Pub. L. 97-448, amended section generally, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsec. (b)(1). Pub. L. 94-455 struck out “or his delegate” after “The Secretary” and “(or his delegate)” after “taxpayer or the Secretary”.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 715 of Pub. L. 98-369 provided that: “Any amendment made by this subtitle [subtitle A (§§711-715) of title VII of Pub. L. 98-369, see Tables for classification] shall take effect as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248] to which such amendment relates.”

EFFECTIVE DATE OF 1983 AMENDMENTS

Section 110 of title I of Pub. L. 98-67 provided that: “(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title [enacting sections 3406 and 6705 of this title, amending this section and sections 274, 275, 643, 661, 3402, 3403, 3502, 3507, 6011, 6013, 6015, 6042, 6044, 6049, 6051, 6365, 6401, 6413, 6652, 6653, 6654, 6676, 6678, 6682, 7205, 7215, 7431, 7654, and 7701 of this title, repealing sections 3451 to 3456 of this title, enacting provisions set out as notes under sections 1, 3451, and 6011 of this title, and repealing provisions set out as a note under section 3451 of this title] shall apply with respect to payments made after December 31, 1983.

“(b) SECTION 102.—The amendments made by section 102 [amending this section and sections 274, 275, 643, 661, 3403, 3502, 3507, 6013, 6015, 6042, 6044, 6049, 6051, 6365, 6401, 6413, 6654, 6682, 7205, 7215, 7654, and 7701 of this title, repealing sections 3451 to 3456 of this title, enacting provisions set out as a note under section 3451 of this title, and repealing provisions set out as a note under section 3451 of this title] shall take effect as of the close of June 30, 1983.

“(c) SECTIONS 104(b) AND 107.—The amendments made by sections 104(b) and 107 [amending sections 6682, 7205, and 7431 of this title] shall take effect on the date of the enactment of this Act [Aug. 5, 1983].”

Section 311(d) of Pub. L. 97-448 provided that: “The amendments made by section 306 [amending this section and sections 48, 55, 263, 291, 312, 338, 401, 501, 1232, 6038A, 6226, 6228, 6679, and 7701 of this title, enacting provisions set out as notes under sections 338 and 1232 of this title, and amending provisions set out as notes under sections 56, 72, 101, 103, 168, 302, 311, 338, 415, 907, and 5701 of this title] shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248] to which such amendments relate.”

CONSTRUCTION OF AMENDMENT BY TITLE VII OF DIVISION A OF PUB. L. 98-369

Section 701 of title VII of div. A of Pub. L. 98-369 provided that: “For purposes of applying the amendments made by any title of this Act [see Tables for classification] other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.”

§ 32. Earned income

(a) Allowance of credit

(1) In general

In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer’s earned income for the taxable year as does not exceed the earned income amount.

(2) Limitation

The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

(A) the credit percentage of the earned income amount, over

(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

(b) Percentages and amounts

For purposes of subsection (a)—

(1) Percentages

The credit percentage and the phaseout percentage shall be determined as follows:

(A) In general

In the case of taxable years beginning after 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	15.98
2 or more qualifying children.	40	21.06
No qualifying children	7.65	7.65

(B) Transitional percentages for 1995

In the case of taxable years beginning in 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	15.98

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
2 or more qualifying children.	36	20.22
No qualifying children	7.65	7.65

(C) Transitional percentages for 1994

In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26.3	15.98
2 or more qualifying children.	30	17.68
No qualifying children	7.65	7.65

(2) Amounts

(A) In general

Subject to subparagraph (B), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	\$6,330	\$11,610
2 or more qualifying children.	\$8,890	\$11,610
No qualifying children	\$4,220	\$5,280

(B) Joint returns

In the case of a joint return filed by an eligible individual and such individual's spouse, the phaseout amount determined under subparagraph (A) shall be increased by—

- (i) \$1,000 in the case of taxable years beginning in 2002, 2003, and 2004,
- (ii) \$2,000 in the case of taxable years beginning in 2005, 2006, and 2007, and
- (iii) \$3,000 in the case of taxable years beginning after 2007.

(3) Special rules for 2009 and 2010

In the case of any taxable year beginning in 2009 or 2010—

(A) Increased credit percentage for 3 or more qualifying children

In the case of a taxpayer with 3 or more qualifying children, the credit percentage is 45 percent.

(B) Reduction of marriage penalty

(i) In general

The dollar amount in effect under paragraph (2)(B) shall be \$5,000.

(ii) Inflation adjustment

In the case of any taxable year beginning in 2010, the \$5,000 amount in clause (i) shall be increased by an amount equal to—

- (I) such dollar amount, multiplied by
- (II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting “calendar year 2008” for “calendar year 1992” in subparagraph (B) thereof.

(iii) Rounding

Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).

(c) Definitions and special rules

For purposes of this section—

(1) Eligible individual

(A) In general

The term “eligible individual” means—

- (i) any individual who has a qualifying child for the taxable year, or
- (ii) any other individual who does not have a qualifying child for the taxable year, if—

(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

(II) such individual (or, if the individual is married, either the individual or the individual's spouse) has attained age 25 but not attained age 65 before the close of the taxable year, and

(III) such individual is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

For purposes of the preceding sentence, marital status shall be determined under section 7703.

(B) Qualifying child ineligible

If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

(C) Exception for individual claiming benefits under section 911

The term “eligible individual” does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

(D) Limitation on eligibility of nonresident aliens

The term “eligible individual” shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

(E) Identification number requirement

No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—

- (i) such individual's taxpayer identification number, and
- (ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.

(F) Individuals who do not include TIN, etc., of any qualifying child

No credit shall be allowed under this section to any eligible individual who has one

or more qualifying children if no qualifying child of such individual is taken into account under subsection (b) by reason of paragraph (3)(D).

(2) Earned income

(A) The term “earned income” means—

(i) wages, salaries, tips, and other employee compensation, but only if such amounts are includible in gross income for the taxable year, plus

(ii) the amount of the taxpayer’s net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

(B) For purposes of subparagraph (A)—

(i) the earned income of an individual shall be computed without regard to any community property laws,

(ii) no amount received as a pension or annuity shall be taken into account,

(iii) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account,

(iv) no amount received for services provided by an individual while the individual is an inmate at a penal institution shall be taken into account,

(v) no amount described in subparagraph (A) received for service performed in work activities as defined in paragraph (4) or (7) of section 407(d) of the Social Security Act to which the taxpayer is assigned under any State program under part A of title IV of such Act shall be taken into account, but only to the extent such amount is subsidized under such State program, and

(vi) a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.

(3) Qualifying child

(A) In general

The term “qualifying child” means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

(B) Married individual

The term “qualifying child” shall not include an individual who is married as of the close of the taxpayer’s taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

(C) Place of abode

For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

(D) Identification requirements

(i) In general

A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and

TIN of the qualifying child on the return of tax for the taxable year.

(ii) Other methods

The Secretary may prescribe other methods for providing the information described in clause (i).

(4) Treatment of military personnel stationed outside the United States

For purposes of paragraphs (1)(A)(ii)(I) and (3)(C), the principal place of abode of a member of the Armed Forces of the United States shall be treated as in the United States during any period during which such member is stationed outside the United States while serving on extended active duty with the Armed Forces of the United States. For purposes of the preceding sentence, the term “extended active duty” means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

(d) Married individuals

In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint return is filed for the taxable year under section 6013.

(e) Taxable year must be full taxable year

Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

(f) Amount of credit to be determined under tables

(1) In general

The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

(2) Requirements for tables

The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than \$50 each—

(A) for earned income between \$0 and the amount of earned income at which the credit is phased out under subsection (b), and

(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b).

(g) Coordination with advance payments of earned income credit

(1) Recapture of excess advance payments

If any payment is made to the individual by an employer under section 3507 during any calendar year, then the tax imposed by this chapter for the individual’s last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

(2) Reconciliation of payments advanced and credit allowed

Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any

credit (other than the credit allowed by subsection (a)) allowable under this part.

[h) Repealed. Pub. L. 107-16, title III, § 303(c), June 7, 2001, 115 Stat. 55]

(i) Denial of credit for individuals having excessive investment income

(1) In general

No credit shall be allowed under subsection (a) for the taxable year if the aggregate amount of disqualified income of the taxpayer for the taxable year exceeds \$2,200.

(2) Disqualified income

For purposes of paragraph (1), the term “disqualified income” means—

(A) interest or dividends to the extent includible in gross income for the taxable year,

(B) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter,

(C) the excess (if any) of—

(i) gross income from rents or royalties not derived in the ordinary course of a trade or business, over

(ii) the sum of—

(I) the deductions (other than interest) which are clearly and directly allocable to such gross income, plus

(II) interest deductions properly allocable to such gross income,

(D) the capital gain net income (as defined in section 1222) of the taxpayer for such taxable year, and

(E) the excess (if any) of—

(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount included in earned income under subsection (c)(2) or described in a preceding subparagraph), over

(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (E), the term “passive activity” has the meaning given such term by section 469.

(j) Inflation adjustments

(1) In general

In the case of any taxable year beginning after 1996, each of the dollar amounts in subsections (b)(2) and (i)(1) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined—

(i) in the case of amounts in subsections (b)(2)(A) and (i)(1), by substituting “calendar year 1995” for “calendar year 1992” in subparagraph (B) thereof, and

(ii) in the case of the \$3,000 amount in subsection (b)(2)(B)(iii), by substituting “calendar year 2007” for “calendar year 1992” in subparagraph (B) of such section 1.

(2) Rounding

(A) In general

If any dollar amount in subsection (b)(2)(A) (after being increased under sub-

paragraph (B) thereof), after being increased under paragraph (1), is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.

(B) Disqualified income threshold amount

If the dollar amount in subsection (i)(1), after being increased under paragraph (1), is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.

(k) Restrictions on taxpayers who improperly claimed credit in prior year

(1) Taxpayers making prior fraudulent or reckless claims

(A) In general

No credit shall be allowed under this section for any taxable year in the disallowance period.

(B) Disallowance period

For purposes of paragraph (1), the disallowance period is—

(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer’s claim of credit under this section was due to fraud, and

(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer’s claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

(2) Taxpayers making improper prior claims

In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.

(l) Coordination with certain means-tested programs

For purposes of—

(1) the United States Housing Act of 1937,

(2) title V of the Housing Act of 1949,

(3) section 101 of the Housing and Urban Development Act of 1965,

(4) sections 221(d)(3), 235, and 236 of the National Housing Act, and

(5) the Food and Nutrition Act of 2008,

any refund made to an individual (or the spouse of an individual) by reason of this section, and any payment made to such individual (or such spouse) by an employer under section 3507, shall not be treated as income (and shall not be taken into account in determining resources for the month of its receipt and the following month).

(m) Identification numbers

Solely for purposes of subsections (c)(1)(E) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).

(Added Pub. L. 94-12, title II, §204(a), Mar. 29, 1975, 89 Stat. 30, §43; amended Pub. L. 94-164, §2(c), Dec. 23, 1975, 89 Stat. 971; Pub. L. 94-455, title IV, §401(c)(1)(B), (2), Oct. 4, 1976, 90 Stat. 1557; Pub. L. 95-600, title I, §§104(a)-(e), 105(a), Nov. 6, 1978, 92 Stat. 2772, 2773; Pub. L. 95-615, §202(g)(5), formerly §202(f)(5), Nov. 8, 1978, 92 Stat. 3100, renumbered §202(g)(5) and amended Pub. L. 96-222, title I, §§101(a)(1), (2)(E), 108(a)(1)(A), Apr. 1, 1980, 94 Stat. 194, 195, 223; Pub. L. 97-34, title I, §§111(b)(2), 112(b)(3), Aug. 13, 1981, 95 Stat. 194, 195; Pub. L. 98-21, title I, §124(c)(4)(B), Apr. 20, 1983, 97 Stat. 91; renumbered §32 and amended Pub. L. 98-369, div. A, title IV, §§423(c)(3), 471(c), title X, §1042(a)-(d)(2), July 18, 1984, 98 Stat. 801, 826, 1043; Pub. L. 99-514, title I, §§104(b)(1)(B), 111(a)-(d)(1), title XII, §1272(d)(3), title XIII, §1301(j)(8), Oct. 22, 1986, 100 Stat. 2104, 2107, 2594, 2658; Pub. L. 100-647, title I, §§1001(c), 1007(g)(12), Nov. 10, 1988, 102 Stat. 3350, 3436; Pub. L. 101-508, title XI, §§11101(d)(1)(B), 11111(a), (b), (e), Nov. 5, 1990, 104 Stat. 1388-405, 1388-408, 1388-412, 1388-413; Pub. L. 103-66, title XIII, §13131(a)-(d)(1), Aug. 10, 1993, 107 Stat. 433-435; Pub. L. 103-465, title VII, §§721(a), 722(a), 723(a), 742(a), Dec. 8, 1994, 108 Stat. 5002, 5003, 5010; Pub. L. 104-7, §4(a), Apr. 11, 1995, 109 Stat. 95; Pub. L. 104-193, title IV, §451(a), (b), title IX, §§909(a), (b), 910(a), (b), Aug. 22, 1996, 110 Stat. 2276, 2277, 2351, 2352; Pub. L. 105-34, title I, §101(b), title III, §312(d)(2), title X, §1085(a)(1), (b)-(d), Aug. 5, 1997, 111 Stat. 798, 840, 955, 956; Pub. L. 105-206, title VI, §§6003(b), 6010(p)(1), (2), 6021(a), (b), July 22, 1998, 112 Stat. 791, 816, 817, 823, 824; Pub. L. 106-170, title IV, §412(a), Dec. 17, 1999, 113 Stat. 1917; Pub. L. 107-16, title II, §201(c)(3), title III, §303(a)-(f), (h), June 7, 2001, 115 Stat. 47, 55-57; Pub. L. 107-147, title IV, §416(a)(1), Mar. 9, 2002, 116 Stat. 55; Pub. L. 108-311, title I, §104(b), title II, §205, Oct. 4, 2004, 118 Stat. 1169, 1176; Pub. L. 109-135, title III, §302(a), Dec. 21, 2005, 119 Stat. 2608; Pub. L. 109-432, div. A, title I, §106(a), Dec. 20, 2006, 120 Stat. 2938; Pub. L. 110-234, title IV, §4002(b)(1)(B), (2)(O), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-245, title I, §102(a), June 17, 2008, 122 Stat. 1625; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (2)(O), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 111-5, div. B, title I, §1002(a), Feb. 17, 2009, 123 Stat. 312.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c)(2)(B)(v) and (m), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Sections 205(c)(2)(B)(i) and 407(d)(4), (7) of the Act are classified to sections 405(c)(2)(B)(i) and 607(d)(4), (7), respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The United States Housing Act of 1937, referred to in subsec. (l)(1), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note under section 1437 of Title 42 and Tables.

The Housing Act of 1949, referred to in subsec. (l)(2), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (§1471 et seq.) of chapter 8A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (l)(3), is section 101 of Pub. L. 89-117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of Title 42.

Sections 221(d)(3), 235, and 236 of the National Housing Act, referred to in subsec. (l)(4), are classified to sections 1715l(d)(3), 1715z, and 1715z-1, respectively, of Title 12.

The Food and Nutrition Act of 2008, referred to in subsec. (l)(5), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 32 was renumbered section 33 of this title.

AMENDMENTS

2009—Subsec. (b)(3). Pub. L. 111-5 added par. (3).

2008—Subsec. (c)(2)(B)(vi). Pub. L. 110-245 amended cl. (vi) generally. Prior to amendment, cl. (vi) read as follows: “in the case of any taxable year ending—

“(I) after the date of the enactment of this clause, and

“(II) before January 1, 2008,

a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.”

Subsec. (l)(5). Pub. L. 110-246, §4002(b)(1)(B), (2)(O), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2006—Subsec. (c)(2)(B)(vi)(II). Pub. L. 109-432 substituted “2008” for “2007”.

2005—Subsec. (c)(2)(B)(vi)(II). Pub. L. 109-135 substituted “2007” for “2006”.

2004—Subsec. (c)(1)(C) to (G). Pub. L. 108-311, §205(b)(1), redesignated subpars. (D) to (G) as (C) to (F), respectively, and struck out former subpar. (C) which related to 2 or more claiming qualifying child.

Subsec. (c)(2)(B)(vi). Pub. L. 108-311, §104(b), added cl. (vi).

Subsec. (c)(3). Pub. L. 108-311, §205(a), amended par. (3) generally, substituting subpars. (A) to (D) for former subpars. (A) to (E), relating to qualifying child in general, relationship test, age requirements, identification requirements, and place of abode requirements.

Subsec. (c)(4). Pub. L. 108-311, §205(b)(2), substituted “(3)(C)” for “(3)(E)”.

Subsec. (m). Pub. L. 108-311, §205(b)(3), substituted “(c)(1)(E)” for “(c)(1)(F)”.

2002—Subsec. (g)(2). Pub. L. 107-147 substituted “part” for “subpart”.

2001—Subsec. (a)(2)(B). Pub. L. 107-16, §§303(d)(1), 901, temporarily struck out “modified” before “adjusted gross income”. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (b)(2). Pub. L. 107-16, §§303(a)(1), 901, temporarily reenacted par. heading without change, designated existing provisions as subpar. (A), inserted subpar. heading, substituted "Subject to subparagraph (B), the earned" for "The earned", and added subpar. (B). See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(1)(C). Pub. L. 107-16, §§303(f), 901, temporarily amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: "If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest modified adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child." See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(2)(A)(i). Pub. L. 107-16, §§303(b), 901, temporarily inserted ", but only if such amounts are includible in gross income for the taxable year" after "other employee compensation". See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(3)(A)(ii). Pub. L. 107-16, §§303(e)(2)(B), 901, temporarily struck out "except as provided in subparagraph (B)(iii)," before "who has". See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(3)(B)(i). Pub. L. 107-16, §§303(e)(1), 901, temporarily reenacted heading, introductory provisions, and subcl. (III) of cl. (i) without change and amended subcls. (I) and (II) generally. Prior to amendment, subcls. (I) and (II) read as follows:

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or." See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(3)(B)(iii). Pub. L. 107-16, §§303(e)(2)(A), 901, temporarily reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i)(I) or (II) who—

"(I) is a brother, sister, stepbrother, or stepsister of the taxpayer (or a descendant of any such relative) or is placed with the taxpayer by an authorized placement agency,

"(II) the taxpayer cares for as the taxpayer's own child, and

"(III) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year."

See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(3)(E). Pub. L. 107-16, §§303(h), 901, temporarily substituted "subparagraph (A)(ii)" for "subparagraphs (A)(ii) and (B)(iii)(II)". See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(5). Pub. L. 107-16, §§303(d)(2)(A), 901, temporarily struck out heading and text of par. (5), which defined "modified adjusted gross income" as meaning adjusted gross income without regard to certain described amounts and increased by certain described amounts. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (f)(2)(B). Pub. L. 107-16, §§303(d)(2)(B), 901, temporarily struck out "modified" before "adjusted gross income" in two places. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (h). Pub. L. 107-16, §§303(c), 901, temporarily struck out heading and text of subsec. (h). Text read as follows: "The credit allowed under this section for the taxable year shall be reduced by the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year." See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (j)(1)(B). Pub. L. 107-16, §§303(a)(2), 901, temporarily amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "the cost-of-

living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof." See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (j)(2)(A). Pub. L. 107-16, §§303(a)(3), 901, temporarily substituted "subsection (b)(2)(A) (after being increased under subparagraph (B) thereof)" for "subsection (b)(2)". See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (n). Pub. L. 107-16, §§201(c)(3), 901, temporarily struck out heading and text of subsec. (n), which had increased credit allowable under this section in the case of a taxpayer with respect to whom a child tax credit is allowed under section 24(a), described amount of increase, and set forth provisions relating to coordination with other credits allowable under this part. See Effective and Termination Dates of 2001 Amendment note below.

1999—Subsec. (c)(3)(B)(iii). Pub. L. 106-170 added subcl. (I) and redesignated former subcls. (I) and (II) as (II) and (III), respectively.

1998—Subsec. (c)(1)(F). Pub. L. 105-206, §6021(a), added introductory provisions and struck out former introductory provisions which read as follows: "The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—"

Subsec. (c)(1)(G). Pub. L. 105-206, §6021(b)(2), added subpar. (G).

Subsec. (c)(2)(B)(v). Pub. L. 105-206, §6010(p)(2), inserted "shall be taken into account" before ", but only".

Subsec. (c)(3)(A)(ii) to (iv). Pub. L. 105-206, §6021(b)(3), inserted "and" at end of cl. (ii), substituted a period for ", and" at end of cl. (iii), and struck out cl. (iv) which read as follows: "with respect to whom the taxpayer meets the identification requirements of subparagraph (D)".

Subsec. (c)(3)(D)(i). Pub. L. 105-206, §6021(b)(1), reenacted heading without change and amended text of cl. (i) generally. Prior to amendment, text read as follows: "The requirements of this subparagraph are met if the taxpayer includes the name, age, and TIN of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year."

Subsec. (c)(5)(A). Pub. L. 105-206, §6010(p)(1)(A), inserted "and increased by the amounts described in subparagraph (C)" before period at end.

Subsec. (c)(5)(B). Pub. L. 105-206, §6010(p)(1)(B), (C), inserted "or" at end of cl. (iii) and substituted cl. (iv)(III) and concluding provisions for former cls. (iv)(III), (v), (vi), and concluding provisions which read as follows:

"(III) other trades or businesses

"(v) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and

"(vi) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee. Clause (vi) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b), 408(d)(3), (4), or (5), or 457(e)(10)."

Subsec. (c)(5)(C). Pub. L. 105-206, §6010(p)(1)(C), added subpar. (C).

Subsecs. (m), (n). Pub. L. 105-206, §6003(b), redesignated subsec. (m), relating to supplemental child credit, as (n) and amended text generally. Prior to amendment, text read as follows:

"(1) IN GENERAL.—In the case of a taxpayer with respect to whom a credit is allowed under section 24 for the taxable year, there shall be allowed as a credit

under this section an amount equal to the supplemental child credit (if any) determined for such taxpayer for such taxable year under paragraph (2). Such credit shall be in addition to the credit allowed under subsection (a).

“(2) SUPPLEMENTAL CHILD CREDIT.—For purposes of this subsection, the supplemental child credit is an amount equal to the excess (if any) of—

“(A) the amount determined under section 24(d)(1)(A), over

“(B) the amount determined under section 24(d)(1)(B).

The amounts referred to in subparagraphs (A) and (B) shall be determined as if section 24(d) applied to all taxpayers.

“(3) COORDINATION WITH SECTION 24.—The amount of the credit under section 24 shall be reduced by the amount of the credit allowed under this subsection.”

1997—Subsec. (c)(2)(B)(v). Pub. L. 105-34, §1085(c), added cl. (v).

Subsec. (c)(4). Pub. L. 105-34, §312(d)(2), struck out “(as defined in section 1034(h)(3))” after “serving on extended active duty” and inserted at end “For purposes of the preceding sentence, the term ‘extended active duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.”

Subsec. (c)(5)(B). Pub. L. 105-34, §1085(d)(4), inserted at end of concluding provisions “Clause (vi) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b), 408(d)(3), (4), or (5), or 457(e)(10).”

Subsec. (c)(5)(B)(iv). Pub. L. 105-34, §1085(b), substituted “75 percent” for “50 percent” in introductory provisions.

Subsec. (c)(5)(B)(v), (vi). Pub. L. 105-34, §1085(d)(1)–(3), added cls. (v) and (vi).

Subsec. (k). Pub. L. 105-34, §1085(a)(1), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 105-34, §1085(a)(1), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 105-34, §1085(a)(1), redesignated subsec. (l) as (m) relating to identification numbers.

Pub. L. 105-34, §101(b), added subsec. (m) relating to supplemental child credit.

1996—Subsec. (a)(2)(B). Pub. L. 104-193, §910(a), inserted “modified” before “adjusted gross income”.

Subsec. (b)(2). Pub. L. 104-193, §909(a)(3), reenacted heading without change and amended text generally. Prior to amendment, text consisted of subpars. (A) and (B) setting out tables for determining the earned income amount for taxable years beginning after 1994 and for taxable years beginning in 1994.

Subsec. (c)(1)(C). Pub. L. 104-193, §910(a), inserted “modified” before “adjusted gross income”.

Subsec. (c)(1)(F). Pub. L. 104-193, §451(a), added subpar. (F).

Subsec. (c)(5). Pub. L. 104-193, §910(b), added par. (5).

Subsec. (f)(2)(B). Pub. L. 104-193, §910(a), inserted “modified” before “adjusted gross income” in two places.

Subsec. (i)(1). Pub. L. 104-193, §909(a)(1), substituted “\$2,200” for “\$2,350”.

Subsec. (i)(2). Pub. L. 104-193, §909(b), added subpars. (D) and (E) and concluding provisions.

Subsec. (j). Pub. L. 104-193, §909(a)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting ‘calendar year 1993’ for ‘calendar year 1992’.

“(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of \$10, such dollar amount shall be rounded to the nearest

multiple of \$10 (or, if such dollar amount is a multiple of \$5, such dollar amount shall be increased to the next higher multiple of \$10).”

Subsec. (l). Pub. L. 104-193, §451(b), added subsec. (l). 1995—Subsecs. (i) to (k). Pub. L. 104-7 added subsec. (i) and redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1994—Subsec. (c)(1)(E). Pub. L. 103-465, §722(a), added subpar. (E).

Subsec. (c)(2)(B)(iv). Pub. L. 103-465, §723(a), added cl. (iv).

Subsec. (c)(3)(D)(i). Pub. L. 103-465, §742(a), amended heading and text of cl. (i) generally. Prior to amendment, text read as follows: “The requirements of this subparagraph are met if—

“(I) the taxpayer includes the name and age of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year, and

“(II) in the case of an individual who has attained the age of 1 year before the close of the taxpayer’s taxable year, the taxpayer includes the taxpayer identification number of such individual on such return of tax for such taxable year.”

Subsec. (c)(4). Pub. L. 103-465, §721(a), added par. (4).

1993—Subsec. (a). Pub. L. 103-66, §1313(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

“(1) the basic earned income credit, and

“(2) the health insurance credit.”

Subsec. (b). Pub. L. 103-66, §1313(a), substituted “Percentages and amounts” for “Computation of credit” in heading and amended text generally. Prior to amendment, text related to method of computation of both earned income credit and health insurance credit.

Subsec. (c)(1)(A). Pub. L. 103-66, §1313(b), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “The term ‘eligible individual’ means any individual who has a qualifying child for the taxable year.”

Subsec. (c)(3)(D)(ii). Pub. L. 103-66, §1313(d)(1), redesignated cl. (iii) as (ii), substituted “clause (i)” for “clause (i) or (ii)”, and struck out heading and text of former cl. (ii). Text read as follows: “In the case of any taxpayer with respect to which the health insurance credit is allowed under subsection (a)(2), the Secretary may require a taxpayer to include an insurance policy number or other adequate evidence of insurance in addition to any information required to be included in clause (i).”

Subsec. (i)(1). Pub. L. 103-66, §1313(c)(1), added par. (1) and struck out text and heading of former par. (1). Text read as follows: “In the case of any taxable year beginning after the applicable calendar year, each dollar amount referred to in paragraph (2)(B) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting ‘calendar year 1984’ for ‘calendar year 1989’ in subparagraph (B) thereof.”

Subsec. (i)(2), (3). Pub. L. 103-66, §1313(c), redesignated par. (3) as (2) and struck out former par. (2) which defined terms for purposes of the inflation adjustment in par. (1).

1990—Subsec. (a). Pub. L. 101-508, §1111(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In the case of an eligible individual, there is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 14 percent of so much of the earned income for the taxable year as does not exceed \$5,714.”

Subsec. (b). Pub. L. 101-508, §1111(a), substituted heading for one which read “Limitation” and amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

“(1) the maximum credit allowable under subsection (a) to any taxpayer, over

“(2) 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds \$9,000.

In the case of any taxable year beginning in 1987, paragraph (2) shall be applied by substituting ‘\$6,500’ for ‘\$9,000.’”

Subsec. (c). Pub. L. 101-508, §1111(a), amended subsec. (c) generally, inserting “and special rules” in heading and substituting present provisions for provisions defining “eligible individual” and “earned income”.

Subsec. (i)(1)(B). Pub. L. 101-508, §11101(d)(1)(B), substituted “1989” for “1987”.

Subsec. (i)(2)(A). Pub. L. 101-508, §1111(e)(1), (2), substituted “clause (i) of subparagraph (B)” for “clause (i) or (ii) of subparagraph (B)” in cl. (i) and “clause (ii)” for “clause (iii)” in cl. (ii).

Subsec. (i)(2)(B). Pub. L. 101-508, §1111(e)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “The dollar amounts referred to in this subparagraph are—

“(i) the \$5,714 amount contained in subsection (a),

“(ii) the \$6,500 amount contained in the last sentence of subsection (b), and

“(iii) the \$9,000 amount contained in subsection (b)(2).”

Subsec. (j). Pub. L. 101-508, §1111(b), added subsec. (j).

1988—Subsec. (h). Pub. L. 100-647, §1007(g)(12), struck out “for taxpayers other than corporations” after “alternative minimum tax”.

Subsec. (i)(3). Pub. L. 100-647, §1001(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “If any increase determined under paragraph (1) is not a multiple of \$10, such increase shall be rounded to the nearest multiple of \$10 (or, if such increase is a multiple of \$5, such increase shall be increased to the next higher multiple of \$10).”

1986—Subsec. (a). Pub. L. 99-514, §111(a), substituted “14 percent” for “11 percent” and “\$5,714” for “\$5,000”.

Subsec. (b). Pub. L. 99-514, §111(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

“(1) \$550, over

“(2) 12% percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds \$6,500.”

Subsec. (c)(1)(A)(i). Pub. L. 99-514, §1301(j)(8), substituted “section 7703” for “section 143”.

Pub. L. 99-514, §104(b)(1)(B), substituted “section 151(c)(3)” for “section 151(e)(3)”.

Subsec. (c)(1)(C). Pub. L. 99-514, §1272(d)(4), struck out “or 931” after “911” in heading, and amended text generally. Prior to amendment, text read as follows: “The term ‘eligible individual’ does not include an individual who, for the taxable year, claims the benefits of—

“(i) section 911 (relating to citizens or residents of the United States living abroad),

“(ii) section 931 (relating to income from sources within possessions of the United States).”

Subsec. (d). Pub. L. 99-514, §1301(j)(8), substituted “section 7703” for “section 143”.

Subsec. (f)(2)(A), (B). Pub. L. 99-514, §111(d)(1), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) for earned income between \$0 and \$11,000, and

“(B) for adjusted gross income between \$6,500 and \$11,000.”

Subsec. (i). Pub. L. 99-514, §111(c), added subsec. (i).

1984—Pub. L. 98-369, §471(c), renumbered section 43 of this title as this section.

Subsec. (a). Pub. L. 98-369, §1042(a), substituted “11 percent” for “10 percent”.

Subsec. (b)(1). Pub. L. 98-369, §1042(d)(1), substituted “\$550” for “\$500”.

Subsec. (b)(2). Pub. L. 98-369, §1042(b), substituted “12% percent” for “12.5 percent” and “\$6,500” for “\$6,000”.

Subsec. (c)(1)(A)(i). Pub. L. 98-369, §423(c)(3)(A), inserted “or would be so entitled but for paragraph (2) or (4) of section 152(e)”.

Subsec. (c)(1)(B). Pub. L. 98-369, §423(c)(3)(B), substituted “as the individual for more than one-half of the taxable year” for “as the individual”.

Subsec. (f)(2)(A). Pub. L. 98-369, §1042(d)(2), substituted “between \$0 and \$11,000” for “between \$0 and \$10,000”.

Subsec. (f)(2)(B). Pub. L. 98-369, §1042(d)(2), substituted “between \$6,500 and \$11,000” for “between \$6,000 and \$10,000”.

Subsec. (h). Pub. L. 98-369, §1042(c), added subsec. (h).

1983—Subsec. (c)(2)(A)(ii). Pub. L. 98-21 inserted before period at end “, but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f)”.

1981—Subsec. (c)(1)(C). Pub. L. 97-34 struck out reference to section 913 in heading, substituted “relating to citizens or residents of the United States living abroad” for “relating to income earned by individuals in certain camps outside the United States” in cl. (i), struck out cl. (ii) which made reference to section 913, and redesignated cl. (iii) as (ii).

1980—Subsec. (c)(1)(C). Pub. L. 96-222, §101(a)(1), in heading substituted “who claims benefit of section 911, 913, or 931” for “entitled to exclude income under section 911” and in text substituted “claims the benefits of” for “is entitled to exclude any amounts from gross income under” and inserted reference to section 913 (relating to deduction for certain expenses of living abroad).

Subsecs. (g), (h). Pub. L. 96-222, §101(a)(2)(E), redesignated subsec. (h) as (g).

1978—Subsec. (a). Pub. L. 95-600, §104(a), substituted “subtitle” for “chapter” and “\$5,000” for “\$4,000”.

Subsec. (b). Pub. L. 95-600, §104(b), substituted provision limiting the allowable credit to an amount not to exceed the excess of \$500 over 12.5 percent of so much of the adjusted gross income for the taxable year as exceeds \$6,000 for provision limiting the allowable credit to an amount reduced by 10 percent of so much of the adjusted gross income for the taxable year as exceeds \$4,000.

Subsec. (c)(1). Pub. L. 95-600, §104(e), amended par. (1) generally, substituting in definition of eligible individual one who is married and is entitled to a deduction under section 151 for a child, provided the child has the same principal abode as the individual and the abode is in the United States, is a surviving spouse, or is a head of household, provided the household is in the United States for one who maintains a household in the United States which is the principal abode of that individual and a child of that individual who meets the requirements of section 151(e)(1)(B) or a child of that individual who is disabled within the meaning of section 72(m)(7) and to whom the individual is entitled to claim a deduction under section 151.

Subsec. (c)(1)(C). Pub. L. 95-615, §202(f)(5), which directed the amendment of subsec. (c)(1)(B) by substituting “(relating to income earned by employees in certain camps)” for “(relating to earned income from sources without the United States)”, was executed to subsec. (c)(1)(C) to reflect the probable intent of Congress and the general amendment of subsec. (c)(1) by Pub. L. 95-600 which enacted provisions formerly contained in subsec. (c)(1)(B) in subsec. (c)(1)(C).

Subsec. (c)(2)(B). Pub. L. 95-600, §104(d), redesignated cls. (ii) to (iv) as (i) to (iii), respectively. Former cl. (i), which provided that amounts be taken into account only if includible in the gross income of the taxpayer for the taxable year, was struck out.

Subsec. (f). Pub. L. 95-600, §104(c), added subsec. (f).

Subsec. (h). Pub. L. 95-600, §105(a), added subsec. (h).

1976—Subsec. (a). Pub. L. 94-455, §401(c)(1)(B), substituted “is allowed” for “shall be allowed” and struck out provisions relating to the application of the six-month rule.

Subsec. (b). Pub. L. 94-455, §401(c)(1)(B), struck out provisions relating to the application of the six-month rule.

Subsec. (c)(1)(A). Pub. L. 94-455, § 401(c)(2), among other changes, substituted “section 44A(f)(1)” for “section 214(b)(3)” and “if such child meets the requirements of section 151(e)(1)(B)” for “with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B)” and inserted reference to a child of that individual who is disabled (within the meaning of section 72(m)(7)) and with respect to whom that individual is entitled to claim a deduction under section 151.

1975—Subsec. (a). Pub. L. 94-164 designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 94-164 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-5, div. B, title I, § 1002(b), Feb. 17, 2009, 123 Stat. 312, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2008.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(O) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

Pub. L. 110-245, title I, § 102(d), June 17, 2008, 122 Stat. 1625, provided that: “The amendments made by this section [amending this section and section 6428 of this title] shall apply to taxable years ending after December 31, 2007.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title I, § 106(b), Dec. 20, 2006, 120 Stat. 2938, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-135, title III, § 302(b), Dec. 21, 2005, 119 Stat. 2608, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 2005.”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 110-245, title I, § 102(c), June 17, 2008, 122 Stat. 1625, provided that: “Section 105 of the Working Families Tax Relief Act of 2004 [section 105 of Pub. L. 108-311, set out as a note under section 1 of this title] (relating to application of EGTRRA sunset to this title [probably means title I of Pub. L. 108-311, see Tables for classification]) shall not apply to section 104(b) of such Act [amending this section].”

Pub. L. 108-311, title I, § 104(c)(2), Oct. 4, 2004, 118 Stat. 1169, provided that: “The amendments made by subsection (b) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 4, 2004].”

Amendment by section 205 of Pub. L. 108-311 applicable to taxable years beginning after Dec. 31, 2004, see section 208 of Pub. L. 108-311, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title IV, § 416(a)(2), Mar. 9, 2002, 116 Stat. 55, provided that: “The amendment made by this subsection [amending this section] shall take effect as if included in section 474 of the Tax Reform Act of 1984 [Pub. L. 98-369].”

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by section 201(c)(3) of Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2000,

see section 201(e)(1) of Pub. L. 107-16, set out as a note under section 24 of this title.

Pub. L. 107-16, title III, § 303(i), June 7, 2001, 115 Stat. 57, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 6213 of this title] shall apply to taxable years beginning after December 31, 2001.

“(2) SUBSECTION (g).—The amendment made by subsection (g) [amending section 6213 of this title] shall take effect on January 1, 2004.”

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title IV, § 412(b), Dec. 17, 1999, 113 Stat. 1917, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1999.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title VI, § 6021(c), July 22, 1998, 112 Stat. 824, provided that:

“(1) ELIGIBLE INDIVIDUALS.—The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 451 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193].

“(2) QUALIFYING CHILDREN.—The amendments made by subsection (b) [amending this section] shall take effect as if included in the amendments made by section 1111 of Revenue Reconciliation Act of 1990 [Pub. L. 101-508].”

Amendment by sections 6003(b) and 6010(p)(1), (2) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 101(b) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 101(e) of Pub. L. 105-34, set out as an Effective Date note under section 24 of this title.

Amendment by section 312(d)(2) of Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

Section 1085(e) of Pub. L. 105-34 provided that:

“(1) The amendments made by subsection (a) [amending this section and sections 6213 and 6695 of this title] shall apply to taxable years beginning after December 31, 1996.

“(2) The amendments made by subsections (b), (c), and (d) [amending this section] shall apply to taxable years beginning after December 31, 1997.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 451(d) of Pub. L. 104-193 provided that: “The amendments made by this section [amending this section and section 6213 of this title] shall apply with respect to returns the due date for which (without regard to extensions) is more than 30 days after the date of the enactment of this Act [Aug. 22, 1996].”

Section 909(c) of Pub. L. 104-193 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1995.

“(2) ADVANCE PAYMENT INDIVIDUALS.—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual’s taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.”

Section 910(c) of Pub. L. 104-193 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1995.

“(2) ADVANCE PAYMENT INDIVIDUALS.—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual’s taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.”

EFFECTIVE DATE OF 1995 AMENDMENT

Section 4(b) of Pub. L. 104-7 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1995.”

EFFECTIVE DATE OF 1994 AMENDMENT

Section 721(d)(1) of Pub. L. 103-465 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1994.”

Section 722(b) of Pub. L. 103-465 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1994.”

Section 723(b) of Pub. L. 103-465 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1993.”

Section 742(c) of Pub. L. 103-465 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 6109 of this title] shall apply to returns for taxable years beginning after December 31, 1994.

“(2) EXCEPTION.—The amendments made by this section shall not apply to—

“(A) returns for taxable years beginning in 1995 with respect to individuals who are born after October 31, 1995, and

“(B) returns for taxable years beginning in 1996 with respect to individuals who are born after November 30, 1996.”

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13131(e) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section and sections 162, 213, and 3507 of this title] shall apply to taxable years beginning after December 31, 1993.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11101(d)(1)(B) of Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101-508, set out as a note under section 1 of this title.

Section 11111(f) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and sections 162, 213, and 3507 of this title] shall apply to taxable years beginning after December 31, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 104(b)(1)(B) and 111(a)-(d)(1) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 1272(d)(4) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986,

with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

Amendment by section 1301(j)(8) of Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 423(c)(3) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 423(d) of Pub. L. 98-369, set out as a note under section 2 of this title.

Section 1042(e) of Pub. L. 98-369 provided that: “The amendments made by this section [amending sections 32 and 3507 of this title] shall apply to taxable years beginning after December 31, 1984.”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable to taxable years beginning after Dec. 31, 1989, see section 124(d)(2) of Pub. L. 98-21, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97-34, set out as a note under section 911 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 101(b)(1)(A) of Pub. L. 96-222 provided that: “The amendment made by subsection (a)(1) [amending this section] shall apply to taxable years beginning after December 31, 1977.”

Section 201 of Pub. L. 96-222 provided that: “Except as otherwise provided in title I, any amendment made by title I [see Tables for classification] shall take effect as if it had been included in the provision of the Revenue Act of 1978 [Pub. L. 95-600, see Tables for classification] to which such amendment relates.”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 104(f) of Pub. L. 95-600 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1978.”

Section 105(g)(1) of Pub. L. 95-600 provided that: “The amendments made by subsections (a) and (d) [amending this section and section 6012 of this title] shall apply to taxable years beginning after December 31, 1978.”

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Amendment by Pub. L. 95-615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95-615, set out as a note under section 911 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 401(e) of Pub. L. 94-455, as amended by Pub. L. 95-30, title I, §103(c), May 23, 1977, 91 Stat. 139; Pub. L. 95-600, title I, §103(b), Nov. 6, 1978, 92 Stat. 2771, provided that: “The amendments made by subsection (a) [amending sections 43 [now 32] and 6096 of this title] shall apply to taxable years ending after December 31, 1975, and shall cease to apply to taxable years ending after December 31, 1978. The amendments made by subsection (c) [amending this section] shall apply to taxable years ending after December 31, 1975. The amendments made by subsection (b) [amending sections 141 and 6012 of this title] shall apply to taxable years ending after December 31, 1975. The amendments made by subsection (d) [amending section 3402 of this title] shall apply to wages paid after September 14, 1976.”

EFFECTIVE AND TERMINATION DATES OF 1975
AMENDMENTS

Section 2(g) of Pub. L. 94-164, as amended by Pub. L. 94-455, § 402(b), provided that: "The amendments made by this section [amending sections 43 [now 32], 141, 3402, and 6012 of this title and provisions set out as notes under sections 42 and 43 [now 32] of this title] (other than by subsection (d) [enacting provisions set out as a note under this section]) apply to taxable years ending after December 31, 1975, and before January 1, 1978. Subsection (d) applies to taxable years ending after December 31, 1975."

Section 209(b) of Pub. L. 94-12, as amended by Pub. L. 94-164, § 2(f), Dec. 23, 1975, 89 Stat. 972; Pub. L. 94-455, title IV, § 401(c)(1)(A), Oct. 4, 1976, 90 Stat. 1557; Pub. L. 95-30, title I, § 103(b), May 23, 1977, 91 Stat. 139; Pub. L. 95-600, title I, § 103(a), Nov. 6, 1978, 92 Stat. 2771, provided that: "The amendments made by section 204 [enacting this section and amending sections 6201 and 6401 of this title] shall apply to taxable years beginning after December 31, 1974."

STUDY ON EARNED INCOME TAX CREDIT CERTIFICATION
PROGRAM

Pub. L. 108-199, div. F, title II, § 206, Jan. 23, 2004, 118 Stat. 319, provided that:

"(a) STUDY.—The Internal Revenue Service shall conduct a study, as a part of any program that requires certification (including pre-certification) in order to claim the earned income tax credit under section 32 of the Internal Revenue Code of 1986, on the following matters:

"(1) The costs (in time and money) incurred by the participants in the program.

"(2) The administrative costs incurred by the Internal Revenue Service in operating the program.

"(3) The percentage of individuals included in the program who were not certified for the credit, including the percentage of individuals who were not certified due to—

"(A) ineligibility for the credit; and

"(B) failure to complete the requirements for certification.

"(4) The percentage of individuals to whom paragraph (3)(B) applies who were—

"(A) otherwise eligible for the credit; and

"(B) otherwise ineligible for the credit.

"(5) The percentage of individuals to whom paragraph (3)(B) applies who—

"(A) did not respond to the request for certification; and

"(B) responded to such request but otherwise failed to complete the requirements for certification.

"(6) The reasons—

"(A) for which individuals described in paragraph (5)(A) did not respond to requests for certification; and

"(B) for which individuals described in paragraph (5)(B) had difficulty in completing the requirements for certification.

"(7) The characteristics of those individuals who were denied the credit due to—

"(A) failure to complete the requirements for certification; and

"(B) ineligibility for the credit.

"(8) The impact of the program on non-English speaking participants.

"(9) The impact of the program on homeless and other highly transient individuals.

"(b) REPORT.—

"(1) PRELIMINARY REPORT.—Not later than July 30, 2004, the Commissioner of the Internal Revenue Service shall submit to Congress a preliminary report on the study conducted under subsection (a).

"(2) FINAL REPORT.—Not later than June 30, 2005, the Commissioner of the Internal Revenue Service shall submit to Congress a final report detailing the findings of the study conducted under subsection (a)."

PROGRAM TO INCREASE PUBLIC AWARENESS

Secretary of the Treasury, or Secretary's delegate, to establish taxpayer awareness program to inform tax-paying public of availability of earned income credit and child health insurance under this section, see section 11114 of Pub. L. 101-508, set out as a note under section 21 of this title.

EMPLOYEE NOTIFICATION

Section 111(e) of Pub. L. 99-514 provided that: "The Secretary of the Treasury is directed to require, under regulations, employers to notify any employee who has not had any tax withheld from wages (other than an employee whose wages are exempt from withholding pursuant to section 3402(n) of the Internal Revenue Code of 1986) that such employee may be eligible for a refund because of the earned income credit."

DISREGARD OF REFUND FOR DETERMINATION OF
ELIGIBILITY FOR FEDERAL BENEFITS OR ASSISTANCE

Section 2(d) of Pub. L. 94-164, as amended by Pub. L. 94-455, title IV, § 402(a), Oct. 4, 1976, 90 Stat. 1558; Pub. L. 95-600, title I, § 105(f), Nov. 6, 1978, 92 Stat. 2776; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Any refund of Federal income taxes made to any individual by reason of section 43 [now 32] of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to earned income credit), and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall not be taken into account in any year ending before 1980 as income or receipts for purposes of determining the eligibility, for the month in which such refund is made or any month thereafter of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds, but only if such individual (or the family unit of which he is a member) is a recipient of benefits or assistance under such a program for the month before the month in which such refund is made."

[Section 105(g)(3) of Pub. L. 95-600 provided that: "Subsection (f) [amending section 2(d) of Pub. L. 94-164, set out above] shall take effect on the date of enactment of this Act [Nov. 6, 1978]."]

**§ 33. Tax withheld at source on nonresident
aliens and foreign corporations**

There shall be allowed as a credit against the tax imposed by this subtitle the amount of tax withheld at source under subchapter A of chapter 3 (relating to withholding of tax on non-resident aliens and on foreign corporations).

(Aug. 16, 1954, ch. 736, 68A Stat. 13, § 32; renumbered § 33 and amended Pub. L. 98-369, div. A, title IV, §§ 471(c), 474(j), July 18, 1984, 98 Stat. 826, 832.)

PRIOR PROVISIONS

A prior section 33 was renumbered section 27 of this title.

AMENDMENTS

1984—Pub. L. 98-369, § 471(c), renumbered section 32 of this title as this section.

Pub. L. 98-369, § 474(j), amended section generally, striking out "and on tax-free covenant bonds" after "foreign corporations" in section catchline, and, in text, substituting "as a credit against the tax imposed by this subtitle" for "as credits against the tax imposed by this chapter", and striking out designation "(1)" before "the amount of tax withheld", and ", and (2) the amount of tax withheld at source under subchapter B of chapter 3 (relating to interest on tax-free covenant bonds)" after "on foreign corporations)".