

“(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) [amending this section] shall apply to bonds issued after December 31, 2006.

“(2) ALLOCATIONS.—The amendment made by subsection (a)(2) [amending this section] shall apply to allocations or reallocations after December 31, 2006.”

Pub. L. 109-222, title V, § 508(e), May 17, 2006, 120 Stat. 362, provided that: “The amendments made by this section [amending this section and sections 148 and 149 of this title] shall apply to bonds issued after the date of the enactment of this Act [May 17, 2006].”

#### EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by section 101(b)(1) of Pub. L. 109-135 applicable to taxable years ending on or after Aug. 28, 2005, see section 101(c)(1) of Pub. L. 109-135, set out as an Effective Date note under section 1400N of this title.

Amendment by section 402(c) of Pub. L. 109-135 effective as if included in the provision of the Energy Policy Act of 2005, Pub. L. 109-58, to which such amendment relates, see section 402(m)(1) of Pub. L. 109-135, set out as an Effective and Termination Dates of 2005 Amendments note under section 23 of this title.

#### EFFECTIVE DATE

Pub. L. 109-58, title XIII, § 1303(e), Aug. 8, 2005, 119 Stat. 997, as amended by Pub. L. 109-135, title IV, § 402(c)(2), Dec. 21, 2005, 119 Stat. 2610, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending sections 1397E, 6049, and 6401 of this title] shall apply to bonds issued after December 31, 2005.

“(2) SUBSECTION (C).—The amendments made by subsection (c) [amending sections 1397E and 6401 of this title] shall apply to taxable years beginning after December 31, 2005.”

#### REGULATIONS

Pub. L. 109-58, title XIII, § 1303(d), Aug. 8, 2005, 119 Stat. 997, provided that: “The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act [Aug. 8, 2005].”

### SUBPART I—QUALIFIED TAX CREDIT BONDS

Sec.

- 54A. Credit to holders of qualified tax credit bonds.
- 54B. Qualified forestry conservation bonds.
- 54C. Qualified clean renewable energy bonds.<sup>1</sup>
- 54D. Qualified energy conservation bonds.
- 54E. Qualified zone academy bonds.
- 54F. Qualified school construction bonds.

#### AMENDMENTS

2009—Pub. L. 111-5, div. B, title I, § 1521(b)(3), Feb. 17, 2009, 123 Stat. 357, added item 54F.

2008—Pub. L. 110-343, div. B, title I, § 107(b)(3), title III, § 301(b)(3), div. C, title III, § 313(b)(4), Oct. 3, 2008, 122 Stat. 3819, 3844, 3872, added items 54C to 54E.

### § 54A. Credit to holders of qualified tax credit bonds

#### (a) Allowance of credit

If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

<sup>1</sup> So in original. Does not conform to section catchline.

#### (b) Amount of credit

##### (1) In general

The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

##### (2) Annual credit

The annual credit determined with respect to any qualified tax credit bond is the product of—

- (A) the applicable credit rate, multiplied by
- (B) the outstanding face amount of the bond.

##### (3) Applicable credit rate

For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

##### (4) Special rule for issuance and redemption

In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

#### (c) Limitation based on amount of tax

##### (1) In general

The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

- (A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over
- (B) the sum of the credits allowable under this part (other than subparts C and J and this subpart).

##### (2) Carryover of unused credit

If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

#### (d) Qualified tax credit bond

For purposes of this section—

##### (1) Qualified tax credit bond

The term “qualified tax credit bond” means—

- (A) a qualified forestry conservation bond,
- (B) a new clean renewable energy bond,
- (C) a qualified energy conservation bond,

- (D) a qualified zone academy bond, or
- (E) a qualified school construction bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).

**(2) Special rules relating to expenditures**

**(A) In general**

An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

- (i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and
- (ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

**(B) Failure to spend required amount of bond proceeds within 3 years**

**(i) In general**

To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

**(ii) Expenditure period**

For purposes of this subpart, the term “expenditure period” means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

**(iii) Extension of period**

Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

**(C) Qualified purpose**

For purposes of this paragraph, the term “qualified purpose” means—

- (i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),
- (ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1),
- (iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1),
- (iv) in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1), and
- (v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).

**(D) Reimbursement**

For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

- (i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,
- (ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and
- (iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

**(3) Reporting**

An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

**(4) Special rules relating to arbitrage**

**(A) In general**

An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

**(B) Special rule for investments during expenditure period**

An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

**(C) Special rule for reserve funds**

An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

- (i) such fund is funded at a rate not more rapid than equal annual installments,
- (ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and
- (iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

**(5) Maturity limitation**

**(A) In general**

An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

**(B) Maximum term**

During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds is-

sued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

**(6) Prohibition on financial conflicts of interest**

An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

**(e) Other definitions**

For purposes of this subchapter—

**(1) Credit allowance date**

The term “credit allowance date” means—

- (A) March 15,
- (B) June 15,
- (C) September 15, and
- (D) December 15.

Such term includes the last day on which the bond is outstanding.

**(2) Bond**

The term “bond” includes any obligation.

**(3) State**

The term “State” includes the District of Columbia and any possession of the United States.

**(4) Available project proceeds**

The term “available project proceeds” means—

- (A) the excess of—
  - (i) the proceeds from the sale of an issue, over
  - (ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and
- (B) the proceeds from any investment of the excess described in subparagraph (A).

**(f) Credit treated as interest**

For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

**(g) S Corporations and partnerships**

In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

**(h) Bonds held by real estate investment trusts**

If any qualified tax credit bond is held by a real estate investment trust, the credit deter-

mined under subsection (a) shall be allowed to beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be distributed to such beneficiaries) under procedures prescribed by the Secretary.

**(i) Credits may be stripped**

Under regulations prescribed by the Secretary—

**(1) In general**

There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

**(2) Certain rules to apply**

In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

(Added Pub. L. 110-234, title XV, §15316(a), May 22, 2008, 122 Stat. 1505, and Pub. L. 110-246, §4(a), title XV, §15316(a), June 18, 2008, 122 Stat. 1664, 2267; amended Pub. L. 110-343, div. B, title I, §107(b)(1), (2), title III, §301(b)(1), (2), div. C, title III, §313(b)(1), (2), Oct. 3, 2008, 122 Stat. 3818, 3819, 3843, 3844, 3872; Pub. L. 111-5, div. B, title I, §§1521(b)(1), (2), 1531(c)(2), 1541(b)(2), Feb. 17, 2009, 123 Stat. 357, 360, 362.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2009—Subsec. (c)(1)(B). Pub. L. 111-5, §1531(c)(2), substituted “subparts C and J” for “subpart C”.

Subsec. (d)(1)(E). Pub. L. 111-5, §1521(b)(1), added subpar. (E).

Subsec. (d)(2)(C)(v). Pub. L. 111-5, §1521(b)(2), added cl. (v).

Subsec. (h). Pub. L. 111-5, §1541(b)(2), amended subsec. (h) generally. Prior to amendment, text read as follows: “If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.”

2008—Subsec. (d)(1). Pub. L. 110-343, §301(b)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘qualified tax credit bond’ means—

“(A) a qualified forestry conservation bond, or

“(B) a new clean renewable energy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).”

Pub. L. 110-343, §107(b)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘qualified tax credit bond’ means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).”

Subsec. (d)(1)(D). Pub. L. 110-343, §313(b)(1), added subpar. (D).

Subsec. (d)(2)(C). Pub. L. 110-343, §301(b)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "For purposes of this paragraph, the term 'qualified purpose' means—

"(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

"(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1)."

Pub. L. 110-343, §107(b)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(e)."

Subsec. (d)(2)(C)(iv). Pub. L. 110-343, §313(b)(2), added cl. (iv).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-5, div. B, title I, §1521(c), Feb. 17, 2009, 123 Stat. 357, provided that: "The amendments made by this section [enacting section 54F of this title and amending this section] shall apply to obligations issued after the date of the enactment of this Act [Feb. 17, 2009]."

Amendment by section 1531(c)(2) of Pub. L. 111-5 applicable to obligations issued after Feb. 17, 2009, see section 1531(e) of Pub. L. 111-5, set out as a note under section 54 of this title.

Amendment by section 1541(b)(2) of Pub. L. 111-5 applicable to taxable years ending after Feb. 17, 2009, see section 1541(c) of Pub. L. 111-5, set out as a note under section 54 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 107(b)(1), (2) of Pub. L. 110-343 applicable to obligations issued after Oct. 3, 2008, see section 107(d) of title I of div. B of Pub. L. 110-343, set out as a note under section 54 of this title.

Pub. L. 110-343, div. B, title III, §301(c), Oct. 3, 2008, 122 Stat. 3844, provided that: "The amendments made by this section [enacting section 54D of this title and amending this section] shall apply to obligations issued after the date of the enactment of this Act [Oct. 3, 2008]."

Pub. L. 110-343, div. C, title III, §313(c), Oct. 3, 2008, 122 Stat. 3872, provided that: "The amendments made by this section [enacting section 54E of this title and amending this section and section 1397E of this title] shall apply to obligations issued after the date of the enactment of this Act [Oct. 3, 2008]."

#### EFFECTIVE DATE

Enactment 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 a note under section 8701 of Title 7, Agriculture.

Section applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as an Effective Date of 2008 Amendment note under section 54 of this title.

### § 54B. Qualified forestry conservation bonds

#### (a) Qualified forestry conservation bond

For purposes of this subchapter, the term "qualified forestry conservation bond" means any bond issued as part of an issue if—

- (1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified forestry conservation purposes,
- (2) the bond is issued by a qualified issuer, and
- (3) the issuer designates such bond for purposes of this section.

#### (b) Limitation on amount of bonds designated

The maximum aggregate face amount of bonds which may be designated under subsection (a) by

any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

#### (c) National limitation on amount of bonds designated

There is a national qualified forestry conservation bond limitation of \$500,000,000.

#### (d) Allocations

##### (1) In general

The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation purposes in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

##### (2) Solicitation of applications

The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c) not later than 90 days after the date of the enactment of this section.

#### (e) Qualified forestry conservation purpose

For purposes of this section, the term "qualified forestry conservation purpose" means the acquisition by a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

- (1) Some portion of the land acquired must be adjacent to United States Forest Service Land.
- (2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.
- (3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.
- (4) The amount of acreage acquired must be at least 40,000 acres.

#### (f) Qualified issuer

For purposes of this section, the term "qualified issuer" means a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)).

#### (g) Special arbitrage rule

In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).

#### (h) Election to treat 50 percent of bond allocation as payment of tax

##### (1) In general

If—

(A) a qualified issuer receives an allocation of any portion of the national qualified forestry conservation bond limitation described in subsection (c), and

(B) the qualified issuer elects the application of this subsection with respect to such allocation,