

Subsec. (b)(3)(C). Pub. L. 108-121, §102(b)(1), added subpar. (C).

Subsec. (b)(4). Pub. L. 108-121, §106(a), added par. (4). 1988—Subsec. (b)(1). Pub. L. 100-647, §1011B(f)(2)(A), inserted “(other than personal use of a vehicle)” after “in-kind benefit” in introductory text.

Subsec. (b)(1)(B). Pub. L. 100-647, §1011B(f)(1), substituted “, regulation, or administrative practice” for “or regulation thereunder”.

Subsec. (b)(3)(A). Pub. L. 100-647, §1011B(f)(3), struck out “under any provision of law or regulation described in paragraph (1)” after “September 9, 1986.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-245, title I, §112(b), June 17, 2008, 122 Stat. 1635, provided that: “The amendment made by this section [amending this section] shall apply to payments made before, on, or after the date of the enactment of this Act [June 17, 2008].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title V, §585(b)(3), Oct. 28, 2004, 118 Stat. 1932, provided that: “The amendments made by this subsection [amending this section and sections 3121, 3306, and 3401 of this title] shall apply to travel benefits provided after the date of the enactment of this Act [Oct. 28, 2004].”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-121, title I, §102(b)(3), Nov. 11, 2003, 117 Stat. 1337, provided that: “The amendments made by this subsection [amending this section] shall apply with respect to deaths occurring after September 10, 2001.”

Pub. L. 108-121, title I, §106(c), Nov. 11, 2003, 117 Stat. 1339, provided that: “The amendments made by this section [amending this section and sections 3121, 3306, and 3401 of this title] shall apply to taxable years beginning after December 31, 2002.”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1011B(f)(2)(B) of Pub. L. 100-647 provided that: “The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning after December 31, 1986.”

Amendment by section 1011B(f)(1), (3) of 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

Section 1168(c) of Pub. L. 99-514, as amended by Pub. L. 100-647, title I, §1011B(f)(4), Nov. 10, 1988, 102 Stat. 3490, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 1984.”

NO INFERENCE TO BE DRAWN FROM AMENDMENT BY PUB. L. 108-121

Pub. L. 108-121, title I, §106(d), Nov. 11, 2003, 117 Stat. 1339, provided that: “No inference may be drawn from the amendments made by this section [amending this section and sections 3121, 3306, and 3401 of this title] with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.”

§ 135. Income from United States savings bonds used to pay higher education tuition and fees

(a) General rule

In the case of an individual who pays qualified higher education expenses during the taxable year, no amount shall be includible in gross income by reason of the redemption during such

year of any qualified United States savings bond.

(b) Limitations

(1) Limitation where redemption proceeds exceed higher education expenses

(A) In general

If—

(i) the aggregate proceeds of qualified United States savings bonds redeemed by the taxpayer during the taxable year exceed

(ii) the qualified higher education expenses paid by the taxpayer during such taxable year,

the amount excludable from gross income under subsection (a) shall not exceed the applicable fraction of the amount excludable from gross income under subsection (a) without regard to this subsection.

(B) Applicable fraction

For purposes of subparagraph (A), the term “applicable fraction” means the fraction the numerator of which is the amount described in subparagraph (A)(ii) and the denominator of which is the amount described in subparagraph (A)(i).

(2) Limitation based on modified adjusted gross income

(A) In general

If the modified adjusted gross income of the taxpayer for the taxable year exceeds \$40,000 (\$60,000 in the case of a joint return), the amount which would (but for this paragraph) be excludable from gross income under subsection (a) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so excludable as such excess bears to \$15,000 (\$30,000 in the case of a joint return).

(B) Inflation adjustment

In the case of any taxable year beginning in a calendar year after 1990, the \$40,000 and \$60,000 amounts contained in subparagraph (A) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 1989” for “calendar year 1992” in subparagraph (B) thereof.

(C) Rounding

If any amount as adjusted under subparagraph (B) is not a multiple of \$50, such amount shall be rounded to the nearest multiple of \$50 (or if such amount is a multiple of \$25, such amount shall be rounded to the next highest multiple of \$50).

(c) Definitions

For purposes of this section—

(1) Qualified United States savings bond

The term “qualified United States savings bond” means any United States savings bond issued—

- (A) after December 31, 1989,
- (B) to an individual who has attained age 24 before the date of issuance, and
- (C) at discount under section 3105 of title 31, United States Code.

(2) Qualified higher education expenses

(A) In general

The term “qualified higher education expenses” means tuition and fees required for the enrollment or attendance of—

- (i) the taxpayer,
- (ii) the taxpayer’s spouse, or
- (iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution.

(B) Exception for education involving sports, etc.

Such term shall not include expenses with respect to any course or other education involving sports, games, or hobbies other than as part of a degree program.

(C) Contributions to qualified tuition program and Coverdell education savings accounts

Such term shall include any contribution to a qualified tuition program (as defined in section 529) on behalf of a designated beneficiary (as defined in such section), or to a Coverdell education savings account (as defined in section 530) on behalf of an account beneficiary, who is an individual described in subparagraph (A); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of this subparagraph.

(3) Eligible educational institution

The term “eligible educational institution” has the meaning given such term by section 529(e)(5).

(4) Modified adjusted gross income

The term “modified adjusted gross income” means the adjusted gross income of the taxpayer for the taxable year determined—

- (A) without regard to this section and sections 137, 199, 221, 222, 911, 931, and 933, and
- (B) after the application of sections 86, 469, and 219.

(d) Special rules

(1) Adjustment for certain scholarships and veterans benefits

The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

- (A) a qualified scholarship which under section 117 is not includable in gross income,
- (B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code,
- (C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of

section 102(a)) for educational expenses, or attributable to attendance at an eligible educational institution, which is exempt from income taxation by any law of the United States, or

(D) a payment, waiver, or reimbursement of qualified higher education expenses under a qualified tuition program (within the meaning of section 529(b)).

(2) Coordination with other higher education benefits

The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by—

(A) the amount of such expenses which are taken into account in determining the credit allowed to the taxpayer or any other person under section 25A with respect to such expenses; and

(B) the amount of such expenses which are taken into account in determining the exclusions under sections 529(c)(3)(B) and 530(d)(2).

(3) No exclusion for married individuals filing separate returns

If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and his spouse file a joint return for the taxable year.

(4) Regulations

The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring record keeping and information reporting.

(Added Pub. L. 100-647, title VI, § 6009(a), Nov. 10, 1988, 102 Stat. 3688; amended Pub. L. 101-239, title VII, § 7816(c)(2), Dec. 19, 1989, 103 Stat. 2420; Pub. L. 101-508, title XI, §§ 11101(d)(1)(E), 11702(h), Nov. 5, 1990, 104 Stat. 1388-405, 1388-516; Pub. L. 104-188, title I, §§ 1703(d), 1806(b)(1), 1807(c)(2), Aug. 20, 1996, 110 Stat. 1875, 1898, 1902; Pub. L. 105-34, title II, §§ 201(d), 211(c), 213(e)(2), Aug. 5, 1997, 111 Stat. 805, 811, 817; Pub. L. 105-206, title VI, § 6004(c)(1), (d)(4), (9), July 22, 1998, 112 Stat. 793-795; Pub. L. 105-277, div. J, title IV, § 4003(a)(2)(B), Oct. 21, 1998, 112 Stat. 2681-908; Pub. L. 107-16, title IV, §§ 401(g)(2)(B), 402(a)(4)(A), (B), (b)(2)(A), 431(c)(1), June 7, 2001, 115 Stat. 59-62, 68; Pub. L. 107-22, § 1(b)(1)(B), (3)(B), July 26, 2001, 115 Stat. 197; Pub. L. 108-357, title I, § 102(d)(1), Oct. 22, 2004, 118 Stat. 1428.)

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 Amendments note below.

PRIOR PROVISIONS

A prior section 135 was renumbered section 140 of this title.

AMENDMENTS

2004—Subsec. (c)(4)(A). Pub. L. 108-357 inserted “199,” before “221”.

2001—Subsec. (c)(2)(C). Pub. L. 107-22, in heading substituted “Coverdell education savings” for “education individual retirement” and in text substituted “a Coverdell education savings” for “an education individual retirement”.

Pub. L. 107-16, § 402(a)(4)(A), (B), substituted “qualified tuition” for “qualified State tuition” in heading and text.

Subsec. (c)(4)(A). Pub. L. 107-16, §§ 431(c)(1), 901, temporarily inserted “222,” after “221.” See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (d)(1)(D). Pub. L. 107-16, § 402(a)(4)(A), substituted “qualified tuition” for “qualified State tuition”.

Subsec. (d)(2)(A). Pub. L. 107-16, §§ 401(g)(2)(B), 901, temporarily substituted “allowed” for “allowable”. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (d)(2)(B). Pub. L. 107-16, § 402(b)(2)(A), substituted “the exclusions under sections 529(c)(3)(B) and 530(d)(2)” for “the exclusion under section 530(d)(2)”.

1998—Subsec. (c)(2)(C). Pub. L. 105-206, § 6004(d)(9), inserted “and education individual retirement accounts” after “program” in heading and substituted “section 72” for “section 529(c)(3)(A)” in text.

Subsec. (c)(3). Pub. L. 105-206, § 6004(c)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘eligible educational institution’ means—

“(A) an institution described in section 1201(a) or subparagraph (C) or (D) of section 481(a)(1) of the Higher Education Act of 1965 (as in effect on October 21, 1988), and

“(B) an area vocational education school (as defined in subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act) which is in any State (as defined in section 521(27) of such Act), as such sections are in effect on October 21, 1988.”

Subsec. (c)(4)(A). Pub. L. 105-277 inserted “221,” after “137.”

Subsec. (d)(2). Pub. L. 105-206, § 6004(d)(4), substituted “other higher education benefits” for “higher education credit” in heading and amended text of par. (2) generally. Prior to amendment, text read as follows: “The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses.”

1997—Subsec. (c)(2)(C). Pub. L. 105-34, § 213(e)(2), inserted “, or to an education individual retirement account (as defined in section 530) on behalf of an account beneficiary,” after “(as defined in such section)”.

Pub. L. 105-34, § 211(c), added subpar. (C).

Subsec. (d)(2) to (4). Pub. L. 105-34, § 201(d), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (b)(2)(B)(ii). Pub. L. 104-188, § 1703(d), inserted “, determined by substituting ‘calendar year 1989’ for ‘calendar year 1992’ in subparagraph (B) thereof” before period at end.

Subsec. (c)(4)(A). Pub. L. 104-188, § 1807(c)(2), inserted “137,” before “911”.

Subsec. (d)(1)(D). Pub. L. 104-188, § 1806(b)(1), added subpar. (D).

1990—Subsec. (b)(2)(B). Pub. L. 101-508, § 11702(h)(1), substituted “the \$40,000 and \$60,000 amounts” for “each dollar amount” in introductory provisions.

Subsec. (b)(2)(B)(ii). Pub. L. 101-508, § 11101(d)(1)(E), struck out before period at end “, determined by substituting ‘calendar year 1989’ for ‘calendar year 1987’ in subparagraph (B) thereof”.

Subsec. (b)(2)(C). Pub. L. 101-508, § 11702(h)(2), struck out “(A) or” after “subparagraph”.

1989—Subsec. (d)(1). Pub. L. 101-239 substituted “subsection (a) with respect to” for “subsection (a) respect to”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years beginning after Dec. 31, 2004, see section 102(e) of Pub. L. 108-357, set out as a note under section 56 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENTS

Amendment by Pub. L. 107-22 effective July 26, 2001, see section 1(c) of Pub. L. 107-22, set out as a note under section 26 of this title.

Amendment by section 401(g)(2)(B) of Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2001, see section 401(h) of Pub. L. 107-16, set out as a note under section 25A of this title.

Amendment by section 402(a)(4)(A), (B), (b)(2)(A) of Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2001, see section 402(h) of Pub. L. 107-16, set out as an Effective Date of 2001 Amendment note under section 72 of this title.

Amendment by section 431(c)(1) of Pub. L. 107-16 applicable to payments made in taxable years beginning after Dec. 31, 2001, see section 431(d) of Pub. L. 107-16, set out as a note under section 62 of this title.

Amendment by sections 401(g)(2)(B) and 431(c)(1) of 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 1998 AMENDMENTS

Amendment by Pub. L. 105-277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 4003(f) of Pub. L. 105-277, set out as a note under section 86 of this title.

Amendment by 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 201(d) of Pub. L. 105-34 applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105-34, set out as an Effective Date note under section 25A of this title.

Amendment by section 211(c) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 211(f) of Pub. L. 105-34, set out as a note under section 529 of this title.

Amendment by section 213(e)(2) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 213(f) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1703(d) of Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§ 13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

Amendment by section 1806(b)(1) of Pub. L. 104-188 applicable to taxable years ending after Aug. 20, 1996, with transition rules applicable where States or agencies or instrumentalities thereof maintain on such date programs under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, designated beneficiaries, see section 1806(c) of Pub. L. 104-188, set out as an Effective Date note under section 529 of this title.

Amendment by section 1807(c)(2) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996,

see section 1807(e) of Pub. L. 104-188, set out as an Effective Date note under section 23 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11101(d)(1)(E) 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.

Amendment by section 11702(h) of Pub. L. 101-508 effective as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 11702(j) of Pub. L. 101-508, set out as a note under section 59 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1989, see section 6009(d) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 86 of this title.

PROMOTION OF PUBLIC AWARENESS OF PROGRAM

Section 6009(b) of Pub. L. 100-647 provided that: "The Secretary of the Treasury or his delegate shall take such actions as may be necessary to make the general public aware of the program established by this section [enacting this section, amending sections 86, 219, and 469 of this title, renumbering former section 135 of this title as section 136 of this title, and enacting provisions set out as notes below and under section 86 of this title]."

PARENTAL ASSISTANCE WITH TUITION STAMP STUDY

Section 6009(e) of Pub. L. 100-647 directed Secretary of the Treasury or his delegate, after consultation with Secretary of Education or his delegate, to conduct a study of feasibility of using stamps or similar programs to encourage and facilitate savings by parents towards purchase of Series EE bonds eligible for exclusion and to submit, not later than Dec. 31, 1989, results of such study, together with any recommendations deemed appropriate, to Committee on Ways and Means of House of Representatives and Committee on Finance of Senate.

§ 136. Energy conservation subsidies provided by public utilities

(a) Exclusion

Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.

(b) Denial of double benefit

Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

(c) Energy conservation measure

(1) In general

For purposes of this section, the term "energy conservation measure" means any instal-

lation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit.

(2) Other definitions

For purposes of this subsection—

(A) Dwelling unit

The term "dwelling unit" has the meaning given such term by section 280A(f)(1).

(B) Public utility

The term "public utility" means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term "person" includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

(d) Exception

This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

(Added Pub. L. 102-486, title XIX, §1912(a), Oct. 24, 1992, 106 Stat. 3014; amended Pub. L. 104-188, title I, §1617(a), (b), Aug. 20, 1996, 110 Stat. 1858.)

REFERENCES IN TEXT

Section 210 of the Public Utility Regulatory Policy Act of 1978, referred to in subsec. (d), probably means section 210 of the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, which is classified to section 824a-3 of Title 16, Conservation.

PRIOR PROVISIONS

A prior section 136 was renumbered section 140 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-188, §1617(b)(1), reenacted heading without change and amended text generally, substituting present provisions for former provisions which consisted of general exclusion in par. (1) and limitation for exclusion on nonresidential property in par. (2).

Subsec. (c)(1). Pub. L. 104-188, §1617(a), substituted "energy demand with respect to a dwelling unit." for "energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1995, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B)."

Subsec. (c)(2). Pub. L. 104-188, §1617(b)(2), struck out "and special rules" after "definitions" in heading, redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which related to "specially defined energy property".

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1617(c) of Pub. L. 104-188 provided that: "The amendments made by this section [amending this section] shall apply to amounts received after December 31, 1996, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter."

EFFECTIVE DATE

Section 1912(c) of Pub. L. 102-486 provided that: "The amendments made by this section [enacting this sec-