

“(A) references to empowerment zones shall be treated as including references to enterprise communities, and

“(B) such term includes any trades or businesses which would qualify as an enterprise zone business (determined after the modification of subparagraph (A)) if such trades or businesses were separately incorporated.”

Subsec. (f). Pub. L. 105-34, § 953(a), added subsec. (f).
1996—Subsec. (e)(2). Pub. L. 104-188, which directed that par. (2) be amended by striking “(i)” and inserting “(A)” and by striking “(ii)” and inserting “(B)”, could not be executed, because par. (2) contained neither “(i)” nor “(ii)”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, § 1(a)(7) [title I, § 115(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602, provided that: “The amendments made by this section [amending this section] shall apply to obligations issued after December 31, 2001.”

Amendment by section 1(a)(7) [title I, § 116(b)(3), (4)] of Pub. L. 106-554 applicable to qualified empowerment zone assets acquired after Dec. 21, 2000, see section 1(a)(7) [title I, § 116(c)] of Pub. L. 106-554, set out as a note under section 1016 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 953(b) of Pub. L. 105-34 provided that: “The amendment made by this section [amending this section] shall apply to obligations issued after the date of the enactment of this Act [Aug. 5, 1997].”

Section 955(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section] shall apply to obligations issued after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

PART III—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES

Subpart

- A. Empowerment zone employment credit.
- B. Additional expensing.
- C. Nonrecognition of gain on rollover of empowerment zone investments.
- D. General provisions.

AMENDMENTS

2000—Pub. L. 106-554, § 1(a)(7) [title I, § 116(b)(6)], Dec. 21, 2000, 114 Stat. 2763, 2763A-604, added items for subparts C and D and struck out former item for subpart C “General provisions”.

SUBPART A—EMPOWERMENT ZONE EMPLOYMENT CREDIT

- Sec. 1396. Empowerment zone employment credit.
- 1397. Other definitions and special rules.

§ 1396. Empowerment zone employment credit

(a) Amount of credit

For purposes of section 38, the amount of the empowerment zone employment credit determined under this section with respect to any employer for any taxable year is the applicable percentage of the qualified zone wages paid or incurred during the calendar year which ends with or within such taxable year.

(b) Applicable percentage

For purposes of this section, the applicable percentage is 20 percent.

(c) Qualified zone wages

(1) In general

For purposes of this section, the term “qualified zone wages” means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee.

(2) Only first \$15,000 of wages per year taken into account

With respect to each qualified zone employee, the amount of qualified zone wages which may be taken into account for a calendar year shall not exceed \$15,000.

(3) Coordination with work opportunity credit

(A) In general

The term “qualified zone wages” shall not include wages taken into account in determining the credit under section 51.

(B) Coordination with paragraph (2)

The \$15,000 amount in paragraph (2) shall be reduced for any calendar year by the amount of wages paid or incurred during such year which are taken into account in determining the credit under section 51.

(d) Qualified zone employee

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term “qualified zone employee” means, with respect to any period, any employee of an employer if—

(A) substantially all of the services performed during such period by such employee for such employer are performed within an empowerment zone in a trade or business of the employer, and

(B) the principal place of abode of such employee while performing such services is within such empowerment zone.

(2) Certain individuals not eligible

The term “qualified zone employee” shall not include—

(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

(C) any individual employed by the employer for less than 90 days,

(D) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

(E) any individual employed by the employer in a trade or business the principal activity of which is farming (within the meaning of subparagraph (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the employer which are used in such a trade or business, and

(ii) the aggregate value of assets leased by the employer which are used in such a trade or business (as determined under regulations prescribed by the Secretary),

exceeds \$500,000.

(3) Special rules related to termination of employment

(A) In general

Paragraph (2)(C) shall not apply to—

(i) a termination of employment of an individual who before the close of the period referred to in paragraph (2)(C) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

(ii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

(B) Changes in form of business

For purposes of paragraph (2)(C), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 549; amended Pub. L. 104-188, title I, §1201(e)(4), Aug. 20, 1996, 110 Stat. 1772; Pub. L. 105-34, title IX, §§951(b), 952(b), Aug. 5, 1997, 111 Stat. 885, 887; Pub. L. 106-554, §1(a)(7) [title I, §113(a), (b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601.)

REFERENCES IN TEXT

The Taxpayer Relief Act of 1997, referred to in subsec. (b)(2), is Pub. L. 105-34, Aug. 5, 1997, 111 Stat. 788.

PRIOR PROVISIONS

A prior section 1396, added Pub. L. 95-600, title VI, §601(a), Nov. 6, 1978, 92 Stat. 2895; amended Pub. L. 96-595, §3(a)(6), (9), (10), Dec. 24, 1980, 94 Stat. 3465, related to minimum distributions by an electing general stock ownership corporation, prior to repeal by Pub. L. 99-514, title XIII, §1303(a), Oct. 22, 1986, 100 Stat. 2658.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-554, §1(a)(7) [title I, §113(a)], amended subsec. (b) generally, substituting provisions establishing an applicable percentage of 20 percent for provisions setting out tables for determining the applicable percentage.

Subsec. (e). Pub. L. 106-554, §1(a)(7) [title I, §113(b)], struck out heading and text of subsec. (e). Text read as follows: “This section shall be applied without regard to any empowerment zone designated under section 1391(g).”

1997—Subsec. (b). Pub. L. 105-34 substituted “For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘applicable percentage’ means the percentage determined in accordance with the following table:”

for “For purposes of this section, the term ‘applicable percentage’ means the percentage determined in accordance with the following table:” and added par. (2).

Subsec. (e). Pub. L. 105-34, §952(b), added subsec. (e). 1996—Subsec. (c)(3). Pub. L. 104-188 substituted “work opportunity credit” for “targeted jobs credit” in heading.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title I, §113(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601, provided that: “The amendments made by this section [amending this section and section 1400 of this title] shall apply to wages paid or incurred after December 31, 2001.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 951(b) of Pub. L. 105-34 effective Aug. 5, 1997, except that designations of new empowerment zones made pursuant to amendments by section 951 of Pub. L. 105-34 to be made during 180-day period beginning Aug. 5, 1997, and no designation pursuant to such amendments to take effect before Jan. 1, 2000, see section 951(c) of Pub. L. 105-34, set out as a note under section 1391 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to individuals who begin work for the employer after Sept. 30, 1996, see section 1201(g) of Pub. L. 104-188, set out as a note under section 38 of this title.

§ 1397. Other definitions and special rules

(a) Wages

For purposes of this subpart—

(1) In general

The term “wages” has the same meaning as when used in section 51.

(2) Certain training and educational benefits

(A) In general

The following amounts shall be treated as wages paid to an employee:

(i) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person not related to the employer.

(ii) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

(B) Related person

A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), “10 percent” shall be substituted for “50 percent”.

(b) Controlled groups

For purposes of this subpart—

(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

(2) the credit (if any) determined under section 1396 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

(c) Certain other rules made applicable

For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 551.)

PRIOR PROVISIONS

A prior section 1397, added Pub. L. 95-600, title VI, §601(a), Nov. 6, 1978, 92 Stat. 2895, related to special rules applicable to an electing general stock ownership corporation, prior to repeal by Pub. L. 99-514, title XIII, §1303(a), Oct. 22, 1986, 100 Stat. 2658.

SUBPART B—ADDITIONAL EXPENSING

Sec.

1397A. Increase in expensing under section 179.

§ 1397A. Increase in expensing under section 179**(a) General rule**

In the case of an enterprise zone business, for purposes of section 179—

(1) the limitation under section 179(b)(1) shall be increased by the lesser of—

(A) \$35,000, or

(B) the cost of section 179 property which is qualified zone property placed in service during the taxable year, and

(2) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified zone property shall be 50 percent of the cost thereof.

(b) Recapture

Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property which ceases to be used in an empowerment zone by an enterprise zone business.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 552; amended Pub. L. 105-34, title IX, §952(c), Aug. 5, 1997, 111 Stat. 887; Pub. L. 106-554, §1(a)(7) [title I, §114(a), (b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601.)

AMENDMENTS

2000—Subsec. (a)(1)(A). Pub. L. 106-554, §1(a)(7) [title I, §114(a)], substituted “\$35,000” for “\$20,000”.

Subsec. (c). Pub. L. 106-554, §1(a)(7) [title I, §114(b)], struck out heading and text of subsec. (c). Text read as follows: “For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii).”

1997—Subsec. (c). Pub. L. 105-34 added subsec. (c).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title I, §114(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2001.”

SUBPART C—NONRECOGNITION OF GAIN ON ROLLOVER OF EMPOWERMENT ZONE INVESTMENTS

Sec.

1397B. Nonrecognition of gain on rollover of empowerment zone investments.

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(7) [title I, §116(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602, added subpart C head-

ing and item 1397B. Former subpart C, consisting of sections 1397B and 1397C, redesignated D.

§ 1397B. Nonrecognition of gain on rollover of empowerment zone investments**(a) Nonrecognition of gain**

In the case of any sale of a qualified empowerment zone asset held by the taxpayer for more than 1 year and with respect to which such taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

(1) the cost of any qualified empowerment zone asset (with respect to the same zone as the asset sold) purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

(2) any portion of such cost previously taken into account under this section.

(b) Definitions and special rules

For purposes of this section—

(1) Qualified empowerment zone asset**(A) In general**

The term “qualified empowerment zone asset” means any property which would be a qualified community asset (as defined in section 1400F) if in section 1400F—

(i) references to empowerment zones were substituted for references to renewal communities,

(ii) references to enterprise zone businesses (as defined in section 1397C) were substituted for references to renewal community businesses, and

(iii) the date of the enactment of this paragraph were substituted for “December 31, 2001” each place it appears.

(B) Treatment of DC zone

The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this section.

(2) Certain gain not eligible for rollover

This section shall not apply to—

(A) any gain which is treated as ordinary income for purposes of this subtitle, and

(B) any gain which is attributable to real property, or an intangible asset, which is not an integral part of an enterprise zone business.

(3) Purchase

A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

(4) Basis adjustments

If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified empowerment zone asset which is purchased by the taxpayer during the 60-day period described in subsection (a). This paragraph shall not apply for purposes of section 1202.

(5) Holding period

For purposes of determining whether the nonrecognition of gain under subsection (a) applies to any qualified empowerment zone asset which is sold—

(A) the taxpayer's holding period for such asset and the asset referred to in subsection (a)(1) shall be determined without regard to section 1223, and

(B) only the first year of the taxpayer's holding period for the asset referred to in subsection (a)(1) shall be taken into account for purposes of paragraphs (2)(A)(iii), (3)(C), and (4)(A)(iii) of section 1400F(b).

(Added Pub. L. 106-554, §1(a)(7) [title I, §116(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (b)(1)(A)(iii), is the date of enactment of Pub. L. 106-554, which was approved Dec. 21, 2000.

PRIOR PROVISIONS

A prior section 1397B was renumbered section 1397C of this title.

EFFECTIVE DATE

Section applicable to qualified empowerment zone assets acquired after Dec. 21, 2000, see section 1(a)(7) [title I, §116(c)] of Pub. L. 106-554, set out as an Effective Date of 2000 Amendment note under section 1016 of this title.

SUBPART D—GENERAL PROVISIONS

Sec.	
1397C.	Enterprise zone business defined.
1397D.	Qualified zone property defined.

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(7) [title I, §116(a)(1), (b)(7)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602, 2763A-604, redesignated subpart C of this part as this subpart and items for sections 1397B and 1397C as 1397C and 1397D, respectively.

§ 1397C. Enterprise zone business defined

(a) In general

For purposes of this part, the term “enterprise zone business” means—

- (1) any qualified business entity, and
- (2) any qualified proprietorship.

(b) Qualified business entity

For purposes of this section, the term “qualified business entity” means, with respect to any taxable year, any corporation or partnership if for such year—

- (1) every trade or business of such entity is the active conduct of a qualified business within an empowerment zone,
- (2) at least 50 percent of the total gross income of such entity is derived from the active conduct of such business,
- (3) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within an empowerment zone,
- (4) a substantial portion of the intangible property of such entity is used in the active conduct of any such business,
- (5) a substantial portion of the services performed for such entity by its employees are performed in an empowerment zone,

(6) at least 35 percent of its employees are residents of an empowerment zone,

(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

(8) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.

(c) Qualified proprietorship

For purposes of this section, the term “qualified proprietorship” means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

(1) at least 50 percent of the total gross income of such individual from such business is derived from the active conduct of such business in an empowerment zone,

(2) a substantial portion of the use of the tangible property of such individual in such business (whether owned or leased) is within an empowerment zone,

(3) a substantial portion of the intangible property of such business is used in the active conduct of such business,

(4) a substantial portion of the services performed for such individual in such business by employees of such business are performed in an empowerment zone,

(5) at least 35 percent of such employees are residents of an empowerment zone,

(6) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term “employee” includes the proprietor.

(d) Qualified business

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term “qualified business” means any trade or business.

(2) Rental of real property

The rental to others of real property located in an empowerment zone shall be treated as a qualified business if and only if—

- (A) the property is not residential rental property (as defined in section 168(e)(2)), and
- (B) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.

For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certifi-

cation that such lessee is an enterprise zone business.

(3) Rental of tangible personal property

The rental to others of tangible personal property shall be treated as a qualified business if and only if at least 50 percent of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

(4) Treatment of business holding intangibles

The term “qualified business” shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

(5) Certain businesses excluded

The term “qualified business” shall not include—

(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs¹ (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business,

exceeds \$500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1397(b) shall apply.

(e) Nonqualified financial property

For purposes of this section, the term “nonqualified financial property” means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

(2) debt instruments described in section 1221(a)(4).

(f) Treatment of businesses straddling census tract lines

For purposes of this section, if—

(1) a business entity or proprietorship uses real property located within an empowerment zone,

(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and

all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 552, §1397B; amended Pub. L. 104-188, title I, §1703(m), Aug. 20, 1996, 110 Stat. 1877; Pub. L. 105-34, title IX, §956(a), Aug. 5, 1997, 111 Stat. 890; Pub. L. 106-170, title V, §532(c)(4), Dec. 17, 1999, 113 Stat. 1931; renumbered §1397C, Pub. L. 106-554, §1(a)(7) [title I, §116(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602.)

PRIOR PROVISIONS

A prior section 1397C was renumbered section 1397D of this title.

AMENDMENTS

2000—Pub. L. 106-554 renumbered section 1397B of this title as this section.

1999—Subsec. (e)(2). Pub. L. 106-170 substituted “section 1221(a)(4)” for “section 1221(4)”.

1997—Subsec. (b)(2). Pub. L. 105-34, §956(a)(1), substituted “50 percent” for “80 percent”.

Subsec. (b)(3). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (b)(4). Pub. L. 105-34, §956(a)(2), (3), substituted “a substantial portion” for “substantially all” and struck out “, and exclusively related to,” after “entity is used in”.

Subsec. (b)(5). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (c)(1). Pub. L. 105-34, §956(a)(1), substituted “50 percent” for “80 percent”.

Subsec. (c)(2). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (c)(3). Pub. L. 105-34, §956(a)(2), (3), substituted “a substantial portion” for “substantially all” and struck out “, and exclusively related to,” after “business is used in”.

Subsec. (c)(4). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (d)(2). Pub. L. 105-34, §956(a)(4), inserted concluding provisions.

Subsec. (d)(3). Pub. L. 105-34, §956(a)(5), substituted “at least 50 percent” for “substantially all”.

Subsec. (f). Pub. L. 105-34, §956(a)(6), added subsec. (f).

1996—Subsec. (d)(5)(B). Pub. L. 104-188 struck out “preceding” before “taxable year” in introductory provisions.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 956(b) of Pub. L. 105-34 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to taxable years beginning on or after the date of the enactment of this Act [Aug. 5, 1997].

“(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

¹ So in original. Probably should be “subparagraph”.

§ 1397D. Qualified zone property defined

(a) General rule

For purposes of this part—

(1) In general

The term “qualified zone property” means any property to which section 168 applies (or would apply but for section 179) if—

(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone took effect,

(B) the original use of which in an empowerment zone commences with the taxpayer, and

(C) substantially all of the use of which is in an empowerment zone and is in the active conduct of a qualified business by the taxpayer in such zone.

(2) Special rule for substantial renovations

In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) \$5,000.

(b) Special rules for sale-leasebacks

For purposes of subsection (a)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 554, §1397C; renumbered §1397D, Pub. L. 106-554, §1(a)(7) [title I, §116(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602.)

PRIOR PROVISIONS

A prior section 1397D was renumbered section 1397F of this title.

AMENDMENTS

2000—Pub. L. 106-554 renumbered section 1397C of this title as this section.

PART IV—INCENTIVES FOR EDUCATION ZONES

Sec.

1397E. Credit to holders of qualified zone academy bonds.

AMENDMENTS

1997—Pub. L. 105-34, title II, §226(a), Aug. 5, 1997, 111 Stat. 820, added part IV heading and item 1397E. Former part IV, consisting of section 1397D, redesignated V.

§ 1397E. Credit to holders of qualified zone academy bonds

(a) Allowance of credit

In the case of an eligible taxpayer who holds a qualified zone academy bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

(b) Amount of credit

(1) In general

The amount of the credit determined under this subsection with respect to any qualified zone academy bond is the amount equal to the product of—

(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

(B) the face amount of the bond held by the taxpayer on the credit allowance date.

(2) Determination

During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer.

(c) Limitation based on amount of tax

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

(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(2) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits, and subparts H, I, and J thereof).

(d) Qualified zone academy bond

For purposes of this section—

(1) In general

The term “qualified zone academy bond” means any bond issued as part of an issue if—

(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

(C) the issuer—

(i) designates such bond for purposes of this section,

(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

(iii) certifies that it has the written approval of the eligible local education agency for such bond issuance,

(D) the term of each bond which is part of such issue does not exceed the maximum term permitted under paragraph (3), and