

EFFECTIVE DATE

Section applicable to residences purchased on or after Apr. 9, 2008, in taxable years ending on or after such date, see section 3011(c) of Pub. L. 110-289, set out as an Effective Date of 2008 Amendment note under section 26 of this title.

**§ 36A. Making work pay credit**

**(a) Allowance of credit**

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 lesser of—

- (1) 6.2 percent of earned income of the taxpayer, or
- (2) \$400 (\$800 in the case of a joint return).

**(b) Limitation based on modified adjusted gross income**

**(1) In general**

The amount allowable as a credit under subsection (a) (determined without regard to this paragraph and subsection (c)) for the taxable year shall be reduced (but not below zero) by 2 percent of so much of the taxpayer's modified adjusted gross income as exceeds \$75,000 (\$150,000 in the case of a joint return).

**(2) Modified adjusted gross income**

For purposes of subparagraph (A),<sup>1</sup> the term “modified adjusted gross income” means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

**(c) Reduction for certain other payments**

The credit allowed under subsection (a) for any taxable year shall be reduced by the amount of any payments received by the taxpayer during such taxable year under section 2201, and any credit allowed to the taxpayer under section 2202, of the American Recovery and Reinvestment Tax Act of 2009.

**(d) Definitions and special rules**

For purposes of this section—

**(1) Eligible individual**

**(A) In general**

The term “eligible individual” means any individual other than—

- (i) any nonresident alien individual,
- (ii) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and
- (iii) an estate or trust.

**(B) Identification number requirement**

Such term shall not include any individual who does not include on the return of tax for the taxable year—

- (i) such individual's social security account number, and
- (ii) in the case of a joint return, the social security account number of one of the taxpayers on such return.

For purposes of the preceding sentence, the social security account number shall not in-

<sup>1</sup> So in original. Probably should be “paragraph (1),”.

clude a TIN issued by the Internal Revenue Service.

**(2) Earned income**

The term “earned income” has the meaning given such term by section 32(c)(2), except that such term shall not include net earnings from self-employment which are not taken into account in computing taxable income. For purposes of the preceding sentence, any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.

**(e) Termination**

This section shall not apply to taxable years beginning after December 31, 2010.

(Added Pub. L. 111-5, div. B, title I, §1001(a), Feb. 17, 2009, 123 Stat. 309.)

REFERENCES IN TEXT

Sections 2201 and 2202 of the American Recovery and Reinvestment Tax Act of 2009, referred to in subsec. (c), are sections 2201 and 2202 of Pub. L. 111-5, which are set out as notes under section 6428 of this title.

EFFECTIVE DATE

Pub. L. 111-5, div. B, title I, §1001(f), Feb. 17, 2009, 123 Stat. 312, provided that: “This section [enacting this section, amending sections 6211 and 6213 of this title and section 1324 of Title 31, Money and Finance, and enacting provisions set out as notes under this section], and the amendments made by this section, shall apply to taxable years beginning after December 31, 2008.”

TREATMENT OF POSSESSIONS

Pub. L. 111-5, div. B, title I, §1001(b), Feb. 17, 2009, 123 Stat. 310, provided that:

“(1) PAYMENTS TO POSSESSIONS.—

“(A) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the amendments made by this section [enacting this section and amending sections 6211 and 6213 of this title and section 1324 of Title 31, Money and Finance] with respect to taxable years beginning in 2009 and 2010. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

“(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the amendments made by this section for taxable years beginning in 2009 and 2010 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

“(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under section 36A of the Internal Revenue Code of 1986 (as added by this section) to any person—

“(A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section for such taxable year, or

“(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

“(3) DEFINITIONS AND SPECIAL RULES.—

“(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ‘possession of the United States’ includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

“(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 36A of the Internal Revenue Code of 1986 (as added by this section).”

REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS

Pub. L. 111-5, div. B, title I, §1001(c), Feb. 17, 2009, 123 Stat. 311, provided that: “Any credit or refund allowed or made to any individual by reason of section 36A of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (b) of this section [set out as a note above] shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility 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.”

**§ 36B. Refundable credit for coverage under a qualified health plan**

**(a) In general**

In the case of an applicable taxpayer, there shall be allowed as a credit against the tax imposed by this subtitle for any taxable year an amount equal to the premium assistance credit amount of the taxpayer for the taxable year.

**(b) Premium assistance credit amount**

For purposes of this section—

**(1) In general**

The term “premium assistance credit amount” means, with respect to any taxable year, the sum of the premium assistance amounts determined under paragraph (2) with respect to all coverage months of the taxpayer occurring during the taxable year.

**(2) Premium assistance amount**

The premium assistance amount determined under this subsection with respect to any coverage month is the amount equal to the lesser of—

(A) the monthly premiums for such month for 1 or more qualified health plans offered in the individual market within a State which cover the taxpayer, the taxpayer’s spouse, or any dependent (as defined in section 152) of the taxpayer and which were enrolled in through an Exchange established by the State under 1311<sup>1</sup> of the Patient Protection and Affordable Care Act, or

(B) the excess (if any) of—

(i) the adjusted monthly premium for such month for the applicable second lowest cost silver plan with respect to the taxpayer, over

(ii) an amount equal to 1/12 of the product of the applicable percentage and the taxpayer’s household income for the taxable year.

**(3) Other terms and rules relating to premium assistance amounts**

For purposes of paragraph (2)—

**(A) Applicable percentage**

**(i) In general**

Except as provided in clause (ii), the applicable percentage for any taxable year shall be the percentage such that the applicable percentage for any taxpayer whose household income is within an income tier specified in the following table shall increase, on a sliding scale in a linear manner, from the initial premium percentage to the final premium percentage specified in such table for such income tier:

In the case of household income (expressed as a percent of poverty line) within the following income tier:	The initial premium percentage is—	The final premium percentage is—
Up to 133%	2.0%	2.0%
133% up to 150%	3.0%	4.0%
150% up to 200%	4.0%	6.3%
200% up to 250%	6.3%	8.05%
250% up to 300%	8.05%	9.5%
300% up to 400%	9.5%	9.5%

**(ii) Indexing**

**(I) In general**

Subject to subclause (II), in the case of taxable years beginning in any calendar year after 2014, the initial and final applicable percentages under clause (i) (as in effect for the preceding calendar year after application of this clause) shall be adjusted to reflect the excess of the rate of premium growth for the preceding calendar year over the rate of income growth for the preceding calendar year.

**(II) Additional adjustment**

Except as provided in subclause (III), in the case of any calendar year after 2018, the percentages described in subclause (I) shall, in addition to the adjustment under subclause (I), be adjusted to reflect the excess (if any) of the rate of premium growth estimated under subclause (I) for the preceding calendar year over the rate of growth in the consumer price index for the preceding calendar year.

**(III) Failsafe**

Subclause (II) shall apply for any calendar year only if the aggregate amount of premium tax credits under this section and cost-sharing reductions under section 1402 of the Patient Protection and Affordable Care Act for the preced-

<sup>1</sup> So in original. Probably should be preceded by “section”.