

**(2) Tax-exempt eligible small employer**

For purposes of this section, the term “tax-exempt eligible small employer” means an eligible small employer which is any organization described in section 501(c) which is exempt from taxation under section 501(a).

**(3) Payroll taxes**

For purposes of this subsection—

**(A) In general**

The term “payroll taxes” means—

(i) amounts required to be withheld from the employees of the tax-exempt eligible small employer under section 3401(a),

(ii) amounts required to be withheld from such employees under section 3101(b), and

(iii) amounts of the taxes imposed on the tax-exempt eligible small employer under section 3111(b).

**(B) Special rule**

A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

**(g) Application of section for calendar years 2010, 2011, 2012, and 2013**

In the case of any taxable year beginning in 2010, 2011, 2012, or 2013, the following modifications to this section shall apply in determining the amount of the credit under subsection (a):

**(1) No credit period required**

The credit shall be determined without regard to whether the taxable year is in a credit period and for purposes of applying this section to taxable years beginning after 2013, no credit period shall be treated as beginning with a taxable year beginning before 2014.

**(2) Amount of credit**

The amount of the credit determined under subsection (b) shall be determined—

(A) by substituting “35 percent (25 percent in the case of a tax-exempt eligible small employer)” for “50 percent (35 percent in the case of a tax-exempt eligible small employer)”;

(B) by reference to an eligible small employer’s nonelective contributions for premiums paid for health insurance coverage (within the meaning of section 9832(b)(1)) of an employee, and

(C) by substituting for the average premium determined under subsection (b)(2) the amount the Secretary of Health and Human Services determines is the average premium for the small group market in the State in which the employer is offering health insurance coverage (or for such area within the State as is specified by the Secretary).

**(3) Contribution arrangement**

An arrangement shall not fail to meet the requirements of subsection (d)(4) solely because it provides for the offering of insurance outside of an Exchange.

**(h) Insurance definitions**

Any term used in this section which is also used in the Public Health Service Act or subtitle

A of title I of the Patient Protection and Affordable Care Act shall have the meaning given such term by such Act or subtitle.

**(i) Regulations**

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of the 2-year limit on the credit period through the use of successor entities and the avoidance of the limitations under subsection (c) through the use of multiple entities.

(Added and amended Pub. L. 111-148, title I, § 1421(a), title X, § 10105(e)(1), (2), Mar. 23, 2010, 124 Stat. 237, 906.)

## REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (h), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Patient Protection and Affordable Care Act, referred to in subsec. (h), is Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 119. Subtitle A (§§ 1001 to 1004) of title I of the Act enacted sections 300gg-11 to 300gg-19, 300gg-93, and 300gg-94 of Title 42, The Public Health and Welfare, redesignated sections 300gg-4 to 300gg-7 of Title 42 as sections 300gg-25 to 300gg-28, respectively, of Title 42, and section 300gg-13 of Title 42 as section 300gg-9 of Title 42, amended former sections 300gg-11 and 300gg-12 and sections 300gg-21 to 300gg-23 of Title 42, and enacted provisions set out as a note under section 300gg-11 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of Title 42 and Tables.

## AMENDMENTS

2010—Subsec. (d)(3)(B). Pub. L. 111-148, § 10105(e)(1), amended subpar. (B) generally, including dollar amount for taxable years beginning in 2010 in addition to dollar amounts for taxable years beginning in 2011, 2012, and 2013, and subsequent years.

Subsec. (g). Pub. L. 111-148, § 10105(e)(2), substituted “2010, 2011” for “2011” in heading and in introductory provisions.

## EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title X, § 10105(e)(5), Mar. 23, 2010, 124 Stat. 907, provided that: “The amendments made by this subsection [amending this section, section 280C of this title, and provisions set out as a note under section 38 of this title] shall take effect as if included in the enactment of section 1421 of this Act.”

## EFFECTIVE DATE

Section applicable to amounts paid or incurred in taxable years beginning after Dec. 31, 2009, see section 1421(f)(1) of Pub. L. 111-148, set out as an Effective Date of 2010 Amendment note under section 38 of this title.

## SUBPART E—RULES FOR COMPUTING INVESTMENT CREDIT

Sec.	
46.	Amount of credit.
47.	Rehabilitation credit.
48.	Energy credit.
48A.	Qualifying advanced coal project credit.
48B.	Qualifying gasification project credit.
48C.	Qualifying advanced energy project credit.
48D.	Qualifying therapeutic discovery project credit.
49.	At-risk rules.
50.	Other special rules.
	[50A, 50B. Repealed.]

Sec.

## AMENDMENTS

2010—Pub. L. 111-148, title IX, §9023(d), Mar. 23, 2010, 124 Stat. 881, added item 48D.

2009—Pub. L. 111-5, div. B, title I, §1302(c)(2), Feb. 17, 2009, 123 Stat. 348, added item 48C.

2005—Pub. L. 109-58, title XIII, §1307(c)(2), Aug. 8, 2005, 119 Stat. 1006, added items 48A and 48B.

2004—Pub. L. 108-357, title III, §322(d)(2)(C), Oct. 22, 2004, 118 Stat. 1475, which directed amendment of item 48 by striking out “, reforestation credit”, was executed by striking out “; reforestation credit” after “Energy credit” to reflect the probable intent of Congress.

1990—Pub. L. 101-508, title XI, §11813(a), Nov. 5, 1990, 104 Stat. 1388-536, amended heading and analysis generally, substituting in heading “Investment Credit” for “Credit for Investment in Certain Depreciable Property”, in item 47 “Rehabilitation Credit” for “Certain dispositions, etc., of section 38 property”, in item 48 “Energy credit; reforestation credit” for “Definitions; special rules”, in item 49 “At-risk rules” for “Termination of regular percentage”, and adding item 50.

1986—Pub. L. 99-514, title II, §211(c), Oct. 22, 1986, 100 Stat. 2168, added item 49.

1984—Pub. L. 98-369, div. A, title IV, §474(n)(1), July 18, 1984, 98 Stat. 833, substituted “E” for “B” as subpart designation.

1978—Pub. L. 95-600, title III, §312(c)(5), Nov. 6, 1978, 92 Stat. 2826, struck out item 49 “Termination for period beginning April 19, 1969, and ending during 1971” and item 50 “Restoration of credit”.

1971—Pub. L. 92-178, title I, §101(b)(5), Dec. 10, 1971, 85 Stat. 499, substituted “Termination for period beginning April 19, 1969, and ending during 1971” for “Termination of credit” in item 49 and added item 50.

1969—Pub. L. 91-172, title VII, §703(d), Dec. 30, 1969, 83 Stat. 667, added item 49.

1962—Pub. L. 87-834, §2(b), Oct. 16, 1962, 76 Stat. 963, added subpart B.

**§ 46. Amount of credit**

For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be the sum of—

- (1) the rehabilitation credit,
- (2) the energy credit,
- (3) the qualifying advanced coal project credit,
- (4) the qualifying gasification project credit<sup>1</sup>
- (5) the qualifying advanced energy project credit, and
- (6) the qualifying therapeutic discovery project credit.

(Added Pub. L. 87-834, §2(b), Oct. 16, 1962, 76 Stat. 963; amended Pub. L. 88-272, title II, §201(d)(4), Feb. 26, 1964, 78 Stat. 32; Pub. L. 89-384, §1(c)(1), Apr. 8, 1966, 80 Stat. 102; Pub. L. 89-389, §2(b)(5), Apr. 14, 1966, 80 Stat. 114; Pub. L. 89-800, §3, Nov. 8, 1966, 80 Stat. 1514; Pub. L. 90-225, §2(a), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-172, title III, §301(b)(4), title IV, §401(e)(1), title VII, §703(b), Dec. 30, 1969, 83 Stat. 585, 603, 666; Pub. L. 92-178, title I, §§102(a)(1), (b), 105(a)-(c), 106(a)-(c), 107(a)(1), 108(a), Dec. 10, 1971, 85 Stat. 499, 503, 506, 507; Pub. L. 93-406, title II, §§2001(g)(2)(B), 2002(g)(2), 2005(c)(4), Sept. 2, 1974, 88 Stat. 957, 968, 991; Pub. L. 94-12, title III, §301(a), (b)(1)-(3), 302(a), (b)(1), Mar. 29, 1975, 89 Stat. 36, 37, 40, 43; Pub. L. 94-455, title V, §503(b)(4), title VIII, §§802(a), (b)(1)-(5), 803(a), (b)(1), 805(a), title XVI, §1607(b)(1)(B), title XVII, §§1701(b), 1703, title

XIX, §§1901(a)(4), (b)(1)(C), 1906(b)(13)(A), title XXI, §2112(a)(2), Oct. 4, 1976, 90 Stat. 1562, 1580-1583, 1596, 1756, 1759, 1761, 1764, 1790, 1834, 1905; Pub. L. 95-600, title I, §141(e), (f)(2), title III, §§311(a), (c), 312(a), (b), (c)(2), 313(a), 316(a), (b)(1), (2), title VII, §703(a)(1), (2), (j)(9), Nov. 6, 1978, 92 Stat. 2794, 2795, 2824-2826, 2829, 2939, 2941; Pub. L. 95-618, title II, §241(a), title III, §301(a), (c)(1), Nov. 9, 1978, 92 Stat. 3192, 3194, 3199; Pub. L. 96-222, title I, §§101(a)(7)(A), (L)(iii)(I), (v)(I), (M)(i), 103(a)(2)(A), (B)(i)-(iii), (3), (4)(A), 107(a)(3)(A), Apr. 1, 1980, 94 Stat. 197, 200, 201, 208, 209, 223; Pub. L. 96-223, title II, §§221(a), 222(e)(2), 223(b)(1), Apr. 2, 1980, 94 Stat. 260, 263, 266; Pub. L. 97-34, title II, §§207(c)(1), 211(a)(1), (b), (d), (e)(1), (2), (f)(1), 212(a)(1), (2), title III, §§302(c)(3), (d)(1), 332(a), Aug. 13, 1981, 95 Stat. 225, 227-229, 235, 236, 272, 274, 296; Pub. L. 97-248, title II, §201(d)(8)(A), formerly §201(c)(8)(A), §§205(b), 265(b)(2)(A)(i), Sept. 3, 1982, 96 Stat. 420, 430, 547, renumbered §201(d)(8)(A), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-354, §5(a)(4)-(6), Oct. 19, 1982, 96 Stat. 1692; Pub. L. 97-424, title V, §§541(b), 546(b), Jan. 6, 1983, 96 Stat. 2192, 2199; Pub. L. 97-448, title I, §102(e)(1), (f)(5), title II, §202(f), Jan. 12, 1983, 96 Stat. 2370, 2372, 2396; Pub. L. 98-21, title I, §122(c)(1), Apr. 20, 1983, 97 Stat. 87; Pub. L. 98-369, div. A, title I, §§16(a), 31(f), 113(b)(2)(B), title IV, §§431(a), (b)(1), (d)(1)-(3), 474(o)(1)-(7), title VII, §713(c)(1)(C), July 18, 1984, 98 Stat. 505, 521, 637, 805, 807, 810, 834-836, 957; Pub. L. 99-514, title II, §§201(d)(7)(B), 251(a), title IV, §421(a), (b), title XVIII, §§1802(a)(6), (8), 1844(a), (b)(3), (5), 1847(b)(11), 1848(a), Oct. 22, 1986, 100 Stat. 2141, 2183, 2229, 2789, 2855, 2857; Pub. L. 100-647, title I, §§1002(a)(4), (15), (17), (25), 1009(a)(1), 1013(a)(44), title IV, §4006, Nov. 10, 1988, 102 Stat. 3353, 3355, 3356, 3445, 3545, 3652; Pub. L. 101-239, title VII, §§7106, 7814(d), Dec. 19, 1989, 103 Stat. 2306, 2413; Pub. L. 101-508, title XI, §§11406, 11813(a), Nov. 5, 1990, 104 Stat. 1388-474, 1388-536; Pub. L. 108-357, title III, §322(d)(1), Oct. 22, 2004, 118 Stat. 1475; Pub. L. 109-58, title XIII, §1307(a), Aug. 8, 2005, 119 Stat. 999; Pub. L. 111-5, div. B, title I, §1302(a), Feb. 17, 2009, 123 Stat. 345; Pub. L. 111-148, title IX, §9023(b), Mar. 23, 2010, 124 Stat. 880.)

## AMENDMENTS

2010—Par. (2). Pub. L. 111-148, §9023(b)(1), inserted a comma at end.

Par. (6). Pub. L. 111-148, §9023(b)(2), (3), added par. (6).

2009—Par. (5). Pub. L. 111-5 added par. (5).

2005—Pub. L. 109-58 struck out “and” at end of par. (1), struck out period at end of par. (2), and added pars. (3) and (4).

2004—Pub. L. 108-357 inserted “and” at end of par. (1), substituted a period for “, and” at end of par. (2), and struck out par. (3) which read as follows: “the reforestation credit.”

1990—Pub. L. 101-508, §11813(a), amended section generally, substituting present provisions for provisions relating to amount of investment credit, determination of percentages, qualified investments and qualified progress expenditures, limitations with respect to certain persons, a limitation in the case of certain regulated companies, a 50 percent credit in the case of certain vessels, and special rule for cooperatives.

Subsec. (b)(2)(A). Pub. L. 101-508, §11406, substituted “Dec. 31, 1991” for “Sept. 30, 1990” in table items (viii) C. and (ix) B.

1989—Subsec. (b)(2)(A). Pub. L. 101-239, §7106, substituted “Sept. 30, 1990” for “Dec. 31, 1989” in table items (viii) C., (ix) B., and (x).

<sup>1</sup> So in original. Probably should be followed by a comma.