

(i) each class of outstanding stock of the corporation issuing the employer securities, or

(ii) the total value of all outstanding stock of the corporation.

**(B) FAILURE TO RETAIN MINIMUM STOCK INTEREST**

**(i) IN GENERAL**

Subsection (a) shall not apply to any interest received with respect to a securities acquisition loan which is allocable to any period during which the employee stock ownership plan does not own stock meeting the requirements of subparagraph (A).

**(ii) EXCEPTION**

To the extent provided by the Secretary, clause (i) shall not apply to any period if, within 90 days of the first date on which the failure occurred (or such longer period not in excess of 180 days as the Secretary may prescribe), the plan acquires stock which results in its meeting the requirements of subparagraph (A).

**(C) STOCK**

For purposes of subparagraph (A)—

**(i) IN GENERAL**

The term “stock” means stock other than stock described in section 1504(a)(4).

**(ii) TREATMENT OF CERTAIN RIGHTS**

The Secretary may provide that warrants, options, contracts to acquire stock, convertible debt interests and other similar interests be treated as stock for 1 or more purposes under subparagraph (A).

**(D) AGGREGATION RULE**

For purposes of determining whether the requirements of subparagraph (A) are met, an employee stock ownership plan shall be treated as owning stock in the corporation issuing the employer securities which is held by any other employee stock ownership plan which is maintained by—

(i) the employer maintaining the plan, or

(ii) any member of a controlled group of corporations (within the meaning of section 409(l)(4)) of which the employer described in clause (i) is a member.

**(7) VOTING RIGHTS OF EMPLOYER SECURITIES**

A loan shall not be treated as a securities acquisition loan for purposes of this section unless—

(A) the employee stock ownership plan meets the requirements of section 409(e)(2) with respect to all employer securities acquired by, or transferred to, the plan in connection with such loan (without regard to whether or not the employer has a registration-type class of securities), and

(B) no stock described in section 409(l)(3) is acquired by, or transferred to, the plan in connection with such loan unless—

(i) such stock has voting rights equivalent to the stock to which it may be converted, and

(ii) the requirements of subparagraph (A) are met with respect to such voting rights.

**(c) EMPLOYEE STOCK OWNERSHIP PLAN**

For purposes of this section, the term “employee stock ownership plan” has the meaning given to such term by section 4975(e)(7).

**(d) APPLICATION WITH SECTION 483 AND ORIGINAL ISSUE DISCOUNT RULES**

In applying section 483 and subpart A of part V of subchapter P to any obligation to which this section applies, appropriate adjustments shall be made to the applicable Federal rate to take into account the exclusion under subsection (a).

**(e) PERIOD TO WHICH INTEREST EXCLUSION APPLIES**

**(1) IN GENERAL**

In the case of—

(A) an original securities acquisition loan, and

(B) any securities acquisition loan (or series of such loans) used to refinance the original securities acquisition loan,

subsection (a) shall apply only to interest accruing during the excludable period with respect to the original securities acquisition loan.

**(2) EXCLUDABLE PERIOD**

For purposes of this subsection, the term “excludable period” means, with respect to any original securities acquisition loan—

**(A) IN GENERAL**

The 7-year period beginning on the date of such loan.

**(B) LOANS DESCRIBED IN SUBSECTION (b)(1)(A)**

If the term of an original securities acquisition loan described in subsection (b)(1)(A) is greater than 7 years, the term of such loan. This subparagraph shall not apply to a loan described in subsection (b)(3)(B).

**(3) ORIGINAL SECURITIES ACQUISITION LOAN**

For the purposes of this subsection, the term “original securities acquisition loan” means a securities acquisition loan described in subparagraph (A) or (B) of subsection (b)(1).

**PRIOR PROVISIONS**

A prior section 133 was renumbered section 140 of this title.

**EFFECTIVE DATE OF REPEAL**

Pub. L. 104-188, title I, §1602(c), Aug. 20, 1996, 110 Stat. 1834, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending sections 291, 812, 852, 4978, 6047, and 7872 of this title and repealing this section and section 4978B of this title] shall apply to loans made after the date of the enactment of this Act [Aug. 20, 1996].

“(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after the date of the enactment of this Act to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) [set out above] made on or before such date or to refinance loans described in this paragraph if—

“(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

“(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

“(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term ‘securities acquisition loan’ includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

“(3) EXCEPTION.—Any loan made pursuant to a binding written contract in effect before June 10, 1996, and at all times thereafter before such loan is made, shall be treated for purposes of paragraphs (1) and (2) as a loan made on or before the date of the enactment of this Act.”

**§ 134. Certain military benefits**

**(a) General rule**

Gross income shall not include any qualified military benefit.

**(b) Qualified military benefit**

For purposes of this section—

**(1) In general**

The term “qualified military benefit” means any allowance or in-kind benefit (other than personal use of a vehicle) which—

(A) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member’s status or service as a member of such uniformed services, and

(B) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date (other than a provision of this title).

**(2) No other benefit to be excludable except as provided by this title**

Notwithstanding any other provision of law, no benefit shall be treated as a qualified military benefit unless such benefit—

(A) is a benefit described in paragraph (1), or

(B) is excludable from gross income under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act.

**(3) Limitations on modifications**

**(A) In general**

Except as provided in subparagraphs (B) and (C) and paragraphs (4) and (5), no modification or adjustment of any qualified military benefit after September 9, 1986, shall be taken into account.

**(B) Exception for certain adjustments to cash benefits**

Subparagraph (A) shall not apply to any adjustment to any qualified military benefit payable in cash which—

(i) is pursuant to a provision of law or regulation (as in effect on September 9, 1986), and

(ii) is determined by reference to any fluctuation in cost, price, currency, or other similar index.

**(C) Exception for death gratuity adjustments made by law**

Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.

**(4) Clarification of certain benefits**

For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).

**(5) Travel benefits under operation hero miles**

The term “qualified military benefit” includes a travel benefit provided under section 2613 of title 10, United States Code (as in effect on the date of the enactment of this paragraph).

**(6) Certain State payments**

The term “qualified military benefit” includes any bonus payment by a State or political subdivision thereof to any member or former member of the uniformed services of the United States or any dependent of such member only by reason of such member’s service in an<sup>1</sup> combat zone (as defined in section 112(c)(2), determined without regard to the parenthetical).

(Added Pub. L. 99-514, title XI, §1168(a), Oct. 22, 1986, 100 Stat. 2512; amended Pub. L. 100-647, title

I, §1011B(f)(1), (2)(A), (3), Nov. 10, 1988, 102 Stat. 3489, 3490; Pub. L. 108-121, title I, §§102(b)(1), (2), 106(a), (b)(1), Nov. 11, 2003, 117 Stat. 1337-1339; Pub. L. 108-375, div. A, title V, §585(b)(1), (2)(A), Oct. 28, 2004, 118 Stat. 1931, 1932; Pub. L. 110-245, title I, §112(a), June 17, 2008, 122 Stat. 1635.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (b)(4), is the date of enactment of Pub. L. 108-121, which was approved Nov. 11, 2003.

The date of the enactment of this paragraph, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 108-375, which was approved Oct. 28, 2004.

PRIOR PROVISIONS

A prior section 134 was renumbered section 140 of this title.

AMENDMENTS

2008—Subsec. (b)(6). Pub. L. 110-245 added par. (6).

2004—Subsec. (b)(3)(A). Pub. L. 108-375, §585(b)(2)(A), substituted “paragraphs (4) and (5)” for “paragraph (4)”.

Subsec. (b)(5). Pub. L. 108-375, §585(b)(1), added par. (5).

2003—Subsec. (b)(3)(A). Pub. L. 108-121, §106(b)(1), inserted “and paragraph (4)” after “subparagraphs (B) and (C)”.

Pub. L. 108-121, §102(b)(2), substituted “subparagraphs (B) and (C)” for “subparagraph (B)”.

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

Pub. L. 100-647, title I, §1011B(f)(2)(B), Nov. 10, 1988, 102 Stat. 3490, 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 in-

<sup>1</sup> So in original. Probably should be “a”.

cluded 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

Pub. L. 99-514, title XI, §1168(c), Oct. 22, 1986, 100 Stat. 2513, 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).