

count (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 DATE OF 2001 AMENDMENT

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 a 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.

#### EFFECTIVE DATE OF 1998 AMENDMENT

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(l) 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 Rec-

onciliation 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

Pub. L. 100-647, title VI, §6009(b), Nov. 10, 1988, 102 Stat. 3690, 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

Pub. L. 100-647, title VI, §6009(e), Nov. 10, 1988, 102 Stat. 3690, 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 installation 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), respec-

tively, and struck out former subpar. (A) which related to “specially defined energy property”.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1617(c), Aug. 20, 1996, 110 Stat. 1858, 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

Pub. L. 102-486, title XIX, §1912(c), Oct. 24, 1992, 106 Stat. 3016, provided that: “The amendments made by this section [enacting this section and renumbering former section 136 as 137] shall apply to amounts received after December 31, 1992.”

**§ 137. Adoption assistance programs**

**(a) Exclusion**

**(1) In general**

Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

**(2) \$10,000 exclusion for adoption of child with special needs regardless of expenses**

In the case of an adoption of a child with special needs which becomes final during a taxable year, the qualified adoption expenses with respect to such adoption for such year shall be increased by an amount equal to the excess (if any) of \$10,000 over the actual aggregate qualified adoption expenses with respect to such adoption during such taxable year and all prior taxable years.

**(b) Limitations**

**(1) Dollar limitation**

The aggregate of the amounts paid or expenses incurred which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed \$10,000.

**(2) Income limitation**

The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

(A) the amount (if any) by which the taxpayer’s adjusted gross income exceeds \$150,000, bears to

(B) \$40,000.

**(3) Determination of adjusted gross income**

For purposes of paragraph (2), adjusted gross income shall be determined—

(A) without regard to this section and sections 199, 221, 222, 911, 931, and 933, and

(B) after the application of sections 86, 135, 219, and 469.

**(c) Adoption assistance program**

For purposes of this section, an adoption assistance program is a separate written plan of an employer for the exclusive benefit of such employer’s employees—