

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;