

conduct of a qualified business by the taxpayer in such zone.

**(2) Special rule for substantial renovations**

In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) \$5,000.

**(b) Special rules for sale-leasebacks**

For purposes of subsection (a)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 554, §1397C; renumbered §1397D, Pub. L. 106-554, §1(a)(7) [title I, §116(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602.)

PRIOR PROVISIONS

A prior section 1397D was renumbered section 1397F of this title.

AMENDMENTS

2000—Pub. L. 106-554 renumbered section 1397C of this title as this section.

PART IV—INCENTIVES FOR EDUCATION ZONES

Sec.

1397E. Credit to holders of qualified zone academy bonds.

AMENDMENTS

1997—Pub. L. 105-34, title II, §226(a), Aug. 5, 1997, 111 Stat. 820, added part IV heading and item 1397E. Former part IV, consisting of section 1397D, redesignated V.

**§ 1397E. Credit to holders of qualified zone academy bonds**

**(a) Allowance of credit**

In the case of an eligible taxpayer who holds a qualified zone academy bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

**(b) Amount of credit**

**(1) In general**

The amount of the credit determined under this subsection with respect to any qualified zone academy bond is the amount equal to the product of—

(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

(B) the face amount of the bond held by the taxpayer on the credit allowance date.

**(2) Determination**

During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer.

**(c) Limitation based on amount of tax**

The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(2) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits, and subparts H, I, and J thereof).

**(d) Qualified zone academy bond**

For purposes of this section—

**(1) In general**

The term “qualified zone academy bond” means any bond issued as part of an issue if—

(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

(C) the issuer—

(i) designates such bond for purposes of this section,

(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

(iii) certifies that it has the written approval of the eligible local education agency for such bond issuance,

(D) the term of each bond which is part of such issue does not exceed the maximum term permitted under paragraph (3), and

(E) the issue meets the requirements of subsections (f), (g), and (h).

**(2) Private business contribution requirement**

**(A) In general**

For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

**(B) Qualified contributions**

For purposes of subparagraph (A), the term “qualified contribution” means any contribution (of a type and quality acceptable to the eligible local education agency) of—

(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

(iii) services of employees as volunteer mentors,

(iv) internships, field trips, or other educational opportunities outside the academy for students, or

(v) any other property or service specified by the eligible local education agency.

### (3) Term requirement

During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

### (4) Qualified zone academy

#### (A) In general

The term “qualified zone academy” means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

(i) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

(ii) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

(iii) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

(iv)(I) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

(II) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act.

### (B) Eligible local education agency

The term “eligible local education agency” means any local educational agency as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

### (5) Qualified purpose

The term “qualified purpose” means, with respect to any qualified zone academy—

(A) rehabilitating or repairing the public school facility in which the academy is established,

(B) providing equipment for use at such academy,

(C) developing course materials for education to be provided at such academy, and

(D) training teachers and other school personnel in such academy.

### (6) Eligible taxpayer

The term “eligible taxpayer” means—

(A) a bank (within the meaning of section 581),

(B) an insurance company to which subchapter L applies, and

(C) a corporation actively engaged in the business of lending money.

### (e) Limitation on amount of bonds designated

#### (1) National limitation

There is a national zone academy bond limitation for each calendar year. Such limitation is \$400,000,000 for 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, and 2007, and, except as provided in paragraph (4), zero thereafter.

#### (2) Allocation of limitation

The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

#### (3) Designation subject to limitation amount

The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

#### (4) Carryover of unused limitation

If for any calendar year—

(A) the limitation amount for any State, exceeds

(B) the amount of bonds issued during such year which are designated under subsection (d)(1) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess. Any carryforward of a limitation amount may be carried only to the first 2 years (3 years for carryforwards from 1998 or 1999) following the unused limitation year. For purposes of the preceding sen-

tence, a limitation amount shall be treated as used on a first-in first-out basis.

**(f) Special rules relating to expenditures**

**(1) In general**

An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

**(2) Extension of period**

Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

**(3) Failure to spend required amount of bond proceeds within 5 years**

To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

**(g) Special rules relating to arbitrage**

An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

**(h) Reporting**

Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).

**(i) Other definitions**

For purposes of this section—

**(1) Credit allowance date**

The term “credit allowance date” means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

**(2) Bond**

The term “bond” includes any obligation.

**(3) State**

The term “State” includes the District of Columbia and any possession of the United States.

**(j) Credit included in gross income**

Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)).

**(k) Credit treated as nonrefundable bondholder credit**

For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.

**(l) S corporations**

In the case of a qualified zone academy bond held by an S corporation which is an eligible taxpayer—

(1) each shareholder shall take into account such shareholder’s pro rata share of the credit, and

(2) no basis adjustments to the stock of the corporation shall be made under section 1367 on account of this section.

**(m) Termination**

This section shall not apply to any obligation issued after the date of the enactment of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

(Added Pub. L. 105-34, title II, §226(a), Aug. 5, 1997, 111 Stat. 821; amended Pub. L. 105-206, title VI, §6004(g)(2)-(4), July 22, 1998, 112 Stat. 796; Pub. L. 106-78, title VII, §752(b)(11), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 106-170, title V, §509, Dec. 17, 1999, 113 Stat. 1924; Pub. L. 107-110, title X, §1076(t), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 107-147, title VI, §608(a), Mar. 9, 2002, 116 Stat. 60; Pub. L. 108-311, title III, §304(a), title IV, §406(c), Oct. 4, 2004, 118 Stat. 1179, 1189; Pub. L. 109-58, title XIII, §1303(c)(2), (3), Aug. 8, 2005, 119 Stat. 997; Pub. L. 109-432, div. A, title I, §107(a), (b)(1), Dec. 20, 2006, 120 Stat. 2938; Pub. L. 110-234, title XV, §15316(c)(2), May 22, 2008, 122 Stat. 1511; Pub. L. 110-246, §4(a), title XV, §15316(c)(2), June 18, 2008, 122 Stat. 1664, 2273; Pub. L. 110-343, div. C, title III, §313(b)(3), Oct. 3, 2008, 122 Stat. 3872; Pub. L. 111-5, div. B, title I, §1531(c)(3), Feb. 17, 2009, 123 Stat. 360.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d)(4)(A)(iv)(I), is the date of enactment of Pub. L. 105-34, which was approved Aug. 5, 1997.

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(4)(A)(iv)(II), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 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 1751 of Title 42 and Tables.

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(4)(B), is classified to section 7801 of Title 20, Education.

The date of the enactment of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, referred to in subsec. (m), is the date of enactment of div. C of Pub. L. 110-343, which was approved Oct. 3, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2009—Subsec. (c)(2). Pub. L. 111-5 substituted “, I, and J” for “and I”.

2008—Subsec. (c)(2). Pub. L. 110-246, §15316(c)(2), substituted “subparts H and I” for “subpart H”.

Subsec. (m). Pub. L. 110-343 added subsec. (m).

2006—Subsec. (d)(1)(E). Pub. L. 109-432, §107(b)(1)(A), added subpar. (E).

Subsec. (e)(1). Pub. L. 109-432, §107(a), substituted “2005, 2006, and 2007” for “and 2005”.

Subsecs. (f) to (l). Pub. L. 109-432, §107(b)(1)(B), added subsecs. (f) to (h) and redesignated former subsecs. (f) to (i) as (i) to (l), respectively.

2005—Subsec. (c)(2). Pub. L. 109-58, §1303(c)(2), inserted “, and subpart H thereof” after “refundable credits”.

Subsec. (h). Pub. L. 109-58, §1303(c)(3), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.”

2004—Subsec. (e)(1). Pub. L. 108-311, §304(a), substituted “2003, 2004, and 2005” for “and 2003”.

Subsec. (i). Pub. L. 108-311, §406(c), added subsec. (i).

2002—Subsec. (d)(4)(B). Pub. L. 107-110 substituted “9101” for “14101”.

Subsec. (e)(1). Pub. L. 107-147 substituted “2000, 2001, 2002, and 2003” for “2000, and 2001”.

1999—Subsec. (d)(4)(A)(iv)(II). Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

Subsec. (e)(1). Pub. L. 106-170, §509(a), substituted “, 1999, 2000, and 2001” for “and 1999”.

Subsec. (e)(4). Pub. L. 106-170, §509(b), inserted at end “Any carryforward of a limitation amount may be carried only to the first 2 years (3 years for carryforwards from 1998 or 1999) following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.”

1998—Subsec. (d)(4)(B). Pub. L. 105-206, §6004(g)(2), substituted “local educational agency as defined” for “local education agency as defined”.

Subsec. (g). Pub. L. 105-206, §6004(g)(4), inserted “(determined without regard to subsection (c))” after “section”.

Subsec. (h). Pub. L. 105-206, §6004(g)(3), added subsec. (h).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to obligations issued after Feb. 17, 2009, see section 1531(e) of Pub. L. 111-5, set out as a note under section 54 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable to obligations issued after Oct. 3, 2008, see section 313(c) of Pub. L. 110-343, set out as a note under section 54A of this title.

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 15316(c)(2) of Pub. L. 110-246 applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as a note under section 54 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title I, §107(c), Dec. 20, 2006, 120 Stat. 2939, provided that:

“(1) EXTENSION.—The amendment made by subsection (a) [amending this section] shall apply to obligations issued after December 31, 2005.

“(2) SPECIAL RULES.—The amendments made by subsection (b) [amending this section and sections 54 and 1400N of this title] shall apply to obligations issued after the date of the enactment of this Act [Dec. 20, 2006] pursuant to allocations of the national zone academy bond limitation for calendar years after 2005.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-58 applicable to taxable years beginning after Dec. 31, 2005, see section 1303(e) of Pub. L. 109-58, as amended, set out as an Effective Date note under section 54 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-311, title III, §304(b), Oct. 4, 2004, 118 Stat. 1179, provided that: “The amendment made by this section [amending this section] shall apply to obligations issued after December 31, 2003.”

Amendment by section 406(c) of Pub. L. 108-311 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 406(h) of Pub. L. 108-311, set out as a note under section 55 of this title.

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-147, title VI, §608(b), Mar. 9, 2002, 116 Stat. 60, provided that: “The amendment made by subsection (a) [amending this section] shall apply to obligations issued after the date of the enactment of this Act [Mar. 9, 2002].”

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 1998 AMENDMENT

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

Pub. L. 105-34, title II, §226(c), Aug. 5, 1997, 111 Stat. 824, provided that: “The amendments made by this section [enacting this section and renumbering section 1397D as section 1397F of this title] shall apply to obligations issued after December 31, 1997.”

PART V—REGULATIONS

Sec. 1397F. Regulations.

AMENDMENTS

1997—Pub. L. 105-34, title II, §226(a), (b)(2), Aug. 5, 1997, 111 Stat. 820, 824, redesignated part IV of this subchapter as this part and item 1397D as 1397F.

§ 1397F. Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of parts II and III, including—

(1) regulations limiting the benefit of parts II and III in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government,

(2) regulations preventing abuse of the provisions of parts II and III, and

(3) regulations dealing with inadvertent failures of entities to be enterprise zone businesses.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 555, §1397D; renumbered §1397F, Pub. L. 105-34, title II, §226(a), Aug. 5, 1997, 111 Stat. 820; amended Pub. L. 105-206, title VI, §6004(g)(1), July 22, 1998, 112 Stat. 796.)

AMENDMENTS

1998—Pub. L. 105-206 amended directory language of Pub. L. 105-34, §226(a). See 1997 Amendment note below.