

in taxable years ending after such date, see section 125(e) of Pub. L. 113-295, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to property placed in service after Dec. 31, 2012, in taxable years ending after such date, see section 331(f) of Pub. L. 112-240, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 401(d)(7) of Pub. L. 111-312 applicable to property placed in service after Dec. 31, 2010, in taxable years ending after such date, see section 401(e)(1) of Pub. L. 111-312, set out as a note under section 168 of this title.

Pub. L. 111-312, title VII, §762(b), Dec. 17, 2010, 124 Stat. 3323, provided that: “The amendment made by this section [amending this section] shall apply to amounts paid or incurred after December 31, 2009.”

Pub. L. 111-312, title VII, §765(b), Dec. 17, 2010, 124 Stat. 3324, provided that: “The amendment made by this section [amending this section] shall apply to property placed in service after December 31, 2009.”

Amendment by Pub. L. 111-240 applicable to property placed in service after Dec. 31, 2009, in taxable years ending after such date, see section 2022(c) of Pub. L. 111-240, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 1201(a)(2)(E) of Pub. L. 111-5 applicable to property placed in service after Dec. 31, 2008, in taxable years ending after such date, see section 1201(c)(1) of Pub. L. 111-5, set out as a note under section 168 of this title.

Amendment by section 1531(c)(3) of 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

Pub. L. 110-343, div. C, title III, §320(b), Oct. 3, 2008, 122 Stat. 3873, provided that: “The amendment made by this section [amending this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Oct. 3, 2008].”

Pub. L. 110-289, div. C, title III, §3082(b)(2), July 30, 2008, 122 Stat. 2907, provided that: “The amendment made by this subsection [amending this section] shall apply to property placed in service after December 31, 2007.”

Pub. L. 110-289, div. C, title III, §3082(c)(2), July 30, 2008, 122 Stat. 2908, provided that: “The amendment made by this subsection [amending this section] shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 [Pub. L. 109-135] to which it relates.”

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)(1) 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.

Amendment by Pub. L. 110-185 applicable to property placed in service after Dec. 31, 2007, in taxable years ending after such date, see section 103(d) of Pub. L. 110-185, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 107(b)(2) of Pub. L. 109-432 applicable to obligations issued after Dec. 20, 2006, pursuant to allocations of the national zone academy bond limitation for calendar years after 2005, see section 107(c) of Pub. L. 109-432, set out as a note under section 1397E of this title.

Pub. L. 109-432, div. A, title I, §120(c), Dec. 20, 2006, 120 Stat. 2943, provided that: “The amendments made by this section [amending this section] shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005 [Pub. L. 109-135].”

#### EFFECTIVE DATE

Pub. L. 109-135, title I, §101(c), Dec. 21, 2005, 119 Stat. 2593, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and section 1400M of this title and amending sections 54 and 6049 of this title] shall apply to taxable years ending on or after August 28, 2005.

“(2) CARRYBACKS.—Subsections (i)(2), (j), and (k) of section 1400N of the Internal Revenue Code of 1986 (as added by this section) shall apply to losses arising in such taxable years.”

### § 1400O. Education tax benefits

In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2)) located in the Gulf Opportunity Zone for any taxable year beginning during 2005 or 2006—

(1) in applying section 25A, the term “qualified tuition and related expenses” shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3)),

(2) each of the dollar amounts in effect under subparagraphs (A) and (B) of section 25A(b)(1) shall be twice the amount otherwise in effect before the application of this subsection, and

(3) section 25A(c)(1) shall be applied by substituting “40 percent” for “20 percent”.

(Added Pub. L. 109-135, title I, §102(a), Dec. 21, 2005, 119 Stat. 2594; amended Pub. L. 110-172, §11(a)(26), Dec. 29, 2007, 121 Stat. 2487.)

#### AMENDMENTS

2007—Par. (2). Pub. L. 110-172 substituted “under” for “under of”.

### § 1400P. Housing tax benefits

#### (a) Exclusion of employer provided housing for individual affected by Hurricane Katrina

##### (1) In general

Gross income of a qualified employee shall not include the value of any lodging furnished in-kind to such employee (and such employee’s spouse or any of such employee’s dependents) by or on behalf of a qualified employer for any month during the taxable year.

##### (2) Limitation

The amount which may be excluded under paragraph (1) for any month for which lodging is furnished during the taxable year shall not exceed \$600.

##### (3) Treatment of exclusion

The exclusion under paragraph (1) shall be treated as an exclusion under section 119 (other than for purposes of sections 3121(a)(19) and 3306(b)(14)).

#### (b) Employer credit for housing employees affected by Hurricane Katrina

For purposes of section 38, in the case of a qualified employer, the Hurricane Katrina housing credit for any month during the taxable year

is an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a) and not otherwise excludable under section 119.

**(c) Qualified employee**

For purposes of this section, the term “qualified employee” means, with respect to any month, an individual—

(1) who had a principal residence (as defined in section 121) in the Gulf Opportunity Zone on August 28, 2005, and

(2) who performs substantially all employment services—

(A) in the Gulf Opportunity Zone, and

(B) for the qualified employer which furnishes lodging to such individual.

**(d) Qualified employer**

For purposes of this section, the term “qualified employer” means any employer with a trade or business located in the Gulf Opportunity Zone.

**(e) Certain rules to apply**

For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

**(f) Application of section**

This section shall apply to lodging furnished during the period—

(1) beginning on the first day of the first month beginning after the date of the enactment of this section, and

(2) ending on the date which is 6 months after the first day described in paragraph (1).

(Added Pub. L. 109-135, title I, §103(a), Dec. 21, 2005, 119 Stat. 2594.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 109-135, which was approved Dec. 21, 2005.

**§ 1400Q. Special rules for use of retirement funds**

**(a) Tax-favored withdrawals from retirement plans**

**(1) In general**

Section 72(t) shall not apply to any qualified hurricane distribution.

**(2) Aggregate dollar limitation**

**(A) In general**

For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

(i) \$100,000, over

(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

**(B) Treatment of plan distributions**

If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats

such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

**(C) Controlled group**

For purposes of subparagraph (B), the term “controlled group” means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

**(3) Amount distributed may be repaid**

**(A) In general**

Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

**(B) Treatment of repayments of distributions from eligible retirement plans other than IRAs**

For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

**(C) Treatment of repayments for distributions from IRAs**

For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

**(4) Definitions**

For purposes of this subsection—

**(A) Qualified hurricane distribution**

Except as provided in paragraph (2), the term “qualified hurricane distribution” means—

(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sus-