

paragraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by this section or such regulation, the effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2596.)

#### REFERENCES IN TEXT

The date of the enactment of this subsection and this subparagraph, referred to in subsec. (c)(4)(B)(i), (C)(i), is the date of enactment of Pub. L. 109-135, which was approved Dec. 21, 2005.

### § 1400R. Employment relief

#### (a) Employee retention credit for employers affected by Hurricane Katrina

##### (1) In general

For purposes of section 38, in the case of an eligible employer, the Hurricane Katrina employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

##### (2) Definitions

For purposes of this subsection—

##### (A) Eligible employer

The term “eligible employer” means any employer—

(i) which conducted an active trade or business on August 28, 2005, in the GO Zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

##### (B) Eligible employee

The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the GO Zone.

##### (C) Qualified wages

The term “qualified wages” means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

(i) beginning on the date on which the trade or business described in subpara-

graph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

#### (3) Certain rules to apply

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

#### (4) Employee not taken into account more than once

An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 with respect to such employee for such period.

#### (b) Employee retention credit for employers affected by Hurricane Rita

##### (1) In general

For purposes of section 38, in the case of an eligible employer, the Hurricane Rita employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

##### (2) Definitions

For purposes of this subsection—

##### (A) Eligible employer

The term “eligible employer” means any employer—

(i) which conducted an active trade or business on September 23, 2005, in the Rita GO Zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Rita.

##### (B) Eligible employee

The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on September 23, 2005, with such eligible employer was in the Rita GO Zone.

##### (C) Qualified wages

The term “qualified wages” means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after

September 23, 2005, and before January 1, 2006, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Rita, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

**(3) Certain rules to apply**

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

**(4) Employee not taken into account more than once**

An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

**(c) Employee retention credit for employers affected by Hurricane Wilma**

**(1) In general**

For purposes of section 38, in the case of an eligible employer, the Hurricane Wilma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

**(2) Definitions**

For purposes of this subsection—

**(A) Eligible employer**

The term “eligible employer” means any employer—

(i) which conducted an active trade or business on October 23, 2005, in the Wilma GO Zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Wilma.

**(B) Eligible employee**

The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on October 23, 2005, with such eligible employer was in the Wilma GO Zone.

**(C) Qualified wages**

The term “qualified wages” means wages (as defined in section 51(c)(1), but without

regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 23, 2005, and before January 1, 2006, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Wilma, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

**(3) Certain rules to apply**

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

**(4) Employee not taken into account more than once**

An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or (b) or section 51 with respect to such employee for such period.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2601.)

**§ 1400S. Additional tax relief provisions**

**(a) Temporary suspension of limitations on charitable contributions**

**(1) In general**

Except as otherwise provided in paragraph (2), section 170(b) shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 to other contributions.

**(2) Treatment of excess contributions**

For purposes of section 170—

**(A) Individuals**

In the case of an individual—

**(i) Limitation**

Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s contribution base (as defined in subparagraph (G) of section 170(b)(1)) over the amount of all other charitable contributions allowed under section 170(b)(1).

**(ii) Carryover**

If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1)) exceeds the limitation of clause (i), such