

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

excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

(B) Corporations

In the case of a corporation—

(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 taxable income (as determined under paragraph (2) of section 170(b)) over the amount of all other charitable contributions allowed under such paragraph.

(ii) Carryover

Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

(3) Exception to overall limitation on itemized deductions

So much of any deduction allowed under section 170 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68.

(4) Qualified contributions

(A) In general

For purposes of this subsection, the term "qualified contribution" means any charitable contribution (as defined in section 170(c)) if—

(i) such contribution is paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) (other than an organization described in section 509(a)(3)),

(ii) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and

(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

(B) Exception

Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

(C) Application of election to partnerships and S corporations

In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

(b) Suspension of certain limitations on personal casualty losses

Paragraphs (1) and (2)(A) of section 165(h) shall not apply to losses described in section 165(c)(3)—

(1) which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina,

(2) which arise in the Hurricane Rita disaster area on or after September 23, 2005, and which are attributable to Hurricane Rita, or

(3) which arise in the Hurricane Wilma disaster area on or after October 23, 2005, and which are attributable to Hurricane Wilma.

In the case of any other losses, section 165(h)(2)(A) shall be applied without regard to the losses referred to in the preceding sentence.

(c) Required exercise of authority under section 7508A

In the case of any taxpayer determined by the Secretary to be affected by the Presidentially declared disaster relating to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, any relief provided by the Secretary under section 7508A shall be for a period ending not earlier than February 28, 2006.

(d) Special rule for determining earned income

(1) In general

In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes the applicable date is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 may, at the election of the taxpayer, be determined by substituting—

(A) such earned income for the preceding taxable year, for

(B) such earned income for the taxable year which includes the applicable date.

(2) Qualified individual

For purposes of this subsection—

(A) In general

The term "qualified individual" means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

(B) Qualified Hurricane Katrina individual

The term "qualified Hurricane Katrina individual" means any individual whose principal place of abode on August 25, 2005, was located—

(i) in the GO Zone, or

(ii) in the Hurricane Katrina disaster area (but outside the GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

(C) Qualified Hurricane Rita individual

The term "qualified Hurricane Rita individual" means any individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, was located—

(i) in the Rita GO Zone, or

(ii) in the Hurricane Rita disaster area (but outside the Rita GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Rita.

(D) Qualified Hurricane Wilma individual

The term "qualified Hurricane Wilma individual" means any individual whose prin-

principal place of abode on October 23, 2005, was located—

- (i) in the Wilma GO Zone, or
- (ii) in the Hurricane Wilma disaster area (but outside the Wilma GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Wilma.

(3) Applicable date

For purposes of this subsection, the term “applicable date” means—

- (A) in the case of a qualified Hurricane Katrina individual, August 25, 2005,
- (B) in the case of a qualified Hurricane Rita individual, September 23, 2005, and
- (C) in the case of a qualified Hurricane Wilma individual, October 23, 2005.

(4) Earned income

For purposes of this subsection, the term “earned income” has the meaning given such term under section 32(c).

(5) Special rules

(A) Application to joint returns

For purposes of paragraph (1), in the case of a joint return for a taxable year which includes the applicable date—

- (i) such paragraph shall apply if either spouse is a qualified individual, and
- (ii) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

(B) Uniform application of election

Any election made under paragraph (1) shall apply with respect to both sections 24(d) and section 32.

(C) Errors treated as mathematical error

For purposes of section 6213, an incorrect use on a return of earned income pursuant to paragraph (1) shall be treated as a mathematical or clerical error.

(D) No effect on determination of gross income, etc.

Except as otherwise provided in this subsection, this title shall be applied without regard to any substitution under paragraph (1).

(e) Secretarial authority to make adjustments regarding taxpayer and dependency status

With respect to taxable years beginning in 2005 or 2006, the Secretary may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina, Hurricane Rita, or Hurricane Wilma. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2604; amended Pub. L. 110-172, §11(a)(14)(C), Dec. 29, 2007, 121 Stat. 2485.)

AMENDMENTS

2007—Subsec. (a)(2)(A)(i). Pub. L. 110-172 substituted “subparagraph (G)” for “subparagraph (F)”.

§ 1400T. Special rules for mortgage revenue bonds

(a) In general

In the case of financing provided with respect to owner-occupied residences in the GO Zone, the Rita GO Zone, or the Wilma GO Zone, section 143 shall be applied—

- (1) by treating any such residence in the Rita GO Zone or the Wilma GO Zone as a targeted area residence,
- (2) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and
- (3) by substituting “\$150,000” for “\$15,000” in subsection (k)(4) thereof.

(b) Application

Subsection (a) shall not apply to financing provided after December 31, 2010.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2607.)

PART III—RECOVERY ZONE BONDS

Sec.

- 1400U-1. Allocation of recovery zone bonds.
- 1400U-2. Recovery zone economic development bonds.
- 1400U-3. Recovery zone facility bonds.

§ 1400U-1. Allocation of recovery zone bonds

(a) Allocations

(1) In general

(A) General allocation

The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States in the proportion that each such State’s 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States.

(B) Minimum allocation

The Secretary shall adjust the allocations under subparagraph (A) for any calendar year for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the national recovery zone economic development bond limitation and 0.9 percent of the national recovery zone facility bond limitation.

(2) 2008 State employment decline

For purposes of this subsection, the term “2008 State employment decline” means, with respect to any State, the excess (if any) of—

- (A) the number of individuals employed in such State determined for December 2007, over
- (B) the number of individuals employed in such State determined for December 2008.

(3) Allocations by States

(A) In general

Each State with respect to which an allocation is made under paragraph (1) shall re-allocate such allocation among the counties and large municipalities in such State in the proportion to¹ each such county’s or municipi-

¹ So in original.