

then the qualified issuer (without regard to whether the issuer is subject to tax under this chapter) shall be treated as having made a payment against the tax imposed by this chapter, for the taxable year preceding the taxable year in which the allocation is received, in an amount equal to 50 percent of the amount of such allocation.

(2) Treatment of deemed payment

(A) In general

Notwithstanding any other provision of this title, the Secretary shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the qualified issuer but shall refund such payment to such issuer.

(B) No interest

Except as provided in paragraph (3)(A), the payment described in paragraph (1) shall not be taken into account in determining any amount of interest under this title.

(3) Requirement for, and effect of, election

(A) Requirement

No election under this subsection shall take effect unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer under this subsection will be used exclusively for 1 or more qualified forestry conservation purposes. If the qualified issuer fails to use any portion of such payment for such purpose, the issuer shall be liable to the United States in an amount equal to such portion, plus interest at the overpayment rate under section 6621 for the period from the date such portion was refunded to the date such amount is paid. Any such amount shall be assessed and collected in the same manner as tax imposed by this chapter, except that subchapter B of chapter 63 (relating to deficiency procedures) shall not apply in respect of such assessment or collection.

(B) Effect of election on allocation

If a qualified issuer makes the election under this subsection with respect to any allocation—

- (i) the issuer may issue no bonds pursuant to the allocation, and
- (ii) the Secretary may not reallocate such allocation for any other purpose.

(Added Pub. L. 110-234, title XV, §15316(a), May 22, 2008, 122 Stat. 1509, and Pub. L. 110-246, §4(a), title XV, §15316(a), June 18, 2008, 122 Stat. 1664, 2271.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of Title 7, Agriculture.

Section applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as an Effective Date of 2008 Amendment note under section 54 of this title.

§ 54C. New clean renewable energy bonds

(a) New clean renewable energy bond

For purposes of this subpart, the term “new clean renewable energy bond” means any bond issued as part of an issue if—

- (1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,
- (2) the bond is issued by a qualified issuer, and
- (3) the issuer designates such bond for purposes of this section.

(b) Reduced credit amount

The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

(c) Limitation on amount of bonds designated

(1) In general

The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

(2) National limitation on amount of bonds designated

There is a national new clean renewable energy bond limitation of \$800,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

- (A) not more than 33⅓ percent thereof may be allocated to qualified projects of public power providers,
- (B) not more than 33⅓ percent thereof may be allocated to qualified projects of governmental bodies, and
- (C) not more than 33⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

(3) Method of allocation

(A) Allocation among public power providers

After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

(B) Allocation among governmental bodies and cooperative electric companies

The Secretary shall make allocations of the amount of the national new clean renew-

able energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

(4) Additional limitation

The national new clean renewable energy bond limitation shall be increased by \$1,600,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3).

(d) Definitions

For purposes of this section—

(1) Qualified renewable energy facility

The term “qualified renewable energy facility” means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

(2) Public power provider

The term “public power provider” means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

(3) Governmental body

The term “governmental body” means any State or Indian tribal government, or any political subdivision thereof.

(4) Cooperative electric company

The term “cooperative electric company” means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

(5) Clean renewable energy bond lender

The term “clean renewable energy bond lender” means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

(6) Qualified issuer

The term “qualified issuer” means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

(Added Pub. L. 110-343, div. B, title I, §107(a), Oct. 3, 2008, 122 Stat. 3817; amended Pub. L. 111-5, div. B, title I, §1111, Feb. 17, 2009, 123 Stat. 322.)

REFERENCES IN TEXT

Section 217 of the Federal Power Act, referred to in subsec. (d)(2), is classified to section 824q of Title 16, Conservation.

The date of the enactment of this paragraph, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 110-343, which was approved Oct. 3, 2008.

The Rural Electrification Act, referred to in subsec. (d)(6), probably means the Rural Electrification Act of 1936, act May 20, 1936, ch. 432, 49 Stat. 1363, which is

classified generally to chapter 31 (§901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

AMENDMENTS

2009—Subsec. (c)(4). Pub. L. 111-5 added par. (4).

EFFECTIVE DATE

Section applicable to obligations issued after Oct. 3, 2008, see section 107(d) of Pub. L. 110-343, set out as an Effective Date of 2008 Amendment note under section 54 of this title.

APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS

Pub. L. 111-5, div. B, title I, §1601, Feb. 17, 2009, 123 Stat. 362, provided that: “Subchapter IV of chapter 31 of the [sic] title 40, United States Code, shall apply to projects financed with the proceeds of—

“(1) any new clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act [Feb. 17, 2009],

“(2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

“(3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

“(4) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and

“(5) any recovery zone economic development bond (as defined in section 1400U-2 of the Internal Revenue Code of 1986).”

§ 54D. Qualified energy conservation bonds

(a) Qualified energy conservation bond

For purposes of this subchapter, the term “qualified energy conservation bond” means any bond issued as part of an issue if—

(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

(2) the bond is issued by a State or local government, and

(3) the issuer designates such bond for purposes of this section.

(b) Reduced credit amount

The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

(c) Limitation on amount of bonds designated

The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

(d) National limitation on amount of bonds designated

There is a national qualified energy conservation bond limitation of \$3,200,000,000.

(e) Allocations

(1) In general

The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.