

(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 National School Lunch Act.

(2) Eligible local education agency

For purposes of this section, the term “eligible local education agency” means any local educational agency as defined in section 8101 of the Elementary and Secondary Education Act of 1965.

(3) 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.

(4) Qualified contributions

The term “qualified contribution” means any contribution (of a type and quality acceptable to the eligible local education agency) of—

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

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

(C) services of employees as volunteer mentors,

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

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

(Added Pub. L. 110-343, div. C, title III, §313(a), Oct. 3, 2008, 122 Stat. 3869; amended Pub. L. 111-5, div. B, title I, §1522(a), Feb. 17, 2009, 123 Stat. 358; Pub. L. 111-312, title VII, §758(a), Dec. 17, 2010, 124 Stat. 3322; Pub. L. 112-240, title III, §310(a), Jan. 2, 2013, 126 Stat. 2330; Pub. L. 113-295, div. A, title I, §120(a), Dec. 19, 2014, 128 Stat. 4015; Pub. L. 114-95, title IX, §9215(uu)(1), Dec. 10, 2015, 129 Stat. 2183; Pub. L. 114-113, div. Q, title I, §164(a), Dec. 18, 2015, 129 Stat. 3066.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d)(1)(D)(i), is the date of enactment of Pub. L. 110-343, which was approved Oct. 3, 2008.

The National School Lunch Act, referred to in subsec. (d)(1)(D)(ii), probably means the Richard B. Russell National School Lunch Act, act June 4, 1946, ch. 281, 60 Stat. 230, 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 8101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(2), is classified to section 7801 of Title 20, Education.

AMENDMENTS

2015—Subsec. (c)(1). Pub. L. 114-113 substituted “2014, 2015, and 2016” for “and 2014”.

Subsec. (d)(2). Pub. L. 114-95 substituted “section 8101 of the Elementary and Secondary Education Act of 1965” for “section 9101 of the Elementary and Secondary Education Act of 1965”.

2014—Subsec. (c)(1). Pub. L. 113-295 substituted “2013, and 2014” for “and 2013”.

2013—Subsec. (c)(1). Pub. L. 112-240 inserted “, 2012, and 2013” after “for 2011”.

2010—Subsec. (c)(1). Pub. L. 111-312 substituted “2008,” for “2008 and” and inserted “and \$400,000,000 for 2011” after “2010.”.

2009—Subsec. (c)(1). Pub. L. 111-5 substituted “and \$1,400,000,000 for 2009 and 2010” for “and 2009”.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title I, §164(b), Dec. 18, 2015, 129 Stat. 3067, provided that: “The amendment made by this section [amending this section] shall apply to obligations issued after December 31, 2014.”

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title I, §120(b), Dec. 19, 2014, 128 Stat. 4015, provided that: “The amendment made by this section [amending this section] shall apply to obligations issued after December 31, 2013.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-240, title III, §310(b), Jan. 2, 2013, 126 Stat. 2330, provided that: “The amendments made by this section [amending this section] shall apply to obligations issued after December 31, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title VII, §758(c), Dec. 17, 2010, 124 Stat. 3323, provided that: “The amendments made by this section [amending this section and section 6431 of this title] shall apply to obligations issued after December 31, 2010.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-5, div. B, title I, §1522(b), Feb. 17, 2009, 123 Stat. 358, provided that: “The amendment made by this section [amending this section] shall apply to obligations issued after December 31, 2008.”

EFFECTIVE DATE

Section applicable to obligations issued after Oct. 3, 2008, see section 313(c) of title III of div. C of Pub. L. 110-343, set out as an Effective Date of 2008 Amendment note under section 54A of this title.

§ 54F. Qualified school construction bonds

(a) Qualified school construction bond

For purposes of this subchapter, the term “qualified school construction 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 the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

(2) the bond is issued by a State or local government within the jurisdiction of which such school is located, and

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

(b) Limitation on amount of bonds designated

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

(c) National limitation on amount of bonds designated

There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

- (1) \$11,000,000,000 for 2009,
- (2) \$11,000,000,000 for 2010, and
- (3) except as provided in subsection (e), zero after 2010.

(d) Allocation of limitation

(1) Allocation among States

Except as provided in paragraph (2)(C), the limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective amounts each such State is eligible to receive under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency (or such other agency as is authorized under State law to make such allocation) to issuers within such State.

(2) 40 percent of limitation allocated among largest school districts

(A) In general

40 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under subparagraph (B) by the Secretary among local educational agencies which are large local educational agencies for such year.

(B) Allocation formula

The amount to be allocated under subparagraph (A) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the most recent fiscal year ending before such calendar year.

(C) Reduction in State allocation

The allocation to any State under paragraph (1) shall be reduced by the aggregate amount of the allocations under this paragraph to large local educational agencies within such State.

(D) Allocation of unused limitation to State

The amount allocated under this paragraph to a large local educational agency for any calendar year may be reallocated by such agency to the State in which such agency is located for such calendar year. Any amount reallocated to a State under the

preceding sentence may be allocated as provided in paragraph (1).

(E) Large local educational agency

For purposes of this paragraph, the term “large local educational agency” means, with respect to a calendar year, any local educational agency if such agency is—

(i) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

(ii) 1 of not more than 25 local educational agencies (other than those described in clause (i)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

(3) Allocations to certain possessions

The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

(4) Allocations for Indian schools

In addition to the amounts otherwise allocated under this subsection, \$200,000,000 for calendar year 2009, and \$200,000,000 for calendar year 2010, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7701(a)(40)) shall be treated as qualified issuers for purposes of this subchapter.

(e) Carryover of unused limitation

If for any calendar year—

(1) the amount allocated under subsection (d) to any State, exceeds

(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under paragraphs (2) and (4) of subsection (d).

(Added Pub. L. 111-5, div. B, title I, §1521(a), Feb. 17, 2009, 123 Stat. 355; amended Pub. L. 111-147, title III, §301(b), Mar. 18, 2010, 124 Stat. 78.)

AMENDMENTS

2010—Subsec. (d)(1). Pub. L. 111-147, §301(b)(1), substituted “by the State education agency (or such other agency as is authorized under State law to make such allocation)” for “by the State”.

Subsec. (e). Pub. L. 111-147, §301(b)(2), substituted “paragraphs (2) and (4) of subsection (d)” for “subsection (d)(4)” in concluding provisions.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title III, §301(c)(2), Mar. 18, 2010, 124 Stat. 78, provided that: “The amendments made by subsection (b) [amending this section] shall take effect as if included in section 1521 of the American Recovery and Reinvestment Tax Act of 2009 [Pub. L. 111-5].”

EFFECTIVE DATE

Section applicable to obligations issued after Feb. 17, 2009, see section 1521(c) of Pub. L. 111-5, set out as an Effective Date of 2009 Amendment note under section 54A of this title.

SUBPART J—BUILD AMERICA BONDS

Sec.
54AA. Build America bonds.

§ 54AA. Build America bonds**(a) In general**

If a taxpayer holds a build America bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

(b) Amount of credit

The amount of the credit determined under this subsection with respect to any interest payment date for a build America bond is 35 percent of the amount of interest payable by the issuer with respect to such date.

(c) Limitation based on amount of tax**(1) In general**

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

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

(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

(2) Carryover of unused credit

If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

(d) Build America bond**(1) In general**

For purposes of this section, the term “build America bond” means any obligation (other than a private activity bond) if—

(A) the interest on such obligation would (but for this section) be excludable from gross income under section 103,

(B) such obligation is issued before January 1, 2011, and

(C) the issuer makes an irrevocable election to have this section apply.

(2) Applicable rules

For purposes of applying paragraph (1)—

(A) for purposes of section 149(b), a build America bond shall not be treated as federally guaranteed by reason of the credit allowed under subsection (a) or section 6431,

(B) for purposes of section 148, the yield on a build America bond shall be determined without regard to the credit allowed under subsection (a), and

(C) a bond shall not be treated as a build America bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

(e) Interest payment date

For purposes of this section, the term “interest payment date” means any date on which the holder of record of the build America bond is entitled to a payment of interest under such bond.

(f) Special rules**(1) Interest on build America bonds includible in gross income for Federal income tax purposes**

For purposes of this title, interest on any build America bond shall be includible in gross income.

(2) Application of certain rules

Rules similar to the rules of subsections (f), (g), (h), and (i) of section 54A shall apply for purposes of the credit allowed under subsection (a).

(g) Special rule for qualified bonds issued before 2011

In the case of a qualified bond issued before January 1, 2011—

(1) Issuer allowed refundable credit

In lieu of any credit allowed under this section with respect to such bond, the issuer of such bond shall be allowed a credit as provided in section 6431.

(2) Qualified bond

For purposes of this subsection, the term “qualified bond” means any build America bond issued as part of an issue if—

(A) 100 percent of the excess of—

(i) the available project proceeds (as defined in section 54A) of such issue, over

(ii) the amounts in a reasonably required reserve (within the meaning of section 150(a)(3)) with respect to such issue,

are to be used for capital expenditures, and

(B) the issuer makes an irrevocable election to have this subsection apply.

(h) Regulations

The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 6431.

(Added Pub. L. 111-5, div. B, title I, §1531(a), Feb. 17, 2009, 123 Stat. 358.)