

population census tract in such district is not less than 35 percent (30 percent in the case of an enterprise community).

(4) Poverty rate

The poverty rate—

(A) for each population census tract within the nominated area is not less than 20 percent,

(B) for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent, and

(C) for at least 50 percent of the population census tracts within the nominated area is not less than 35 percent.

(b) Special rules relating to determination of poverty rate

For purposes of subsection (a)(4)—

(1) Treatment of census tracts with small populations

(A) Tracts with no population

In the case of a population census tract with no population—

(i) such tract shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4), but

(ii) such tract shall be treated as having a zero poverty rate for purposes of applying subparagraph (C) thereof.

(B) Tracts with populations of less than 2,000

A population census tract with a population of less than 2,000 shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4) if more than 75 percent of such tract is zoned for commercial or industrial use.

(2) Discretion to adjust requirements for enterprise communities

In determining whether a nominated area is eligible for designation as an enterprise community, the appropriate Secretary may, where necessary to carry out the purposes of this subchapter, reduce by 5 percentage points one of the following thresholds for not more than 10 percent of the population census tracts (or, if fewer, 5 population census tracts) in the nominated area:

(A) The 20 percent threshold in subsection (a)(4)(A).

(B) The 25 percent threshold in subsection (a)(4)(B).

(C) The 35 percent threshold in subsection (a)(4)(C).

If the appropriate Secretary elects to reduce the threshold under subparagraph (C), such Secretary may (in lieu of applying the preceding sentence) reduce by 10 percentage points the threshold under subparagraph (C) for 3 population census tracts.

(3) Each noncontiguous area must satisfy poverty rate rule

A nominated area may not include a noncontiguous parcel unless such parcel separately meets (subject to paragraphs (1) and (2)) the criteria set forth in subsection (a)(4).

(4) Areas not within census tracts

In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates.

(c) Factors to consider

From among the nominated areas eligible for designation under section 1391 by the appropriate Secretary, such appropriate Secretary shall make designations of empowerment zones and enterprise communities on the basis of—

(1) the effectiveness of the strategic plan submitted pursuant to section 1391(f)(2) and the assurances made pursuant to section 1391(e)(3), and

(2) criteria specified by the appropriate Secretary.

(d) Special eligibility for nominated areas located in Alaska or Hawaii

A nominated area in Alaska or Hawaii shall be treated as meeting the requirements of paragraphs (2), (3), and (4) of subsection (a) if for each census tract or block group within such area 20 percent or more of the families have income which is 50 percent or less of the statewide median family income (as determined under section 143).

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 545; amended Pub. L. 105-34, title IX, §954, Aug. 5, 1997, 111 Stat. 888.)

PRIOR PROVISIONS

A prior section 1392, added Pub. L. 95-600, title VI, §601(a), Nov. 6, 1978, 92 Stat. 2893; amended Pub. L. 96-222, title I, §106(a)(5), Apr. 1, 1980, 94 Stat. 221; Pub. L. 96-595, §3(a)(3), (4), Dec. 24, 1980, 94 Stat. 3465, related to election by general stock ownership corporations not to be subject to taxes imposed by this chapter, prior to repeal by Pub. L. 99-514, title XIII, §1303(a), Oct. 22, 1986, 100 Stat. 2658.

AMENDMENTS

1997—Subsec. (d). Pub. L. 105-34 added subsec. (d).

§ 1393. Definitions and special rules

(a) In general

For purposes of this subchapter—

(1) Appropriate Secretary

The term “appropriate Secretary” means—

(A) the Secretary of Housing and Urban Development in the case of any nominated area which is located in an urban area, and

(B) the Secretary of Agriculture in the case of any nominated area which is located in a rural area.

(2) Rural area

The term “rural area” means any area which is—

(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

(3) Urban area

The term “urban area” means an area which is not a rural area.

(4) Special rules for Indian reservations**(A) In general**

No empowerment zone or enterprise community may include any area within an Indian reservation.

(B) Indian reservation defined

The term “Indian reservation” has the meaning given such term by section 168(j)(6).

(5) Local government

The term “local government” means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

(6) Nominated area

The term “nominated area” means an area which is nominated by 1 or more local governments and the State or States in which it is located for designation under section 1391.

(7) Governments

If more than 1 State or local government seeks to nominate an area under this part, any reference to, or requirement of, this subchapter shall apply to all such governments.

(8) Special rule

An area shall be treated as nominated by a State and a local government if it is nominated by an economic development corporation chartered by the State.

(9) Use of census data

Population and poverty rate shall be determined by the most recent decennial census data available.

(b) Empowerment zone; enterprise community

For purposes of this title, the terms “empowerment zone” and “enterprise community” mean areas designated as such under section 1391.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 547.)

PRIOR PROVISIONS

A prior section 1393, added Pub. L. 95-600, title VI, §601(a), Nov. 6, 1978, 92 Stat. 2894; amended Pub. L. 96-595, §3(a)(5), (6), (8), Dec. 24, 1980, 94 Stat. 3465, related to taxation of general stock ownership corporation taxable income to shareholders, prior to repeal by Pub. L. 99-514, title XIII, §1303(a), Oct. 22, 1986, 100 Stat. 2658.

PART II—TAX-EXEMPT FACILITY BONDS FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Sec.
1394. Tax-exempt enterprise zone facility bonds.

§ 1394. Tax-exempt enterprise zone facility bonds**(a) In general**

For purposes of part IV of subchapter B of this chapter (relating to tax exemption requirements for State and local bonds), the term “exempt facility bond” includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any enterprise zone facility.

(b) Enterprise zone facility

For purposes of this section—

(1) In general

The term “enterprise zone facility” means any qualified zone property the principal user of which is an enterprise zone business, and any land which is functionally related and subordinate to such property.

(2) Qualified zone property

The term “qualified zone property” has the meaning given such term by section 1397D; except that—

(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

(B) section 1397D(a)(2) shall be applied by substituting “an amount equal to 15 percent of the adjusted basis” for “an amount equal to the adjusted basis”.

(3) Enterprise zone business**(A) In general**

Except as modified in this paragraph, the term “enterprise zone business” has the meaning given such term by section 1397C.

(B) Modifications

In applying section 1397C for purposes of this section—

(i) Businesses in enterprise communities eligible**(I) In general**

Except as provided in subclause (II), references in section 1397C to empowerment zones shall be treated as including references to enterprise communities.

(II) Special rule for employee residence test

For purposes of subsection¹ (b)(6) and (c)(5) of section 1397C, an employee shall be treated as a resident of an empowerment zone if such employee is a resident of an empowerment zone, an enterprise community, or a qualified low-income community within an applicable nominating jurisdiction.

(ii) Waiver of requirements during startup period

A business shall not fail to be treated as an enterprise zone business during the startup period if—

(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397C as modified by this paragraph) at the end of such period, and

(II) such business makes bona fide efforts to be such a business.

(iii) Reduced requirements after testing period

A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement

¹ So in original. Probably should be “subsections”.