

(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 reallocate such allocation among the counties and large municipalities in such State in the proportion to<sup>1</sup> each such county’s or municipality’s 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State. A county or municipality may waive any portion of an allocation made under this subparagraph.

**(B) Large municipalities**

For purposes of subparagraph (A), the term “large municipality” means a municipality with a population of more than 100,000.

**(C) Determination of local employment declines**

For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

**(4) National limitations**

**(A) Recovery zone economic development bonds**

There is a national recovery zone economic development bond limitation of \$10,000,000,000.

<sup>1</sup> So in original.

**(B) Recovery zone facility bonds**

There is a national recovery zone facility bond limitation of \$15,000,000,000.

**(b) Recovery zone**

For purposes of this part, the term “recovery zone” means—

(1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress,

(2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, and

(3) any area for which a designation as an empowerment zone or renewal community is in effect.

(Added Pub. L. 111-5, div. B, title I, §1401(a), Feb. 17, 2009, 123 Stat. 348.)

## REFERENCES IN TEXT

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (b)(2), is part A of title XXIX of div. B of Pub. L. 101-510, Nov. 5, 1990, 104 Stat. 1808, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

## EFFECTIVE DATE

Pub. L. 111-5, div. B, title I, §1401(c), Feb. 17, 2009, 123 Stat. 351, provided that: “The amendments made by this section [enacting this part] shall apply to obligations issued after the date of the enactment of this Act [Feb. 17, 2009].”

**§ 1400U-2. Recovery zone economic development bonds****(a) In general**

In the case of a recovery zone economic development bond—

(1) such bond shall be treated as a qualified bond for purposes of section 6431, and

(2) subsection (b) of such section shall be applied by substituting “45 percent” for “35 percent”.

**(b) Recovery zone economic development bond****(1) In general**

For purposes of this section, the term “recovery zone economic development bond” means any build America bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of 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 one or more qualified economic development purposes, and

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

**(2) Limitation on amount of bonds designated**

The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U-1.

**(c) Qualified economic development purpose**

For purposes of this section, the term “qualified economic development purpose” means expenditures for purposes of promoting development or other economic activity in a recovery zone, including—

(1) capital expenditures paid or incurred with respect to property located in such zone,

(2) expenditures for public infrastructure and construction of public facilities, and

(3) expenditures for job training and educational programs.

(Added Pub. L. 111-5, div. B, title I, §1401(a), Feb. 17, 2009, 123 Stat. 349.)

**§ 1400U-3. Recovery zone facility bonds****(a) In general**

For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term “exempt facility bond” includes any recovery zone facility bond.

**(b) Recovery zone facility bond****(1) In general**

For purposes of this section, the term “recovery zone facility bond” means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

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

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

**(2) Limitation on amount of bonds designated**

The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U-1.

**(c) Recovery zone property**

For purposes of this section—

**(1) In general**

The term “recovery zone property” means any property to which section 168 applies (or would apply but for section 179) if—

(A) such property was constructed, reconstructed, renovated, or acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after the date on which the designation of the recovery zone took effect,

(B) the original use of which in the recovery zone commences with the taxpayer, and

(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

**(2) Qualified business**

The term “qualified business” means any trade or business except that—

(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).