

2008—Pub. L. 110-289, div. C, title I, §3011(b)(4), July 30, 2008, 122 Stat. 2891, added item 36 and redesignated former item 36 as 37.

2002—Pub. L. 107-210, div. A, title II, §201(c)(2), Aug. 6, 2002, 116 Stat. 960, which directed amendment of the table of sections for subpart C of part IV of this chapter by adding items 35 and 36 and striking out the last item, was executed to the table of sections for this subpart which is in part IV of subchapter A of this chapter by adding those items and striking out former item 35 “Overpayments of tax” to reflect the probable intent of Congress.

1984—Pub. L. 98-369, div. A, title IV, §471(b), July 18, 1984, 98 Stat. 826, added subpart C heading and analysis of sections for subpart C consisting of items 31, 32 (formerly 43), 33 (formerly 32), 34 (formerly 39), and 35 (formerly 45). Former subpart C, setting out the rules for computing credit for expenses of work incentive programs, was repealed.

§ 31. Tax withheld on wages

(a) Wage withholding for income tax purposes

(1) In general

The amount withheld as tax under chapter 24 shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

(2) Year of credit

The amount so withheld during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than one taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

(b) Credit for special refunds of social security tax

(1) In general

The Secretary may prescribe regulations providing for the crediting against the tax imposed by this subtitle of the amount determined by the taxpayer or the Secretary to be allowable under section 6413(c) as a special refund of tax imposed on wages. The amount allowed as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402.

(2) Year of credit

Any amount to which paragraph (1) applies shall be allowed as a credit for the taxable year beginning in the calendar year during which the wages were received. If more than one taxable year begins in the calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

(c) Special rule for backup withholding

Any credit allowed by subsection (a) for any amount withheld under section 3406 shall be allowed for the taxable year of the recipient of the income in which the income is received.

(Aug. 16, 1954, ch. 736, 68A Stat. 12; Pub. L. 94-455, title XIX, §1906(b)(13)(D), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §§302(a), 308(a), Sept. 3, 1982, 96 Stat. 585, 591; Pub. L. 97-354, §3(i)(4), Oct. 19, 1982, 96 Stat. 1691; Pub. L. 97-448, title III, §306(b)(1), Jan. 12, 1983, 96 Stat. 2405; Pub. L. 98-67, title I, §§102(a), 104(d)(2), Aug. 5, 1983, 97 Stat. 369, 379; Pub. L. 98-369, div. A, title IV, §471(c), title VII, §714(j)(2), July 18, 1984, 98 Stat. 826, 962.)

AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98-369, §714(j)(2), substituted “as tax under chapter 24” for “under section 3402 as tax on the wages of any individual”.

1983—Pub. L. 98-67 added subsec. (c) and repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Pub. L. 97-448 amended subsec. (d) generally. See 1982 Amendment note below.

1982—Pub. L. 97-248, as amended by Pub. L. 97-354 and Pub. L. 97-448, amended section generally, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsec. (b)(1). Pub. L. 94-455 struck out “or his delegate” after “The Secretary” and “(or his delegate)” after “taxpayer or the Secretary”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title VII, §715, July 18, 1984, 98 Stat. 966, provided that: “Any amendment made by this subtitle [subtitle A (§§711-715) of title VII of Pub. L. 98-369, see Tables for classification] shall take effect as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248] to which such amendment relates.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-67, title I, §110, Aug. 5, 1983, 97 Stat. 384, provided that:

“(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title [enacting sections 3406 and 6705 of this title, amending this section and sections 274, 275, 643, 661, 3402, 3403, 3502, 3507, 6011, 6013, 6015, 6042, 6044, 6049, 6051, 6365, 6401, 6413, 6652, 6653, 6654, 6676, 6678, 6682, 7205, 7215, 7431, 7654, and 7701 of this title, repealing sections 3451 to 3456 of this title, enacting provisions set out as notes under sections 1, 3451, and 6011 of this title, and repealing provisions set out as a note under section 3451 of this title] shall apply with respect to payments made after December 31, 1983.

“(b) SECTION 102.—The amendments made by section 102 [amending this section and sections 274, 275, 643, 661, 3403, 3502, 3507, 6013, 6015, 6042, 6044, 6049, 6051, 6365, 6401, 6413, 6654, 6682, 7205, 7215, 7654, and 7701 of this title, repealing sections 3451 to 3456 of this title, enacting provisions set out as a note under section 3451 of this title, and repealing provisions set out as a note under section 3451 of this title] shall take effect as of the close of June 30, 1983.

“(c) SECTIONS 104(b) AND 107.—The amendments made by sections 104(b) and 107 [amending sections 6682, 7205, and 7431 of this title] shall take effect on the date of the enactment of this Act [Aug. 5, 1983].”

Pub. L. 97-448, title III, §311(d), Jan. 12, 1983, 96 Stat. 2412, provided that: “The amendments made by section 306 [amending this section and sections 48, 55, 263, 291, 312, 338, 401, 501, 1232, 6038A, 6226, 6228, 6679, and 7701 of this title, enacting provisions set out as notes under sections 338 and 1232 of this title, and amending provisions set out as notes under sections 56, 72, 101, 103, 168, 302, 311, 338, 415, 907, and 5701 of this title] shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248] to which such amendments relate.”

CONSTRUCTION OF AMENDMENT BY TITLE VII OF DIVISION A OF PUB. L. 98-369

Pub. L. 98-369, div. A, title VII, §701, July 18, 1984, 98 Stat. 942, provided that: “For purposes of applying the amendments made by any title of this Act [see Tables for classification] other than this title, the provisions

of this title shall be treated as having been enacted immediately before the provisions of such other titles.”

§ 32. Earned income

(a) Allowance of credit

(1) In general

In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer’s earned income for the taxable year as does not exceed the earned income amount.

(2) Limitation

The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

- (A) the credit percentage of the earned income amount, over
- (B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

(b) Percentages and amounts

For purposes of subsection (a)—

(1) Percentages

The credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	15.98
2 qualifying children	40	21.06
3 or more qualifying children.	45	21.06
No qualifying children	7.65	7.65

(2) Amounts

(A) In general

Subject to subparagraph (B), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	\$6,330	\$11,610
2 or more qualifying children.	\$8,890	\$11,610
No qualifying children	\$4,220	\$5,280

(B) Joint returns

(i) In general

In the case of a joint return filed by an eligible individual and such individual’s spouse, the phaseout amount determined under subparagraph (A) shall be increased by \$5,000.

(ii) Inflation adjustment

In the case of any taxable year beginning after 2015, the \$5,000 amount in clause (i) shall be increased by an amount equal to—

- (I) such dollar amount, multiplied by
- (II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting “calendar year 2008” for “calendar year 1992” in subparagraph (B) thereof.

(iii) Rounding

Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).

(c) Definitions and special rules

For purposes of this section—

(1) Eligible individual

(A) In general

The term “eligible individual” means—

- (i) any individual who has a qualifying child for the taxable year, or
- (ii) any other individual who does not have a qualifying child for the taxable year, if—

- (I) such individual’s principal place of abode is in the United States for more than one-half of such taxable year,
- (II) such individual (or, if the individual is married, either the individual or the individual’s spouse) has attained age 25 but not attained age 65 before the close of the taxable year, and
- (III) such individual is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

For purposes of the preceding sentence, marital status shall be determined under section 7703.

(B) Qualifying child ineligible

If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

(C) Exception for individual claiming benefits under section 911

The term “eligible individual” does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

(D) Limitation on eligibility of nonresident aliens

The term “eligible individual” shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

(E) Identification number requirement

No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—

- (i) such individual’s taxpayer identification number, and
- (ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual’s spouse.

(F) Individuals who do not include TIN, etc., of any qualifying child

No credit shall be allowed under this section to any eligible individual who has one