

Subsec. (b)(3)(E). Pub. L. 114–113, §171(c)(1), redesignated subpar. (D) as (E).

2014—Subsec. (f). Pub. L. 113–295, §220(o), struck out “designated under section 1391(g)” after “empowerment zones” in heading.

Subsec. (f)(1), (2)(A). Pub. L. 113–295, §220(p), substituted “an empowerment zone facility bond” for “a new empowerment zone facility bond”.

2002—Subsec. (c)(2). Pub. L. 107–147 substituted “paragraph (1)” for “subparagraph (A)”.

2000—Subsec. (b)(2). Pub. L. 106–554, §1(a)(7) [title I, §116(b)(3)(A)], substituted “section 1397D” for “section 1397C” in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 106–554, §1(a)(7) [title I, §116(b)(3)(B)], substituted “section 1397D(a)(2)” for “section 1397C(a)(2)”.

Subsec. (b)(3). Pub. L. 106–554, §1(a)(7) [title I, §116(b)(4)(A)], substituted “section 1397C” for “section 1397B” wherever appearing.

Subsec. (b)(3)(B)(iii). Pub. L. 106–554, §1(a)(7) [title I, §116(b)(4)(B)], substituted “section 1397C(d)” for “section 1397B(d)”.

Subsec. (f)(3). Pub. L. 106–554, §1(a)(7) [title I, §115(a)], amended heading and text of par. (3) generally. Prior to amendment, text read as follows: “For purposes of this subsection, the term ‘new empowerment zone facility bond’ means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C.”

1997—Subsec. (b)(2). Pub. L. 105–34, §955(b), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “The term ‘qualified zone property’ has the meaning given such term by section 1397C; except that the references to empowerment zones shall be treated as including references to enterprise communities.”

Subsec. (b)(3). Pub. L. 105–34, §955(b), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: “The term ‘enterprise zone business’ has the meaning given to such term by section 1397B, except that—

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

“(B) such term includes any trades or businesses which would qualify as an enterprise zone business (determined after the modification of subparagraph (A)) if such trades or businesses were separately incorporated.”

Subsec. (f). Pub. L. 105–34, §953(a), added subsec. (f).

1996—Subsec. (e)(2). Pub. L. 104–188, which directed that par. (2) be amended by striking “(i)” and inserting “(A)” and by striking “(ii)” and inserting “(B)”, could not be executed, because par. (2) contained neither “(i)” nor “(ii)”.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. Q, title I, §171(e)(2), Dec. 18, 2015, 129 Stat. 3071, provided that: “The amendments made by subsections (b), (c), and (d) [amending this section] shall apply to bonds issued after December 31, 2015.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(7) [title I, §115(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–602, provided that: “The amendments made by this section [amending this section] shall apply to obligations issued after December 31, 2001.”

Amendment by section 1(a)(7) [title I, §116(b)(3), (4)] of Pub. L. 106–554 applicable to qualified empowerment zone assets acquired after Dec. 21, 2000, see section 1(a)(7) [title I, §116(c)] of Pub. L. 106–554, set out as a note under section 1016 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title IX, §953(b), Aug. 5, 1997, 111 Stat. 888, provided that: “The amendment made by this section [amending this section] shall apply to obligations

issued after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105–34, title IX, §955(c), Aug. 5, 1997, 111 Stat. 890, provided that: “The amendments made by this section [amending this section] shall apply to obligations issued after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, §§13001–13444, to which such amendment relates, see section 1703(o) of Pub. L. 104–188, set out as a note under section 39 of this title.

PART III—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES

Subpart

- A. Empowerment zone employment credit.
- B. Additional expensing.
- C. Nonrecognition of gain on rollover of empowerment zone investments.
- D. General provisions.

AMENDMENTS

2000—Pub. L. 106–554, §1(a)(7) [title I, §116(b)(6)], Dec. 21, 2000, 114 Stat. 2763, 2763A–604, added items for subparts C and D and struck out former item for subpart C “General provisions”.

SUBPART A—EMPOWERMENT ZONE EMPLOYMENT CREDIT

Sec.

- 1396. Empowerment zone employment credit.
- 1397. Other definitions and special rules.

§ 1396. Empowerment zone employment credit

(a) Amount of credit

For purposes of section 38, the amount of the empowerment zone employment credit determined under this section with respect to any employer for any taxable year is the applicable percentage of the qualified zone wages paid or incurred during the calendar year which ends with or within such taxable year.

(b) Applicable percentage

For purposes of this section, the applicable percentage is 20 percent.

(c) Qualified zone wages

(1) In general

For purposes of this section, the term “qualified zone wages” means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee.

(2) Only first \$15,000 of wages per year taken into account

With respect to each qualified zone employee, the amount of qualified zone wages which may be taken into account for a calendar year shall not exceed \$15,000.

(3) Coordination with work opportunity credit

(A) In general

The term “qualified zone wages” shall not include wages taken into account in determining the credit under section 51.

(B) Coordination with paragraph (2)

The \$15,000 amount in paragraph (2) shall be reduced for any calendar year by the

amount of wages paid or incurred during such year which are taken into account in determining the credit under section 51.

(d) Qualified zone employee

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term “qualified zone employee” means, with respect to any period, any employee of an employer if—

(A) substantially all of the services performed during such period by such employee for such employer are performed within an empowerment zone in a trade or business of the employer, and

(B) the principal place of abode of such employee while performing such services is within such empowerment zone.

(2) Certain individuals not eligible

The term “qualified zone employee” shall not include—

(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

(C) any individual employed by the employer for less than 90 days,

(D) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

(E) any individual employed by the employer in a trade or business the principal activity of which is farming (within the meaning of subparagraph (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the employer which are used in such a trade or business, and

(ii) the aggregate value of assets leased by the employer which are used in such a trade or business (as determined under regulations prescribed by the Secretary),

exceeds \$500,000.

(3) Special rules related to termination of employment

(A) In general

Paragraph (2)(C) shall not apply to—

(i) a termination of employment of an individual who before the close of the period referred to in paragraph (2)(C) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

(ii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

(B) Changes in form of business

For purposes of paragraph (2)(C), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 549; amended Pub. L. 104-188, title I, §1201(e)(4), Aug. 20, 1996, 110 Stat. 1772; Pub. L. 105-34, title IX, §§951(b), 952(b), Aug. 5, 1997, 111 Stat. 885, 887; Pub. L. 106-554, §1(a)(7) [title I, §113(a), (b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601.)

REFERENCES IN TEXT

The Taxpayer Relief Act of 1997, referred to in subsec. (b)(2), is Pub. L. 105-34, Aug. 5, 1997, 111 Stat. 788. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1396, added Pub. L. 95-600, title VI, §601(a), Nov. 6, 1978, 92 Stat. 2895; amended Pub. L. 96-595, §3(a)(6), (9), (10), Dec. 24, 1980, 94 Stat. 3465, related to minimum distributions by an electing general stock ownership corporation, prior to repeal by Pub. L. 99-514, title XIII, §1303(a), Oct. 22, 1986, 100 Stat. 2658.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-554, §1(a)(7) [title I, §113(a)], amended subsec. (b) generally, substituting provisions establishing an applicable percentage of 20 percent for provisions setting out tables for determining the applicable percentage.

Subsec. (e). Pub. L. 106-554, §1(a)(7) [title I, §113(b)], struck out heading and text of subsec. (e). Text read as follows: “This section shall be applied without regard to any empowerment zone designated under section 1391(g).”

1997—Subsec. (b). Pub. L. 105-34 substituted “For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘applicable percentage’ means the percentage determined in accordance with the following table:”

for “For purposes of this section, the term ‘applicable percentage’ means the percentage determined in accordance with the following table:” and added par. (2).

Subsec. (e). Pub. L. 105-34, §952(b), added subsec. (e).

1996—Subsec. (c)(3). Pub. L. 104-188 substituted “work opportunity credit” for “targeted jobs credit” in heading.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title I, §113(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601, provided that: “The amendments made by this section [amending this section and section 1400 of this title] shall apply to wages paid or incurred after December 31, 2001.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 951(b) of Pub. L. 105-34 effective Aug. 5, 1997, except that designations of new empowerment zones made pursuant to amendments by section 951 of Pub. L. 105-34 to be made during 180-day period beginning Aug. 5, 1997, and no designation pursuant to such amendments to take effect before Jan. 1, 2000, see section 951(c) of Pub. L. 105-34, set out as a note under section 1391 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to individuals who begin work for the employer after Sept. 30,

1996, see section 1201(g) of Pub. L. 104-188, set out as a note under section 38 of this title.

§ 1397. Other definitions and special rules

(a) Wages

For purposes of this subpart—

(1) In general

The term “wages” has the same meaning as when used in section 51.

(2) Certain training and educational benefits

(A) In general

The following amounts shall be treated as wages paid to an employee:

(i) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person not related to the employer.

(ii) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

(B) Related person

A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), “10 percent” shall be substituted for “50 percent”.

(b) Controlled groups

For purposes of this subpart—

(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

(2) the credit (if any) determined under section 1396 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

(c) Certain other rules made applicable

For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 551.)

PRIOR PROVISIONS

A prior section 1397, added Pub. L. 95-600, title VI, §601(a), Nov. 6, 1978, 92 Stat. 2895, related to special rules applicable to an electing general stock ownership corporation, prior to repeal by Pub. L. 99-514, title XIII, §1303(a), Oct. 22, 1986, 100 Stat. 2658.

SUBPART B—ADDITIONAL EXPENSING

Sec.

1397A. Increase in expensing under section 179.

§ 1397A. Increase in expensing under section 179

(a) General rule

In the case of an enterprise zone business, for purposes of section 179—

(1) the limitation under section 179(b)(1) shall be increased by the lesser of—

(A) \$35,000, or

(B) the cost of section 179 property which is qualified zone property placed in service during the taxable year, and

(2) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified zone property shall be 50 percent of the cost thereof.

(b) Recapture

Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property which ceases to be used in an empowerment zone by an enterprise zone business.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 552; amended Pub. L. 105-34, title IX, §952(c), Aug. 5, 1997, 111 Stat. 887; Pub. L. 106-554, §1(a)(7) [title I, §114(a), (b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601.)

AMENDMENTS

2000—Subsec. (a)(1)(A). Pub. L. 106-554, §1(a)(7) [title I, §114(a)], substituted “\$35,000” for “\$20,000”.

Subsec. (c). Pub. L. 106-554, §1(a)(7) [title I, §114(b)], struck out heading and text of subsec. (c). Text read as follows: “For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii).”

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

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title I, §114(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-601, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2001.”

SUBPART C—NONRECOGNITION OF GAIN ON ROLLOVER OF EMPOWERMENT ZONE INVESTMENTS

Sec.

1397B. Nonrecognition of gain on rollover of empowerment zone investments.

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(7) [title I, §116(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602, added subpart C heading and item 1397B. Former subpart C, consisting of sections 1397B and 1397C, redesignated D.

§ 1397B. Nonrecognition of gain on rollover of empowerment zone investments

(a) Nonrecognition of gain

In the case of any sale of a qualified empowerment zone asset held by the taxpayer for more than 1 year and with respect to which such taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

(1) the cost of any qualified empowerment zone asset (with respect to the same zone as the asset sold) purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

(2) any portion of such cost previously taken into account under this section.

(b) Definitions and special rules

For purposes of this section—