

**§ 1400L. Tax benefits for New York Liberty Zone****(a) Expansion of work opportunity tax credit****(1) In general**

For purposes of section 51, a New York Liberty Zone business employee shall be treated as a member of a targeted group.

**(2) New York Liberty Zone business employee**

For purposes of this subsection—

**(A) In general**

The term “New York Liberty Zone business employee” means, with respect to any period, any employee of a New York Liberty Zone business if substantially all the services performed during such period by such employee for such business are performed in the New York Liberty Zone.

**(B) Inclusion of certain employees outside the New York Liberty Zone****(i) In general**

In the case of a New York Liberty Zone business described in subclause (II) of subparagraph (C)(i), the term “New York Liberty Zone business employee” includes any employee of such business (not described in subparagraph (A)) if substantially all the services performed during such period by such employee for such business are performed in the City of New York, New York.

**(ii) Limitation**

The number of employees of such a business that are treated as New York Liberty Zone business employees on any day by reason of clause (i) shall not exceed the excess of—

(I) the number of employees of such business on September 11, 2001, in the New York Liberty Zone, over

(II) the number of New York Liberty Zone business employees (determined without regard to this subparagraph) of such business on the day to which the limitation is being applied.

The Secretary may require any trade or business to have the number determined under subclause (I) verified by the New York State Department of Labor.

**(C) New York Liberty Zone business****(i) In general**

The term “New York Liberty Zone business” means any trade or business which is—

(I) located in the New York Liberty Zone, or

(II) located in the City of New York, New York, outside the New York Liberty Zone, as a result of the physical destruction or damage of such place of business by the September 11, 2001, terrorist attack.

**(ii) Credit not allowed for large businesses**

The term “New York Liberty Zone business” shall not include any trade or business for any taxable year if such trade or business employed an average of more

than 200 employees on business days during the taxable year.

**(D) Special rules for determining amount of credit**

For purposes of applying subpart F of part IV of subchapter A of this chapter to wages paid or incurred to any New York Liberty Zone business employee—

(i) section 51(a) shall be applied by substituting “qualified wages” for “qualified first-year wages”,

(ii) the rules of section 52 shall apply for purposes of determining the number of employees under this paragraph,

(iii) subsections (c)(4) and (i)(2) of section 51 shall not apply, and

(iv) in determining qualified wages, the following shall apply in lieu of section 51(b):

**(I) Qualified wages**

The term “qualified wages” means wages paid or incurred by the employer to individuals who are New York Liberty Zone business employees of such employer for work performed during calendar year 2002 or 2003.

**(II) Only first \$6,000 of wages per calendar year taken into account**

The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000 per calendar year.

**(b) Special allowance for certain property acquired after September 10, 2001****(1) Additional allowance**

In the case of any qualified New York Liberty Zone property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

**(2) Qualified New York Liberty Zone property**

For purposes of this subsection—

**(A) In general**

The term “qualified New York Liberty Zone property” means property—

(i)(I) which is described in section 168(k)(2)(A)(i), or

(II) which is nonresidential real property, or residential rental property, which is described in subparagraph (B),

(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001,

(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after

September 10, 2001, but only if no written binding contract for the acquisition was in effect before September 11, 2001, and

(v) which is placed in service by the taxpayer on or before the termination date.

The term “termination date” means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

**(B) Eligible real property**

Nonresidential real property or residential rental property is described in this subparagraph only to the extent it rehabilitates real property damaged, or replaces real property destroyed or condemned, as a result of the September 11, 2001, terrorist attack. For purposes of the preceding sentence, property shall be treated as replacing real property destroyed or condemned if, as part of an integrated plan, such property replaces real property which is included in a continuous area which includes real property destroyed or condemned.

**(C) Exceptions**

**(i) Bonus depreciation property under section 168(k)**

Such term shall not include property to which section 168(k) applies.

**(ii) Alternative depreciation property**

The term “qualified New York Liberty Zone property” shall not include any property described in section 168(k)(2)(D)(i).<sup>1</sup>

**(iii) Qualified New York Liberty Zone leasehold improvement property**

Such term shall not include any qualified New York Liberty Zone leasehold improvement property.

**(iv) Election out**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D)(iii)<sup>1</sup> shall apply.

**(D) Special rules**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(E) shall apply, except that clause (i) thereof shall be applied without regard to “and before January 1, 2015”, and clause (iv) thereof shall be applied by substituting “qualified New York Liberty Zone property” for “qualified property”.

**(E) Allowance against alternative minimum tax**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

**(c) 5-year recovery period for depreciation of certain leasehold improvements**

**(1) In general**

For purposes of section 168, the term “5-year property” includes any qualified New York Liberty Zone leasehold improvement property.

**(2) Qualified New York Liberty Zone leasehold improvement property**

For purposes of this section, the term “qualified New York Liberty Zone leasehold

improvement property” means qualified leasehold improvement property (as defined in section 168(k)(3)<sup>1</sup>) if—

(A) such building is located in the New York Liberty Zone,

(B) such improvement is placed in service after September 10, 2001, and before January 1, 2007, and

(C) no written binding contract for such improvement was in effect before September 11, 2001.

**(3) Requirement to use straight line method**

The applicable depreciation method under section 168 shall be the straight line method in the case of qualified New York Liberty Zone leasehold improvement property.

**(4) 9-year recovery period under alternative system**

For purposes of section 168(g), the class life of qualified New York Liberty Zone leasehold improvement property shall be 9 years.

**(5) Election out**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D)(iii)<sup>1</sup> shall apply.

**(d) Tax-exempt bond financing**

**(1) In general**

For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

**(2) Qualified New York Liberty Bond**

For purposes of this subsection, the term “qualified New York Liberty 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 qualified project costs,

(B) such bond is issued by the State of New York or any political subdivision thereof,

(C) the Governor or the Mayor designates such bond for purposes of this section, and

(D) such bond is issued after the date of the enactment of this section and before January 1, 2014.

**(3) Limitations on amount of bonds**

**(A) Aggregate amount designated**

The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed \$8,000,000,000, of which not to exceed \$4,000,000,000 may be designated by the Governor and not to exceed \$4,000,000,000 may be designated by the Mayor.

**(B) Specific limitations**

The aggregate face amount of bonds issued which are to be used for—

(i) costs for property located outside the New York Liberty Zone shall not exceed \$2,000,000,000,

(ii) residential rental property shall not exceed \$1,600,000,000, and

(iii) costs with respect to property used for retail sales of tangible property and functionally related and subordinate property shall not exceed \$800,000,000.

The limitations under clauses (i), (ii), and (iii) shall be allocated proportionately be-

<sup>1</sup> See References in Text note below.

tween the bonds designated by the Governor and the bonds designated by the Mayor in proportion to the respective amounts of bonds designated by each.

**(C) Movable property**

No bonds shall be issued which are to be used for movable fixtures and equipment.

**(4) Qualified project costs**

For purposes of this subsection—

**(A) In general**

The term “qualified project costs” means the cost of acquisition, construction, reconstruction, and renovation of—

(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

(ii) public utility property (as defined in section 168(i)(10)) located in the New York Liberty Zone.

**(B) Costs for certain property outside zone included**

Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

**(5) Special rules**

In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

(A) Section 146 (relating to volume cap) shall not apply.

(B) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting “50 percent” for “15 percent” each place it appears.

(C) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds issued under this section.

(D) Repayments of principal on financing provided by the issue—

(i) may not be used to provide financing, and

(ii) must be used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of a refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

(E) Section 57(a)(5) shall not apply.

**(6) Separate issue treatment of portions of an issue**

This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

**(e) Advance refundings of certain tax-exempt bonds**

**(1) In general**

With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(C)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the City of New York, New York (or property which is functionally related and subordinate to facilities located within the City of New York for the furnishing of water), one additional advanced refunding after the date of the enactment of this section and before January 1, 2006, shall be allowed under the applicable rules of section 149(d) if—

(A) the Governor or the Mayor designates the advance refunding bond for purposes of this subsection, and

(B) the requirements of paragraph (4) are met.

**(2) Bonds described**

A bond is described in this paragraph if such bond was outstanding on September 11, 2001, and is—

(A) a State or local bond (as defined in section 103(c)(1)) which is a general obligation of the City of New York, New York,

(B) a State or local bond (as so defined) other than a private activity bond (as defined in section 141(a)) issued by the New York Municipal Water Finance Authority or the Metropolitan Transportation Authority of the State of New York or the Municipal Assistance Corporation, or

(C) a qualified 501(c)(3) bond (as defined in section 145(a)) which is a qualified hospital bond (as defined in section 145(c)) issued by or on behalf of the State of New York or the City of New York, New York.

**(3) Aggregate limit**

For purposes of paragraph (1), the maximum aggregate face amount of bonds which may be designated under this subsection by the Governor shall not exceed \$4,500,000,000 and the maximum aggregate face amount of bonds which may be designated under this subsection by the Mayor shall not exceed \$4,500,000,000.

**(4) Additional requirements**

The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (2) if—

(A) no advance refundings of such bond would be allowed under any provision of law after September 11, 2001,

(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

**(f) Increase in expensing under section 179**

**(1) In general**

For purposes of section 179—

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

- (i) \$35,000, or
- (ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

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

**(2) Qualified New York Liberty Zone property**

For purposes of this subsection, the term “qualified New York Liberty Zone property” has the meaning given such term by subsection (b)(2), determined without regard to subparagraph (C)(i) thereof.

**(3) Recapture**

Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

**(g) Extension of replacement period for non-recognition of gain**

Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting “5 years” for “2 years” with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

**(h) New York Liberty Zone**

For purposes of this section, the term “New York Liberty Zone” means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

**(i) References to Governor and Mayor**

For purposes of this section, the terms “Governor” and “Mayor” mean the Governor of the State of New York and the Mayor of the City of New York, New York, respectively.

(Added Pub. L. 107–147, title III, §301(a), Mar. 9, 2002, 116 Stat. 33; amended Pub. L. 108–27, title II, §201(c)(2), May 28, 2003, 117 Stat. 757; Pub. L. 108–311, title III, §309(a)–(c), title IV, §403(c), Oct. 4, 2004, 118 Stat. 1179, 1180, 1187; Pub. L. 109–135, title IV, §§405(a)(2), 412(ss), Dec. 21, 2005, 119 Stat. 2634, 2640; Pub. L. 110–185, title I, §103(c)(8), Feb. 13, 2008, 122 Stat. 619; Pub. L. 111–240, title II, §2022(b)(6), Sept. 27, 2010, 124 Stat. 2558; Pub. L. 111–312, title IV, §401(d)(6), title VII, §761(a), Dec. 17, 2010, 124 Stat. 3306, 3323; Pub. L. 112–240, title III, §§328(a), 331(e)(4), Jan. 2, 2013, 126 Stat.

2334, 2337; Pub. L. 113–295, div. A, title I, §125(d)(4), Dec. 19, 2014, 128 Stat. 4017.)

REFERENCES IN TEXT

Section 168(k)(2)(D), referred to in subsecs. (b)(2)(C)(ii), (iv) and (c)(5), was amended generally by Pub. L. 114–113, div. Q, §143(b)(1), Dec. 18, 2015, 129 Stat. 3057, and, as so amended, no longer contains provisions similar to those in former cl. (iii) of section 158(k)(2)(D). Provisions similar to those contained in former cl. (i) of section 168(k)(2)(D) are now contained in section 168(k)(2)(D).

Section 168(k)(3), referred to in subsec. (c)(2), was amended generally by Pub. L. 114–113, div. Q, §143(b)(2), Dec. 18, 2015, 129 Stat. 3057. Provisions similar to those contained in former par. (3) of section 168(k) are now contained in par. (6) of section 168(k).

The date of the enactment of this section, referred to in subsecs. (d)(2)(D) and (e)(1), is the date of enactment of Pub. L. 107–147, which was approved Mar. 9, 2002.

AMENDMENTS

2014—Subsec. (b)(2)(D). Pub. L. 113–295 substituted “January 1, 2015” for “January 1, 2014”.

2013—Subsec. (b)(2)(D). Pub. L. 112–240, §331(e)(4), substituted “January 1, 2014” for “January 1, 2013”.

Subsec. (d)(2)(D). Pub. L. 112–240, §328(a), substituted “January 1, 2014” for “January 1, 2012”.

2010—Subsec. (b)(2)(D). Pub. L. 111–312, §401(d)(6), substituted “January 1, 2013” for “January 1, 2011”.

Pub. L. 111–240 substituted “January 1, 2011” for “January 1, 2010”.

Subsec. (d)(2)(D). Pub. L. 111–312, §761(a), substituted “2012” for “2010”.

2008—Subsec. (b)(2)(D). Pub. L. 110–185 substituted “January 1, 2010” for “January 1, 2005”.

2005—Subsec. (b)(2)(C)(ii). Pub. L. 109–135, §412(ss)(1), substituted “section 168(k)(2)(D)(i)” for “section 168(k)(2)(C)(i)”.

Subsec. (b)(2)(C)(iv). Pub. L. 109–135, §412(ss)(2), substituted “section 168(k)(2)(D)(iii)” for “section 168(k)(2)(C)(iii)”.

Subsec. (b)(2)(D). Pub. L. 109–135, §412(ss)(3), substituted “section 168(k)(2)(E)” for “section 168(k)(2)(D)”.

Pub. L. 109–135, §405(a)(2), substituted “January 1, 2005” for “September 11, 2004”.

Subsec. (b)(2)(E). Pub. L. 109–135, §412(ss)(4), substituted “section 168(k)(2)(G)” for “section 168(k)(2)(F)”.

Subsec. (c)(5). Pub. L. 109–135, §412(ss)(5), substituted “section 168(k)(2)(D)(iii)” for “section 168(k)(2)(C)(iii)”.

2004—Subsec. (a)(2)(D). Pub. L. 108–311, §403(c)(1)(A), substituted “subchapter A” for “subchapter B” in introductory provisions.

Subsec. (a)(2)(D)(ii). Pub. L. 108–311, §403(c)(1)(B), substituted “this paragraph” for “subparagraph (B)”.

Subsec. (b)(2)(D). Pub. L. 108–311, §403(c)(2), inserted “, and clause (iv) thereof shall be applied by substituting ‘qualified New York Liberty Zone property’ for ‘qualified property’” before period at end.

Subsec. (c)(5). Pub. L. 108–311, §403(c)(3), added par. (5).

Subsec. (d)(2)(D). Pub. L. 108–311, §309(a), substituted “2010” for “2005”.

Subsec. (e)(1). Pub. L. 108–311, §309(b), substituted “2006” for “2005”.

Subsec. (e)(2)(B). Pub. L. 108–311, §309(c), substituted “or the Municipal Assistance Corporation, or” for “, or” at end.

Subsec. (f)(2). Pub. L. 108–311, §403(c)(4), inserted “, determined without regard to subparagraph (C)(i) thereof” before period at end.

2003—Subsec. (b)(2)(C)(i). Pub. L. 108–27, which directed amendment of heading by substituting “Bonus depreciation property under section 168(k)” for “30-percent additional allowance property”, was executed by making the substitution for “30 percent additional allowance property” to reflect the probable intent of Congress.

## EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to property placed in service after Dec. 31, 2013, in taxable years ending after such date, see section 125(e) of Pub. L. 113-295, set out as a note under section 168 of this title.

## EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-240, title III, §328(b), Jan. 2, 2013, 126 Stat. 2334, provided that: “The amendment made by this section [amending this section] shall apply to bonds issued after December 31, 2011.”

Amendment by section 331(e)(4) of Pub. L. 112-240 applicable to property placed in service after Dec. 31, 2012, in taxable years ending after such date, see section 331(f) of Pub. L. 112-240, set out as a note under section 168 of this title.

## EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 401(d)(6) of Pub. L. 111-312 applicable to property placed in service after Dec. 31, 2010, in taxable years ending after such date, see section 401(e)(1) of Pub. L. 111-312, set out as a note under section 168 of this title.

Pub. L. 111-312, title VII, §761(b), Dec. 17, 2010, 124 Stat. 3323, provided that: “The amendment made by this section [amending this section] shall apply to bonds issued after December 31, 2009.”

Amendment by Pub. L. 111-240 applicable to property placed in service after Dec. 31, 2009, in taxable years ending after such date, see section 2022(c) of Pub. L. 111-240, set out as a note under section 168 of this title.

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-185 applicable to property placed in service after Dec. 31, 2007, in taxable years ending after such date, see section 103(d) of Pub. L. 110-185, set out as a note under section 168 of this title.

## EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 405(a)(2) of Pub. L. 109-135 effective as if included in section 201 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. 108-27, see section 405(b) of Pub. L. 109-135, set out as a note under section 168 of this title.

## EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-311, title III, §309(d), Oct. 4, 2004, 118 Stat. 1180, provided that: “The amendment made by subsection (c) [amending this section] shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002 [Pub. L. 107-147].”

Amendment by section 403(c) of Pub. L. 108-311 effective as if included in the provisions of the Job Creation and Worker Assistance Act of 2002, Pub. L. 107-147, to which such amendment relates, see section 403(f) of Pub. L. 108-311, set out as a note under section 56 of this title.

## EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable to taxable years ending after May 5, 2003, see section 201(d) of Pub. L. 108-27, set out as a note under section 168 of this title.

## PART II—TAX BENEFITS FOR GO ZONES

Sec.	
1400M.	Definitions.
1400N.	Tax benefits for Gulf Opportunity Zone.
1400O.	Education tax benefits.
1400P.	Housing tax benefits.
1400Q.	Special rules for use of retirement funds.
1400R.	Employment relief.
1400S.	Additional tax relief provisions.
1400T.	Special rules for mortgage revenue bonds.

## AMENDMENTS

2007—Pub. L. 110-172, §11(a)(27), Dec. 29, 2007, 121 Stat. 2487, added item 1400T.

2005—Pub. L. 109-135, title I, §§102(b), 103(b)(3), title II, §201(b)(3), Dec. 21, 2005, 119 Stat. 2594, 2595, 2607, added items 1400O to 1400S.

## § 1400M. Definitions

For purposes of this part—

## (1) Gulf Opportunity Zone

The terms “Gulf Opportunity Zone” and “GO Zone” mean that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

## (2) Hurricane Katrina disaster area

The term “Hurricane Katrina disaster area” means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of such Act by reason of Hurricane Katrina.

## (3) Rita GO Zone

The term “Rita GO Zone” means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Rita.

## (4) Hurricane Rita disaster area

The term “Hurricane Rita disaster area” means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of such Act by reason of Hurricane Rita.

## (5) Wilma GO Zone

The term “Wilma GO Zone” means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Wilma.

## (6) Hurricane Wilma disaster area

The term “Hurricane Wilma disaster area” means an area with respect to which a major disaster has been declared by the President before November 14, 2005, under section 401 of such Act by reason of Hurricane Wilma.

(Added Pub. L. 109-135, title I, §101(a), Dec. 21, 2005, 119 Stat. 2578.)

## REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. Section 401 of the Act is classified to section 5170 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

## EFFECTIVE DATE

Section applicable to taxable years ending on or after August 28, 2005, see section 101(c)(1) of Pub. L. 109-135, set out as an Effective Date note under section 1400N of this title.