

§ 1400N. Tax benefits for Gulf Opportunity Zone**(a) Tax-exempt bond financing****(1) In general**

For purposes of this title—

(A) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(i) shall be treated as an exempt facility bond, and

(B) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(ii) shall be treated as a qualified mortgage bond.

(2) Qualified Gulf Opportunity Zone Bond

For purposes of this subsection, the term “qualified Gulf Opportunity Zone Bond” means any bond issued as part of an issue if—

(A)(i) 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, or

(ii) such issue meets the requirements of a qualified mortgage issue, except as otherwise provided in this subsection,

(B) such bond is issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof,

(C) such bond is designated for purposes of this section by—

(i) in the case of a bond which is required under State law to be approved by the bond commission of such State, such bond commission, and

(ii) in the case of any other bond, the Governor of such State,

(D) such bond is issued after the date of the enactment of this section and before January 1, 2012, and

(E) no portion of the proceeds of such issue is to be used to provide any property described in section 144(c)(6)(B).

(3) Limitations on bonds**(A) Aggregate amount designated**

The maximum aggregate face amount of bonds which may be designated under this subsection with respect to any State shall not exceed the product of \$2,500 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

(B) 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, the term “qualified project costs” means—

(A) the cost of any qualified residential rental project (as defined in section 142(d)) located in the Gulf Opportunity Zone, and

(B) the cost of acquisition, construction, reconstruction, and renovation of—

(i) nonresidential real property (including fixed improvements associated with such property) located in the Gulf Opportunity Zone, and

(ii) public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone.

(5) Special rules

In applying this title to any qualified Gulf Opportunity Zone Bond, the following modifications shall apply:

(A) Section 142(d)(1) (defining qualified residential rental project) shall be applied—

(i) by substituting “60 percent” for “50 percent” in subparagraph (A) thereof, and

(ii) by substituting “70 percent” for “60 percent” in subparagraph (B) thereof.

(B) Section 143 (relating to mortgage revenue bonds: qualified mortgage bond and qualified veterans’ mortgage bond) shall be applied—

(i) only with respect to owner-occupied residences in the Gulf Opportunity Zone,

(ii) by treating any such residence in the Gulf Opportunity Zone as a targeted area residence,

(iii) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and

(iv) by substituting “\$150,000” for “\$15,000” in subsection (k)(4) thereof.

(C) Except as provided in section 143, repayments of principal on financing provided by the issue of which such bond is a part may not be used to provide financing.

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

(E) Section 147(d)(2) (relating to acquisition of existing property not permitted) shall be applied by substituting “50 percent” for “15 percent” each place it appears.

(F) 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 which are part of an issue described in paragraph (2)(A)(i).

(G) Section 57(a)(5) (relating to tax-exempt interest) 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.

(7) Special rule for repairs and reconstructions**(A) In general**

For purposes of section 143 and this subsection, any qualified GO Zone repair or reconstruction shall be treated as a qualified rehabilitation.

(B) Qualified Go Zone repair or reconstruction

For purposes of subparagraph (A), the term “qualified GO Zone repair or reconstruction” means any repair of damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone (or reconstruction of such building in the case of damage constituting destruction) if the expenditures for such re-

pair or reconstruction are 25 percent or more of the mortgagor's adjusted basis in the residence. For purposes of the preceding sentence, the mortgagor's adjusted basis shall be determined as of the completion of the repair or reconstruction or, if later, the date on which the mortgagor acquires the residence.

(C) Termination

This paragraph shall apply only to owner-financing provided after the date of the enactment of this paragraph and before January 1, 2012.

(8) Inclusion of certain counties

For purposes of this subsection, the Gulf Opportunity Zone includes Colbert County, Alabama and Dallas County, Alabama.

(b) Advance refundings of certain tax-exempt bonds

(1) In general

With respect to a bond described in paragraph (3), one additional advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) if—

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

(B) the requirements of paragraph (5) are met.

(2) Certain private activity bonds

With respect to a bond described in paragraph (3) which is an exempt facility bond described in paragraph (1) or (2) of section 142(a), one advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) (notwithstanding paragraph (2) thereof) if the requirements of subparagraphs (A) and (B) of paragraph (1) are met.

(3) Bonds described

A bond is described in this paragraph if such bond was outstanding on August 28, 2005, and is issued by the State of Alabama, Louisiana, or Mississippi, or a political subdivision thereof.

(4) Aggregate limit

The maximum aggregate face amount of bonds which may be designated under this subsection by the Governor of a State shall not exceed—

(A) \$4,500,000,000 in the case of the State of Louisiana,

(B) \$2,250,000,000 in the case of the State of Mississippi, and

(C) \$1,125,000,000 in the case of the State of Alabama.

(5) Additional requirements

The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (3) if—

(A) no advance refundings of such bond would be allowed under this title on or after August 28, 2005,

(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.

(6) Use of proceeds requirement

This subsection shall not apply to any advance refunding of a bond which is issued as part of an issue if any portion of the proceeds of such issue (or any prior issue) was (or is to be) used to provide any property described in section 144(c)(6)(B).

(c) Low-income housing credit

(1) Additional housing credit dollar amount for Gulf Opportunity Zone

(A) In general

For purposes of section 42, in the case of calendar years 2006, 2007, and 2008, the State housing credit ceiling of each State, any portion of which is located in the Gulf Opportunity Zone, shall be increased by the lesser of—

(i) the aggregate housing credit dollar amount allocated by the State housing credit agency of such State to buildings located in the Gulf Opportunity Zone for such calendar year, or

(ii) the Gulf Opportunity housing amount for such State for such calendar year.

(B) Gulf Opportunity housing amount

For purposes of subparagraph (A), the term "Gulf Opportunity housing amount" means, for any calendar year, the amount equal to the product of \$18.00 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

(C) Allocations treated as made first from additional allocation amount for purposes of determining carryover

For purposes of determining the unused State housing credit ceiling under section 42(h)(3)(C) for any calendar year, any increase in the State housing credit ceiling under subparagraph (A) shall be treated as an amount described in clause (ii) of such section.

(2) Additional housing credit dollar amount for Texas and Florida

For purposes of section 42, in the case of calendar year 2006, the State housing credit ceiling of Texas and Florida shall each be increased by \$3,500,000.

(3) Difficult development area

(A) In general

For purposes of section 42, in the case of property placed in service during the period beginning on January 1, 2006, and ending on December 31, 2010, the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone—

(i) shall be treated as difficult development areas designated under subclause (I) of section 42(d)(5)(B)(iii), and

(ii) shall not be taken into account for purposes of applying the limitation under subclause (II) of such section.

(B) Application

Subparagraph (A) shall apply only to—

(i) housing credit dollar amounts allocated during the period beginning on January 1, 2006, and ending on December 31, 2008, and

(ii) buildings placed in service during the period described in subparagraph (A) to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

(4) Special rule for applying income tests

In the case of property placed in service—

(A) during 2006, 2007, or 2008,

(B) in the Gulf Opportunity Zone, and

(C) in a nonmetropolitan area (as defined in section 42(d)(5)(C)(iv)(IV)),¹

section 42 shall be applied by substituting “national nonmetropolitan median gross income (determined under rules similar to the rules of section 142(d)(2)(B))” for “area median gross income” in subparagraphs (A) and (B) of section 42(g)(1).

(5) Time for making low-income housing credit allocations

Section 42(h)(1)(B) shall not apply to an allocation of housing credit dollar amount to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone, if such allocation is made in 2006, 2007, or 2008, and such building is placed in service before January 1, 2012.

(6) Community development block grants not taken into account in determining if buildings are federally subsidized

For purpose of applying section 42(i)(2)(D)¹ to any building which is placed in service in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone during the period beginning on January 1, 2006, and ending on December 31, 2010, a loan shall not be treated as a below market Federal loan solely by reason of any assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 by reason of section 122 of such Act or any provision of the Department of Defense Appropriations Act, 2006, or the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

(7) Definitions

Any term used in this subsection which is also used in section 42 shall have the same meaning as when used in such section.

(d) Special allowance for certain property acquired on or after August 28, 2005**(1) Additional allowance**

In the case of any qualified Gulf Opportunity Zone property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall in-

clude an allowance equal to 50 percent of the adjusted basis of such property, and

(B) the adjusted basis of the qualified Gulf Opportunity 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 Gulf Opportunity Zone property

For purposes of this subsection—

(A) In general

The term “qualified Gulf Opportunity 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,

(ii) substantially all of the use of which is in the Gulf Opportunity 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 Gulf Opportunity Zone commences with the taxpayer on or after August 28, 2005,

(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) on or after August 28, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and

(v) which is placed in service by the taxpayer on or before December 31, 2007 (December 31, 2008, in the case of nonresidential real property and residential rental property).

(B) Exceptions**(i) Alternative depreciation property**

Such term shall not include any property described in section 168(k)(2)(D)(i).¹

(ii) Tax-exempt bond-financed property

Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

(iii) Qualified revitalization buildings

Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

(iv) Election out

If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(3) Special rules

For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

¹ See References in text note below.

¹ See References in Text note below.

(A) by substituting “August 27, 2005” for “December 31, 2007” each place it appears therein,

(B) without regard to “and before January 1, 2015” in clause (i) thereof, and

(C) by substituting “qualified Gulf Opportunity Zone property” for “qualified property” in clause (iv) thereof.

(4) Allowance against alternative minimum tax

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

(5) Recapture

For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be qualified Gulf Opportunity Zone property.

(6) Extension for certain property

(A) In general

In the case of any specified Gulf Opportunity Zone extension property, paragraph (2)(A) shall be applied without regard to clause (v) thereof.

(B) Specified Gulf Opportunity Zone extension property

For purposes of this paragraph, the term “specified Gulf Opportunity Zone extension property” means property—

(i) substantially all of the use of which is in one or more specified portions of the GO Zone, and

(ii) which is—

(I) nonresidential real property or residential rental property which is placed in service by the taxpayer on or before December 31, 2011, or

(II) in the case of a taxpayer who places a building described in subclause (I) in service on or before December 31, 2011, property described in section 168(k)(2)(A)(i) if substantially all of the use of such property is in such building and such property is placed in service by the taxpayer not later than 90 days after such building is placed in service.

(C) Specified portions of the GO Zone

For purposes of this paragraph, the term “specified portions of the GO Zone” means those portions of the GO Zone which are in any county or parish which is identified by the Secretary as being a county or parish in which hurricanes occurring during 2005 damaged (in the aggregate) more than 60 percent of the housing units in such county or parish which were occupied (determined according to the 2000 Census).

(D) Only pre-January 1, 2012, basis of real property eligible for additional allowance

In the case of property which is qualified Gulf Opportunity Zone property solely by reason of subparagraph (B)(ii)(I), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2012.

(E) Exception for bonus depreciation property under section 168(k)

The term “specified Gulf Opportunity Zone extension property” shall not include any property to which section 168(k) applies.

(e) Increase in expensing under section 179

(1) In general

For purposes of section 179—

(A) the dollar amount in effect under section 179(b)(1) for the taxable year shall be increased by the lesser of—

(i) \$100,000, or

(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year, and

(B) the dollar amount in effect under section 179(b)(2) for the taxable year shall be increased by the lesser of—

(i) \$600,000, or

(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year.

(2) Qualified section 179 Gulf Opportunity Zone property

For purposes of this subsection—

(A) In general

The term “qualified section 179 Gulf Opportunity Zone property” means section 179 property (as defined in section 179(d)) which is qualified Gulf Opportunity Zone property (as defined in subsection (d)(2) without regard to subsection (d)(6)).

(B) Extension for certain property

In the case of property substantially all of the use of which is in one or more specified portions of the GO Zone (as defined by subsection (d)(6)), such term shall include section 179 property (as so defined) which is described in subsection (d)(2), determined—

(i) without regard to subsection (d)(6), and

(ii) by substituting “2008” for “2007” in subparagraph (A)(v) thereof.

(3) Coordination with empowerment zones and renewal communities

For purposes of sections 1397A and 1400J, qualified section 179 Gulf Opportunity Zone property shall not be treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 Gulf Opportunity Zone property into account for purposes of this subsection.

(4) Recapture

For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified section 179 Gulf Opportunity Zone property which ceases to be qualified section 179 Gulf Opportunity Zone property.

(f) Expensing for certain demolition and clean-up costs

(1) In general

A taxpayer may elect to treat 50 percent of any qualified Gulf Opportunity Zone clean-up cost as an expense which is not chargeable to

capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such cost is paid or incurred.

(2) Qualified Gulf Opportunity Zone clean-up cost

For purposes of this subsection, the term “qualified Gulf Opportunity Zone clean-up cost” means any amount paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007, for the removal of debris from, or the demolition of structures on, real property which is located in the Gulf Opportunity Zone and which is—

(A) held by the taxpayer for use in a trade or business or for the production of income, or

(B) property described in section 1221(a)(1) in the hands of the taxpayer.

For purposes of the preceding sentence, amounts paid or incurred shall be taken into account only to the extent that such amount would (but for paragraph (1)) be chargeable to capital account.

(g) Extension of expensing for environmental remediation costs

With respect to any qualified environmental remediation expenditure (as defined in section 198(b)) paid or incurred on or after August 28, 2005, in connection with a qualified contaminated site located in the Gulf Opportunity Zone, section 198 (relating to expensing of environmental remediation costs) shall be applied—

(1) in the case of expenditures paid or incurred on or after August 28, 2005, and before January 1, 2008, by substituting “December 31, 2007” for the date contained in section 198(h), and

(2) except as provided in section 198(d)(2), by treating petroleum products (as defined in section 4612(a)(3)) as a hazardous substance.

(h) Increase in rehabilitation credit

In the case of qualified rehabilitation expenditures (as defined in section 47(c)) paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2011, with respect to any qualified rehabilitated building or certified historic structure (as defined in section 47(c)) located in the Gulf Opportunity Zone, subsection (a) of section 47 (relating to rehabilitation credit) shall be applied—

(1) by substituting “13 percent” for “10 percent” in paragraph (1) thereof, and

(2) by substituting “26 percent” for “20 percent” in paragraph (2) thereof.

(i) Special rules for small timber producers

(1) Increased expensing for qualified timber property

In the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone, the limitation under subparagraph (B) of section 194(b)(1) shall be increased by the lesser of—

(A) the limitation which would (but for this subsection) apply under such subparagraph, or

(B) the amount of reforestation expenditures (as defined in section 194(c)(3)) paid or

incurred by the taxpayer with respect to such qualified timber property during the specified portion of the taxable year.

(2) 5 year NOL carryback of certain timber losses

For purposes of determining any farming loss under section 172(i),¹ income and deductions which are allocable to the specified portion of the taxable year and which are attributable to qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone shall be treated as attributable to farming businesses.

(3) Rules not applicable to certain entities

Paragraphs (1) and (2) shall not apply to any taxpayer which—

(A) is a corporation the stock of which is publicly traded on an established securities market, or

(B) is a real estate investment trust.

(4) Rules not applicable to large timber producers

(A) Expensing

Paragraph (1) shall not apply to any taxpayer if such taxpayer holds more than 500 acres of qualified timber property at any time during the taxable year.

(B) NOL carryback

Paragraph (2) shall not apply with respect to any qualified timber property unless—

(i) such property was held by the taxpayer—

(I) on August 28, 2005, in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone,

(II) on September 23, 2005, in the case of qualified timber property (other than property described in subclause (I)) any portion of which is located in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or

(III) on October 23, 2005, in the case of qualified timber property (other than property described in subclause (I) or (II)) any portion of which is located in the Wilma GO Zone, and

(ii) such taxpayer held not more than 500 acres of qualified timber property on such date.

(5) Definitions

For purposes of this subsection—

(A) Specified portion

(i) In general

The term “specified portion” means—

(I) in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after August 28, 2005, and before the termination date,

(II) in the case of qualified timber property (other than property described in clause (i)) any portion of which is lo-

cated in the Rita GO Zone, that portion of the taxable year which is on or after September 23, 2005, and before the termination date, or

(III) in the case of qualified timber property (other than property described in clause (i) or (ii)) any portion of which is located in the Wilma GO Zone, that portion of the taxable year which is on or after October 23, 2005, and before the termination date.

(ii) Termination date

The term “termination date” means—

(I) for purposes of paragraph (1), January 1, 2008, and

(II) for purposes of paragraph (2), January 1, 2007.

(B) Qualified timber property

The term “qualified timber property” has the meaning given such term in section 194(c)(1).

(j) Special rule for Gulf Opportunity Zone public utility casualty losses

(1) In general

The amount described in section 172(f)(1)(A) for any taxable year shall be increased by the Gulf Opportunity Zone public utility casualty loss for such taxable year.

(2) Gulf Opportunity Zone public utility casualty loss

For purposes of this subsection, the term “Gulf Opportunity Zone public utility casualty loss” means any casualty loss of public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone if—

(A) such loss is allowed as a deduction under section 165 for the taxable year,

(B) such loss is by reason of Hurricane Katrina, and

(C) the taxpayer elects the application of this subsection with respect to such loss.

(3) Reduction for gains from involuntary conversion

The amount of any Gulf Opportunity Zone public utility casualty loss which would (but for this paragraph) be taken into account under paragraph (1) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of public utility property (as so defined) located in the Gulf Opportunity Zone.

(4) Coordination with general disaster loss rules

Subsection (k) and section 165(i) shall not apply to any Gulf Opportunity Zone public utility casualty loss to the extent such loss is taken into account under paragraph (1).

(5) Election

Any election under paragraph (2)(C) shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the loss. Such election, once made for any tax-

able year, shall be irrevocable for such taxable year.

(k) Treatment of net operating losses attributable to Gulf Opportunity Zone losses

(1) In general

If a portion of any net operating loss of the taxpayer for any taxable year is a qualified Gulf Opportunity Zone loss, the following rules shall apply:

(A) Extension of carryback period

Section 172(b)(1) shall be applied with respect to such portion—

(i) by substituting “5 taxable years” for “2 taxable years” in subparagraph (A)(i), and

(ii) by not taking such portion into account in determining any eligible loss of the taxpayer under subparagraph (F) thereof for the taxable year.

(B) Suspension of 90 percent AMT limitation

Section 56(d)(1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of any net operating loss attributable to such portion.

(2) Qualified Gulf Opportunity Zone loss

For purposes of paragraph (1), the term “qualified Gulf Opportunity Zone loss” means the lesser of—

(A) the excess of—

(i) the net operating loss for such taxable year, over

(ii) the specified liability loss for such taxable year to which a 10-year carryback applies under section 172(b)(1)(C), or

(B) the aggregate amount of the following deductions to the extent taken into account in computing the net operating loss for such taxable year:

(i) Any deduction for any qualified Gulf Opportunity Zone casualty loss.

(ii) Any deduction for moving expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

(I) whose principal place of abode was located in the Gulf Opportunity Zone before August 28, 2005,

(II) who was unable to remain in such abode as the result of Hurricane Katrina, and

(III) whose principal place of employment with the taxpayer after such expense is located in the Gulf Opportunity Zone.

For purposes of this clause, the term “moving expenses” has the meaning given such term by section 217(b), except that the taxpayer’s former residence and new residence may be the same residence if the initial vacating of the residence was as the result of Hurricane Katrina.

(iii) Any deduction allowable under this chapter for expenses paid or incurred after August 27, 2005, and before January 1, 2008, to temporarily house any employee of the

taxpayer whose principal place of employment is in the Gulf Opportunity Zone.

(iv) Any deduction for depreciation (or amortization in lieu of depreciation) allowable under this chapter with respect to any qualified Gulf Opportunity Zone property (as defined in subsection (d)(2), but without regard to subparagraph (B)(iv) thereof)² for the taxable year such property is placed in service.

(v) Any deduction allowable under this chapter for repair expenses (including expenses for removal of debris) paid or incurred after August 27, 2005, and before January 1, 2008, with respect to any damage attributable to Hurricane Katrina and in connection with property which is located in the Gulf Opportunity Zone.

(3) Qualified Gulf Opportunity Zone casualty loss

(A) In general

For purposes of paragraph (2)(B)(i), the term “qualified Gulf Opportunity Zone casualty loss” means any uncompensated section 1231 loss (as defined in section 1231(a)(3)(B)) of property located in the Gulf Opportunity Zone if—

- (i) such loss is allowed as a deduction under section 165 for the taxable year, and
- (ii) such loss is by reason of Hurricane Katrina.

(B) Reduction for gains from involuntary conversion

The amount of qualified Gulf Opportunity Zone casualty loss which would (but for this subparagraph) be taken into account under subparagraph (A) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of property located in the Gulf Opportunity Zone.

(C) Coordination with general disaster loss rules

Section 165(i) shall not apply to any qualified Gulf Opportunity Zone casualty loss to the extent such loss is taken into account under this subsection.

(4) Special rules

For purposes of paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 172(i)¹ shall apply with respect to such portion.

(I) Credit to holders of Gulf tax credit bonds

(1) Allowance of credit

If a taxpayer holds a Gulf tax credit bond on one or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under paragraph (2) with respect to such dates.

(2) Amount of credit

(A) In general

The amount of the credit determined under this paragraph with respect to any

credit allowance date for a Gulf tax credit bond is 25 percent of the annual credit determined with respect to such bond.

(B) Annual credit

The annual credit determined with respect to any Gulf tax credit bond is the product of—

- (i) the credit rate determined by the Secretary under subparagraph (C) for the day on which such bond was sold, multiplied by
- (ii) the outstanding face amount of the bond.

(C) Determination

For purposes of subparagraph (B), with respect to any Gulf tax credit bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary’s designee estimates will permit the issuance of Gulf tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the issuer.

(D) Credit allowance date

For purposes of this subsection, the term “credit allowance date” means March 15, June 15, September 15, and December 15. Such term also includes the last day on which the bond is outstanding.

(E) Special rule for issuance and redemption

In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this paragraph with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

(3) Limitation based on amount of tax

The credit allowed under paragraph (1) for any taxable year shall not exceed the excess of—

- (A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over
- (B) the sum of the credits allowable under part IV of subchapter A (other than subparts C, I, and J and this subsection).

(4) Gulf tax credit bond

For purposes of this subsection—

(A) In general

The term “Gulf tax credit bond” means any bond issued as part of an issue if—

- (i) the bond is issued by the State of Alabama, Louisiana, or Mississippi,
- (ii) 95 percent or more of the proceeds of such issue are to be used to—

- (I) pay principal, interest, or premiums on qualified bonds issued by such State or any political subdivision of such State, or

²So in original. The second parenthesis probably should not appear.

(II) make a loan to any political subdivision of such State to pay principal, interest, or premiums on qualified bonds issued by such political subdivision,

(iii) the Governor of such State designates such bond for purposes of this subsection,

(iv) the bond is a general obligation of such State and is in registered form (within the meaning of section 149(a)),

(v) the maturity of such bond does not exceed 2 years, and

(vi) the bond is issued after December 31, 2005, and before January 1, 2007.

(B) State matching requirement

A bond shall not be treated as a Gulf tax credit bond unless—

(i) the issuer of such bond pledges as of the date of the issuance of the issue an amount equal to the face amount of such bond to be used for payments described in subclause (I) of subparagraph (A)(ii), or loans described in subclause (II) of such subparagraph, as the case may be, with respect to the issue of which such bond is a part, and

(ii) any such payment or loan is made in equal amounts from the proceeds of such issue and from the amount pledged under clause (i).

The requirement of clause (ii) shall be treated as met with respect to any such payment or loan made during the 1-year period beginning on the date of the issuance (or any successor 1-year period) if such requirement is met when applied with respect to the aggregate amount of such payments and loans made during such period.

(C) Aggregate limit on bond designations

The maximum aggregate face amount of bonds which may be designated under this subsection by the Governor of a State shall not exceed—

(i) \$200,000,000 in the case of the State of Louisiana,

(ii) \$100,000,000 in the case of the State of Mississippi, and

(iii) \$50,000,000 in the case of the State of Alabama.

(D) Special rules relating to arbitrage

A bond which is part of an issue shall not be treated as a Gulf tax credit bond unless, with respect to the issue of which the bond is a part, the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue and any loans made with such proceeds.

(5) Qualified bond

For purposes of this subsection—

(A) In general

The term “qualified bond” means any obligation of a State or political subdivision thereof which was outstanding on August 28, 2005.

(B) Exception for private activity bonds

Such term shall not include any private activity bond.

(C) Exception for advance refundings

Such term shall not include any bond with respect to which there is any outstanding refunded or refunding bond during the period in which a Gulf tax credit bond is outstanding with respect to such bond.

(D) Use of proceeds requirement

Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue was (or is to be) used to provide any property described in section 144(c)(6)(B).

(6) Credit included in gross income

Gross income includes the amount of the credit allowed to the taxpayer under this subsection (determined without regard to paragraph (3)) and the amount so included shall be treated as interest income.

(7) Other definitions and special rules

For purposes of this subsection—

(A) Bond

The term “bond” includes any obligation.

(B) Partnership; S corporation; and other pass-thru entities

(i) In general

Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under paragraph (1).

(ii) No basis adjustment

In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

(C) Bonds held by regulated investment companies

If any Gulf tax credit bond is held by a regulated investment company, the credit determined under paragraph (1) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

(D) Reporting

Issuers of Gulf tax credit bonds shall submit reports similar to the reports required under section 149(e).

(E) Credit treated as nonrefundable bondholder credit

For purposes of this title, the credit allowed by this subsection shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.

(m) Application of new markets tax credit to investments in community development entities serving Gulf Opportunity Zone

For purposes of section 45D—

(1) a qualified community development entity shall be eligible for an allocation under subsection (f)(2) thereof of the increase in the new markets tax credit limitation described in paragraph (2) only if a significant mission of such entity is the recovery and redevelopment of the Gulf Opportunity Zone,

(2) the new markets tax credit limitation otherwise determined under subsection (f)(1) thereof shall be increased by an amount equal to—

(A) \$300,000,000 for 2005 and 2006, to be allocated among qualified community development entities to make qualified low-income community investments within the Gulf Opportunity Zone, and

(B) \$400,000,000 for 2007, to be so allocated, and

(3) subsection (f)(3) thereof shall be applied separately with respect to the amount of the increase under paragraph (2).

(n) Treatment of representations regarding income eligibility for purposes of qualified residential rental project requirements

For purposes of determining if any residential rental project meets the requirements of section 142(d)(1) and if any certification with respect to such project meets the requirements under section 142(d)(7), the operator of the project may rely on the representations of any individual applying for tenancy in such project that such individual's income will not exceed the applicable income limits of section 142(d)(1) upon commencement of the individual's tenancy if such tenancy begins during the 6-month period beginning on and after the date such individual was displaced by reason of Hurricane Katrina.

(o) Treatment of public utility property disaster losses

(1) In general

Upon the election of the taxpayer, in the case of any eligible public utility property loss—

(A) section 165(i) shall be applied by substituting “the fifth taxable year immediately preceding” for “the taxable year immediately preceding”,

(B) an application for a tentative carry-back adjustment of the tax for any prior taxable year affected by the application of subparagraph (A) may be made under section 6411, and

(C) section 6611 shall not apply to any overpayment attributable to such loss.

(2) Eligible public utility property loss

For purposes of this subsection—

(A) In general

The term “eligible public utility property loss” means any loss with respect to public utility property located in the Gulf Opportunity Zone and attributable to Hurricane Katrina.

(B) Public utility property

The term “public utility property” has the meaning given such term by section 168(i)(10) without regard to the matter following subparagraph (D) thereof.

(3) Waiver of limitations

If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this section by the operation of

any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

(p) Tax benefits not available with respect to certain property

(1) Qualified Gulf Opportunity Zone property

For purposes of subsections (d), (e), and (k)(2)(B)(iv), the term “qualified Gulf Opportunity Zone property” shall not include any property described in paragraph (3).

(2) Qualified Gulf Opportunity Zone casualty losses

For purposes of subsection (k)(2)(B)(i), the term “qualified Gulf Opportunity Zone casualty loss” shall not include any loss with respect to any property described in paragraph (3).

(3) Property described

(A) In general

For purposes of this subsection, property is described in this paragraph if such property is—

(i) any property used in connection with any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, or

(ii) any gambling or animal racing property.

(B) Gambling or animal racing property

For purposes of subparagraph (A)(ii)—

(i) In general

The term “gambling or animal racing property” means—

(I) any equipment, furniture, software, or other property used directly in connection with gambling, the racing of animals, or the on-site viewing of such racing, and

(II) the portion of any real property (determined by square footage) which is dedicated to gambling, the racing of animals, or the on-site viewing of such racing.

(ii) De minimis portion

Clause (i)(II) shall not apply to any real property if the portion so dedicated is less than 100 square feet.

(Added Pub. L. 109-135, title I, §101(a), Dec. 21, 2005, 119 Stat. 2579; amended Pub. L. 109-432, div. A, title I, §§107(b)(2), 120(a), (b), Dec. 20, 2006, 120 Stat. 2939, 2943; Pub. L. 110-28, title VIII, §§8221-8223, May 25, 2007, 121 Stat. 194, 195; Pub. L. 110-185, title I, §103(c)(9), (10), Feb. 13, 2008, 122 Stat. 619; Pub. L. 110-234, title XV, §15316(c)(1), May 22, 2008, 122 Stat. 1511; Pub. L. 110-246, §4(a), title XV, §15316(c)(1), June 18, 2008, 122 Stat. 1664, 2273; Pub. L. 110-289, div. C, title III, §3082(b)(1), (c)(1), July 30, 2008, 122 Stat. 2907; Pub. L. 110-343, div. C, title III, §320(a), Oct. 3, 2008, 122 Stat. 3873; Pub. L. 111-5, div. B, title I, §§1201(a)(2)(E), 1531(c)(3), Feb. 17, 2009, 123 Stat. 333, 360; Pub. L. 111-240, title II, §2022(b)(7), Sept. 27, 2010, 124

Stat. 2558; Pub. L. 111-312, title IV, §401(d)(7), title VII, §§762(a), 763, 764(a), 765(a), Dec. 17, 2010, 124 Stat. 3306, 3323, 3324; Pub. L. 112-240, title III, §331(e)(5), Jan. 2, 2013, 126 Stat. 2337; Pub. L. 113-295, div. A, title I, §125(d)(5), title II, §220(q), Dec. 19, 2014, 128 Stat. 4017, 4036.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a)(2)(D), (b)(1), (2), and (o)(3), is the date of enactment of Pub. L. 109-135, which was approved Dec. 21, 2005.

The date of the enactment of this paragraph, referred to in subsec. (a)(7)(C), is the date of enactment of Pub. L. 110-28, which was approved May 25, 2007.

Subpar. (C) of section 42(d)(5), referred to in subsec. (c)(4)(C), was redesignated (B) by Pub. L. 110-289, div. C, title I, §3003(g)(3), July 30, 2008, 122 Stat. 2882.

Subpar. (D) of section 42(i)(2), referred to in subsec. (c)(6), was repealed by Pub. L. 110-289, div. C, title I, §3002(b)(2)(C), July 30, 2008, 122 Stat. 2880.

Sections 106, 107, 108, and 122 of the Housing and Community Development Act of 1974, referred to in subsec. (c)(6), are classified to sections 5306, 5307, 5308, and 5321, respectively, of Title 42, The Public Health and Welfare.

The Department of Defense Appropriations Act, 2006, referred to in subsec. (c)(6), is div. A of Pub. L. 109-148, Dec. 30, 2005, 119 Stat. 2680. For complete classification of this Act to the Code, see Tables.

The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, referred to in subsec. (c)(6), is Pub. L. 109-234, June 15, 2006, 120 Stat. 418. For complete classification of this Act to the Code, see Tables.

Section 168(k)(2)(D)(i), referred to in subsec. (d)(2)(B)(i), was part of the general amendment of section 168(k)(2) by Pub. L. 114-113, div. Q, §143(b)(1), Dec. 18, 2015, 129 Stat. 3057. Provisions similar to those contained in former cl. (i) of section 168(k)(2)(D) are now contained in section 168(k)(2)(D).

Subsec. (i) of section 172, referred to in subsecs. (i)(2) and (k)(4), was redesignated (h) by Pub. L. 113-295, div. A, title II, §221(a)(30)(A)(ii), Dec. 19, 2014, 128 Stat. 4041.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2014—Subsec. (c)(3)(A)(i). Pub. L. 113-295, §220(q), substituted “section 42(d)(5)(B)(iii)” for “section 42(d)(5)(C)(iii)”.

Subsec. (d)(3)(B). Pub. L. 113-295, §125(d)(5), substituted “January 1, 2015” for “January 1, 2014”.

2013—Subsec. (d)(3)(B). Pub. L. 112-240 substituted “January 1, 2014” for “January 1, 2013”.

2010—Subsec. (a)(2)(D), (7)(C). Pub. L. 111-312, §764(a), substituted “January 1, 2012” for “January 1, 2011”.

Subsec. (c)(5). Pub. L. 111-312, §763, substituted “January 1, 2012” for “January 1, 2011”.

Subsec. (d)(3)(B). Pub. L. 111-312, §401(d)(7), substituted “January 1, 2013” for “January 1, 2011”.

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

Subsec. (d)(6)(B)(ii). Pub. L. 111-312, §765(a)(1), substituted “December 31, 2011” for “December 31, 2010” in subcls. (I) and (II).

Subsec. (d)(6)(D). Pub. L. 111-312, §765(a)(2), substituted “January 1, 2012” for “January 1, 2010” in heading and text.

Subsec. (h). Pub. L. 111-312, §762(a), substituted “December 31, 2011” for “December 31, 2009” in introductory provisions.

2009—Subsec. (d)(3)(B). Pub. L. 111-5, §1201(a)(2)(E), substituted “January 1, 2010” for “January 1, 2009”.

Subsec. (l)(3)(B). Pub. L. 111-5, §1531(c)(3), substituted “I, and J” for “and I”.

2008—Subsec. (a)(8). Pub. L. 110-289, §3082(c)(1), added par. (8).

Subsec. (d)(3)(A). Pub. L. 110-185, §103(c)(9)(A), substituted “December 31, 2007” for “September 10, 2001”.

Subsec. (d)(3)(B). Pub. L. 110-289, §3082(b)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “by substituting ‘January 1, 2008’ for ‘January 1, 2009’ in clause (i) thereof, and”.

Pub. L. 110-185, §103(c)(9)(B), substituted “January 1, 2009” for “January 1, 2005”.

Subsec. (d)(6)(E). Pub. L. 110-185, §103(c)(10), added subpar. (E).

Subsec. (h). Pub. L. 110-343 substituted “December 31, 2009” for “December 31, 2008” in introductory provisions.

Subsec. (l)(3)(B). Pub. L. 110-246, §15316(c)(1), substituted “subparts C and I” for “subpart C”.

2007—Subsec. (a)(7). Pub. L. 110-28, §8223, added par. (7).

Subsec. (c)(3)(A). Pub. L. 110-28, §8222(b)(1), substituted “the period beginning on January 1, 2006, and ending on December 31, 2010” for “2006, 2007, or 2008”.

Subsec. (c)(3)(B)(ii). Pub. L. 110-28, §8222(b)(2), substituted “the period described in subparagraph (A)” for “such period”.

Subsec. (c)(5). Pub. L. 110-28, §8222(a), added par. (5). Former par. (5) redesignated (6).

Subsec. (c)(6). Pub. L. 110-28, §8222(c), added par. (6). Former par. (6) redesignated (7).

Pub. L. 110-28, §8222(a), redesignated par. (5) as (6).

Subsec. (c)(7). Pub. L. 110-28, §8222(c), redesignated par. (6) as (7).

Subsec. (e)(2). Pub. L. 110-28, §8221, substituted “this subsection—”, subpar. (A) heading, and “The term” for “this subsection, the term” and added subpar. (B).

2006—Subsec. (d)(6). Pub. L. 109-432, §120(a), added par. (6).

Subsec. (e)(2). Pub. L. 109-432, §120(b), inserted “without regard to subsection (d)(6)” after “subsection (d)(2)”.

Subsec. (l)(7)(B)(ii). Pub. L. 109-432, §107(b)(2), substituted “1397E(l)” for “1397E(i)”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 125(d)(5) of 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

Amendment by 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)(7) 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, §762(b), Dec. 17, 2010, 124 Stat. 3323, provided that: “The amendment made by this section [amending this section] shall apply to amounts paid or incurred after December 31, 2009.”

Pub. L. 111-312, title VII, §765(b), Dec. 17, 2010, 124 Stat. 3324, provided that: “The amendment made by this section [amending this section] shall apply to property placed in service 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 2009 AMENDMENT

Amendment by section 1201(a)(2)(E) of Pub. L. 111-5 applicable to property placed in service after Dec. 31,

2008, in taxable years ending after such date, see section 1201(c)(1) of Pub. L. 111-5, set out as a note under section 168 of this title.

Amendment by section 1531(c)(3) of Pub. L. 111-5 applicable to obligations issued after Feb. 17, 2009, see section 1531(e) of Pub. L. 111-5, set out as a note under section 54 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title III, §320(b), Oct. 3, 2008, 122 Stat. 3873, provided that: “The amendment made by this section [amending this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Oct. 3, 2008].”

Pub. L. 110-289, div. C, title III, §3082(b)(2), July 30, 2008, 122 Stat. 2907, provided that: “The amendment made by this subsection [amending this section] shall apply to property placed in service after December 31, 2007.”

Pub. L. 110-289, div. C, title III, §3082(c)(2), July 30, 2008, 122 Stat. 2908, provided that: “The amendment made by this subsection [amending this section] shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 [Pub. L. 109-135] to which it relates.”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 15316(c)(1) of Pub. L. 110-246 applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as a note under section 54 of this title.

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 2006 AMENDMENT

Amendment by section 107(b)(2) of Pub. L. 109-432 applicable to obligations issued after Dec. 20, 2006, pursuant to allocations of the national zone academy bond limitation for calendar years after 2005, see section 107(c) of Pub. L. 109-432, set out as a note under section 1397E of this title.

Pub. L. 109-432, div. A, title I, §120(c), Dec. 20, 2006, 120 Stat. 2943, provided that: “The amendments made by this section [amending this section] shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005 [Pub. L. 109-135].”

EFFECTIVE DATE

Pub. L. 109-135, title I, §101(c), Dec. 21, 2005, 119 Stat. 2593, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and section 1400M of this title and amending sections 54 and 6049 of this title] shall apply to taxable years ending on or after August 28, 2005.

“(2) CARRYBACKS.—Subsections (i)(2), (j), and (k) of section 1400N of the Internal Revenue Code of 1986 (as added by this section) shall apply to losses arising in such taxable years.”

§ 1400O. Education tax benefits

In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2)) located in the Gulf Opportunity Zone for any taxable year beginning during 2005 or 2006—

(1) in applying section 25A, the term “qualified tuition and related expenses” shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3)),

(2) each of the dollar amounts in effect under subparagraphs (A) and (B) of section 25A(b)(1) shall be twice the amount otherwise in effect before the application of this subsection, and

(3) section 25A(c)(1) shall be applied by substituting “40 percent” for “20 percent”.

(Added Pub. L. 109-135, title I, §102(a), Dec. 21, 2005, 119 Stat. 2594; amended Pub. L. 110-172, §11(a)(26), Dec. 29, 2007, 121 Stat. 2487.)

AMENDMENTS

2007—Par. (2). Pub. L. 110-172 substituted “under” for “under of”.

§ 1400P. Housing tax benefits

(a) Exclusion of employer provided housing for individual affected by Hurricane Katrina

(1) In general

Gross income of a qualified employee shall not include the value of any lodging furnished in-kind to such employee (and such employee’s spouse or any of such employee’s dependents) by or on behalf of a qualified employer for any month during the taxable year.

(2) Limitation

The amount which may be excluded under paragraph (1) for any month for which lodging is furnished during the taxable year shall not exceed \$600.

(3) Treatment of exclusion

The exclusion under paragraph (1) shall be treated as an exclusion under section 119 (other than for purposes of sections 3121(a)(19) and 3306(b)(14)).

(b) Employer credit for housing employees affected by Hurricane Katrina

For purposes of section 38, in the case of a qualified employer, the Hurricane Katrina housing credit for any month during the taxable year is an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a) and not otherwise excludable under section 119.

(c) Qualified employee

For purposes of this section, the term “qualified employee” means, with respect to any month, an individual—

(1) who had a principal residence (as defined in section 121) in the Gulf Opportunity Zone on August 28, 2005, and

(2) who performs substantially all employment services—

(A) in the Gulf Opportunity Zone, and

(B) for the qualified employer which furnishes lodging to such individual.

(d) Qualified employer

For purposes of this section, the term “qualified employer” means any employer with a trade or business located in the Gulf Opportunity Zone.

(e) Certain rules to apply

For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

(f) Application of section

This section shall apply to lodging furnished during the period—