

quired by State or local law shall not be taken into account in determining the amount of paid family and medical leave provided by the employer.

(5) No inference

Nothing in this subsection shall be construed as subjecting an employer to any penalty, liability, or other consequence (other than ineligibility for the credit allowed by reason of subsection (a) or recapturing the benefit of such credit) for failure to comply with the requirements of this subsection.

(d) Qualifying employees

For purposes of this section, the term “qualifying employee” means any employee (as defined in section 3(e) of the Fair Labor Standards Act of 1938, as amended) who—

(1) has been employed by the employer for 1 year or more, and

(2) for the preceding year, had compensation not in excess of an amount equal to 60 percent of the amount applicable for such year under clause (i) of section 414(q)(1)(B).

(e) Family and medical leave

(1) In general

Except as provided in paragraph (2), for purposes of this section, the term “family and medical leave” means leave for any 1 or more of the purposes described under subparagraph (A), (B), (C), (D), or (E) of paragraph (1), or paragraph (3), of section 102(a) of the Family and Medical Leave Act of 1993, as amended, whether the leave is provided under that Act or by a policy of the employer.

(2) Exclusion

If an employer provides paid leave as vacation leave, personal leave, or medical or sick leave (other than leave specifically for 1 or more of the purposes referred to in paragraph (1)), that paid leave shall not be considered to be family and medical leave under paragraph (1).

(3) Definitions

In this subsection, the terms “vacation leave”, “personal leave”, and “medical or sick leave” mean those 3 types of leave, within the meaning of section 102(d)(2) of that Act.

(f) Determinations made by Secretary of Treasury

For purposes of this section, any determination as to whether an employer or an employee satisfies the applicable requirements for an eligible employer (as described in subsection (c)) or qualifying employee (as described in subsection (d)), respectively, shall be made by the Secretary based on such information, to be provided by the employer, as the Secretary determines to be necessary or appropriate.

(g) Wages

For purposes of this section, the term “wages” has the meaning given such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). Such term shall not include any amount taken into account for purposes of determining any other credit allowed under this subpart.

(h) Election to have credit not apply

(1) In general

A taxpayer may elect to have this section not apply for any taxable year.

(2) Other rules

Rules similar to the rules of paragraphs (2) and (3) of section 51(j) shall apply for purposes of this subsection.

(i) Termination

This section shall not apply to wages paid in taxable years beginning after December 31, 2020.

(Added Pub. L. 115-97, title I, § 13403(a)(1), Dec. 22, 2017, 131 Stat. 2135; amended Pub. L. 116-94, div. Q, title I, § 142(a), Dec. 20, 2019, 133 Stat. 3234.)

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993 and that Act, referred to in subsecs. (c)(2)(B) and (e)(1), (3), is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6. Title I of the Act is classified generally to subchapter I (§ 2611 et seq.) of chapter 28 of Title 29, Labor. Section 102 of the Act is classified to section 2612 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

Section 3(e) of the Fair Labor Standards Act of 1938, referred to in subsec. (d), is classified to section 203(e) of Title 29, Labor.

AMENDMENTS

2019—Subsec. (i). Pub. L. 116-94 substituted “December 31, 2020” for “December 31, 2019”.

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. Q, title I, § 142(b), Dec. 20, 2019, 133 Stat. 3234, provided that: “The amendment made by this section [amending this section] shall apply to wages paid in taxable years beginning after December 31, 2019.”

EFFECTIVE DATE

Section applicable to wages paid in taxable years beginning after Dec. 31, 2017, see section 13403(e) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 38 of this title.

§ 45T. Auto-enrollment option for retirement savings options provided by small employers

(a) In general

For purposes of section 38, in the case of an eligible employer, the retirement auto-enrollment credit determined under this section for any taxable year is an amount equal to—

(1) \$500 for any taxable year occurring during the credit period, and

(2) zero for any other taxable year.

(b) Credit period

For purposes of subsection (a)—

(1) In general

The credit period with respect to any eligible employer is the 3-taxable-year period beginning with the first taxable year for which the employer includes an eligible automatic contribution arrangement (as defined in section 414(w)(3)) in a qualified employer plan (as defined in section 4972(d)) sponsored by the employer.

(2) Maintenance of arrangement

No taxable year with respect to an employer shall be treated as occurring within the credit

period unless the arrangement described in paragraph (1) is included in the plan for such year.

(c) Eligible employer

For purposes of this section, the term “eligible employer” has the meaning given such term in section 408(p)(2)(C)(i).

(Added Pub. L. 116-94, div. O, title I, §105(a), Dec. 20, 2019, 133 Stat. 3148.)

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2019, see section 105(d) of Pub. L. 116-94, set out as an Effective Date of 2019 Amendment note under section 38 of this title.

SUBPART E—RULES FOR COMPUTING INVESTMENT CREDIT

- Sec.
- 46. Amount of credit.
- 47. Rehabilitation credit.
- 48. Energy credit.
- 48A. Qualifying advanced coal project credit.
- 48B. Qualifying gasification project credit.
- 48C. Qualifying advanced energy project credit.
- [48D. Repealed.]
- 49. At-risk rules.
- 50. Other special rules.
- [50A, 50B. Repealed.]

AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, §401(d)(3)(A), Mar. 23, 2018, 132 Stat. 1209, struck out item 48D “Qualifying therapeutic discovery project credit”.

2010—Pub. L. 111-148, title IX, §9023(d), Mar. 23, 2010, 124 Stat. 881, added item 48D.

2009—Pub. L. 111-5, div. B, title I, §1302(c)(2), Feb. 17, 2009, 123 Stat. 348, added item 48C.

2005—Pub. L. 109-58, title XIII, §1307(c)(2), Aug. 8, 2005, 119 Stat. 1006, added items 48A and 48B.

2004—Pub. L. 108-357, title III, §322(d)(2)(C), Oct. 22, 2004, 118 Stat. 1475, which directed amendment of item 48 by striking out “, reforestation credit”, was executed by striking out “; reforestation credit” after “Energy credit” to reflect the probable intent of Congress.

1990—Pub. L. 101-508, title XI, §11813(a), Nov. 5, 1990, 104 Stat. 1388-536, amended heading and analysis generally, substituting in heading “Investment Credit” for “Credit for Investment in Certain Depreciable Property”, in item 47 “Rehabilitation Credit” for “Certain dispositions, etc., of section 38 property”, in item 48 “Energy credit; reforestation credit” for “Definitions; special rules”, in item 49 “At-risk rules” for “Termination of regular percentage”, and adding item 50.

1986—Pub. L. 99-514, title II, §211(c), Oct. 22, 1986, 100 Stat. 2168, added item 49.

1984—Pub. L. 98-369, div. A, title IV, §474(n)(1), July 18, 1984, 98 Stat. 833, substituted “E” for “B” as subpart designation.

1978—Pub. L. 95-600, title III, §312(c)(5), Nov. 6, 1978, 92 Stat. 2826, struck out item 49 “Termination for period beginning April 19, 1969, and ending during 1971” and item 50 “Restoration of credit”.

1971—Pub. L. 92-178, title I, §101(b)(5), Dec. 10, 1971, 85 Stat. 499, substituted “Termination for period beginning April 19, 1969, and ending during 1971” for “Termination of credit” in item 49 and added item 50.

1969—Pub. L. 91-172, title VII, §703(d), Dec. 30, 1969, 83 Stat. 667, added item 49.

1962—Pub. L. 87-834, §2(b), Oct. 16, 1962, 76 Stat. 963, added subpart B.

§ 46. Amount of credit

For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be the sum of—

- (1) the rehabilitation credit,
- (2) the energy credit,
- (3) the qualifying advanced coal project credit,
- (4) the qualifying gasification project credit,
- (5) the qualifying advanced energy project credit, and
- (6) the qualifying therapeutic discovery project credit.

(Added Pub. L. 87-834, §2(b), Oct. 16, 1962, 76 Stat. 963; amended Pub. L. 88-272, title II, §201(d)(4), Feb. 26, 1964, 78 Stat. 32; Pub. L. 89-384, §1(c)(1), Apr. 8, 1966, 80 Stat. 102; Pub. L. 89-389, §2(b)(5), Apr. 14, 1966, 80 Stat. 114; Pub. L. 89-800, §3, Nov. 8, 1966, 80 Stat. 1514; Pub. L. 90-225, §2(a), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-172, title III, §301(b)(4), title IV, §401(e)(1), title VII, §703(b), Dec. 30, 1969, 83 Stat. 585, 603, 666; Pub. L. 92-178, title I, §§102(a)(1), (b), 105(a)-(c), 106(a)-(c), 107(a)(1), 108(a), Dec. 10, 1971, 85 Stat. 499, 503, 506, 507; Pub. L. 93-406, title II, §§2001(g)(2)(B), 2002(g)(2), 2005(c)(4), Sept. 2, 1974, 88 Stat. 957, 968, 991; Pub. L. 94-12, title III, §301(a), (b)(1)-(3), 302(a), (b)(1), Mar. 29, 1975, 89 Stat. 36, 37, 40, 43; Pub. L. 94-455, title V, §503(b)(4), title VIII, §§802(a), (b)(1)-(5), 803(a), (b)(1), 805(a), title XVI, §1607(b)(1)(B), title XVII, §§1701(b), 1703, title XIX, §§1901(a)(4), (b)(1)(C), 1906(b)(13)(A), title XXI, §2112(a)(2), Oct. 4, 1976, 90 Stat. 1562, 1580-1583, 1596, 1756, 1759, 1761, 1764, 1790, 1834, 1905; Pub. L. 95-600, title I, §141(e), (f)(2), title III, §§311(a), (c), 312(a), (b), (c)(2), 313(a), 316(a), (b)(1), (2), title VII, §703(a)(1), (2), (j)(9), Nov. 6, 1978, 92 Stat. 2794, 2795, 2824-2826, 2829, 2939, 2941; Pub. L. 95-618, title II, §241(a), title III, §301(a), (c)(1), Nov. 9, 1978, 92 Stat. 3192, 3194, 3199; Pub. L. 96-222, title I, §§101(a)(7)(A), (L)(iii)(I), (v)(I), (M)(i), 103(a)(2)(A), (B)(i)-(iii), (3), (4)(A), 107(a)(3)(A), Apr. 1, 1980, 94 Stat. 197, 200, 201, 208, 209, 223; Pub. L. 96-223, title II, §§221(a), 222(e)(2), 223(b)(1), Apr. 2, 1980, 94 Stat. 260, 263, 266; Pub. L. 97-34, title II, §§207(c)(1), 211(a)(1), (b), (d), (e)(1), (2), (f)(1), 212(a)(1), (2), title III, §§302(c)(3), (d)(1), 332(a), Aug. 13, 1981, 95 Stat. 225, 227-229, 235, 236, 272, 274, 296; Pub. L. 97-248, title II, §201(d)(8)(A), formerly §201(c)(8)(A), §§205(b), 265(b)(2)(A)(i), Sept. 3, 1982, 96 Stat. 420, 430, 547, renumbered §201(d)(8)(A), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-354, §5(a)(4)-(6), Oct. 19, 1982, 96 Stat. 1692; Pub. L. 97-424, title V, §§541(b), 546(b), Jan. 6, 1983, 96 Stat. 2192, 2199; Pub. L. 97-448, title I, §102(e)(1), (f)(5), title II, §202(f), Jan. 12, 1983, 96 Stat. 2370, 2372, 2396; Pub. L. 98-21, title I, §122(c)(1), Apr. 20, 1983, 97 Stat. 87; Pub. L. 98-369, div. A, title I, §§16(a), 31(f), 113(b)(2)(B), title IV, §§431(a), (b)(1), (d)(1)-(3), 474(o)(1)-(7), title VII, §713(c)(1)(C), July 18, 1984, 98 Stat. 505, 521, 637, 805, 807, 810, 834-836, 957; Pub. L. 99-514, title II, §§201(d)(7)(B), 251(a), title IV, §421(a), (b), title XVIII, §§1802(a)(6), (8), 1844(a), (b)(3), (5), 1847(b)(11), 1848(a), Oct. 22, 1986, 100 Stat. 2141, 2183, 2229, 2789, 2855, 2857; Pub. L. 100-647, title I, §§1002(a)(4), (15), (17), (25), 1009(a)(1), 1013(a)(44), title IV, §4006, Nov. 10, 1988, 102 Stat. 3353, 3355, 3356, 3445, 3545, 3652; Pub. L. 101-239, title VII, §§7106, 7814(d), Dec. 19, 1989, 103 Stat. 2306, 2413; Pub. L. 101-508, title XI, §§11406, 11813(a), Nov. 5, 1990, 104 Stat. 1388-474, 1388-536; Pub. L. 108-357, title III, §322(d)(1), Oct. 22, 2004, 118 Stat. 1475; Pub. L. 109-58, title XIII, §1307(a), Aug. 8, 2005,