

this section [amending this section] shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act [Oct. 3, 2008].”

#### EFFECTIVE DATE

Section applicable to periods after Aug. 8, 2005, under rules similar to the rules of section 48(m) of this title, as in effect on the day before Nov. 5, 1990, see section 1307(d) of Pub. L. 109-58, set out as an Effective Date of 2005 Amendment note under section 46 of this title.

### § 48C. Qualifying advanced energy project credit

#### (a) In general

For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

#### (b) Qualified investment

##### (1) In general

For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project.

##### (2) Certain qualified progress expenditures rules made applicable

Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

##### (3) Limitation

The amount which is treated as the qualified investment for all taxable years with respect to any qualifying advanced energy project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

#### (c) Definitions

##### (1) Qualifying advanced energy project

###### (A) In general

The term “qualifying advanced energy project” means a project—

(i) which re-equips, expands, or establishes a manufacturing facility for the production of—

(I) property designed to be used to produce energy from the sun, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

(II) fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles,

(III) electric grids to support the transmission of intermittent sources of renewable energy, including storage of such energy,

(IV) property designed to capture and sequester carbon dioxide emissions,

(V) property designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies),

(VI) new qualified plug-in electric drive motor vehicles (as defined by section 30D) or components which are designed specifically for use with such vehicles, including electric motors, generators, and power control units, or

(VII) other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary, and

(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

#### (B) Exception

Such term shall not include any portion of a project for the production of any property which is used in the refining or blending of any transportation fuel (other than renewable fuels).

#### (2) Eligible property

The term “eligible property” means any property—

(A) which is necessary for the production of property described in paragraph (1)(A)(i),

(B) which is—

(i) tangible personal property, or

(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified investment credit facility, and

(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

#### (d) Qualifying advanced energy project program

##### (1) Establishment

###### (A) In general

Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced energy project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

###### (B) Limitation

The total amount of credits that may be allocated under the program shall not exceed \$2,300,000,000.

##### (2) Certification

###### (A) Application period

Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require during the 2-year period beginning on the date the Secretary establishes the program under paragraph (1).

###### (B) Time to meet criteria for certification

Each applicant for certification shall have 1 year from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

**(C) Period of issuance**

An applicant which receives a certification shall have 3 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period, then the certification shall no longer be valid.

**(3) Selection criteria**

In determining which qualifying advanced energy projects to certify under this section, the Secretary—

(A) shall take into consideration only those projects where there is a reasonable expectation of commercial viability, and

(B) shall take into consideration which projects—

(i) will provide the greatest domestic job creation (both direct and indirect) during the credit period,

(ii) will provide the greatest net impact in avoiding or reducing air pollutants or anthropogenic emissions of greenhouse gases,

(iii) have the greatest potential for technological innovation and commercial deployment,

(iv) have the lowest levelized cost of generated or stored energy, or of measured reduction in energy consumption or greenhouse gas emission (based on costs of the full supply chain), and

(v) have the shortest project time from certification to completion.

**(4) Review and redistribution****(A) Review**

Not later than 4 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of such date.

**(B) Redistribution**

The Secretary may reallocate credits awarded under this section if the Secretary determines that—

(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

**(C) Reallocation**

If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

**(5) Disclosure of allocations**

The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

**(e) Denial of double benefit**

A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48, 48A, or 48B.

(Added Pub. L. 111-5, div. B, title I, §1302(b), Feb. 17, 2009, 123 Stat. 345; amended Pub. L. 113-295, div. A, title II, §§209(g), 221(a)(2)(C), Dec. 19, 2014, 128 Stat. 4029, 4037.)

## REFERENCES IN TEXT

Subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990), referred to in subsec. (b)(2), means section 46(c)(4) and (d) as in effect before enactment of Pub. L. 101-508, which amended section 46 generally.

The date of enactment of this section, referred to in subsec. (d)(1)(A), (4)(A), is the date of enactment of Pub. L. 111-5, which was approved Feb. 17, 2009.

## AMENDMENTS

2014—Subsec. (b)(3). Pub. L. 113-295, §209(g), inserted “as the qualified investment” after “The amount which is treated”.

Subsec. (c)(1)(A)(i)(VI). Pub. L. 113-295, §221(a)(2)(C), struck out “, qualified plug-in electric vehicles (as defined by section 30(d)),” before “or components”.

## EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 209(g) of Pub. L. 113-295 effective as if included in the provisions of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. 111-5, div. B, title I, to which such amendment relates, see section 209(k) of Pub. L. 113-295, set out as a note under section 24 of this title.

Amendment by section 221(a)(2)(C) of Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

## EFFECTIVE DATE

Section applicable to periods after Feb. 17, 2009, under rules similar to the rules of section 48(m) of this title as in effect on the day before Nov. 5, 1990, see section 1302(d) of Pub. L. 111-5, set out as an Effective Date of 2009 Amendment note under section 46 of this title.

**[§ 48D. Repealed. Pub. L. 115-141, div. U, title IV, § 401(d)(3)(A), Mar. 23, 2018, 132 Stat. 1209]**

Section, added Pub. L. 111-148, title IX, §9023(a), Mar. 23, 2010, 124 Stat. 877, provided for a qualifying therapeutic discovery project credit.

## SAVINGS PROVISION

Pub. L. 115-141, div. U, title IV, §401(d)(3)(C), Mar. 23, 2018, 132 Stat. 1209, provided that: “In the case of the repeal of section 48D(e)(1) of the Internal Revenue Code of 1986, the amendments made by this paragraph [amending sections 49, 50, and 280C of this title and repealing this section] shall not apply to expenditures made in taxable years beginning before January 1, 2011.”

For provisions that nothing in repeal by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

## GRANTS FOR QUALIFIED INVESTMENTS IN THERAPEUTIC DISCOVERY PROJECTS IN LIEU OF TAX CREDITS

Pub. L. 111-148, title IX, §9023(e), Mar. 23, 2010, 124 Stat. 881, directed the Secretary of the Treasury to award grants for 50 percent of a qualified investment in a qualifying therapeutic discovery project in 2009 or 2010 in lieu of tax credit allowed under section 48D of this title.