

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

(B) Changes in form of business

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

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

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

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

REFERENCES IN TEXT

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

PRIOR PROVISIONS

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

AMENDMENTS

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 951(b) of Pub. L. 105-34 effective Aug. 5, 1997, except that designations of new em-

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

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to individuals who begin work for the employer after Sept. 30, 1996, see section 1201(g) of Pub. L. 104-188, set out as a note under section 38 of this title.

§ 1397. Other definitions and special rules

(a) Wages

For purposes of this subpart—

(1) In general

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

(2) Certain training and educational benefits

(A) In general

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

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

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

(B) Related person

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

(b) Controlled groups

For purposes of this subpart—

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

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

(c) Certain other rules made applicable

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

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

PRIOR PROVISIONS

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

SUBPART B—ADDITIONAL EXPENSING

Sec.

1397A. Increase in expensing under section 179.

§ 1397A. Increase in expensing under section 179**(a) General rule**

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

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

(A) \$35,000, or

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

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

(b) Recapture

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

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 2000 AMENDMENT

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

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

Sec.

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

AMENDMENTS

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

§ 1397B. Nonrecognition of gain on rollover of empowerment zone investments**(a) Nonrecognition of gain**

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

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

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

(b) Definitions and special rules

For purposes of this section—

(1) Qualified empowerment zone asset**(A) In general**

The term “qualified empowerment zone asset” means any property which would be a qualified community asset (as defined in section 1400F)¹ if in section 1400F¹—

(i) references to empowerment zones were substituted for references to renewal communities,

(ii) references to enterprise zone businesses (as defined in section 1397C) were substituted for references to renewal community businesses,

(iii) the date of the enactment of this paragraph were substituted for “December 31, 2001” each place it appears, and

(iv) the day after the date set forth in section 1391(d)(1)(A)(i) were substituted for “January 1, 2010” each place it appears.

(B) References

Any reference in this paragraph to section 1400F shall be treated as reference to such section before its repeal.

(2) Certain gain not eligible for rollover

This section shall not apply to—

(A) any gain which is treated as ordinary income for purposes of this subtitle, and

(B) any gain which is attributable to real property, or an intangible asset, which is not an integral part of an enterprise zone business.

(3) Purchase

A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

(4) Basis adjustments

If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified empowerment zone asset which is purchased by the taxpayer during the 60-day period described in subsection (a). This paragraph shall not apply for purposes of section 1202.

(5) Holding period

For purposes of determining whether the nonrecognition of gain under subsection (a) applies to any qualified empowerment zone asset which is sold, the taxpayer's holding period for such asset and the asset referred to in subsection (a)(1) shall be determined without regard to section 1223.

¹ See References in Text note below.