§ 45B. Credit for portion of employer social security taxes paid with respect to employee cash tips

(a) General rule

For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

(b) Excess employer social security tax

For purposes of this section—

(1) In general

The term ''excess employer social security tax'' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

(A) are deemed to have been paid by the employer to the employee pursuant to section 3121(q) (without regard to whether such tips are reported under section 6053), and

(B) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (as in effect on January 1, 2007, and determined without regard to section 3(m) of such Act).

(2) Only tips received for food or beverages taken into account

In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the providing, delivering, or serving of food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary.

(c) Denial of double benefit

No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section.

(d) Election not to claim credit

This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

(Added Pub. L. 103–66, title XIII, § 13443(a), Aug. 10, 1993, 107 Stat. 568; amended Pub. L. 104–188, title I, § 1112(a)(1), (b)(1), Aug. 20, 1996, 110 Stat. 1759; Pub. L. 110–28, title VIII, § 8213(a), May 25, 2007, 121 Stat. 193.)

REFERENCES IN TEXT

Sections 3(m) and 6(a)(1) of the Fair Labor Standards Act of 1938, referred to in subsec. (b)(1)(B), are classified to sections 203(m) and 206(a)(1), respectively, of Title 29, Labor.

AMENDMENTS

2007—Subsec. (b)(1)(B). Pub. L. 110–28 inserted ''as in effect on January 1, 2007, and'' before ''determined without regard to''.

1996—Subsec. (b)(1)(A). Pub. L. 104–188, § 1112(a)(1), inserted ''(without regard to whether such tips are reported under section 6053)'' after ''section 3121(q)''.

Subsec. (b)(2). Pub. L. 104–188, § 1112(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''ONLY TIPS RECEIVED AT FOOD AND BEVERAGE ESTABLISHMENTS TAKEN INTO ACCOUNT.—In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the provision of food or beverages for consumption on the premises of an establishment with respect to which the tipping of employees serving food or beverages by customers is customary.''

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–28, title VIII, § 8213(b), May 25, 2007, 121 Stat. 193, provided that: ''The amendment made by this section [amending this section] shall apply to tips received for services performed after December 31, 2006.''

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–188, title I, § 1112(a)(3), Aug. 20, 1996, 110 Stat. 1759, provided that: ''The amendments made by this subsection [amending this section and provisions set out as a note under section 38 of this title] shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993 [Pub. L. 103–66].''

Pub. L. 104–188, title I, § 1112(b)(2), Aug. 20, 1996, 110 Stat. 1759, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to tips received for services performed after December 31, 1996.''

EFFECTIVE DATE

Section applicable with respect to taxes paid after Dec. 31, 1993, with respect to services performed before, on, or after such date, see section 13443(d) of Pub. L. 103–66, as amended, set out as an Effective Date of 1993 Amendment note under section 38 of this title.

§ 45C. Clinical testing expenses for certain drugs for rare diseases or conditions

(a) General rule

For purposes of section 38, the credit determined under this section for the taxable year is an amount equal to 25 percent of the qualified clinical testing expenses for the taxable year.

(b) Qualified clinical testing expenses

For purposes of this section—

(1) Qualified clinical testing expenses

(A) In general

Except as otherwise provided in this paragraph, the term ''qualified clinical testing expenses'' means the amounts which are paid or incurred by the taxpayer during the taxable year which would be described in subsection (b) of section 41 if such subsection were applied with the modifications set forth in subparagraph (B).

(B) Modifications

For purposes of subparagraph (A), subsection (b) of section 41 shall be applied—

(i) by substituting ''clinical testing'' for ''qualified research'' each place it appears in paragraphs (2) and (3) of such subsection, and

(ii) by substituting ''100 percent'' for ''65 percent'' in paragraph (3)(A) of such subsection.

(C) Exclusion for amounts funded by grants, etc.

The term ''qualified clinical testing expenses'' shall not include any amount to the