

Editorial Notes

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357, §312(a), inserted at end of concluding provisions “For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or by-laws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.”

Subsec. (k). Pub. L. 108-357, §316(a), added subsec. (k).
1990—Subsec. (k). Pub. L. 101-508 struck out subsec. (k) which cross-referenced section 46(h) for provisions relating to apportionment of investment credit between cooperative organizations and their patrons.

1986—Subsecs. (j), (k). Pub. L. 99-272 added subsec. (j) and redesignated former subsec. (j) as (k).

1978—Subsec. (j). Pub. L. 95-600 added subsec. (j).
1976—Subsec. (c)(2)(B)(i). Pub. L. 94-455, §1901(a)(153)(A), substituted “October 16, 1962” for “the date of the enactment of the Revenue Act of 1962”.

Subsec. (h)(2)(B)(i). Pub. L. 94-455, §1901(a)(153)(B), substituted “November 13, 1966” for “the date of the enactment of this subsection”.

1969—Subsec. (f). Pub. L. 91-172 struck out reference to allocations made by organizations other than by payment of money or other property except per-unit retain certificates.

1966—Subsec. (e). Pub. L. 89-809, §211(c)(1), inserted references to per-unit retain certificates.

Subsecs. (f) to (i). Pub. L. 89-809, §211(c)(2), added subsecs. (f) to (i).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title III, §312(b), Oct. 22, 2004, 118 Stat. 1467, provided that: “The amendment made by this section [amending this section] shall apply to distributions in taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].”

Amendment by section 316(a) of Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 316(c) of Pub. L. 108-357, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101-508, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title XIII, §1321(c), Apr. 7, 1986, 100 Stat. 324, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 521 of this title] shall apply to taxable years beginning after December 31, 1962.

“(2) NOTIFICATION REQUIREMENT.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 [now 1986] (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act [Apr. 7, 1986].

“(3) NO INFERENCE.—Nothing in the amendments made by this section [amending this section and section 521 of this title] shall be construed to infer that a change in law is intended as to whether any patronage earnings may or not be offset by nonpatronage losses,

and any determination of such issue shall be made as if such amendments had not been enacted.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years ending after October 31, 1978, see section 316(c) of Pub. L. 95-600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to per-unit retain allocations made after Oct. 9, 1969, see section 911(c) of Pub. L. 91-172, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable to per-unit retain allocations made during taxable years of an organization described in section 1381(a) of this title (relating to organizations to which part I of subchapter T of chapter 1 applies) beginning after Apr. 30, 1966, with respect to products delivered during such years, see section 211(e)(1) of Pub. L. 89-809, set out as a note under section 1382 of this title.

EFFECTIVE DATE

Section applicable, except as otherwise provided, to taxable years of organizations described in section 1381(a) of this title beginning after Dec. 31, 1962, see section 17(c) of Pub. L. 87-834, set out as a note under section 1381 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

PER-UNIT RETAIN CERTIFICATES COVERED BY WRITTEN AGREEMENTS BETWEEN OCT. 14, 1965, AND NOV. 13, 1966: TRANSITION TREATMENT OF BY-LAW PROVISIONS

Pub. L. 89-809, title II, §211(f), Nov. 13, 1966, 80 Stat. 1584, provided that a written agreement between a patron and a cooperative association which met certain qualifications and was entered into after Oct. 14, 1965 and before Nov. 13, 1966, and which was in effect on Nov. 13, 1966, was to be treated for purposes of subsec. (h) of this section as if entered into after Nov. 13, 1966.

Subchapter U—Designation and Treatment of Empowerment Zones, Enterprise Communities, and Rural Development Investment Areas

Part

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| I. | Designation. |
| II. | Tax-exempt facility bonds for empowerment zones and enterprise communities. |
| III. | Additional incentives for empowerment zones. |
| IV. | Incentives for education zones. |
| V. | Regulations. |

Editorial Notes

PRIOR PROVISIONS

A prior subchapter U consisted of sections 1391 to 1397, prior to repeal by Pub. L. 99-514, title XIII, §1303(a), Oct. 22, 1986, 100 Stat. 2658.

AMENDMENTS

1997—Pub. L. 105-34, title II, §226(b)(1), Aug. 5, 1997, 111 Stat. 824, added items for parts IV and V and struck out former item for part IV “Regulations”.

PART I—DESIGNATION

Sec.	
1391.	Designation procedure.
1392.	Eligibility criteria.
1393.	Definitions and special rules.

§ 1391. Designation procedure**(a) In general**

From among the areas nominated for designation under this section, the appropriate Secretaries may designate empowerment zones and enterprise communities.

(b) Number of designations**(1) Enterprise communities**

The appropriate Secretaries may designate in the aggregate 95 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 65 may be designated in urban areas and not more than 30 may be designated in rural areas.

(2) Empowerment zones

The appropriate Secretaries may designate in the aggregate 11 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 8 may be designated in urban areas and not more than 3 may be designated in rural areas. If 8 empowerment zones are designated in urban areas, no less than 1 shall be designated in an urban area the most populous city of which has a population of 500,000 or less and no less than 1 shall be a nominated area which includes areas in 2 States and which has a population of 50,000 or less. The Secretary of Housing and Urban Development shall designate empowerment zones located in urban areas in such a manner that the aggregate population of all such zones does not exceed 1,000,000.

(c) Period designations may be made

A designation may be made under subsection (a) only after 1993 and before 1996.

(d) Period for which designation is in effect**(1) In general**

Any designation under this section shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

- (A)(i) in the case of an empowerment zone, December 31, 2025, or
- (ii) in the case of an enterprise community, the close of the 10th calendar year beginning on or after such date of designation,
- (B) the termination date designated by the State and local governments as provided for in their nomination, or
- (C) the date the appropriate Secretary revokes the designation.

(2) Revocation of designation

The appropriate Secretary may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which it is located—

- (A) has modified the boundaries of the area, or

(B) is not complying substantially with, or fails to make progress in achieving the benchmarks set forth in, the strategic plan under subsection (f)(2).

(e) Limitations on designations

No area may be designated under this section unless—

- (1) the area is nominated by 1 or more local governments and the State or States in which it is located for designation under this section,
- (2) such State or States and the local governments have the authority—
 - (A) to nominate the area for designation under this section, and
 - (B) to provide the assurances described in paragraph (3),
- (3) such State or States and the local governments provide written assurances satisfactory to the appropriate Secretary that the strategic plan described in the application under subsection (f)(2) for such area will be implemented,
- (4) the appropriate Secretary determines that any information furnished is reasonably accurate, and
- (5) such State or States and local governments certify that no portion of the area nominated is already included in an empowerment zone or in an enterprise community or in an area otherwise nominated to be designated under this section.

(f) Application

No area may be designated under this section unless the application for such designation—

- (1) demonstrates that the nominated area satisfies the eligibility criteria described in section 1392,
- (2) includes a strategic plan for accomplishing the purposes of this subchapter that—
 - (A) describes the coordinated economic, human, community, and physical development plan and related activities proposed for the nominated area,
 - (B) describes the process by which the affected community is a full partner in the process of developing and implementing the plan and the extent to which local institutions and organizations have contributed to the planning process,
 - (C) identifies the amount of State, local, and private resources that will be available in the nominated area and the private/public partnerships to be used, which may include participation by, and cooperation with, universities, medical centers, and other private and public entities,
 - (D) identifies the funding requested under any Federal program in support of the proposed economic, human, community, and physical development and related activities,
 - (E) identifies baselines, methods, and benchmarks for measuring the success of carrying out the strategic plan, including the extent to which poor persons and families will be empowered to become economically self-sufficient, and
 - (F) does not include any action to assist any establishment in relocating from one area outside the nominated area to the nom-