

Sec.

Editorial Notes

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).

¹ See References in Text note below.

(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.

(c) Termination

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

(Added Pub. L. 106-554, §1(a)(7) [title I, §116(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602; amended Pub. L. 113-295, div. A, title II, §206(c), Dec. 19, 2014, 128 Stat. 4027; Pub. L. 115-141, div. U, title IV, §401(d)(4)(B)(vii), (5)(B)(iv), (v), Mar. 23, 2018, 132 Stat. 1209, 1210; Pub. L. 116-260, div. EE, title I, §118(c), Dec. 27, 2020, 134 Stat. 3051.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (b)(1)(A)(iii), is the date of enactment of Pub. L. 106-554, which was approved Dec. 21, 2000.

Section 1400F, referred to in subsec. (b)(1), was repealed by Pub. L. 115-141, div. U, title IV, §401(d)(5)(A), Mar. 23, 2018, 132 Stat. 1210.

PRIOR PROVISIONS

A prior section 1397B was renumbered section 1397C of this title.

AMENDMENTS

2020—Subsec. (c). Pub. L. 116-260 added subsec. (c).

2018—Subsec. (b)(1)(B). Pub. L. 115-141, §401(d)(5)(B)(iv), added subpar. (B).

Pub. L. 115-141, §401(d)(4)(B)(vii), struck out subpar. (B). Text read as follows: “The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this section.”

Subsec. (b)(5). Pub. L. 115-141, §401(d)(5)(B)(v), substituted “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.” for “which is sold—

“(A) 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, and

“(B) only the first year of the taxpayer’s holding period for the asset referred to in subsection (a)(1) shall be taken into account for purposes of paragraphs (2)(A)(iii), (3)(C), and (4)(A)(iii) of section 1400F(b).”

2014—Subsec. (b)(1)(A)(iv). Pub. L. 113-295 added cl. (iv).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-260 applicable to taxable years beginning after Dec. 31, 2020, see section 118(e) of

div. EE of Pub. L. 116-260, set out as a note under section 1391 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provisions of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111-312, to which such amendment relates, see section 206(d) of Pub. L. 113-295, set out as a note under section 32 of this title.

EFFECTIVE DATE

Section applicable to qualified empowerment zone assets acquired after Dec. 21, 2000, see section 1(a)(7) [title I, § 116(c)] of Pub. L. 106-554, set out as an Effective Date of 2000 Amendment note under section 1016 of this title.

SAVINGS PROVISION

Amendment by section 401(d)(4)(B)(vii) of Pub. L. 115-141 not applicable to certain obligations issued, DC Zone assets acquired, or principal residences acquired before Jan. 1, 2012, see section 401(d)(4)(C) of Pub. L. 115-141, set out as a note under former section 1400 of this title.

Amendment by section 401(d)(5)(B)(iv), (v) of Pub. L. 115-141 not applicable to certain qualified community assets acquired, wages paid or incurred, qualified revitalization buildings placed in service, or property acquired before Jan. 1, 2010, see section 401(d)(5)(C) of Pub. L. 115-141, set out as a note under former section 1400E of this title.

For provisions that nothing in amendment 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.

SUBPART D—GENERAL PROVISIONS

Sec.	
1397C.	Enterprise zone business defined.
1397D.	Qualified zone property defined.

Editorial Notes

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(7) [title I, §116(a)(1), (b)(7)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602, 2763A-604, redesignated subpart C of this part as this subpart and items for sections 1397B and 1397C as 1397C and 1397D, respectively.

§ 1397C. Enterprise zone business defined

(a) In general

For purposes of this part, the term “enterprise zone business” means—

- (1) any qualified business entity, and
- (2) any qualified proprietorship.

(b) Qualified business entity

For purposes of this section, the term “qualified business entity” means, with respect to any taxable year, any corporation or partnership if for such year—

- (1) every trade or business of such entity is the active conduct of a qualified business within an empowerment zone,
- (2) at least 50 percent of the total gross income of such entity is derived from the active conduct of such business,
- (3) a substantial portion of the use of the tangible property of such entity (whether

owned or leased) is within an empowerment zone,

(4) a substantial portion of the intangible property of such entity is used in the active conduct of any such business,

(5) a substantial portion of the services performed for such entity by its employees are performed in an empowerment zone,

(6) at least 35 percent of its employees are residents of an empowerment zone,

(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

(8) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.

(c) Qualified proprietorship

For purposes of this section, the term “qualified proprietorship” means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

(1) at least 50 percent of the total gross income of such individual from such business is derived from the active conduct of such business in an empowerment zone,

(2) a substantial portion of the use of the tangible property of such individual in such business (whether owned or leased) is within an empowerment zone,

(3) a substantial portion of the intangible property of such business is used in the active conduct of such business,

(4) a substantial portion of the services performed for such individual in such business by employees of such business are performed in an empowerment zone,

(5) at least 35 percent of such employees are residents of an empowerment zone,

(6) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term “employee” includes the proprietor.

(d) Qualified business

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term “qualified business” means any trade or business.

(2) Rental of real property

The rental to others of real property located in an empowerment zone shall be treated as a qualified business if and only if—