

(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—

(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).

(Added Pub. L. 106-554, §1(a)(7) [title I, §116(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602.)

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.

PRIOR PROVISIONS

A prior section 1397B was renumbered section 1397C 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.

SUBPART D—GENERAL PROVISIONS

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

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—

- (A) the property is not residential rental property (as defined in section 168(e)(2)), and
- (B) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.

For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certifi-

cation that such lessee is an enterprise zone business.

(3) Rental of tangible personal property

The rental to others of tangible personal property shall be treated as a qualified business if and only if at least 50 percent of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

(4) Treatment of business holding intangibles

The term “qualified business” shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

(5) Certain businesses excluded

The term “qualified business” shall not include—

(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs¹ (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business,

exceeds \$500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1397(b) shall apply.

(e) Nonqualified financial property

For purposes of this section, the term “nonqualified financial property” means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

(2) debt instruments described in section 1221(a)(4).

(f) Treatment of businesses straddling census tract lines

For purposes of this section, if—

(1) a business entity or proprietorship uses real property located within an empowerment zone,

(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and

all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 552, §1397B; amended Pub. L. 104-188, title I, §1703(m), Aug. 20, 1996, 110 Stat. 1877; Pub. L. 105-34, title IX, §956(a), Aug. 5, 1997, 111 Stat. 890; Pub. L. 106-170, title V, §532(c)(4), Dec. 17, 1999, 113 Stat. 1931; renumbered §1397C, Pub. L. 106-554, §1(a)(7) [title I, §116(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602.)

PRIOR PROVISIONS

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

AMENDMENTS

2000—Pub. L. 106-554 renumbered section 1397B of this title as this section.

1999—Subsec. (e)(2). Pub. L. 106-170 substituted “section 1221(a)(4)” for “section 1221(4)”.

1997—Subsec. (b)(2). Pub. L. 105-34, §956(a)(1), substituted “50 percent” for “80 percent”.

Subsec. (b)(3). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (b)(4). Pub. L. 105-34, §956(a)(2), (3), substituted “a substantial portion” for “substantially all” and struck out “, and exclusively related to,” after “entity is used in”.

Subsec. (b)(5). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (c)(1). Pub. L. 105-34, §956(a)(1), substituted “50 percent” for “80 percent”.

Subsec. (c)(2). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (c)(3). Pub. L. 105-34, §956(a)(2), (3), substituted “a substantial portion” for “substantially all” and struck out “, and exclusively related to,” after “business is used in”.

Subsec. (c)(4). Pub. L. 105-34, §956(a)(2), substituted “a substantial portion” for “substantially all”.

Subsec. (d)(2). Pub. L. 105-34, §956(a)(4), inserted concluding provisions.

Subsec. (d)(3). Pub. L. 105-34, §956(a)(5), substituted “at least 50 percent” for “substantially all”.

Subsec. (f). Pub. L. 105-34, §956(a)(6), added subsec. (f). 1996—Subsec. (d)(5)(B). Pub. L. 104-188 struck out “preceding” before “taxable year” in introductory provisions.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 956(b) of Pub. L. 105-34 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to taxable years beginning on or after the date of the enactment of this Act [Aug. 5, 1997].

“(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

¹ So in original. Probably should be “subparagraph”.

§ 1397D. Qualified zone property defined

(a) General rule

For purposes of this part—

(1) In general

The term “qualified zone property” means any property to which section 168 applies (or would apply but for section 179) if—

(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone took effect,

(B) the original use of which in an empowerment zone commences with the taxpayer, and

(C) substantially all of the use of which is in an empowerment zone and is in the active conduct of a qualified business by the taxpayer in such zone.

(2) Special rule for substantial renovations

In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) \$5,000.

(b) Special rules for sale-leasebacks

For purposes of subsection (a)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 554, §1397C; renumbered §1397D, Pub. L. 106-554, §1(a)(7) [title I, §116(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-602.)

PRIOR PROVISIONS

A prior section 1397D was renumbered section 1397F of this title.

AMENDMENTS

2000—Pub. L. 106-554 renumbered section 1397C of this title as this section.

PART IV—INCENTIVES FOR EDUCATION ZONES

Sec.

1397E. Credit to holders of qualified zone academy bonds.

AMENDMENTS

1997—Pub. L. 105-34, title II, §226(a), Aug. 5, 1997, 111 Stat. 820, added part IV heading and item 1397E. Former part IV, consisting of section 1397D, redesignated V.

§ 1397E. Credit to holders of qualified zone academy bonds

(a) Allowance of credit

In the case of an eligible taxpayer who holds a qualified zone academy bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

(b) Amount of credit

(1) In general

The amount of the credit determined under this subsection with respect to any qualified zone academy bond is the amount equal to the product of—

(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

(B) the face amount of the bond held by the taxpayer on the credit allowance date.

(2) Determination

During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer.

(c) Limitation based on amount of tax

The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(2) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits, and subparts H, I, and J thereof).

(d) Qualified zone academy bond

For purposes of this section—

(1) In general

The term “qualified zone academy bond” means any bond issued as part of an issue if—

(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

(C) the issuer—

(i) designates such bond for purposes of this section,

(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

(iii) certifies that it has the written approval of the eligible local education agency for such bond issuance,

(D) the term of each bond which is part of such issue does not exceed the maximum term permitted under paragraph (3), and