



Tax and Accounting Center

Internal Revenue Code

Subtitle A — INCOME TAXES (Sections 1 to 1564)

Chapter 1 — Normal taxes and surtaxes (Sections 1 to 1400T)

Subchapter A — Determination of tax liability (Sections 1 to 59B)

Part IV — Credits Against Tax (Sections 21 to 54B)

Subpart I — Qualified Tax Credit Bonds (Sections 54A to 54E)

Sec. 54A. Credit To Holders Of Qualified Tax Credit Bonds

54A(a) Allowance Of Credit

If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

54A(b) Amount Of Credit

54A(b)(1) In General

The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

54A(b)(2) Annual Credit

The annual credit determined with respect to any qualified tax credit bond is the product of—

54A(b)(2)(A)

the applicable credit rate, multiplied by

54A(b)(2)(B)

the outstanding face amount of the bond.

54A(b)(3) Applicable Credit Rate

For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

54A(b)(4) Special Rule For Issuance And Redemption

In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

54A(c) Limitation Based On Amount Of Tax

54A(c)(1) In General

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

54A(c)(1)(A)

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

54A(c)(1)(B)

the sum of the credits allowable under this part (other than subpart C and this subpart).

54A(c)(2) Carryover Of Unused Credit

If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

54A(d) Qualified Tax Credit Bond

For purposes of this section--

54A(d)(1) Qualified Tax Credit Bond

The term "qualified tax credit bond" means—

54A(d)(1)(A)

a qualified forestry conservation bond,

54A(d)(1)(B)

a new clean renewable energy bond,

54A(d)(1)(C)

a new clean renewable energy bond which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6) or

54A(d)(1)(D)

a qualified zone academy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).

54A(d)(2) Special Rules Relating To Expenditures**54A(d)(2)(A) In General**

An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

54A(d)(2)(A)(i)

100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

54A(d)(2)(A)(ii)

a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

54A(d)(2)(B) Failure To Spend Required Amount Of Bond Proceeds Within 3 Years

54A(d)(2)(B)(i) In General

To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

54A(d)(2)(B)(ii) Expenditure Period

For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

54A(d)(2)(B)(iii) Extension Of Period

Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

54A(d)(2)(C) Qualified Purpose

For purposes of this paragraph, the term "qualified purpose" means—

54A(d)(2)(C)(i)

in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

54A(d)(2)(C)(ii)

in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

54A(d)(2)(C)(iii)

in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).

54A(d)(2)(C)(iv)

in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1)

54A(d)(2)(D) Reimbursement

For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

54A(d)(2)(D)(i)

prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

54A(d)(2)(D)(ii)

not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

54A(d)(2)(D)(iii)

the reimbursement is made not later than 18 months after the date the original expenditure is paid.

54A(d)(3) Reporting

An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

54A(d)(4) Special Rules Relating To Arbitrage

54A(d)(4)(A) In General

An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

54A(d)(4)(B) Special Rule For Investments During Expenditure Period

An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

54A(d)(4)(C) Special Rule For Reserve Funds

An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

54A(d)(4)(C)(i)

such fund is funded at a rate not more rapid than equal annual installments,

54A(d)(4)(C)(ii)

such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

54A(d)(4)(C)(ii)

the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

54A(d)(5) Maturity Limitation

54A(d)(5)(A) In General

An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

54A(d)(5)(B) Maximum Term

During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

54A(d)(6) Prohibition On Financial Conflicts Of Interest

An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

54A(d)(6)(A)

applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

54A(d)(6)(B)

if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

54A(e) Other Definitions

For purposes of this subchapter—

54A(e)(1) Credit Allowance Date

The term "credit allowance date" means—

54A(e)(1)(A)

March 15,

54A(e)(1)(B)

June 15,

54A(e)(1)(C)

September 15, and

54A(e)(1)(D)

December 15. Such term includes the last day on which the bond is outstanding.

54A(e)(2) Bond

The term "bond" includes any obligation.

54A(e)(3) State

The term "State" includes the District of Columbia and any possession of the United States.

54A(e)(4) Available Project Proceeds

The term "available project proceeds" means

54A(e)(4)(A)

the excess of—

54A(e)(4)(A)(i)

the proceeds from the sale of an issue, over

54A(e)(4)(A)(ii)

the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

54A(e)(4)(B)

the proceeds from any investment of the excess described in subparagraph (A).

54A(f) Credit Treated As Interest

For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

54A(g) S Corporations And Partnerships

In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

54A(h) Bonds Held By Regulated Investment Companies And Real Estate Investment Trusts

If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

54A(i) Credits May Be Stripped

Under regulations prescribed by the Secretary—

54A(i)(1) In General

There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

54A(i)(2) Certain Rules To Apply

In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

(Added by Pub. L. 110-246, title XV, Sec. 15316(a), June 18, 2008, 122 Stat. 1651; and amended by Pub. L. 110-343, div. B, titles I and III, Sec. 107(b), 301(b), div. C, title III, Sec. 313, Oct. 3, 2008, 122 Stat. 3765.)

Background Notes**AMENDMENTS**

2008 - Subsec. (d)(1). Pub. L. 110-343, Div. B, Sec. 107(b)(1), amended par. (1). Before amendment it read as follows:

“(1) Qualified Tax Credit Bond.— The term “qualified tax credit bond” means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).”

Subsec. (d)(1). Pub. L. 110-343, Div. B, Sec. 301(b)(1), amended par. (1) Before amendment it read as follows:

“(1) Qualified Tax Credit Bond.—The term ‘qualified tax credit bond’ means—

“(A) a qualified forestry conservation bond, or

“(B) a new clean renewable energy bond,

“which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).”

Subsec. (d)(1)(B)-(C). Pub. L. 110-343, Div. C, Sec. 313(b)(1), amended par. (1) by striking “or” at the end of subpar. (B), by inserting “or” at the end of subpar. (C), and by adding subpar. (D).

Subsec. (d)(2)(C). Pub. L. 110-343, Div. B, Sec. 107(b)(2), amended subpar. (C). Before amendment it read as follows:

“(C) Qualified Purpose.—For purposes of this paragraph, the term ‘qualified purpose’ means a purpose specified in section 54B(e).”

Subsec. (d)(2)(C). Pub. L. 110-343, Div. B, Sec. 301(b)(2), amended subpar. (C). Before amendment it read as follows:

“(C) Qualified Purpose.—For purposes of this paragraph, the term ‘qualified purpose’ means—

“(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

“(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).”

Subsec. (d)(2)(C)(ii)-(iv). Pub. L. 110-343, Div. C, Sec. 313(b)(2), amended subpar. (C) by striking “or” at the end of clause (ii), by substituting “, or” for the period at the end of clause (iii), and by adding clause (iv).

EFFECTIVE DATE OF 2008 AMENDMENTS

Amendments by Div. B, Sec. 107(b) of Pub. L. 110-343 effective for obligations issued after the date of the enactment of this Act [Enacted: Oct. 3, 2008].

Amendments by Div. B, Sec. 301(b) of Pub. L. 110-343 effective for obligations issued after the enactment of this Act [Enacted: Oct. 3, 2008].

Amendments by Div. C, Sec. 313(b) of Pub. L. 110-343 effective for property placed in service after December 31, 2007.

EFFECTIVE DATE

Effective for obligations issued after the date of the enactment of this Act [Effective date: May 22, 2008]. Note that the original provisions of Pub. L. 110-246 were enacted as Pub. L. 110-234 on May 22, 2008, but were repealed by Pub. L. 110-246, Sec. 4, effective May 22, 2008. Sec. 4 of Pub. L. 110-246 provided that:

“Sec. 4. Repeal of Duplicative Enactment.

“(a) In General.—The Act entitled ‘An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes’ (H.R. 2419 of the 110th Congress), and the amendments made by that Act, are repealed, effective on the date of the enactment of that Act.

“(b) Effective Date.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the earlier of—

“(1) the date of enactment of this Act [Enacted: June 18, 2008]; or

“(2) the date of the enactment of the Act entitled ‘An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes’ (H.R. 2419 of the 110th Congress) [Enacted: May 22, 2008].”

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