

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-123, div. D, title I, § 40402(c), Feb. 9, 2018, 132 Stat. 148, provided that: “The amendment made by this section [amending this section] shall apply to property placed in service after December 31, 2016.”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. P, title III, § 304(b), Dec. 18, 2015, 129 Stat. 3040, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2017.”

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to taxable years beginning after Dec. 31, 2011, see section 104(d) of Pub. L. 112-240, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 1103(b)(2)(B) of Pub. L. 111-5 applicable to taxable years beginning after Dec. 31, 2008, see section 1103(c)(2) of Pub. L. 111-5, set out as a note under section 25C of this title.

Pub. L. 111-5, div. B, title I, § 1122(b), Feb. 17, 2009, 123 Stat. 324, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2008.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable to taxable years beginning after Dec. 31, 2007, except that amendment by section 106(b) of Pub. L. 110-343 applicable to taxable years beginning after Dec. 31, 2008, see section 106(f)(1), (2) of Pub. L. 110-343, set out as an Effective and Termination Dates of 2008 Amendment note under section 23 of this title.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by section 402(i)(3)(E) of Pub. L. 109-135 subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, § 901, in the same manner as the provisions of such Act to which such amendment relates, see section 402(i)(3)(H) of Pub. L. 109-135, set out as a note under section 23 of this title. Title IX of Pub. L. 107-16 was repealed by Pub. L. 112-240, title I, § 101(a)(1), Jan. 2, 2013, 126 Stat. 2315.

Amendments by Pub. L. 109-135 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which they relate, except that amendment by section 402(i)(3)(E) of Pub. L. 109-135 is applicable to taxable years beginning after Dec. 31, 2005, see section 402(m) of Pub. L. 109-135, set out as a note under section 23 of this title.

EFFECTIVE DATE

Section applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1335(c) of Pub. L. 109-58, set out as an Effective and Termination Dates of 2005 Amendments note under section 23 of this title.

§ 25E. Previously-owned clean vehicles**(a) Allowance of credit**

In the case of a qualified buyer who during a taxable year places in service a previously-owned clean vehicle, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

- (1) \$4,000, or
- (2) the amount equal to 30 percent of the sale price with respect to such vehicle.

(b) Limitation based on modified adjusted gross income**(1) In general**

No credit shall be allowed under subsection (a) for any taxable year if—

- (A) the lesser of—
 - (i) the modified adjusted gross income of the taxpayer for such taxable year, or
 - (ii) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds
- (B) the threshold amount.

(2) Threshold amount

For purposes of paragraph (1)(B), the threshold amount shall be—

- (A) in the case of a joint return or a surviving spouse (as defined in section 2(a)), \$150,000,
- (B) in the case of a head of household (as defined in section 2(b)), \$112,500, and
- (C) in the case of a taxpayer not described in subparagraph (A) or (B), \$75,000.

(3) Modified adjusted gross income

For purposes of this subsection, the term “modified adjusted gross income” means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

(c) Definitions

For purposes of this section—

(1) Previously-owned clean vehicle

The term “previously-owned clean vehicle” means, with respect to a taxpayer, a motor vehicle—

- (A) the model year of which is at least 2 years earlier than the calendar year in which the taxpayer acquires such vehicle,
- (B) the original use of which commences with a person other than the taxpayer,
- (C) which is acquired by the taxpayer in a qualified sale, and
- (D) which—
 - (i) meets the requirements of subparagraphs (C), (D), (E), (F), and (H) (except for clause (iv) thereof) of section 30D(d)(1), or
 - (ii) is a motor vehicle which—
 - (I) satisfies the requirements under subparagraphs (A) and (B) of section 30B(b)(3), and
 - (II) has a gross vehicle weight rating of less than 14,000 pounds.

(2) Qualified sale

The term “qualified sale” means a sale of a motor vehicle—

- (A) by a dealer (as defined in section 30D(g)(8)),
- (B) for a sale price which does not exceed \$25,000, and
- (C) which is the first transfer since the date of the enactment of this section to a qualified buyer other than the person with whom the original use of such vehicle commenced.

(3) Qualified buyer

The term “qualified buyer” means, with respect to a sale of a motor vehicle, a taxpayer—

- (A) who is an individual,
- (B) who purchases such vehicle for use and not for resale,
- (C) with respect to whom no deduction is allowable with respect to another taxpayer under section 151, and
- (D) who has not been allowed a credit under this section for any sale during the 3-year period ending on the date of the sale of such vehicle.

(4) Motor vehicle; capacity

The terms “motor vehicle” and “capacity” have the meaning given such terms in paragraphs (2) and (4) of section 30D(d), respectively.

(d) VIN number requirement

No credit shall be allowed under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

(e) Application of certain rules

For purposes of this section, rules similar to the rules of section 30D(f) (without regard to paragraph (10) or (11) thereof) shall apply for purposes of this section.

(f) Transfer of credit

Rules similar to the rules of section 30D(g) shall apply.

(g) Termination

No credit shall be allowed under this section with respect to any vehicle acquired after December 31, 2032.

(Added and amended Pub. L. 117-169, title I, §13402(a), (b), Aug. 16, 2022, 136 Stat. 1962, 1963.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2)(C), is the date of enactment of Pub. L. 117-169, which was approved Aug. 16, 2022.

AMENDMENTS

2022—Subsecs. (f), (g). Pub. L. 117-169, §13402(b), added subsec. (f) and redesignated former subsec. (f) as (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117-169, title I, §13402(e), Aug. 16, 2022, 136 Stat. 1964, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending this section and section 6213 of this title] shall apply to vehicles acquired after December 31, 2022.

“(2) TRANSFER OF CREDIT.—The amendments made by subsection (b) [amending this section] shall apply to vehicles acquired after December 31, 2023.”

§ 26. Limitation based on tax liability; definition of tax liability

(a) Limitation based on amount of tax

The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—

- (1) the taxpayer’s regular tax liability for the taxable year reduced by the foreign tax credit allowable under section 27, and

- (2) the tax imposed by section 55(a) for the taxable year.

(b) Regular tax liability

For purposes of this part—

(1) In general

The term “regular tax liability” means the tax imposed by this chapter for the taxable year.

(2) Exception for certain taxes

For purposes of paragraph (1), any tax imposed by any of the following provisions shall not be treated as tax imposed by this chapter:

- (A) section 55 (relating to minimum tax),
- (B) section 59A (relating to base erosion and anti-abuse tax),
- (C) subsection (m)(5)(B), (q), (t), or (v) of section 72 (relating to additional taxes on certain distributions),
- (D) section 143(m) (relating to recapture of proration of Federal subsidy from use of mortgage bonds and mortgage credit certificates),
- (E) section 530(d)(4) (relating to additional tax on certain distributions from Coverdell education savings accounts),
- (F) section 531 (relating to accumulated earnings tax),
- (G) section 541 (relating to personal holding company tax),
- (H) section 1351(d)(1) (relating to recoveries of foreign expropriation losses),
- (I) section 1374 (relating to tax on certain built-in gains of S corporations),
- (J) section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts),
- (K) subparagraph (A) of section 7518(g)(6) (relating to nonqualified withdrawals from capital construction funds taxed at highest marginal rate),
- (L) sections 871(a) and 881 (relating to certain income of nonresident aliens and foreign corporations),
- (M) section 860E(e) (relating to taxes with respect to certain residual interests),
- (N) section 884 (relating to branch profits tax),
- (O) sections 453(l)(3) and 453A(c) (relating to interest on certain deferred tax liabilities),
- [(P) Repealed. Pub. L. 115-141, div. U, title IV, §401(b)(2), Mar. 23, 2018, 132 Stat. 1201.]
- (Q) section 220(f)(4) (relating to additional tax on Archer MSA distributions not used for qualified medical expenses),
- (R) section 138(c)(2) (relating to penalty for distributions from Medicare Advantage MSA not used for qualified medical expenses if minimum balance not maintained),
- (S) sections 106(e)(3)(A)(ii), 223(b)(8)(B)(i)(II), and 408(d)(9)(D)(i)(II) (relating to certain failures to maintain high deductible health plan coverage),
- (T) section 170(o)(3)(B) (relating to recapture of certain deductions for fractional gifts),
- (U) section 223(f)(4) (relating to additional tax on health savings account distributions not used for qualified medical expenses),