

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109-58 substituted “section 45K(d)(2)(C)” for “section 29(d)(2)(C)”.

Subsec. (c)(5). Pub. L. 109-135 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of paragraph (1)(D)—

“(1) IN GENERAL.—The term ‘Alaska natural gas’ means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(16) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

“(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

“(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

“(2) NATURAL GAS.—The term ‘natural gas’ has the meaning given such term by section 613A(e)(2).”

2004—Subsec. (c)(1)(D). Pub. L. 108-357, §707(a), added subpar. (D).

Subsec. (c)(5). Pub. L. 108-357, §707(b), added par. (5).

2000—Subsec. (c)(1)(C). Pub. L. 106-554 inserted “(as defined in section 193(b))” after “expenses” and struck out “under section 193” after “allowable”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-58 applicable to credits determined under the Internal Revenue Code of 1986 for taxable years ending after Dec. 31, 2005, see section 1322(c)(1) of Pub. L. 109-58, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VII, §707(c), Oct. 22, 2004, 118 Stat. 1550, provided that: “The amendment made by this section [amending this section] shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §317(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 11511 of the Revenue Reconciliation Act of 1990 [Pub. L. 101-508].”

EFFECTIVE DATE

Pub. L. 101-508, title XI, §11511(d), Nov. 5, 1990, 104 Stat. 1388-485, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and amending sections 38, 39, 196, and 6501 of this title] shall apply to costs paid or incurred in taxable years beginning after December 31, 1990.

“(2) SPECIAL RULE FOR SIGNIFICANT EXPANSION OF PROJECTS.—For purposes of section 43(c)(2)(A)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), any significant expansion after December 31, 1990, of a project begun before January 1, 1991, shall be treated as a project with respect to which the first injection commences after December 31, 1990.”

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

Provisions relating to inflation adjustment of items in this section for certain years were contained in the following:

2023—Internal Revenue Notice 2023-57.

2022—Internal Revenue Notice 2022-19.

2021—Internal Revenue Notice 2021-47.

2020—Internal Revenue Notice 2020-31.

2019—Internal Revenue Notice 2019-36.
2018—Internal Revenue Notice 2018-49.
2017—Internal Revenue Notice 2017-25.
2016—Internal Revenue Notice 2016-44.
2015—Internal Revenue Notice 2015-64.
2014—Internal Revenue Notice 2014-64.
2013—Internal Revenue Notice 2013-50.
2012—Internal Revenue Notice 2012-49.
2011—Internal Revenue Notice 2011-57.
2010—Internal Revenue Notice 2010-72.
2009—Internal Revenue Notice 2009-73.
2008—Internal Revenue Notice 2008-72.
2007—Internal Revenue Notice 2007-64.
2006—Internal Revenue Notice 2006-62.
2005—Internal Revenue Notice 2005-56.
2004—Internal Revenue Notice 2004-49.
2003—Internal Revenue Notice 2003-43.
2002—Internal Revenue Notice 2002-53.
2001—Internal Revenue Notice 2001-54.
2000—Internal Revenue Notice 2000-51.
1999—Internal Revenue Notice 99-45.
1998—Internal Revenue Notice 98-41.
1997—Internal Revenue Notice 97-39.
1996—Internal Revenue Notice 96-41.

§ 44. Expenditures to provide access to disabled individuals

(a) General rule

For purposes of section 38, in the case of an eligible small business, the amount of the disabled access credit determined under this section for any taxable year shall be an amount equal to 50 percent of so much of the eligible access expenditures for the taxable year as exceed \$250 but do not exceed \$10,250.

(b) Eligible small business

For purposes of this section, the term “eligible small business” means any person if—

(1) either—

(A) the gross receipts of such person for the preceding taxable year did not exceed \$1,000,000, or

(B) in the case of a person to which subparagraph (A) does not apply, such person employed not more than 30 full-time employees during the preceding taxable year, and

(2) such person elects the application of this section for the taxable year.

For purposes of paragraph (1)(B), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

(c) Eligible access expenditures

For purposes of this section—

(1) In general

The term “eligible access expenditures” means amounts paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements under the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

(2) Certain expenditures included

The term “eligible access expenditures” includes amounts paid or incurred—

(A) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business

from being accessible to, or usable by, individuals with disabilities,

(B) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,

(C) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments,

(D) to acquire or modify equipment or devices for individuals with disabilities, or

(E) to provide other similar services, modifications, materials, or equipment.

(3) Expenditures must be reasonable

Amounts paid or incurred for the purposes described in paragraph (2) shall include only expenditures which are reasonable and shall not include expenditures which are unnecessary to accomplish such purposes.

(4) Expenses in connection with new construction are not eligible

The term “eligible access expenditures” shall not include amounts described in paragraph (2)(A) which are paid or incurred in connection with any facility first placed in service after the date of the enactment of this section.

(5) Expenditures must meet standards

The term “eligible access expenditures” shall not include any amount unless the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any barrier (or the provision of any services, modifications, materials, or equipment) meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

(d) Definition of disability; special rules

For purposes of this section—

(1) Disability

The term “disability” has the same meaning as when used in the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

(2) Controlled groups

(A) In general

All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person for purposes of this section.

(B) Dollar limitation

The Secretary shall apportion the dollar limitation under subsection (a) among the members of any group described in subparagraph (A) in such manner as the Secretary shall by regulations prescribe.

(3) Partnerships and S corporations

In the case of a partnership, the limitation under subsection (a) shall apply with respect to the partnership and each partner. A similar

rule shall apply in the case of an S corporation and its shareholders.

(4) Short years

The Secretary shall prescribe such adjustments as may be appropriate for purposes of paragraph (1) of subsection (b) if the preceding taxable year is a taxable year of less than 12 months.

(5) Gross receipts

Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

(6) Treatment of predecessors

The reference to any person in paragraph (1) of subsection (b) shall be treated as including a reference to any predecessor.

(7) Denial of double benefit

In the case of the amount of the credit determined under this section—

(A) no deduction or credit shall be allowed for such amount under any other provision of this chapter, and

(B) no increase in the adjusted basis of any property shall result from such amount.

(e) Regulations

The Secretary shall prescribe regulations necessary to carry out the purposes of this section.

(Added Pub. L. 101-508, title XI, §11611(a), Nov. 5, 1990, 104 Stat. 1388-501.)

Editorial Notes

REFERENCES IN TEXT

The Americans With Disabilities Act of 1990, referred to in subsecs. (c)(1) and (d)(1) is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The date of the enactment of this section, referred to in subsecs. (c)(1), (4) and (d)(1), is the date of enactment of Pub. L. 101-508, which was approved Nov. 5, 1990.

PRIOR PROVISIONS

A prior section 44, added Pub. L. 94-12, title II, §208(a), Mar. 29, 1975, 89 Stat. 32; amended Pub. L. 94-45, title IV, §401(a), June 30, 1975, 89 Stat. 243; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to purchase of new principal residence, prior to repeal by Pub. L. 98-369, div. A, title IV, §474(m)(1), July 18, 1984, 98 Stat. 833, applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years.

Another prior section 44 was renumbered section 37 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to expenditures paid or incurred after Nov. 5, 1990, see section 11611(e)(1) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 38 of this title.

[§ 44A. Renumbered § 21]

[§ 44B. Repealed. Pub. L. 98-369, div. A, title IV, § 474(m)(1), July 18, 1984, 98 Stat. 833]

Section, added Pub. L. 95-30, title II, §202(a), May 23, 1977, 91 Stat. 141; amended Pub. L. 95-600, title III,