(A) by substituting ''35 percent (25 percent in the case of a tax-exempt eligible small employer)'' for ''50 percent (35 percent in the case of a tax-exempt eligible small employer)'',

(B) by reference to an eligible small employer's nonelective contributions for premiums paid for health insurance coverage (within the meaning of section 9832(b)(1)) of an employee, and

(C) by substituting for the average premium determined under subsection (b)(2) the amount the Secretary of Health and Human Services determines is the average premium for the small group market in the State in which the employer is offering health insurance coverage (or for such area within the State as is specified by the Secretary).

(3) Contribution arrangement

An arrangement shall not fail to meet the requirements of subsection (d)(4) solely because it provides for the offering of insurance outside of an Exchange.

(h) Insurance definitions

Any term used in this section which is also used in the Public Health Service Act or subtitle A of title I of the Patient Protection and Affordable Care Act shall have the meaning given such term by such Act or subtitle.

(i) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of the 2-year limit on the credit period through the use of successor entities and the avoidance of the limitations under subsection (c) through the use of multiple entities.

(Added and amended Pub. L. 111–148, title I, § 1421(a), title X, § 10105(e)(1), (2), Mar. 23, 2010, 124 Stat. 237, 906; Pub. L. 115–97, title I, § 11002(d)(1)(H), Dec. 22, 2017, 131 Stat. 2060.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

Editorial Notes

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (h), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§ 201 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 201 of Title 42 and Tables.

The Patient Protection and Affordable Care Act, referred to in subsec. (h), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119. Subtitle A (§§ 1001 to 1004) of title I of the Act enacted sections 300gg–11 to 300gg–19, 300gg–93, and 300gg–94 of Title 42, The Public Health and Welfare, redesignated sections 300gg–4 to 300gg–7 of Title 42 as sections 300gg–25 to 300gg–28, respectively, of Title 42, and section 300gg–13 of Title 42 as section 300gg–9 of Title 42, amended former sections 300gg–11 and 300gg–12 and sections 300gg–21 to 300gg–23 of Title 42, and enacted provisions set out as a note under section 300gg–11 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of Title 42 and Tables.

AMENDMENTS

2017—Subsec. (d)(3)(B)(ii). Pub. L. 115–97 substituted ''for 'calendar year 2016' in subparagraph (A)(ii)'' for ''for 'calendar year 1992' in subparagraph (B)''.

2010—Subsec. (d)(3)(B). Pub. L. 111–148, § 10105(e)(1), amended subpar. (B) generally, including dollar amount for taxable years beginning in 2010 in addition to dollar amounts for taxable years beginning in 2011, 2012, and 2013, and subsequent years.

Subsec. (g). Pub. L. 111–148, § 10105(e)(2), substituted ''2010, 2011'' for ''2011'' in heading and in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115–97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–148, title X, § 10105(e)(5), Mar. 23, 2010, 124 Stat. 907, provided that: ''The amendments made by this subsection [amending this section, section 280C of this title, and provisions set out as a note under section 38 of this title] shall take effect as if included in the enactment of section 1421 of this Act.''

EFFECTIVE DATE

Section applicable to amounts paid or incurred in taxable years beginning after Dec. 31, 2009, see section 1421(f)(1) of Pub. L. 111–148, set out as an Effective Date of 2010 Amendment note under section 38 of this title.

§ 45S. Employer credit for paid family and medical leave

(a) Establishment of credit

(1) In general

For purposes of section 38, in the case of an eligible employer, the paid family and medical leave credit is an amount equal to the applicable percentage of the amount of wages paid to qualifying employees during any period in which such employees are on family and medical leave.

(2) Applicable percentage

For purposes of paragraph (1), the term ''applicable percentage'' means 12.5 percent increased (but not above 25 percent) by 0.25 percentage points for each percentage point by which the rate of payment (as described under subsection (c)(1)(B)) exceeds 50 percent.

(b) Limitation

(1) In general

The credit allowed under subsection (a) with respect to any employee for any taxable year shall not exceed an amount equal to the product of the normal hourly wage rate of such employee for each hour (or fraction thereof) of actual services performed for the employer and the number of hours (or fraction thereof) for which family and medical leave is taken.

(2) Non-hourly wage rate

For purposes of paragraph (1), in the case of any employee who is not paid on an hourly wage rate, the wages of such employee shall be prorated to an hourly wage rate under regulations established by the Secretary.

(3) Maximum amount of leave subject to credit

The amount of family and medical leave that may be taken into account with respect

to any employee under subsection (a) for any taxable year shall not exceed 12 weeks.

(c) Eligible employer

For purposes of this section—

(1) In general

The term ''eligible employer'' means any employer who has in place a written policy that meets the following requirements:

(A) The policy provides—

(i) in the case of a qualifying employee who is not a part-time employee (as defined in section 4980E(d)(4)(B)), not less than 2 weeks of annual paid family and medical leave, and

(ii) in the case of a qualifying employee who is a part-time employee, an amount of annual paid family and medical leave that is not less than an amount which bears the same ratio to the amount of annual paid family and medical leave that is provided to a qualifying employee described in clause (i) as—

(I) the number of hours the employee is expected to work during any week, bears to

(II) the number of hours an equivalent qualifying employee described in clause (i) is expected to work during the week.

(B) The policy requires that the rate of payment under the program is not less than 50 percent of the wages normally paid to such employee for services performed for the employer.

(2) Special rule for certain employers

(A) In general

An added employer shall not be treated as an eligible employer unless such employer provides paid family and medical leave in compliance with a written policy which ensures that the employer—

(i) will not interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under the policy, and

(ii) will not discharge or in any other manner discriminate against any individual for opposing any practice prohibited by the policy.

(B) Added employer; added employee

For purposes of this paragraph—

(i) Added employee

The term ''added employee'' means a qualifying employee who is not covered by title I of the Family and Medical Leave Act of 1993, as amended.

(ii) Added employer

The term ''added employer'' means an eligible employer (determined without regard to this paragraph), whether or not covered by that title I, who offers paid family and medical leave to added employees.

(3) Aggregation rule

All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

(4) Treatment of benefits mandated or paid for by state or local governments

For purposes of this section, any leave which is paid by a State or local government or required by State or local law shall not be taken into account in determining the amount of paid family and medical leave provided by the employer.

(5) No inference

Nothing in this subsection shall be construed as subjecting an employer to any penalty, liability, or other consequence (other than ineligibility for the credit allowed by reason of subsection (a) or recapturing the benefit of such credit) for failure to comply with the requirements of this subsection.

(d) Qualifying employees

For purposes of this section, the term ''qualifying employee'' means any employee (as defined in section 3(e) of the Fair Labor Standards Act of 1938, as amended) who—

(1) has been employed by the employer for 1 year or more, and

(2) for the preceding year, had compensation not in excess of an amount equal to 60 percent of the amount applicable for such year under clause (i) of section 414(q)(1)(B).

(e) Family and medical leave

(1) In general

Except as provided in paragraph (2), for purposes of this section, the term ''family and medical leave'' means leave for any 1 or more of the purposes described under subparagraph (A), (B), (C), (D), or (E) of paragraph (1), or paragraph (3), of section 102(a) of the Family and Medical Leave Act of 1993, as amended, whether the leave is provided under that Act or by a policy of the employer.

(2) Exclusion

If an employer provides paid leave as vacation leave, personal leave, or medical or sick leave (other than leave specifically for 1 or more of the purposes referred to in paragraph (1)), that paid leave shall not be considered to be family and medical leave under paragraph (1).

(3) Definitions

In this subsection, the terms ''vacation leave'', ''personal leave'', and ''medical or sick leave'' mean those 3 types of leave, within the meaning of section 102(d)(2) of that Act.

(f) Determinations made by Secretary of Treasury

For purposes of this section, any determination as to whether an employer or an employee satisfies the applicable requirements for an eligible employer (as described in subsection (c)) or qualifying employee (as described in subsection (d)), respectively, shall be made by the Secretary based on such information, to be provided by the employer, as the Secretary determines to be necessary or appropriate.

(g) Wages

For purposes of this section, the term ''wages'' has the meaning given such term by subsection (b) of section 3306 (determined without regard to

any dollar limitation contained in such section). Such term shall not include any amount taken into account for purposes of determining any other credit allowed under this subpart.

(h) Election to have credit not apply

(1) In general

A taxpayer may elect to have this section not apply for any taxable year.

(2) Other rules

Rules similar to the rules of paragraphs (2) and (3) of section 51(j) shall apply for purposes of this subsection.

(i) Termination

This section shall not apply to wages paid in taxable years beginning after December 31, 2025.

(Added Pub. L. 115–97, title I, § 13403(a)(1), Dec. 22, 2017, 131 Stat. 2135; amended Pub. L. 116–94, div. Q, title I, § 142(a), Dec. 20, 2019, 133 Stat. 3234; Pub. L. 116–260, div. EE, title I, § 119(a), Dec. 27, 2020, 134 Stat. 3051.)

Editorial Notes

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993 and that Act, referred to in subsecs. (c)(2)(B) and (e)(1), (3), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6. Title I of the Act is classified generally to subchapter I (§ 2611 et seq.) of chapter 28 of Title 29, Labor. Section 102 of the Act is classified to section 2612 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

Section 3(e) of the Fair Labor Standards Act of 1938, referred to in subsec. (d), is classified to section 203(e) of Title 29, Labor.

AMENDMENTS

2020—Subsec. (i). Pub. L. 116–260 substituted ''December 31, 2025'' for ''December 31, 2020''.

2019—Subsec. (i). Pub. L. 116–94 substituted ''December 31, 2020'' for ''December 31, 2019''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–260, div. EE, title I, § 119(b), Dec. 27, 2020, 134 Stat. 3051, provided that: ''The amendment made by this section [amending this section] shall apply to wages paid in taxable years beginning after December 31, 2020.''

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–94, div. Q, title I, § 142(b), Dec. 20, 2019, 133 Stat. 3234, provided that: ''The amendment made by this section [amending this section] shall apply to wages paid in taxable years beginning after December 31, 2019.''

EFFECTIVE DATE

Section applicable to wages paid in taxable years beginning after Dec. 31, 2017, see section 13403(e) of Pub. L. 115–97, set out as an Effective Date of 2017 Amendment note under section 38 of this title.

§ 45T. Auto-enrollment option for retirement savings options provided by small employers

(a) In general

For purposes of section 38, in the case of an eligible employer, the retirement auto-enrollment credit determined under this section for any taxable year is an amount equal to—

(1) $500 for any taxable year occurring during the credit period, and

(2) zero for any other taxable year.

(b) Credit period

For purposes of subsection (a)—

(1) In general

The credit period with respect to any eligible employer is the 3-taxable-year period beginning with the first taxable year for which the employer includes an eligible automatic contribution arrangement (as defined in section 414(w)(3)) in a qualified employer plan (as defined in section 4972(d)) sponsored by the employer.

(2) Maintenance of arrangement

No taxable year with respect to an employer shall be treated as occurring within the credit period unless the arrangement described in paragraph (1) is included in the plan for such year.

(c) Eligible employer

For purposes of this section, the term ''eligible employer'' has the meaning given such term in section 408(p)(2)(C)(i).

(Added Pub. L. 116–94, div. O, title I, § 105(a), Dec. 20, 2019, 133 Stat. 3148.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2019, see section 105(d) of Pub. L. 116–94, set out as an Effective Date of 2019 Amendment note under section 38 of this title.

§ 45U. Zero-emission nuclear power production credit

(a) Amount of credit

For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—

(1) the product of—

(A) 0.3 cents, multiplied by

(B) the kilowatt hours of electricity—

(i) produced by the taxpayer at a qualified nuclear power facility, and

(ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds

(2) the reduction amount for such taxable year.

(b) Definitions

(1) Qualified nuclear power facility

For purposes of this section, the term ''qualified nuclear power facility'' means any nuclear facility—

(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity,

(B) which is not an advanced nuclear power facility as defined in subsection (d)(1) of section 45J, and

(C) which is placed in service before the date of the enactment of this section.

(2) Reduction amount

(A) In general

For purposes of this section, the term ''reduction amount'' means, with respect to any