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Internal Revenue Code Section 51(d)(13)(D)

Amount of credit

(a) Determination of amount.

For purposes of section 38, the amount of the work opportunity credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first-year wages for such year.

(b) Qualified wages defined.

For purposes of this subpart-

(1) In general.

The term "qualified wages" means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

(2) Qualified first-year wages.

The term "qualified first-year wages" means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

(3) Limitation on wages per year taken into account.

The amount of the qualified first-year wages which may be taken into account with respect to any individual shall not exceed \$6,000 per year (\$12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(I), \$14,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(iv), and \$24,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(II)).

(c) Wages defined.

For purposes of this subpart-

(1) In general.

Except as otherwise provided in this subsection and subsection (h)(2), the term "wages" has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

(2) On-the-job training and work supplementation payments.

(A) Exclusion for employers receiving on-the-job training payments. The term "wages" shall not include any amounts paid or incurred by an employer for any period to any individual for whom the employer receives federally funded payments for on-the-job training of such individual for such period.

(B) Reduction for work supplementation payments to employers. The amount of wages which would (but for this subparagraph) be qualified wages under this

section for an employer with respect to an individual for a taxable year shall be reduced by an amount equal to the amount of the payments made to such employer (however utilized by such employer) with respect to such individual for such taxable year under a program established under section 482(e) of the Social Security Act.

(3) Payments for services during labor disputes.

If-

(A) the principal place of employment of an individual with the employer is at a plant or facility, and

(B) there is a strike or lockout involving employees at such plant or facility,

the term "wages" shall not include any amount paid or incurred by the employer to such individual for services which are the same as, or substantially similar to, those services performed by employees participating in, or affected by, the strike or lockout during the period of such strike or lockout.

(4) Termination.

The term "wages" shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 2025.

(5) Coordination with payroll tax forgiveness.

The term "wages" shall not include any amount paid or incurred to a qualified individual (as defined in section 3111(d)(3)) during the 1-year period beginning on the hiring date of such individual by a qualified employer (as defined in section 3111(d)) unless such qualified employer makes an election not to have section 3111(d) apply.

(d) Members of targeted groups.

For purposes of this subpart-

(1) In general.

An individual is a member of a targeted group if such individual is-

(A) a qualified IV-A recipient,

(B) a qualified veteran,

(C) a qualified ex-felon,

(D) a designated community resident,

(E) a vocational rehabilitation referral,

(F) a qualified summer youth employee,

(G) a qualified supplemental nutrition assistance program benefits recipient,

(H) a qualified SSI recipient,

(I) a long-term family assistance recipient, or

(J) a qualified long-term unemployment recipient.

(2) Qualified IV-A recipient.

(A) In general. The term "qualified IV-A recipient" means any individual who is certified by the designated local agency as being a member of a family receiving assistance under a IV-A program for any 9 months during the 18-month period ending on the hiring date.

(B) IV-A program. For purposes of this paragraph , the term "IV-A program" means any program providing assistance under a State program funded under part A of title IV of the Social Security Act and any successor of such program.

(3) Qualified veteran.

(A) In general. The term "qualified veteran" means any veteran who is certified by the designated local agency as-

(i) being a member of a family receiving assistance under a supplemental nutrition assistance program under the Food and Nutrition Act of 2008 for at least a 3-month period ending during the 12-month period ending on the hiring date,

(ii) entitled to compensation for a service-connected disability, and-

(I) having a hiring date which is not more that 1 year after having been discharged or released from active duty in the Armed Forces of the United States, or

(II) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months,

(iii) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 4 weeks (but less than 6 months), or

(iv) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.

(B) Veteran. For purposes of subparagraph (A) , the term "veteran" means any individual who is certified by the designated local agency as-

(i)

(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii) , the term "extended active duty" means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

(C) Other definitions. For purposes of subparagraph (A), the terms "compensation" and "service-connected" have the meanings given such terms under section 101 of title 38, United States Code.

(4) Qualified ex-felon.

The term "qualified ex-felon" means any individual who is certified by the designated local agency-

(A) as having been convicted of a felony under any statute of the United States or any State, and

(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison.

(5) Designated community residents.

(A) In general. The term "designated community resident" means any individual who is certified by the designated local agency-

(i) as having attained age 18 but not age 40 on the hiring date, and

(ii) as having his principal place of abode within an empowerment zone, enterprise community, renewal community, or rural renewal county.

(B) Individual must continue to reside in zone, community, or county. In the case of a designated community resident, the term "qualified wages" shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, renewal community, or rural renewal county.

(C) Rural renewal county. For purposes of this paragraph, the term "rural renewal county" means any county which-

(i) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

(ii) during the 5-year periods 1990 through 1994 and 1995 through 1999 had a net population loss.

(6) Vocational rehabilitation referral.

The term "vocational rehabilitation referral" means any individual who is certified by the designated local agency as-

(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to-

(i) an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973,

(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code, or

(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.

(7) Qualified summer youth employee.

(A) In general. The term "qualified summer youth employee" means any individual-

(i) who performs services for the employer between May 1 and September 15,

(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i) , and

(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

(B) Special rules for determining amount of credit. For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee-

(i) subsection (b)(2) shall be applied by substituting "any 90-day period between May 1 and September 15" for "the 1-year period beginning with the day the individual begins work for the employer", and

(ii) subsection (b)(3) shall be applied by substituting "\$3,000" for "\$6,000".

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

(C) Youth must continue to reside in zone or community. Paragraph (5)(B) shall apply for purposes of subparagraph (A)(iv) .

(8) Qualified supplemental nutrition assistance program benefits recipient.

(A) In general. The term "qualified supplemental nutrition assistance program benefits recipient" means any individual who is certified by the designated local agency-

(i) as having attained age 18 but not age 40 on the hiring date, and

(ii) as being a member of a family-

(I) receiving assistance under a supplemental nutrition assistance program under the Food and Nutrition Act of 2008 for the 6-month period ending on the hiring date, or

(II) receiving such assistance for at least 3 months of the 5-month period ending on the hiring date, in the case of a member of a family who ceases to be eligible for such assistance under section 6(o) of the Food and Nutrition Act of 2008.

(B) Participation information. Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Agriculture shall enter into an agreement to provide information to designated local agencies with respect to participation in the supplemental nutrition assistance program.

(9) Qualified SSI recipient.

The term "qualified SSI recipient" means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66) for any month ending within the 60-day period ending on the hiring date.

(10) Long-term family assistance recipient.

The term "long-term family assistance recipient" means any individual who is certified by the designated local agency-

(A) as being a member of a family receiving assistance under a IV-A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

(B)

(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

(C)

(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

(11) Hiring date.

The term "hiring date" means the day the individual is hired by the employer.

(12) Designated local agency.

The term "designated local agency" means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49-49n).

(13) Special rules for certifications.

(A) In general. An individual shall not be treated as a member of a targeted group unless-

(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

(ii)

(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to such individual, and

(II) not later than the 28th day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term "pre-screening notice" means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

(B) Incorrect certifications. If-

(i) an individual has been certified by a designated local agency as a member of a targeted group, and

(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

(C) Explanation of denial of request. If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial.

(D) Credit for unemployed veterans.

(i) In general. Notwithstanding subparagraph (A), for purposes of paragraph (3)(A)-



(I) a veteran will be treated as certified by the designated local agency as having aggregate periods of unemployment meeting the requirements of clause (ii)(II) or (iv) of such paragraph (whichever is applicable) if such veteran is certified by such agency as being in receipt of unemployment compensation under State or Federal law for not less than 6 months during the 1-year period ending on the hiring date, and

(II) a veteran will be treated as certified by the designated local agency as having aggregate periods of unemployment meeting the requirements of clause (iii) of such paragraph if such veteran is certified by such agency as being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks (but less than 6 months) during the 1-year period ending on the hiring date.

(ii) Regulatory authority. The Secretary may provide alternative methods for certification of a veteran as a qualified veteran described in clause (ii)(II), (iii) , or (iv) of paragraph (3)(A), at the Secretary's discretion.

(14) Credit allowed for unemployed veterans and disconnected youth hired in 2009 or 2010.

(A) In general. Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

(B) Definitions. For purposes of this paragraph-

(i) Unemployed veteran. The term "unemployed veteran" means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as-

(I) having been discharged or released from active duty in the Armed Forces at any time during the 5-year period ending on the hiring date, and

(II) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.

(ii) Disconnected youth. The term "disconnected youth" means any individual who is certified by the designated local agency-

(I) as having attained age 16 but not age 25 on the hiring date,

(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,

(III) as not regularly employed during such 6-month period, and

(IV) as not readily employable by reason of lacking a sufficient number of basic skills.

(15) Qualified long-term unemployment recipient.

The term 'qualified long-term unemployment recipient' means any individual who is certified by the designated local agency as being in a period of unemployment which-

(A) is not less than 27 consecutive weeks, and

(B) includes a period in which the individual was receiving unemployment compensation under State or Federal law.

(e) Credit for second-year wages for employment of long-term family assistance recipients.

(1) In general.

With respect to the employment of a long-term family assistance recipient-

(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

(B) in lieu of applying subsection (b)(3) , the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed \$10,000 per year.

(2) Qualified second-year wages.

For purposes of this subsection, the term "qualified second-year wages" means qualified wages-

(A) which are paid to a long-term family assistance recipient, and

(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

(3) Special rules for agricultural and railway labor.

If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that-

(A) such subparagraph (A) shall be applied by substituting "\$10,000" for "\$6,000", and

(B) such subparagraph (B) shall be applied by substituting "\$833.33" for "\$500".

(f) Remuneration must be for trade or business employment.

(1) In general.

For purposes of this subpart, remuneration paid by an employer to an employee during any taxable year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

(2) Special rule for certain determination.

Any determination as to whether paragraph (1) , or subparagraph (A) or (B) of subsection (h)(1) , applies with respect to any employee for any taxable year shall be made without regard to subsections (a) and (b) of section 52 .

(g) United States Employment Service to notify employers of availability of credit. The United States Employment Service, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of the availability of the work opportunity credit determined under this subpart.

(h) Special rules for agricultural labor and railway labor.
For purposes of this subpart-

(1) Unemployment insurance wages.

(A) Agricultural labor. If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term "unemployment insurance wages" means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes "wages" within the meaning of section 3121(a) , except that the contribution and benefit base for each calendar year shall be deemed to be \$6,000.

(B) Railway labor. If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9) , the term "unemployment insurance wages" means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were \$500 per month.

(2) Wages.

In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term "wages" means unemployment insurance wages (determined without regard to any dollar limitation).

(i) Certain individuals ineligible.

(1) Related individuals.

No wages shall be taken into account under subsection (a) with respect to an individual who-

(A) bears any of the relationships described in subparagraphs (A) through (G) of section 152(d)(2) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation, or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity (determined with the application of section 267(c)),

(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in subparagraphs (A) through (G) of section 152(d)(2) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) is a dependent (described in section 152(d)(2)(H)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A) , or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(2) Nonqualifying rehires.

No wages shall be taken into account under subsection (a) with respect to any individual if, prior to the hiring date of such individual, such individual had been employed by the employer at any time.

(3) Individuals not meeting minimum employment periods.

(A) Reduction of credit for individuals performing fewer than 400 hours of service. In the case of an individual who has performed at least 120 hours, but less than 400 hours, of service for the employer, subsection (a) shall be applied by substituting "25 percent" for "40 percent".

(B) Denial of credit for individuals performing fewer than 120 hours of service. No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has performed at least 120 hours of service for the employer.

(j) Election to have work opportunity credit not apply.

(1) In general.

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

(2) Time for making election.

An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

(3) Manner of making election.

An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.

(k) Treatment of successor employers; treatment of employees performing services for other persons.

(1) Treatment of successor employers.

Under regulations prescribed by the Secretary, in the case of a successor employer referred to in section 3306(b)(1) , the determination of the amount of the credit under this section with respect to wages paid by such successor employer shall be made in the same manner as if such wages were paid by the predecessor employer referred to in such section.

(2) Treatment of employees performing services for other persons.

No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by such employee for another person unless the amount reasonably expected to be received by the employer for such services

from such other person exceeds the remuneration paid by the employer to such employee for such services.