

**Section 100.2655 Subtraction Modification for Enterprise Zone and River Edge
Redevelopment Zone Interest (IITA Section 203(b)(2)(M))**

- a) A corporation that is a "financial organization" within the meaning of IITA Section 304(c) may subtract *an amount included in its taxable income as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the enterprise zone investment credit (IITA Section 203(b)(2)(M)) or the river edge redevelopment zone investment credit under IITA Section 201(f).* The subtraction for interest from loans secured by property eligible for the enterprise zone investment credit is allowed only for interest received or accrued prior to August 7, 2012, the effective date of PA 97-905, which repealed this subtraction.
- b) Eligible Property. For purposes of this Section, "Eligible Property" shall mean:
 - 1) for tax years ending prior to June 8, 1984 (the effective date of PA 83-1114), property for which the borrower had successfully claimed the credit under IITA Section 201(h) (prior to recodification as IITA Section 201(f) by PA 85-731); and
 - 2) for tax years ending on or after June 8, 1984, property that is "qualified property" as defined under IITA Section 203(f)(2) and Section 100.2110(e) or that would have been qualified property under those provisions if placed in service in an enterprise zone at the time it was new by a taxpayer otherwise eligible to claim the credit under IITA Section 203(f).
- c) Portion of Loan Secured by Eligible Property. *To determine the portion of a loan that that is secured by Eligible Property, the entire principal amount of the loan between the taxpayer and the borrower should be divided into the basis of the Eligible Property which secures the loan, using for this purpose the original basis of such property on the date it was placed in service in the enterprise zone or the river edge redevelopment zone. The subtraction modification available to the taxpayer in any year under this Section shall be the portion of the total interest paid by the borrower with respect to such loan attributable to the Eligible Property as calculated under the previous sentence.* (IITA Section 203(b)(2)(M)) There is no limitation to the length of time for which the subtraction may be taken with respect to a particular loan.
- d) Basis. For purposes of the computation in subsection (c), the basis of Eligible Property shall be its borrower's basis in the Eligible Property for federal income tax purposes, including the costs of any improvements or repairs included in that basis, but without adjustment for depreciation or IRC section 179 deductions claimed with respect to the property.

- e) Examples. This subsection provides examples of various fact situations and the Department's interpretation of how this subtraction would apply:
- 1) EXAMPLE 1. Bank lends \$1,000 to Borrower, secured by Eligible Property with a basis of \$900. The portion of the loan secured by Eligible Property is the \$900 basis of the borrower in Eligible Property divided by the \$1,000 principal amount of the loan, or 90%.
 - 2) EXAMPLE 2. Bank lends \$1,000 to Borrower, secured by Eligible Property with a basis of \$1,000 and by other property with a basis of \$2000. The portion of the loan secured by Eligible Property is the \$1,000 basis of the borrower in Eligible Property divided by the \$1000 principal amount of the loan, or 100%. The existence of other property securing the loan is irrelevant.
 - 3) EXAMPLE 3. In 1996, ABC Company built a new warehouse in an enterprise zone at the cost of \$1,000,000 and is able to claim the enterprise zone investment credit under IITA Section 201(f). ABC takes out a \$2,000,000 loan at Bank A, which then places a lien on the property. In 1999, when the warehouse had an adjusted basis (after depreciation) of \$900,000 and a fair market value of \$1,300,000, ABC refinanced the loan for the same principal amount, but at a lower interest rate. For both loans, the portion of the loan secured by Eligible Property is the \$1,000,000 original basis in the warehouse divided by the \$2,000,000 principal. Neither the adjusted basis after depreciation nor the fair market value are relevant to the computation for the refinanced amount.
 - 4) EXAMPLE 4. The facts are the same as in Example 3, except that, in 2001, ABC Company again refinanced the loan, this time at Bank B (unrelated to Bank A). There was no change in the principal amount. Bank B takes a lien on the warehouse to secure the new loan. The portion of the Bank B loan that qualifies for the subtraction modification is 50% because the principal amount of the loan and ABC Company's original basis in the property remain unchanged.
 - 5) EXAMPLE 5. Same facts as in Example 4, except that Bank B purchased the refinanced loan from Bank A. The loan is not refinanced. ABC continues to pay the same amount, but now pays Bank B rather than Bank A. Bank B does not qualify for the subtraction modification, which is allowed only with respect to a loan "made by such taxpayer to a borrower" and Bank B did not make the loan.
 - 6) EXAMPLE 6. X Corp., headquartered outside the river edge redevelopment zone, builds a \$100,000,000 warehouse in a river edge redevelopment zone in 2007 and claims the river edge redevelopment zone credit. X takes out a 20-year loan at Bank A in the principal amount of

\$1,000,000. In 2017, X takes out a new \$1,750,000 loan at the same bank and uses \$1,000,000 of the proceeds to pay off the old loan and spends the remaining \$750,000 to renovate its corporate headquarters located outside the zone. Bank A takes a lien on the warehouse as security for each loan. Because X Corp.'s \$100,000,000 basis in the warehouse exceeds the principal amount of each loan, Bank A is entitled to subtract the entire amount of interest received from each loan. The portion of the loan whose interest may be subtracted need not be reduced by the \$750,000 portion not spent inside the river edge redevelopment zone because use of the borrowed funds is not relevant to the subtraction.

- 7) **EXAMPLE 7.** The F Church, located in an enterprise zone, decides to borrow \$500,000 in 2003 from Bank A for roof repairs and a new addition. The church cannot claim the enterprise zone credit because it did not have unrelated business taxable income and was not required to file an IL-990-T for 2003. Bank A may claim the subtraction modification. The loan is secured by property that is either qualified property or could be qualified property, and the property has been placed in service within an enterprise zone.

(Source: Amended at 38 Ill. Reg. 38 Ill. Reg. 9550, effective April 21, 2014)