

1 **SECTION 1. SHORT TITLE, ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Tax Increase Prevention and Reconciliation Act of  
4 2005”.

5 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
6 wise expressly provided, whenever in this Act an amend-  
7 ment or repeal is expressed in terms of an amendment  
8 to, or repeal of, a section or other provision, the reference  
9 shall be considered to be made to a section or other provi-  
10 sion of the Internal Revenue Code of 1986.

11 (c) **TABLE OF CONTENTS.**—The table of contents for  
12 this Act is as follows:

Sec. 1. Short title, etc.

**TITLE I—EXTENSION AND MODIFICATION OF CERTAIN  
PROVISIONS**

Sec. 101. Increased expensing for small business.

Sec. 102. Capital gains and dividends rates.

Sec. 103. Controlled foreign corporations.

**TITLE II—OTHER PROVISIONS**

Sec. 201. Clarification of taxation of certain settlement funds.

Sec. 202. Modification of active business definition under section 355.

Sec. 203. Veterans’ mortgage bonds.

Sec. 204. Capital gains treatment for certain self-created musical works.

Sec. 205. Vessel tonnage limit.

Sec. 206. Modification of special arbitrage rule for certain funds.

Sec. 207. Amortization of expenses incurred in creating or acquiring music or  
music copyrights.

Sec. 208. Modification of effective date of disregard of certain capital expendi-  
tures for purposes of qualified small issue bonds.

Sec. 209. Modification of treatment of loans to qualified continuing care facili-  
ties.

**TITLE III—ALTERNATIVE MINIMUM TAX RELIEF**

Sec. 301. Increase in alternative minimum tax exemption amount for 2006.

Sec. 302. Allowance of nonrefundable personal credits against regular and alternative minimum tax liability.

#### TITLE IV—CORPORATE ESTIMATED TAX PROVISIONS

Sec. 401. Time for payment of corporate estimated taxes.

#### TITLE V—REVENUE OFFSET PROVISIONS

Sec. 501. Application of earnings stripping rules to partners which are corporations.

Sec. 502. Reporting of interest on tax-exempt bonds.

Sec. 503. 5-year amortization of geological and geophysical expenditures for certain major integrated oil companies.

Sec. 504. Application of FIRPTA to regulated investment companies.

Sec. 505. Treatment of distributions attributable to FIRPTA gains.

Sec. 506. Prevention of avoidance of tax on investments of foreign persons in United States real property through wash sale transactions.

Sec. 507. Section 355 not to apply to distributions involving disqualified investment companies.

Sec. 508. Loan and redemption requirements on pooled financing requirements.

Sec. 509. Partial payments required with submission of offers-in-compromise.

Sec. 510. Increase in age of minor children whose unearned income is taxed as if parent's income.

Sec. 511. Imposition of withholding on certain payments made by government entities.

Sec. 512. Conversions to Roth IRAs.

Sec. 513. Repeal of FSC/ETI binding contract relief.

Sec. 514. Only wages attributable to domestic production taken into account in determining deduction for domestic production.

Sec. 515. Modification of exclusion for citizens living abroad.

Sec. 516. Tax involvement of accommodation parties in tax shelter transactions.

## 1 **TITLE I—EXTENSION AND MODI-** 2 **FICATION OF CERTAIN PRO-** 3 **VISIONS**

### 4 **SEC. 101. INCREASED EXPENSING FOR SMALL BUSINESS.**

5 Subsections (b)(1), (b)(2), (b)(5), (c)(2), and  
6 (d)(1)(A)(ii) of section 179 (relating to election to expense  
7 certain depreciable business assets) are each amended by  
8 striking “2008” and inserting “2010”.

1 **SEC. 102. CAPITAL GAINS AND DIVIDENDS RATES.**

2 Section 303 of the Jobs and Growth Tax Relief Rec-  
3 onciliation Act of 2003 is amended by striking “December  
4 31, 2008” and inserting “December 31, 2010”.

5 **SEC. 103. CONTROLLED FOREIGN CORPORATIONS.**

6 (a) SUBPART F EXCEPTION FOR ACTIVE FINANC-  
7 ING.—

8 (1) EXEMPT INSURANCE INCOME.—Paragraph  
9 (10) of section 953(e) (relating to application) is  
10 amended—

11 (A) by striking “January 1, 2007” and in-  
12 serting “January 1, 2009”, and

13 (B) by striking “December 31, 2006” and  
14 inserting “December 31, 2008”.

15 (2) EXCEPTION TO TREATMENT AS FOREIGN  
16 PERSONAL HOLDING COMPANY INCOME.—Paragraph  
17 (9) of section 954(h) (relating to application) is  
18 amended by striking “January 1, 2007” and insert-  
19 ing “January 1, 2009”.

20 (b) LOOK-THROUGH TREATMENT OF PAYMENTS BE-  
21 TWEEN RELATED CONTROLLED FOREIGN CORPORATIONS  
22 UNDER THE FOREIGN PERSONAL HOLDING COMPANY  
23 RULES.—

24 (1) IN GENERAL.—Subsection (c) of section  
25 954 (relating to foreign personal holding company

1 income) is amended by adding at the end the fol-  
2 lowing new paragraph:

3 “(6) LOOK-THRU RULE FOR RELATED CON-  
4 TROLLED FOREIGN CORPORATIONS.—

5 “(A) IN GENERAL.—For purposes of this  
6 subsection, dividends, interest, rents, and royal-  
7 ties received or accrued from a controlled for-  
8 eign corporation which is a related person shall  
9 not be treated as foreign personal holding com-  
10 pany income to the extent attributable or prop-  
11 erly allocable (determined under rules similar to  
12 the rules of subparagraphs (C) and (D) of sec-  
13 tion 904(d)(3)) to income of the related person  
14 which is not subpart F income. For purposes of  
15 this subparagraph, interest shall include fac-  
16 toring income which is treated as income equiv-  
17 alent to interest for purposes of paragraph  
18 (1)(E). The Secretary shall prescribe such regu-  
19 lations as may be appropriate to prevent the  
20 abuse of the purposes of this paragraph.

21 “(B) APPLICATION.—Subparagraph (A)  
22 shall apply to taxable years of foreign corpora-  
23 tions beginning after December 31, 2005, and  
24 before January 1, 2009, and to taxable years of  
25 United States shareholders with or within which



1           “(2) EXEMPTION FROM TAX FOR CERTAIN SET-  
2           TLEMENT FUNDS.—An escrow account, settlement  
3           fund, or similar fund shall be treated as beneficially  
4           owned by the United States and shall be exempt  
5           from taxation under this subtitle if—

6                   “(A) it is established pursuant to a con-  
7                   sent decree entered by a judge of a United  
8                   States District Court,

9                   “(B) it is created for the receipt of settle-  
10                  ment payments as directed by a government en-  
11                  tity for the sole purpose of resolving or satis-  
12                  fying one or more claims asserting liability  
13                  under the Comprehensive Environmental Re-  
14                  sponse, Compensation, and Liability Act of  
15                  1980,

16                  “(C) the authority and control over the ex-  
17                  penditure of funds therein (including the ex-  
18                  penditure of contributions thereto and any net  
19                  earnings thereon) is with such government enti-  
20                  ty, and

21                  “(D) upon termination, any remaining  
22                  funds will be disbursed to such government en-  
23                  tity for use in accordance with applicable law.

24           For purposes of this paragraph, the term ‘govern-  
25           ment entity’ means the United States, any State or

1 political subdivision thereof, the District of Colum-  
2 bia, any possession of the United States, and any  
3 agency or instrumentality of any of the foregoing.

4 “(3) TERMINATION.—Paragraph (2) shall not  
5 apply to accounts and funds established after De-  
6 cember 31, 2010.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply to accounts and funds estab-  
9 lished after the date of the enactment of this Act.

10 **SEC. 202. MODIFICATION OF ACTIVE BUSINESS DEFINITION**

11 **UNDER SECTION 355.**

12 Subsection (b) of section 355 (defining active conduct  
13 of a trade or business) is amended by adding at the end  
14 the following new paragraph:

15 “(3) SPECIAL RULE RELATING TO ACTIVE BUSI-  
16 NESS REQUIREMENT.—

17 “(A) IN GENERAL.—In the case of any dis-  
18 tribution made after the date of the enactment  
19 of this paragraph and on or before December  
20 31, 2010, a corporation shall be treated as  
21 meeting the requirement of paragraph (2)(A) if  
22 and only if such corporation is engaged in the  
23 active conduct of a trade or business.

24 “(B) AFFILIATED GROUP RULE.—For pur-  
25 poses of subparagraph (A), all members of such

1 corporation's separate affiliated group shall be  
2 treated as one corporation. For purposes of the  
3 preceding sentence, a corporation's separate af-  
4 filiated group is the affiliated group which  
5 would be determined under section 1504(a) if  
6 such corporation were the common parent and  
7 section 1504(b) did not apply.

8 “(C) TRANSITION RULE.—Subparagraph  
9 (A) shall not apply to any distribution pursuant  
10 to a transaction which is—

11 “(i) made pursuant to an agreement  
12 which was binding on the date of the en-  
13 actment of this paragraph and at all times  
14 thereafter,

15 “(ii) described in a ruling request sub-  
16 mitted to the Internal Revenue Service on  
17 or before such date, or

18 “(iii) described on or before such date  
19 in a public announcement or in a filing  
20 with the Securities and Exchange Commis-  
21 sion.

22 The preceding sentence shall not apply if the  
23 distributing corporation elects not to have such  
24 sentence apply to distributions of such corpora-



1           tion. Any such election, once made, shall be ir-  
2           revocable.

3                   “(D) SPECIAL RULE FOR CERTAIN PRE-  
4           ENACTMENT DISTRIBUTIONS.—For purposes of  
5           determining the continued qualification under  
6           paragraph (2)(A) of distributions made on or  
7           before the date of the enactment of this para-  
8           graph as a result of an acquisition, disposition,  
9           or other restructuring after such date and on or  
10          before December 31, 2010, such distribution  
11          shall be treated as made on the date of such ac-  
12          quisition, disposition, or restructuring for pur-  
13          poses of applying subparagraphs (A) through  
14          (C) of this paragraph.”.

15 **SEC. 203. VETERANS’ MORTGAGE BONDS.**

16          (a) EXPANSION OF DEFINITION OF VETERANS ELI-  
17          GIBLE FOR STATE HOME LOAN PROGRAMS FUNDED BY  
18          QUALIFIED VETERANS’ MORTGAGE BONDS.—

19                  (1) IN GENERAL.—Paragraph (4) of section  
20          143(l) (defining qualified veteran) is amended to  
21          read as follows:

22                   “(4) QUALIFIED VETERAN.—For purposes of  
23          this subsection, the term ‘qualified veteran’ means—

24                                  “(A) in the case of the States of Alaska,  
25          Oregon, and Wisconsin, any veteran—

1 “(i) who served on active duty, and

2 “(ii) who applied for the financing be-  
3 fore the date 25 years after the last date  
4 on which such veteran left active service,  
5 and

6 “(B) in the case of any other State, any  
7 veteran—

8 “(i) who served on active duty at  
9 some time before January 1, 1977, and

10 “(ii) who applied for the financing be-  
11 fore the later of—

12 “(I) the date 30 years after the  
13 last date on which such veteran left  
14 active service, or

15 “(II) January 31, 1985.”.

16 (2) EFFECTIVE DATE.—The amendments made  
17 by this subsection shall apply to bonds issued on or  
18 after the date of the enactment of this Act.

19 (b) REVISION OF STATE VETERANS LIMIT.—

20 (1) IN GENERAL.—Subparagraph (B) of section  
21 143(l)(3) (relating to volume limitation) is amend-  
22 ed—

23 (A) by redesignating clauses (i) and (ii) as  
24 subclauses (I) and (II), respectively, and mov-  
25 ing such clauses 2 ems to the right,

1 (B) by amending the matter preceding  
2 subclause (I), as designated by subparagraph  
3 (A), to read as follows:

4 “(B) STATE VETERANS LIMIT.—

5 “(i) IN GENERAL.—In the case of any  
6 State to which clause (ii) does not apply,  
7 the State veterans limit for any calendar  
8 year is the amount equal to—”, and

9 (C) by adding at the end the following new  
10 clauses:

11 “(ii) ALASKA, OREGON, AND WIS-  
12 CONSIN.—In the case of the following  
13 States, the State veterans limit for any cal-  
14 endar year is the amount equal to—

15 “(I) \$25,000,000 for the State of  
16 Alaska,

17 “(II) \$25,000,000 for the State  
18 of Oregon, and

19 “(III) \$25,000,000 for the State  
20 of Wisconsin.

21 “(iii) PHASEIN.—In the case of cal-  
22 endar years beginning before 2010, clause  
23 (ii) shall be applied by substituting for  
24 each of the dollar amounts therein an  
25 amount equal to the applicable percentage

1 of such dollar amount. For purposes of the  
 2 preceding sentence, the applicable percent-  
 3 age shall be determined in accordance with  
 4 the following table:

<b>“For Calendar Year:</b>	<b>Applicable percent- age is:</b>
2006 .....	20 percent
2007 .....	40 percent
2008 .....	60 percent
2009 .....	80 percent.

5 “(iv) TERMINATION.—The State vet-  
 6 erans limit for the States specified in  
 7 clause (ii) for any calendar year after 2010  
 8 is zero.”.

9 (2) EFFECTIVE DATE.—The amendments made  
 10 by this subsection shall apply to allocations of State  
 11 volume limit after April 5, 2006.

12 **SEC. 204. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-**  
 13 **CREATED MUSICAL WORKS.**

14 (a) IN GENERAL.—Subsection (b) of section 1221  
 15 (relating to capital asset defined) is amended by redesi-  
 16 gnating paragraph (3) as paragraph (4) and by inserting  
 17 after paragraph (2) the following new paragraph:

18 “(3) SALE OR EXCHANGE OF SELF-CREATED  
 19 MUSICAL WORKS.—At the election of the taxpayer,  
 20 paragraphs (1) and (3) of subsection (a) shall not  
 21 apply to musical compositions or copyrights in musi-

1 cal works sold or exchanged before January 1, 2011,  
2 by a taxpayer described in subsection (a)(3).”.

3 (b) LIMITATION ON CHARITABLE CONTRIBUTIONS.—  
4 Subparagraph (A) of section 170(e)(1) is amended by in-  
5 serting “(determined without regard to section  
6 1221(b)(3))” after “long-term capital gain”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to sales and exchanges in taxable  
9 years beginning after the date of the enactment of this  
10 Act.

11 **SEC. 205. VESSEL TONNAGE LIMIT.**

12 (a) IN GENERAL.—Paragraph (4) of section 1355(a)  
13 (relating to qualifying vessel) is amended by inserting  
14 “(6,000, in the case of taxable years beginning after De-  
15 cember 31, 2005, and ending before January 1, 2011)”  
16 after “10,000”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply to taxable years beginning after  
19 December 31, 2005.

20 **SEC. 206. MODIFICATION OF SPECIAL ARBITRAGE RULE**  
21 **FOR CERTAIN FUNDS.**

22 In the case of bonds issued after the date of the en-  
23 actment of this Act and before August 31, 2009—

24 (1) the requirement of paragraph (1) of section  
25 648 of the Deficit Reduction Act of 1984 (98 Stat.

1 941) shall be treated as met with respect to the se-  
2 curities or obligations referred to in such section if  
3 such securities or obligations are held in a fund the  
4 annual distributions from which cannot exceed 7  
5 percent of the average fair market value of the as-  
6 sets held in such fund except to the extent distribu-  
7 tions are necessary to pay debt service on the bond  
8 issue, and

9 (2) paragraph (3) of such section shall be ap-  
10 plied by substituting “distributions from” for “the  
11 investment earnings of” both places it appears.

12 **SEC. 207. AMORTIZATION OF EXPENSES INCURRED IN CRE-**  
13 **ATING OR ACQUIRING MUSIC OR MUSIC**  
14 **COPYRIGHTS.**

15 (a) IN GENERAL.—Section 167(g) (relating to depre-  
16 ciation under income forecast method) is amended by add-  
17 ing at the end the following new paragraph:

18 “(8) SPECIAL RULES FOR CERTAIN MUSICAL  
19 WORKS AND COPYRIGHTS.—

20 “(A) IN GENERAL.—If an election is in ef-  
21 fect under this paragraph for any taxable year,  
22 then, notwithstanding paragraph (1), any ex-  
23 pense which—

24 “(i) is paid or incurred by the tax-  
25 payer in creating or acquiring any applica-

1           ble musical property placed in service dur-  
2           ing the taxable year, and

3                   “(ii) is otherwise properly chargeable  
4           to capital account,

5           shall be amortized ratably over the 5-year pe-  
6           riod beginning with the month in which the  
7           property was placed in service. The preceding  
8           sentence shall not apply to any expense which,  
9           without regard to this paragraph, would not be  
10          allowable as a deduction.

11                   “(B) EXCLUSIVE METHOD.—Except as  
12          provided in this paragraph, no depreciation or  
13          amortization deduction shall be allowed with re-  
14          spect to any expense to which subparagraph (A)  
15          applies.

16                   “(C) APPLICABLE MUSICAL PROPERTY.—  
17          For purposes of this paragraph—

18                           “(i) IN GENERAL.—The term ‘applica-  
19                           ble musical property’ means any musical  
20                           composition (including any accompanying  
21                           words), or any copyright with respect to a  
22                           musical composition, which is property to  
23                           which this subsection applies without re-  
24                           gard to this paragraph.

1                   “(ii) EXCEPTIONS.—Such term shall  
2                   not include any property—

3                   “(I) with respect to which ex-  
4                   penses are treated as qualified cre-  
5                   ative expenses to which section  
6                   263A(h) applies,

7                   “(II) to which a simplified proce-  
8                   dure established under section  
9                   263A(j)(2) applies, or

10                  “(III) which is an amortizable  
11                  section 197 intangible (as defined in  
12                  section 197(e)).

13                  “(D) ELECTION.—An election under this  
14                  paragraph shall be made at such time and in  
15                  such form as the Secretary may prescribe and  
16                  shall apply to all applicable musical property  
17                  placed in service during the taxable year for  
18                  which the election applies.

19                  “(E) TERMINATION.—An election may not  
20                  be made under this paragraph for any taxable  
21                  year beginning after December 31, 2010.”.

22                  (b) EFFECTIVE DATE.—The amendments made by  
23                  this section shall apply to expenses paid or incurred with  
24                  respect to property placed in service in taxable years be-  
25                  ginning after December 31, 2005.



1 **SEC. 208. MODIFICATION OF EFFECTIVE DATE OF DIS-**  
2 **REGARD OF CERTAIN CAPITAL EXPENDI-**  
3 **TURES FOR PURPOSES OF QUALIFIED SMALL**  
4 **ISSUE BONDS.**

5 (a) IN GENERAL.—Section 144(a)(4)(G) is amended  
6 by striking “September 30, 2009” and inserting “Decem-  
7 ber 31, 2006”.

8 (b) CONFORMING AMENDMENT.—Section  
9 144(a)(4)(F) is amended by striking “September 30,  
10 2009” and inserting “December 31, 2006”.

11 **SEC. 209. MODIFICATION OF TREATMENT OF LOANS TO**  
12 **QUALIFIED CONTINUING CARE FACILITIES.**

13 (a) IN GENERAL.—Section 7872 is amended by re-  
14 designating subsection (h) as subsection (i) and inserting  
15 after subsection (g) the following new subsection:

16 “(h) EXCEPTION FOR LOANS TO QUALIFIED CON-  
17 TINUING CARE FACILITIES.—

18 “(1) IN GENERAL.—This section shall not apply  
19 for any calendar year to any below-market loan owed  
20 by a facility which on the last day of such year is  
21 a qualified continuing care facility, if such loan was  
22 made pursuant to a continuing care contract and if  
23 the lender (or the lender’s spouse) attains age 62 be-  
24 fore the close of such year.

25 “(2) CONTINUING CARE CONTRACT.—For pur-  
26 poses of this section, the term ‘continuing care con-

1       tract’ means a written contract between an indi-  
2       vidual and a qualified continuing care facility under  
3       which—

4               “(A) the individual or individual’s spouse  
5       may use a qualified continuing care facility for  
6       their life or lives,

7               “(B) the individual or individual’s spouse  
8       will be provided with housing, as appropriate  
9       for the health of such individual or individual’s  
10      spouse—

11              “(i) in an independent living unit  
12      (which has additional available facilities  
13      outside such unit for the provision of meals  
14      and other personal care), and

15              “(ii) in an assisted living facility or a  
16      nursing facility, as is available in the con-  
17      tinuing care facility, and

18              “(C) the individual or individual’s spouse  
19      will be provided assisted living or nursing care  
20      as the health of such individual or individual’s  
21      spouse requires, and as is available in the con-  
22      tinuing care facility.

23      The Secretary shall issue guidance which limits such  
24      term to contracts which provide only facilities, care,  
25      and services described in this paragraph.

1           “(3) QUALIFIED CONTINUING CARE FACIL-  
2           ITY.—

3           “(A) IN GENERAL.—For purposes of this  
4           section, the term ‘qualified continuing care fa-  
5           cility’ means 1 or more facilities—

6                   “(i) which are designed to provide  
7                   services under continuing care contracts,

8                   “(ii) which include an independent liv-  
9                   ing unit, plus an assisted living or nursing  
10                  facility, or both, and

11                  “(iii) substantially all of the inde-  
12                  pendent living unit residents of which are  
13                  covered by continuing care contracts.

14           “(B) NURSING HOMES EXCLUDED.—The  
15           term ‘qualified continuing care facility’ shall not  
16           include any facility which is of a type which is  
17           traditionally considered a nursing home.

18           “(4) TERMINATION.—This subsection shall not  
19           apply to any calendar year after 2010.”.

20           (b) CONFORMING AMENDMENTS.—

21                   (1) Section 7872(g) is amended by adding at  
22                   the end the following new paragraph:

23                   “(6) SUSPENSION OF APPLICATION.—Para-  
24                   graph (1) shall not apply for any calendar year to  
25                   which subsection (h) applies.”.

1           (2) Section 142(d)(2)(B) is amended by strik-  
2           ing “Section 7872(g)” and inserting “Subsections  
3           (g) and (h) of section 7872”.

4           (c) EFFECTIVE DATE.—The amendment made by  
5           this section shall apply to calendar years beginning after  
6           December 31, 2005, with respect to loans made before,  
7           on, or after such date.

8                           **TITLE III—ALTERNATIVE**  
9                           **MINIMUM TAX RELIEF**

10       **SEC. 301. INCREASE IN ALTERNATIVE MINIMUM TAX EX-**  
11                           **EMPTION AMOUNT FOR 2006.**

12           (a) IN GENERAL.—Section 55(d)(1) (relating to ex-  
13           emption amount for taxpayers other than corporations) is  
14           amended—

15                   (1) by striking “\$58,000” and all that follows  
16                   through “2005” in subparagraph (A) and inserting  
17                   “\$62,550 in the case of taxable years beginning in  
18                   2006”, and

19                   (2) by striking “\$40,250” and all that follows  
20                   through “2005” in subparagraph (B) and inserting  
21                   “\$42,500 in the case of taxable years beginning in  
22                   2006”.

23           (b) EFFECTIVE DATE.—The amendments made by  
24           this section shall apply to taxable years beginning after  
25           December 31, 2005.

1 **SEC. 302. ALLOWANCE OF NONREFUNDABLE PERSONAL**  
2 **CREDITS AGAINST REGULAR AND ALTER-**  
3 **NATIVE MINIMUM TAX LIABILITY.**

4 (a) **IN GENERAL.**—Paragraph (2) of section 26(a) is  
5 amended—

6 (1) by striking “2005” in the heading thereof  
7 and inserting “2006”, and

8 (2) by striking “or 2005” and inserting “2005,  
9 or 2006”.

10 (b) **EFFECTIVE DATE.**—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2005.

13 **TITLE IV—CORPORATE**  
14 **ESTIMATED TAX PROVISIONS**

15 **SEC. 401. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
16 **TAXES.**

17 Notwithstanding section 6655 of the Internal Rev-  
18 enue Code of 1986—

19 (1) in the case of a corporation with assets of  
20 not less than \$1,000,000,000 (determined as of the  
21 end of the preceding taxable year)—

22 (A) the amount of any required installment  
23 of corporate estimated tax which is otherwise  
24 due in July, August, or September of 2006  
25 shall be 105 percent of such amount,

1 (B) the amount of any required install-  
2 ment of corporate estimated tax which is other-  
3 wise due in July, August, or September of 2012  
4 shall be 106.25 percent of such amount,

5 (C) the amount of any required installment  
6 of corporate estimated tax which is otherwise  
7 due in July, August, or September of 2013  
8 shall be 100.75 percent of such amount, and

9 (D) the amount of the next required in-  
10 stallment after an installment referred to in  
11 subparagraph (A), (B), or (C) shall be appro-  
12 priately reduced to reflect the amount of the in-  
13 crease by reason of such subparagraph,

14 (2) 20.5 percent of the amount of any required  
15 installment of corporate estimated tax which is oth-  
16 erwise due in September 2010 shall not be due until  
17 October 1, 2010, and

18 (3) 27.5 percent of the amount of any required  
19 installment of corporate estimated tax which is oth-  
20 erwise due in September 2011 shall not be due until  
21 October 1, 2011.

1           **TITLE V—REVENUE OFFSET**  
2                           **PROVISIONS**

3   **SEC. 501. APPLICATION OF EARNINGS STRIPPING RULES**  
4                           **TO PARTNERS WHICH ARE CORPORATIONS.**

5           (a) IN GENERAL.—Section 163(j) (relating to limita-  
6   tion on deduction for interest on certain indebtedness) is  
7   amended by redesignating paragraph (8) as paragraph (9)  
8   and by inserting after paragraph (7) the following new  
9   paragraph:

10                   “(8) TREATMENT OF CORPORATE PARTNERS.—

11           Except to the extent provided by regulations, in ap-  
12   plying this subsection to a corporation which owns  
13   (directly or indirectly) an interest in a partnership—

14                   “(A) such corporation’s distributive share  
15           of interest income paid or accrued to such part-  
16   nership shall be treated as interest income paid  
17   or accrued to such corporation,

18                   “(B) such corporation’s distributive share  
19           of interest paid or accrued by such partnership  
20   shall be treated as interest paid or accrued by  
21   such corporation, and

22                   “(C) such corporation’s share of the liabil-  
23   ities of such partnership shall be treated as li-  
24   abilities of such corporation.”.

1 (b) ADDITIONAL REGULATORY AUTHORITY.—Section  
2 163(j)(9) (relating to regulations), as redesignated by sub-  
3 section (a), is amended by striking “and” at the end of  
4 subparagraph (B), by striking the period at the end of  
5 subparagraph (C) and inserting “, and”, and by adding  
6 at the end the following new subparagraph:

7 “(D) regulations providing for the realloca-  
8 tion of shares of partnership indebtedness, or  
9 distributive shares of the partnership’s interest  
10 income or interest expense.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning on or  
13 after the date of the enactment of this Act.

14 **SEC. 502. REPORTING OF INTEREST ON TAX-EXEMPT**  
15 **BONDS.**

16 (a) IN GENERAL.—Section 6049(b)(2) (relating to  
17 exceptions) is amended by striking subparagraph (B) and  
18 by redesignating subparagraphs (C) and (D) as subpara-  
19 graphs (B) and (C), respectively.

20 (b) CONFORMING AMENDMENT.—Section  
21 6049(b)(2)(C), as redesignated by subsection (a), is  
22 amended by striking “subparagraph (C)” and inserting  
23 “subparagraph (B)”.



1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to interest paid after December  
3 31, 2005.

4 **SEC. 503. 5-YEAR AMORTIZATION OF GEOLOGICAL AND**  
5 **GEOPHYSICAL EXPENDITURES FOR CERTAIN**  
6 **MAJOR INTEGRATED OIL COMPANIES.**

7           (a) IN GENERAL.—Section 167(h) (relating to amor-  
8 tization of geological and geophysical expenditures) is  
9 amended by adding at the end the following new para-  
10 graph:

11                   “(5) SPECIAL RULE FOR MAJOR INTEGRATED  
12 OIL COMPANIES.—

13                           “(A) IN GENERAL.—In the case of a major  
14 integrated oil company, paragraphs (1) and (4)  
15 shall be applied by substituting ‘5-year’ for ‘24  
16 month’.

17                           “(B) MAJOR INTEGRATED OIL COM-  
18 PANY.—For purposes of this paragraph, the  
19 term ‘major integrated oil company’ means,  
20 with respect to any taxable year, a producer of  
21 crude oil—

22                                   “(i) which has an average daily world-  
23 wide production of crude oil of at least  
24 500,000 barrels for the taxable year,

1                   “(ii) which had gross receipts in ex-  
2                   cess of \$1,000,000,000 for its last taxable  
3                   year ending during calendar year 2005,  
4                   and

5                   “(iii) to which subsection (c) of sec-  
6                   tion 613A does not apply by reason of  
7                   paragraph (4) of section 613A(d), deter-  
8                   mined—

9                   “(I) by substituting ‘15 percent’  
10                  for ‘5 percent’ each place it occurs in  
11                  paragraph (3) of section 613A(d), and

12                  “(II) without regard to whether  
13                  subsection (c) of section 613A does  
14                  not apply by reason of paragraph (2)  
15                  of section 613A(d).

16                  For purposes of clauses (i) and (ii), all persons  
17                  treated as a single employer under subsections  
18                  (a) and (b) of section 52 shall be treated as 1  
19                  person and, in case of a short taxable year, the  
20                  rule under section 448(c)(3)(B) shall apply.”.

21                  (b) **EFFECTIVE DATE.**—The amendment made by  
22                  this section shall apply to amounts paid or incurred after  
23                  the date of the enactment of this Act.

1 **SEC. 504. APPLICATION OF FIRPTA TO REGULATED INVEST-**  
2 **MENT COMPANIES.**

3 (a) IN GENERAL.—Subclause (II) of section  
4 897(h)(4)(A)(i) (defining qualified investment entity) is  
5 amended by inserting “which is a United States real prop-  
6 erty holding corporation or which would be a United  
7 States real property holding corporation if the exceptions  
8 provided in subsections (c)(3) and (h)(2) did not apply to  
9 interests in any real estate investment trust or regulated  
10 investment company” after “regulated investment com-  
11 pany”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall take effect as if included in the provisions  
14 of section 411 of the American Jobs Creation Act of 2004  
15 to which it relates.

16 **SEC. 505. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE**  
17 **TO FIRPTA GAINS.**

18 (a) QUALIFIED INVESTMENT ENTITY.—

19 (1) IN GENERAL.—Section 897(h)(1) is amend-  
20 ed—

21 (A) by striking “a nonresident alien indi-  
22 vidual or a foreign corporation” in the first sen-  
23 tence and inserting “a nonresident alien indi-  
24 vidual, a foreign corporation, or other qualified  
25 investment entity”,

1 (B) by striking “such nonresident alien in-  
2 dividual or foreign corporation” in the first sen-  
3 tence and inserting “such nonresident alien in-  
4 dividual, foreign corporation, or other qualified  
5 investment entity”, and

6 (C) by striking the second sentence and in-  
7 serting the following new sentence: “Notwith-  
8 standing the preceding sentence, any distribu-  
9 tion by a qualified investment entity to a non-  
10 resident alien individual or a foreign corpora-  
11 tion with respect to any class of stock which is  
12 regularly traded on an established securities  
13 market located in the United States shall not be  
14 treated as gain recognized from the sale or ex-  
15 change of a United States real property interest  
16 if such individual or corporation did not own  
17 more than 5 percent of such class of stock at  
18 any time during the 1-year period ending on the  
19 date of such distribution.”.

20 (2) EXCEPTION TO TERMINATION OF APPLICA-  
21 TION OF SECTION 897 RULES TO REGULATED IN-  
22 VESTMENT COMPANIES.—Clause (ii) of section  
23 897(h)(4)(A) is amended by adding at the end the  
24 following new sentence: “Notwithstanding the pre-  
25 ceding sentence, an entity described in clause (i)(II)

1 shall be treated as a qualified investment entity for  
2 purposes of applying paragraphs (1) and (5) and  
3 section 1445 with respect to any distribution by the  
4 entity to a nonresident alien individual or a foreign  
5 corporation which is attributable directly or indi-  
6 rectly to a distribution to the entity from a real es-  
7 tate investment trust.”.

8 (b) WITHHOLDING ON DISTRIBUTIONS TREATED AS  
9 GAIN FROM UNITED STATES REAL PROPERTY INTER-  
10 ESTS.—Section 1445(e) (relating to special rules for dis-  
11 tributions, etc. by corporations, partnerships, trusts, or es-  
12 tates) is amended by redesignating paragraph (6) as para-  
13 graph (7) and by inserting after paragraph (5) the fol-  
14 lowing new paragraph:

15 “(6) DISTRIBUTIONS BY REGULATED INVEST-  
16 MENT COMPANIES AND REAL ESTATE INVESTMENT  
17 TRUSTS.—If any portion of a distribution from a  
18 qualified investment entity (as defined in section  
19 897(h)(4)) to a nonresident alien individual or a for-  
20 eign corporation is treated under section 897(h)(1)  
21 as gain realized by such individual or corporation  
22 from the sale or exchange of a United States real  
23 property interest, the qualified investment entity  
24 shall deduct and withhold under subsection (a) a tax  
25 equal to 35 percent (or, to the extent provided in

1 regulations, 15 percent (20 percent in the case of  
2 taxable years beginning after December 31, 2010))  
3 of the amount so treated.”.

4 (c) TREATMENT OF CERTAIN DISTRIBUTIONS AS  
5 DIVIDENDS.—

6 (1) IN GENERAL.—Section 852(b)(3) (relating  
7 to capital gains) is amended by adding at the end  
8 the following new subparagraph:

9 “(E) CERTAIN DISTRIBUTIONS.—In the  
10 case of a distribution to which section 897 does  
11 not apply by reason of the second sentence of  
12 section 897(h)(1), the amount of such distribu-  
13 tion which would be included in computing  
14 long-term capital gains for the shareholder  
15 under subparagraph (B) or (D) (without regard  
16 to this subparagraph)—

17 “(i) shall not be included in com-  
18 puting such shareholder’s long-term capital  
19 gains, and

20 “(ii) shall be included in such share-  
21 holder’s gross income as a dividend from  
22 the regulated investment company.”.

23 (2) CONFORMING AMENDMENT.—Section  
24 871(k)(2) (relating to short-term capital gain divi-

1       dends) is amended by adding at the end the fol-  
2       lowing new subparagraph:

3               “(E) CERTAIN DISTRIBUTIONS.—In the  
4               case of a distribution to which section 897 does  
5               not apply by reason of the second sentence of  
6               section 897(h)(1), the amount which would be  
7               treated as a short-term capital gain dividend to  
8               the shareholder (without regard to this sub-  
9               paragraph)—

10                       “(i) shall not be treated as a short-  
11                       term capital gain dividend, and

12                       “(ii) shall be included in such share-  
13                       holder’s gross income as a dividend from  
14                       the regulated investment company.”.

15       (d) EFFECTIVE DATES.—The amendments made by  
16 this section shall apply to taxable years of qualified invest-  
17 ment entities beginning after December 31, 2005, except  
18 that no amount shall be required to be withheld under sec-  
19 tion 1441, 1442, or 1445 of the Internal Revenue Code  
20 of 1986 with respect to any distribution before the date  
21 of the enactment of this Act if such amount was not other-  
22 wise required to be withheld under any such section as  
23 in effect before such amendments.

1 **SEC. 506. PREVENTION OF AVOIDANCE OF TAX ON INVEST-**  
2 **MENTS OF FOREIGN PERSONS IN UNITED**  
3 **STATES REAL PROPERTY THROUGH WASH**  
4 **SALE TRANSACTIONS.**

5 (a) IN GENERAL.—Section 897(h) (relating to special  
6 rules for certain investment entities) is amended by adding  
7 at the end the following new paragraph:

8 “(5) TREATMENT OF CERTAIN WASH SALE  
9 TRANSACTIONS.—

10 “(A) IN GENERAL.—If an interest in a do-  
11 mestically controlled qualified investment entity  
12 is disposed of in an applicable wash sale trans-  
13 action, the taxpayer shall, for purposes of this  
14 section, be treated as having gain from the sale  
15 or exchange of a United States real property in-  
16 terest in an amount equal to the portion of the  
17 distribution described in subparagraph (B) with  
18 respect to such interest which, but for the dis-  
19 position, would have been treated by the tax-  
20 payer as gain from the sale or exchange of a  
21 United States real property interest under  
22 paragraph (1).

23 “(B) APPLICABLE WASH SALES TRANS-  
24 ACTION.—For purposes of this paragraph—

25 “(i) IN GENERAL.—The term ‘applica-  
26 ble wash sales transaction’ means any



1 transaction (or series of transactions)  
2 under which a nonresident alien individual,  
3 foreign corporation, or qualified investment  
4 entity—

5 “(I) disposes of an interest in a  
6 domestically controlled qualified in-  
7 vestment entity during the 30-day pe-  
8 riod preceding the ex-dividend date of  
9 a distribution which is to be made  
10 with respect to the interest and any  
11 portion of which, but for the disposi-  
12 tion, would have been treated by the  
13 taxpayer as gain from the sale or ex-  
14 change of a United States real prop-  
15 erty interest under paragraph (1), and

16 “(II) acquires, or enters into a  
17 contract or option to acquire, a sub-  
18 stantially identical interest in such en-  
19 tity during the 61-day period begin-  
20 ning with the 1st day of the 30-day  
21 period described in subclause (I).

22 For purposes of subclause (II), a non-  
23 resident alien individual, foreign corpora-  
24 tion, or qualified investment entity shall be  
25 treated as having acquired any interest ac-

1           quired by a person related (within the  
2           meaning of section 267(b) or 707(b)(1)) to  
3           the individual, corporation, or entity, and  
4           any interest which such person has entered  
5           into any contract or option to acquire.

6           “(ii) APPLICATION TO SUBSTITUTE  
7           DIVIDEND AND SIMILAR PAYMENTS.—Sub-  
8           paragraph (A) shall apply to—

9                   “(I) any substitute dividend pay-  
10                   ment (within the meaning of section  
11                   861), or

12                   “(II) any other similar payment  
13                   specified in regulations which the Sec-  
14                   retary determines necessary to pre-  
15                   vent avoidance of the purposes of this  
16                   paragraph.

17           The portion of any such payment treated  
18           by the taxpayer as gain from the sale or  
19           exchange of a United States real property  
20           interest under subparagraph (A) by reason  
21           of this clause shall be equal to the portion  
22           of the distribution such payment is in lieu  
23           of which would have been so treated but  
24           for the transaction giving rise to such pay-  
25           ment.

1                   “(iii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction  
2                   shall not be treated as an applicable wash  
3                   sales transaction if the nonresident alien  
4                   individual, foreign corporation, or qualified  
5                   investment entity receives the distribution  
6                   described in clause (i)(I) with respect to ei-  
7                   ther the interest which was disposed of, or  
8                   acquired, in the transaction.  
9

10                   “(iv) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction  
11                   shall not be treated as an applicable wash  
12                   sales transaction if it involves the disposi-  
13                   tion of any class of stock in a qualified in-  
14                   vestment entity which is regularly traded  
15                   on an established securities market within  
16                   the United States but only if the non-  
17                   resident alien individual, foreign corpora-  
18                   tion, or qualified investment entity did not  
19                   own more than 5 percent of such class of  
20                   stock at any time during the 1-year period  
21                   ending on the date of the distribution de-  
22                   scribed in clause (i)(I).”  
23

1 (b) NO WITHHOLDING REQUIRED.—Section 1445(b)  
2 (relating to exemptions) is amended by adding at the end  
3 the following new paragraph:

4 “(8) APPLICABLE WASH SALES TRANS-  
5 ACTIONS.—No person shall be required to deduct  
6 and withhold any amount under subsection (a) with  
7 respect to a disposition which is treated as a dispo-  
8 sition of a United States real property interest solely  
9 by reason of section 897(h)(5).”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2005, except that such amendments shall  
13 not apply to any distribution, or substitute dividend pay-  
14 ment, occurring before the date that is 30 days after the  
15 date of the enactment of this Act.

16 **SEC. 507. SECTION 355 NOT TO APPLY TO DISTRIBUTIONS**  
17 **INVOLVING DISQUALIFIED INVESTMENT**  
18 **COMPANIES.**

19 (a) IN GENERAL.—

20 Section 355 (relating to distributions of stock  
21 and securities of a controlled corporation) is amend-  
22 ed by adding at the end the following new sub-  
23 section:

24 “(g) SECTION NOT TO APPLY TO DISTRIBUTIONS IN-  
25 VOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

1           “(1) IN GENERAL.—This section (and so much  
2 of section 356 as relates to this section) shall not  
3 apply to any distribution which is part of a trans-  
4 action if—

5           “(A) either the distributing corporation or  
6 controlled corporation is, immediately after the  
7 transaction, a disqualified investment corpora-  
8 tion, and

9           “(B) any person holds, immediately after  
10 the transaction, a 50-percent or greater interest  
11 in any disqualified investment corporation, but  
12 only if such person did not hold such an inter-  
13 est in such corporation immediately before the  
14 transaction.

15           “(2) DISQUALIFIED INVESTMENT CORPORA-  
16 TION.—For purposes of this subsection—

17           “(A) IN GENERAL.—The term ‘disqualified  
18 investment corporation’ means any distributing  
19 or controlled corporation if the fair market  
20 value of the investment assets of the corpora-  
21 tion is—

22           “(i) in the case of distributions after  
23 the end of the 1-year period beginning on  
24 the date of the enactment of this sub-

1 section,  $\frac{2}{3}$  or more of the fair market  
2 value of all assets of the corporation, and

3 “(ii) in the case of distributions dur-  
4 ing such 1-year period,  $\frac{3}{4}$  or more of the  
5 fair market value of all assets of the cor-  
6 poration.

7 “(B) INVESTMENT ASSETS.—

8 “(i) IN GENERAL.—Except as other-  
9 wise provided in this subparagraph, the  
10 term ‘investment assets’ means—

11 “(I) cash,

12 “(II) any stock or securities in a  
13 corporation,

14 “(III) any interest in a partner-  
15 ship,

16 “(IV) any debt instrument or  
17 other evidence of indebtedness,

18 “(V) any option, forward or fu-  
19 tures contract, notional principal con-  
20 tract, or derivative,

21 “(VI) foreign currency, or

22 “(VII) any similar asset.

23 “(ii) EXCEPTION FOR ASSETS USED  
24 IN ACTIVE CONDUCT OF CERTAIN FINAN-  
25 CIAL TRADES OR BUSINESSES.—Such term

1 shall not include any asset which is held  
2 for use in the active and regular conduct  
3 of—

4 “(I) a lending or finance business  
5 (within the meaning of section  
6 954(h)(4)),

7 “(II) a banking business through  
8 a bank (as defined in section 581), a  
9 domestic building and loan association  
10 (within the meaning of section  
11 7701(a)(19)), or any similar institu-  
12 tion specified by the Secretary, or

13 “(III) an insurance business if  
14 the conduct of the business is li-  
15 censed, authorized, or regulated by an  
16 applicable insurance regulatory body.

17 This clause shall only apply with respect to  
18 any business if substantially all of the in-  
19 come of the business is derived from per-  
20 sons who are not related (within the mean-  
21 ing of section 267(b) or 707(b)(1)) to the  
22 person conducting the business.

23 “(iii) EXCEPTION FOR SECURITIES  
24 MARKED TO MARKET.—Such term shall  
25 not include any security (as defined in sec-

1                   tion 475(c)(2)) which is held by a dealer in  
2                   securities and to which section 475(a) ap-  
3                   plies.

4                   “(iv) STOCK OR SECURITIES IN A 20-  
5                   PERCENT CONTROLLED ENTITY.—

6                   “(I) IN GENERAL.—Such term  
7                   shall not include any stock and securi-  
8                   ties in, or any asset described in sub-  
9                   clause (IV) or (V) of clause (i) issued  
10                  by, a corporation which is a 20-per-  
11                  cent controlled entity with respect to  
12                  the distributing or controlled corpora-  
13                  tion.

14                  “(II) LOOK-THRU RULE.—The  
15                  distributing or controlled corporation  
16                  shall, for purposes of applying this  
17                  subsection, be treated as owning its  
18                  ratable share of the assets of any 20-  
19                  percent controlled entity.

20                  “(III) 20-PERCENT CONTROLLED  
21                  ENTITY.—For purposes of this clause,  
22                  the term ‘20-percent controlled entity’  
23                  means, with respect to any distrib-  
24                  uting or controlled corporation, any  
25                  corporation with respect to which the



1 distributing or controlled corporation  
2 owns directly or indirectly stock meet-  
3 ing the requirements of section  
4 1504(a)(2), except that such section  
5 shall be applied by substituting ‘20  
6 percent’ for ‘80 percent’ and without  
7 regard to stock described in section  
8 1504(a)(4).

9 “(v) INTERESTS IN CERTAIN PART-  
10 NERSHIPS.—

11 “(I) IN GENERAL.—Such term  
12 shall not include any interest in a  
13 partnership, or any debt instrument  
14 or other evidence of indebtedness,  
15 issued by the partnership, if 1 or  
16 more of the trades or businesses of  
17 the partnership are (or, without re-  
18 gard to the 5-year requirement under  
19 subsection (b)(2)(B), would be) taken  
20 into account by the distributing or  
21 controlled corporation, as the case  
22 may be, in determining whether the  
23 requirements of subsection (b) are  
24 met with respect to the distribution.

1                   “(II) LOOK-THRU RULE.—The  
2                   distributing or controlled corporation  
3                   shall, for purposes of applying this  
4                   subsection, be treated as owning its  
5                   ratable share of the assets of any  
6                   partnership described in subclause (I).

7                   “(3) 50-PERCENT OR GREATER INTEREST.—  
8                   For purposes of this subsection—

9                   “(A) IN GENERAL.—The term ‘50-percent  
10                  or greater interest’ has the meaning given such  
11                  term by subsection (d)(4).

12                  “(B) CONTRIBUTION RULES.—The rules of  
13                  section 318 shall apply for purposes of deter-  
14                  mining ownership of stock for purposes of this  
15                  paragraph.

16                  “(4) TRANSACTION.—For purposes of this sub-  
17                  section, the term ‘transaction’ includes a series of  
18                  transactions.

19                  “(5) REGULATIONS.—The Secretary shall pre-  
20                  scribe such regulations as may be necessary to carry  
21                  out, or prevent the avoidance of, the purposes of this  
22                  subsection, including regulations—

23                  “(A) to carry out, or prevent the avoidance  
24                  of, the purposes of this subsection in cases in-  
25                  volving—



1 (A) made pursuant to an agreement which  
2 was binding on such date of enactment and at  
3 all times thereafter,

4 (B) described in a ruling request submitted  
5 to the Internal Revenue Service on or before  
6 such date, or

7 (C) described on or before such date in a  
8 public announcement or in a filing with the Se-  
9 curities and Exchange Commission.

10 **SEC. 508. LOAN AND REDEMPTION REQUIREMENTS ON**  
11 **POOLED FINANCING REQUIREMENTS.**

12 (a) **STRENGTHENED REASONABLE EXPECTATION**  
13 **REQUIREMENT.**—Subparagraph (A) of section 149(f)(2)  
14 (relating to reasonable expectation requirement) is amend-  
15 ed to read as follows:

16 “(A) **IN GENERAL.**—The requirements of  
17 this paragraph are met with respect to an issue  
18 if the issuer reasonably expects that—

19 “(i) as of the close of the 1-year pe-  
20 riod beginning on the date of issuance of  
21 the issue, at least 30 percent of the net  
22 proceeds of the issue (as of the close of  
23 such period) will have been used directly or  
24 indirectly to make or finance loans to ulti-  
25 mate borrowers, and

1                   “(ii) as of the close of the 3-year pe-  
2                   riod beginning on such date of issuance, at  
3                   least 95 percent of the net proceeds of the  
4                   issue (as of the close of such period) will  
5                   have been so used.”.

6           (b) WRITTEN LOAN COMMITMENT AND REDEMPTION  
7   REQUIREMENTS.—Section 149(f) (relating to treatment  
8   of certain pooled financing bonds) is amended by redesi-  
9   gnating paragraphs (4) and (5) as paragraphs (6) and (7),  
10   respectively, and by inserting after paragraph (3) the fol-  
11   lowing new paragraphs:

12                   “(4) WRITTEN LOAN COMMITMENT REQUIRE-  
13                   MENT.—

14                   “(A) IN GENERAL.—The requirement of  
15                   this paragraph is met with respect to an issue  
16                   if the issuer receives prior to issuance written  
17                   loan commitments identifying the ultimate po-  
18                   tential borrowers of at least 30 percent of the  
19                   net proceeds of such issue.

20                   “(B) EXCEPTION.—Subparagraph (A)  
21                   shall not apply with respect to any issuer  
22                   which—

23                   “(i) is a State (or an integral part of  
24                   a State) issuing pooled financing bonds to

1 make or finance loans to subordinate gov-  
2 ernmental units of such State, or

3 “(ii) is a State-created entity pro-  
4 viding financing for water-infrastructure  
5 projects through the federally-sponsored  
6 State revolving fund program.

7 “(5) REDEMPTION REQUIREMENT.—The re-  
8 quirement of this paragraph is met if to the extent  
9 that less than the percentage of the proceeds of an  
10 issue required to be used under clause (i) or (ii) of  
11 paragraph (2)(A) is used by the close of the period  
12 identified in such clause, the issuer uses an amount  
13 of proceeds equal to the excess of—

14 “(A) the amount required to be used under  
15 such clause, over

16 “(B) the amount actually used by the close  
17 of such period,

18 to redeem outstanding bonds within 90 days after  
19 the end of such period.”.

20 (c) ELIMINATION OF DISREGARD OF POOLED BONDS  
21 IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EX-  
22 CEPTION TO ARBITRAGE REBATE.—Section  
23 148(f)(4)(D)(ii) (relating to aggregation of issuers) is  
24 amended by striking subclause (II) and by redesignating

1 subclauses (III) and (IV) as subclauses (II) and (III), re-  
2 spectively.

3 (d) CONFORMING AMENDMENTS.—

4 (1) Section 149(f)(1) is amended by striking  
5 “paragraphs (2) and (3)” and inserting “paragraphs  
6 (2), (3), (4), and (5)”.

7 (2) Section 149(f)(7)(B), as redesignated by  
8 subsection (b), is amended by striking “paragraph  
9 (4)(A)” and inserting “paragraph (6)(A)”.

10 (3) Section 54(l)(2) is amended by striking  
11 “section 149(f)(4)(A)” and inserting “section  
12 149(f)(6)(A)”.

13 (e) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to bonds issued after the date of  
15 the enactment of this Act.

16 **SEC. 509. PARTIAL PAYMENTS REQUIRED WITH SUBMIS-**  
17 **SION OF OFFERS-IN-COMPROMISE.**

18 (a) IN GENERAL.—Section 7122 (relating to com-  
19 promises) is amended by redesignating subsections (c) and  
20 (d) as subsections (d) and (e), respectively, and by insert-  
21 ing after subsection (b) the following new subsection:

22 “(c) RULES FOR SUBMISSION OF OFFERS-IN-COM-  
23 PROMISE.—

24 “(1) PARTIAL PAYMENT REQUIRED WITH SUB-  
25 MISSION.—

1 “(A) LUMP-SUM OFFERS.—

2 “(i) IN GENERAL.—The submission of  
3 any lump-sum offer-in-compromise shall be  
4 accompanied by the payment of 20 percent  
5 of the amount of such offer.

6 “(ii) LUMP-SUM OFFER-IN-COM-  
7 PROMISE.—For purposes of this section,  
8 the term ‘lump-sum offer-in-compromise’  
9 means any offer of payments made in 5 or  
10 fewer installments.

11 “(B) PERIODIC PAYMENT OFFERS.—

12 “(i) IN GENERAL.—The submission of  
13 any periodic payment offer-in-compromise  
14 shall be accompanied by the payment of  
15 the amount of the first proposed install-  
16 ment.

17 “(ii) FAILURE TO MAKE INSTALL-  
18 MENT DURING PENDENCY OF OFFER.—  
19 Any failure to make an installment (other  
20 than the first installment) due under such  
21 offer-in-compromise during the period such  
22 offer is being evaluated by the Secretary  
23 may be treated by the Secretary as a with-  
24 drawal of such offer-in-compromise.

25 “(2) RULES OF APPLICATION.—



1           “(A) USE OF PAYMENT.—The application  
2           of any payment made under this subsection to  
3           the assessed tax or other amounts imposed  
4           under this title with respect to such tax may be  
5           specified by the taxpayer.

6           “(B) APPLICATION OF USER FEE.—In the  
7           case of any assessed tax or other amounts im-  
8           posed under this title with respect to such tax  
9           which is the subject of an offer-in-compromise  
10          to which this subsection applies, such tax or  
11          other amounts shall be reduced by any user fee  
12          imposed under this title with respect to such  
13          offer-in-compromise.

14          “(C) WAIVER AUTHORITY.—The Secretary  
15          may issue regulations waiving any payment re-  
16          quired under paragraph (1) in a manner con-  
17          sistent with the practices established in accord-  
18          ance with the requirements under subsection  
19          (d)(3).”.

20          (b) ADDITIONAL RULES RELATING TO TREATMENT  
21          OF OFFERS.—

22                 (1) UNPROCESSABLE OFFER IF PAYMENT RE-  
23                 QUIREMENTS ARE NOT MET.—Paragraph (3) of sec-  
24                 tion 7122(d) (relating to standards for evaluation of  
25                 offers), as redesignated by subsection (a), is amend-

1 ed by striking “; and” at the end of subparagraph  
2 (A) and inserting a comma, by striking the period  
3 at the end of subparagraph (B) and inserting “,  
4 and”, and by adding at the end the following new  
5 subparagraph:

6 “(C) any offer-in-compromise which does  
7 not meet the requirements of subparagraph  
8 (A)(i) or (B)(i), as the case may be, of sub-  
9 section (c)(1) may be returned to the taxpayer  
10 as unprocessable.”.

11 (2) DEEMED ACCEPTANCE OF OFFER NOT RE-  
12 JECTED WITHIN CERTAIN PERIOD.—Section 7122,  
13 as amended by subsection (a), is amended by adding  
14 at the end the following new subsection:

15 “(f) DEEMED ACCEPTANCE OF OFFER NOT RE-  
16 JECTED WITHIN CERTAIN PERIOD.—Any offer-in-com-  
17 promise submitted under this section shall be deemed to  
18 be accepted by the Secretary if such offer is not rejected  
19 by the Secretary before the date which is 24 months after  
20 the date of the submission of such offer. For purposes of  
21 the preceding sentence, any period during which any tax  
22 liability which is the subject of such offer-in-compromise  
23 is in dispute in any judicial proceeding shall not be taken  
24 into account in determining the expiration of the 24-  
25 month period.”.

1 (c) CONFORMING AMENDMENT.—Section 6159(f) is  
2 amended by striking “section 7122(d)” and inserting  
3 “section 7122(e)”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to offers-in-compromise submitted  
6 on and after the date which is 60 days after the date of  
7 the enactment of this Act.

8 **SEC. 510. INCREASE IN AGE OF MINOR CHILDREN WHOSE**  
9 **UNEARNED INCOME IS TAXED AS IF PAR-**  
10 **ENT’S INCOME.**

11 (a) IN GENERAL.—Section 1(g)(2)(A) (relating to  
12 child to whom subsection applies) is amended by striking  
13 “age 14” and inserting “age 18”.

14 (b) TREATMENT OF DISTRIBUTIONS FROM QUALI-  
15 FIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to  
16 net unearned income) is amended by adding at the end  
17 the following new subparagraph:

18 “(C) TREATMENT OF DISTRIBUTIONS  
19 FROM QUALIFIED DISABILITY TRUSTS.—For  
20 purposes of this subsection, in the case of any  
21 child who is a beneficiary of a qualified dis-  
22 ability trust (as defined in section  
23 642(b)(2)(C)(ii)), any amount included in the  
24 income of such child under sections 652 and  
25 662 during a taxable year shall be considered

1           earned income of such child for such taxable  
2           year.”.

3           (c) CONFORMING AMENDMENT.—Section 1(g)(2) is  
4 amended by striking “and” at the end of subparagraph  
5 (A), by striking the period at the end of subparagraph  
6 (B) and inserting “, and”, and by inserting after subpara-  
7 graph (B) the following new subparagraph:

8                   “(C) such child does not file a joint return  
9                   for the taxable year.”.

10          (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2005.

13 **SEC. 511. IMPOSITION OF WITHHOLDING ON CERTAIN PAY-**  
14 **MENTS MADE BY GOVERNMENT ENTITIES.**

15          (a) IN GENERAL.—Section 3402 is amended by add-  
16 ing at the end the following new subsection:

17           “(t) EXTENSION OF WITHHOLDING TO CERTAIN  
18 PAYMENTS MADE BY GOVERNMENT ENTITIES.—

19                   “(1) GENERAL RULE.—The Government of the  
20 United States, every State, every political subdivi-  
21 sion thereof, and every instrumentality of the fore-  
22 going (including multi-State agencies) making any  
23 payment to any person providing any property or  
24 services (including any payment made in connection  
25 with a government voucher or certificate program

1       which functions as a payment for property or serv-  
2       ices) shall deduct and withhold from such payment  
3       a tax in an amount equal to 3 percent of such pay-  
4       ment.

5               “(2) PROPERTY AND SERVICES SUBJECT TO  
6       WITHHOLDING.—Paragraph (1) shall not apply to  
7       any payment—

8               “(A) except as provided in subparagraph  
9       (B), which is subject to withholding under any  
10      other provision of this chapter or chapter 3,

11              “(B) which is subject to withholding under  
12      section 3406 and from which amounts are being  
13      withheld under such section,

14              “(C) of interest,

15              “(D) for real property,

16              “(E) to any governmental entity subject to  
17      the requirements of paragraph (1), any tax-ex-  
18      empt entity, or any foreign government,

19              “(F) made pursuant to a classified or con-  
20      fidential contract described in section  
21      6050M(e)(3),

22              “(G) made by a political subdivision of a  
23      State (or any instrumentality thereof) which  
24      makes less than \$100,000,000 of such pay-  
25      ments annually,

1           “(H) which is in connection with a public  
2           assistance or public welfare program for which  
3           eligibility is determined by a needs or income  
4           test, and

5           “(I) to any government employee not oth-  
6           erwise excludable with respect to their services  
7           as an employee.

8           “(3) COORDINATION WITH OTHER SECTIONS.—  
9           For purposes of sections 3403 and 3404 and for  
10          purposes of so much of subtitle F (except section  
11          7205) as relates to this chapter, payments to any  
12          person for property or services which are subject to  
13          withholding shall be treated as if such payments  
14          were wages paid by an employer to an employee.”.

15          (b) EFFECTIVE DATE.—The amendment made by  
16          this section shall apply to payments made after December  
17          31, 2010.

18       **SEC. 512. CONVERSIONS TO ROTH IRAS.**

19          (a) REPEAL OF INCOME LIMITATIONS.—

20               (1) IN GENERAL.—Paragraph (3) of section  
21          408A(c) (relating to limits based on modified ad-  
22          justed gross income) is amended by striking sub-  
23          paragraph (B) and redesignating subparagraphs (C)  
24          and (D) as subparagraphs (B) and (C), respectively.



1                   “(I) IN GENERAL.—The amount  
2 otherwise required to be included in  
3 gross income for any taxable year be-  
4 ginning in 2010 or the first taxable  
5 year in the 2-year period under sub-  
6 paragraph (A)(iii) shall be increased  
7 by the aggregate distributions from  
8 Roth IRAs for such taxable year  
9 which are allocable under paragraph  
10 (4) to the portion of such qualified  
11 rollover contribution required to be in-  
12 cluded in gross income under subpara-  
13 graph (A)(i).

14                   “(II) LIMITATION ON AGGRE-  
15 GATE AMOUNT INCLUDED.—The  
16 amount required to be included in  
17 gross income for any taxable year  
18 under subparagraph (A)(iii) shall not  
19 exceed the aggregate amount required  
20 to be included in gross income under  
21 subparagraph (A)(iii) for all taxable  
22 years in the 2-year period (without re-  
23 gard to subclause (I)) reduced by  
24 amounts included for all preceding  
25 taxable years.”.



1 (B) The heading for section 408A(d)(3)(E)  
2 is amended by striking “4-YEAR” and inserting  
3 “2-YEAR”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years beginning after  
6 December 31, 2009.

7 **SEC. 513. REPEAL OF FSC/ETI BINDING CONTRACT RELIEF.**

8 (a) FSC PROVISIONS.—Paragraph (1) of section 5(c)  
9 of the FSC Repeal and Extraterritorial Income Exclusion  
10 Act of 2000 is amended by striking “which occurs—” and  
11 all that follows and inserting “which occurs before Janu-  
12 ary 1, 2002.”.

13 (b) ETI PROVISIONS.—Section 101 of the American  
14 Jobs Creation Act of 2004 is amended by striking sub-  
15 section (f).

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to taxable years beginning after  
18 the date of the enactment of this Act.

19 **SEC. 514. ONLY WAGES ATTRIBUTABLE TO DOMESTIC PRO-**  
20 **DUCTION TAKEN INTO ACCOUNT IN DETER-**  
21 **MINING DEDUCTION FOR DOMESTIC PRO-**  
22 **DUCTION.**

23 (a) IN GENERAL.—Paragraph (2) of section 199(b)  
24 (relating to W-2 wages) is amended to read as follows:

1           “(2) W-2 WAGES.—For purposes of this sec-  
2           tion—

3                   “(A) IN GENERAL.—The term ‘W-2 wages’  
4                   means, with respect to any person for any tax-  
5                   able year of such person, the sum of the  
6                   amounts described in paragraphs (3) and (8) of  
7                   section 6051(a) paid by such person with re-  
8                   spect to employment of employees by such per-  
9                   son during the calendar year ending during  
10                  such taxable year.

11                  “(B) LIMITATION TO WAGES ATTRIB-  
12                  UTABLE TO DOMESTIC PRODUCTION.—Such  
13                  term shall not include any amount which is not  
14                  properly allocable to domestic production gross  
15                  receipts for purposes of subsection (c)(1).

16                  “(C) RETURN REQUIREMENT.—Such term  
17                  shall not include any amount which is not prop-  
18                  erly included in a return filed with the Social  
19                  Security Administration on or before the 60th  
20                  day after the due date (including extensions)  
21                  for such return.”.

22           (b) SIMPLIFICATION OF RULES FOR DETERMINING  
23           W-2 WAGES OF PARTNERS AND S CORPORATION SHARE-  
24           HOLDERS.—

1           (1) IN GENERAL.—Clause (iii) of section  
2 199(d)(1)(A) is amended to read as follows:

3                   “(iii) each partner or shareholder  
4 shall be treated for purposes of subsection  
5 (b) as having W-2 wages for the taxable  
6 year in an amount equal to such person’s  
7 allocable share of the W-2 wages of the  
8 partnership or S corporation for the tax-  
9 able year (as determined under regulations  
10 prescribed by the Secretary).”.

11           (2) CONFORMING AMENDMENT.—Paragraph (2)  
12 of section 199(a) is amended by striking “and sub-  
13 section (d)(1)”.

14           (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 the date of the enactment of this Act.

17 **SEC. 515. MODIFICATION OF EXCLUSION FOR CITIZENS LIV-**  
18 **ING ABROAD.**

19           (a) INFLATION ADJUSTMENT OF FOREIGN EARNED  
20 INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D)  
21 (relating to inflation adjustment) is amended—

22                   (1) by striking “2007” and inserting “2005”,  
23 and

24                   (2) by striking “2006” in subclause (II) and in-  
25 serting “2004”.

1 (b) MODIFICATION OF HOUSING COST AMOUNT.—

2 (1) MODIFICATION OF HOUSING COST FLOOR.—

3 Clause (i) of section 911(c)(1)(B) is amended to  
4 read as follows:

5 “(i) 16 percent of the amount (com-  
6 puted on a daily basis) in effect under sub-  
7 section (b)(2)(D) for the calendar year in  
8 which such taxable year begins, multiplied  
9 by”.

10 (2) MAXIMUM AMOUNT OF EXCLUSION.—

11 (A) IN GENERAL.—Subparagraph (A) of  
12 section 911(c)(1) is amended by inserting “to  
13 the extent such expenses do not exceed the  
14 amount determined under paragraph (2)” after  
15 “the taxable year”.

16 (B) LIMITATION.—Subsection (c) of sec-  
17 tion 911 is amended by redesignating para-  
18 graphs (2) and (3) as paragraphs (3) and (4),  
19 respectively, and by inserting after paragraph  
20 (1) the following new paragraph:

21 “(2) LIMITATION.—

22 “(A) IN GENERAL.—The amount deter-  
23 mined under this paragraph is an amount equal  
24 to the product of—

1           “(i) 30 percent (adjusted as may be  
2           provided under subparagraph (B)) of the  
3           amount (computed on a daily basis) in ef-  
4           fect under subsection (b)(2)(D) for the cal-  
5           endar year in which the taxable year of the  
6           individual begins, multiplied by

7           “(ii) the number of days of such tax-  
8           able year within the applicable period de-  
9           scribed in subparagraph (A) or (B) of sub-  
10          section (d)(1).

11          “(B) REGULATIONS.—The Secretary may  
12          issue regulations or other guidance providing  
13          for the adjustment of the percentage under sub-  
14          paragraph (A)(i) on the basis of geographic dif-  
15          ferences in housing costs relative to housing  
16          costs in the United States.”.

17          (C) CONFORMING AMENDMENTS.—

18                 (i) Section 911(d)(4) is amended by  
19                 striking “and (c)(1)(B)(ii)” and inserting  
20                 “, (c)(1)(B)(ii), and (c)(2)(A)(ii)”.

21                 (ii) Section 911(d)(7) is amended by  
22                 striking “subsection (c)(3)” and inserting  
23                 “subsection (c)(4)”.

24          (c) RATES OF TAX APPLICABLE TO NONEXCLUDED  
25          INCOME.—Section 911 (relating to exclusion of certain in-

1 come of citizens and residents of the United States living  
2 abroad) is amended by redesignating subsection (f) as sub-  
3 section (g) and by inserting after subsection (e) the fol-  
4 lowing new subsection:

5       “(f) DETERMINATION OF TAX LIABILITY ON NON-  
6 EXCLUDED AMOUNTS.—For purposes of this chapter, if  
7 any amount is excluded from the gross income of a tax-  
8 payer under subsection (a) for any taxable year, then, not-  
9 withstanding section 1 or 55—

10           “(1) the tax imposed by section 1 on the tax-  
11 payer for such taxable year shall be equal to the ex-  
12 cess (if any) of—

13                   “(A) the tax which would be imposed by  
14 section 1 for the taxable year if the taxpayer’s  
15 taxable income were increased by the amount  
16 excluded under subsection (a) for the taxable  
17 year, over

18                   “(B) the tax which would be imposed by  
19 section 1 for the taxable year if the taxpayer’s  
20 taxable income were equal to the amount ex-  
21 cluded under subsection (a) for the taxable  
22 year, and

23           “(2) the tentative minimum tax under section  
24 55 for such taxable year shall be equal to the excess  
25 (if any) of—

1           “(A) the amount which would be such ten-  
2           tative minimum tax for the taxable year if the  
3           taxpayer’s taxable excess were increased by the  
4           amount excluded under subsection (a) for the  
5           taxable year, over

6           “(B) the amount which would be such ten-  
7           tative minimum tax for the taxable year if the  
8           taxpayer’s taxable excess were equal to the  
9           amount excluded under subsection (a) for the  
10          taxable year.

11 For purposes of this subsection, the amount excluded  
12 under subsection (a) shall be reduced by the aggregate  
13 amount of any deductions or exclusions disallowed under  
14 subsection (d)(6) with respect to such excluded amount.”.

15          (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2005.

18 **SEC. 516. TAX INVOLVEMENT OF ACCOMMODATION PAR-**

19 **TIES IN TAX SHELTER TRANSACTIONS.**

20          (a) IMPOSITION OF EXCISE TAX.—

21           (1) IN GENERAL.—Chapter 42 (relating to pri-  
22           vate foundations and certain other tax-exempt orga-  
23           nizations) is amended by adding at the end the fol-  
24           lowing new subchapter:

1       **“Subchapter F—Tax Shelter Transactions**

“Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.

2       **“SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES**

3                               **ENTERING INTO PROHIBITED TAX SHELTER**

4                               **TRANSACTIONS.**

5               “(a) BEING A PARTY TO AND APPROVAL OF PROHIB-  
6 ITED TRANSACTIONS.—

7                       “(1) TAX-EXEMPT ENTITY.—

8                               “(A) IN GENERAL.—If a transaction is a  
9 prohibited tax shelter transaction at the time  
10 any tax-exempt entity described in paragraph  
11 (1), (2), or (3) of subsection (c) becomes a  
12 party to the transaction, such entity shall pay  
13 a tax for the taxable year in which the entity  
14 becomes such a party and any subsequent tax-  
15 able year in the amount determined under sub-  
16 section (b)(1).

17                               “(B) POST-TRANSACTION DETERMINA-  
18 TION.—If any tax-exempt entity described in  
19 paragraph (1), (2), or (3) of subsection (c) is  
20 a party to a subsequently listed transaction at  
21 any time during a taxable year, such entity  
22 shall pay a tax for such taxable year in the  
23 amount determined under subsection (b)(1).



1           “(2) ENTITY MANAGER.—If any entity manager  
2 of a tax-exempt entity approves such entity as (or  
3 otherwise causes such entity to be) a party to a pro-  
4 hibited tax shelter transaction at any time during  
5 the taxable year and knows or has reason to know  
6 that the transaction is a prohibited tax shelter trans-  
7 action, such manager shall pay a tax for such tax-  
8 able year in the amount determined under sub-  
9 section (b)(2).

10           “(b) AMOUNT OF TAX.—

11           “(1) ENTITY.—In the case of a tax-exempt en-  
12 tity—

13           “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), the amount of the tax im-  
15 posed under subsection (a)(1) with respect to  
16 any transaction for a taxable year shall be an  
17 amount equal to the product of the highest rate  
18 of tax under section 11, and the greater of—

19           “(i) the entity’s net income (after tak-  
20 ing into account any tax imposed by this  
21 subtitle (other than by this section) with  
22 respect to such transaction) for such tax-  
23 able year which—

24           “(I) in the case of a prohibited  
25 tax shelter transaction (other than a

1 subsequently listed transaction), is at-  
2 tributable to such transaction, or

3 “(II) in the case of a subse-  
4 quently listed transaction, is attrib-  
5 utable to such transaction and which  
6 is properly allocable to the period be-  
7 ginning on the later of the date such  
8 transaction is identified by guidance  
9 as a listed transaction by the Sec-  
10 retary or the first day of the taxable  
11 year, or

12 “(ii) 75 percent of the proceeds re-  
13 ceived by the entity for the taxable year  
14 which—

15 “(I) in the case of a prohibited  
16 tax shelter transaction (other than a  
17 subsequently listed transaction), are  
18 attributable to such transaction, or

19 “(II) in the case of a subse-  
20 quently listed transaction, are attrib-  
21 utable to such transaction and which  
22 are properly allocable to the period be-  
23 ginning on the later of the date such  
24 transaction is identified by guidance  
25 as a listed transaction by the Sec-

1                   retary or the first day of the taxable  
2                   year.

3                   “(B) INCREASE IN TAX FOR CERTAIN  
4                   KNOWING TRANSACTIONS.—In the case of a  
5                   tax-exempt entity which knew, or had reason to  
6                   know, a transaction was a prohibited tax shelter  
7                   transaction at the time the entity became a  
8                   party to the transaction, the amount of the tax  
9                   imposed under subsection (a)(1)(A) with re-  
10                  spect to any transaction for a taxable year shall  
11                  be the greater of—

12                   “(i) 100 percent of the entity’s net in-  
13                   come (after taking into account any tax  
14                   imposed by this subtitle (other than by this  
15                   section) with respect to the prohibited tax  
16                   shelter transaction) for such taxable year  
17                   which is attributable to the prohibited tax  
18                   shelter transaction, or

19                   “(ii) 75 percent of the proceeds re-  
20                   ceived by the entity for the taxable year  
21                   which are attributable to the prohibited tax  
22                   shelter transaction.

23                   This subparagraph shall not apply to any pro-  
24                   hibited tax shelter transaction to which a tax-

1 exempt entity became a party on or before the  
2 date of the enactment of this section.

3 “(2) ENTITY MANAGER.—In the case of each  
4 entity manager, the amount of the tax imposed  
5 under subsection (a)(2) shall be \$20,000 for each  
6 approval (or other act causing participation) de-  
7 scribed in subsection (a)(2).

8 “(c) TAX-EXEMPT ENTITY.—For purposes of this  
9 section, the term ‘tax-exempt entity’ means an entity  
10 which is—

11 “(1) described in section 501(c) or 501(d),

12 “(2) described in section 170(c) (other than the  
13 United States),

14 “(3) an Indian tribal government (within the  
15 meaning of section 7701(a)(40)),

16 “(4) described in paragraph (1), (2), or (3) of  
17 section 4979(e),

18 “(5) a program described in section 529,

19 “(6) an eligible deferred compensation plan de-  
20 scribed in section 457(b) which is maintained by an  
21 employer described in section 4457(e)(1)(A), or

22 “(7) an arrangement described in section  
23 4973(a).

24 “(d) ENTITY MANAGER.—For purposes of this sec-  
25 tion, the term ‘entity manager’ means—

1           “(1) in the case of an entity described in para-  
2 graph (1), (2), or (3) of subsection (c)—

3           “(A) the person with authority or responsi-  
4 bility similar to that exercised by an officer, di-  
5 rector, or trustee of an organization, and

6           “(B) with respect to any act, the person  
7 having authority or responsibility with respect  
8 to such act, and

9           “(2) in the case of an entity described in para-  
10 graph (4), (5), (6), or (7) of subsection (c), the per-  
11 son who approves or otherwise causes the entity to  
12 be a party to the prohibited tax shelter transaction.

13       “(e) PROHIBITED TAX SHELTER TRANSACTION;  
14 SUBSEQUENTLY LISTED TRANSACTION.—For purposes of  
15 this section—

16       “(1) PROHIBITED TAX SHELTER TRANS-  
17 ACTION.—

18           “(A) IN GENERAL.—The term ‘prohibited  
19 tax shelter transaction’ means—

20           “(i) any listed transaction, and

21           “(ii) any prohibited reportable trans-  
22 action.

23       “(B) LISTED TRANSACTION.—The term  
24 ‘listed transaction’ has the meaning given such  
25 term by section 6707A(c)(2).

1                   “(C) PROHIBITED REPORTABLE TRANS-  
2                   ACTION.—The term ‘prohibited reportable  
3                   transaction’ means any confidential transaction  
4                   or any transaction with contractual protection  
5                   (as defined under regulations prescribed by the  
6                   Secretary) which is a reportable transaction (as  
7                   defined in section 6707A(c)(1)).

8                   “(2) SUBSEQUENTLY LISTED TRANSACTION.—  
9                   The term ‘subsequently listed transaction’ means  
10                  any transaction to which a tax-exempt entity is a  
11                  party and which is determined by the Secretary to  
12                  be a listed transaction at any time after the entity  
13                  has become a party to the transaction. Such term  
14                  shall not include a transaction which is a prohibited  
15                  reportable transaction at the time the entity became  
16                  a party to the transaction.

17                  “(f) REGULATORY AUTHORITY.—The Secretary is  
18                  authorized to promulgate regulations which provide guid-  
19                  ance regarding the determination of the allocation of net  
20                  income or proceeds of a tax-exempt entity attributable to  
21                  a transaction to various periods, including before and after  
22                  the listing of the transaction or the date which is 90 days  
23                  after the date of the enactment of this section.

24                  “(g) COORDINATION WITH OTHER TAXES AND PEN-  
25                  ALTIES.—The tax imposed by this section is in addition

1 to any other tax, addition to tax, or penalty imposed under  
2 this title.”.

3 (2) CONFORMING AMENDMENT.—The table of  
4 subchapters for chapter 42 is amended by adding at  
5 the end the following new item:

“SUBCHAPTER F. TAX SHELTER TRANSACTIONS.”.

6 (b) DISCLOSURE REQUIREMENTS.—

7 (1) DISCLOSURE BY ENTITY TO THE INTERNAL  
8 REVENUE SERVICE.—

9 (A) IN GENERAL.—Section 6033(a) (relat-  
10 ing to organizations required to file) is amended  
11 by redesignating paragraph (2) as paragraph  
12 (3) and by inserting after paragraph (1) the  
13 following new paragraph:

14 “(2) BEING A PARTY TO CERTAIN REPORTABLE  
15 TRANSACTIONS.—Every tax-exempt entity described  
16 in section 4965(c) shall file (in such form and man-  
17 ner and at such time as determined by the Sec-  
18 retary) a disclosure of—

19 “(A) such entity’s being a party to any  
20 prohibited tax shelter transaction (as defined in  
21 section 4965(e)), and

22 “(B) the identity of any other party to  
23 such transaction which is known by such tax-  
24 exempt entity.”.

1 (B) CONFORMING AMENDMENT.—Section  
2 6033(a)(1) is amended by striking “paragraph  
3 (2)” and inserting “paragraph (3)”.

4 (2) DISCLOSURE BY OTHER TAXPAYERS TO THE  
5 TAX-EXEMPT ENTITY.—Section 6011 (relating to  
6 general requirement of return, statement, or list) is  
7 amended by redesignating subsection (g) as sub-  
8 section (h) and by inserting after subsection (f) the  
9 following new subsection:

10 “(g) DISCLOSURE OF REPORTABLE TRANSACTION TO  
11 TAX-EXEMPT ENTITY.—Any taxable party to a prohibited  
12 tax shelter transaction (as defined in section 4965(e)(1))  
13 shall by statement disclose to any tax-exempt entity (as  
14 defined in section 4965(c)) which is a party to such trans-  
15 action that such transaction is such a prohibited tax shel-  
16 ter transaction.”.

17 (c) PENALTY FOR NONDISCLOSURE.—

18 (1) IN GENERAL.—Section 6652(c) (relating to  
19 returns by exempt organizations and by certain  
20 trusts) is amended by redesignating paragraphs (3)  
21 and (4) as paragraphs (4) and (5), respectively, and  
22 by inserting after paragraph (2) the following new  
23 paragraph:

24 “(3) DISCLOSURE UNDER SECTION  
25 6033(a)(2).—



1           “(A) PENALTY ON ENTITIES.—In the case  
2 of a failure to file a disclosure required under  
3 section 6033(a)(2), there shall be paid by the  
4 tax-exempt entity (the entity manager in the  
5 case of a tax-exempt entity described in para-  
6 graph (4), (5), (6), or (7) of section 4965(c))  
7 \$100 for each day during which such failure  
8 continues. The maximum penalty under this  
9 subparagraph on failures with respect to any 1  
10 disclosure shall not exceed \$50,000.

11           “(B) WRITTEN DEMAND.—

12           “(i) IN GENERAL.—The Secretary  
13 may make a written demand on any entity  
14 or manager subject to penalty under sub-  
15 paragraph (A) specifying therein a reason-  
16 able future date by which the disclosure  
17 shall be filed for purposes of this subpara-  
18 graph.

19           “(ii) FAILURE TO COMPLY WITH DE-  
20 MAND.—If any entity or manager fails to  
21 comply with any demand under clause (i)  
22 on or before the date specified in such de-  
23 mand, there shall be paid by such entity or  
24 manager failing to so comply \$100 for  
25 each day after the expiration of the time

1 specified in such demand during which  
2 such failure continues. The maximum pen-  
3 alty imposed under this subparagraph on  
4 all entities and managers for failures with  
5 respect to any 1 disclosure shall not exceed  
6 \$10,000.

7 “(C) DEFINITIONS.—Any term used in  
8 this section which is also used in section 4965  
9 shall have the meaning given such term under  
10 section 4965.”.

11 (2) CONFORMING AMENDMENT.—Paragraph (1)  
12 of section 6652(c) is amended by striking “6033”  
13 each place it appears in the text and heading thereof  
14 and inserting “6033(a)(1)”.

15 (d) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as provided in para-  
17 graph (2), the amendments made by this section  
18 shall apply to taxable years ending after the date of  
19 the enactment of this Act, with respect to trans-  
20 actions before, on, or after such date, except that no  
21 tax under section 4965(a) of the Internal Revenue  
22 Code of 1986 (as added by this section) shall apply  
23 with respect to income or proceeds that are properly  
24 allocable to any period ending on or before the date  
25 which is 90 days after such date of enactment.

1           (2) DISCLOSURE.—The amendments made by  
2           subsections (b) and (c) shall apply to disclosures the  
3           due date for which are after the date of the enact-  
4           ment of this Act.