SUMMARY OF THE REVENUE PROVISIONS CONTAINED IN S. 1429, THE TAXPAYER REFUND ACT OF 1999, AS REPORTED BY THE SENATE COMMITTEE ON FINANCE ON JULY 23, 1999

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of the

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CONTENTS

Page

Page

Page

Page

Page

INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a summary of the revenue provisions in S. 1429, the Taxpayer Refund Act of 1999, as reported by the Senate Committee on Finance on July 23, 1999.[2]

[1] This document may be cited as follows: Joint Committee on Taxation, *Summary of the Revenue Provisions Contained in S.1429, the Taxpayer Refund Act of 1999, as Reported by the Senate Committee on Finance on July 23, 1999* (JCX-56-99), July 27, 1999.

[2] See, also, Report of the Senate Committee on Finance on S. 1429 (S. Rept. 106-120, July 23, 1999).

SUMMARY OF S. 1429, THE TAXPAYER REFUND ACT OF 1999

TITLE I. BROAD-BASED TAX RELIEF PROVISION -- REDUCTION IN THE 15-PERCENT REGULAR INDIVIDUAL INCOME TAX RATE

The bill reduces the lowest individual regular income tax rate from 15 percent to 14 percent, effective for taxable years beginning after December 31, 2000. This rate reduction does not apply to the capital gains tax rates. In addition, the bill increases the size of the otherwise applicable 14-percent rate bracket by $2,000 ($4,000 for a married couple filing a joint return) in 2005 and 2006 and by $2,500 ($5,000 for a married couple filing a joint return) in 2007.

TITLE II. FAMILY TAX RELIEF PROVISIONS

A. Election to Calculate Combined Tax as Individuals for a Married Couple Filing a Joint Return

Under the bill, married taxpayers have the option to calculate separate taxable income for each spouse and to be taxed as two single individuals on the same return. The tax due is calculated by applying the tax rates for single individuals to the separate taxable incomes. Under the bill, both spouses must elect to either use the standard deduction for single individuals or to itemize their deductions. Once tax liability is calculated on a separate basis, all tax credits and payments of tax are applied as if the couple is filing a joint return. Each spouse is entitled to claim one personal exemption. Exemptions for dependents are allocated based on each spouse's relative income. The bill provides specific rules for the allocation of income and deductions. The provision is effective for taxable years beginning after December 31, 2004.

B. Marriage Penalty Relief Relating to the Earned Income Credit

The bill increases the beginning point of the phase out of the Earned Income Credit ("EIC") for married couples filing a joint return by $2,000, effective for taxable years beginning after December 31, 2004. The effect of the increase in the beginning point of the phase-out range is to increase the EIC for taxpayers in the phase-out range by an amount up to $2,000 times the phase-out rate. The provision also makes taxpayers with earnings up to $2,000 beyond the present-law phase-out range newly eligible for the EIC.

C. Expand the Exclusion from Income for Certain Foster Care Payments

The bill expands the list of persons eligible to make qualified foster care payments to include a State, a political subdivision of a State, or a qualified foster care placement agency, whether taxable or tax-exempt. The bill also expands the list of persons eligible to place foster care individuals to allow placements by a State, a political subdivision of a State, or a qualified foster care placement agency. The provision is effective for taxable years beginning after December 31, 1999.

D. Increase and Expand the Dependent Care Credit

The maximum credit percentage for the dependent care tax credit is increased from 30 percent to 50 percent for taxpayers with adjusted gross income ("AGI") of $30,000 or less, effective for taxable years beginning after December 31, 2000. In addition, the maximum amount of eligible employment-related expenses ($2,400/$4,800) is indexed for inflation beginning in 2001.

E. Tax Credit for Employer-Provided Child Care Facilities

Under the bill, taxpayers receive a tax credit equal to 25 percent of qualified expenses for employee child care. Under the bill, a taxpayer is entitled to a tax credit equal to 10 percent of expenses incurred to provide employees with child care resource and referral services. The maximum total credits that may be claimed by a taxpayer under this provision can not exceed $150,000 per year. The credits are effective for taxable years beginning after December 31, 2000.

F. Modify Individual Alternative Minimum Tax

For taxable years beginning after December 31, 1998, the bill allows an individual to offset the entire regular tax liability (without regard to the minimum tax) by the personal nonrefundable credits, and repeals the provision reducing the refundable child credit by the alternative minimum tax ("AMT"). For taxable years beginning after December 31, 2004, the bill also allows the deduction for personal exemptions in computing AMT.

TITLE III. RETIREMENT AND INDIVIDUAL SAVINGS TAX RELIEF

A. Individual Savings Provisions

- Individual retirement arrangements.--The bill increases the annual dollar IRA contribution limit in $1,000 annual increments, beginning in 2001, until the limit reaches $5,000 in 2003. Thereafter, the limit is indexed for inflation in $100 increments. The AGI phase-out limit for active participants in an employer-sponsored plan is increased by $2,000 ($4,000 in the case of a joint return) in 2008, and by $2,500 ($5,000 in the case of a joint return) in 2009 and 2010. After 2010, the income limits are indexed for inflation in $1000 increments. The Roth IRA contribution AGI phase-out limits are repealed, beginning in 2001. The bill also increases the AGI limit on conversions of traditional IRAs to Roth IRAs to $1 million ($500,000 in the case of a married taxpayer filing a separate return), beginning in 2003. Beginning in 2000, the bill allows IRAs to invest in coins which are or were at any time legal tender in the United States or issued under the laws of any State.
- Creation of individual development accounts.--The bill creates individual development accounts ("IDAs") to which eligible low-income individuals can contribute. The bill provides an 85 percent tax credit for matching contributions made to an IDA by the financial institution maintaining the IDA, up to a maximum annual credit of $300 per eligible individual. Matching contributions may only be used for (1) certain educational

expenses, (2) first-time homebuyer expenses, and (3) business start-up expenses. Any amounts in the IDA are not to be taken into account for certain Federal means-tested programs. The provision is effective for contributions after December 31, 2000, and before January 1, 2006.

B. Expanding Coverage

- Option to treat elective deferrals as after-tax contributions.--The bill provides that a section 401(k) plan or a section 403(b) annuity may permit a participant to elect to have all or a portion of the participant's elective deferrals under the plan treated as designated plus contributions. A qualified distribution from a participant's designated plus contributions account is not includible in the participant's gross income. Designated plus contributions are generally otherwise treated the same as elective deferrals for purposes of the qualified plan rules. The provision is effective for taxable years beginning after December 31, 2000.

- Increase elective contribution limits.--Beginning in 2001, the bill increases the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs in $1,000 annual increments until the limits reach $15,000 in 2005. Beginning in 2001, the bill increases the maximum annual elective deferrals that may be made to a SIMPLE plan in $1,000 annual increments until the limit reaches $10,000 in 2004. The $15,000 and $10,000 dollar limits are indexed in $500 increments, as under present law. The bill increases the dollar limit on deferrals under a section 457 plan to $9,000 in 2001, $10,000 in 2002, $11,000 in 2003, and $12,000 in 2004. After 2004, the limit is indexed in $500 increments. The limit is twice the otherwise applicable dollar limit in the three years prior to retirement.

- Plan loans for subchapter S shareholders, partners, and sole proprietors.--The bill generally eliminates the special present-law rules relating to plan loans made to an owner-employee. Thus, the general statutory exemption applies to such transactions. Present law applies with respect to IRAs. The provision is effective with respect to transactions entered into after December 31, 2000.

- Elective deferrals not taken into account for purposes of deduction limits.--Elective deferral contributions are not subject to the qualified plan deduction limits, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan does not take into account elective deferral contributions. The provision is effective for years beginning after December 31, 2000.

- Reduce PBGC premiums for small and new plans.--Under the provision, for the first five plan years of a new single-employer plan of a small employer, the flat-rate Pension Benefit Guaranty Corporation ("PBGC") premium is $5 per plan participant. The provision also provides that the variable premium is phased in for new defined benefit plans over a six-year period starting with the plan's first plan year. The provision is effective for plans established after December 31, 2000.

- Eliminate IRS user fees for requests regarding new plans.--No user fee is required for any determination letter, ruling, or opinion with respect to a new qualified plan. The provision is effective for requests made after December 31, 2000.

- SAFE annuities and trusts.--A small business that does not maintain a qualified plan (other than a section 401(k)-type plan) may establish a simplified retirement plan called the Secure Assets For Employees ("SAFE") plan. Under a SAFE plan, for each year of participation, a participant generally accrues a minimum annual benefit at retirement equal to 3 percent of the participant's compensation for the year. Benefits under a SAFE plan are not guaranteed by the PBGC. A SAFE plan is not subject to the nondiscrimination rules, the top-heavy plan rules, or the limitations on benefits or contributions applicable to qualified retirement plans. Simplified reporting and disclosure requirements apply to SAFE plans. The provision is effective for years beginning after December 31, 2000.

- Modification of top-heavy rules.--The provision modifies the top-heavy rules to provide that a safe-harbor section 401(k) plan is not a top-heavy plan and that matching contributions may be taken into account in satisfying the minimum contribution requirements. In addition, the family attribution rule used to determine whether an individual is a key employee by reason of being a 5-percent owner of the employer is repealed. The provision is effective for years beginning after December 31, 2000.

C. Enhancing Fairness for Women

- Additional catch-up contributions.--The provision permits individuals who are age 50 or older to make additional contributions to a section 401(k) (or similar plan) or to an IRA. The maximum permitted additional contribution is the applicable percent of the otherwise applicable dollar contribution limitation. The applicable percent is 10 percent in 2001, and increases by 10 percentage points until the applicable percent is 50 in 2005 and thereafter. Catch-up contributions to a section 401(k) (or similar) plan are not subject to any other contribution limits, are not taken into account in applying other contribution limits, and are not subject to nondiscrimination rules.

- Equitable treatment for contributions of employees to defined contribution plans.--The provision (1) increases the 25 percent of compensation limitation on annual additions under a defined contribution plan to 100 percent, (2) conforms the limits on contributions to a tax-sheltered annuity to the limits applicable to tax-qualified plans, and (3) increases the 33-1/3 percent of compensation limitation on deferrals under a section 457 plan to 100 percent of compensation. The provision is effective for years beginning after December 31, 2000.

- Clarification of tax treatment of division of section 457 plan benefits upon divorce.--The provision applies the taxation rules for qualified plan distributions pursuant to a QDRO to distributions made pursuant to a domestic relations order from a section 457 plan. In addition, a section 457 plan is not treated as violating the restrictions on distributions from such plans due to payments to an alternate payee under a QDRO. The provision is effective for transfers, distributions and payments made after December 31, 2000.

- C Modification of safe harbor relief for hardship withdrawals from 401(k) plans.--The Secretary of the Treasury is directed to revise the applicable regulations to reduce from 12 months to 6 months the period during which an employee must be prohibited from making elective contributions and employee contributions in order for a distribution to be deemed necessary to satisfy an immediate and heavy financial need. The provision is effective for years beginning after December 31, 2000.

- C Faster vesting of employer matching contributions.--Under the provision, employer matching contributions have to vest at least as rapidly as under 3-year cliff vesting or under 6-year graded vesting that provides for a nonforfeitable right to 20 percent of employer matching contributions for each year of service beginning with the participant's second year of service and ending with 100 percent after 6 years of service. The provision is effective for plan years beginning after December 31, 2000, with a delayed effective date for plans maintained pursuant to a collective bargaining agreement.

D. Increasing Portability for Participants

- C Rollovers of retirement plan and IRA distributions.--The bill provides that eligible rollover distributions from qualified retirement plans, section 403(b) annuities, IRAs and governmental section 457 plans generally can be rolled over to any of such plans or arrangements. The direct rollover and withholding rules are extended to distributions from a section 457 plan. The bill provides that employee after-tax contributions can be rolled over into another qualified plan or a traditional IRA. In the case of a rollover from a qualified plan to another qualified plan, the rollover can be accomplished only through a direct rollover. The bill provides that surviving spouses can roll over distributions to a qualified plan, section 403(b) annuity, or governmental section 457 plan in which the spouse participates. The provision is effective for distributions made after December 31, 2000.

- C Waiver of 60-day rule.--The provision provides that the Secretary may waive the 60-day rollover period if the failure to waive such requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. The provision applies to distributions made after December 31, 2000.

- C Treatment of forms of distribution.--If certain requirements are satisfied, a defined contribution plan may eliminate optional forms of benefit (1) in connection with certain transfers of benefits, or (2) if a single sum distribution is offered. In addition, the Secretary is to provide for circumstances under which early retirement benefits, retirement-type subsidies, or an optional form of benefit may be reduced or eliminated if the rights of participants are not materially affected. The provision is effective for years beginning after December 31, 2000.

- C Rationalization of restrictions on distributions.--The provision modifies the distribution restrictions applicable to section 401(k) plans, section 403(b) annuities, and section 457 plans to provide that distribution may occur upon severance from employment rather than separation from service. The provision is effective for distributions after December 31, 2000.

- C Purchase of service credit under governmental pension plans.--A participant in a State or local governmental plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 403(b) annuity or a section 457 plan if the transferred amount is used (1) to purchase permissive service credits under the plan, or (2) to repay certain contributions. The provision is effective for transfers after December 31, 2000.

- C Employers may disregard rollovers for purposes of cash-out rules.--A plan is permitted to disregard benefits attributable to rollover contributions for purposes of the cash-out rules. The provision is effective for distributions after December 31, 2000.

E. Strengthening Pension Security and Enforcement

- C Phase in repeal of 150 percent of current liability funding limit; deduction for contributions to fund termination liability.--Under the bill, the current liability full funding limit is 160 percent of current liability for plan years beginning in 2001, 165 percent for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit is repealed for plan years beginning in 2004 and thereafter. The special rule allowing a deduction for unfunded current liability generally is extended to all defined benefit pension plans covered by the PBGC. The provision is effective for years beginning after December 31, 2000.

- C Extension of PBGC missing participants program.--The bill extends the PBGC missing participant program to multiemployer plans. The provision is effective for distributions from terminating plans that occur after the PBGC adopts final regulations implementing the provision.

- C Modifications to section 415 limits for multiemployer plans.--Under the provision, the 100 percent of compensation defined benefit plan limit does not apply to multiemployer plans. In addition, except in applying the defined benefit plan dollar limitation, multiemployer plans are not aggregated with other plans in applying the limits on contributions and benefits. The provision also applies certain special rules for defined benefit plans of governmental employers to multiemployer plans. The provision is effective for years beginning after December 31, 2000.

- C Excise tax relief for sound pension.--If an employer elects, contributions in excess of the current liability full funding limit are not subject to the excise tax on nondeductible contributions. The provision is effective for years beginning after December 31, 2000.

- Notice of significant reduction in plan benefit accruals.--The provision requires the plan administrator of a defined benefit plan to notify plan participants in advance of an amendment that significantly reduces the rate of future benefit accruals. The notice must include sufficient information to allow participants to understand how the amendment will affect different classes of employees. In some cases, additional information must be provided after the amendment is effective. An excise tax applies if the required notice is not provided.

- Investment of employee contributions in 401(k) plans.--The provision modifies the effective date of the rule excluding certain elective deferrals (and earnings thereon) from the definition of individual account plan. The provision is effective as if included in the Taxpayer Relief Act of 1997.

F. Encouraging Retirement Education

- Periodic pension benefit statements.--The provision provides for additional benefit statements to be provided to plan participants. The provision is effective for plan years beginning after December 31, 2000.

- Treatment of employer-provided retirement advice.--Under the bill, qualified retirement planning services provided to an employee and his or her spouse by an employer maintaining a qualified plan are generally excludable from income and wages. The provision is effective with respect to taxable years beginning after December 31, 2000.

G. Reducing Regulatory Burdens

- Flexibility in nondiscrimination and coverage rules.--The Secretary of the Treasury is directed to provide by regulation circumstances under which plans can use the prior-law facts and circumstances test to satisfy the coverage and nondiscrimination rules.

- Modification of timing of plan valuations.--The provision provides that a valuation must be performed with respect to a defined benefit plan with assets of at least 125 percent of current liability only once every 3 years. The provision is effective for plan years beginning after December 31, 2000.

- Rules for substantial owner benefits in terminated plans.--The bill increases the PBGC guarantee for certain substantial owners. The bill is effective for plan terminations with respect to which notices of intent to terminate are provided, or for which proceedings for termination are instituted by the PBGC after December 31, 2000.

- ESOP dividends may be reinvested without loss of dividend deduction.--Under the bill, an employer is entitled to deduct dividends that, at the election of plan participants or their beneficiaries, are paid to the plan and reinvested in employer securities. The provision is effective for taxable years beginning after December 31, 2000.

- <u>Notice and consent period regarding distributions</u>.--A qualified retirement plan is required to provide the applicable distribution notice no less than 30 days and no more than 12 months before the date distribution commences. The provision is effective for years beginning after December 31, 2000.

- <u>Repeal transition rule relating to certain highly compensated employees</u>.--The provision repeals the special definition of highly compensated employee under the Tax Reform Act of 1986. The provision is effective for plan years beginning after December 31, 1999.

- <u>Employees of tax-exempt entities</u>.--The Treasury Department is directed to revise its regulations under section 410(b) to provide that, if certain requirements are satisfied, employees of a tax-exempt charitable organization who are eligible to make salary reduction contributions under a section 403(b) annuity may be treated as excludable employees for purposes of testing a section 401(k) plan.

- <u>Provisions relating to plan amendments</u>.--Any amendments to a plan or annuity contract required to be made by the provision are not required to be made before the last day of the first plan year beginning on or after January 1, 2003. In the case of a governmental plan, the date for amendments is extended to the first plan year beginning on or after January 1, 2005. The provision is effective on the date of enactment.

- <u>Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local government plans</u>.--A plan maintained by a tax-exempt international organization is exempt from the nondiscrimination and minimum participation rules. The provision is effective for plan years beginning after December 31, 2000.

- <u>Annual report dissemination</u>.--Within 9 months after the end of each plan year, the plan administrator is required to make available for examination a summary of the annual report filed with the Secretary of Labor for the plan year. In addition, the plan administrator is required to furnish the summary to a participant, or to a beneficiary receiving benefits under the plan, upon request. The provision is effective for reports for years beginning after December 31, 1998.

- <u>Clarification of exclusion for employer-provided transit passes</u>.--The provision repeals the rule providing that cash reimbursements for transit benefits are excludable from income only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer. The provision is effective for taxable years beginning after December 31, 1999.

TITLE IV. EDUCATION TAX RELIEF

A. Eliminate Marriage Penalty and 60-Month Limit on Student Loan Interest Deduction

The bill increases the beginning point of the income phaseout for the student loan interest deduction for individual taxpayers from $40,000 to $50,000. For taxpayers filing joint returns, the bill increases the beginning point of the income phaseout to twice the beginning point of the income phaseouts applicable to single taxpayers. The bill also repeals both the limit on the number of months during which interest paid on a qualified education loan is deductible and the restriction that nonmandatory payments of interest are not deductible. The provisions generally are effective for taxable years beginning after December 31, 1999.

B. Allow Tax-Free Distributions From State and Private Education Programs

The bill expands the definition of "qualified tuition program" to include certain prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions). In the case of a qualified tuition program maintained by one or more private educational institutions, persons will be able to purchase tuition credits or certificates on behalf of a designated beneficiary, but will not be able to make contributions to a savings account plan. The provisions generally are effective after December 31, 1999.

Under the bill, an exclusion from gross income is provided for distributions made in taxable years beginning after December 31, 1999, from qualified State tuition programs to the extent that the distribution is used to pay for qualified higher education expenses. This exclusion is extended to distributions from qualified tuition programs maintained by educational institutions for distributions made in taxable years after December 31, 2003. The bill also allows a taxpayer to claim a HOPE credit or Lifetime Learning credit for a taxable year and to exclude from gross income amounts distributed from a qualified tuition program and/or an education individual retirement account on behalf of the same student as long as the distributions are not used for the same expenses for which a credit was claimed.

C. Eliminate Tax on Awards Under National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program

The bill provides that amounts received by an individual under the NHSC Scholarship Program or the Armed Forces Scholarship Program are eligible for tax-free treatment as qualified scholarships under section 117, without regard to any service obligation by the recipient. The provision is effective for education awards received under the NHSC Scholarship Program and the Armed Forces Scholarship Program after December 31, 1993.

D. Exclusion for Employer-Provided Educational Assistance

The provision makes the exclusion for employer-provided educational assistance permanent. The provision also extends the exclusion to graduate education, effective for courses beginning on or after January 1, 2000.

E. Liberalization of Tax-Exempt Financing Rules for Public School Construction

The bill increases the amount of governmental bonds that may be issued by governments qualifying for the small governmental unit arbitrage rebate exception and allows issuance of tax-exempt private activity bonds for public school facilities, both effective for bonds issued after December 31, 1999. The bill further permits a limited amount of guarantees of public school bonds by the Federal Home Loan Banks. This guarantee provision will become effective only after enactment of future legislation specifically authorizing the guarantees.

Title V. Health Care Tax Relief Provisions

A. Above-the-Line Deduction for Health Insurance Expenses

The provision provides an above-the-line deduction for a percentage of the amount paid during the year for health insurance for the taxpayer and his or her spouse and dependents. The deductible percentage is: 25 percent in 2001, 2002, and 2003; 50 percent in 2004 and 2005; and 100 percent in 2006 and thereafter. The deduction is not available to an individual for any month in which the individual is covered under an employer-sponsored health plan if at least 50 percent of the cost of the coverage is paid on a pre-tax basis. The deduction is not available with respect to certain limited types of coverage, such as dental and vision coverage. The provision is effective for taxable years beginning after December 31, 2000.

B. Provisions Relating to Long-Term Care Insurance

The provision provides an above-the-line deduction for a percentage of the amount paid during the year for long-term care insurance which constitutes medical care (as defined under sec. 213) for the taxpayer and his or her spouse and dependents. The deductible percentage is: 25 percent in 2001, 2002, and 2003; 50 percent in 2004 and 2005; and 100 percent in 2006 and thereafter. The deduction is not available to an individual for any month in which the individual is covered under an employer-sponsored plan if at least 50 percent of the cost of the coverage is paid on a pre-tax basis. In addition, the bill provides that qualified long-term care insurance may be provided under a cafeteria plan (subject to the premium caps applicable to the deduction) and that qualified long-term care services may be provided under a flexible spending arrangement. The provision is effective for taxable years beginning after December 31, 2000.

C. Additional Personal Exemption for Caretakers

The bill provides an additional personal exemption to taxpayers who maintain a household including one or more parents or ancestors of the taxpayer, or the taxpayer's spouse, if such parent or ancestor has been certified to need long term care for a period which is at least 180 consecutive days and a portion of which occurs within the taxable year. The provision is effective for taxable years beginning after December 31, 1999.

D. Add Certain Vaccines Against Streptococcus Pneumoniae to the List of Taxable Vaccines; Reduce Excise Tax on Vaccines

The bill adds any conjugate vaccine against streptococcus pneumoniae to the list of taxable vaccines. The provision is effective for vaccine purchases beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumonia vaccines to children. The bill also reduces the rate of tax applicable to all taxable vaccines from 75 cents per dose to 25 cents per dose for sales of vaccines after December 31, 2004. In addition, the bill directs the General Accounting Office ("GAO") to report to the House Committee on Ways and Means and the Senate Committee on Finance on the operation and management of expenditures from the Vaccine Trust Fund and to advise the Committees on the adequacy of the Vaccine Trust Fund to meet future claims under the Federal Vaccine Injury Compensation Program.

TITLE VI. SMALL BUSINESS TAX RELIEF PROVISIONS

A. Accelerate 100-Percent Self-Employed Health Insurance Deduction

Beginning in 2000, the provision increases the deduction for health insurance expenses (and qualified long-term care insurance expenses) of self-employed individuals to 100 percent.

B. Increase Section 179 Expensing

The provision provides that the maximum dollar amount that may be deducted under section 179 is increased to $30,000 for taxable years beginning after December 31, 1999.

C. Repeal of Temporary Federal Unemployment Surtax

The bill repeals the temporary Federal Unemployment Tax Act ("FUTA") surtax, effective for labor performed on or after January 1, 2005.

D. Coordinate Farmer Income Averaging and the Alternative Minimum Tax

The provision coordinates farmer income averaging with the alternative minimum tax. A farmer electing to average his or her farm income will owe alternative minimum tax only to the extent he or she would have owed alternative minimum tax had averaging not been elected. The provision is effective for taxable years beginning after December 31, 1999.

E. Farm and Ranch Risk Management Accounts

The bill allows active farmers to establish Farm and Ranch Risk Management ("FARRM") accounts. Deductible contributions to a FARRM account are limited to 20 percent of active farm income. Income earned by a FARRM account must be distributed currently and distributions are included in income when received. The provision is effective for taxable years beginning after December 31, 2000.

TITLE VII. ESTATE AND GIFT TAX RELIEF

A. Reduce Estate, Gift, and Generation-Skipping Transfer Taxes

The 5-percent surtax and the rates in excess of 50 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2000. The unified credit is replaced with a unified exemption for estates of decedents dying and gifts made after December 31, 2003. The unified exemption amount is increased to $1.5 million for estates of decedents dying and gifts made after December 31, 2006.

B. Expand Estate Tax Rule for Conservation Easements

The bill expands the rule for conservation easements by increasing to 50 miles the distance within which the land must be situated from a metropolitan area, national park, or wilderness area in order to be a qualified conservation easement, effective for estates of decedents dying after December 31, 1999. The bill also clarifies that the date for determining easement compliance is the date on which the donation was made, effective for estates of decedents dying after December 31, 1997.

C. Increase Annual Gift Exclusion

The annual gift tax exclusion is increased as follows: to $12,000, for each donee, for gifts made after December 31, 2000, but before January 1, 2002; to $13,500 for gifts made after December 31, 2001, but before January 1, 2003; to $15,000 for gifts made after December 31, 2002, but before January 1, 2004; to $16,500 for gifts made after December 31, 2003, but before January 1, 2005; to $18,000 for gifts made after December 31, 2004, but before January 1, 2006, and to $20,000 for gifts made after December 31, 2005, and thereafter.

D. Simplification of Generation-Skipping Transfer ("GST") Tax

- Retroactive allocation of the GST tax exemption.--Under the provision, if a lineal descendant of the transferor predeceases the transferor, then the transferor may allocate any unused GST exemption to any previous transfer or transfers to the trust on a chronological basis. The provision permits a transferor to retroactively allocate GST exemption to a trust where a beneficiary (a) is a non-skip person, (b) is a lineal descendant of the transferor's grandparent or a grandparent of the transferor's spouse, (c) is a generation younger than the generation of the transferor, and (d) dies before the transferor. The provision applies to deaths of non-skip persons occurring after the date of enactment.

- Severing of trusts holding property having an inclusion ratio of greater than zero.--The bill allows a trust to be severed if (1) a single trust was divided on a fractional basis, and (2) the terms of the new trusts, in the aggregate, provide for the same succession of interests of beneficiaries as are provided in the original trust. The provision is effective for severances of trusts occurring after the date of enactment.

- Modification of certain valuation rules.--The bill provides that, in connection with timely and automatic allocations of GST transfer tax, the value of the property for purposes of determining the inclusion ratio shall be its finally determined gift tax value or estate tax value depending on the circumstances of the transfer. The provision is effective as though included in the amendments made by section 1431 of the Tax Reform Act of 1986.

- Relief from late elections.--The bill authorizes and directs the Treasury Secretary to grant extensions of time to make the election to allocate GST tax exemption and to grant exceptions to the time requirement. When such relief is granted, the value on the date of transfer to a trust is used for determining GST tax exemption allocation. The provision to provide relief from late elections applies to requests pending on, or filed after, the date of enactment.

- Substantial compliance.--The bill provides that substantial compliance with the statutory and regulatory requirements for allocating GST tax exemption is sufficient to establish that GST tax exemption was allocated to a particular transfer or a particular trust. The substantial compliance provisions are effective on the date of enactment and apply to allocations made prior to such date for purposes of determining the tax consequences of generation-skipping transfers with respect to which the period of time for filing claims for refund has not expired.

TITLE VIII. TAX-EXEMPT ORGANIZATION PROVISIONS

A. Provide Tax Exemption for Organizations Created by a State to Provide Property and Casualty Insurance Coverage for Property for Which Such Coverage Is Otherwise Unavailable

The provision provides tax-exempt status for any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for property located within the State for which the State has determined that coverage in the authorized insurance market is limited or unavailable at reasonable rates, provided certain requirements are met. The provision is effective for taxable years beginning after December 31, 1999.

B. Modify Section 512(b)(13)

The bill provides that the general rule of section 512(b)(13), which includes interest, rent, annuity, or royalty payments made by a controlled entity to a tax-exempt organization in the latter organization's unrelated business income, applies only to the portion of payments received in a taxable year that exceed the amount of the specified payment which would have been paid if such payment had been determined in an arm's length transaction. The bill also imposes an addition to tax of 20 percent of the excess amount of any such payment. The provision applies to payments received or accrued after December 31, 1999.

C. Simplify Lobbying Expenditure Limitations

The bill removes the separate percentage limitation on grass roots lobbying expenditures. Consequently, public charities are subject to an expenditure limitation only on their total lobbying expenditures. The provision is effective for taxable years beginning after December 31, 1999.

D. Tax-Free Withdrawals From IRAs for Charitable Purposes

The provision provides an exclusion from gross income for qualified charitable distributions from an IRA: (1) to a charitable organization to which deductible contributions can be made; (2) to a charitable remainder annuity trust or charitable remainder unitrust; (3) to a pooled income fund; or (4) for the issuance of a charitable gift annuity. A qualified charitable distribution is any distribution from an IRA which is made after age 70-1/2, and which is made directly to the charitable organization or to a charitable remainder annuity trust, charitable remainder unitrust, or charitable gift annuity. The provision is effective with respect to distributions after December 31, 2000.

E. Provide Exclusion for Mileage Reimbursements by Charitable Organizations

Under the bill, reimbursement by certain charitable organizations for the costs of using an automobile in connection with providing donated services is excludable from the gross income of the volunteer. The provision is effective for taxable years beginning after December 31, 1999.

F. Charitable Contribution Deduction for Certain Expenses Incurred in Support of Native Alaskan Subsistence Whaling

The bill allows individuals to claim a deduction under section 170 not exceeding $7,500 per taxable year for certain expenses incurred in carrying out sanctioned whaling activities. No inference is intended regarding the deductibility of any whaling expenses incurred in a taxable year ending before January 1, 2000. The provision is effective for taxable years ending after December 31, 1999.

G. Charitable Giving Provisions

- <u>Charitable contributions to low-income schools</u>.--The bill allows taxpayers to claim a charitable contribution deduction for donations to public, private, and parochial low-income elementary and secondary schools made after the end of the taxable year and on or before the date for filing the taxpayer's Federal income tax return, effective for taxable years beginning after December 31, 1999.

- <u>Charitable deduction for non-itemizers</u>.--For 2000 and 2001, the bill allows taxpayers who do not itemize their deductions to claim a deduction for charitable contributions in addition to the standard deduction. The deduction is limited to $50 for individual taxpayers and $100 for taxpayers filing joint returns.

- Increase in limit on charitable contributions as a percentage of AGI.--Beginning in 2002, the bill increases the 50-percent and 30-percent limitations applicable to charitable contributions of cash and capital gain property to public charities and certain other charitable entities by individuals by 2 percent per year until the limitations are equal to 60 percent and 30 percent, respectively, in 2006. In 2007, the limitations are increased to 70 percent and 50 percent, respectively. Beginning in 2002, the bill increases the 10-percent limitation applicable to charitable contributions by corporations by 2 percent per year until the limitation is equal to 20 percent in 2006.

H. Modify Excess Business Holdings Rules for Publicly Traded Stock

Under the bill, a private foundation and all disqualified persons are permitted to own up to 49 percent of the voting stock and 49 percent in value of all outstanding shares of all classes of stock in an incorporated business enterprise if the stock held by the foundation and disqualified persons is publicly traded stock for which market quotations are readily available. The bill limits aggregate ownership by disqualified persons to not more than 2 percent of the voting stock and not more than 2 percent in value of all outstanding shares of all classes of stock. The provision is effective for foundations established by bequest of decedents dying after December 31, 2006.

TITLE IX. INTERNATIONAL TAX RELIEF PROVISIONS

A. Allocate Interest Expense on Worldwide Basis

The bill modifies the present-law interest expense allocation rules (which generally apply for purposes of computing the foreign tax credit limitations) by providing a one-time election under which the taxable income of the domestic members of an affiliated group from sources outside the United States generally would be determined by allocating and apportioning interest expense of the domestic members of a worldwide affiliated group on a worldwide-group basis. For purposes of the new elective rules based on worldwide fungibility, the affiliated group is expanded to include foreign corporations that satisfy the requirements for affiliation but are excluded under section 1504(b)(3) (*i.e.*, foreign corporations in which at least 80 percent of the total vote and value of the stock of such corporations is owned by one or more members of the affiliated group). In addition, if a taxpayer elects to be governed by the new worldwide fungibility principle, the bill provides an additional one-time election to apply the worldwide fungibility principle to a separate subgroup of the worldwide affiliated group consisting of all members that are predominantly engaged in a financial services business. The provision is effective for taxable years beginning after December 31, 2003.

B. Look-Through Rules to Apply to Dividends From Noncontrolled Section 902 Corporations

For taxable years beginning after December 31, 2002, the bill applies the look-through approach to all dividends paid by a 10/50 company for foreign tax credit limitation purposes, regardless of the year in which the earnings and profits out of which the dividend is paid were accumulated. The bill provides a transition rule under which pre-effective date foreign tax credits associated with a 10/50 company separate limitation category can be carried forward into post-effective date years.

C. Subpart F Treatment of Pipeline Transportation Income and Income From Transmission of High Voltage Electricity

The bill exempts income derived from the transmission of high voltage electricity from the definition of foreign base company services income. Further, the bill provides that foreign base company oil related income does not include income from the pipeline transportation of oil or gas within a foreign country. The provision is effective for taxable years of foreign corporations beginning after December 31, 2002, and taxable years of U.S. shareholders with or within which such taxable years of foreign corporations end.

D. Prohibit Disclosure of APAs and APA Background Files

The bill provides that Advance Pricing Agreements ("APAs") and related background information are confidential return information not subject to the public inspection requirements of section 6110. The bill also requires the Treasury Department to prepare an extensive annual report regarding APAs. The provision is effective on the date of enactment.

E. Exempt Certain Sales of Frequent-Flyer and Similar Reduced-Fare Air Transportation Rights from Aviation Excise Taxes

The provision exempts from the 7.5-percent tax, air transportation rights sold which are credited to accounts of persons having a mailing address outside the United States. The provision applies to air transportation rights sold after December 31, 1999.

F. Repeal of Limitation of Foreign Tax Credit under Alternative Minimum Tax

The bill repeals the 90-percent limitation on the utilization of the AMT foreign tax credit. The provision is effective for taxable years beginning after December 31, 2004.

G. Treatment of Military Property of Foreign Sales Corporations

The bill repeals the special FSC limitation relating to the export of military property, thus providing exports of military property through a FSC with the same treatment currently provided exports of non-military property. The provision is effective for taxable years beginning after December 31, 2004.

TITLE X. HOUSING AND REAL ESTATE TAX RELIEF

A. Increase Low-Income Housing Tax Credit Cap

The bill modifies the $1.25 per capita cap to guarantee each State a minimum of $2 million of annual credit cap. The $1.25 per capita element of the credit cap is phased up to $1.75 per capita, by increasing the credit cap by 10 cents each year for five years. The provision is effective for calendar years beginning after December 31, 2000.

B. Tax Credit for Renovating Historic Homes

The bill permits a taxpayer to claim a 20-percent credit for qualified rehabilitation expenditures made with respect to a qualified historic home which the taxpayer subsequently occupies as his or her principal residence for at least five years. The total credit which could be claimed by the taxpayer is limited to $20,000 ($10,000 in the case of married taxpayer filing a separate return) with respect to any qualified historic home. The provision is effective for expenditures paid or incurred beginning after December 31, 1999.

C. Provisions Relating to REITs

The bill limits a Real Estate Investment Trust's ("REIT's") ownership to 10 percent of the value (as well as vote) of any single issuer and provides that a REIT may own a taxable REIT subsidiary if certain requirements are met. The bill also provides rules with respect to the operation of hotels and health care facilities, and modifies the rules for calculating REIT earnings and profits (with a conforming rule for RICs). The provisions are generally effective after December 31, 2000.

D. Increase State Volume Limits on Tax-Exempt Private Activity Bonds

The bill accelerates the scheduled phase up to $75 per resident of each State or $225 million (if greater) of the annual State private activity bond volume limits. Under the bill, the phase up will begin in calendar year 2001 and will be fully phased-in for calendar year 2005 and thereafter.

E. Treatment of Leasehold Improvements

The bill provides a 15-year depreciable life for qualified leasehold improvement property. The provision is effective for qualified leasehold improvement property placed in original service by the lessee after December 31, 2002.

XI. MISCELLANEOUS PROVISIONS

A. Repeal Certain Excise Taxes on Rail Diesel Fuel and Inland Waterway Barge Fuels

The 4.3-cents-per-gallon General Fund excise tax rates on diesel fuel used in trains and fuels used in barges operating on the designated inland waterways system is repealed. Upon repeal of the 4.3-cents-per-gallon General Fund tax on diesel fuel used in trains, the Leaking Underground Storage Tank excise tax automatically expires. The provision is effective after September 30, 2000.

B. Tax Treatment of Alaska Native Settlement Trusts

Under the bill, an Alaska Native Corporation may establish a Trust under section 39 of the Alaska Native Corporation Settlement Act, and if the Trust makes an election for its first taxable year ending after December 31, 1999, no amount will be includible in the gross income of a beneficiary of such Trust by reason of a contribution to the Trust. In addition, unless the Trust fails to meet all the requirements of the provision, the Trust will be permitted to accumulate up to 45 percent of its income each year without tax to the Trust or the beneficiaries on that income. The provision is effective for taxable years of Settlement Trusts ending after December 31, 1999, and contributions to such Trusts after that date.

C. Allow Corporations to Take Certain Minimum Tax Credits Against Minimum Tax

The bill allows a corporation with long-term AMT credits to use the AMT credits to offset a portion of its tentative minimum tax. The portion so allowed is the least of: (1) the amount of the corporation's long-term minimum tax credit; (2) 50 percent of the corporation's tentative minimum tax; or (3) the amount by which the corporation's tentative minimum tax exceeds its regular tax for the taxable year. The provision applies to taxable years beginning after December 31, 2003.

D. Allow Net Operating Losses from Oil and Gas Properties To Be Carried Back For Up to Five Years

The bill provides a special five-year carryback for certain eligible oil and gas losses, defined as the lesser of (1) the amount which would be the taxpayer's NOL for the taxable year if only income and deductions attributable to operating mineral interests in oil and gas wells were taken into account, or (2) the amount of such net operating loss for such taxable year. The provision applies to NOLs arising in taxable years beginning after December 31, 1998.

E. Election to Expense Geological and Geophysical Expenditures

The bill allows geological and geophysical costs incurred in connection with oil and gas exploration in the United States to be deducted currently. The provision is effective for geological and geophysical costs incurred in taxable years beginning after December 31, 1999.

F. Deduction for Delay Rental Payments

The bill allows delay rental payments in connection with oil and gas production to be deducted currently. The provision applies to delay rental payments incurred in taxable years beginning after December 31, 1999. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date delay rental payments.

G. Simplify the Active Trade or Business Requirement for Tax-Free Spin-Offs

The provision simplifies the active trade or business requirement by eliminating the "substantially all" test, and instead, applying the active trade or business requirement on an affiliated group basis. In applying the active trade or business test to an affiliated group, each separate affiliated group (immediately after the distribution) must satisfy the requirement. The provision is effective for distributions after the date of enactment. Transition relief is provided for any distribution that meets certain requirements.

H. Increase the Maximum Dollar Amount of Reforestation Expenditures Eligible for Amortization and Credit

The provision increases from $10,000 to $25,000 per taxable year the amount of reforestation expenditures eligible for 7-year amortization and the reforestation credit. For taxable years beginning in 2000 through 2003, the provision removes the limitation on the amount eligible for 7-year amortization. The provision is effective for expenditures paid or incurred in taxable years beginning after December 31, 1999.

I. Modify Excise Tax on Arrow Components and Accessories

The bill makes two modifications to the excise tax on arrows and arrow accessories. First, the amendment extends the 12.4-percent tax on arrow components to inserts and outserts designed for use with taxable arrows. Second, the bill reclassifies "broadheads," or arrow points designed for hunting fish or large animals, as arrow accessories subject to the 11-percent tax rather than arrow points subject to the 12.4-percent tax (as under present law). The provision applies to sales by manufacturers beginning on the first day of the first calendar quarter that begins more than 30 days after the bill's enactment.

J. Increase Joint Committee on Taxation Refund Review Threshold to $2 Million

The bill increases the threshold above which refunds must be submitted to the Joint Committee on Taxation for review from $1,000,000 to $2,000,000. The provision is effective on the date of enactment.

K. Modify the Definition of Rural Airport Eligible for Reduced Air Passenger Ticket Tax Rate

The definition of qualified rural airport (eligible for reduced aviation tax) is expanded to include otherwise qualified airports that are located within 75 miles of a larger airport if those airports are not connected by road to the larger airport. The provision is effective for amounts paid after December 31, 1999, for air transportation beginning after that date.

L. Dividends Paid by Cooperatives

Under the provision, patronage-sourced income would not be reduced to the extent that the organizational documents provide that dividends on capital stock are in addition to amounts otherwise payable as patronage dividends. The provision is effective for distributions made in taxable years beginning after the date of enactment.

M. Permit Consolidation of Life Insurance and Nonlife Companies

The bill repeals the 5-year limitation on treating life insurance companies as includible corporations that may file a consolidated tax return with an affiliated group including nonlife insurance companies. The provision is effective for taxable years beginning after December 31, 2000.

N. Modify Personal Holding Company "Lending and Finance Business" Exception

The provision modifies the personal holding company exclusion for lending or finance companies to provide that, in determining whether a member of an affiliated group filing a consolidated return is a lending or finance company, only corporations engaged in a lending or finance business are taken into account, and all such companies are aggregated for purposes of this determination. The provision also modifies the definition of a lending or finance company. It includes leasing and certain activities relating to lending or leasing. It also repeals the business expense requirement and the limitation on the maturity of loans made by a lending or finance business. The provision is effective for taxable years beginning after December 31, 1999.

O. Tax Credit for Modifications to Inter-City Buses Required Under the Americans with Disabilities Act of 1990

The bill extends the disabled access credit to a business without regard to the eligible small business limitation generally applicable under the credit for the cost of making certain inter-city buses comply with the Americans with Disabilities Act. The provision is effective for taxable years beginning after December 31, 1999, and before January 1, 2012.

P. Increased Deduction for Business Meals While Operating Under Department of Transportation Hours of Service Limitations

The bill accelerates the full 80-percent deduction for business meals for taxpayers operating under Department of Transportation hours of service limitations to taxable years beginning after 2006.

Q. Authorize Limited Private Activity Tax-Exempt Financing for Highway Construction

The amendment authorizes issuance of up to $15 billion of private activity tax-exempt bonds to finance the construction of up to the 15 private highway pilot projects made eligible for other special assistance under the Transportation Equity Act for the 21st Century. The provision applies to bonds issued after December 31, 1999.

R. Extend Tax Credit for First-Time D.C. Homebuyers

The D.C. first-time homebuyer tax credit is extended for one year, through December 31, 2001. In addition, the phase-out range for married individuals filing a joint return is increased so that it is twice that of individuals. The provision increasing the phase-out range is effective for taxable years beginning after December 31, 1999.

S. Expand the Zero-Percent Capital Gains Rate for D.C. Zone Assets

The provision eliminates the 10-percent poverty rate limitation for purposes of the zero-percent capital gains rate. Thus, the zero-percent capital gains rate applies to capital gains from the sale of assets held more than five years attributable to certain qualifying businesses located in the District of Columbia. The provision is effective for D.C. Zone assets originally acquired by the taxpayer after December 31, 1999.

T. Establish a Seven-Year Recovery Period for Natural Gas Gathering Lines

The provision establishes a statutory seven-year recovery period for certain natural gas gathering lines. The proposal is effective for property placed in service on or after the date of enactment.

U. Reclassify Air Transportation on Certain Small Seaplanes As Non-Commercial Aviation for Excise Tax Purposes

The provision reclassifies passenger transportation for hire on certain small seaplanes as non-commercial aviation. As such, the transportation will be subject to the full 19.3 cents-per-gallon and 21.8-cents-per-gallon excise taxes rather than the passenger ticket tax. The provision is effective for transportation beginning after December 31, 1999.

TITLE XII. EXTENSION OF EXPIRING PROVISIONS

A. Extension of Research Tax Credit

The bill permanently extends the research tax credit. In addition, the bill increases the credit rate applicable under the alternative incremental research credit one percentage point per step, that is from 1.65 percent to 2.65 percent when a taxpayer's current-year research expenses exceed a base amount of 1 percent but do not exceed a base amount of 1.5 percent; from 2.2

percent to 3.2 percent when a taxpayer's current-year research expenses exceed a base amount of 1.5 percent but do not exceed a base amount of 2 percent; and from 2.75 percent to 3.75 percent when a taxpayer's current-year research expenses exceed a base amount of 2 percent. The extension of the research credit is effective for qualified research expenditures paid or incurred after June 30, 1999. The increase in the credit rate under the alternative incremental research credit is effective for taxable years beginning after June 30, 1999.

B. Extend Exceptions under Subpart F for Active Financing Income

The bill extends for five years the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business. The provision is effective for taxable years of a foreign corporation beginning after December 31, 1999, and before January 1, 2005, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporation end.

C. Extend Suspension of Net Income Limitation on Percentage Depletion from Marginal Oil and Gas Wells

The bill extends the present-law rule suspending the 100-percent-of-net-income limitation with respect to oil and gas production from marginal wells to include taxable years beginning after December 31, 1999, and before January 1, 2005.

D. Extend the Work Opportunity Tax Credit

The bill extends the Work Opportunity Tax Credit for 5 years (through July 1, 2004). Generally, the provision is effective for wages paid to, or incurred with respect to, qualified individuals who begin work for the employer on or after July 1, 1999, and before July 1, 2004.

E. Extend the Welfare-To-Work Tax Credit

The bill extends the welfare-to-work credit for five years, so that the credit is available for eligible individuals who begin work for an employer before July 1, 2004. The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before July 1, 2004.

F. Extend and Modify Tax Credit for Electricity Produced by Wind and Closed-Loop Biomass Facilities

The present-law tax credit for electricity produced by wind and closed-loop biomass is extended for five years, for facilities placed in service after June 30, 1999, and before July 1, 2004. The provision also modifies the tax credit to include electricity produced from poultry waste, for facilities placed in service after December 31, 1999, and before July 1, 2004. The credit further is expanded to include electricity produced from landfill gas, for electricity produced from facilities placed in service after December 31, 1999, and before June 30, 2004. Finally, the credit is expanded to include electricity produced from certain other non-closed loop biomass. In the case of this additional biomass, the credit applies to electricity produced after December 31, 1999, from facilities that are placed in service before January 1, 2003 (including facilities placed in service before the date of enactment of this provision), but no credits may be claimed for production before January 1, 2000. The credit is allowed for production attributable to biomass, other than closed-loop biomass, produced at facilities that are co-fired with coal.

G. Extend Exemption From Diesel Dyeing Requirement for Certain Areas in Alaska

The bill makes the excise tax exemption for Alaska urban areas permanent (*i.e.*, independent of the EPA rules). The provision is effective on the date of enactment.

H. Expensing of Environmental Remediation Expenditures

The bill extends the expiration date for eligible expenditures to include those paid or incurred before July 1, 2004. In addition, the bill eliminates the targeted area requirement, thereby, expanding eligible sites to include any site containing (or potentially containing) a hazardous substance that is certified by the appropriate State environmental agency, but not those sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The provision to extend the expiration date is effective upon the date of enactment. The provision to expand the class of eligible sites is effective for expenditures paid or incurred after December 31, 1999.

TITLE XIII. REVENUE OFFSET PROVISIONS

A. Modify Foreign Tax Credit Carryover Rules

The bill reduces the carryback period for excess foreign tax credits from two years to one year. The bill also extends the excess foreign tax credit carryforward period from five years to seven years. The provision applies to foreign tax credits arising in taxable years beginning after December 31, 1999.

B. Expand Reporting of Cancellation of Indebtedness Income

The bill requires that information reporting on discharges of indebtedness also be done by any organization a significant trade or business of which is the lending of money, such as finance companies and credit card companies (whether or not affiliated with financial institutions). The bill is effective with respect to discharges of indebtedness after December 31, 1999.

C. Increase Elective Withholding Rate for Nonperiodic Distributions From Deferred Compensation Plans

Under the bill, the elective withholding rate for nonperiodic distributions from deferred compensation plans is increased from 10 percent to 15 percent. The provision is effective for distributions made after December 31, 2000.

D. Extension of IRS User Fees

The bill extends the statutory authorization for these user fees through September 30, 2009. The bill also moves the statutory authorization for these fees into the Internal Revenue Code. The provision is effective for requests made after the date of enactment.

E. Treatment of Excess Pension Assets Used for Retiree Health Benefits

The present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account is extended through September 30, 2009. In addition, the present-law minimum benefit requirement is replaced by the minimum cost requirement that applied to qualified transfers before December 9, 1994, to section 401(h) accounts, generally effective with respect to transfers after the date of enactment.

F. Clarify the Tax Treatment of Income and Losses on Derivatives

The bill adds three categories to the list of assets the gain or loss on which is treated as ordinary under section 1221. The new categories are: (1) commodities derivatives held by commodities derivatives dealers; (2) hedging transactions; and (3) supplies of a type regularly consumed by the taxpayer in the ordinary course of the taxpayer's trade or business. With respect to hedging transactions, the bill replaces the present-law risk reduction standard with a risk management standard. The provision is effective for any instrument held, acquired or entered into, transactions entered into, and supplies held or acquired on or after the date of enactment.

G. Loophole Closers

- <u>Limit use of non-accrual experience method of accounting to amounts to be received for performance of qualified professional services</u>.--The bill provides that the non-accrual experience method will be available only for amounts to be received for the performance of qualified personal services. The provision is effective for taxable years ending after the date of enactment.

- <u>Impose limitation on prefunding of certain employee benefits</u>.--Under the provision, the present-law exception to the deduction limit for 10-or-more employer plans is limited to plans that provide only medical benefits, disability benefits, and qualifying group-term life insurance benefits. If any portion of a welfare benefit fund attributable to contributions that are deductible under the 10-or-more employer rule is used for a purpose other than the purpose for which the contributions were made, an excise tax is imposed. The provision is effective with respect to contributions paid or accrued on or after June 9, 1999, in taxable years ending after such date.

C Modify installment method and prohibit its use by accrual method taxpayers.--The provision generally prohibits the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes using an accrual method of accounting. The provision does not change present law regarding the availability of the installment method for dispositions of property used or produced in the trade or business of farming. The provision modifies the pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct pledge of the installment note. The provision is effective for sales or other dispositions entered into on or after the date of enactment.

C Limit conversion of character of income from constructive ownership transactions.--The bill limits the amount of long-term capital gain a taxpayer can recognize from certain derivative contracts transactions with respect to certain financial assets. The amount of long-term capital gain is limited to the amount of such gain the taxpayer would have had if the taxpayer held the financial asset directly during the term of the derivative contract. Any gain in excess of this amount is treated as ordinary income. An interest charge is imposed on the amount of gain that is treated as ordinary income. This provision applies to transactions entered into on or after July 12, 1999.

C Denial of charitable contribution deduction for transfers associated with split-dollar insurance arrangements.--The bill restates present law to provide that no charitable contribution deduction is allowed for a transfer to or for the use of a charitable organization, if in connection with the transfer the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor. The bill also imposes on the charitable organization an excise tax in the amount of the premiums paid. The provision applies generally to transfers, or premiums paid, after February 8, 1999.

C Modify estimated tax rules for closely held REIT dividends.--In the case of a REIT that is closely held, any person owning at least 10 percent of the vote or value of the REIT is required to accelerate the recognition of year-end dividends attributable to the closely held REIT, for purposes of such person's estimated tax payments. The provision is effective for estimated tax payments due on or after September 15, 1999.

C Prohibited allocations of stock in an S corporation ESOP.--Under the provision, if there is a prohibited allocation of stock to a disqualified indiviudal under an ESOP sponsored by an S corporation at least 50 percent of which is owned by disqualified individuals: (1) an excise tax is imposed on the employer equal to 50 percent of the amount involved in the prohibited allocation; and (2) the stock allocated in the prohibited allocation is treated as distributed to the disqualified individual. The provision is generally effective with respect to years beginning after December 31, 2000. In the case of an ESOP established after July 14, 1999, or an ESOP established on or before such date if the employer maintaining the plan was not an S corporation on such date, the provision is effective with respect to plan years ending after July 14, 1999.

- Modify anti-abuse rules related to assumption of liabilities.--The provision deletes the limitation that the assumption of liabilities anti-abuse rule only applies to tax avoidance on the exchange itself, and changes "the principal purpose" standard to "a principal purpose." The provision also affects the basis rule that requires a decrease in the transferor's basis in the transferee's stock when a liability, the payment of which would give rise to a deduction, is treated as boot under the anti-abuse rule. The provision is effective for assumptions of liabilities on or after July 15, 1999.

- Require consistent treatment and provide basis allocation rules for transfers of intangibles in certain nonrecognition transactions.--The provision treats a transfer of an interest in intangible property constituting less than all of the substantial rights of the transferor in the property as a transfer of property for purposes of the nonrecognition provisions regarding transfers of property to controlled corporations and partnerships. In the case of a transfer of less than all of the substantial rights, the transferor is required to allocate the basis of the intangible between the retained rights and the transferred rights based upon their respective fair market values. The provision is effective for transfers on or after the date of enactment.

- Modify treatment of closely-held REITs.--The bill imposes as an additional requirement for REIT qualification that, except for the first taxable year for which an entity elects to be a REIT, no one person can own stock of a REIT possessing 50 percent or more of the combined voting power of all classes of voting stock or 50 percent or more of the total value of shares of all classes of stock of the REIT. The provision is effective for taxable years ending after July 14, 1999. Any entity that elects (or has elected) REIT status for a taxable year including July 14, 1999, and which has significant business assets or activities as of such date is not subject to the provision.

- Distributions by a partnership to a corporate partner of stock in another corporation.--The bill provides for a basis reduction to assets of a corporation if stock in that corporation is distributed by a partnership to a corporate partner. The reduction applies if, after the distribution, the corporate partner controls the distributed corporation. The provision is effective for distributions after July 14, 1999.

TITLE XIV. TAX TECHNICAL CORRECTIONS

The bill adopts technical corrections to recent tax legislation.