

[DISCUSSION DRAFT]

MARCH 15, 2010

111TH CONGRESS
2D SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to provide for small business tax relief, infrastructure incentives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for small business tax relief, infrastructure incentives, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business and Infrastructure Jobs Tax Act of
6 2010”.

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

7 (c) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—SMALL BUSINESS TAX INCENTIVES

Subtitle A—General Provisions

Sec. 101. Temporary exclusion of 100 percent of gain on certain small business stock.

Subtitle B—Limitations and Reporting on Certain Penalties

Sec. 111. Limitation on penalty for failure to disclose certain information.

Sec. 112. Annual reports on penalties and certain other enforcement actions.

Subtitle C—Other Provisions

Sec. 121. Nonrecourse small business investment company loans from the Small Business Administration treated as amounts at risk.

Sec. 122. Increase in amount allowed as deduction for start-up expenditures.

TITLE II—INFRASTRUCTURE INCENTIVES

Sec. 201. Extension of Build America Bonds.

Sec. 202. Exempt-facility bonds for sewage and water supply facilities.

Sec. 203. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.

Sec. 204. Elective payments in lieu of low income housing credits.

Sec. 205. Extension and additional allocations of recovery zone bond authority.

Sec. 206. Allowance of new markets tax credit against alternative minimum tax.

TITLE III—PENSION PROVISIONS

Sec. 301. [to be provided].

TITLE IV—REVENUE PROVISIONS

Sec. 401. Limitation on treaty benefits for certain deductible payments.

Sec. 402. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.

- Sec. 403. Repeal of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.
- Sec. 404. Information reporting for rental property expense payments.
- Sec. 405. Application of levy to payments to Federal vendors relating to property.
- Sec. 406. Application of continuous levy to employment tax liability of certain Federal contractors.
- Sec. 407. Required minimum 10-year term, etc., for grantor retained annuity trusts.

1 **TITLE I—SMALL BUSINESS TAX**
2 **INCENTIVES**

3 **Subtitle A—General Provisions**

4 **SEC. 101. TEMPORARY EXCLUSION OF 100 PERCENT OF**
5 **GAIN ON CERTAIN SMALL BUSINESS STOCK.**

6 (a) IN GENERAL.—Subsection (a) of section 1202 is
7 amended by adding at the end the following new para-
8 graph:

9 “(4) SPECIAL 100 PERCENT EXCLUSION.—In
10 the case of qualified small business stock acquired
11 after March 15, 2010, and before January 1,
12 2012—

13 “(A) paragraph (1) shall be applied by
14 substituting ‘100 percent’ for ‘50 percent’,

15 “(B) paragraph (2) shall not apply, and

16 “(C) paragraph (7) of section 57(a) shall
17 not apply.”.

18 (b) CONFORMING AMENDMENTS.—Paragraph (3) of
19 section 1202(a) is amended—

20 (1) by striking “after the date of the enactment
21 of this paragraph and before January 1, 2011” and

1 inserting “after February 17, 2009, and before
2 March 16, 2010”, and

3 (2) by striking “SPECIAL RULE FOR 2009 AND
4 2010” in the heading and inserting “SPECIAL 75
5 PERCENT EXCLUSION”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to stock acquired after March 15,
8 2010.

9 **Subtitle B—Limitations and** 10 **Reporting on Certain Penalties**

11 **SEC. 111. LIMITATION ON PENALTY FOR FAILURE TO DIS-** 12 **CLOSE CERTAIN INFORMATION.**

13 (a) IN GENERAL.—Subsection (b) of section 6707A
14 is amended to read as follows:

15 “(b) AMOUNT OF PENALTY.—

16 “(1) IN GENERAL.—Except as otherwise pro-
17 vided in this subsection, the amount of the penalty
18 under subsection (a) with respect to any reportable
19 transaction shall be 75 percent of the decrease in
20 tax shown on the return as a result of such trans-
21 action (or which would have resulted from such
22 transaction if such transaction were respected for
23 Federal tax purposes).

24 “(2) MAXIMUM PENALTY.—The amount of the
25 penalty under subsection (a) with respect to any re-

1 portable transaction for any taxable year shall not
2 exceed—

3 “(A) in the case of a listed transaction,
4 \$200,000 (\$100,000 in the case of a natural
5 person), or

6 “(B) in the case of any other reportable
7 transaction, \$50,000 (\$10,000 in the case of a
8 natural person).

9 “(3) MINIMUM PENALTY.—The amount of the
10 penalty under subsection (a) with respect to any
11 transaction for any taxable year shall not be less
12 than \$10,000 (\$5,000 in the case of a natural per-
13 son).”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to penalties assessed after Decem-
16 ber 31, 2006.

17 **SEC. 112. ANNUAL REPORTS ON PENALTIES AND CERTAIN**
18 **OTHER ENFORCEMENT ACTIONS.**

19 (a) IN GENERAL.—The Commissioner of Internal
20 Revenue, in consultation with the Secretary of the Treas-
21 ury, shall submit to the Committee on Ways and Means
22 of the House of Representatives and the Committee on
23 Finance of the Senate an annual report on the penalties
24 assessed by the Internal Revenue Service during the pre-

1 ceding year under each of the following provisions of the
2 Internal Revenue Code of 1986:

3 (1) Section 6662A (relating to accuracy-related
4 penalty on understatements with respect to report-
5 able transactions).

6 (2) Section 6700(a) (relating to promoting abu-
7 sive tax shelters).

8 (3) Section 6707 (relating to failure to furnish
9 information regarding reportable transactions).

10 (4) Section 6707A (relating to failure to include
11 reportable transaction information with return).

12 (5) Section 6708 (relating to failure to main-
13 tain lists of advisees with respect to reportable
14 transactions).

15 (b) **ADDITIONAL INFORMATION.**—The report re-
16 quired under subsection (a) shall also include information
17 on the following with respect to each year:

18 (1) Any action taken under section 330(b) of
19 title 31, United States Code, with respect to any re-
20 reportable transaction (as defined in section 6707A(c)
21 of the Internal Revenue Code of 1986).

22 (2) Any extension of the time for assessment of
23 tax enforced, or assessment of any amount under
24 such an extension, under paragraph (10) of section
25 6501(e) of the Internal Revenue Code of 1986.

1 (c) DATE OF REPORT.—The first report required
2 under subsection (a) shall be submitted not later than De-
3 cember 31, 2010.

4 **Subtitle C—Other Provisions**

5 **SEC. 121. NONRECOURSE SMALL BUSINESS INVESTMENT** 6 **COMPANY LOANS FROM THE SMALL BUSI-** 7 **NESS ADMINISTRATION TREATED AS** 8 **AMOUNTS AT RISK.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 465(b)(6) is amended to read as follows:

11 “(B) QUALIFIED NONRECOURSE FINANC-
12 ING.—For purposes of this paragraph—

13 “(i) IN GENERAL.—The term ‘quali-
14 fied nonrecourse financing’ means any fi-
15 nancing—

16 “(I) which is qualified real prop-
17 erty financing or qualified SBIC fi-
18 nancing,

19 “(II) except to the extent pro-
20 vided in regulations, with respect to
21 which no person is personally liable
22 for repayment, and

23 “(III) which is not convertible
24 debt.

1 “(ii) QUALIFIED REAL PROPERTY FI-
2 NANCING.—The term ‘qualified real prop-
3 erty financing’ means any financing
4 which—

5 “(I) is borrowed by the taxpayer
6 with respect to the activity of holding
7 real property,

8 “(II) is secured by real property
9 used in such activity, and

10 “(III) is borrowed by the tax-
11 payer from a qualified person or rep-
12 resents a loan from any Federal,
13 State, or local government or instru-
14 mentality thereof, or is guaranteed by
15 any Federal, State, or local govern-
16 ment.

17 “(iii) QUALIFIED SBIC FINANCING.—
18 The term ‘qualified SBIC financing’ means
19 any financing which—

20 “(I) is borrowed by a small busi-
21 ness investment company (within the
22 meaning of section 301 of the Small
23 Business Investment Act of 1958),
24 and

1 “(II) is borrowed from, or guar-
2 anteed by, the Small Business Admin-
3 istration under the authority of sec-
4 tion 303(b) of such Act.”.

5 (b) CONFORMING AMENDMENTS.—Subparagraph (A)
6 of section 465(b)(6) is amended—

7 (1) by striking “in the case of an activity of
8 holding real property,” and

9 (2) by striking “which is secured by real prop-
10 erty used in such activity”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to loans and guarantees made after
13 the date of the enactment of this Act.

14 **SEC. 122. INCREASE IN AMOUNT ALLOWED AS DEDUCTION**
15 **FOR START-UP EXPENDITURES.**

16 (a) IN GENERAL.—Subsection (b) of section 195 is
17 amended by adding at the end the following new para-
18 graph:

19 “(3) INCREASED LIMITATION FOR TAXABLE
20 YEARS BEGINNING IN 2010 OR 2011.—In the case of
21 any taxable year beginning in 2010 or 2011, para-
22 graph (1)(A)(ii) shall be applied—

23 “(A) by substituting ‘\$20,000’ for
24 ‘\$5,000’, and

1 “(B) by substituting ‘\$75,000’ for
2 ‘\$50,000’.”.

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

6 **TITLE II—INFRASTRUCTURE**
7 **INCENTIVES**

8 **SEC. 201. EXTENSION OF BUILD AMERICA BONDS.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 54AA(d)(1) is amended by striking “January 1, 2011”
11 and inserting “January 1, 2014”.

12 (b) EXTENSION OF PAYMENTS TO ISSUERS.—

13 (1) IN GENERAL.—Subsection (a) of section
14 6431 is amended by striking “January 1, 2011” and
15 inserting “January 1, 2014”.

16 (2) CONFORMING AMENDMENTS.—Subsection
17 (g) of section 54AA is amended—

18 (A) by striking “January 1, 2011” and in-
19 serting “January 1, 2014”, and

20 (B) by striking “QUALIFIED BONDS
21 ISSUED BEFORE 2011” in the heading and in-
22 serting “CERTAIN QUALIFIED BONDS”.

23 (c) REDUCTION IN PERCENTAGE OF PAYMENTS TO
24 ISSUERS.—Subsection (b) of section 6431 is amended—

1 (1) by striking “The Secretary” and inserting
2 the following:

3 “(1) IN GENERAL.—The Secretary”,

4 (2) by striking “35 percent” and inserting “the
5 applicable percentage”, and

6 (3) by adding at the end the following new
7 paragraph:

8 “(2) APPLICABLE PERCENTAGE.—For purposes
9 of this subsection, the term ‘applicable percentage’
10 means the percentage determined in accordance with
11 the following table:

“In the case of a qualified bond issued during cal- endar year:	The applicable percentage is:
2009 or 2010	35 percent
2011	33 percent
2012	31 percent
2013	30 percent”.

12 (d) CURRENT REFUNDINGS PERMITTED.—Sub-
13 section (g) of section 54AA is amended by adding at the
14 end the following new paragraph:

15 “(3) TREATMENT OF CURRENT REFUNDING
16 BONDS.—

17 “(A) IN GENERAL.—For purposes of this
18 subsection, the term ‘qualified build America
19 bond’ includes any bond (or series of bonds)
20 issued to refund a qualified build America bond
21 if—

1 “(i) the average maturity date of the
2 issue of which the refunding bond is a part
3 is not later than the average maturity date
4 of the bonds to be refunded by such issue,

5 “(ii) the amount of the refunding
6 bond does not exceed the outstanding
7 amount of the refunded bond, and

8 “(iii) the refunded bond is redeemed
9 not later than 90 days after the date of the
10 issuance of the refunding bond.

11 “(B) APPLICABLE PERCENTAGE.—In the
12 case of a refunding bond referred to in subpara-
13 graph (A), the applicable percentage with re-
14 spect to such bond under section 6431(b) shall
15 be the lowest percentage specified in paragraph
16 (2) of such section.

17 “(C) DETERMINATION OF AVERAGE MATU-
18 RITY.—For purposes of subparagraph (A)(i),
19 average maturity shall be determined in accord-
20 ance with section 147(b)(2)(A).”.

21 **SEC. 202. EXEMPT-FACILITY BONDS FOR SEWAGE AND**
22 **WATER SUPPLY FACILITIES.**

23 (a) BONDS FOR WATER AND SEWAGE FACILITIES
24 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY

1 BONDS.—Paragraph (3) of section 146(g) is amended by
2 inserting “(4), (5),” after “(2),”.

3 (b) CONFORMING CHANGE.—Paragraphs (2) and
4 (3)(B) of section 146(k) are both amended by striking
5 “(4), (5), (6),” and inserting “(6)”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to obligations issued after the date
8 of the enactment of this Act.

9 **SEC. 203. EXTENSION OF EXEMPTION FROM ALTERNATIVE**
10 **MINIMUM TAX TREATMENT FOR CERTAIN**
11 **TAX-EXEMPT BONDS.**

12 (a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C)
13 is amended—

14 (1) by striking “January 1, 2011” in subclause
15 (I) and inserting “January 1, 2012”, and

16 (2) by striking “AND 2010” in the heading and
17 inserting “, 2010, AND 2011”.

18 (b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of
19 section 56(g)(4)(B) is amended—

20 (1) by striking “January 1, 2011” in subclause
21 (I) and inserting “January 1, 2012”, and

22 (2) by striking “AND 2010” in the heading and
23 inserting “, 2010, AND 2011”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to obligations issued after Decem-
3 ber 31, 2010.

4 **SEC. 204. ELECTIVE PAYMENTS IN LIEU OF LOW INCOME**
5 **HOUSING CREDITS.**

6 (a) IN GENERAL.—Chapter 65 (relating to abate-
7 ments, credits, and refunds) is amended by adding at the
8 end the following new subchapter:

9 **“Subchapter C—Direct Payment Provisions**

“Sec. 6451. Elective payments in lieu of low income housing credit for bond-
financed buildings.

10 **“SEC. 6451. ELECTIVE PAYMENTS IN LIEU OF LOW INCOME**
11 **HOUSING CREDIT FOR BOND-FINANCED**
12 **BUILDINGS.**

13 “(a) IN GENERAL.—Any person making an election
14 under this section with respect to any qualified bond-fi-
15 nanced low-income building originally placed in service by
16 such person during the taxable year shall be treated as
17 making a payment, against the tax imposed by subtitle
18 A for the taxable year, equal to the direct payment amount
19 with respect to such building. Such payment shall be treat-
20 ed as made on the later of the due date of the return of
21 such tax or the date on which such return is filed.

22 “(b) QUALIFIED BOND-FINANCED LOW-INCOME
23 BUILDING.—For purposes of this section, the term ‘quali-
24 fied bond-financed low-income building’ means any quali-

1 fied low-income building to which paragraph (1) of section
2 42(h) does not apply by reason of paragraph (4)(B) of
3 such section.

4 “(c) DIRECT PAYMENT AMOUNT.—For purposes of
5 this section, the term ‘direct payment amount’ means,
6 with respect to any building, 25.5 percent of the qualified
7 basis of such building.

8 “(d) SPECIAL RULES FOR CERTAIN NON-TAX-
9 PAYERS.—

10 “(1) DENIAL OF PAYMENT.—Subsection (a)
11 shall not apply with respect to any building placed
12 in service by—

13 “(A) any governmental entity, or

14 “(B) any organization described in section
15 501(c) or 401(a) and exempt from tax under
16 section 501(a).

17 “(2) SPECIAL RULES FOR PARTNERSHIPS AND
18 S CORPORATIONS.—In the case of property originally
19 placed in service by a partnership or an S corpora-
20 tion—

21 “(A) the election under subsection (a) may
22 be made only by such partnership or S corpora-
23 tion,

24 “(B) such partnership or S corporation
25 shall be treated as making the payment referred

1 to in subsection (a) only to the extent of the
2 proportionate share of such partnership or S
3 corporation as is owned by persons who would
4 be treated as making such payment if the build-
5 ing were placed in service by such persons, and
6 “(C) the return required to be made by
7 such partnership or S corporation under section
8 6031 or 6037 (as the case may be) shall be
9 treated as a return of tax for purposes of sub-
10 section (a).

11 For purposes of subparagraph (B), rules similar to the
12 rules of section 168(h)(6) (other than subparagraph (F)
13 thereof) shall apply.

14 “(e) COORDINATION WITH LOW INCOME HOUSING
15 CREDIT.—In the case of any property with respect to
16 which an election is made under this section, no credit
17 shall be determined under section 42 with respect to such
18 building for any taxable year.

19 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—
20 For purposes of this section—

21 “(1) OTHER DEFINITIONS.—Terms used in this
22 section which are also used in section 42 shall have
23 the same meaning for purposes of this section as
24 when used in such section.

1 “(2) APPLICATION OF RECAPTURE RULES,
2 ETC.—Except as otherwise provided by the Sec-
3 retary, rules similar to the rules of section 42 shall
4 apply, including the recapture rules of section 42(j).

5 “(3) PROVISION OF INFORMATION.—A person
6 shall not be treated as having elected the application
7 of this section unless the taxpayer provides such in-
8 formation as the Secretary may require for purposes
9 of verifying the proper amount to be treated as a
10 payment under subsection (a) and evaluating the ef-
11 fectiveness of this section.

12 “(4) EXCLUSION FROM GROSS INCOME.—Any
13 credit or refund allowed or made by reason of this
14 section shall not be includible in gross income or al-
15 ternative minimum taxable income.

16 “(g) TERMINATION.—Subsection (a) shall not apply
17 with respect to any building placed in service during a tax-
18 able year beginning after December 31, 2010.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Subparagraph (A) of section 6211(b)(4)(A)
21 is amended by inserting “and subchapter C of chap-
22 ter 65 (including any payment treated as made
23 under such subchapter)” after “6431”.

24 (2) Subparagraph (B) of section 6425(c)(1) is
25 amended—

1 (A) by striking “the credits” and inserting
2 “the sum of—

3 “(i) the credits”,

4 (B) by striking the period at the end of
5 clause (i) thereof (as amended by this para-
6 graph) and inserting “, plus”, and

7 (C) by adding at the end the following new
8 clause:

9 “(ii) the credits allowed (and pay-
10 ments treated as made) under subchapter
11 C of chapter 65.”.

12 (3) Paragraph (3) of section 6654(f) is amend-
13 ed—

14 (A) by striking “the credits” and inserting
15 “the sum of—

16 “(A) the credits”,

17 (B) by striking the period at the end of
18 subparagraph (A) thereof (as amended by this
19 paragraph) and inserting “, and”, and

20 (C) by adding at the end the following new
21 subparagraph:

22 “(B) the credits allowed (and payments
23 treated as made) under subchapter C of chapter
24 65.”.

1 (4) Subparagraph (B) of section 6655(g)(1) is
2 amended—

3 (A) by striking “the credits” and inserting
4 “the sum of—

5 “(i) the credits”,

6 (B) by striking the period at the end of
7 clause (i) thereof (as amended by this para-
8 graph) and inserting “, plus”, and

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

11 “(ii) the credits allowed (and pay-
12 ments treated as made) under subchapter
13 C of chapter 65.”.

14 (5) Paragraph (2) of section 1324(b) of title
15 31, United States Code, is amended by inserting “,
16 or from the provisions of subchapter C of chapter 65
17 of such Code” before the period at the end.

18 (6) The table of subchapters for chapter 65 is
19 amended by adding at the end the following new
20 item:

SUBCHAPTER C. DIRECT PAYMENT PROVISIONS.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to buildings placed in service after
23 the date of the enactment of this Act.

1 **SEC. 205. EXTENSION AND ADDITIONAL ALLOCATIONS OF**
2 **RECOVERY ZONE BOND AUTHORITY.**

3 (a) **EXTENSION OF RECOVERY ZONE BOND AUTHOR-**
4 **ITY.**—Section 1400U–2(b)(1) and section 1400U–
5 3(b)(1)(B) are each amended by striking “January 1,
6 2011” and inserting “January 1, 2012”.

7 (b) **ADDITIONAL ALLOCATIONS OF RECOVERY ZONE**
8 **BOND AUTHORITY BASED ON UNEMPLOYMENT.**—Section
9 1400U–1 is amended by adding at the end the following
10 new subsection:

11 “(c) **ALLOCATION OF 2010 RECOVERY ZONE BOND**
12 **LIMITATIONS BASED ON UNEMPLOYMENT.**—

13 “(1) **IN GENERAL.**—The Secretary shall allo-
14 cate the 2010 national recovery zone economic devel-
15 opment bond limitation and the 2010 national recov-
16 ery zone facility bond limitation among the States in
17 the proportion that each such State’s 2008 unem-
18 ployment number bears to the aggregate of the 2008
19 unemployment numbers for all of the States.

20 “(2) **MINIMUM ALLOCATION.**—The Secretary
21 shall adjust the allocations under paragraph (1) for
22 each State to the extent necessary to ensure that no
23 State (prior to any reduction under paragraph (3))
24 receives less than 0.9 percent of the 2010 national
25 recovery zone economic development bond limitation

1 and 0.9 percent of the 2010 national recovery zone
2 facility bond limitation.

3 “(3) ALLOCATIONS BY STATES.—

4 “(A) IN GENERAL.—Each State with re-
5 spect to which an allocation is made under
6 paragraph (1) shall reallocate such allocation
7 among the counties and large municipalities (as
8 defined in subsection (a)(3)(B)) in such State
9 in the proportion that each such county’s or
10 municipality’s 2008 unemployment number
11 bears to the aggregate of the 2008 unemploy-
12 ment numbers for all the counties and large
13 municipalities (as so defined) in such State.

14 “(B) 2010 ALLOCATION REDUCED BY
15 AMOUNT OF PREVIOUS ALLOCATION.—Each
16 State shall reduce (but not below zero)—

17 “(i) the amount of the 2010 national
18 recovery zone economic development bond
19 limitation allocated to each county or large
20 municipality (as so defined) in such State
21 by the amount of the national recovery
22 zone economic development bond limitation
23 allocated to such county or large munic-
24 ipality under subsection (a)(3)(A) (deter-

1 mined without regard to any waiver there-
2 of), and

3 “(ii) the amount of the 2010 national
4 recovery zone facility bond limitation allo-
5 cated to each county or large municipality
6 (as so defined) in such State by the
7 amount of the national recovery zone facil-
8 ity bond limitation allocated to such county
9 or large municipality under subsection
10 (a)(3)(A) (determined without regard to
11 any waiver thereof).

12 “(C) WAIVER OF SUBALLOCATIONS.—A
13 county or municipality may waive any portion
14 of an allocation made under this paragraph. A
15 State may by law treat a county or municipality
16 as waiving any portion of an allocation made
17 under this paragraph if there is a reasonable
18 expectation that such allocation would not oth-
19 erwise be used.

20 “(D) SPECIAL RULE FOR A MUNICIPALITY
21 IN A COUNTY.—In the case of any large munici-
22 pality any portion of which is in a county, such
23 portion shall be treated as part of such munici-
24 pality and not part of such county.

1 “(4) 2008 UNEMPLOYMENT NUMBER.—For
2 purposes of this subsection, the term ‘2008 unem-
3 ployment number’ means, with respect to any State,
4 county or municipality, the number of individuals in
5 such State, county, or municipality who were deter-
6 mined to be unemployed by the Bureau of Labor
7 Statistics for December 2008.

8 “(5) 2010 NATIONAL LIMITATIONS.—

9 “(A) RECOVERY ZONE ECONOMIC DEVEL-
10 OPMENT BONDS.—The 2010 national recovery
11 zone economic development bond limitation is
12 \$10,000,000,000. Any allocation of such limita-
13 tion under this subsection shall be treated for
14 purposes of section 1400U–2 in the same man-
15 ner as an allocation of national recovery zone
16 economic development bond limitation.

17 “(B) RECOVERY ZONE FACILITY BONDS.—
18 The 2010 national recovery zone facility bond
19 limitation is \$15,000,000,000. Any allocation of
20 such limitation under this subsection shall be
21 treated for purposes of section 1400U–3 in the
22 same manner as an allocation of national recov-
23 ery zone facility bond limitation.”.

24 “(c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009
25 ALLOCATIONS.—Subparagraph (A) of section 1400U–

1 1(a)(3) is amended by adding at the end the following:
2 “A State may by law treat a county or municipality as
3 waiving any portion of an allocation made under this sub-
4 paragraph if there is a reasonable expectation that such
5 allocation would not otherwise be used.”.

6 **SEC. 206. ALLOWANCE OF NEW MARKETS TAX CREDIT**
7 **AGAINST ALTERNATIVE MINIMUM TAX.**

8 (a) **IN GENERAL.**—Subparagraph (B) of section
9 38(c)(4) is amended by designating clauses (v) through
10 (viii) as clauses (vi) through (ix), respectively, and by in-
11 serting after clause (iv) the following new clause:

12 “(v) the credit determined under sec-
13 tion 45D, but only with respect to credits
14 determined with respect to qualified equity
15 investments (as defined in section 45D(b))
16 initially made before January 1, 2012.”.

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to qualified equity investments (as
19 defined in section 45D(b) of the Internal Revenue Code
20 of 1986) initially made after March 15, 2010.

1 **TITLE III—PENSION PROVISIONS**

2 **SEC. 301. [TO BE PROVIDED].**

3 **TITLE IV—REVENUE**
4 **PROVISIONS**

5 **SEC. 401. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
6 **DEDUCTIBLE PAYMENTS.**

7 (a) IN GENERAL.—Section 894 (relating to income
8 affected by treaty) is amended by adding at the end the
9 following new subsection:

10 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
11 TAIN DEDUCTIBLE PAYMENTS.—

12 “(1) IN GENERAL.—In the case of any deduct-
13 ible related-party payment, any withholding tax im-
14 posed under chapter 3 (and any tax imposed under
15 subpart A or B of this part) with respect to such
16 payment may not be reduced under any treaty of the
17 United States unless any such withholding tax would
18 be reduced under a treaty of the United States if
19 such payment were made directly to the foreign par-
20 ent corporation.

21 “(2) DEDUCTIBLE RELATED-PARTY PAY-
22 MENT.—For purposes of this subsection, the term
23 ‘deductible related-party payment’ means any pay-
24 ment made, directly or indirectly, by any person to
25 any other person if the payment is allowable as a de-

1 duction under this chapter and both persons are
2 members of the same foreign controlled group of en-
3 tities.

4 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
5 TIES.—For purposes of this subsection—

6 “(A) IN GENERAL.—The term ‘foreign
7 controlled group of entities’ means a controlled
8 group of entities the common parent of which
9 is a foreign corporation.

10 “(B) CONTROLLED GROUP OF ENTITIES.—
11 The term ‘controlled group of entities’ means a
12 controlled group of corporations as defined in
13 section 1563(a)(1), except that—

14 “(i) ‘more than 50 percent’ shall be
15 substituted for ‘at least 80 percent’ each
16 place it appears therein, and

17 “(ii) the determination shall be made
18 without regard to subsections (a)(4) and
19 (b)(2) of section 1563.

20 A partnership or any other entity (other than a
21 corporation) shall be treated as a member of a
22 controlled group of entities if such entity is con-
23 trolled (within the meaning of section
24 954(d)(3)) by members of such group (includ-

1 ing any entity treated as a member of such
2 group by reason of this sentence).

3 “(4) FOREIGN PARENT CORPORATION.—For
4 purposes of this subsection, the term ‘foreign parent
5 corporation’ means, with respect to any deductible
6 related-party payment, the common parent of the
7 foreign controlled group of entities referred to in
8 paragraph (3)(A).

9 “(5) REGULATIONS.—The Secretary may pre-
10 scribe such regulations or other guidance as are nec-
11 essary or appropriate to carry out the purposes of
12 this subsection, including regulations or other guid-
13 ance which provide for—

14 “(A) the treatment of two or more persons
15 as members of a foreign controlled group of en-
16 tities if such persons would be the common par-
17 ent of such group if treated as one corporation,
18 and

19 “(B) the treatment of any member of a
20 foreign controlled group of entities as the com-
21 mon parent of such group if such treatment is
22 appropriate taking into account the economic
23 relationships among such entities.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to payments made after the date
3 of the enactment of this Act.

4 **SEC. 402. TREATMENT OF SECURITIES OF A CONTROLLED**
5 **CORPORATION EXCHANGED FOR ASSETS IN**
6 **CERTAIN REORGANIZATIONS.**

7 (a) IN GENERAL.—Section 361 (relating to non-
8 recognition of gain or loss to corporations; treatment of
9 distributions) is amended by adding at the end the fol-
10 lowing new subsection:

11 “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING
12 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-
13 nization described in section 368(a)(1)(D) with respect to
14 which stock or securities of the corporation to which the
15 assets are transferred are distributed in a transaction
16 which qualifies under section 355—

17 “(1) this section shall be applied by substituting
18 ‘stock other than nonqualified preferred stock (as
19 defined in section 351(g)(2))’ for ‘stock or securities’
20 in subsections (a) and (b)(1), and

21 “(2) the first sentence of subsection (b)(3) shall
22 apply only to the extent that the sum of the money
23 and the fair market value of the other property
24 transferred to such creditors does not exceed the ad-
25 justed bases of such assets transferred (reduced by

1 the amount of the liabilities assumed (within the
2 meaning of section 357(c)).”.

3 (b) CONFORMING AMENDMENT.—Paragraph (3) of
4 section 361(b) is amended by striking the last sentence.

5 (c) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to exchanges after the date of the enact-
9 ment of this Act.

10 (2) TRANSITION RULE.—The amendments
11 made by this section shall not apply to any exchange
12 pursuant to a transaction which is—

13 (A) made pursuant to an agreement which
14 was binding on March 15, 2010, and at all
15 times thereafter,

16 (B) described in a ruling request submitted
17 to the Internal Revenue Service on or before
18 such date, or

19 (C) described on or before such date in a
20 public announcement or in a filing with the Se-
21 curities and Exchange Commission.

1 **SECTION 403. REPEAL OF SPECIAL RULES FOR INTEREST**
2 **AND DIVIDENDS RECEIVED FROM PERSONS**
3 **MEETING THE 80-PERCENT FOREIGN BUSI-**
4 **NESS REQUIREMENTS.**

5 (a) REPEAL OF SPECIAL RULE TREATING INTEREST
6 AS UNITED STATES SOURCE.—Paragraph (1) of section
7 861(a) is amended by striking subparagraph (A) and by
8 redesignating subparagraphs (B) and (C) as subpara-
9 graphs (A) and (B), respectively.

10 (b) REPEAL OF EXCEPTION TO TAX ON DIVIDENDS
11 RECEIVED BY NONRESIDENT ALIENS.—Paragraph (2) of
12 section 871(i) is amended by striking subparagraph (B)
13 and by redesignating subparagraphs (C) and (D) as sub-
14 paragraphs (B) and (C), respectively.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 861 is amended by striking sub-
17 section (c) and by redesignating subsections (d), (e),
18 and (f) as subsections (c), (d), and (e), respectively.

19 (2) Paragraph (9) of section 904(h) is amended
20 to read as follows:

21 “(9) TREATMENT OF CERTAIN DOMESTIC COR-
22 PORATIONS.—In the case of any dividend treated as
23 not from sources with the United States under sec-
24 tion 861(a)(2)(A), the corporation paying such divi-
25 dend shall be treated for purposes of this subsection
26 as a United States-owned foreign corporation.”.

1 (3) Subsection (c) of section 2104 is amended
2 in the last sentence by striking “or to a debt obliga-
3 tion of a domestic corporation” and all that follows
4 and inserting a period.

5 (d) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to taxable years beginning after Decem-
9 ber 31, 2010.

10 (2) GRANDFATHER RULE FOR OUTSTANDING
11 DEBT OBLIGATIONS.—

12 (A) IN GENERAL.—The amendments made
13 by this section shall not apply to payments of
14 interest on obligations issued before the date of
15 the enactment of this Act.

16 (B) EXCEPTION FOR RELATED PARTY
17 DEBT.—Subparagraph (A) shall not apply to
18 any interest which is payable to a related per-
19 son (determined under rules similar to the rules
20 of section 954(d)(3)).

21 (C) SUBSTANTIAL MODIFICATIONS TREAT-
22 ED AS NEW ISSUES.—For purposes of subpara-
23 graph (A), a substantial modification of the
24 terms of any obligation (including any extension

1 of the term of such obligation) shall be treated
2 as a new issue.

3 **SEC. 404. INFORMATION REPORTING FOR RENTAL PROP-**
4 **ERTY EXPENSE PAYMENTS.**

5 (a) IN GENERAL.—Section 6041 is amended by add-
6 ing at the end the following new subsection:

7 “(h) TREATMENT OF RENTAL PROPERTY EXPENSE
8 PAYMENTS.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a), a person receiving rental income from real es-
11 tate (other than a qualified residence) shall be con-
12 sidered to be engaged in a trade or business of rent-
13 ing property.

14 “(2) QUALIFIED RESIDENCE.—For purposes of
15 paragraph (1), the term ‘qualified residence’
16 means—

17 “(A) the principal residence (within the
18 meaning of section 121) of the taxpayer, and

19 “(B) 1 other residence of the taxpayer
20 which is selected by the taxpayer for purposes
21 of this subsection for the taxable year and
22 which is used by the taxpayer as a residence
23 (within the meaning of section 280A(d)(1)).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to payments made after December
3 31, 2010.

4 **SEC. 405. APPLICATION OF LEVY TO PAYMENTS TO FED-**
5 **ERAL VENDORS RELATING TO PROPERTY.**

6 (a) IN GENERAL.—Section 6331(h)(3) is amended by
7 striking “goods or services” and inserting “property,
8 goods, or services”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to levies approved after the date
11 of the enactment of this Act.

12 **SEC. 406. APPLICATION OF CONTINUOUS LEVY TO EMPLOY-**
13 **MENT TAX LIABILITY OF CERTAIN FEDERAL**
14 **CONTRACTORS.**

15 (a) IN GENERAL.—Section 6330(h) is amended by
16 inserting “or if the person subject to the levy (or any pred-
17 ecessor thereof) is a Federal contractor that was identified
18 as owing such employment taxes through the Federal Pay-
19 ment Levy Program” before the period at the end of the
20 first sentence.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to levies issued after December 31,
23 2010.

1 **SEC. 407. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
2 **GRANTOR RETAINED ANNUITY TRUSTS.**

3 (a) IN GENERAL.—Subsection (b) of section 2702 is
4 amended—

5 (1) by redesignating paragraphs (1), (2) and
6 (3) as subparagraphs (A), (B), and (C), respectively,
7 and by moving such subparagraphs (as so redesign-
8 nated) 2 ems to the right,

9 (2) by striking “For purposes of” and inserting
10 the following:

11 “(1) IN GENERAL.—For purposes of”, and

12 (3) by striking “paragraph (1) or (2)” in para-
13 graph (1)(C) (as so redesignated) and inserting
14 “subparagraph (A) or (B)”, and

15 (4) by adding at the end the following new
16 paragraph:

17 “(2) ADDITIONAL REQUIREMENTS WITH RE-
18 SPECT TO GRANTOR RETAINED ANNUITIES.—For
19 purposes of subsection (a), in the case of an interest
20 described in paragraph (1)(A) (determined without
21 regard to this paragraph) which is retained by the
22 transferor, such interest shall be treated as de-
23 scribed in such paragraph only if—

24 “(A) the right to receive the fixed amounts
25 referred to in such paragraph is for a term of
26 not less than 10 years,

1 “(B) such fixed amounts, when determined
2 on an annual basis, do not decrease relative to
3 any prior year during the first 10 years of the
4 term referred to in subparagraph (A), and

5 “(C) the remainder interest has a value
6 greater than zero determined as of the time of
7 the transfer.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to transfers made after the date
10 of the enactment of this Act.