

***In the Senate of the United States,***

*February 2, 2006.*

*Resolved,* That the bill from the House of Representatives (H.R. 4297) entitled “An Act to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;***

2 ***TABLE OF CONTENTS.***

3 *(a) SHORT TITLE.—This Act may be cited as the “Tax*

4 *Relief Act of 2005”.*

1           (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*  
 2 *expressly provided, whenever in this Act an amendment or*  
 3 *repeal is expressed in terms of an amendment to, or repeal*  
 4 *of, a section or other provision, the reference shall be consid-*  
 5 *ered to be made to a section or other provision of the Inter-*  
 6 *nal Revenue Code of 1986.*

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

*Sec. 1. Short title; amendment of 1986 Code; table of contents.*

#### *TITLE I—EXTENSION OF EXPIRING PROVISIONS*

*Sec. 101. Extension of increased expensing for small business.*

*Sec. 102. Credit for elective deferrals and IRA contributions.*

*Sec. 103. Above-the-line deduction for higher education.*

*Sec. 104. Extension and modification of new markets tax credit.*

*Sec. 105. Election to deduct State and local general sales taxes.*

*Sec. 106. Extension and increase in minimum tax relief to individuals.*

*Sec. 107. Allowance of nonrefundable personal credits against regular and alter-*  
*native minimum tax liability.*

*Sec. 108. Extension and modification of research credit.*

*Sec. 109. Work opportunity tax credit and welfare-to-work credit.*

*Sec. 110. Qualified zone academy bonds.*

*Sec. 111. Deduction for corporate donations of computer technology and equip-*  
*ment.*

*Sec. 112. Above-the-line deduction for certain expenses of elementary and sec-*  
*ondary school teachers.*

*Sec. 113. Expensing of brownfields remediation costs.*

*Sec. 114. Tax incentives for investment in the District of Columbia.*

*Sec. 115. Indian employment tax credit.*

*Sec. 116. Accelerated depreciation for business property on Indian reservation.*

*Sec. 117. Fifteen-year straight-line cost recovery for qualified leasehold improve-*  
*ments and qualified restaurant improvements.*

*Sec. 118. Extension of full credit for qualified electric vehicles.*

*Sec. 119. Application of EGTRRA sunset to this title.*

#### *TITLE II—PROVISIONS RELATING TO CHARITABLE DONATIONS*

##### *Subtitle A—Charitable Giving Incentives*

*Sec. 201. Charitable deduction for nonitemizers.*

*Sec. 202. Tax-free distributions from individual retirement plans for charitable*  
*purposes.*

*Sec. 203. Modification of charitable deduction for contributions of food inventory.*

*Sec. 204. Basis adjustment to stock of S corporation contributing property.*

*Sec. 205. Modification of charitable deduction for contributions of book inventory.*

- Sec. 206. Modification of tax treatment of certain payments to controlling exempt organizations and public disclosure of information relating to unrelated business income.*
- Sec. 207. Encouragement of contributions of capital gain real property made for conservation purposes.*
- Sec. 208. Enhanced deduction for charitable contribution of literary, musical, artistic, and scholarly compositions.*
- Sec. 209. Mileage reimbursements to charitable volunteers excluded from gross income.*
- Sec. 210. Alternative percentage limitation for corporate charitable contributions to the mathematics and science partnership program.*

*Subtitle B—Reforming Charitable Organizations*

*PART I—GENERAL REFORMS*

- Sec. 211. Tax involvement by exempt organizations in tax shelter transactions.*
- Sec. 212. Excise tax on certain acquisitions of interests in insurance contracts in which certain exempt organizations hold an interest.*
- Sec. 213. Increase in penalty excise taxes on public charities, social welfare organizations, and private foundations.*
- Sec. 214. Reform of charitable contributions of certain easements on buildings in registered historic districts.*
- Sec. 215. Charitable contributions of taxidermy property.*
- Sec. 216. Recapture of tax benefit for charitable contributions of exempt use property not used for an exempt use.*
- Sec. 217. Limitation of deduction for charitable contributions of clothing and household items.*
- Sec. 218. Modification of recordkeeping requirements for certain charitable contributions.*
- Sec. 219. Contributions of fractional interests in tangible personal property.*
- Sec. 220. Provisions relating to substantial and gross overstatements of valuations of charitable deduction property.*
- Sec. 221. Additional standards for credit counseling organizations.*
- Sec. 222. Expansion of the base of tax on private foundation net investment income.*
- Sec. 223. Definition of convention or association of churches.*
- Sec. 224. Notification requirement for entities not currently required to file.*
- Sec. 225. Disclosure to State officials of proposed actions related to exempt organizations.*

*PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS*

- Sec. 231. Excise tax on sponsoring organizations of donor advised funds for failure to meet distribution requirements.*
- Sec. 232. Prohibited transactions.*
- Sec. 233. Treatment of charitable contribution deductions to donor advised funds.*
- Sec. 234. Returns of, and applications for recognition by, sponsoring organizations.*

*PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS*

- Sec. 241. Requirements for supporting organizations.*
- Sec. 242. Excise tax on supporting organizations for failure to meet distribution requirements.*
- Sec. 243. Excess benefit transactions.*
- Sec. 244. Excess business holdings of supporting organizations.*

*Sec. 245. Treatment of amounts paid to supporting organizations by private foundations.*

*Sec. 246. Returns of supporting organizations.*

#### TITLE III—MISCELLANEOUS PROVISIONS

*Sec. 301. Restructuring of New York Liberty Zone tax credits.*

*Sec. 302. Modification to S corporation passive investment income rules.*

*Sec. 303. Modification of effective date of disregard of certain capital expenditures for purposes of qualified small issue bonds.*

*Sec. 304. Premiums for mortgage insurance.*

*Sec. 305. Sense of the Senate on use of no-bid contracting by Federal Emergency Management Agency.*

*Sec. 306. Sense of Congress regarding Doha Round.*

*Sec. 307. Modification of bond rule.*

*Sec. 308. Treatment of certain stock option plans under nonqualified deferred compensation rules.*

*Sec. 309. Sense of the Senate regarding the dedication of excess funds.*

*Sec. 310. Modification of treatment of loans to qualified continuing care facilities.*

*Sec. 311. Exclusion of gain from sale of a principal residence by certain employees of the intelligence community.*

*Sec. 312. Sense of the Senate regarding the permanent extension of EGTRRA and JGTRRA provisions relating to child tax credit.*

*Sec. 313. Partial expensing for advanced mine safety equipment.*

*Sec. 314. Mine rescue team training tax credit.*

*Sec. 315. Funding for veterans health care and disability compensation and hospital infrastructure for veterans.*

*Sec. 316. Sense of the Senate regarding protecting middle-class families from the alternative minimum tax.*

#### TITLE IV—REVENUE OFFSET PROVISIONS

##### Subtitle A—Provisions Designed To Curtail Tax Shelters

*Sec. 401. Understatement of taxpayer's liability by income tax return preparer.*

*Sec. 402. Frivolous tax submissions.*

*Sec. 403. Penalty for promoting abusive tax shelters.*

*Sec. 404. Penalty for aiding and abetting the understatement of tax liability.*

##### Subtitle B—Economic Substance Doctrine

*Sec. 411. Clarification of economic substance doctrine.*

*Sec. 412. Penalty for understatements attributable to transactions lacking economic substance, etc.*

*Sec. 413. Denial of deduction for interest on underpayments attributable to non-economic substance transactions.*

##### Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

*Sec. 421. Waiver of user fee for installment agreements using automated withdrawals.*

*Sec. 422. Termination of installment agreements.*

*Sec. 423. Partial payments required with submission of offers-in-compromise.*

*Subtitle D—Penalties and Fines*

- Sec. 431. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.*
- Sec. 432. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.*
- Sec. 433. Denial of deduction for certain fines, penalties, and other amounts.*
- Sec. 434. Denial of deduction for punitive damages.*
- Sec. 435. Increase in penalty for bad checks and money orders.*

*Subtitle E—Provisions To Discourage Expatriation*

- Sec. 441. Tax treatment of inverted entities.*
- Sec. 442. Revision of tax rules on expatriation of individuals.*

*Subtitle F—Miscellaneous Provisions*

- Sec. 451. Treatment of contingent payment convertible debt instruments.*
- Sec. 452. Grant of Treasury regulatory authority to address foreign tax credit transactions involving inappropriate separation of foreign taxes from related foreign income.*
- Sec. 453. Repeal of special property exception to leasing provisions of the American Jobs Creation Act of 2004.*
- Sec. 454. Application of earnings stripping rules to partners which are corporations.*
- Sec. 455. Limitation of employer deduction for certain entertainment expenses.*
- Sec. 456. Increase in age of minor children whose unearned income is taxed as if parent's income.*
- Sec. 457. Loan and redemption requirements on pooled financing requirements.*
- Sec. 458. Reporting of interest on tax-exempt bonds.*
- Sec. 459. Modification of credit for producing fuel from a nonconventional source.*
- Sec. 460. Modification of individual estimated tax safe harbor.*
- Sec. 461. Revaluation of LIFO inventories of large integrated oil companies.*
- Sec. 462. Elimination of amortization of geological and geophysical expenditures for major integrated oil companies.*
- Sec. 463. Valuation of employee personal use of noncommercial aircraft.*
- Sec. 464. Application of FIRPTA to regulated investment companies.*
- Sec. 465. Treatment of distributions attributable to FIRPTA gains.*
- Sec. 466. Prevention of avoidance of tax on investments of foreign persons in United States real property through wash sale transactions.*
- Sec. 467. Modifications to rules relating to taxation of distributions of stock and securities of a controlled corporation.*
- Sec. 468. Amortization of expenses incurred in creating or acquiring music or music copyrights.*
- Sec. 469. Credit to holders of rural renaissance bonds.*
- Sec. 470. Modifications of foreign tax credit rules applicable to large integrated oil companies which are dual capacity taxpayers.*
- Sec. 471. Disability preference program for tax collection contracts.*

*TITLE V—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT*

- Sec. 501. Sunset of certain provisions and amendments.*

*TITLE VI—STRENGTHENING AMERICA'S MILITARY*

- Sec. 601. Short title.*

Sec. 602. Funding for military operations.

1                   **TITLE I—EXTENSION OF**  
 2                   **EXPIRING PROVISIONS**

3   **SEC. 101. EXTENSION OF INCREASED EXPENSING FOR**  
 4                   **SMALL BUSINESS.**

5           Section 179 is amended by striking “2008” each place  
 6 it appears and inserting “2010”.

7   **SEC. 102. CREDIT FOR ELECTIVE DEFERRALS AND IRA CON-**  
 8                   **TRIBUTIONS.**

9           Section 25B(h) is amended by striking “2006” and in-  
 10 sserting “2009”.

11   **SEC. 103. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDU-**  
 12                   **CATION.**

13           (a) *IN GENERAL.*—Section 222(e) is amended by strik-  
 14 ing “2005” and inserting “2009”.

15           (b)           *CONFORMING AMENDMENTS.*—Section  
 16 222(b)(2)(B) is amended—

17                   (1) by striking “a taxable year beginning in  
 18 2004 or 2005” and inserting “any taxable year begin-  
 19 ning after 2003”, and

20                   (2) by striking “2004 AND 2005” and inserting  
 21 “AFTER 2003”.

22           (c) *EFFECTIVE DATE.*—The amendments made by this  
 23 section shall apply to taxable years beginning after Decem-  
 24 ber 31, 2005.

1 **SEC. 104. EXTENSION AND MODIFICATION OF NEW MAR-**  
2 **KETS TAX CREDIT.**

3 (a) *EXTENSION.*—Section 45D(f)(1)(D) is amended by  
4 striking “and 2007” and inserting “, 2007, and 2008”.

5 (b) *REGULATIONS REGARDING NON-METROPOLITAN*  
6 *COUNTIES.*—Section 45D(i) is amended by striking “and”  
7 at the end of paragraph (4), by striking the period at the  
8 end of paragraph (5) and inserting “, and”, and by adding  
9 at the end by the following new paragraph:

10 “(6) which ensure that non-metropolitan coun-  
11 ties receive a proportional allocation of qualified eq-  
12 uity investments.”.

13 **SEC. 105. ELECTION TO DEDUCT STATE AND LOCAL GEN-**  
14 **ERAL SALES TAXES.**

15 (a) *IN GENERAL.*—Section 164(b)(5)(I) is amended by  
16 striking “2006” and inserting “2008”.

17 (b) *EFFECTIVE DATE.*—The amendments made by this  
18 section shall apply to taxable years beginning after Decem-  
19 ber 31, 2005.

20 **SEC. 106. EXTENSION AND INCREASE IN MINIMUM TAX RE-**  
21 **LIEF TO INDIVIDUALS.**

22 (a) *IN GENERAL.*—Section 55(d)(1) is amended—

23 (1) by striking “\$58,000” and all that follows  
24 through “2005” in subparagraph (A) and inserting  
25 “\$62,550 in the case of taxable years beginning in  
26 2006”, and

1           (2) by striking “\$40,250” and all that follows  
2           through “2005” in subparagraph (B) and inserting  
3           “\$42,500 in the case of taxable years beginning in  
4           2006”.

5           (b) *EFFECTIVE DATE.*—The amendments made by this  
6           section shall apply to taxable years beginning after Decem-  
7           ber 31, 2005.

8           **SEC. 107. ALLOWANCE OF NONREFUNDABLE PERSONAL**  
9   **CREDITS AGAINST REGULAR AND ALTER-**  
10   **NATIVE MINIMUM TAX LIABILITY.**

11           (a) *IN GENERAL.*—Paragraph (2) of section 26(a) is  
12           amended—

13                           (1) by striking “2005” in the heading thereof and  
14                           inserting “2007”, and

15                           (2) by striking “or 2005” and inserting “2005,  
16                           2006, or 2007”.

17           (b) *CONFORMING PROVISIONS.*—

18                           (1) Section 30B(g) is amended by adding at the  
19                           end the following new paragraph:

20   “(3) *SPECIAL RULE FOR 2006 AND 2007.*—For  
21   purposes of any taxable year beginning during 2006  
22   or 2007, the credit allowed under subsection (a) (after  
23   the application of paragraph (1)) shall not exceed the  
24   excess of—



1           “(A) the sum of the regular tax liability (as  
2           defined in section 26(b)) plus the tax imposed by  
3           section 55, over

4           “(B) the sum of the credits allowable under  
5           subpart A and this subpart (other than this sec-  
6           tion and section 30C).”.

7           (2) Section 30C(d) is amended by adding at the  
8           end the following new paragraph:

9           “(3) *SPECIAL RULE FOR 2006 AND 2007.*—For  
10          purposes of any taxable year beginning during 2006  
11          or 2007, the credit allowed under subsection (a) (after  
12          the application of paragraph (1)) shall not exceed the  
13          excess of—

14                 “(A) the sum of the regular tax liability (as  
15                 defined in section 26(b)) plus the tax imposed by  
16                 section 55, over

17                 “(B) the sum of the credits allowable under  
18                 subpart A and this subpart (other than this sec-  
19                 tion).”.

20          (c) *EFFECTIVE DATE.*—The amendments made by this  
21          section shall apply to taxable years beginning after Decem-  
22          ber 31, 2005.

23          **SEC. 108. EXTENSION AND MODIFICATION OF RESEARCH**  
24                                 **CREDIT.**

25          (a) *EXTENSION.*—

1           (1) *IN GENERAL.*—Section 41(h)(1)(B) is amend-  
2           ed by striking “2005” and inserting “2007”.

3           (2)       *CONFORMING        AMENDMENT.*—Section  
4           45C(b)(1)(D) is amended by striking “2005” and in-  
5           serting “2007”.

6           (3) *EFFECTIVE DATE.*—The amendments made  
7           by this subsection shall apply to taxable years begin-  
8           ning after December 31, 2005.

9           (b) *INCREASE IN RATES OF ALTERNATIVE INCRE-*  
10          *MENTAL CREDIT.*—Subparagraph (A) of section 41(c)(4)  
11          (relating to election of alternative incremental credit) is  
12          amended—

13               (1) by striking “2.65 percent” and inserting “3  
14               percent”,

15               (2) by striking “3.2 percent” and inserting “4  
16               percent”, and

17               (3) by striking “3.75 percent” and inserting “5  
18               percent”.

19          (c) *ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED*  
20          *RESEARCH EXPENSES.*—

21               (1) *IN GENERAL.*—Subsection (c) of section 41  
22               (relating to base amount) is amended by redesignig-  
23               nating paragraphs (5) and (6) as paragraphs (6) and  
24               (7), respectively, and by inserting after paragraph (4)  
25               the following new paragraph:

1           “(5) *ELECTION OF ALTERNATIVE SIMPLIFIED*  
2           *CREDIT.*—

3           “(A) *IN GENERAL.*—*At the election of the*  
4           *taxpayer, the credit determined under subsection*  
5           *(a)(1) shall be equal to 12 percent of so much of*  
6           *the qualified research expenses for the taxable*  
7           *year as exceeds 50 percent of the average quali-*  
8           *fied research expenses for the 3 taxable years pre-*  
9           *ceding the taxable year for which the credit is*  
10           *being determined.*

11           “(B) *SPECIAL RULE IN CASE OF NO QUALI-*  
12           *FIED RESEARCH EXPENSES IN ANY OF 3 PRE-*  
13           *CEDING TAXABLE YEARS.*—

14           “(i) *TAXPAYERS TO WHICH SUBPARA-*  
15           *GRAPH APPLIES.*—*The credit under this*  
16           *paragraph shall be determined under this*  
17           *subparagraph if the taxpayer has no quali-*  
18           *fied research expenses in any 1 of the 3 tax-*  
19           *able years preceding the taxable year for*  
20           *which the credit is being determined.*

21           “(ii) *CREDIT RATE.*—*The credit deter-*  
22           *mined under this subparagraph shall be*  
23           *equal to 6 percent of the qualified research*  
24           *expenses for the taxable year.*

1           “(C) *ELECTION.*—*An election under this*  
2           *paragraph shall apply to the taxable year for*  
3           *which made and all succeeding taxable years un-*  
4           *less revoked with the consent of the Secretary. An*  
5           *election under this paragraph may not be made*  
6           *for any taxable year to which an election under*  
7           *paragraph (4) applies.”.*

8           (2) *COORDINATION WITH ELECTION OF ALTER-*  
9           *NATIVE INCREMENTAL CREDIT.*—

10           (A) *IN GENERAL.*—*Section 41(c)(4)(B) (re-*  
11           *lating to election) is amended by adding at the*  
12           *end the following: “An election under this para-*  
13           *graph may not be made for any taxable year to*  
14           *which an election under paragraph (5) applies.”.*

15           (B) *TRANSITION RULE.*—*In the case of an*  
16           *election under section 41(c)(4) of the Internal*  
17           *Revenue Code of 1986 which applies to the tax-*  
18           *able year which includes the date of the enact-*  
19           *ment of this Act, such election shall be treated as*  
20           *revoked with the consent of the Secretary of the*  
21           *Treasury if the taxpayer makes an election*  
22           *under section 41(c)(5) of such Code (as added by*  
23           *subsection (a)) for such year.*

1           (d) *EXPANSION OF CREDIT TO EXPENSES OF GENERAL*  
 2 *COLLABORATIVE RESEARCH CONSORTIA.*—Section 41 is  
 3 amended—

4           (1) by striking “an energy research consortium”  
 5 in subsections (a)(3) and (b)(3)(C)(i) and inserting  
 6 “a research consortium”,

7           (2) by striking “energy” each place it appears in  
 8 subsection (f)(6)(A),

9           (3) by inserting “or 501(c)(6)” after “section  
 10 501(c)(3)” in subsection (f)(6)(A)(i)(I), and

11           (4) by striking “ENERGY RESEARCH” in the  
 12 heading for subsection (f)(6) and inserting “RE-  
 13 SEARCH”.

14           (e) *EFFECTIVE DATE.*—Except as provided in sub-  
 15 section (a)(3), the amendments made by this section shall  
 16 apply to taxable years ending after December 31, 2005.

17 **SEC. 109. WORK OPPORTUNITY TAX CREDIT AND WELFARE-**  
 18 **TO-WORK CREDIT.**

19           (a) *IN GENERAL.*—Section 51(c)(4)(B) is amended by  
 20 striking “2005” and inserting “2007”.

21           (b) *ELIGIBILITY OF EX-FELONS DETERMINED WITH-*  
 22 *OUT REGARD TO FAMILY INCOME.*—Paragraph (4) of sec-  
 23 tion 51(d) is amended by adding “and” at the end of sub-  
 24 paragraph (A), by striking “, and” at the end of subpara-

1 *graph (B) and inserting a period, and by striking all that*  
 2 *follows subparagraph (B).*

3       (c) *INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF*  
 4 *FOOD STAMP RECIPIENTS.—Clause (i) of section*  
 5 *51(d)(8)(A) is amended by striking “25” and inserting*  
 6 *“40”.*

7       (d) *INCREASE IN MAXIMUM AGE FOR DESIGNATED*  
 8 *COMMUNITY RESIDENTS.—*

9           (1) *IN GENERAL.—Paragraph (5) of section*  
 10 *51(d) is amended to read as follows:*

11           “*(5) DESIGNATED COMMUNITY RESIDENTS.—*

12           “*(A) IN GENERAL.—The term ‘designated*  
 13 *community resident’ means any individual who*  
 14 *is certified by the designated local agency—*

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

17           “*(ii) as having his principal place of*  
 18 *abode within an empowerment zone, enter-*  
 19 *prise community, or renewal community.*

20           “*(B) INDIVIDUAL MUST CONTINUE TO RE-*  
 21 *SIDE IN ZONE OR COMMUNITY.—In the case of a*  
 22 *designated community resident, the term ‘quali-*  
 23 *fied wages’ shall not include wages paid or in-*  
 24 *curring for services performed while the individ-*  
 25 *ual’s principal place of abode is outside an em-*

1           *powerment zone, enterprise community, or re-*  
 2           *newal community.”*

3           (2) *CONFORMING AMENDMENT.*—*Subparagraph*  
 4           *(D) of section 51(d)(1) is amended to read as follows:*

5                     *“(D) a designated community resident,”.*

6           (e) *CONSOLIDATION OF WORK OPPORTUNITY CREDIT*  
 7           *WITH WELFARE-TO-WORK CREDIT.*—

8                     (1) *IN GENERAL.*—*Paragraph (1) of section*  
 9           *51(d) is amended by striking “or” at the end of sub-*  
 10           *paragraph (G), by striking the period at the end of*  
 11           *subparagraph (H) and inserting “, or”, and by add-*  
 12           *ing at the end the following new subparagraph:*

13                     *“(I) a long-term family assistance recipi-*  
 14                     *ent.”*

15                     (2) *LONG-TERM FAMILY ASSISTANCE RECIPI-*  
 16           *ENT.*—*Subsection (d) of section 51 is amended by re-*  
 17           *designating paragraphs (10) through (12) as para-*  
 18           *graphs (11) through (13), respectively, and by insert-*  
 19           *ing after paragraph (9) the following new paragraph:*

20                     *“(10) LONG-TERM FAMILY ASSISTANCE RECIPI-*  
 21           *ENT.*—*The term ‘long-term family assistance recipi-*  
 22           *ent’ means any individual who is certified by the des-*  
 23           *ignated local agency—*

24                     *“(A) as being a member of a family receiv-*  
 25                     *ing assistance under a IV–A program (as defined*

1           *in paragraph (2)(B)) for at least the 18-month*  
 2           *period ending on the hiring date,*

3           *“(B)(i) as being a member of a family re-*  
 4           *ceiving such assistance for 18 months beginning*  
 5           *after August 5, 1997, and*

6           *“(i) as having a hiring date which is not*  
 7           *more than 2 years after the end of the earliest*  
 8           *such 18-month period, or*

9           *“(C)(i) as being a member of a family*  
 10          *which ceased to be eligible for such assistance by*  
 11          *reason of any limitation imposed by Federal or*  
 12          *State law on the maximum period such assist-*  
 13          *ance is payable to a family, and*

14          *“(i) as having a hiring date which is not*  
 15          *more than 2 years after the date of such ces-*  
 16          *sation.”*

17          (3) *INCREASED CREDIT FOR EMPLOYMENT OF*  
 18          *LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Sec-*  
 19          *tion 51 is amended by inserting after subsection (d)*  
 20          *the following new subsection:*

21          “(e) *CREDIT FOR SECOND-YEAR WAGES FOR EMPLOY-*  
 22          *MENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—*

23                 “(1) *IN GENERAL.—With respect to the employ-*  
 24                 *ment of a long-term family assistance recipient—*



1           “(A) *the amount of the work opportunity*  
2           *credit determined under this section for the tax-*  
3           *able year shall include 50 percent of the qualified*  
4           *second-year wages for such year, and*

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

10          “(2) *QUALIFIED SECOND-YEAR WAGES.—For*  
11          *purposes of this subsection, the term ‘qualified second-*  
12          *year wages’ means qualified wages—*

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

15                 “(B) *which are attributable to service ren-*  
16                 *dered during the 1-year period beginning on the*  
17                 *day after the last day of the 1-year period with*  
18                 *respect to such recipient determined under sub-*  
19                 *section (b)(2).*

20          “(3) *SPECIAL RULES FOR AGRICULTURAL AND*  
21          *RAILWAY LABOR.—If such recipient is an employee to*  
22          *whom subparagraph (A) or (B) of subsection (h)(1)*  
23          *applies, rules similar to the rules of such subpara-*  
24          *graphs shall apply except that—*

1           “(A) such subparagraph (A) shall be ap-  
2           plied by substituting ‘\$10,000’ for ‘\$6,000’, and

3           “(B) such subparagraph (B) shall be ap-  
4           plied by substituting ‘\$833.33’ for ‘\$500.’”

5           (4) *REPEAL OF SEPARATE WELFARE-TO-WORK*  
6           *CREDIT.*—

7           (A) *IN GENERAL.*—Section 51A is hereby  
8           repealed.

9           (B) *CLERICAL AMENDMENT.*—The table of  
10          sections for subpart F of part IV of subchapter  
11          A of chapter 1 is amended by striking the item  
12          relating to section 51A.

13          (f) *EFFECTIVE DATE.*—The amendments made by this  
14          section shall apply to individuals who begin work for the  
15          employer after December 31, 2005.

16          **SEC. 110. QUALIFIED ZONE ACADEMY BONDS.**

17          (a) *IN GENERAL.*—Paragraph (1) of section 1397E(e)  
18          is amended by striking “and 2005” and inserting “2005,  
19          2006, and 2007”.

20          (b) *FORM OF PRIVATE BUSINESS CONTRIBUTIONS.*—  
21          Section 1397E(d)(2)(B) is amended by striking “any con-  
22          tribution” and all that follows and inserting “any cash or  
23          cash equivalent contribution”.

24          (c) *SPECIAL RULES RELATING TO AMORTIZATION, EX-*  
25          *PENDITURES, ARBITRAGE, AND REPORTING.*—

1           (1) *IN GENERAL.*—*Section 1397E is amended—*

2                   (A) *in subsection (d)(1), by striking “and”*  
 3                   *at the end of subparagraph (C)(iii), by striking*  
 4                   *the period at the end of subparagraph (D) and*  
 5                   *inserting “, and”, and by adding at the end the*  
 6                   *following new subparagraph:*

7                           “(E) *the issue meets the requirements of*  
 8                           *subsections (f), (g), (h), and (i).”*, and

9                   (B) *by redesignating subsections (f), (g),*  
 10                   *(h), and (i) as subsection (j), (k), (l), and (m),*  
 11                   *respectively, and by inserting after subsection (e)*  
 12                   *the following new subsections:*

13           “(f) *RATABLE PRINCIPAL AMORTIZATION RE-*  
 14           *QUIRED.*—*An issue shall be treated as meeting the require-*  
 15           *ments of this subsection if such issue provides for an equal*  
 16           *amount of principal to be paid by the issuer during each*  
 17           *calendar year that the issue is outstanding.*

18           “(g) *SPECIAL RULES RELATING TO EXPENDITURES.*—

19                   “(1) *IN GENERAL.*—*An issue shall be treated as*  
 20                   *meeting the requirements of this subsection if, as of*  
 21                   *the date of issuance, the issuer reasonably expects—*

22                           “(A) *at least 95 percent of the proceeds from*  
 23                           *the sale of the issue are to be spent for 1 or more*  
 24                           *qualified purposes with respect to qualified zone*  
 25                           *academies within the 5-year period beginning on*

1           *the date of issuance of the qualified zone acad-*  
2           *emy bond,*

3           “(B) *a binding commitment with a third*  
4           *party to spend at least 10 percent of the proceeds*  
5           *from the sale of the issue will be incurred within*  
6           *the 6-month period beginning on the date of*  
7           *issuance of the qualified zone academy bond, and*

8           “(C) *such purposes will be completed with*  
9           *due diligence and the proceeds from the sale of*  
10          *the issue will be spent with due diligence.*

11          “(2) *EXTENSION OF PERIOD.—Upon submission*  
12          *of a request prior to the expiration of the period de-*  
13          *scribed in paragraph (1)(A), the Secretary may ex-*  
14          *tend such period if the issuer establishes that the fail-*  
15          *ure to satisfy the 5-year requirement is due to reason-*  
16          *able cause and the related purposes will continue to*  
17          *proceed with due diligence.*

18          “(3) *FAILURE TO SPEND REQUIRED AMOUNT OF*  
19          *BOND PROCEEDS WITHIN 5 YEARS.—To the extent that*  
20          *less than 95 percent of the proceeds of such issue are*  
21          *expended by the close of the 5-year period beginning*  
22          *on the date of issuance (or if an extension has been*  
23          *obtained under paragraph (2), by the close of the ex-*  
24          *tended period), the issuer shall redeem all of the non-*  
25          *qualified bonds within 90 days after the end of such*

1        *period. For purposes of this paragraph, the amount*  
2        *of the nonqualified bonds required to be redeemed*  
3        *shall be determined in the same manner as under sec-*  
4        *tion 142.*

5        *“(h) SPECIAL RULES RELATING TO ARBITRAGE.—An*  
6        *issue shall be treated as meeting the requirements of this*  
7        *subsection if the issuer satisfies the arbitrage requirements*  
8        *of section 148 with respect to proceeds of the issue.*

9        *“(i) REPORTING.—Issuers of qualified academy zone*  
10       *bonds shall submit reports similar to the reports required*  
11       *under section 149(e).”.*

12                *(2) CONFORMING AMENDMENTS.—*

13                        *(A) Section 1397E(d)(3) is amended by in-*  
14                        *serting “without regard to the requirements of*  
15                        *subsection (f) and” after “Such present value*  
16                        *shall be determined”.*

17                        *(B) Sections 54(l)(3)(B) and*  
18                        *1400N(l)(7)(B)(ii) are each amended by striking*  
19                        *“section 1397E(i)” and inserting “section*  
20                        *1397E(l)”.*

21                *(d) EFFECTIVE DATE.—The amendments made by this*  
22        *section shall apply to obligations issued after December 31,*  
23        *2005.*

1 **SEC. 111. DEDUCTION FOR CORPORATE DONATIONS OF**  
2 **COMPUTER TECHNOLOGY AND EQUIPMENT.**

3 (a) *IN GENERAL.*—Section 170(e)(6)(G) is amended by  
4 striking “2005” and inserting “2007”.

5 (b) *EFFECTIVE DATE.*—The amendment made by this  
6 section shall apply to taxable years beginning after Decem-  
7 ber 31, 2005.

8 **SEC. 112. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EX-**  
9 **PENSES OF ELEMENTARY AND SECONDARY**  
10 **SCHOOL TEACHERS.**

11 (a) *IN GENERAL.*—Subparagraph (D) of section  
12 62(a)(2) is amended by striking “or 2005” and inserting  
13 “2005, 2006, or 2007”.

14 (b) *EFFECTIVE DATE.*—The amendment made by this  
15 section shall apply to taxable years beginning after Decem-  
16 ber 31, 2005.

17 **SEC. 113. EXPENSING OF BROWNFIELDS REMEDIATION**  
18 **COSTS.**

19 (a) *EXTENSION.*—Subsection (h) of section 198 is  
20 amended by striking “2005” and inserting “2007”.

21 (b) *EXPANSION.*—Section 198(d)(1) (defining haz-  
22 ardous substance) is amended by striking “and” at the end  
23 of subparagraph (A), by striking the period at the end of  
24 subparagraph (B) and inserting “, and”, and by adding  
25 at the end the following new subparagraph:

1                   “(C) any petroleum product (as defined in  
2                   section 4612(a)(3)).”.

3           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
4 *section shall apply to expenditures paid or incurred after*  
5 *December 31, 2005.*

6 **SEC. 114. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
7 **TRICT OF COLUMBIA.**

8           (a) *DESIGNATION OF ZONE.*—

9                   (1) *IN GENERAL.*—*Subsection (f) of section 1400*  
10 *is amended by striking “2005” both places it appears*  
11 *and inserting “2006”.*

12                   (2) *EFFECTIVE DATE.*—*The amendments made*  
13 *by this subsection shall apply to periods beginning*  
14 *after December 31, 2005.*

15           (b) *TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.*—

16                   (1) *IN GENERAL.*—*Subsection (b) of section*  
17 *1400A is amended by striking “2005” and inserting*  
18 *“2006”.*

19                   (2) *EFFECTIVE DATE.*—*The amendment made by*  
20 *this subsection shall apply to bonds issued after De-*  
21 *cember 31, 2005.*

22           (c) *ZERO PERCENT CAPITAL GAINS RATE.*—

23                   (1) *IN GENERAL.*—*Subsection (b) of section*  
24 *1400B is amended by striking “2006” each place it*  
25 *appears and inserting “2007”.*

1           (2) *CONFORMING AMENDMENTS.*—

2           (A) *Section 1400B(e)(2) is amended—*

3           (i) *by striking “2010” and inserting*  
4           *“2011”, and*

5           (ii) *by striking “2010” in the heading*  
6           *thereof and inserting “2011”.*

7           (B) *Section 1400B(g)(2) is amended by*  
8           *striking “2010” and inserting “2011”.*

9           (C) *Section 1400F(d) is amended by strik-*  
10          *ing “2010” and inserting “2011”.*

11          (3) *EFFECTIVE DATES.*—

12          (A) *EXTENSION.*—*The amendments made*  
13          *by paragraph (1) shall apply to acquisitions*  
14          *after December 31, 2005.*

15          (B) *CONFORMING AMENDMENTS.*—*The*  
16          *amendments made by paragraph (2) shall take*  
17          *effect on the date of the enactment of this Act.*

18          (d) *FIRST-TIME HOMEBUYER CREDIT.*—

19          (1) *IN GENERAL.*—*Subsection (i) of section*  
20          *1400C is amended by striking “2006” and inserting*  
21          *“2007”.*

22          (2) *EFFECTIVE DATE.*—*The amendment made by*  
23          *this subsection shall apply to property purchased*  
24          *after December 31, 2005.*



1 **SEC. 115. INDIAN EMPLOYMENT TAX CREDIT.**

2 (a) *IN GENERAL.*—Section 45A(f) is amended by strik-  
3 ing “2005” and inserting “2007”.

4 (b) *EFFECTIVE DATE.*—The amendment made by this  
5 section shall apply to taxable years beginning after Decem-  
6 ber 31, 2005.

7 **SEC. 116. ACCELERATED DEPRECIATION FOR BUSINESS**  
8 **PROPERTY ON INDIAN RESERVATION.**

9 (a) *IN GENERAL.*—Section 168(j)(8) is amended by  
10 striking “2005” and inserting “2007”.

11 (b) *EFFECTIVE DATE.*—The amendment made by this  
12 section shall apply to property placed in service after De-  
13 cember 31, 2005.

14 **SEC. 117. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**  
15 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**  
16 **AND QUALIFIED RESTAURANT IMPROVE-**  
17 **MENTS.**

18 (a) *IN GENERAL.*—Clauses (iv) and (v) of section  
19 168(e)(3)(E) are each amended by striking “2006” and in-  
20 serting “2008”.

21 (b) *EFFECTIVE DATE.*—The amendments made by this  
22 section shall apply to property placed in service after De-  
23 cember 31, 2005.

1 **SEC. 118. EXTENSION OF FULL CREDIT FOR QUALIFIED**  
 2 **ELECTRIC VEHICLES.**

3 (a) *IN GENERAL.*—Section 30(e) is amended by strik-  
 4 ing “2006” and inserting “2007”.

5 (b) *REPEAL OF PHASEOUT.*—Section 30(b) (relating  
 6 to limitations) is amended by striking paragraph (2) and  
 7 by redesignating paragraph (3) as paragraph (2).

8 (c) *EFFECTIVE DATE.*—The amendments made by this  
 9 section shall apply to taxable years beginning after Decem-  
 10 ber 31, 2005.

11 **SEC. 119. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

12 *Each amendment made by this title shall be subject*  
 13 *to title IX of the Economic Growth and Tax Relief Rec-*  
 14 *onciliation Act of 2001 to the same extent and in the same*  
 15 *manner as the provision of such Act to which such amend-*  
 16 *ment relates.*

17 **TITLE II—PROVISIONS RELAT-**  
 18 **ING TO CHARITABLE DONA-**  
 19 **TIONS**

20 **Subtitle A—Charitable Giving**  
 21 **Incentives**

22 **SEC. 201. CHARITABLE DEDUCTION FOR NONITEMIZERS.**

23 (a) *IN GENERAL.*—Section 170 (relating to charitable,  
 24 etc., contributions and gifts) is amended by redesignating  
 25 subsection (o) as subsection (p) and by inserting after sub-  
 26 section (n) the following new subsection:

1       “(o) *DEDUCTION FOR INDIVIDUALS NOT ITEMIZING*  
2 *DEDUCTIONS.*—*In the case of an individual who does not*  
3 *itemize deductions for any taxable year beginning after De-*  
4 *cember 31, 2005, and before January 1, 2008, there shall*  
5 *be taken into account as a direct charitable deduction under*  
6 *section 63 an amount equal to the amount allowable under*  
7 *subsection (a) for the taxable year for cash contributions*  
8 *(determined without regard to any carryover).”.*

9       **(b) DIRECT CHARITABLE DEDUCTION.**—

10           **(1) IN GENERAL.**—*Subsection (b) of section 63*  
11 *(defining taxable income) is amended by striking*  
12 *“and” at the end of paragraph (1), by striking the pe-*  
13 *riod at the end of paragraph (2) and inserting “,*  
14 *and”, and by adding at the end the following new*  
15 *paragraph:*

16           *“(3) the direct charitable deduction.”.*

17           **(2) DEFINITION.**—*Section 63 is amended by re-*  
18 *designating subsection (g) as subsection (h) and by*  
19 *inserting after subsection (f) the following new sub-*  
20 *section:*

21           **(g) DIRECT CHARITABLE DEDUCTION.**—*For purposes*  
22 *of this section, the term ‘direct charitable deduction’ means*  
23 *that portion of the amount allowable under section 170(a)*  
24 *which is taken as a direct charitable deduction for the tax-*  
25 *able year under section 170(o).”.*

1           (3) *CONFORMING AMENDMENT.*—Subsection (d)  
 2           of section 63 is amended by striking “and” at the end  
 3           of paragraph (1), by striking the period at the end of  
 4           paragraph (2) and inserting “, and”, and by adding  
 5           at the end the following new paragraph:

6           “(3) the direct charitable deduction.”.

7           (c) *FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.*—Section 170(a) is amended by adding at the end  
 8           the following new paragraph:  
 9           the following new paragraph:

10           “(4) *DOLLAR FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.*—In the case of an individual,  
 11           for any taxable year beginning after December 31,  
 12           2005, and before January 1, 2008, the amount other-  
 13           wise allowed as a deduction under paragraph (1)  
 14           shall be allowed only to the extent that such amount  
 15           exceeds \$210 (\$420 in the case of a joint return).”.

17           (d) *EFFECTIVE DATE.*—The amendments made by this  
 18           section shall apply to taxable years beginning after Decem-  
 19           ber 31, 2005.

20           **SEC. 202. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
 21   **TIREMENT PLANS FOR CHARITABLE PUR-**  
 22   **POSES.**

23           (a) *IN GENERAL.*—Subsection (d) of section 408 (relat-  
 24           ing to individual retirement accounts) is amended by add-  
 25           ing at the end the following new paragraph:

1           “(8) *DISTRIBUTIONS FOR CHARITABLE PUR-*  
2           *POSES.—*

3                   “(A) *IN GENERAL.—No amount shall be in-*  
4                   *cludible in gross income by reason of a qualified*  
5                   *charitable distribution.*

6                   “(B) *QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term*  
7                   *‘qualified charitable distribution’ means any dis-*  
8                   *tribution from an individual retirement plan*  
9                   *(other than a plan described in subsection (k) or*  
10                   *(p))—*

11                           “(i) *which is made directly by the*  
12                           *trustee—*

13                                   “(I) *to an organization described*  
14                                   *in section 170(c), or*

15   “(II) *to a split-interest entity,*  
16   *and*

17   “(ii) *which is made on or after—*

18   “(I) *in the case of any distribu-*  
19   *tion described in clause (i)(I), the date*  
20   *that the individual for whose benefit*  
21   *the plan is maintained has attained*  
22   *age 70<sup>1</sup>/<sub>2</sub>, and*

23   “(II) *in the case of any distribu-*  
24   *tion described in clause (i)(II), the*  
25

1                   *date that such individual has attained*  
2                   *age 59½.*

3                   *A distribution shall be treated as a qualified*  
4                   *charitable distribution only to the extent that the*  
5                   *distribution would be includible in gross income*  
6                   *without regard to subparagraph (A) and, in the*  
7                   *case of a distribution to a split-interest entity,*  
8                   *only if no person holds an income interest in the*  
9                   *amounts in the split-interest entity attributable*  
10                  *to such distribution other than one or more of*  
11                  *the following: the individual for whose benefit*  
12                  *such plan is maintained, the spouse of such indi-*  
13                  *vidual, or any organization described in section*  
14                  *170(c).*

15                  “(C) CONTRIBUTIONS MUST BE OTHERWISE  
16                  DEDUCTIBLE.—For purposes of this  
17                  paragraph—

18                  “(i) DIRECT CONTRIBUTIONS.—A dis-  
19                  tribution to an organization described in  
20                  section 170(c) shall be treated as a qualified  
21                  charitable distribution only if a deduction  
22                  for the entire distribution would be allow-  
23                  able under section 170 (determined without  
24                  regard to subsections (a)(4) and (b) thereof  
25                  and this paragraph).

1           “(ii) *SPLIT-INTEREST GIFTS.*—A dis-  
2           tribution to a split-interest entity shall be  
3           treated as a qualified charitable distribu-  
4           tion only if a deduction for the entire value  
5           of the interest in the distribution for the use  
6           of an organization described in section  
7           170(c) would be allowable under section 170  
8           (determined without regard to subsections  
9           (a)(4) and (b) thereof and this paragraph).

10          “(D) *APPLICATION OF SECTION 72.*—Not-  
11          withstanding section 72, in determining the ex-  
12          tent to which a distribution is a qualified chari-  
13          table distribution, the entire amount of the dis-  
14          tribution shall be treated as includible in gross  
15          income without regard to subparagraph (A) to  
16          the extent that such amount does not exceed the  
17          aggregate amount which would have been so in-  
18          cludible if all amounts distributed from all indi-  
19          vidual retirement plans were treated as 1 con-  
20          tract under paragraph (2)(A) for purposes of de-  
21          termining the inclusion of such distribution  
22          under section 72. Proper adjustments shall be  
23          made in applying section 72 to other distribu-  
24          tions in such taxable year and subsequent tax-  
25          able years.

1                   “(E) *SPECIAL RULES FOR SPLIT-INTEREST*  
2                   *ENTITIES.*—

3                   “(i)       *CHARITABLE       REMAINDER*  
4                   *TRUSTS.*—*Notwithstanding section 664(b),*  
5                   *distributions made from a trust described in*  
6                   *subparagraph (G)(i) shall be treated as or-*  
7                   *inary income in the hands of the bene-*  
8                   *ficiary to whom is paid the annuity de-*  
9                   *scribed in section 664(d)(1)(A) or the pay-*  
10                   *ment described in section 664(d)(2)(A).*

11                   “(ii) *POOLED INCOME FUNDS.*—*No*  
12                   *amount shall be includible in the gross in-*  
13                   *come of a pooled income fund (as defined in*  
14                   *subparagraph (G)(ii)) by reason of a quali-*  
15                   *fied charitable distribution to such fund,*  
16                   *and all distributions from the fund which*  
17                   *are attributable to qualified charitable dis-*  
18                   *tributions shall be treated as ordinary in-*  
19                   *come to the beneficiary.*

20                   “(iii) *CHARITABLE GIFT ANNUITIES.*—  
21                   *Qualified charitable distributions made for*  
22                   *a charitable gift annuity shall not be treat-*  
23                   *ed as an investment in the contract.*

24                   “(F) *DENIAL OF DEDUCTION.*—*Qualified*  
25                   *charitable distributions shall not be taken into*



1           *account in determining the deduction under sec-*  
 2           *tion 170.*

3           “(G) *SPLIT-INTEREST ENTITY DEFINED.*—  
 4           *For purposes of this paragraph, the term ‘split-*  
 5           *interest entity’ means—*

6                   “(i) *a charitable remainder annuity*  
 7                   *trust or a charitable remainder unitrust (as*  
 8                   *such terms are defined in section 664(d))*  
 9                   *which must be funded exclusively by quali-*  
 10                  *fied charitable distributions,*

11                   “(ii) *a pooled income fund (as defined*  
 12                   *in section 642(c)(5)), but only if the fund*  
 13                   *accounts separately for amounts attrib-*  
 14                   *utable to qualified charitable distributions,*  
 15                   *and*

16                   “(iii) *a charitable gift annuity (as de-*  
 17                   *fined in section 501(m)(5)).*

18           “(H) *TERMINATION.*—*This paragraph shall*  
 19           *not apply to distributions made in taxable years*  
 20           *beginning after December 31, 2007.”.*

21           (b) *MODIFICATIONS RELATING TO INFORMATION RE-*  
 22           *TURNS BY CERTAIN TRUSTS.*—

23                   (1) *RETURNS.*—*Section 6034 (relating to returns*  
 24                   *by trusts described in section 4947(a)(2) or claiming*

1        *charitable deductions under section 642(c)) is amend-*  
2        *ed to read as follows:*

3        **“SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

4        *“(a) SPLIT-INTEREST TRUSTS.—Every trust described*  
5        *in section 4947(a)(2) shall furnish such information with*  
6        *respect to the taxable year as the Secretary may by forms*  
7        *or regulations require.*

8        *“(b) TRUSTS CLAIMING CERTAIN CHARITABLE DE-*  
9        *DUCTIONS.—*

10        *“(1) IN GENERAL.—Every trust not required to*  
11        *file a return under subsection (a) but claiming a de-*  
12        *duction under section 642(c) for the taxable year shall*  
13        *furnish such information with respect to such taxable*  
14        *year as the Secretary may by forms or regulations*  
15        *prescribe, including—*

16                *“(A) the amount of the deduction taken*  
17                *under section 642(c) within such year,*

18                *“(B) the amount paid out within such year*  
19                *which represents amounts for which deductions*  
20                *under section 642(c) have been taken in prior*  
21                *years,*

22                *“(C) the amount for which such deductions*  
23                *have been taken in prior years but which has not*  
24                *been paid out at the beginning of such year,*

1           “(D) the amount paid out of principal in  
2           the current and prior years for the purposes de-  
3           scribed in section 642(c),

4           “(E) the total income of the trust within  
5           such year and the expenses attributable thereto,  
6           and

7           “(F) a balance sheet showing the assets, li-  
8           abilities, and net worth of the trust as of the be-  
9           ginning of such year.

10          “(2) EXCEPTIONS.—Paragraph (1) shall not  
11          apply to a trust for any taxable year if—

12                 “(A) all the net income for such year, deter-  
13                 mined under the applicable principles of the law  
14                 of trusts, is required to be distributed currently  
15                 to the beneficiaries, or

16                 “(B) the trust is described in section  
17                 4947(a)(1).”.

18          (2) INCREASE IN PENALTY RELATING TO FILING  
19          OF INFORMATION RETURN BY SPLIT-INTEREST  
20          TRUSTS.—Paragraph (2) of section 6652(c) (relating  
21          to returns by exempt organizations and by certain  
22          trusts) is amended by adding at the end the following  
23          new subparagraph:

24                 “(C) SPLIT-INTEREST TRUSTS.—In the case  
25          of a trust which is required to file a return

1           under section 6034(a), subparagraphs (A) and  
2           (B) of this paragraph shall not apply and para-  
3           graph (1) shall apply in the same manner as if  
4           such return were required under section 6033,  
5           except that—

6                     “(i) the 5 percent limitation in the sec-  
7                     ond sentence of paragraph (1)(A) shall not  
8                     apply,

9                     “(ii) in the case of any trust with gross  
10                    income in excess of \$250,000, the first sen-  
11                    tence of paragraph (1)(A) shall be applied  
12                    by substituting ‘\$100’ for ‘\$20’, and the sec-  
13                    ond sentence thereof shall be applied by sub-  
14                    stituting ‘\$50,000’ for ‘\$10,000’, and

15                    “(iii) the third sentence of paragraph  
16                    (1)(A) shall be disregarded.

17           In addition to any penalty imposed on the trust  
18           pursuant to this subparagraph, if the person re-  
19           quired to file such return knowingly fails to file  
20           the return, such penalty shall also be imposed on  
21           such person who shall be personally liable for  
22           such penalty.”.

23           (3) CONFIDENTIALITY OF NONCHARITABLE BENE-  
24           FICIARIES.—Subsection (b) of section 6104 (relating  
25           to inspection of annual information returns) is

1       amended by adding at the end the following new sen-  
 2       tence: “In the case of a trust which is required to file  
 3       a return under section 6034(a), this subsection shall  
 4       not apply to information regarding beneficiaries  
 5       which are not organizations described in section  
 6       170(c).”.

7       (c) *EFFECTIVE DATES.*—

8               (1) *SUBSECTION (a).*—The amendment made by  
 9       subsection (a) shall apply to distributions made in  
 10      taxable years beginning after December 31, 2005.

11              (2) *SUBSECTION (b).*—The amendments made by  
 12      subsection (b) shall apply to returns for taxable years  
 13      beginning after December 31, 2005.

14   **SEC. 203. MODIFICATION OF CHARITABLE DEDUCTION FOR**  
 15                                   **CONTRIBUTIONS OF FOOD INVENTORY.**

16      (a) *IN GENERAL.*—Subparagraph (C) of section  
 17      170(e)(3) (relating to special rule for certain contributions  
 18      of inventory and other property) is amended to read as fol-  
 19      lows:

20                           “(C) *SPECIAL RULE FOR CONTRIBUTIONS*  
 21                           *OF FOOD INVENTORY.*—

22                           “(i) *GENERAL RULE.*—In the case of a  
 23                           charitable contribution of food from any  
 24                           trade or business of the taxpayer, this para-  
 25                           graph shall be applied—

1                   “(I) without regard to whether the  
2                   contribution is made by a C corpora-  
3                   tion, and

4                   “(II) only to food that is appar-  
5                   ently wholesome food.

6                   “(ii) *LIMITATION.*—In the case of a  
7                   taxpayer other than a C corporation, the  
8                   aggregate amount of such contributions for  
9                   any taxable year which may be taken into  
10                  account under this section shall not exceed  
11                  10 percent of the taxpayer’s aggregate net  
12                  income for such taxable year from all trades  
13                  or businesses from which such contributions  
14                  were made for such year, computed without  
15                  regard to this section.

16                  “(iii) *LIMITATION ON REDUCTION.*—In  
17                  the case of any such contribution, notwith-  
18                  standing subparagraph (B), the amount of  
19                  the reduction determined under paragraph  
20                  (1)(A) shall not exceed the amount by which  
21                  the fair market value of the apparently  
22                  wholesome food exceeds twice the basis of  
23                  such food.

24                  “(iv) *DETERMINATION OF BASIS.*—If a  
25                  taxpayer—

1                   “(I) does not account for inven-  
2                   tories under section 471, and

3                   “(II) is not required to capitalize  
4                   indirect costs under section 263A,  
5                   the taxpayer may elect, solely for purposes  
6                   of subparagraph (B), to treat the basis of  
7                   any apparently wholesome food as being  
8                   equal to 25 percent of the fair market value  
9                   of such food.

10                   “(v) DETERMINATION OF FAIR MARKET  
11                   VALUE.—In the case of any such contribu-  
12                   tion of apparently wholesome food which,  
13                   solely by reason of internal standards of the  
14                   taxpayer or lack of market, cannot or will  
15                   not be sold, the fair market value of such  
16                   contribution shall be determined—

17                   “(I) without regard to such inter-  
18                   nal standards or such lack of market  
19                   and

20                   “(II) by taking into account the  
21                   price at which the same or substan-  
22                   tially the same food items (as to both  
23                   type and quality) are sold by the tax-  
24                   payer at the time of the contribution

1                    (or, if not so sold at such time, in the  
2                    recent past).

3                    “(vi)      *APPARENTLY      WHOLESOME*  
4                    *FOOD.*—For purposes of this subparagraph,  
5                    the term ‘apparently wholesome food’ has  
6                    the meaning given to such term by section  
7                    22(b)(2) of the Bill Emerson Good Samari-  
8                    tan Food Donation Act (42 U.S.C.  
9                    1791(b)(2)), as in effect on the date of the  
10                    enactment of this subparagraph.

11                    “(vii) *TERMINATION.*—This subpara-  
12                    graph shall not apply to contributions made  
13                    after December 31, 2007.”.

14                    (b) *EFFECTIVE DATE.*—The amendment made by this  
15                    section shall apply to contributions made after December  
16                    31, 2005.

17                    **SEC. 204. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**  
18                    **TION CONTRIBUTING PROPERTY.**

19                    (a) *IN GENERAL.*—Paragraph (2) of section 1367(a)  
20                    (relating to adjustments to basis of stock of shareholders,  
21                    etc.) is amended by adding at the end the following new  
22                    flush sentence:

23                    “The decrease under subparagraph (B) by reason of  
24                    a charitable contribution (as defined in section  
25                    170(c)) of property shall be the amount equal to the



1       shareholder's pro rata share of the adjusted basis of  
2       such property. The preceding sentence shall not apply  
3       to contributions made in taxable years beginning  
4       after December 31, 2007.”.

5       (b) *EFFECTIVE DATE.*—The amendment made by this  
6       section shall apply to contributions made in taxable years  
7       beginning after December 31, 2005.

8       **SEC. 205. MODIFICATION OF CHARITABLE DEDUCTION FOR**  
9               **CONTRIBUTIONS OF BOOK INVENTORY.**

10       (a) *IN GENERAL.*—Subparagraph (D) of section  
11       170(e)(3) (relating to special rule for certain contributions  
12       of inventory and other property) is amended to read as fol-  
13       lows:

14                       “(D) *SPECIAL RULE FOR CONTRIBUTIONS*  
15                       *OF BOOK INVENTORY FOR EDUCATIONAL PUR-*  
16                       *POSES.*—

17                       “(i) *CONTRIBUTIONS OF BOOK INVEN-*  
18                       *TORY.*—In determining whether a qualified  
19                       book contribution is a qualified contribu-  
20                       tion, subparagraph (A) shall be applied  
21                       without regard to whether—

22                       “(I) the donee is an organization  
23                       described in the matter preceding  
24                       clause (i) of subparagraph (A), and

1                   “(II) *the property is to be used by*  
2                   *the donee solely for the care of the ill,*  
3                   *the needy, or infants.*

4                   “(ii) *AMOUNT OF REDUCTION.—Not-*  
5                   *withstanding subparagraph (B), the*  
6                   *amount of the reduction determined under*  
7                   *paragraph (1)(A) shall not exceed the*  
8                   *amount by which the fair market value of*  
9                   *the contributed property (as determined by*  
10                   *the taxpayer using a bona fide published*  
11                   *market price for such book) exceeds twice*  
12                   *the basis of such property.*

13                   “(iii) *QUALIFIED BOOK CONTRIBU-*  
14                   *TION.—For purposes of this paragraph, the*  
15                   *term ‘qualified book contribution’ means a*  
16                   *charitable contribution of books, but only if*  
17                   *the requirements of clauses (iv) and (v) are*  
18                   *met.*

19                   “(iv) *IDENTITY OF DONEE.—The re-*  
20                   *quirement of this clause is met if the con-*  
21                   *tribution is to an organization—*

22                   *“(I) described in subclause (I) or*  
23                   *(III) of paragraph (6)(B)(i), or*

24                   *“(II) described in section*  
25                   *501(c)(3) and exempt from tax under*

1            *section 501(a) (other than a private*  
2            *foundation, as defined in section*  
3            *509(a), which is not an operating*  
4            *foundation, as defined in section*  
5            *4942(j)(3)), which is organized pri-*  
6            *marily to make books available to the*  
7            *general public at no cost or to operate*  
8            *a literacy program.*

9            “(v) *CERTIFICATION BY DONEE.—The*  
10           *requirement of this clause is met if, in addi-*  
11           *tion to the certifications required by sub-*  
12           *paragraph (A) (as modified by this sub-*  
13           *paragraph), the donee certifies in writing*  
14           *that—*

15                    *“(I) the books are suitable, in*  
16                    *terms of currency, content, and quan-*  
17                    *tity, for use in the donee’s educational*  
18                    *programs, and*

19                    *“(II) the donee will use the books*  
20                    *in its educational programs.*

21            “(vi) *BONA FIDE PUBLISHED MARKET*  
22            *PRICE.—For purposes of this subparagraph,*  
23            *the term ‘bona fide published market price’*  
24            *means, with respect to any book, a price—*

1           “(I) determined using the same  
2           printing and edition,

3           “(II) determined in the usual  
4           market in which such a book has been  
5           customarily sold by the taxpayer, and

6           “(III) for which the taxpayer can  
7           demonstrate to the satisfaction of the  
8           Secretary that the taxpayer custom-  
9           arily sold such books in arm’s length  
10          transactions within 7 years preceding  
11          the contribution of such a book.

12          “(vii) *TERMINATION.*—This subpara-  
13          graph shall not apply to contributions made  
14          after December 31, 2007.”.

15          (b) *EFFECTIVE DATE.*—The amendment made by this  
16          section shall apply to contributions made after December  
17          31, 2005.

18      **SEC. 206. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
19                              **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
20                              **NIZATIONS AND PUBLIC DISCLOSURE OF IN-**  
21                              **FORMATION RELATING TO UNRELATED BUSI-**  
22                              **NESS INCOME.**

23          (a) *MODIFICATION OF SECTION 512(b)(13).*—

24                  (1) *IN GENERAL.*—Paragraph (13) of section  
25          512(b) (relating to special rules for certain amounts

1       *received from controlled entities) is amended by redес-*  
2       *ignating subparagraph (E) as subparagraph (F) and*  
3       *by inserting after subparagraph (D) the following*  
4       *new subparagraph:*

5               “(E) *PARAGRAPH TO APPLY ONLY TO EX-*  
6               *CESS PAYMENTS.—*

7                       “(i) *IN GENERAL.—*Subparagraph (A)  
8                       *shall apply only to the portion of a speci-*  
9                       *fied payment received or accrued by the*  
10                      *controlling organization that exceeds the*  
11                      *amount which would have been paid or ac-*  
12                      *crued if such payment met the requirements*  
13                      *prescribed under section 482.*

14                     “(ii) *ADDITION TO TAX FOR VALUATION*  
15                     *MISSTATEMENTS.—*The tax imposed by this  
16                     *chapter on the controlling organization*  
17                     *shall be increased by an amount equal to 20*  
18                     *percent of the larger of—*

19                               “(I) *such excess determined with-*  
20                               *out regard to any amendment or sup-*  
21                               *plement to a return of tax, or*

22                               “(II) *such excess determined with*  
23                               *regard to all such amendments and*  
24                               *supplements.”.*

25               (2) *EFFECTIVE DATE.—*

1           (A) *IN GENERAL.*—*The amendment made*  
2           *by this subsection shall apply to payments re-*  
3           *ceived or accrued after December 31, 2000.*

4           (B) *PAYMENTS SUBJECT TO BINDING CON-*  
5           *TRACT TRANSITION RULE.*—*If the amendments*  
6           *made by section 1041 of the Taxpayer Relief Act*  
7           *of 1997 did not apply to any amount received or*  
8           *accrued in the first 2 taxable years beginning on*  
9           *or after the date of the enactment of the Tax-*  
10           *payer Relief Act of 1997 under any contract de-*  
11           *scribed in subsection (b)(2) of such section, such*  
12           *amendments also shall not apply to amounts re-*  
13           *ceived or accrued under such contract before*  
14           *January 1, 2001.*

15           (b) *PUBLIC AVAILABILITY OF UNRELATED BUSINESS*  
16 *INCOME TAX RETURNS.*—

17           (1) *IN GENERAL.*—*Subparagraph (A) of section*  
18           *6104(d)(1) is amended by redesignating clauses (ii)*  
19           *and (iii) as clauses (iii) and (iv), respectively, and*  
20           *by inserting after clause (i) the following new clause:*

21                   “(ii) *any annual return filed under*  
22                   *section 6011 which relates to any tax im-*  
23                   *posed by section 511 (relating to imposition*  
24                   *of tax on unrelated business income of char-*  
25                   *itable, etc., organizations) by such organiza-*

1                   tion, but only if such organization is de-  
2                   scribed in section 501(c)(3),”.

3                   (2) *EFFECTIVE DATE.*—The amendments made  
4                   by this subsection shall apply to returns filed after the  
5                   date of the enactment of this Act.

6                   (c) *CERTIFICATION OF UNRELATED BUSINESS TAX-*  
7 *ABLE INCOME FOR CERTAIN ORGANIZATIONS.*—

8                   (1) *IN GENERAL.*—Section 6011 is amended by  
9                   redesignating subsection (g) as subsection (h) and by  
10                  inserting after subsection (f) the following new sub-  
11                  section:

12                 “(g) *RETURNS OF CERTAIN ORGANIZATIONS RELAT-*  
13 *ING TO UNRELATED BUSINESS TAXABLE INCOME.*—

14                 “(1) *IN GENERAL.*—Every applicable exempt or-  
15                 ganization shall include with the return under sub-  
16                 section (a) for the taxable year a statement by an  
17                 independent auditor or an independent counsel which  
18                 meets the requirements of paragraph (2).

19                 “(2) *STATEMENT.*—A statement meets the re-  
20                 quirement of this paragraph if the statement—

21                         “(A) contains a certification that—

22                                 “(i) the information contained in the  
23                                 return—

24   “(I) has been reviewed by the  
25   auditor or counsel, and

1                   “(II) to the best of the auditor’s or  
2                   counsel’s knowledge, is accurate, and

3                   “(ii) to the best of the auditor’s or  
4                   counsel’s knowledge, the allocation of ex-  
5                   penses between the unrelated trades and  
6                   business of the organization and the activi-  
7                   ties related to the purpose or function con-  
8                   stituting the basis of the organization’s ex-  
9                   emption under section 501 complies with  
10                  the requirements set forth by the Secretary  
11                  under section 512, and

12                  “(B) indicates—

13                         “(i) whether the auditor or counsel has  
14                         provided a tax opinion to the organization  
15                         regarding—

16                                 “(I) the classification of any trade  
17                                 or business of the organization as an  
18                                 unrelated trade or business, or

19   “(II) the treatment of any income  
20   as unrelated business taxable income,  
21   and

22   “(ii) a description of any material  
23   facts with respect to any such opinion.



1           “(3) *APPLICABLE EXEMPT ORGANIZATION.*—For  
2           purposes of this subsection, the term ‘applicable ex-  
3           empt organization’ means any organization which—

4                   “(A) is described in section 501(c)(3),

5                   “(B) has—

6                           “(i) gross income and receipts of not  
7                           less than \$10,000,000 for the taxable year,  
8                           or

9                           “(ii) gross assets of not less than  
10                           \$10,000,000 on the last day of the taxable  
11                           year, and

12                   “(C) is subject to the tax imposed under sec-  
13                   tion 511 for the taxable year.”.

14           (2) *PENALTY.*—

15                   (A) *IN GENERAL.*—Part I of subchapter B  
16                   of chapter 68 (relating to assessable penalties) is  
17                   amended by adding at the end the following new  
18                   section:

19           **“SEC. 6720B. UNRELATED BUSINESS INCOME REQUIRE-**  
20                           **MENTS.**

21                   “(a) *IN GENERAL.*—Any applicable exempt organiza-  
22                   tion (as defined in section 6011(g)(3)) which fails to file  
23                   a statement required under section 6011(g) shall pay a pen-  
24                   alty in an amount equal to  $\frac{1}{2}$  percent of the gross revenue

1 amount of such organization for the taxable year to which  
2 such statement relates.

3 “(b) *GROSS REVENUE AMOUNT*.—For purposes of sub-  
4 section (a), the term ‘gross revenue amount’ means, with  
5 respect to any taxable year, the gross income and receipts  
6 of the organization determined without regard to any con-  
7 tributions or grants received by the organization.

8 “(c) *REASONABLE CAUSE*.—No penalty shall be im-  
9 posed under this section with respect to any failure if it  
10 is shown that such failure is due to reasonable cause.”.

11 (B) *CONFORMING AMENDMENT*.—The table  
12 of sections of part I of subchapter B of chapter  
13 68 is amended by adding after the item relating  
14 to section 6720A the following new item:

“Sec. 6720B. *Unrelated business income requirements*.”.

15 (3) *EFFECTIVE DATE*.—The amendments made  
16 by this subsection shall apply to returns for taxable  
17 years beginning after the date of the enactment of this  
18 Act.

19 **SEC. 207. ENCOURAGEMENT OF CONTRIBUTIONS OF CAP-**  
20 **ITAL GAIN REAL PROPERTY MADE FOR CON-**  
21 **SERVATION PURPOSES.**

22 (a) *IN GENERAL*.—

23 (1) *INDIVIDUALS*.—Paragraph (1) of subsection  
24 170(b) (relating to percentage limitations) is amended  
25 by redesignating subparagraphs (E) and (F) as sub-

1 paragraphs (F) and (G), respectively, and by insert-  
2 ing after subparagraph (D) the following new sub-  
3 paragraph:

4 “(E) CONTRIBUTIONS OF QUALIFIED CON-  
5 SERVATION CONTRIBUTIONS.—

6 “(i) IN GENERAL.—Any qualified con-  
7 servation contribution (as defined in sub-  
8 section (h)(1)) to an organization described  
9 in subparagraph (A) shall be allowed to the  
10 extent the aggregate of such contributions  
11 does not exceed the excess of 50 percent of  
12 the taxpayer’s contribution base over the  
13 amount of all other charitable contributions  
14 allowable under this paragraph.

15 “(ii) CARRYOVER.—If the aggregate  
16 amount of contributions described in clause  
17 (i) exceeds the limitation of clause (i), such  
18 excess shall be treated (in a manner con-  
19 sistent with the rules of subsection (d)(1))  
20 as a charitable contribution to which clause  
21 (i) applies in each of the 15 succeeding  
22 years in order of time.

23 “(iii) COORDINATION WITH OTHER  
24 SUBPARAGRAPHS.—For purposes of apply-  
25 ing this subsection and subsection (d)(1),

1           *contributions described in clause (i) shall*  
2           *not be treated as described in subparagraph*  
3           *(A), (B), (C), or (D) and such subpara-*  
4           *graphs shall apply without regard to such*  
5           *contributions.*

6           “(iv) *QUALIFIED FARMER OR RANCH-*  
7           *ER.—*

8                   “(I) *IN GENERAL.—If the indi-*  
9                   *vidual is a qualified farmer or rancher*  
10                   *for the taxable year in which the con-*  
11                   *tribution is made, clause (i) shall be*  
12                   *applied by substituting ‘100 percent’*  
13                   *for ‘50 percent’.*

14                   “(II) *DEFINITION.—For purposes*  
15                   *of subclause (I), the term ‘qualified*  
16                   *farmer or rancher’ means a taxpayer*  
17                   *whose gross income from the trade or*  
18                   *business of farming (within the mean-*  
19                   *ing of section 2032A(e)(5)) is greater*  
20                   *than 50 percent of the taxpayer’s gross*  
21                   *income for the taxable year.*

22                   “(v) *TERMINATION.—This subpara-*  
23                   *graph shall not apply to any contribution*  
24                   *made in taxable years beginning after De-*  
25                   *cember 31, 2007.”.*

1           (2) *CORPORATIONS.*—*Paragraph (2) of section*  
2 *170(b) is amended to read as follows:*

3           “(2) *CORPORATIONS.*—*In the case of a*  
4 *corporation—*

5                   “(A) *IN GENERAL.*—*The total deductions*  
6 *under subsection (a) for any taxable year (other*  
7 *than for contributions to which subparagraph*  
8 *(B) applies) shall not exceed 10 percent of the*  
9 *taxpayer’s taxable income.*

10                   “(B) *QUALIFIED CONSERVATION CONTRIBU-*  
11 *TIONS BY CERTAIN CORPORATE FARMERS AND*  
12 *RANCHERS.*—

13                           “(i) *IN GENERAL.*—*Any qualified con-*  
14 *servation contribution (as defined in sub-*  
15 *section (h)(1)) made—*

16                                   “(I) *by a corporation which, for*  
17 *the taxable year during which the con-*  
18 *tribution is made, is a qualified farm-*  
19 *er or rancher (as defined in paragraph*  
20 *(1)(E)(iv)(II)) and the stock of which*  
21 *is not readily tradable on an estab-*  
22 *lished securities market at any time*  
23 *during such year, and*

24   “(II) *to an organization described*  
25 *in paragraph (1)(A),*

1           *shall be allowed to the extent the aggregate*  
2           *of such contributions does not exceed the ex-*  
3           *cess of the taxpayer's taxable income over*  
4           *the amount of charitable contributions al-*  
5           *lowable under subparagraph (A).*

6           “(ii) *CARRYOVER.*—*If the aggregate*  
7           *amount of contributions described in clause*  
8           *(i) exceeds the limitation of clause (i), such*  
9           *excess shall be treated (in a manner con-*  
10           *sistent with the rules of subsection (d)(2))*  
11           *as a charitable contribution to which clause*  
12           *(i) applies in each of the 15 succeeding*  
13           *years in order of time.*

14           “(iii) *TERMINATION.*—*This subpara-*  
15           *graph shall not apply to any contribution*  
16           *made in taxable years beginning after De-*  
17           *cember 31, 2007.*

18           “(C) *TAXABLE INCOME.*—*For purposes of*  
19           *this paragraph, taxable income shall be com-*  
20           *puted without regard to—*

21                   “(i) *this section,*

22                   “(ii) *part VIII (except section 248),*

23                   “(iii) *any net operating loss*  
24           *carryback to the taxable year under section*  
25           *172,*

1                   “(iv) section 199, and  
 2                   “(v) any capital loss carryback to the  
 3                   taxable year under section 1212(a)(1).”.

4           (b) *CONFORMING AMENDMENTS.*—

5                   (1) Paragraph (2) of section 170(d) is amended  
 6                   by striking “subsection (b)(2)” each place it appears  
 7                   and inserting “subsection (b)(2)(A)”.

8                   (2) Section 545(b)(2) is amended by striking  
 9                   “and (D)” and inserting “(D), and (E)”.

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

13   **SEC. 208. ENHANCED DEDUCTION FOR CHARITABLE CON-**  
 14                   **TRIBUTION OF LITERARY, MUSICAL, ARTIS-**  
 15                   **TIC, AND SCHOLARLY COMPOSITIONS.**

16           (a) *IN GENERAL.*—Subsection (e) of section 170 (relat-  
 17           ing to certain contributions of ordinary income and capital  
 18           gain property) is amended by adding at the end the fol-  
 19           lowing new paragraph:

20                   “(7) *SPECIAL RULE FOR CERTAIN CONTRIBU-*  
 21                   *TIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOL-*  
 22                   *ARLY COMPOSITIONS.*—

23                   “(A) *IN GENERAL.*—In the case of a quali-  
 24                   fied artistic charitable contribution—

1           “(i) the amount of such contribution  
2 taken into account under this section shall  
3 be the fair market value of the property con-  
4 tributed (determined at the time of such  
5 contribution), and

6           “(ii) no reduction in the amount of  
7 such contribution shall be made under  
8 paragraph (1).

9           “(B) QUALIFIED ARTISTIC CHARITABLE  
10 CONTRIBUTION.—For purposes of this para-  
11 graph, the term ‘qualified artistic charitable con-  
12 tribution’ means a charitable contribution of any  
13 literary, musical, artistic, or scholarly composi-  
14 tion, or similar property, or the copyright there-  
15 on (or both), but only if—

16           “(i) such property was created by the  
17 personal efforts of the taxpayer making such  
18 contribution no less than 18 months prior  
19 to such contribution,

20           “(ii) the taxpayer—

21           “(I) has received a qualified ap-  
22 praisal of the fair market value of such  
23 property in accordance with the regu-  
24 lations under this section, and



1                   “(II) attaches to the taxpayer’s  
2                   income tax return for the taxable year  
3                   in which such contribution was made a  
4                   copy of such appraisal,

5                   “(iii) the donee is an organization de-  
6                   scribed in subsection (b)(1)(A),

7                   “(iv) the use of such property by the  
8                   donee is related to the purpose or function  
9                   constituting the basis for the donee’s exemp-  
10                  tion under section 501 (or, in the case of a  
11                  governmental unit, to any purpose or func-  
12                  tion described under section 501(c)),

13                  “(v) the taxpayer receives from the  
14                  donee a written statement representing that  
15                  the donee’s use of the property will be in ac-  
16                  cordance with the provisions of clause (iv),  
17                  and

18                  “(vi) the written appraisal referred to  
19                  in clause (ii) includes evidence of the extent  
20                  (if any) to which property created by the  
21                  personal efforts of the taxpayer and of the  
22                  same type as the donated property is or has  
23                  been—

1           “(I) owned, maintained, and dis-  
2           played by organizations described in  
3           subsection (b)(1)(A), and

4           “(II) sold to or exchanged by per-  
5           sons other than the taxpayer, donee, or  
6           any related person (as defined in sec-  
7           tion 465(b)(3)(C)).

8           “(C) *MAXIMUM DOLLAR LIMITATION; NO*  
9           *CARRYOVER OF INCREASED DEDUCTION.—*

10           “(i) *IN GENERAL.—*Subsections (b) and  
11           (d) shall not apply to the amount by which  
12           any charitable contribution is increased by  
13           reason of this paragraph and such increased  
14           contribution shall not be taken into account  
15           for purposes of applying subparagraphs (A)  
16           through (D) of subsection (b)(1) and sub-  
17           section (d).

18           “(ii) *CONTRIBUTION BASE LIMITA-*  
19           *TION.—*The increased contributions shall be  
20           allowed to the extent the aggregate of such  
21           contributions do not exceed the excess of 50  
22           percent of the contribution base (as defined  
23           in subparagraph (F) of subsection (b)(1))  
24           over the amount of all other charitable con-

1           *tributions allowable under subparagraphs*  
2           *(A) through (D) of subsection (b)(1).*

3           “(iii) *ARTISTIC ADJUSTED GROSS IN-*  
4           *COME.—The aggregate increase in the chari-*  
5           *table contributions by reason of this para-*  
6           *graph for any taxable year shall not exceed*  
7           *the artistic adjusted gross income of the tax-*  
8           *payer for such taxable year.*

9           “(D) *ARTISTIC ADJUSTED GROSS INCOME.—*  
10          *For purposes of this paragraph, the term ‘artis-*  
11          *tic adjusted gross income’ means that portion of*  
12          *the adjusted gross income of the taxpayer for the*  
13          *taxable year attributable to—*

14                “(i) *income from the sale or use of*  
15                *property created by the personal efforts of*  
16                *the taxpayer which is of the same type as*  
17                *the donated property, and*

18                “(ii) *income from teaching, lecturing,*  
19                *performing, or similar activity with respect*  
20                *to property described in clause (i).*

21          “(E) *PARAGRAPH NOT TO APPLY TO CER-*  
22          *TAIN CONTRIBUTIONS.—Subparagraph (A) shall*  
23          *not apply to any charitable contribution of any*  
24          *letter, memorandum, or similar property which*  
25          *was written, prepared, or produced by or for an*

1           *individual while the individual is an officer or*  
 2           *employee of any person (including any govern-*  
 3           *ment agency or instrumentality) unless such let-*  
 4           *ter, memorandum, or similar property is en-*  
 5           *tirely personal.*

6           “(F) *COPYRIGHT TREATED AS SEPARATE*  
 7           *PROPERTY FOR PARTIAL INTEREST RULE.—In*  
 8           *the case of a qualified artistic charitable con-*  
 9           *tribution, the tangible literary, musical, artistic,*  
 10           *or scholarly composition, or similar property*  
 11           *and the copyright on such work shall be treated*  
 12           *as separate properties for purposes of this para-*  
 13           *graph and subsection (f)(3).*

14           “(G) *TERMINATION.—This paragraph shall*  
 15           *not apply to contributions made after December*  
 16           *31, 2007.”.*

17           (b) *EFFECTIVE DATE.—The amendment made by this*  
 18           *section shall apply to contributions made after December*  
 19           *31, 2005.*

20           **SEC. 209. MILEAGE REIMBURSEMENTS TO CHARITABLE**  
 21                                   **VOLUNTEERS EXCLUDED FROM GROSS IN-**  
 22                                   **COME.**

23           (a) *IN GENERAL.—Part III of subchapter B of chapter*  
 24           *1 is amended by inserting after section 139A the following*  
 25           *new section:*

1 **“SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE**  
2 **VOLUNTEERS.**

3 *“(a) IN GENERAL.—Gross income of an individual*  
4 *does not include amounts received, from an organization*  
5 *described in section 170(c), as reimbursement of operating*  
6 *expenses with respect to use of a passenger automobile for*  
7 *the benefit of such organization. The preceding sentence*  
8 *shall apply only to the extent that the expenses which are*  
9 *reimbursed would be deductible under this chapter if section*  
10 *274(d) were applied—*

11 *“(1) by using the standard business mileage rate*  
12 *established under such section, and*

13 *“(2) as if the individual were an employee of an*  
14 *organization not described in section 170(c).*

15 *“(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—*  
16 *Subsection (a) shall not apply with respect to any expenses*  
17 *relating to the performance of services for compensation.*

18 *“(c) NO DOUBLE BENEFIT.—A taxpayer may not*  
19 *claim a deduction or credit under any other provision of*  
20 *this title with respect to the expenses under subsection (a).*

21 *“(d) EXEMPTION FROM REPORTING REQUIRE-*  
22 *MENTS.—Section 6041 shall not apply with respect to reim-*  
23 *bursments excluded from income under subsection (a).*

24 *“(e) TERMINATION.—This section shall not apply to*  
25 *taxable years beginning after December 31, 2007.”.*

1           (b) *CLERICAL AMENDMENT.*—*The table of sections for*  
 2 *part III of subchapter B of chapter 1 is amended by insert-*  
 3 *ing after the item relating to section 139A the following*  
 4 *new item:*

          “*Sec. 139B. Mileage reimbursements to charitable volunteers.*”.

5           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 6 *section shall apply to taxable years beginning after Decem-*  
 7 *ber 31, 2005.*

8 **SEC. 210. ALTERNATIVE PERCENTAGE LIMITATION FOR**  
 9                           **CORPORATE CHARITABLE CONTRIBUTIONS**  
 10                           **TO THE MATHEMATICS AND SCIENCE PART-**  
 11                           **nership PROGRAM.**

12           (a) *IN GENERAL.*—*Section 170(b) (related to percent-*  
 13 *age limitations) is amended by adding at the end the fol-*  
 14 *lowing new paragraph:*

15                           “(3) *SPECIAL RULE FOR CORPORATE CONTRIBU-*  
 16                           *TIONS TO THE MATHEMATICS AND SCIENCE PARTNER-*  
 17                           *SHIP PROGRAM.*—

18                                   “(A) *IN GENERAL.*—*In the case of a cor-*  
 19                                   *poration which makes an eligible mathematics*  
 20                                   *and science contribution—*

21   “(i) *the limitation under paragraph*  
 22   *(2) shall apply separately with respect to*  
 23   *all such contributions and all other chari-*  
 24   *table contributions, and*

1           “(i) paragraph (2)(A) shall be applied  
2           by substituting for ‘10 percent of the tax-  
3           payer’s taxable income’ the following: ‘the  
4           sum of (i) the lesser of all eligible mathe-  
5           matics and science contributions or 15 per-  
6           cent of the taxpayer’s taxable income, plus  
7           (ii) the lesser of the contributions (other  
8           than eligible mathematics and science con-  
9           tributions and contributions to which sub-  
10          paragraph (B) applies) or 10 percent of the  
11          taxpayer’s taxable income reduced by all el-  
12          igible mathematics and science contribu-  
13          tions’.

14          “(B) *ELIGIBLE MATHEMATICS AND SCIENCE*  
15          *CONTRIBUTION.*—

16                 “(i) *IN GENERAL.*—For purposes of  
17                 this paragraph, the term ‘eligible mathe-  
18                 matics and science contribution’ means a  
19                 charitable contribution (other than a con-  
20                 tribution of used equipment) to a qualified  
21                 partnership for the purpose of an activity  
22                 described in section 2202(c) of the *Elemen-*  
23                 *tary and Secondary Education Act of 1965.*

24                 “(ii) *QUALIFIED PARTNERSHIP.*—The  
25                 term ‘qualified partnership’ means an eligi-

1           ble partnership (within the meaning of sec-  
 2           tion 2201(b)(1) of the Elementary and Sec-  
 3           ondary Education Act of 1965), but only to  
 4           the extent that such partnership does not in-  
 5           clude a person other than a person described  
 6           in paragraph (1)(A).

7           “(C) *TERMINATION*.—This paragraph shall  
 8           not apply to any contributions made in taxable  
 9           years beginning after December 31, 2006.”.

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

## 13       ***Subtitle B—Reforming Charitable*** 14       ***Organizations***

### 15       ***PART I—GENERAL REFORMS***

#### 16       ***SEC. 211. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS*** 17       ***IN TAX SHELTER TRANSACTIONS.***

18          (a) *IMPOSITION OF EXCISE TAX*.—

19               (1) *IN GENERAL*.—Chapter 42 (relating to pri-  
 20       vate foundations and certain other tax-exempt organi-  
 21       zations) is amended by adding at the end the fol-  
 22       lowing new subchapter:

#### 23       ***“Subchapter F—Tax Shelter Transactions***

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



1 **“SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES**  
2 **ENTERING INTO PROHIBITED TAX SHELTER**  
3 **TRANSACTIONS.**

4 *“(a) PARTICIPATION IN AND APPROVAL OF PROHIB-*  
5 *ITED TRANSACTIONS.—*

6 *“(1) TAX-EXEMPT ENTITY.—*

7 *“(A) IN GENERAL.—If any tax-exempt enti-*  
8 *ty (other than a tax-exempt entity described in*  
9 *paragraph (4), (5), (6), or (7) of subsection (c))*  
10 *is a party to a prohibited tax shelter transaction*  
11 *at any time during the taxable year and knows*  
12 *or has reason to know such transaction is a pro-*  
13 *hibited tax shelter transaction, such entity shall*  
14 *pay a tax for such taxable year in the amount*  
15 *determined under subsection (b)(1)(A).*

16 *“(B) POST-TRANSACTION DETERMINA-*  
17 *TION.—If any tax-exempt entity (other than a*  
18 *tax-exempt entity described in paragraph (4),*  
19 *(5), (6), or (7) of subsection (c)) is a party to*  
20 *a subsequently listed transaction at any time*  
21 *during the taxable year, such entity shall pay a*  
22 *tax in the amount determined under subsection*  
23 *(b)(1)(B).*

24 *“(2) ENTITY MANAGER.—If any entity manager*  
25 *of a tax-exempt entity approves such entity as (or*  
26 *otherwise causes such entity to be) a party to a pro-*

1        *hibited tax shelter transaction at any time during the*  
2        *taxable year and knows or has reason to know that*  
3        *the transaction is a prohibited tax shelter transaction,*  
4        *such manager shall pay a tax for such taxable year*  
5        *in the amount determined under subsection (b)(2).*

6            “(3) *REASONABLE CAUSE EXCEPTION.*—*No tax*  
7        *shall be imposed under paragraph (1)(A) or (2) if it*  
8        *is shown that the participation of the tax-exempt en-*  
9        *tity in the transaction was not willful and was due*  
10       *to reasonable cause.*

11       “(b) *AMOUNT OF TAX.*—

12            “(1) *ENTITY.*—*In the case of a tax-exempt*  
13       *entity—*

14            “(A) *IN GENERAL.*—*The amount of the tax*  
15       *imposed under subsection (a)(1)(A) on the entity*  
16       *with respect to a taxable year shall be the greater*  
17       *of—*

18            “(i) *100 percent of the entity’s net in-*  
19       *come (after taking into account any tax im-*  
20       *posed by this subtitle with respect to the*  
21       *prohibited tax shelter transaction) for such*  
22       *taxable year which is attributable to the*  
23       *prohibited tax shelter transaction, or*

1           “(ii) 75 percent of the proceeds received  
2           by the entity which are attributable to the  
3           prohibited tax shelter transaction.

4           “(B)    POST-TRANSACTION    DETERMINA-  
5           TION.—The amount of the tax imposed under  
6           subsection (a)(1)(B) on the entity with respect to  
7           any taxable year shall be an amount equal to the  
8           product of—

9                   “(i) the highest rate of tax under sec-  
10                  tion 11, and

11                   “(ii) the greater of—

12                           “(I) the entity’s net income (after  
13                           taking into account any tax imposed  
14                           by this subtitle with respect to the sub-  
15                           sequently listed transaction) for such  
16                           taxable year which is attributable to  
17                           the subsequently listed transaction and  
18                           which is properly allocable to the pe-  
19                           riod beginning on the later of the date  
20                           such transaction is identified by guid-  
21                           ance as a listed transaction by the Sec-  
22                           retary or the first day of the taxable  
23                           year, or

24                           “(II) 75 percent of the proceeds  
25                           received by the entity which are attrib-

1                    *utable to the subsequently listed trans-*  
2                    *action and which are properly allo-*  
3                    *cable to the period beginning on the*  
4                    *later of the date such transaction is*  
5                    *identified by guidance as a listed*  
6                    *transaction by the Secretary or the*  
7                    *first day of the taxable year.*

8                    “(2) *ENTITY MANAGER.*—*In the case of each enti-*  
9                    *ty manager to whom subsection (a)(2) applies, the*  
10                    *amount of the tax under such subsection shall be*  
11                    *\$20,000 for each approval.*

12                    “(c) *TAX-EXEMPT ENTITY.*—*For purposes of this sec-*  
13                    *tion, the term ‘tax-exempt entity’ means an entity which*  
14                    *is—*

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

16                    “(2) *described in section 170(c) (other than an*  
17                    *agency or instrumentality of the United States) to*  
18                    *which paragraph (1) of this subsection does not*  
19                    *apply,*

20                    “(3) *an Indian tribal government (within the*  
21                    *meaning of section 7701(a)(40)),*

22                    “(4) *described in paragraph (1), (2), or (3) of*  
23                    *section 4979(e),*

24                    “(5) *a program described in section 529,*

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

4           “(7) an arrangement described in section  
5           4973(a).

6           “(d) *ENTITY MANAGER*.—For purposes of this section,  
7           the term ‘entity manager’ means—

8           “(1) with respect to a tax-exempt entity de-  
9           scribed in paragraph (3) or (4) of section 501(c)—

10           “(A) in the case of an entity other than a  
11           private foundation, an organization manager (as  
12           defined in section 4958(f)(2)), and

13           “(B) in the case of a private foundation, a  
14           foundation manager (as defined in section  
15           4946(b)), and

16           “(2) in all other cases, the person with authority  
17           or responsibility similar to that exercised by an offi-  
18           cer, director, or trustee of an organization.

19           “(e) *PROHIBITED TAX SHELTER TRANSACTION; SUB-*  
20           *SEQUENTLY LISTED TRANSACTION*.—For purposes of this  
21           section—

22           “(1) *PROHIBITED TAX SHELTER TRANSACTION*.—

23           “(A) *IN GENERAL*.—The term ‘prohibited  
24           tax shelter transaction’ means—

25           “(i) any listed transaction, or

1           “(ii) any prohibited reportable trans-  
2           action if the tax-exempt entity knows or has  
3           reason to know that such transaction is a  
4           reportable transaction.

5           “(B) LISTED TRANSACTION.—The term ‘list-  
6           ed transaction’ has the meaning given such term  
7           by section 6707A(c)(2).

8           “(C) PROHIBITED REPORTABLE TRANS-  
9           ACTION.—The term ‘prohibited reportable trans-  
10          action’ means any confidential transaction or  
11          any transaction with contractual protection (as  
12          defined under regulations prescribed by the Sec-  
13          retary) which is a reportable transaction (as de-  
14          fined in section 6707A(c)(1)).

15          “(2) SUBSEQUENTLY LISTED TRANSACTION.—  
16          The term ‘subsequently listed transaction’ means any  
17          transaction to which a tax-exempt entity is a party  
18          and which is determined by the Secretary to be a list-  
19          ed transaction at any time after the entity has en-  
20          tered into the transaction.

21          “(f) REGULATORY AUTHORITY.—The Secretary is au-  
22          thorized to promulgate regulations which provide guidance  
23          regarding the determination of the allocation of net income  
24          of a tax-exempt entity attributable to a transaction to var-  
25          ious periods, including before and after the listing of the

1 *transaction or the date which is 90 days after the date of*  
2 *the enactment of this section.*

3       “(g) *COORDINATION WITH OTHER TAXES AND PEN-*  
4 *ALTIES.—The tax imposed by this section is in addition*  
5 *to any other tax, addition to tax, or penalty imposed under*  
6 *this title.*”.

7           (2) *CONFORMING AMENDMENT.—The table of*  
8 *subchapters for chapter 42 is amended by adding at*  
9 *the end the following new item:*

          “*SUBCHAPTER F. TAX SHELTER TRANSACTIONS.*”.

10       (b) *DISCLOSURE REQUIREMENTS.—*

11           (1) *DISCLOSURE BY ORGANIZATION TO THE IN-*  
12 *TERNAL REVENUE SERVICE.—*

13           (A) *IN GENERAL.—Section 6033(a) (relat-*  
14 *ing to organizations required to file) is amended*  
15 *by redesignating paragraph (2) as paragraph*  
16 *(3), and by inserting after paragraph (1) the fol-*  
17 *lowing new paragraph:*

18           “(2) *PARTICIPATION IN CERTAIN REPORTABLE*  
19 *TRANSACTIONS.—Every tax-exempt entity described*  
20 *in section 4965(c) shall file (in such form and man-*  
21 *ner and at such time as determined by the Secretary)*  
22 *a disclosure of—*

23           “(A) *such entity’s participation in any pro-*  
24 *hibited tax shelter transaction (as defined in sec-*  
25 *tion 4965(e)), and*

1           “(B) the identity of any other party par-  
2           ticipating in such transaction which is known  
3           by such tax-exempt entity.”.

4           (B) CONFORMING AMENDMENT.—Section  
5           6033(a)(1) is amended by striking “paragraph  
6           (2)” and inserting “paragraph (3)”.

7           (2) DISCLOSURE BY OTHER TAXPAYERS TO THE  
8           TAX-EXEMPT ENTITY.—Section 6011 (relating to gen-  
9           eral requirement of return, statement, or list), as  
10          amended by this Act, is amended by redesignating  
11          subsection (h) as subsection (i) and by inserting after  
12          subsection (g) the following new subsection:

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

20          (c) PENALTY FOR NONDISCLOSURE.—

21                 (1) IN GENERAL.—Section 6652(c) (relating to  
22                 returns by exempt organizations and by certain  
23                 trusts), as amended by this Act, is amended by reded-  
24                 signating paragraphs (2), (3), and (4) as paragraphs



1       (3), (4), and (5), respectively, and by inserting after  
2       paragraph (1) the following new paragraph:

3               “(2) *DISCLOSURE UNDER SECTION 6033.*—

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

14               “(B) *PERSONS.*—

15               “(i) *IN GENERAL.*—*The Secretary may*  
16       *make a written demand on any tax-exempt*  
17       *entity subject to penalty under subpara-*  
18       *graph (A) specifying therein a reasonable*  
19       *future date by which the disclosure shall be*  
20       *filed for purposes of this subparagraph.*

21               “(ii) *FAILURE TO COMPLY WITH DE-*  
22       *MAND.*—*If any person fails to comply with*  
23       *any demand under clause (i) on or before*  
24       *the date specified in such demand, there*  
25       *shall be paid by such person failing to so*

1           *comply \$100 for each day after the expira-*  
2           *tion of the time specified in such demand*  
3           *during which such failure continues. The*  
4           *maximum penalty imposed under this sub-*  
5           *paragraph on all tax-exempt entities for*  
6           *failures with respect to any 1 disclosure*  
7           *shall not exceed \$10,000.*

8           “(C) *DEFINITIONS.*—*Any term used in this*  
9           *section which is also used in section 4965 shall*  
10          *have the meaning given such term under section*  
11          *4965.”*

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

16          (d) *EFFECTIVE DATES.*—

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

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

5 **SEC. 212. EXCISE TAX ON CERTAIN ACQUISITIONS OF IN-**  
 6                   **TERESTS IN INSURANCE CONTRACTS IN**  
 7                   **WHICH CERTAIN EXEMPT ORGANIZATIONS**  
 8                   **HOLD AN INTEREST.**

9           (a) *IMPOSITION OF TAX.*—

10           (1) *IN GENERAL.*—*Subchapter F of chapter 42*  
 11           *(relating to tax shelter transactions), as added by this*  
 12           *Act, is amended by adding at the end the following*  
 13           *new section:*

14 **“SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN**  
 15                   **INSURANCE CONTRACTS IN WHICH CERTAIN**  
 16                   **EXEMPT ORGANIZATIONS HOLD AN INTER-**  
 17                   **EST.**

18           “(a) *IMPOSITION OF TAX.*—*If there is a taxable acqui-*  
 19           *sition of any interest in an applicable insurance contract,*  
 20           *there is hereby imposed on the person acquiring the interest*  
 21           *a tax equal to 100 percent of the acquisition costs of the*  
 22           *interest.*

23           “(b) *TAXABLE ACQUISITION.*—*For purposes of this*  
 24           *section—*

1           “(1) *IN GENERAL.*—The term ‘taxable acquisition’ means the acquisition of any direct or indirect  
2           interest in an applicable insurance contract by—  
3

4                   “(A) an applicable exempt organization, or

5                   “(B) a person other than an applicable exempt organization if such interest in the hands  
6           of such person is not an interest described in  
7           clause (i), (ii), (iii), or (iv) of paragraph (2)(B).  
8

9           “(2) *APPLICABLE INSURANCE CONTRACT.*—

10                   “(A) *IN GENERAL.*—The term ‘applicable insurance contract’ means any life insurance,  
11           annuity, or endowment contract with respect to  
12           which both an applicable exempt organization  
13           and a person other than an applicable exempt  
14           organization have directly or indirectly held an  
15           interest in the contract (whether or not at the  
16           same time).  
17

18                   “(B) *EXCEPTIONS.*—Such term shall not include a life insurance, annuity, or endowment  
19           contract if—  
20

21                   “(i) all persons directly or indirectly  
22           holding any interest in the contract (other  
23           than applicable exempt organizations) have  
24           an insurable interest in the insured under  
25           the contract independent of any interest of

1           *an applicable exempt organization in the*  
2           *contract,*

3           “(ii) *the sole interest in the contract of*  
4           *each person other than an applicable ex-*  
5           *empt organization is as a named bene-*  
6           *ficiary,*

7           “(iii) *the sole interest in the contract of*  
8           *each person other than an applicable ex-*  
9           *empt organization is—*

10           “(I) *as a beneficiary of a trust*  
11           *holding an interest in the contract, but*  
12           *only if the person’s designation as such*  
13           *beneficiary was made without consid-*  
14           *eration and solely on a purely gratu-*  
15           *itous basis, or*

16           “(II) *as a trustee who holds an*  
17           *interest in the contract in a fiduciary*  
18           *capacity solely for the benefit of appli-*  
19           *cable exempt organizations or persons*  
20           *otherwise described in clauses (i), (ii),*  
21           *and (iv) or subclause (I) of this clause,*  
22           *or*

23           “(iv) *except as provided in subpara-*  
24           *graph (C), the sole interest in the contract*  
25           *of each person other than an applicable ex-*

1           *empt organization is as a lender with re-*  
2           *spect to the contract and the contract covers*  
3           *only 1 individual and such individual is an*  
4           *officer, director, or employee of the applica-*  
5           *ble exempt organization with an interest in*  
6           *the contract.*

7           “(C) *RESTRICTIONS ON EXCEPTION FOR*  
8           *LENDERS.—*

9           “(i) *NUMERICAL LIMIT.—The number*  
10           *of contracts that may be taken into account*  
11           *under subparagraph (B)(iv) with respect to*  
12           *officers, directors, or employees of the appli-*  
13           *cable exempt organization with interests in*  
14           *the contracts shall not exceed the greater*  
15           *of—*

16                   “(I) *the lesser of 5 percent of the*  
17                   *total officers, directors, and employees*  
18                   *of the organization or 20, or*

19                   “(II) *5.*

20           “(ii) *AGGREGATE INDEBTEDNESS.—*  
21           *The exception under subparagraph (B)(iv)*  
22           *shall apply only to the extent that the ag-*  
23           *gregate amount of the indebtedness with re-*  
24           *spect to 1 or more contracts covering a sin-*  
25           *gle individual does not exceed \$50,000.*

1           “(D) *SECRETARIAL AUTHORITY.*—*The Sec-*  
2           *retary may exempt a contract from treatment as*  
3           *an applicable insurance contract based on spe-*  
4           *cific factors, including factors such as whether*  
5           *the transaction is at arms length, whether eco-*  
6           *nomie benefits to the applicable exempt organi-*  
7           *zation substantially exceed the economic benefits*  
8           *to all other persons with an interest in the con-*  
9           *tract (determined without regard to whether, or*  
10           *the extent to which, such organization has paid*  
11           *or contributed with respect to the contract), and*  
12           *the likelihood of abuse.*

13           “(3) *DEFINITION AND RULE RELATING TO ACQUI-*  
14           *SITION COSTS.*—

15           “(A) *ACQUISITION COSTS DEFINED.*—*The*  
16           *term ‘acquisition costs’ means the direct or indi-*  
17           *rect costs of acquiring an interest in an applica-*  
18           *ble insurance contract. Such term shall include*  
19           *any fees, commissions, charges, or other amounts*  
20           *paid in connection with the acquisition, whether*  
21           *or not paid to the issuer of the contract.*

22           “(B) *TIMING OF PAYMENTS.*—*Except as*  
23           *provided in regulations, if acquisition costs of*  
24           *any acquisition are paid or incurred in more*  
25           *than 1 calendar year, the tax imposed by sub-*

1           *section (a) with respect to the acquisition shall*  
2           *be imposed each time the costs are so paid or in-*  
3           *curring.*

4           “(4) *RULES RELATING TO INTERESTS.—*

5                 “(A) *IN GENERAL.—An interest in the con-*  
6                 *tract includes any right with respect to the con-*  
7                 *tract, whether as an owner, beneficiary, or other-*  
8                 *wise.*

9                 “(B) *INDIRECT INTERESTS.—*

10                         “(i) *IN GENERAL.—Except as provided*  
11                         *in clause (ii), an indirect interest in a con-*  
12                         *tract includes an interest in an entity*  
13                         *which directly or indirectly holds an inter-*  
14                         *est in the contract.*

15                         “(ii) *PORTFOLIO INVESTMENTS.—If an*  
16                         *applicable exempt organization holds an in-*  
17                         *terest in a contract solely because the orga-*  
18                         *nization holds, as part of a diversified in-*  
19                         *vestment strategy, a de minimis interest in*  
20                         *an entity which directly or indirectly holds*  
21                         *the interest in the contract, such indirect*  
22                         *interest in the contract shall not be taken*  
23                         *into account for purposes of this section.*

24                         “(C) *EXCHANGED CONTRACTS.—In the case*  
25                         *of an exchange of an applicable insurance con-*



1           *tract on which no gain or loss is recognized*  
2           *under section 1035, any interest in any of the*  
3           *contracts involved in the exchange shall be treat-*  
4           *ed as an interest in all such contracts.*

5           “(5) *INCREASE IN INTEREST.*—*If a person in-*  
6           *creases an interest in an applicable insurance con-*  
7           *tract, the increase shall be treated as a separate ac-*  
8           *quisition for purposes of this section.*

9           “(6) *PRIOR ACQUISITIONS.*—*Except as provided*  
10          *in regulations, if a person acquires an interest in a*  
11          *contract before the contract is treated as an applicable*  
12          *insurance contract, the acquisition shall be treated as*  
13          *a taxable acquisition of an interest in an applicable*  
14          *insurance contract as of the date the contract becomes*  
15          *an applicable insurance contract.*

16          “(c) *APPLICABLE EXEMPT ORGANIZATION.*—*For pur-*  
17          *poses of this section, the term ‘applicable exempt organiza-*  
18          *tion’ means—*

19                 “(1) *an organization described in section 170(c),*

20                 “(2) *an organization described in section*  
21                 *168(h)(2)(A)(iv), or*

22                 “(3) *an organization not described in paragraph*  
23                 *(1) or (2) which is described in section 2055(a) or sec-*  
24                 *tion 2522(a).*

1       “(d) *TAX NOT TREATED AS INVESTMENT IN THE CON-*  
 2 *TRACT.*—*For purposes of section 72, the tax imposed by this*  
 3 *section shall not be included in investment in the contract.*

4       “(e) *REGULATIONS.*—*The Secretary shall prescribe*  
 5 *such regulations as may be necessary to carry out the provi-*  
 6 *sions of this section. Such regulations may include regula-*  
 7 *tions which—*

8               “(1) *provide, for purposes of subsection (b)(6),*  
 9 *appropriate rules for the application of this section in*  
 10 *any case where an interest is acquired before a con-*  
 11 *tract becomes an applicable insurance contract,*

12               “(2) *prevent, in cases the Secretary determines*  
 13 *appropriate, the imposition of more than one tax*  
 14 *under this section if the same interest is acquired*  
 15 *more than once, and*

16               “(3) *are designed to prevent avoidance of the*  
 17 *purposes of this section, including through the use of*  
 18 *intermediaries.”.*

19               “(2) *CONFORMING AMENDMENT.*—*The table of sec-*  
 20 *tions for subchapter F of chapter 42, as added by this*  
 21 *Act, is amended by adding at the end the following*  
 22 *new item:*

“Sec. 4966. *Excise tax on acquisition of interests in insurance contracts in which certain exempt organizations hold an interest.”.*

23       “(b) *REPORTING REQUIREMENTS.*—

1           (1) *IN GENERAL.*—Subpart B of part III of sub-  
2           chapter A of chapter 61 (relating to information con-  
3           cerning transactions with other persons) is amended  
4           by adding at the end the following new section:

5           **“SEC. 6050U. RETURNS RELATING TO APPLICABLE INSUR-**  
6                           **ANCE CONTRACTS IN WHICH CERTAIN EX-**  
7                           **EMPT ORGANIZATIONS HOLD INTERESTS.**

8           “(a) *REQUIREMENTS OF REPORTING.*—

9                       “(1) *EXEMPT ORGANIZATIONS.*—Each—

10                               “(A) applicable exempt organization which  
11                               acquires (within the meaning of section 4966) an  
12                               interest in any applicable insurance contract,  
13                               and

14                               “(B) other person which makes an acquisi-  
15                               tion of such an interest if such acquisition is  
16                               taxable under section 4966,

17                       shall make the return described in subsection (c).

18                       “(2) *TRANSFERS.*—If a person (including an ap-  
19                               plicable exempt organization) acquires an interest in  
20                               an applicable insurance contract in an acquisition  
21                               which is taxable under section 4966 and then trans-  
22                               fers such interest to 1 or more other persons, each per-  
23                               son acquiring all or a portion of such interest shall  
24                               make the return described in subsection (c).

1       “(b) *TIME FOR MAKING RETURN.*—Any organization  
2 or person required to make a return under subsection (a)  
3 shall file such return at such time as may be established  
4 by the Secretary with respect to—

5               “(1) in the case of a person described in sub-  
6 section (a)(1), the calendar year in which the acquisi-  
7 tion occurs, any calendar year in which acquisition  
8 costs are paid or incurred, and any other calendar  
9 years specified by the Secretary, and

10              “(2) in the case of a person described in sub-  
11 section (a)(2), the calendar year in which the transfer  
12 occurs.

13       “(c) *FORM AND MANNER OF RETURNS.*—A return is  
14 described in this subsection if such return—

15              “(1) is in such form as the Secretary prescribes,

16              “(2) in the case of—

17                      “(A) a return required under subsection  
18 (a)(1)(A), contains the name, address, and tax-  
19 payer identification number of the applicable ex-  
20 empt organization, the issuer of the applicable  
21 insurance contract, and any person acquiring an  
22 interest in the contract if the acquisition is tax-  
23 able under section 4966,

24                      “(B) a return required under subsection  
25 (a)(1)(B), contains the name, address, and tax-

1            *payer identification number of the person ac-*  
2            *quiring an interest in the applicable insurance*  
3            *contract if the acquisition is taxable under sec-*  
4            *tion 4966, any applicable exempt organization*  
5            *holding an interest in the contract, and the*  
6            *issuer of the contract, and*

7            “(C) a return required under subsection  
8            (a)(2), contains the name, address, and taxpayer  
9            identification number of the transferor and  
10           *transferee, and*

11           “(3) contains such other information as the Sec-  
12           *retary may prescribe.*

13           “(d) *STATEMENTS TO BE FURNISHED TO PERSONS*  
14           *WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—*  
15           *Every person required to make a return under subsection*  
16           *(a) shall furnish to each person whose taxpayer identifica-*  
17           *tion information is required to be included in such return*  
18           *under subsection (c) a written statement showing—*

19           “(1) *the name and address of the person required*  
20           *to make such return and the telephone number of the*  
21           *information contact for such person, and*

22           “(2) *the taxpayer identity and other information*  
23           *required to be shown on the return with respect to*  
24           *such person.*

1 *The written statement required under the preceding sen-*  
2 *tence shall be furnished on or before the date specified by*  
3 *the Secretary.*

4 “(e) *DEFINITIONS.*—*For purposes of this section, any*  
5 *term used in this section which is also used in section 4966*  
6 *shall have the meaning given such term by section 4966.”.*

7 (2) *PENALTIES.*—

8 (A) *IN GENERAL.*—*Section 6724(d) is*  
9 *amended—*

10 (i) *in paragraph (1)(B), by redesignig-*  
11 *ating clauses (xiii) through (xviii) as*  
12 *clauses (xiv) through (xix) and by inserting*  
13 *after clause (xii) the following new clause:*

14 “(xiii) *section 6050U (relating to re-*  
15 *turns relating to applicable insurance con-*  
16 *tracts in which certain exempt organiza-*  
17 *tions hold interests),”*, and

18 (ii) *in paragraph (3), by striking*  
19 *“and” at the end of subparagraph (C), by*  
20 *striking the period at the end of subpara-*  
21 *graph (D) and inserting “, and”, and by*  
22 *adding at the end the following new sub-*  
23 *paragraph:*

24 “(E) *the statement required by subsection*  
25 *(d) of section 6050U (relating to returns relating*

1           to applicable insurance contracts in which cer-  
2           tain exempt organizations hold interests.”.

3           (B) *INTENTIONAL DISREGARD.*—Section  
4           6721(e)(2) is amended by striking “or” at the  
5           end of subparagraph (B), by striking “and” at  
6           the end of subparagraph (C) and inserting “or”,  
7           and by adding at the end the following new sub-  
8           paragraph:

9           “(D) in the case of a return required to be  
10          filed under section 6050U, the amount of tax im-  
11          posed under section 4966 which has not been  
12          paid with respect to items required to be in-  
13          cluded on the return, and”.

14          (3) *CONFORMING AMENDMENT.*—The table of sec-  
15          tions for subpart B of part III of subchapter A of  
16          chapter 61 is amended by adding at the end the fol-  
17          lowing new item:

          “Sec. 6050U. Returns relating to applicable insurance contracts in which certain  
          exempt organizations hold interests.”.

18          (c) *EFFECTIVE DATE.*—

19               (1) *IN GENERAL.*—The amendments made by  
20               this section shall apply to contracts issued after May  
21               3, 2005.

22               (2) *REPORTING OF EXISTING CONTRACTS.*—In  
23               the case of any life insurance, annuity, or endowment  
24               contract—

1           (A) which was issued on or before May 3,  
2           2005,

3           (B) with respect to which an applicable ex-  
4           empt organization (as defined in section 4966 of  
5           the Internal Revenue Code of 1986, as added by  
6           this section) holds an interest on May 3, 2005,  
7           and

8           (C) which would be treated as an applicable  
9           insurance contract (as so defined) if issued after  
10          May 3, 2005,

11          such organization shall, not later than the date which  
12          is 1 year after the date of the enactment of this Act,  
13          report to the Secretary of the Treasury with respect  
14          to such contract. Such report shall be in such form  
15          and manner, and contain such information, as the  
16          Secretary may prescribe. The Secretary shall submit  
17          such reports, along with any recommendations for leg-  
18          islation as the Secretary considers appropriate, to the  
19          Committee on Ways and Means of the House of Rep-  
20          resentatives and to the Committee on Finance of the  
21          Senate within 6 months of the date such reports are  
22          required to be filed.



1 **SEC. 213. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC**  
2 **CHARITIES, SOCIAL WELFARE ORGANIZA-**  
3 **TIONS, AND PRIVATE FOUNDATIONS.**

4 (a) *TAXES ON SELF-DEALING AND EXCESS BENEFIT*  
5 *TRANSACTIONS.*—

6 (1) *IN GENERAL.*—Section 4941(a) (relating to  
7 *initial taxes*) is amended—

8 (A) in paragraph (1), by striking “5 per-  
9 cent” and inserting “10 percent”, and

10 (B) in paragraph (2), by striking “2<sup>1</sup>/<sub>2</sub> per-  
11 cent” and inserting “5 percent”.

12 (2) *INCREASE IN TAX IF SELF-DEALING IN-*  
13 *CLUDES COMPENSATION TO DISQUALIFIED PERSON.*—  
14 Section 4941(a)(1) is amended by adding at the end  
15 the following new sentence: “If the act of self-dealing  
16 includes acts described in subsection (d)(1)(D), ‘25  
17 percent’ shall be substituted for ‘10 percent’, except  
18 that the Secretary may abate under section 4962 (de-  
19 termined without regard to the exception under sub-  
20 section (b) thereof) not more than 15 percentage  
21 points of such tax.”.

22 (3) *INCREASED LIMITATION FOR MANAGERS ON*  
23 *SELF-DEALING.*—Section 4941(c)(2) is amended by  
24 striking “\$10,000” each place it appears in the text  
25 and heading thereof and inserting “\$20,000”.

1           (4) *INCREASED LIMITATION FOR MANAGERS ON*  
2           *EXCESS BENEFIT TRANSACTIONS.*—Section 4958(d)(2)  
3           is amended by striking “\$10,000” and inserting  
4           “\$20,000”.

5           (b) *TAXES ON FAILURE TO DISTRIBUTE INCOME.*—  
6           Section 4942(a) (relating to initial tax) is amended by  
7           striking “15 percent” and inserting “30 percent”.

8           (c) *TAXES ON EXCESS BUSINESS HOLDINGS.*—Section  
9           4943(a)(1) (relating to imposition) is amended by striking  
10          “5 percent” and inserting “10 percent”.

11          (d) *TAXES ON INVESTMENTS WHICH JEOPARDIZE*  
12          *CHARITABLE PURPOSE.*—

13                 (1) *IN GENERAL.*—Section 4944(a) (relating to  
14                 initial taxes) is amended by striking “5 percent” both  
15                 places it appears and inserting “10 percent”.

16                 (2) *INCREASED LIMITATION FOR MANAGERS.*—  
17                 Section 4944(d)(2) is amended—

18                         (A) by striking “\$5,000,” and inserting  
19                         “\$10,000,” and

20                         (B) by striking “\$10,000.” and inserting  
21                         “\$20,000.”.

22          (e) *TAXES ON TAXABLE EXPENDITURES.*—

23                 (1) *IN GENERAL.*—Section 4945(a) (relating to  
24                 initial taxes) is amended—

1           (A) in paragraph (1), by striking “10 per-  
2 cent” and inserting “20 percent”, and

3           (B) in paragraph (2), by striking “2<sup>1</sup>/<sub>2</sub> per-  
4 cent” and inserting “5 percent”.

5           (2) *INCREASED LIMITATION FOR MANAGERS.*—  
6 Section 4945(c)(2) is amended—

7           (A) by striking “\$5,000,” and inserting  
8 “\$10,000,” and

9           (B) by striking “\$10,000.” and inserting  
10 “\$20,000.”

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

14 **SEC. 214. REFORM OF CHARITABLE CONTRIBUTIONS OF**  
15 **CERTAIN EASEMENTS ON BUILDINGS IN REG-**  
16 **ISTERED HISTORIC DISTRICTS.**

17          (a) *SPECIAL RULES WITH RESPECT TO BUILDINGS IN*  
18 *REGISTERED HISTORIC DISTRICTS.*—

19           (1) *IN GENERAL.*—*Paragraph (4) of section*  
20 *170(h) (relating to definition of conservation purpose)*  
21 *is amended by redesignating subparagraph (B) as*  
22 *subparagraph (C) and by inserting after subpara-*  
23 *graph (A) the following new subparagraph:*

24           “(B) *SPECIAL RULES WITH RESPECT TO*  
25 *BUILDINGS IN REGISTERED HISTORIC DIS-*

1           *TRICTS.—In the case of any contribution of a*  
2           *qualified real property interest which is a re-*  
3           *striction with respect to the exterior of a build-*  
4           *ing described in subparagraph (C)(ii), such con-*  
5           *tribution shall not be considered to be exclusively*  
6           *for conservation purposes unless—*

7                     *“(i) such interest—*

8                             *“(I) includes a restriction which*  
9                             *preserves the entire exterior of the*  
10                            *building (including the front, sides,*  
11                            *rear, and height of the building), and*

12                            *“(II) prohibits any change in the*  
13                            *exterior of the building which is incon-*  
14                            *sistent with the historical character of*  
15                            *such exterior,*

16                            *“(ii) the donor and donee enter into a*  
17                            *written agreement certifying, under penalty*  
18                            *of perjury, that the donee—*

19                            *“(I) is a qualified organization*  
20                            *(as defined in paragraph (3)) with a*  
21                            *purpose of environmental protection,*  
22                            *land conservation, open space preserva-*  
23                            *tion, or historic preservation, and*

1                   “(II) has the resources to manage  
2                   and enforce the restriction and a com-  
3                   mitment to do so, and

4                   “(iii) in the case of any contribution  
5                   made in a taxable year beginning after the  
6                   date of the enactment of this subparagraph,  
7                   the taxpayer includes with the taxpayer’s  
8                   return for the taxable year of the  
9                   contribution—

10                   “(I) a qualified appraisal (within  
11                   the meaning of subsection (f)(11)(E))  
12                   of the qualified property interest,

13                   “(II) photographs of the entire ex-  
14                   terior of the building, and

15                   “(III) a description of all restric-  
16                   tions on the development of the build-  
17                   ing.”.

18                   (b) *DISALLOWANCE OF DEDUCTION FOR STRUCTURES*  
19 *AND LAND IN REGISTERED HISTORIC DISTRICTS.*—Sub-  
20 *paragraph (C) of section 170(h)(4), as redesignated by sub-*  
21 *section (a), is amended—*

22                   (1) by striking “any building, structure, or land  
23                   area which”,

24                   (2) by inserting “any building, structure, or  
25                   land area which” before “is listed” in clause (i), and

1           (3) by inserting “any building which” before “is  
2           located” in clause (ii).

3           (c) *FILING FEE FOR CERTAIN CONTRIBUTIONS.*—Sub-  
4           section (f) of section 170 (relating to disallowance of deduc-  
5           tion in certain cases and special rules) is amended by in-  
6           serting at the end the following new paragraph:

7           “(13) *CONTRIBUTIONS OF CERTAIN INTERESTS*  
8           *IN BUILDINGS LOCATED IN REGISTERED HISTORIC*  
9           *DISTRICTS.*—

10           “(A) *IN GENERAL.*—No deduction shall be  
11           allowed with respect to any contribution de-  
12           scribed in subparagraph (B) unless the taxpayer  
13           includes with the return for the taxable year of  
14           the contribution a \$500 filing fee.

15           “(B) *CONTRIBUTION DESCRIBED.*—A con-  
16           tribution is described in this subparagraph if  
17           such contribution is a qualified conservation  
18           contribution (as defined in subsection (h)) which  
19           is a restriction with respect to the exterior of a  
20           building described in subsection (h)(4)(C)(ii)  
21           and for which a deduction is claimed in excess  
22           of the greater of—

23           “(i) 3 percent of the fair market value  
24           of the building (determined immediately be-  
25           fore such contribution), or

1                   “(ii) \$10,000.

2                   “(C) *DEDICATION OF FEE.*—Any fee col-  
3                   lected under this paragraph shall be used for the  
4                   enforcement of the provisions of subsection (h).”.

5                   (d) *EFFECTIVE DATE.*—

6                   (1) *SPECIAL RULES FOR BUILDINGS IN REG-*  
7                   *ISTERED HISTORIC DISTRICTS.*—The amendments  
8                   made by subsection (a) shall apply to contributions  
9                   made after November 15, 2005.

10                  (2) *DISALLOWANCE OF DEDUCTION FOR STRUC-*  
11                  *TURES AND LAND.*—The amendments made by sub-  
12                  section (b) shall apply to contributions made after the  
13                  date of the enactment of this Act.

14                  (3) *FILING FEE.*—The amendment made by sub-  
15                  section (c) shall apply to contributions made 180  
16                  days after the date of the enactment of this Act.

17 **SEC. 215. CHARITABLE CONTRIBUTIONS OF TAXIDERMY**  
18 **PROPERTY.**

19                  (a) *IN GENERAL.*—Subsection (f) of section 170, as  
20                  amended by this Act, is amended by adding at the end the  
21                  following new paragraph:

22                         “(14) *CONTRIBUTIONS OF TAXIDERMY PROP-*  
23                         *ERTY.*—

24                                 “(A) *CONTRIBUTIONS OF MORE THAN*  
25                                 *\$500.*—In the case of any contribution of taxi-

1            *dermy property for which a deduction of more*  
2            *than \$500 is claimed, no deduction shall be al-*  
3            *lowed under subsection (a) unless the donor in-*  
4            *cludes with the return for the taxable year in*  
5            *which the contribution is made a photograph of*  
6            *the taxidermy property and data with respect to*  
7            *the sales prices of similar taxidermy property.*

8            *“(B) CONTRIBUTIONS OF MORE THAN*  
9            *\$5,000.—In the case of any contribution of taxi-*  
10           *dermy property for which a deduction of more*  
11           *than \$5,000 is claimed, no deduction shall be al-*  
12           *lowed under subsection (a) unless the donor—*

13                    *“(i) notifies the Internal Revenue Serv-*  
14                    *ice of such deduction, and*

15                    *“(ii) includes with the return for the*  
16                    *taxable year in which the contribution is*  
17                    *made—*

18                            *“(I) a statement of value from the*  
19                            *Internal Revenue Service, or*

20                            *“(II) a request for a statement of*  
21                            *value from the Internal Revenue Serv-*  
22                            *ice and a \$500 fee.*

23            *“(C) TAXIDERMY PROPERTY.—For purposes*  
24            *of this section, the term ‘taxidermy property’*



1           *means a mounted work of art which contains*  
2           *any part of a dead animal.”.*

3           **(b) EFFECTIVE DATE.**—*The amendment made by this*  
4 *section shall apply to contributions made after November*  
5 *15, 2005.*

6 **SEC. 216. RECAPTURE OF TAX BENEFIT FOR CHARITABLE**  
7 **CONTRIBUTIONS OF EXEMPT USE PROPERTY**  
8 **NOT USED FOR AN EXEMPT USE.**

9           **(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES**  
10 **OF EXEMPT USE PROPERTY.**—

11           **(1) IN GENERAL.**—*Clause (i) of section*  
12 *170(e)(1)(B) (related to certain contributions of ordi-*  
13 *nary income and capital gain property) is amended*  
14 *to read as follows:*

15                           *“(i) of tangible personal property—*

16   *“(I) if the use by the donee is un-*  
17 *related to the purpose or function con-*  
18 *stituting the basis for its exemption*  
19 *under section 501 (or, in the case of a*  
20 *governmental unit, to any purpose or*  
21 *function described in subsection (c)), or*

22   *“(II) which is applicable property*  
23 *(as defined in paragraph (8)(C)) which*  
24 *is sold, exchanged, or otherwise dis-*  
25 *posed of by the donee before the last*

1                    *day of the taxable year in which the*  
 2                    *contribution was made and with re-*  
 3                    *spect to which the donee has not made*  
 4                    *a certification in accordance with*  
 5                    *paragraph (8)(D),”.*

6                    *(2) DISPOSITIONS AFTER CLOSE OF TAXABLE*  
 7                    *YEAR.—Section 170(e), as amended by this Act, is*  
 8                    *amended by adding at the end the following new*  
 9                    *paragraph:*

10                    *“(8) RECAPTURE OF DEDUCTION ON CERTAIN*  
 11                    *DISPOSITIONS OF EXEMPT USE PROPERTY.—*

12                    *“(A) IN GENERAL.—In the case of an appli-*  
 13                    *cable disposition of applicable property, there*  
 14                    *shall be included in the income of the donor of*  
 15                    *such property for the taxable year of such donor*  
 16                    *in which the applicable disposition occurs an*  
 17                    *amount equal to the excess (if any) of—*

18                    *“(i) the amount of the deduction al-*  
 19                    *lowed to the donor under this section with*  
 20                    *respect to such property, over*

21                    *“(ii) the donor’s basis in such property*  
 22                    *at the time such property was contributed.*

23                    *“(B) APPLICABLE DISPOSITION.—For pur-*  
 24                    *poses of this paragraph, the term ‘applicable dis-*

1            *position’ means any sale, exchange, or other dis-*  
2            *position by the donee of applicable property—*

3                    *“(i) after the last day of the taxable*  
4                    *year of the donor in which such property*  
5                    *was contributed, and*

6                    *“(ii) before the last day of the 3-year*  
7                    *period beginning on the date of the con-*  
8                    *tribution of such property,*

9            *unless the donee makes a certification in accord-*  
10           *ance with subparagraph (D).*

11                    *“(C) APPLICABLE PROPERTY.—For pur-*  
12                    *poses of this paragraph, the term ‘applicable*  
13                    *property’ means charitable deduction property*  
14                    *(as defined in section 6050L(a)(2)(A))—*

15                    *“(i) which is tangible personal prop-*  
16                    *erty the use of which is identified by the*  
17                    *donee as related to the purpose or function*  
18                    *constituting the basis of the donee’s exemp-*  
19                    *tion under section 501, and*

20                    *“(ii) for which a deduction in excess of*  
21                    *the donor’s basis is allowed.*

22                    *“(D) CERTIFICATION.—A certification meets*  
23                    *the requirements of this subparagraph if it is a*  
24                    *written statement which is signed under penalty*

1           *of perjury by an officer of the donee organization*  
2           *and—*

3                   “(i) *which—*

4                           “(I) *certifies that the use of the*  
5                           *property by the donee was related to*  
6                           *the purpose or function constituting*  
7                           *the basis for the donee’s exemption*  
8                           *under section 501, and*

9                           “(II) *describes how the property*  
10                           *was used and how such use furthered*  
11                           *such purpose or function, or*

12                           “(ii) *which—*

13                           “(I) *states the intended use of the*  
14                           *property by the donee at the time of*  
15                           *the contribution, and*

16                           “(II) *certifies that such intended*  
17                           *use has become impossible or infeasible*  
18                           *to implement.”.*

19           (b) *REPORTING REQUIREMENTS.—Paragraph (1) of*  
20           *section 6050L(a) (relating to returns relating to certain dis-*  
21           *positions of donated property) is amended—*

22                   (1) *by striking “2 years” and inserting “3*  
23                   *years”, and*

24                   (2) *by striking “and” at the end of subpara-*  
25                   *graph (D), by striking the period at the end of sub-*

1 paragraph (E) and inserting a comma, and by in-  
 2 serting at the end the following:

3 “(F) a description of the donee’s use of the  
 4 property, and

5 “(G) a statement indicating whether the use  
 6 of the property was related to the purpose or  
 7 function constituting the basis for the donee’s ex-  
 8 emption under section 501.

9 *In any case in which the donee indicates that the use*  
 10 *of applicable property (as defined in section*  
 11 *170(e)(1)(C)) was related to the purpose or function*  
 12 *constituting the basis for the exemption of the donee*  
 13 *under section 501 under subparagraph (G), the donee*  
 14 *shall include with the return the certification de-*  
 15 *scribed in section 170(e)(8)(D) if such certification is*  
 16 *required under section 170(e)(8).”.*

17 (c) *PENALTY.*—

18 (1) *IN GENERAL.*—*Part I of subchapter B of*  
 19 *chapter 68 (relating to assessable penalties), as*  
 20 *amended by this Act, is amended by inserting after*  
 21 *section 6720B the following new section:*

22 **“SEC. 6720C. FRAUDULENT IDENTIFICATION OF EXEMPT**  
 23 **USE PROPERTY.**

24 “*In addition to any criminal penalty provided by law,*  
 25 *any person who identifies applicable property (as defined*

1 *in section 170(e)(8)(C)) as having a use which is related*  
 2 *to a purpose or function constituting the basis for the*  
 3 *donee's exemption under section 501 and who knows that*  
 4 *such property is not intended for such a use shall pay a*  
 5 *penalty of \$10,000.”.*

6 (2) *CLERICAL AMENDMENT.—The table of sec-*  
 7 *tions for part I of subchapter B of chapter 68, as*  
 8 *amended by this Act, is amended by adding after the*  
 9 *item relating to section 6720B the following new item:*

*“Sec. 6720C. Fraudulent identification of exempt use property.”.*

10 (d) *EFFECTIVE DATE.—*

11 (1) *RECAPTURE.—The amendments made by*  
 12 *subsection (a) shall apply to contributions after June*  
 13 *1, 2006.*

14 (2) *REPORTING.—The amendments made by sub-*  
 15 *section (b) shall apply to returns filed after June 1,*  
 16 *2006.*

17 (3) *PENALTY.—The amendments made by sub-*  
 18 *section (c) shall apply to identifications made after*  
 19 *the date of the enactment of this Act.*

20 **SEC. 217. LIMITATION OF DEDUCTION FOR CHARITABLE**  
 21 **CONTRIBUTIONS OF CLOTHING AND HOUSE-**  
 22 **HOLD ITEMS.**

23 (a) *IN GENERAL.—Subsection (f) of section 170, as*  
 24 *amended by this Act, is amended by adding at the end the*  
 25 *following new paragraph:*

1           “(15) CONTRIBUTIONS OF CLOTHING AND  
2           HOUSEHOLD ITEMS.—

3           “(A) *IN GENERAL.*—*In the case of an indi-*  
4           *vidual, partnership, or S corporation, the deduc-*  
5           *tion allowed under subsection (a) for any con-*  
6           *tribution of clothing or household items with re-*  
7           *spect to which the donor has not obtained a*  
8           *qualified appraisal shall be—*

9           “(i) *in the case of an item which is in*  
10           *good used condition or better, no more than*  
11           *the amount assigned to such item under*  
12           *subparagraph (B) for such year,*

13           “(ii) *except as provided by clause (iii),*  
14           *in the case of an item which is not in good*  
15           *used condition or better, no more than 20*  
16           *percent of the amount assigned to such item*  
17           *under subparagraph (B) for such year, and*

18           “(iii) *in the case of an item which is*  
19           *not functional with respect to the use for*  
20           *which it was designed, zero.*

21           “(B) *ASSIGNED VALUES.*—*Each year the*  
22           *Secretary shall publish an itemized list of cloth-*  
23           *ing and household items and shall assign an*  
24           *amount with respect to each item on the list*

1           *which represents the fair market value of such*  
2           *item in good used condition.*

3           “(C) *EXCEPTION FOR ITEMS SOLD BY THE*  
4           *DONEE.*—*Subparagraph (A) shall not apply to*  
5           *any contribution of clothing or household items*  
6           *for which a deduction of more than \$500 is*  
7           *claimed if—*

8                   “(i) *the donee sells the clothing or*  
9                   *household items before the earlier of—*

10                           “(I) *the due date (including exten-*  
11                           *sions) for filing the return of tax for*  
12                           *the taxable year of the donor in which*  
13                           *the contribution was made, or*

14                           “(II) *the date on which such re-*  
15                           *turn was filed,*

16                           “(ii) *the donee reports the sales price of*  
17                           *the clothing or household items to the donor,*  
18                           *and*

19                           “(iii) *the amount claimed as a deduc-*  
20                           *tion with respect to such clothing or house-*  
21                           *hold items does not exceed the amount of the*  
22                           *sales price reported to the donor.*

23           “(D) *HOUSEHOLD ITEMS.*—*For purposes of*  
24           *this paragraph—*



1                   “(i) *IN GENERAL.*—The term ‘house-  
2                   hold items’ includes furniture, furnishings,  
3                   electronics, appliances, linens, and other  
4                   similar items.

5                   “(ii) *EXCLUDED ITEMS.*—Such term  
6                   does not include—

7                                 “(I) food,

8                                 “(II) paintings, antiques, and  
9                                 other objects of art,

10                                “(III) jewelry and gems, and

11                                “(IV) collections.

12                   “(E) *SPECIAL RULE FOR PASS-THRU ENTI-*  
13                   *TIES.*—In the case of a partnership or S cor-  
14                   poration, this paragraph shall be applied at the  
15                   entity level, except that the deduction shall be de-  
16                   nied at the partner or shareholder level.”.

17                   (b) *SUBSTANTIATION.*—

18                               (1) *ITEMS OF \$250 OR MORE.*—Subparagraph  
19                   (B) of section 170(f)(8) is amended by inserting after  
20                   clause (iii) the following new clause:

21                                “(iv) In the case of a contribution con-  
22                                sisting of clothing or household items, the  
23                                number of items contributed, an indication  
24                                of the condition of each item, a description  
25                                of the type of item contributed, and a copy

1           of the list published under paragraph  
2           (15)(B) or an instruction on how to obtain  
3           such list.”.

4           (2) *ITEMS OF \$500 OR MORE.*—Subparagraph  
5           (B) of section 170(f)(11) is amended by inserting “,  
6           the information contained in the acknowledgment re-  
7           quired under paragraph (8) in the case of any con-  
8           tribution of clothing or household items,” after “a de-  
9           scription of such property”.

10          (c) *EFFECTIVE DATE.*—The amendments made by this  
11         section shall apply to contributions made after December  
12         31, 2006.

13         **SEC. 218. MODIFICATION OF RECORDKEEPING REQUIRE-**  
14                 **MENTS FOR CERTAIN CHARITABLE CON-**  
15                 **TRIBUTIONS.**

16          (a) *RECORDKEEPING REQUIREMENT.*—Subsection (f)  
17         of section 170, as amended by this Act, is amended by add-  
18         ing at the end the following new paragraph:

19                 “(16) *RECORDKEEPING.*—No deduction shall be  
20                 allowed under subsection (a) for any contribution of  
21                 a cash, check, or other monetary gift unless the donor  
22                 maintains as a record of such contribution—

23                         “(A) a cancelled check, or

24                         “(B) a receipt or a letter or other written  
25                 communication from the donee showing the name

1           *of the donee organization, the date of the con-*  
 2           *tribution, and the amount of the contribution.”.*

3           **(b) EFFECTIVE DATE.**—*The amendment made by this*  
 4 *section shall apply to contributions made in taxable years*  
 5 *beginning after the date of the enactment of this Act.*

6   **SEC. 219. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN**  
 7           **TANGIBLE PERSONAL PROPERTY.**

8           **(a) INCOME TAX.**—*Section 170 (relating to charitable,*  
 9 *etc., contributions and gifts), as amended by this Act, is*  
 10 *amended by redesignating subsection (p) as subsection (q)*  
 11 *and by inserting after subsection (o) the following new sub-*  
 12 *section:*

13           **“(p) SPECIAL RULES FOR FRACTIONAL GIFTS.**—

14           **“(1) VALUATION OF SUBSEQUENT GIFTS.**—

15           **“(A) IN GENERAL.**—*In the case of any ad-*  
 16 *ditional contribution, the fair market value of*  
 17 *such contribution shall be determined by using*  
 18 *the lesser of—*

19                   **“(i) the fair market value of the prop-**  
 20                   **erty at the time of the initial fractional**  
 21                   **contribution, or**

22                   **“(ii) the fair market value of the prop-**  
 23                   **erty at the time of the additional contribu-**  
 24                   **tion.**

1           “(B) *DEFINITIONS.*—*For purposes of this*  
2           *paragraph—*

3                   “(i) *ADDITIONAL CONTRIBUTION.*—*The*  
4                   *term ‘additional contribution’ means any*  
5                   *charitable contribution by the taxpayer of*  
6                   *any interest in property with respect to*  
7                   *which the taxpayer has previously made an*  
8                   *initial fractional contribution.*

9                   “(ii) *INITIAL FRACTIONAL CONTRIBU-*  
10                   *TION.*—*The term ‘initial fractional con-*  
11                   *tribution’ means, with respect to any tax-*  
12                   *payer, the first charitable contribution of an*  
13                   *undivided portion of the taxpayer’s entire*  
14                   *interest in any tangible personal property.*

15           “(2) *RECAPTURE OF DEDUCTION IN CERTAIN*  
16           *CASES.*—

17                   “(A) *IN GENERAL.*—*The Secretary shall*  
18                   *provide for the recapture of an amount equal to*  
19                   *the amount of any deduction allowed under this*  
20                   *section (plus interest) with respect to any con-*  
21                   *tribution of an undivided interest of a taxpayer’s*  
22                   *entire interest in property in any case where*  
23                   *such property is not in the physical possession of*  
24                   *the donee during any applicable period for a pe-*

1           *riod of time which bears substantially the same*  
2           *ratio to 1 year as—*

3                     “(i) *the percentage of the undivided in-*  
4                     *terest of the donee in the property (deter-*  
5                     *mined on the day after such contribution*  
6                     *was made), bears to*

7                     “(ii) *100 percent.*

8                     “(B) *APPLICABLE PERIOD.—For purposes*  
9                     *of subparagraph (A), the term ‘applicable period’*  
10                    *means any 1-year period which begins on—*

11                    “(i) *in the year of the contribution, the*  
12                    *date of the contribution, and*

13                    “(ii) *in any subsequent calendar year,*  
14                    *the date which corresponds to the date de-*  
15                    *scribed in clause (i).*

16                    “(C) *ANTI-ABUSE RULES.—The Secretary*  
17                    *shall prescribe such regulations as necessary to*  
18                    *prevent the avoidance of the purposes of this*  
19                    *paragraph through the transfer of any such un-*  
20                    *divided interest to a third party controlled by*  
21                    *the taxpayer.”.*

22            (b) *ESTATE TAX.—Section 2055 (relating to transfers*  
23            *for public, charitable, and religious uses) is amended by re-*  
24            *designating subsection (g) as subsection (h) and by insert-*  
25            *ing after subsection (f) the following new subsection:*

1       “(g) *VALUATION OF SUBSEQUENT GIFTS.*—

2               “(1) *IN GENERAL.*—*In the case of any additional*  
3 *contribution, the fair market value of such contribu-*  
4 *tion shall be determined by using the lesser of—*

5                       “(A) *the fair market value of the property*  
6 *at the time of the initial fractional contribution,*  
7 *or*

8                       “(B) *the fair market value of the property*  
9 *at the time of the additional contribution.*

10               “(2) *DEFINITIONS.*—*For purposes of this*  
11 *paragraph—*

12                       “(A) *ADDITIONAL CONTRIBUTION.*—*The*  
13 *term ‘additional contribution’ means a bequest,*  
14 *legacy, devise, or transfer described in subsection*  
15 *(a) of any interest in a property with respect to*  
16 *which the decedent had previously made an ini-*  
17 *tial fractional contribution.*

18                       “(B) *INITIAL FRACTIONAL CONTRIBUTION.*—  
19 *The term ‘initial fractional contribution’ means,*  
20 *with respect to any decedent, any charitable con-*  
21 *tribution of an undivided portion of the dece-*  
22 *dent’s entire interest in any tangible personal*  
23 *property for which a deduction was allowed*  
24 *under section 170.”.*

1       (c) *GIFT TAX.*—Section 2522 (relating to charitable  
2 and similar gifts) is amended by redesignating subsection  
3 (e) as subsection (f) and by inserting after subsection (d)  
4 the following new subsection:

5       “(e) *SPECIAL RULES FOR FRACTIONAL GIFTS.*—

6           “(1) *VALUATION OF SUBSEQUENT GIFTS.*—

7                   “(A) *IN GENERAL.*—In the case of any ad-  
8 ditional contribution, the fair market value of  
9 such contribution shall be determined by using  
10 the lesser of—

11                           “(i) the fair market value of the prop-  
12 erty at the time of the initial fractional  
13 contribution, or

14                           “(ii) the fair market value of the prop-  
15 erty at the time of the additional contribu-  
16 tion.

17           “(B) *DEFINITIONS.*—For purposes of this  
18 paragraph—

19                   “(i) *ADDITIONAL CONTRIBUTION.*—The  
20 term ‘additional contribution’ means any  
21 gift for which a deduction is allowed under  
22 subsection (a) or (b) of any interest in a  
23 property with respect to which the donor  
24 has previously made an initial fractional  
25 contribution.

1                   “(i) *INITIAL FRACTIONAL CONTRIBU-*  
2                   *TION.—The term ‘initial fractional con-*  
3                   *tribution’ means, with respect to any donor,*  
4                   *the first gift of an undivided portion of the*  
5                   *donor’s entire interest in any tangible per-*  
6                   *sonal property for which a deduction is al-*  
7                   *lowed under subsection (a) or (b).*

8                   “(2) *RECAPTURE OF DEDUCTION IN CERTAIN*  
9                   *CASES.—*

10                   “(A) *IN GENERAL.—The Secretary shall*  
11                   *provide for the recapture of an amount equal to*  
12                   *the amount of any deduction allowed under this*  
13                   *section (plus interest) with respect to any con-*  
14                   *tribution of an undivided interest of a donor’s*  
15                   *entire interest in property in any case where*  
16                   *such property is not in the physical possession of*  
17                   *the donee during any applicable period for a pe-*  
18                   *riod of time which bears substantially the same*  
19                   *ratio to 1 year as—*

20                   “(i) *the percentage of the undivided in-*  
21                   *terest of the donee in the property (deter-*  
22                   *mined on the day after such contribution*  
23                   *was made), bears to*

24                   “(ii) *100 percent.*



1           “(B) *APPLICABLE PERIOD.*—For purposes  
2 of subparagraph (A), the term ‘applicable period’  
3 means any 1-year period which begins on—

4                   “(i) in the year of the contribution, the  
5 date of the contribution, and

6                   “(ii) in any subsequent calendar year,  
7 the date which corresponds to the date de-  
8 scribed in clause (i).

9           “(C) *ANTI-ABUSE RULES.*—The Secretary  
10 shall prescribe such regulations as necessary to  
11 prevent the avoidance of the purposes of this  
12 paragraph though the transfer of any such undi-  
13 vided interest to a third party controlled by the  
14 donor.”.

15       (d) *EFFECTIVE DATE.*—The amendments made by this  
16 section shall apply to contributions, bequests, and gifts  
17 made after the date of the enactment of this Act.

18 **SEC. 220. PROVISIONS RELATING TO SUBSTANTIAL AND**  
19 **GROSS OVERSTATEMENTS OF VALUATIONS**  
20 **OF CHARITABLE DEDUCTION PROPERTY.**

21       (a) *SUBSTANTIAL AND GROSS OVERSTATEMENTS OF*  
22 *VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.*—

23           (1) *IN GENERAL.*—Section 6662 (relating to im-  
24 position of accuracy-related penalties) is amended by  
25 adding at the end the following new subsection:

1       “(i) *SPECIAL RULES FOR CHARITABLE DEDUCTION*  
2 *PROPERTY.*—*In the case of charitable deduction property*  
3 *(as defined in section 6664(c)(3)(A))—*

4               “(1) *the determination under subsection*  
5 *(e)(1)(A) as to whether there is a substantial valu-*  
6 *ation misstatement under chapter 1 with respect to*  
7 *the value of the property shall be made by sub-*  
8 *stituting ‘150 percent’ for ‘200 percent’, and*

9               “(2) *the determination under subsection*  
10 *(h)(2)(A)(i) as to whether there is a gross valuation*  
11 *misstatement with respect to the value of the property*  
12 *shall be made by substituting ‘200 percent’ for ‘400*  
13 *percent’ and by substituting ‘150 percent’ for ‘200*  
14 *percent’ in applying subsection (e)(1)(A) for purposes*  
15 *of such determination.”.*

16               “(2) *ELIMINATION OF REASONABLE CAUSE EXCEP-*  
17 *TION FOR GROSS MISSTATEMENTS.*—*Section*  
18 *6664(c)(2) (relating to reasonable cause exception for*  
19 *underpayments) is amended by striking “paragraph*  
20 *(1) shall not apply unless” and inserting “paragraph*  
21 *(1) shall not apply. The preceding sentence shall not*  
22 *apply to a substantial valuation overstatement under*  
23 *chapter 1 if”.*

1       (b) *PENALTY ON APPRAISERS WHOSE APPRAISALS*  
 2 *RESULT IN SUBSTANTIAL OR GROSS VALUATION*  
 3 *MISSTATEMENTS.*—

4           (1) *IN GENERAL.*—*Part I of subchapter B of*  
 5 *chapter 68 (relating to assessable penalties) is amend-*  
 6 *ed by inserting after section 6695 the following new*  
 7 *section:*

8 **“SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION**  
 9 **MISSTATEMENTS ATTRIBUTABLE TO INCOR-**  
 10 **RECT APPRAISALS.**

11       “(a) *IMPOSITION OF PENALTY.*—*If—*

12           “(1) *a person prepares an appraisal of the value*  
 13 *of property and such person knows, or reasonably*  
 14 *should have known, that the appraisal would be used*  
 15 *in connection with a return or a claim for refund,*  
 16 *and*

17           “(2) *the claimed value of the property on a re-*  
 18 *turn or claim for refund which is based on such ap-*  
 19 *praisal results in a substantial valuation*  
 20 *misstatement under chapter 1 (within the meaning of*  
 21 *section 6662(e)), or a gross valuation misstatement*  
 22 *(within the meaning of section 6662(h)), with respect*  
 23 *to such property,*

24 *then such person shall pay a penalty in the amount deter-*  
 25 *mined under subsection (b).*

1       “(b) *AMOUNT OF PENALTY.*—*The amount of the pen-*  
2 *alty imposed under subsection (a) on any person with re-*  
3 *spect to an appraisal shall be equal to the lesser of—*

4               “(1) *the greater of—*

5                       “(A) *10 percent of the amount of the under-*  
6 *payment (as defined in section 6664(a)) attrib-*  
7 *utable to the misstatement described in sub-*  
8 *section (a)(2), or*

9                       “(B) *\$1,000, or*

10                      “(2) *125 percent of the gross income received by*  
11 *the person described in subsection (a)(1) from the*  
12 *preparation of the appraisal.*

13       “(c) *EXCEPTION.*—*No penalty shall be imposed under*  
14 *subsection (a) if the person establishes to the satisfaction*  
15 *of the Secretary that the value established in the appraisal*  
16 *was more likely than not the proper value.”.*

17               (2) *RULES APPLICABLE TO PENALTY.*—*Section*  
18 *6696 (relating to rules applicable with respect to sec-*  
19 *tions 6694 and 6695) is amended—*

20                      (A) *by striking “6694 and 6695” each place*  
21 *it appears in the text and heading thereof and*  
22 *inserting “6694, 6695, and 6695A”, and*

23                      (B) *by striking “6694 or 6695” each place*  
24 *it appears in the text and inserting “6694, 6695,*  
25 *or 6695A”.*

1           (3) *CONFORMING AMENDMENT.*—*The table of sec-*  
 2           *tions for part I of subchapter B of chapter 68 is*  
 3           *amended by striking the item relating to section 6696*  
 4           *and inserting the following new items:*

“*Sec. 6695A. Substantial and gross valuation misstatements attributable to incor-*  
*rect appraisals.*”

“*Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.*”.

5           (c) *QUALIFIED APPRAISERS AND APPRAISALS.*—

6           (1) *IN GENERAL.*—*Subparagraph (E) of section*  
 7           *170(f)(11) is amended to read as follows:*

8                   “(E) *QUALIFIED APPRAISAL AND AP-*  
 9                   *PRAISER.*—*For purposes of this paragraph—*

10                           “(i) *QUALIFIED APPRAISAL.*—*The term*  
 11                           *‘qualified appraisal’ means, with respect to*  
 12                           *any property, an appraisal of such prop-*  
 13                           *erty which—*

14                                   “(I) *is treated for purposes of this*  
 15                                   *paragraph as a qualified appraisal*  
 16                                   *under regulations or other guidance*  
 17                                   *prescribed by the Secretary, and*

18   “(II) *is conducted by a qualified*  
 19   *appraiser in accordance with generally*  
 20   *accepted appraisal standards and any*  
 21   *regulations or other guidance pre-*  
 22   *scribed under subclause (I).*

1           “(ii) *QUALIFIED APPRAISER.*—*Except*  
2           *as provided in clause (iii), the term ‘quali-*  
3           *fied appraiser’ means an individual who—*

4                     “(I) *has earned an appraisal des-*  
5                     *ignation from a recognized professional*  
6                     *appraiser organization or has other-*  
7                     *wise met minimum education and ex-*  
8                     *perience requirements set forth in regu-*  
9                     *lations prescribed by the Secretary,*

10                    “(II) *regularly performs apprais-*  
11                    *als for which the individual receives*  
12                    *compensation, and*

13                    “(III) *meets such other require-*  
14                    *ments as may be prescribed by the Sec-*  
15                    *retary in regulations or other guid-*  
16                    *ance.*

17           “(iii) *SPECIFIC APPRAISALS.*—*An in-*  
18           *dividual shall not be treated as a qualified*  
19           *appraiser with respect to any specific ap-*  
20           *praisal unless—*

21                    “(I) *the individual demonstrates*  
22                    *verifiable education and experience in*  
23                    *valuing the type of property subject to*  
24                    *the appraisal, and*

1                   “(II) the individual has not been  
2                   prohibited from practicing before the  
3                   Internal Revenue Service by the Sec-  
4                   retary under section 330(c) of title 31,  
5                   United States Code, at any time dur-  
6                   ing the 3-year period ending on the  
7                   date of the appraisal.”.

8                   (2) *REASONABLE CAUSE EXCEPTION.*—Subpara-  
9                   graphs (B) and (C) of section 6664(c)(3) are amended  
10                  to read as follows:

11                   “(B) *QUALIFIED APPRAISAL.*—The term  
12                   ‘qualified appraisal’ has the meaning given such  
13                   term by section 170(f)(11)(E)(i).

14                   “(C) *QUALIFIED APPRAISER.*—The term  
15                   ‘qualified appraiser’ has the meaning given such  
16                   term by section 170(f)(11)(E)(ii).”.

17                  (d) *DISCIPLINARY ACTIONS AGAINST APPRAISERS.*—  
18                  Section 330(c) of title 31, United States Code, is amended  
19                  by striking “with respect to whom a penalty has been as-  
20                  sessed under section 6701(a) of the Internal Revenue Code  
21                  of 1986”.

22                  (e) *EFFECTIVE DATES.*—

23                   (1) *MISSTATEMENT PENALTIES.*—Except as pro-  
24                   vided in paragraph (3), the amendments made by

1 subsection (a) shall apply to returns filed after the  
2 date of the enactment of this Act.

3 (2) *APPRAISER PROVISIONS.*—*Except as pro-*  
4 *vided in paragraph (3), the amendments made by*  
5 *subsections (b), (c), and (d) shall apply to appraisals*  
6 *prepared with respect to returns or submissions filed*  
7 *after the date of the enactment of this Act.*

8 (3) *SPECIAL RULE FOR CERTAIN EASEMENTS.*—  
9 *In the case of a contribution of a qualified real prop-*  
10 *erty interest which is a restriction with respect to the*  
11 *exterior of a building described in section*  
12 *170(h)(4)(C)(ii) of the Internal Revenue Code of 1986,*  
13 *and an appraisal with respect to the contribution, the*  
14 *amendments made by subsections (a) and (b) shall*  
15 *apply to returns filed after December 16, 2004.*

16 **SEC. 221. ADDITIONAL STANDARDS FOR CREDIT COUN-**  
17 **SELING ORGANIZATIONS.**

18 (a) *IN GENERAL.*—*Section 501 (relating to exemption*  
19 *from tax on corporations, certain trusts, etc.) is amended*  
20 *by redesignating subsection (q) as subsection (r) and by in-*  
21 *serting after subsection (p) the following new subsection:*

22 “(q) *SPECIAL RULES FOR CREDIT COUNSELING ORGA-*  
23 *NIZATIONS.*—

24 “(1) *IN GENERAL.*—*An organization with respect*  
25 *to which the provision of credit counseling services is*



1        *a substantial purpose shall not be exempt from tax*  
2        *under subsection (a) unless such organization is de-*  
3        *scribed in paragraph (3) or (4) of subsection (c) and*  
4        *such organization is organized and operated in ac-*  
5        *cordance with the following requirements:*

6                *“(A) The organization—*

7                        *“(i) provides credit counseling services*  
8                        *tailored to the specific needs and cir-*  
9                        *cumstances of consumers,*

10                      *“(ii) makes no loans to debtors and*  
11                      *does not negotiate the making of loans on*  
12                      *behalf of debtors, and*

13                      *“(iii) does not promote, or charge any*  
14                      *separate fee for, any service for the purpose*  
15                      *of improving any consumer’s credit record,*  
16                      *credit history, or credit rating.*

17                *“(B) The organization does not refuse to*  
18                *provide credit counseling services to a consumer*  
19                *due to the inability of the consumer to pay, the*  
20                *ineligibility of the consumer for debt manage-*  
21                *ment plan enrollment, or the unwillingness of the*  
22                *consumer to enroll in a debt management plan.*

23                *“(C) The organization establishes and im-*  
24                *plements a fee policy which—*

1           “(i) requires that any fees charged to a  
2           consumer for services are reasonable, and

3           “(ii) prohibits charging any fee based  
4           in whole or in part on a percentage of the  
5           consumer’s debt, the consumer’s payments to  
6           be made pursuant to a debt management  
7           plan, or the projected or actual savings to  
8           the consumer resulting from enrolling in a  
9           debt management plan.

10          “(D) At all times the organization has a  
11          board of directors or other governing body—

12                 “(i) which is controlled by persons who  
13                 represent the broad interests of the public,  
14                 such as public officials acting in their ca-  
15                 pacities as such, persons having special  
16                 knowledge or expertise in credit or financial  
17                 education, and community leaders,

18                 “(ii) not more than 20 percent of the  
19                 voting power of which is vested in persons  
20                 who are employed by the organization or  
21                 who will benefit financially, directly or in-  
22                 directly, from the organization’s activities  
23                 (other than through the receipt of reasonable  
24                 directors’ fees or the repayment of consumer

1           *debt to creditors other than the credit coun-*  
2           *seling organization or its affiliates), and*

3           “(iii) *not more than 49 percent of the*  
4           *voting power of which is vested in persons*  
5           *who are employed by the organization or*  
6           *who will benefit financially, directly or in-*  
7           *directly, from the organization’s activities*  
8           *(other than through the receipt of reasonable*  
9           *directors’ fees).*

10          “(E) *The organization does not own more*  
11          *than 35 percent of—*

12           “(i) *the total combined voting power of*  
13           *a corporation which is in the business of*  
14           *lending money, repairing credit, or pro-*  
15           *viding debt management plan services, pay-*  
16           *ment processing, or similar services,*

17           “(ii) *the profits interest of a partner-*  
18           *ship which is in the business of lending*  
19           *money, repairing credit, or providing debt*  
20           *management plan services, payment proc-*  
21           *essing, or similar services, and*

22           “(iii) *the beneficial interest of a trust*  
23           *or estate which is in the business of lending*  
24           *money, repairing credit, or providing debt*

1           *management plan services, payment proc-*  
2           *essing, or similar services.*

3           “(F) *The organization receives no amount*  
4           *for providing referrals to others for financial*  
5           *services (including debt management services) or*  
6           *credit counseling services to be provided to con-*  
7           *sumers, and pays no amount to others for ob-*  
8           *taining referrals of consumers.*

9           “(2) *REQUIREMENTS UNDER SUBSECTION*  
10          *(c)(3).—In addition to the requirements under para-*  
11          *graph (1), an organization with respect to which the*  
12          *provision of credit counseling services is a substantial*  
13          *purpose and which is described in paragraph (3) of*  
14          *subsection (c) shall not be exempt from tax under sub-*  
15          *section (a) unless such organization is organized and*  
16          *operated in accordance with the following require-*  
17          *ments:*

18                 “(A) *The organization—*

19                         “(i) *charges no fees (other than nomi-*  
20                         *nal fees) for debt management plan services*  
21                         *or credit counseling services and waives any*  
22                         *fees if the consumer is unable to pay such*  
23                         *fees, and*

24                         “(ii) *does not solicit contributions from*  
25                         *consumers during the initial counseling*

1           *process or while the consumer is receiving*  
2           *services from the organization.*

3           “(B) *The activities of the organization re-*  
4           *lated to debt management plan services (in the*  
5           *aggregate) do not exceed 25 percent of the total*  
6           *activities of the organization activities measured*  
7           *by any of the following:*

8                   “(i) *The time spent on activities.*

9                   “(ii) *The resources dedicated to activi-*  
10            *ties.*

11                   “(iii) *The effort expended by the orga-*  
12            *nization with respect to activities.*

13                   “(iv) *The sources of revenue of the or-*  
14            *ganization.*

15                   “(v) *Any other measures prescribed by*  
16            *the Secretary.*

17           “(3) *REQUIREMENTS UNDER SUBSECTION*  
18            *(c)(4).—In addition to the requirements under para-*  
19            *graph (1), an organization with respect to which the*  
20            *provision of credit counseling services is a substantial*  
21            *purpose and which is described in paragraph (4) of*  
22            *subsection (c) shall not be exempt from tax under sub-*  
23            *section (a) unless such organization—*

24                   “(A) *is organized and operated such that it*  
25            *charges no fees (other than nominal fees) for*

1           *credit counseling services and waives any fees if*  
2           *the consumer is unable to pay such fees, and*

3                   “(B) notifies the Secretary, in such manner  
4           *as the Secretary may by regulations prescribe,*  
5           *that it is applying for recognition as a credit*  
6           *counseling organization.*

7           “(4) *SECRETARIAL AUTHORITY.*—*The Secretary*  
8           *may require any organization described in paragraph*  
9           *(1) to submit such information as the Secretary re-*  
10          *quires to verify that such organization meets the re-*  
11          *quirements of this section.*

12                   “(5) *CREDIT COUNSELING SERVICES; DEBT MAN-*  
13          *AGEMENT PLAN SERVICES.*—*For purposes of this*  
14          *subsection—*

15                   “(A) *CREDIT COUNSELING SERVICES.*—*The*  
16          *term ‘credit counseling services’ means—*

17                           “(i) *the providing of educational infor-*  
18                           *mation to the general public on budgeting,*  
19                           *personal finance, financial literacy, saving*  
20                           *and spending practices, and the sound use*  
21                           *of consumer credit,*

22                           “(ii) *the assisting of individuals and*  
23                           *families with financial problems by pro-*  
24                           *viding them with counseling, or*

1                   “(iii) a combination of the activities  
2                   described in clauses (i) and (ii).

3                   “(B) *DEBT MANAGEMENT PLAN SERV-*  
4                   *ICES.—The term ‘debt management plan serv-*  
5                   *ices’ means services related to the repayment,*  
6                   *consolidation, or restructuring of a consumer’s*  
7                   *debt, and includes the negotiation with creditors*  
8                   *of lower interest rates, the waiver or reduction of*  
9                   *fees, and the marketing and processing of debt*  
10                   *management plans.’”.*

11                   (b) *DEBT MANAGEMENT PLAN SERVICES TREATED AS*  
12 *AN UNRELATED BUSINESS.—Section 513 (relating to unre-*  
13 *lated trade or business) is amended by adding at the end*  
14 *the following:*

15                   “(j) *DEBT MANAGEMENT PLAN SERVICES.—The term*  
16 *‘unrelated trade or business’ includes—*

17                   “(1) *the provision of debt management plan serv-*  
18                   *ices (as defined in section 501(q)(4)(B)) by an orga-*  
19                   *nization described in section 501(q) to the extent such*  
20                   *services are not substantially related to the provision*  
21                   *of credit counseling services (as defined in section*  
22                   *501(q)(4)(A)) to a consumer, and*

23                   “(2) *the provision of debt management plan serv-*  
24                   *ices (as so defined) by any organization other than an*

1 organization which meets the requirements of section  
2 501(q).”.

3 (c) *EFFECTIVE DATE.*—

4 (1) *IN GENERAL.*—*Except as provided in para-*  
5 *graph (2), the amendments made by this section shall*  
6 *apply to taxable years beginning after the date of the*  
7 *enactment of this Act.*

8 (2) *TRANSITION RULE FOR EXISTING ORGANIZA-*  
9 *TIONS.*—*In the case of any organization described in*  
10 *paragraph (3) or (4) section 501(c) of the Internal*  
11 *Revenue Code of 1986 and with respect to which the*  
12 *provision of credit counseling services is a substantial*  
13 *purpose on the date of the enactment of this Act, the*  
14 *amendments made by this section shall apply to tax-*  
15 *able years beginning after the date which is 1 year*  
16 *after the date of the enactment of this Act.*

17 **SEC. 222. EXPANSION OF THE BASE OF TAX ON PRIVATE**  
18 **FOUNDATION NET INVESTMENT INCOME.**

19 (a) *GROSS INVESTMENT INCOME.*—

20 (1) *IN GENERAL.*—*Paragraph (2) of section*  
21 *4940(c) (relating to gross investment income) is*  
22 *amended by adding at the end the following new sen-*  
23 *tence: “Such term shall also include income from*  
24 *sources similar to those in the preceding sentence.”.*



1           (2) *CONFORMING AMENDMENT.*—*Subsection (e)*  
 2 *of section 509 (relating to gross investment income) is*  
 3 *amended by adding at the end the following new sen-*  
 4 *tence: “Such term shall also include income from*  
 5 *sources similar to those in the preceding sentence.”.*

6           (b) *CAPITAL GAIN NET INCOME.*—*Paragraph (4) of*  
 7 *section 4940(c) (relating to capital gains and losses) is*  
 8 *amended—*

9           (1) *in subparagraph (A), by striking “used for*  
 10 *the production of interest, dividends, rents, and royal-*  
 11 *ties” and inserting “used for the production of gross*  
 12 *investment income (as defined in paragraph (2))”,*  
 13 *and*

14           (2) *in subparagraph (C), by inserting “or*  
 15 *carrybacks” after “carryovers”.*

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

19 **SEC. 223. DEFINITION OF CONVENTION OR ASSOCIATION**  
 20 **OF CHURCHES.**

21           *Section 7701 (relating to definitions) is amended by*  
 22 *redesignating subsection(o) as subsection (p) and by insert-*  
 23 *ing after subsection (n) the following new subsection:*

24           “(o) *CONVENTION OR ASSOCIATION OF CHURCHES.*—  
 25 *For purposes of this title, any organization which is other-*

1 *wise a convention or association of churches shall not fail*  
 2 *to so qualify merely because the membership of such organi-*  
 3 *zation includes individuals as well as churches or because*  
 4 *individuals have voting rights in such organization.”.*

5 **SEC. 224. NOTIFICATION REQUIREMENT FOR ENTITIES NOT**  
 6 **CURRENTLY REQUIRED TO FILE.**

7 *(a) IN GENERAL.—Section 6033 (relating to returns*  
 8 *by exempt organizations) is amended by redesignating sub-*  
 9 *section (h) as subsection (i) and by inserting after sub-*  
 10 *section (g) the following new subsection:*

11 *“(h) ADDITIONAL NOTIFICATION REQUIREMENTS.—*  
 12 *Any organization the gross receipts of which in any taxable*  
 13 *year result in such organization being referred to in sub-*  
 14 *section (a)(3)(A)(ii) or (a)(3)(B)—*

15 *“(1) shall furnish annually, at such time and in*  
 16 *such manner as the Secretary may by forms or regu-*  
 17 *lations prescribe, information setting forth—*

18 *“(A) the legal name of the organization,*

19 *“(B) any name under which such organiza-*  
 20 *tion operates or does business,*

21 *“(C) the organization’s mailing address and*  
 22 *Internet web site address (if any),*

23 *“(D) the organization’s taxpayer identifica-*  
 24 *tion number,*

1           “(E) the name and address of a principal  
2           officer, and

3           “(F) evidence of the continuing basis for the  
4           organization’s exemption from the filing require-  
5           ments under subsection (a)(1), and

6           “(2) upon the termination of the existence of the  
7           organization, shall furnish notice of such termi-  
8           nation.”.

9           (b) *LOSS OF EXEMPT STATUS FOR FAILURE TO FILE*  
10 *RETURN OR NOTICE.*—Section 6033 (relating to returns by  
11 exempt organizations), as amended by subsection (a), is  
12 amended by redesignating subsection (i) as subsection (j)  
13 and by inserting after subsection (h) the following new sub-  
14 section:

15           “(i) *LOSS OF EXEMPT STATUS FOR FAILURE TO FILE*  
16 *RETURN OR NOTICE.*—

17           “(1) *IN GENERAL.*—If an organization described  
18 in subsection (a)(1) or (k) fails to file an annual re-  
19 turn or notice required under either subsection for 3  
20 consecutive years, such organization’s status as an or-  
21 ganization exempt from tax under section 501(a)  
22 shall be considered revoked on and after the date set  
23 by the Secretary for the filing of the third annual re-  
24 turn or notice. The Secretary shall publish and main-

1       tain a list of any organization the status of which is  
2       so revoked.

3               “(2) *APPLICATION NECESSARY FOR REINSTATE-*  
4       *MENT.*—Any organization the tax-exempt status of  
5       which is revoked under paragraph (1) must apply in  
6       order to obtain reinstatement of such status regardless  
7       of whether such organization was originally required  
8       to make such an application.

9               “(3) *RETROACTIVE REINSTATEMENT IF REASON-*  
10       *ABLE CAUSE SHOWN FOR FAILURE.*—If upon applica-  
11       tion for reinstatement of status as an organization ex-  
12       empt from tax under section 501(a), an organization  
13       described in paragraph (1) can show to the satisfac-  
14       tion of the Secretary evidence of reasonable cause for  
15       the failure described in such paragraph, the organiza-  
16       tion’s exempt status may, in the discretion of the Sec-  
17       retary, be reinstated effective from the date of the rev-  
18       ocation under such paragraph.”.

19       (c) *NO DECLARATORY JUDGMENT RELIEF.*—Section  
20       7428(b) (relating to limitations) is amended by adding at  
21       the end the following new paragraph:

22               “(4) *NONAPPLICATION FOR CERTAIN REVOCA-*  
23       *TIONS.*—No action may be brought under this section  
24       with respect to any revocation of status described in  
25       section 6033(i)(1).”.

1       (d) *NO INSPECTION REQUIREMENT.*—Section 6104(b)  
2 *(relating to inspection of annual information returns), as*  
3 *amended by this Act, is amended by inserting “(other than*  
4 *subsection (h) thereof)” after “6033”.*

5       (e) *NO DISCLOSURE REQUIREMENT.*—Section  
6 6104(d)(3) *(relating to exceptions from disclosure require-*  
7 *ments) is amended by redesignating subparagraph (B) as*  
8 *subparagraph (C) and by inserting after subparagraph (A)*  
9 *the following new subparagraph:*

10               “(B) *NONDISCLOSURE OF ANNUAL NO-*  
11               *TICES.*—Paragraph (1) shall not require the dis-  
12               *closure of any notice required under section*  
13               *6033(h).”.*

14       (f) *NO MONETARY PENALTY FOR FAILURE TO NO-*  
15 *TIFY.*—Section 6652(c)(1) *(relating to annual returns*  
16 *under section 6033 or 6012(a)(6)) is amended by adding*  
17 *at the end the following new subparagraph:*

18               “(E) *NO PENALTY FOR CERTAIN ANNUAL*  
19               *NOTICES.*—This paragraph shall not apply with  
20               *respect to any notice required under section*  
21               *6033(h).”.*

22       (g) *SECRETARIAL OUTREACH REQUIREMENTS.*—

23               (1) *NOTICE REQUIREMENT.*—The Secretary of  
24       the Treasury shall notify in a timely manner every  
25       organization described in section 6033(h) of the Inter-

1 *nal Revenue Code of 1986 (as added by this section)*  
2 *of the requirement under such section 6033(h) and of*  
3 *the penalty established under section 6033(i) of such*  
4 *Code—*

5 *(A) by mail, in the case of any organization*  
6 *the identity and address of which is included in*  
7 *the list of exempt organizations maintained by*  
8 *the Secretary, and*

9 *(B) by Internet or other means of outreach,*  
10 *in the case of any other organization.*

11 *(2) LOSS OF STATUS PENALTY FOR FAILURE TO*  
12 *FILE RETURN.—The Secretary of the Treasury shall*  
13 *publicize in a timely manner in appropriate forms*  
14 *and instructions and through other appropriate*  
15 *means, the penalty established under section 6033(i)*  
16 *of such Code for the failure to file a return under sec-*  
17 *tion 6033(a)(1) of such Code.*

18 *(h) EFFECTIVE DATE.—The amendments made by this*  
19 *section shall apply to notices and returns with respect to*  
20 *annual periods beginning after 2005.*

1 **SEC. 225. DISCLOSURE TO STATE OFFICIALS OF PROPOSED**  
2 **ACTIONS RELATED TO EXEMPT ORGANIZA-**  
3 **TIONS.**

4 (a) *IN GENERAL.*—Subsection (c) of section 6104 is  
5 amended by striking paragraph (2) and inserting the fol-  
6 lowing new paragraphs:

7 “(2) *DISCLOSURE OF PROPOSED ACTIONS RE-*  
8 *LATED TO CHARITABLE ORGANIZATIONS.*—

9 “(A) *SPECIFIC NOTIFICATIONS.*—*In the case*  
10 *of an organization to which paragraph (1) ap-*  
11 *plies, the Secretary may disclose to the appro-*  
12 *priate State officer—*

13 “(i) *a notice of proposed refusal to rec-*  
14 *ognize such organization as an organization*  
15 *described in section 501(c)(3) or a notice of*  
16 *proposed revocation of such organization’s*  
17 *recognition as an organization exempt from*  
18 *taxation,*

19 “(ii) *the issuance of a letter of pro-*  
20 *posed deficiency of tax imposed under sec-*  
21 *tion 507 or chapter 41 or 42, and*

22 “(iii) *the names, addresses, and tax-*  
23 *payer identification numbers of organiza-*  
24 *tions which have applied for recognition as*  
25 *organizations described in section 501(c)(3).*

1           “(B) *ADDITIONAL DISCLOSURES.*—Returns  
2           and return information of organizations with re-  
3           spect to which information is disclosed under  
4           subparagraph (A) may be made available for in-  
5           spection by or disclosed to an appropriate State  
6           officer.

7           “(C) *PROCEDURES FOR DISCLOSURE.*—In-  
8           formation may be inspected or disclosed under  
9           subparagraph (A) or (B) only—

10           “(i) upon written request by an appro-  
11           priate State officer, and

12           “(ii) for the purpose of, and only to the  
13           extent necessary in, the administration of  
14           State laws regulating such organizations.

15           Such information may only be inspected by or  
16           disclosed to a person other than the appropriate  
17           State officer if such person is an officer or em-  
18           ployee of the State and is designated by the ap-  
19           propriate State officer to receive the returns or  
20           return information under this paragraph on be-  
21           half of the appropriate State officer.

22           “(D) *DISCLOSURES OTHER THAN BY RE-*  
23           *QUEST.*—The Secretary may make available for  
24           inspection or disclose returns and return infor-  
25           mation of an organization to which paragraph



1           (1) applies to an appropriate State officer of  
2           any State if the Secretary determines that such  
3           inspection or disclosure may facilitate the resolu-  
4           tion of Federal or State issues relating to the  
5           tax-exempt status of such organization.

6           “(3) DISCLOSURE WITH RESPECT TO CERTAIN  
7           OTHER EXEMPT ORGANIZATIONS.—Upon written re-  
8           quest by an appropriate State officer, the Secretary  
9           may make available for inspection or disclosure re-  
10          turns and return information of an organization de-  
11          scribed in paragraph (2), (4), (6), (7), (8), (10), or  
12          (13) of section 501(c) for the purpose of, and to the  
13          extent necessary in, the administration of State laws  
14          regulating the solicitation or administration of the  
15          charitable funds or charitable assets of such organiza-  
16          tions. Such information may only be inspected by or  
17          disclosed to a person other than the appropriate State  
18          officer if such person is an officer or employee of the  
19          State and is designated by the appropriate State offi-  
20          cer to receive the returns or return information under  
21          this paragraph on behalf of the appropriate State of-  
22          ficer.

23          “(4) USE IN CIVIL JUDICIAL AND ADMINISTRA-  
24          TIVE PROCEEDINGS.—Returns and return informa-  
25          tion disclosed pursuant to this subsection may be dis-

1 *closed in civil administrative and civil judicial pro-*  
2 *ceedings pertaining to the enforcement of State laws*  
3 *regulating such organizations in a manner prescribed*  
4 *by the Secretary similar to that for tax administra-*  
5 *tion proceedings under section 6103(h)(4).*

6 “(5) *NO DISCLOSURE IF IMPAIRMENT.*—*Returns*  
7 *and return information shall not be disclosed under*  
8 *this subsection, or in any proceeding described in*  
9 *paragraph (4), to the extent that the Secretary deter-*  
10 *mines that such disclosure would seriously impair*  
11 *Federal tax administration.*

12 “(6) *DEFINITIONS.*—*For purposes of this*  
13 *subsection—*

14 “(A) *RETURN AND RETURN INFORMA-*  
15 *TION.*—*The terms ‘return’ and ‘return informa-*  
16 *tion’ have the respective meanings given to such*  
17 *terms by section 6103(b).*

18 “(B) *APPROPRIATE STATE OFFICER.*—*The*  
19 *term ‘appropriate State officer’ means—*

20 “(i) *the State attorney general,*

21 “(ii) *the State tax officer,*

22 “(iii) *in the case of an organization to*  
23 *which paragraph (1) applies, any other*  
24 *State official charged with overseeing orga-*

1           nizations of the type described in section  
2           501(c)(3), and

3           “(iv) in the case of an organization to  
4           which paragraph (3) applies, the head of an  
5           agency designated by the State attorney  
6           general as having primary responsibility  
7           for overseeing the solicitation of funds for  
8           charitable purposes.”.

9           (b) *CONFORMING AMENDMENTS.*—

10           (1) Subparagraph (A) of section 6103(p)(3) is  
11           amended by inserting “an section 6104(c)” after “sec-  
12           tion” in the first sentence.

13           (2) Paragraph (4) of section 6103(p) is  
14           amended—

15           (A) in the matter preceding subparagraph  
16           (A), by inserting “, or any appropriate State of-  
17           ficer (as defined in section 6104(c)),” before “or  
18           any other person”,

19           (B) in subparagraph (F)(i), by inserting  
20           “or any appropriate State officer (as defined in  
21           section 6104(c)),” before “or any other person”,  
22           and

23           (C) in the matter following subparagraph  
24           (F), by inserting “, an appropriate State officer

1 (as defined in section 6104(c)),” after “including  
2 an agency” each place it appears.

3 (3) The heading for paragraph (1) of section  
4 6104(c) is amended by inserting “FOR CHARITABLE  
5 ORGANIZATIONS” after “RULE”.

6 (4) Paragraph (2) of section 7213(a) is amended  
7 by inserting “or under section 6104(c)” after “6103”.

8 (5) Paragraph (2) of section 7213A(a) is amend-  
9 ed by inserting “or 6104(c)” after “6103”.

10 (6) Paragraph (2) of section 7431(a) is amended  
11 by inserting “(including any disclosure in violation  
12 of section 6014(c))” after “6103”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this  
14 section shall take effect on the date of the enactment of this  
15 Act but shall not apply to requests made before such date.

16 **PART II—IMPROVED ACCOUNTABILITY OF DONOR**  
17 **ADVISED FUNDS**

18 **SEC. 231. EXCISE TAX ON SPONSORING ORGANIZATIONS OF**  
19 **DONOR ADVISED FUNDS FOR FAILURE TO**  
20 **MEET DISTRIBUTION REQUIREMENTS.**

21 (a) *IN GENERAL.*—Chapter 42 (relating to private  
22 foundations and certain other tax-exempt organizations), as  
23 amended by this Act, is amended by adding at the end the  
24 following new subchapter:

1           **“Subchapter G—Donor Advised Funds**

“Sec. 4967. Taxes on sponsoring organizations of donor advised funds for failure to meet distributions requirements.

“Sec. 4968. Taxes on prohibited distributions.

“Sec. 4969. Taxes on prohibited benefits.

2           **“SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF**  
 3                           **DONOR ADVISED FUNDS FOR FAILURE TO**  
 4                           **MEET DISTRIBUTION REQUIREMENTS.**

5           “(a) *INITIAL TAX.*—*There is hereby imposed on any*  
 6 *sponsoring organization a tax equal to 30 percent of each*  
 7 *of the following amounts:*

8                   “(1) *The organization level undistributed*  
 9 *amount of such sponsoring organization (other than*  
 10 *any organization subject to tax under section 4942)*  
 11 *for any taxable year which has not been distributed*  
 12 *before the first day of the second (or any succeeding)*  
 13 *taxable year following such taxable year (if such first*  
 14 *day falls within the taxable period).*

15                   “(2) *The fund level undistributed amount of any*  
 16 *donor advised fund of such sponsoring organization*  
 17 *for any taxable year which has not been distributed*  
 18 *before the 181st day of the first (or any succeeding)*  
 19 *taxable year following the applicable period (if such*  
 20 *181st day falls within the taxable period).*

21                   “(3) *The illiquid fund undistributed amount of*  
 22 *any illiquid asset donor advised fund of such spon-*  
 23 *soring organization for any taxable year which has*

1        *not been distributed before the 181st day of the second*  
 2        *(or any succeeding) taxable year following such tax-*  
 3        *able year (if such 181st day falls within the taxable*  
 4        *period).*

5        *“(b) ADDITIONAL TAX.—In any case in which an ini-*  
 6        *tial tax is imposed under subsection (a) on any amount,*  
 7        *if any portion of such amount remains undistributed at*  
 8        *the close of the taxable period, there is hereby imposed a*  
 9        *tax equal to 100 percent of the amount remaining undis-*  
 10       *tributed at such time.*

11       *“(c) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT;*  
 12       *FUND LEVEL UNDISTRIBUTED AMOUNT; ILLIQUID FUND*  
 13       *UNDISTRIBUTED AMOUNT.—For purposes of this section—*

14                *“(1) ORGANIZATION LEVEL UNDISTRIBUTED*  
 15        *AMOUNT.—The term ‘organization level undistributed*  
 16        *amount’ means, with respect to any sponsoring orga-*  
 17        *nization for any taxable year, the amount by which—*

18                        *“(A) the organization level distributable*  
 19                        *amount for such taxable year, exceeds*

20                        *“(B) the qualifying distributions made dur-*  
 21                        *ing such taxable year and designated for the*  
 22                        *purpose of reducing such amount.*

23                *“(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—*  
 24        *The term ‘fund level undistributed amount’ means,*  
 25        *with respect to any donor advised fund of a spon-*

1        *soring organization for any applicable period, the*  
2        *amount by which—*

3                *“(A) the fund level distributable amount for*  
4                *such applicable period, exceeds*

5                *“(B) the qualifying distributions made dur-*  
6                *ing such applicable period and designated for the*  
7                *purpose of reducing such amount.*

8        *“(3) ILLIQUID FUND UNDISTRIBUTED AMOUNT.—*

9                *“(A) IN GENERAL.—The term ‘illiquid fund*  
10                *undistributed amount’ means, with respect to*  
11                *any illiquid asset donor advised fund of a spon-*  
12                *soring organization for any taxable year, the*  
13                *amount by which—*

14                *“(i) the illiquid fund distributable*  
15                *amount for such taxable year, exceeds*

16                *“(ii) the qualifying distributions made*  
17                *during such taxable year and designated for*  
18                *the purpose of reducing such amount.*

19                *“(B) ILLIQUID ASSET DONOR ADVISED*  
20                *FUND.—The term ‘illiquid asset donor advised*  
21                *fund’ means for any taxable year a donor ad-*  
22                *vised fund the value of the illiquid assets of*  
23                *which (as of the end of the preceding taxable*  
24                *year) exceeds 10 percent of the value of the total*  
25                *assets of such fund.*

1           “(C) *ILLIQUID ASSET*.—The term ‘illiquid  
2           asset’ means for any taxable year any asset other  
3           than cash and marketable securities the value of  
4           which is held for the entire taxable year as such  
5           asset or any other illiquid asset.

6           “(d) *ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT;*  
7           *FUND LEVEL DISTRIBUTABLE AMOUNT; ILLIQUID FUND*  
8           *DISTRIBUTABLE AMOUNT*.—For purposes of this section—

9           “(1) *ORGANIZATION LEVEL DISTRIBUTABLE*  
10          *AMOUNT*.—The term ‘organization level distributable  
11          amount’ means, with respect to any sponsoring orga-  
12          nization for any taxable year, an amount equal to the  
13          applicable percentage of the fair market value of the  
14          aggregate assets of all donor advised funds main-  
15          tained by such organization as determined on the last  
16          day of the preceding taxable year (other than such  
17          funds which have been in existence for less than 1  
18          year as so determined).

19          “(2) *FUND LEVEL DISTRIBUTABLE AMOUNT*.—  
20          The term ‘fund level distributable amount’ means,  
21          with respect to any donor advised fund of any spon-  
22          soring organization for any applicable 3-consecutive  
23          taxable year period, an amount equal to the greater  
24          of—

25                 “(A) \$250, or



1           “(B) 2.5 percent of the greater of—  
2                 “(i) the average of the sponsoring orga-  
3                 nization’s required minimum initial con-  
4                 tribution amount for such period, or  
5                 “(ii) the average of the sponsoring or-  
6                 ganization’s required minimum balance for  
7                 such period,  
8                 for the type of donor with respect to such donor  
9                 advised fund.

10           “(3) *ILLIQUID FUND DISTRIBUTABLE AMOUNT.*—  
11           The term ‘illiquid fund distributable amount’ means,  
12           with respect to any illiquid asset donor advised fund  
13           of any sponsoring organization for any taxable year,  
14           an amount equal to the applicable percentage of the  
15           value of the assets in such fund as determined at the  
16           end of the preceding taxable year.

17           “(4) *APPLICABLE PERCENTAGE.*—For purposes  
18           of paragraphs (1) and (3), the applicable percentage  
19           is—

20                 “(A) 3 percent for the first taxable year be-  
21                 ginning after the date of the enactment of this  
22                 section,

23                 “(B) 4 percent for the second taxable year  
24                 beginning after such date, and

1           “(C) 5 percent for any taxable year begin-  
2           ning after the second taxable year beginning  
3           after such date.

4           “(e) *QUALIFYING DISTRIBUTION.*—For purposes of this  
5 section—

6           “(1) *IN GENERAL.*—The term ‘qualifying dis-  
7           tribution’ means—

8           “(A) any amount paid by the sponsoring  
9           organization from a donor advised fund—

10           “(i) to any organization described in  
11           section 170(b)(1)(A) (other than any orga-  
12           nization described in section 509(a)(3) or  
13           any sponsoring organization if such amount  
14           is for maintenance in a donor advised  
15           fund), and

16           “(ii) notwithstanding clause (i), to any  
17           organization described section  
18           170(f)(17)(B)(ii), but only to the extent not  
19           prohibited by regulations, and

20           “(B) any amount set aside in such donor  
21           advised fund for purposes, and under procedures  
22           similar to those, described in section 4942(g)(2).

23           Such term shall also include any amount paid during  
24           any taxable year for reasonable and necessary admin-

1 *istrative expenses charged to a donor advised fund by*  
2 *a sponsoring organization.*

3 “(2) *DISTRIBUTIONS TO SPONSORING ORGANIZA-*  
4 *TIONS.—*

5 “(A) *IN GENERAL.—Except as provided in*  
6 *subparagraph (B), such term shall include any*  
7 *distribution to a sponsoring organization.*

8 “(B) *ORGANIZATION LEVEL DISTRIBUTI-*  
9 *ONS.—For purposes of subsection (c)(1)(B),*  
10 *such term shall not include any distribution to*  
11 *a sponsoring organization unless such distribu-*  
12 *tion is designated for use in connection with a*  
13 *charitable program of such organization.*

14 “(3) *PURPOSE OF DISTRIBUTION.—Each quali-*  
15 *fying distribution shall be taken into account in de-*  
16 *termining whether each of the requirements of para-*  
17 *graphs (1), (2), and (3) of subsection (a) are met, ex-*  
18 *cept that only qualifying distributions from a donor*  
19 *advised fund shall be taken into account in deter-*  
20 *mining whether the requirements of paragraphs (2)*  
21 *and (3) of subsection (a) are met with respect to the*  
22 *fund.*

23 “(4) *DESIGNATION OF TAXABLE YEAR.—*

24 “(A) *IN GENERAL.—A sponsoring organiza-*  
25 *tion shall designate the taxable years or applica-*

1           *ble periods with respect to which any qualifying*  
2           *distribution shall be applied for purposes of sat-*  
3           *isfying the distribution requirements of such tax-*  
4           *able year or applicable period.*

5           “(B) *CARRYOVER OF EXCESS DISTRIBUTION*  
6           *DESIGNATIONS.—If a sponsoring organization*  
7           *designates an amount of qualifying distributions*  
8           *in excess of the amount necessary to meet the dis-*  
9           *tribution requirements for all taxable years and*  
10          *all applicable periods, the sponsoring organiza-*  
11          *tion may designate such excess as a carryover*  
12          *distribution which may be applied for purposes*  
13          *of satisfying the distribution requirements of the*  
14          *succeeding 5 taxable years.*

15          “(f) *VALUATION RULES.—For purposes of determining*  
16          *the value of any asset held by a donor advised fund, the*  
17          *following rules shall apply:*

18                  “(1) *Securities for which market quotations are*  
19                  *readily available shall be valued at fair market value*  
20                  *determined on a monthly basis.*

21                  “(2) *Cash shall be determined on an average*  
22                  *monthly basis.*

23                  “(3) *Any illiquid asset transferred by a donor to*  
24                  *a sponsoring organization for maintenance in such*

1        *donor advised fund shall be valued in an amount*  
2        *equal to the sum of—*

3                *“(A) the value of such asset claimed by the*  
4                *donor for purposes of determining the donor’s de-*  
5                *duction under section 170, 2055, or 2522 with*  
6                *respect to such transfer and reported by the*  
7                *donor to the sponsoring organization (in any*  
8                *manner specified by the Secretary), and*

9                *“(B) an assumed annual rate of return of*  
10               *5 percent of such value.*

11               *“(4) Any illiquid asset purchased by such fund*  
12               *shall be valued in an amount equal to—*

13               *“(A) the purchase price paid for such asset*  
14               *by such fund, and*

15               *“(B) an assumed annual rate of return of*  
16               *5 percent of such value.*

17               *“(g) SPONSORING ORGANIZATION; DONOR ADVISED*  
18        *FUND.—For purposes of this subchapter—*

19               *“(1) SPONSORING ORGANIZATION.—The term*  
20               *‘sponsoring organization’ means any organization*  
21               *which—*

22               *“(A) is described in section 170(c) (other*  
23               *than in paragraph (1) thereof, and without re-*  
24               *gard to paragraph (2)(A) thereof), and*

1           “(B) maintains 1 or more donor advised  
2 funds.

3           “(2) DONOR ADVISED FUND.—

4           “(A) IN GENERAL.—Except as provided in  
5 subparagraph (B), the term ‘donor advised fund’  
6 means a fund or account—

7           “(i) which is separately identified by  
8 reference to contributions of a donor or do-  
9 nors,

10           “(ii) which is owned and controlled by  
11 a sponsoring organization, and

12           “(iii) with respect to which a donor or  
13 any person appointed or designated by such  
14 person) has, or reasonably expects to have,  
15 advisory privileges with respect to the dis-  
16 tribution or investment of amounts held in  
17 such fund or account by reason of the do-  
18 nor’s status as a donor.

19           “(B) EXCEPTION.—The term ‘donor advised  
20 fund’ shall not include any fund or account with  
21 respect to which a person described in subpara-  
22 graph (A)(iii) advises as to which individuals  
23 receive grants for travel, study, or other similar  
24 purposes, but only if—

1           “(i) *such person’s advisory privileges*  
2           *are performed exclusively by such person in*  
3           *the person’s capacity as a member of a com-*  
4           *mittee appointed by the sponsoring organi-*  
5           *zation,*

6           “(ii) *no combination of persons de-*  
7           *scribed in subparagraph (A)(iii) (or persons*  
8           *related to such persons) control, directly or*  
9           *indirectly, such committee, and*

10           “(iii) *all grants from such fund or ac-*  
11           *count satisfy requirements similar to those*  
12           *described in section 4945(g) (concerning*  
13           *grants to individuals by private founda-*  
14           *tions).*

15           “(C) *SECRETARIAL AUTHORITY.—The Sec-*  
16           *retary may exempt a fund or account from treat-*  
17           *ment as a donor advised fund which—*

18           “(i) *is advised by committee not di-*  
19           *rectly or indirectly controlled by the donor*  
20           *or advisor (and any related parties), or*

21           “(ii) *will benefit a single identified or-*  
22           *ganization or governmental entity or a sin-*  
23           *gle identified charitable purpose.*

24           “(h) *OTHER DEFINITIONS.—For purposes of this*  
25           *section—*

1           “(1) *TAXABLE PERIOD.*—*The term ‘taxable pe-*  
2           *riod’ means, with respect to the undistributed amount*  
3           *for any taxable year, the period beginning with the*  
4           *first day of the taxable year and ending on the earlier*  
5           *of—*

6                     “(A) *the date of mailing of a notice of defi-*  
7                     *ciency with respect to the tax imposed by sub-*  
8                     *section (a) under section 6212, or*

9                     “(B) *the date on which the tax imposed by*  
10                    *subsection (a) is assessed.*

11           “(2) *APPLICABLE PERIOD.*—*The term ‘applicable*  
12           *period’ means, with respect to any donor advised*  
13           *fund of any sponsoring organization, a 3-consecutive*  
14           *taxable year period determined under the following*  
15           *rules:*

16                    “(A) *The first applicable 3-consecutive tax-*  
17                    *able year period for any donor advised fund*  
18                    *shall begin on the first day of the first taxable*  
19                    *year of the sponsoring organization beginning*  
20                    *after the date such fund has been in existence for*  
21                    *1 year.*

22                    “(B) *Any applicable 3-consecutive taxable*  
23                    *year period after the first such period shall begin*  
24                    *on the day after the termination of any pre-*



1           ceding applicable 3-consecutive taxable year pe-  
2           riod with respect to such donor advised fund.

3           “(i) *REGULATIONS.*—The Secretary may issue such  
4 regulations as are necessary to carry out the purposes of  
5 this section, including regulations regarding—

6           “(1) the acceptable methods for calculating the  
7 organization level undistributed amount for spon-  
8 soring organizations,

9           “(2) the allowable adjustments in the determina-  
10 tion of the value of any illiquid asset where the asset  
11 value has declined significantly after a contribution  
12 to, or purchase by, the donor advised fund, and

13           “(3) the treatment or disregard of transactions  
14 designed to avoid the application of the illiquid asset  
15 rules, such as through exchanges of illiquid assets for  
16 other assets.

17 **“SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.**

18           “(a) *IMPOSITION OF TAXES.*—

19           “(1) *ON THE DONOR OR DONOR ADVISOR.*—There  
20 is hereby imposed on the advice of any person de-  
21 scribed in section 4967(g)(2)(A)(iii) to have a spon-  
22 soring organization of a donor advised fund make a  
23 taxable distribution from such fund a tax equal to 20  
24 percent of the amount thereof. The tax imposed by  
25 this paragraph shall be paid by such person who ad-

1        *vised the sponsoring organization of the donor advised*  
2        *fund to make the distribution.*

3            “(2) *ON THE FUND MANAGEMENT.*—*There is*  
4        *hereby imposed on the agreement of any fund man-*  
5        *ager to the making of a distribution, knowing that it*  
6        *is a taxable distribution, a tax equal to 5 percent of*  
7        *the amount thereof, unless such agreement is not will-*  
8        *ful and is due to reasonable cause. The tax imposed*  
9        *by this paragraph shall be paid by any fund manager*  
10       *who agreed to the making of the distribution.*

11          “(b) *JOINT AND SEVERAL LIABILITY.*—*For purposes of*  
12       *subsection (a), if more than one person is liable under sub-*  
13       *section (a)(1) or (a)(2) with respect to the making of a tax-*  
14       *able distribution, all such persons shall be jointly and sever-*  
15       *ally liable under such paragraph with respect to such dis-*  
16       *tribution.*

17          “(c) *TAXABLE DISTRIBUTION.*—*For purposes of this*  
18       *subsection—*

19            “(1) *IN GENERAL.*—*The term ‘taxable distribu-*  
20       *tion’ means any distribution from a donor advised*  
21       *fund to any person other than the sponsoring organi-*  
22       *zation’s non donor advised funds or accounts or orga-*  
23       *nizations described in section 170(b)(1)(A) (other*  
24       *than any organization described in section 509(a)(3)*

1       or any sponsoring organization if such amount is for  
2       maintenance in a donor advised fund).

3               “(2) *EXCEPTION.*—Notwithstanding paragraph  
4       (1), such term shall not include any distribution from  
5       a donor advised fund to any organization described  
6       in section 170(f)(17)(B)(ii) to the extent such dis-  
7       tribution is not prohibited under regulations.

8               “(d) *FUND MANAGER.*—For purposes of this sub-  
9       chapter, the term ‘fund manager’ means, with respect to  
10      any sponsoring organization of a donor advised fund—

11              “(1) an officer, director, or trustee of such spon-  
12      soring organization (or an individual having powers  
13      or responsibilities similar to those of officers, direc-  
14      tors, or trustees of the sponsoring organization), and

15              “(2) with respect to any act (or failure to act),  
16      the employees of the sponsoring organization having  
17      authority or responsibility with respect to such act  
18      (or failure to act).

19      **“SEC. 4969. TAXES ON PROHIBITED BENEFITS.**

20              “(a) *IMPOSITION OF TAXES.*—

21              “(1) *ON THE DONOR, DONOR ADVISOR, OR RE-*  
22      *LATED PERSON.*—There is hereby imposed on the ad-  
23      vice of any person described in subsection (c) to have  
24      a sponsoring organization of a donor advised fund  
25      make a distribution from such fund which results in

1     *such a person receiving, directly or indirectly, a more*  
2     *than incidental benefit as a result of such distribu-*  
3     *tion, a tax equal to 25 percent of the amount of such*  
4     *distribution. The tax imposed by this paragraph shall*  
5     *be paid by such person who advised the sponsoring*  
6     *organization of the donor advised fund to make the*  
7     *distribution.*

8             “(2) *ON THE RECIPIENT OF THE BENEFIT.—*  
9     *There is hereby imposed on any person described in*  
10    *subsection (c) who receives a benefit described in*  
11    *paragraph (1), a tax equal to 25 percent of the*  
12    *amount of the distribution described in paragraph*  
13    *(1).*

14            “(3) *ON THE FUND MANAGEMENT.—There is*  
15    *hereby imposed on the agreement of any fund man-*  
16    *ager to the making of a distribution, knowing that*  
17    *such distribution would confer a benefit described in*  
18    *paragraph (1), a tax equal to 10 percent of the*  
19    *amount of such distribution, unless such agreement is*  
20    *not willful and is due to reasonable cause. The tax*  
21    *imposed by this paragraph shall be paid by any fund*  
22    *manager who agreed to the making of the distribu-*  
23    *tion.*

24            “(b) *JOINT AND SEVERAL LIABILITY.—For purposes of*  
25    *subsection (a), if more than one person is liable under sub-*

1 *section (a)(1), (a)(2), or (a)(3) with respect to the making*  
2 *of a distribution described in subsection (a), all such per-*  
3 *sons shall be jointly and severally liable under such para-*  
4 *graph with respect to such distribution.*

5       “(c) *DONOR, DONOR ADVISOR, OR RELATED PER-*  
6 *SON.—A person is described in this subsection if such per-*  
7 *son is described in section 4958(f)(1)(D) (determined with-*  
8 *out regard to any investment advisor).”.*

9       (b) *ABATEMENT OF TAXES ALLOWED.—Section 4963*  
10 *is amended—*

11           (1) *by inserting “4967, 4968, 4969,” after*  
12 *“4958,” each place it appears in subsections (a) and*  
13 *(c),*

14           (2) *by inserting “4967,” after “4958,” in sub-*  
15 *section (b),*

16           (3) *in subsection (d)(2), by striking “and” at the*  
17 *end of subparagraph (B), by striking the period at the*  
18 *end of subparagraph (C) and inserting “, and”, and*  
19 *by adding at the end the following new subparagraph:*

20                   “(D) *in the case of the second tier tax im-*  
21 *posed by section 4967(b), reducing the amount of*  
22 *the undistributed amount to zero.”, and*

23           (4) *in subsection (e)(2), by redesignating sub-*  
24 *paragraphs (C) and (D) as subparagraphs (E) and*

1       (F), respectively, and by inserting after subparagraph  
2       (B) the following new subparagraphs:

3               “(C) in the case of section 4967(a)(1), on  
4               the first day of the taxable year for which there  
5               was a failure to distribute,

6               “(D) in the case of paragraph (2) or (3) of  
7               section 4967(a), on the 181st day of the taxable  
8               year for which there was a failure to distribute,”.

9       (c) **CONFORMING AMENDMENTS.**—

10           (1) The table of subchapters for chapter 42, as  
11           amended by this Act, is amended by adding at the  
12           end the following new item:

                  “SUBCHAPTER G. DONOR ADVISED FUNDS.”.

13           (2) Section 6213(e) is amended by inserting  
14           “4967 (relating to taxes on sponsoring organizations  
15           of donor advised funds for failure to meet distribution  
16           requirements),” after “benefit),”.

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

20       **SEC. 232. PROHIBITED TRANSACTIONS.**

21       (a) **DISQUALIFIED PERSONS.**—

22           (1) **IN GENERAL.**—Paragraph (1) of section  
23           4958(f) is amended by striking “and” at the end of  
24           subparagraph (B), by striking the period at the end  
25           of subparagraph (C) and inserting “, and”, and by

1       *adding after subparagraph (C) the following new sub-*  
 2       *paragraph:*

3               “(D) any person who is described in para-

4               *graph (7) with respect to any sponsoring organi-*

5               *zation (as defined in section 4967(g)(1)).”.*

6               (2) *DONORS, DONOR ADVISORS, AND INVESTMENT*

7       *ADVISORS TREATED AS DISQUALIFIED PERSONS.—*

8       *Section 4958(f) is amended by adding at the end the*

9       *following new paragraph:*

10              “(7) *DONORS, DONOR ADVISORS, AND INVEST-*

11              *MENT ADVISORS WITH RESPECT TO SPONSORING OR-*

12              *GANIZATIONS.—For purposes of paragraph (1)(D)—*

13                      “(A) *IN GENERAL.—A person is described*

14                      *in this paragraph if such person—*

15                              “(i)    *is described in section*

16                              *4967(g)(2)(A)(iii),*

17                              “(ii) *is an investment advisor,*

18                              “(iii) *is a member of the family of an*

19                              *individual described in clause (i) or (ii), or*

20                              “(iv) *is a 35-percent controlled entity*

21                              *(as defined in paragraph (3) by sub-*

22                              *stituting ‘persons described in clause (i),*

23                              *(ii), or (iii) of paragraph (7)(A)’ for ‘per-*

24                              *sons described in subparagraph (A) or (B)*

1           of paragraph (1)' in subparagraph (A)(i)  
2           thereof).

3           “(B) *INVESTMENT ADVISOR.*—The term ‘in-  
4           vestment advisor’ means, with respect to any  
5           sponsoring organization (as defined in section  
6           4967(g)(1)), any person (other than an employee  
7           of such organization) compensated by such orga-  
8           nization for managing the investment of, or pro-  
9           viding investment advice with respect to, assets  
10          maintained in donor advised funds (as defined  
11          in section 4967(g)(2)) owned by such organiza-  
12          tion.”.

13          (3) *DONORS, DONOR ADVISORS, AND INVESTMENT*  
14          *ADVISORS TREATED AS DISQUALIFIED PERSONS WITH*  
15          *RESPECT TO A SPONSORING ORGANIZATION WHICH IS*  
16          *A PRIVATE FOUNDATION.*—Section 4946(a)(1) is  
17          amended by striking “and” at the end of subpara-  
18          graph (H), by striking the period at the end of sub-  
19          paragraph (I) and inserting “, and”, and by adding  
20          at the end the following new subparagraph:

21                  “(J) a person described in section  
22                  4958(f)(1)(D).”.

23          (b) *CERTAIN TRANSACTIONS TREATED AS EXCESS*  
24          *BENEFIT TRANSACTIONS.*—



1           (1) *IN GENERAL.*—Section 4958(c) is amended  
2           by redesignating paragraph (2) as paragraph (3) and  
3           by inserting after paragraph (1) the following new  
4           paragraph:

5           “(2) *SPECIAL RULES FOR DONOR ADVISED*  
6           *FUNDS OWNED BY SPONSORING ORGANIZATIONS.*—In  
7           the case of any donor advised fund (as defined in sec-  
8           tion 4967(g)(2)) of a sponsoring organization (as de-  
9           fined in section 4967(g)(1))—

10           “(A) the term ‘excess benefit transaction’ in-  
11           cludes any grant, loan, compensation, or other  
12           payment from such fund to a person described in  
13           subsection (f)(1)(D) (determined without regard  
14           to any investment advisor) with respect to such  
15           fund, and

16           “(B) the term ‘excess benefit’ includes, with  
17           respect to any transaction described in subpara-  
18           graph (A), the amount of any such grant, loan,  
19           compensation, or other payment.

20           Notwithstanding the last sentence of subsection (e), a  
21           sponsoring organization shall be treated as an appli-  
22           cable tax-exempt organization to the extent necessary  
23           to carry out this paragraph.”

24           (2) *SPECIAL RULE FOR CORRECTION OF TRANS-*  
25           *ACTION.*—Section 4958(f)(6) is amended by inserting

1       “, except that in the case of any correction of an ex-  
 2       cess benefit transaction described in subsection (c)(2),  
 3       no amount repaid in a manner prescribed by the Sec-  
 4       retary may be held in, or credited to, any donor ad-  
 5       vised fund” after “standards”.

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

9       **SEC. 233. TREATMENT OF CHARITABLE CONTRIBUTION DE-**  
 10       **DUCTIONS TO DONOR ADVISED FUNDS.**

11       (a) *INCOME.*—Section 170(f) (relating to disallowance  
 12       of deduction in certain cases and special rules), as amended  
 13       by this Act, is amended by adding at the end the following  
 14       new paragraph:

15               “(17) *CONTRIBUTIONS TO DONOR ADVISED*  
 16       *FUNDS.*—

17                       “(A) *IN GENERAL.*—A deduction otherwise  
 18       allowed under subsection (a) for any contribu-  
 19       tion to a sponsoring organization (as defined in  
 20       section 4967(g)(1)) to be maintained in any  
 21       donor advised fund (as defined in section  
 22       4967(g)(2)) of such organization shall only be al-  
 23       lowed if—

1           “(i) such sponsoring organization is  
2 not described in paragraph (3), (4), or (5)  
3 of subsection (c) or section 509(a)(3), and

4           “(ii) the taxpayer obtains a contem-  
5 poraneous written acknowledgment (deter-  
6 mined under rules similar to the rules of  
7 paragraph (8)(C) from the sponsoring orga-  
8 nization that such organization has exclu-  
9 sive legal control over the assets contributed.

10           “(B) CONTRIBUTIONS TO TYPE I OR TYPE II  
11 SUPPORTING ORGANIZATIONS.—

12           “(i) IN GENERAL.—Notwithstanding  
13 subparagraph (A)(i), a contribution to a  
14 sponsoring organization (as so defined) de-  
15 scribed in clause (ii) to be maintained in  
16 any donor advised fund (as so defined) of  
17 such organization shall be allowed to the ex-  
18 tent not prohibited by regulations.

19           “(ii) ORGANIZATION DESCRIBED.—An  
20 organization is described in this clause if  
21 the organization meets the requirements of  
22 subparagraphs (A) and (C) of section  
23 509(a)(3) and is—

24           “(I) operated, supervised, or con-  
25 trolled by one or more organizations

1                   described in paragraph (1) or (2) of  
2                   section 509(a), or

3                   “(II) supervised or controlled in  
4                   connection with one or more such orga-  
5                   nizations.”.

6           (b) *ESTATE*.—Section 2055(e) is amended by adding  
7 at the end the following new paragraph:

8                   “(5) *CONTRIBUTIONS TO DONOR ADVISED*  
9                   *FUNDS*.—

10                   “(A) *IN GENERAL*.—A deduction otherwise  
11                   allowed under subsection (a) for any contribu-  
12                   tion to a sponsoring organization (as defined in  
13                   section 4967(g)(1)) to be maintained in any  
14                   donor advised fund (as defined in section  
15                   4967(g)(2)) of such organization shall only be al-  
16                   lowed if—

17                   “(i) such sponsoring organization is  
18                   not described in paragraph (3) or (4) of  
19                   subsection (a) or section 509(a)(3), and

20                   “(ii) the taxpayer obtains a contem-  
21                   poraneous written acknowledgment (deter-  
22                   mined under rules similar to the rules of  
23                   section 170(f)(8)(C)) from the sponsoring  
24                   organization that such organization has ex-

1           *clusive legal control over the assets contrib-*  
2           *uted.*

3           “(B) CONTRIBUTIONS TO TYPE I OR TYPE II  
4           SUPPORTING ORGANIZATIONS.—

5                   “(i) IN GENERAL.—Notwithstanding  
6           subparagraph (A)(i), a contribution to a  
7           sponsoring organization (as so defined) de-  
8           scribed in clause (ii) to be maintained in  
9           any donor advised fund (as so defined) of  
10          such organization shall be allowed to the ex-  
11          tent not prohibited by regulations.

12                   “(ii) ORGANIZATION DESCRIBED.—An  
13          organization is described in this clause if  
14          the organization meets the requirements of  
15          subparagraphs (A) and (C) of section  
16          509(a)(3) and is—

17                           “(I) operated, supervised, or con-  
18          trolled by one or more organizations  
19          described in paragraph (1) or (2) of  
20          section 509(a), or

21                           “(II) supervised or controlled in  
22          connection with one or more such orga-  
23          nizations.”.

24          (c) GIFT.—Section 2522(c) is amended by adding at  
25          the end the following new paragraph:

1           “(13) *CONTRIBUTIONS TO DONOR ADVISED*  
2           *FUNDS.—*

3           “(A) *IN GENERAL.—A deduction otherwise*  
4           *allowed under subsection (a) for any contribu-*  
5           *tion to a sponsoring organization (as defined in*  
6           *section 4967(g)(1)) to be maintained in any*  
7           *donor advised fund (as defined in section*  
8           *4967(g)(2)) of such organization shall only be al-*  
9           *lowed if—*

10           “(i) *such sponsoring organization is*  
11           *not described in paragraph (3) or (4) of*  
12           *subsection (a) or section 509(a)(3), and*

13           “(ii) *the taxpayer obtains a contem-*  
14           *poraneous written acknowledgment (deter-*  
15           *mined under rules similar to the rules of*  
16           *section 170(f)(8)(C)) from the sponsoring*  
17           *organization that such organization has ex-*  
18           *clusive legal control over the assets contrib-*  
19           *uted.*

20           “(B) *CONTRIBUTIONS TO TYPE I OR TYPE II*  
21           *SUPPORTING ORGANIZATIONS.—*

22           “(i) *IN GENERAL.—Notwithstanding*  
23           *subparagraph (A)(i), a contribution to a*  
24           *sponsoring organization (as so defined) de-*  
25           *scribed in clause (ii) to be maintained in*

1           *any donor advised fund (as so defined) of*  
2           *such organization shall be allowed to the ex-*  
3           *tent not prohibited by regulations.*

4           “(i) *ORGANIZATION DESCRIBED.—An*  
5           *organization is described in this clause if*  
6           *the organization meets the requirements of*  
7           *subparagraphs (A) and (C) of section*  
8           *509(a)(3) and is—*

9                     “(I) *operated, supervised, or con-*  
10                    *trolled by one or more organizations*  
11                    *described in paragraph (1) or (2) of*  
12                    *section 509(a), or*

13                    “(II) *supervised or controlled in*  
14                    *connection with one or more such orga-*  
15                    *nizations.”.*

16       (d) *REGULATIONS.—The regulations prescribed under*  
17       *sections           170(f)(17)(B)(i),           2055(e)(5)(B)(i),*  
18       *2522(c)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of the*  
19       *Internal Revenue Code of 1986 shall deny a deduction for*  
20       *contributions to sponsoring organizations (as defined in*  
21       *section 4967(g)(1) of such Code) which are described in sec-*  
22       *tion 170(f)(17)(B)(ii) of such Code and shall apply excise*  
23       *taxes to distributions from donor advised funds (as defined*  
24       *in section 4967(g)(2) of such Code) and sponsoring organi-*  
25       *zations (as so defined) to organizations so described in cases*

1 *where the donor of the contributions or the donor or donor*  
 2 *advisor of the amounts distributed directly or indirectly*  
 3 *controls a supported organization (as defined in section*  
 4 *509(f)(3) of such Code) of such organization.*

5 *(e) EFFECTIVE DATE.—The amendments made by this*  
 6 *section shall apply to contributions made after the date*  
 7 *which is 180 days after the date of the enactment of this*  
 8 *Act.*

9 **SEC. 234. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

10 *(a) MATTERS INCLUDED ON RETURNS.—*

11 *(1) IN GENERAL.—Section 6033, as amended by*  
 12 *this Act, is amended by redesignating subsection (j)*  
 13 *as subsection (k) and by inserting after subsection (i)*  
 14 *the following new subsection:*

15 *“(j) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in*  
 16 *section 4967(g)(1) shall, on the return required under sub-*  
 17 *section (a) for the taxable year—*

18 *“(1) list the total number of donor advised funds*  
 19 *(as defined in section 4967(g)(2)) it owns at the end*  
 20 *of such taxable year,*

21 *“(2) indicate the aggregate value of assets held in*  
 22 *such funds at the end of such taxable year, and*



1           “(3) indicate the aggregate contributions to and  
2           grants made from such funds during such taxable  
3           year.”.

4           (2) *EXTENSION OF STATUTE OF LIMITA-*  
5           *TIONS*6501(c) is amended by adding at the end the  
6           following new paragraph:

7           “(11) *DONOR ADVISED FUNDS.*—If a sponsoring  
8           organization (as defined in section 4967(g)(1)) fails  
9           to include on any return for any taxable year any in-  
10          formation with respect to any donor advised fund of  
11          such organization which is required under section  
12          6033(j) to be included with such return, the time for  
13          assessment of any tax imposed under subchapter G of  
14          chapter 42 with respect to any distribution from such  
15          donor advised fund shall not expire before the date  
16          which is 3 years after the date on which the secretary  
17          is furnished the information so required.”.

18          (3) *EFFECTIVE DATE.*—The amendments made  
19          by this subsection shall apply to returns filed for tax-  
20          able years ending after the date of the enactment of  
21          this Act.

22          (b) *MATTERS INCLUDED ON EXEMPT STATUS APPLI-*  
23          *CATION.*—

24          (1) *IN GENERAL.*—Section 508 is amended by  
25          adding at the end the following new subsection:

1       “(f) *ADDITIONAL PROVISIONS RELATING TO SPON-*  
 2 *SORING ORGANIZATIONS.*—A sponsoring organization (as  
 3 defined in section 4967(g)(1)) shall give notice to the Sec-  
 4 retary (in such manner as the Secretary may provide)  
 5 whether such organization maintains or intends to main-  
 6 tain donor advised funds (as defined in section 4967(g)(2))  
 7 and the manner in which such organization plans to oper-  
 8 ate such funds.”.

9           (2) *EFFECTIVE DATE.*—The amendment made by  
 10 this subsection shall apply to organizations applying  
 11 for tax-exempt status after the date of the enactment  
 12 of this Act.

13       **PART III—IMPROVED ACCOUNTABILITY OF**  
 14           **SUPPORTING ORGANIZATIONS**

15       **SEC. 241. REQUIREMENTS FOR SUPPORTING ORGANIZA-**  
 16           **TIONS.**

17       (a) *TYPES OF SUPPORTING ORGANIZATIONS.*—Sub-  
 18 paragraph (B) of section 509(a)(3) is amended to read as  
 19 follows:

20           “(B) is—

21                   “(i) operated, supervised, or controlled  
 22                   by one or more organizations described in  
 23                   paragraph (1) or (2),

1                   “(ii) supervised or controlled in con-  
2                   nection with one or more such organiza-  
3                   tions, or

4                   “(iii) operated in connection with one  
5                   or more such organizations, and”.

6           (b) *REQUIREMENTS FOR SUPPORTING ORGANIZA-*  
7 *TIONS.—Section 509 (relating to private foundation de-*  
8 *finied) is amended by adding at the end the following new*  
9 *subsection:*

10           “(f) *REQUIREMENTS FOR SUPPORTING ORGANIZA-*  
11 *TIONS*

12                   “(1) *TYPE III SUPPORTING ORGANIZATIONS.—*  
13 *For purposes of subsection (a)(3)(B)(iii), an organi-*  
14 *zation shall not be considered to be operated in con-*  
15 *nection with any organization described in para-*  
16 *graph (1) or (2) of subsection (a) unless such organi-*  
17 *zation meets the following requirements:*

18                           “(A) *APPLICATION REQUIREMENT.—The or-*  
19 *ganization provides to the Secretary, as a part*  
20 *of any notification filed under section 508(a)*  
21 *after the date of the enactment of this subsection,*  
22 *a letter from each supported organization ac-*  
23 *knowledging that the supported organization has*  
24 *been designated by such organization as a sup-*  
25 *ported organization.*

1           “(B) *RESPONSIVENESS.*—*For each taxable*  
2           *year beginning after the date of the enactment of*  
3           *this subsection, the organization provides to each*  
4           *supported organization such information as the*  
5           *Secretary may require to ensure that such orga-*  
6           *nization is responsive to the needs or demands of*  
7           *the supported organization.*

8           “(C) *SUPPORTED ORGANIZATIONS.*—

9           “(i) *IN GENERAL.*—*The organization—*

10           “(I) *is not operated in connection*  
11           *with more than 5 supported organiza-*  
12           *tions, and*

13           “(II) *is not operated in connec-*  
14           *tion with any supported organization*  
15           *that is not organized in the United*  
16           *States on any date after the date which*  
17           *is 180 days after the date of the enact-*  
18           *ment of this subsection.*

19           “(ii) *SPECIAL RULE FOR EXISTING OR-*  
20           *GANIZATIONS.*—*If the organization is oper-*  
21           *ated in connection with more than 5 sup-*  
22           *ported organizations on the date of the en-*  
23           *actment of this subsection—*

24           “(I) *clause (i)(I) shall not apply,*  
25           *and*

1                   “(II) *the organization may not be*  
2                   *operated in connection with any other*  
3                   *organization after such date unless the*  
4                   *total number of supported organiza-*  
5                   *tions is 5 or less.*

6                   “(D) *CONTRIBUTIONS TO DONOR ADVISED*  
7                   *FUNDS.—The organization makes no contribu-*  
8                   *tions to or for the use of any donor advised fund*  
9                   *(as defined in section 4967(g)(2)).*

10                  “(2) *ORGANIZATIONS CONTROLLED BY DO-*  
11                  *NORS.—*

12                   “(A) *IN GENERAL.—For purposes of sub-*  
13                   *section (a)(3)(B), an organization shall not be*  
14                   *considered to be—*

15                    “(i) *operated, supervised, or controlled*  
16                    *by any organization described in paragraph*  
17                    *(1) or (2) of subsection (a), or*

18                    “(ii) *operated in connection with any*  
19                    *organization described in paragraph (1) or*  
20                    *(2) of subsection (a),*  
21                    *if such organization accepts any gift or contribu-*  
22                    *tion from any person described in subparagraph*  
23                    *(B).*

24                   “(B) *PERSON DESCRIBED.—A person is de-*  
25                   *scribed in this subparagraph if such person is—*

1           “(i) a person (other than an organiza-  
2           tion described in paragraph (1), (2), or (4)  
3           of section 509(a)) who controls, directly or  
4           indirectly, either alone or together with per-  
5           sons described in clauses (ii) and (iii), the  
6           governing body of a supported organization,

7           “(ii) a member of the family (deter-  
8           mined under section 4958(f)(4)) of an indi-  
9           vidual described in clause (i), or

10           “(iii) a 35-percent controlled entity (as  
11           defined in section 4958(f)(3) by substituting  
12           ‘persons described in clause (i) or (ii) of sec-  
13           tion 509(f)(2)(B)’ for ‘persons described in  
14           subparagraph (A) or (B) of paragraph (1)’  
15           in subparagraph (A)(i) thereof).

16           “(3) *SUPPORTED ORGANIZATION.*—For purposes  
17           of this subsection, the term ‘supported organization’  
18           means, with respect to an organization described in  
19           subsection (a)(3), an organization described in para-  
20           graph (1) or (2) of subsection (a)—

21           “(A) for whose benefit the organization de-  
22           scribed in subsection (a)(3) is organized and op-  
23           erated, or

1                   “(B) with respect to which the organization  
2                   performs the functions of, or carries out the pur-  
3                   poses of.”.

4           (c) *CHARITABLE TRUSTS WHICH ARE TYPE III SUP-*  
5 *PORTING ORGANIZATIONS.*—For purposes of section  
6 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an  
7 organization which is a trust shall not be considered to be  
8 operated in connection with any organization described in  
9 paragraph (1) or (2) of section 509(a) of such Code solely  
10 because—

11                   (1) it is a charitable trust under State law,  
12                   (2) the supported organization (as defined in sec-  
13                   tion 509(f)(3) of such Code) is a beneficiary of such  
14                   trust, and  
15                   (3) the supported organization (as so defined)  
16                   has the power to enforce the trust and compel an ac-  
17                   counting.

18           (d) *EFFECTIVE DATE.*—The amendments made by this  
19 section shall take effect on the date of the enactment of this  
20 Act.

21 **SEC. 242. EXCISE TAX ON SUPPORTING ORGANIZATIONS**  
22 **FOR FAILURE TO MEET DISTRIBUTION RE-**  
23 **QUIREMENTS.**

24           (a) *IN GENERAL.*—Subchapter D of chapter 42 (relat-  
25 ing to failure by certain charitable organizations to meet

1 *certain qualification requirements) is amended by adding*  
2 *at the end the following new section:*

3 **“SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZA-**  
4 **TIONS FAILING TO MEET DISTRIBUTION RE-**  
5 **QUIREMENTS.**

6 *“(a) INITIAL TAX.—There is hereby imposed on the*  
7 *undistributed income of any type III supporting organiza-*  
8 *tion for any taxable year, which has not been distributed*  
9 *before the first day of the second (or any succeeding) taxable*  
10 *year following such taxable year (if such first day falls*  
11 *within the taxable period), a tax equal to 30 percent of the*  
12 *amount of such income remaining undistributed at the be-*  
13 *ginning of such second (or succeeding) taxable year.*

14 *“(b) ADDITIONAL TAX.—In any case in which an ini-*  
15 *tial tax is imposed under subsection (a) on the undistrib-*  
16 *uted income of a type III supporting organization for any*  
17 *taxable year, if any portion of such income remains undis-*  
18 *tributed at the close of the taxable period, there is hereby*  
19 *imposed a tax equal to 100 percent of the amount remain-*  
20 *ing undistributed at such time.*

21 *“(c) UNDISTRIBUTED INCOME.—For purposes of this*  
22 *section, the term ‘undistributed income’ means, with respect*  
23 *to any type III supporting organization for any taxable*  
24 *year as of any time, the amount by which—*



1           “(1) the distributable amount for such taxable  
2           year, exceeds

3           “(2) the qualifying distributions made before  
4           such time out of such distributable amount.

5           “(d) *DISTRIBUTABLE AMOUNT*.—For purposes of this  
6           section—

7           “(1) *IN GENERAL*.—the term ‘distributable  
8           amount’ means, with respect to any type III sup-  
9           porting organization for any taxable year, an amount  
10          equal to the sum of—

11           “(A) the greater of—

12           “(i) 85 percent of the adjusted net in-  
13           come (as defined in section 4942(f)) of the  
14           type III supporting organization for the  
15           preceding taxable year, or

16           “(ii) the applicable percentage of the  
17           fair market value of the aggregate assets of  
18           such organization (other than assets used or  
19           held to perform the functions of, or carry  
20           out the purposes of, a supported organiza-  
21           tion) on the last day of the preceding tax-  
22           able year, and

23           “(B) any amount received during the pre-  
24           ceding taxable year which is a repayment of  
25           amounts paid by the organization in any prior

1           *taxable year to a supported organization exclu-*  
2           *sively for the benefit of such supported organiza-*  
3           *tion or to perform the functions of, or carry out*  
4           *the purposes of such supported organization.*

5           “(2) *INVESTMENT ASSETS.*—*For purposes of*  
6           *paragraph (1)(A)(ii), assets held for investment or for*  
7           *the operation of an unrelated trade or business shall*  
8           *not be considered as assets used or held to perform the*  
9           *functions of, or carry out the purposes of, a supported*  
10          *organization.*

11          “(3) *APPLICABLE PERCENTAGE.*—*For purposes*  
12          *of paragraph (1)(A)(ii), the applicable percentage*  
13          *is—*

14                 “(A) *3 percent for the first taxable year be-*  
15                 *ginning after the date of the enactment of this*  
16                 *section,*

17                 “(B) *4 percent for the second taxable year*  
18                 *beginning after such date, and*

19                 “(C) *5 percent for any taxable year begin-*  
20                 *ning after the second taxable year beginning*  
21                 *after such date.*

22          “(e) *QUALIFYING DISTRIBUTION.*—*For purposes of this*  
23          *section—*

24                 “(1) *IN GENERAL.*—*The term ‘qualifying dis-*  
25                 *tribution’ means amounts paid by the type III sup-*

1 *porting organization to or for the use of a supported*  
2 *organization.*

3 “(2) *ADMINISTRATIVE AND OPERATING EX-*  
4 *PENSES.—Reasonable and necessary administrative*  
5 *expenses of a type III supporting organization shall*  
6 *be treated as a qualifying distribution to a supported*  
7 *organization.*

8 “(f) *TREATMENT OF QUALIFYING DISTRIBUTIONS.—*

9 “(1) *IN GENERAL.—Except as provided in para-*  
10 *graph (2), any qualifying distribution made during*  
11 *a taxable year shall be treated as made—*

12 “(A) *first out of the undistributed income of*  
13 *the immediately preceding taxable year (if the*  
14 *type III supporting organization was subject to*  
15 *the tax imposed by this section for such pre-*  
16 *ceding taxable year) to the extent thereof, and*

17 “(B) *second out of the undistributed income*  
18 *for the taxable year to the extent thereof.*

19 *For purposes of this paragraph, distributions shall be*  
20 *taken into account in the order of time in which*  
21 *made.*

22 “(2) *CORRECTION OF DEFICIENT DISTRIBUTIONS*  
23 *FOR PRIOR TAXABLE YEARS, ETC.—In the case of any*  
24 *qualifying distribution which (under paragraph (1))*  
25 *is not treated as made out of the undistributed in-*

1       *come of the immediately preceding taxable year, the*  
2       *type III supporting organization may elect to treat*  
3       *any portion of such distribution as made out of the*  
4       *undistributed income of a designated prior taxable*  
5       *year. The election shall be made by the type III sup-*  
6       *porting organization at such time and in such man-*  
7       *ner as the Secretary shall by regulations prescribe.*

8       “(g) *ADJUSTMENT OF DISTRIBUTABLE AMOUNT*  
9       *WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EX-*  
10       *CEEDED INCOME.—*

11               “(1) *IN GENERAL.—If, for the taxable years in*  
12       *the adjustment period for which an organization is a*  
13       *type III supporting organization—*

14                       “(A) *the aggregate qualifying distributions*  
15                       *treated (under subsection (f)) as made out of the*  
16                       *undistributed income for such taxable years, ex-*  
17                       *ceeds*

18                       “(B) *the distributable amounts for such tax-*  
19                       *able years (determined without regard to this*  
20                       *subsection),*

21       *then, for purposes of this section (other than sub-*  
22       *section (f)), the distributable amount for the taxable*  
23       *year shall be reduced by an amount equal to such ex-*  
24       *cess.*

1           “(2) *TAXABLE YEARS IN ADJUSTMENT PERIOD.*—  
2           *For purposes of paragraph (1), with respect to any*  
3           *taxable year of a type III supporting organization,*  
4           *the taxable years in the adjustment period are the*  
5           *taxable years (not exceeding 5) beginning after the*  
6           *date of the enactment of this section and immediately*  
7           *preceding the taxable year.*

8           “(h) *OTHER DEFINITIONS.*—*For purposes of this*  
9           *section—*

10           “(1) *TAXABLE PERIOD.*—*The term ‘taxable pe-*  
11           *riod’ means, with respect to the undistributed income*  
12           *for any taxable year, the period beginning with the*  
13           *first day of the taxable year and ending on the earlier*  
14           *of—*

15                   “(A) *the date of mailing of a notice of defi-*  
16                   *ciency with respect to the tax imposed by sub-*  
17                   *section (a) under section 6212, or*

18                   “(B) *the date on which the tax imposed by*  
19                   *subsection (a) is assessed.*

20           “(2) *TYPE III SUPPORTING ORGANIZATION.*—*The*  
21           *term ‘type III supporting organization’ means an or-*  
22           *ganization which meets the requirements of subpara-*  
23           *graphs (A) and (C) of section 509(a)(3) and which is*  
24           *operated in connection with one or more organiza-*

1        *tions described in paragraph (1) or (2) of section*  
 2        *509(a).*

3            “(3) *SUPPORTED ORGANIZATION.*—*The term*  
 4        *‘supported organization’ has the meaning given such*  
 5        *term under section 509(f)(3).”.*

6        (b) *CONFORMING AMENDMENT.*—*The table of sections*  
 7        *for subchapter D of chapter 42 is amended by inserting*  
 8        *after the item relating to section 4958 the following new*  
 9        *item:*

*“Sec. 4959. Taxes on certain supporting organizations failing to meet distribu-  
 tion requirements.”.*

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

13        **SEC. 243. EXCESS BENEFIT TRANSACTIONS.**

14        (a) *IN GENERAL.*—*Section 4958(c), as amended by*  
 15        *this Act, is amended by redesignating paragraph (3) as*  
 16        *paragraph (4) and by inserting after paragraph (2) the fol-*  
 17        *lowing new paragraph:*

18            “(3) *SPECIAL RULES FOR SUPPORTING ORGANI-*  
 19        *ZATIONS.*—

20            “(A) *IN GENERAL.*—*In the case of any orga-*  
 21        *nization described in section 509(a)(3)—*

22            “(i) *the term ‘excess benefit trans-*  
 23        *action’ includes—*

1           “(I) any grant, loan, compensa-  
2           tion, or other payment provided by  
3           such organization to a person described  
4           in subparagraph (B), and

5           “(II) any loan provided by such  
6           organization to a disqualified person  
7           (other than an organization described  
8           in paragraph (1), (2), or (4) of section  
9           509(a)), and

10          “(ii) the term ‘excess benefit’ includes,  
11          with respect to any transaction described in  
12          clause (i), the amount of any such grant,  
13          loan, compensation, or other payment.

14          “(B) PERSON DESCRIBED.—A person is de-  
15          scribed in this subparagraph if such person is—

16          “(i) a substantial contributor to such  
17          organization,

18          “(ii) a member of the family (deter-  
19          mined under section 4958(f)(4)) of an indi-  
20          vidual described in clause (i), or

21          “(iii) a 35-percent controlled entity (as  
22          defined in section 4958(f)(3) by substituting  
23          ‘persons described in clause (i) or (ii) of sec-  
24          tion 4958(c)(3)(B)’ for ‘persons described in

1           subparagraph (A) or (B) of paragraph (1)  
2           in subparagraph (A)(i) thereof.

3           “(C) *SUBSTANTIAL CONTRIBUTOR.*—For  
4           purposes of this paragraph—

5                   “(i) *IN GENERAL.*—The term ‘substan-  
6                   tial contributor’ means any person who con-  
7                   tributed or bequeathed an aggregate amount  
8                   of more than \$5,000 to the organization, if  
9                   such amount is more than 2 percent of the  
10                  total contributions and bequests received by  
11                  the organization before the close of the tax-  
12                  able year of the organization in which the  
13                  contribution or bequest is received by the or-  
14                  ganization from such person. In the case of  
15                  a trust, such term also means the creator of  
16                  the trust.

17                   “(ii) *EXCEPTION.*—Such term shall not  
18                   include any organization described in para-  
19                   graph (1), (2), or (4) of section 509(a).”.

20           (b) *DISQUALIFIED PERSONS.*—Paragraph (1) of sec-  
21           tion 4958(f), as amended by this Act, is amended by strik-  
22           ing “and” at the end of subparagraph (D), by striking the  
23           period at the end of subparagraph (E) and inserting “,  
24           and”, and by adding after subparagraph (D) the following  
25           new subparagraph:



1           “(E) any person who is described in sub-  
2           paragraph (A), (B), or (C) with respect to an or-  
3           ganization described in section 509(a)(3) which  
4           is organized and operated exclusively for the ben-  
5           efit of, to perform the functions of, or to carry  
6           out the purposes of the applicable tax-exempt or-  
7           ganization.”.

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

11       **SEC. 244. EXCESS BUSINESS HOLDINGS OF SUPPORTING**  
12                               **ORGANIZATIONS.**

13          (a) *IN GENERAL.*—Section 4943 is amended by adding  
14          at the end the following new subsection:

15          “(e) *APPLICATION OF TAX TO SUPPORTING ORGANIZA-*  
16          *TIONS.*—

17               “(1) *IN GENERAL.*—For purposes of this section,  
18               a qualified supporting organization shall be treated  
19               as a private foundation.

20               “(2) *EXCEPTION.*—The Secretary may exempt  
21               any qualified supporting organization from the appli-  
22               cation of this subsection if the Secretary determines  
23               that the excess business holdings of such organization  
24               are consistent with the purpose or function consti-  
25               tuting the basis for its exemption under section 501.

1           “(3) *QUALIFIED SUPPORTING ORGANIZATION.*—

2           *For purposes of this subsection, the term ‘qualified*  
3           *supporting organization’ means any—*

4                     “(A) *type III supporting organization (as*  
5                     *defined in section 4959(h)(2)), or*

6                     “(B) *organization which meets the require-*  
7                     *ments of subparagraphs (A) and (C) of section*  
8                     *509(a)(3) and which is supervised or controlled*  
9                     *in connection with or one or more organizations*  
10                    *described in paragraph (1) or (2) of section*  
11                    *509(a), but only if such organization accepts any*  
12                    *gift or contribution from any person described in*  
13                    *section 509(f)(2)(B).*

14           “(4) *DISQUALIFIED PERSON.*—

15                     “(A) *IN GENERAL.*—*In applying this sec-*  
16                     *tion to any organization described in section*  
17                     *509(a)(3), the term ‘disqualified person’ means,*  
18                     *with respect to the organization—*

19                             “(i) *any person who was, at any time*  
20                             *during the 5-year period ending on date de-*  
21                             *scribed in subsection (a)(2)(A), in a posi-*  
22                             *tion to exercise substantial influence over*  
23                             *the affairs of the organization,*

1           “(ii) any member of the family (deter-  
2           mined under section 4958(f)(4)) of an indi-  
3           vidual described in clause (i),

4           “(iii) any 35-percent controlled entity  
5           (as defined in section 4958(f)(3) by sub-  
6           stituting ‘persons described in clause (i) or  
7           (ii) of section 4943(e)(2)(A)’ for ‘persons de-  
8           scribed in subparagraph (A) or (B) of para-  
9           graph (1)’ in subparagraph (A)(i) thereof),

10           “(iv) any person described in section  
11           4958(e)(3)(B), and

12           “(v) any organization—

13           “(I) which is effectively controlled  
14           (directly or indirectly) by the same  
15           person or persons who control the orga-  
16           nization in question, or

17           “(II) substantially all of the con-  
18           tributions to which were made (di-  
19           rectly or indirectly) by the same person  
20           or persons described in subparagraph  
21           (B) or a member of their family (with-  
22           in the meaning of section 4946(d)) who  
23           made (directly or indirectly) substan-  
24           tially all of the contributions to the or-  
25           ganization in question.

1           “(B) *PERSONS DESCRIBED.*—A person is  
2           described in this subparagraph if such person  
3           is—

4                   “(i) a substantial contributor to the or-  
5                   ganization (as defined in section  
6                   4958(c)(3)(C)),

7                   “(ii) an officer, director, or trustee of  
8                   the organization (or an individual having  
9                   powers or responsibilities similar to those  
10                  officers, directors, or trustees of the organi-  
11                  zation), or

12                  “(iii) an owner of more than 20 per-  
13                  cent of—

14                           “(I) the total combined voting  
15                           power of a corporation,

16                           “(II) the profits interest of a part-  
17                           nership, or

18                           “(III) the beneficial interest of a  
19                           trust or unincorporated enterprise,  
20                           which is a substantial contributor (as so de-  
21                           fined) to the organization.

22           “(5) *SPECIAL RULE FOR CERTAIN HOLDINGS OF*  
23           *TYPE III SUPPORTING ORGANIZATIONS.*—For purposes  
24           of this subsection, the term ‘excess business holdings’  
25           shall not include any holdings of a type III sup-

1     *porting organization (as defined in section*  
 2     *4959(h)(2)) in any business enterprise if the holdings*  
 3     *are held for the benefit of the community pursuant to*  
 4     *the direction of a State attorney general or a State*  
 5     *official with jurisdiction over the type III supporting*  
 6     *organization.*

7             “(6) *PRESENT HOLDINGS.*—*For purposes of this*  
 8     *subsection, rules similar to the rules of paragraphs*  
 9     *(4), (5), and (6) of subsection (c) shall apply to orga-*  
 10    *nizations described in section 509(a)(3), except that—*

11             “(A) *‘the date of the enactment of this sub-*  
 12     *section’ shall be substituted for ‘May 26, 1969’*  
 13     *each place it appears in paragraphs (4), (5),*  
 14     *and (6), and*

15             “(B) *‘January 1, 2007’ shall be substituted*  
 16     *for ‘January 1, 1970’ in paragraph (4)(E).”.*

17     (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 18     *section shall apply to taxable years beginning after the date*  
 19     *of the enactment of this Act.*

20     **SEC. 245. TREATMENT OF AMOUNTS PAID TO SUPPORTING**  
 21             **ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

22     (a) *QUALIFYING DISTRIBUTIONS.*—*Paragraph (4) of*  
 23     *section 4942(g) is amended to read as follows:*

24             “(4) *LIMITATION ON DISTRIBUTIONS BY NONOP-*  
 25     *ERATING PRIVATE FOUNDATIONS TO SUPPORTING OR-*

1       GANIZATIONS.—*For purposes of this section, the term*  
2       *‘qualifying distribution’ shall not include any*  
3       *amount paid by a private foundation which is not an*  
4       *operating foundation to an organization described in*  
5       *section 509(a)(3).’.*

6       (b) *TAXABLE EXPENDITURES.*—

7               (1) *IN GENERAL.*—*Subsection (d) of section 4945*  
8       *is amended by redesignating paragraphs (4) and (5)*  
9       *as paragraphs (5) and (6), respectively, and by in-*  
10       *serting after paragraph (3) the following new para-*  
11       *graph:*

12               *“(4) to an organization described in section*  
13       *509(a)(3).”.*

14               (2) *CONFORMING AMENDMENTS.*—

15               (A) *Section 4945(d)(5), as redesignated by*  
16       *subparagraph (A), is amended—*

17                       (i) *by striking “a grant to an organi-*  
18                       *zation” and inserting “a grant to any other*  
19                       *organization”, and*

20                       (ii) *by striking “paragraph (1), (2), or*  
21                       *(3) of section 509(a)” in subparagraph (A)*  
22                       *and inserting “paragraph (1) or (2) of sec-*  
23                       *tion 509(a).”.*

1           (B) Section 4945(f) is amended by striking  
2           “Subsection (d)(4)” in the last sentence thereof  
3           and inserting “Subsection (d)(5)”.

4           (C) Section 4945(h) is amended by striking  
5           “subsection (d)(4)” and inserting “subsection  
6           (d)(5)”.

7           (c) *EFFECTIVE DATE.*—The amendments made by this  
8           section shall apply to distributions and expenditures after  
9           the date of the enactment of this Act.

10 **SEC. 246. RETURNS OF SUPPORTING ORGANIZATIONS.**

11           (a) *REQUIREMENT TO FILE RETURN.*—Subparagraph  
12           (B) of section 6033(a)(3), as redesignated by this Act, is  
13           amended by inserting “(other than an organization de-  
14           scribed in section 509(a)(3))” after “paragraph (1)”.

15           (b) *MATTERS INCLUDED ON RETURNS.*—Section 6033,  
16           as amended by this Act, is amended by redesignating sub-  
17           section (k) as subsection (l) and by inserting after sub-  
18           section (j) the following new subsection:

19           “(k) *ADDITIONAL PROVISIONS RELATING TO SUP-*  
20           *PORTING ORGANIZATIONS.*—

21           “(1) *IN GENERAL.*—Every organization described  
22           in section 509(a)(3) shall, on the return required  
23           under subsection (a)—

1           “(A) list the organizations described in sec-  
2           tion 509(a)(3)(A) with respect to which such or-  
3           ganization provides support,

4           “(B) indicate whether the organization  
5           meets the requirements of clause (i), (ii), or (iii)  
6           of section 509(a)(3)(B), and

7           “(C) certify that the organization meets the  
8           requirements of section 509(a)(3)(C).

9           “(2) TYPE III SUPPORTING ORGANIZATIONS.—  
10          Every type III supporting organization (as defined in  
11          section 4959(h)(2)) shall indicate on the return re-  
12          quired under subsection (a) for the taxable year  
13          whether the organization has received a letter from  
14          each supported organization (as defined in section  
15          509(f)(3)) during the taxable year which—

16               “(A) acknowledges that the supporting orga-  
17               nization has designated such organization as a  
18               supported organization,

19               “(B) details the type of support provided by  
20               the supporting organization, and

21               “(C) explains how such support furthers the  
22               charitable purpose of the supported organiza-  
23               tion.”.



1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to returns filed for taxable years ending*  
 3 *after the date of the enactment of this Act.*

4               **TITLE III—MISCELLANEOUS**  
 5                       **PROVISIONS**

6 **SEC. 301. RESTRUCTURING OF NEW YORK LIBERTY ZONE**  
 7                       **TAX CREDITS.**

8       (a) *IN GENERAL.*—*Subchapter Y of chapter 1 is*  
 9 *amended by adding at the end the following new section:*  
 10 **“SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.**

11       “(a) *IN GENERAL.*—*There shall be allowed as a credit*  
 12 *against any taxes imposed by this title (other than by sec-*  
 13 *tion 3111(a), section 3403, or subtitle D) paid or incurred*  
 14 *by any governmental unit of the State of New York and*  
 15 *the City of New York, New York (including any agency or*  
 16 *instrumentality thereof) for any calendar year an amount*  
 17 *equal to the lesser of—*

18               “(1) *the total expenditures during such year by*  
 19 *such governmental unit for qualifying projects, or*

20               “(2) *the amount allocated to such governmental*  
 21 *unit for such calendar year under subsection (b)(2).*

22       “(b) *QUALIFYING PROJECT.*—*For purposes of this*  
 23 *section—*

24               “(1) *IN GENERAL.*—*The term ‘qualifying project’*  
 25 *means any transportation infrastructure project, in-*

1 *cluding highways, mass transit systems, railroads,*  
2 *airports, ports, and waterways, in or connecting with*  
3 *the New York Liberty Zone (as defined in section*  
4 *1400L(h)), which is designated as a qualifying project*  
5 *under this section jointly by the Governor of the State*  
6 *of New York and the Mayor of the City of New York,*  
7 *New York.*

8 “(2) *DOLLAR LIMITATION.*—

9 “(A) *IN GENERAL.*—*The Governor of the*  
10 *State of New York and the Mayor of the City of*  
11 *New York, New York, shall jointly allocate to a*  
12 *governmental unit the amount of expenditures*  
13 *which may be taken into account under sub-*  
14 *section (a) for any calendar year in the credit*  
15 *period with respect to a qualifying project.*

16 “(B) *AGGREGATE LIMIT.*—*The aggregate*  
17 *amount which may be allocated under subpara-*  
18 *graph (A) for all calendar years in the credit pe-*  
19 *riod shall not exceed \$2,000,000,000.*

20 “(C) *ANNUAL LIMIT.*—*The aggregate*  
21 *amount which may be allocated under subpara-*  
22 *graph (A) for any calendar year in the credit pe-*  
23 *riod shall not exceed the sum of—*

24 “(i) *\$200,000,000, plus*

1           “(ii) the aggregate amount authorized  
2           to be allocated under this paragraph for all  
3           preceding calendar years in the credit pe-  
4           riod which was not so allocated.

5           “(D) UNALLOCATED AMOUNTS AT END OF  
6           CREDIT PERIOD.—If, as of the close of the credit  
7           period, the amount under subparagraph (B) ex-  
8           ceeds the aggregate amount allocated under sub-  
9           paragraph (A) for all calendar years in the cred-  
10          it period, the Governor of the State of New York  
11          and the Mayor of the City of New York, New  
12          York, may jointly allocate for any calendar year  
13          following the credit period for expenditures with  
14          respect to qualifying projects which may be taken  
15          into account under subsection (a) an amount  
16          equal to such excess, reduced by the aggregate  
17          amount allocated under this subparagraph for  
18          all preceding calendar years.

19          “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

20                 “(1) IN GENERAL.—If the amount allocated  
21                 under subsection (b)(2) to a governmental unit for  
22                 any calendar year exceeds the total expenditures for  
23                 such year by such governmental unit for qualifying  
24                 projects, the allocation of such governmental unit for

1       *the succeeding calendar year shall be increased by the*  
2       *amount of such excess.*

3           “(2) *REALLOCATION.*—*If a governmental unit*  
4       *does not use an amount allocated to it under sub-*  
5       *section (b)(2) within the time prescribed by the Gov-*  
6       *ernor of the State of New York and the Mayor of the*  
7       *City of New York, New York, then such amount shall*  
8       *after such time be treated for purposes of subsection*  
9       *(b)(2) in the same manner as if it had never been al-*  
10       *located.*

11       “(d) *DEFINITIONS AND SPECIAL RULES.*—*For pur-*  
12       *poses of this section—*

13           “(1) *CREDIT PERIOD.*—*The term ‘credit period’*  
14       *means the 10-year period beginning on January 1,*  
15       *2006.*

16           “(2) *TREATMENT OF FUNDS.*—*Any expenditure*  
17       *for a qualifying project taken into account for pur-*  
18       *poses of the credit under this section shall be consid-*  
19       *ered State and local funds for the purpose of any Fed-*  
20       *eral program.*

21       “(e) *REGULATIONS.*—*The Secretary may prescribe*  
22       *such regulations as are necessary to ensure compliance with*  
23       *the purposes of this section.”.*

24       (b) *TERMINATION OF CERTAIN NEW YORK LIBERTY*  
25       *ZONE BENEFITS.*—

1           (1) *SPECIAL ALLOWANCE AND EXPENSING.*—Section  
 2           1400L(b)(2)(A)(v) is amended by striking “the  
 3           termination date” and inserting “the date of the en-  
 4           actment of the Tax Relief Act of 2005 or the termi-  
 5           nation date if pursuant to a binding contract in effect  
 6           on such enactment date”.

7           (2) *LEASEHOLD.*—Section 1400L(c)(2)(B) is  
 8           amended by striking “before January 1, 2007” and  
 9           inserting “on or before the date of the enactment of  
 10          the Tax Relief Act of 2005 or before January 1, 2007,  
 11          if pursuant to a binding contract in effect on such en-  
 12          actment date”.

13 **SEC. 302. MODIFICATION TO S CORPORATION PASSIVE IN-**  
 14 **VESTMENT INCOME RULES.**

15          (a) *INCREASED PERCENTAGE LIMIT.*—Paragraph (2)  
 16          of section 1375(a) is amended by striking “25 percent” and  
 17          inserting “60 percent”.

18          (b) *OTHER PROVISIONS.*—

19               (1) *REPEAL OF EXCESSIVE PASSIVE INCOME AS*  
 20               *A TERMINATION EVENT.*—Section 1362(d) is amended  
 21               by striking paragraph (3).

22               (2) *CAPITAL GAIN NOT TREATED AS PASSIVE IN-*  
 23               *VESTMENT INCOME.*—Subsection (b) of section 1375 is  
 24               amended by striking paragraphs (3) and (4) and in-  
 25               serting the following new paragraph:

1           “(3) *PASSIVE INVESTMENT INCOME DEFINED.*—

2                   “(A) *Except as otherwise provided in this*  
3 *paragraph, the term ‘passive investment income’*  
4 *means gross receipts derived from royalties,*  
5 *rents, dividends, interest, and annuities.*

6                   “(B) *EXCEPTION FOR INTEREST ON NOTES*  
7 *FROM SALES OF INVENTORY.*—*The term ‘passive*  
8 *investment income’ shall not include interest on*  
9 *any obligation acquired in the ordinary course*  
10 *of the corporation’s trade or business from its*  
11 *sale of property described in section 1221(a)(1).*

12                   “(C) *TREATMENT OF CERTAIN LENDING OR*  
13 *FINANCE COMPANIES.*—*If the S corporation*  
14 *meets the requirements of section 542(c)(6) for*  
15 *the taxable year, the term ‘passive investment in-*  
16 *come’ shall not include gross receipts for the tax-*  
17 *able year which are derived directly from the ac-*  
18 *tive and regular conduct of a lending or finance*  
19 *business (as defined in section 542(d)(1)).*

20                   “(D) *TREATMENT OF CERTAIN DIVI-*  
21 *DENDS.*—*If an S corporation holds stock in a C*  
22 *corporation meeting the requirements of section*  
23 *1504(a)(2), the term ‘passive investment income’*  
24 *shall not include dividends from such C corpora-*  
25 *tion to the extent such dividends are attributable*

1           to the earnings and profits of such C corporation  
2           derived from the active conduct of a trade or  
3           business.

4           “(E) *EXCEPTION FOR BANKS, ETC.*—In the  
5           case of a bank (as defined in section 581) or a  
6           depository institution holding company (as de-  
7           fined in section 3(w)(1) of the Federal Deposit  
8           Insurance Act (12 U.S.C. 1813(w)(1)), the term  
9           ‘passive investment income’ shall not include—

10                   “(i) interest income earned by such  
11                   bank or company, or

12                   “(ii) dividends on assets required to be  
13                   held by such bank or company, including  
14                   stock in the Federal Reserve Bank, the Fed-  
15                   eral Home Loan Bank, or the Federal Agri-  
16                   cultural Mortgage Bank or participation  
17                   certificates issued by a Federal Intermediate  
18                   Credit Bank.

19           “(F) *COORDINATION WITH SECTION 1374.*—  
20           The amount of passive investment income shall  
21           be determined by not taking into account any  
22           recognized built-in gain or loss of the S corpora-  
23           tion for any taxable year in the recognition pe-  
24           riod. Terms used in the preceding sentence shall

1           *have the same respective meanings as when used*  
2           *in section 1374.”.*

3           (c) *CONFORMING AMENDMENTS.*—

4           (1) *Subparagraph (J) of section 26(b)(2) is*  
5           *amended by striking “25 percent” and inserting “60*  
6           *percent”.*

7           (2) *Clause (i) of section 1042(c)(4)(A) is amend-*  
8           *ed by striking “section 1362(d)(3)(C)” and inserting*  
9           *“section 1375(b)(3)”.*

10          (3) *Subparagraph (B) of section 1362(f)(1) is*  
11          *amended by striking “or (3)”.*

12          (4) *Clause (i) of section 1375(b)(1)(A) is amend-*  
13          *ed by striking “25 percent” and inserting “60 per-*  
14          *cent”.*

15          (5) *The heading for section 1375 is amended by*  
16          *striking “25 PERCENT” and inserting “60 PER-*  
17          *CENT”.*

18          (6) *The item relating to section 1375 in the table*  
19          *of sections for part III of subchapter S of chapter 1*  
20          *is amended by striking “25 percent” and inserting*  
21          *“60 percent”.*

22          (d) *EFFECTIVE DATE.*—*The amendments made by this*  
23          *section shall apply to taxable years beginning after Decem-*  
24          *ber 31, 2006 and before October 1, 2009.*



1 **SEC. 303. MODIFICATION OF EFFECTIVE DATE OF DIS-**  
2 **REGARD OF CERTAIN CAPITAL EXPENDI-**  
3 **TURES FOR PURPOSES OF QUALIFIED SMALL**  
4 **ISSUE BONDS.**

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

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

11 **SEC. 304. PREMIUMS FOR MORTGAGE INSURANCE.**

12 (a) *IN GENERAL.*—Section 163(h)(3) (relating to  
13 qualified residence interest) is amended by adding at the  
14 end the following new subparagraph:

15 “(E) *MORTGAGE INSURANCE PREMIUMS*  
16 *TREATED AS INTEREST.*—

17 “(i) *IN GENERAL.*—Premiums paid or  
18 accrued for qualified mortgage insurance by  
19 a taxpayer during the taxable year in con-  
20 nection with acquisition indebtedness with  
21 respect to a qualified residence of the tax-  
22 payer shall be treated for purposes of this  
23 section as interest which is qualified resi-  
24 dence interest.

25 “(ii) *PHASEOUT.*—The amount other-  
26 wise treated as interest under clause (i)

1           *shall be reduced (but not below zero) by 10*  
2           *percent of such amount for each \$1,000*  
3           *(\$500 in the case of a married individual*  
4           *filing a separate return) (or fraction there-*  
5           *of) that the taxpayer's adjusted gross in-*  
6           *come for the taxable year exceeds \$100,000*  
7           *(\$50,000 in the case of a married indi-*  
8           *vidual filing a separate return).”.*

9           **(b) DEFINITION AND SPECIAL RULES.**—*Section*  
10 *163(h)(4) (relating to other definitions and special rules)*  
11 *is amended by adding at the end the following new subpara-*  
12 *graphs:*

13                   **“(E) QUALIFIED MORTGAGE INSURANCE.**—  
14           *The term ‘qualified mortgage insurance’*  
15           *means—*

16                   *“(i) mortgage insurance provided by*  
17                   *the Veterans Administration, the Federal*  
18                   *Housing Administration, or the Rural*  
19                   *Housing Administration, and*

20                   *“(ii) private mortgage insurance (as*  
21                   *defined by section 2 of the Homeowners*  
22                   *Protection Act of 1998 (12 U.S.C. 4901), as*  
23                   *in effect on the date of the enactment of this*  
24                   *subparagraph).*

1           “(F) *SPECIAL RULES FOR PREPAID QUALI-*  
2           *FIED MORTGAGE INSURANCE.*—*Any amount paid*  
3           *by the taxpayer for qualified mortgage insurance*  
4           *that is properly allocable to any mortgage the*  
5           *payment of which extends to periods that are*  
6           *after the close of the taxable year in which such*  
7           *amount is paid shall be chargeable to capital ac-*  
8           *count and shall be treated as paid in such peri-*  
9           *ods to which so allocated. No deduction shall be*  
10           *allowed for the unamortized balance of such ac-*  
11           *count if such mortgage is satisfied before the end*  
12           *of its term. The preceding sentences shall not*  
13           *apply to amounts paid for qualified mortgage*  
14           *insurance provided by the Veterans Administra-*  
15           *tion or the Rural Housing Administration.”.*

16           (c) *INFORMATION RETURNS RELATING TO MORTGAGE*  
17           *INSURANCE.*—*Section 6050H (relating to returns relating*  
18           *to mortgage interest received in trade or business from indi-*  
19           *viduals) is amended by adding at the end the following new*  
20           *subsection:*

21           “(h) *RETURNS RELATING TO MORTGAGE INSURANCE*  
22           *PREMIUMS.*—

23           “(1) *IN GENERAL.*—*The Secretary may pre-*  
24           *scribe, by regulations, that any person who, in the*  
25           *course of a trade or business, receives from any indi-*

1        *vidual premiums for mortgage insurance aggregating*  
2        *\$600 or more for any calendar year, shall make a re-*  
3        *turn with respect to each such individual. Such re-*  
4        *turn shall be in such form, shall be made at such*  
5        *time, and shall contain such information as the Sec-*  
6        *retary may prescribe.*

7                *“(2) STATEMENT TO BE FURNISHED TO INDIVID-*  
8        *UALS WITH RESPECT TO WHOM INFORMATION IS RE-*  
9        *QUIRED.—Every person required to make a return*  
10        *under paragraph (1) shall furnish to each individual*  
11        *with respect to whom a return is made a written*  
12        *statement showing such information as the Secretary*  
13        *may prescribe. Such written statement shall be fur-*  
14        *nished on or before January 31 of the year following*  
15        *the calendar year for which the return under para-*  
16        *graph (1) was required to be made.*

17                *“(3) SPECIAL RULES.—For purposes of this*  
18        *subsection—*

19                        *“(A) rules similar to the rules of subsection*  
20        *(c) shall apply, and*

21                        *“(B) the term ‘mortgage insurance’*  
22        *means—*

23                                *“(i) mortgage insurance provided by*  
24        *the Veterans Administration, the Federal*

1           *Housing Administration, or the Rural*  
2           *Housing Administration, and*

3                   “(ii) private mortgage insurance (as  
4           defined by section 2 of the Homeowners  
5           Protection Act of 1998 (12 U.S.C. 4901), as  
6           in effect on the date of the enactment of this  
7           subsection).”.

8           (d) *EFFECTIVE DATE.*—*The amendments made by this*  
9           *section shall apply to amounts paid or accrued during the*  
10           *period beginning after December 31, 2006, and before Janu-*  
11           *ary 1, 2008, and properly allocable to such period, with*  
12           *respect to mortgage insurance contracts issued after Decem-*  
13           *ber 31, 2006.*

14   **SEC. 305. SENSE OF THE SENATE ON USE OF NO-BID CON-**  
15                   **TRACTING BY FEDERAL EMERGENCY MAN-**  
16                   **AGEMENT AGENCY.**

17           (a) *FINDINGS.*—*The Senate finds that—*

18                   (1) *on September 8, 2005, the Federal Emer-*  
19           *gency Management Agency announced that it had*  
20           *awarded 4 contracts for emergency housing relief fol-*  
21           *lowing Hurricane Katrina to The Shaw Group of*  
22           *Baton Rouge, Louisiana, Fluor Corporation of Aliso*  
23           *Viejo, California, Bechtel National of San Francisco,*  
24           *California, and CH2M Hill of Denver, Colorado;*

1           (2) *these contracts were awarded with no com-*  
2           *petition from other capable firms, and up to*  
3           *\$100,000,000 in taxpayer funds were authorized for*  
4           *each of these contracts;*

5           (3) *in the midst of concerns about abusive and*  
6           *irresponsible spending of taxpayer funds, the Federal*  
7           *Emergency Management Agency pledged to re-bid*  
8           *these noncompetitive contracts, with Acting Under*  
9           *Secretary of Emergency Preparedness and Response,*  
10          *R. David Paulison, stating before the Committee on*  
11          *Homeland Security and Government Affairs of the*  
12          *Senate that “[a]ll of these no-bid contracts, we are*  
13          *going to go back and re-bid”;*

14          (4) *the Federal Emergency Management Agency*  
15          *has yet to reopen these 4 contracts to competitive bid-*  
16          *ding, and declared on November 11, 2005, that these*  
17          *contracts would not be reopened for bidding until*  
18          *February 2006;*

19          (5) *by February 2006, the majority of the con-*  
20          *tracts will have been completed and the majority of*  
21          *taxpayer funds will have been spent;*

22          (6) *large and politically-connected firms con-*  
23          *tinue to benefit from no-bid and limited-competition*  
24          *contracts, and contracts are not being awarded to ca-*  
25          *pable, local companies;*

1           (7) according to an analysis in the *Washington*  
2 *Post*, companies outside the States most affected by  
3 *Hurricane Katrina* have received more than 90 per-  
4 cent of the Federal contracts for recovery and recon-  
5 struction;

6           (8) the monitoring of Federal contracting prac-  
7 tices remains difficult, with a report by the *San Jose*  
8 *Mercury News* stating “The database of contracts is  
9 incomplete. Information released by Federal agencies  
10 is spotty and sporadic. And disclosure of many no-  
11 bid contracts isn’t required by law”; and

12           (9)(A) there is currently no Chief Financial Offi-  
13 cer charged with monitoring the flow of all funds to  
14 the affected areas; and

15           (B) the task of financial management is spread  
16 across disparate Federal departments and agencies  
17 with inadequate oversight of taxpayer funds.

18           (b) *SENSE OF THE SENATE.*—It is the sense of the Sen-  
19 ate that the Federal Emergency Management Agency  
20 should—

21           (1) immediately rebid noncompetitive contracts  
22 entered into following *Hurricane Katrina*, consistent  
23 with the commitment of the Agency made on October  
24 6, 2005, before millions of taxpayer dollars are wasted  
25 on irresponsible and inefficient spending;

1           (2)(A) *immediately implement the planned com-*  
2           *petitive contracting strategy of the Agency for recov-*  
3           *ery work in all current and future reconstruction ef-*  
4           *forts; and*

5           (B) *in carrying out that strategy, should*  
6           *prioritize local and small disadvantaged businesses in*  
7           *the contracting and subcontracting process; and*

8           (3) *immediately after the awarding of a con-*  
9           *tract, publicly disclose the amount and competitive or*  
10          *noncompetitive nature of the contract.*

11 **SEC. 306. SENSE OF CONGRESS REGARDING DOHA ROUND.**

12          (a) *FINDINGS.—The Congress makes the following*  
13          *findings:*

14               (1) *Members of the World Trade Organization*  
15               *(WTO) are currently engaged in a round of trade ne-*  
16               *gotiations known as the Doha Development Agenda*  
17               *(Doha Round).*

18               (2) *The Doha Round includes negotiations aimed*  
19               *at clarifying and improving disciplines under the*  
20               *Agreement on Implementation of Article VI of the*  
21               *General Agreement on Tariffs and Trade 1994 (Anti-*  
22               *dumping Agreement) and the Agreement on Subsidies*  
23               *and Countervailing Measures (Subsidies Agreement).*

24               (3) *The WTO Ministerial Declaration adopted*  
25               *on November 14, 2001 (WTO Paper No. WT/MIN(01)/*



1        *DEC/1) specifically provides that the Doha Round ne-*  
2        *gotiations are to preserve the “basic concepts, prin-*  
3        *ciples and effectiveness” of the Antidumping Agree-*  
4        *ment and the Subsidies Agreement.*

5            *(4) In section 2102(b)(14)(A) of the Bipartisan*  
6        *Trade Promotion Authority Act of 2002, the Congress*  
7        *mandated that the principal negotiating objective of*  
8        *the United States with respect to trade remedy laws*  
9        *was to “preserve the ability of the United States to*  
10       *enforce rigorously its trade laws . . . and avoid agree-*  
11       *ments that lessen the effectiveness of domestic and*  
12       *international disciplines on unfair trade, especially*  
13       *dumping and subsidies”.*

14           *(5) The countries that have been the most per-*  
15        *sistent and egregious violators of international fair*  
16        *trade rules are engaged in an aggressive effort to sig-*  
17        *nificantly weaken the disciplines provided in the*  
18        *Antidumping Agreement and the Subsidies Agreement*  
19        *and undermine the ability of the United States to ef-*  
20        *fectively enforce its trade remedy laws.*

21           *(6) Chronic violators of fair trade disciplines*  
22        *have put forward proposals that would substantially*  
23        *weaken United States trade remedy laws and prac-*  
24        *tices, including mandating that unfair trade orders*  
25        *terminate after a set number of years even if unfair*

1 *trade and injury are likely to recur, mandating that*  
2 *trade remedy duties reflect less than the full margin*  
3 *of dumping or subsidization, mandating higher de*  
4 *minimis levels of unfair trade, making cumulation of*  
5 *the effects of imports from multiple countries more*  
6 *difficult in unfair trade investigations, outlawing the*  
7 *critical practice of “zeroing” in antidumping inves-*  
8 *tigations, mandating the weighing of causes, and*  
9 *mandating other provisions that make it more dif-*  
10 *ficult to prove injury.*

11 *(7) United States trade remedy laws have al-*  
12 *ready been significantly weakened by numerous un-*  
13 *just and activist WTO dispute settlement decisions*  
14 *which have created new obligations to which the*  
15 *United States never agreed.*

16 *(8) Trade remedy laws remain a critical re-*  
17 *source for American manufacturers, agricultural pro-*  
18 *ducers, and aquacultural producers in responding to*  
19 *closed foreign markets, subsidized imports, and other*  
20 *forms of unfair trade, particularly in the context of*  
21 *the challenges currently faced by these vital sectors of*  
22 *the United States economy.*

23 *(9) The United States had a current account*  
24 *trade deficit of approximately \$668,000,000,000 in*  
25 *2004, including a trade deficit of almost*

1       \$162,000,000,000 with China alone, as well as a  
2       trade deficit of \$40,000,000,000 in advanced tech-  
3       nology.

4               (10) United States manufacturers have lost over  
5       3,000,000 jobs since June 2000, and United States  
6       manufacturing employment is currently at its lowest  
7       level since 1950.

8               (11) Many industries critical to United States  
9       national security are at severe risk from unfair for-  
10      eign competition.

11              (12) The Congress strongly believes that the pro-  
12      posals put forward by countries seeking to undermine  
13      trade remedy disciplines in the Doha Round would  
14      result in serious harm to the United States economy,  
15      including significant job losses and trade disadvan-  
16      tages.

17      (b) *SENSE OF CONGRESS.*—It is the sense of Congress  
18      that—

19              (1) the United States should not be a signatory  
20      to any agreement or protocol with respect to the Doha  
21      Development Round of the World Trade Organization  
22      negotiations, or any other bilateral or multilateral  
23      trade negotiations, that—

24                      (A) adopts any proposal to lessen the effec-  
25                      tiveness of domestic and international disciplines

1           on unfair trade or safeguard provisions, includ-  
2           ing proposals—

3                   (i) mandating that unfair trade orders  
4                   terminate after a set number of years even  
5                   if unfair trade and injury are likely to  
6                   recur;

7                   (ii) mandating that trade remedy du-  
8                   ties reflect less than the full margin of  
9                   dumping or subsidization;

10                  (iii) mandating higher *de minimis* lev-  
11                  els of unfair trade;

12                  (iv) making cumulation of the effects of  
13                  imports from multiple countries more dif-  
14                  ficult in unfair trade investigations;

15                  (v) outlawing the critical practice of  
16                  “zeroing” in antidumping investigations; or

17                  (vi) mandating the weighing of causes  
18                  or other provisions making it more difficult  
19                  to prove injury in unfair trade cases; and

20                  (B) would lessen in any manner the ability  
21                  of the United States to enforce rigorously its  
22                  trade laws, including the antidumping, counter-  
23                  vailing duty, and safeguard laws;

24                  (2) the United States trade laws and inter-  
25                  national rules appropriately serve the public interest

1 *by offsetting injurious unfair trade, and that further*  
2 *“balancing modifications” or other similar provisions*  
3 *are unnecessary and would add to the complexity and*  
4 *difficulty of achieving relief against injurious unfair*  
5 *trade practices; and*

6 *(3) the United States should ensure that any new*  
7 *agreement relating to international disciplines on un-*  
8 *fair trade or safeguard provisions fully rectifies and*  
9 *corrects decisions by WTO dispute settlement panels*  
10 *or the Appellate Body that have unjustifiably and*  
11 *negatively impacted, or threaten to negatively impact,*  
12 *United States law or practice, including a law or*  
13 *practice with respect to foreign dumping or subsidiza-*  
14 *tion.*

15 **SEC. 307. MODIFICATION OF BOND RULE.**

16 *In the case of bonds issued after the date of the enact-*  
17 *ment of this Act and before August 31, 2009—*

18 *(1) the requirement of paragraph (1) of section*  
19 *648 of the Deficit Reduction Act of 1984 (98 Stat.*  
20 *941) shall be treated as met with respect to the securi-*  
21 *ties or obligations referred to in such section if such*  
22 *securities or obligations are held in a fund the annual*  
23 *distributions from which cannot exceed 7 percent of*  
24 *the average fair market value of the assets held in*

1        *such fund except to the extent distributions are nec-*  
2        *essary to pay debt service on the bond issue,*

3            *(2) paragraph (3) of such section shall be ap-*  
4        *plied by substituting “distributions from” for “the in-*  
5        *vestment earnings of” both places it appears, and*

6            *(3) paragraph (4) of such section shall be ap-*  
7        *plied by substituting “March 1, 1985” for “October 9,*  
8        *1969”.*

9        **SEC. 308. TREATMENT OF CERTAIN STOCK OPTION PLANS**  
10                    **UNDER NONQUALIFIED DEFERRED COM-**  
11                    **PENSATION RULES.**

12        *(a) IN GENERAL.—The Secretary of the Treasury shall*  
13        *modify the regulations under section 409A of the Internal*  
14        *Revenue Code of 1986 to extend to applicable foreign option*  
15        *plans the exception under such section for incentive stock*  
16        *options under section 422 of such Code and options granted*  
17        *under an employee stock purchase plan meeting the require-*  
18        *ments of section 423 of such Code. Such extension shall be*  
19        *subject to such terms and conditions as may be prescribed*  
20        *in such regulations.*

21        *(b) APPLICABLE FOREIGN OPTION PLANS.—For pur-*  
22        *poses of subsection (a)—*

23            *(1) IN GENERAL.—The term “applicable foreign*  
24        *option plan” means a plan providing for the issuance*  
25        *of employee stock options—*

1           (A) which is established under the laws of  
2           a foreign jurisdiction, and

3           (B) which, under such laws or the terms of  
4           the plan (or both), is subject to requirements sub-  
5           stantially similar to the requirements under sec-  
6           tion 422 or 423 of such Code.

7           (2) *SUBSTANTIALLY SIMILAR.*—A plan shall not  
8           be treated as subject to substantially similar require-  
9           ments under paragraph (1)(B) unless—

10           (A) the plan is required to cover substan-  
11           tially all employees,

12           (B) in the case of an option under an em-  
13           ployee stock purchase plan, the plan is required  
14           to provide an option price which is not less than  
15           the amount specified in section 423(b)(6) of such  
16           Code, except that such section shall be applied by  
17           substituting “80 percent” for “85 percent” each  
18           place it appears,

19           (C) the plan is required to provide coverage  
20           of individuals who, but for the exception of the  
21           application of section 409A of such Code by rea-  
22           son of this section, would be subject to tax under  
23           such section with respect to the plan, and

1           (D) the plan meets such other requirements  
2           as the Secretary of the Treasury prescribes in the  
3           regulations under subsection (a).

4 **SEC. 309. SENSE OF THE SENATE REGARDING THE DEDICA-**  
5 **TION OF EXCESS FUNDS.**

6           It is the sense of the Senate that any increases in reve-  
7 nues to the Treasury as a result of this Act and the amend-  
8 ments made by this Act that exceed the amounts specified  
9 in the reconciliation instructions shall be dedicated to the  
10 Low-Income Home Energy Assistance Program, in an  
11 amount not to exceed the amount which is \$2,900,000,000  
12 more than the funding levels established for such Program  
13 for fiscal year 2005.

14 **SEC. 310. MODIFICATION OF TREATMENT OF LOANS TO**  
15 **QUALIFIED CONTINUING CARE FACILITIES.**

16           (a) *IN GENERAL.*—Subsection (g) of section 7872 is  
17 amended to read as follows:

18           “(g) *EXCEPTION FOR LOANS TO QUALIFIED CON-*  
19 *TINUING CARE FACILITIES.*—

20           “(1) *IN GENERAL.*—This section shall not apply  
21 for any calendar year to any below-market loan owed  
22 by a facility which on the last day of such year is  
23 a continuing care facility, if such loan was made  
24 pursuant to a continuing care contract and if the



1        *lender (or the lender's spouse) attains age 62 before*  
2        *the close of such year.*

3            “(2) *CONTINUING CARE CONTRACT.*—*For pur-*  
4        *poses of this section, the term ‘continuing care con-*  
5        *tract’ means a written contract between an individual*  
6        *and a qualified continuing care facility under*  
7        *which—*

8            “(A) *the individual or individual's spouse*  
9        *may use a qualified continuing care facility for*  
10       *their life or lives,*

11           “(B) *the individual or individual's spouse*  
12       *will be provided with housing in an independent*  
13       *living unit (which has additional available fa-*  
14       *cilities outside such unit for the provision of*  
15       *meals and other personal care), an assisted liv-*  
16       *ing facility or a nursing facility, as is available*  
17       *in the continuing care facility, as appropriate*  
18       *for the health of such individual or individual's*  
19       *spouse, and*

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

25           “(3) *QUALIFIED CONTINUING CARE FACILITY.*—

1           “(A) *IN GENERAL.*—For purposes of this  
2 section, the term ‘qualified continuing care facil-  
3 ity’ means 1 or more facilities—

4                   “(i) which are designed to provide  
5 services under continuing care contracts,

6                   “(ii) that include an independent liv-  
7 ing unit, plus an assisted living or nursing  
8 facility, or both, and

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

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

16           (b) *EFFECTIVE DATE.*—The amendment made by this  
17 section shall apply to loans made after December 31, 2005.

18 **SEC. 311. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**  
19 **RESIDENCE BY CERTAIN EMPLOYEES OF THE**  
20 **INTELLIGENCE COMMUNITY.**

21           (a) *IN GENERAL.*—Subparagraph (A) of section  
22 121(d)(9) (relating to exclusion of gain from sale of prin-  
23 cipal residence) is amended by striking “duty” and all that  
24 follows and inserting “duty—

1           “(i) as a member of the uniformed  
2           services,

3           “(ii) as a member of the Foreign Serv-  
4           ice of the United States, or

5           “(iii) as an employee of the intelligence  
6           community.”.

7           (b) *EMPLOYEE OF INTELLIGENCE COMMUNITY DE-*  
8 *FINED.*—Subparagraph (C) of section 121(d)(9) is amended  
9 by redesignating clause (iv) as clause (v) and by inserting  
10 after clause (iii) the following new clause:

11           “(iv) *EMPLOYEE OF INTELLIGENCE*  
12 *COMMUNITY.*—The term ‘employee of the in-  
13 *telligence community’* means an employee  
14 (as defined by section 2105 of title 5,  
15 *United States Code*) of—

16           “(I) the Office of the Director of  
17 *National Intelligence,*

18           “(II) the Central Intelligence  
19 *Agency,*

20           “(III) the National Security  
21 *Agency,*

22           “(IV) the Defense Intelligence  
23 *Agency,*

24           “(V) the National Geospatial-In-  
25 *telligence Agency,*

1                   “(VI) *the National Reconnaissance Office,*

2  
3                   “(VII) *any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,*

4  
5  
6                   “(VIII) *any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,*

7  
8  
9                   “(IX) *the Bureau of Intelligence and Research of the Department of State, or*

10  
11                   “(X) *any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.”.*

12  
13                   (c) *SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:*

14                   “(vi) *SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be*

1           *treated as serving on qualified extended*  
2           *duty unless—*

3                     “(I) *for purposes of such duty*  
4                     *such employee has moved from 1 duty*  
5                     *station to another, and*

6                     “(II) *at least 1 of such duty sta-*  
7                     *tions is located outside of the Wash-*  
8                     *ington, District of Columbia, and Bal-*  
9                     *timore metropolitan statistical areas*  
10                    *(as defined by the Secretary of Com-*  
11                    *merce).”.*

12           (d) *CONFORMING AMENDMENT.—The heading for sec-*  
13           *tion 121(d)(9) is amended by striking “MEMBERS OF UNI-*  
14           *FORMED SERVICES AND FOREIGN SERVICE” and inserting*  
15           *“UNIFORMED SERVICES, FOREIGN SERVICE, AND INTEL-*  
16           *LIGENCE COMMUNITY”.*

17           (e) *EFFECTIVE DATE.—The amendments made by this*  
18           *section shall apply to sales or exchanges after the date of*  
19           *the enactment of this Act.*

20           **SEC. 312. SENSE OF THE SENATE REGARDING THE PERMA-**  
21                     **NENT EXTENSION OF EGTRRA AND JGTRRA**  
22                     **PROVISIONS RELATING TO CHILD TAX CRED-**  
23                     **IT.**

24           *It is the sense of the Senate that the conferees for the*  
25           *Tax Relief Act of 2006 should strive to permanently extend*

1 *the amendments to the child tax credit under section 24*  
2 *of the Internal Revenue Code of 1986 made by the Economic*  
3 *Growth and Tax Relief Reconciliation Act of 2001 and the*  
4 *Jobs and Growth Tax Relief Reconciliation Act of 2003.*

5 **SEC. 313. PARTIAL EXPENSING FOR ADVANCED MINE SAFE-**  
6 **TY EQUIPMENT.**

7 (a) *IN GENERAL.*—Part VI of subchapter B of chapter  
8 1 is amended by inserting after section 179D the following  
9 new section:

10 **“SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFE-**  
11 **TY EQUIPMENT.**

12 “(a) *TREATMENT AS EXPENSES.*—A taxpayer may  
13 elect to treat 50 percent of the cost of any qualified ad-  
14 vanced mine safety equipment property as an expense  
15 which is not chargeable to capital account. Any cost so  
16 treated shall be allowed as a deduction for the taxable year  
17 in which the qualified advanced mine safety equipment  
18 property is placed in service.

19 “(b) *ELECTION.*—

20 “(1) *IN GENERAL.*—An election under this sec-  
21 tion for any taxable year shall be made on the tax-  
22 payer’s return of the tax imposed by this chapter for  
23 the taxable year. Such election shall specify the ad-  
24 vanced mine safety equipment property to which the

1       *election applies and shall be made in such manner as*  
2       *the Secretary may by regulations prescribe.*

3               “(2) *ELECTION IRREVOCABLE.*—*Any election*  
4       *made under this section may not be revoked except*  
5       *with the consent of the Secretary.*

6               “(c) *QUALIFIED ADVANCED MINE SAFETY EQUIPMENT*  
7       *PROPERTY.*—*For purposes of this section, the term ‘quali-*  
8       *fied advanced mine safety equipment property’ means any*  
9       *advanced mine safety equipment property for use in any*  
10       *underground mine located in the United States—*

11               “(1) *the original use of which commences with*  
12       *the taxpayer, and*

13               “(2) *which is placed in service by the taxpayer*  
14       *after the date of the enactment of this section.*

15               “(d) *ADVANCED MINE SAFETY EQUIPMENT PROP-*  
16       *ERTY.*—*For purposes of this section, the term ‘advanced*  
17       *mine safety equipment property’ means any of the fol-*  
18       *lowing:*

19               “(1) *Emergency communication technology or*  
20       *device which is used to allow a miner to maintain*  
21       *constant communication with an individual who is*  
22       *not in the mine.*

23               “(2) *Electronic identification and location device*  
24       *which allows an individual who is not in the mine*

1       to track at all times the movements and location of  
2       miners working in or at the mine.

3               “(3) *Emergency oxygen-generating, self-rescue*  
4       *device which provides oxygen for at least 90 minutes.*

5               “(4) *Pre-positioned supplies of oxygen which (in*  
6       *combination with self-rescue devices) can be used to*  
7       *provide each miner on a shift, in the event of an acci-*  
8       *dent or other event which traps the miner in the mine*  
9       *or otherwise necessitates the use of such a self-rescue*  
10       *device, the ability to survive for at least 48 hours.*

11              “(5) *Comprehensive atmospheric monitoring sys-*  
12       *tem which monitors the levels of carbon monoxide,*  
13       *methane, and oxygen that are present in all areas of*  
14       *the mine and which can detect smoke in the case of*  
15       *a fire in a mine.*

16              “(e) *SPECIAL RULES.—*

17              “(1) *COORDINATION WITH SECTION 179.—No ex-*  
18       *penditures shall be taken into account under sub-*  
19       *section (a) with respect to the portion of the cost of*  
20       *any property specified in an election under section*  
21       *179.*

22              “(2) *BASIS REDUCTION.—For purposes of this*  
23       *title, the basis of any property shall be reduced by the*  
24       *portion of the cost of such property taken into account*  
25       *under subsection (a).*



1       “(f) *REPORTING.*—No deduction shall be allowed under  
2 subsection (a) to any taxpayer for any taxable year unless  
3 such taxpayer files with the Secretary a report containing  
4 such information with respect to the operation of the mines  
5 of the taxpayer as the Secretary shall require.

6       “(g) *TERMINATION.*—This section shall not apply to  
7 property placed in service after the date which is 3 years  
8 after the date of the enactment of this section.”.

9       (b) *CONFORMING AMENDMENTS.*—

10           (1) Section 263(a)(1) is amended by striking  
11 “or” at the end of subparagraph (J), by striking the  
12 period at the end of subparagraph (K) and inserting  
13 “, or”, and by inserting after subparagraph (K) the  
14 following new subparagraph:

15                   “(L) expenditures for which a deduction is  
16 allowed under section 179E.”.

17           (2) Section 312(k)(3)(B) is amended by striking  
18 “or 179D” each place it appears in the heading and  
19 text thereof and inserting “179D, or 179E”.

20           (3) Section 1016(a) is amended by striking  
21 “and” at the end of paragraph (36), by striking the  
22 period at the end of paragraph (37) and inserting “,  
23 and”, and by adding at the end the following new  
24 paragraph:

1           “(38) to the extent provided in section  
2     179E(e)(2).”.

3           (4) Section 1245(a)(2)(C) is amended by insert-  
4     ing “179E,” after “179D,”.

5           (5) The table of sections for part VI of sub-  
6     chapter B of chapter 1 is amended by inserting after  
7     the item relating to section 179D the following new  
8     item:

          “Sec. 179E. Election to expense advanced mine safety equipment.”.

9           (c) *EFFECTIVE DATE.*—The amendments made by this  
10    section shall apply to costs paid or incurred after the date  
11    of the enactment of this Act.

12    **SEC. 314. MINE RESCUE TEAM TRAINING TAX CREDIT.**

13           (a) *IN GENERAL.*—Subpart D of part IV of subchapter  
14    A of chapter 1 (relating to business related credits) is  
15    amended by adding at the end the following new section:

16    **“SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.**

17           “(a) *AMOUNT OF CREDIT.*—For purposes of section 38,  
18    the mine rescue team training credit determined under this  
19    section with respect to any eligible employer for any taxable  
20    year is an amount equal to the lesser of—

21           “(1) 20 percent of the amount paid or incurred  
22    by the taxpayer during the taxable year with respect  
23    to the training program costs of each qualified mine  
24    rescue team employee (including wages of such em-  
25    ployee while attending such program), or

1           “(2) \$10,000.

2           “(b) *QUALIFIED MINE RESCUE TEAM EMPLOYEE.*—

3 *For purposes of this section, the term ‘qualified mine rescue*  
4 *team employee’ means with respect to any taxable year any*  
5 *full-time employee of the taxpayer who is—*

6           “(1) *a miner eligible for more than 6 months of*  
7 *such taxable year to serve as a mine rescue team*  
8 *member as a result of completing, at a minimum, an*  
9 *initial 20-hour course of instruction as prescribed by*  
10 *the Mine Safety and Health Administration’s Office*  
11 *of Educational Policy and Development, or*

12           “(2) *a miner eligible for more than 6 months of*  
13 *such taxable year to serve as a mine rescue team*  
14 *member by virtue of receiving at least 40 hours of re-*  
15 *resher training in such instruction.*

16           “(c) *ELIGIBLE EMPLOYER.*—*For purposes of this sec-*  
17 *tion, the term ‘eligible employer’ means any taxpayer which*  
18 *employs individuals as miners in underground mines in*  
19 *the United States.*

20           “(d) *WAGES.*—*For purposes of this section, the term*  
21 *‘wages’ has the meaning given to such term by subsection*  
22 *(b) of section 3306 (determined without regard to any dollar*  
23 *limitation contained in such section).*

24           “(e) *TERMINATION.*—*This section shall not apply to*  
25 *taxable years beginning after December 31, 2008.”.*

1           **(b) CREDIT MADE PART OF GENERAL BUSINESS**  
 2 *CREDIT.*—Section 38(b) is amended by striking “and” at  
 3 the end of paragraph (25), by striking the period at the  
 4 end of paragraph (26) and inserting “, and”, and by add-  
 5 ing at the end the following new paragraph:

6           “(27) the mine rescue team training credit deter-  
 7 mined under section 45N(a).”.

8           **(c) NO DOUBLE BENEFIT.**—Section 280C is amended  
 9 by adding at the end the following new subsection:

10          “(e) *MINE RESCUE TEAM TRAINING CREDIT.*—No de-  
 11 duction shall be allowed for that portion of the expenses oth-  
 12 erwise allowable as a deduction for the taxable year which  
 13 is equal to the amount of the credit determined for the tax-  
 14 able year under section 45N(a).”.

15          **(d) CLERICAL AMENDMENT.**—The table of sections for  
 16 subpart D of part IV of subchapter A of chapter 1 is amend-  
 17 ed by adding at the end the following new item:

“Sec. 45N. Mine rescue team training credit.”.

18          **(e) EFFECTIVE DATE.**—The amendments made by  
 19 this section shall apply to taxable years beginning after  
 20 December 31, 2005.

21 **SEC. 315. FUNDING FOR VETERANS HEALTH CARE AND DIS-**  
 22 **ABILITY COMPENSATION AND HOSPITAL IN-**  
 23 **FRASTRUCTURE FOR VETERANS.**

24          **(a) FUNDING FOR MEDICAL SERVICES.**—

1           (1) AUTHORIZATION OF APPROPRIATIONS.—

2           There is hereby authorized to be appropriated for  
3           the Department of Veterans Affairs for the Veterans  
4           Health Administration for Medical Care amounts as  
5           follows:

6                   (A) \$900,000,000 for fiscal year 2006.

7                   (B) \$1,300,000,000 for fiscal year 2007.

8                   (C) \$1,500,000,000 for fiscal year 2008.

9                   (D) \$1,600,000,000 for fiscal year 2009.

10                  (E) \$1,600,000,000 for fiscal year 2010.

11           (2) SUPPLEMENT NOT SUPPLANT.—The

12           amounts authorized to be appropriated by this sub-  
13           section are in addition to any other amounts author-  
14           ized to be appropriated for the Veterans Health Ad-  
15           ministration for Medical Care under any other provi-  
16           sions of law.

17           (b) FUNDING FOR DISABILITY COMPENSATION BEN-  
18           EFITS.—

19           (1) AUTHORIZATION OF APPROPRIATIONS.—

20           There is hereby authorized to be appropriated for  
21           the Department of Veterans Affairs for the Veterans  
22           Benefits Administration for Compensation and Pen-  
23           sions amounts as follows:

24                   (A) \$2,300,000,000 for fiscal year 2006.

25                   (B) \$2,700,000,000 for fiscal year 2007.

1 (C) \$3,000,000,000 for fiscal year 2008.

2 (D) \$3,000,000,000 for fiscal year 2009.

3 (E) \$3,000,000,000 for fiscal year 2010.

4 (2) SUPPLEMENT NOT SUPPLANT.—The  
5 amounts authorized to be appropriated by this sub-  
6 section are in addition to any other amounts author-  
7 ized to be appropriated for the Veterans Benefits  
8 Administration for Compensation and Pensions  
9 under any other provisions of law.

10 (c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS  
11 FOR HOSPITALS PROVIDING HEALTH CARE AND SERV-  
12 ICES TO VETERANS.—

13 (1) ESTABLISHMENT OF FUND.—There is here-  
14 by established on the books of the Treasury an ac-  
15 count to be known as the “Veterans Hospital Im-  
16 provement Fund” (in this subsection referred to as  
17 the “Fund”).

18 (2) ELEMENTS.—The Fund shall consist of the  
19 following:

20 (A) \$1,000,000,000, which shall be depos-  
21 ited in the Fund upon the enactment of this  
22 subsection.

23 (B) Any other amounts authorized for  
24 transfer to or deposit in the Fund by law.

1           (3) ADMINISTRATION.—The Funds shall be ad-  
2 ministered by the Secretary of Veterans Affairs.

3           (4) USE OF FUNDS.—

4           (A) IN GENERAL.—Amounts in the Fund  
5 shall be available expenditures for improve-  
6 ments of health facilities treating veterans, in-  
7 cluding military medical treatment facilities,  
8 medical centers and other facilities administered  
9 by the Secretary of Veterans Affairs for the  
10 provision of medical care and services to vet-  
11 erans, and other State, local, and private facili-  
12 ties providing medical care and services to vet-  
13 erans.

14           (B) APPLICATION FOR FUNDS.—A non-  
15 Federal health facility seeking amounts from  
16 the Fund shall submit to the Secretary of Vet-  
17 erans Affairs an application therefor setting  
18 forth such information as the Secretary shall  
19 require.

20           (C) AVAILABILITY.—Amounts in the Fund  
21 shall remain available until expended.

22 **SEC. 316. SENSE OF THE SENATE REGARDING PROTECTING**  
23 **MIDDLE-CLASS FAMILIES FROM THE ALTER-**  
24 **NATIVE MINIMUM TAX.**

25           (a) FINDINGS.—The Senate finds that—

1           (1) the alternative minimum tax was originally  
2           enacted in 1969 as a supplemental tax on wealthy  
3           tax evaders, but has evolved into a tax on millions  
4           of middle-class working families, particularly fami-  
5           lies in which both parents work, and families with 2  
6           or more children;

7           (2) by the end of the decade, the alternative  
8           minimum tax will ensnare more than 30,000,000  
9           taxpayers, the majority of which will have adjusted  
10          gross incomes below \$100,000, and the National  
11          Taxpayer Advocate has thus identified it as the most  
12          serious problem facing individual taxpayers;

13          (3) the alternative minimum tax is often por-  
14          trayed as a tax that is most problematic for resi-  
15          dents of States such as New York, California, Mas-  
16          sachusetts, and New Jersey, but the truth is that  
17          many other States have a significant percentage of  
18          taxpayers affected by the alternative minimum tax,  
19          including Oregon, Maryland, Virginia, Minnesota,  
20          Ohio, Maine, Georgia, North Carolina, and Pennsyl-  
21          vania, so the problem is of national importance;

22          (4) a family with 2 children will become subject  
23          to the alternative minimum tax at about \$67,500 of  
24          income in 2006, and a family with 5 children will



1 start owing the alternative minimum tax at about  
2 \$54,000 of income, if Congress fails to act;

3 (5) the year 2006 is the “tipping point” for the  
4 alternative minimum tax, as the number of tax-  
5 payers affected nationally will explode from  
6 3,600,000 to 19,000,000 if Congress fails to act;

7 (6) in 2004, only 6.2 percent of families earn-  
8 ing \$100,000 to \$200,000 a year were subject to the  
9 alternative minimum tax, and that number will ex-  
10 plose to nearly 50 percent if Congress fails to act;

11 (7) if alternative minimum tax relief is extended  
12 through 2006, about two-thirds of the benefits will  
13 be realized by families earning under \$200,000, with  
14 more than half of the total benefits going to families  
15 with incomes between \$100,000 and \$200,000;

16 (8) starting in 2008, the average married cou-  
17 ple with 2 children earning \$75,000 or more will  
18 find that more than half of the tax cuts they have  
19 been expecting from the various laws passed since  
20 2001 will be “taken back” via the alternative min-  
21 imum tax; and

22 (9) the temporary relief from the alternative  
23 minimum tax (provided in 2001 and extended twice  
24 in 2003 and 2004) expired at the end of 2005, but  
25 the tax reductions on dividends and capital gains do

1 not expire until the end of 2008, making immediate  
2 action on those provisions a less urgent matter.

3 (b) SENSE OF THE SENATE.—It is the sense of the  
4 Senate that protecting middle-class families from the al-  
5 ternative minimum tax should be a higher priority for  
6 Congress in 2006 than extending a tax cut that does not  
7 expire until the end of 2008.

8 **TITLE IV—REVENUE OFFSET**  
9 **PROVISIONS**

10 **Subtitle A—Provisions Designed to**  
11 **Curtail Tax Shelters**

12 **SEC. 401. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY**  
13 **INCOME TAX RETURN PREPARER.**

14 (a) STANDARDS CONFORMED TO TAXPAYER STAND-  
15 ARDS.—Section 6694(a) (relating to understatements due  
16 to unrealistic positions) is amended—

17 (1) by striking “realistic possibility of being  
18 sustained on its merits” in paragraph (1) and in-  
19 serting “reasonable belief that the tax treatment in  
20 such position was more likely than not the proper  
21 treatment”,

22 (2) by striking “or was frivolous” in paragraph  
23 (3) and inserting “or there was no reasonable basis  
24 for the tax treatment of such position”, and

1           (3) by striking “UNREALISTIC” in the heading  
2 thereof and inserting “IMPROPER”.

3           (b) AMOUNT OF PENALTY.—Section 6694 is  
4 amended—

5           (1) by striking “\$250” in subsection (a) and in-  
6 serting “\$1,000”, and

7           (2) by striking “\$1,000” in subsection (b) and  
8 inserting “\$5,000”.

9           (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to documents prepared after the  
11 date of the enactment of this Act.

12 **SEC. 402. FRIVOLOUS TAX SUBMISSIONS.**

13           (a) CIVIL PENALTIES.—Section 6702 is amended to  
14 read as follows:

15 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

16           “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-  
17 TURNS.—A person shall pay a penalty of \$5,000 if—

18           “(1) such person files what purports to be a re-  
19 turn of a tax imposed by this title but which—

20           “(A) does not contain information on  
21 which the substantial correctness of the self-as-  
22 sessment may be judged, or

23           “(B) contains information that on its face  
24 indicates that the self-assessment is substan-  
25 tially incorrect; and

1 “(2) the conduct referred to in paragraph (1)—

2 “(A) is based on a position which the Sec-  
3 retary has identified as frivolous under sub-  
4 section (c), or

5 “(B) reflects a desire to delay or impede  
6 the administration of Federal tax laws.

7 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS  
8 SUBMISSIONS.—

9 “(1) IMPOSITION OF PENALTY.—Except as pro-  
10 vided in paragraph (3), any person who submits a  
11 specified frivolous submission shall pay a penalty of  
12 \$5,000.

13 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For  
14 purposes of this section—

15 “(A) SPECIFIED FRIVOLOUS SUBMIS-  
16 SION.—The term ‘specified frivolous submis-  
17 sion’ means a specified submission if any por-  
18 tion of such submission—

19 “(i) is based on a position which the  
20 Secretary has identified as frivolous under  
21 subsection (c), or

22 “(ii) reflects a desire to delay or im-  
23 pede the administration of Federal tax  
24 laws.

1           “(B) SPECIFIED SUBMISSION.—The term  
2           ‘specified submission’ means—

3                   “(i) a request for a hearing under—

4                           “(I) section 6320 (relating to no-  
5                           tice and opportunity for hearing upon  
6                           filing of notice of lien), or

7                           “(II) section 6330 (relating to  
8                           notice and opportunity for hearing be-  
9                           fore levy), and

10                   “(ii) an application under—

11                           “(I) section 6159 (relating to  
12                           agreements for payment of tax liabil-  
13                           ity in installments),

14                           “(II) section 7122 (relating to  
15                           compromises), or

16                           “(III) section 7811 (relating to  
17                           taxpayer assistance orders).

18           “(3) OPPORTUNITY TO WITHDRAW SUBMIS-  
19           SION.—If the Secretary provides a person with no-  
20           tice that a submission is a specified frivolous sub-  
21           mission and such person withdraws such submission  
22           within 30 days after such notice, the penalty im-  
23           posed under paragraph (1) shall not apply with re-  
24           spect to such submission.

1       “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-  
2 retary shall prescribe (and periodically revise) a list of po-  
3 sitions which the Secretary has identified as being frivo-  
4 lous for purposes of this subsection. The Secretary shall  
5 not include in such list any position that the Secretary  
6 determines meets the requirement of section  
7 6662(d)(2)(B)(ii)(II).

8       “(d) REDUCTION OF PENALTY.—The Secretary may  
9 reduce the amount of any penalty imposed under this sec-  
10 tion if the Secretary determines that such reduction would  
11 promote compliance with and administration of the Fed-  
12 eral tax laws.

13       “(e) PENALTIES IN ADDITION TO OTHER PEN-  
14 ALTIES.—The penalties imposed by this section shall be  
15 in addition to any other penalty provided by law.”.

16       (b) TREATMENT OF FRIVOLOUS REQUESTS FOR  
17 HEARINGS BEFORE LEVY.—

18           (1) FRIVOLOUS REQUESTS DISREGARDED.—  
19       Section 6330 (relating to notice and opportunity for  
20 hearing before levy) is amended by adding at the  
21 end the following new subsection:

22       “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—  
23 Notwithstanding any other provision of this section, if the  
24 Secretary determines that any portion of a request for a  
25 hearing under this section or section 6320 meets the re-

1 quirement of clause (i) or (ii) of section 6702(b)(2)(A),  
2 then the Secretary may treat such portion as if it were  
3 never submitted and such portion shall not be subject to  
4 any further administrative or judicial review.”.

5 (2) PRECLUSION FROM RAISING FRIVOLOUS  
6 ISSUES AT HEARING.—Section 6330(c)(4) is  
7 amended—

8 (A) by striking “(A)” and inserting  
9 “(A)(i)”;

10 (B) by striking “(B)” and inserting “(ii)”;

11 (C) by striking the period at the end of the  
12 first sentence and inserting “; or”; and

13 (D) by inserting after subparagraph (A)(ii)  
14 (as so redesignated) the following:

15 “(B) the issue meets the requirement of  
16 clause (i) or (ii) of section 6702(b)(2)(A).”.

17 (3) STATEMENT OF GROUNDS.—Section  
18 6330(b)(1) is amended by striking “under sub-  
19 section (a)(3)(B)” and inserting “in writing under  
20 subsection (a)(3)(B) and states the grounds for the  
21 requested hearing”.

22 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR  
23 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section  
24 6320 is amended—

1           (1) in subsection (b)(1), by striking “under sub-  
2           section (a)(3)(B)” and inserting “in writing under  
3           subsection (a)(3)(B) and states the grounds for the  
4           requested hearing”, and

5           (2) in subsection (c), by striking “and (e)” and  
6           inserting “(e), and (g)”.

7           (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR  
8           OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-  
9           MENTS.—Section 7122 is amended by adding at the end  
10          the following new subsection:

11          “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-  
12          standing any other provision of this section, if the Sec-  
13          retary determines that any portion of an application for  
14          an offer-in-compromise or installment agreement sub-  
15          mitted under this section or section 6159 meets the re-  
16          quirement of clause (i) or (ii) of section 6702(b)(2)(A),  
17          then the Secretary may treat such portion as if it were  
18          never submitted and such portion shall not be subject to  
19          any further administrative or judicial review.”.

20          (e) CLERICAL AMENDMENT.—The table of sections  
21          for part I of subchapter B of chapter 68 is amended by  
22          striking the item relating to section 6702 and inserting  
23          the following new item:

          “Sec. 6702. *Frivolous tax submissions.*”.

24          (f) EFFECTIVE DATE.—*The amendments made by this*  
25          *section shall apply to submissions made and issues raised*



1 *after the date on which the Secretary first prescribes a list*  
2 *under section 6702(c) of the Internal Revenue Code of 1986,*  
3 *as amended by subsection (a).*

4 **SEC. 403. PENALTY FOR PROMOTING ABUSIVE TAX SHEL-**  
5 **TERS.**

6 (a) *PENALTY FOR PROMOTING ABUSIVE TAX SHEL-*  
7 *TERS.—Section 6700 (relating to promoting abusive tax*  
8 *shelters, etc.) is amended—*

9 (1) *by redesignating subsections (b) and (c) as*  
10 *subsections (d) and (e), respectively,*

11 (2) *by striking “a penalty” and all that follows*  
12 *through the period in the first sentence of subsection*  
13 *(a) and inserting “a penalty determined under sub-*  
14 *section (b)”, and*

15 (3) *by inserting after subsection (a) the following*  
16 *new subsections:*

17 “(b) *AMOUNT OF PENALTY; CALCULATION OF PEN-*  
18 *ALTY; LIABILITY FOR PENALTY.—*

19 “(1) *AMOUNT OF PENALTY.—The amount of the*  
20 *penalty imposed by subsection (a) shall be 100 per-*  
21 *cent of the gross income derived (or to be derived)*  
22 *from such activity by the person or persons subject to*  
23 *such penalty.*

24 “(2) *CALCULATION OF PENALTY.—The penalty*  
25 *amount determined under paragraph (1) shall be cal-*

1        *culated with respect to each instance of an activity*  
2        *described in subsection (a), each instance in which in-*  
3        *come was derived by the person or persons subject to*  
4        *such penalty, and each person who participated in*  
5        *such an activity.*

6            *“(3) LIABILITY FOR PENALTY.—If more than 1*  
7        *person is liable under subsection (a) with respect to*  
8        *such activity, all such persons shall be jointly and*  
9        *severally liable for the penalty under such subsection.*

10          *“(c) PENALTY NOT DEDUCTIBLE.—The payment of*  
11        *any penalty imposed under this section or the payment of*  
12        *any amount to settle or avoid the imposition of such pen-*  
13        *alty shall not be considered an ordinary and necessary ex-*  
14        *pense in carrying on a trade or business for purposes of*  
15        *this title and shall not be deductible by the person who is*  
16        *subject to such penalty or who makes such payment.”.*

17          *(b) CONFORMING AMENDMENT.—Section 6700(a) is*  
18        *amended by striking the last sentence.*

19          *(c) EFFECTIVE DATE.—The amendments made by this*  
20        *section shall apply to the activities described in paragraphs*  
21        *(1) and (2) of section 6700(a) of the Internal Revenue Code*  
22        *of 1986 and after the date of the enactment of this Act.*

1 **SEC. 404. PENALTY FOR AIDING AND ABETTING THE UN-**  
2 **DERSTATEMENT OF TAX LIABILITY.**

3 (a) *IN GENERAL.*—Section 6701(a) (relating to im-  
4 position of penalty) is amended—

5 (1) by inserting “, or tax liability reflected in,”  
6 after “the preparation or presentation of” in para-  
7 graph (1),

8 (2) by inserting “aid, assistance, procurement,  
9 or advice with respect to such” before “portion” both  
10 places it appears in paragraphs (2) and (3), and

11 (3) by inserting “instance of aid, assistance, pro-  
12 curement, or advice or each such” before “document”  
13 in the matter following paragraph (3).

14 (b) *AMOUNT OF PENALTY.*—Subsection (b) of section  
15 6701 (relating to penalties for aiding and abetting under-  
16 statement of tax liability) is amended to read as follows:

17 “(b) *AMOUNT OF PENALTY; CALCULATION OF PEN-*  
18 *ALTY; LIABILITY FOR PENALTY.*—

19 “(1) *AMOUNT OF PENALTY.*—The amount of the  
20 penalty imposed by subsection (a) shall be 100 per-  
21 cent of the gross income derived (or to be derived)  
22 from such aid, assistance, procurement, or advice pro-  
23 vided by the person or persons subject to such penalty.

24 “(2) *CALCULATION OF PENALTY.*—The penalty  
25 amount determined under paragraph (1) shall be cal-  
26 culated with respect to each instance of aid, assist-

1        *ance, procurement, or advice described in subsection*  
2        *(a), each instance in which income was derived by the*  
3        *person or persons subject to such penalty, and each*  
4        *person who made such an understatement of the li-*  
5        *ability for tax.*

6            *“(3) LIABILITY FOR PENALTY.—If more than 1*  
7        *person is liable under subsection (a) with respect to*  
8        *providing such aid, assistance, procurement, or ad-*  
9        *vice, all such persons shall be jointly and severally*  
10       *liable for the penalty under such subsection.”.*

11        *(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is*  
12       *amended by adding at the end the following new subsection:*

13            *“(g) PENALTY NOT DEDUCTIBLE.—The payment of*  
14       *any penalty imposed under this section or the payment of*  
15       *any amount to settle or avoid the imposition of such pen-*  
16       *alty shall not be considered an ordinary and necessary ex-*  
17       *pense in carrying on a trade or business for purposes of*  
18       *this title and shall not be deductible by the person who is*  
19       *subject to such penalty or who makes such payment.”.*

20        *(d) EFFECTIVE DATE.—The amendments made by this*  
21       *section shall apply to the activities described in section*  
22       *6701(a) of the Internal Revenue Code of 1986 after the date*  
23       *of the enactment of this Act.*

1     **Subtitle B—Economic Substance**  
 2                     **Doctrine**

3     **SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**  
 4                     **TRINE.**

5             (a) *IN GENERAL.*—Section 7701 is amended by redес-  
 6     ignating subsection (o) as subsection (p) and by inserting  
 7     after subsection (n) the following new subsection:

8             “(o) *CLARIFICATION OF ECONOMIC SUBSTANCE DOC-*  
 9     *TRINE; ETC.*—

10             “(1) *GENERAL RULES.*—

11                     “(A) *IN GENERAL.*—In any case in which a  
 12     court determines that the economic substance  
 13     doctrine is relevant for purposes of this title to  
 14     a transaction (or series of transactions), such  
 15     transaction (or series of transactions) shall have  
 16     economic substance only if the requirements of  
 17     this paragraph are met.

18                     “(B) *DEFINITION OF ECONOMIC SUB-*  
 19     *STANCE.*—For purposes of subparagraph (A)—

20                             “(i) *IN GENERAL.*—A transaction has  
 21     economic substance only if—

22                                     “(I) the transaction changes in a  
 23     meaningful way (apart from Federal  
 24     tax effects) the taxpayer’s economic po-  
 25     sition, and

1           “(II) the taxpayer has a substan-  
2           tial nontax purpose for entering into  
3           such transaction and the transaction is  
4           a reasonable means of accomplishing  
5           such purpose.

6           In applying subclause (II), a purpose of  
7           achieving a financial accounting benefit  
8           shall not be taken into account in deter-  
9           mining whether a transaction has a sub-  
10          stantial nontax purpose if the origin of such  
11          financial accounting benefit is a reduction  
12          of income tax.

13           “(ii) *SPECIAL RULE WHERE TAXPAYER*  
14          *RELIES ON PROFIT POTENTIAL.*—A trans-  
15          action shall not be treated as having eco-  
16          nomic substance by reason of having a po-  
17          tential for profit unless—

18           “(I) the present value of the rea-  
19          sonably expected pre-tax profit from  
20          the transaction is substantial in rela-  
21          tion to the present value of the expected  
22          net tax benefits that would be allowed  
23          if the transaction were respected, and

1                   “(II) the reasonably expected pre-  
2                   tax profit from the transaction exceeds  
3                   a risk-free rate of return.

4                   “(C) TREATMENT OF FEES AND FOREIGN  
5                   TAXES.—Fees and other transaction expenses  
6                   and foreign taxes shall be taken into account as  
7                   expenses in determining pre-tax profit under  
8                   subparagraph (B)(i).

9                   “(2) SPECIAL RULES FOR TRANSACTIONS WITH  
10                  TAX-INDIFFERENT PARTIES.—

11                  “(A) SPECIAL RULES FOR FINANCING  
12                  TRANSACTIONS.—The form of a transaction  
13                  which is in substance the borrowing of money or  
14                  the acquisition of financial capital directly or  
15                  indirectly from a tax-indifferent party shall not  
16                  be respected if the present value of the deductions  
17                  to be claimed with respect to the transaction is  
18                  substantially in excess of the present value of the  
19                  anticipated economic returns of the person lend-  
20                  ing the money or providing the financial capital.  
21                  A public offering shall be treated as a borrowing,  
22                  or an acquisition of financial capital, from a  
23                  tax-indifferent party if it is reasonably expected  
24                  that at least 50 percent of the offering will be  
25                  placed with tax-indifferent parties.

1           “(B) *ARTIFICIAL INCOME SHIFTING AND*  
2 *BASIS ADJUSTMENTS.*—*The form of a trans-*  
3 *action with a tax-indifferent party shall not be*  
4 *respected if—*

5                   “(i) *it results in an allocation of in-*  
6 *come or gain to the tax-indifferent party in*  
7 *excess of such party’s economic income or*  
8 *gain, or*

9                   “(ii) *it results in a basis adjustment or*  
10 *shifting of basis on account of overstating*  
11 *the income or gain of the tax-indifferent*  
12 *party.*

13           “(3) *DEFINITIONS AND SPECIAL RULES.*—*For*  
14 *purposes of this subsection—*

15                   “(A) *ECONOMIC SUBSTANCE DOCTRINE.*—  
16 *The term ‘economic substance doctrine’ means*  
17 *the common law doctrine under which tax bene-*  
18 *fits under subtitle A with respect to a trans-*  
19 *action are not allowable if the transaction does*  
20 *not have economic substance or lacks a business*  
21 *purpose.*

22                   “(B) *TAX-INDIFFERENT PARTY.*—*The term*  
23 *‘tax-indifferent party’ means any person or enti-*  
24 *ty not subject to tax imposed by subtitle A. A*  
25 *person shall be treated as a tax-indifferent party*



1           *with respect to a transaction if the items taken*  
2           *into account with respect to the transaction have*  
3           *no substantial impact on such person's liability*  
4           *under subtitle A.*

5           “(C) *EXCEPTION FOR PERSONAL TRANS-*  
6           *ACTIONS OF INDIVIDUALS.—In the case of an in-*  
7           *dividual, this subsection shall apply only to*  
8           *transactions entered into in connection with a*  
9           *trade or business or an activity engaged in for*  
10          *the production of income.*

11          “(D) *TREATMENT OF LESSORS.—In apply-*  
12          *ing paragraph (1)(B)(ii) to the lessor of tangible*  
13          *property subject to a lease—*

14                 “(i) *the expected net tax benefits with*  
15                 *respect to the leased property shall not in-*  
16                 *clude the benefits of—*

17                         “(I) *depreciation,*

18                         “(II) *any tax credit, or*

19                         “(III) *any other deduction as pro-*  
20                         *vided in guidance by the Secretary,*  
21                         *and*

22                         “(ii) *subclause (II) of paragraph*  
23                         *(1)(B)(ii) shall be disregarded in deter-*  
24                         *mining whether any of such benefits are al-*  
25                         *lowable.*

1           “(4) *OTHER COMMON LAW DOCTRINES NOT AF-*  
2           *FECTED.*—*Except as specifically provided in this sub-*  
3           *section, the provisions of this subsection shall not be*  
4           *construed as altering or supplanting any other rule of*  
5           *law, and the requirements of this subsection shall be*  
6           *construed as being in addition to any such other rule*  
7           *of law.*

8           “(5) *REGULATIONS.*—*The Secretary shall pre-*  
9           *scribe such regulations as may be necessary or appro-*  
10          *priate to carry out the purposes of this subsection.*  
11          *Such regulations may include exemptions from the*  
12          *application of this subsection.”.*

13          “(b) *EFFECTIVE DATE.*—*The amendments made by this*  
14          *section shall apply to transactions entered into after the*  
15          *date of the enactment of this Act.*

16 **SEC. 412. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
17                            **UTABLE TO TRANSACTIONS LACKING ECO-**  
18                            **NOMIC SUBSTANCE, ETC.**

19          “(a) *IN GENERAL.*—*Subchapter A of chapter 68 is*  
20          *amended by inserting after section 6662A the following new*  
21          *section:*

1 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
2 **UTABLE TO TRANSACTIONS LACKING ECO-**  
3 **NOMIC SUBSTANCE, ETC.**

4 “(a) *IMPOSITION OF PENALTY.*—If a taxpayer has an  
5 noneconomic substance transaction understatement for any  
6 taxable year, there shall be added to the tax an amount  
7 equal to 40 percent of the amount of such understatement.

8 “(b) *REDUCTION OF PENALTY FOR DISCLOSED TRANS-*  
9 *ACTIONS.*—Subsection (a) shall be applied by substituting  
10 ‘20 percent’ for ‘40 percent’ with respect to the portion of  
11 any noneconomic substance transaction understatement  
12 with respect to which the relevant facts affecting the tax  
13 treatment of the item are adequately disclosed in the return  
14 or a statement attached to the return.

15 “(c) *NONECONOMIC SUBSTANCE TRANSACTION UNDER-*  
16 *STATEMENT.*—For purposes of this section—

17 “(1) *IN GENERAL.*—The term ‘noneconomic sub-

18 *stance transaction understatement’ means any*

19 *amount which would be an understatement under sec-*

20 *tion 6662A(b)(1) if section 6662A were applied by*

21 *taking into account items attributable to noneconomic*

22 *substance transactions rather than items to which sec-*

23 *tion 6662A would apply without regard to this para-*

24 *graph.*

1           “(2) *NONECONOMIC SUBSTANCE TRANSACTION.*—  
2           *The term ‘noneconomic substance transaction’ means*  
3           *any transaction if—*

4                     “(A) *there is a lack of economic substance*  
5                     *(within the meaning of section 7701(o)(1)) for*  
6                     *the transaction giving rise to the claimed benefit*  
7                     *or the transaction was not respected under sec-*  
8                     *tion 7701(o)(2), or*

9                     “(B) *the transaction fails to meet the re-*  
10                    *quirements of any similar rule of law.*

11           “(d) *RULES APPLICABLE TO COMPROMISE OF PEN-*  
12 *ALTY.*—

13                    “(1) *IN GENERAL.*—*If the 1st letter of proposed*  
14                    *deficiency which allows the taxpayer an opportunity*  
15                    *for administrative review in the Internal Revenue*  
16                    *Service Office of Appeals has been sent with respect*  
17                    *to a penalty to which this section applies, only the*  
18                    *Commissioner of Internal Revenue may compromise*  
19                    *all or any portion of such penalty.*

20                    “(2) *APPLICABLE RULES.*—*The rules of para-*  
21                    *graphs (2) and (3) of section 6707A(d) shall apply for*  
22                    *purposes of paragraph (1).*

23           “(e) *COORDINATION WITH OTHER PENALTIES.*—*Ex-*  
24           *cept as otherwise provided in this part, the penalty imposed*

1 *by this section shall be in addition to any other penalty*  
2 *imposed by this title.*

3 “(f) *CROSS REFERENCES.*—

“*(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).*”

“*(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).*”.

4 (b) *COORDINATION WITH OTHER UNDERSTATEMENTS*  
5 *AND PENALTIES.*—

6 (1) *The second sentence of section 6662(d)(2)(A)*  
7 *is amended by inserting “and without regard to items*  
8 *with respect to which a penalty is imposed by section*  
9 *6662B” before the period at the end.*

10 (2) *Subsection (e) of section 6662A is amended—*

11 (A) *in paragraph (1), by inserting “and*  
12 *noneconomic substance transaction understate-*  
13 *ments” after “reportable transaction understate-*  
14 *ments” both places it appears,*

15 (B) *in paragraph (2)(A), by inserting “and*  
16 *a noneconomic substance transaction understate-*  
17 *ment” after “reportable transaction understate-*  
18 *ment”,*

19 (C) *in paragraph (2)(B), by inserting*  
20 *“6662B or” before “6663”,*

21 (D) *in paragraph (2)(C)(i), by inserting*  
22 *“or section 6662B” before the period at the end,*

1           (E) in paragraph (2)(C)(ii), by inserting  
2           “and section 6662B” after “This section”,

3           (F) in paragraph (3), by inserting “or non-  
4           economic substance transaction understatement”  
5           after “reportable transaction understatement”,  
6           and

7           (G) by adding at the end the following new  
8           paragraph:

9           “(4) NONECONOMIC SUBSTANCE TRANSACTION  
10          UNDERSTATEMENT.—For purposes of this subsection,  
11          the term ‘noneconomic substance transaction under-  
12          statement’ has the meaning given such term by sec-  
13          tion 6662B(c).”.

14          (3) Subsection (e) of section 6707A is amended—

15               (A) by striking “or” at the end of subpara-  
16               graph (B), and

17               (B) by striking subparagraph (C) and in-  
18               serting the following new subparagraphs:

19                       “(C) is required to pay a penalty under sec-  
20                       tion 6662B with respect to any noneconomic  
21                       substance transaction, or

22                       “(D) is required to pay a penalty under  
23                       section 6662(h) with respect to any transaction  
24                       and would (but for section 6662A(e)(2)(C)) have  
25                       been subject to penalty under section 6662A at a

1           rate prescribed under section 6662A(c) or under  
2           section 6662B.”.

3           (c) *CLERICAL AMENDMENT.*—The table of sections for  
4 part II of subchapter A of chapter 68 is amended by insert-  
5 ing after the item relating to section 6662A the following  
6 new item:

          “Sec. 6662B. Penalty for understatements attributable to transactions lacking  
          economic substance, etc.”.

7           (d) *EFFECTIVE DATE.*—The amendments made by this  
8 section shall apply to transactions entered into after the  
9 date of the enactment of this Act.

10 **SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UN-**  
11 **DERPAYMENTS ATTRIBUTABLE TO NON-**  
12 **ECONOMIC SUBSTANCE TRANSACTIONS.**

13           (a) *IN GENERAL.*—Section 163(m) (relating to interest  
14 on unpaid taxes attributable to nondisclosed reportable  
15 transactions) is amended—

16           (1) by striking “attributable” and all that fol-  
17 lows and inserting the following: “attributable to—

18           “(1) the portion of any reportable transaction  
19 understatement (as defined in section 6662A(b)) with  
20 respect to which the requirement of section  
21 6664(d)(2)(A) is not met, or

22           “(2) any noneconomic substance transaction un-  
23 derstatement (as defined in section 6662B(c)).”, and

1           (2) by inserting “AND NONECONOMIC SUB-  
2           STANCE TRANSACTIONS” in the heading thereof after  
3           “TRANSACTIONS”.

4           (b) *EFFECTIVE DATE.*—The amendments made by this  
5           section shall apply to transactions after the date of the en-  
6           actment of this Act in taxable years ending after such date.

7           **Subtitle C—Improvements in Effi-**  
8           **ciency and Safeguards in Inter-**  
9           **nal Revenue Service Collection**

10          **SEC. 421. WAIVER OF USER FEE FOR INSTALLMENT AGREE-**  
11   **MENTS USING AUTOMATED WITHDRAWALS.**

12          (a) *IN GENERAL.*—Section 6159 (relating to agree-  
13          ments for payment of tax liability in installments) is  
14          amended by redesignating subsection (e) as subsection (f)  
15          and by inserting after subsection (d) the following:

16                 “(e) *WAIVER OF USER FEES FOR INSTALLMENT*  
17          *AGREEMENTS USING AUTOMATED WITHDRAWALS.*—In the  
18          case of a taxpayer who enters into an installment agreement  
19          in which automated installment payments are agreed to,  
20          the Secretary shall waive the fee (if any) for entering into  
21          the installment agreement.”.

22          (b) *EFFECTIVE DATE.*—The amendments made by this  
23          section shall apply to agreements entered into on or after  
24          the date which is 180 days after the date of the enactment  
25          of this Act.



1 **SEC. 422. TERMINATION OF INSTALLMENT AGREEMENTS.**

2       (a) *IN GENERAL.*—Section 6159(b)(4) (relating to fail-  
3 ure to pay an installment or any other tax liability when  
4 due or to provide requested financial information) is  
5 amended by striking “or” at the end of subparagraph (B),  
6 by redesignating subparagraph (C) as subparagraph (E),  
7 and by inserting after subparagraph (B) the following:

8               “(C) to make a Federal tax deposit under  
9               section 6302 at the time such deposit is required  
10              to be made,

11              “(D) to file a return of tax imposed under  
12              this title by its due date (including extensions),  
13              or”.

14       (b) *CONFORMING AMENDMENT.*—The heading for sec-  
15 tion 6159(b)(4) is amended by striking “FAILURE TO PAY  
16 AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE  
17 OR TO PROVIDE REQUESTED FINANCIAL INFORMATION” and  
18 inserting “FAILURE TO MAKE PAYMENTS OR DEPOSITS OR  
19 FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FI-  
20 NANCIAL INFORMATION”.

21       (c) *EFFECTIVE DATE.*—The amendments made by this  
22 section shall apply to failures occurring on or after the date  
23 of the enactment of this Act.

1 **SEC. 423. PARTIAL PAYMENTS REQUIRED WITH SUBMIS-**  
2 **SION OF OFFERS-IN-COMPROMISE.**

3 (a) *IN GENERAL.*—Section 7122 (relating to com-  
4 promises), as amended by this Act, is amended by redesi-  
5 gnating subsections (c), (d), and (e) as subsections (d), (e),  
6 and (f), respectively, and by inserting after subsection (b)  
7 the following new subsection:

8 “(c) *RULES FOR SUBMISSION OF OFFERS-IN-COM-*  
9 *PROMISE.*—

10 “(1) *PARTIAL PAYMENT REQUIRED WITH SUB-*  
11 *MISSION.*—

12 “(A) *LUMP-SUM OFFERS.*—

13 “(i) *IN GENERAL.*—The submission of  
14 any lump-sum offer-in-compromise shall be  
15 accompanied by the payment of 20 percent  
16 of amount of such offer.

17 “(ii) *LUMP-SUM OFFER-IN-COM-*  
18 *PROMISE.*—For purposes of this section, the  
19 term ‘lump-sum offer-in-compromise’ means  
20 any offer of payments made in 5 or fewer  
21 installments.

22 “(B) *PERIODIC PAYMENT OFFERS.*—The  
23 submission of any periodic payment offer-in-  
24 compromise shall be accompanied by the pay-  
25 ment of the amount of the first proposed install-  
26 ment and each proposed installment due during

1           *the period such offer is being evaluated for ac-*  
2           *ceptance and has not been rejected by the Sec-*  
3           *retary. Any failure to make a payment required*  
4           *under the preceding sentence shall be deemed a*  
5           *withdrawal of the offer-in-compromise.*

6           “(2) *RULES OF APPLICATION.*—

7                   “(A) *USE OF PAYMENT.*—*The application of*  
8                   *any payment made under this subsection to the*  
9                   *assessed tax or other amounts imposed under this*  
10                  *title with respect to such tax may be specified by*  
11                  *the taxpayer.*

12                  “(B) *NO USER FEE IMPOSED.*—*Any user fee*  
13                  *which would otherwise be imposed under this sec-*  
14                  *tion shall not be imposed on any offer-in-com-*  
15                  *promise accompanied by a payment required*  
16                  *under this subsection.*

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

23           (b) *ADDITIONAL RULES RELATING TO TREATMENT OF*

24 *OFFERS.*—

1           (1) *UNPROCESSABLE OFFER IF PAYMENT RE-*  
2           *QUIREMENTS ARE NOT MET.*—Paragraph (3) of sec-  
3           *tion 7122(d) (relating to standards for evaluation of*  
4           *offers), as redesignated by subsection (a), is amended*  
5           *by striking “; and” at the end of subparagraph (A)*  
6           *and inserting a comma, by striking the period at the*  
7           *end of subparagraph (B) and inserting “, and”, and*  
8           *by adding at the end the following new subparagraph:*

9                     “(C) *any offer-in-compromise which does*  
10                    *not meet the requirements of subsection (c) shall*  
11                    *be returned to the taxpayer as unprocessable.”.*

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

16                    “(g) *DEEMED ACCEPTANCE OF OFFER NOT REJECTED*  
17           *WITHIN CERTAIN PERIOD.*—*Any offer-in-compromise sub-*  
18           *mitted under this section shall be deemed to be accepted by*  
19           *the Secretary if such offer is not rejected by the Secretary*  
20           *before the date which is 24 months after the date of the sub-*  
21           *mission of such offer. For purposes of the preceding sen-*  
22           *tence, any period during which any tax liability which is*  
23           *the subject of such offer-in-compromise is in dispute in any*  
24           *judicial proceeding shall not be taken in to account in deter-*  
25           *mining the expiration of the 24-month period.”.*

1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to offers-in-compromise submitted on*  
 3 *and after the date which is 60 days after the date of the*  
 4 *enactment of this Act.*

5       ***Subtitle D—Penalties and Fines***

6       ***SEC. 431. INCREASE IN CRIMINAL MONETARY PENALTY LIM-***  
 7                               ***ITATION FOR THE UNDERPAYMENT OR OVER-***  
 8                               ***PAYMENT OF TAX DUE TO FRAUD.***

9       (a) *IN GENERAL.*—*Section 7206 (relating to fraud and*  
 10 *false statements) is amended—*

11               (1) *by striking “Any person who—” and insert-*  
 12 *ing “(a) IN GENERAL.—Any person who—”, and*

13               (2) *by adding at the end the following new sub-*  
 14 *section:*

15       “(b) *INCREASE IN MONETARY LIMITATION FOR UN-*  
 16 *DERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—*  
 17 *If any portion of any underpayment (as defined in section*  
 18 *6664(a)) or overpayment (as defined in section 6401(a)) of*  
 19 *tax required to be shown on a return is attributable to*  
 20 *fraudulent action described in subsection (a), the applicable*  
 21 *dollar amount under subsection (a) shall in no event be less*  
 22 *than an amount equal to such portion. A rule similar to*  
 23 *the rule under section 6663(b) shall apply for purposes of*  
 24 *determining the portion so attributable.”.*

25       (b) *INCREASE IN PENALTIES.*—

1           (1) *ATTEMPT TO EVADE OR DEFEAT TAX.*—*Sec-*  
2           *tion 7201 is amended—*

3                   (A) *by striking “\$100,000” and inserting*  
4                   *“\$500,000”,*

5                   (B) *by striking “\$500,000” and inserting*  
6                   *“\$1,000,000”, and*

7                   (C) *by striking “5 years” and inserting “10*  
8                   *years”.*

9           (2) *WILLFUL FAILURE TO FILE RETURN, SUPPLY*  
10           *INFORMATION, OR PAY TAX.*—*Section 7203 is*  
11           *amended—*

12                   (A) *in the first sentence—*

13                           (i) *by striking “Any person” and in-*  
14                           *serting the following:*

15                   “*(a) IN GENERAL.—Any person*”, and

16                           (ii) *by striking “\$25,000” and insert-*  
17                           *ing “\$50,000”,*

18                   (B) *in the third sentence, by striking “sec-*  
19                   *tion” and inserting “subsection”, and*

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

22           “*(b) AGGRAVATED FAILURE TO FILE.—*

23                   “*(1) IN GENERAL.—In the case of any failure de-*  
24                   *scribed in paragraph (2), the first sentence of sub-*  
25                   *section (a) shall be applied by substituting—*

1           “(A) ‘felony’ for ‘misdemeanor’,

2           “(B) ‘\$500,000 (\$1,000,000’ for ‘\$25,000  
3           (\$100,000’, and

4           “(C) ‘10 years’ for ‘1 year’.

5           “(2) *FAILURE DESCRIBED.*—A failure described  
6           in this paragraph is a failure to make a return de-  
7           scribed in subsection (a) for a period of 3 or more  
8           consecutive taxable years.”.

9           (3) *FRAUD AND FALSE STATEMENTS.*—Section  
10          7206(a) (as redesignated by subsection (a)) is  
11          amended—

12                 (A) by striking “\$100,000” and inserting  
13                 “\$500,000”,

14                 (B) by striking “\$500,000” and inserting  
15                 “\$1,000,000”, and

16                 (C) by striking “3 years” and inserting “5  
17                 years”.

18          (c) *EFFECTIVE DATE.*—The amendments made by this  
19          section shall apply to actions, and failures to act, occurring  
20          after the date of the enactment of this Act.

21          **SEC. 432. DOUBLING OF CERTAIN PENALTIES, FINES, AND**  
22                                 **INTEREST ON UNDERPAYMENTS RELATED TO**  
23                                 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**  
24                                 **MENTS.**

25          (a) *DETERMINATION OF PENALTY.*—

1           (1) *IN GENERAL.*—Notwithstanding any other  
2           provision of law, in the case of an applicable  
3           taxpayer—

4                   (A) *the determination as to whether any in-*  
5                   *terest or applicable penalty is to be imposed with*  
6                   *respect to any arrangement described in para-*  
7                   *graph (2), or to any underpayment of Federal*  
8                   *income tax attributable to items arising in con-*  
9                   *nection with any such arrangement, shall be*  
10                  *made without regard to the rules of subsections*  
11                  *(b), (c), and (d) of section 6664 of the Internal*  
12                  *Revenue Code of 1986, and*

13                  (B) *if any such interest or applicable pen-*  
14                  *alty is imposed, the amount of such interest or*  
15                  *penalty shall be equal to twice that determined*  
16                  *without regard to this section.*

17           (2) *APPLICABLE TAXPAYER.*—For purposes of  
18           this subsection—

19                   (A) *IN GENERAL.*—The term “applicable  
20                   taxpayer” means a taxpayer which—

21                           (i) *has underreported its United States*  
22                           *income tax liability with respect to any*  
23                           *item which directly or indirectly involves—*

24                                   (I) *any financial arrangement*  
25                                   *which in any manner relies on the use*



1           of offshore payment mechanisms (in-  
2           cluding credit, debit, or charge cards)  
3           issued by banks or other entities in for-  
4           eign jurisdictions, or

5                   (II) any offshore financial ar-  
6                   rangement (including any arrange-  
7                   ment with foreign banks, financial in-  
8                   stitutions, corporations, partnerships,  
9                   trusts, or other entities), and

10                   (ii) has neither signed a closing agree-  
11                   ment pursuant to the Voluntary Offshore  
12                   Compliance Initiative established by the De-  
13                   partment of the Treasury under Revenue  
14                   Procedure 2003–11 nor voluntarily dis-  
15                   closed its participation in such arrange-  
16                   ment by notifying the Internal Revenue  
17                   Service of such arrangement prior to the  
18                   issue being raised by the Internal Revenue  
19                   Service during an examination.

20                   (B) *AUTHORITY TO WAIVE.*—The Secretary  
21                   of the Treasury or the Secretary’s delegate may  
22                   waive the application of paragraph (1) to any  
23                   taxpayer if the Secretary or the Secretary’s dele-  
24                   gate determines that the use of such offshore pay-  
25                   ment mechanisms is incidental to the trans-

1           *action and, in addition, in the case of a trade*  
2           *or business, such use is conducted in the ordi-*  
3           *nary course of the type of trade or business of the*  
4           *taxpayer.*

5           (C) *ISSUES RAISED.*—*For purposes of sub-*  
6           *paragraph (A)(ii), an item shall be treated as an*  
7           *issue raised during an examination if the indi-*  
8           *vidual examining the return—*

9                   (i) *communicates to the taxpayer*  
10                  *knowledge about the specific item, or*

11                   (ii) *has made a request to the taxpayer*  
12                  *for information and the taxpayer could not*  
13                  *make a complete response to that request*  
14                  *without giving the examiner knowledge of*  
15                  *the specific item.*

16           (b) *APPLICABLE PENALTY.*—*For purposes of this sec-*  
17           *tion, the term “applicable penalty” means any penalty, ad-*  
18           *dition to tax, or fine imposed under chapter 68 of the Inter-*  
19           *nal Revenue Code of 1986.*

20           (c) *EFFECTIVE DATE.*—*The provisions of this section*  
21           *shall apply to interest, penalties, additions to tax, and fines*  
22           *with respect to any taxable year if, as of the date of the*  
23           *enactment of this Act, the assessment of any tax, penalty,*  
24           *or interest with respect to such taxable year is not prevented*  
25           *by the operation of any law or rule of law.*

1 **SEC. 433. DENIAL OF DEDUCTION FOR CERTAIN FINES, PEN-**  
2 **ALTIES, AND OTHER AMOUNTS.**

3 (a) *IN GENERAL.*—Subsection (f) of section 162 (relat-  
4 *ing to trade or business expenses*) is amended to read as  
5 *follows:*

6 “(f) *FINES, PENALTIES, AND OTHER AMOUNTS.*—

7 “(1) *IN GENERAL.*—Except as provided in para-  
8 *graph (2), no deduction otherwise allowable shall be*  
9 *allowed under this chapter for any amount paid or*  
10 *incurred (whether by suit, agreement, or otherwise)*  
11 *to, or at the direction of, a government or entity de-*  
12 *scribed in paragraph (4) in relation to the violation*  
13 *of any law or the investigation or inquiry by such*  
14 *government or entity into the potential violation of*  
15 *any law.*

16 “(2) *EXCEPTION FOR AMOUNTS CONSTITUTING*  
17 *RESTITUTION OR PAID TO COME INTO COMPLIANCE*  
18 *WITH LAW.*—Paragraph (1) shall not apply to any  
19 *amount which—*

20 “(A) *the taxpayer establishes—*

21 “(i) *constitutes restitution (including*  
22 *remediation of property) for damage or*  
23 *harm caused by or which may be caused by*  
24 *the violation of any law or the potential*  
25 *violation of any law, or*

1                   “(ii) is paid to come into compliance  
2                   with any law which was violated or in-  
3                   volved in the investigation or inquiry, and  
4                   “(B) is identified as restitution or as an  
5                   amount paid to come into compliance with the  
6                   law, as the case may be, in the court order or  
7                   settlement agreement.

8                   Identification pursuant to subparagraph (B) alone  
9                   shall not satisfy the requirement under subparagraph  
10                  (A). This paragraph shall not apply to any amount  
11                  paid or incurred as reimbursement to the government  
12                  or entity for the costs of any investigation or litiga-  
13                  tion.

14                  “(3) EXCEPTION FOR AMOUNTS PAID OR IN-  
15                  CURRED AS THE RESULT OF CERTAIN COURT OR-  
16                  DERS.—Paragraph (1) shall not apply to any  
17                  amount paid or incurred by order of a court in a suit  
18                  in which no government or entity described in para-  
19                  graph (4) is a party.

20                  “(4) CERTAIN NONGOVERNMENTAL REGULATORY  
21                  ENTITIES.—An entity is described in this paragraph  
22                  if it is—

23                         “(A) a nongovernmental entity which exer-  
24                         cises self-regulatory powers (including imposing

1           sanctions) in connection with a qualified board  
2           or exchange (as defined in section 1256(g)(7)), or  
3           “(B) to the extent provided in regulations,  
4           a nongovernmental entity which exercises self-  
5           regulatory powers (including imposing sanc-  
6           tions) as part of performing an essential govern-  
7           mental function.

8           “(5) *EXCEPTION FOR TAXES DUE.*—Paragraph  
9           (1) shall not apply to any amount paid or incurred  
10          as taxes due.”.

11          **(b) REPORTING OF DEDUCTIBLE AMOUNTS.**—

12                 (1) *IN GENERAL.*—Subpart B of part III of sub-  
13                 chapter A of chapter 61, as amended by this Act, is  
14                 amended by inserting after section 6050U the fol-  
15                 lowing new section:

16          **“SEC. 6050V. INFORMATION WITH RESPECT TO CERTAIN**  
17                         **FINES, PENALTIES, AND OTHER AMOUNTS.**

18                 “(a) *REQUIREMENT OF REPORTING.*—

19                         (1) *IN GENERAL.*—The appropriate official of  
20                         any government or entity which is described in sec-  
21                         tion 162(f)(4) which is involved in a suit or agree-  
22                         ment described in paragraph (2) shall make a return  
23                         in such form as determined by the Secretary setting  
24                         forth—

1           “(A) the amount required to be paid as a  
2 result of the suit or agreement to which para-  
3 graph (1) of section 162(f) applies,

4           “(B) any amount required to be paid as a  
5 result of the suit or agreement which constitutes  
6 restitution or remediation of property, and

7           “(C) any amount required to be paid as a  
8 result of the suit or agreement for the purpose of  
9 coming into compliance with any law which was  
10 violated or involved in the investigation or in-  
11 quiry.

12           “(2) *SUIT OR AGREEMENT DESCRIBED.*—

13           “(A) *IN GENERAL.*—A suit or agreement is  
14 described in this paragraph if—

15           “(i) it is—

16           “(I) a suit with respect to a viola-  
17 tion of any law over which the govern-  
18 ment or entity has authority and with  
19 respect to which there has been a court  
20 order, or

21           “(II) an agreement which is en-  
22 tered into with respect to a violation of  
23 any law over which the government or  
24 entity has authority, or with respect to  
25 an investigation or inquiry by the gov-

1                    *ernment or entity into the potential*  
2                    *violation of any law over which such*  
3                    *government or entity has authority,*  
4                    *and*

5                    *“(ii) the aggregate amount involved in*  
6                    *all court orders and agreements with respect*  
7                    *to the violation, investigation, or inquiry is*  
8                    *\$600 or more.*

9                    *“(B) ADJUSTMENT OF REPORTING THRESH-*  
10                    *OLD.—The Secretary may adjust the \$600*  
11                    *amount in subparagraph (A)(ii) as necessary in*  
12                    *order to ensure the efficient administration of the*  
13                    *internal revenue laws.*

14                    *“(3) TIME OF FILING.—The return required*  
15                    *under this subsection shall be filed not later than—*

16                    *“(A) 30 days after the date on which a*  
17                    *court order is issued with respect to the suit or*  
18                    *the date the agreement is entered into, as the*  
19                    *case may be, or*

20                    *“(B) the date specified Secretary.*

21                    *“(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS*  
22                    *INVOLVED IN THE SETTLEMENT.—Every person required to*  
23                    *make a return under subsection (a) shall furnish to each*  
24                    *person who is a party to the suit or agreement a written*  
25                    *statement showing—*

1           “(1) the name of the government or entity, and

2           “(2) the information supplied to the Secretary

3           under subsection (a)(1).

4   *The written statement required under the preceding sen-*

5   *tence shall be furnished to the person at the same time the*

6   *government or entity provides the Secretary with the infor-*

7   *mation required under subsection (a).*

8           “(c) *APPROPRIATE OFFICIAL DEFINED.*—*For purposes*

9   *of this section, the term ‘appropriate official’ means the offi-*

10   *cer or employee having control of the suit, investigation,*

11   *or inquiry or the person appropriately designated for pur-*

12   *poses of this section.”.*

13           (2) *CONFORMING AMENDMENT.*—*The table of sec-*

14   *tions for subpart B of part III of subchapter A of*

15   *chapter 61, as amended by this Act, is amended by*

16   *inserting after the item relating to section 6050U the*

17   *following new item:*

    “Sec. 6050V. *Information with respect to certain fines, penalties, and other amounts.*”.

18           (c) *EFFECTIVE DATE.*—*The amendments made by this*

19   *section shall apply to amounts paid or incurred on or after*

20   *the date of the enactment of this Act, except that such*

21   *amendments shall not apply to amounts paid or incurred*

22   *under any binding order or agreement entered into before*

23   *such date. Such exception shall not apply to an order or*



1 *agreement requiring court approval unless the approval*  
 2 *was obtained before such date.*

3 **SEC. 434. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

4 *(a) DISALLOWANCE OF DEDUCTION.—*

5 *(1) IN GENERAL.—Section 162(g) (relating to*  
 6 *treble damage payments under the antitrust laws) is*  
 7 *amended—*

8 *(A) by redesignating paragraphs (1) and*  
 9 *(2) as subparagraphs (A) and (B), respectively,*  
 10 *(B) by striking “If” and inserting:*

11 *“(1) TREBLE DAMAGES.—If”, and*

12 *(C) by adding at the end the following new*  
 13 *paragraph:*

14 *“(2) PUNITIVE DAMAGES.—No deduction shall be*  
 15 *allowed under this chapter for any amount paid or*  
 16 *incurred for punitive damages in connection with*  
 17 *any judgment in, or settlement of, any action. This*  
 18 *paragraph shall not apply to punitive damages de-*  
 19 *scribed in section 104(c).”.*

20 *(2) CONFORMING AMENDMENT.—The heading for*  
 21 *section 162(g) is amended by inserting “OR PUNITIVE*  
 22 *DAMAGES” after “LAWS”.*

23 *(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES*  
 24 *PAID BY INSURER OR OTHERWISE.—*

1           (1) *IN GENERAL.*—Part II of subchapter B of  
 2           chapter 1 (relating to items specifically included in  
 3           gross income) is amended by adding at the end the  
 4           following new section:

5           **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**  
 6                                   **ANCE OR OTHERWISE.**

7           “Gross income shall include any amount paid to or  
 8           on behalf of a taxpayer as insurance or otherwise by reason  
 9           of the taxpayer’s liability (or agreement) to pay punitive  
 10          damages.”

11          (2) *REPORTING REQUIREMENTS.*—Section 6041  
 12          (relating to information at source) is amended by  
 13          adding at the end the following new subsection:

14          “(f) *SECTION TO APPLY TO PUNITIVE DAMAGES COM-*  
 15          *PENSATION.*—This section shall apply to payments by a  
 16          person to or on behalf of another person as insurance or  
 17          otherwise by reason of the other person’s liability (or agree-  
 18          ment) to pay punitive damages.”

19          (3) *CONFORMING AMENDMENT.*—The table of sec-  
 20          tions for part II of subchapter B of chapter 1 is  
 21          amended by adding at the end the following new item:

“Sec. 91. Punitive damages compensated by insurance or otherwise.”

22          (c) *EFFECTIVE DATE.*—The amendments made by this  
 23          section shall apply to damages paid or incurred on or after  
 24          the date of the enactment of this Act.

1 **SEC. 435. INCREASE IN PENALTY FOR BAD CHECKS AND**  
2 **MONEY ORDERS.**

3 (a) *IN GENERAL.*—Section 6657 (relating to bad  
4 checks) is amended—

5 (1) by striking “\$750” and inserting “\$2,000”,  
6 and

7 (2) by striking “\$15” and inserting “\$40”.

8 (b) *EFFECTIVE DATE.*—The amendments made by this  
9 section apply to checks or money orders received after the  
10 date of the enactment of this Act.

11 **Subtitle E—Provisions To**  
12 **Discourage Expatriation**

13 **SEC. 441. TAX TREATMENT OF INVERTED ENTITIES.**

14 (a) *IN GENERAL.*—Section 7874 is amended—

15 (1) by striking “March 4, 2003” in subsection  
16 (a)(2)(B)(i) and in the matter following subsection  
17 (a)(2)(B)(iii) and inserting “March 20, 2002”,

18 (2) by striking “at least 60 percent” in sub-  
19 section (a)(2)(B)(ii) and inserting “more than 50  
20 percent”,

21 (3) by striking “80 percent” in subsection (b)  
22 and inserting “at least 80 percent”,

23 (4) by striking “60 percent” in subsection (b)  
24 and inserting “more than 50 percent”,

25 (5) by adding at the end of subsection (a)(2) the  
26 following new sentence: “Except as provided in regu-

1        *lations, an acquisition of properties of a domestic cor-*  
2        *poration shall not be treated as described in subpara-*  
3        *graph (B) if none of the corporation's stock was read-*  
4        *ily tradeable on an established securities market at*  
5        *any time during the 4-year period ending on the date*  
6        *of the acquisition.”, and*

7                *(6) by redesignating subsection (g) as subsection*  
8        *(h) and by inserting after subsection (f) the following*  
9        *new subsection:*

10        *“(g) SPECIAL RULES APPLICABLE TO EXPATRIATED*  
11        *ENTITIES.—*

12                *“(1) INCREASES IN ACCURACY-RELATED PEN-*  
13        *ALTIES.—In the case of any underpayment of tax of*  
14        *an expatriated entity—*

15                *“(A) section 6662(a) shall be applied with*  
16        *respect to such underpayment by substituting ‘30*  
17        *percent’ for ‘20 percent’, and*

18                *“(B) if such underpayment is attributable*  
19        *to one or more gross valuation understatements,*  
20        *the increase in the rate of penalty under section*  
21        *6662(h) shall be to 50 percent rather than 40*  
22        *percent.*

23                *“(2) MODIFICATIONS OF LIMITATION ON INTER-*  
24        *EST DEDUCTION.—In the case of an expatriated enti-*  
25        *ty, section 163(j) shall be applied—*

1           “(A) without regard to paragraph (2)(A)(ii)  
2           thereof, and

3           “(B) by substituting ‘25 percent’ for ‘50  
4           percent’ each place it appears in paragraph  
5           (2)(B) thereof.”.

6           (b) *EFFECTIVE DATE.*—The amendments made by this  
7           section shall apply to taxable years ending after March 20,  
8           2002.

9           **SEC. 442. REVISION OF TAX RULES ON EXPATRIATION OF**  
10           **INDIVIDUALS.**

11           (a) *IN GENERAL.*—Subpart A of part II of subchapter  
12           N of chapter 1 is amended by inserting after section 877  
13           the following new section:

14           **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

15           “(a) *GENERAL RULES.*—For purposes of this  
16           subtitle—

17           “(1) *MARK TO MARKET.*—Except as provided in  
18           subsections (d) and (f), all property of a covered expa-  
19           triate to whom this section applies shall be treated as  
20           sold on the day before the expatriation date for its  
21           fair market value.

22           “(2) *RECOGNITION OF GAIN OR LOSS.*—In the  
23           case of any sale under paragraph (1)—

24           “(A) notwithstanding any other provision of  
25           this title, any gain arising from such sale shall

1           *be taken into account for the taxable year of the*  
2           *sale, and*

3                   “(B) *any loss arising from such sale shall*  
4           *be taken into account for the taxable year of the*  
5           *sale to the extent otherwise provided by this title,*  
6           *except that section 1091 shall not apply to any*  
7           *such loss.*

8           *Proper adjustment shall be made in the amount of*  
9           *any gain or loss subsequently realized for gain or loss*  
10          *taken into account under the preceding sentence.*

11                   “(3) *EXCLUSION FOR CERTAIN GAIN.—*

12                           “(A) *IN GENERAL.—The amount which, but*  
13           *for this paragraph, would be includible in the*  
14           *gross income of any individual by reason of this*  
15           *section shall be reduced (but not below zero) by*  
16           *\$600,000. For purposes of this paragraph, allo-*  
17           *cable expatriation gain taken into account under*  
18           *subsection (f)(2) shall be treated in the same*  
19           *manner as an amount required to be includible*  
20           *in gross income.*

21                           “(B) *COST-OF-LIVING ADJUSTMENT.—*

22                                   “(i) *IN GENERAL.—In the case of an*  
23           *expatriation date occurring in any calendar*  
24           *year after 2005, the \$600,000 amount under*

1           subparagraph (A) shall be increased by an  
2           amount equal to—

3                   “(I) such dollar amount, multi-  
4                   plied by

5                           “(II) the cost-of-living adjustment  
6                           determined under section 1(f)(3) for  
7                           such calendar year, determined by sub-  
8                           stituting ‘calendar year 2004’ for ‘cal-  
9                           endar year 1992’ in subparagraph (B)  
10                          thereof.

11                       “(ii) *ROUNDING RULES.*—If any  
12                       amount after adjustment under clause (i) is  
13                       not a multiple of \$1,000, such amount shall  
14                       be rounded to the next lower multiple of  
15                       \$1,000.

16                       “(4) *ELECTION TO CONTINUE TO BE TAXED AS*  
17                       *UNITED STATES CITIZEN.*—

18                           “(A) *IN GENERAL.*—If a covered expatriate  
19                       elects the application of this paragraph—

20                                   “(i) this section (other than this para-  
21                                   graph and subsection (i)) shall not apply to  
22                                   the expatriate, but

23   “(ii) in the case of property to which  
24   this section would apply but for such elec-  
25   tion, the expatriate shall be subject to tax

1           *under this title in the same manner as if*  
2           *the individual were a United States citizen.*

3           “(B) *REQUIREMENTS.*—*Subparagraph (A)*  
4           *shall not apply to an individual unless the*  
5           *individual—*

6                   “(i) *provides security for payment of*  
7                   *tax in such form and manner, and in such*  
8                   *amount, as the Secretary may require,*

9                   “(ii) *consents to the waiver of any*  
10                  *right of the individual under any treaty of*  
11                  *the United States which would preclude as-*  
12                  *essment or collection of any tax which may*  
13                  *be imposed by reason of this paragraph,*  
14                  *and*

15                  “(iii) *complies with such other require-*  
16                  *ments as the Secretary may prescribe.*

17           “(C) *ELECTION.*—*An election under sub-*  
18           *paragraph (A) shall apply to all property to*  
19           *which this section would apply but for the elec-*  
20           *tion and, once made, shall be irrevocable. Such*  
21           *election shall also apply to property the basis of*  
22           *which is determined in whole or in part by ref-*  
23           *erence to the property with respect to which the*  
24           *election was made.*

25           “(b) *ELECTION TO DEFER TAX.*—



1           “(1) *IN GENERAL.*—*If the taxpayer elects the ap-*  
2           *plication of this subsection with respect to any prop-*  
3           *erty treated as sold by reason of subsection (a), the*  
4           *payment of the additional tax attributable to such*  
5           *property shall be postponed until the due date of the*  
6           *return for the taxable year in which such property is*  
7           *disposed of (or, in the case of property disposed of in*  
8           *a transaction in which gain is not recognized in*  
9           *whole or in part, until such other date as the Sec-*  
10          *retary may prescribe).*

11           “(2) *DETERMINATION OF TAX WITH RESPECT TO*  
12          *PROPERTY.*—*For purposes of paragraph (1), the addi-*  
13          *tional tax attributable to any property is an amount*  
14          *which bears the same ratio to the additional tax im-*  
15          *posed by this chapter for the taxable year solely by*  
16          *reason of subsection (a) as the gain taken into ac-*  
17          *count under subsection (a) with respect to such prop-*  
18          *erty bears to the total gain taken into account under*  
19          *subsection (a) with respect to all property to which*  
20          *subsection (a) applies.*

21           “(3) *TERMINATION OF POSTPONEMENT.*—*No tax*  
22          *may be postponed under this subsection later than the*  
23          *due date for the return of tax imposed by this chapter*  
24          *for the taxable year which includes the date of death*  
25          *of the expatriate (or, if earlier, the time that the secu-*

1        *urity provided with respect to the property fails to*  
2        *meet the requirements of paragraph (4), unless the*  
3        *taxpayer corrects such failure within the time speci-*  
4        *fied by the Secretary).*

5            *“(4) SECURITY.—*

6            *“(A) IN GENERAL.—No election may be*  
7            *made under paragraph (1) with respect to any*  
8            *property unless adequate security is provided to*  
9            *the Secretary with respect to such property.*

10           *“(B) ADEQUATE SECURITY.—For purposes*  
11           *of subparagraph (A), security with respect to*  
12           *any property shall be treated as adequate secu-*  
13           *rity if—*

14           *“(i) it is a bond in an amount equal*  
15           *to the deferred tax amount under paragraph*  
16           *(2) for the property, or*

17           *“(ii) the taxpayer otherwise establishes*  
18           *to the satisfaction of the Secretary that the*  
19           *security is adequate.*

20           *“(5) WAIVER OF CERTAIN RIGHTS.—No election*  
21           *may be made under paragraph (1) unless the tax-*  
22           *payer consents to the waiver of any right under any*  
23           *treaty of the United States which would preclude as-*  
24           *essment or collection of any tax imposed by reason*  
25           *of this section.*

1           “(6) *ELECTIONS.*—An election under paragraph  
2           (1) shall only apply to property described in the elec-  
3           tion and, once made, is irrevocable. An election may  
4           be made under paragraph (1) with respect to an in-  
5           terest in a trust with respect to which gain is re-  
6           quired to be recognized under subsection (f)(1).

7           “(7) *INTEREST.*—For purposes of section 6601—

8                   “(A) the last date for the payment of tax  
9                   shall be determined without regard to the election  
10                  under this subsection, and

11                   “(B) section 6621(a)(2) shall be applied by  
12                   substituting ‘5 percentage points’ for ‘3 percent-  
13                   age points’ in subparagraph (B) thereof.

14           “(c) *COVERED EXPATRIATE.*—For purposes of this  
15           section—

16                   “(1) *IN GENERAL.*—Except as provided in para-  
17                   graph (2), the term ‘covered expatriate’ means an ex-  
18                   patriate.

19                   “(2) *EXCEPTIONS.*—An individual shall not be  
20                   treated as a covered expatriate if—

21                           “(A) the individual—

22                                   “(i) became at birth a citizen of the  
23                                   United States and a citizen of another  
24                                   country and, as of the expatriation date,

1 continues to be a citizen of, and is taxed as  
2 a resident of, such other country, and

3 “(i) has not been a resident of the  
4 United States (as defined in section  
5 7701(b)(1)(A)(ii)) during the 5 taxable  
6 years ending with the taxable year during  
7 which the expatriation date occurs, or

8 “(B)(i) the individual’s relinquishment of  
9 United States citizenship occurs before such indi-  
10 vidual attains age 18½, and

11 “(ii) the individual has been a resident of  
12 the United States (as so defined) for not more  
13 than 5 taxable years before the date of relin-  
14 quishment.

15 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*  
16 *SION PLANS.*—

17 “(1) *EXEMPT PROPERTY.*—*This section shall not*  
18 *apply to the following:*

19 “(A) *UNITED STATES REAL PROPERTY IN-*  
20 *TERESTS.*—*Any United States real property in-*  
21 *terest (as defined in section 897(c)(1)), other*  
22 *than stock of a United States real property hold-*  
23 *ing corporation which does not, on the day before*  
24 *the expatriation date, meet the requirements of*  
25 *section 897(c)(2).*

1           “(B) *SPECIFIED PROPERTY.*—Any property  
2           or interest in property not described in subpara-  
3           graph (A) which the Secretary specifies in regu-  
4           lations.

5           “(2) *SPECIAL RULES FOR CERTAIN RETIREMENT*  
6           *PLANS.*—

7           “(A) *IN GENERAL.*—If a covered expatriate  
8           holds on the day before the expatriation date any  
9           interest in a retirement plan to which this para-  
10          graph applies—

11           “(i) such interest shall not be treated  
12          as sold for purposes of subsection (a)(1), but

13           “(ii) an amount equal to the present  
14          value of the expatriate’s nonforfeitable ac-  
15          crued benefit shall be treated as having been  
16          received by such individual on such date as  
17          a distribution under the plan.

18          “(B) *TREATMENT OF SUBSEQUENT DIS-*  
19          *TRIBUTIONS.*—In the case of any distribution on  
20          or after the expatriation date to or on behalf of  
21          the covered expatriate from a plan from which  
22          the expatriate was treated as receiving a dis-  
23          tribution under subparagraph (A), the amount  
24          otherwise includible in gross income by reason of  
25          the subsequent distribution shall be reduced by

1           *the excess of the amount includible in gross in-*  
2           *come under subparagraph (A) over any portion*  
3           *of such amount to which this subparagraph pre-*  
4           *viously applied.*

5           “(C) *TREATMENT OF SUBSEQUENT DIS-*  
6           *TRIBUTIONS BY PLAN.—For purposes of this title,*  
7           *a retirement plan to which this paragraph ap-*  
8           *plies, and any person acting on the plan’s behalf,*  
9           *shall treat any subsequent distribution described*  
10          *in subparagraph (B) in the same manner as*  
11          *such distribution would be treated without re-*  
12          *gard to this paragraph.*

13          “(D) *APPLICABLE PLANS.—This paragraph*  
14          *shall apply to—*

15                  “(i) *any qualified retirement plan (as*  
16                  *defined in section 4974(c)),*

17                  “(ii) *an eligible deferred compensation*  
18                  *plan (as defined in section 457(b)) of an el-*  
19                  *igible employer described in section*  
20                  *457(e)(1)(A), and*

21                  “(iii) *to the extent provided in regula-*  
22                  *tions, any foreign pension plan or similar*  
23                  *retirement arrangements or programs.*

24          “(e) *DEFINITIONS.—For purposes of this section—*

1           “(1) *EXPATRIATE.*—The term ‘expatriate’  
2       *means—*

3           “(A) *any United States citizen who relin-*  
4       *quishes citizenship, and*

5           “(B) *any long-term resident of the United*  
6       *States who—*

7           “(i) *ceases to be a lawful permanent*  
8       *resident of the United States (within the*  
9       *meaning of section 7701(b)(6)), or*

10          “(ii) *commences to be treated as a resi-*  
11       *dent of a foreign country under the provi-*  
12       *sions of a tax treaty between the United*  
13       *States and the foreign country and who*  
14       *does not waive the benefits of such treaty*  
15       *applicable to residents of the foreign coun-*  
16       *try.*

17          “(2) *EXPATRIATION DATE.*—The term ‘expatria-  
18       *tion date’ means—*

19          “(A) *the date an individual relinquishes*  
20       *United States citizenship, or*

21          “(B) *in the case of a long-term resident of*  
22       *the United States, the date of the event described*  
23       *in clause (i) or (ii) of paragraph (1)(B).*

1           “(3) *RELINQUISHMENT OF CITIZENSHIP.*—A cit-  
2           *izen shall be treated as relinquishing United States*  
3           *citizenship on the earliest of—*

4                   “(A) *the date the individual renounces such*  
5                   *individual’s United States nationality before a*  
6                   *diplomatic or consular officer of the United*  
7                   *States pursuant to paragraph (5) of section*  
8                   *349(a) of the Immigration and Nationality Act*  
9                   *(8 U.S.C. 1481(a)(5)),*

10                   “(B) *the date the individual furnishes to the*  
11                   *United States Department of State a signed*  
12                   *statement of voluntary relinquishment of United*  
13                   *States nationality confirming the performance of*  
14                   *an act of expatriation specified in paragraph*  
15                   *(1), (2), (3), or (4) of section 349(a) of the Im-*  
16                   *migration and Nationality Act (8 U.S.C.*  
17                   *1481(a)(1)–(4)),*

18                   “(C) *the date the United States Department*  
19                   *of State issues to the individual a certificate of*  
20                   *loss of nationality, or*

21                   “(D) *the date a court of the United States*  
22                   *cancels a naturalized citizen’s certificate of natu-*  
23                   *ralization.*

24           *Subparagraph (A) or (B) shall not apply to any in-*  
25           *dividual unless the renunciation or voluntary relin-*



1        *quishment is subsequently approved by the issuance to*  
2        *the individual of a certificate of loss of nationality by*  
3        *the United States Department of State.*

4            “(4) *LONG-TERM RESIDENT.*—*The term ‘long-*  
5        *term resident’ has the meaning given to such term by*  
6        *section 877(e)(2).*

7            “(f) *SPECIAL RULES APPLICABLE TO BENEFICIARIES’*  
8        *INTERESTS IN TRUST.*—

9            “(1) *IN GENERAL.*—*Except as provided in para-*  
10        *graph (2), if an individual is determined under para-*  
11        *graph (3) to hold an interest in a trust on the day*  
12        *before the expatriation date—*

13            “(A) *the individual shall not be treated as*  
14        *having sold such interest,*

15            “(B) *such interest shall be treated as a sep-*  
16        *arate share in the trust, and*

17            “(C)(i) *such separate share shall be treated*  
18        *as a separate trust consisting of the assets allo-*  
19        *cable to such share,*

20            “(ii) *the separate trust shall be treated as*  
21        *having sold its assets on the day before the expa-*  
22        *triation date for their fair market value and as*  
23        *having distributed all of its assets to the indi-*  
24        *vidual as of such time, and*

1           “(iii) the individual shall be treated as hav-  
2           ing recontributed the assets to the separate trust.  
3           Subsection (a)(2) shall apply to any income, gain, or  
4           loss of the individual arising from a distribution de-  
5           scribed in subparagraph (C)(ii). In determining the  
6           amount of such distribution, proper adjustments shall  
7           be made for liabilities of the trust allocable to an in-  
8           dividual’s share in the trust.

9           “(2) SPECIAL RULES FOR INTERESTS IN QUALI-  
10          FIED TRUSTS.—

11           “(A) IN GENERAL.—If the trust interest de-  
12          scribed in paragraph (1) is an interest in a  
13          qualified trust—

14           “(i) paragraph (1) and subsection (a)  
15          shall not apply, and

16           “(ii) in addition to any other tax im-  
17          posed by this title, there is hereby imposed  
18          on each distribution with respect to such in-  
19          terest a tax in the amount determined  
20          under subparagraph (B).

21           “(B) AMOUNT OF TAX.—The amount of tax  
22          under subparagraph (A)(ii) shall be equal to the  
23          lesser of—

24           “(i) the highest rate of tax imposed by  
25          section 1(e) for the taxable year which in-

1 *cludes the day before the expatriation date,*  
2 *multiplied by the amount of the distribu-*  
3 *tion, or*

4 *“(i) the balance in the deferred tax ac-*  
5 *count immediately before the distribution*  
6 *determined without regard to any increases*  
7 *under subparagraph (C)(ii) after the 30th*  
8 *day preceding the distribution.*

9 *“(C) DEFERRED TAX ACCOUNT.—For pur-*  
10 *poses of subparagraph (B)(ii)—*

11 *“(i) OPENING BALANCE.—The opening*  
12 *balance in a deferred tax account with re-*  
13 *spect to any trust interest is an amount*  
14 *equal to the tax which would have been im-*  
15 *posed on the allocable expatriation gain*  
16 *with respect to the trust interest if such*  
17 *gain had been included in gross income*  
18 *under subsection (a).*

19 *“(ii) INCREASE FOR INTEREST.—The*  
20 *balance in the deferred tax account shall be*  
21 *increased by the amount of interest deter-*  
22 *mined (on the balance in the account at the*  
23 *time the interest accrues), for periods after*  
24 *the 90th day after the expatriation date, by*  
25 *using the rates and method applicable*

1           under section 6621 for underpayments of  
2           tax for such periods, except that section  
3           6621(a)(2) shall be applied by substituting  
4           ‘5 percentage points’ for ‘3 percentage  
5           points’ in subparagraph (B) thereof.

6           “(iii) *DECREASE FOR TAXES PRE-*  
7           *VIOUSLY PAID.*—The balance in the tax de-  
8           ferred account shall be reduced—

9                   “(I) by the amount of taxes im-  
10                   posed by subparagraph (A) on any dis-  
11                   tribution to the person holding the  
12                   trust interest, and

13                   “(II) in the case of a person hold-  
14                   ing a nonvested interest, to the extent  
15                   provided in regulations, by the amount  
16                   of taxes imposed by subparagraph (A)  
17                   on distributions from the trust with re-  
18                   spect to nonvested interests not held by  
19                   such person.

20           “(D) *ALLOCABLE EXPATRIATION GAIN.*—For  
21           purposes of this paragraph, the allocable expa-  
22           triation gain with respect to any beneficiary’s  
23           interest in a trust is the amount of gain which  
24           would be allocable to such beneficiary’s vested  
25           and nonvested interests in the trust if the bene-

1           *ficiary held directly all assets allocable to such*  
2           *interests.*

3           “(E) *TAX DEDUCTED AND WITHHELD.*—

4                   “(i) *IN GENERAL.*—*The tax imposed by*  
5                   *subparagraph (A)(i) shall be deducted and*  
6                   *withheld by the trustees from the distribu-*  
7                   *tion to which it relates.*

8                   “(ii) *EXCEPTION WHERE FAILURE TO*  
9                   *WAIVE TREATY RIGHTS.*—*If an amount may*  
10                   *not be deducted and withheld under clause*  
11                   *(i) by reason of the distributee failing to*  
12                   *waive any treaty right with respect to such*  
13                   *distribution—*

14                           “(I) *the tax imposed by subpara-*  
15                           *graph (A)(i) shall be imposed on the*  
16                           *trust and each trustee shall be person-*  
17                           *ally liable for the amount of such tax,*  
18                           *and*

19                           “(II) *any other beneficiary of the*  
20                           *trust shall be entitled to recover from*  
21                           *the distributee the amount of such tax*  
22                           *imposed on the other beneficiary.*

23           “(F) *DISPOSITION.*—*If a trust ceases to be*  
24           *a qualified trust at any time, a covered expa-*  
25           *triate disposes of an interest in a qualified trust,*

1           or a covered expatriate holding an interest in a  
2           qualified trust dies, then, in lieu of the tax im-  
3           posed by subparagraph (A)(ii), there is hereby  
4           imposed a tax equal to the lesser of—

5                   “(i) the tax determined under para-  
6                   graph (1) as if the day before the expatria-  
7                   tion date were the date of such cessation,  
8                   disposition, or death, whichever is applica-  
9                   ble, or

10                   “(ii) the balance in the tax deferred ac-  
11                   count immediately before such date.

12           Such tax shall be imposed on the trust and each  
13           trustee shall be personally liable for the amount  
14           of such tax and any other beneficiary of the trust  
15           shall be entitled to recover from the covered expa-  
16           triate or the estate the amount of such tax im-  
17           posed on the other beneficiary.

18                   “(G) *DEFINITIONS AND SPECIAL RULES.*—

19           For purposes of this paragraph—

20                   “(i) *QUALIFIED TRUST.*—The term  
21                   ‘qualified trust’ means a trust which is de-  
22                   scribed in section 7701(a)(30)(E).

23                   “(ii) *VESTED INTEREST.*—The term  
24                   ‘vested interest’ means any interest which,

1           *as of the day before the expatriation date, is*  
2           *vested in the beneficiary.*

3           “(iii) *NONVESTED INTEREST.*—*The*  
4           *term ‘nonvested interest’ means, with re-*  
5           *spect to any beneficiary, any interest in a*  
6           *trust which is not a vested interest. Such*  
7           *interest shall be determined by assuming the*  
8           *maximum exercise of discretion in favor of*  
9           *the beneficiary and the occurrence of all*  
10           *contingencies in favor of the beneficiary.*

11           “(iv) *ADJUSTMENTS.*—*The Secretary*  
12           *may provide for such adjustments to the*  
13           *bases of assets in a trust or a deferred tax*  
14           *account, and the timing of such adjust-*  
15           *ments, in order to ensure that gain is taxed*  
16           *only once.*

17           “(v) *COORDINATION WITH RETIREMENT*  
18           *PLAN RULES.*—*This subsection shall not*  
19           *apply to an interest in a trust which is*  
20           *part of a retirement plan to which sub-*  
21           *section (d)(2) applies.*

22           “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*  
23           *EST IN TRUST.*—

24           “(A) *DETERMINATIONS UNDER PARAGRAPH*  
25           *(1).*—*For purposes of paragraph (1), a bene-*

1        *ficiary’s interest in a trust shall be based upon*  
2        *all relevant facts and circumstances, including*  
3        *the terms of the trust instrument and any letter*  
4        *of wishes or similar document, historical pat-*  
5        *terns of trust distributions, and the existence of*  
6        *and functions performed by a trust protector or*  
7        *any similar adviser.*

8                *“(B) OTHER DETERMINATIONS.—For pur-*  
9                *poses of this section—*

10                    *“(i) CONSTRUCTIVE OWNERSHIP.—If a*  
11                    *beneficiary of a trust is a corporation, part-*  
12                    *nership, trust, or estate, the shareholders,*  
13                    *partners, or beneficiaries shall be deemed to*  
14                    *be the trust beneficiaries for purposes of this*  
15                    *section.*

16                    *“(ii) TAXPAYER RETURN POSITION.—A*  
17                    *taxpayer shall clearly indicate on its in-*  
18                    *come tax return—*

19                                *“(I) the methodology used to de-*  
20                                *termine that taxpayer’s trust interest*  
21                                *under this section, and*

22                                *“(II) if the taxpayer knows (or*  
23                                *has reason to know) that any other*  
24                                *beneficiary of such trust is using a dif-*  
25                                *ferent methodology to determine such*



1                    *beneficiary's trust interest under this*  
2                    *section.*

3            “(g) *TERMINATION OF DEFERRALS, ETC.—In the case*  
4 *of any covered expatriate, notwithstanding any other provi-*  
5 *sion of this title—*

6                    “(1) *any period during which recognition of in-*  
7 *come or gain is deferred shall terminate on the day*  
8 *before the expatriation date, and*

9                    “(2) *any extension of time for payment of tax*  
10 *shall cease to apply on the day before the expatriation*  
11 *date and the unpaid portion of such tax shall be due*  
12 *and payable at the time and in the manner pre-*  
13 *scribed by the Secretary.*

14            “(h) *IMPOSITION OF TENTATIVE TAX.—*

15                    “(1) *IN GENERAL.—If an individual is required*  
16 *to include any amount in gross income under sub-*  
17 *section (a) for any taxable year, there is hereby im-*  
18 *posed, immediately before the expatriation date, a tax*  
19 *in an amount equal to the amount of tax which*  
20 *would be imposed if the taxable year were a short tax-*  
21 *able year ending on the expatriation date.*

22                    “(2) *DUE DATE.—The due date for any tax im-*  
23 *posed by paragraph (1) shall be the 90th day after the*  
24 *expatriation date.*

1           “(3) *TREATMENT OF TAX.*—Any tax paid under  
2           paragraph (1) shall be treated as a payment of the  
3           tax imposed by this chapter for the taxable year to  
4           which subsection (a) applies.

5           “(4) *DEFERRAL OF TAX.*—The provisions of sub-  
6           section (b) shall apply to the tax imposed by this sub-  
7           section to the extent attributable to gain includible in  
8           gross income by reason of this section.

9           “(i) *SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.*—

10           “(1) *IMPOSITION OF LIEN.*—

11           “(A) *IN GENERAL.*—If a covered expatriate  
12           makes an election under subsection (a)(4) or (b)  
13           which results in the deferral of any tax imposed  
14           by reason of subsection (a), the deferred amount  
15           (including any interest, additional amount, ad-  
16           dition to tax, assessable penalty, and costs at-  
17           tributable to the deferred amount) shall be a lien  
18           in favor of the United States on all property of  
19           the expatriate located in the United States (with-  
20           out regard to whether this section applies to the  
21           property).

22           “(B) *DEFERRED AMOUNT.*—For purposes of  
23           this subsection, the deferred amount is the  
24           amount of the increase in the covered expatri-  
25           ate’s income tax which, but for the election under

1            *subsection (a)(4) or (b), would have occurred by*  
2            *reason of this section for the taxable year includ-*  
3            *ing the expatriation date.*

4            “(2) *PERIOD OF LIEN.*—*The lien imposed by this*  
5            *subsection shall arise on the expatriation date and*  
6            *continue until—*

7                    “(A) *the liability for tax by reason of this*  
8                    *section is satisfied or has become unenforceable*  
9                    *by reason of lapse of time, or*

10                    “(B) *it is established to the satisfaction of*  
11                    *the Secretary that no further tax liability may*  
12                    *arise by reason of this section.*

13            “(3) *CERTAIN RULES APPLY.*—*The rules set forth*  
14            *in paragraphs (1), (3), and (4) of section 6324A(d)*  
15            *shall apply with respect to the lien imposed by this*  
16            *subsection as if it were a lien imposed by section*  
17            *6324A.*

18            “(j) *REGULATIONS.*—*The Secretary shall prescribe*  
19            *such regulations as may be necessary or appropriate to*  
20            *carry out the purposes of this section.”.*

21            (b) *INCLUSION IN INCOME OF GIFTS AND BEQUESTS*  
22            *RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS*  
23            *FROM EXPATRIATES.*—*Section 102 (relating to gifts, etc.*  
24            *not included in gross income) is amended by adding at the*  
25            *end the following new subsection:*

1       “(d) *GIFTS AND INHERITANCES FROM COVERED EX-*  
2 *PATRIATES.*—

3               “(1) *IN GENERAL.*—*Subsection (a) shall not ex-*  
4 *clude from gross income the value of any property ac-*  
5 *quired by gift, bequest, devise, or inheritance from a*  
6 *covered expatriate after the expatriation date. For*  
7 *purposes of this subsection, any term used in this sub-*  
8 *section which is also used in section 877A shall have*  
9 *the same meaning as when used in section 877A.*

10              “(2) *EXCEPTIONS FOR TRANSFERS OTHERWISE*  
11 *SUBJECT TO ESTATE OR GIFT TAX.*—*Paragraph (1)*  
12 *shall not apply to any property if either—*

13                   “(A) *the gift, bequest, devise, or inheritance*  
14 *is—*

15                           “(i) *shown on a timely filed return of*  
16 *tax imposed by chapter 12 as a taxable gift*  
17 *by the covered expatriate, or*

18                           “(ii) *included in the gross estate of the*  
19 *covered expatriate for purposes of chapter*  
20 *11 and shown on a timely filed return of*  
21 *tax imposed by chapter 11 of the estate of*  
22 *the covered expatriate, or*

23                   “(B) *no such return was timely filed but no*  
24 *such return would have been required to be filed*

1           *even if the covered expatriate were a citizen or*  
2           *long-term resident of the United States.”.*

3           (c) *DEFINITION OF TERMINATION OF UNITED STATES*  
4 *CITIZENSHIP.—Section 7701(a) is amended by adding at*  
5 *the end the following new paragraph:*

6           “(49) *TERMINATION OF UNITED STATES CITIZEN-*  
7           *SHIP.—*

8           “(A) *IN GENERAL.—An individual shall not*  
9           *cease to be treated as a United States citizen be-*  
10           *fore the date on which the individual’s citizen-*  
11           *ship is treated as relinquished under section*  
12           *877A(e)(3).*

13           “(B) *DUAL CITIZENS.—Under regulations*  
14           *prescribed by the Secretary, subparagraph (A)*  
15           *shall not apply to an individual who became at*  
16           *birth a citizen of the United States and a citizen*  
17           *of another country.”.*

18           (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*  
19 *UNITED STATES.—*

20           (1) *IN GENERAL.—Section 212(a)(10)(E) of the*  
21 *Immigration and Nationality Act (8 U.S.C.*  
22 *1182(a)(10)(E)) is amended to read as follows:*

23           “(E) *FORMER CITIZENS NOT IN COMPLI-*  
24           *ANCE WITH EXPATRIATION REVENUE PROVI-*  
25           *SIONS.—Any alien who is a former citizen of the*

1           *United States who relinquishes United States*  
2           *citizenship (within the meaning of section*  
3           *877A(e)(3) of the Internal Revenue Code of 1986)*  
4           *and who is not in compliance with section 877A*  
5           *of such Code (relating to expatriation) is inad-*  
6           *missible.”.*

7           (2) *AVAILABILITY OF INFORMATION.—*

8                     (A) *IN GENERAL.—Section 6103(l) (relating*  
9                     *to disclosure of returns and return information*  
10                    *for purposes other than tax administration) is*  
11                    *amended by adding at the end the following new*  
12                    *paragraph:*

13                    “(21) *DISCLOSURE TO DENY VISA OR ADMISSION*  
14                    *TO CERTAIN EXPATRIATES.—Upon written request of*  
15                    *the Attorney General or the Attorney General’s dele-*  
16                    *gate, the Secretary shall disclose whether an indi-*  
17                    *vidual is in compliance with section 877A (and if not*  
18                    *in compliance, any items of noncompliance) to offi-*  
19                    *cers and employees of the Federal agency responsible*  
20                    *for administering section 212(a)(10)(E) of the Immigra-*  
21                    *tion and Nationality Act solely for the purpose of,*  
22                    *and to the extent necessary in, administering such*  
23                    *section 212(a)(10)(E).”.*

24                    (B) *SAFEGUARDS.—Section 6103(p)(4) (re-*  
25                    *lating to safeguards) is amended by striking “or*

1           (20)” each place it appears and inserting “(20),  
2           or (21)”.

3           (3) *EFFECTIVE DATES.*—*The amendments made*  
4           *by this subsection shall apply to individuals who re-*  
5           *linquish United States citizenship on or after the date*  
6           *of the enactment of this Act.*

7           (e) *CONFORMING AMENDMENTS.*—

8           (1) *Section 877 is amended by adding at the end*  
9           *the following new subsection:*

10          “(h) *APPLICATION.*—*This section shall not apply to an*  
11          *expatriate (as defined in section 877A(e)) whose expatria-*  
12          *tion date (as so defined) occurs on or after the date of the*  
13          *enactment of this subsection.”.*

14          (2) *Section 2107 is amended by adding at the*  
15          *end the following new subsection:*

16          “(f) *APPLICATION.*—*This section shall not apply to*  
17          *any expatriate subject to section 877A.”.*

18          (3) *Section 2501(a)(3) is amended by adding at*  
19          *the end the following new subparagraph:*

20                  “(C) *APPLICATION.*—*This paragraph shall*  
21                  *not apply to any expatriate subject to section*  
22                  *877A.”.*

23          (4) *Section 6039G(a) is amended by inserting*  
24          *“or 877A” after “section 877(b)”.*

1           (5) *The second sentence of section 6039G(d) is*  
2           *amended by inserting “or who relinquishes United*  
3           *States citizenship (within the meaning of section*  
4           *877A(e)(3))” after “section 877(a)”.*

5           (f) *CLERICAL AMENDMENT.—The table of sections for*  
6           *subpart A of part II of subchapter N of chapter 1 is amend-*  
7           *ed by inserting after the item relating to section 877 the*  
8           *following new item:*

          “Sec. 877A. *Tax responsibilities of expatriation.*”.

9           (g) *EFFECTIVE DATE.—*

10           (1) *IN GENERAL.—Except as provided in this*  
11           *subsection, the amendments made by this section shall*  
12           *apply to expatriates (within the meaning of section*  
13           *877A(e) of the Internal Revenue Code of 1986, as*  
14           *added by this section) whose expatriation date (as so*  
15           *defined) occurs on or after the date of the enactment*  
16           *of this Act.*

17           (2) *GIFTS AND BEQUESTS.—Section 102(d) of*  
18           *the Internal Revenue Code of 1986 (as added by sub-*  
19           *section (b)) shall apply to gifts and bequests received*  
20           *on or after the date of the enactment of this Act, from*  
21           *an individual or the estate of an individual whose ex-*  
22           *patriation date (as so defined) occurs after such date.*

23           (3) *DUE DATE FOR TENTATIVE TAX.—The due*  
24           *date under section 877A(h)(2) of the Internal Revenue*  
25           *Code of 1986, as added by this section, shall in no*



1 *event occur before the 90th day after the date of the*  
2 *enactment of this Act.*

3 ***Subtitle F—Miscellaneous***  
4 ***Provisions***

5 ***SEC. 451. TREATMENT OF CONTINGENT PAYMENT CON-***  
6 ***VERTIBLE DEBT INSTRUMENTS.***

7 *(a) IN GENERAL.—Section 1275(d) (relating to regula-*  
8 *tion authority) is amended—*

9 *(1) by striking “The Secretary” and inserting*  
10 *the following:*

11 *“(1) IN GENERAL.—The Secretary”, and*

12 *(2) by adding at the end the following new para-*  
13 *graph:*

14 *“(2) TREATMENT OF CONTINGENT PAYMENT CON-*  
15 *VERTIBLE DEBT.—*

16 *“(A) IN GENERAL.—In the case of a debt in-*  
17 *strument which—*

18 *“(i) is convertible into stock of the*  
19 *issuing corporation, into stock or debt of a*  
20 *related party (within the meaning of section*  
21 *267(b) or 707(b)(1)), or into cash or other*  
22 *property in an amount equal to the approx-*  
23 *imate value of such stock or debt, and*

24 *“(ii) provides for contingent payments,*

1           *any regulations which require original issue dis-*  
2           *count to be determined by reference to the com-*  
3           *parable yield of a noncontingent fixed-rate debt*  
4           *instrument shall be applied as if the regulations*  
5           *require that such comparable yield be determined*  
6           *by reference to a noncontingent fixed-rate debt*  
7           *instrument which is convertible into stock.*

8                   “(B) *SPECIAL RULE.*—*For purposes of sub-*  
9                   *paragraph (A), the comparable yield shall be de-*  
10                  *termined without taking into account the yield*  
11                  *resulting from the conversion of a debt instru-*  
12                  *ment into stock.”.*

13           (b) *CROSS REFERENCE.*—*Section 163(e)(6) (relating*  
14           *to cross references) is amended by adding at the end the*  
15           *following:*

16                   “*For the treatment of contingent payment*  
17                   *convertible debt, see section 1275(d)(2).”.*

18           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
19           *section shall apply to debt instruments issued on or after*  
20           *the date of the enactment of this Act.*

1 **SEC. 452. GRANT OF TREASURY REGULATORY AUTHORITY**  
2 **TO ADDRESS FOREIGN TAX CREDIT TRANS-**  
3 **ACTIONS INVOLVING INAPPROPRIATE SEPA-**  
4 **RATION OF FOREIGN TAXES FROM RELATED**  
5 **FOREIGN INCOME.**

6 (a) *IN GENERAL.*—Section 901 (relating to taxes of  
7 foreign countries and of possessions of United States) is  
8 amended by redesignating subsection (m) as subsection (n)  
9 and by inserting after subsection (l) the following new sub-  
10 section:

11 “(m) *REGULATIONS.*—The Secretary may prescribe  
12 regulations disallowing a credit under subsection (a) for all  
13 or a portion of any foreign tax, or allocating a foreign tax  
14 among 2 or more persons, in cases where the foreign tax  
15 is imposed on any person in respect of income of another  
16 person or in other cases involving the inappropriate separa-  
17 tion of the foreign tax from the related foreign income.”.

18 (b) *EFFECTIVE DATE.*—The amendments made by this  
19 section shall apply to transactions entered into after the  
20 date of the enactment of this Act.

21 **SEC. 453. REPEAL OF SPECIAL PROPERTY EXCEPTION TO**  
22 **LEASING PROVISIONS OF THE AMERICAN**  
23 **JOBS CREATION ACT OF 2004.**

24 (a) *IN GENERAL.*—Section 849(b) of the American  
25 Jobs Creation Act of 2004 is amended by striking para-

1 *graphs (1) and (2), by redesignating paragraphs (3) and*  
2 *(4) as paragraphs (1) and (2), respectively.*

3       **(b) LEASES TO FOREIGN ENTITIES.**—Section 849(b)  
4 *of the American Jobs Creation Act of 2004, as amended by*  
5 *subsection (a), is amended by adding at the end the fol-*  
6 *lowing new paragraph:*

7               **“(3) LEASES TO FOREIGN ENTITIES.**—*In the case*  
8 *of tax-exempt use property leased to a tax-exempt en-*  
9 *tity which is a foreign person or entity, the amend-*  
10 *ments made by this part shall apply to taxable years*  
11 *beginning after December 31, 2005, with respect to*  
12 *leases entered into on or before March 12, 2004.”.*

13       **(c) EFFECTIVE DATE.**—*The amendments made by this*  
14 *section shall take effect as if included in the enactment of*  
15 *the American Jobs Creation Act of 2004.*

16 **SEC. 454. APPLICATION OF EARNINGS STRIPPING RULES TO**  
17 **PARTNERS WHICH ARE CORPORATIONS.**

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

23               **“(8) TREATMENT OF CORPORATE PARTNERS.**—  
24 *Except to the extent provided by regulations, in ap-*

1        *plying this subsection to a corporation which owns*  
2        *(directly or indirectly) an interest in a partnership—*

3                *“(A) such corporation’s distributive share of*  
4                *interest income paid or accrued to such partner-*  
5                *ship shall be treated as interest income paid or*  
6                *accrued to such corporation,*

7                *“(B) such corporation’s distributive share of*  
8                *interest paid or accrued by such partnership*  
9                *shall be treated as interest paid or accrued by*  
10               *such corporation, and*

11               *“(C) such corporation’s share of the liabil-*  
12               *ities of such partnership shall be treated as li-*  
13               *abilities of such corporation.”.*

14        *(b) ADDITIONAL REGULATORY AUTHORITY.—Section*  
15        *163(j)(9) (relating to regulations), as redesignated by sub-*  
16        *section (a), is amended by striking “and” at the end of sub-*  
17        *paragraph (B), by striking the period at the end of subpara-*  
18        *graph (C) and inserting “, and”, and by adding at the end*  
19        *the following new subparagraph:*

20               *“(D) regulations providing for the realloca-*  
21               *tion of shares of partnership indebtedness, or dis-*  
22               *tributive shares of the partnership’s interest in-*  
23               *come or interest expense, as may be appropriate*  
24               *to carry out the purposes of this subsection.”.*

1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to taxable years beginning on or after*  
3 *the date of the enactment of this Act.*

4 **SEC. 455. LIMITATION OF EMPLOYER DEDUCTION FOR CER-**  
5 **TAIN ENTERTAINMENT EXPENSES.**

6       (a) *IN GENERAL.*—*Paragraph (2) of section 274(e) (re-*  
7 *lating to expenses treated as compensation) is amended to*  
8 *read as follows:*

9               “(2) *EXPENSES TREATED AS COMPENSATION.*—  
10 *Expenses for goods, services, and facilities, to the ex-*  
11 *tent that the expenses do not exceed the amount of the*  
12 *expenses which are treated by the taxpayer, with re-*  
13 *spect to the recipient of the entertainment, amuse-*  
14 *ment, or recreation, as compensation to an employee*  
15 *on the taxpayer’s return of tax under this chapter*  
16 *and as wages to such employee for purposes of chapter*  
17 *24 (relating to withholding of income tax at source on*  
18 *wages).”.*

19       (b) *PERSONS NOT EMPLOYEES.*—*Paragraph (9) of sec-*  
20 *tion 274(e) is amended by striking “to the extent that the*  
21 *expenses are includible in the gross income” and inserting*  
22 *“to the extent that the expenses do not exceed the amount*  
23 *of the expenses which are includible in the gross income”.*

1           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to expenses incurred after the date of*  
 3 *the enactment of this Act.*

4 **SEC. 456. INCREASE IN AGE OF MINOR CHILDREN WHOSE**  
 5 **UNEARNED INCOME IS TAXED AS IF PARENT'S**  
 6 **INCOME.**

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

10          (b) *TREATMENT OF DISTRIBUTIONS FROM QUALIFIED*  
 11 *DISABILITY TRUSTS.*—*Section 1(g)(4) (relating to net un-*  
 12 *earned income) is amended by adding at the end the fol-*  
 13 *lowing new subparagraph:*

14                           “(C) *TREATMENT OF DISTRIBUTIONS FROM*  
 15 *QUALIFIED DISABILITY TRUSTS.*—*For purposes*  
 16 *of this subsection, in the case of any child who*  
 17 *is a beneficiary of a qualified disability trust (as*  
 18 *defined in section 642(b)(2)(C)(ii)), any amount*  
 19 *included in the income of such child under sec-*  
 20 *tions 652 and 662 during a taxable year shall be*  
 21 *considered earned income of such child for such*  
 22 *taxable year.”.*

23           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 24 *section shall apply to taxable years beginning after Decem-*  
 25 *ber 31, 2005.*

1 **SEC. 457. LOAN AND REDEMPTION REQUIREMENTS ON**  
2 **POOLED FINANCING REQUIREMENTS.**

3 (a) *STRENGTHENED REASONABLE EXPECTATION RE-*  
4 *QUIREMENT.*—*Subparagraph (A) of section 149(f)(2) (relat-*  
5 *ing to reasonable expectation requirement) is amended to*  
6 *read as follows:*

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

10 “(i) *as of the close of the 1-year period*  
11 *beginning on the date of issuance of the*  
12 *issue, at least 50 percent of the net proceeds*  
13 *of the issue (as of the close of such period)*  
14 *will have been used directly or indirectly to*  
15 *make or finance loans to ultimate bor-*  
16 *rowers, and*

17 “(ii) *as of the close of the 3-year period*  
18 *beginning on such date of issuance, at least*  
19 *95 percent of the net proceeds of the issue*  
20 *(as of the close of such period) will have*  
21 *been so used.”.*

22 (b) *WRITTEN LOAN COMMITMENT AND REDEMPTION*  
23 *REQUIREMENTS.*—*Section 149(f) (relating to treatment of*  
24 *certain pooled financing bonds) is amended by redesign-*  
25 *ating paragraphs (4) and (5) as paragraphs (6) and (7),*



1 *respectively, and by inserting after paragraph (3) the fol-*  
2 *lowing new paragraphs:*

3           “(4) *WRITTEN LOAN COMMITMENT REQUIRE-*  
4 *MENT.—*

5                   “(A) *IN GENERAL.—The requirement of this*  
6 *paragraph is met with respect to an issue if the*  
7 *issuer receives prior to issuance written loan*  
8 *commitments identifying the ultimate potential*  
9 *borrowers of at least 50 percent of the net pro-*  
10 *ceeds of such issue.*

11                   “(B) *EXCEPTION.—Subparagraph (A) shall*  
12 *not apply with respect to any issuer which is a*  
13 *State (or an integral part of a State) issuing*  
14 *pooled financing bonds to make or finance loans*  
15 *to subordinate governmental units of such State*  
16 *or to State-created entities providing financing*  
17 *for water-infrastructure projects through the fed-*  
18 *erally-sponsored State revolving fund program.*

19           “(5) *REDEMPTION REQUIREMENT.—The require-*  
20 *ment of this paragraph is met if to the extent that less*  
21 *than the percentage of the proceeds of an issue re-*  
22 *quired to be used under clause (i) or (ii) of paragraph*  
23 *(2)(A) is used by the close of the period identified in*  
24 *such clause, the issuer uses an amount of proceeds*  
25 *equal to the excess of—*

1           “(A) the amount required to be used under  
2           such clause, over

3           “(B) the amount actually used by the close  
4           of such period,

5           “to redeem outstanding bonds within 90 days  
6           after the end of such period.”.

7           (c) *ELIMINATION OF DISREGARD OF POOLED BONDS*  
8 *IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEP-*  
9 *TION TO ARBITRAGE REBATE.*—Section 148(f)(4)(D)(ii)  
10 (relating to aggregation of issuers) is amended by striking  
11 subclause (II) and by redesignating subclauses (III) and  
12 (IV) as subclauses (II) and (III), respectively.

13           (d) *CONFORMING AMENDMENTS.*—

14           (1) Section 149(f)(1) is amended by striking  
15           “paragraphs (2) and (3)” and inserting “paragraphs  
16           (2), (3), (4), and (5)”.

17           (2) Section 149(f)(7)(B), as redesignated by sub-  
18           section (b), is amended by striking “paragraph  
19           (4)(A)” and inserting “paragraph (6)(A)”.

20           (3) Section 54(l)(2) is amended by striking “sec-  
21           tion 149(f)(4)(A)” and inserting “section  
22           149(f)(6)(A)”.

23           (e) *EFFECTIVE DATE.*—The amendments made by this  
24 section shall apply to bonds issued after the date of the en-  
25 actment of this Act.

1 **SEC. 458. REPORTING OF INTEREST ON TAX-EXEMPT**  
 2 **BONDS.**

3 (a) *IN GENERAL.*—Section 6049(b)(2) (relating to ex-  
 4 ceptions) is amended by striking subparagraph (B) and by  
 5 redesignating subparagraphs (C) and (D) as subparagraphs  
 6 (B) and (C), respectively.

7 (b) *CONFORMING AMENDMENT.*—Section  
 8 6049(b)(2)(C), as redesignated by subsection (a), is amend-  
 9 ed by striking “subparagraph (C)” and inserting “subpara-  
 10 graph (B)”.

11 (c) *EFFECTIVE DATE.*—The amendments made by this  
 12 section shall apply to interest earned after December 31,  
 13 2005.

14 **SEC. 459. MODIFICATION OF CREDIT FOR PRODUCING FUEL**  
 15 **FROM A NONCONVENTIONAL SOURCE.**

16 (a) *TAXABLE YEARS ENDING BEFORE 2006.*—

17 (1) *MODIFICATION OF PHASEOUT.*—

18 (A) *IN GENERAL.*—Section 29(b)(1)(A) is  
 19 amended by inserting “the calendar year pre-  
 20 ceding” before “the calendar year”.

21 (B) *CONFORMING AMENDMENTS.*—Section  
 22 29(b)(2) is amended—

23 (i) by striking “The” and inserting  
 24 “With respect to any calendar year, the”,  
 25 and

1                   (ii) by striking “for the calendar year  
2                   in which the sale occurs” and inserting “for  
3                   such calendar year”.

4                   (2) *NO INFLATION ADJUSTMENT FOR THE CRED-*  
5                   *IT AMOUNT IN 2005.*—Section 29(b)(2), as amended by  
6                   paragraph (1), is amended by adding at the end the  
7                   following new sentence: “This paragraph shall not  
8                   apply with respect to the \$3 amount in subsection (a)  
9                   for calendar year 2005 and the amount in effect  
10                  under subsection (a) for sales in such calendar year  
11                  shall be the amount which was in effect for sales in  
12                  calendar year 2004.”.

13                  (b) *TAXABLE YEARS ENDING AFTER 2005.*—

14                   (1) *MODIFICATION OF PHASEOUT.*—

15                   (A) *IN GENERAL.*—Section 45K(b)(1)(A) is  
16                   amended by inserting “the calendar year pre-  
17                   ceding” before “the calendar year”.

18                   (B) *CONFORMING AMENDMENTS.*—Section  
19                   45K(b)((2) is amended—

20                   (i) by striking “The” and inserting  
21                   “With respect to any calendar year, the”,  
22                   and

23                   (ii) by striking “for the calendar year  
24                   in which the sale occurs” and inserting “for  
25                   such calendar year”.

1           (2) *NO INFLATION ADJUSTMENT FOR THE CRED-*  
2 *IT AMOUNT IN 2005, 2006, AND 2007.*—Section  
3 *45K(b)(2), as amended by paragraph (1), is amended*  
4 *by adding at the end the following new sentence:*  
5 *“This paragraph shall not apply with respect to the*  
6 *\$3 amount in subsection (a) for calendar years 2005,*  
7 *2006, and 2007 and the amount in effect under sub-*  
8 *section (a) for sales in each such calendar year shall*  
9 *be the amount which was in effect for sales in cal-*  
10 *endar year 2004.”.*

11           (3) *TREATMENT OF COKE AND COKE GAS.*—

12           (A) *NONAPPLICATION OF PHASEOUT.*—Sec-  
13 *tion 45K(g)(2) is amended by adding at the end*  
14 *the following new subparagraph:*

15           “*(D) NONAPPLICATION OF PHASEOUT.*—  
16 *Subsection (b)(1) shall not apply.*”.

17           (B) *APPLICATION OF INFLATION ADJUST-*  
18 *MENT.*—Section *45K(g)(2)(B)* is amended by in-  
19 *serting “and the last sentence of subsection (b)(2)*  
20 *shall not apply.”.*

21           (C) *CLARIFICATION OF QUALIFYING FACIL-*  
22 *ITY.*—Section *45K(g)(1)* is amended by inserting  
23 *“(other than from petroleum based products)”*  
24 *after “coke or coke gas”.*

1           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to fuel sold after December 31, 2004.*

3 **SEC. 460. MODIFICATION OF INDIVIDUAL ESTIMATED TAX**  
4 **SAFE HARBOR.**

5           (a) *IN GENERAL.*—*Clause (i) of section 6654(d)(1)(C)*  
6 *is amended by striking “substituting” and all that follows*  
7 *through “1997.” and inserting “substituting ‘110 percent*  
8 *(120 percent if the preceding taxable year begins in 2005)’*  
9 *for ‘100 percent.’”.*

10          (b) *EFFECTIVE DATE.*—*The amendment made by this*  
11 *section shall apply with respect to any installment payment*  
12 *for taxable years beginning after December 31, 2005.*

13 **SEC. 461. REVALUATION OF LIFO INVENTORIES OF LARGE**  
14 **INTEGRATED OIL COMPANIES.**

15          (a) *GENERAL RULE.*—*Notwithstanding any other pro-*  
16 *vision of law, if a taxpayer is an applicable integrated oil*  
17 *company for its last taxable year ending in calendar year*  
18 *2005, the taxpayer shall—*

19               (1) *increase, effective as of the close of such tax-*  
20 *able year, the value of each historic LIFO layer of in-*  
21 *ventories of crude oil, natural gas, or any other petro-*  
22 *leum product (within the meaning of section 4611) by*  
23 *the layer adjustment amount, and*

1           (2) *decrease its cost of goods sold for such taxable*  
2           *year by the aggregate amount of the increases under*  
3           *paragraph (1).*

4 *If the aggregate amount of the increases under paragraph*  
5 *(1) exceed the taxpayer's cost of goods sold for such taxable*  
6 *year, the taxpayer's gross income for such taxable year shall*  
7 *be increased by the amount of such excess.*

8           (b) *LAYER ADJUSTMENT AMOUNT.—For purposes of*  
9 *this section—*

10           (1) *IN GENERAL.—The term “layer adjustment*  
11 *amount” means, with respect to any historic LIFO*  
12 *layer, the product of—*

13                   (A) *\$18.75, and*

14                   (B) *the number of barrels of crude oil (or in*  
15 *the case of natural gas or other petroleum prod-*  
16 *ucts, the number of barrel-of-oil equivalents) rep-*  
17 *resented by the layer.*

18           (2) *BARREL-OF-OIL EQUIVALENT.—The term*  
19 *“barrel-of-oil equivalent” has the meaning given such*  
20 *term by section 29(d)(5) (as in effect before its redес-*  
21 *ignation by the Energy Tax Incentives Act of 2005).*

22           (c) *APPLICATION OF REQUIREMENT.—*

23           (1) *NO CHANGE IN METHOD OF ACCOUNTING.—*  
24 *Any adjustment required by this section shall not be*  
25 *treated as a change in method of accounting.*

1           (2) *UNDERPAYMENTS OF ESTIMATED TAX.*—No  
2           *addition to the tax shall be made under section 6655*  
3           *of the Internal Revenue Code of 1986 (relating to fail-*  
4           *ure by corporation to pay estimated tax) with respect*  
5           *to any underpayment of an installment required to be*  
6           *paid with respect to the taxable year described in sub-*  
7           *section (a) to the extent such underpayment was cre-*  
8           *ated or increased by this section.*

9           (d) *APPLICABLE INTEGRATED OIL COMPANY.*—For  
10          *purposes of this section, the term “applicable integrated oil*  
11          *company” means an integrated oil company (as defined in*  
12          *section 291(b)(4) of the Internal Revenue Code of 1986)*  
13          *which has an average daily worldwide production of crude*  
14          *oil of at least 500,000 barrels for the taxable year and which*  
15          *had gross receipts in excess of \$1,000,000,000 for its last*  
16          *taxable year ending during calendar year 2005. For pur-*  
17          *poses of this subsection all persons treated as a single em-*  
18          *ployer under subsections (a) and (b) of section 52 of the*  
19          *Internal Revenue Code of 1986 shall be treated as 1 person*  
20          *and, in the case of a short taxable year, the rule under sec-*  
21          *tion 448(c)(3)(B) shall apply.*



1 **SEC. 462. ELIMINATION OF AMORTIZATION OF GEOLOGICAL**  
2 **AND GEOPHYSICAL EXPENDITURES FOR**  
3 **MAJOR INTEGRATED OIL COMPANIES.**

4 (a) *IN GENERAL.*—Section 167(h) is amended by add-  
5 *ing at the end the following new paragraph:*

6 “(5) *NONAPPLICATION TO MAJOR INTEGRATED*  
7 *OIL COMPANIES.*—*This subsection shall not apply*  
8 *with respect to any expenses paid or incurred for any*  
9 *taxable year by any integrated oil company (as de-*  
10 *defined in section 291(b)(4)) which has an average*  
11 *daily worldwide production of crude oil of at least*  
12 *500,000 barrels for such taxable year.”.*

13 (b) *EFFECTIVE DATE.*—*The amendment made by this*  
14 *section shall take effect as if included in the amendment*  
15 *made by section 1329(a) of the Energy Policy Act of 2005.*

16 **SEC. 463. VALUATION OF EMPLOYEE PERSONAL USE OF**  
17 **NONCOMMERCIAL AIRCRAFT.**

18 (a) *IN GENERAL.*—*For purposes of Federal income tax*  
19 *inclusion, the value of any employee personal use of non-*  
20 *commercial aircraft shall equal the excess (if any) of—*

21 (1) *greater of—*

22 (A) *the fair market value of such use, or*

23 (B) *the actual cost of such use (including*  
24 *all fixed and variable costs), over*

25 (2) *any amount paid by or on behalf of such em-*  
26 *ployee for such use.*

1       (b) *EFFECTIVE DATE.*—Subsection (a) shall apply to  
2 use after the date of the enactment of this Act.

3 **SEC. 464. APPLICATION OF FIRPTA TO REGULATED INVEST-**  
4 **MENT COMPANIES.**

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

13       (b) *EFFECTIVE DATE.*—The amendment made by this  
14 section shall apply to distributions with respect to taxable  
15 years beginning after December 31, 2004.

16 **SEC. 465. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE**  
17 **TO FIRPTA GAINS.**

18       (a) *QUALIFIED INVESTMENT ENTITY.*—

19           (1) *IN GENERAL.*—Section 897(h)(1) is  
20 amended—

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

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

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

20          (2) *APPLICATION AFTER 2007.*—Clause (i) of sec-  
21          tion 897(h)(4)(A) is amended by adding at the end  
22          the following new sentence: “Notwithstanding the pre-  
23          ceding sentence, an entity described in clause (i)(II)  
24          shall be treated as a qualified investment entity for  
25          purposes of applying paragraph (1) in any case in

1       *which a real estate investment trust makes a distribu-*  
2       *tion to an entity described in clause (i)(II).”.*

3       **(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVI-**  
4       **DENDS.—**

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

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

16                               *“(i) shall not be included in computing*  
17       *such shareholder’s long-term capital gains,*  
18       *and*

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

22               **(2) CONFORMING AMENDMENT.—***Section*  
23       *871(k)(2) (relating to short-term capital gain divi-*  
24       *dends) is amended by adding at the end the following*  
25       *new subparagraph:*

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

7                   “(i) *shall not be treated as a short-term*  
8                   *capital gain dividend, and*

9                   “(ii) *shall be included in such share-*  
10                  *holder’s gross income as a dividend from the*  
11                  *regulated investment company.”.*

12           (c) *EFFECTIVE DATES.*—

13                  (1) *IN GENERAL.*—*Except as provided in para-*  
14                  *graph (2), the amendments made by this section shall*  
15                  *apply to taxable years of qualified investment entities*  
16                  *beginning after the date of the enactment of this Act.*

17                  (2) *DIVIDENDS.*—*The amendments made by sub-*  
18                  *section (b) shall apply to dividends with respect to*  
19                  *taxable years of regulated investment companies be-*  
20                  *ginning after December 31, 2004.*

1 **SEC. 466. PREVENTION OF AVOIDANCE OF TAX ON INVEST-**  
2 **MENTS OF FOREIGN PERSONS IN UNITED**  
3 **STATES REAL PROPERTY THROUGH WASH**  
4 **SALE TRANSACTIONS.**

5 (a) *IN GENERAL.*—Section 897(h) of the Internal Rev-  
6 enue Code of 1986 (relating to special rules in certain in-  
7 vestment entities) is amended by redesignating paragraph  
8 (4) as paragraph (5) and by inserting after paragraph (3)  
9 the following new paragraph:

10 “(4) *TREATMENT OF CERTAIN WASH SALE*  
11 *TRANSACTIONS.*—

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

25 “(B) *APPLICABLE WASH SALES TRANS-*  
26 *ACTION.*—For purposes of this paragraph—

1           “(i) *IN GENERAL.*—The term ‘applica-  
2           *ble wash sales transaction’ means any*  
3           *transaction (or series of transactions) under*  
4           *which a nonresident alien individual or for-*  
5           *ign corporation—*

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

16                   “(II) *acquires an identical inter-*  
17                   *est in such entity during the 60-day*  
18                   *period beginning with the 1st day of*  
19                   *the 30-day period described in sub-*  
20                   *clause (I).*

21           *For purposes of subclause (II), a non-*  
22           *resident alien individual or foreign corpora-*  
23           *tion shall be treated as having acquired any*  
24           *interest acquired by a person related (with-*

1           *in the meaning of section 465(b)(3)(C)) to*  
2           *the individual or corporation.*

3           “(ii) *EXCEPTION WHERE DISTRIBUTION*  
4           *ACTUALLY RECEIVED.—A transaction*  
5           *shall not be treated as an applicable wash*  
6           *sales transaction if the nonresident alien in-*  
7           *dividual or foreign corporation receives the*  
8           *distribution described in clause (i)(I) with*  
9           *respect to either the interest which was dis-*  
10          *posed of, or acquired, in the transaction.*

11          “(iii) *EXCEPTION FOR CERTAIN PUB-*  
12          *LICLY TRADED STOCK.—A transaction shall*  
13          *not be treated as an applicable wash sales*  
14          *transaction if it involves the disposition of*  
15          *any class of stock in a qualified investment*  
16          *entity which is regularly traded on an es-*  
17          *tablished securities market within the*  
18          *United States but only if the nonresident*  
19          *alien individual or foreign corporation did*  
20          *not own more than 5 percent of such class*  
21          *of stock at any time during the 1-year pe-*  
22          *riod ending on the date of the distribution*  
23          *described in clause (i)(I).”.*

24          “(b) *NO WITHHOLDING REQUIRED.—Section 1445(b) of*  
25          *the Internal Revenue Code of 1986 (relating to exemptions)*



1 *is amended by adding at the end the following new para-*  
 2 *graph:*

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

9           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 10 *section shall apply to dispositions after December 31, 2005,*  
 11 *in taxable years ending after such date.*

12 **SEC. 467. MODIFICATIONS TO RULES RELATING TO TAX-**  
 13 **ATION OF DISTRIBUTIONS OF STOCK AND SE-**  
 14 **CURITIES OF A CONTROLLED CORPORATION.**

15           (a) *MODIFICATION OF ACTIVE BUSINESS DEFINITION*  
 16 *UNDER SECTION 355.*—

17           (1) *IN GENERAL.*—*Section 355(b) (defining ac-*  
 18 *tive conduct of a trade or business) is amended by*  
 19 *adding at the end the following new paragraph:*

20           “(3) *SPECIAL RULES RELATING TO ACTIVE BUSI-*  
 21 *NESS REQUIREMENT.*—

22           “(A) *IN GENERAL.*—*For purposes of deter-*  
 23 *mining whether a corporation meets the require-*  
 24 *ment of paragraph (2)(A), all members of such*  
 25 *corporation’s separate affiliated group shall be*

1           *treated as 1 corporation. For purposes of the pre-*  
2           *ceding sentence, the term ‘separate affiliated*  
3           *group’ means, with respect to any corporation,*  
4           *the affiliated group which would be determined*  
5           *under section 1504(a) if such corporation were*  
6           *the common parent and section 1504(b) did not*  
7           *apply.*

8           “(B) *CONTROL.—For purposes of para-*  
9           *graph (2)(D), all distributee corporations which*  
10           *are members of the same affiliated group (as de-*  
11           *finied in section 1504(a) without regard to sec-*  
12           *tion 1504(b)) shall be treated as 1 distributee*  
13           *corporation.”.*

14           (2) *CONFORMING AMENDMENTS.—*

15           (A) *Subparagraph (A) of section 355(b)(2)*  
16           *is amended to read as follows:*

17           “(A) *it is engaged in the active conduct of*  
18           *a trade or business,”.*

19           (B) *Section 355(b)(2) of such Code is*  
20           *amended by striking the last sentence.*

21           (3) *EFFECTIVE DATES.—*

22           (A) *IN GENERAL.—The amendments made*  
23           *by this subsection shall apply—*

1           (i) to distributions after the date of the  
2           enactment of this Act, and before January  
3           1, 2010, and

4           (ii) for purposes of determining the  
5           continued qualification under section  
6           355(b)(2)(A) of the Internal Revenue Code  
7           of 1986 (as amended by paragraph (2)(A))  
8           of distributions made before such date, as a  
9           result of an acquisition, disposition, or  
10          other restructuring after such date and be-  
11          fore January 1, 2010.

12          (B) *TRANSITION RULE.*—The amendments  
13          made by this subsection shall not apply to any  
14          distribution pursuant to a transaction which  
15          is—

16               (i) made pursuant to an agreement  
17               which was binding on such date of enact-  
18               ment and at all times thereafter,

19               (ii) described in a ruling request sub-  
20               mitted to the Internal Revenue Service on  
21               or before such date, or

22               (iii) described on or before such date in  
23               a public announcement or in a filing with  
24               the Securities and Exchange Commission.

25          (C) *ELECTIONS.*—

1                   (i) *OUT OF TRANSITION RELIEF.*—Sub-  
 2                   paragraph (B) shall not apply if the dis-  
 3                   tributing corporation elects not to have such  
 4                   subparagraph apply to distributions of such  
 5                   corporation. Any such election, once made,  
 6                   shall be irrevocable.

7                   (ii) *APPLICATION TO PRIOR DISTRIBUTU-*  
 8                   *TIONS.*—Subparagraph (A)(i) shall not  
 9                   apply to a distributing or controlled cor-  
 10                  poration if the corporation elects not to  
 11                  have such subparagraph apply to such cor-  
 12                  poration. Any such election, once made,  
 13                  shall be irrevocable.

14               (b) *SECTION 355 NOT TO APPLY TO DISTRIBUTIONS*  
 15 *IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS*  
 16 *A DISQUALIFIED INVESTMENT CORPORATION.*—

17                   (1) *IN GENERAL.*—Section 355 (relating to dis-  
 18                   tributions of stock and securities of a controlled cor-  
 19                   poration) is amended by adding at the end the fol-  
 20                   lowing new subsection:

21               “(g) *SECTION NOT TO APPLY TO DISTRIBUTIONS IN-*  
 22 *VOLVING DISQUALIFIED INVESTMENT CORPORATIONS.*—

23                   “(1) *IN GENERAL.*—This section (and so much of  
 24                   section 356 as relates to this section) shall not apply

1 to any distribution which is part of a transaction  
2 if—

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

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

13 “(2) *DISQUALIFIED INVESTMENT CORPORA-*  
14 *TION.—For purposes of this subsection—*

15 “(A) *IN GENERAL.—The term ‘disqualified*  
16 *investment corporation’ means any distributing*  
17 *or controlled corporation if the fair market value*  
18 *of the investment assets of the corporation is 75*  
19 *percent or more of the fair market value of all*  
20 *assets of the corporation.*

21 “(B) *INVESTMENT ASSETS.—*

22 “(i) *IN GENERAL.—Except as otherwise*  
23 *provided in this subparagraph, the term*  
24 *‘investment assets’ means—*

25 “(I) cash,

1                   “(II) any stock or securities in a  
2 corporation,

3                   “(III) any interest in a partner-  
4 ship,

5                   “(IV) any debt instrument or  
6 other evidence of indebtedness,

7                   “(V) any option, forward or fu-  
8 tures contract, notional principal con-  
9 tract, or derivative,

10                  “(VI) foreign currency, or

11                  “(VII) any similar asset.

12                  “(ii) *EXCEPTION FOR ASSETS USED IN*  
13 *ACTIVE CONDUCT OF CERTAIN FINANCIAL*  
14 *TRADES OR BUSINESSES.—Such term shall*  
15 *not include any asset which is held for use*  
16 *in the active and regular conduct of—*

17                   “(I) a lending or finance business  
18 (within the meaning of section  
19 954(h)(4)),

20                   “(II) a banking business through  
21 a bank (as defined in section 581), a  
22 domestic building and loan association  
23 (within the meaning of section  
24 7701(a)(19)), or any similar institu-  
25 tion specified by the Secretary, or

1           “(III) *an insurance business if the*  
2           *conduct of the business is licensed, au-*  
3           *thorized, or regulated by an applicable*  
4           *insurance regulatory body.*

5           *This clause shall only apply with respect to*  
6           *any business if substantially all of the in-*  
7           *come of the business is derived from persons*  
8           *who are not related (within the meaning of*  
9           *section 267(b) or 707(b)(1)) to the person*  
10          *conducting the business.*

11          “(iii) *EXCEPTION FOR SECURITIES*  
12          *MARKED TO MARKET.—Such term shall not*  
13          *include any security (as defined in section*  
14          *475(c)(2)) which is held by a dealer in secu-*  
15          *rities and to which section 475(a) applies.*

16          “(iv) *STOCK OR SECURITIES IN A 25-*  
17          *PERCENT CONTROLLED ENTITY.—*

18          “(I) *IN GENERAL.—Such term*  
19          *shall not include any stock and securi-*  
20          *ties in, or any asset described in sub-*  
21          *clause (IV) or (V) of clause (i) issued*  
22          *by, a corporation which is a 25-percent*  
23          *controlled entity with respect to the*  
24          *distributing or controlled corporation.*

1           “(II) *LOOK-THRU RULE.*—*The*  
2           *distributing or controlled corporation*  
3           *shall, for purposes of applying this*  
4           *subsection, be treated as owning its*  
5           *ratable share of the assets of any 25-*  
6           *percent controlled entity.*

7           “(III) *25-PERCENT CONTROLLED*  
8           *ENTITY.*—*For purposes of this clause,*  
9           *the term ‘25-percent controlled entity’*  
10           *means, with respect to any distributing*  
11           *or controlled corporation, any corpora-*  
12           *tion with respect to which the distrib-*  
13           *uting or controlled corporation owns*  
14           *directly or indirectly stock meeting the*  
15           *requirements of section 1504(a)(2), ex-*  
16           *cept that such section shall be applied*  
17           *by substituting ‘25 percent’ for ‘80 per-*  
18           *cent’ and without regard to stock de-*  
19           *scribed in section 1504(a)(4).*

20           “(v) *INTERESTS IN CERTAIN PARTNER-*  
21           *SHIPS.*—

22           “(I) *IN GENERAL.*—*Such term*  
23           *shall not include any interest in a*  
24           *partnership, or any debt instrument or*  
25           *other evidence of indebtedness, issued*



1                   by the partnership, if 1 or more of the  
2                   trades or businesses of the partnership  
3                   are (or, without regard to the 5-year  
4                   requirement under subsection  
5                   (b)(2)(B), would be) taken into account  
6                   by the distributing or controlled cor-  
7                   poration, as the case may be, in deter-  
8                   mining whether the requirements of  
9                   subsection (b) are met with respect to  
10                  the distribution.

11                   “(II) *LOOK-THRU RULE.*—The  
12                  distributing or controlled corporation  
13                  shall, for purposes of applying this  
14                  subsection, be treated as owning its  
15                  ratable share of the assets of any part-  
16                  nership described in subclause (I).

17                   “(3) *50-PERCENT OR GREATER INTEREST.*—For  
18                  purposes of this subsection—

19                   “(A) *IN GENERAL.*—The term ‘50-percent or  
20                  greater interest’ has the meaning given such term  
21                  by subsection (d)(4).

22                   “(B) *ATTRIBUTION RULES.*—The rules of  
23                  section 318 shall apply for purposes of deter-  
24                  mining ownership of stock for purposes of this  
25                  paragraph.

1           “(4) *TRANSACTION.*—*For purposes of this sub-*  
2           *section, the term ‘transaction’ includes a series of*  
3           *transactions.*

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

8                   “(A) *to carry out, or prevent the avoidance*  
9                   *of, the purposes of this subsection in cases*  
10                  *involving—*

11                           “(i) *the use of related persons, inter-*  
12                           *mediaries, pass-thru entities, options, or*  
13                           *other arrangements, and*

14                                   “(ii) *the treatment of assets unrelated*  
15                                   *to the trade or business of a corporation as*  
16                                   *investment assets if, prior to the distribu-*  
17                                   *tion, investment assets were used to acquire*  
18                                   *such unrelated assets,*

19   “(B) *which in appropriate cases exclude*  
20   *from the application of this subsection a dis-*  
21   *tribution which does not have the character of a*  
22   *redemption which would be treated as a sale or*  
23   *exchange under section 302, and*

1           “(C) which modify the application of the at-  
 2           tribution rules applied for purposes of this sub-  
 3           section.”.

4           (2) *EFFECTIVE DATES.*—

5           (A) *IN GENERAL.*—*The amendments made*  
 6           *by this subsection shall apply to distributions*  
 7           *after the date of the enactment of this Act.*

8           (B) *TRANSITION RULE.*—*The amendments*  
 9           *made by this subsection shall not apply to any*  
 10          *distribution pursuant to a transaction which*  
 11          *is—*

12                   (i) *made pursuant to an agreement*  
 13                   *which was binding on such date of enact-*  
 14                   *ment and at all times thereafter,*

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

18                   (iii) *described on or before such date in*  
 19                   *a public announcement or in a filing with*  
 20                   *the Securities and Exchange Commission.*

21 **SEC. 468. AMORTIZATION OF EXPENSES INCURRED IN CRE-**  
 22 **ATING OR ACQUIRING MUSIC OR MUSIC**  
 23 **COPYRIGHTS.**

24           (a) *IN GENERAL.*—*Section 263A (relating to capital-*  
 25           *ization and inclusion in inventory costs of certain expenses)*

1 *is amended by redesignating subsection (i) as subsection (j)*  
2 *and by adding after subsection (h) the following new sub-*  
3 *section:*

4       “(i) *SPECIAL RULES FOR CERTAIN MUSICAL WORKS*  
5 *AND COPYRIGHTS.—*

6               “(1) *IN GENERAL.—If—*

7                       “(A) *any expense is paid or incurred by the*  
8 *taxpayer in creating or acquiring any musical*  
9 *composition (including any accompanying*  
10 *words) or any copyright with respect to a musi-*  
11 *cal composition, and*

12                       “(B) *such expense is required to be capital-*  
13 *ized under this section,*

14 *then, notwithstanding section 167(g), the amount cap-*  
15 *italized shall be amortized ratably over the 5-year pe-*  
16 *riod beginning with the month in which the composi-*  
17 *tion or copyright was acquired (or, in the case of ex-*  
18 *penses paid or incurred in connection with the cre-*  
19 *ation of a musical composition, the 5-taxable-year pe-*  
20 *riod beginning with the taxable year in which the ex-*  
21 *penses were paid or incurred).*

22               “(2) *EXCEPTIONS.—Paragraph (1) shall not*  
23 *apply to any expense—*

24                       “(A) *which is a qualified creative expense*  
25 *under subsection (h),*

1           “(B) to which a simplified procedure estab-  
2           lished under subsection (j)(2) applies,

3           “(C) which is an amortizable section 197  
4           intangible (as defined in section 197(c)), or

5           “(D) which, without regard to this section,  
6           would not be allowable as a deduction.”

7           (b) *EFFECTIVE DATE.*—The amendments made by this  
8           section shall apply to expenses paid or incurred after De-  
9           cember 31, 2005, in taxable years ending after such date.

10   **SEC. 469. CREDIT TO HOLDERS OF RURAL RENAISSANCE**

11                           **BONDS.**

12           (a) *IN GENERAL.*—Subpart H of part IV of subchapter  
13           A of chapter 1 (relating to credits against tax) is amended  
14           by adding at the end the following new section:

15   **“SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE**

16                           **BONDS.**

17           “(a) *ALLOWANCE OF CREDIT.*—In the case of a tax-  
18           payer who holds a rural renaissance bond on a credit allow-  
19           ance date of such bond, which occurs during the taxable  
20           year, there shall be allowed as a credit against the tax im-  
21           posed by this chapter for such taxable year an amount equal  
22           to the sum of the credits determined under subsection (b)  
23           with respect to credit allowance dates during such year on  
24           which the taxpayer holds such bond.

25           “(b) *AMOUNT OF CREDIT.*—

1           “(1) *IN GENERAL.*—*The amount of the credit de-*  
2           *termined under this subsection with respect to any*  
3           *credit allowance date for a rural renaissance bond is*  
4           *25 percent of the annual credit determined with re-*  
5           *spect to such bond.*

6           “(2) *ANNUAL CREDIT.*—*The annual credit deter-*  
7           *mined with respect to any rural renaissance bond is*  
8           *the product of—*

9                   “(A) *the credit rate determined by the Sec-*  
10                   *retary under paragraph (3) for the day on which*  
11                   *such bond was sold, multiplied by*

12                   “(B) *the outstanding face amount of the*  
13                   *bond.*

14           “(3) *DETERMINATION.*—*For purposes of para-*  
15           *graph (2), with respect to any rural renaissance bond,*  
16           *the Secretary shall determine daily or caused to be*  
17           *determined daily a credit rate which shall apply to*  
18           *the first day on which there is a binding, written con-*  
19           *tract for the sale or exchange of the bond. The credit*  
20           *rate for any day is the credit rate which the Sec-*  
21           *retary or the Secretary’s designee estimates will per-*  
22           *mit the issuance of rural renaissance bonds with a*  
23           *specified maturity or redemption date without dis-*  
24           *count and without interest cost to the qualified issuer.*

1           “(4) *CREDIT ALLOWANCE DATE.*—*For purposes*  
2 *of this section, the term ‘credit allowance date’*  
3 *means—*

4                   “(A) *March 15,*

5                   “(B) *June 15,*

6                   “(C) *September 15, and*

7                   “(D) *December 15.*

8           *Such term also includes the last day on which the*  
9 *bond is outstanding.*

10           “(5) *SPECIAL RULE FOR ISSUANCE AND REDEMP-*  
11 *TION.*—*In the case of a bond which is issued during*  
12 *the 3-month period ending on a credit allowance date,*  
13 *the amount of the credit determined under this sub-*  
14 *section with respect to such credit allowance date*  
15 *shall be a ratable portion of the credit otherwise deter-*  
16 *mined based on the portion of the 3-month period*  
17 *during which the bond is outstanding. A similar rule*  
18 *shall apply when the bond is redeemed or matures.*

19           “(c) *LIMITATION BASED ON AMOUNT OF TAX.*—*The*  
20 *credit allowed under subsection (a) for any taxable year*  
21 *shall not exceed the excess of—*

22                   “(1) *the sum of the regular tax liability (as de-*  
23 *finied in section 26(b)) plus the tax imposed by section*  
24 *55, over*

1           “(2) *the sum of the credits allowable under this*  
2           *part (other than subpart C).*”

3           “(d) *RURAL RENAISSANCE BOND.—For purposes of*  
4           *this section—*

5           “(1) *IN GENERAL.—The term ‘rural renaissance*  
6           *bond’ means any bond issued as part of an issue if—*

7                   “(A) *the bond is issued by a qualified*  
8                   *issuer,*

9                   “(B) *95 percent or more of the proceeds*  
10                  *from the sale of such issue are to be used for cap-*  
11                  *ital expenditures incurred for 1 or more quali-*  
12                  *fied projects,*

13                  “(C) *the qualified issuer designates such*  
14                  *bond for purposes of this section and the bond is*  
15                  *in registered form, and*

16                  “(D) *the issue meets the requirements of*  
17                  *subsections (e) and (h).*”

18           “(2) *QUALIFIED PROJECT; SPECIAL USE*  
19           *RULES.—*

20                   “(A) *IN GENERAL.—The term ‘qualified*  
21                   *project’ means 1 or more projects described in*  
22                   *subparagraph (B) located in a rural area.*

23                   “(B) *PROJECTS DESCRIBED.—A project de-*  
24                   *scribed in this subparagraph is—*



- 1           “(i) a water or waste treatment  
2 project,
- 3           “(ii) an affordable housing project,
- 4           “(iii) a community facility project, in-  
5 cluding hospitals, fire and police stations,  
6 and nursing and assisted-living facilities,
- 7           “(iv) a value-added agriculture or re-  
8 newable energy facility project for agricul-  
9 tural producers or farmer-owned entities,  
10 including any project to promote the pro-  
11 duction, processing, or retail sale of ethanol  
12 (including fuel at least 85 percent of the  
13 volume of which consists of ethanol), bio-  
14 diesel, animal waste, biomass, raw commod-  
15 ities, or wind as a fuel,
- 16           “(v) a distance learning or telemedi-  
17 cine project,
- 18           “(vi) a rural utility infrastructure  
19 project, including any electric or telephone  
20 system,
- 21           “(vii) a project to expand broadband  
22 technology,
- 23           “(viii) a rural teleworks project, and

1           “(ix) any project described in any pre-  
2           ceding clause carried out by the Delta Re-  
3           gional Authority.

4           “(C) *SPECIAL RULES.*—For purposes of this  
5           paragraph—

6           “(i) any project described in subpara-  
7           graph (B)(iv) for a farmer-owned entity  
8           may be considered a qualified project if  
9           such entity is located in a rural area, or in  
10          the case of a farmer-owned entity the head-  
11          quarters of which are located in a nonrural  
12          area, if the project is located in a rural  
13          area, and

14          “(ii) any project for a farmer-owned  
15          entity which is a facility described in sub-  
16          paragraph (B)(iv) for agricultural pro-  
17          ducers may be considered a qualified project  
18          regardless of whether the facility is located  
19          in a rural or nonrural area.

20          “(3) *SPECIAL USE RULES.*—

21          “(A) *REFINANCING RULES.*—For purposes  
22          of paragraph (1)(B), a qualified project may be  
23          refinanced with proceeds of a rural renaissance  
24          bond only if the indebtedness being refinanced  
25          (including any obligation directly or indirectly

1           *refinanced by such indebtedness) was originally*  
2           *incurred after the date of the enactment of this*  
3           *section.*

4           “(B) *REIMBURSEMENT.*—*For purposes of*  
5           *paragraph (1)(B), a rural renaissance bond may*  
6           *be issued to reimburse a borrower for amounts*  
7           *paid after the date of the enactment of this sec-*  
8           *tion with respect to a qualified project, but only*  
9           *if—*

10                   “(i) *prior to the payment of the origi-*  
11                   *nal expenditure, the borrower declared its*  
12                   *intent to reimburse such expenditure with*  
13                   *the proceeds of a rural renaissance bond,*

14                   “(ii) *not later than 60 days after pay-*  
15                   *ment of the original expenditure, the quali-*  
16                   *fied issuer adopts an official intent to reim-*  
17                   *burse the original expenditure with such*  
18                   *proceeds, and*

19                   “(iii) *the reimbursement is made not*  
20                   *later than 18 months after the date the*  
21                   *original expenditure is paid.*

22           “(C) *TREATMENT OF CHANGES IN USE.*—  
23           *For purposes of paragraph (1)(B), the proceeds*  
24           *of an issue shall not be treated as used for a*  
25           *qualified project to the extent that a borrower*

1           *takes any action within its control which causes*  
2           *such proceeds not to be used for a qualified*  
3           *project. The Secretary shall prescribe regulations*  
4           *specifying remedial actions that may be taken*  
5           *(including conditions to taking such remedial ac-*  
6           *tions) to prevent an action described in the pre-*  
7           *ceding sentence from causing a bond to fail to be*  
8           *a rural renaissance bond.*

9           “(e) *MATURITY LIMITATIONS.*—

10           “(1) *DURATION OF TERM.*—*A bond shall not be*  
11           *treated as a rural renaissance bond if the maturity*  
12           *of such bond exceeds the maximum term determined*  
13           *by the Secretary under paragraph (2) with respect to*  
14           *such bond.*

15           “(2) *MAXIMUM TERM.*—*During each calendar*  
16           *month, the Secretary shall determine the maximum*  
17           *term permitted under this paragraph for bonds issued*  
18           *during the following calendar month. Such maximum*  
19           *term shall be the term which the Secretary estimates*  
20           *will result in the present value of the obligation to*  
21           *repay the principal on the bond being equal to 50*  
22           *percent of the face amount of such bond. Such present*  
23           *value shall be determined without regard to the re-*  
24           *quirements of subsection (f)(3) and using as a dis-*  
25           *count rate the average annual interest rate of tax-ex-*

1 *empt obligations having a term of 10 years or more*  
2 *which are issued during the month. If the term as so*  
3 *determined is not a multiple of a whole year, such*  
4 *term shall be rounded to the next highest whole year.*

5 “(3) *RATABLE PRINCIPAL AMORTIZATION RE-*  
6 *QUIRED.—A bond shall not be treated as a rural ren-*  
7 *aissance bond unless it is part of an issue which pro-*  
8 *vides for an equal amount of principal to be paid by*  
9 *the qualified issuer during each calendar year that*  
10 *the issue is outstanding.*

11 “(f) *LIMITATION ON AMOUNT OF BONDS DES-*  
12 *IGNATED.—*

13 “(1) *NATIONAL LIMITATION.—There is a rural*  
14 *renaissance bond limitation of \$200,000,000.*

15 “(2) *ALLOCATION BY SECRETARY.—The Sec-*  
16 *retary shall allocate the amount described in para-*  
17 *graph (1) among qualified projects in such manner as*  
18 *the Secretary determines appropriate.*

19 “(g) *CREDIT INCLUDED IN GROSS INCOME.—Gross in-*  
20 *come includes the amount of the credit allowed to the tax-*  
21 *payer under this section (determined without regard to sub-*  
22 *section (c)) and the amount so included shall be treated as*  
23 *interest income.*

24 “(h) *SPECIAL RULES RELATING TO EXPENDITURES.—*

1           “(1) *IN GENERAL.*—*An issue shall be treated as*  
2           *meeting the requirements of this subsection if, as of*  
3           *the date of issuance, the qualified issuer reasonably*  
4           *expects—*

5                   “(A) *at least 95 percent of the proceeds from*  
6                   *the sale of the issue are to be spent for 1 or more*  
7                   *qualified projects within the 5-year period begin-*  
8                   *ning on the date of issuance of the rural renaiss-*  
9                   *sance bond,*

10                   “(B) *a binding commitment with a third*  
11                   *party to spend at least 10 percent of the proceeds*  
12                   *from the sale of the issue will be incurred within*  
13                   *the 6-month period beginning on the date of*  
14                   *issuance of the rural renaissance bond or, in the*  
15                   *case of a rural renaissance bond, the proceeds of*  
16                   *which are to be loaned to 2 or more borrowers,*  
17                   *such binding commitment will be incurred with-*  
18                   *in the 6-month period beginning on the date of*  
19                   *the loan of such proceeds to a borrower, and*

20                   “(C) *such projects will be completed with*  
21                   *due diligence and the proceeds from the sale of*  
22                   *the issue will be spent with due diligence.*

23           “(2) *EXTENSION OF PERIOD.*—*Upon submission*  
24           *of a request prior to the expiration of the period de-*  
25           *scribed in paragraph (1)(A), the Secretary may ex-*

1        *tend such period if the qualified issuer establishes that*  
2        *the failure to satisfy the 5-year requirement is due to*  
3        *reasonable cause and the related projects will continue*  
4        *to proceed with due diligence.*

5                *“(3) FAILURE TO SPEND REQUIRED AMOUNT OF*  
6        *BOND PROCEEDS WITHIN 5 YEARS.—To the extent that*  
7        *less than 95 percent of the proceeds of such issue are*  
8        *expended by the close of the 5-year period beginning*  
9        *on the date of issuance (or if an extension has been*  
10        *obtained under paragraph (2), by the close of the ex-*  
11        *tended period), the qualified issuer shall redeem all of*  
12        *the nonqualified bonds within 90 days after the end*  
13        *of such period. For purposes of this paragraph, the*  
14        *amount of the nonqualified bonds required to be re-*  
15        *deemed shall be determined in the same manner as*  
16        *under section 142.*

17                *“(i) SPECIAL RULES RELATING TO ARBITRAGE.—A*  
18        *bond which is part of an issue shall not be treated as a*  
19        *rural renaissance bond unless, with respect to the issue of*  
20        *which the bond is a part, the qualified issuer satisfies the*  
21        *arbitrage requirements of section 148 with respect to pro-*  
22        *ceeds of the issue.*

23                *“(j) QUALIFIED ISSUER.—For purposes of this*  
24        *section—*

1           “(1) *IN GENERAL.*—The term ‘qualified issuer’  
2           means any not-for-profit cooperative lender which has  
3           as of the date of the enactment of this section received  
4           a guarantee under section 306 of the Rural Elec-  
5           trification Act and which meets the requirement of  
6           paragraph (2).

7           “(2) *USER FEE REQUIREMENT.*—The require-  
8           ment of this paragraph is met if the issuer of any  
9           rural renaissance bond makes grants for qualified  
10          projects as defined under subsection (d)(2) on a semi-  
11          annual basis every year that such bond is outstanding  
12          in an annual amount equal to one-half of the rate on  
13          United States Treasury Bills of the same maturity  
14          multiplied by the outstanding principle balance of  
15          rural renaissance bonds issued by such issuer.

16          “(k) *SPECIAL RULES RELATING TO POOL BONDS.*—  
17          No portion of a pooled financing bond may be allocable to  
18          loan unless the borrower has entered into a written loan  
19          commitment for such portion prior to the issue date of such  
20          issue.

21          “(l) *OTHER DEFINITIONS AND SPECIAL RULES.*—For  
22          purposes of this section—

23                  “(1) *BOND.*—The term ‘bond’ includes any obli-  
24                  gation.



1           “(2) *POOLED FINANCING BOND.*—*The term*  
2           *‘pooled financing bond’ shall have the meaning given*  
3           *such term by section 149(f)(4)(A).*

4           “(3) *RURAL AREA.*—*The term ‘rural area’ means*  
5           *any area other than—*

6                   “(A) *a city or town which has a population*  
7                   *of greater than 50,000 inhabitants, or*

8                   “(B) *the urbanized area contiguous and ad-*  
9                   *jacent to such a city or town.*

10           “(4) *PARTNERSHIP; S CORPORATION; AND OTHER*  
11           *PASS-THRU ENTITIES.*—

12                   “(A) *IN GENERAL.*—*Under regulations pre-*  
13                   *scribed by the Secretary, in the case of a part-*  
14                   *nership, trust, S corporation, or other pass-thru*  
15                   *entity, rules similar to the rules of section 41(g)*  
16                   *shall apply with respect to the credit allowable*  
17                   *under subsection (a).*

18                   “(B) *NO BASIS ADJUSTMENT.*—*In the case*  
19                   *of a bond held by a partnership or an S corpora-*  
20                   *tion, rules similar to the rules under section*  
21                   *1397E(l) shall apply.*

22           “(5) *BONDS HELD BY REGULATED INVESTMENT*  
23           *COMPANIES.*—*If any rural renaissance bond is held*  
24           *by a regulated investment company, the credit deter-*  
25           *mined under subsection (a) shall be allowed to share-*

1       *holders of such company under procedures prescribed*  
2       *by the Secretary.*

3               “(6) *REPORTING.*—*Issuers of rural renaissance*  
4       *bonds shall submit reports similar to the reports re-*  
5       *quired under section 149(e).”.*

6       “(b) *REPORTING.*—*Subsection (d) of section 6049 (relat-*  
7       *ing to returns regarding payments of interest) is amended*  
8       *by adding at the end the following new paragraph:*

9               “(9) *REPORTING OF CREDIT ON RURAL RENAISSANCE*  
10       *BONDS.—*

11               “(A) *IN GENERAL.*—*For purposes of sub-*  
12       *section (a), the term ‘interest’ includes amounts*  
13       *includible in gross income under section 54(f)*  
14       *and such amounts shall be treated as paid on the*  
15       *credit allowance date (as defined in section*  
16       *54(b)(4)).*

17               “(B) *REPORTING TO CORPORATIONS, ETC.—*  
18       *Except as otherwise provided in regulations, in*  
19       *the case of any interest described in subpara-*  
20       *graph (A), subsection (b)(4) shall be applied*  
21       *without regard to subparagraphs (A), (H), (I),*  
22       *(J), (K), and (L)(i) of such subsection.*

23               “(C) *REGULATORY AUTHORITY.*—*The Sec-*  
24       *retary may prescribe such regulations as are nec-*  
25       *essary or appropriate to carry out the purposes*

1           of this paragraph, including regulations which  
2           require more frequent or more detailed report-  
3           ing.”.

4           (c) *CONFORMING AMENDMENTS.*—

5           (1) *The table of sections for subpart H of part*  
6           *IV of subchapter A of chapter 1 is amended by adding*  
7           *at the end the following new item:*

“Sec. 54A. *Credit to holders of rural renaissance bonds.*”.

8           (2) *Section 54(c)(2) is amended by inserting “,*  
9           *section 54A,” after “subpart C”.*

10          (d) *ISSUANCE OF REGULATIONS.*—*The Secretary of*  
11 *Treasury shall issue regulations required under section 54A*  
12 *of the Internal Revenue Code of 1986 (as added by this sec-*  
13 *tion) not later than 120 days after the date of the enactment*  
14 *of this Act.*

15          (e) *EFFECTIVE DATE.*—*The amendments made by this*  
16 *section shall apply to bonds issued after the date of the en-*  
17 *actment of this Act and before January 1, 2010.*

18 **SEC. 470. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**  
19 **APPLICABLE TO LARGE INTEGRATED OIL**  
20 **COMPANIES WHICH ARE DUAL CAPACITY TAX-**  
21 **PAYERS.**

22          (a) *IN GENERAL.*—*Section 901 (relating to credit for*  
23 *taxes of foreign countries and of possessions of the United*  
24 *States), as amended by this Act, is amended by redesign-*  
25 *ating subsections (m) and (n) as subsections (n) and (o),*

1 *respectively, and by inserting after subsection (l) the fol-*  
2 *lowing new subsection:*

3       “(m) *SPECIAL RULES RELATING TO LARGE INTE-*  
4 *GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAX-*  
5 *PAYERS.—*

6           “(1) *GENERAL RULE.—Notwithstanding any*  
7 *other provision of this chapter, any amount paid or*  
8 *accrued by a dual capacity taxpayer which is a large*  
9 *integrated oil company to a foreign country or posses-*  
10 *sion of the United States for any period shall not be*  
11 *considered a tax—*

12               “(A) *if, for such period, the foreign country*  
13 *or possession does not impose a generally appli-*  
14 *cable income tax, or*

15               “(B) *to the extent such amount exceeds the*  
16 *amount (determined in accordance with regula-*  
17 *tions) which—*

18                   “(i) *is paid by such dual capacity tax-*  
19 *payer pursuant to the generally applicable*  
20 *income tax imposed by the country or pos-*  
21 *session, or*

22                   “(ii) *would be paid if the generally ap-*  
23 *plicable income tax imposed by the country*  
24 *or possession were applicable to such dual*  
25 *capacity taxpayer.*

1           *Nothing in this paragraph shall be construed to*  
2           *imply the proper treatment of any such amount*  
3           *not in excess of the amount determined under*  
4           *subparagraph (B).*

5           “(2) *DUAL CAPACITY TAXPAYER.*—*For purposes*  
6           *of this subsection, the term ‘dual capacity taxpayer’*  
7           *means, with respect to any foreign country or posses-*  
8           *sion of the United States, a person who—*

9                     “(A) *is subject to a levy of such country or*  
10                    *possession, and*

11                   “(B) *receives (or will receive) directly or in-*  
12                    *directly a specific economic benefit (as deter-*  
13                    *mined in accordance with regulations) from such*  
14                    *country or possession.*

15           “(3) *GENERALLY APPLICABLE INCOME TAX.*—*For*  
16           *purposes of this subsection—*

17                   “(A) *IN GENERAL.*—*The term ‘generally ap-*  
18                    *plicable income tax’ means an income tax (or a*  
19                    *series of income taxes) which is generally im-*  
20                    *posed under the laws of a foreign country or pos-*  
21                    *session on income derived from the conduct of a*  
22                    *trade or business within such country or posses-*  
23                    *sion.*

1           “(B) *EXCEPTIONS.*—Such term shall not in-  
2           clude a tax unless it has substantial application,  
3           by its terms and in practice, to—

4                   “(i) persons who are not dual capacity  
5                   taxpayers, and

6                   “(ii) persons who are citizens or resi-  
7                   dents of the foreign country or possession.

8           “(4) *LARGE INTEGRATED OIL COMPANY.*—For  
9           purposes of this subsection, the term ‘large integrated  
10           oil company’ means, with respect to any taxable year,  
11           an integrated oil company (as defined in section  
12           291(b)(4)) which—

13                   “(A) had gross receipts in excess of  
14                   \$1,000,000,000 for such taxable year, and

15                   “(B) has an average daily worldwide pro-  
16                   duction of crude oil of at least 500,000 barrels  
17                   for such taxable year.”

18           (b) *EFFECTIVE DATE.*—

19                   (1) *IN GENERAL.*—The amendments made by  
20                   this section shall apply to taxes paid or accrued in  
21                   taxable years beginning after the date of the enact-  
22                   ment of this Act.

23                   (2) *CONTRARY TREATY OBLIGATIONS UPHELD.*—  
24                   The amendments made by this section shall not apply

1       to the extent contrary to any treaty obligation of the  
2       United States.

3   **SEC. 471. DISABILITY PREFERENCE PROGRAM FOR TAX**  
4                   **COLLECTION CONTRACTS.**

5       (a) *IN GENERAL.*—The Secretary of the Treasury shall  
6 not enter into any qualified tax collection contract after  
7 April 1, 2006, until the Secretary implements a disability  
8 preference program that meets the requirements of sub-  
9 section (b).

10      (b) *DISABILITY PREFERENCE PROGRAM REQUIRE-*  
11 *MENTS.*—

12           (1) *IN GENERAL.*—A disability preference pro-  
13 gram meets the requirements of this subsection if such  
14 program requires that not less than 10 percent of the  
15 accounts of each dollar value category are awarded to  
16 persons described in paragraph (2).

17           (2) *PERSON DESCRIBED.*—For purposes of para-  
18 graph (1), a person is described in this paragraph  
19 if—

20                   (A) as of the date any qualified tax collec-  
21 tion contract is awarded—

22                           (i) such person employs not less than  
23 50 severely disabled individuals within the  
24 United States; or

1                   (ii) not less than 30 percent of the em-  
2                   ployees of such person within the United  
3                   States are severely disabled individuals;

4                   (B) such person agrees as a condition of the  
5                   qualified tax collection contract that not more  
6                   than 90 days after the date such contract is  
7                   awarded, not less than 35 percent of the employ-  
8                   ees of such person employed in connection with  
9                   providing services under such contract shall—

10                   (i) be hired after the date such contract  
11                   is awarded; and

12                   (ii) be severely disabled individuals;  
13                   and

14                   (C) such person is otherwise qualified to  
15                   perform the services required.

16                   (c) *DEFINITIONS.*—For purposes of this section—

17                   (1) *QUALIFIED TAX COLLECTION CONTRACT.*—  
18                   The term “qualified tax collection contract” shall have  
19                   the meaning given such term under section 6306(b) of  
20                   the Internal Revenue Code of 1986.

21                   (2) *DOLLAR VALUE CATEGORY.*—The term “dol-  
22                   lar value category” means the dollar ranges of ac-  
23                   counts for collection as determined and assigned by  
24                   the Secretary under section 6306(b)(1)(B) of the In-



1        *ternal Revenue Code of 1986 with respect to a quali-*  
 2        *fied tax collection contract.*

3            (3) *SEVERELY DISABLED INDIVIDUAL.*—*The term*  
 4        *“severely disabled individual” means—*

5            (A) *a veteran of the United States armed*  
 6        *forces with a disability of 50 percent or*  
 7        *greater—*

8            (i) *determined by the Secretary of Vet-*  
 9        *erans Affairs to be service-connected; or*

10          (ii) *deemed by law to be service-con-*  
 11        *nected; or*

12          (B) *any individual who is a disabled bene-*  
 13        *ficiary (as defined in section 1148(k)(2) of the*  
 14        *Social Security Act (42 U.S.C. 1320b–19(k)(2)))*  
 15        *or who would be considered to be such a disabled*  
 16        *beneficiary but for having income or resources in*  
 17        *excess of the income or resources eligibility limits*  
 18        *established under title XVI of the Social Security*  
 19        *Act (42 U.S.C. 1381 et seq.), respectively.*

20        **TITLE V—COMPLIANCE WITH**  
 21        **CONGRESSIONAL BUDGET ACT**

22        **SEC. 501. SUNSET OF CERTAIN PROVISIONS AND AMEND-**  
 23        **MENTS.**

24        *The provisions of, and amendments made by, title I,*  
 25        *subtitle A of title II, and title III shall not apply to taxable*

1 *years beginning after September 30, 2010, and the Internal*  
2 *Revenue Code of 1986 shall be applied and administered*  
3 *to such years as if such provisions and amendments had*  
4 *never been enacted.*

5       **TITLE VI—STRENGTHENING**  
6               **AMERICA’S MILITARY**

7       **SEC. 601. SHORT TITLE.**

8               *This title may be cited as the “Strengthening Amer-*  
9 *ica’s Military Act”.*

10       **Subtitle A—Military Funding**

11       **SEC. 602. FUNDING FOR MILITARY OPERATIONS.**

12               *There is appropriated, out of any money in the Treas-*  
13 *ury which is not otherwise appropriated, for the fiscal years*  
14 *2006 through 2010, the following amounts, to be used for*  
15 *resetting and recapitalizing equipment being used in thea-*  
16 *ters of operations:*

17                       (1) *\$16,900,000,000 for operations and mainte-*  
18                       *nance of the Army.*

19                       (2) *\$1,800,000,000 for aircraft for the Army.*

20                       (3) *\$6,300,000,000 for other Army procurement.*

21                       (4) *\$10,000,000,000 for wheeled and tracked*  
22 *combat vehicles for the Army.*

23                       (5) *\$467,000,000 for the Army working capital*  
24 *fund.*

1           (6) \$6,000,000 for missiles for the Department of  
2     *Defense.*

3           (7) \$100,000,000 for defense wide procurement  
4     *for the Department of Defense.*

5           (8) \$4,500,000,000 for Marine Corps procure-  
6     *ment.*

7           (9) \$4,500,000,000 for operations and mainte-  
8     *nance of the Marine Corps.*

9           (10) \$2,700,000,000 for Navy aircraft procure-  
10    *ment.*

Attest:

*Secretary.*

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4297**

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**AMENDMENT**