

In the Senate of the United States,

May 15, 2003.

Resolved, That the bill from the House of Representatives (H.R. 2) entitled “An Act to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-***
2 ***TENTS.***

3 (a) *SHORT TITLE.*—*This Act may be cited as the “Jobs*
4 *and Growth Tax Relief Reconciliation Act of 2003”.*

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 of this*
 8 *Act is as follows:*

Sec. 1. Short title; references; table of contents.

***TITLE I—ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX
REDUCTIONS; INCREASED EXPENSING FOR SMALL BUSINESSES***

Sec. 101. Acceleration of 10-percent individual income tax rate bracket expansion.

Sec. 102. Acceleration of reduction in individual income tax rates.

Sec. 103. Minimum tax relief to individuals.

Sec. 104. Acceleration of increase in standard deduction for married taxpayers filing joint returns.

Sec. 105. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.

Sec. 106. Acceleration of increase in, and refundability of, child tax credit.

Sec. 107. Increased expensing for small business.

Sec. 108. Application of EGTRRA sunset to this title.

TITLE II—PARTIAL EXCLUSION OF DIVIDENDS

Sec. 201. Partial exclusion of dividends received by individuals.

TITLE III—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 301. Clarification of economic substance doctrine.

Sec. 302. Penalty for failing to disclose reportable transaction.

Sec. 303. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.

Sec. 304. Penalty for understatements attributable to transactions lacking economic substance, etc.

Sec. 305. Modifications of substantial understatement penalty for nonreportable transactions.

Sec. 306. Tax shelter exception to confidentiality privileges relating to taxpayer communications.

Sec. 307. Disclosure of reportable transactions.

Sec. 308. Modifications to penalty for failure to register tax shelters.

Sec. 309. Modification of penalty for failure to maintain lists of investors.

- Sec. 310. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.*
- Sec. 311. Understatement of taxpayer's liability by income tax return preparer.*
- Sec. 312. Penalty on failure to report interests in foreign financial accounts.*
- Sec. 313. Frivolous tax submissions.*
- Sec. 314. Penalty on promoters of tax shelters.*
- Sec. 315. Statute of limitations for taxable years for which listed transactions not reported.*
- Sec. 316. Denial of deduction for interest on underpayments attributable to non-disclosed reportable and noneconomic substance transactions.*

Subtitle B—Enron-Related Tax Shelter Provisions

- Sec. 321. Limitation on transfer or importation of built-in losses.*
- Sec. 322. No reduction of basis under section 734 in stock held by partnership in corporate partner.*
- Sec. 323. Repeal of special rules for FASITs.*
- Sec. 324. Expanded disallowance of deduction for interest on convertible debt.*
- Sec. 325. Expanded authority to disallow tax benefits under section 269.*
- Sec. 326. Modifications of certain rules relating to controlled foreign corporations.*
- Sec. 327. Controlled entities ineligible for REIT status.*

Subtitle C—Other Corporate Governance Provisions

PART I—GENERAL PROVISIONS

- Sec. 331. Affirmation of consolidated return regulation authority.*
- Sec. 332. Signing of corporate tax returns by chief executive officer.*
- Sec. 333. Denial of deduction for certain fines, penalties, and other amounts.*
- Sec. 334. Disallowance of deduction for punitive damages.*
- Sec. 335. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.*

PART II—EXECUTIVE COMPENSATION REFORM

- Sec. 336. Treatment of nonqualified deferred compensation funded with assets located outside the United States.*
- Sec. 337. Inclusion in gross income of funded deferred compensation of corporate insiders.*
- Sec. 338. Prohibition on deferral of gain from the exercise of stock options and restricted stock gains through deferred compensation arrangements.*
- Sec. 339. Increase in withholding from supplemental wage payments in excess of \$1,000,000.*

Subtitle D—International Provisions

PART I—PROVISIONS TO DISCOURAGE EXPATRIATION

- Sec. 340. Revision of tax rules on expatriation.*
- Sec. 341. Tax treatment of inverted corporate entities.*
- Sec. 342. Excise tax on stock compensation of insiders in inverted corporations.*
- Sec. 343. Reinsurance of United States risks in foreign jurisdictions.*

PART II—OTHER PROVISIONS

- Sec. 344. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.*

- Sec. 345. Effectively connected income to include certain foreign source income.*
Sec. 346. Determination of basis of amounts paid from foreign pension plans.
Sec. 347. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 348. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 349. Sale of gasoline and diesel fuel at duty-free sales enterprises.
Sec. 350. Repeal of earned income exclusion of citizens or residents living abroad.

Subtitle E—Other Revenue Provisions

- Sec. 351. Extension of Internal Revenue Service user fees.*
Sec. 352. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 353. Disallowance of certain partnership loss transfers.
Sec. 354. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 355. Reporting of taxable mergers and acquisitions.
Sec. 356. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.
Sec. 357. Qualified tax collection contracts.
Sec. 358. Extension of customs user fees.
Sec. 359. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 360. Partial payment of tax liability in installment agreements.
Sec. 361. Extension of amortization of intangibles to sports franchises.
Sec. 362. Deposits made to suspend running of interest on potential underpayments.
Sec. 363. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 364. Limitation on deduction for charitable contributions of patents and similar property.
Sec. 365. Extension of transfers of excess pension assets to retiree health accounts.
Sec. 366. Proration rules for life insurance business of property and casualty insurance companies.
Sec. 367. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 368. Increase in age of minor children whose unearned income is taxed as if parent's income.
Sec. 369. Consistent amortization of periods for intangibles.
Sec. 370. Clarification of definition of nonqualified preferred stock.
Sec. 371. Class lives for utility grading costs.
Sec. 372. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 373. Lease term to include certain service contracts.
Sec. 374. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.

Subtitle F—Other Provisions

- Sec. 381. Temporary State and local fiscal relief.*
Sec. 382. Review of State agency blindness and disability determinations.
Sec. 383. Prohibition on use of SCHIP funds to provide coverage for childless adults.
Sec. 384. Medicaid DSH allotments.

TITLE IV—SMALL BUSINESS AND AGRICULTURAL PROVISIONS

Subtitle A—Small Business Provisions

- Sec. 401. Exclusion of certain indebtedness of small business investment companies from acquisition indebtedness.*
Sec. 402. Repeal of occupational taxes relating to distilled spirits, wine, and beer.
Sec. 403. Custom gunsmiths.
Sec. 404. Simplification of excise tax imposed on bows and arrows.

Subtitle B—Agricultural Provisions

- Sec. 411. Capital gain treatment under section 631(b) to apply to outright sales by landowners.*
Sec. 412. Special rules for livestock sold on account of weather-related conditions.
Sec. 413. Exclusion for loan payments under national health service corps loan repayment program.
Sec. 414. Payment of dividends on stock of cooperatives without reducing patronage dividends.

TITLE V—SIMPLIFICATION AND OTHER PROVISIONS

Subtitle A—Uniform Definition of Child

- Sec. 501. Uniform definition of child, etc.*
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.
Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.

Subtitle B—Simplification

- Sec. 511. Consolidation of life and non-life company returns.*
Sec. 512. Special rules for taxation of life insurance companies.
Sec. 513. Modification of active business definition under section 355.

Subtitle C—Other Provisions

- Sec. 521. Civil rights tax relief.*
Sec. 522. Increase in section 382 limitation for companies emerging from bankruptcy.
Sec. 523. Increase in historic rehabilitation credit for certain low-income housing for the elderly.
Sec. 524. Modification of application of income forecast method of depreciation.
Sec. 525. Additional advance refundings of certain governmental bonds.
Sec. 526. Exclusion of income derived from certain wagers on horse races from gross income of nonresident alien individuals.
Sec. 527. Federal reimbursement of emergency health services furnished to undocumented aliens.
Sec. 528. Premiums for mortgage insurance.
Sec. 529. Sense of the Senate on repealing the 1993 tax hike on social security benefits section.
Sec. 530. Flat tax.
Sec. 531. Toll tax on excess qualified foreign distribution amount.
Sec. 532. Child support enforcement.

- Sec. 533. Low-income housing tax credit.*
- Sec. 534. Expensing of broadband internet access expenditures.*
- Sec. 535. Income tax credit for distilled spirits wholesalers and for distilled spirits in control state bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.*
- Sec. 536. Clarification of contribution in aid of construction for water and sewerage disposal utilities.*
- Sec. 537. Restoration of deduction for travel expenses of spouse, etc. accompanying taxpayer on business travel.*
- Sec. 538. Certain sightseeing flights exempt from taxes on air transportation.*
- Sec. 539. Conforming the Internal Revenue Code of 1986 to requirements imposed by the Women's Health and Cancer Rights Act of 1998.*
- Sec. 540. Expansion of designated renewal community area based on 2000 census data.*
- Sec. 541. Renewal community employers may qualify for employment credit by employing residents of certain other renewal communities.*
- Sec. 542. Expansion of income tax exclusion for combat zone service.*
- Sec. 543. Availability of certain tax benefits for members of the armed forces performing services at Guantanamo Bay Naval Station, Cuba, and on the island of Diego Garcia.*
- Sec. 544. Citrus canker tree relief.*
- Sec. 545. Exclusion of certain punitive damage awards.*
- Sec. 546. Reatment of certain imported recycled halons.*
- Sec. 547. Modification of involuntary conversion rules for businesses affected by the September 11th terrorist attacks.*

Subtitle D—Medicare Provisions.

- Sec. 561. Equalizing urban and rural standardized payment amounts under the medicare inpatient hospital prospective payment system.*
- Sec. 562. Fairness in the Medicare Disproportionate Share Hospital (DSH) adjustment for rural hospitals.*
- Sec. 563. Medicare inpatient hospital payment adjustment for low-volume hospitals.*
- Sec. 564. Adjustment to the medicare inpatient hospital PPS wage index to revise the labor-related share of such index.*
- Sec. 565. One-year extension of hold harmless provisions for small rural hospitals and temporary treatment of certain sole community hospitals to limit decline in payment under the OPD PPS.*
- Sec. 566. Critical access hospital (CAH) improvements.*
- Sec. 567. Temporary increase for home health services furnished in a rural area.*
- Sec. 568. Temporary increase in payments for certain services furnished by small rural hospitals under medicare prospective payment system for hospital outpatient department services.*
- Sec. 569. Temporary increase for ground ambulance services furnished in a rural area.*
- Sec. 570. Exclusion of certain rural health clinic and federally qualified health center services from the medicare pps for skilled nursing facilities.*
- Sec. 571. Medicare incentive payment program improvements.*
- Sec. 572. Two-year treatment of certain clinical diagnostic laboratory tests furnished by a sole community hospital.*
- Sec. 573. Establishment of floor on geographic adjustments of payments for physicians' services.*

- Sec. 574. Freeze in payments for items of durable medical equipment and orthotics and prosthetics.*
- Sec. 575. Application of coinsurance and deductible for clinical diagnostic laboratory tests.*
- Sec. 576. Revision in payments for covered outpatient drugs.*
- Sec. 577. Inapplicability of sunset.*

Subtitle E—Provisions Relating To S Corporation Reform and Simplification

PART I—MAXIMUM NUMBER OF SHAREHOLDERS OF AN S CORPORATION

- Sec. 581. Members of family treated as 1 shareholder.*
- Sec. 582. Increase in number of eligible shareholders to 100.*
- Sec. 583. Nonresident aliens allowed as beneficiaries of an electing small business trust.*

PART II—TERMINATION OF ELECTION AND ADDITIONS TO TAX DUE TO PASSIVE INVESTMENT INCOME

- Sec. 584. Modifications to passive income rules.*

PART III—TREATMENT OF S CORPORATION SHAREHOLDERS

- Sec. 585. Transfer of suspended losses incident to divorce.*
- Sec. 586. Use of passive activity loss and at-risk amounts by qualified subchapter S trust income beneficiaries.*
- Sec. 587. Disregard of unexercised powers of appointment in determining potential current beneficiaries of ESBT.*
- Sec. 588. Clarification of electing small business trust distribution rules.*

PART IV—PROVISIONS RELATING TO BANKS

- Sec. 589. Sale of stock in IRA relating to S corporation election exempt from prohibited transaction rules.*
- Sec. 590. Exclusion of investment securities income from passive income test for bank S corporations.*
- Sec. 591. Treatment of qualifying director shares.*

PART V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

- Sec. 592. Relief from inadvertently invalid qualified subchapter S subsidiary elections and terminations.*
- Sec. 593. Information returns for qualified subchapter S subsidiaries.*

PART VI—ADDITIONAL PROVISIONS

- Sec. 594. Elimination of all earnings and profits attributable to pre-1983 years.*

TITLE VI—BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM

- Sec. 601. Short title.*
- Sec. 602. Establishment of Commission.*
- Sec. 603. Duties of the Commission.*
- Sec. 604. Powers of the Commission.*
- Sec. 605. Commission personnel matters.*
- Sec. 606. Termination of the Commission.*
- Sec. 607. Authorization of appropriations.*

TITLE VII—REAL ESTATE INVESTMENT TRUSTS

Subtitle A—REIT Corrections

- Sec. 701. Revisions to REIT asset test.*
- Sec. 702. Clarification of application of limited rental exception.*
- Sec. 703. Deletion of customary services exception.*
- Sec. 704. Conformity with general hedging definition.*
- Sec. 705. Conformity with regulated investment company rules.*
- Sec. 706. Prohibited transactions provisions.*
- Sec. 707. Effective dates.*

Subtitle B—REIT Savings Provisions

- Sec. 711. Revisions to REIT provisions.*

TITLE VIII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions of Expiring Provisions

- Sec. 801. Parity in the application of certain limits to mental health benefits.*
- Sec. 802. Allowance of nonrefundable personal credits against regular and minimum tax liability.*
- Sec. 803. Credit for electricity produced from certain renewable resources.*
- Sec. 804. Work opportunity credit.*
- Sec. 805. Welfare-to-work credit.*
- Sec. 806. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.*
- Sec. 807. Qualified zone academy bonds.*
- Sec. 808. Cover over of tax on distilled spirits.*
- Sec. 809. Deduction for corporate donations of computer technology.*
- Sec. 810. Credit for qualified electric vehicles.*
- Sec. 811. Deduction for clean-fuel vehicles and certain refueling property.*
- Sec. 812. Deduction for certain expenses of school teachers.*
- Sec. 813. Availability of medical savings accounts.*
- Sec. 814. Expensing of environmental remediation costs.*

TITLE IX—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

- Sec. 900. Short title.*
- Sec. 901. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the foreign service.*
- Sec. 902. Exclusion from gross income of certain death gratuity payments.*
- Sec. 903. Exclusion for amounts received under Department of Defense Homeowners Assistance Program.*
- Sec. 904. Expansion of combat zone filing rules to contingency operations.*
- Sec. 905. Modification of membership requirement for exemption from tax for certain veterans' organizations.*
- Sec. 906. Clarification of the treatment of certain dependent care assistance programs.*
- Sec. 907. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.*
- Sec. 908. Suspension of tax-exempt status of terrorist organizations.*
- Sec. 909. Above-the-line deduction for overnight travel expenses of national guard and reserve members.*
- Sec. 910. Tax relief and assistance for families of Space Shuttle Columbia heroes.*

Sec. 1001. Sunset.

1 **TITLE I—ACCELERATION OF**
 2 **CERTAIN PREVIOUSLY EN-**
 3 **ACTED TAX REDUCTIONS; IN-**
 4 **CREASED EXPENSING FOR**
 5 **SMALL BUSINESSES**

6 **SEC. 101. ACCELERATION OF 10-PERCENT INDIVIDUAL IN-**
 7 **COME TAX RATE BRACKET EXPANSION.**

8 *(a) IN GENERAL.—Clause (i) of section 1(i)(1)(B) (re-*
 9 *lating to the initial bracket amount) is amended by striking*
 10 *“(\$12,000 in the case of taxable years beginning before Jan-*
 11 *uary 1, 2008)”.*

12 *(b) INFLATION ADJUSTMENT BEGINNING IN 2004.—*
 13 *Subparagraph (C) of section 1(i)(1) (relating to inflation*
 14 *adjustment) is amended to read as follows:*

15 *“(C) INFLATION ADJUSTMENT.—In pre-*
 16 *scribing the tables under subsection (f) which*
 17 *apply with respect to taxable years beginning in*
 18 *calendar years after 2003—*

19 *“(i) the cost-of-living adjustment used*
 20 *in making adjustments to the initial bracket*
 21 *amount shall be determined under sub-*
 22 *section (f)(3) by substituting ‘2002’ for*
 23 *‘1992’ in subparagraph (B) thereof, and*

1 “(i) such adjustment shall not apply
2 to the amount referred to in subparagraph
3 (B)(iii).

4 If any amount after adjustment under the pre-
5 ceding sentence is not a multiple of \$50, such
6 amount shall be rounded to the next lowest mul-
7 tiple of \$50.”.

8 (c) *EFFECTIVE DATES.*—

9 (1) *SUBSECTION (a).*—The amendment made by
10 subsection (a) shall apply to taxable years beginning
11 after December 31, 2002.

12 (2) *SUBSECTION (b).*—The amendment made by
13 subsection (b) shall apply to taxable years beginning
14 after December 31, 2003.

15 (3) *TABLES FOR 2003.*—The Secretary of the
16 Treasury shall modify each table which has been pre-
17 scribed for taxable years beginning in 2003 and
18 which relates to the amendment made by subsection
19 (a), section 102, or section 103 to reflect each such
20 amendment.

21 **SEC. 102. ACCELERATION OF REDUCTION IN INDIVIDUAL**
22 **INCOME TAX RATES.**

23 (a) *IN GENERAL.*—The table in paragraph (2) of sec-
24 tion 1(i) (relating to reductions in rates after June 30,
25 2001) is amended to read as follows:

<i>“In the case of taxable years beginning during calendar year:</i>	<i>The corresponding percentages shall be substituted for the following percentages:</i>			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003 and thereafter	25.0%	28.0%	33.0%	35.0%”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2002.*

4 **SEC. 103. MINIMUM TAX RELIEF TO INDIVIDUALS.**

5 (a) *IN GENERAL.*—*So much of paragraph (1) of sec-*
6 *tion 55(d) (relating to exemption amount for taxpayers*
7 *other than corporations) as precedes subparagraph (C)*
8 *thereof is amended to read as follows:*

9 “(1) *EXEMPTION AMOUNT FOR TAXPAYERS*
10 *OTHER THAN CORPORATIONS.*—*In the case of a tax-*
11 *payer other than a corporation, the term ‘exemption*
12 *amount’ means as follows:*

13 “(A) *JOINT RETURN AND SURVIVING*
14 *SPOUSE.*—*In the case of a joint return or a sur-*
15 *ving spouse, the amount under the following*
16 *table:*

<i>“In the case of taxable years beginning:</i>	<i>The exemption amount is:</i>
<i>Before 2001</i>	<i>\$45,000</i>
<i>In 2001 and 2002</i>	<i>\$49,000</i>
<i>In 2003</i>	<i>\$60,500</i>
<i>In 2004</i>	<i>\$60,500</i>
<i>In 2005</i>	<i>\$60,500</i>
<i>After 2005</i>	<i>\$45,000.</i>

17 “(B) *INDIVIDUAL NOT MARRIED AND NOT A*
18 *SURVIVING SPOUSE.*—*In the case of an indi-*

1 vidual who is not a married individual and is
 2 not a surviving spouse, the amount under the fol-
 3 lowing table:

“In the case of taxable years beginning:	The exemption amount is:
Before 2001	\$33,750
In 2001 and 2002	\$35,750
In 2003	\$41,500
In 2004	\$41,500
In 2005	\$41,500
After 2005	\$33,750.”.

4 (b) *CONFORMING AMENDMENTS.*—

5 (1) *Section 55(d)(1)(C) is amended—*

6 (A) *by striking “, and” and inserting a pe-*
 7 *riod, and*

8 (B) *by striking “50 percent” and inserting*
 9 *“MARRIED INDIVIDUAL FILING A SEPARATE RE-*
 10 *TURN.—50 percent”.*

11 (2) *Section 55(d)(1)(D) is amended by striking*
 12 *“\$22,500” and inserting “ESTATE AND TRUST.—*
 13 *\$22,500”.*

14 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 15 *section shall apply to taxable years beginning after Decem-*
 16 *ber 31, 2002.*

17 ***SEC. 104. ACCELERATION OF INCREASE IN STANDARD DE-***
 18 ***DUCTION FOR MARRIED TAXPAYERS FILING***
 19 ***JOINT RETURNS.***

20 (a) *IN GENERAL.*—*Paragraph (7) of section 63(c) (re-*
 21 *lating to standard deduction) is amended to read as follows:*

1 “(7) *APPLICABLE PERCENTAGE.*—For purposes
2 of paragraph (2), the applicable percentage shall be
3 determined in accordance with the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2003	195
2004	200
2005	174
2006	184
2007	187
2008	190
2009 and thereafter	200.”.

4 (b) *CONFORMING AMENDMENT.*—Section 301(d) of the
5 *Economic Growth and Tax Relief Reconciliation Act of*
6 *2001 is amended by striking “2004” and inserting “2002”.*

7 (c) *EFFECTIVE DATE.*—The amendments made by this
8 section shall apply to taxable years beginning after Decem-
9 ber 31, 2002.

10 **SEC. 105. ACCELERATION OF 15-PERCENT INDIVIDUAL IN-**
11 **COME TAX RATE BRACKET EXPANSION FOR**
12 **MARRIED TAXPAYERS FILING JOINT RE-**
13 **TURNS.**

14 (a) *IN GENERAL.*—Subparagraph (B) of section
15 1(f)(8) (relating to phaseout of marriage penalty in 15-
16 percent bracket) is amended to read as follows:

17 “(B) *APPLICABLE PERCENTAGE.*—For pur-
18 poses of subparagraph (A), the applicable per-
19 centage shall be determined in accordance with
20 the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2003	195
2004	200
2005	180
2006	187
2007	193
2008 and thereafter	200.”.

1 (b) *CONFORMING AMENDMENT.*—Section 302(c) of the
2 *Economic Growth and Tax Relief Reconciliation Act of*
3 *2001 is amended by striking “2004” and inserting “2002”.*

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply to taxable years beginning after Decem-
6 ber 31, 2002.

7 **SEC. 106. ACCELERATION OF INCREASE IN, AND**
8 **REFUNDABILITY OF, CHILD TAX CREDIT.**

9 (a) *ACCELERATION OF INCREASE IN CREDIT.*—Sub-
10 section (a) of section 24 (relating to child tax credit) is
11 amended to read as follows:

12 “(a) *ALLOWANCE OF CREDIT.*—There shall be allowed
13 as a credit against the tax imposed by this chapter for the
14 taxable year with respect to each qualifying child of the tax-
15 payer an amount equal to \$1,000.”.

16 (b) *EXPANSION OF CREDIT REFUNDABILITY.*—Section
17 24(d)(1)(B)(i) (relating to portion of credit refundable) is
18 amended by striking “(10 percent in the case of taxable
19 years beginning before January 1, 2005)”.

20 (c) *ADVANCE PAYMENT OF PORTION OF INCREASED*
21 *CREDIT IN 2003.*—

1 (1) *IN GENERAL.*—Subchapter B of chapter 65
2 (relating to abatements, credits, and refunds) is
3 amended by adding at the end the following new sec-
4 tion:

5 **“SEC. 6429. ADVANCE PAYMENT OF PORTION OF IN-**
6 **CREASED CHILD CREDIT FOR 2003.**

7 “(a) *IN GENERAL.*—Each taxpayer who claimed a
8 credit under section 24 on the return for the taxpayer’s first
9 taxable year beginning in 2002 shall be treated as having
10 made a payment against the tax imposed by chapter 1 for
11 such taxable year in an amount equal to the child tax credit
12 refund amount (if any) for such taxable year.

13 “(b) *CHILD TAX CREDIT REFUND AMOUNT.*—For pur-
14 poses of this section, the child tax credit refund amount is
15 the amount by which the aggregate credits allowed under
16 part IV of subchapter A of chapter 1 for such first taxable
17 year would have been increased if—

18 “(1) the per child amount under section 24(a)(2)
19 for such year were \$1,000,

20 “(2) only qualifying children (as defined in sec-
21 tion 24(c)) of the taxpayer for such year who had not
22 attained age 17 as of December 31, 2003, were taken
23 into account, and

24 “(3) section 24(d)(1)(B)(ii) did not apply.

1 “(c) *TIMING OF PAYMENTS.*—*In the case of any over-*
2 *payment attributable to this section, the Secretary shall,*
3 *subject to the provisions of this title, refund or credit such*
4 *overpayment as rapidly as possible and, to the extent prac-*
5 *ticable, before October 1, 2003. No refund or credit shall*
6 *be made or allowed under this section after December 31,*
7 *2003.*

8 “(d) *COORDINATION WITH CHILD TAX CREDIT.*—

9 “(1) *IN GENERAL.*—*The amount of credit which*
10 *would (but for this subsection and section 26) be al-*
11 *lowed under section 24 for the taxpayer’s first taxable*
12 *year beginning in 2003 shall be reduced (but not*
13 *below zero) by the payments made to the taxpayer*
14 *under this section. Any failure to so reduce the credit*
15 *shall be treated as arising out of a mathematical or*
16 *clerical error and assessed according to section*
17 *6213(b)(1).*

18 “(2) *JOINT RETURNS.*—*In the case of a payment*
19 *under this section with respect to a joint return, half*
20 *of such payment shall be treated as having been made*
21 *to each individual filing such return.*

22 “(e) *NO INTEREST.*—*No interest shall be allowed on*
23 *any overpayment attributable to this section.”.*

1 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
 2 *tions for subchapter B of chapter 65 is amended by*
 3 *adding at the end the following new item:*

“*Sec. 6429. Advance payment of portion of increased child credit for 2003.*”.

4 (d) *EFFECTIVE DATES.*—

5 (1) *IN GENERAL.*—*Except as provided in para-*
 6 *graph (2), the amendments made by this section shall*
 7 *apply to taxable years beginning after December 31,*
 8 *2002.*

9 (2) *SUBSECTION (c).*—*The amendments made by*
 10 *subsection (c) shall take effect on the date of the enact-*
 11 *ment of this Act.*

12 **SEC. 107. INCREASED EXPENSING FOR SMALL BUSINESS.**

13 (a) *IN GENERAL.*—*Paragraph (1) of section 179(b)*
 14 *(relating to dollar limitation) is amended to read as follows:*

15 “(1) *DOLLAR LIMITATION.*—*The aggregate cost*
 16 *which may be taken into account under subsection (a)*
 17 *for any taxable year shall not exceed \$25,000*
 18 *(\$100,000 in the case of taxable years beginning after*
 19 *2002 and before 2008).”.*

20 (b) *INCREASE IN QUALIFYING INVESTMENT AT WHICH*
 21 *PHASEOUT BEGINS.*—*Paragraph (2) of section 179(b) (re-*
 22 *lating to reduction in limitation) is amended by inserting*
 23 *“(\$400,000 in the case of taxable years beginning after 2002*
 24 *and before 2008)” after “\$200,000”.*

1 (c) *OFF-THE-SHELF COMPUTER SOFTWARE.*—Para-
 2 *graph (1) of section 179(d) (defining section 179 property)*
 3 *is amended to read as follows:*

4 “(1) *SECTION 179 PROPERTY.*—For purposes of
 5 *this section, the term ‘section 179 property’ means*
 6 *property—*

7 “(A) *which is—*

8 “(i) *tangible property (to which section*
 9 *168 applies), or*

10 “(ii) *computer software (as defined in*
 11 *section 197(e)(3)(B)) which is described in*
 12 *section 197(e)(3)(A)(i), to which section 167*
 13 *applies, and which is placed in service in a*
 14 *taxable year beginning after 2002 and be-*
 15 *fore 2008,*

16 “(B) *which is section 1245 property (as de-*
 17 *fined in section 1245(a)(3)), and*

18 “(C) *which is acquired by purchase for use*
 19 *in the active conduct of a trade or business.*

20 *Such term shall not include any property described in*
 21 *section 50(b) and shall not include air conditioning*
 22 *or heating units.”.*

23 (d) *ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT*
 24 *THRESHOLD FOR INFLATION.*—Subsection (b) of section

1 179 (relating to limitations) is amended by adding at the
2 end the following new paragraph:

3 “(5) *INFLATION ADJUSTMENTS.*—

4 “(A) *IN GENERAL.*—In the case of any tax-
5 able year beginning in a calendar year after
6 2003 and before 2008, the \$100,000 and
7 \$400,000 amounts in paragraphs (1) and (2)
8 shall each be increased by an amount equal to—

9 “(i) such dollar amount, multiplied by

10 “(ii) the cost-of-living adjustment de-
11 termined under section 1(f)(3) for the cal-
12 endar year in which the taxable year be-
13 gins, by substituting ‘calendar year 2002’
14 for ‘calendar year 1992’ in subparagraph
15 (B) thereof.

16 “(B) *ROUNDING.*—

17 “(i) *DOLLAR LIMITATION.*—If the
18 amount in paragraph (1) as increased
19 under subparagraph (A) is not a multiple
20 of \$1,000, such amount shall be rounded to
21 the nearest multiple of \$1,000.

22 “(ii) *PHASEOUT AMOUNT.*—If the
23 amount in paragraph (2) as increased
24 under subparagraph (A) is not a multiple

1 of \$10,000, such amount shall be rounded to
2 the nearest multiple of \$10,000.”.

3 (e) *REVOCATION OF ELECTION.*—Paragraph (2) of sec-
4 tion 179(c) (relating to election irrevocable) is amended to
5 read as follows:

6 “(2) *REVOCATION OF ELECTION.*—An election
7 under paragraph (1) with respect to any taxable year
8 beginning after 2002 and before 2008, and any speci-
9 fication contained in any such election, may be re-
10 voked by the taxpayer with respect to any property.
11 Such revocation, once made, shall be irrevocable.”.

12 (f) *EFFECTIVE DATE.*—The amendments made by this
13 section shall apply to taxable years beginning after Decem-
14 ber 31, 2002.

15 **SEC. 108. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

16 Each amendment made by this title (other than section
17 107) shall be subject to title IX of the Economic Growth
18 and Tax Relief Reconciliation Act of 2001 to the same ex-
19 tent and in the same manner as the provision of such Act
20 to which such amendment relates.

1 **TITLE II—PARTIAL EXCLUSION**
2 **OF DIVIDENDS**

3 **SEC. 201. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY**
4 **INDIVIDUALS.**

5 (a) *GENERAL RULE.*—Part III of subchapter B of
6 chapter 1 is amended by inserting after section 115 the fol-
7 lowing new section:

8 **“SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED**
9 **BY INDIVIDUALS.**

10 “(a) *EXCLUSION FROM GROSS INCOME.*—

11 “(1) *IN GENERAL.*—Gross income does not in-
12 clude the applicable percentage of qualified dividend
13 income received during the taxable year by an indi-
14 vidual.

15 “(2) *APPLICABLE PERCENTAGE.*—For purposes
16 of this subsection, the applicable percentage is—

17 “(A) 50 percent in the case of taxable years
18 beginning in 2003,

19 “(B) 100 percent in the case of taxable
20 years beginning in 2004, 2005, and 2006, and

21 “(C) zero percent in the case of any other
22 taxable year.

23 “(b) *QUALIFIED DIVIDEND INCOME.*—For purposes of
24 this subsection—

1 “(1) *IN GENERAL.*—The term ‘qualified dividend
2 *income*’ means dividends received with respect to any
3 share of stock of—

4 “(A) any domestic corporation, or

5 “(B) any foreign corporation but only if
6 such share of stock is readily tradable on an es-
7 tablished securities market.

8 “(2) *CERTAIN DIVIDENDS EXCLUDED.*—Such
9 term shall not include—

10 “(A) any dividend from a corporation
11 which for the taxable year of the corporation in
12 which the distribution is made, or the preceding
13 taxable year, is a corporation exempt from tax
14 under section 501 or 521,

15 “(B) any amount allowed as a deduction
16 under section 591 (relating to deduction for divi-
17 dends paid by mutual savings banks, etc.), and

18 “(C) any dividend described in section
19 404(k).

20 “(3) *EXCLUSION OF DIVIDENDS OF CERTAIN FOR-*
21 *EIGN CORPORATIONS.*—Such term shall not include
22 any dividend from a foreign corporation which for
23 the taxable year of the corporation in which the dis-
24 tribution was made, or the preceding taxable year, is
25 a foreign personal holding company (as defined in

1 *section 552), a foreign investment company (as de-*
2 *defined in section 1246(b)), or a passive foreign invest-*
3 *ment company (as defined in section 1297).*

4 “(4) *COORDINATION WITH SECTION 246(C).*—*Such*
5 *term shall not include any dividend on any share of*
6 *stock—*

7 “(A) *with respect to which the holding pe-*
8 *riod requirements of section 246(c) are not met,*
9 *or*

10 “(B) *to the extent that the taxpayer is*
11 *under an obligation (whether pursuant to a short*
12 *sale or otherwise) to make related payments with*
13 *respect to positions in substantially similar or*
14 *related property.*

15 “(c) *SPECIAL RULES.*—

16 “(1) *AMOUNTS TAKEN INTO ACCOUNT AS INVEST-*
17 *MENT INCOME.*—*Qualified dividend income shall not*
18 *include any amount which the taxpayer takes into ac-*
19 *count as investment income under section*
20 *163(d)(4)(B).*

21 “(2) *COORDINATION WITH FOREIGN TAX CREDIT*
22 *AND DEDUCTION.*—*No credit shall be allowed under*
23 *section 901, and no deduction shall be allowed under*
24 *this chapter, for any taxes paid or accrued with re-*
25 *spect to any income excludable under this section.*

1 “(3) *CERTAIN NONRESIDENT ALIENS INELIGIBLE*
2 *FOR EXCLUSION.*—*In the case of a nonresident alien*
3 *individual, subsection (a) shall apply only in deter-*
4 *mining the tax imposed for the taxable year by sec-*
5 *tions 871(b)(1) and 877(b).*

6 “(4) *EXCLUSION DISREGARDED IN DETERMINING*
7 *INCOME FOR CERTAIN PURPOSES.*—*Subsection (a)*
8 *shall not apply for purposes of determining amounts*
9 *of income under sections 32(i), 86(b), 135(b), 137(b),*
10 *219(g), 221(b), 222(b), 408A(c)(3), 469(i), and 530(c),*
11 *or subpart A of part IV of subchapter A.*

12 “(5) *TREATMENT OF DIVIDENDS FROM REGU-*
13 *LATED INVESTMENT COMPANIES AND REAL ESTATE*
14 *INVESTMENT TRUSTS.*—*A dividend from a regulated*
15 *investment company or real estate investment trust*
16 *shall be subject to the limitations prescribed in sec-*
17 *tions 854 and 857.”.*

18 “(b) *EXCLUSION OF DIVIDENDS FROM INVESTMENT IN-*
19 *COME.*—*Subparagraph (B) of section 163(d)(4) (defining*
20 *net investment income) is amended by adding at the end*
21 *the following flush sentence:*

22 *“Such term shall include qualified dividend in-*
23 *come (as defined in section 116(b)) only to the*
24 *extent the taxpayer elects to treat such income as*

1 *investment income for purposes of this sub-*
2 *section.”.*

3 (c) *TREATMENT OF DIVIDENDS FROM REGULATED IN-*
4 *VESTMENT COMPANIES.—*

5 (1) *Subsection (a) of section 854 (relating to*
6 *dividends received from regulated investment compa-*
7 *nies) is amended by inserting “section 116 (relating*
8 *to partial exclusion of dividends received by individ-*
9 *uals) and” after “For purposes of”.*

10 (2) *Paragraph (1) of section 854(b) (relating to*
11 *other dividends) is amended by redesignating sub-*
12 *paragraph (B) as subparagraph (C) and by inserting*
13 *after subparagraph (A) the following new subpara-*
14 *graph:*

15 “(B) *EXCLUSION UNDER SECTION 116.—*

16 “(i) *IN GENERAL.—If the aggregate*
17 *dividends received by a regulated invest-*
18 *ment company during any taxable year are*
19 *less than 95 percent of its gross income,*
20 *then, in computing the exclusion under sec-*
21 *tion 116, rules similar to the rules of sub-*
22 *paragraph (A) shall apply.*

23 “(ii) *GROSS INCOME.—For purposes of*
24 *clause (i), in the case of 1 or more sales or*
25 *other dispositions of stock or securities, the*

1 term ‘gross income’ includes only the excess
2 of—

3 “(I) the net short-term capital
4 gain from such sales or dispositions,
5 over

6 “(II) the net long-term capital
7 loss from such sales or dispositions.”.

8 (3) Subparagraph (C) of section 854(b)(1), as re-
9 designated by paragraph (2), is amended by striking
10 “subparagraph (A)” and inserting “subparagraph (A)
11 or (B)”.

12 (4) Paragraph (2) of section 854(b) is amended
13 by inserting “the exclusion under section 116 and”
14 after “for purposes of”.

15 (5) Subsection (b) of section 854 is amended by
16 adding at the end the following new paragraph:

17 “(5) COORDINATION WITH SECTION 116.—For
18 purposes of paragraph (1)(B), an amount shall be
19 treated as a dividend only if the amount is qualified
20 dividend income (within the meaning of section
21 116(b)).”.

22 (d) TREATMENT OF DIVIDENDS RECEIVED FROM REAL
23 ESTATE INVESTMENT TRUSTS.—Section 857(c) (relating to
24 restrictions applicable to dividends received from real estate
25 investment trusts) is amended to read as follows:

1 “(c) *RESTRICTIONS APPLICABLE TO DIVIDENDS RE-*
2 *CEIVED FROM REAL ESTATE INVESTMENT TRUSTS.*—

3 “(1) *SECTION 243.*—*For purposes of section 243*
4 *(relating to deductions for dividends received by cor-*
5 *porations), a dividend received from a real estate in-*
6 *vestment trust which meets the requirements of this*
7 *part shall not be considered a dividend.*

8 “(2) *SECTION 116.*—*For purposes of section 116*
9 *(relating to exclusion of dividends), rules similar to*
10 *the rules of section 854(b)(1)(B) shall apply to divi-*
11 *dends received from a real estate trust which meets*
12 *the requirements of this part.”.*

13 “(e) *CONFORMING AMENDMENTS.*—

14 “(1) *Subsection (f) of section 301 is amended add-*
15 *ing at the end the following new paragraph:*

16 “(4) *For partial exclusion from gross income of*
17 *dividends received by individuals, see section 116.”.*

18 “(2) *Paragraph (1) of section 306(a) is amended*
19 *by adding at the end the following new subparagraph:*

20 “(D) *TREATMENT AS DIVIDEND.*—*For pur-*
21 *poses of section 116, any amount treated as ordi-*
22 *nary income under this paragraph shall be treat-*
23 *ed as a dividend received from the corporation.”.*

1 (3)(A) *Subpart C of part II of subchapter C of*
2 *chapter 1 (relating to collapsible corporations) is re-*
3 *pealed.*

4 (B)(i) *Section 338(h) is amended by striking*
5 *paragraph (14).*

6 (ii) *Sections 467(c)(5)(C), 1255(b)(2), and*
7 *1257(d) are each amended by striking “, 341(e)(12),”.*

8 (iii) *The table of subparts for part II of sub-*
9 *chapter C of chapter 1 is amended by striking the*
10 *item related to subpart C.*

11 (4) *Section 531 is amended—*

12 (A) *by inserting “the taxable percentage of”*
13 *after “equal to”, and*

14 (B) *by adding at the end the following:*
15 *“For purposes of this section, the taxable per-*
16 *centage is 100 percent minus the applicable per-*
17 *centage (as defined in section 116(a)(2)).”*

18 (5) *Section 541 is amended—*

19 (A) *by inserting “the taxable percentage of”*
20 *after “equal to”, and*

21 (B) *by adding at the end the following:*
22 *“For purposes of this section, the taxable per-*
23 *centage is 100 percent minus the applicable per-*
24 *centage (as defined in section 116(a)(2)).”*

1 (6) Section 584(c) is amended by adding at the
2 end the following new flush sentence:

3 *“The proportionate share of each participant in the amount
4 of dividends received by the common trust fund and to
5 which section 116 applies shall be considered for purposes
6 of such paragraph as having been received by such partici-
7 pant.”.*

8 (7) Section 643(a) is amended by redesignating
9 paragraph (7) as paragraph (8) and by inserting
10 after paragraph (6) the following new paragraph:

11 *“(7) EXCLUDED DIVIDENDS.—There shall be in-
12 cluded the amount of any dividends excluded from
13 gross income under section 116 (relating to partial
14 exclusion of dividends).”.*

15 (8) Paragraph (5) of section 702(a) is amended
16 to read as follows:

17 *“(5) dividends with respect to which section 116
18 or part VII of subchapter B applies,”.*

19 (9)(A) Section 1059(a) is amended by striking
20 “corporation” each place it appears and inserting
21 “taxpayer”.

22 (B)(i) The heading for section 1059 is amended
23 by striking “**CORPORATE**”.

24 (ii) The item relating to section 1059 in the table
25 of sections for part IV of subchapter O of chapter 1

1 is amended by striking “Corporate shareholder’s” and
2 inserting “Shareholder’s”.

3 (f) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to taxable years beginning after Decem-
5 ber 31, 2002.

6 **TITLE III—REVENUE**

7 **PROVISIONS**

8 **Subtitle A—Provisions Designed To** 9 **Curtail Tax Shelters**

10 **SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-** 11 **TRINE.**

12 (a) *IN GENERAL.*—Section 7701 is amended by redес-
13 ignating subsection (n) as subsection (o) and by inserting
14 after subsection (m) the following new subsection:

15 “(n) *CLARIFICATION OF ECONOMIC SUBSTANCE DOC-*
16 *TRINE; ETC.*—

17 “(1) *GENERAL RULES.*—

18 “(A) *IN GENERAL.*—In applying the eco-
19 nomic substance doctrine, the determination of
20 whether a transaction has economic substance
21 shall be made as provided in this paragraph.

22 “(B) *DEFINITION OF ECONOMIC SUB-*
23 *STANCE.*—For purposes of subparagraph (A)—

24 “(i) *IN GENERAL.*—A transaction has
25 economic substance only if—

1 “(I) the transaction changes in a
2 meaningful way (apart from Federal
3 tax effects) the taxpayer’s economic po-
4 sition, and

5 “(II) the taxpayer has a substan-
6 tial nontax purpose for entering into
7 such transaction and the transaction is
8 a reasonable means of accomplishing
9 such purpose.

10 *In applying subclause (II), a purpose of*
11 *achieving a financial accounting benefit*
12 *shall not be taken into account in deter-*
13 *mining whether a transaction has a sub-*
14 *stantial nontax purpose if the origin of such*
15 *financial accounting benefit is a reduction*
16 *of income tax.*

17 “(ii) *SPECIAL RULE WHERE TAXPAYER*
18 *RELIES ON PROFIT POTENTIAL.—A trans-*
19 *action shall not be treated as having eco-*
20 *nomics substance by reason of having a po-*
21 *tential for profit unless—*

22 “(I) the present value of the rea-
23 sonably expected pre-tax profit from
24 the transaction is substantial in rela-
25 tion to the present value of the expected

1 *net tax benefits that would be allowed*
2 *if the transaction were respected, and*

3 *“(II) the reasonably expected pre-*
4 *tax profit from the transaction exceeds*
5 *a risk-free rate of return.*

6 *“(C) TREATMENT OF FEES AND FOREIGN*
7 *TAXES.—Fees and other transaction expenses*
8 *and foreign taxes shall be taken into account as*
9 *expenses in determining pre-tax profit under*
10 *subparagraph (B)(ii).*

11 *“(2) SPECIAL RULES FOR TRANSACTIONS WITH*
12 *TAX-INDIFFERENT PARTIES.—*

13 *“(A) SPECIAL RULES FOR FINANCING*
14 *TRANSACTIONS.—The form of a transaction*
15 *which is in substance the borrowing of money or*
16 *the acquisition of financial capital directly or*
17 *indirectly from a tax-indifferent party shall not*
18 *be respected if the present value of the deductions*
19 *to be claimed with respect to the transaction is*
20 *substantially in excess of the present value of the*
21 *anticipated economic returns of the person lend-*
22 *ing the money or providing the financial capital.*
23 *A public offering shall be treated as a borrowing,*
24 *or an acquisition of financial capital, from a*
25 *tax-indifferent party if it is reasonably expected*

1 that at least 50 percent of the offering will be
2 placed with tax-indifferent parties.

3 “(B) *ARTIFICIAL INCOME SHIFTING AND*
4 *BASIS ADJUSTMENTS.*—The form of a trans-
5 action with a tax-indifferent party shall not be
6 respected if—

7 “(i) it results in an allocation of in-
8 come or gain to the tax-indifferent party in
9 excess of such party’s economic income or
10 gain, or

11 “(ii) it results in a basis adjustment or
12 shifting of basis on account of overstating
13 the income or gain of the tax-indifferent
14 party.

15 “(3) *DEFINITIONS AND SPECIAL RULES.*—For
16 purposes of this subsection—

17 “(A) *ECONOMIC SUBSTANCE DOCTRINE.*—
18 The term ‘economic substance doctrine’ means
19 the common law doctrine under which tax bene-
20 fits under subtitle A with respect to a trans-
21 action are not allowable if the transaction does
22 not have economic substance or lacks a business
23 purpose.

24 “(B) *TAX-INDIFFERENT PARTY.*—The term
25 ‘tax-indifferent party’ means any person or enti-

1 *ty not subject to tax imposed by subtitle A. A*
2 *person shall be treated as a tax-indifferent party*
3 *with respect to a transaction if the items taken*
4 *into account with respect to the transaction have*
5 *no substantial impact on such person’s liability*
6 *under subtitle A.*

7 “(C) *EXCEPTION FOR PERSONAL TRANS-*
8 *ACTIONS OF INDIVIDUALS.—In the case of an in-*
9 *dividual, this subsection shall apply only to*
10 *transactions entered into in connection with a*
11 *trade or business or an activity engaged in for*
12 *the production of income.*

13 “(D) *TREATMENT OF LESSORS.—A lessor of*
14 *tangible property subject to a lease shall be treat-*
15 *ed as satisfying the requirements of paragraph*
16 *(1)(B)(ii) with respect to the leased property if*
17 *such lease satisfies such requirements as provided*
18 *by the Secretary.*

19 “(4) *OTHER COMMON LAW DOCTRINES NOT AF-*
20 *FECTED.—Except as specifically provided in this sub-*
21 *section, the provisions of this subsection shall not be*
22 *construed as altering or supplanting any other rule of*
23 *law, and the requirements of this subsection shall be*
24 *construed as being in addition to any such other rule*
25 *of law.*

1 “(5) *REGULATIONS.*—*The Secretary shall pre-*
 2 *scribe such regulations as may be necessary or appro-*
 3 *priate to carry out the purposes of this subsection.*
 4 *Such regulations may include exemptions from the*
 5 *application of this subsection.”.*

6 “(b) *EFFECTIVE DATE.*—*The amendments made by this*
 7 *section shall apply to transactions entered into on or after*
 8 *May 8, 2003.*

9 ***SEC. 302. PENALTY FOR FAILING TO DISCLOSE REPORT-***
 10 ***ABLE TRANSACTION.***

11 “(a) *IN GENERAL.*—*Part I of subchapter B of chapter*
 12 *68 (relating to assessable penalties) is amended by inserting*
 13 *after section 6707 the following new section:*

14 ***“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-***
 15 ***ABLE TRANSACTION INFORMATION WITH RE-***
 16 ***TURN OR STATEMENT.***

17 “(a) *IMPOSITION OF PENALTY.*—*Any person who fails*
 18 *to include on any return or statement any information with*
 19 *respect to a reportable transaction which is required under*
 20 *section 6011 to be included with such return or statement*
 21 *shall pay a penalty in the amount determined under sub-*
 22 *section (b).*

23 “(b) *AMOUNT OF PENALTY.*—

1 “(1) *IN GENERAL.*—*Except as provided in para-*
2 *graphs (2) and (3), the amount of the penalty under*
3 *subsection (a) shall be \$50,000.*

4 “(2) *LISTED TRANSACTION.*—*The amount of the*
5 *penalty under subsection (a) with respect to a listed*
6 *transaction shall be \$100,000.*

7 “(3) *INCREASE IN PENALTY FOR LARGE ENTITIES*
8 *AND HIGH NET WORTH INDIVIDUALS.*—

9 “(A) *IN GENERAL.*—*In the case of a failure*
10 *under subsection (a) by—*

11 “(i) *a large entity, or*

12 “(ii) *a high net worth individual,*

13 *the penalty under paragraph (1) or (2) shall be*
14 *twice the amount determined without regard to*
15 *this paragraph.*

16 “(B) *LARGE ENTITY.*—*For purposes of sub-*
17 *paragraph (A), the term ‘large entity’ means,*
18 *with respect to any taxable year, a person (other*
19 *than a natural person) with gross receipts in ex-*
20 *cess of \$10,000,000 for the taxable year in which*
21 *the reportable transaction occurs or the pre-*
22 *ceding taxable year. Rules similar to the rules of*
23 *paragraph (2) and subparagraphs (B), (C), and*
24 *(D) of paragraph (3) of section 448(c) shall*
25 *apply for purposes of this subparagraph.*

1 “(C) *HIGH NET WORTH INDIVIDUAL.*—For
2 purposes of subparagraph (A), the term ‘high net
3 worth individual’ means, with respect to a re-
4 portable transaction, a natural person whose net
5 worth exceeds \$2,000,000 immediately before the
6 transaction.

7 “(c) *DEFINITIONS.*—For purposes of this section—

8 “(1) *REPORTABLE TRANSACTION.*—The term ‘re-
9 portable transaction’ means any transaction with re-
10 spect to which information is required to be included
11 with a return or statement because, as determined
12 under regulations prescribed under section 6011, such
13 transaction is of a type which the Secretary deter-
14 mines as having a potential for tax avoidance or eva-
15 sion.

16 “(2) *LISTED TRANSACTION.*—Except as provided
17 in regulations, the term ‘listed transaction’ means a
18 reportable transaction which is the same as, or sub-
19 stantially similar to, a transaction specifically identi-
20 fied by the Secretary as a tax avoidance transaction
21 for purposes of section 6011.

22 “(d) *AUTHORITY TO RESCIND PENALTY.*—

23 “(1) *IN GENERAL.*—The Commissioner of Inter-
24 nal Revenue may rescind all or any portion of any

1 *penalty imposed by this section with respect to any*
2 *violation if—*

3 *“(A) the violation is with respect to a re-*
4 *portable transaction other than a listed trans-*
5 *action,*

6 *“(B) the person on whom the penalty is im-*
7 *posed has a history of complying with the re-*
8 *quirements of this title,*

9 *“(C) it is shown that the violation is due to*
10 *an unintentional mistake of fact;*

11 *“(D) imposing the penalty would be against*
12 *equity and good conscience, and*

13 *“(E) rescinding the penalty would promote*
14 *compliance with the requirements of this title*
15 *and effective tax administration.*

16 *“(2) DISCRETION.—The exercise of authority*
17 *under paragraph (1) shall be at the sole discretion of*
18 *the Commissioner and may be delegated only to the*
19 *head of the Office of Tax Shelter Analysis. The Com-*
20 *missioner, in the Commissioner’s sole discretion, may*
21 *establish a procedure to determine if a penalty should*
22 *be referred to the Commissioner or the head of such*
23 *Office for a determination under paragraph (1).*

24 *“(3) NO APPEAL.—Notwithstanding any other*
25 *provision of law, any determination under this sub-*

1 *section may not be reviewed in any administrative or*
2 *judicial proceeding.*

3 *“(4) RECORDS.—If a penalty is rescinded under*
4 *paragraph (1), the Commissioner shall place in the*
5 *file in the Office of the Commissioner the opinion of*
6 *the Commissioner or the head of the Office of Tax*
7 *Shelter Analysis with respect to the determination,*
8 *including—*

9 *“(A) the facts and circumstances of the*
10 *transaction,*

11 *“(B) the reasons for the rescission, and*

12 *“(C) the amount of the penalty rescinded.*

13 *“(5) REPORT.—The Commissioner shall each*
14 *year report to the Committee on Ways and Means of*
15 *the House of Representatives and the Committee on*
16 *Finance of the Senate—*

17 *“(A) a summary of the total number and*
18 *aggregate amount of penalties imposed, and re-*
19 *scinded, under this section, and*

20 *“(B) a description of each penalty rescinded*
21 *under this subsection and the reasons therefor.*

22 *“(e) PENALTY REPORTED TO SEC.—In the case of a*
23 *person—*

24 *“(1) which is required to file periodic reports*
25 *under section 13 or 15(d) of the Securities Exchange*

1 *Act of 1934 or is required to be consolidated with an-*
2 *other person for purposes of such reports, and*

3 “(2) which—

4 “(A) is required to pay a penalty under
5 *this section with respect to a listed transaction,*

6 “(B) is required to pay a penalty under sec-
7 *tion 6662A with respect to any reportable trans-*
8 *action at a rate prescribed under section*
9 *6662A(c), or*

10 “(C) is required to pay a penalty under sec-
11 *tion 6662B with respect to any noneconomic*
12 *substance transaction,*

13 *the requirement to pay such penalty shall be disclosed in*
14 *such reports filed by such person for such periods as the*
15 *Secretary shall specify. Failure to make a disclosure in ac-*
16 *cordance with the preceding sentence shall be treated as a*
17 *failure to which the penalty under subsection (b)(2) applies.*

18 “(f) *COORDINATION WITH OTHER PENALTIES.—The*
19 *penalty imposed by this section is in addition to any pen-*
20 *alty imposed under this title.”.*

21 “(b) *CONFORMING AMENDMENT.—The table of sections*
22 *for part I of subchapter B of chapter 68 is amended by*
23 *inserting after the item relating to section 6707 the fol-*
24 *lowing:*

 “Sec. 6707A. *Penalty for failure to include reportable transaction*
 information with return or statement.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to returns and statements the due date*
 3 *for which is after the date of the enactment of this Act.*

4 ***SEC. 303. ACCURACY-RELATED PENALTY FOR LISTED***
 5 ***TRANSACTIONS AND OTHER REPORTABLE***
 6 ***TRANSACTIONS HAVING A SIGNIFICANT TAX***
 7 ***AVOIDANCE PURPOSE.***

8 (a) *IN GENERAL.*—*Subchapter A of chapter 68 is*
 9 *amended by inserting after section 6662 the following new*
 10 *section:*

11 ***“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY***
 12 ***ON UNDERSTATEMENTS WITH RESPECT TO***
 13 ***REPORTABLE TRANSACTIONS.***

14 “(a) *IMPOSITION OF PENALTY.*—*If a taxpayer has a*
 15 *reportable transaction understatement for any taxable year,*
 16 *there shall be added to the tax an amount equal to 20 per-*
 17 *cent of the amount of such understatement.*

18 “(b) *REPORTABLE TRANSACTION UNDERSTATE-*
 19 *MENT.*—*For purposes of this section—*

20 “(1) *IN GENERAL.*—*The term ‘reportable trans-*
 21 *action understatement’ means the sum of—*

22 “(A) *the product of—*

23 “(i) *the amount of the increase (if any)*
 24 *in taxable income which results from a dif-*
 25 *ference between the proper tax treatment of*

1 *an item to which this section applies and*
2 *the taxpayer’s treatment of such item (as*
3 *shown on the taxpayer’s return of tax), and*

4 “(i) *the highest rate of tax imposed by*
5 *section 1 (section 11 in the case of a tax-*
6 *payer which is a corporation), and*

7 “(B) *the amount of the decrease (if any) in*
8 *the aggregate amount of credits determined*
9 *under subtitle A which results from a difference*
10 *between the taxpayer’s treatment of an item to*
11 *which this section applies (as shown on the tax-*
12 *payer’s return of tax) and the proper tax treat-*
13 *ment of such item.*

14 *For purposes of subparagraph (A), any reduction of*
15 *the excess of deductions allowed for the taxable year*
16 *over gross income for such year, and any reduction*
17 *in the amount of capital losses which would (without*
18 *regard to section 1211) be allowed for such year, shall*
19 *be treated as an increase in taxable income.*

20 “(2) *ITEMS TO WHICH SECTION APPLIES.—This*
21 *section shall apply to any item which is attributable*
22 *to—*

23 “(A) *any listed transaction, and*

24 “(B) *any reportable transaction (other than*
25 *a listed transaction) if a significant purpose of*

1 *such transaction is the avoidance or evasion of*
2 *Federal income tax.*

3 “(c) *HIGHER PENALTY FOR NONDISCLOSED LISTED*
4 *AND OTHER AVOIDANCE TRANSACTIONS.*—

5 “(1) *IN GENERAL.*—*Subsection (a) shall be ap-*
6 *plied by substituting ‘30 percent’ for ‘20 percent’ with*
7 *respect to the portion of any reportable transaction*
8 *understatement with respect to which the requirement*
9 *of section 6664(d)(2)(A) is not met.*

10 “(2) *RULES APPLICABLE TO COMPROMISE OF*
11 *PENALTY.*—

12 “(A) *IN GENERAL.*—*If the 1st letter of pro-*
13 *posed deficiency which allows the taxpayer an*
14 *opportunity for administrative review in the In-*
15 *ternal Revenue Service Office of Appeals has*
16 *been sent with respect to a penalty to which*
17 *paragraph (1) applies, only the Commissioner of*
18 *Internal Revenue may compromise all or any*
19 *portion of such penalty.*

20 “(B) *APPLICABLE RULES.*—*The rules of*
21 *paragraphs (2), (3), (4), and (5) of section*
22 *6707A(d) shall apply for purposes of subpara-*
23 *graph (A).*

24 “(d) *DEFINITIONS OF REPORTABLE AND LISTED*
25 *TRANSACTIONS.*—*For purposes of this section, the terms ‘re-*

1 *portable transaction*’ and *listed transaction*’ have the re-
2 *spective meanings given to such terms by section 6707A(c).*

3 “(e) *SPECIAL RULES.—*

4 “(1) *COORDINATION WITH PENALTIES, ETC., ON*
5 *OTHER UNDERSTATEMENTS.—In the case of an under-*
6 *statement (as defined in section 6662(d)(2))—*

7 “(A) *the amount of such understatement*
8 *(determined without regard to this paragraph)*
9 *shall be increased by the aggregate amount of re-*
10 *portable transaction understatements and non-*
11 *economic substance transaction understatements*
12 *for purposes of determining whether such under-*
13 *statement is a substantial understatement under*
14 *section 6662(d)(1), and*

15 “(B) *the addition to tax under section*
16 *6662(a) shall apply only to the excess of the*
17 *amount of the substantial understatement (if*
18 *any) after the application of subparagraph (A)*
19 *over the aggregate amount of reportable trans-*
20 *action understatements and noneconomic sub-*
21 *stance transaction understatements.*

22 “(2) *COORDINATION WITH OTHER PENALTIES.—*

23 “(A) *APPLICATION OF FRAUD PENALTY.—*
24 *References to an underpayment in section 6663*
25 *shall be treated as including references to a re-*

1 *portable transaction understatement and a non-*
2 *economic substance transaction understatement.*

3 “(B) *NO DOUBLE PENALTY.*—*This section*
4 *shall not apply to any portion of an understate-*
5 *ment on which a penalty is imposed under sec-*
6 *tion 6662B or 6663.*

7 “(3) *SPECIAL RULE FOR AMENDED RETURNS.*—
8 *Except as provided in regulations, in no event shall*
9 *any tax treatment included with an amendment or*
10 *supplement to a return of tax be taken into account*
11 *in determining the amount of any reportable trans-*
12 *action understatement or noneconomic substance*
13 *transaction understatement if the amendment or sup-*
14 *plement is filed after the earlier of the date the tax-*
15 *payer is first contacted by the Secretary regarding the*
16 *examination of the return or such other date as is*
17 *specified by the Secretary.*

18 “(4) *NONECONOMIC SUBSTANCE TRANS-*
19 *ACTION UNDERSTATEMENT.*—*For purposes of this*
20 *subsection, the term ‘noneconomic substance*
21 *transaction understatement’ has the meaning*
22 *given such term by section 6662B(c).*

1 “(5) *CROSS REFERENCE.*—

**“For reporting of section 6662A(c) penalty to the
Securities and Exchange Commission, see section
6707A(e).”.**

2 (b) *DETERMINATION OF OTHER UNDERSTATE-*
3 *MENTS.*—Subparagraph (A) of section 6662(d)(2) is
4 *amended by adding at the end the following flush sentence:*

5 *“The excess under the preceding sentence shall be*
6 *determined without regard to items to which sec-*
7 *tion 6662A applies and without regard to items*
8 *with respect to which a penalty is imposed by*
9 *section 6662B.”.*

10 (c) *REASONABLE CAUSE EXCEPTION.*—

11 (1) *IN GENERAL.*—Section 6664 is amended by
12 *adding at the end the following new subsection:*

13 “(d) *REASONABLE CAUSE EXCEPTION FOR REPORT-*
14 *ABLE TRANSACTION UNDERSTATEMENTS.*—

15 *“(1) IN GENERAL.*—No penalty shall be imposed
16 *under section 6662A with respect to any portion of a*
17 *reportable transaction understatement if it is shown*
18 *that there was a reasonable cause for such portion*
19 *and that the taxpayer acted in good faith with respect*
20 *to such portion.*

21 “(2) *SPECIAL RULES.*—Paragraph (1) shall not
22 *apply to any reportable transaction understatement*
23 *unless—*

1 “(A) the relevant facts affecting the tax
2 treatment of the item are adequately disclosed in
3 accordance with the regulations prescribed under
4 section 6011,

5 “(B) there is or was substantial authority
6 for such treatment, and

7 “(C) the taxpayer reasonably believed that
8 such treatment was more likely than not the
9 proper treatment.

10 A taxpayer failing to adequately disclose in accord-
11 ance with section 6011 shall be treated as meeting the
12 requirements of subparagraph (A) if the penalty for
13 such failure was rescinded under section 6707A(d).

14 “(3) RULES RELATING TO REASONABLE BE-
15 LIEF.—For purposes of paragraph (2)(C)—

16 “(A) IN GENERAL.—A taxpayer shall be
17 treated as having a reasonable belief with respect
18 to the tax treatment of an item only if such
19 belief—

20 “(i) is based on the facts and law that
21 exist at the time the return of tax which in-
22 cludes such tax treatment is filed, and

23 “(ii) relates solely to the taxpayer’s
24 chances of success on the merits of such
25 treatment and does not take into account

1 *the possibility that a return will not be au-*
2 *dated, such treatment will not be raised on*
3 *audit, or such treatment will be resolved*
4 *through settlement if it is raised.*

5 “(B) *CERTAIN OPINIONS MAY NOT BE RE-*
6 *LIED UPON.—*

7 “(i) *IN GENERAL.—An opinion of a*
8 *tax advisor may not be relied upon to estab-*
9 *lish the reasonable belief of a taxpayer if—*

10 “(I) *the tax advisor is described*
11 *in clause (ii), or*

12 “(II) *the opinion is described in*
13 *clause (iii).*

14 “(ii) *DISQUALIFIED TAX ADVISORS.—A*
15 *tax advisor is described in this clause if the*
16 *tax advisor—*

17 “(I) *is a material advisor (within*
18 *the meaning of section 6111(b)(1)) who*
19 *participates in the organization, man-*
20 *agement, promotion, or sale of the*
21 *transaction or who is related (within*
22 *the meaning of section 267(b) or*
23 *707(b)(1)) to any person who so par-*
24 *ticipates,*

1 “(II) is compensated directly or
2 indirectly by a material advisor with
3 respect to the transaction,

4 “(III) has a fee arrangement with
5 respect to the transaction which is con-
6 tingent on all or part of the intended
7 tax benefits from the transaction being
8 sustained, or

9 “(IV) as determined under regula-
10 tions prescribed by the Secretary, has a
11 continuing financial interest with re-
12 spect to the transaction.

13 “(iii) *DISQUALIFIED OPINIONS.*—For
14 purposes of clause (i), an opinion is dis-
15 qualified if the opinion—

16 “(I) is based on unreasonable fac-
17 tual or legal assumptions (including
18 assumptions as to future events),

19 “(II) unreasonably relies on rep-
20 resentations, statements, findings, or
21 agreements of the taxpayer or any
22 other person,

23 “(III) does not identify and con-
24 sider all relevant facts, or

1 “(IV) fails to meet any other re-
2 quirement as the Secretary may pre-
3 scribe.”.

4 (2) *CONFORMING AMENDMENT.*—The heading for
5 subsection (c) of section 6664 is amended by inserting
6 “FOR UNDERPAYMENTS” after “EXCEPTION”.

7 (d) *CONFORMING AMENDMENTS.*—

8 (1) Subparagraph (C) of section 461(i)(3) is
9 amended by striking “section 6662(d)(2)(C)(iii)” and
10 inserting “section 1274(b)(3)(C)”.

11 (2) Paragraph (3) of section 1274(b) is
12 amended—

13 (A) by striking “(as defined in section
14 6662(d)(2)(C)(iii))” in subparagraph (B)(i), and

15 (B) by adding at the end the following new
16 subparagraph:

17 “(C) *TAX SHELTER.*—For purposes of sub-
18 paragraph (B), the term ‘tax shelter’ means—

19 “(i) a partnership or other entity,

20 “(ii) any investment plan or arrange-
21 ment, or

22 “(iii) any other plan or arrangement,
23 if a significant purpose of such partnership, en-
24 tity, plan, or arrangement is the avoidance or
25 evasion of Federal income tax.”.

1 (3) Section 6662(d)(2) is amended by striking
2 subparagraphs (C) and (D).

3 (4) Section 6664(c)(1) is amended by striking
4 “this part” and inserting “section 6662 or 6663”.

5 (5) Subsection (b) of section 7525 is amended by
6 striking “section 6662(d)(2)(C)(iii)” and inserting
7 “section 1274(b)(3)(C)”.

8 (6)(A) The heading for section 6662 is amended
9 to read as follows:

10 **“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY**
11 **ON UNDERPAYMENTS.”.**

12 (B) The table of sections for part II of sub-
13 chapter A of chapter 68 is amended by striking the
14 item relating to section 6662 and inserting the fol-
15 lowing new items:

 “Sec. 6662. Imposition of accuracy-related penalty on underpay-
 ments.

 “Sec. 6662A. Imposition of accuracy-related penalty on understatement-
 ments with respect to reportable transactions.”.

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

1 **SEC. 304. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 2 **UTABLE TO TRANSACTIONS LACKING ECO-**
 3 **NOMIC SUBSTANCE, ETC.**

4 (a) *IN GENERAL.*—Subchapter A of chapter 68 is
 5 amended by inserting after section 6662A the following new
 6 section:

7 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 8 **UTABLE TO TRANSACTIONS LACKING ECO-**
 9 **NOMIC SUBSTANCE, ETC.**

10 “(a) *IMPOSITION OF PENALTY.*—If a taxpayer has an
 11 noneconomic substance transaction understatement for any
 12 taxable year, there shall be added to the tax an amount
 13 equal to 40 percent of the amount of such understatement.

14 “(b) *REDUCTION OF PENALTY FOR DISCLOSED TRANS-*
 15 *ACTIONS.*—Subsection (a) shall be applied by substituting
 16 ‘20 percent’ for ‘40 percent’ with respect to the portion of
 17 any noneconomic substance transaction understatement
 18 with respect to which the relevant facts affecting the tax
 19 treatment of the item are adequately disclosed in the return
 20 or a statement attached to the return.

21 “(c) *NONECONOMIC SUBSTANCE TRANSACTION UNDER-*
 22 *STATEMENT.*—For purposes of this section—

23 “(1) *IN GENERAL.*—The term ‘noneconomic sub-

24 stance transaction understatement’ means any

25 amount which would be an understatement under sec-

26 tion 6662A(b)(1) if section 6662A were applied by

1 *taking into account items attributable to noneconomic*
2 *substance transactions rather than items to which sec-*
3 *tion 6662A would apply without regard to this para-*
4 *graph.*

5 “(2) *NONECONOMIC SUBSTANCE TRANSACTION.*—
6 *The term ‘noneconomic substance transaction’ means*
7 *any transaction if—*

8 “(A) *there is a lack of economic substance*
9 *(within the meaning of section 7701(n)(1)) for*
10 *the transaction giving rise to the claimed benefit*
11 *or the transaction was not respected under sec-*
12 *tion 7701(n)(2), or*

13 “(B) *the transaction fails to meet the re-*
14 *quirements of any similar rule of law.*

15 “(d) *RULES APPLICABLE TO COMPROMISE OF PEN-*
16 *ALTY.*—

17 “(1) *IN GENERAL.*—*If the 1st letter of proposed*
18 *deficiency which allows the taxpayer an opportunity*
19 *for administrative review in the Internal Revenue*
20 *Service Office of Appeals has been sent with respect*
21 *to a penalty to which this section applies, only the*
22 *Commissioner of Internal Revenue may compromise*
23 *all or any portion of such penalty.*

1 “(2) *APPLICABLE RULES.*—The rules of para-
 2 graphs (2), (3), (4), and (5) of section 6707A(d) shall
 3 apply for purposes of paragraph (1).

4 “(e) *COORDINATION WITH OTHER PENALTIES.*—Ex-
 5 cept as otherwise provided in this part, the penalty imposed
 6 by this section shall be in addition to any other penalty
 7 imposed by this title.

8 “(f) *CROSS REFERENCES.*—

**“(1) For coordination of penalty with understate-
 ments 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).”.**

9 (b) *CLERICAL AMENDMENT.*—The table of sections for
 10 part II of subchapter A of chapter 68 is amended by insert-
 11 ing after the item relating to section 6662A the following
 12 new item:

 “Sec. 6662B. Penalty for understatements attributable to trans-
 actions lacking economic substance, etc.”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this
 14 section shall apply to transactions entered into on or after
 15 May 8, 2003.

16 **SEC. 305. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**
 17 **MENT PENALTY FOR NONREPORTABLE**
 18 **TRANSACTIONS.**

19 (a) *SUBSTANTIAL UNDERSTATEMENT OF CORPORA-*
 20 *TIONS.*—Section 6662(d)(1)(B) (relating to special rule for
 21 corporations) is amended to read as follows:

1 “(B) *SPECIAL RULE FOR CORPORATIONS.*—
 2 *In the case of a corporation other than an S cor-*
 3 *poration or a personal holding company (as de-*
 4 *fined in section 542), there is a substantial un-*
 5 *derstatement of income tax for any taxable year*
 6 *if the amount of the understatement for the tax-*
 7 *able year exceeds the lesser of—*

8 “(i) 10 percent of the tax required to
 9 be shown on the return for the taxable year
 10 (or, if greater, \$10,000), or

11 “(ii) \$10,000,000.”

12 (b) *REDUCTION FOR UNDERSTATEMENT OF TAXPAYER*
 13 *DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.*—

14 (1) *IN GENERAL.*—Section 6662(d)(2)(B)(i) (re-
 15 *lating to substantial authority) is amended to read as*
 16 *follows:*

17 “(i) the tax treatment of any item by
 18 the taxpayer if the taxpayer had reasonable
 19 belief that the tax treatment was more likely
 20 than not the proper treatment, or”.

21 (2) *CONFORMING AMENDMENT.*—Section 6662(d)
 22 *is amended by adding at the end the following new*
 23 *paragraph:*

24 “(3) *SECRETARIAL LIST.*—For purposes of this
 25 *subsection, section 6664(d)(2), and section 6694(a)(1),*

1 *the Secretary may prescribe a list of positions for*
 2 *which the Secretary believes there is not substantial*
 3 *authority or there is no reasonable belief that the tax*
 4 *treatment is more likely than not the proper tax*
 5 *treatment. Such list (and any revisions thereof) shall*
 6 *be published in the Federal Register or the Internal*
 7 *Revenue Bulletin.”.*

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

11 **SEC. 306. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**

12 **PRIVILEGES RELATING TO TAXPAYER COM-**
 13 **MUNICATIONS.**

14 *(a) IN GENERAL.—Section 7525(b) (relating to section*
 15 *not to apply to communications regarding corporate tax*
 16 *shelters) is amended to read as follows:*

17 *“(b) SECTION NOT TO APPLY TO COMMUNICATIONS*
 18 *REGARDING TAX SHELTERS.—The privilege under sub-*
 19 *section (a) shall not apply to any written communication*
 20 *which is—*

21 *“(1) between a federally authorized tax practi-*
 22 *tioner and—*

23 *“(A) any person,*

24 *“(B) any director, officer, employee, agent,*

25 *or representative of the person, or*

1 “(C) any other person holding a capital or
2 profits interest in the person, and

3 “(2) in connection with the promotion of the di-
4 rect or indirect participation of the person in any tax
5 shelter (as defined in section 1274(b)(3)(C)).”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall apply to communications made on or after the
8 date of the enactment of this Act.

9 **SEC. 307. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

10 (a) *IN GENERAL.*—Section 6111 (relating to registra-
11 tion of tax shelters) is amended to read as follows:

12 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

13 “(a) *IN GENERAL.*—Each material advisor with re-
14 spect to any reportable transaction shall make a return (in
15 such form as the Secretary may prescribe) setting forth—

16 “(1) information identifying and describing the
17 transaction,

18 “(2) information describing any potential tax
19 benefits expected to result from the transaction, and

20 “(3) such other information as the Secretary
21 may prescribe.

22 Such return shall be filed not later than the date specified
23 by the Secretary.

24 “(b) *DEFINITIONS.*—For purposes of this section—

25 “(1) *MATERIAL ADVISOR.*—

1 “(A) *IN GENERAL.*—The term ‘material ad-
2 visor’ means any person—

3 “(i) *who provides any material aid,*
4 *assistance, or advice with respect to orga-*
5 *nizing, promoting, selling, implementing, or*
6 *carrying out any reportable transaction,*
7 *and*

8 “(ii) *who directly or indirectly derives*
9 *gross income in excess of the threshold*
10 *amount for such aid, assistance, or advice.*

11 “(B) *THRESHOLD AMOUNT.*—For purposes
12 of subparagraph (A), the threshold amount is—

13 “(i) *\$50,000 in the case of a reportable*
14 *transaction substantially all of the tax bene-*
15 *fits from which are provided to natural per-*
16 *sons, and*

17 “(ii) *\$250,000 in any other case.*

18 “(2) *REPORTABLE TRANSACTION.*—The term ‘re-
19 portable transaction’ has the meaning given to such
20 term by section 6707A(c).

21 “(c) *REGULATIONS.*—The Secretary may prescribe reg-
22 ulations which provide—

23 “(1) *that only 1 person shall be required to meet*
24 *the requirements of subsection (a) in cases in which*

1 2 or more persons would otherwise be required to meet
2 such requirements,

3 “(2) exemptions from the requirements of this
4 section, and

5 “(3) such rules as may be necessary or appro-
6 priate to carry out the purposes of this section.”.

7 (b) *CONFORMING AMENDMENTS.*—

8 (1) *The item relating to section 6111 in the table*
9 *of sections for subchapter B of chapter 61 is amended*
10 *to read as follows:*

 “Sec. 6111. Disclosure of reportable transactions.”.

11 (2)(A) *So much of section 6112 as precedes sub-*
12 *section (c) thereof is amended to read as follows:*

13 ***“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-***
14 ***ACTIONS MUST KEEP LISTS OF ADVISEES.***

15 “(a) *IN GENERAL.*—*Each material advisor (as defined*
16 *in section 6111) with respect to any reportable transaction*
17 *(as defined in section 6707A(c)) shall maintain, in such*
18 *manner as the Secretary may by regulations prescribe, a*
19 *list—*

20 “(1) *identifying each person with respect to*
21 *whom such advisor acted as such a material advisor*
22 *with respect to such transaction, and*

23 “(2) *containing such other information as the*
24 *Secretary may by regulations require.*

1 *This section shall apply without regard to whether a mate-*
 2 *rial advisor is required to file a return under section 6111*
 3 *with respect to such transaction.”.*

4 (B) *Section 6112 is amended by redesignating*
 5 *subsection (c) as subsection (b).*

6 (C) *Section 6112(b), as redesignated by subpara-*
 7 *graph (B), is amended—*

8 (i) *by inserting “written” before “request”*
 9 *in paragraph (1)(A), and*

10 (ii) *by striking “shall prescribe” in para-*
 11 *graph (2) and inserting “may prescribe”.*

12 (D) *The item relating to section 6112 in the*
 13 *table of sections for subchapter B of chapter 61 is*
 14 *amended to read as follows:*

*“Sec. 6112. Material advisors of reportable transactions must keep
 lists of advisees.”.*

15 (3)(A) *The heading for section 6708 is amended*
 16 *to read as follows:*

17 ***“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES***
 18 ***WITH RESPECT TO REPORTABLE TRANS-***
 19 ***ACTIONS.”.***

20 (B) *The item relating to section 6708 in the*
 21 *table of sections for part I of subchapter B of chapter*
 22 *68 is amended to read as follows:*

“Sec. 6708. Failure to maintain lists of advisees with respect to re-
portable transactions.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to transactions with respect to which*
3 *material aid, assistance, or advice referred to in section*
4 *6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as*
5 *added by this section) is provided after the date of the enact-*
6 *ment of this Act.*

7 **SEC. 308. MODIFICATIONS TO PENALTY FOR FAILURE TO**
8 **REGISTER TAX SHELTERS.**

9 (a) *IN GENERAL.*—*Section 6707 (relating to failure to*
10 *furnish information regarding tax shelters) is amended to*
11 *read as follows:*

12 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**
13 **ING REPORTABLE TRANSACTIONS.**

14 “(a) *IN GENERAL.*—*If a person who is required to file*
15 *a return under section 6111(a) with respect to any report-*
16 *able transaction—*

17 “(1) *fails to file such return on or before the date*
18 *prescribed therefor, or*

19 “(2) *files false or incomplete information with*
20 *the Secretary with respect to such transaction,*

21 *such person shall pay a penalty with respect to such return*
22 *in the amount determined under subsection (b).*

23 “(b) *AMOUNT OF PENALTY.*—

1 “(1) *IN GENERAL.*—*Except as provided in para-*
2 *graph (2), the penalty imposed under subsection (a)*
3 *with respect to any failure shall be \$50,000.*

4 “(2) *LISTED TRANSACTIONS.*—*The penalty im-*
5 *posed under subsection (a) with respect to any listed*
6 *transaction shall be an amount equal to the greater*
7 *of—*

8 “(A) \$200,000, or

9 “(B) 50 percent of the gross income derived
10 by such person with respect to aid, assistance, or
11 advice which is provided with respect to the list-
12 ed transaction before the date the return includ-
13 ing the transaction is filed under section 6111.

14 Subparagraph (B) shall be applied by substituting
15 ‘75 percent’ for ‘50 percent’ in the case of an inten-
16 tional failure or act described in subsection (a).

17 “(c) *RESCISSION AUTHORITY.*—*The provisions of sec-*
18 *tion 6707A(d) (relating to authority of Commissioner to re-*
19 *scind penalty) shall apply to any penalty imposed under*
20 *this section.*

21 “(d) *REPORTABLE AND LISTED TRANSACTIONS.*—*The*
22 *terms ‘reportable transaction’ and ‘listed transaction’ have*
23 *the respective meanings given to such terms by section*
24 *6707A(c).”.*

1 (b) *CLERICAL AMENDMENT.*—*The item relating to sec-*
2 *tion 6707 in the table of sections for part I of subchapter*
3 *B of chapter 68 is amended by striking “tax shelters” and*
4 *inserting “reportable transactions”.*

5 (c) *EFFECTIVE DATE.*—*The amendments made by this*
6 *section shall apply to returns the due date for which is after*
7 *the date of the enactment of this Act.*

8 **SEC. 309. MODIFICATION OF PENALTY FOR FAILURE TO**
9 **MAINTAIN LISTS OF INVESTORS.**

10 (a) *IN GENERAL.*—*Subsection (a) of section 6708 is*
11 *amended to read as follows:*

12 “(a) *IMPOSITION OF PENALTY.*—

13 “(1) *IN GENERAL.*—*If any person who is re-*
14 *quired to maintain a list under section 6112(a) fails*
15 *to make such list available upon written request to*
16 *the Secretary in accordance with section*
17 *6112(b)(1)(A) within 20 business days after the date*
18 *of the Secretary’s request, such person shall pay a*
19 *penalty of \$10,000 for each day of such failure after*
20 *such 20th day.*

21 “(2) *REASONABLE CAUSE EXCEPTION.*—*No pen-*
22 *alty shall be imposed by paragraph (1) with respect*
23 *to the failure on any day if such failure is due to rea-*
24 *sonable cause.”.*

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

4 ***SEC. 310. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN***
5 ***CONDUCT RELATED TO TAX SHELTERS AND***
6 ***REPORTABLE TRANSACTIONS.***

7 (a) *IN GENERAL.*—*Section 7408 (relating to action to*
8 *enjoin promoters of abusive tax shelters, etc.) is amended*
9 *by redesignating subsection (c) as subsection (d) and by*
10 *striking subsections (a) and (b) and inserting the following*
11 *new subsections:*

12 “(a) *AUTHORITY TO SEEK INJUNCTION.*—*A civil ac-*
13 *tion in the name of the United States to enjoin any person*
14 *from further engaging in specified conduct may be com-*
15 *menced at the request of the Secretary. Any action under*
16 *this section shall be brought in the district court of the*
17 *United States for the district in which such person resides,*
18 *has his principal place of business, or has engaged in speci-*
19 *fied conduct. The court may exercise its jurisdiction over*
20 *such action (as provided in section 7402(a)) separate and*
21 *apart from any other action brought by the United States*
22 *against such person.*

23 “(b) *ADJUDICATION AND DECREE.*—*In any action*
24 *under subsection (a), if the court finds—*

1 “(1) that the person has engaged in any specified
2 conduct, and

3 “(2) that injunctive relief is appropriate to pre-
4 vent recurrence of such conduct,

5 the court may enjoin such person from engaging in such
6 conduct or in any other activity subject to penalty under
7 this title.

8 “(c) *SPECIFIED CONDUCT.*—For purposes of this sec-
9 tion, the term ‘specified conduct’ means any action, or fail-
10 ure to take action, subject to penalty under section 6700,
11 6701, 6707, or 6708.”.

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) The heading for section 7408 is amended to
14 read as follows:

15 “**SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-**
16 **LATED TO TAX SHELTERS AND REPORTABLE**
17 **TRANSACTIONS.**”.

18 (2) The table of sections for subchapter A of
19 chapter 67 is amended by striking the item relating
20 to section 7408 and inserting the following new item:

 “Sec. 7408. Actions to enjoin specified conduct related to tax shelters and re-
 portable transactions.”.

21 (c) *EFFECTIVE DATE.*—The amendment made by this
22 section shall take effect on the day after the date of the en-
23 actment of this Act.

1 **SEC. 311. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY**
2 **INCOME TAX RETURN PREPARER.**

3 (a) *STANDARDS CONFORMED TO TAXPAYER STAND-*
4 *ARDS.*—Section 6694(a) (relating to understatements due to
5 *unrealistic positions*) is amended—

6 (1) by striking “realistic possibility of being sus-
7 tained on its merits” in paragraph (1) and inserting
8 “reasonable belief that the tax treatment in such posi-
9 tion was more likely than not the proper treatment”,

10 (2) by striking “or was frivolous” in paragraph
11 (3) and inserting “or there was no reasonable basis
12 for the tax treatment of such position”, and

13 (3) by striking “UNREALISTIC” in the heading
14 and inserting “IMPROPER”.

15 (b) *AMOUNT OF PENALTY.*—Section 6694 is
16 amended—

17 (1) by striking “\$250” in subsection (a) and in-
18 serting “\$1,000”, and

19 (2) by striking “\$1,000” in subsection (b) and
20 inserting “\$5,000”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to documents prepared after the date
23 of the enactment of this Act.

1 **SEC. 312. PENALTY ON FAILURE TO REPORT INTERESTS IN**
2 **FOREIGN FINANCIAL ACCOUNTS.**

3 (a) *IN GENERAL.*—Section 5321(a)(5) of title 31,
4 *United States Code*, is amended to read as follows:

5 “(5) *FOREIGN FINANCIAL AGENCY TRANSACTION*
6 *VIOLATION.*—

7 “(A) *PENALTY AUTHORIZED.*—*The Sec-*
8 *retary of the Treasury may impose a civil money*
9 *penalty on any person who violates, or causes*
10 *any violation of, any provision of section 5314.*

11 “(B) *AMOUNT OF PENALTY.*—

12 “(i) *IN GENERAL.*—*Except as provided*
13 *in subparagraph (C), the amount of any*
14 *civil penalty imposed under subparagraph*
15 *(A) shall not exceed \$5,000.*

16 “(ii) *REASONABLE CAUSE EXCEP-*
17 *TION.*—*No penalty shall be imposed under*
18 *subparagraph (A) with respect to any viola-*
19 *tion if—*

20 “(I) *such violation was due to*
21 *reasonable cause, and*

22 “(II) *the amount of the trans-*
23 *action or the balance in the account at*
24 *the time of the transaction was prop-*
25 *erly reported.*

1 “(C) *WILLFUL VIOLATIONS.*—*In the case of*
2 *any person willfully violating, or willfully caus-*
3 *ing any violation of, any provision of section*
4 *5314—*

5 “(i) *the maximum penalty under sub-*
6 *paragraph (B)(i) shall be increased to the*
7 *greater of—*

8 “(I) *\$25,000, or*

9 “(II) *the amount (not exceeding*
10 *\$100,000) determined under subpara-*
11 *graph (D), and*

12 “(ii) *subparagraph (B)(i) shall not*
13 *apply.*

14 “(D) *AMOUNT.*—*The amount determined*
15 *under this subparagraph is—*

16 “(i) *in the case of a violation involving*
17 *a transaction, the amount of the trans-*
18 *action, or*

19 “(ii) *in the case of a violation involv-*
20 *ing a failure to report the existence of an*
21 *account or any identifying information re-*
22 *quired to be provided with respect to an ac-*
23 *count, the balance in the account at the*
24 *time of the violation.”.*

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

4 ***SEC. 313. FRIVOLOUS TAX SUBMISSIONS.***

5 (a) *CIVIL PENALTIES.*—*Section 6702 is amended to*
6 *read as follows:*

7 ***“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.***

8 “*(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-*
9 *URNS.*—*A person shall pay a penalty of \$5,000 if—*

10 “*(1) such person files what purports to be a re-*
11 *turn of a tax imposed by this title but which—*

12 “*(A) does not contain information on which*
13 *the substantial correctness of the self-assessment*
14 *may be judged, or*

15 “*(B) contains information that on its face*
16 *indicates that the self-assessment is substantially*
17 *incorrect; and*

18 “*(2) the conduct referred to in paragraph (1)—*

19 “*(A) is based on a position which the Sec-*
20 *retary has identified as frivolous under sub-*
21 *section (c), or*

22 “*(B) reflects a desire to delay or impede the*
23 *administration of Federal tax laws.*

24 “*(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUB-*
25 *MISSIONS.*—

1 “(1) *IMPOSITION OF PENALTY.*—*Except as pro-*
2 *vided in paragraph (3), any person who submits a*
3 *specified frivolous submission shall pay a penalty of*
4 *\$5,000.*

5 “(2) *SPECIFIED FRIVOLOUS SUBMISSION.*—*For*
6 *purposes of this section—*

7 “(A) *SPECIFIED FRIVOLOUS SUBMISSION.*—
8 *The term ‘specified frivolous submission’ means*
9 *a specified submission if any portion of such*
10 *submission—*

11 “(i) *is based on a position which the*
12 *Secretary has identified as frivolous under*
13 *subsection (c), or*

14 “(ii) *reflects a desire to delay or im-*
15 *pede the administration of Federal tax*
16 *laws.*

17 “(B) *SPECIFIED SUBMISSION.*—*The term*
18 *‘specified submission’ means—*

19 “(i) *a request for a hearing under—*

20 “(I) *section 6320 (relating to no-*
21 *tice and opportunity for hearing upon*
22 *filing of notice of lien), or*

23 “(II) *section 6330 (relating to no-*
24 *tice and opportunity for hearing before*
25 *levy), and*

1 “(ii) an application under—

2 “(I) section 6159 (relating to
3 agreements for payment of tax liability
4 in installments),

5 “(II) section 7122 (relating to
6 compromises), or

7 “(III) section 7811 (relating to
8 taxpayer assistance orders).

9 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
10 SION.—If the Secretary provides a person with notice
11 that a submission is a specified frivolous submission
12 and such person withdraws such submission within
13 30 days after such notice, the penalty imposed under
14 paragraph (1) shall not apply with respect to such
15 submission.

16 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
17 retary shall prescribe (and periodically revise) a list of posi-
18 tions which the Secretary has identified as being frivolous
19 for purposes of this subsection. The Secretary shall not in-
20 clude in such list any position that the Secretary deter-
21 mines meets the requirement of section
22 6662(d)(2)(B)(ii)(II).

23 “(d) REDUCTION OF PENALTY.—The Secretary may
24 reduce the amount of any penalty imposed under this sec-
25 tion if the Secretary determines that such reduction would

1 *promote compliance with and administration of the Federal*
 2 *tax laws.*

3 “(e) *PENALTIES IN ADDITION TO OTHER PEN-*
 4 *ALTIES.—The penalties imposed by this section shall be in*
 5 *addition to any other penalty provided by law.”.*

6 (b) *TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-*
 7 *INGS BEFORE LEVY.—*

8 (1) *FRIVOLOUS REQUESTS DISREGARDED.—Sec-*
 9 *tion 6330 (relating to notice and opportunity for*
 10 *hearing before levy) is amended by adding at the end*
 11 *the following new subsection:*

12 “(g) *FRIVOLOUS REQUESTS FOR HEARING, ETC.—*
 13 *Notwithstanding any other provision of this section, if the*
 14 *Secretary determines that any portion of a request for a*
 15 *hearing under this section or section 6320 meets the require-*
 16 *ment of clause (i) or (ii) of section 6702(b)(2)(A), then the*
 17 *Secretary may treat such portion as if it were never sub-*
 18 *mitted and such portion shall not be subject to any further*
 19 *administrative or judicial review.”.*

20 (2) *PRECLUSION FROM RAISING FRIVOLOUS*
 21 *ISSUES AT HEARING.—Section 6330(c)(4) is*
 22 *amended—*

23 (A) *by striking “(A)” and inserting*
 24 *“(A)(i)”;*

25 (B) *by striking “(B)” and inserting “(ii)”;*

1 (C) by striking the period at the end of the
2 first sentence and inserting “; or”; and

3 (D) by inserting after subparagraph (A)(ii)
4 (as so redesignated) the following:

5 “(B) the issue meets the requirement of
6 clause (i) or (ii) of section 6702(b)(2)(A).”.

7 (3) STATEMENT OF GROUNDS.—Section
8 6330(b)(1) is amended by striking “under subsection
9 (a)(3)(B)” and inserting “in writing under subsection
10 (a)(3)(B) and states the grounds for the requested
11 hearing”.

12 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-
13 INGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is
14 amended—

15 (1) in subsection (b)(1), by striking “under sub-
16 section (a)(3)(B)” and inserting “in writing under
17 subsection (a)(3)(B) and states the grounds for the re-
18 quested hearing”, and

19 (2) in subsection (c), by striking “and (e)” and
20 inserting “(e), and (g)”.

21 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
22 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
23 MENTS.—Section 7122 is amended by adding at the end
24 the following new subsection:

1 “(e) *FRIVOLOUS SUBMISSIONS, ETC.*—Notwith-
2 *standing any other provision of this section, if the Secretary*
3 *determines that any portion of an application for an offer-*
4 *in-compromise or installment agreement submitted under*
5 *this section or section 6159 meets the requirement of clause*
6 *(i) or (ii) of section 6702(b)(2)(A), then the Secretary may*
7 *treat such portion as if it were never submitted and such*
8 *portion shall not be subject to any further administrative*
9 *or judicial review.”.*

10 (e) *CLERICAL AMENDMENT.*—*The table of sections for*
11 *part I of subchapter B of chapter 68 is amended by striking*
12 *the item relating to section 6702 and inserting the following*
13 *new item:*

“Sec. 6702. Frivolous tax submissions.”.

14 (f) *EFFECTIVE DATE.*—*The amendments made by this*
15 *section shall apply to submissions made and issues raised*
16 *after the date on which the Secretary first prescribes a list*
17 *under section 6702(c) of the Internal Revenue Code of 1986,*
18 *as amended by subsection (a).*

19 **SEC. 314. PENALTY ON PROMOTERS OF TAX SHELTERS.**

20 (a) *PENALTY ON PROMOTING ABUSIVE TAX SHEL-*
21 *TERS.*—*Section 6700(a) is amended by adding at the end*
22 *the following new sentence: “Notwithstanding the first sen-*
23 *tence, if an activity with respect to which a penalty im-*
24 *posed under this subsection involves a statement described*
25 *in paragraph (2)(A), the amount of the penalty shall be*

1 *equal to 50 percent of the gross income derived (or to be*
 2 *derived) from such activity by the person on which the pen-*
 3 *alty is imposed.”.*

4 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 5 *section shall apply to activities after the date of the enact-*
 6 *ment of this Act.*

7 **SEC. 315. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**
 8 **FOR WHICH LISTED TRANSACTIONS NOT RE-**
 9 **PORTED.**

10 (a) *IN GENERAL.*—*Section 6501(e)(1) (relating to sub-*
 11 *stantial omission of items for income taxes) is amended by*
 12 *adding at the end the following new subparagraph:*

13 “(C) *LISTED TRANSACTIONS.*—*If a taxpayer*
 14 *fails to include on any return or statement for*
 15 *any taxable year any information with respect*
 16 *to a listed transaction (as defined in section*
 17 *6707A(c)(2)) which is required under section*
 18 *6011 to be included with such return or state-*
 19 *ment, the tax for such taxable year may be as-*
 20 *essed, or a proceeding in court for collection of*
 21 *such tax may be begun without assessment, at*
 22 *any time within 6 years after the time the re-*
 23 *turn is filed. This subparagraph shall not apply*
 24 *to any taxable year if the time for assessment or*
 25 *beginning the proceeding in court has expired be-*

1 *fore the time a transaction is treated as a listed*
2 *transaction under section 6011.”.*

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

6 **SEC. 316. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
7 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**
8 **CLOSED REPORTABLE AND NONECONOMIC**
9 **SUBSTANCE TRANSACTIONS.**

10 **(a) IN GENERAL.**—*Section 163 (relating to deduction*
11 *for interest) is amended by redesignating subsection (m) as*
12 *subsection (n) and by inserting after subsection (l) the fol-*
13 *lowing new subsection:*

14 **“(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO**
15 **NONDISCLOSED REPORTABLE TRANSACTIONS AND NON-**
16 **ECONOMIC SUBSTANCE TRANSACTIONS.**—*No deduction shall*
17 *be allowed under this chapter for any interest paid or ac-*
18 *rued under section 6601 on any underpayment of tax*
19 *which is attributable to—*

20 **“(1) the portion of any reportable transaction**
21 *understatement (as defined in section 6662A(b)) with*
22 *respect to which the requirement of section*
23 **6664(d)(2)(A) is not met, or**

24 **“(2) any noneconomic substance transaction un-**
25 *derstatement (as defined in section 6662B(c)).”.*

1 (b) *EFFECTIVE DATE.*—The amendments made by this
2 section shall apply to transactions in taxable years begin-
3 ning after the date of the enactment of this Act.

4 ***Subtitle B—Enron-Related Tax***
5 ***Shelter Provisions***

6 ***SEC. 321. LIMITATION ON TRANSFER OR IMPORTATION OF***
7 ***BUILT-IN LOSSES.***

8 (a) *IN GENERAL.*—Section 362 (relating to basis to
9 corporations) is amended by adding at the end the following
10 new subsection:

11 “(e) *LIMITATIONS ON BUILT-IN LOSSES.*—

12 “(1) *LIMITATION ON IMPORTATION OF BUILT-IN*
13 *LOSSES.*—

14 “(A) *IN GENERAL.*—If in any transaction
15 described in subsection (a) or (b) there would
16 (but for this subsection) be an importation of a
17 net built-in loss, the basis of each property de-
18 scribed in subparagraph (B) which is acquired
19 in such transaction shall (notwithstanding sub-
20 sections (a) and (b)) be its fair market value im-
21 mediately after such transaction.

22 “(B) *PROPERTY DESCRIBED.*—For purposes
23 of subparagraph (A), property is described in
24 this subparagraph if—

1 “(i) gain or loss with respect to such
2 property is not subject to tax under this
3 subtitle in the hands of the transferor imme-
4 diately before the transfer, and

5 “(ii) gain or loss with respect to such
6 property is subject to such tax in the hands
7 of the transferee immediately after such
8 transfer.

9 *In any case in which the transferor is a partner-*
10 *ship, the preceding sentence shall be applied by*
11 *treating each partner in such partnership as*
12 *holding such partner’s proportionate share of the*
13 *property of such partnership.*

14 “(C) *IMPORTATION OF NET BUILT-IN*
15 *LOSS.—For purposes of subparagraph (A), there*
16 *is an importation of a net built-in loss in a*
17 *transaction if the transferee’s aggregate adjusted*
18 *bases of property described in subparagraph (B)*
19 *which is transferred in such transaction would*
20 *(but for this paragraph) exceed the fair market*
21 *value of such property immediately after such*
22 *transaction.”.*

23 “(2) *LIMITATION ON TRANSFER OF BUILT-IN*
24 *LOSSES IN SECTION 351 TRANSACTIONS.—*

25 “(A) *IN GENERAL.—If—*

1 “(i) property is transferred by a trans-
2 feror in any transaction which is described
3 in subsection (a) and which is not described
4 in paragraph (1) of this subsection, and

5 “(ii) the transferee’s aggregate adjusted
6 bases of such property so transferred would
7 (but for this paragraph) exceed the fair
8 market value of such property immediately
9 after such transaction,

10 then, notwithstanding subsection (a), the trans-
11 feree’s aggregate adjusted bases of the property so
12 transferred shall not exceed the fair market value
13 of such property immediately after such trans-
14 action.

15 “(B) ALLOCATION OF BASIS REDUCTION.—

16 The aggregate reduction in basis by reason of
17 subparagraph (A) shall be allocated among the
18 property so transferred in proportion to their re-
19 spective built-in losses immediately before the
20 transaction.

21 “(C) EXCEPTION FOR TRANSFERS WITHIN
22 AFFILIATED GROUP.—Subparagraph (A) shall
23 not apply to any transaction if the transferor
24 owns stock in the transferee meeting the require-
25 ments of section 1504(a)(2). In the case of prop-

1 *erty to which subparagraph (A) does not apply*
2 *by reason of the preceding sentence, the trans-*
3 *feror's basis in the stock received for such prop-*
4 *erty shall not exceed its fair market value imme-*
5 *diately after the transfer.”.*

6 (b) *COMPARABLE TREATMENT WHERE LIQUIDA-*
7 *TION.—Paragraph (1) of section 334(b) (relating to liquida-*
8 *tion of subsidiary) is amended to read as follows:*

9 “(1) *IN GENERAL.—If property is received by a*
10 *corporate distributee in a distribution in a complete*
11 *liquidation to which section 332 applies (or in a*
12 *transfer described in section 337(b)(1)), the basis of*
13 *such property in the hands of such distributee shall*
14 *be the same as it would be in the hands of the trans-*
15 *feror; except that the basis of such property in the*
16 *hands of such distributee shall be the fair market*
17 *value of the property at the time of the distribution—*

18 *“(A) in any case in which gain or loss is*
19 *recognized by the liquidating corporation with*
20 *respect to such property, or*

21 *“(B) in any case in which the liquidating*
22 *corporation is a foreign corporation, the cor-*
23 *porate distributee is a domestic corporation, and*
24 *the corporate distributee's aggregate adjusted*
25 *bases of property described in section*

1 362(e)(1)(B) which is distributed in such liq-
2 uidation would (but for this subparagraph) ex-
3 ceed the fair market value of such property im-
4 mediately after such liquidation.”.

5 (c) *EFFECTIVE DATE.*—The amendments made by this
6 section shall apply to transactions after February 13, 2003.

7 **SEC. 322. NO REDUCTION OF BASIS UNDER SECTION 734 IN**
8 **STOCK HELD BY PARTNERSHIP IN COR-**
9 **PORATE PARTNER.**

10 (a) *IN GENERAL.*—Section 755 is amended by adding
11 at the end the following new subsection:

12 “(c) *NO ALLOCATION OF BASIS DECREASE TO STOCK*
13 *OF CORPORATE PARTNER.*—In making an allocation under
14 subsection (a) of any decrease in the adjusted basis of part-
15 nership property under section 734(b)—

16 “(1) no allocation may be made to stock in a
17 corporation (or any person which is related (within
18 the meaning of section 267(b) or 707(b)(1)) to such
19 corporation) which is a partner in the partnership,
20 and

21 “(2) any amount not allocable to stock by reason
22 of paragraph (1) shall be allocated under subsection
23 (a) to other partnership property.

24 Gain shall be recognized to the partnership to the extent
25 that the amount required to be allocated under paragraph

1 (2) to other partnership property exceeds the aggregate ad-
2 justed basis of such other property immediately before the
3 allocation required by paragraph (2).”.

4 (b) *EFFECTIVE DATE.*—The amendment made by this
5 section shall apply to distributions after February 13, 2003.

6 **SEC. 323. REPEAL OF SPECIAL RULES FOR FASITS.**

7 (a) *IN GENERAL.*—Part V of subchapter M of chapter
8 1 (relating to financial asset securitization investment
9 trusts) is hereby repealed.

10 (b) *CONFORMING AMENDMENTS.*—

11 (1) Paragraph (6) of section 56(g) is amended by
12 striking “REMIC, or FASIT” and inserting “or
13 REMIC”.

14 (2) Clause (ii) of section 382(l)(4)(B) is amended
15 by striking “a REMIC to which part IV of subchapter
16 M applies, or a FASIT to which part V of subchapter
17 M applies,” and inserting “or a REMIC to which
18 part IV of subchapter M applies,”.

19 (3) Paragraph (1) of section 582(c) is amended
20 by striking “, and any regular interest in a FASIT,”.

21 (4) Subparagraph (E) of section 856(c)(5) is
22 amended by striking the last sentence.

23 (5) Paragraph (5) of section 860G(a) is amended
24 by adding “and” at the end of subparagraph (B), by

1 *striking “, and” at the end of subparagraph (C) and*
2 *inserting a period, and by striking subparagraph (D).*

3 (6) *Subparagraph (C) of section 1202(e)(4) is*
4 *amended by striking “REMIC, or FASIT” and in-*
5 *serting “or REMIC”.*

6 (7) *Subparagraph (C) of section 7701(a)(19) is*
7 *amended by adding “and” at the end of clause (ix),*
8 *by striking “, and” at the end of clause (x) and in-*
9 *serting a period, and by striking clause (xi).*

10 (8) *The table of parts for subchapter M of chap-*
11 *ter 1 is amended by striking the item relating to part*
12 *V.*

13 (c) *EFFECTIVE DATE.—*

14 (1) *IN GENERAL.—Except as provided in para-*
15 *graph (2), the amendments made by this section shall*
16 *take effect on February 14, 2003.*

17 (2) *EXCEPTION FOR EXISTING FASITS.—The*
18 *amendments made by this section shall not apply to*
19 *any FASIT in existence on the date of the enactment*
20 *of this Act to the extent that regular interests issued*
21 *by the FASIT before such date continue to remain*
22 *outstanding in accordance with the original terms of*
23 *issuance of such interests.*

1 **SEC. 324. EXPANDED DISALLOWANCE OF DEDUCTION FOR**
2 **INTEREST ON CONVERTIBLE DEBT.**

3 (a) *IN GENERAL.*—Paragraph (2) of section 163(l) is
4 amended by striking “or a related party” and inserting “or
5 equity held by the issuer (or any related party) in any other
6 person”.

7 (b) *EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED*
8 *BY DEALERS IN SECURITIES.*—Section 163(l) is amended
9 by redesignating paragraphs (4) and (5) as paragraphs (5)
10 and (6) and by inserting after paragraph (3) the following
11 new paragraph:

12 “(4) *EXCEPTION FOR CERTAIN INSTRUMENTS*
13 *ISSUED BY DEALERS IN SECURITIES.*—For purposes
14 of this subsection, the term ‘disqualified debt instru-
15 ment’ does not include indebtedness issued by a dealer
16 in securities (or a related party) which is payable in,
17 or by reference to, equity (other than equity of the
18 issuer or a related party) held by such dealer in its
19 capacity as a dealer in securities. For purposes of
20 this paragraph, the term ‘dealer in securities’ has the
21 meaning given such term by section 475.”.

22 (c) *CONFORMING AMENDMENT.*—Paragraph (3) of sec-
23 tion 163(l) is amended by striking “or a related party” in
24 the material preceding subparagraph (A) and inserting “or
25 any other person”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to debt instruments issued after Feb-*
3 *ruary 13, 2003.*

4 **SEC. 325. EXPANDED AUTHORITY TO DISALLOW TAX BENE-**
5 **FITS UNDER SECTION 269.**

6 (a) *IN GENERAL.*—*Subsection (a) of section 269 (relat-*
7 *ing to acquisitions made to evade or avoid income tax) is*
8 *amended to read as follows:*

9 “(a) *IN GENERAL.*—*If—*

10 “(1)(A) *any person acquires stock in a corpora-*
11 *tion, or*

12 “(B) *any corporation acquires, directly or indi-*
13 *rectly, property of another corporation and the basis*
14 *of such property, in the hands of the acquiring cor-*
15 *poration, is determined by reference to the basis in*
16 *the hands of the transferor corporation, and*

17 “(2) *the principal purpose for which such acqui-*
18 *sition was made is evasion or avoidance of Federal*
19 *income tax by securing the benefit of a deduction,*
20 *credit, or other allowance,*

21 *then the Secretary may disallow such deduction, credit, or*
22 *other allowance.”.*

23 (b) *EFFECTIVE DATE.*—*The amendment made by this*
24 *section shall apply to stock and property acquired after*
25 *February 13, 2003.*

1 **SEC. 326. MODIFICATIONS OF CERTAIN RULES RELATING**
2 **TO CONTROLLED FOREIGN CORPORATIONS.**

3 (a) *LIMITATION ON EXCEPTION FROM PFIC RULES*
4 *FOR UNITED STATES SHAREHOLDERS OF CONTROLLED*
5 *FOREIGN CORPORATIONS.*—Paragraph (2) of section
6 1297(e) (relating to passive investment company) is amend-
7 ed by adding at the end the following flush sentence:

8 “Such term shall not include any period if there is
9 only a remote likelihood of an inclusion in gross in-
10 come under section 951(a)(1)(A)(i) of subpart F in-
11 come of such corporation for such period.”.

12 (b) *EFFECTIVE DATE.*—The amendment made by this
13 section shall apply to taxable years on controlled foreign
14 corporation beginning after February 13, 2003, and to tax-
15 able years of United States shareholder in which or with
16 which such taxable years of controlled foreign corporations
17 end.

18 **SEC. 327. CONTROLLED ENTITIES INELIGIBLE FOR REIT**
19 **STATUS.**

20 (a) *IN GENERAL.*—Subsection (a) of section 856 (relat-
21 ing to definition of real estate investment trust) is amended
22 by striking “and” at the end of paragraph (6), by redesign-
23 ating paragraph (7) as paragraph (8), and by inserting
24 after paragraph (6) the following new paragraph:

25 “(7) which is not a controlled entity (as defined
26 in subsection (l)); and”.

1 (b) *CONTROLLED ENTITY*.—Section 856 is amended by
2 adding at the end the following new subsection:

3 “(l) *CONTROLLED ENTITY*.—

4 “(1) *IN GENERAL*.—For purposes of subsection
5 (a)(7), an entity is a controlled entity if, at any time
6 during the taxable year, one person (other than a
7 qualified entity)—

8 “(A) in the case of a corporation, owns
9 stock—

10 “(i) possessing at least 50 percent of
11 the total voting power of the stock of such
12 corporation, or

13 “(ii) having a value equal to at least
14 50 percent of the total value of the stock of
15 such corporation, or

16 “(B) in the case of a trust, owns beneficial
17 interests in the trust which would meet the re-
18 quirements of subparagraph (A) if such interests
19 were stock.

20 “(2) *QUALIFIED ENTITY*.—For purposes of para-
21 graph (1), the term ‘qualified entity’ means—

22 “(A) any real estate investment trust, and

23 “(B) any partnership in which one real es-
24 tate investment trust owns at least 50 percent of

1 *the capital and profits interests in the partner-*
2 *ship.*

3 “(3) *ATTRIBUTION RULES.*—*For purposes of this*
4 *paragraphs (1) and (2)—*

5 “(A) *IN GENERAL.*—*Rules similar to the*
6 *rules of subsections (d)(5) and (h)(3) shall apply;*
7 *except that section 318(a)(3)(C) shall not be ap-*
8 *plied under such rules to treat stock owned by a*
9 *qualified entity as being owned by a person*
10 *which is not a qualified entity.*

11 “(B) *STAPLED ENTITIES.*—*A group of enti-*
12 *ties which are stapled entities (as defined in sec-*
13 *tion 269B(c)(2)) shall be treated as one person.*

14 “(4) *EXCEPTION FOR CERTAIN NEW REITS.*—

15 “(A) *IN GENERAL.*—*The term ‘controlled en-*
16 *tity’ shall not include an incubator REIT.*

17 “(B) *INCUBATOR REIT.*—*A corporation*
18 *shall be treated as an incubator REIT for any*
19 *taxable year during the eligibility period if it*
20 *meets all the following requirements for such*
21 *year:*

22 “(i) *The corporation elects to be treated*
23 *as an incubator REIT.*

24 “(ii) *The corporation has only voting*
25 *common stock outstanding.*

1 “(iii) Not more than 50 percent of the
2 corporation’s real estate assets consist of
3 mortgages.

4 “(iv) From not later than the begin-
5 ning of the last half of the second taxable
6 year, at least 10 percent of the corporation’s
7 capital is provided by lenders or equity in-
8 vestors who are unrelated to the corpora-
9 tion’s largest shareholder.

10 “(v) The corporation annually in-
11 creases the value of its real estate assets by
12 at least 10 percent.

13 “(vi) The directors of the corporation
14 adopt a resolution setting forth an intent to
15 engage in a going public transaction.

16 No election may be made with respect to any
17 REIT if an election under this subsection was in
18 effect for any predecessor of such REIT.

19 “(C) *ELIGIBILITY PERIOD.*—

20 “(i) *IN GENERAL.*—The eligibility pe-
21 riod (for which an incubator REIT election
22 can be made) begins with the REIT’s second
23 taxable year and ends at the close of the
24 REIT’s third taxable year, except that the
25 REIT may, subject to clauses (ii), (iii), and

1 *(iv), elect to extend such period for an addi-*
2 *tional 2 taxable years.*

3 “(ii) *GOING PUBLIC TRANSACTION.—A*
4 *REIT may not elect to extend the eligibility*
5 *period under clause (i) unless it enters into*
6 *an agreement with the Secretary that if it*
7 *does not engage in a going public trans-*
8 *action by the end of the extended eligibility*
9 *period, it shall pay Federal income taxes*
10 *for the 2 years of the extended eligibility pe-*
11 *riod as if it had not made an incubator*
12 *REIT election and had ceased to qualify as*
13 *a REIT for those 2 taxable years.*

14 “(iii) *RETURNS, INTEREST, AND NO-*
15 *TICE.—*

16 “(I) *RETURNS.—In the event the*
17 *corporation ceases to be treated as a*
18 *REIT by operation of clause (ii), the*
19 *corporation shall file any appropriate*
20 *amended returns reflecting the change*
21 *in status within 3 months of the close*
22 *of the extended eligibility period.*

23 “(II) *INTEREST.—Interest shall be*
24 *payable on any tax imposed by reason*
25 *of clause (ii) for any taxable year but,*

1 *unless there was a finding under sub-*
2 *paragraph (D), no substantial under-*
3 *payment penalties shall be imposed.*

4 “(III) NOTICE.—*The corporation*
5 *shall, at the same time it files its re-*
6 *turns under subclause (I), notify its*
7 *shareholders and any other persons*
8 *whose tax position is, or may reason-*
9 *ably be expected to be, affected by the*
10 *change in status so they also may file*
11 *any appropriate amended returns to*
12 *conform their tax treatment consistent*
13 *with the corporation’s loss of REIT*
14 *status.*

15 “(IV) REGULATIONS.—*The Sec-*
16 *retary shall provide appropriate regu-*
17 *lations setting forth transferee liability*
18 *and other provisions to ensure collec-*
19 *tion of tax and the proper administra-*
20 *tion of this provision.*

21 “(iv) *Clauses (ii) and (iii) shall not*
22 *apply if the corporation allows its incu-*
23 *bator REIT status to lapse at the end of the*
24 *initial 2-year eligibility period without en-*
25 *gaging in a going public transaction if the*

1 *corporation is not a controlled entity as of*
2 *the beginning of its fourth taxable year. In*
3 *such a case, the corporation’s directors may*
4 *still be liable for the penalties described in*
5 *subparagraph (D) during the eligibility pe-*
6 *riod.*

7 *“(D) SPECIAL PENALTIES.—If the Secretary*
8 *determines that an incubator REIT election was*
9 *filed for a principal purpose other than as part*
10 *of a reasonable plan to undertake a going public*
11 *transaction, an excise tax of \$20,000 shall be im-*
12 *posed on each of the corporation’s directors for*
13 *each taxable year for which an election was in*
14 *effect.*

15 *“(E) GOING PUBLIC TRANSACTION.—For*
16 *purposes of this paragraph, a going public trans-*
17 *action means—*

18 *“(i) a public offering of shares of the*
19 *stock of the incubator REIT;*

20 *“(ii) a transaction, or series of trans-*
21 *actions, that results in the stock of the incu-*
22 *bator REIT being regularly traded on an*
23 *established securities market and that re-*
24 *sults in at least 50 percent of such stock*
25 *being held by shareholders who are unre-*

1 lated to persons who held such stock before
2 it began to be so regularly traded; or

3 “(iii) any transaction resulting in
4 ownership of the REIT by 200 or more per-
5 sons (excluding the largest single share-
6 holder) who in the aggregate own at least 50
7 percent of the stock of the REIT.

8 For the purposes of this subparagraph, the rules
9 of paragraph (3) shall apply in determining the
10 ownership of stock.

11 “(F) DEFINITIONS.—The term ‘established
12 securities market’ shall have the meaning set
13 forth in the regulations under section 897.”.

14 (c) CONFORMING AMENDMENT.—Paragraph (2) of sec-
15 tion 856(h) is amended by striking “and (6)” each place
16 it appears and inserting “, (6), and (7)”.

17 (d) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall apply to taxable years ending after
20 May 8, 2003.

21 (2) EXCEPTION FOR EXISTING CONTROLLED EN-
22 TITIES.—The amendments made by this section shall
23 not apply to any entity which is a controlled entity
24 (as defined in section 856(l) of the Internal Revenue
25 Code of 1986, as added by this section) as of May 8,

1 2003, which is a real estate investment trust for the
 2 taxable year which includes such date, and which has
 3 significant business assets or activities as of such
 4 date. For purposes of the preceding sentence, an enti-
 5 ty shall be treated as such a controlled entity on May
 6 8, 2003, if it becomes such an entity after such date
 7 in a transaction—

8 (A) made pursuant to a written agreement
 9 which was binding on such date and at all times
 10 thereafter, or

11 (B) described on or before such date in a fil-
 12 ing with the Securities and Exchange Commis-
 13 sion required solely by reason of the transaction.

14 ***Subtitle C—Other Corporate***
 15 ***Governance Provisions***

16 ***PART I—GENERAL PROVISIONS***

17 ***SEC. 331. AFFIRMATION OF CONSOLIDATED RETURN REGU-***
 18 ***LATION AUTHORITY.***

19 (a) *IN GENERAL.*—Section 1502 (relating to consoli-
 20 dated return regulations) is amended by adding at the end
 21 the following new sentence: “In prescribing such regula-
 22 tions, the Secretary may prescribe rules applicable to cor-
 23 porations filing consolidated returns under section 1501
 24 that are different from other provisions of this title that
 25 would apply if such corporations filed separate returns.”.

1 (b) *RESULT NOT OVERTURNED.*—Notwithstanding
2 subsection (a), the Internal Revenue Code of 1986 shall be
3 construed by treating Treasury regulation § 1.1502–
4 20(c)(1)(iii) (as in effect on January 1, 2001) as being in-
5 applicable to the type of factual situation in 255 F.3d 1357
6 (*Fed. Cir.* 2001).

7 (c) *EFFECTIVE DATE.*—The provisions of this section
8 shall apply to taxable years beginning before, on, or after
9 the date of the enactment of this Act.

10 ***SEC. 332. SIGNING OF CORPORATE TAX RETURNS BY CHIEF***
11 ***EXECUTIVE OFFICER.***

12 (a) *IN GENERAL.*—Section 6062 (relating to signing
13 of corporation returns) is amended by striking the first sen-
14 tence and inserting the following new sentence: “The return
15 of a corporation with respect to income shall be signed by
16 the chief executive officer of such corporation (or other such
17 officer of the corporation as the Secretary may designate
18 if the corporation does not have a chief executive officer).
19 The preceding sentence shall not apply to any return of a
20 regulated investment company (within the meaning of sec-
21 tion 851).”.

22 (b) *EFFECTIVE DATE.*—The amendment made by this
23 section shall apply to returns filed after the date of the en-
24 actment of this Act.

1 **SEC. 333. 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 (3) in relation to the violation*
13 *of any law or the investigation or inquiry into the*
14 *potential violation of any law.*

15 “(2) *EXCEPTION FOR AMOUNTS CONSTITUTING*
16 *RESTITUTION.*—Paragraph (1) shall not apply to any
17 *amount which the taxpayer establishes constitutes res-*
18 *titution for damage or harm caused by the violation*
19 *of any law or the potential violation of any law. This*
20 *paragraph shall not apply to any amount paid or in-*
21 *curred as reimbursement to the government or entity*
22 *for the costs of any investigation or litigation.*

23 “(3) *CERTAIN NONGOVERNMENTAL REGULATORY*
24 *ENTITIES.*—An entity is described in this paragraph
25 *if it is—*

1 “(A) a nongovernmental entity which exer-
2 cises self-regulatory powers (including imposing
3 sanctions) in connection with a qualified board
4 or exchange (as defined in section 1256(g)(7)), or

5 “(B) to the extent provided in regulations,
6 a nongovernmental entity which exercises self-
7 regulatory powers (including imposing sanc-
8 tions) as part of performing an essential govern-
9 mental function.”.

10 (b) *EFFECTIVE DATE.*—The amendment made by this
11 section shall apply to amounts paid or incurred after April
12 27, 2003, except that such amendment shall not apply to
13 amounts paid or incurred under any binding order or
14 agreement entered into on or before April 27, 2003. Such
15 exception shall not apply to an order or agreement requir-
16 ing court approval unless the approval was obtained on or
17 before April 27, 2003.

18 **SEC. 334. DISALLOWANCE OF DEDUCTION FOR PUNITIVE**
19 **DAMAGES.**

20 (a) *DISALLOWANCE OF DEDUCTION.*—

21 (1) *IN GENERAL.*—Section 162(g) (relating to
22 treble damage payments under the antitrust laws) is
23 amended by adding at the end the following new
24 paragraph:

1 “(2) *PUNITIVE DAMAGES*.—No deduction shall be
 2 allowed under this chapter for any amount paid or
 3 incurred for punitive damages in connection with
 4 any judgment in, or settlement of, any action. This
 5 paragraph shall not apply to punitive damages de-
 6 scribed in section 104(c).”.

7 (2) *CONFORMING AMENDMENTS*.—

8 (A) *Section 162(g) is amended—*

9 (i) *by striking “If” and inserting:*

10 “(1) *TREBLE DAMAGES*.—If”, and

11 (ii) *by redesignating paragraphs (1)*

12 and (2) *as subparagraphs (A) and (B), re-*
 13 *spectively.*

14 (B) *The heading for section 162(g) is*
 15 *amended by inserting “OR PUNITIVE DAMAGES”*
 16 *after “LAWS”.*

17 (b) *INCLUSION IN INCOME OF PUNITIVE DAMAGES*
 18 *PAID BY INSURER OR OTHERWISE*.—

19 (1) *IN GENERAL*.—*Part II of subchapter B of*
 20 *chapter 1 (relating to items specifically included in*
 21 *gross income) is amended by adding at the end the*
 22 *following new section:*

1 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
 2 **ANCE OR OTHERWISE.**

3 *“Gross income shall include any amount paid to or*
 4 *on behalf of a taxpayer as insurance or otherwise by reason*
 5 *of the taxpayer’s liability (or agreement) to pay punitive*
 6 *damages.”.*

7 (2) *REPORTING REQUIREMENTS.—Section 6041*
 8 *(relating to information at source) is amended by*
 9 *adding at the end the following new subsection:*

10 *“(f) SECTION TO APPLY TO PUNITIVE DAMAGES COM-*
 11 *PENSATION.—This section shall apply to payments by a*
 12 *person to or on behalf of another person as insurance or*
 13 *otherwise by reason of the other person’s liability (or agree-*
 14 *ment) to pay punitive damages.”.*

15 (3) *CONFORMING AMENDMENT.—The table of sec-*
 16 *tions for part II of subchapter B of chapter 1 is*
 17 *amended by adding at the end the following new item:*
 18 *“Sec. 91. Punitive damages compensated by insurance or otherwise.”.*

19 (c) *EFFECTIVE DATE.—The amendments made by this*
 20 *section shall apply to damages paid or incurred on or after*
 21 *the date of the enactment of this Act.*

22 **SEC. 335. INCREASE IN CRIMINAL MONETARY PENALTY LIM-**
 23 **ITATION FOR THE UNDERPAYMENT OR OVER-**
 24 **PAYMENT OF TAX DUE TO FRAUD.**

25 (a) *IN GENERAL.—Section 7206 (relating to fraud and*
false statements) is amended—

1 (1) by striking “Any person who—” and insert-
2 ing “(a) IN GENERAL.—Any person who—”, and

3 (2) by adding at the end the following new sub-
4 section:

5 “(b) INCREASE IN MONETARY LIMITATION FOR UN-
6 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—
7 If any portion of any underpayment (as defined in section
8 6664(a)) or overpayment (as defined in section 6401(a)) of
9 tax required to be shown on a return is attributable to
10 fraudulent action described in subsection (a), the applicable
11 dollar amount under subsection (a) shall in no event be less
12 than an amount equal to such portion. A rule similar to
13 the rule under section 6663(b) shall apply for purposes of
14 determining the portion so attributable.”.

15 (b) INCREASE IN PENALTIES.—

16 (1) ATTEMPT TO EVADE OR DEFEAT TAX.—Sec-
17 tion 7201 is amended—

18 (A) by striking “\$100,000” and inserting
19 “\$250,000”,

20 (B) by striking “\$500,000” and inserting
21 “\$1,000,000”, and

22 (C) by striking “5 years” and inserting “10
23 years”.

1 (2) *WILLFUL FAILURE TO FILE RETURN, SUPPLY*
2 *INFORMATION, OR PAY TAX.*—Section 7203 is
3 *amended—*

4 (A) *in the first sentence—*

5 (i) *by striking “misdemeanor” and in-*
6 *serting “felony”, and*

7 (ii) *by striking “1 year” and inserting*
8 *“10 years”, and*

9 (B) *by striking the third sentence.*

10 (3) *FRAUD AND FALSE STATEMENTS.*—Section
11 *7206(a) (as redesignated by subsection (a)) is*
12 *amended—*

13 (A) *by striking “\$100,000” and inserting*
14 *“\$250,000”,*

15 (B) *by striking “\$500,000” and inserting*
16 *“\$1,000,000”, and*

17 (C) *by striking “3 years” and inserting “5*
18 *years”.*

19 (c) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to underpayments and overpayments at-*
21 *tributable to actions occurring after the date of the enact-*
22 *ment of this Act.*

1 **PART II—EXECUTIVE COMPENSATION REFORM**
 2 **SEC. 336. TREATMENT OF NONQUALIFIED DEFERRED COM-**
 3 **PENSATION FUNDED WITH ASSETS LOCATED**
 4 **OUTSIDE THE UNITED STATES.**

5 (a) *IN GENERAL.*—Section 83(c) (relating to special
 6 rules for property transferred in connection with perform-
 7 ance of services) is amended by adding at the end the fol-
 8 lowing new paragraph:

9 “(4) *FOREIGN ASSETS FUNDING NONQUALIFIED*
 10 *DEFERRED COMPENSATION ARRANGEMENTS.*—

11 “(A) *IN GENERAL.*—In determining whether
 12 there is a transfer of property for purposes of
 13 subsection (a), if assets are—

14 “(i) *designated or otherwise available*
 15 *for the payment of nonqualified deferred*
 16 *compensation, and*

17 “(ii) *located outside the United States,*
 18 *such assets shall not be treated as subject to the*
 19 *claims of creditors.*

20 “(B) *COMPENSATION FOR SERVICES PER-*
 21 *FORMED IN FOREIGN JURISDICTION.*—Subpara-
 22 *graph (A) shall not apply to assets located in a*
 23 *foreign jurisdiction if substantially all of the*
 24 *services to which the nonqualified deferred com-*
 25 *ensation relates are performed in such jurisdic-*
 26 *tion.*

1 “(C) *REGULATIONS.*—*The Secretary shall*
 2 *prescribe such regulations as are necessary to*
 3 *carry out the provisions of this paragraph, in-*
 4 *cluding regulations to exempt arrangements from*
 5 *the application of this paragraph if—*

6 “(i) *the arrangement will not result in*
 7 *an improper deferral of United States tax,*
 8 *and*

9 “(ii) *the assets involved in the arrange-*
 10 *ment will be readily accessible in any insol-*
 11 *veny or bankruptcy proceeding.”.*

12 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 13 *section shall apply to amounts deferred in taxable years be-*
 14 *ginning after December 31, 2003.*

15 ***SEC. 337. INCLUSION IN GROSS INCOME OF FUNDED DE-***
 16 ***FERRED COMPENSATION OF CORPORATE IN-***
 17 ***SIDERS.***

18 (a) *IN GENERAL.*—*Subpart A of part I of subchapter*
 19 *D of chapter 1 is amended by adding at the end the fol-*
 20 *lowing new section:*

21 ***“SEC. 409A. INCLUSION IN GROSS INCOME OF FUNDED DE-***
 22 ***FERRED COMPENSATION OF CORPORATE IN-***
 23 ***SIDERS.***

24 “(a) *IN GENERAL.*—*If an employer maintains a fund-*
 25 *ed deferred compensation plan—*

1 “(1) compensation of any disqualified individual
2 which is deferred under such funded deferred com-
3 pensation plan shall be included in the gross income
4 of the disqualified individual or beneficiary for the
5 1st taxable year in which there is no substantial risk
6 of forfeiture of the rights to such compensation, and

7 “(2) the tax treatment of any amount made
8 available under the plan to a disqualified individual
9 or beneficiary shall be determined under section 72
10 (relating to annuities, etc.).

11 “(b) FUNDED DEFERRED COMPENSATION PLAN.—For
12 purposes of this section—

13 “(1) IN GENERAL.—The term ‘funded deferred
14 compensation plan’ means any plan providing for the
15 deferral of compensation unless—

16 “(A) the employee’s rights to the compensa-
17 tion deferred under the plan are no greater than
18 the rights of a general creditor of the employer,
19 and

20 “(B) all amounts set aside (directly or indi-
21 rectly) for purposes of paying the deferred com-
22 pensation, and all income attributable to such
23 amounts, remain (until made available to the
24 participant or other beneficiary) solely the prop-

1 *erty of the employer (without being restricted to*
2 *the provision of benefits under the plan),*

3 *“(C) the amounts referred to in subpara-*
4 *graph (B) are available to satisfy the claims of*
5 *the employer’s general creditors at all times (not*
6 *merely after bankruptcy or insolvency), and*

7 *“(D) the investment options which a partic-*
8 *ipant may elect under the plan are the same as*
9 *the investment options which a participant may*
10 *elect under the qualified employer plan of the*
11 *employer which has the fewest investment op-*
12 *tions.*

13 *Such term shall not include a qualified employer*
14 *plan.*

15 *“(2) SPECIAL RULES.—*

16 *“(A) EMPLOYEE’S RIGHTS.—A plan shall be*
17 *treated as failing to meet the requirements of*
18 *paragraph (1)(A) unless—*

19 *“(i) the compensation deferred under*
20 *the plan is payable only upon separation*
21 *from service, death, disability (within the*
22 *meaning of section 1614(a)(3) of the Social*
23 *Security Act (42 U.S.C. 1382c(a)(3))), or at*
24 *a specified time (or pursuant to a fixed*
25 *schedule), and*

1 “(ii) the plan does not permit the ac-
2 celeration of the time such deferred com-
3 pensation is payable by reason of any event.

4 If the employer and employee agree to a modi-
5 fication of the plan that accelerates the time for
6 payment of any deferred compensation, then all
7 compensation previously deferred under the plan
8 shall be includible in gross income for the taxable
9 year during which such modification takes effect
10 and the taxpayer shall pay interest at the under-
11 payment rate on the underpayments that would
12 have occurred had the deferred compensation
13 been includible in gross income on the earliest
14 date that there is no substantial risk of forfeiture
15 of the rights to such compensation.

16 “(B) CREDITOR’S RIGHTS.—A plan shall be
17 treated as failing to meet the requirements of
18 paragraph (1)(B) with respect to amounts set
19 aside in a trust unless—

20 “(i) the employee has no beneficial in-
21 terest in the trust,

22 “(ii) assets in the trust are available to
23 satisfy claims of general creditors at all
24 times (not merely after bankruptcy or insol-
25 vency), and

1 “(iii) there is no factor that would
2 make it more difficult for general creditors
3 to reach the assets in the trust than it
4 would be if the trust assets were held di-
5 rectly by the employer in the United States.
6 Except as provided in regulations prescribed by
7 the Secretary, such a factor shall include the lo-
8 cation of the trust outside the United States un-
9 less substantially all of the services to which the
10 nonqualified deferred compensation relates are
11 performed outside the United States. Such regu-
12 lations may exempt any such trust if the trust
13 will not result in an improper deferral of United
14 States tax, and the assets involved in the trust
15 will be readily accessible in any insolvency or
16 bankruptcy proceeding.

17 “(c) *DISQUALIFIED INDIVIDUAL*.—For purposes of this
18 section, the term ‘disqualified individual’ means, with re-
19 spect to a corporation, any individual—

20 “(1) who is subject to the requirements of section
21 16(a) of the Securities Exchange Act of 1934 with re-
22 spect to such corporation, or

23 “(2) who would be subject to such requirements
24 if such corporation were an issuer of equity securities
25 referred to in such section.

1 “(d) *OTHER DEFINITIONS AND SPECIAL RULES.*—For
2 *purposes of this section—*

3 “(1) *QUALIFIED EMPLOYER PLAN.*—The term
4 *‘qualified employer plan’ means—*

5 “(A) *any plan, contract, pension, account,*
6 *or trust described in subparagraph (A) or (B) of*
7 *section 219(g)(5), and*

8 “(B) *any other plan of an organization ex-*
9 *empt from tax under subtitle A.*

10 “(2) *PLAN INCLUDES ARRANGEMENTS, ETC.*—The
11 *term ‘plan’ includes any agreement or arrangement.*

12 “(3) *SUBSTANTIAL RISK OF FORFEITURE.*—The
13 *rights of a person to compensation are subject to a*
14 *substantial risk of forfeiture if such person’s rights to*
15 *such compensation are conditioned upon the future*
16 *performance of substantial services by any individual.*

17 “(4) *TREATMENT OF EARNINGS.*—References to
18 *deferred compensation shall be treated as including*
19 *references to income attributable to such compensation*
20 *or such income.”.*

21 (b) *CLERICAL AMENDMENT.*—The table of sections for
22 *such subpart A is amended by adding at the end the fol-*
23 *lowing new item:*

“Sec. 409A. Inclusion in gross income of funded deferred compensa-
tion of corporate insiders.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to amounts deferred in taxable years be-*
 3 *ginning after December 31, 2003.*

4 ***SEC. 338. PROHIBITION ON DEFERRAL OF GAIN FROM THE***
 5 ***EXERCISE OF STOCK OPTIONS AND RE-***
 6 ***STRICTED STOCK GAINS THROUGH DE-***
 7 ***FERRED COMPENSATION ARRANGEMENTS.***

8 (a) *IN GENERAL.*—*Section 83 (relating to property*
 9 *transferred in connection with performance of services) is*
 10 *amending by adding at the end the following new sub-*
 11 *section:*

12 “(i) *PROHIBITION ON ADDITIONAL DEFERRAL*
 13 *THROUGH DEFERRED COMPENSATION ARRANGEMENTS.*—
 14 *If a taxpayer elects to exchange an option to purchase em-*
 15 *ployer securities—*

16 “(1) *to which subsection (a) applies, or*
 17 “(2) *which is described in subsection (e)(3),*
 18 *or any other compensation based on employer securities, for*
 19 *a right to receive future payments, then, notwithstanding*
 20 *any other provision of this title, there shall be included in*
 21 *gross income for the taxable year of the exchange an amount*
 22 *equal to the present value of such right (or such other*
 23 *amount as the Secretary may by regulations specify). For*
 24 *purposes of this subsection, the term ‘employer securities’*
 25 *has the meaning given such term by section 409(l).”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to any exchange after December 31,*
3 *2003.*

4 ***SEC. 339. INCREASE IN WITHHOLDING FROM SUPPLE-***
5 ***MENTAL WAGE PAYMENTS IN EXCESS OF***
6 ***\$1,000,000.***

7 (a) *IN GENERAL.*—*If an employer elects under Treas-*
8 *ury Regulation 31.3402(g)–1 to determine the amount to*
9 *be deducted and withheld from any supplemental wage pay-*
10 *ment by using a flat percentage rate, the rate to be used*
11 *in determining the amount to be so deducted and withheld*
12 *shall not be less than 28 percent (or the corresponding rate*
13 *in effect under section 1(i)(2) of the Internal Revenue Code*
14 *of 1986 for taxable years beginning in the calendar year*
15 *in which the payment is made).*

16 (b) *SPECIAL RULE FOR LARGE PAYMENTS.*—

17 (1) *IN GENERAL.*—*Notwithstanding subsection*
18 *(a), if the supplemental wage payment, when added*
19 *to all such payments previously made by the employer*
20 *to the employee during the calendar year, exceeds*
21 *\$1,000,000, the rate used with respect to such excess*
22 *shall be equal to the maximum rate of tax in effect*
23 *under section 1 of such Code for taxable years begin-*
24 *ning in such calendar year.*

1 (2) *AGGREGATION*.—All persons treated as a sin-
 2 gle employer under subsection (a) or (b) of section 52
 3 of the Internal Revenue Code of 1986 shall be treated
 4 as a single employer for purposes of this subsection.

5 (c) *CONFORMING AMENDMENT*.—Section 13273 of the
 6 Revenue Reconciliation Act of 1993 (Public Law 103–66)
 7 is repealed.

8 (d) *EFFECTIVE DATE*.—The provisions of, and the
 9 amendment made by, this section shall apply to payments
 10 made after December 31, 2003.

11 ***Subtitle D—International***
 12 ***Provisions***

13 ***PART I—PROVISIONS TO DISCOURAGE***
 14 ***EXPATRIATION***

15 ***SEC. 340. REVISION OF TAX RULES ON EXPATRIATION.***

16 (a) *IN GENERAL*.—Subpart A of part II of subchapter
 17 N of chapter 1 is amended by inserting after section 877
 18 the following new section:

19 ***“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.***

20 “(a) *GENERAL RULES*.—For purposes of this
 21 subtitle—

22 “(1) *MARK TO MARKET*.—Except as provided in
 23 subsections (d) and (f), all property of a covered expa-
 24 triate to whom this section applies shall be treated as

1 *sold on the day before the expatriation date for its*
2 *fair market value.*

3 “(2) *RECOGNITION OF GAIN OR LOSS.—In the*
4 *case of any sale under paragraph (1)—*

5 “(A) *notwithstanding any other provision of*
6 *this title, any gain arising from such sale shall*
7 *be taken into account for the taxable year of the*
8 *sale, and*

9 “(B) *any loss arising from such sale shall*
10 *be taken into account for the taxable year of the*
11 *sale to the extent otherwise provided by this title,*
12 *except that section 1091 shall not apply to any*
13 *such loss.*

14 *Proper adjustment shall be made in the amount of*
15 *any gain or loss subsequently realized for gain or loss*
16 *taken into account under the preceding sentence.*

17 “(3) *EXCLUSION FOR CERTAIN GAIN.—*

18 “(A) *IN GENERAL.—The amount which, but*
19 *for this paragraph, would be includible in the*
20 *gross income of any individual by reason of this*
21 *section shall be reduced (but not below zero) by*
22 *\$600,000. For purposes of this paragraph, allo-*
23 *cable expatriation gain taken into account under*
24 *subsection (f)(2) shall be treated in the same*

1 *manner as an amount required to be includible*
2 *in gross income.*

3 “(B) *COST-OF-LIVING ADJUSTMENT.*—

4 “(i) *IN GENERAL.*—*In the case of an*
5 *expatriation date occurring in any calendar*
6 *year after 2003, the \$600,000 amount under*
7 *subparagraph (A) shall be increased by an*
8 *amount equal to—*

9 “(I) *such dollar amount, multi-*
10 *plied by*

11 “(II) *the cost-of-living adjustment*
12 *determined under section 1(f)(3) for*
13 *such calendar year, determined by sub-*
14 *stituting ‘calendar year 2002’ for ‘cal-*
15 *endar year 1992’ in subparagraph (B)*
16 *thereof.*

17 “(ii) *ROUNDING RULES.*—*If any*
18 *amount after adjustment under clause (i) is*
19 *not a multiple of \$1,000, such amount shall*
20 *be rounded to the next lower multiple of*
21 *\$1,000.*

22 “(4) *ELECTION TO CONTINUE TO BE TAXED AS*
23 *UNITED STATES CITIZEN.*—

24 “(A) *IN GENERAL.*—*If a covered expatriate*
25 *elects the application of this paragraph—*

1 “(i) *this section (other than this para-*
2 *graph and subsection (i)) shall not apply to*
3 *the expatriate, but*

4 “(ii) *in the case of property to which*
5 *this section would apply but for such elec-*
6 *tion, the expatriate shall be subject to tax*
7 *under this title in the same manner as if*
8 *the individual were a United States citizen.*

9 “(B) *REQUIREMENTS.—Subparagraph (A)*
10 *shall not apply to an individual unless the*
11 *individual—*

12 “(i) *provides security for payment of*
13 *tax in such form and manner, and in such*
14 *amount, as the Secretary may require,*

15 “(ii) *consents to the waiver of any*
16 *right of the individual under any treaty of*
17 *the United States which would preclude as-*
18 *essment or collection of any tax which may*
19 *be imposed by reason of this paragraph,*
20 *and*

21 “(iii) *complies with such other require-*
22 *ments as the Secretary may prescribe.*

23 “(C) *ELECTION.—An election under sub-*
24 *paragraph (A) shall apply to all property to*
25 *which this section would apply but for the elec-*

1 tion and, once made, shall be irrevocable. Such
2 election shall also apply to property the basis of
3 which is determined in whole or in part by ref-
4 erence to the property with respect to which the
5 election was made.

6 “(b) *ELECTION TO DEFER TAX.*—

7 “(1) *IN GENERAL.*—If the taxpayer elects the ap-
8 plication of this subsection with respect to any prop-
9 erty treated as sold by reason of subsection (a), the
10 payment of the additional tax attributable to such
11 property shall be postponed until the due date of the
12 return for the taxable year in which such property is
13 disposed of (or, in the case of property disposed of in
14 a transaction in which gain is not recognized in
15 whole or in part, until such other date as the Sec-
16 retary may prescribe).

17 “(2) *DETERMINATION OF TAX WITH RESPECT TO*
18 *PROPERTY.*—For purposes of paragraph (1), the addi-
19 tional tax attributable to any property is an amount
20 which bears the same ratio to the additional tax im-
21 posed by this chapter for the taxable year solely by
22 reason of subsection (a) as the gain taken into ac-
23 count under subsection (a) with respect to such prop-
24 erty bears to the total gain taken into account under

1 subsection (a) with respect to all property to which
2 subsection (a) applies.

3 “(3) *TERMINATION OF POSTPONEMENT.*—No tax
4 may be postponed under this subsection later than the
5 due date for the return of tax imposed by this chapter
6 for the taxable year which includes the date of death
7 of the expatriate (or, if earlier, the time that the secu-
8 rity provided with respect to the property fails to
9 meet the requirements of paragraph (4), unless the
10 taxpayer corrects such failure within the time speci-
11 fied by the Secretary).

12 “(4) *SECURITY.*—

13 “(A) *IN GENERAL.*—No election may be
14 made under paragraph (1) with respect to any
15 property unless adequate security is provided to
16 the Secretary with respect to such property.

17 “(B) *ADEQUATE SECURITY.*—For purposes
18 of subparagraph (A), security with respect to
19 any property shall be treated as adequate secu-
20 rity if—

21 “(i) it is a bond in an amount equal
22 to the deferred tax amount under paragraph
23 (2) for the property, or

1 “(ii) the taxpayer otherwise establishes
2 to the satisfaction of the Secretary that the
3 security is adequate.

4 “(5) *WAIVER OF CERTAIN RIGHTS.*—No election
5 may be made under paragraph (1) unless the tax-
6 payer consents to the waiver of any right under any
7 treaty of the United States which would preclude as-
8 sessment or collection of any tax imposed by reason
9 of this section.

10 “(6) *ELECTIONS.*—An election under paragraph
11 (1) shall only apply to property described in the elec-
12 tion and, once made, is irrevocable. An election may
13 be made under paragraph (1) with respect to an in-
14 terest in a trust with respect to which gain is re-
15 quired to be recognized under subsection (f)(1).

16 “(7) *INTEREST.*—For purposes of section 6601—
17 “(A) the last date for the payment of tax
18 shall be determined without regard to the election
19 under this subsection, and

20 “(B) section 6621(a)(2) shall be applied by
21 substituting ‘5 percentage points’ for ‘3 percent-
22 age points’ in subparagraph (B) thereof.

23 “(c) *COVERED EXPATRIATE.*—For purposes of this
24 section—

1 “(1) *IN GENERAL.*—*Except as provided in para-*
2 *graph (2), the term ‘covered expatriate’ means an ex-*
3 *patriate.*

4 “(2) *EXCEPTIONS.*—*An individual shall not be*
5 *treated as a covered expatriate if—*

6 “(A) *the individual—*

7 “(i) *became at birth a citizen of the*
8 *United States and a citizen of another*
9 *country and, as of the expatriation date,*
10 *continues to be a citizen of, and is taxed as*
11 *a resident of, such other country, and*

12 “(ii) *has not been a resident of the*
13 *United States (as defined in section*
14 *7701(b)(1)(A)(ii)) during the 5 taxable*
15 *years ending with the taxable year during*
16 *which the expatriation date occurs, or*

17 “(B)(i) *the individual’s relinquishment of*
18 *United States citizenship occurs before such indi-*
19 *vidual attains age 18½, and*

20 “(ii) *the individual has been a resident of*
21 *the United States (as so defined) for not more*
22 *than 5 taxable years before the date of relin-*
23 *quishment.*

24 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*
25 *SION PLANS.*—

1 “(1) *EXEMPT PROPERTY.*—*This section shall not*
2 *apply to the following:*

3 “(A) *UNITED STATES REAL PROPERTY IN-*
4 *TERESTS.*—*Any United States real property in-*
5 *terest (as defined in section 897(c)(1)), other*
6 *than stock of a United States real property hold-*
7 *ing corporation which does not, on the day before*
8 *the expatriation date, meet the requirements of*
9 *section 897(c)(2).*

10 “(B) *SPECIFIED PROPERTY.*—*Any property*
11 *or interest in property not described in subpara-*
12 *graph (A) which the Secretary specifies in regu-*
13 *lations.*

14 “(2) *SPECIAL RULES FOR CERTAIN RETIREMENT*
15 *PLANS.*—

16 “(A) *IN GENERAL.*—*If a covered expatriate*
17 *holds on the day before the expatriation date any*
18 *interest in a retirement plan to which this para-*
19 *graph applies—*

20 “(i) *such interest shall not be treated*
21 *as sold for purposes of subsection (a)(1), but*

22 “(ii) *an amount equal to the present*
23 *value of the expatriate’s nonforfeitable ac-*
24 *crued benefit shall be treated as having been*

1 *received by such individual on such date as*
2 *a distribution under the plan.*

3 “(B) *TREATMENT OF SUBSEQUENT DIS-*
4 *TRIBUTIONS.—In the case of any distribution on*
5 *or after the expatriation date to or on behalf of*
6 *the covered expatriate from a plan from which*
7 *the expatriate was treated as receiving a dis-*
8 *tribution under subparagraph (A), the amount*
9 *otherwise includible in gross income by reason of*
10 *the subsequent distribution shall be reduced by*
11 *the excess of the amount includible in gross in-*
12 *come under subparagraph (A) over any portion*
13 *of such amount to which this subparagraph pre-*
14 *viously applied.*

15 “(C) *TREATMENT OF SUBSEQUENT DIS-*
16 *TRIBUTIONS BY PLAN.—For purposes of this title,*
17 *a retirement plan to which this paragraph ap-*
18 *plies, and any person acting on the plan’s behalf,*
19 *shall treat any subsequent distribution described*
20 *in subparagraph (B) in the same manner as*
21 *such distribution would be treated without re-*
22 *gard to this paragraph.*

23 “(D) *APPLICABLE PLANS.—This paragraph*
24 *shall apply to—*

1 “(i) any qualified retirement plan (as
2 defined in section 4974(c)),

3 “(ii) an eligible deferred compensation
4 plan (as defined in section 457(b)) of an el-
5 igible employer described in section
6 457(e)(1)(A), and

7 “(iii) to the extent provided in regula-
8 tions, any foreign pension plan or similar
9 retirement arrangements or programs.

10 “(e) DEFINITIONS.—For purposes of this section—

11 “(1) EXPATRIATE.—The term ‘expatriate’
12 means—

13 “(A) any United States citizen who relin-
14 quishes citizenship, and

15 “(B) any long-term resident of the United
16 States who—

17 “(i) ceases to be a lawful permanent
18 resident of the United States (within the
19 meaning of section 7701(b)(6)), or

20 “(ii) commences to be treated as a resi-
21 dent of a foreign country under the provi-
22 sions of a tax treaty between the United
23 States and the foreign country and who
24 does not waive the benefits of such treaty

1 *applicable to residents of the foreign coun-*
2 *try.*

3 “(2) *EXPATRIATION DATE.*—*The term ‘expatria-*
4 *tion date’ means—*

5 “(A) *the date an individual relinquishes*
6 *United States citizenship, or*

7 “(B) *in the case of a long-term resident of*
8 *the United States, the date of the event described*
9 *in clause (i) or (ii) of paragraph (1)(B).*

10 “(3) *RELINQUISHMENT OF CITIZENSHIP.*—*A cit-*
11 *izen shall be treated as relinquishing United States*
12 *citizenship on the earliest of—*

13 “(A) *the date the individual renounces such*
14 *individual’s United States nationality before a*
15 *diplomatic or consular officer of the United*
16 *States pursuant to paragraph (5) of section*
17 *349(a) of the Immigration and Nationality Act*
18 *(8 U.S.C. 1481(a)(5)),*

19 “(B) *the date the individual furnishes to the*
20 *United States Department of State a signed*
21 *statement of voluntary relinquishment of United*
22 *States nationality confirming the performance of*
23 *an act of expatriation specified in paragraph*
24 *(1), (2), (3), or (4) of section 349(a) of the Im-*

1 *migration and Nationality Act (8 U.S.C.*
2 *1481(a)(1)–(4)),*

3 “(C) *the date the United States Department*
4 *of State issues to the individual a certificate of*
5 *loss of nationality, or*

6 “(D) *the date a court of the United States*
7 *cancels a naturalized citizen’s certificate of natu-*
8 *ralization.*

9 *Subparagraph (A) or (B) shall not apply to any in-*
10 *dividual unless the renunciation or voluntary relin-*
11 *quishment is subsequently approved by the issuance to*
12 *the individual of a certificate of loss of nationality by*
13 *the United States Department of State.*

14 “(4) *LONG-TERM RESIDENT.*—*The term ‘long-*
15 *term resident’ has the meaning given to such term by*
16 *section 877(e)(2).*

17 “(f) *SPECIAL RULES APPLICABLE TO BENEFICIARIES’*
18 *INTERESTS IN TRUST.*—

19 “(1) *IN GENERAL.*—*Except as provided in para-*
20 *graph (2), if an individual is determined under para-*
21 *graph (3) to hold an interest in a trust on the day*
22 *before the expatriation date—*

23 “(A) *the individual shall not be treated as*
24 *having sold such interest,*

1 “(B) such interest shall be treated as a sep-
2 arate share in the trust, and

3 “(C)(i) such separate share shall be treated
4 as a separate trust consisting of the assets allo-
5 cable to such share,

6 “(ii) the separate trust shall be treated as
7 having sold its assets on the day before the expa-
8 triation date for their fair market value and as
9 having distributed all of its assets to the indi-
10 vidual as of such time, and

11 “(iii) the individual shall be treated as hav-
12 ing recontributed the assets to the separate trust.

13 Subsection (a)(2) shall apply to any income, gain, or
14 loss of the individual arising from a distribution de-
15 scribed in subparagraph (C)(ii). In determining the
16 amount of such distribution, proper adjustments shall
17 be made for liabilities of the trust allocable to an in-
18 dividual’s share in the trust.

19 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
20 FIED TRUSTS.—

21 “(A) IN GENERAL.—If the trust interest de-
22 scribed in paragraph (1) is an interest in a
23 qualified trust—

24 “(i) paragraph (1) and subsection (a)
25 shall not apply, and

1 “(ii) in addition to any other tax im-
2 posed by this title, there is hereby imposed
3 on each distribution with respect to such in-
4 terest a tax in the amount determined
5 under subparagraph (B).

6 “(B) AMOUNT OF TAX.—The amount of tax
7 under subparagraph (A)(ii) shall be equal to the
8 lesser of—

9 “(i) the highest rate of tax imposed by
10 section 1(e) for the taxable year which in-
11 cludes the day before the expatriation date,
12 multiplied by the amount of the distribu-
13 tion, or

14 “(ii) the balance in the deferred tax ac-
15 count immediately before the distribution
16 determined without regard to any increases
17 under subparagraph (C)(ii) after the 30th
18 day preceding the distribution.

19 “(C) DEFERRED TAX ACCOUNT.—For pur-
20 poses of subparagraph (B)(ii)—

21 “(i) OPENING BALANCE.—The opening
22 balance in a deferred tax account with re-
23 spect to any trust interest is an amount
24 equal to the tax which would have been im-
25 posed on the allocable expatriation gain

1 *with respect to the trust interest if such*
2 *gain had been included in gross income*
3 *under subsection (a).*

4 “(ii) *INCREASE FOR INTEREST.—The*
5 *balance in the deferred tax account shall be*
6 *increased by the amount of interest deter-*
7 *mined (on the balance in the account at the*
8 *time the interest accrues), for periods after*
9 *the 90th day after the expatriation date, by*
10 *using the rates and method applicable*
11 *under section 6621 for underpayments of*
12 *tax for such periods, except that section*
13 *6621(a)(2) shall be applied by substituting*
14 *‘5 percentage points’ for ‘3 percentage*
15 *points’ in subparagraph (B) thereof.*

16 “(iii) *DECREASE FOR TAXES PRE-*
17 *VIOUSLY PAID.—The balance in the tax de-*
18 *ferred account shall be reduced—*

19 “(I) *by the amount of taxes im-*
20 *posed by subparagraph (A) on any dis-*
21 *tribution to the person holding the*
22 *trust interest, and*

23 “(II) *in the case of a person hold-*
24 *ing a nonvested interest, to the extent*
25 *provided in regulations, by the amount*

1 of taxes imposed by subparagraph (A)
2 on distributions from the trust with re-
3 spect to nonvested interests not held by
4 such person.

5 “(D) *ALLOCABLE EXPATRIATION GAIN.*—For
6 purposes of this paragraph, the allocable expa-
7 triation gain with respect to any beneficiary’s
8 interest in a trust is the amount of gain which
9 would be allocable to such beneficiary’s vested
10 and nonvested interests in the trust if the bene-
11 ficiary held directly all assets allocable to such
12 interests.

13 “(E) *TAX DEDUCTED AND WITHHELD.*—

14 “(i) *IN GENERAL.*—The tax imposed by
15 subparagraph (A)(i) shall be deducted and
16 withheld by the trustees from the distribu-
17 tion to which it relates.

18 “(ii) *EXCEPTION WHERE FAILURE TO*
19 *WAIVE TREATY RIGHTS.*—If an amount may
20 not be deducted and withheld under clause
21 (i) by reason of the distributee failing to
22 waive any treaty right with respect to such
23 distribution—

24 “(I) the tax imposed by subpara-
25 graph (A)(i) shall be imposed on the

1 *trust and each trustee shall be person-*
2 *ally liable for the amount of such tax,*
3 *and*

4 *“(II) any other beneficiary of the*
5 *trust shall be entitled to recover from*
6 *the distributee the amount of such tax*
7 *imposed on the other beneficiary.*

8 *“(F) DISPOSITION.—If a trust ceases to be*
9 *a qualified trust at any time, a covered expa-*
10 *triate disposes of an interest in a qualified trust,*
11 *or a covered expatriate holding an interest in a*
12 *qualified trust dies, then, in lieu of the tax im-*
13 *posed by subparagraph (A)(ii), there is hereby*
14 *imposed a tax equal to the lesser of—*

15 *“(i) the tax determined under para-*
16 *graph (1) as if the day before the expatria-*
17 *tion date were the date of such cessation,*
18 *disposition, or death, whichever is applica-*
19 *ble, or*

20 *“(ii) the balance in the tax deferred ac-*
21 *count immediately before such date.*

22 *Such tax shall be imposed on the trust and each*
23 *trustee shall be personally liable for the amount*
24 *of such tax and any other beneficiary of the trust*
25 *shall be entitled to recover from the covered expa-*

1 *triate or the estate the amount of such tax im-*
2 *posed on the other beneficiary.*

3 “(G) *DEFINITIONS AND SPECIAL RULES.—*

4 *For purposes of this paragraph—*

5 “(i) *QUALIFIED TRUST.—The term*
6 *‘qualified trust’ means a trust which is de-*
7 *scribed in section 7701(a)(30)(E).*

8 “(ii) *VESTED INTEREST.—The term*
9 *‘vested interest’ means any interest which,*
10 *as of the day before the expatriation date, is*
11 *vested in the beneficiary.*

12 “(iii) *NONVESTED INTEREST.—The*
13 *term ‘nonvested interest’ means, with re-*
14 *spect to any beneficiary, any interest in a*
15 *trust which is not a vested interest. Such*
16 *interest shall be determined by assuming the*
17 *maximum exercise of discretion in favor of*
18 *the beneficiary and the occurrence of all*
19 *contingencies in favor of the beneficiary.*

20 “(iv) *ADJUSTMENTS.—The Secretary*
21 *may provide for such adjustments to the*
22 *bases of assets in a trust or a deferred tax*
23 *account, and the timing of such adjust-*
24 *ments, in order to ensure that gain is taxed*
25 *only once.*

1 “(v) *COORDINATION WITH RETIREMENT*
2 *PLAN RULES.*—*This subsection shall not*
3 *apply to an interest in a trust which is*
4 *part of a retirement plan to which sub-*
5 *section (d)(2) applies.*

6 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
7 *EST IN TRUST.*—

8 “(A) *DETERMINATIONS UNDER PARAGRAPH*
9 *(1).*—*For purposes of paragraph (1), a bene-*
10 *ficiary’s interest in a trust shall be based upon*
11 *all relevant facts and circumstances, including*
12 *the terms of the trust instrument and any letter*
13 *of wishes or similar document, historical pat-*
14 *terns of trust distributions, and the existence of*
15 *and functions performed by a trust protector or*
16 *any similar adviser.*

17 “(B) *OTHER DETERMINATIONS.*—*For pur-*
18 *poses of this section—*

19 “(i) *CONSTRUCTIVE OWNERSHIP.*—*If a*
20 *beneficiary of a trust is a corporation, part-*
21 *nership, trust, or estate, the shareholders,*
22 *partners, or beneficiaries shall be deemed to*
23 *be the trust beneficiaries for purposes of this*
24 *section.*

1 “(ii) *TAXPAYER RETURN POSITION.*—A
2 *taxpayer shall clearly indicate on its in-*
3 *come tax return—*

4 “(I) *the methodology used to de-*
5 *termine that taxpayer’s trust interest*
6 *under this section, and*

7 “(II) *if the taxpayer knows (or*
8 *has reason to know) that any other*
9 *beneficiary of such trust is using a dif-*
10 *ferent methodology to determine such*
11 *beneficiary’s trust interest under this*
12 *section.*

13 “(g) *TERMINATION OF DEFERRALS, ETC.*—*In the case*
14 *of any covered expatriate, notwithstanding any other provi-*
15 *sion of this title—*

16 “(1) *any period during which recognition of in-*
17 *come or gain is deferred shall terminate on the day*
18 *before the expatriation date, and*

19 “(2) *any extension of time for payment of tax*
20 *shall cease to apply on the day before the expatriation*
21 *date and the unpaid portion of such tax shall be due*
22 *and payable at the time and in the manner pre-*
23 *scribed by the Secretary.*

24 “(h) *IMPOSITION OF TENTATIVE TAX.*—

1 “(1) *IN GENERAL.*—If an individual is required
2 to include any amount in gross income under sub-
3 section (a) for any taxable year, there is hereby im-
4 posed, immediately before the expatriation date, a tax
5 in an amount equal to the amount of tax which
6 would be imposed if the taxable year were a short tax-
7 able year ending on the expatriation date.

8 “(2) *DUE DATE.*—The due date for any tax im-
9 posed by paragraph (1) shall be the 90th day after the
10 expatriation date.

11 “(3) *TREATMENT OF TAX.*—Any tax paid under
12 paragraph (1) shall be treated as a payment of the
13 tax imposed by this chapter for the taxable year to
14 which subsection (a) applies.

15 “(4) *DEFERRAL OF TAX.*—The provisions of sub-
16 section (b) shall apply to the tax imposed by this sub-
17 section to the extent attributable to gain includible in
18 gross income by reason of this section.

19 “(i) *SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.*—

20 “(1) *IMPOSITION OF LIEN.*—

21 “(A) *IN GENERAL.*—If a covered expatriate
22 makes an election under subsection (a)(4) or (b)
23 which results in the deferral of any tax imposed
24 by reason of subsection (a), the deferred amount
25 (including any interest, additional amount, ad-

1 *dition to tax, assessable penalty, and costs at-*
2 *tributable to the deferred amount) shall be a lien*
3 *in favor of the United States on all property of*
4 *the expatriate located in the United States (with-*
5 *out regard to whether this section applies to the*
6 *property).*

7 “(B) *DEFERRED AMOUNT.*—*For purposes of*
8 *this subsection, the deferred amount is the*
9 *amount of the increase in the covered expatri-*
10 *ate’s income tax which, but for the election under*
11 *subsection (a)(4) or (b), would have occurred by*
12 *reason of this section for the taxable year includ-*
13 *ing the expatriation date.*

14 “(2) *PERIOD OF LIEN.*—*The lien imposed by this*
15 *subsection shall arise on the expatriation date and*
16 *continue until—*

17 “(A) *the liability for tax by reason of this*
18 *section is satisfied or has become unenforceable*
19 *by reason of lapse of time, or*

20 “(B) *it is established to the satisfaction of*
21 *the Secretary that no further tax liability may*
22 *arise by reason of this section.*

23 “(3) *CERTAIN RULES APPLY.*—*The rules set forth*
24 *in paragraphs (1), (3), and (4) of section 6324A(d)*
25 *shall apply with respect to the lien imposed by this*

1 *subsection as if it were a lien imposed by section*
 2 *6324A.*

3 “(j) *REGULATIONS.*—*The Secretary shall prescribe*
 4 *such regulations as may be necessary or appropriate to*
 5 *carry out the purposes of this section.*”.

6 (b) *INCLUSION IN INCOME OF GIFTS AND BEQUESTS*
 7 *RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS*
 8 *FROM EXPATRIATES.*—*Section 102 (relating to gifts, etc.*
 9 *not included in gross income) is amended by adding at the*
 10 *end the following new subsection:*

11 “(d) *GIFTS AND INHERITANCES FROM COVERED EX-*
 12 *PATRIATES.*—

13 “(1) *IN GENERAL.*—*Subsection (a) shall not ex-*
 14 *clude from gross income the value of any property ac-*
 15 *quired by gift, bequest, devise, or inheritance from a*
 16 *covered expatriate after the expatriation date. For*
 17 *purposes of this subsection, any term used in this sub-*
 18 *section which is also used in section 877A shall have*
 19 *the same meaning as when used in section 877A.*

20 “(2) *EXCEPTIONS FOR TRANSFERS OTHERWISE*
 21 *SUBJECT TO ESTATE OR GIFT TAX.*—*Paragraph (1)*
 22 *shall not apply to any property if either—*

23 “(A) *the gift, bequest, devise, or inheritance*
 24 *is—*

1 “(i) shown on a timely filed return of
2 tax imposed by chapter 12 as a taxable gift
3 by the covered expatriate, or

4 “(ii) included in the gross estate of the
5 covered expatriate for purposes of chapter
6 11 and shown on a timely filed return of
7 tax imposed by chapter 11 of the estate of
8 the covered expatriate, or

9 “(B) no such return was timely filed but no
10 such return would have been required to be filed
11 even if the covered expatriate were a citizen or
12 long-term resident of the United States.”.

13 (c) *DEFINITION OF TERMINATION OF UNITED STATES*
14 *CITIZENSHIP.*—Section 7701(a) is amended by adding at
15 *the end the following new paragraph:*

16 “(48) *TERMINATION OF UNITED STATES CITIZEN-*
17 *SHIP.*—

18 “(A) *IN GENERAL.*—An individual shall not
19 cease to be treated as a United States citizen be-
20 fore the date on which the individual’s citizen-
21 ship is treated as relinquished under section
22 877A(e)(3).

23 “(B) *DUAL CITIZENS.*—Under regulations
24 prescribed by the Secretary, subparagraph (A)
25 shall not apply to an individual who became at

1 *birth a citizen of the United States and a citizen*
 2 *of another country.”.*

3 (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*
 4 *UNITED STATES.—*

5 (1) *IN GENERAL.—Section 212(a)(10)(E) of the*
 6 *Immigration and Nationality Act (8 U.S.C.*
 7 *1182(a)(10)(E)) is amended to read as follows:*

8 “(E) *FORMER CITIZENS NOT IN COMPLI-*
 9 *ANCE WITH EXPATRIATION REVENUE PROVI-*
 10 *SIONS.—Any alien who is a former citizen of the*
 11 *United States who relinquishes United States*
 12 *citizenship (within the meaning of section*
 13 *877A(e)(3) of the Internal Revenue Code of 1986)*
 14 *and who is not in compliance with section 877A*
 15 *of such Code (relating to expatriation).”.*

16 (2) *AVAILABILITY OF INFORMATION.—*

17 (A) *IN GENERAL.—Section 6103(l) (relating*
 18 *to disclosure of returns and return information*
 19 *for purposes other than tax administration) is*
 20 *amended by adding at the end the following new*
 21 *paragraph:*

22 “(19) *DISCLOSURE TO DENY VISA OR ADMISSION*
 23 *TO CERTAIN EXPATRIATES.—Upon written request of*
 24 *the Attorney General or the Attorney General’s dele-*
 25 *gate, the Secretary shall disclose whether an indi-*

1 *vidual is in compliance with section 877A (and if not*
2 *in compliance, any items of noncompliance) to offi-*
3 *cers and employees of the Federal agency responsible*
4 *for administering section 212(a)(10)(E) of the Immi-*
5 *gration and Nationality Act solely for the purpose of,*
6 *and to the extent necessary in, administering such*
7 *section 212(a)(10)(E).”.*

8 (B) *SAFEGUARDS.—*

9 (i) *TECHNICAL AMENDMENTS.—Para-*
10 *graph (4) of section 6103(p) of the Internal*
11 *Revenue Code of 1986, as amended by sec-*
12 *tion 202(b)(2)(B) of the Trade Act of 2002*
13 *(Public Law 107–210; 116 Stat. 961), is*
14 *amended by striking “or (17)” after “any*
15 *other person described in subsection (l)(16)”*
16 *each place it appears and inserting “or*
17 *(18)”.*

18 (ii) *CONFORMING AMENDMENTS.—Sec-*
19 *tion 6103(p)(4) (relating to safeguards), as*
20 *amended by clause (i), is amended by strik-*
21 *ing “or (18)” after “any other person de-*
22 *scribed in subsection (l)(16)” each place it*
23 *appears and inserting “(18), or (19)”.*

24 (3) *EFFECTIVE DATES.—*

1 (A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), the amendments made by this*
3 *subsection shall apply to individuals who relin-*
4 *quish United States citizenship on or after the*
5 *date of the enactment of this Act.*

6 (B) *TECHNICAL AMENDMENTS.*—*The*
7 *amendments made by paragraph (2)(B)(i) shall*
8 *take effect as if included in the amendments*
9 *made by section 202(b)(2)(B) of the Trade Act of*
10 *2002 (Public Law 107–210; 116 Stat. 961).*

11 (e) *CONFORMING AMENDMENTS.*—

12 (1) *Section 877 is amended by adding at the end*
13 *the following new subsection:*

14 “*(g) APPLICATION.*—*This section shall not apply to an*
15 *expatriate (as defined in section 877A(e)) whose expatria-*
16 *tion date (as so defined) occurs on or after February 5,*
17 *2003.*”.

18 (2) *Section 2107 is amended by adding at the*
19 *end the following new subsection:*

20 “*(f) APPLICATION.*—*This section shall not apply to*
21 *any expatriate subject to section 877A.*”.

22 (3) *Section 2501(a)(3) is amended by adding at*
23 *the end the following new subparagraph:*

1 “(F) *APPLICATION.*—*This paragraph shall*
2 *not apply to any expatriate subject to section*
3 *877A.*”.

4 (4)(A) *Paragraph (1) of section 6039G(d) is*
5 *amended by inserting “or 877A” after “section 877”.*

6 (B) *The second sentence of section 6039G(e) is*
7 *amended by inserting “or who relinquishes United*
8 *States citizenship (within the meaning of section*
9 *877A(e)(3))” after “877(a)”.*

10 (C) *Section 6039G(f) is amended by inserting*
11 *“or 877A(e)(2)(B)” after “877(e)(1)”.*

12 (f) *CLERICAL AMENDMENT.*—*The table of sections for*
13 *subpart A of part II of subchapter N of chapter 1 is amend-*
14 *ed by inserting after the item relating to section 877 the*
15 *following new item:*

“Sec. 877A. Tax responsibilities of expatriation.”.

16 (g) *EFFECTIVE DATE.*—

17 (1) *IN GENERAL.*—*Except as provided in this*
18 *subsection, the amendments made by this section shall*
19 *apply to expatriates (within the meaning of section*
20 *877A(e) of the Internal Revenue Code of 1986, as*
21 *added by this section) whose expatriation date (as so*
22 *defined) occurs on or after February 5, 2003.*

23 (2) *GIFTS AND BEQUESTS.*—*Section 102(d) of*
24 *the Internal Revenue Code of 1986 (as added by sub-*
25 *section (b)) shall apply to gifts and bequests received*

1 on or after February 5, 2003, from an individual or
 2 the estate of an individual whose expatriation date
 3 (as so defined) occurs after such date.

4 (3) *DUE DATE FOR TENTATIVE TAX.*—The due
 5 date under section 877A(h)(2) of the Internal Revenue
 6 Code of 1986, as added by this section, shall in no
 7 event occur before the 90th day after the date of the
 8 enactment of this Act.

9 **SEC. 341. TAX TREATMENT OF INVERTED CORPORATE ENTI-**
 10 **TIES.**

11 (a) *IN GENERAL.*—Subchapter C of chapter 80 (relat-
 12 ing to provisions affecting more than one subtitle) is
 13 amended by adding at the end the following new section:

14 **“SEC. 7874. RULES RELATING TO INVERTED CORPORATE**
 15 **ENTITIES.**

16 *“(a) INVERTED CORPORATIONS TREATED AS DOMES-*
 17 *TIC CORPORATIONS.*—

18 *“(1) IN GENERAL.*—If a foreign incorporated en-
 19 tity is treated as an inverted domestic corporation,
 20 then, notwithstanding section 7701(a)(4), such entity
 21 shall be treated for purposes of this title as a domestic
 22 corporation.

23 *“(2) INVERTED DOMESTIC CORPORATION.*—For
 24 purposes of this section, a foreign incorporated entity
 25 shall be treated as an inverted domestic corporation

1 *if, pursuant to a plan (or a series of related trans-*
2 *actions)—*

3 *“(A) the entity completes after March 20,*
4 *2002, the direct or indirect acquisition of sub-*
5 *stantially all of the properties held directly or*
6 *indirectly by a domestic corporation or substan-*
7 *tially all of the properties constituting a trade or*
8 *business of a domestic partnership,*

9 *“(B) after the acquisition at least 80 per-*
10 *cent of the stock (by vote or value) of the entity*
11 *is held—*

12 *“(i) in the case of an acquisition with*
13 *respect to a domestic corporation, by former*
14 *shareholders of the domestic corporation by*
15 *reason of holding stock in the domestic cor-*
16 *poration, or*

17 *“(ii) in the case of an acquisition with*
18 *respect to a domestic partnership, by former*
19 *partners of the domestic partnership by rea-*
20 *son of holding a capital or profits interest*
21 *in the domestic partnership, and*

22 *“(C) the expanded affiliated group which*
23 *after the acquisition includes the entity does not*
24 *have substantial business activities in the foreign*
25 *country in which or under the law of which the*

1 *entity is created or organized when compared to*
2 *the total business activities of such expanded af-*
3 *filiated group.*

4 *Except as provided in regulations, an acquisition of*
5 *properties of a domestic corporation shall not be*
6 *treated as described in subparagraph (A) if none of*
7 *the corporation's stock was readily tradeable on an es-*
8 *tablished securities market at any time during the 4-*
9 *year period ending on the date of the acquisition.*

10 *“(b) PRESERVATION OF DOMESTIC TAX BASE IN CER-*
11 *TAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION*
12 *(a) DOES NOT APPLY.—*

13 *“(1) IN GENERAL.—If a foreign incorporated en-*
14 *tity would be treated as an inverted domestic corpora-*
15 *tion with respect to an acquired entity if either—*

16 *“(A) subsection (a)(2)(A) were applied by*
17 *substituting ‘after December 31, 1996, and on or*
18 *before March 20, 2002’ for ‘after March 20, 2002’*
19 *and subsection (a)(2)(B) were applied by sub-*
20 *stituting ‘more than 50 percent’ for ‘at least 80*
21 *percent’, or*

22 *“(B) subsection (a)(2)(B) were applied by*
23 *substituting ‘more than 50 percent’ for ‘at least*
24 *80 percent’,*

1 *then the rules of subsection (c) shall apply to any in-*
2 *version gain of the acquired entity during the appli-*
3 *cable period and the rules of subsection (d) shall*
4 *apply to any related party transaction of the ac-*
5 *quired entity during the applicable period. This sub-*
6 *section shall not apply for any taxable year if sub-*
7 *section (a) applies to such foreign incorporated entity*
8 *for such taxable year.*

9 *“(2) ACQUIRED ENTITY.—For purposes of this*
10 *section—*

11 *“(A) IN GENERAL.—The term ‘acquired en-*
12 *tity’ means the domestic corporation or partner-*
13 *ship substantially all of the properties of which*
14 *are directly or indirectly acquired in an acquisi-*
15 *tion described in subsection (a)(2)(A) to which*
16 *this subsection applies.*

17 *“(B) AGGREGATION RULES.—Any domestic*
18 *person bearing a relationship described in sec-*
19 *tion 267(b) or 707(b) to an acquired entity shall*
20 *be treated as an acquired entity with respect to*
21 *the acquisition described in subparagraph (A).*

22 *“(3) APPLICABLE PERIOD.—For purposes of this*
23 *section—*

24 *“(A) IN GENERAL.—The term ‘applicable*
25 *period’ means the period—*

1 “(i) beginning on the first date prop-
2 erties are acquired as part of the acquisi-
3 tion described in subsection (a)(2)(A) to
4 which this subsection applies, and

5 “(ii) ending on the date which is 10
6 years after the last date properties are ac-
7 quired as part of such acquisition.

8 “(B) SPECIAL RULE FOR INVERSIONS OC-
9 CURRING BEFORE MARCH 21, 2002.—In the case
10 of any acquired entity to which paragraph
11 (1)(A) applies, the applicable period shall be the
12 10-year period beginning on January 1, 2003.

13 “(c) TAX ON INVERSION GAINS MAY NOT BE OFF-
14 SET.—If subsection (b) applies—

15 “(1) IN GENERAL.—The taxable income of an ac-
16 quired entity (or any expanded affiliated group which
17 includes such entity) for any taxable year which in-
18 cludes any portion of the applicable period shall in
19 no event be less than the inversion gain of the entity
20 for the taxable year.

21 “(2) CREDITS NOT ALLOWED AGAINST TAX ON IN-
22 VERSION GAIN.—Credits shall be allowed against the
23 tax imposed by this chapter on an acquired entity for
24 any taxable year described in paragraph (1) only to
25 the extent such tax exceeds the product of—

1 “(A) the amount of the inversion gain for
2 the taxable year, and

3 “(B) the highest rate of tax specified in sec-
4 tion 11(b)(1).

5 For purposes of determining the credit allowed by sec-
6 tion 901 inversion gain shall be treated as from
7 sources within the United States.

8 “(3) SPECIAL RULES FOR PARTNERSHIPS.—In
9 the case of an acquired entity which is a
10 partnership—

11 “(A) the limitations of this subsection shall
12 apply at the partner rather than the partnership
13 level,

14 “(B) the inversion gain of any partner for
15 any taxable year shall be equal to the sum of—

16 “(i) the partner’s distributive share of
17 inversion gain of the partnership for such
18 taxable year, plus

19 “(ii) income or gain required to be rec-
20 ognized for the taxable year by the partner
21 under section 367(a), 741, or 1001, or
22 under any other provision of chapter 1, by
23 reason of the transfer during the applicable
24 period of any partnership interest of the

1 *partner in such partnership to the foreign*
2 *incorporated entity, and*

3 *“(C) the highest rate of tax specified in the*
4 *rate schedule applicable to the partner under*
5 *chapter 1 shall be substituted for the rate of tax*
6 *under paragraph (2)(B).*

7 *“(4) INVERSION GAIN.—For purposes of this sec-*
8 *tion, the term ‘inversion gain’ means any income or*
9 *gain required to be recognized under section 304,*
10 *311(b), 367, 1001, or 1248, or under any other provi-*
11 *sion of chapter 1, by reason of the transfer during the*
12 *applicable period of stock or other properties by an*
13 *acquired entity—*

14 *“(A) as part of the acquisition described in*
15 *subsection (a)(2)(A) to which subsection (b) ap-*
16 *plies, or*

17 *“(B) after such acquisition to a foreign re-*
18 *lated person.*

19 *The Secretary may provide that income or gain from*
20 *the sale of inventories or other transactions in the or-*
21 *inary course of a trade or business shall not be treat-*
22 *ed as inversion gain under subparagraph (B) to the*
23 *extent the Secretary determines such treatment would*
24 *not be inconsistent with the purposes of this section.*

1 “(5) *COORDINATION WITH SECTION 172 AND MIN-*
2 *IMUM TAX.—Rules similar to the rules of paragraphs*
3 *(3) and (4) of section 860E(a) shall apply for pur-*
4 *poses of this section.*

5 “(6) *STATUTE OF LIMITATIONS.—*

6 “(A) *IN GENERAL.—The statutory period*
7 *for the assessment of any deficiency attributable*
8 *to the inversion gain of any taxpayer for any*
9 *pre-inversion year shall not expire before the ex-*
10 *piration of 3 years from the date the Secretary*
11 *is notified by the taxpayer (in such manner as*
12 *the Secretary may prescribe) of the acquisition*
13 *described in subsection (a)(2)(A) to which such*
14 *gain relates and such deficiency may be assessed*
15 *before the expiration of such 3-year period not-*
16 *withstanding the provisions of any other law or*
17 *rule of law which would otherwise prevent such*
18 *assessment.*

19 “(B) *PRE-INVERSION YEAR.—For purposes*
20 *of subparagraph (A), the term ‘pre-inversion*
21 *year’ means any taxable year if—*

22 “(i) *any portion of the applicable pe-*
23 *riod is included in such taxable year, and*

1 “(ii) such year ends before the taxable
2 year in which the acquisition described in
3 subsection (a)(2)(A) is completed.

4 “(d) *SPECIAL RULES APPLICABLE TO RELATED*
5 *PARTY TRANSACTIONS.*—

6 “(1) *ANNUAL APPLICATION FOR AGREEMENTS ON*
7 *RETURN POSITIONS.*—

8 “(A) *IN GENERAL.*—Each acquired entity to
9 which subsection (b) applies shall file with the
10 Secretary an application for an approval agree-
11 ment under subparagraph (D) for each taxable
12 year which includes a portion of the applicable
13 period. Such application shall be filed at such
14 time and manner, and shall contain such infor-
15 mation, as the Secretary may prescribe.

16 “(B) *SECRETARIAL ACTION.*—Within 90
17 days of receipt of an application under subpara-
18 graph (A) (or such longer period as the Secretary
19 and entity may agree upon), the Secretary
20 shall—

21 “(i) enter into an agreement described
22 in subparagraph (D) for the taxable year
23 covered by the application,

24 “(ii) notify the entity that the Sec-
25 retary has determined that the application

1 *was filed in good faith and substantially*
2 *complies with the requirements for the ap-*
3 *plication under subparagraph (A), or*

4 *“(iii) notify the entity that the Sec-*
5 *retary has determined that the application*
6 *was not filed in good faith or does not sub-*
7 *stantially comply with such requirements.*

8 *If the Secretary fails to act within the time pre-*
9 *scribed under the preceding sentence, the entity*
10 *shall be treated for purposes of this paragraph as*
11 *having received notice under clause (ii).*

12 “(C) *FAILURES TO COMPLY.—If an ac-*
13 *quired entity fails to file an application under*
14 *subparagraph (A), or the acquired entity receives*
15 *a notice under subparagraph (B)(iii), for any*
16 *taxable year, then for such taxable year—*

17 *“(i) there shall not be allowed any de-*
18 *duction, or addition to basis or cost of goods*
19 *sold, for amounts paid or incurred, or losses*
20 *incurred, by reason of a transaction between*
21 *the acquired entity and a foreign related*
22 *person,*

23 *“(ii) any transfer or license of intan-*
24 *gible property (as defined in section*
25 *936(h)(3)(B)) between the acquired entity*

1 and a foreign related person shall be dis-
2 regarded, and

3 “(iii) any cost-sharing arrangement
4 between the acquired entity and a foreign
5 related person shall be disregarded.

6 “(D) *APPROVAL AGREEMENT.*—For pur-
7 poses of subparagraph (A), the term ‘approval
8 agreement’ means a prefiling, advance pricing,
9 or other agreement specified by the Secretary
10 which contains such provisions as the Secretary
11 determines necessary to ensure that the require-
12 ments of sections 163(j), 267(a)(3), 482, and 845,
13 and any other provision of this title applicable
14 to transactions between related persons and spec-
15 ified by the Secretary, are met.

16 “(E) *TAX COURT REVIEW.*—

17 “(i) *IN GENERAL.*—The Tax Court
18 shall have jurisdiction over any action
19 brought by an acquired entity receiving a
20 notice under subparagraph (B)(iii) to deter-
21 mine whether the issuance of the notice was
22 an abuse of discretion, but only if the action
23 is brought within 30 days after the date of
24 the mailing (determined under rules similar
25 to section 6213) of the notice.

1 “(ii) *COURT ACTION.*—*The Tax Court*
2 *shall issue its decision within 30 days after*
3 *the filing of the action under clause (i) and*
4 *may order the Secretary to issue a notice*
5 *described in subparagraph (B)(ii).*

6 “(iii) *REVIEW.*—*An order of the Tax*
7 *Court under this subparagraph shall be re-*
8 *viewable in the same manner as any other*
9 *decision of the Tax Court.*

10 “(2) *MODIFICATIONS OF LIMITATION ON INTER-*
11 *EST DEDUCTION.*—*In the case of an acquired entity*
12 *to which subsection (b) applies, section 163(j) shall be*
13 *applied—*

14 “(A) *without regard to paragraph (2)(A)(ii)*
15 *thereof, and*

16 “(B) *by substituting ‘25 percent’ for ‘50*
17 *percent’ each place it appears in paragraph*
18 *(2)(B) thereof.*

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

21 “(1) *RULES FOR APPLICATION OF SUBSECTION*
22 *(a)(2).*—*In applying subsection (a)(2) for purposes of*
23 *subsections (a) and (b), the following rules shall*
24 *apply:*

1 “(A) *CERTAIN STOCK DISREGARDED.*—
2 *There shall not be taken into account in deter-*
3 *mining ownership for purposes of subsection*
4 *(a)(2)(B)—*

5 “(i) *stock held by members of the ex-*
6 *panded affiliated group which includes the*
7 *foreign incorporated entity, or*

8 “(ii) *stock of such entity which is sold*
9 *in a public offering or private placement re-*
10 *lated to the acquisition described in sub-*
11 *section (a)(2)(A).*

12 “(B) *PLAN DEEMED IN CERTAIN CASES.*—*If*
13 *a foreign incorporated entity acquires directly or*
14 *indirectly substantially all of the properties of a*
15 *domestic corporation or partnership during the*
16 *4-year period beginning on the date which is 2*
17 *years before the ownership requirements of sub-*
18 *section (a)(2)(B) are met with respect to such do-*
19 *mestic corporation or partnership, such actions*
20 *shall be treated as pursuant to a plan.*

21 “(C) *CERTAIN TRANSFERS DISREGARDED.*—
22 *The transfer of properties or liabilities (includ-*
23 *ing by contribution or distribution) shall be dis-*
24 *regarded if such transfers are part of a plan a*

1 *principal purpose of which is to avoid the pur-*
2 *poses of this section.*

3 “(D) *SPECIAL RULE FOR RELATED PART-*
4 *NERSHIPS.—For purposes of applying subsection*
5 *(a)(2) to the acquisition of a domestic partner-*
6 *ship, except as provided in regulations, all part-*
7 *nerships which are under common control (with-*
8 *in the meaning of section 482) shall be treated*
9 *as 1 partnership.*

10 “(E) *TREATMENT OF CERTAIN RIGHTS.—*
11 *The Secretary shall prescribe such regulations as*
12 *may be necessary—*

13 “(i) *to treat warrants, options, con-*
14 *tracts to acquire stock, convertible debt in-*
15 *struments, and other similar interests as*
16 *stock, and*

17 “(ii) *to treat stock as not stock.*

18 “(2) *EXPANDED AFFILIATED GROUP.—The term*
19 *‘expanded affiliated group’ means an affiliated group*
20 *as defined in section 1504(a) but without regard to*
21 *section 1504(b)(3), except that section 1504(a) shall*
22 *be applied by substituting ‘more than 50 percent’ for*
23 *‘at least 80 percent’ each place it appears.*

24 “(3) *FOREIGN INCORPORATED ENTITY.—The*
25 *term ‘foreign incorporated entity’ means any entity*

1 *which is, or but for subsection (a)(1) would be, treated*
2 *as a foreign corporation for purposes of this title.*

3 “(4) *FOREIGN RELATED PERSON.*—*The term ‘for-*
4 *foreign related person’ means, with respect to any ac-*
5 *quired entity, a foreign person which—*

6 “(A) *bears a relationship to such entity de-*
7 *scribed in section 267(b) or 707(b), or*

8 “(B) *is under the same common control*
9 *(within the meaning of section 482) as such enti-*
10 *ty.*

11 “(5) *SUBSEQUENT ACQUISITIONS BY UNRELATED*
12 *DOMESTIC CORPORATIONS.*—

13 “(A) *IN GENERAL.*—*Subject to such condi-*
14 *tions, limitations, and exceptions as the Sec-*
15 *retary may prescribe, if, after an acquisition de-*
16 *scribed in subsection (a)(2)(A) to which sub-*
17 *section (b) applies, a domestic corporation stock*
18 *of which is traded on an established securities*
19 *market acquires directly or indirectly any prop-*
20 *erties of one or more acquired entities in a*
21 *transaction with respect to which the require-*
22 *ments of subparagraph (B) are met, this section*
23 *shall cease to apply to any such acquired entity*
24 *with respect to which such requirements are met.*

1 “(B) *REQUIREMENTS.*—*The requirements of*
2 *the subparagraph are met with respect to a*
3 *transaction involving any acquisition described*
4 *in subparagraph (A) if—*

5 “(i) *before such transaction the domes-*
6 *tic corporation did not have a relationship*
7 *described in section 267(b) or 707(b), and*
8 *was not under common control (within the*
9 *meaning of section 482), with the acquired*
10 *entity, or any member of an expanded af-*
11 *iliated group including such entity, and*

12 “(ii) *after such transaction, such ac-*
13 *quired entity—*

14 “(I) *is a member of the same ex-*
15 *panded affiliated group which includes*
16 *the domestic corporation or has such a*
17 *relationship or is under such common*
18 *control with any member of such*
19 *group, and*

20 “(II) *is not a member of, and does*
21 *not have such a relationship and is not*
22 *under such common control with any*
23 *member of, the expanded affiliated*
24 *group which before such acquisition in-*
25 *cluded such entity.*

1 “(f) *REGULATIONS.*—*The Secretary shall provide such*
2 *regulations as are necessary to carry out this section, in-*
3 *cluding regulations providing for such adjustments to the*
4 *application of this section as are necessary to prevent the*
5 *avoidance of the purposes of this section, including the*
6 *avoidance of such purposes through—*

7 “(1) *the use of related persons, pass-through or*
8 *other noncorporate entities, or other intermediaries,*
9 *or*

10 “(2) *transactions designed to have persons cease*
11 *to be (or not become) members of expanded affiliated*
12 *groups or related persons.*”.

13 “(b) *TREATMENT OF AGREEMENTS.*—

14 “(1) *CONFIDENTIALITY.*—

15 “(A) *TREATMENT AS RETURN INFORMA-*
16 *TION.*—*Section 6103(b)(2) (relating to return in-*
17 *formation) is amended by striking “and” at the*
18 *end of subparagraph (C), by inserting “and” at*
19 *the end of subparagraph (D), and by inserting*
20 *after subparagraph (D) the following new sub-*
21 *paragraph:*

22 “(E) *any approval agreement under section*
23 *7874(d)(1) to which any preceding subparagraph*
24 *does not apply and any background information*

1 *related to the agreement or any application for*
2 *the agreement,”.*

3 (B) *EXCEPTION FROM PUBLIC INSPECTION*
4 *AS WRITTEN DETERMINATION.—Section*
5 *6110(b)(1)(B) is amended by striking “or (D)”*
6 *and inserting “, (D), or (E)”.*

7 (2) *REPORTING.—The Secretary of the Treasury*
8 *shall include with any report on advance pricing*
9 *agreements required to be submitted after the date of*
10 *the enactment of this Act under section 521(b) of the*
11 *Ticket to Work and Work Incentives Improvement Act*
12 *of 1999 (Public Law 106–170) a report regarding ap-*
13 *proval agreements under section 7874(d)(1) of the In-*
14 *ternal Revenue Code of 1986. Such report shall in-*
15 *clude information similar to the information required*
16 *with respect to advance pricing agreements and shall*
17 *be treated for confidentiality purposes in the same*
18 *manner as the reports on advance pricing agreements*
19 *are treated under section 521(b)(3) of such Act.*

20 (c) *INFORMATION REPORTING.—The Secretary of the*
21 *Treasury shall exercise the Secretary’s authority under the*
22 *Internal Revenue Code of 1986 to require entities involved*
23 *in transactions to which section 7874 of such Code (as*
24 *added by subsection (a)) applies to report to the Secretary,*
25 *shareholders, partners, and such other persons as the Sec-*

1 *retary may prescribe such information as is necessary to*
 2 *ensure the proper tax treatment of such transactions.*

3 (d) *CONFORMING AMENDMENT.—The table of sections*
 4 *for subchapter C of chapter 80 is amended by adding at*
 5 *the end the following new item:*

“Sec. 7874. Rules relating to inverted corporate entities.”.

6 (e) *TRANSITION RULE FOR CERTAIN REGULATED IN-*
 7 *VESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—*
 8 *Notwithstanding section 7874 of the Internal Revenue Code*
 9 *of 1986 (as added by subsection (a)), a regulated investment*
 10 *company, or other pooled fund or trust specified by the Sec-*
 11 *retary of the Treasury, may elect to recognize gain by rea-*
 12 *son of section 367(a) of such Code with respect to a trans-*
 13 *action under which a foreign incorporated entity is treated*
 14 *as an inverted domestic corporation under section 7874(a)*
 15 *of such Code by reason of an acquisition completed after*
 16 *March 20, 2002, and before January 1, 2004.*

17 ***SEC. 342. EXCISE TAX ON STOCK COMPENSATION OF INSID-***
 18 ***ERS IN INVERTED CORPORATIONS.***

19 (a) *IN GENERAL.—Subtitle D is amended by adding*
 20 *at the end the following new chapter:*

21 ***“CHAPTER 48—STOCK COMPENSATION OF***
 22 ***INSIDERS IN INVERTED CORPORATIONS***

“Sec. 5000A. Stock compensation of insiders in inverted corpora-
tions entities.

1 **“SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN IN-**
2 **VERTED CORPORATIONS.**

3 “(a) *IMPOSITION OF TAX.*—*In the case of an indi-*
4 *vidual who is a disqualified individual with respect to any*
5 *inverted corporation, there is hereby imposed on such per-*
6 *son a tax equal to 20 percent of the value (determined under*
7 *subsection (b)) of the specified stock compensation held (di-*
8 *rectly or indirectly) by or for the benefit of such individual*
9 *or a member of such individual’s family (as defined in sec-*
10 *tion 267) at any time during the 12-month period begin-*
11 *ning on the date which is 6 months before the inversion*
12 *date.*

13 “(b) *VALUE.*—*For purposes of subsection (a)—*

14 “(1) *IN GENERAL.*—*The value of specified stock*
15 *compensation shall be—*

16 “(A) *in the case of a stock option (or other*
17 *similar right) or any stock appreciation right,*
18 *the fair value of such option or right, and*

19 “(B) *in any other case, the fair market*
20 *value of such compensation.*

21 “(2) *DATE FOR DETERMINING VALUE.*—*The de-*
22 *termination of value shall be made—*

23 “(A) *in the case of specified stock compensa-*
24 *tion held on the inversion date, on such date,*

25 “(B) *in the case of such compensation which*
26 *is canceled during the 6 months before the inver-*

1 sion date, on the day before such cancellation,
2 and

3 “(C) in the case of such compensation which
4 is granted after the inversion date, on the date
5 such compensation is granted.

6 “(c) *TAX TO APPLY ONLY IF SHAREHOLDER GAIN*
7 *RECOGNIZED.*—Subsection (a) shall apply to any disquali-
8 fied individual with respect to an inverted corporation only
9 if gain (if any) on any stock in such corporation is recog-
10 nized in whole or part by any shareholder by reason of the
11 acquisition referred to in section 7874(a)(2)(A) (determined
12 by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with
13 respect to such corporation.

14 “(d) *EXCEPTION WHERE GAIN RECOGNIZED ON COM-*
15 *PENSATION.*—Subsection (a) shall not apply to—

16 “(1) any stock option which is exercised on the
17 inversion date or during the 6-month period before
18 such date and to the stock acquired in such exercise,
19 and

20 “(2) any specified stock compensation which is
21 sold, exchanged, or distributed during such period in
22 a transaction in which gain or loss is recognized in
23 full.

24 “(e) *DEFINITIONS.*—For purposes of this section—

1 “(1) *DISQUALIFIED INDIVIDUAL.*—*The term ‘dis-*
2 *qualified individual’ means, with respect to a cor-*
3 *poration, any individual who, at any time during the*
4 *12-month period beginning on the date which is 6*
5 *months before the inversion date—*

6 “(A) *is subject to the requirements of section*
7 *16(a) of the Securities Exchange Act of 1934*
8 *with respect to such corporation or any member*
9 *of the expanded affiliated group which includes*
10 *such corporation, or*

11 “(B) *would be subject to such requirements*
12 *if such corporation or member were an issuer of*
13 *equity securities referred to in such section.*

14 “(2) *INVERTED CORPORATION; INVERSION*
15 *DATE.—*

16 “(A) *INVERTED CORPORATION.*—*The term*
17 *‘inverted corporation’ means any corporation to*
18 *which subsection (a) or (b) of section 7874 ap-*
19 *plies determined—*

20 “(i) *by substituting ‘July 10, 2002’ for*
21 *‘March 20, 2002’ in section 7874(a)(2)(A),*
22 *and*

23 “(ii) *without regard to subsection*
24 *(b)(1)(A).*

1 *Such term includes any predecessor or successor*
2 *of such a corporation.*

3 “(B) *INVERSION DATE.*—*The term ‘inver-*
4 *sion date’ means, with respect to a corporation,*
5 *the date on which the corporation first becomes*
6 *an inverted corporation.*

7 “(3) *SPECIFIED STOCK COMPENSATION.*—

8 “(A) *IN GENERAL.*—*The term ‘specified*
9 *stock compensation’ means payment (or right to*
10 *payment) granted by the inverted corporation*
11 *(or by any member of the expanded affiliated*
12 *group which includes such corporation) to any*
13 *person in connection with the performance of*
14 *services by a disqualified individual for such cor-*
15 *poration or member if the value of such payment*
16 *or right is based on (or determined by reference*
17 *to) the value (or change in value) of stock in*
18 *such corporation (or any such member).*

19 “(B) *EXCEPTIONS.*—*Such term shall not*
20 *include—*

21 “(i) *any option to which part II of*
22 *subchapter D of chapter 1 applies, or*

23 “(ii) *any payment or right to payment*
24 *from a plan referred to in section*
25 *280G(b)(6).*

1 “(4) *EXPANDED AFFILIATED GROUP.*—*The term*
2 *‘expanded affiliated group’ means an affiliated group*
3 *(as defined in section 1504(a) without regard to sec-*
4 *tion 1504(b)(3)); except that section 1504(a) shall be*
5 *applied by substituting ‘more than 50 percent’ for ‘at*
6 *least 80 percent’ each place it appears.*

7 “(f) *SPECIAL RULES.*—*For purposes of this section—*

8 “(1) *CANCELLATION OF RESTRICTION.*—*The can-*
9 *cellation of a restriction which by its terms will never*
10 *lapse shall be treated as a grant.*

11 “(2) *PAYMENT OR REIMBURSEMENT OF TAX BY*
12 *CORPORATION TREATED AS SPECIFIED STOCK COM-*
13 *PENSATION.*—*Any payment of the tax imposed by this*
14 *section directly or indirectly by the inverted corpora-*
15 *tion or by any member of the expanded affiliated*
16 *group which includes such corporation—*

17 “(A) *shall be treated as specified stock com-*
18 *ensation, and*

19 “(B) *shall not be allowed as a deduction*
20 *under any provision of chapter 1.*

21 “(3) *CERTAIN RESTRICTIONS IGNORED.*—*Wheth-*
22 *er there is specified stock compensation, and the value*
23 *thereof, shall be determined without regard to any re-*
24 *striction other than a restriction which by its terms*
25 *will never lapse.*

1 “(4) *PROPERTY TRANSFERS.*—Any transfer of
2 property shall be treated as a payment and any right
3 to a transfer of property shall be treated as a right
4 to a payment.

5 “(5) *OTHER ADMINISTRATIVE PROVISIONS.*—For
6 purposes of subtitle F, any tax imposed by this sec-
7 tion shall be treated as a tax imposed by subtitle A.

8 “(g) *REGULATIONS.*—The Secretary shall prescribe
9 such regulations as may be necessary or appropriate to
10 carry out the purposes of this section.”.

11 (b) *DENIAL OF DEDUCTION.*—

12 (1) *IN GENERAL.*—Paragraph (6) of section
13 275(a) is amended by inserting “48,” after “46,”.

14 (2) *\$1,000,000 LIMIT ON DEDUCTIBLE COM-*
15 *PENSATION REDUCED BY PAYMENT OF EXCISE TAX ON*
16 *SPECIFIED STOCK COMPENSATION.*—Paragraph (4) of
17 section 162(m) is amended by adding at the end the
18 following new subparagraph:

19 “(G) *COORDINATION WITH EXCISE TAX ON*
20 *SPECIFIED STOCK COMPENSATION.*—The dollar
21 limitation contained in paragraph (1) with re-
22 spect to any covered employee shall be reduced
23 (but not below zero) by the amount of any pay-
24 ment (with respect to such employee) of the tax
25 imposed by section 5000A directly or indirectly

1 by the inverted corporation (as defined in such
2 section) or by any member of the expanded affili-
3 ated group (as defined in such section) which in-
4 cludes such corporation.”.

5 (c) *CONFORMING AMENDMENTS.*—

6 (1) *The last sentence of section 3121(v)(2)(A) is*
7 *amended by inserting before the period “or to any*
8 *specified stock compensation (as defined in section*
9 *5000A) on which tax is imposed by section 5000A”.*

10 (2) *The table of chapters for subtitle D is amend-*
11 *ed by adding at the end the following new item:*

“Chapter 48. Stock compensation of insiders in inverted corpora-
tions.”.

12 (d) *EFFECTIVE DATE.*—*The amendments made by this*
13 *section shall take effect on July 11, 2002; except that periods*
14 *before such date shall not be taken into account in applying*
15 *the periods in subsections (a) and (e)(1) of section 5000A*
16 *of the Internal Revenue Code of 1986, as added by this sec-*
17 *tion.*

18 ***SEC. 343. REINSURANCE OF UNITED STATES RISKS IN FOR-***
19 ***EIGN JURISDICTIONS.***

20 (a) *IN GENERAL.*—*Section 845(a) (relating to alloca-*
21 *tion in case of reinsurance agreement involving tax avoid-*
22 *ance or evasion) is amended by striking “source and char-*
23 *acter” and inserting “amount, source, or character”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to any risk reinsured after April 11,*
3 *2002.*

4 **PART II—OTHER PROVISIONS**

5 **SEC. 344. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
6 **INTEREST ON UNDERPAYMENTS RELATED TO**
7 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
8 **MENT.**

9 (a) *GENERAL RULE.*—*If—*
10 (1) *a taxpayer eligible to participate in—*
11 (A) *the Department of the Treasury’s Off-*
12 *shore Voluntary Compliance Initiative, or*
13 (B) *the Department of the Treasury’s vol-*
14 *untary disclosure initiative which applies to the*
15 *taxpayer by reason of the taxpayer’s under-*
16 *reporting of United States income tax liability*
17 *through financial arrangements which rely on*
18 *the use of offshore arrangements which were the*
19 *subject of the initiative described in subpara-*
20 *graph (A), and*
21 (2) *any interest or applicable penalty is imposed*
22 *with respect to any arrangement to which any initia-*
23 *tive described in paragraph (1) applied or to any un-*
24 *derpayment of Federal income tax attributable to*

1 *items arising in connection with any arrangement*
2 *described in paragraph (1),*
3 *then, notwithstanding any other provision of law, the*
4 *amount of such interest or penalty shall be equal to twice*
5 *that determined without regard to this section.*

6 (b) *DEFINITIONS AND RULES.—For purposes of this*
7 *section—*

8 (1) *APPLICABLE PENALTY.—The term “applica-*
9 *ble penalty” means any penalty, addition to tax, or*
10 *fine imposed under chapter 68 of the Internal Rev-*
11 *enue Code of 1986.*

12 (2) *VOLUNTARY OFFSHORE COMPLIANCE INITIA-*
13 *TIVE.—The term “Voluntary Offshore Compliance*
14 *Initiative” means the program established by the De-*
15 *partment of the Treasury in January of 2003 under*
16 *which any taxpayer was eligible to voluntarily dis-*
17 *close previously undisclosed income on assets placed*
18 *in offshore accounts and accessed through credit card*
19 *and other financial arrangements.*

20 (3) *PARTICIPATION.—A taxpayer shall be treated*
21 *as having participated in the Voluntary Offshore*
22 *Compliance Initiative if the taxpayer submitted the*
23 *request in a timely manner and all information re-*
24 *quested by the Secretary of the Treasury or his dele-*

1 gate within a reasonable period of time following the
2 request.

3 (c) *EFFECTIVE DATE.*—The provisions of this section
4 shall apply to interest penalties, additions to tax, and fines
5 with respect to any taxable year if as of May 8, 2003, the
6 assessment of any tax, penalty, or interest with respect to
7 such taxable year is not prevented by the operation of any
8 law or rule of law.

9 **SEC. 345. EFFECTIVELY CONNECTED INCOME TO INCLUDE**
10 **CERTAIN FOREIGN SOURCE INCOME.**

11 (a) *IN GENERAL.*—Section 864(c)(4)(B) (relating to
12 treatment of income from sources without the United States
13 as effectively connected income) is amended by adding at
14 the end the following new flush sentence:

15 “Any income or gain which is equivalent to any
16 item of income or gain described in clause (i),
17 (ii), or (iii) shall be treated in the same manner
18 as such item for purposes of this subparagraph.”.

19 (b) *EFFECTIVE DATE.*—The amendment made by this
20 section shall apply to taxable years beginning after the date
21 of the enactment of this Act.

22 **SEC. 346. DETERMINATION OF BASIS OF AMOUNTS PAID**
23 **FROM FOREIGN PENSION PLANS.**

24 (a) *IN GENERAL.*—Section 72 (relating to annuities
25 and certain proceeds of endowment and life insurance con-

1 *tracts) is amended by redesignating subsection (w) as sub-*
 2 *section (x) by inserting subsection (v) the following new*
 3 *subsection:*

4 “(w) *DETERMINATION OF BASIS OF FOREIGN PENSION*
 5 *PLANS.*—*Notwithstanding any other provision of this sec-*
 6 *tion, for purposes of determining the portion of any dis-*
 7 *tribution from a foreign pension plan which is includible*
 8 *in gross income of the distributee, the investment in the con-*
 9 *tract with respect to the plan shall not include employer*
 10 *or employee contributions to the plan (or any earnings on*
 11 *such contributions) unless such contributions or earnings*
 12 *were subject to taxation by the United States or any foreign*
 13 *government.”.*

14 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 15 *section shall apply to distributions on or after the date of*
 16 *the enactment of this Act.*

17 **SEC. 347. RECAPTURE OF OVERALL FOREIGN LOSSES ON**
 18 **SALE OF CONTROLLED FOREIGN CORPORA-**
 19 **TION.**

20 (a) *IN GENERAL.*—*Section 904(f)(3) (relating to dis-*
 21 *positions) is amending by adding at the end the following*
 22 *new subparagraph:*

23 “(D) *APPLICATION TO DISPOSITIONS OF*
 24 *STOCK IN CONTROLLED FOREIGN CORPORA-*
 25 *TIONS.*—*In the case of any disposition by a tax-*

1 payer of any share of stock in a controlled for-
 2 foreign corporation (as defined in section 957), this
 3 paragraph shall apply to such disposition in the
 4 same manner as if it were a disposition of prop-
 5 erty described in subparagraph (A), except that
 6 the exception contained in subparagraph (C)(i)
 7 shall not apply.”.

8 (b) *EFFECTIVE DATE.*—The amendment made by this
 9 section shall apply to dispositions after the date of the en-
 10 actment of this Act.

11 **SEC. 348. PREVENTION OF MISMATCHING OF INTEREST**
 12 **AND ORIGINAL ISSUE DISCOUNT DEDUC-**
 13 **TIONS AND INCOME INCLUSIONS IN TRANS-**
 14 **ACTIONS WITH RELATED FOREIGN PERSONS.**

15 (a) *ORIGINAL ISSUE DISCOUNT.*—Section 163(e)(3)
 16 (relating to special rule for original issue discount on obli-
 17 gation held by related foreign person) is amended by redesh-
 18 ignating subparagraph (B) as subparagraph (C) and by in-
 19 serting after subparagraph (A) the following new subpara-
 20 graph:

21 “(B) *SPECIAL RULE FOR CERTAIN FOREIGN*
 22 *ENTITIES.*—Notwithstanding subparagraph (A)
 23 (and any regulations thereunder), in the case of
 24 any debt instrument having original issue dis-
 25 count which is held by a related foreign person

1 *which is a foreign personal holding company (as*
2 *defined in section 552), a controlled foreign cor-*
3 *poration (as defined in section 957), or a passive*
4 *foreign investment company (as defined in sec-*
5 *tion 1297), a deduction shall be allowable to the*
6 *issuer with respect to such original issue dis-*
7 *count for any taxable year only to the extent*
8 *such original issue discount is included during*
9 *such taxable year in the gross income of a*
10 *United States person who owns (within the*
11 *meaning of section 958(a)) stock in such cor-*
12 *poration. For purposes of this subparagraph, the*
13 *determination as to the proper allocation of the*
14 *original issue discount to shareholders shall be*
15 *made in such manner as the Secretary may pre-*
16 *scribe.”.*

17 **(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—**

18 *Section 267(a)(3) is amended—*

19 *(1) by striking “The Secretary” and inserting:*

20 *“(A) IN GENERAL.—The Secretary”, and*

21 *(2) by adding at the end the following new sub-*
22 *paragraph:*

23 **“(B) SPECIAL RULE FOR CERTAIN FOREIGN**

24 **ENTITIES.—Notwithstanding any regulations**

25 *issued under subparagraph (A), in the case of*

1 *any amount payable to a foreign personal hold-*
2 *ing company (as defined in section 552), a con-*
3 *trolled foreign corporation (as defined in section*
4 *957), or a passive foreign investment company*
5 *(as defined in section 1297), a deduction shall be*
6 *allowable to the payor with respect to such*
7 *amount for any taxable year only to the extent*
8 *such amount is included during such taxable*
9 *year in the gross income of a United States per-*
10 *son who owns (within the meaning of section*
11 *958(a)) stock in such corporation. For purposes*
12 *of this subparagraph, the determination as to the*
13 *proper allocation of such amount to shareholders*
14 *shall be made in such manner as the Secretary*
15 *may prescribe.”.*

16 *(c) EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply to payments accrued on or after May*
18 *8, 2003.*

19 ***SEC. 349. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-***
20 ***FREE SALES ENTERPRISES.***

21 *(a) PROHIBITION.—Section 555(b) of the Tariff Act of*
22 *1930 (19 U.S.C. 1555(b)) is amended—*

23 *(1) by redesignating paragraphs (6) through (8)*
24 *as paragraphs (7) through (9), respectively; and*

1 (2) by inserting after paragraph (5) the fol-
2 lowing:

3 “(6) Any gasoline or diesel fuel sold at a duty-
4 free sales enterprise shall be considered to be entered
5 for consumption into the customs territory of the
6 United States.”.

7 (b) *CONSTRUCTION*.—The amendments made by this
8 section shall not be construed to create any inference with
9 respect to the interpretation of any provision of law as such
10 provision was in effect on the day before the date of enact-
11 ment of this Act.

12 (c) *EFFECTIVE DATE*.—The amendments made by this
13 section shall take effect on the date of enactment of this Act.

14 **SEC. 350. REPEAL OF EARNED INCOME EXCLUSION OF CITI-
15 ZENS OR RESIDENTS LIVING ABROAD.**

16 (a) *REPEAL*.—Section 911 (relating to citizens or resi-
17 dents living abroad) is amended by adding at the end the
18 following new subsection:

19 “(g) *TERMINATION*.—This section shall not apply to
20 any taxable year beginning after December 31, 2003.”.

21 (b) *EFFECTIVE DATE*.—The amendments made by this
22 section shall apply to taxable years beginning after Decem-
23 ber 31, 2003.

1 ***Subtitle E—Other Revenue***
 2 ***Provisions***

3 ***SEC. 351. EXTENSION OF INTERNAL REVENUE SERVICE***

4 ***USER FEES.***

5 (a) *IN GENERAL.*—Chapter 77 (relating to miscella-
 6 *neous provisions*) is amended by adding at the end the fol-
 7 *lowing new section:*

8 ***“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.***

9 “(a) *GENERAL RULE.*—The Secretary shall establish
 10 *a program requiring the payment of user fees for—*

11 “(1) *requests to the Internal Revenue Service for*
 12 *ruling letters, opinion letters, and determination let-*
 13 *ters, and*

14 “(2) *other similar requests.*

15 “(b) *PROGRAM CRITERIA.*—

16 “(1) *IN GENERAL.*—The fees charged under the
 17 *program required by subsection (a)—*

18 “(A) *shall vary according to categories (or*
 19 *subcategories) established by the Secretary,*

20 “(B) *shall be determined after taking into*
 21 *account the average time for (and difficulty of)*
 22 *complying with requests in each category (and*
 23 *subcategory), and*

24 “(C) *shall be payable in advance.*

25 “(2) *EXEMPTIONS, ETC.*—

1 “(A) *IN GENERAL.*—*The Secretary shall*
2 *provide for such exemptions (and reduced fees)*
3 *under such program as the Secretary determines*
4 *to be appropriate.*

5 “(B) *EXEMPTION FOR CERTAIN REQUESTS*
6 *REGARDING PENSION PLANS.*—*The Secretary*
7 *shall not require payment of user fees under such*
8 *program for requests for determination letters*
9 *with respect to the qualified status of a pension*
10 *benefit plan maintained solely by 1 or more eli-*
11 *gible employers or any trust which is part of the*
12 *plan. The preceding sentence shall not apply to*
13 *any request—*

14 “(i) *made after the later of—*

15 “(I) *the fifth plan year the pen-*
16 *sion benefit plan is in existence, or*

17 “(II) *the end of any remedial*
18 *amendment period with respect to the*
19 *plan beginning within the first 5 plan*
20 *years, or*

21 “(ii) *made by the sponsor of any proto-*
22 *type or similar plan which the sponsor in-*
23 *tends to market to participating employers.*

24 “(C) *DEFINITIONS AND SPECIAL RULES.*—

25 *For purposes of subparagraph (B)—*

1 “(i) *PENSION BENEFIT PLAN.*—*The*
 2 *term ‘pension benefit plan’ means a pen-*
 3 *sion, profit-sharing, stock bonus, annuity,*
 4 *or employee stock ownership plan.*

5 “(ii) *ELIGIBLE EMPLOYER.*—*The term*
 6 *‘eligible employer’ means an eligible em-*
 7 *ployer (as defined in section*
 8 *408(p)(2)(C)(i)(I)) which has at least 1 em-*
 9 *ployee who is not a highly compensated em-*
 10 *ployee (as defined in section 414(q)) and is*
 11 *participating in the plan. The determina-*
 12 *tion of whether an employer is an eligible*
 13 *employer under subparagraph (B) shall be*
 14 *made as of the date of the request described*
 15 *in such subparagraph.*

16 “(iii) *DETERMINATION OF AVERAGE*
 17 *FEES CHARGED.*—*For purposes of any de-*
 18 *termination of average fees charged, any re-*
 19 *quest to which subparagraph (B) applies*
 20 *shall not be taken into account.*

21 “(3) *AVERAGE FEE REQUIREMENT.*—*The average*
 22 *fee charged under the program required by subsection*
 23 *(a) shall not be less than the amount determined*
 24 *under the following table:*

“Category	Average Fee
<i>Employee plan ruling and opinion</i>	\$250

“Category	Average Fee
<i>Exempt organization ruling</i>	\$350
<i>Employee plan determination</i>	\$300
<i>Exempt organization determination</i>	\$275
<i>Chief counsel ruling</i>	\$200.

1 “(c) *TERMINATION.*—*No fee shall be imposed under*
2 *this section with respect to requests made after September*
3 *30, 2013.*”.

4 (b) *CONFORMING AMENDMENTS.*—

5 (1) *The table of sections for chapter 77 is amend-*
6 *ed by adding at the end the following new item:*

“*Sec. 7528. Internal Revenue Service user fees.*”.

7 (2) *Section 10511 of the Revenue Act of 1987 is*
8 *repealed.*

9 (3) *Section 620 of the Economic Growth and*
10 *Tax Relief Reconciliation Act of 2001 is repealed.*

11 (c) *LIMITATIONS.*—*Notwithstanding any other provi-*
12 *sion of law, any fees collected pursuant to section 7528 of*
13 *the Internal Revenue Code of 1986, as added by subsection*
14 *(a), shall not be expended by the Internal Revenue Service*
15 *unless provided by an appropriations Act.*

16 (d) *EFFECTIVE DATE.*—*The amendments made by this*
17 *section shall apply to requests made after the date of the*
18 *enactment of this Act.*

1 **SEC. 352. ADDITION OF VACCINES AGAINST HEPATITIS A TO**
2 **LIST OF TAXABLE VACCINES.**

3 (a) *IN GENERAL.*—Section 4132(a)(1) (defining tax-
4 able vaccine) is amended by redesignating subparagraphs
5 (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and
6 (M), respectively, and by inserting after subparagraph (H)
7 the following new subparagraph:

8 “(I) Any vaccine against hepatitis A.”

9 (b) *CONFORMING AMENDMENT.*—Section
10 9510(c)(1)(A) is amended by striking “October 18, 2000”
11 and inserting “May 8, 2003”.

12 (c) *EFFECTIVE DATE.*—

13 (1) *SALES, ETC.*—The amendments made by this
14 section shall apply to sales and uses on or after the
15 first day of the first month which begins more than
16 4 weeks after the date of the enactment of this Act.

17 (2) *DELIVERIES.*—For purposes of paragraph
18 (1) and section 4131 of the Internal Revenue Code of
19 1986, in the case of sales on or before the effective date
20 described in such paragraph for which delivery is
21 made after such date, the delivery date shall be con-
22 sidered the sale date.

23 **SEC. 353. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS**
24 **TRANSFERS.**

25 (a) *TREATMENT OF CONTRIBUTED PROPERTY WITH*
26 *BUILT-IN LOSS.*—Paragraph (1) of section 704(c) is

1 amended by striking “and” at the end of subparagraph (A),
2 by striking the period at the end of subparagraph (B) and
3 inserting “, and”, and by adding at the end the following:

4 “(C) if any property so contributed has a
5 built-in loss—

6 “(i) such built-in loss shall be taken
7 into account only in determining the
8 amount of items allocated to the contrib-
9 uting partner, and

10 “(ii) except as provided in regulations,
11 in determining the amount of items allo-
12 cated to other partners, the basis of the con-
13 tributed property in the hands of the part-
14 nership shall be treated as being equal to its
15 fair market value immediately after the
16 contribution.

17 For purposes of subparagraph (C), the term ‘built-in
18 loss’ means the excess of the adjusted basis of the
19 property (determined without regard to subparagraph
20 (C)(ii)) over its fair market value immediately after
21 the contribution.”.

22 (b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-
23 erty ON TRANSFER OF PARTNERSHIP INTEREST IF THERE
24 IS SUBSTANTIAL BUILT-IN LOSS.—

1 (1) *ADJUSTMENT REQUIRED.*—Subsection (a) of
2 section 743 (relating to optional adjustment to basis
3 of partnership property) is amended by inserting be-
4 fore the period “or unless the partnership has a sub-
5 stantial built-in loss immediately after such transfer”.

6 (2) *ADJUSTMENT.*—Subsection (b) of section 743
7 is amended by inserting “or with respect to which
8 there is a substantial built-in loss immediately after
9 such transfer” after “section 754 is in effect”.

10 (3) *SUBSTANTIAL BUILT-IN LOSS.*—Section 743
11 is amended by adding at the end the following new
12 subsection:

13 “(d) *SUBSTANTIAL BUILT-IN LOSS.*—

14 “(1) *IN GENERAL.*—For purposes of this section,
15 a partnership has a substantial built-in loss with re-
16 spect to a transfer of an interest in a partnership if
17 the transferee partner’s proportionate share of the ad-
18 justed basis of the partnership property exceeds by
19 more than \$250,000 the basis of such partner’s inter-
20 est in the partnership.

21 “(2) *REGULATIONS.*—The Secretary shall pre-
22 scribe such regulations as may be appropriate to
23 carry out the purposes of paragraph (1) and section
24 734(d), including regulations aggregating related
25 partnerships and disregarding property acquired by

1 *the partnership in an attempt to avoid such pur-*
 2 *poses.”.*

3 (4) *CLERICAL AMENDMENTS.—*

4 (A) *The section heading for section 743 is*
 5 *amended to read as follows:*

6 **“SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-**
 7 **ERTY WHERE SECTION 754 ELECTION OR SUB-**
 8 **STANTIAL BUILT-IN LOSS.”.**

9 (B) *The table of sections for subpart C of*
 10 *part II of subchapter K of chapter 1 is amended*
 11 *by striking the item relating to section 743 and*
 12 *inserting the following new item:*

“Sec. 743. Adjustment to basis of partnership property where sec-
tion 754 election or substantial built-in loss.”.

13 (c) *ADJUSTMENT TO BASIS OF UNDISTRIBUTED PART-*
 14 *NERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS RE-*
 15 *DUCTION.—*

16 (1) *ADJUSTMENT REQUIRED.—Subsection (a) of*
 17 *section 734 (relating to optional adjustment to basis*
 18 *of undistributed partnership property) is amended by*
 19 *inserting before the period “or unless there is a sub-*
 20 *stantial basis reduction”.*

21 (2) *ADJUSTMENT.—Subsection (b) of section 734*
 22 *is amended by inserting “or unless there is a substan-*
 23 *tial basis reduction” after “section 754 is in effect”.*

1 (3) *SUBSTANTIAL BASIS REDUCTION.*—Section
 2 734 is amended by adding at the end the following
 3 new subsection:

4 “(d) *SUBSTANTIAL BASIS REDUCTION.*—

5 “*(1) IN GENERAL.*—For purposes of this section,
 6 there is a substantial basis reduction with respect to
 7 a distribution if the sum of the amounts described in
 8 subparagraphs (A) and (B) of subsection (b)(2) ex-
 9 ceeds \$250,000.

10 “(2) *REGULATIONS.*—

 “**For regulations to carry out this subsection, see
 section 743(d)(2).**”.

11 (4) *CLERICAL AMENDMENTS.*—

12 (A) The section heading for section 734 is
 13 amended to read as follows:

14 “**SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED**
 15 **PARTNERSHIP PROPERTY WHERE SECTION**
 16 **754 ELECTION OR SUBSTANTIAL BASIS RE-**
 17 **DUCTION.**”.

18 (B) The table of sections for subpart B of
 19 part II of subchapter K of chapter 1 is amended
 20 by striking the item relating to section 734 and
 21 inserting the following new item:

 “Sec. 734. Adjustment to basis of undistributed partnership prop-
 erty where section 754 election or substantial basis
 reduction.”.

22 (d) *EFFECTIVE DATES.*—

1 (1) *SUBSECTION (a).*—*The amendment made by*
 2 *subsection (a) shall apply to contributions made after*
 3 *the date of the enactment of this Act.*

4 (2) *SUBSECTION (b).*—*The amendments made by*
 5 *subsection (b) shall apply to transfers after the date*
 6 *of the enactment of this Act.*

7 (3) *SUBSECTION (c).*—*The amendments made by*
 8 *subsection (c) shall apply to distributions after the*
 9 *date of the enactment of this Act.*

10 ***SEC. 354. TREATMENT OF STRIPPED INTERESTS IN BOND***
 11 ***AND PREFERRED STOCK FUNDS, ETC.***

12 (a) *IN GENERAL.*—*Section 1286 (relating to tax treat-*
 13 *ment of stripped bonds) is amended by redesignating sub-*
 14 *section (f) as subsection (g) and by inserting after sub-*
 15 *section (e) the following new subsection:*

16 “(f) *TREATMENT OF STRIPPED INTERESTS IN BOND*
 17 *AND PREFERRED STOCK FUNDS, ETC.*—*In the case of an*
 18 *account or entity substantially all of the assets of which*
 19 *consist of bonds, preferred stock, or a combination thereof,*
 20 *the Secretary may by regulations provide that rules similar*
 21 *to the rules of this section and 305(e), as appropriate, shall*
 22 *apply to interests in such account or entity to which (but*
 23 *for this subsection) this section or section 305(e), as the case*
 24 *may be, would not apply.”*

1 (b) *CROSS REFERENCE.*—Subsection (e) of section 305
 2 is amended by adding at the end the following new para-
 3 graph:

4 “(7) *CROSS REFERENCE.*—

**“For treatment of stripped interests in certain ac-
 counts or entities holding preferred stock, see section
 1286(f).”.**

5 (c) *EFFECTIVE DATE.*—The amendments made by this
 6 section shall apply to purchases and dispositions after the
 7 date of the enactment of this Act.

8 **SEC. 355. REPORTING OF TAXABLE MERGERS AND ACQUI-**
 9 **TIONS.**

10 (a) *IN GENERAL.*—Subpart B of part III of subchapter
 11 A of chapter 61 is amended by inserting after section 6043
 12 the following new section:

13 **“SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.**

14 “(a) *IN GENERAL.*—The acquiring corporation in any
 15 taxable acquisition shall make a return (according to the
 16 forms or regulations prescribed by the Secretary) setting
 17 forth—

18 “(1) a description of the acquisition,

19 “(2) the name and address of each shareholder of
 20 the acquired corporation who is required to recognize
 21 gain (if any) as a result of the acquisition,

22 “(3) the amount of money and the fair market
 23 value of other property transferred to each such share-
 24 holder as part of such acquisition, and

1 “(4) such other information as the Secretary
2 may prescribe.

3 *To the extent provided by the Secretary, the requirements*
4 *of this section applicable to the acquiring corporation shall*
5 *be applicable to the acquired corporation and not to the*
6 *acquiring corporation.*

7 “(b) *NOMINEE REPORTING.*—*Any person who holds*
8 *stock as a nominee for another person shall furnish in the*
9 *manner prescribed by the Secretary to such other person*
10 *the information provided by the corporation under sub-*
11 *section (d).*

12 “(c) *TAXABLE ACQUISITION.*—*For purposes of this sec-*
13 *tion, the term ‘taxable acquisition’ means any acquisition*
14 *by a corporation of stock in or property of another corpora-*
15 *tion if any shareholder of the acquired corporation is re-*
16 *quired to recognize gain (if any) as a result of such acquisi-*
17 *tion.*

18 “(d) *STATEMENTS TO BE FURNISHED TO SHARE-*
19 *HOLDERS.*—*Every person required to make a return under*
20 *subsection (a) shall furnish to each shareholder whose name*
21 *is required to be set forth in such return a written statement*
22 *showing—*

23 “(1) *the name, address, and phone number of the*
24 *information contact of the person required to make*
25 *such return,*

1 “(2) the information required to be shown on
2 such return with respect to such shareholder, and

3 “(3) such other information as the Secretary
4 may prescribe.

5 *The written statement required under the preceding sen-*
6 *tence shall be furnished to the shareholder on or before Jan-*
7 *uary 31 of the year following the calendar year during*
8 *which the taxable acquisition occurred.”.*

9 (b) *ASSESSABLE PENALTIES.*—

10 (1) *Subparagraph (B) of section 6724(d)(1) (re-*
11 *lating to definitions) is amended by redesignating*
12 *clauses (ii) through (xvii) as clauses (iii) through*
13 *(xviii), respectively, and by inserting after clause (i)*
14 *the following new clause:*

15 “(ii) *section 6043A(a) (relating to re-*
16 *turns relating to taxable mergers and acqui-*
17 *sitions),”.*

18 (2) *Paragraph (2) of section 6724(d) is amended*
19 *by redesignating subparagraphs (F) through (AA) as*
20 *subparagraphs (G) through (BB), respectively, and by*
21 *inserting after subparagraph (E) the following new*
22 *subparagraph:*

23 “(F) *subsections (b) and (d) of section*
24 *6043A (relating to returns relating to taxable*
25 *mergers and acquisitions).”.*

1 (c) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *subpart B of part III of subchapter A of chapter 61 is*
 3 *amended by inserting after the item relating to section 6043*
 4 *the following new item:*

“Sec. 6043A. *Returns relating to taxable mergers and acquisitions.*”.

5 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to acquisitions after the date of the en-*
 7 *actment of this Act.*

8 **SEC. 356. MINIMUM HOLDING PERIOD FOR FOREIGN TAX**
 9 **CREDIT ON WITHHOLDING TAXES ON INCOME**
 10 **OTHER THAN DIVIDENDS.**

11 (a) *IN GENERAL.*—*Section 901 is amended by redesign-*
 12 *ating subsection (l) as subsection (m) and by inserting*
 13 *after subsection (k) the following new subsection:*

14 “(l) *MINIMUM HOLDING PERIOD FOR WITHHOLDING*
 15 *TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS*
 16 *ETC.*—

17 “(1) *IN GENERAL.*—*In no event shall a credit be*
 18 *allowed under subsection (a) for any withholding tax*
 19 *(as defined in subsection (k)) on any item of income*
 20 *or gain with respect to any property if—*

21 “(A) *such property is held by the recipient*
 22 *of the item for 15 days or less during the 30-day*
 23 *period beginning on the date which is 15 days*

1 *before the date on which the right to receive pay-*
2 *ment of such item arises, or*

3 *“(B) to the extent that the recipient of the*
4 *item is under an obligation (whether pursuant to*
5 *a short sale or otherwise) to make related pay-*
6 *ments with respect to positions in substantially*
7 *similar or related property.*

8 *This paragraph shall not apply to any dividend to*
9 *which subsection (k) applies.*

10 “(2) *EXCEPTION FOR TAXES PAID BY DEAL-*
11 *ERS.—*

12 “(A) *IN GENERAL.—Paragraph (1) shall*
13 *not apply to any qualified tax with respect to*
14 *any property held in the active conduct in a for-*
15 *foreign country of a business as a dealer in such*
16 *property.*

17 “(B) *QUALIFIED TAX.—For purposes of sub-*
18 *paragraph (A), the term ‘qualified tax’ means a*
19 *tax paid to a foreign country (other than the for-*
20 *foreign country referred to in subparagraph (A))*
21 *if—*

22 *“(i) the item to which such tax is at-*
23 *tributable is subject to taxation on a net*
24 *basis by the country referred to in subpara-*
25 *graph (A), and*

1 “(ii) such country allows a credit
2 against its net basis tax for the full amount
3 of the tax paid to such other foreign coun-
4 try.

5 “(C) DEALER.—For purposes of subpara-
6 graph (A), the term ‘dealer’ means—

7 “(i) with respect to a security, any
8 person to whom paragraphs (1) and (2) of
9 subsection (k) would not apply by reason of
10 paragraph (4) thereof if such security were
11 stock, and

12 “(ii) with respect to any other prop-
13 erty, any person with respect to whom such
14 property is described in section 1221(a)(1).

15 “(D) REGULATIONS.—The Secretary may
16 prescribe such regulations as may be appropriate
17 to carry out this paragraph, including regula-
18 tions to prevent the abuse of the exception pro-
19 vided by this paragraph and to treat other taxes
20 as qualified taxes.

21 “(3) EXCEPTIONS.—The Secretary may by regu-
22 lation provide that paragraph (1) shall not apply to
23 property where the Secretary determines that the ap-
24 plication of paragraph (1) to such property is not
25 necessary to carry out the purposes of this subsection.

1 “(4) *CERTAIN RULES TO APPLY.*—*Rules similar*
 2 *to the rules of paragraphs (5), (6), and (7) of sub-*
 3 *section (k) shall apply for purposes of this subsection.*

4 “(5) *DETERMINATION OF HOLDING PERIOD.*—
 5 *Holding periods shall be determined for purposes of*
 6 *this subsection without regard to section 1235 or any*
 7 *similar rule.”.*

8 (b) *CONFORMING AMENDMENT.*—*The heading of sub-*
 9 *section (k) of section 901 is amended by inserting “ON DIVI-*
 10 *DENDS” after “TAXES”.*

11 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 12 *section shall apply to amounts paid or accrued more than*
 13 *30 days after the date of the enactment of this Act.*

14 **SEC. 357. QUALIFIED TAX COLLECTION CONTRACTS.**

15 (a) *CONTRACT REQUIREMENTS.*—

16 (1) *IN GENERAL.*—*Subchapter A of chapter 64*
 17 *(relating to collection) is amended by adding at the*
 18 *end the following new section:*

19 **“SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.**

20 “(a) *IN GENERAL.*—*Nothing in any provision of law*
 21 *shall be construed to prevent the Secretary from entering*
 22 *into a qualified tax collection contract.*

23 “(b) *QUALIFIED TAX COLLECTION CONTRACT.*—*For*
 24 *purposes of this section, the term ‘qualified tax collection*
 25 *contract’ means any contract which—*

1 “(1) is for the services of any person (other than
2 an officer or employee of the Treasury Department)
3 to locate and contact any taxpayer specified by the
4 Secretary, to request payment from such taxpayer of
5 an amount of Federal tax specified by the Secretary,
6 and to obtain financial information specified by the
7 Secretary with respect to such taxpayer, and

8 “(2) prohibits each person providing such serv-
9 ices under such contract from committing any act or
10 omission which employees of the Internal Revenue
11 Service are prohibited from committing in the per-
12 formance of similar services.

13 “(c) FEES.—The Secretary may retain and use an
14 amount not in excess of 25 percent of the amount collected
15 under any qualified tax collection contract for the costs of
16 services performed under such contract. The Secretary shall
17 keep adequate records regarding amounts so retained and
18 used. The amount credited as paid by any taxpayer shall
19 be determined without regard to this subsection.

20 “(d) NO FEDERAL LIABILITY.—The United States
21 shall not be liable for any act or omission of any person
22 performing services under a qualified tax collection con-
23 tract.

24 “(e) APPLICATION OF FAIR DEBT COLLECTION PRAC-
25 TICES ACT.—The provisions of the Fair Debt Collection

1 *Practices Act (15 U.S.C. 1692 et seq.) shall apply to any*
 2 *qualified tax collection contract, except to the extent super-*
 3 *seded by any provision of this title.*

4 “(f) *CROSS REFERENCES.*—

5 “(1) *For damages for certain unauthorized col-*
 6 *lection actions by persons performing services under*
 7 *a qualified tax collection contract, see section 7433A.*

8 “(2) *For application of Taxpayer Assistance Or-*
 9 *ders to persons performing services under a qualified*
 10 *tax collection contract, see section 7811(a)(4).”.*

11 (2) *CONFORMING AMENDMENTS.*—

12 (A) *Section 7809(a) is amended by insert-*
 13 *ing “6306,” before “7651”.*

14 (B) *The table of sections for subchapter A of*
 15 *chapter 64 is amended by adding at the end the*
 16 *following new item:*

“*Sec. 6306. Qualified Tax Collection Contracts.*”.

17 (b) *CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED*
 18 *COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES*
 19 *UNDER QUALIFIED TAX COLLECTION CONTRACTS.*—

20 (1) *IN GENERAL.*—*Subchapter B of chapter 76*
 21 *(relating to proceedings by taxpayers and third par-*
 22 *ties) is amended by inserting after section 7433 the*
 23 *following new section:*

1 **“SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED**
2 **COLLECTION ACTIONS BY PERSONS PER-**
3 **FORMING SERVICES UNDER QUALIFIED TAX**
4 **COLLECTION CONTRACTS.**

5 “(a) *IN GENERAL.*—Subject to the modifications pro-
6 vided by subsection (b), section 7433 shall apply to the acts
7 and omissions of any person performing services under a
8 qualified tax collection contract (as defined in section
9 6306(b)) to the same extent and in the same manner as
10 if such person were an employee of the Internal Revenue
11 Service.

12 “(b) *MODIFICATIONS.*—For purposes of subsection
13 (a)—

14 “(1) Any civil action brought under section 7433
15 by reason of this section shall be brought against the
16 person who entered into the qualified tax collection
17 contract with the Secretary and shall not be brought
18 against the United States.

19 “(2) Such person and not the United States shall
20 be liable for any damages and costs determined in
21 such civil action.

22 “(3) Such civil action shall not be an exclusive
23 remedy with respect to such person.

24 “(4) Subsections (c) and (d)(1) of section 7433
25 shall not apply.”

1 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
 2 *tions for subchapter B of chapter 76 is amended by*
 3 *inserting after the item relating to section 7433 the*
 4 *following new item:*

“Sec. 7433A. Civil damages for certain unauthorized collection ac-
tions by persons performing services under a quali-
fied tax collection contract.”.

5 *(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS*
 6 *TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED*
 7 *TAX COLLECTION CONTRACT.*—*Section 7811 (relating to*
 8 *taxpayer assistance orders) is amended by adding at the*
 9 *end the following new subsection:*

10 *“(g) APPLICATION TO PERSONS PERFORMING SERV-*
 11 *ICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.*—
 12 *Any order issued or action taken by the National Taxpayer*
 13 *Advocate pursuant to this section shall apply to persons*
 14 *performing services under a qualified tax collection contract*
 15 *(as defined in section 6306(b)) to the same extent and in*
 16 *the same manner as such order or action applies to the Sec-*
 17 *retary.”.*

18 *(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MIS-*
 19 *CONDUCT TO PERFORM UNDER CONTRACT.*—*Section 1203*
 20 *of the Internal Revenue Service Restructuring Act of 1998*
 21 *(relating to termination of employment for misconduct) is*
 22 *amended by adding at the end the following new subsection:*

23 *“(e) INDIVIDUALS PERFORMING SERVICES UNDER A*
 24 *QUALIFIED TAX COLLECTION CONTRACT.*—*An individual*

1 *shall cease to be permitted to perform any services under*
2 *any qualified tax collection contract (as defined in section*
3 *6306(b) of the Internal Revenue Code of 1986) if there is*
4 *a final determination by the Secretary of the Treasury*
5 *under such contract that such individual committed any*
6 *act or omission described under subsection (b) in connection*
7 *with the performance of such services.”.*

8 *(e) EFFECTIVE DATE.—The amendments made to this*
9 *section shall take effect on the date of the enactment of this*
10 *Act.*

11 **SEC. 358. EXTENSION OF CUSTOMS USER FEES.**

12 *Section 13031(j)(3) of the Consolidated Omnibus*
13 *Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is*
14 *amended by striking “September 30, 2003” and inserting*
15 *“September 30, 2013”.*

16 **SEC. 359. CLARIFICATION OF EXEMPTION FROM TAX FOR**
17 **SMALL PROPERTY AND CASUALTY INSUR-**
18 **ANCE COMPANIES.**

19 *(a) IN GENERAL.—Section 501(c)(15)(A) is amended*
20 *to read as follows:*

21 *“(A) Insurance companies or associations*
22 *other than life (including interinsurers and re-*
23 *ciprocal underwriters) if—*

24 *“(i) the gross receipts for the taxable*
25 *year do not exceed \$600,000, and*

1 “(i) more than 50 percent of such
2 gross receipts consist of premiums.”.

3 (b) **CONTROLLED GROUP RULE.**—Section
4 501(c)(15)(C) is amended by inserting “, except that in ap-
5 plying section 1563 for purposes of section 831(b)(2)(B)(i),
6 subparagraphs (B) and (C) of section 1563(b)(2) shall be
7 disregarded” before the period at the end.

8 (c) **CONFORMING AMENDMENT.**—Clause (i) of section
9 831(b)(2)(A) is amended by striking “exceed \$350,000 but”.

10 (d) **EFFECTIVE DATE.**—The amendments made by this
11 section shall apply to taxable years beginning after Decem-
12 ber 31, 2003.

13 **SEC. 360. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALL-**
14 **MENT AGREEMENTS.**

15 (a) **IN GENERAL.**—

16 (1) Section 6159(a) (relating to authorization of
17 agreements) is amended—

18 (A) by striking “satisfy liability for pay-
19 ment of” and inserting “make payment on”, and

20 (B) by inserting “full or partial” after “fa-
21 cilitate”.

22 (2) Section 6159(c) (relating to Secretary re-
23 quired to enter into installment agreements in certain
24 cases) is amended in the matter preceding paragraph
25 (1) by inserting “full” before “payment”.

1 (b) *REQUIREMENT TO REVIEW PARTIAL PAYMENT*
 2 *AGREEMENTS EVERY TWO YEARS.*—Section 6159 is
 3 amended by redesignating subsections (d) and (e) as sub-
 4 sections (e) and (f), respectively, and inserting after sub-
 5 section (c) the following new subsection:

6 “(d) *SECRETARY REQUIRED TO REVIEW INSTALL-*
 7 *MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO*
 8 *YEARS.*—In the case of an agreement entered into by the
 9 Secretary under subsection (a) for partial collection of a
 10 tax liability, the Secretary shall review the agreement at
 11 least once every 2 years.”.

12 (c) *EFFECTIVE DATE.*—The amendments made by this
 13 section shall apply to agreements entered into on or after
 14 the date of the enactment of this Act.

15 **SEC. 361. EXTENSION OF AMORTIZATION OF INTANGIBLES**
 16 **TO SPORTS FRANCHISES.**

17 (a) *IN GENERAL.*—Section 197(e) (relating to excep-
 18 tions to definition of section 197 intangible) is amended
 19 by striking paragraph (6) and by redesignating paragraphs
 20 (7) and (8) as paragraphs (6) and (7), respectively.

21 (b) *CONFORMING AMENDMENTS.*—

22 (1)(A) Section 1056 (relating to basis limitation
 23 for player contracts transferred in connection with
 24 the sale of a franchise) is repealed.

1 (B) *The table of sections for part IV of sub-*
 2 *chapter O of chapter 1 is amended by striking the*
 3 *item relating to section 1056.*

4 (2) *Section 1253 (relating to transfers of fran-*
 5 *chises, trademarks, and trade names) is amended by*
 6 *striking subsection (e).*

7 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 8 *section shall apply to property acquired after the date of*
 9 *the enactment of this Act.*

10 ***SEC. 362. DEPOSITS MADE TO SUSPEND RUNNING OF IN-***
 11 ***TEREST ON POTENTIAL UNDERPAYMENTS.***

12 (a) *IN GENERAL.*—*Subchapter A of chapter 67 (relat-*
 13 *ing to interest on underpayments) is amended by adding*
 14 *at the end the following new section:*

15 ***“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF IN-***
 16 ***TEREST ON POTENTIAL UNDERPAYMENTS,***
 17 ***ETC.***

18 “(a) *AUTHORITY TO MAKE DEPOSITS OTHER THAN*
 19 *AS PAYMENT OF TAX.*—*A taxpayer may make a cash de-*
 20 *posit with the Secretary which may be used by the Sec-*
 21 *retary to pay any tax imposed under subtitle A or B or*
 22 *chapter 41, 42, 43, or 44 which has not been assessed at*
 23 *the time of the deposit. Such a deposit shall be made in*
 24 *such manner as the Secretary shall prescribe.*

1 “(b) *NO INTEREST IMPOSED.*—*To the extent that such*
2 *deposit is used by the Secretary to pay tax, for purposes*
3 *of section 6601 (relating to interest on underpayments), the*
4 *tax shall be treated as paid when the deposit is made.*

5 “(c) *RETURN OF DEPOSIT.*—*Except in a case where*
6 *the Secretary determines that collection of tax is in jeop-*
7 *ardy, the Secretary shall return to the taxpayer any*
8 *amount of the deposit (to the extent not used for a payment*
9 *of tax) which the taxpayer requests in writing.*

10 “(d) *PAYMENT OF INTEREST.*—

11 “(1) *IN GENERAL.*—*For purposes of section 6611*
12 *(relating to interest on overpayments), a deposit*
13 *which is returned to a taxpayer shall be treated as a*
14 *payment of tax for any period to the extent (and only*
15 *to the extent) attributable to a disputable tax for such*
16 *period. Under regulations prescribed by the Secretary,*
17 *rules similar to the rules of section 6611(b)(2) shall*
18 *apply.*

19 “(2) *DISPUTABLE TAX.*—

20 “(A) *IN GENERAL.*—*For purposes of this*
21 *section, the term ‘disputable tax’ means the*
22 *amount of tax specified at the time of the deposit*
23 *as the taxpayer’s reasonable estimate of the max-*
24 *imum amount of any tax attributable to disput-*
25 *able items.*

1 “(B) *SAFE HARBOR BASED ON 30-DAY LET-*
2 *TER.*—*In the case of a taxpayer who has been*
3 *issued a 30-day letter, the maximum amount of*
4 *tax under subparagraph (A) shall not be less*
5 *than the amount of the proposed deficiency speci-*
6 *fied in such letter.*

7 “(3) *OTHER DEFINITIONS.*—*For purposes of*
8 *paragraph (2)—*

9 “(A) *DISPUTABLE ITEM.*—*The term ‘disput-*
10 *able item’ means any item of income, gain, loss,*
11 *deduction, or credit if the taxpayer—*

12 “(i) *has a reasonable basis for its*
13 *treatment of such item, and*

14 “(ii) *reasonably believes that the Sec-*
15 *retary also has a reasonable basis for dis-*
16 *allowing the taxpayer’s treatment of such*
17 *item.*

18 “(B) *30-DAY LETTER.*—*The term ‘30-day*
19 *letter’ means the first letter of proposed defi-*
20 *ciency which allows the taxpayer an opportunity*
21 *for administrative review in the Internal Rev-*
22 *enue Service Office of Appeals.*

23 “(4) *RATE OF INTEREST.*—*The rate of interest*
24 *allowable under this subsection shall be the Federal*

1 *short-term rate determined under section 6621(b),*
2 *compounded daily.*

3 “(e) *USE OF DEPOSITS.*—

4 “(1) *PAYMENT OF TAX.*—*Except as otherwise*
5 *provided by the taxpayer, deposits shall be treated as*
6 *used for the payment of tax in the order deposited.*

7 “(2) *RETURNS OF DEPOSITS.*—*Deposits shall be*
8 *treated as returned to the taxpayer on a last-in, first-*
9 *out basis.”.*

10 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
11 *subchapter A of chapter 67 is amended by adding at the*
12 *end the following new item:*

“Sec. 6603. Deposits made to suspend running of interest on poten-
tial underpayments, etc.”.

13 (c) *EFFECTIVE DATE.*—

14 (1) *IN GENERAL.*—*The amendments made by*
15 *this section shall apply to deposits made after the*
16 *date of the enactment of this Act.*

17 (2) *COORDINATION WITH DEPOSITS MADE UNDER*
18 *REVENUE PROCEDURE 84-58.*—*In the case of an*
19 *amount held by the Secretary of the Treasury or his*
20 *delegate on the date of the enactment of this Act as*
21 *a deposit in the nature of a cash bond deposit pursu-*
22 *ant to Revenue Procedure 84-58, the date that the*
23 *taxpayer identifies such amount as a deposit made*
24 *pursuant to section 6603 of the Internal Revenue*

1 Code (as added by this Act) shall be treated as the
2 date such amount is deposited for purposes of such
3 section 6603.

4 **SEC. 363. CLARIFICATION OF RULES FOR PAYMENT OF ESTI-**
5 **MATED TAX FOR CERTAIN DEEMED ASSET**
6 **SALES.**

7 (a) *IN GENERAL.*—Paragraph (13) of section 338(h)
8 (relating to tax on deemed sale not taken into account for
9 estimated tax purposes) is amended by adding at the end
10 the following: “The preceding sentence shall not apply with
11 respect to a qualified stock purchase for which an election
12 is made under paragraph (10).”.

13 (b) *EFFECTIVE DATE.*—The amendment made by sub-
14 section (a) shall apply to transactions occurring after the
15 date of the enactment of this Act.

16 **SEC. 364. LIMITATION OF DEDUCTION FOR CHARITABLE**
17 **CONTRIBUTIONS OF PATENTS AND SIMILAR**
18 **PROPERTY.**

19 (a) *IN GENERAL.*—Section 170(e)(1)(B) (relating to
20 certain contributions of ordinary income and capital gain
21 property) is amended by striking “or” at the end of clause
22 (i), by adding “or” at the end of clause (ii), and by insert-
23 ing after clause (ii) the following new clause:

24 “(iii) of any patent, copyright, trade-
25 mark, trade name, trade secret, know-how,

1 *software, or similar property, or applica-*
2 *tions or registrations of such property,”.*

3 (b) *ANTI-ABUSE RULES.*—*The Secretary of the Treas-*
4 *ury may prescribe such regulations or other administrative*
5 *guidance as may be necessary or appropriate to prevent the*
6 *avoidance of the purposes of section 170(e)(1)(B)(iii) of the*
7 *Internal Revenue Code of 1986 (as added by subsection (a)),*
8 *including preventing—*

9 (1) *the circumvention of the reduction of the*
10 *charitable deduction by embedding or bundling the*
11 *patent or similar property as part of a charitable*
12 *contribution of property that includes the patent or*
13 *similar property,*

14 (2) *the manipulation of the basis of the property*
15 *to increase the amount of the charitable deduction*
16 *through the use of related persons, pass-thru entities,*
17 *or other intermediaries, or through the use of any*
18 *provision of law or regulation (including the consoli-*
19 *dated return regulations), and*

20 (3) *a donor from changing the form of the patent*
21 *or similar property to property of a form for which*
22 *different deduction rules would apply.*

23 (c) *EFFECTIVE DATE.*—*The amendments made by this*
24 *section shall apply to contributions made after May 7,*
25 *2003.*

1 **SEC. 365. EXTENSION OF TRANSFERS OF EXCESS PENSION**
2 **ASSETS TO RETIREE HEALTH ACCOUNTS.**

3 (a) *AMENDMENT OF INTERNAL REVENUE CODE OF*
4 *1986.—Paragraph (5) of section 420(b) (relating to expira-*
5 *tion) is amended by striking “December 31, 2005” and in-*
6 *serting “December 31, 2013”.*

7 (b) *AMENDMENTS OF ERISA.—*

8 (1) *Section 101(e)(3) of the Employee Retirement*
9 *Income Security Act of 1974 (29 U.S.C. 1021(e)(3))*
10 *is amended by striking “Tax Relief Extension Act of*
11 *1999” and inserting “Jobs and Growth Tax Relief*
12 *Reconciliation Act of 2003”.*

13 (2) *Section 403(c)(1) of such Act (29 U.S.C.*
14 *1103(c)(1)) is amended by striking “Tax Relief Ex-*
15 *tension Act of 1999” and inserting “Jobs and Growth*
16 *Tax Relief Reconciliation Act of 2003”.*

17 (3) *Paragraph (13) of section 408(b) of such Act*
18 *(29 U.S.C. 1108(b)(3)) is amended—*

19 (A) *by striking “January 1, 2006” and in-*
20 *serting “January 1, 2014”, and*

21 (B) *by striking “Tax Relief Extension Act*
22 *of 1999” and inserting “Jobs and Growth Tax*
23 *Relief Reconciliation Act of 2003”.*

1 **SEC. 366. PRORATION RULES FOR LIFE INSURANCE BUSI-**
2 **NESS OF PROPERTY AND CASUALTY INSUR-**
3 **ANCE COMPANIES.**

4 (a) *IN GENERAL.*—Section 832(b)(4) (defining pre-
5 miums earned) is amended—

6 (1) by inserting “, except that any deduction at-
7 tributable to such reserves shall be reduced in the
8 same manner as the deductions provided by sections
9 243, 244, and 245 for a life insurance company are
10 reduced under section 805(a)(4)” before the period at
11 the end of the first sentence following subparagraph
12 (C), and

13 (2) by adding at the end the following new sen-
14 tence: “In applying section 812(d) for purposes of the
15 reduction under the third preceding sentence, only
16 gross investment income attributable to the reserves
17 described in such sentence shall be taken into ac-
18 count.”.

19 (b) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to taxable years beginning after Decem-
21 ber 31, 2003.

22 **SEC. 367. MODIFICATION OF TREATMENT OF TRANSFERS**
23 **TO CREDITORS IN DIVISIVE REORGANIZA-**
24 **TIONS.**

25 (a) *IN GENERAL.*—Section 361(b)(3) (relating to treat-
26 ment of transfers to creditors) is amended by adding at the

1 *end the following new sentence: “In the case of a reorganiza-*
2 *tion described in section 368(a)(1)(D) with respect to which*
3 *stock or securities of the corporation to which the assets are*
4 *transferred are distributed in a transaction which qualifies*
5 *under section 355, this paragraph shall apply only to the*
6 *extent that the money or other property transferred to such*
7 *creditors does not exceed the adjusted bases of such assets*
8 *transferred.”.*

9 (b) *LIABILITIES IN EXCESS OF BASIS.*—Section
10 *357(c)(1)(B) is amended by inserting “with respect to*
11 *which stock or securities of the corporation to which the as-*
12 *sets are transferred are distributed in a transaction which*
13 *qualifies under section 355” after “section 368(a)(1)(D)”.*

14 (c) *EFFECTIVE DATE.*—The amendments made by this
15 *section shall apply to transfers of money or other property,*
16 *or liabilities assumed, in connection with a reorganization*
17 *occurring on or after the date of the enactment of this Act.*

18 **SEC. 368. INCREASE IN AGE OF MINOR CHILDREN WHOSE**
19 **UNEARNED INCOME IS TAXED AS IF PARENT'S**
20 **INCOME.**

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

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2003.*

4 **SEC. 369. CONSISTENT AMORTIZATION OF PERIODS FOR IN-**
5 **TANGIBLES.**

6 (a) *START-UP EXPENDITURES.*—

7 (1) *ALLOWANCE OF DEDUCTION.*—*Paragraph (1)*
8 *of section 195(b) (relating to start-up expenditures) is*
9 *amended to read as follows:*

10 “(1) *ALLOWANCE OF DEDUCTION.*—*If a taxpayer*
11 *elects the application of this subsection with respect to*
12 *any start-up expenditures—*

13 “(A) *the taxpayer shall be allowed a deduc-*
14 *tion for the taxable year in which the active*
15 *trade or business begins in an amount equal to*
16 *the lesser of—*

17 “(i) *the amount of start-up expendi-*
18 *tures with respect to the active trade or*
19 *business, or*

20 “(ii) *\$5,000, reduced (but not below*
21 *zero) by the amount by which such start-up*
22 *expenditures exceed \$50,000, and*

23 “(B) *the remainder of such start-up expend-*
24 *itures shall be allowed as a deduction ratably*
25 *over the 180-month period beginning with the*

1 *month in which the active trade or business be-*
2 *gins.”.*

3 (2) *CONFORMING AMENDMENT.*—Subsection (b)
4 *of section 195 is amended by striking “AMORTIZE”*
5 *and inserting “DEDUCT” in the heading.*

6 (b) *ORGANIZATIONAL EXPENDITURES.*—Subsection (a)
7 *of section 248 (relating to organizational expenditures) is*
8 *amended to read as follows:*

9 “(a) *ELECTION TO DEDUCT.*—If a corporation elects
10 *the application of this subsection (in accordance with regu-*
11 *lations prescribed by the Secretary) with respect to any or-*
12 *ganizational expenditures—*

13 “(1) *the corporation shall be allowed a deduction*
14 *for the taxable year in which the corporation begins*
15 *business in an amount equal to the lesser of—*

16 “(A) *the amount of organizational expendi-*
17 *tures with respect to the taxpayer, or*

18 “(B) *\$5,000, reduced (but not below zero) by*
19 *the amount by which such organizational ex-*
20 *penditures exceed \$50,000, and*

21 “(2) *the remainder of such organizational ex-*
22 *penditures shall be allowed as a deduction ratably*
23 *over the 180-month period beginning with the month*
24 *in which the corporation begins business.”.*

1 (c) *TREATMENT OF ORGANIZATIONAL AND SYNDICA-*
2 *TION FEES OR PARTNERSHIPS.—*

3 (1) *IN GENERAL.—*Section 709(b) (relating to
4 *amortization of organization fees*) is amended by re-
5 *designating paragraph (2) as paragraph (3) and by*
6 *amending paragraph (1) to read as follows:*

7 “(1) *ALLOWANCE OF DEDUCTION.—*If a taxpayer
8 *elects the application of this subsection (in accordance*
9 *with regulations prescribed by the Secretary) with re-*
10 *spect to any organizational expenses—*

11 “(A) *the taxpayer shall be allowed a deduc-*
12 *tion for the taxable year in which the partner-*
13 *ship begins business in an amount equal to the*
14 *lesser of—*

15 “(i) *the amount of organizational ex-*
16 *penses with respect to the partnership, or*

17 “(ii) *\$5,000, reduced (but not below*
18 *zero) by the amount by which such organi-*
19 *zational expenses exceed \$50,000, and*

20 “(B) *the remainder of such organizational*
21 *expenses shall be allowed as a deduction ratably*
22 *over the 180-month period beginning with the*
23 *month in which the partnership begins business.*

24 “(2) *DISPOSITIONS BEFORE CLOSE OF AMORTI-*
25 *ZATION PERIOD.—*In any case in which a partnership

1 *is liquidated before the end of the period to which*
2 *paragraph (1)(B) applies, any deferred expenses at-*
3 *tributable to the partnership which were not allowed*
4 *as a deduction by reason of this section may be de-*
5 *ducted to the extent allowable under section 165.”.*

6 (2) *CONFORMING AMENDMENT.—Subsection (b)*
7 *of section 709 is amended by striking “AMORTIZA-*
8 *TION” and inserting “DEDUCTION” in the heading.*

9 (d) *EFFECTIVE DATE.—The amendments made by this*
10 *section shall apply to amounts paid or incurred after the*
11 *date of the enactment of this Act.*

12 **SEC. 370. CLARIFICATION OF DEFINITION OF NON-**
13 **QUALIFIED PREFERRED STOCK.**

14 (a) *IN GENERAL.—Section 351(g)(3)(A) is amended*
15 *by adding at the end the following: “Stock shall not be treat-*
16 *ed as participating in corporate growth to any significant*
17 *extent unless there is a real and meaningful likelihood of*
18 *the shareholder actually participating in the earnings and*
19 *growth of the corporation.”*

20 (b) *EFFECTIVE DATE.—The amendment made by this*
21 *section shall apply to transactions after May 14, 2003.*

22 **SEC. 371. CLASS LIVES FOR UTILITY GRADING COSTS.**

23 (a) *GAS UTILITY PROPERTY.—Section 168(e)(3)(E)*
24 *(defining 15-year property) is amended by striking “and”*
25 *at the end of clause (ii), by striking the period at the end*

1 of clause (iii) and inserting “, and”, and by adding at the
2 end the following new clause:

3 “(iv) initial clearing and grading land
4 improvements with respect to gas utility
5 property.”

6 (b) *ELECTRIC UTILITY PROPERTY.*—Section 168(e)(3)
7 is amended by adding at the end the following new subpara-
8 graph:

9 “(F) *20-YEAR PROPERTY.*—The term ‘20-
10 year property’ means initial clearing and grad-
11 ing land improvements with respect to any elec-
12 tric utility transmission and distribution plant.”

13 (c) *CONFORMING AMENDMENTS.*—The table contained
14 in section 168(g)(3)(B) is amended—

15 (1) by inserting “or (E)(iv)” after “(E)(iii)”,

16 and

17 (2) by adding at the end the following new item:

“(F) 25”.

18 (d) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to property placed in service after the
20 date of the enactment of this Act.

21 **SEC. 372. PROHIBITION ON NONRECOGNITION OF GAIN**
22 **THROUGH COMPLETE LIQUIDATION OF**
23 **HOLDING COMPANY.**

24 (a) *IN GENERAL.*—Section 332 is amended by adding
25 at the end the following new subsection:

1 “(d) *RECOGNITION OF GAIN ON LIQUIDATION OF CER-*
2 *TAIN HOLDING COMPANIES.*—

3 “(1) *IN GENERAL.*—*Subsection (a) and section*
4 *331 shall not apply to any distribution in complete*
5 *liquidation of an applicable holding company to the*
6 *extent of the earnings and profits of such company.*

7 “(2) *APPLICABLE HOLDING COMPANY.*—*For pur-*
8 *poses of this subsection—*

9 “(A) *IN GENERAL.*—*The term ‘applicable*
10 *holding company’ means any corporation—*

11 “(i) *which is a member of a chain of*
12 *includible corporations with a common par-*
13 *ent which is a foreign corporation,*

14 “(ii) *the stock of which is directly*
15 *owned by such common parent or another*
16 *foreign corporation,*

17 “(iii) *substantially all of the assets of*
18 *which consist of stock in other members of*
19 *such chain of corporations, and*

20 “(iv) *which has not been in existence*
21 *at least 5 years as of the date of the liquida-*
22 *tion.*

23 “(B) *INCLUDIBLE CORPORATION.*—*The term*
24 *‘includible corporation’ has the meaning given*

1 *such term under section 1504(b) (without regard*
2 *to paragraph (3) thereof).”*

3 **(b) EFFECTIVE DATE.**—*The amendment made by this*
4 *section shall apply to distributions in complete liquidation*
5 *occurring after the date of the enactment of this Act.*

6 **SEC. 373. LEASE TERM TO INCLUDE CERTAIN SERVICE CON-**
7 **TRACTS.**

8 **(a) IN GENERAL.**—*Section 168(i)(3) (relating to lease*
9 *term) is amended by adding at the end the following new*
10 *subparagraph:*

11 **“(C) SPECIAL RULE FOR SERVICE CON-**
12 **TRACTS.**—*In determining a lease term, there*
13 *shall be taken into account any optional service*
14 *contract or other similar arrangement.”*

15 **(b) EFFECTIVE DATE.**—*The amendment made by this*
16 *section shall apply to leases entered into after the date of*
17 *the enactment of this Act.*

18 **SEC. 374. RECOGNITION OF GAIN FROM THE SALE OF A**
19 **PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-**
20 **KIND EXCHANGE WITHIN 5 YEARS OF SALE.**

21 **(a) IN GENERAL.**—*Section 121(d) (relating to special*
22 *rules for exclusion of gain from sale of principal residence)*
23 *is amended by adding at the end the following new para-*
24 *graph:*

1 “(10) *PROPERTY ACQUIRED IN LIKE-KIND EX-*
 2 *CHANGE.—If a taxpayer acquired property in an ex-*
 3 *change to which section 1031 applied, subsection (a)*
 4 *shall not apply to the sale or exchange of such prop-*
 5 *erty if it occurs during the 5-year period beginning*
 6 *with the exchange to which section 1031 applied.”*

7 **(b) EFFECTIVE DATE.**—*The amendment made by this*
 8 *section shall apply to sales or exchanges after the date of*
 9 *the enactment of this Act.*

10 ***Subtitle F—Other Provisions***

11 ***SEC. 381. TEMPORARY STATE AND LOCAL FISCAL RELIEF.***

12 **(a) \$10,000,000,000 FOR A TEMPORARY INCREASE OF**
 13 ***THE MEDICAID FMAP.—***

14 **(1) PERMITTING MAINTENANCE OF FISCAL YEAR**
 15 ***2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FIS-***
 16 ***CAL YEAR 2003.—Subject to paragraph (5), if the***
 17 ***FMAP determined without regard to this subsection***
 18 ***for a State for fiscal year 2003 is less than the FMAP***
 19 ***as so determined for fiscal year 2002, the FMAP for***
 20 ***the State for fiscal year 2002 shall be substituted for***
 21 ***the State’s FMAP for the third and fourth calendar***
 22 ***quarters of fiscal year 2003, before the application of***
 23 ***this subsection.***

24 **(2) PERMITTING MAINTENANCE OF FISCAL YEAR**
 25 ***2003 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR***

1 2004.—Subject to paragraph (5), if the FMAP deter-
2 mined without regard to this subsection for a State
3 for fiscal year 2004 is less than the FMAP as so de-
4 termined for fiscal year 2003, the FMAP for the State
5 for fiscal year 2003 shall be substituted for the State’s
6 FMAP for the first, second, and third calendar quar-
7 ters of fiscal year 2004, before the application of this
8 subsection.

9 (3) GENERAL 2.95 PERCENTAGE POINTS IN-
10 CREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL
11 YEAR 2003 AND FIRST 3 CALENDAR QUARTERS OF FIS-
12 CAL YEAR 2004.—Subject to paragraphs (5), (6), and
13 (7), for each State for the third and fourth calendar
14 quarters of fiscal year 2003 and for the first, second,
15 and third calendar quarters of fiscal year 2004, the
16 FMAP (taking into account the application of para-
17 graphs (1) and (2)) shall be increased by 2.95 per-
18 centage points.

19 (4) INCREASE IN CAP ON MEDICAID PAYMENTS
20 TO TERRITORIES.—Subject to paragraphs (6) and (7),
21 with respect to the third and fourth calendar quarters
22 of fiscal year 2003 and the first, second, and third
23 calendar quarters of fiscal year 2004, the amounts
24 otherwise determined for Puerto Rico, the Virgin Is-
25 lands, Guam, the Northern Mariana Islands, and

1 *American Samoa under subsections (f) and (g) of sec-*
2 *tion 1108 of the Social Security Act (42 U.S.C. 1308)*
3 *shall each be increased by an amount equal to 5.90*
4 *percent of such amounts.*

5 (5) *SCOPE OF APPLICATION.—The increases in*
6 *the FMAP for a State under this subsection shall*
7 *apply only for purposes of title XIX of the Social Se-*
8 *curity Act and shall not apply with respect to—*

9 (A) *disproportionate share hospital pay-*
10 *ments described in section 1923 of such Act (42*
11 *U.S.C. 1396r-4);*

12 (B) *payments under title IV or XXI of such*
13 *Act (42 U.S.C. 601 et seq. and 1397aa et seq.);*
14 *or*

15 (C) *any payments under XIX of such Act*
16 *that are based on the enhanced FMAP described*
17 *in section 2105(b) of such Act (42 U.S.C.*
18 *1397ee(b)).*

19 (6) *STATE ELIGIBILITY.—*

20 (A) *IN GENERAL.—Subject to subparagraph*
21 *(B), a State is eligible for an increase in its*
22 *FMAP under paragraph (3) or an increase in a*
23 *cap amount under paragraph (4) only if the eli-*
24 *gibility under its State plan under title XIX of*
25 *the Social Security Act (including any waiver*

1 *under such title or under section 1115 of such*
2 *Act (42 U.S.C. 1315)) is no more restrictive than*
3 *the eligibility under such plan (or waiver) as in*
4 *effect on September 2, 2003.*

5 *(B) STATE REINSTATEMENT OF ELIGIBILITY*
6 *PERMITTED.—A State that has restricted eligi-*
7 *bility under its State plan under title XIX of the*
8 *Social Security Act (including any waiver under*
9 *such title or under section 1115 of such Act (42*
10 *U.S.C. 1315)) after September 2, 2003, is eligible*
11 *for an increase in its FMAP under paragraph*
12 *(3) or an increase in a cap amount under para-*
13 *graph (4) in the first calendar quarter (and sub-*
14 *sequent calendar quarters) in which the State*
15 *has reinstated eligibility that is no more restric-*
16 *tive than the eligibility under such plan (or*
17 *waiver) as in effect on September 2, 2003.*

18 *(C) RULE OF CONSTRUCTION.—Nothing in*
19 *subparagraph (A) or (B) shall be construed as*
20 *affecting a State's flexibility with respect to ben-*
21 *efits offered under the State medicaid program*
22 *under title XIX of the Social Security Act (42*
23 *U.S.C. 1396 et seq.) (including any waiver*
24 *under such title or under section 1115 of such*
25 *Act (42 U.S.C. 1315)).*

1 (7) *REQUIREMENT FOR CERTAIN STATES.*—*In*
2 *the case of a State that requires political subdivisions*
3 *within the State to contribute toward the non-Federal*
4 *share of expenditures under the State medicaid plan*
5 *required under section 1902(a)(2) of the Social Secu-*
6 *urity Act (42 U.S.C. 1396a(a)(2)), the State shall not*
7 *require that such political subdivisions pay a greater*
8 *percentage of the non-Federal share of such expendi-*
9 *tures for the third and fourth calendar quarters of fis-*
10 *cal year 2003 and the first, second and third calendar*
11 *quarters of fiscal year 2004, than the percentage that*
12 *was required by the State under such plan on April*
13 *1, 2003, prior to application of this subsection.*

14 (8) *DEFINITIONS.*—*In this subsection:*

15 (A) *FMAP.*—*The term “FMAP” means the*
16 *Federal medical assistance percentage, as defined*
17 *in section 1905(b) of the Social Security Act (42*
18 *U.S.C. 1396d(b)).*

19 (B) *STATE.*—*The term “State” has the*
20 *meaning given such term for purposes of title*
21 *XIX of the Social Security Act (42 U.S.C. 1396*
22 *et seq.).*

23 (9) *REPEAL.*—*Effective as of October 1, 2004,*
24 *this subsection is repealed.*

1 (b) *\$10,000,000,000 FOR ASSISTANCE IN PROVIDING*
2 *GOVERNMENT SERVICES.—*

3 (1) *ESTABLISHMENT.—*

4 (A) *IN GENERAL.—Not later than 45 days*
5 *after the date of enactment of this Act, the Sec-*
6 *retary shall establish a program under which the*
7 *Secretary shall make a payment to each State in*
8 *accordance with paragraph (2) and each unit of*
9 *general local government which qualifies for a*
10 *payment under paragraph (3).*

11 (B) *REQUIREMENT.—In making payments*
12 *under this subsection, the Secretary shall ensure*
13 *that not more than 72.70 percent of the amount*
14 *appropriated under subparagraph (C) is paid in*
15 *fiscal year 2003.*

16 (C) *APPROPRIATION.—There is authorized*
17 *to be appropriated and is appropriated for mak-*
18 *ing payments under this subsection,*
19 *\$10,000,000,000. Amounts appropriated under*
20 *this subparagraph shall remain available for ex-*
21 *penditure through September 30, 2004.*

22 (2) *\$6,000,000,000 PAID TO STATES.—*

23 (A) *AMOUNT OF PAYMENT.—*

24 (i) *BASED ON POPULATION.—Subject*
25 *to clause (ii), \$6,000,000,000 of the amount*

1 *appropriated under paragraph (1)(C) shall*
2 *be used to pay each State an amount equal*
3 *to the relative population proportion*
4 *amount described in clause (iii).*

5 (ii) *MINIMUM PAYMENT.—*

6 (I) *IN GENERAL.—No State shall*
7 *receive a payment under this para-*
8 *graph that is less than—*

9 (i) *in the case of any of the*
10 *several States or the District of*
11 *Columbia, \$30,000,000; and*

12 (ii) *in the case of the Com-*
13 *monwealth of Puerto Rico, the*
14 *United States Virgin Islands,*
15 *Guam, the Commonwealth of the*
16 *Northern Mariana Islands, or*
17 *American Samoa, \$6,000,000.*

18 (II) *PRO RATA ADJUSTMENTS.—*

19 *The Secretary shall adjust on a pro*
20 *rata basis the amount of the payments*
21 *to States determined under this sub-*
22 *paragraph to the extent necessary to*
23 *comply with the requirements of sub-*
24 *clause (I).*

1 (iii) *RELATIVE POPULATION PROPOR-*
 2 *TION AMOUNT.*—*The relative population*
 3 *proportion amount described in this clause*
 4 *is the product of—*

5 (I) \$6,000,000,000; and

6 (II) *the relative State population*
 7 *proportion (defined in clause (iv)).*

8 (iv) *RELATIVE STATE POPULATION*
 9 *PROPORTION DEFINED.*—*For purposes of*
 10 *clause (iii)(II), the term “relative State*
 11 *population proportion” means, with respect*
 12 *to a State, the amount equal to the quotient*
 13 *of—*

14 (I) *the population of the State (as*
 15 *reported in the most recent decennial*
 16 *census); and*

17 (II) *the total population of all*
 18 *States (as reported in the most recent*
 19 *decennial census).*

20 (B) *USE OF PAYMENT.*—

21 (i) *IN GENERAL.*—*Subject to clause*
 22 *(ii), a State shall use the funds provided*
 23 *under a payment made under this para-*
 24 *graph to fund 1 or more of the following ac-*
 25 *tivities:*

1 (I) *Education or job training.*

2 (II) *Health care or other social*
3 *services.*

4 (III) *Transportation or other in-*
5 *frastructure.*

6 (IV) *Law enforcement or public*
7 *safety.*

8 (V) *Essential government services.*

9 (ii) *LIMITATION.—A State may only*
10 *use funds provided under a payment made*
11 *under this paragraph for types of expendi-*
12 *tures permitted under the most recently ap-*
13 *proved budget for the State.*

14 (C) *CERTIFICATION.—In order to receive a*
15 *payment under this paragraph for a fiscal year,*
16 *the State shall provide the Secretary with a cer-*
17 *tification that the State’s proposed uses of the*
18 *funds are consistent with subparagraph (B).*

19 (3) *\$4,000,000,000 PAID TO UNITS OF GENERAL*
20 *LOCAL GOVERNMENT.—*

21 (A) *ELIGIBILITY.—The Secretary shall, by*
22 *regulation, establish procedures under which*
23 *units of general local government may qualify*
24 *for the payments provided under this paragraph.*

25 *Such procedures shall include a requirement that*

1 *no unit of general local government shall be eli-*
2 *gible for a payment under this paragraph unless*
3 *the unit provides the Secretary with a certifi-*
4 *cation that the unit's proposed uses of the funds*
5 *are consistent with subparagraph (C).*

6 *(B) AMOUNT OF PAYMENT.—*

7 *(i) IN GENERAL.—Subject to clause*
8 *(ii), the Secretary shall pay each unit of*
9 *general local government that qualifies for a*
10 *payment under the regulation required*
11 *under subparagraph (A), an amount equal*
12 *to the same ratio to \$4,000,000,000 as the*
13 *population of such unit of general local gov-*
14 *ernment (as reported in the most recent de-*
15 *cennial census) bears to the total population*
16 *of all such units that qualify for a payment*
17 *under this paragraph (as so reported).*

18 *(ii) ADJUSTMENTS.—The Secretary*
19 *may adjust the amount of the payment oth-*
20 *erwise determined for a unit of general local*
21 *government under this subparagraph to the*
22 *extent the Secretary determines necessary to*
23 *ensure that all such units that would qual-*
24 *ify for a payment under this paragraph re-*
25 *ceive a payment.*

1 (C) *USE OF PAYMENT.*—

2 (i) *IN GENERAL.*—Subject to clause
3 (ii), a unit of general local government shall
4 use the funds provided under a payment
5 made under this paragraph to fund 1 or
6 more of the following activities:

7 (I) *Education or job training.*

8 (II) *Health care or other social*
9 *services.*

10 (III) *Transportation or other in-*
11 *frastructure.*

12 (IV) *Law enforcement or public*
13 *safety.*

14 (V) *Essential government services.*

15 (ii) *LIMITATION.*—A unit of general
16 local government may only use funds pro-
17 vided under a payment made under this
18 paragraph for types of expenditures per-
19 mitted under the most recently approved
20 budget for the unit.

21 (4) *DEFINITIONS.*—In this subsection:

22 (A) *SECRETARY.*—The term “Secretary”
23 means the Secretary of the Treasury.

24 (B) *STATE.*—The term “State” means the
25 50 States, the District of Columbia, the Com-

1 *monwealth of Puerto Rico, the United States*
2 *Virgin Islands, Guam, the Commonwealth of the*
3 *Northern Mariana Islands, and American*
4 *Samoa.*

5 (C) *UNIT OF GENERAL LOCAL GOVERN-*
6 *MENT.—*

7 (i) *IN GENERAL.—The term “unit of*
8 *general local government” means—*

9 (I) *a county, parish, township,*
10 *city, or political subdivision of a coun-*
11 *ty, parish, township, or city, that is a*
12 *unit of general local government as de-*
13 *termined by the Secretary of Commerce*
14 *for general statistical purposes; and*

15 (II) *the recognized governing body*
16 *of an Indian tribe or Alaskan native*
17 *village that carries out substantial gov-*
18 *ernmental duties and powers.*

19 (ii) *TREATMENT OF SUBSUMED*
20 *AREAS.—For purposes of determining a*
21 *unit of general local government under this*
22 *subsection, the rules under section 6720(c)*
23 *of title 31, United States Code, shall apply.*

24 (5) *REPEAL.—Effective as of October 1, 2004,*
25 *this subsection is repealed.*

1 **SEC. 382. REVIEW OF STATE AGENCY BLINDNESS AND DIS-**
2 **ABILITY DETERMINATIONS.**

3 *Section 1633 of the Social Security Act (42 U.S.C.*
4 *1383b) is amended by adding at the end the following:*

5 *“(e)(1) The Commissioner of Social Security shall re-*
6 *view determinations, made by State agencies pursuant to*
7 *subsection (a) in connection with applications for benefits*
8 *under this title on the basis of blindness or disability, that*
9 *individuals who have attained 18 years of age are blind*
10 *or disabled as of a specified onset date. The Commissioner*
11 *of Social Security shall review such a determination before*
12 *any action is taken to implement the determination.*

13 *“(2)(A) In carrying out paragraph (1), the Commis-*
14 *sioner of Social Security shall review—*

15 *“(i) at least 25 percent of all determinations re-*
16 *ferred to in paragraph (1) that are made in fiscal*
17 *year 2004; and*

18 *“(ii) at least 50 percent of all such determina-*
19 *tions that are made in fiscal year 2005 or thereafter.*

20 *“(B) In carrying out subparagraph (A), the Commis-*
21 *sioner of Social Security shall, to the extent feasible, select*
22 *for review the determinations which the Commissioner of*
23 *Social Security identifies as being the most likely to be in-*
24 *correct.”.*

1 **SEC. 383. PROHIBITION ON USE OF SCHIP FUNDS TO PRO-**
2 **VIDE COVERAGE FOR CHILDLESS ADULTS.**

3 (a) *GENERAL LIMITATIONS ON PAYMENTS.*—Section
4 2105(c)(1) of the Social Security Act (42 U.S.C.
5 1397ee(c)(1)) is amended by inserting before the period the
6 following: “and may not include coverage of a childless
7 adult unless the childless adult is a pregnant woman. For
8 purposes of the preceding sentence, a caretaker relative (as
9 such term is defined for purposes of carrying out section
10 1931) shall not be considered a childless adult.”.

11 (b) *LIMITATION ON WAIVER AUTHORITY.*—Section
12 2107 of the Social Security Act (42 U.S.C. 1397gg) is
13 amended by adding at the end the following:

14 “(f) *LIMITATION OF WAIVER AUTHORITY.*—Notwith-
15 standing subsection (e)(2)(A) and section 1115(a), the Sec-
16 retary may not approve a waiver, experimental, pilot, or
17 demonstration project, or an amendment to such a project
18 that has been approved as of the date of enactment of this
19 subsection, that would allow funds made available under
20 this title to be used to provide child health assistance or
21 other health benefits coverage to a childless adult, other than
22 a childless adult who is a pregnant woman. For purposes
23 of the preceding sentence, a caretaker relative (as such term
24 is defined for purposes of carrying out section 1931) shall
25 not be considered a childless adult.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section take effect on the date of enactment of this Act and*
3 *apply to proposals to conduct a waiver, experimental, pilot,*
4 *or demonstration project affecting the State children’s*
5 *health insurance program under title XXI of such Act, and*
6 *to any proposals to amend such a project, that are approved*
7 *or extended on or after such date of enactment.*

8 (d) *RULE OF CONSTRUCTION.*—*Nothing in this section*
9 *or the amendments made by this section shall be construed*
10 *to—*

11 (1) *authorize the waiver of any provision of title*
12 *XXI of the Social Security Act (42 U.S.C. 1397aa et*
13 *seq.) that is not otherwise authorized to be waived*
14 *under such title or under title XI of such Act (42*
15 *U.S.C. 1301 et seq.) as of the date of enactment of this*
16 *Act; or*

17 (2) *imply congressional approval of any waiver,*
18 *experimental, pilot, or demonstration project affecting*
19 *the State children’s health insurance program under*
20 *title XXI of such Act that has been approved as of*
21 *such date of enactment.*

22 **SEC. 384. MEDICAID DSH ALLOTMENTS.**

23 (a) *TEMPORARY INCREASE IN FLOOR FOR TREATMENT*
24 *AS AN EXTREMELY LOW DSH STATE UNDER THE MED-*
25 *ICAID PROGRAM.*—

1 (1) *IN GENERAL.*—Section 1923(f)(5) of the So-
2 cial Security Act (42 U.S.C. 1396r-4(f)(5)) is
3 amended—

4 (A) by striking “In the case of” and insert-
5 ing the following:

6 “(A) *IN GENERAL.*—In the case of”; and

7 (B) by adding at the end the following:

8 “(B) *TEMPORARY INCREASE IN FLOOR FOR*
9 *FISCAL YEAR 2004.*—During the period that be-
10 gins on October 1, 2003, and ends on September
11 30, 2004, subparagraph (A) shall be applied—

12 “(i) by substituting ‘fiscal year 2002’
13 for ‘fiscal year 1999’;

14 “(iii) by substituting ‘Centers for
15 Medicare & Medicaid Services’ for ‘Health
16 Care Financing Administration’;

17 “(ii) by substituting ‘August 31, 2003’
18 for ‘August 31, 2000’;

19 “(iv) by substituting ‘3 percent’ for ‘1
20 percent’ each place it appears;

21 “(v) by substituting ‘fiscal year 2004’
22 for ‘fiscal year 2001’; and

23 “(vi) without regard to the second sen-
24 tence.”.

1 (2) *EFFECTIVE DATE.*—*The amendments made*
2 *by paragraph (1) take effect on October 1, 2003, and*
3 *apply to DSH allotments under title XIX of the So-*
4 *cial Security Act only with respect to fiscal year*
5 *2004.*

6 (b) *ALLOTMENT ADJUSTMENT FOR CERTAIN*
7 *STATES.*—

8 (1) *IN GENERAL.*—*Section 1923(f) of the Social*
9 *Security Act (42 U.S.C. 1396r-4(f)) is amended—*

10 (A) *by redesignating paragraph (6) as*
11 *paragraph (7); and*

12 (B) *by inserting after paragraph (5) the fol-*
13 *lowing:*

14 “(6) *ALLOTMENT ADJUSTMENT FOR CERTAIN*
15 *STATES.*—

16 “(A) *TENNESSEE.*—*Only with respect to fis-*
17 *cal year 2004, if the statewide waiver approved*
18 *under section 1115 for the State of Tennessee*
19 *with respect to the requirements of this title (as*
20 *in effect on the date of enactment of this para-*
21 *graph) is revoked or terminated, the Secretary*
22 *shall—*

23 “(i) *permit the State of Tennessee to*
24 *submit an amendment to its State plan that*
25 *would describe the methodology to be used*

1 by the State (after the effective date of such
2 revocation or termination) to identify and
3 make payments to disproportionate share
4 hospitals, including children’s hospitals and
5 institutions for mental diseases or other
6 mental health facilities (other than State-
7 owned institutions or facilities), on the
8 basis of the proportion of patients served by
9 such hospitals that are low-income patients
10 with special needs; and

11 “(ii) provide for purposes of this sub-
12 section for computation of an appropriate
13 DSH allotment for the State for fiscal year
14 2004 that provides for the maximum
15 amount (permitted consistent with para-
16 graph (3)(B)(ii)) that does not result in
17 greater expenditures under this title than
18 would have been made if such waiver had
19 not been revoked or terminated.

20 “(B) HAWAII.—The Secretary shall compute
21 a DSH allotment for the State of Hawaii for fis-
22 cal year 2004 in the same manner as DSH allot-
23 ments are determined with respect to those States
24 to which paragraph (5) applies (but without re-
25 gard to the requirement under such paragraph

1 *that total expenditures under the State plan for*
2 *disproportionate share hospital adjustments for*
3 *any fiscal year exceeds 0).”.*

4 (2) *TREATMENT OF INSTITUTIONS FOR MENTAL*
5 *DISEASES.—Section 1923(h)(1) of the Social Security*
6 *Act (42 U.S.C. 1396r-4(h)(1)) is amended—*

7 (A) *in paragraph (1), in the matter pre-*
8 *ceding subparagraph (A), by striking “Payment”*
9 *and inserting “Subject to paragraph (3), pay-*
10 *ment”; and*

11 (B) *by adding at the end the following:*

12 “(3) *SPECIAL RULE.—The limitation of para-*
13 *graph (1) shall not apply in the case of Tennessee*
14 *with respect to fiscal year 2004 in the case of a rev-*
15 *ocation or termination of its statewide waiver de-*
16 *scribed in subsection (f)(6)(A).”.*

17 (3) *EFFECTIVE DATE.—The amendments made*
18 *by this subsection shall take effect as if enacted on Oc-*
19 *tober 1, 2002.*

1 **TITLE IV—SMALL BUSINESS AND**
 2 **AGRICULTURAL PROVISIONS**
 3 **Subtitle A—Small Business**
 4 **Provisions**

5 **SEC. 401. EXCLUSION OF CERTAIN INDEBTEDNESS OF**
 6 **SMALL BUSINESS INVESTMENT COMPANIES**
 7 **FROM ACQUISITION INDEBTEDNESS.**

8 (a) *IN GENERAL.*—Section 514(c) (relating to acquisi-
 9 tion indebtedness) is amended by adding at the end the fol-
 10 lowing new paragraph:

11 “(10) *CERTAIN INDEBTEDNESS OF SMALL BUSI-*
 12 *NESS INVESTMENT COMPANIES.*—For purposes of this
 13 section, the term ‘acquisition indebtedness’ does not
 14 include any indebtedness incurred by a small business
 15 investment company licensed under the Small Busi-
 16 ness Investment Act of 1958 which is evidenced by a
 17 debenture—

18 “(A) issued by such company under section
 19 303(a) of such Act, or

20 “(B) held or guaranteed by the Small Busi-
 21 ness Administration.”.

22 (b) *EFFECTIVE DATE.*—The amendment made by this
 23 section shall apply to any indebtedness incurred after De-
 24 cember 31, 2002, by a small business investment company
 25 described in section 514(c)(10) of the Internal Revenue Code

1 of 1986 (as added by this section) with respect to property
2 acquired by such company after such date.

3 **SEC. 402. REPEAL OF OCCUPATIONAL TAXES RELATING TO**
4 **DISTILLED SPIRITS, WINE, AND BEER.**

5 (a) *REPEAL OF OCCUPATIONAL TAXES.*—

6 (1) *IN GENERAL.*—The following provisions of
7 part II of subchapter A of chapter 51 (relating to oc-
8 cupational taxes) are hereby repealed:

9 (A) *Subpart A (relating to proprietors of*
10 *distilled spirits plants, bonded wine cellars, etc.).*

11 (B) *Subpart B (relating to brewer).*

12 (C) *Subpart D (relating to wholesale deal-*
13 *ers) (other than sections 5114 and 5116).*

14 (D) *Subpart E (relating to retail dealers)*
15 *(other than section 5124).*

16 (E) *Subpart G (relating to general provi-*
17 *sions) (other than sections 5142, 5143, 5145, and*
18 *5146).*

19 (2) *NONBEVERAGE DOMESTIC DRAWBACK.*—Sec-
20 *tion 5131 is amended by striking “, on payment of*
21 *a special tax per annum,”.*

22 (3) *INDUSTRIAL USE OF DISTILLED SPIRITS.*—
23 *Section 5276 is hereby repealed.*

24 (b) *CONFORMING AMENDMENTS.*—

1 (1)(A) *The heading for part II of subchapter A*
2 *of chapter 51 and the table of subparts for such part*
3 *are amended to read as follows:*

4 ***“PART II—MISCELLANEOUS PROVISIONS***

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping by dealers.

“Subpart D. Other provisions.”.

5 (B) *The table of parts for such subchapter A is*
6 *amended by striking the item relating to part II and*
7 *inserting the following new item:*

“Part II. Miscellaneous provisions.”.

8 (2) *Subpart C of part II of such subchapter (re-*
9 *lating to manufacturers of stills) is redesignated as*
10 *subpart A.*

11 (3)(A) *Subpart F of such part II (relating to*
12 *nonbeverage domestic drawback claimants) is redesign-*
13 *ated as subpart B and sections 5131 through 5134*
14 *are redesignated as sections 5111 through 5114, re-*
15 *spectively.*

16 (B) *The table of sections for such subpart B, as*
17 *so redesignated, is amended—*

18 (i) *by redesignating the items relating to*
19 *sections 5131 through 5134 as relating to sec-*
20 *tions 5111 through 5114, respectively, and*

21 (ii) *by striking “and rate of tax” in the*
22 *item relating to section 5111, as so redesignated.*

1 (C) Section 5111, as redesignated by subpara-
2 graph (A), is amended—

3 (i) by striking “**AND RATE OF TAX**” in
4 the section heading,

5 (ii) by striking the subsection heading for
6 subsection (a), and

7 (iii) by striking subsection (b).

8 (4) Part II of subchapter A of chapter 51 is
9 amended by adding after subpart B, as redesignated
10 by paragraph (3), the following new subpart:

11 **“Subpart C—Recordkeeping by Dealers**

 “Sec. 5121. Recordkeeping by wholesale dealers.

 “Sec. 5122. Recordkeeping by retail dealers.

 “Sec. 5123. Preservation and inspection of records, and entry of
 premises for inspection.”.

12 (5)(A) Section 5114 (relating to records) is
13 moved to subpart C of such part II and inserted after
14 the table of sections for such subpart.

15 (B) Section 5114 is amended—

16 (i) by striking the section heading and in-
17 serting the following new heading:

18 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,**

19 and

20 (ii) by redesignating subsection (c) as sub-
21 section (d) and by inserting after subsection (b)
22 the following new subsection:

1 “(c) *WHOLESALE DEALERS.*—For purposes of this
2 *part*—

3 “(1) *WHOLESALE DEALER IN LIQUORS.*—The
4 *term ‘wholesale dealer in liquors’ means any dealer*
5 *(other than a wholesale dealer in beer) who sells, or*
6 *offers for sale, distilled spirits, wines, or beer, to an-*
7 *other dealer.*

8 “(2) *WHOLESALE DEALER IN BEER.*—The *term*
9 *‘wholesale dealer in beer’ means any dealer who sells,*
10 *or offers for sale, beer, but not distilled spirits or*
11 *wines, to another dealer.*

12 “(3) *DEALER.*—The *term ‘dealer’ means any*
13 *person who sells, or offers for sale, any distilled spir-*
14 *its, wines, or beer.*

15 “(4) *PRESUMPTION IN CASE OF SALE OF 20 WINE*
16 *GALLONS OR MORE.*—The *sale, or offer for sale, of dis-*
17 *tilled spirits, wines, or beer, in quantities of 20 wine*
18 *gallons or more to the same person at the same time,*
19 *shall be presumptive evidence that the person making*
20 *such sale, or offer for sale, is engaged in or carrying*
21 *on the business of a wholesale dealer in liquors or a*
22 *wholesale dealer in beer, as the case may be. Such*
23 *presumption may be overcome by evidence satisfac-*
24 *torily showing that such sale, or offer for sale, was*
25 *made to a person other than a dealer.”.*

1 (C) Paragraph (3) of section 5121(d), as so re-
 2 designated, is amended by striking “section 5146”
 3 and inserting “section 5123”.

4 (6)(A) Section 5124 (relating to records) is
 5 moved to subpart C of part II of subchapter A of
 6 chapter 51 and inserted after section 5121.

7 (B) Section 5124 is amended—

8 (i) by striking the section heading and in-
 9 serting the following new heading:

10 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,**

11 (ii) by striking “section 5146” in subsection
 12 (c) and inserting “section 5123”, and

13 (iii) by redesignating subsection (c) as sub-
 14 section (d) and inserting after subsection (b) the
 15 following new subsection:

16 “(c) *RETAIL DEALERS.*—For purposes of this
 17 section—

18 “(1) *RETAIL DEALER IN LIQUORS.*—The term
 19 ‘retail dealer in liquors’ means any dealer (other than
 20 a retail dealer in beer) who sells, or offers for sale,
 21 distilled spirits, wines, or beer, to any person other
 22 than a dealer.

23 “(2) *RETAIL DEALER IN BEER.*—The term ‘retail
 24 dealer in beer’ means any dealer who sells, or offers

1 for sale, beer, but not distilled spirits or wines, to any
2 person other than a dealer.

3 “(3) *DEALER*.—The term ‘dealer’ has the mean-
4 ing given such term by section 5121(c)(3).”.

5 (7) Section 5146 is moved to subpart C of part
6 II of subchapter A of chapter 51, inserted after section
7 5122, and redesignated as section 5123.

8 (8) Part II of subchapter A of chapter 51 is
9 amended by inserting after subpart C the following
10 new subpart:

11 **“Subpart D—Other Provisions**

 “Sec. 5131. Packaging distilled spirits for industrial uses.
 “Sec. 5132. Prohibited purchases by dealers.”.

12 (9) Section 5116 is moved to subpart D of part
13 II of subchapter A of chapter 51, inserted after the
14 table of sections, redesignated as section 5131, and
15 amended by inserting “(as defined in section
16 5121(c))” after “dealer” in subsection (a).

17 (10) Subpart D of part II of subchapter A of
18 chapter 51 is amended by adding at the end thereof
19 the following new section:

20 **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

21 “(a) *IN GENERAL*.—Except as provided in regulations
22 prescribed by the Secretary, it shall be unlawful for a dealer
23 to purchase distilled spirits for resale from any person other

1 *than a wholesale dealer in liquors who is required to keep*
2 *the records prescribed by section 5121.*

3 “(b) *PENALTY AND FORFEITURE.*—

“For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.”.

4 (11) *Subsection (b) of section 5002 is amended—*

5 (A) *by striking “section 5112(a)” and in-*
6 *serting “section 5121(c)(3)”,*

7 (B) *by striking “section 5112” and insert-*
8 *ing “section 5121(c)”,*

9 (C) *by striking “section 5122” and insert-*
10 *ing “section 5122(c)”.*

11 (12) *Subparagraph (A) of section 5010(c)(2) is*
12 *amended by striking “section 5134” and inserting*
13 *“section 5114”.*

14 (13) *Subsection (d) of section 5052 is amended*
15 *to read as follows:*

16 “(d) *BREWER.*—*For purposes of this chapter, the term*
17 *‘brewer’ means any person who brews beer or produces beer*
18 *for sale. Such term shall not include any person who pro-*
19 *duces only beer exempt from tax under section 5053(e).”.*

20 (14) *The text of section 5182 is amended to read*
21 *as follows:*

1 *“For provisions requiring recordkeeping by*
2 *wholesale liquor dealers, see section 5121, and by re-*
3 *tail liquor dealers, see section 5122.”*

4 (15) *Subsection (b) of section 5402 is amended*
5 *by striking “section 5092” and inserting “section*
6 *5052(d)”*.

7 (16) *Section 5671 is amended by striking “or*
8 *5091”*.

9 (17)(A) *Part V of subchapter J of chapter 51 is*
10 *hereby repealed.*

11 (B) *The table of parts for such subchapter J is*
12 *amended by striking the item relating to part V.*

13 (18)(A) *Sections 5142, 5143, and 5145 are*
14 *moved to subchapter D of chapter 52, inserted after*
15 *section 5731, redesignated as sections 5732, 5733, and*
16 *5734, respectively, and amended by striking “this*
17 *part” each place it appears and inserting “this sub-*
18 *chapter”*.

19 (B) *Section 5732, as redesignated by subpara-*
20 *graph (A), is amended by striking “(except the tax*
21 *imposed by section 5131)” each place it appears.*

22 (C) *Paragraph (2) of section 5733(c), as redesign-*
23 *ated by subparagraph (A), is amended by striking*
24 *“liquors” both places it appears and inserting “to-*
25 *bacco products and cigarette papers and tubes”*.

1 (D) *The table of sections for subchapter D of*
2 *chapter 52 is amended by adding at the end thereof*
3 *the following:*

 “Sec. 5732. *Payment of tax.*

 “Sec. 5733. *Provisions relating to liability for occupational taxes.*

 “Sec. 5734. *Application of State laws.*”.

4 (E) *Section 5731 is amended by striking sub-*
5 *section (c) and by redesignating subsection (d) as sub-*
6 *section (c).*

7 (19) *Subsection (c) of section 6071 is amended*
8 *by striking “section 5142” and inserting “section*
9 *5732”.*

10 (20) *Paragraph (1) of section 7652(g) is*
11 *amended—*

12 (A) *by striking “subpart F” and inserting*
13 *“subpart B”, and*

14 (B) *by striking “section 5131(a)” and in-*
15 *serting “section 5111”.*

16 (c) *EFFECTIVE DATE.—The amendments made by this*
17 *section shall take effect on July 1, 2003, but shall not apply*
18 *to taxes imposed for periods before such date.*

19 **SEC. 403. CUSTOM GUNSMITHS.**

20 (a) *SMALL MANUFACTURERS EXEMPT FROM FIRE-*
21 *ARMS EXCISE TAX.—Section 4182 (relating to exemptions)*
22 *is amended by redesignating subsection (c) as subsection (d)*
23 *and by inserting after subsection (b) the following new sub-*
24 *section:*

1 “(c) *SMALL MANUFACTURERS, ETC.*—

2 “(1) *IN GENERAL.*—*The tax imposed by section*
3 *4181 shall not apply to any article described in such*
4 *section if manufactured, produced, or imported by a*
5 *person who manufactures, produces, and imports less*
6 *than 50 of such articles during the calendar year.*

7 “(2) *CONTROLLED GROUPS.*—*All persons treated*
8 *as a single employer for purposes of subsection (a) or*
9 *(b) of section 52 shall be treated as one person for*
10 *purposes of paragraph (1).”.*

11 (b) *EFFECTIVE DATE.*—

12 (1) *IN GENERAL.*—*The amendments made by*
13 *this section shall apply to articles sold by the manu-*
14 *facturer, producer, or importer on or after the date*
15 *which is the first day of the month beginning at least*
16 *2 weeks after the date of the enactment of this Act.*

17 (2) *NO INFERENCE.*—*Nothing in the amend-*
18 *ments made by this section shall be construed to cre-*
19 *ate any inference with respect to the proper tax treat-*
20 *ment of any sales before the effective date of such*
21 *amendments.*

22 **SEC. 404. SIMPLIFICATION OF EXCISE TAX IMPOSED ON**
23 **BOWS AND ARROWS.**

24 (a) *BOWS.*—*Section 4161(b)(1) (relating to bows) is*
25 *amended to read as follows:*

1 “(1) *BOWS*.—

2 “(A) *IN GENERAL*.—*There is hereby im-*
3 *posed on the sale by the manufacturer, producer,*
4 *or importer of any bow which has a draw weight*
5 *of 30 pounds or more, a tax equal to 11 percent*
6 *of the price for which so sold.*

7 “(B) *ARCHERY EQUIPMENT*.—*There is here-*
8 *by imposed on the sale by the manufacturer, pro-*
9 *ducer, or importer—*

10 “(i) *of any part or accessory suitable*
11 *for inclusion in or attachment to a bow de-*
12 *scribed in subparagraph (A), and*

13 “(ii) *of any quiver or broadhead suit-*
14 *able for use with an arrow described in*
15 *paragraph (3),*

16 *a tax equal to 11 percent of the price for which*
17 *so sold.”.*

18 (b) *ARROWS*.—*Section 4161(b) (relating to bows and*
19 *arrows, etc.) is amended by redesignating paragraph (3)*
20 *as paragraph (4) and inserting after paragraph (2) the fol-*
21 *lowing:*

22 “(3) *ARROWS*.—

23 “(A) *IN GENERAL*.—*There is hereby im-*
24 *posed on the sale by the manufacturer, producer,*

1 or importer of any arrow, a tax equal to 12 per-
2 cent of the price for which so sold.

3 “(B) *EXCEPTION.*—The tax imposed by sub-
4 paragraph (A) on an arrow shall not apply if
5 the arrow contains an arrow shaft subject to the
6 tax imposed by paragraph (2).

7 “(C) *ARROW.*—For purposes of this para-
8 graph, the term ‘arrow’ means any shaft de-
9 scribed in paragraph (2) to which additional
10 components are attached.”.

11 (c) *CONFORMING AMENDMENT.*—The heading of sec-
12 tion 4161(b)(2) (relating to arrows) is amended by striking
13 “*ARROWS.*—” and inserting “*ARROW COMPONENTS.*—”.

14 (d) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to articles sold by the manufacturer,
16 producer, or importer after the date of the enactment of this
17 Act.

18 **Subtitle B—Agricultural Provisions**

19 **SEC. 411. CAPITAL GAIN TREATMENT UNDER SECTION** 20 **631(b) TO APPLY TO OUTRIGHT SALES BY** 21 **LANDOWNERS.**

22 (a) *IN GENERAL.*—The first sentence of section 631(b)
23 (relating to disposal of timber with a retained economic in-
24 terest) is amended by striking “retains an economic interest
25 in such timber” and inserting “either retains an economic

1 *interest in such timber or makes an outright sale of such*
 2 *timber”.*

3 (b) *CONFORMING AMENDMENT.*—*The third sentence of*
 4 *section 631(b) is amended by striking “The date of dis-*
 5 *posal” and inserting “In the case of disposal of timber with*
 6 *a retained economic interest, the date of disposal”.*

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

10 ***SEC. 412. SPECIAL RULES FOR LIVESTOCK SOLD ON AC-***
 11 ***COUNT OF WEATHER-RELATED CONDITIONS.***

12 (a) *RULES FOR REPLACEMENT OF INVOLUNTARILY*
 13 *CONVERTED LIVESTOCK.*—*Subsection (e) of section 1033*
 14 *(relating to involuntary conversions) is amended—*

15 (1) *by striking “CONDITIONS.—For purposes”*
 16 *and inserting “CONDITIONS.—*

17 *“(1) IN GENERAL.—For purposes”, and*

18 (2) *by adding at the end the following new para-*
 19 *graph:*

20 *“(2) EXTENSION OF REPLACEMENT PERIOD.—*

21 *“(A) IN GENERAL.—In the case of drought,*
 22 *flood, or other weather-related conditions de-*
 23 *scribed in paragraph (1) which result in the*
 24 *area being designated as eligible for assistance*
 25 *by the Federal Government, subsection (a)(2)(B)*

1 *shall be applied with respect to any converted*
2 *property by substituting ‘4 years’ for ‘2 years’.*

3 “(B) *FURTHER EXTENSION BY SEC-*
4 *RETARY.—The Secretary may extend on a re-*
5 *gional basis the period for replacement under*
6 *this section (after the application of subpara-*
7 *graph (A)) for such additional time as the Sec-*
8 *retary determines appropriate if the weather-re-*
9 *lated conditions which resulted in such applica-*
10 *tion continue for more than 3 years.”.*

11 (b) *INCOME INCLUSION RULES.—Section 451(e) (relat-*
12 *ing to special rule for proceeds from livestock sold on ac-*
13 *count of drought, flood, or other weather-related conditions)*
14 *is amended by adding at the end the following new para-*
15 *graph:*

16 “(3) *SPECIAL ELECTION RULES.—If section*
17 *1033(e)(2) applies to a sale or exchange of livestock*
18 *described in paragraph (1), the election under para-*
19 *graph (1) shall be deemed valid if made during the*
20 *replacement period described in such section.”.*

21 (c) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to any taxable year with respect to*
23 *which the due date of the return is after December 31, 2002.*

1 **SEC. 413. EXCLUSION FOR LOAN PAYMENTS UNDER NA-**
2 **TIONAL HEALTH SERVICE CORPS LOAN RE-**
3 **PAYMENT PROGRAM.**

4 (a) *IN GENERAL.*—Section 108(f) (relating to student
5 loans) is amended by adding at the end the following new
6 paragraph:

7 “(4) *LOAN PAYMENTS UNDER NATIONAL HEALTH*
8 *SERVICE CORPS LOAN REPAYMENT PROGRAM.*—In the
9 case of an individual, gross income shall not include
10 any amount received under section 338B(g) of the
11 *Public Health Service Act.*”.

12 (b) *EFFECTIVE DATE.*—The amendment made by sub-
13 section (a) shall apply to amounts received by an indi-
14 vidual in taxable years beginning after December 31, 2002.

15 **SEC. 414. PAYMENT OF DIVIDENDS ON STOCK OF COOPERA-**
16 **TIVES WITHOUT REDUCING PATRONAGE DIVI-**
17 **DENDS.**

18 (a) *IN GENERAL.*—Subsection (a) of section 1388 (re-
19 lating to patronage dividend defined) is amended by adding
20 at the end the following: “For purposes of paragraph (3),
21 net earnings shall not be reduced by amounts paid during
22 the year as dividends on capital stock or other proprietary
23 capital interests of the organization to the extent that the
24 articles of incorporation or bylaws of such organization or
25 other contract with patrons provide that such dividends are
26 in addition to amounts otherwise payable to patrons which

1 *are derived from business done with or for patrons during*
 2 *the taxable year.”.*

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

6 ***TITLE V—SIMPLIFICATION AND***
 7 ***OTHER PROVISIONS***

8 ***Subtitle A—Uniform Definition of***
 9 ***Child***

10 ***SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.***

11 *Section 152 is amended to read as follows:*

12 ***“SEC. 152. DEPENDENT DEFINED.***

13 *“(a) IN GENERAL.—For purposes of this subtitle, the*
 14 *term ‘dependent’ means—*

15 *“(1) a qualifying child, or*

16 *“(2) a qualifying relative.*

17 *“(b) EXCEPTIONS.—For purposes of this section—*

18 *“(1) DEPENDENTS INELIGIBLE.—If an indi-*
 19 *vidual is a dependent of a taxpayer for any taxable*
 20 *year of such taxpayer beginning in a calendar year,*
 21 *such individual shall be treated as having no depend-*
 22 *ents for any taxable year of such individual begin-*
 23 *ning in such calendar year.*

24 *“(2) MARRIED DEPENDENTS.—An individual*
 25 *shall not be treated as a dependent of a taxpayer*

1 *under subsection (a) if such individual has made a*
2 *joint return with the individual's spouse under sec-*
3 *tion 6013 for the taxable year beginning in the cal-*
4 *endar year in which the taxable year of the taxpayer*
5 *begins.*

6 *“(3) CITIZENS OR NATIONALS OF OTHER COUN-*
7 *TRIES.—*

8 *“(A) IN GENERAL.—The term ‘dependent’*
9 *does not include an individual who is not a cit-*
10 *izen or national of the United States unless such*
11 *individual is a resident of the United States or*
12 *a country contiguous to the United States.*

13 *“(B) EXCEPTION FOR ADOPTED CHILD.—*
14 *Subparagraph (A) shall not exclude any child of*
15 *a taxpayer (within the meaning of subsection*
16 *(f)(1)(B)) from the definition of ‘dependent’ if—*

17 *“(i) for the taxable year of the tax-*
18 *payer, the child's principal place of abode is*
19 *the home of the taxpayer, and*

20 *“(ii) the taxpayer is a citizen or na-*
21 *tional of the United States.*

22 *“(c) QUALIFYING CHILD.—For purposes of this*
23 *section—*

1 “(1) *IN GENERAL.*—*The term ‘qualifying child’*
2 *means, with respect to any taxpayer for any taxable*
3 *year, an individual—*

4 “(A) *who bears a relationship to the tax-*
5 *payer described in paragraph (2),*

6 “(B) *who has the same principal place of*
7 *abode as the taxpayer for more than one-half of*
8 *such taxable year,*

9 “(C) *who meets the age requirements of*
10 *paragraph (3), and*

11 “(D) *who has not provided over one-half of*
12 *such individual’s own support for the calendar*
13 *year in which the taxable year of the taxpayer*
14 *begins.*

15 “(2) *RELATIONSHIP TEST.*—*For purposes of*
16 *paragraph (1)(A), an individual bears a relationship*
17 *to the taxpayer described in this paragraph if such*
18 *individual is—*

19 “(A) *a child of the taxpayer or a descendant*
20 *of such a child, or*

21 “(B) *a brother, sister, stepbrother, or step-*
22 *sister of the taxpayer or a descendant of any*
23 *such relative.*

24 “(3) *AGE REQUIREMENTS.*—

1 “(A) *IN GENERAL.*—For purposes of para-
2 graph (1)(C), an individual meets the require-
3 ments of this paragraph if such individual—

4 “(i) has not attained the age of 19 as
5 of the close of the calendar year in which
6 the taxable year of the taxpayer begins, or

7 “(ii) is a student who has not attained
8 the age of 24 as of the close of such calendar
9 year.

10 “(B) *SPECIAL RULE FOR DISABLED.*—In
11 the case of an individual who is permanently
12 and totally disabled (as defined in section
13 22(e)(3)) at any time during such calendar year,
14 the requirements of subparagraph (A) shall be
15 treated as met with respect to such individual.

16 “(4) *SPECIAL RULE RELATING TO 2 OR MORE*
17 *CLAIMING QUALIFYING CHILD.*—

18 “(A) *IN GENERAL.*—Except as provided in
19 subparagraph (B) and subsection (e), if (but for
20 this paragraph) an individual may be and is
21 claimed as a qualifying child by 2 or more tax-
22 payers for a taxable year beginning in the same
23 calendar year, such individual shall be treated as
24 the qualifying child of the taxpayer who is—

25 “(i) a parent of the individual, or

1 “(ii) if clause (i) does not apply, the
2 taxpayer with the highest adjusted gross in-
3 come for such taxable year.

4 “(B) MORE THAN 1 PARENT CLAIMING
5 QUALIFYING CHILD.—If the parents claiming
6 any qualifying child do not file a joint return to-
7 gether, such child shall be treated as the quali-
8 fying child of—

9 “(i) the parent with whom the child re-
10 sided for the longest period of time during
11 the taxable year, or

12 “(ii) if the child resides with both par-
13 ents for the same amount of time during
14 such taxable year, the parent with the high-
15 est adjusted gross income.

16 “(d) QUALIFYING RELATIVE.—For purposes of this
17 section—

18 “(1) IN GENERAL.—The term ‘qualifying rel-
19 ative’ means, with respect to any taxpayer for any
20 taxable year, an individual—

21 “(A) who bears a relationship to the tax-
22 payer described in paragraph (2),

23 “(B) whose gross income for the calendar
24 year in which such taxable year begins is less

1 *than the exemption amount (as defined in sec-*
2 *tion 151(d)),*

3 *“(C) with respect to whom the taxpayer*
4 *provides over one-half of the individual’s support*
5 *for the calendar year in which such taxable year*
6 *begins, and*

7 *“(D) who is not a qualifying child of such*
8 *taxpayer or of any other taxpayer for any tax-*
9 *able year beginning in the calendar year in*
10 *which such taxable year begins.*

11 *“(2) RELATIONSHIP.—For purposes of para-*
12 *graph (1)(A), an individual bears a relationship to*
13 *the taxpayer described in this paragraph if the indi-*
14 *vidual is any of the following with respect to the tax-*
15 *payer:*

16 *“(A) A child or a descendant of a child.*

17 *“(B) A brother, sister, stepbrother, or step-*
18 *sister.*

19 *“(C) The father or mother, or an ancestor of*
20 *either.*

21 *“(D) A stepfather or stepmother.*

22 *“(E) A son or daughter of a brother or sis-*
23 *ter of the taxpayer.*

24 *“(F) A brother or sister of the father or*
25 *mother of the taxpayer.*

1 “(G) A son-in-law, daughter-in-law, father-
2 in-law, mother-in-law, brother-in-law, or sister-
3 in-law.

4 “(H) An individual (other than an indi-
5 vidual who at any time during the taxable year
6 was the spouse, determined without regard to
7 section 7703, of the taxpayer) who, for the tax-
8 able year of the taxpayer, has as such individ-
9 ual’s principal place of abode the home of the
10 taxpayer and is a member of the taxpayer’s
11 household.

12 “(3) SPECIAL RULE RELATING TO MULTIPLE
13 SUPPORT AGREEMENTS.—For purposes of paragraph
14 (1)(C), over one-half of the support of an individual
15 for a calendar year shall be treated as received from
16 the taxpayer if—

17 “(A) no one person contributed over one-half
18 of such support,

19 “(B) over one-half of such support was re-
20 ceived from 2 or more persons each of whom, but
21 for the fact that any such person alone did not
22 contribute over one-half of such support, would
23 have been entitled to claim such individual as a
24 dependent for a taxable year beginning in such
25 calendar year,

1 “(C) the taxpayer contributed over 10 per-
2 cent of such support, and

3 “(D) each person described in subparagraph
4 (B) (other than the taxpayer) who contributed
5 over 10 percent of such support files a written
6 declaration (in such manner and form as the
7 Secretary may by regulations prescribe) that
8 such person will not claim such individual as a
9 dependent for any taxable year beginning in
10 such calendar year.

11 “(4) SPECIAL RULE RELATING TO INCOME OF
12 HANDICAPPED DEPENDENTS.—

13 “(A) IN GENERAL.—For purposes of para-
14 graph (1)(B), the gross income of an individual
15 who is permanently and totally disabled (as de-
16 fined in section 22(e)(3)) at any time during the
17 taxable year shall not include income attrib-
18 utable to services performed by the individual at
19 a sheltered workshop if—

20 “(i) the availability of medical care at
21 such workshop is the principal reason for
22 the individual’s presence there, and

23 “(ii) the income arises solely from ac-
24 tivities at such workshop which are incident
25 to such medical care.

1 “(B) *SHELTERED WORKSHOP DEFINED.*—
2 *For purposes of subparagraph (A), the term*
3 *‘sheltered workshop’ means a school—*

4 *“(i) which provides special instruction*
5 *or training designed to alleviate the dis-*
6 *ability of the individual, and*

7 *“(ii) which is operated by an organiza-*
8 *tion described in section 501(c)(3) and ex-*
9 *empt from tax under section 501(a), or by*
10 *a State, a possession of the United States,*
11 *any political subdivision of any of the fore-*
12 *going, the United States, or the District of*
13 *Columbia.*

14 “(5) *SPECIAL SUPPORT TEST IN CASE OF STU-*
15 *DENTS.*—*For purposes of paragraph (1)(C), in the*
16 *case of an individual who is—*

17 *“(A) a child of the taxpayer, and*

18 *“(B) a student,*

19 *amounts received as scholarships for study at an edu-*
20 *cational organization described in section*
21 *170(b)(1)(A)(ii) shall not be taken into account in de-*
22 *termining whether such individual received more than*
23 *one-half of such individual’s support from the tax-*
24 *payer.*

1 “(6) *SPECIAL RULES FOR SUPPORT.*—For pur-
2 poses of this subsection—

3 “(A) *payments to a spouse which are in-*
4 *cludible in the gross income of such spouse under*
5 *section 71 or 682 shall not be treated as a pay-*
6 *ment by the payor spouse for the support of any*
7 *dependent,*

8 “(B) *amounts expended for the support of a*
9 *child or children shall be treated as received from*
10 *the noncustodial parent (as defined in subsection*
11 *(e)(3)(B)) to the extent that such parent provided*
12 *amounts for such support, and*

13 “(C) *in the case of the remarriage of a par-*
14 *ent, support of a child received from the parent’s*
15 *spouse shall be treated as received from the par-*
16 *ent.*

17 “(e) *SPECIAL RULE FOR DIVORCED PARENTS.*—

18 “(1) *IN GENERAL.*—Notwithstanding subsection
19 *(c)(4) or (d)(1)(C), if—*

20 “(A) *a child receives over one-half of the*
21 *child’s support during the calendar year from*
22 *the child’s parents—*

23 “(i) *who are divorced or legally sepa-*
24 *rated under a decree of divorce or separate*
25 *maintenance,*

1 “(ii) who are separated under a writ-
2 ten separation agreement, or

3 “(iii) who live apart at all times dur-
4 ing the last 6 months of the calendar year,
5 and

6 “(B) such child is in the custody of 1 or
7 both of the child’s parents for more than $\frac{1}{2}$ of
8 the calendar year,
9 such child shall be treated as being the qualifying
10 child or qualifying relative of the noncustodial parent
11 for a calendar year if the requirements described in
12 paragraph (2) are met.

13 “(2) *REQUIREMENTS.*—For purposes of para-
14 graph (1), the requirements described in this para-
15 graph are met if—

16 “(A) a decree of divorce or separate mainte-
17 nance or written agreement between the parents
18 applicable to the taxable year beginning in such
19 calendar year provides that—

20 “(i) the noncustodial parent shall be
21 entitled to any deduction allowable under
22 section 151 for such child, or

23 “(ii) the custodial parent will sign a
24 written declaration that such parent will

1 *not claim such child as a dependent for*
2 *such taxable year, and*

3 “(B) *in the case of such an agreement exe-*
4 *cuted before January 1, 1985, the noncustodial*
5 *parent provides at least \$600 for the support of*
6 *such child during such calendar year.*

7 “(3) *CUSTODIAL PARENT AND NONCUSTODIAL*
8 *PARENT.—For purposes of this subsection—*

9 “(A) *CUSTODIAL PARENT.—The term ‘custo-*
10 *dial parent’ means the parent with whom a*
11 *child shared the same principal place of abode*
12 *for the greater portion of the calendar year.*

13 “(B) *NONCUSTODIAL PARENT.—The term*
14 *‘noncustodial parent’ means the parent who is*
15 *not the custodial parent.*

16 “(4) *EXCEPTION FOR MULTIPLE-SUPPORT*
17 *AGREEMENTS.—This subsection shall not apply in*
18 *any case where over one-half of the support of the*
19 *child is treated as having been received from a tax-*
20 *payer under the provision of subsection (d)(3).*

21 “(f) *OTHER DEFINITIONS AND RULES.—For purposes*
22 *of this section—*

23 “(1) *CHILD DEFINED.—*

24 “(A) *IN GENERAL.—The term ‘child’ means*
25 *an individual who is—*

1 “(i) a son, daughter, stepson, or step-
2 daughter of the taxpayer, or

3 “(ii) an eligible foster child of the tax-
4 payer.

5 “(B) *ADOPTED CHILD*.—In determining
6 whether any of the relationships specified in sub-
7 paragraph (A)(i) or paragraph (4) exists, a le-
8 gally adopted individual of the taxpayer, or an
9 individual who is placed with the taxpayer by
10 an authorized placement agency for adoption by
11 the taxpayer, shall be treated as a child of such
12 individual by blood.

13 “(C) *ELIGIBLE FOSTER CHILD*.—For pur-
14 poses of subparagraph (A)(ii), the term ‘eligible
15 foster child’ means an individual who is placed
16 with the taxpayer by an authorized placement
17 agency or by judgment, decree, or other order of
18 any court of competent jurisdiction.

19 “(2) *STUDENT DEFINED*.—The term ‘student’
20 means an individual who during each of 5 calendar
21 months during the calendar year in which the taxable
22 year of the taxpayer begins—

23 “(A) is a full-time student at an edu-
24 cational organization described in section
25 170(b)(1)(A)(ii), or

1 “(B) is pursuing a full-time course of insti-
2 tutional on-farm training under the supervision
3 of an accredited agent of an educational organi-
4 zation described in section 170(b)(1)(A)(ii) or of
5 a State or political subdivision of a State.

6 “(3) PLACE OF ABODE.—An individual shall not
7 be treated as having the same principal place of abode
8 of the taxpayer if at any time during the taxable year
9 of the taxpayer the relationship between the indi-
10 vidual and the taxpayer is in violation of local law.

11 “(4) BROTHER AND SISTER.—The terms ‘brother’
12 and ‘sister’ include a brother or sister by the half
13 blood.

14 “(5) TREATMENT OF MISSING CHILDREN.—

15 “(A) IN GENERAL.—Solely for the purposes
16 referred to in subparagraph (B), a child of the
17 taxpayer—

18 “(i) who is presumed by law enforce-
19 ment authorities to have been kidnapped by
20 someone who is not a member of the family
21 of such child or the taxpayer, and

22 “(ii) who had, for the taxable year in
23 which the kidnapping occurred, the same
24 principal place of abode as the taxpayer for

1 *more than one-half of the portion of such*
2 *year before the date of the kidnapping,*
3 *shall be treated as meeting the requirement of*
4 *subsection (c)(1)(B) with respect to a taxpayer*
5 *for all taxable years ending during the period*
6 *that the individual is kidnapped.*

7 “(B) *PURPOSES.*—Subparagraph (A) shall
8 *apply solely for purposes of determining—*

9 “(i) *the deduction under section 151(c),*

10 “(ii) *the credit under section 24 (relat-*
11 *ing to child tax credit),*

12 “(iii) *whether an individual is a sur-*
13 *living spouse or a head of a household (as*
14 *such terms are defined in section 2), and*

15 “(iv) *the earned income credit under*
16 *section 32.*

17 “(C) *COMPARABLE TREATMENT OF CERTAIN*
18 *QUALIFYING RELATIVES.*—For purposes of this
19 *section, a child of the taxpayer—*

20 “(i) *who is presumed by law enforce-*
21 *ment authorities to have been kidnapped by*
22 *someone who is not a member of the family*
23 *of such child or the taxpayer, and*

24 “(ii) *who was (without regard to this*
25 *paragraph) a qualifying relative of the tax-*

1 payer for the portion of the taxable year be-
 2 fore the date of the kidnapping,
 3 shall be treated as a qualifying relative of the
 4 taxpayer for all taxable years ending during the
 5 period that the child is kidnapped.

6 “(D) *TERMINATION OF TREATMENT.*—Sub-
 7 paragraphs (A) and (C) shall cease to apply as
 8 of the first taxable year of the taxpayer begin-
 9 ning after the calendar year in which there is a
 10 determination that the child is dead (or, if ear-
 11 lier, in which the child would have attained age
 12 18).

13 “(6) *CROSS REFERENCES.*—

**“For provision treating child as dependent of both
 parents for purposes of certain provisions, see sec-
 tions 105(b), 132(h)(2)(B), and 213(d)(5).”**

14 **SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF**
 15 **HOUSEHOLD.**

16 (a) *HEAD OF HOUSEHOLD.*—Clause (i) of section
 17 2(b)(1)(A) is amended to read as follows:

18 “(i) a qualifying child of the indi-
 19 vidual (as defined in section 152(c), deter-
 20 mined without regard to section 152(e)), but
 21 not if such child—

22 “(I) is married at the close of the
 23 taxpayer’s taxable year, and

1 “(II) is not a dependent of such
2 individual by reason of section
3 152(b)(2) or 152(b)3), or both, or”.

4 (b) *CONFORMING AMENDMENTS.*—

5 (1) Section 2(b)(2) is amended by striking sub-
6 paragraph (A) and by redesignating subparagraphs
7 (B), (C), and (D) as subparagraphs (A), (B), and
8 (C), respectively.

9 (2) Clauses (i) and (ii) of section 2(b)(3)(B) are
10 amended to read as follows:

11 “(i) subparagraph (H) of section
12 152(d)(2), or

13 “(ii) paragraph (3) of section 152(d).”.

14 **SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.**

15 (a) *IN GENERAL.*—Section 21(a)(1) is amended by
16 striking “In the case of an individual who maintains a
17 household which includes as a member one or more quali-
18 fying individuals (as defined in subsection (b)(1))” and in-
19 serting “In the case of an individual for which there are
20 1 or more qualifying individuals (as defined in subsection
21 (b)(1)) with respect to such individual”.

22 (b) *QUALIFYING INDIVIDUAL.*—Paragraph (1) of sec-
23 tion 21(b) is amended to read as follows:

24 “(1) *QUALIFYING INDIVIDUAL.*—The term ‘quali-
25 fying individual’ means—

1 “(A) a dependent of the taxpayer (as de-
2 fined in section 152(a)(1)) who has not attained
3 age 13,

4 “(B) a dependent of the taxpayer who is
5 physically or mentally incapable of caring for
6 himself or herself and who has the same prin-
7 cipal place of abode as the taxpayer for more
8 than one-half of such taxable year, or

9 “(C) the spouse of the taxpayer, if the
10 spouse is physically or mentally incapable of
11 caring for himself or herself and who has the
12 same principal place of abode as the taxpayer
13 for more than one-half of such taxable year.”.

14 (c) *CONFORMING AMENDMENT.*—Paragraph (1) of sec-
15 tion 21(e) is amended to read as follows:

16 “(1) *PLACE OF ABODE.*—An individual shall not
17 be treated as having the same principal place of abode
18 of the taxpayer if at any time during the taxable year
19 of the taxpayer the relationship between the indi-
20 vidual and the taxpayer is in violation of local law.”.

21 **SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.**

22 (a) *IN GENERAL.*—Paragraph (1) of section 24(c) is
23 amended to read as follows:

1 “(1) *IN GENERAL.*—The term ‘qualifying child’
2 means a qualifying child of the taxpayer (as defined
3 in section 152(c)) who has not attained age 17.”.

4 (b) *CONFORMING AMENDMENT.*—Section 24(c)(2) is
5 amended by striking “the first sentence of section 152(b)(3)”
6 and inserting “subparagraph (A) of section 152(b)(3)”.

7 **SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.**

8 (a) *QUALIFYING CHILD.*—Paragraph (3) of section
9 32(c) is amended to read as follows:

10 “(3) *QUALIFYING CHILD.*—

11 “(A) *IN GENERAL.*—The term ‘qualifying
12 child’ means a qualifying child of the taxpayer
13 (as defined in section 152(c), determined without
14 regard to paragraph (1)(D) thereof and section
15 152(e)).

16 “(B) *MARRIED INDIVIDUAL.*—The term
17 ‘qualifying child’ shall not include an individual
18 who is married as of the close of the taxpayer’s
19 taxable year unless the taxpayer is entitled to a
20 deduction under section 151 for such taxable
21 year with respect to such individual (or would be
22 so entitled but for section 152(e)).

23 “(C) *PLACE OF ABODE.*—For purposes of
24 subparagraph (A), the requirements of section

1 152(c)(1)(B) shall be met only if the principal
2 place of abode is in the United States.

3 “(D) IDENTIFICATION REQUIREMENTS.—

4 “(i) IN GENERAL.—A qualifying child
5 shall not be taken into account under sub-
6 section (b) unless the taxpayer includes the
7 name, age, and TIN of the qualifying child
8 on the return of tax for the taxable year.

9 “(ii) OTHER METHODS.—The Sec-
10 retary may prescribe other methods for pro-
11 viding the information described in clause
12 (i).”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 32(c)(1) is amended by striking sub-
15 paragraph (C) and by redesignating subparagraphs
16 (D), (E), (F), and (G) as subparagraphs (C), (D),
17 (E), and (F), respectively.

18 (2) Section 32(c)(4) is amended by striking
19 “(3)(E)” and inserting “(3)(C)”.

20 (3) Section 32(m) is amended by striking “sub-
21 sections (c)(1)(F)” and inserting “subsections
22 (c)(1)(E)”.

1 **SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL**
2 **EXEMPTION FOR DEPENDENTS.**

3 *Subsection (c) of section 151 is amended to read as*
4 *follows:*

5 “(c) *ADDITIONAL EXEMPTION FOR DEPENDENTS.—An*
6 *exemption of the exemption amount for each individual who*
7 *is a dependent (as defined in section 152) of the taxpayer*
8 *for the taxable year.”.*

9 **SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.**

10 (1) *Section 21(e)(5) is amended—*

11 (A) *by striking “paragraph (2) or (4) of” in*
12 *subparagraph (A), and*

13 (B) *by striking “within the meaning of sec-*
14 *tion 152(e)(1)” and inserting “as defined in sec-*
15 *tion 152(e)(3)(A)”.*

16 (2) *Section 21(e)(6)(B) is amended by striking*
17 *“section 151(c)(3)” and inserting “section 152(f)(1)”.*

18 (3) *Section 25B(c)(2)(B) is amended by striking*
19 *“151(c)(4)” and inserting “152(f)(2)”.*

20 (4)(A) *Subparagraphs (A) and (B) of section*
21 *51(i)(1) are each amended by striking “paragraphs*
22 *(1) through (8) of section 152(a)” both places it ap-*
23 *pears and inserting “subparagraphs (A) through (G)*
24 *of section 152(d)(2)”.*

25 (B) *Section 51(i)(1)(C) is amended by striking*
26 *“152(a)(9)” and inserting “152(d)(2)(H)”.*

1 (5) Section 72(t)(7)(A)(iii) is amended by strik-
2 ing “151(c)(3)” and inserting “152(f)(1)”.

3 (6) Section 129(c)(2) is amended by striking
4 “151(c)(3)” and inserting “152(f)(1)”.

5 (7) The first sentence of section 132(h)(2)(B) is
6 amended by striking “151(c)(3)” and inserting
7 “152(f)(1)”.

8 (8) Section 153 is amended by striking para-
9 graph (1) and by redesignating paragraphs (2), (3),
10 and (4) as paragraphs (1), (2), and (3), respectively.

11 (9) Section 170(g)(3) is amended by striking
12 “paragraphs (1) through (8) of section 152(a)” and
13 inserting “subparagraphs (A) through (G) of section
14 152(d)(2)”.

15 (10) The second sentence of section 213(d)(11) is
16 amended by striking “paragraphs (1) through (8) of
17 section 152(a)” and inserting “subparagraphs (A)
18 through (G) of section 152(d)(2)”.

19 (11) Section 529(e)(2)(B) is amended by striking
20 “paragraphs (1) through (8) of section 152(a)” and
21 inserting “subparagraphs (A) through (G) of section
22 152(d)(2)”.

23 (12) Section 2032A(c)(7)(D) is amended by
24 striking “section 151(c)(4)” and inserting “section
25 152(f)(2)”.

1 (13) Section 7701(a)(17) is amended by striking
2 “152(b)(4), 682,” and inserting “682”.

3 (14) Section 7702B(f)(2)(C)(iii) is amended by
4 striking “paragraphs (1) through (8) of section
5 152(a)” and inserting “subparagraphs (A) through
6 (G) of section 152(d)(2)”.

7 (15) Section 7703(b)(1) is amended—

8 (A) by striking “151(c)(3)” and inserting
9 “152(f)(1)”, and

10 (B) by striking “paragraph (2) or (4) of”.

11 **SEC. 508. EFFECTIVE DATE.**

12 The amendments made by this subtitle shall apply to
13 taxable years beginning after December 31, 2003.

14 **Subtitle B—Simplification**

15 **SEC. 511. CONSOLIDATION OF LIFE AND NON-LIFE COM-**
16 **PANY RETURNS.**

17 (a) *IN GENERAL.*—Section 1504 (relating to definition
18 of affiliated group) is amended by striking subsection (c)
19 and by redesignating subsections (d), (e), and (f) as sub-
20 sections (c), (d), and (e), respectively.

21 (b) *CONFORMING AMENDMENTS.*—

22 (1) Section 243(b)(2)(A) is amended by striking
23 “, 1504(b)(4), and 1504(c)” and inserting “and
24 1504(b)(4)”.

1 (2) Section 818(e)(1) is amended by striking “If
2 an election under section 1504(c)(2) is effect with re-
3 spect to an affiliated group for the taxable year” and
4 inserting “If an affiliated group includes members
5 which are, and which are not, life insurance compa-
6 nies for any taxable year”.

7 (3) Section 1503(c)(1) is amended by striking
8 “an election under section 1504(c)(2) is in effect for
9 the taxable year”.

10 (c) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to taxable years beginning after Decem-
12 ber 31, 2009.

13 (d) *WAIVER OF 5-YEAR WAITING PERIOD.*—Under reg-
14 ulations prescribed by the Secretary of the Treasury or his
15 delegate, an automatic waiver from the 5-year waiting pe-
16 riod for reconsolidation provided in section 1504(a)(3) of
17 the Internal Revenue Code of 1986 shall be granted to any
18 corporation which was previously an includible corporation
19 but was subsequently deemed a nonincludible corporation
20 as a result of becoming a subsidiary of a corporation which
21 was not an includible corporation solely by operation of sec-
22 tion 1504(c)(2) of such Code (as in effect on the day before
23 the date of the enactment of this Act).

1 (e) *NONTERMINATION OF GROUP.*—No affiliated group
2 shall terminate solely as a result of the amendments made
3 by this section.

4 **SEC. 512. SPECIAL RULES FOR TAXATION OF LIFE INSUR-**
5 **ANCE COMPANIES.**

6 (a) *REDUCTION IN MUTUAL LIFE INSURANCE COM-*
7 *PANY DEDUCTIONS NOT TO APPLY.*—

8 (1) *IN GENERAL.*—Section 809 (relating to re-
9 duction in certain deductions of material life insur-
10 ance companies) is amended by adding at the end the
11 following:

12 “(j) *DIFFERENTIAL EARNINGS RATE TREATED AS*
13 *ZERO.*—Notwithstanding subsection (c) or (f), the differen-
14 tial earnings rate shall be treated as zero for purposes of
15 computing both the differential earnings amount and the
16 recomputed differential earnings amount for any taxable
17 year of a mutual life insurance company beginning after
18 December 31, 2003, and before January 1, 2009.”.

19 (2) *EFFECTIVE DATE.*—The amendment made by
20 this section shall apply to taxable years beginning
21 after December 31, 2003.

22 (b) *DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-*
23 *1984 POLICYHOLDERS SURPLUS ACCOUNT.*—

24 (1) *IN GENERAL.*—Section 815 (relating to dis-
25 tributions to shareholders from pre-1984 policyholders

1 surplus account) is amended by adding at the end the
2 following:

3 “(g) *SPECIAL RULES APPLICABLE DURING 2004*
4 *THROUGH 2008.*—In the case of any taxable year of a stock
5 life insurance company beginning after December 31, 2003,
6 and before January 1, 2009—

7 “(1) the amount under subsection (a)(2) for such
8 taxable year shall be treated as zero, and

9 “(2) notwithstanding subsection (b), in deter-
10 mining any subtractions from an account under sub-
11 sections (c)(3) and (d)(3), any distribution to share-
12 holders during such taxable year shall be treated as
13 made first out of the policyholders surplus account,
14 then out of the shareholders surplus account, and fi-
15 nally out of other accounts.”.

16 (2) *EFFECTIVE DATE.*—The amendment made by
17 this section shall apply to taxable years beginning
18 after December 31, 2003.

19 **SEC. 513. MODIFICATION OF ACTIVE BUSINESS DEFINITION**
20 **UNDER SECTION 355.**

21 (a) *IN GENERAL.*—Section 355(b) (defining active con-
22 duct of a trade or business) is amended by adding at the
23 end the following new paragraph:

24 “(3) *SPECIAL RULES RELATING TO ACTIVE BUSI-*
25 *NESS REQUIREMENT.*—

1 “(A) *IN GENERAL.*—For purposes of deter-
2 mining whether a corporation meets the require-
3 ment of paragraph (2)(A), all members of such
4 corporation’s separate affiliated group shall be
5 treated as one corporation. For purposes of the
6 preceding sentence, a corporation’s separate af-
7 filiated group is the affiliated group which would
8 be determined under section 1504(a) if such cor-
9 poration were the common parent and section
10 1504(b) did not apply.

11 “(B) *CONTROL.*—For purposes of para-
12 graph (2)(D), all distributee corporations which
13 are members of the same affiliated group (as de-
14 fined in section 1504(a) without regard to sec-
15 tion 1504(b)) shall be treated as one distributee
16 corporation.”.

17 (b) *CONFORMING AMENDMENTS.*—

18 (1) *Subparagraph (A) of section 355(b)(2) is*
19 *amended to read as follows:*

20 “(A) *it is engaged in the active conduct of*
21 *a trade or business,”.*

22 (2) *Section 355(b)(2) is amended by striking the*
23 *last sentence.*

24 (c) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply—*

3 (A) *to distributions after the date of the en-*
4 *actment of this Act, and*

5 (B) *for purposes of determining the contin-*
6 *ued qualification under section 355(b)(2)(A) of*
7 *the Internal Revenue Code of 1986 (as amended*
8 *by subsection (b)(1)) of distributions made before*
9 *such date, as a result of an acquisition, disposi-*
10 *tion, or other restructuring after such date.*

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

14 (A) *made pursuant to an agreement which*
15 *was binding on such date of enactment and at*
16 *all times thereafter,*

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

20 (C) *described on or before such date in a*
21 *public announcement or in a filing with the Se-*
22

23 (3) *ELECTION TO HAVE AMENDMENTS APPLY.*—
24 *Paragraph (2) shall not apply if the distributing cor-*
25 *poration elects not to have such paragraph apply to*

1 *distributions of such corporation. Any such election,*
2 *once made, shall be irrevocable.*

3 ***Subtitle C—Other Provisions***

4 ***SEC. 521. CIVIL RIGHTS TAX RELIEF.***

5 *(a) DEDUCTION ALLOWED WHETHER OR NOT TAX-*
6 *PAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of*
7 *section 62 (defining adjusted gross income) is amended by*
8 *inserting after paragraph (18) the following new item:*

9 *“(19) COSTS INVOLVING DISCRIMINATION SUITS,*
10 *ETC.—Any deduction allowable under this chapter for*
11 *attorney fees and court costs paid by, or on behalf of,*
12 *the taxpayer in connection with any action involving*
13 *a claim of unlawful discrimination (as defined in*
14 *subsection (e)) or a claim of a violation of subchapter*
15 *III of chapter 37 of title 31, United States Code. The*
16 *preceding sentence shall not apply to any deduction*
17 *in excess of the amount includible in the taxpayer’s*
18 *gross income for the taxable year on account of a*
19 *judgment or settlement (whether by suit or agreement*
20 *and whether as lump sum or periodic payments) re-*
21 *sulting from such claim.”.*

22 *(b) UNLAWFUL DISCRIMINATION DEFINED.—Section*
23 *62 is amended by adding at the end the following new sub-*
24 *section:*

1 “(e) *UNLAWFUL DISCRIMINATION DEFINED.*—For pur-
2 poses of subsection (a)(19), the term ‘unlawful discrimina-
3 tion’ means an act that is unlawful under any of the fol-
4 lowing:

5 “(1) *Section 302 of the Civil Rights Act of 1991*
6 *(2 U.S.C. 1202).*

7 “(2) *Section 201, 202, 203, 204, 205, 206, or 207*
8 *of the Congressional Accountability Act of 1995 (2*
9 *U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).*

10 “(3) *The National Labor Relations Act (29*
11 *U.S.C. 151 et seq.).*

12 “(4) *The Fair Labor Standards Act of 1938 (29*
13 *U.S.C. 201 et seq.).*

14 “(5) *Section 4 or 15 of the Age Discrimination*
15 *in Employment Act of 1967 (29 U.S.C. 623 or 633a).*

16 “(6) *Section 501 or 504 of the Rehabilitation Act*
17 *of 1973 (29 U.S.C. 791 or 794).*

18 “(7) *Section 510 of the Employee Retirement In-*
19 *come Security Act of 1974 (29 U.S.C. 1140).*

20 “(8) *Title IX of the Education Amendments of*
21 *1972 (29 U.S.C. 1681 et seq.).*

22 “(9) *The Employee Polygraph Protection Act of*
23 *1988 (29 U.S.C. 201 et seq.).*

24 “(10) *The Worker Adjustment and Retraining*
25 *Notification Act (29 U.S.C. 2102 et seq.).*

1 “(11) *Section 105 of the Family and Medical*
2 *Leave Act of 1993 (29 U.S.C. 2615).*

3 “(12) *Chapter 43 of title 38, United States Code*
4 *(relating to employment and reemployment rights of*
5 *members of the uniformed services).*

6 “(13) *Section 1977, 1979, or 1980 of the Revised*
7 *Statutes (42 U.S.C. 1981, 1983, or 1985).*

8 “(14) *Section 703, 704, or 717 of the Civil*
9 *Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3, or*
10 *2000e–16).*

11 “(15) *Section 804, 805, 806, 808, or 818 of the*
12 *Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608,*
13 *or 3617).*

14 “(16) *Section 102, 202, 302, or 503 of the Amer-*
15 *icans with Disabilities Act of 1990 (42 U.S.C. 12112,*
16 *12132, 12182, or 12203).*

17 “(17) *Any provision of Federal law (popularly*
18 *known as whistleblower protection provisions) prohib-*
19 *iting the discharge of an employee, the discrimination*
20 *against an employee, or any other form of retaliation*
21 *or reprisal against an employee for asserting rights or*
22 *taking other actions permitted under Federal law.*

23 “(18) *Any provision of State or local law, or*
24 *common law claims permitted under Federal, State,*
25 *or local law—*

1 “(i) providing for the enforcement of
2 civil rights, or

3 “(ii) regulating any aspect of the em-
4 ployment relationship, including prohib-
5 iting the discharge of an employee, the dis-
6 crimination against an employee, or any
7 other form of retaliation or reprisal against
8 an employee for asserting rights or taking
9 other actions permitted by law.”.

10 (c) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to fees and costs paid after the date of
12 the enactment of this Act with respect to any judgment or
13 settlement occurring after such date.

14 **SEC. 522. INCREASE IN SECTION 382 LIMITATION FOR COM-**
15 **PANIES EMERGING FROM BANKRUPTCY.**

16 (a) *IN GENERAL.*—Section 382(b) (relating to section
17 382 limitation) is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(4) *INCREASE IN SECTION 382 LIMITATION FOR*
20 *COMPANIES EMERGING FROM BANKRUPTCY.*—In the
21 case of any new loss corporation which immediately
22 before any ownership change was an old loss corpora-
23 tion under the jurisdiction of the court in a title 11
24 or similar case (as defined in subsection (l)(5)(G)),
25 the section 382 limitation for any post-change year

1 *beginning in 2004 or 2005 shall be an amount equal*
2 *to 200 percent of the amount otherwise determined*
3 *under paragraph (1) for such year.”.*

4 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
5 *section shall apply to ownership changes after December 31,*
6 *2002.*

7 ***SEC. 523. INCREASE IN HISTORIC REHABILITATION CREDIT***
8 ***FOR CERTAIN LOW-INCOME HOUSING FOR***
9 ***THE ELDERLY.***

10 ***(a) IN GENERAL.***—*Section 47 (relating to rehabilita-*
11 *tion credit) is amended by adding at the end the following*
12 *new subsection:*

13 ***“(e) SPECIAL RULE REGARDING CERTAIN HISTORIC***
14 ***STRUCTURES.***—*In the case of any qualified rehabilitation*
15 *expenditure with respect to any certified historic*
16 *structure—*

17 ***“(1) which is placed in service after the date of***
18 ***the enactment of this subsection,***

19 ***“(2) which is part of a qualified low-income***
20 ***building with respect to which a credit under section***
21 ***42 is allowed, and***

22 ***“(3) substantially all of the residential rental***
23 ***units of which are used for tenants who have attained***
24 ***the age of 65,***

1 subsection (a)(2) shall be applied by substituting ‘25 per-
2 cent’ for ‘20 percent’.”

3 (b) *APPLICATION OF MACRS.*—*The Internal Revenue*
4 *Code of 1986 shall be applied and administered as if para-*
5 *graph (4)(X) of section 251(d) of the Tax Reform Act of*
6 *1986 as applied to the amendments made by section 201*
7 *of such Act had not been enacted with respect to any prop-*
8 *erty described in such paragraph and placed in service after*
9 *the date of the enactment of this Act.*

10 (c) *EFFECTIVE DATE.*—*The amendment made by sub-*
11 *section (a) shall apply to property placed in service after*
12 *the date of the enactment of this Act.*

13 **SEC. 524. MODIFICATION OF APPLICATION OF INCOME**
14 **FORECAST METHOD OF DEPRECIATION.**

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

18 “(7) *TREATMENT OF PARTICIPATIONS AND RE-*
19 *SIDUALS.*—

20 “(A) *IN GENERAL.*—*For purposes of deter-*
21 *mining the depreciation deduction allowable*
22 *with respect to a property under this subsection,*
23 *the taxpayer may include participations and re-*
24 *siduals with respect to such property in the ad-*
25 *justed basis of such property for the taxable year*

1 *in which the property is placed in service, but*
2 *only to the extent that such participations and*
3 *residuals relate to income estimated (for pur-*
4 *poses of this subsection) to be earned in connec-*
5 *tion with the property before the close of the 10th*
6 *taxable year referred to in paragraph (1)(A).*

7 “(B) *PARTICIPATIONS AND RESIDUALS.*—
8 *For purposes of this paragraph, the term ‘par-*
9 *ticipations and residuals’ means, with respect to*
10 *any property, costs the amount of which by con-*
11 *tract varies with the amount of income earned in*
12 *connection with such property.*

13 “(C) *SPECIAL RULES RELATING TO RE-*
14 *COMPUTATION YEARS.*—*If the adjusted basis of*
15 *any property is determined under this para-*
16 *graph, paragraph (4) shall be applied by sub-*
17 *stituting ‘for each taxable year in such period’*
18 *for ‘for such period’.*

19 “(D) *COORDINATION WITH OTHER RULES.*—

20 “(i) *Notwithstanding subparagraph*
21 *(A), the taxpayer may exclude participa-*
22 *tions and residuals from the adjusted basis*
23 *of such property and deduct such participa-*
24 *tions and residuals in the taxable year that*
25 *such participations and residuals are paid.*

1 “(ii) Deductions computed in accord-
2 ance with this paragraph shall be allowable
3 notwithstanding paragraph (1)(B) or sec-
4 tions 263, 263A, 404, 419, or 461(h).

5 “(E) AUTHORITY TO MAKE ADJUST-
6 MENTS.—The Secretary shall prescribe appro-
7 priate adjustments to the basis of property and
8 to the look-back method for the additional
9 amounts allowable as a deduction solely by rea-
10 son of this paragraph.”.

11 (b) DETERMINATION OF INCOME.—Section 167(g)(5)
12 (relating to special rules) is amended by redesignating sub-
13 paragraphs (E) and (F) as subparagraphs (F) and (G), re-
14 spectively, and inserting after subparagraph (D) the fol-
15 lowing new subparagraph:

16 “(E) TREATMENT OF DISTRIBUTION
17 COSTS.—For purposes of this subsection, the in-
18 come with respect to any property shall be the
19 taxpayer’s gross income from such property.”.

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

1 **SEC. 525. ADDITIONAL ADVANCE REFUNDINGS OF CERTAIN**
2 **GOVERNMENTAL BONDS.**

3 (a) *IN GENERAL.*—Section 149(d)(3)(A)(i) (relating to
4 *advance refundings of other bonds*) is amended—

5 (1) by striking “or” at the end of subclause (I),

6 (2) by adding “or” at the end of subclause (II),

7 *and*

8 (3) by inserting after subclause (II) the fol-
9 *lowing:*

10 “(III) the 2nd advance refunding
11 of the original bond if the original
12 bond was issued after 1985 or the 3rd
13 advance refunding of the original bond
14 if the original bond was issued before
15 1986, if, in either case, the refunding
16 bond is issued before the date which is
17 2 years after the date of the enactment
18 of this subclause and the original bond
19 was issued as part of an issue 90 per-
20 cent or more of the net proceeds of
21 which were used to finance a public el-
22 elementary or secondary school in any
23 State in which the State’s highest court
24 ruled by opinion issued on November
25 21, 2002, that the State school funding

1 *system violated the State constitution*
2 *and was constitutionally inadequate,”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall apply to refunding bonds issued on or after*
5 *the date of the enactment of this Act.*

6 **SEC. 526. EXCLUSION OF INCOME DERIVED FROM CERTAIN**
7 **WAGERS ON HORSE RACES FROM GROSS IN-**
8 **COME OF NONRESIDENT ALIEN INDIVIDUALS.**

9 (a) *IN GENERAL.*—*Subsection (b) of section 872 (relat-*
10 *ing to exclusions) is amended by redesignating paragraphs*
11 *(5), (6), and (7) as paragraphs (6), (7), and (8), respec-*
12 *tively, and inserting after paragraph (4) the following new*
13 *paragraph:*

14 “(5) *INCOME DERIVED FROM WAGERING TRANS-*
15 *ACTIONS IN CERTAIN PARIMUTUEL POOLS.*—*Gross in-*
16 *come derived by a nonresident alien individual from*
17 *a legal wagering transaction initiated outside the*
18 *United States in a parimutuel pool with respect to a*
19 *live horse race in the United States.”.*

20 (b) *CONFORMING AMENDMENT.*—*Section 883(a)(4) is*
21 *amended by striking “(5), (6), and (7)” and inserting “(6),*
22 *(7), and (8)”.*

23 (c) *EFFECTIVE DATE.*—*The amendments made by this*
24 *section shall apply to proceeds from wagering transactions*
25 *after September 30, 2003.*

1 **SEC. 527. FEDERAL REIMBURSEMENT OF EMERGENCY**
2 **HEALTH SERVICES FURNISHED TO UNDOCU-**
3 **MENTED ALIENS.**

4 (a) *TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.*—
5 *There is appropriated, out of any funds in the Treasury*
6 *not otherwise appropriated, \$48,000,000 for fiscal year*
7 *2004, for the purpose of making allotments under this sec-*
8 *tion to States described in paragraph (1) or (2) of sub-*
9 *section (b). Funds appropriated under the preceding sen-*
10 *tence shall remain available until expended.*

11 (b) *STATE ALLOTMENTS.*—

12 (1) *BASED ON PERCENTAGE OF UNDOCUMENTED*
13 *ALIENS.*—

14 (A) *IN GENERAL.*—*Out of the amount ap-*
15 *propriated under subsection (a) for fiscal year*
16 *2004, the Secretary shall use \$32,000,000 of such*
17 *amount to make allotments for such fiscal year*
18 *in accordance with subparagraph (B).*

19 (B) *FORMULA.*—*The amount of the allot-*
20 *ment for each State for fiscal year 2004 shall be*
21 *equal to the product of—*

22 (i) *the total amount available for allot-*
23 *ments under this paragraph for the fiscal*
24 *year; and*

25 (ii) *the percentage of undocumented*
26 *aliens residing in the State with respect to*

1 *the total number of such aliens residing in*
2 *all States, as determined by the Statistics*
3 *Division of the Immigration and Natu-*
4 *ralization Service, as of January 2003,*
5 *based on the 2000 decennial census.*

6 (2) *BASED ON NUMBER OF UNDOCUMENTED*
7 *ALIEN APPREHENSION STATES.—*

8 (A) *IN GENERAL.—Out of the amount ap-*
9 *propriated under subsection (a) for fiscal year*
10 *2004, the Secretary shall use \$16,000,000 of such*
11 *amount to make allotments for such fiscal year*
12 *for each of the 6 States with the highest number*
13 *of undocumented alien apprehensions for such*
14 *fiscal year.*

15 (B) *DETERMINATION OF ALLOTMENTS.—The*
16 *amount of the allotment for each State described*
17 *in subparagraph (A) for fiscal year 2004 shall*
18 *bear the same ratio to the total amount available*
19 *for allotments under this paragraph for the fiscal*
20 *year as the ratio of the number of undocumented*
21 *alien apprehensions in the State in that fiscal*
22 *year bears to the total of such numbers for all*
23 *such States for such fiscal year.*

24 (C) *DATA.—For purposes of this paragraph,*
25 *the highest number of undocumented alien ap-*

1 *prehensions for fiscal year 2004 shall be based on*
2 *the 4 most recent quarterly apprehension rates*
3 *for undocumented aliens in such States, as re-*
4 *ported by the Immigration and Naturalization*
5 *Service.*

6 (3) *RULE OF CONSTRUCTION.—Nothing in this*
7 *section shall be construed as prohibiting a State that*
8 *is described in both of paragraphs (1) and (2) from*
9 *receiving an allotment under both paragraphs for fis-*
10 *cal year 2004.*

11 (c) *USE OF FUNDS.—*

12 (1) *AUTHORITY TO MAKE PAYMENTS.—From the*
13 *allotments made for a State under subsection (b) for*
14 *fiscal year 2004, the Secretary shall pay directly to*
15 *local governments, hospitals, or other providers lo-*
16 *cated in the State (including providers of services re-*
17 *ceived through an Indian Health Service facility*
18 *whether operated by the Indian Health Service or by*
19 *an Indian tribe or tribal organization) that provide*
20 *uncompensated emergency health services furnished to*
21 *undocumented aliens during that fiscal year, and to*
22 *the State, such amounts (subject to the total amount*
23 *available from such allotments) as the local govern-*
24 *ments, hospitals, providers, or State demonstrate were*

1 *incurred for the provision of such services during that*
2 *fiscal year.*

3 (2) *LIMITATION ON STATE USE OF FUNDS.—*
4 *Funds paid to a State from allotments made under*
5 *subsection (b) for fiscal year 2004 may only be used*
6 *for making payments to local governments, hospitals,*
7 *or other providers for costs incurred in providing*
8 *emergency health services to undocumented aliens or*
9 *for State costs incurred with respect to the provision*
10 *of emergency health services to such aliens.*

11 (3) *INCLUSION OF COSTS INCURRED WITH RE-*
12 *SPECT TO CERTAIN ALIENS.—Uncompensated emer-*
13 *gency health services furnished to aliens who have*
14 *been allowed to enter the United States for the sole*
15 *purpose of receiving emergency health services may be*
16 *included in the determination of costs incurred by a*
17 *State, local government, hospital, or other provider*
18 *with respect to the provision of such services.*

19 (d) *APPLICATIONS; ADVANCE PAYMENTS.—*

20 (1) *DEADLINE FOR ESTABLISHMENT OF APPLICA-*
21 *TION PROCESS.—*

22 (A) *IN GENERAL.—Not later than Sep-*
23 *tember 1, 2003, the Secretary shall establish a*
24 *process under which States, local governments,*
25 *hospitals, or other providers located in the State*

1 *may apply for payments from allotments made*
2 *under subsection (b) for fiscal year 2004 for un-*
3 *compensated emergency health services furnished*
4 *to undocumented aliens during that fiscal year.*

5 *(B) INCLUSION OF MEASURES TO COMBAT*
6 *FRAUD.—The Secretary shall include in the*
7 *process established under subparagraph (A)*
8 *measures to ensure that fraudulent payments are*
9 *not made from the allotments determined under*
10 *subsection (b).*

11 *(2) ADVANCE PAYMENT; RETROSPECTIVE AD-*
12 *JUSTMENT.—The process established under paragraph*
13 *(1) shall allow for making payments under this sec-*
14 *tion for each quarter of fiscal year 2004 on the basis*
15 *of advance estimates of expenditures submitted by ap-*
16 *plicants for such payments and such other investiga-*
17 *tion as the Secretary may find necessary, and for*
18 *making reductions or increases in the payments as*
19 *necessary to adjust for any overpayment or under-*
20 *payment for prior quarters of such fiscal year.*

21 *(e) DEFINITIONS.—In this section:*

22 *(1) HOSPITAL.—The term “hospital” has the*
23 *meaning given such term in section 1861(e) of the So-*
24 *cial Security Act (42 U.S.C. 1395x(e)).*

1 (2) *INDIAN TRIBE; TRIBAL ORGANIZATION.*—The
2 terms “Indian tribe” and “tribal organization” have
3 the meanings given such terms in section 4 of the In-
4 dian Health Care Improvement Act (25 U.S.C. 1603).

5 (3) *PROVIDER.*—The term “provider” includes a
6 physician, any other health care professional licensed
7 under State law, and any other entity that furnishes
8 emergency health services, including ambulance serv-
9 ices.

10 (4) *SECRETARY.*—The term “Secretary” means
11 the Secretary of Health and Human Services.

12 (5) *STATE.*—The term “State” means the 50
13 States and the District of Columbia.

14 (f) *ENTITLEMENT.*—This section constitutes budget au-
15 thority in advance of appropriations Acts and represents
16 the obligation of the Federal Government to provide for the
17 payment of amounts provided under this section.

18 **SEC. 528. PREMIUMS FOR MORTGAGE INSURANCE.**

19 (a) *MORTGAGE INSURANCE PREMIUMS TREATED AS*
20 *INTEREST.*—

21 (1) *IN GENERAL.*—Paragraph (3) of section
22 163(h) (relating to qualified residence interest) is
23 amended by adding after subparagraph (D) the fol-
24 lowing new subparagraph:

1 “(E) *MORTGAGE INSURANCE PREMIUMS*
2 *TREATED AS INTEREST.*—

3 “(i) *IN GENERAL.*—*Premiums paid or*
4 *accrued for qualified mortgage insurance by*
5 *a taxpayer during the taxable year in con-*
6 *nection with acquisition indebtedness with*
7 *respect to a qualified residence of the tax-*
8 *payer shall be treated for purposes of this*
9 *subsection as qualified residence interest.*

10 “(ii) *PHASEOUT.*—*The amount other-*
11 *wise allowable as a deduction under clause*
12 *(i) shall be reduced (but not below zero) by*
13 *10 percent of such amount for each \$1,000*
14 *(\$500 in the case of a married individual*
15 *filing a separate return) (or fraction there-*
16 *of) that the taxpayer’s adjusted gross in-*
17 *come for the taxable year exceeds \$100,000*
18 *(\$50,000 in the case of a married indi-*
19 *vidual filing a separate return).”.*

20 (2) *DEFINITION AND SPECIAL RULES.*—*Para-*
21 *graph (4) of section 163(h) (relating to other defini-*
22 *tions and special rules) is amended by adding at the*
23 *end the following new subparagraphs:*

1 “(E) *QUALIFIED MORTGAGE INSURANCE.*—

2 *The term ‘qualified mortgage insurance’*
3 *means—*

4 “(i) *mortgage insurance provided by*
5 *the Veterans Administration, the Federal*
6 *Housing Administration, or the Rural*
7 *Housing Administration, and*

8 “(ii) *private mortgage insurance (as*
9 *defined by section 2 of the Homeowners*
10 *Protection Act of 1998 (12 U.S.C. 4901), as*
11 *in effect on the date of the enactment of this*
12 *subparagraph).*

13 “(F) *SPECIAL RULES FOR PREPAID QUALI-*
14 *FIED MORTGAGE INSURANCE.*—*Any amount paid*
15 *by the taxpayer for qualified mortgage insurance*
16 *that is properly allocable to any mortgage the*
17 *payment of which extends to periods that are*
18 *after the close of the taxable year in which such*
19 *amount is paid shall be chargeable to capital ac-*
20 *count and shall be treated as paid in such peri-*
21 *ods to which so allocated. No deduction shall be*
22 *allowed for the unamortized balance of such ac-*
23 *count if such mortgage is satisfied before the end*
24 *of its term. The preceding sentences shall not*
25 *apply to amounts paid for qualified mortgage*

1 *insurance provided by the Veterans Administra-*
2 *tion or the Rural Housing Administration.”.*

3 **(b) INFORMATION RETURNS RELATING TO MORTGAGE**
4 **INSURANCE.**—*Section 6050H (relating to returns relating*
5 *to mortgage interest received in trade or business from indi-*
6 *viduals) is amended by adding at the end the following new*
7 *subsection:*

8 **“(h) RETURNS RELATING TO MORTGAGE INSURANCE**
9 **PREMIUMS.**—

10 **“(1) IN GENERAL.**—*The Secretary may pre-*
11 *scribe, by regulations, that any person who, in the*
12 *course of a trade or business, receives from any indi-*
13 *vidual premiums for mortgage insurance aggregating*
14 *\$600 or more for any calendar year, shall make a re-*
15 *turn with respect to each such individual. Such re-*
16 *turn shall be in such form, shall be made at such*
17 *time, and shall contain such information as the Sec-*
18 *retary may prescribe.*

19 **“(2) STATEMENT TO BE FURNISHED TO INDIVID-**
20 **UALS WITH RESPECT TO WHOM INFORMATION IS RE-**
21 **QUIRED.**—*Every person required to make a return*
22 *under paragraph (1) shall furnish to each individual*
23 *with respect to whom a return is made a written*
24 *statement showing such information as the Secretary*
25 *may prescribe. Such written statement shall be fur-*

1 *nished on or before January 31 of the year following*
2 *the calendar year for which the return under para-*
3 *graph (1) was required to be made.*

4 “(3) *SPECIAL RULES.—For purposes of this*
5 *subsection—*

6 “(A) *rules similar to the rules of subsection*
7 *(c) shall apply, and*

8 “(B) *the term ‘mortgage insurance’*
9 *means—*

10 “(i) *mortgage insurance provided by*
11 *the Veterans Administration, the Federal*
12 *Housing Administration, or the Rural*
13 *Housing Administration, and*

14 “(ii) *private mortgage insurance (as*
15 *defined by section 2 of the Homeowners*
16 *Protection Act of 1998 (12 U.S.C. 4901), as*
17 *in effect on the date of the enactment of this*
18 *subparagraph).”.*

19 (c) *EFFECTIVE DATE.—The amendments made by this*
20 *section shall apply to amounts paid or accrued after the*
21 *date of enactment of this section in taxable years ending*
22 *after such date.*

1 **SEC. 529. SENSE OF THE SENATE ON REPEALING THE 1993**
2 **TAX HIKE ON SOCIAL SECURITY BENEFITS**
3 **SECTION.**

4 (a) *FINDINGS.*—(1) *The 1993 tax on social security*
5 *benefits was imposed as part of President Clinton’s agenda*
6 *to raise taxes.*

7 (2) *The original 1993 tax hike on social security bene-*
8 *fits was to raise income taxes on social security retirees*
9 *with as little as \$25,000 of income.*

10 (3) *Repeated efforts to repeal the 1993 tax hike on so-*
11 *cial security benefits have failed.*

12 (4) *Seniors rely on social security benefits as well as*
13 *dividend income to fund their retirement and they should*
14 *have taxes reduced on both sources of income.*

15 (b) *SENSE OF THE SENATE.*—*It is the sense of the Sen-*
16 *ate that the Senate Finance Committee should report out*
17 *the Social Security Benefits Tax Relief Act of 2003, S. 514,*
18 *to repeal the tax on seniors not later than July 31, 2003,*
19 *and the Senate shall consider such bill not later than Sep-*
20 *tember 30, 2003, in a manner consistent with the preserva-*
21 *tion of the Medicare Trust Fund.*

22 **SEC. 530. FLAT TAX.**

23 (a) *FINDINGS.*—*The Senate finds the following:*

24 (1) *The current Internal Revenue Code, with its*
25 *myriad deductions, credits and schedules, and over*

1 17,000 pages of rules and regulations, is long overdue
2 for an overhaul.

3 (2) *The current Internal Revenue Code has over*
4 6,900,000,000 words compared to the bible at
5 1,773,000 words, the Declaration of Independence at
6 1,300 words, The Gettysburg Address at 267 words,
7 and the Pledge of Allegiance at only 31 words.

8 (3) *It is an unacceptable waste of our Nation's*
9 precious resources when Americans spend more than
10 5,800,000,000 hours every year compiling informa-
11 tion and filling out Internal Revenue Code tax forms.
12 In addition, taxpayers spend \$194,000,000,000 each
13 year in tax code compliance. America's resources
14 could be dedicated to far more productive pursuits.

15 (4) *The primary goal of any tax reform is to*
16 promote growth and remove the inefficiencies of the
17 current tax code. The flat tax will expand the econ-
18 omy by an estimated \$2,000,000,000,000 over seven
19 years.

20 (5) *Another important goal of the flat tax is to*
21 achieve fairness, with a single low flat tax rate for all
22 individuals and businesses.

23 (6) *Simplicity is another critically important*
24 goal of the flat tax, and it is in the public interest

1 *to have a ten-lined tax form that fits on a postcard*
2 *and takes 10 minutes to fill out.*

3 *(7) A comprehensive analyses of our tax struc-*
4 *ture has concluded that a flat tax of 19 percent could*
5 *be imposed upon individuals and be revenue neutral.*

6 *(8) If the decision is made to include deduct-*
7 *ibility on items such as interest on home mortgages*
8 *and charitable contributions, the flat tax would be*
9 *raised from a 19 percent to a 20 percent rate to ac-*
10 *commodate the deductions and remain revenue neu-*
11 *tral.*

12 *(9) The flat tax would tax business at a 20 per-*
13 *cent rate on net profits and be revenue neutral and*
14 *lead to investment decisions being made on the basis*
15 *of productivity rather than for tax avoidance.*

16 *(10) The flat tax would lead to the elimination*
17 *of the capital gains tax. This would become a power-*
18 *ful incentive for savings and investment—which*
19 *translates into economic growth and expansion, more*
20 *and better jobs, and raising the standard of living for*
21 *all Americans.*

22 *(11) The flat tax would lower the cost of capital*
23 *by allowing businesses to write off the cost of capital*
24 *purchase in the same year the purchase was made as*

1 *opposed to complying with complicated depreciation*
2 *schedules.*

3 *(12) By eliminating the double tax on dividends,*
4 *the flat tax eliminates the distortions in the tax code*
5 *favoring debt over equity financing by businesses.*

6 *(13) The flat tax would eliminate the estate and*
7 *gift tax. With the elimination of the estate and gift*
8 *tax, family-held businesses will be much more stable*
9 *under the flat tax system.*

10 *(14) As tax loopholes are eliminated and the tax*
11 *code is simplified, there will be far less opportunity*
12 *for tax avoidance and fraud, which now amounts to*
13 *over \$120,000,000,000 in uncollected revenue annu-*
14 *ally.*

15 *(b) SENSE OF THE SENATE.—It is the sense of the Sen-*
16 *ate that the Senate Finance Committee and the Joint Eco-*
17 *nomics Committee should undertake a comprehensive anal-*
18 *ysis of simplification including flat tax proposals, includ-*
19 *ing appropriate hearings and consider legislation providing*
20 *for a flat tax.*

21 **SEC. 531. TOLL TAX ON EXCESS QUALIFIED FOREIGN DIS-**
22 **TRIBUTION AMOUNT.**

23 *(a) IN GENERAL.—Subpart F of part III of subchapter*
24 *N of chapter 1 is amended by adding at the end the fol-*
25 *lowing new section:*

1 ***“SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOR-***
2 ***EIGN DISTRIBUTION AMOUNT.***

3 *“(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOR-*
4 *EIGN DISTRIBUTION AMOUNT.—If a corporation elects the*
5 *application of this section, a tax shall be imposed on the*
6 *taxpayer in an amount equal to 5.25 percent of—*

7 *“(1) the taxpayer’s excess qualified foreign dis-*
8 *tribution amount, and*

9 *“(2) the amount determined under section 78*
10 *which is attributable to such excess qualified foreign*
11 *distribution amount.*

12 *Such tax shall be imposed in lieu of the tax imposed under*
13 *section 11 or 55 on the amounts described in paragraphs*
14 *(1) and (2) for such taxable year.*

15 *“(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION*
16 *AMOUNT.—For purposes of this section—*

17 *“(1) IN GENERAL.—The term ‘excess qualified*
18 *foreign distribution amount’ means the excess (if any)*
19 *of—*

20 *“(A) dividends received by the taxpayer*
21 *during the taxable year which are—*

22 *“(i) from 1 or more corporations which*
23 *are controlled foreign corporations in which*
24 *the taxpayer is a United States shareholder*
25 *on the date such dividends are paid, and*

1 “(ii) described in a domestic reinvest-
2 ment plan approved by the taxpayer’s presi-
3 dent, chief executive officer, or comparable
4 official before the payment of such dividends
5 and subsequently approved by the tax-
6 payer’s board of directors, management
7 committee, executive committee, or similar
8 body, which plan shall provide for the rein-
9 vestment of such dividends in the United
10 States, including as a source for the fund-
11 ing of worker hiring and training; infra-
12 structure; research and development; capital
13 investments; or the financial stabilization of
14 the corporation for the purposes of job reten-
15 tion or creation, over

16 “(B) the base dividend amount.

17 “(2) *BASE DIVIDEND AMOUNT.*—The term ‘base
18 dividend amount’ means an amount designated under
19 subsection (c)(7), but not less than the average
20 amount of dividends received during the fixed base
21 period from 1 or more corporations which are con-
22 trolled foreign corporations in which the taxpayer is
23 a United States shareholder on the date such divi-
24 dends are paid.

25 “(3) *FIXED BASE PERIOD.*—

1 “(A) *IN GENERAL.*—*The term ‘fixed base pe-*
2 *riod’ means each of 3 taxable years which are*
3 *among the 5 most recent taxable years of the tax-*
4 *payer ending on or before December 31, 2002,*
5 *determined by disregarding—*

6 “(i) *the 1 taxable year for which the*
7 *taxpayer had the highest amount of divi-*
8 *dends from 1 or more corporations which*
9 *are controlled foreign corporations relative*
10 *to the other 4 taxable years, and*

11 “(ii) *the 1 taxable year for which the*
12 *taxpayer had the lowest amount of divi-*
13 *dends from such corporations relative to the*
14 *other 4 taxable years.*

15 “(B) *SHORTER PERIOD.*—*If the taxpayer*
16 *has fewer than 5 taxable years ending on or be-*
17 *fore December 31, 2002, then in lieu of applying*
18 *subparagraph (A), the fixed base period shall*
19 *mean such shorter period representing all of the*
20 *taxable years of the taxpayer ending on or before*
21 *December 31, 2002.*

22 “(c) *DEFINITIONS AND SPECIAL RULES.*—*For pur-*
23 *poses of this section—*

24 “(1) *DIVIDENDS.*—*The term ‘dividend’ means a*
25 *dividend as defined in section 316, except that the*

1 *term shall also include amounts described in section*
2 *951(a)(1)(B), and shall exclude amounts described in*
3 *sections 78 and 959.*

4 “(2) *CONTROLLED FOREIGN CORPORATIONS AND*
5 *UNITED STATES SHAREHOLDERS.*—*The term ‘con-*
6 *trolled foreign corporation’ shall have the same mean-*
7 *ing as under section 957(a) and the term ‘United*
8 *States shareholder’ shall have the same meaning as*
9 *under section 951(b).*

10 “(3) *FOREIGN TAX CREDITS.*—*The amount of*
11 *any income, war, profits, or excess profit taxes paid*
12 *(or deemed paid under sections 902 and 960) or ac-*
13 *crued by the taxpayer with respect to the excess quali-*
14 *fied foreign distribution amount for which a credit*
15 *would be allowable under section 901 in the absence*
16 *of this section, shall be reduced by 85 percent.*

17 “(4) *FOREIGN TAX CREDIT LIMITATION.*—*For all*
18 *purposes of section 904, there shall be disregarded 85*
19 *percent of—*

20 “(A) *the excess qualified foreign distribution*
21 *amount,*

22 “(B) *the amount determined under section*
23 *78 which is attributable to such excess qualified*
24 *foreign distribution amount, and*

1 “(C) the amounts (including assets, gross
2 income, and other relevant bases of apportion-
3 ment) which are attributable to the excess quali-
4 fied foreign distribution amount which would,
5 determined without regard to this section, be
6 used to apportion the expenses, losses, and deduc-
7 tions of the taxpayer under section 861 and 864
8 in determining its taxable income from sources
9 without the United States.

10 For purposes of applying subparagraph (C), the prin-
11 ciples of section 864(e)(3)(A) shall apply.

12 “(5) TREATMENT OF ACQUISITIONS AND DISPOSI-
13 TIONS.—Rules similar to the rules of section 41(f)(3)
14 shall apply in the case of acquisitions or dispositions
15 of controlled foreign corporations occurring on or
16 after the first day of the earliest taxable year taken
17 into account in determining the fixed base period.

18 “(6) TREATMENT OF CONSOLIDATED GROUPS.—
19 Members of an affiliated group of corporations filing
20 a consolidated return under section 1501 shall be
21 treated as a single taxpayer in applying the rules of
22 this section.

23 “(7) DESIGNATION OF DIVIDENDS.—Subject to
24 subsection (b)(2), the taxpayer shall designate the
25 particular dividends received during the taxable year

1 *from 1 or more corporations which are controlled for-*
2 *foreign corporations in which it is a United States*
3 *shareholder which are dividends excluded from the ex-*
4 *cess qualified foreign distribution amount. The total*
5 *amount of such designated dividends shall equal the*
6 *base dividend amount.*

7 “(8) *TREATMENT OF EXPENSES, LOSSES, AND*
8 *DEDUCTIONS.—Any expenses, losses, or deductions of*
9 *the taxpayer allowable under subchapter B—*

10 “(A) *shall not be applied to reduce the*
11 *amounts described in subsection (a)(1), and*

12 “(B) *shall be applied to reduce other income*
13 *of the taxpayer (determined without regard to*
14 *the amounts described in subsection (a)(1)).*

15 “(d) *ELECTION.—*

16 “(1) *IN GENERAL.—An election under this sec-*
17 *tion shall be made on the taxpayer’s timely filed in-*
18 *come tax return for the taxable year (determined by*
19 *taking extensions into account) ending 120 days or*
20 *more after the date of the enactment of this section,*
21 *and, once made, may be revoked only with the consent*
22 *of the Secretary.*

23 “(2) *ALL CONTROLLED FOREIGN CORPORA-*
24 *TIONS.—The election shall apply to all corporations*
25 *which are controlled foreign corporations in which the*

1 *taxpayer is a United States shareholder during the*
2 *taxable year.*

3 “(3) *CONSOLIDATED GROUPS.*—*If a taxpayer is*
4 *a member of an affiliated group of corporations filing*
5 *a consolidated return under section 1501 for the tax-*
6 *able year, an election under this section shall be made*
7 *by the common parent of the affiliated group which*
8 *includes the taxpayer, and shall apply to all members*
9 *of the affiliated group.*

10 “(e) *REGULATIONS.*—*The Secretary shall prescribe*
11 *such regulations as may be necessary and appropriate to*
12 *carry out the purposes of this section, including regulations*
13 *under section 55 and regulations addressing corporations*
14 *which, during the fixed base period or thereafter, join or*
15 *leave an affiliated group of corporations filing a consoli-*
16 *dated return.”.*

17 (b) *CONFORMING AMENDMENT.*—*The table of sections*
18 *for subpart F of part III of subchapter N of chapter 1 is*
19 *amended by adding at the end the following new item:*

*“Sec. 965. Toll tax imposed on excess qualified foreign distribution
amount.”.*

20 (c) *EFFECTIVE DATE.*—*Except as otherwise provided,*
21 *the amendments made by this section, other than the*
22 *amendment made by subsection (d), shall apply only to the*
23 *first taxable year of the electing taxpayer ending 120 days*
24 *or more after the date of the enactment of this Act.*

1 (d) *TERMINATION OF REHABILITATION CREDIT FOR*
 2 *BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUC-*
 3 *TURES.*—Section 47 (relating to rehabilitation credit) is
 4 amended by adding at the end the following new subsection:

5 “(e) *TERMINATION OF CREDIT FOR BUILDINGS OTHER*
 6 *THAN CERTIFIED HISTORIC STRUCTURES.*—No credit shall
 7 be allowed under subsection (a)(1) with respect to expendi-
 8 tures incurred after December 31, 2003.”.

9 **SEC. 532. CHILD SUPPORT ENFORCEMENT.**

10 (a) *INCLUSION IN INCOME OF AMOUNT OF UNPAID*
 11 *CHILD SUPPORT.*—Section 108 (relating to discharge of in-
 12 debtedness income) is amended by adding at the end the
 13 following new subsection:

14 “(h) *UNPAID CHILD SUPPORT.*—

15 “(1) *IN GENERAL.*—For purposes of this chapter,
 16 any unpaid child support of a delinquent debtor for
 17 any taxable year shall be treated as amounts includ-
 18 ible in gross income of the delinquent debtor for the
 19 taxable year.

20 “(2) *DEFINITIONS.*—For the purposes of this
 21 subsection—

22 “(A) *CHILD SUPPORT.*—The term ‘child
 23 support’ means—

24 “(i) any periodic payment of a fixed
 25 amount, or

1 “(ii) any payment of a medical ex-
2 pense, education expense, insurance pre-
3 mium, or other similar item,
4 which is required to be paid to a custodial par-
5 ent by an individual under a support instru-
6 ment for the support of any qualifying child of
7 such individual. ‘Child support’ does not include
8 any amount which is described in section
9 408(a)(3) of the Social Security Act and which
10 has been assigned to a State.

11 “(B) CUSTODIAL PARENT.—The term ‘custo-
12 dial parent’ means an individual who is entitled
13 to receive child support and who has registered
14 with the appropriate State office of child support
15 enforcement charged with implementing section
16 454 of the Social Security Act.

17 “(C) DELINQUENT DEBTOR.—The term ‘de-
18 linquent debtor’ means a taxpayer who owes un-
19 paid child support to a custodial parent.

20 “(D) QUALIFYING CHILD.—The term ‘quali-
21 fying child’ means a child of a custodial parent
22 with respect to whom a dependent deduction is
23 allowable under section 151 for the taxable year
24 (or would be so allowable but for paragraph (2)
25 or (4) of section 152(e)).

1 “(E) *SUPPORT INSTRUMENT.*—*The term*
2 *‘support instrument’ means—*

3 “(i) *a decree of divorce or separate*
4 *maintenance or a written instrument inci-*
5 *dent to such a decree,*

6 “(ii) *a written separation agreement,*
7 *or*

8 “(iii) *a decree (not described in clause*
9 *(i)) of a court or administrative agency re-*
10 *quiring a parent to make payments for the*
11 *support or maintenance of 1 or more chil-*
12 *dren of such parent.*

13 “(F) *UNPAID CHILD SUPPORT.*—*The term*
14 *‘unpaid child support’ means child support that*
15 *is payable for months during a custodial par-*
16 *ent’s taxable year and unpaid as of the last day*
17 *of such taxable year, provided that such unpaid*
18 *amount as of such day equals or exceeds one-half*
19 *of the total amount of child support due to the*
20 *custodial parent for such year.*

21 “(3) *COORDINATION WITH OTHER LAWS.*—
22 *Amounts treated as income by paragraph (1) shall*
23 *not be treated as income by reason of paragraph (1)*
24 *for the purposes of any provision of law which is not*
25 *an internal revenue law.”.*

1 (b) *EFFECTIVE DATE; IMPLEMENTATION.*—The
2 *amendments made by is section shall apply to taxable years*
3 *beginning after December 31, 2002. The Secretary of the*
4 *Treasury shall publish Form 1099–CS (or such other form*
5 *that may be prescribed to comply with the amendment*
6 *made by subsection (b)(1)) and regulations, if any, that*
7 *may be deemed necessary to carry out the purposes of this*
8 *Act, not later than 90 days after the date of enactment of*
9 *this Act.*

10 ***SEC. 533. LOW-INCOME HOUSING TAX CREDIT.***

11 (a) *FINDINGS.*—The Senate finds the following:

12 (1) *The low-income housing tax credit is the Na-*
13 *tion’s primary program for producing affordable*
14 *rental housing.*

15 (2) *Each year, the low-income housing tax credit*
16 *produces over 115,000 affordable apartments.*

17 (3) *Since Congress created the low-income hous-*
18 *ing tax credit in 1986, the credit has created*
19 *1,500,000 units of affordable housing for about*
20 *3,500,000 Americans.*

21 (4) *Analyses have found that certain approaches*
22 *to reducing or eliminating the taxation of dividends*
23 *have the potential to reduce the value of the low-in-*
24 *come housing tax credit and so reduce the amount of*
25 *affordable housing available.*

1 “(2) *ELECTION*.—An election under paragraph
2 (1) shall be made at such time and in such manner
3 as the Secretary may prescribe by regulation.

4 “(b) *QUALIFIED BROADBAND EXPENDITURES*.—For
5 purposes of this section—

6 “(1) *IN GENERAL*.—The term ‘qualified
7 broadband expenditure’ means, with respect to any
8 taxable year, any direct or indirect costs incurred
9 and properly taken into account with respect to the
10 purchase or installation of qualified equipment (in-
11 cluding any upgrades thereto), together with any di-
12 rect or indirect costs incurred and properly taken
13 into account with respect to the connection of such
14 qualified equipment to any qualified subscriber, but
15 only if such costs are incurred after December 31,
16 2003, and before January 1, 2005.

17 “(2) *CERTAIN SATELLITE EXPENDITURES EX-*
18 *CLUDED*.—Such term shall not include any costs in-
19 curred with respect to the launching of any satellite
20 equipment.

21 “(3) *LEASED EQUIPMENT*.—Such term shall in-
22 clude so much of the purchase price paid by the lessor
23 of equipment subject to a lease described in subsection
24 (c)(2)(B) as is attributable to expenditures incurred

1 *by the lessee which would otherwise be described in*
2 *paragraph (1).*

3 “(4) *LIMITATION WITH REGARD TO CURRENT*
4 *GENERATION BROADBAND SERVICES.—Only 50 per-*
5 *cent of the amounts taken into account under para-*
6 *graph (1) with respect to qualified equipment through*
7 *which current generation broadband services are pro-*
8 *vided shall be treated as qualified broadband expendi-*
9 *tures.*

10 “(c) *WHEN EXPENDITURES TAKEN INTO ACCOUNT.—*
11 *For purposes of this section—*

12 “(1) *IN GENERAL.—Qualified broadband expendi-*
13 *tures with respect to qualified equipment shall be*
14 *taken into account with respect to the first taxable*
15 *year in which—*

16 “(A) *current generation broadband services*
17 *are provided through such equipment to qualified*
18 *subscribers, or*

19 “(B) *next generation broadband services are*
20 *provided through such equipment to qualified*
21 *subscribers.*

22 “(2) *LIMITATION.—*

23 “(A) *IN GENERAL.—Qualified expenditures*
24 *shall be taken into account under paragraph (1)*
25 *only with respect to qualified equipment—*

1 “(i) the original use of which com-
2 mences with the taxpayer, and

3 “(ii) which is placed in service,
4 after December 31, 2003.

5 “(B) SALE-LEASEBACKS.—For purposes of
6 subparagraph (A), if property—

7 “(i) is originally placed in service
8 after December 31, 2003, by any person,
9 and

10 “(ii) sold and leased back by such per-
11 son within 3 months after the date such
12 property was originally placed in service,
13 such property shall be treated as originally
14 placed in service not earlier than the date on
15 which such property is used under the leaseback
16 referred to in clause (ii).

17 “(d) SPECIAL ALLOCATION RULES.—

18 “(1) CURRENT GENERATION BROADBAND SERV-
19 ICES.—For purposes of determining the amount of
20 qualified broadband expenditures under subsection
21 (a)(1) with respect to qualified equipment through
22 which current generation broadband services are pro-
23 vided, if the qualified equipment is capable of serving
24 both qualified subscribers and other subscribers, the

1 *qualified broadband expenditures shall be multiplied*
2 *by a fraction—*

3 *“(A) the numerator of which is the sum of*
4 *the number of potential qualified subscribers*
5 *within the rural areas and the underserved areas*
6 *which the equipment is capable of serving with*
7 *current generation broadband services, and*

8 *“(B) the denominator of which is the total*
9 *potential subscriber population of the area which*
10 *the equipment is capable of serving with current*
11 *generation broadband services.*

12 *“(2) NEXT GENERATION BROADBAND SERV-*
13 *ICES.—For purposes of determining the amount of*
14 *qualified broadband expenditures under subsection*
15 *(a)(1) with respect to qualified equipment through*
16 *which next generation broadband services are pro-*
17 *vided, if the qualified equipment is capable of serving*
18 *both qualified subscribers and other subscribers, the*
19 *qualified expenditures shall be multiplied by a*
20 *fraction—*

21 *“(A) the numerator of which is the sum*
22 *of—*

23 *“(i) the number of potential qualified*
24 *subscribers within the rural areas and un-*
25 *derserved areas, plus*

1 “(ii) the number of potential qualified
2 subscribers within the area consisting only
3 of residential subscribers not described in
4 clause (i),

5 which the equipment is capable of serving with
6 next generation broadband services, and

7 “(B) the denominator of which is the total
8 potential subscriber population of the area which
9 the equipment is capable of serving with next
10 generation broadband services.

11 “(e) *DEFINITIONS.*—For purposes of this section—

12 “(1) *ANTENNA.*—The term ‘antenna’ means any
13 device used to transmit or receive signals through the
14 electromagnetic spectrum, including satellite equip-
15 ment.

16 “(2) *CABLE OPERATOR.*—The term ‘cable oper-
17 ator’ has the meaning given such term by section
18 602(5) of the Communications Act of 1934 (47 U.S.C.
19 522(5)).

20 “(3) *COMMERCIAL MOBILE SERVICE CARRIER.*—
21 The term ‘commercial mobile service carrier’ means
22 any person authorized to provide commercial mobile
23 radio service as defined in section 20.3 of title 47,
24 Code of Federal Regulations.

1 “(4) *CURRENT GENERATION BROADBAND SERV-*
2 *ICE.*—The term ‘current generation broadband serv-
3 *ice’ means the transmission of signals at a rate of at*
4 *least 1,000,000 bits per second to the subscriber and*
5 *at least 128,000 bits per second from the subscriber.*

6 “(5) *MULTIPLEXING OR DEMULTIPLEXING.*—The
7 term ‘multiplexing’ means the transmission of 2 or
8 more signals over a single channel, and the term
9 ‘demultiplexing’ means the separation of 2 or more
10 signals previously combined by compatible multi-
11 plexing equipment.

12 “(6) *NEXT GENERATION BROADBAND SERVICE.*—
13 The term ‘next generation broadband service’ means
14 the transmission of signals at a rate of at least
15 22,000,000 bits per second to the subscriber and at
16 least 5,000,000 bits per second from the subscriber.

17 “(7) *NONRESIDENTIAL SUBSCRIBER.*—The term
18 ‘nonresidential subscriber’ means any person who
19 purchases broadband services which are delivered to
20 the permanent place of business of such person.

21 “(8) *OPEN VIDEO SYSTEM OPERATOR.*—The term
22 ‘open video system operator’ means any person au-
23 thorized to provide service under section 653 of the
24 Communications Act of 1934 (47 U.S.C. 573).

1 “(9) *OTHER WIRELESS CARRIER.*—*The term*
2 *‘other wireless carrier’ means any person (other than*
3 *a telecommunications carrier, commercial mobile*
4 *service carrier, cable operator, open video system op-*
5 *erator, or satellite carrier) providing current genera-*
6 *tion broadband services or next generation broadband*
7 *service to subscribers through the radio transmission*
8 *of energy.*

9 “(10) *PACKET SWITCHING.*—*The term ‘packet*
10 *switching’ means controlling or routing the path of*
11 *any digitized transmission signal which is assembled*
12 *into packets or cells.*

13 “(11) *PROVIDER.*—*The term ‘provider’ means,*
14 *with respect to any qualified equipment—*

15 “(A) *a cable operator,*

16 “(B) *a commercial mobile service carrier,*

17 “(C) *an open video system operator,*

18 “(D) *a satellite carrier,*

19 “(E) *a telecommunications carrier, or*

20 “(F) *any other wireless carrier,*

21 *providing current generation broadband services or*
22 *next generation broadband services to subscribers*
23 *through such qualified equipment.*

1 “(12) *PROVISION OF SERVICES.*—A provider
2 shall be treated as providing services to 1 or more
3 subscribers if—

4 “(A) such a subscriber has been passed by
5 the provider’s equipment and can be connected to
6 such equipment for a standard connection fee,

7 “(B) the provider is physically able to de-
8 liver current generation broadband services or
9 next generation broadband services, as applica-
10 ble, to such a subscriber without making more
11 than an insignificant investment with respect to
12 such subscriber,

13 “(C) the provider has made reasonable ef-
14 forts to make such subscribers aware of the avail-
15 ability of such services,

16 “(D) such services have been purchased by
17 1 or more such subscribers, and

18 “(E) such services are made available to
19 such subscribers at average prices comparable to
20 those at which the provider makes available
21 similar services in any areas in which the pro-
22 vider makes available such services.

23 “(13) *QUALIFIED EQUIPMENT.*—

24 “(A) *IN GENERAL.*—The term ‘qualified
25 equipment’ means equipment which provides

1 *current generation broadband services or next*
2 *generation broadband services—*

3 “(i) *at least a majority of the time*
4 *during periods of maximum demand to*
5 *each subscriber who is utilizing such serv-*
6 *ices, and*

7 “(ii) *in a manner substantially the*
8 *same as such services are provided by the*
9 *provider to subscribers through equipment*
10 *with respect to which no deduction is al-*
11 *lowed under subsection (a)(1).*

12 “(B) *ONLY CERTAIN INVESTMENT TAKEN*
13 *INTO ACCOUNT.—Except as provided in subpara-*
14 *graph (C) or (D), equipment shall be taken into*
15 *account under subparagraph (A) only to the ex-*
16 *tent it—*

17 “(i) *extends from the last point of*
18 *switching to the outside of the unit, build-*
19 *ing, dwelling, or office owned or leased by*
20 *a subscriber in the case of a telecommuni-*
21 *cations carrier,*

22 “(ii) *extends from the customer side of*
23 *the mobile telephone switching office to a*
24 *transmission/receive antenna (including*
25 *such antenna) owned or leased by a sub-*

1 *scriber in the case of a commercial mobile*
2 *service carrier,*

3 *“(iii) extends from the customer side of*
4 *the headend to the outside of the unit, build-*
5 *ing, dwelling, or office owned or leased by*
6 *a subscriber in the case of a cable operator*
7 *or open video system operator, or*

8 *“(iv) extends from a transmission/re-*
9 *ceive antenna (including such antenna)*
10 *which transmits and receives signals to or*
11 *from multiple subscribers, to a trans-*
12 *mission/receive antenna (including such an-*
13 *tenna) on the outside of the unit, building,*
14 *dwelling, or office owned or leased by a sub-*
15 *scriber in the case of a satellite carrier or*
16 *other wireless carrier, unless such other*
17 *wireless carrier is also a telecommuni-*
18 *cations carrier.*

19 *“(C) PACKET SWITCHING EQUIPMENT.—*
20 *Packet switching equipment, regardless of loca-*
21 *tion, shall be taken into account under subpara-*
22 *graph (A) only if it is deployed in connection*
23 *with equipment described in subparagraph (B)*
24 *and is uniquely designed to perform the function*
25 *of packet switching for current generation*

1 *broadband services or next generation broadband*
2 *services, but only if such packet switching is the*
3 *last in a series of such functions performed in*
4 *the transmission of a signal to a subscriber or*
5 *the first in a series of such functions performed*
6 *in the transmission of a signal from a sub-*
7 *scriber.*

8 “(D) *MULTIPLEXING AND DEMULTIPLEXING*
9 *EQUIPMENT.—Multiplexing and demultiplexing*
10 *equipment shall be taken into account under sub-*
11 *paragraph (A) only to the extent it is deployed*
12 *in connection with equipment described in sub-*
13 *paragraph (B) and is uniquely designed to per-*
14 *form the function of multiplexing and*
15 *demultiplexing packets or cells of data and mak-*
16 *ing associated application adaptations, but only if*
17 *such multiplexing or demultiplexing equipment*
18 *is located between packet switching equipment*
19 *described in subparagraph (C) and the sub-*
20 *scriber’s premises.*

21 “(14) *QUALIFIED SUBSCRIBER.—The term*
22 *‘qualified subscriber’ means—*

23 “(A) *with respect to the provision of current*
24 *generation broadband services—*

1 “(i) any nonresidential subscriber
2 maintaining a permanent place of business
3 in a rural area or underserved area, or

4 “(ii) any residential subscriber resid-
5 ing in a dwelling located in a rural area or
6 underserved area which is not a saturated
7 market, and

8 “(B) with respect to the provision of next
9 generation broadband services—

10 “(i) any nonresidential subscriber
11 maintaining a permanent place of business
12 in a rural area or underserved area, or

13 “(ii) any residential subscriber.

14 “(15) *RESIDENTIAL SUBSCRIBER*.—The term
15 ‘residential subscriber’ means any individual who
16 purchases broadband services which are delivered to
17 such individual’s dwelling.

18 “(16) *RURAL AREA*.—The term ‘rural area’
19 means any census tract which—

20 “(A) is not within 10 miles of any incor-
21 porated or census designated place containing
22 more than 25,000 people, and

23 “(B) is not within a county or county
24 equivalent which has an overall population den-

1 *sity of more than 500 people per square mile of*
2 *land.*

3 “(17) *RURAL SUBSCRIBER.*—*The term ‘rural*
4 *subscriber’ means any residential subscriber residing*
5 *in a dwelling located in a rural area or nonresiden-*
6 *tial subscriber maintaining a permanent place of*
7 *business located in a rural area.*

8 “(18) *SATELLITE CARRIER.*—*The term ‘satellite*
9 *carrier’ means any person using the facilities of a*
10 *satellite or satellite service licensed by the Federal*
11 *Communications Commission and operating in the*
12 *Fixed-Satellite Service under part 25 of title 47 of the*
13 *Code of Federal Regulations or the Direct Broadcast*
14 *Satellite Service under part 100 of title 47 of such*
15 *Code to establish and operate a channel of commu-*
16 *nications for distribution of signals, and owning or*
17 *leasing a capacity or service on a satellite in order*
18 *to provide such point-to-multipoint distribution.*

19 “(19) *SATURATED MARKET.*—*The term ‘satu-*
20 *rated market’ means any census tract in which, as of*
21 *the date of the enactment of this section—*

22 “(A) *current generation broadband services*
23 *have been provided by a single provider to 85*
24 *percent or more of the total number of potential*

1 *residential subscribers residing in dwellings lo-*
2 *cated within such census tract, and*

3 “(B) such services can be utilized—

4 “(i) at least a majority of the time
5 during periods of maximum demand by
6 each such subscriber who is utilizing such
7 services, and

8 “(ii) in a manner substantially the
9 same as such services are provided by the
10 provider to subscribers through equipment
11 with respect to which no deduction is al-
12 lowed under subsection (a)(1).

13 “(20) *SUBSCRIBER.*—The term ‘subscriber’
14 means any person who purchases current generation
15 broadband services or next generation broadband ser-
16 vices.

17 “(21) *TELECOMMUNICATIONS CARRIER.*—The
18 term ‘telecommunications carrier’ has the meaning
19 given such term by section 3(44) of the Communica-
20 tions Act of 1934 (47 U.S.C. 153(44)), but—

21 “(A) includes all members of an affiliated
22 group of which a telecommunications carrier is
23 a member, and

24 “(B) does not include a commercial mobile
25 service carrier.

1 “(22) *TOTAL POTENTIAL SUBSCRIBER POPU-*
2 *LATION.*—*The term ‘total potential subscriber popu-*
3 *lation’ means, with respect to any area and based on*
4 *the most recent census data, the total number of po-*
5 *tential residential subscribers residing in dwellings*
6 *located in such area and potential nonresidential sub-*
7 *scribers maintaining permanent places of business lo-*
8 *cated in such area.*

9 “(23) *UNDERSERVED AREA.*—*The term ‘under-*
10 *served area’ means any census tract which is located*
11 *in—*

12 “(A) *an empowerment zone or enterprise*
13 *community designated under section 1391,*

14 “(B) *the District of Columbia Enterprise*
15 *Zone established under section 1400,*

16 “(C) *a renewal community designated*
17 *under section 1400E, or*

18 “(D) *a low-income community designated*
19 *under section 45D.*

20 “(24) *UNDERSERVED SUBSCRIBER.*—*The term*
21 *‘underserved subscriber’ means any residential sub-*
22 *scriber residing in a dwelling located in an under-*
23 *served area or nonresidential subscriber maintaining*
24 *a permanent place of business located in an under-*
25 *served area.*

1 “(f) *SPECIAL RULES.*—

2 “(1) *PROPERTY USED OUTSIDE THE UNITED*
3 *STATES, ETC., NOT QUALIFIED.*—No expenditures
4 shall be taken into account under subsection (a)(1)
5 with respect to the portion of the cost of any property
6 referred to in section 50(b) or with respect to the por-
7 tion of the cost of any property taken into account
8 under section 179.

9 “(2) *BASIS REDUCTION.*—

10 “(A) *IN GENERAL.*—For purposes of this
11 title, the basis of any property shall be reduced
12 by the portion of the cost of such property taken
13 into account under subsection (a)(1).

14 “(B) *ORDINARY INCOME RECAPTURE.*—For
15 purposes of section 1245, the amount of the de-
16 duction allowable under subsection (a)(1) with
17 respect to any property which is of a character
18 subject to the allowance for depreciation shall be
19 treated as a deduction allowed for depreciation
20 under section 167.

21 “(3) *COORDINATION WITH SECTION 38.*—No cred-
22 it shall be allowed under section 38 with respect to
23 any amount for which a deduction is allowed under
24 subsection (a)(1).”.

1 **(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE**
2 **TELEPHONE COMPANIES.**—Section 501(c)(12)(B) (relating
3 to list of exempt organizations) is amended by striking “or”
4 at the end of clause (iii), by striking the period at the end
5 of clause (iv) and inserting “, or”, and by adding at the
6 end the following:

7 “(v) from the sale of property subject to
8 a lease described in section 191(c)(2)(B),
9 but only to the extent such income does not
10 in any year exceed an amount equal to the
11 qualified broadband expenditures which
12 would be taken into account under section
13 191 for such year if the mutual or coopera-
14 tive telephone company was not exempt
15 from taxation and was treated as the owner
16 of the property subject to such lease.”.

17 **(c) CONFORMING AMENDMENTS.**—

18 (1) Section 263(a)(1) (relating to capital ex-
19 penditures) is amended by striking “or” at the end of
20 subparagraph (G), by striking the period at the end
21 of subparagraph (H) and inserting “, or”, and by
22 adding at the end the following new subparagraph:

23 “(I) expenditures for which a deduction is
24 allowed under section 191.”.

1 (2) *Section 1016(a) of such Code is amended by*
 2 *striking “and” at the end of paragraph (27), by strik-*
 3 *ing the period at the end of paragraph (28) and in-*
 4 *serting “, and”, and by adding at the end the fol-*
 5 *lowing new paragraph:*

6 “(29) *to the extent provided in section*
 7 *191(f)(2).”.*

8 (3) *The table of sections for part VI of sub-*
 9 *chapter A of chapter 1 of such Code is amended by*
 10 *inserting after the item relating to section 190 the fol-*
 11 *lowing new item:*

“*Sec. 191. Broadband expenditures.*”.

12 (d) *DESIGNATION OF CENSUS TRACTS.—*

13 (1) *IN GENERAL.—The Secretary of the Treasury*
 14 *shall, not later than 90 days after the date of the en-*
 15 *actment of this Act, designate and publish those cen-*
 16 *sus tracts meeting the criteria described in para-*
 17 *graphs (16), (22), and (23) of section 191(e) of the In-*
 18 *ternal Revenue Code of 1986 (as added by this sec-*
 19 *tion). In making such designations, the Secretary of*
 20 *the Treasury shall consult with such other depart-*
 21 *ments and agencies as the Secretary determines ap-*
 22 *propriate.*

23 (2) *SATURATED MARKET.—*

24 (A) *IN GENERAL.—For purposes of desig-*
 25 *nating and publishing those census tracts meet-*

1 *ing the criteria described in subsection (e)(19) of*
2 *such section 191—*

3 *(i) the Secretary of the Treasury shall*
4 *prescribe not later than 30 days after the*
5 *date of the enactment of this Act the form*
6 *upon which any provider which takes the*
7 *position that it meets such criteria with re-*
8 *spect to any census tract shall submit a list*
9 *of such census tracts (and any other infor-*
10 *mation required by the Secretary) not later*
11 *than 60 days after the date of the publica-*
12 *tion of such form, and*

13 *(ii) the Secretary of the Treasury shall*
14 *publish an aggregate list of such census*
15 *tracts and the applicable providers not later*
16 *than 30 days after the last date such sub-*
17 *missions are allowed under clause (i).*

18 *(B) NO SUBSEQUENT LISTS REQUIRED.—*
19 *The Secretary of the Treasury shall not be re-*
20 *quired to publish any list of census tracts meet-*
21 *ing such criteria subsequent to the list described*
22 *in subparagraph (A)(ii).*

23 *(C) AUTHORITY TO DISREGARD FALSE SUB-*
24 *MISSIONS.—In addition to imposing any other*
25 *applicable penalties, the Secretary of the Treas-*

1 *ury shall have the discretion to disregard any*
2 *form described in subparagraph (A)(i) on which*
3 *a provider knowingly submitted false informa-*
4 *tion.*

5 *(e) OTHER REGULATORY MATTERS.—*

6 *(1) PROHIBITION.—No Federal or State agency*
7 *or instrumentality shall adopt regulations or rate-*
8 *making procedures that would have the effect of con-*
9 *fiscating any deduction or portion thereof allowed*
10 *under section 191 of the Internal Revenue Code of*
11 *1986 (as added by this section) or otherwise sub-*
12 *verting the purpose of this section.*

13 *(2) TREASURY REGULATORY AUTHORITY.—It is*
14 *the intent of Congress in providing the election to de-*
15 *duct qualified broadband expenditures under section*
16 *191 of the Internal Revenue Code of 1986 (as added*
17 *by this section) to provide incentives for the purchase,*
18 *installation, and connection of equipment and facili-*
19 *ties offering expanded broadband access to the Inter-*
20 *net for users in certain low income and rural areas*
21 *of the United States, as well as to residential users*
22 *nationwide, in a manner that maintains competitive*
23 *neutrality among the various classes of providers of*
24 *broadband services. Accordingly, the Secretary of the*
25 *Treasury shall prescribe such regulations as may be*

1 *necessary or appropriate to carry out the purposes of*
 2 *section 191 of such Code, including—*

3 *(A) regulations to determine how and when*
 4 *a taxpayer that incurs qualified broadband ex-*
 5 *penditures satisfies the requirements of section*
 6 *191 of such Code to provide broadband services,*
 7 *and*

8 *(B) regulations describing the information,*
 9 *records, and data taxpayers are required to pro-*
 10 *vide the Secretary to substantiate compliance*
 11 *with the requirements of section 191 of such*
 12 *Code.*

13 *(f) EFFECTIVE DATE.—The amendments made by this*
 14 *section shall apply to expenditures incurred after December*
 15 *31, 2003.*

16 ***SEC. 535. INCOME TAX CREDIT FOR DISTILLED SPIRITS***
 17 ***WHOLESALERS AND FOR DISTILLED SPIRITS***
 18 ***IN CONTROL STATE BAILMENT WAREHOUSES***
 19 ***FOR COSTS OF CARRYING FEDERAL EXCISE***
 20 ***TAXES ON BOTTLED DISTILLED SPIRITS.***

21 *(a) IN GENERAL.—Subpart A of part I of subchapter*
 22 *A of chapter 51 (relating to gallonage and occupational*
 23 *taxes) is amended by adding at the end the following new*
 24 *section:*

1 **“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF**
2 **CARRYING EXCISE TAX.**

3 “(a) *IN GENERAL.*—For purposes of section 38, the
4 amount of the distilled spirits credit for any taxable year
5 is the amount equal to the product of—

6 “(1) *in the case of—*

7 “(A) *any eligible wholesaler—*

8 “(i) *the number of cases of bottled dis-*
9 *tilled spirits—*

10 “(I) *which were bottled in the*
11 *United States, and*

12 “(II) *which are purchased by such*
13 *wholesaler during the taxable year di-*
14 *rectly from the bottler of such spirits,*
15 *or*

16 “(B) *any person which is subject to section*
17 *5005 and which is not an eligible wholesaler, the*
18 *number of cases of bottled distilled spirits which*
19 *are stored in a warehouse operated by, or on be-*
20 *half of, a State, or agency or political subdivi-*
21 *sion thereof, on which title has not passed on an*
22 *unconditional sale basis, and*

23 “(2) *the average tax-financing cost per case for*
24 *the most recent calendar year ending before the begin-*
25 *ning of such taxable year.*

1 “(b) *ELIGIBLE WHOLESALER.*—For purposes of this
2 section, the term ‘eligible wholesaler’ means any person
3 which holds a permit under the Federal Alcohol Adminis-
4 tration Act as a wholesaler of distilled spirits which is not
5 a State, or agency or political subdivision thereof.

6 “(c) *AVERAGE TAX-FINANCING COST.*—

7 “(1) *IN GENERAL.*—For purposes of this section,
8 the average tax-financing cost per case for any cal-
9 endar year is the amount of interest which would ac-
10 crue at the deemed financing rate during a 60-day
11 period on an amount equal to the deemed Federal ex-
12 cise tax per case.

13 “(2) *DEEMED FINANCING RATE.*—For purposes
14 of paragraph (1), the deemed financing rate for any
15 calendar year is the average of the corporate overpay-
16 ment rates under paragraph (1) of section 6621(a)
17 (determined without regard to the last sentence of
18 such paragraph) for calendar quarters of such year.

19 “(3) *DEEMED FEDERAL EXCISE TAX PER*
20 *CASE.*—For purposes of paragraph (1), the deemed
21 Federal excise tax per case is \$25.68.

22 “(d) *OTHER DEFINITIONS AND SPECIAL RULES.*—For
23 purposes of this section—

24 “(1) *CASE.*—The term ‘case’ means 12 80-proof
25 750 milliliter bottles.

1 “(2) *NUMBER OF CASES IN LOT.*—*The number of*
2 *cases in any lot of distilled spirits shall be determined*
3 *by dividing the number of liters in such lot by 9.*”.

4 **(b) CONFORMING AMENDMENTS.**—

5 (1) *Subsection (b) of section 38 is amended by*
6 *striking “plus” at the end of paragraph (14), by*
7 *striking the period at the end of paragraph (15) and*
8 *inserting “, plus”, and by adding at the end the fol-*
9 *lowing new paragraph:*

10 “(16) *the distilled spirits credit determined*
11 *under section 5011(a).*”.

12 (2) *Subsection (d) of section 39 (relating to*
13 *carryback and carryforward of unused credits) is*
14 *amended by adding at the end the following new*
15 *paragraph:*

16 “(11) *NO CARRYBACK OF SECTION 5011 CREDIT*
17 *BEFORE JANUARY 1, 2003.*—*No portion of the unused*
18 *business credit for any taxable year which is attrib-*
19 *utable to the credit determined under section 5011(a)*
20 *may be carried back to a taxable year beginning be-*
21 *fore January 1, 2003.*”.

22 (3) *The table of sections for subpart A of part I*
23 *of subchapter A of chapter 51 is amended by adding*
24 *at the end the following new item:*

 “*Sec. 5011. Income tax credit for average cost of carrying excise*
 tax.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2002.*

4 ***SEC. 536. CLARIFICATION OF CONTRIBUTION IN AID OF***
5 ***CONSTRUCTION FOR WATER AND SEWERAGE***
6 ***DISPOSAL UTILITIES.***

7 (a) *IN GENERAL.*—*Subparagraph (A) of section*
8 *118(c)(3) (relating to definitions) is amended to read as*
9 *follows:*

10 “(A) *CONTRIBUTION IN AID OF CONSTRUC-*
11 *TION.*—*The term ‘contribution in aid of con-*
12 *struction’ shall be defined by regulations pre-*
13 *scribed by the Secretary, except that such term—*

14 “(i) *shall include amounts paid as cus-*
15 *tomers’ connection fees (including amounts*
16 *paid to connect the customer’s water service*
17 *line or sewer lateral line to the utility’s dis-*
18 *tribution or collection system or extend a*
19 *main water or sewer line to provide service*
20 *to a customer), and*

21 “(ii) *shall not include amounts paid as*
22 *service charges for starting or stopping serv-*
23 *ices.*”.

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

4 **SEC. 537. RESTORATION OF DEDUCTION FOR TRAVEL EX-**
5 **PENSES OF SPOUSE, ETC. ACCOMPANYING**
6 **TAXPAYER ON BUSINESS TRAVEL.**

7 (a) *IN GENERAL.*—Subsection (m) of section 274 (re-
8 lating to additional limitations on travel expenses) is
9 amended by striking paragraph (3)(A).

10 (b) *EFFECTIVE DATE.*—The amendment made by this
11 section shall apply to amounts paid or incurred after the
12 date of the enactment of this Act, and on or before December
13 31, 2004.

14 **SEC. 538. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM**
15 **TAXES ON AIR TRANSPORTATION.**

16 (a) *IN GENERAL.*—Section 4281 (relating to small air-
17 craft on nonestablished lines) is amended by adding at the
18 end the following new sentence: “For purposes of this sec-
19 tion, an aircraft shall not be considered as operated on an
20 established line if such aircraft is operated on a flight the
21 sole purpose of which is sightseeing.”.

22 (b) *EFFECTIVE DATE.*—The amendment made by this
23 section shall apply with respect to transportation beginning
24 on or after the date of the enactment of this Act, but shall
25 not apply to any amount paid before such date.

1 **SEC. 539. CONFORMING THE INTERNAL REVENUE CODE OF**
2 **1986 TO REQUIREMENTS IMPOSED BY THE**
3 **WOMEN'S HEALTH AND CANCER RIGHTS ACT**
4 **OF 1998.**

5 (a) *IN GENERAL.*—Subchapter B of chapter 100 (relat-
6 ing to other requirements) is amended by inserting after
7 section 9812 the following new section:

8 **“SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTIVE**
9 **SURGERY FOLLOWING MASTECTOMIES.**

10 “(a) *IN GENERAL.*—A group health plan that provides
11 medical and surgical benefits with respect to a mastectomy
12 shall provide, in a case of a participant or beneficiary who
13 is receiving benefits in connection with a mastectomy and
14 who elects breast reconstruction in connection with such
15 mastectomy, coverage for—

16 “(1) all stages of reconstruction of the breast on
17 which the mastectomy has been performed,

18 “(2) surgery and reconstruction of the other
19 breast to produce a symmetrical appearance, and

20 “(3) prostheses and physical complications of
21 mastectomy, including lymphedemas,

22 in a manner determined in consultation with the attending
23 physician and the patient. Such coverage may be subject
24 to annual deductibles and coinsurance provisions as may
25 be deemed appropriate and as are consistent with those es-
26 tablished for other benefits under the plan. Written notice

1 *of the availability of such coverage shall be delivered to the*
 2 *participant upon enrollment and annually thereafter.*

3 “(b) *PROHIBITIONS.*—*A group health plan may not—*

4 “(1) *deny to a patient eligibility, or continued*
 5 *eligibility, to enroll or to renew coverage under the*
 6 *terms of the plan, solely for the purpose of avoiding*
 7 *the requirements of this section, and*

8 “(2) *penalize or otherwise reduce or limit the re-*
 9 *imbursement of an attending provider, or provide in-*
 10 *centives (monetary or otherwise) to an attending pro-*
 11 *vider, to induce such provider to provide care to an*
 12 *individual participant or beneficiary in a manner*
 13 *inconsistent with this section.*

14 “(c) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
 15 *tion shall be construed to prevent a group health plan from*
 16 *negotiating the level and type of reimbursement with a pro-*
 17 *vider for care provided in accordance with this section.”*

18 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 19 *chapter 100 of such Code is amended inserting after the*
 20 *item relating to section 9812 the following new item:*

*“Sec. 9813. Required coverage for reconstructive surgery following
 mastectomies.”*

21 (c) *EFFECTIVE DATE.*—

22 (1) *IN GENERAL.*—*The amendments made by*
 23 *this section shall apply with respect to plan years be-*
 24 *ginning on or after the date of enactment of this Act.*

1 (2) *SPECIAL RULE FOR COLLECTIVE BARGAINING*
 2 *AGREEMENTS.*—*In the case of a group health plan*
 3 *maintained pursuant to 1 or more collective bar-*
 4 *gaining agreements between employee representatives*
 5 *and 1 or more employers, any plan amendment made*
 6 *pursuant to a collective bargaining agreement relat-*
 7 *ing to the plan which amends the plan solely to con-*
 8 *form to any requirement added by this section shall*
 9 *not be treated as a termination of such collective bar-*
 10 *gaining agreement.*

11 **SEC. 540. EXPANSION OF DESIGNATED RENEWAL COMMU-**
 12 **NITY AREA BASED ON 2000 CENSUS DATA.**

13 (a) *RENEWAL COMMUNITIES.*—*Section 1400E (relat-*
 14 *ing to designation of renewal communities) is amended by*
 15 *adding at the end the following new subsection:*

16 “(g) *EXPANSION OF DESIGNATED AREAS.*—

17 “(1) *EXPANSION BASED ON 2000 CENSUS.*—*At*
 18 *the request of the nominating entity with respect to*
 19 *a renewal community, the Secretary of Housing and*
 20 *Urban Development may expand the area of a re-*
 21 *newal community to include any census tract—*

22 “(A) *which, at the time such community*
 23 *was nominated, met the requirements of this sec-*
 24 *tion for inclusion in such community but for the*
 25 *failure of such tract to meet 1 or more of the*

1 *population and poverty rate requirements of this*
2 *section using 1990 census data, and*

3 *“(B) which meets all failed population and*
4 *poverty rate requirements of this section using*
5 *2000 census data.*

6 “(2) *EXPANSION TO CERTAIN AREAS WHICH DO*
7 *NOT MEET POPULATION REQUIREMENTS.—*

8 *“(A) IN GENERAL.—At the request of 1 or*
9 *more local governments and the State or States*
10 *in which an area described in subparagraph (B)*
11 *is located, the Secretary of Housing and Urban*
12 *Development may expand a designated area to*
13 *include such area.*

14 *“(B) AREA.—An area is described in this*
15 *subparagraph if—*

16 *“(i) the area is adjacent to at least 1*
17 *other area designated as a renewal commu-*
18 *nity,*

19 *“(ii) the area has a population less*
20 *than the population required under sub-*
21 *section (c)(2)(C), and*

22 *“(iii)(I) the area meets the require-*
23 *ments of subparagraphs (A) and (B) of sub-*
24 *section (c)(2) and subparagraph (A) of sub-*
25 *section (c)(3), or*

1 “(II) the area contains a population of
2 less than 100 people.

3 “(3) *APPLICABILITY.*—Any expansion of a re-
4 newal community under this section shall take effect
5 as provided in subsection (b).”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 subsection shall take effect as if included in the amendments
8 made by section 101 of the Community Renewal Tax Relief
9 Act of 2000.

10 **SEC. 541. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY**
11 **FOR EMPLOYMENT CREDIT BY EMPLOYING**
12 **RESIDENTS OF CERTAIN OTHER RENEWAL**
13 **COMMUNITIES.**

14 (a) *IN GENERAL.*—Section 1400H(b)(2) (relating to
15 modification) is amended by striking “and” at the end of
16 paragraph (1), by striking the period at the end of para-
17 graph (2) and inserting “, and”, and by adding at the end
18 the following new paragraph:

19 “(3) subsection (d)(1)(B) thereof shall be applied
20 by substituting ‘such renewal community, an adjacent
21 renewal community within the same State as such re-
22 newal community, or a renewal community within
23 such State which is within 5 miles of any border of
24 such renewal community’ for ‘such empowerment
25 zone’.”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
2 *section (a) shall take effect as if included in the amendment*
3 *made by section 101(a) of the Community Renewal Tax Re-*
4 *lief Act of 2000.*

5 **SEC. 542. EXPANSION OF INCOME TAX EXCLUSION FOR**
6 **COMBAT ZONE SERVICE.**

7 (a) *COMBAT ZONE SERVICE TO INCLUDE TRANSIT TO*
8 *ZONE.*—*Section 112(c)(3) of the Internal Revenue Code of*
9 *1986 (relating to definitions) is amended by adding at the*
10 *end the following new sentence: “Such service shall include*
11 *any period (not to exceed 14 days) of direct transit to the*
12 *combat zone.”.*

13 (b) *REMOVAL OF LIMITATION ON EXCLUSION FOR*
14 *COMMISSIONED OFFICERS.*—

15 (1) *IN GENERAL.*—*Subsection (b) of section 112*
16 *of the Internal Revenue Code of 1986 (relating to cer-*
17 *tain combat zone compensation of members of the*
18 *Armed Forces) is repealed.*

19 (2) *CONFORMING AMENDMENTS.*—

20 (A) *Section 112(a) of such Code is*
21 *amended—*

22 (i) *by striking “below the grade of com-*
23 *missioned officer”, and*

1 (ii) by striking “ENLISTED PER-
2 SONNEL” in the heading and inserting “IN
3 GENERAL”.

4 (B) Section 112(c) of such Code is amended
5 by striking paragraphs (1) and (5) and by redesi-
6 gnating paragraphs (2), (3), and (4) as para-
7 graphs (1), (2), and (3), respectively.

8 (c) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to months beginning after December 31,
10 2002.

11 **SEC. 543. AVAILABILITY OF CERTAIN TAX BENEFITS FOR**
12 **MEMBERS OF THE ARMED FORCES PER-**
13 **FORMING SERVICES AT GUANTANAMO BAY**
14 **NAVAL STATION, CUBA, AND ON THE ISLAND**
15 **OF DIEGO GARCIA.**

16 (a) *GENERAL RULE.*—In the case of a member of the
17 Armed Forces of the United States who is entitled to special
18 pay under section 305 of title 37, United States Code (relat-
19 ing to special pay: hardship duty pay), for services per-
20 formed as a member of the Joint Task Force Guantanamo
21 at Guantanamo Bay Naval Station, Cuba, or for services
22 performed on the Island of Diego Garcia as part of Oper-
23 ation Iraqi Freedom, such member shall be treated in the
24 same manner as if such services were in a combat zone (as
25 determined under section 112 of the Internal Revenue Code

1 of 1986) for purposes of the following provisions of such
2 Code:

3 (1) Section 2(a)(3) (relating to special rule
4 where deceased spouse was in missing status).

5 (2) Section 112 (relating to the exclusion of cer-
6 tain combat pay of members of the Armed Forces).

7 (3) Section 692 (relating to income taxes of
8 members of Armed Forces on death).

9 (4) Section 2201 (relating to members of the
10 Armed Forces dying in combat zone or by reason of
11 combat-zone-incurred wounds, etc.).

12 (5) Section 3401(a)(1) (defining wages relating
13 to combat pay for members of the Armed Forces).

14 (6) Section 4253(d) (relating to the taxation of
15 phone service originating from a combat zone from
16 members of the Armed Forces).

17 (7) Section 6013(f)(1) (relating to joint return
18 where individual is in missing status).

19 (8) Section 7508 (relating to time for performing
20 certain acts postponed by reason of service in combat
21 zone).

22 (b) *EFFECTIVE DATES.*—

23 (1) *IN GENERAL.*—*Except as provided in para-*
24 *graph (2), this section shall take effect on January 1,*
25 *2003.*

1 (2) *WITHHOLDING.*—Subsection (a)(5) shall
2 apply to remuneration paid after December 31, 2002.

3 **SEC. 544. CITRUS CANKER TREE RELIEF.**

4 (a) *RATABLE INCLUSION.*—

5 (1) *IN GENERAL.*—Part I of subchapter Q of
6 chapter 1 (relating to income averaging) is amended
7 by inserting after section 1301 the following new sec-
8 tion:

9 **“SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CAN-**
10 **KER TREE PAYMENTS.**

11 “(a) *IN GENERAL.*—At the election of the taxpayer,
12 any amount taken into account as income or gain by reason
13 of receiving a citrus canker tree payment shall be included
14 in the income of the taxpayer ratably over the 10-year pe-
15 riod beginning with the taxable year in which the payment
16 is received or accrued by the taxpayer. Such election shall
17 be made on the return of tax for such taxable year in such
18 manner as the Secretary prescribes, and, once made shall
19 be irrevocable.

20 “(b) *CITRUS CANKER TREE PAYMENT.*—For purposes
21 of subsection (a), the term ‘citrus canker tree payment’
22 means a payment made to an owner of a commercial citrus
23 grove to recover income that was lost as a result of the re-
24 moval of commercial citrus trees to control canker under
25 the amendments to the citrus canker regulations (7 C.F.R.

1 301) made by the final rule published in the Federal Reg-
 2 ister by the Secretary of Agriculture on June 18, 2001 (66
 3 Fed. Reg. 32713, Docket No. 00-37-4).”.

4 (2) *CLERICAL AMENDMENT.*—The table of sec-
 5 tions for part I of subchapter Q of chapter 1 is
 6 amended by inserting after the item relating to sec-
 7 tion 1301 the following new item:

Sec. 1302. Ratable income inclusion for citrus canker tree payments.”.

8 (b) *EXPANSION OF PERIOD WITHIN WHICH CON-*
 9 *VERTED CITRUS TREE PROPERTY MUST BE REPLACED.*—
 10 Section 1033 (relating to period within which property
 11 must be replaced) is amended by redesignating subsection
 12 (k) as subsection (l) and by inserting after subsection (j)
 13 the following new subsection:

14 “(k) *COMMERCIAL TREES DESTROYED BECAUSE OF*
 15 *CITRUS TREE CANKER.*—In the case of commercial citrus
 16 trees which are compulsorily or involuntarily converted
 17 under a public order as a result of the citrus tree canker,
 18 clause (i) of subsection (a)(2)(B) shall be applied as if such
 19 clause reads: ‘4 years after the close of the first taxable year
 20 in which any part of the gain upon conversion is realized,
 21 or such additional period after the close of such taxable year
 22 as determined appropriate by the Secretary on a regional
 23 basis if a State or Federal plant health authority deter-
 24 mines with respect to such region that the land on which

1 *such trees grew is not free from the bacteria that causes*
 2 *citrus tree canker’.*”

3 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to taxable years beginning before, on,*
 5 *or after the date of the enactment of this Act.*

6 **SEC. 545. EXCLUSION OF CERTAIN PUNITIVE DAMAGE**
 7 **AWARDS.**

8 (a) *IN GENERAL.*—*Section 104 (relating to compensa-*
 9 *tion for injuries or sickness) is amended by redesignating*
 10 *subsection (d) as subsection (e), and by inserting after sub-*
 11 *section (c) the following new subsection:*

12 “(d) *EXCLUSION OF PUNITIVE DAMAGES PAID TO A*
 13 *STATE UNDER A SPLIT-AWARD STATUTE.*—

14 “(1) *IN GENERAL.*—*The phrase ‘(other than pu-*
 15 *nitive damages)’ in subsection (a) shall not apply*
 16 *to—*

17 “(A) *any portion of an award of punitive*
 18 *damages in a civil action which is paid to a*
 19 *State under a split-award statute, or*

20 “(B) *any attorneys’ fees or other costs in-*
 21 *curring by the taxpayer in connection with ob-*
 22 *taining an award of punitive damages to which*
 23 *subparagraph (A) is applicable.*

24 “(2) *SPLIT-AWARD STATUTE.*—*For purposes of*
 25 *this subsection, the term ‘split-award statute’ means*

1 “(g) *MODIFICATION OF RULES APPLICABLE TO NON-*
2 *RECOGNITION OF GAIN.*—*In the case of property which is*
3 *compulsorily or involuntarily converted as a result of the*
4 *terrorist attacks on September 11, 2001, in the New York*
5 *Liberty Zone—*

6 “(1) *which was held by a corporation which is*
7 *a member of an affiliated group filing a consolidated*
8 *return, such corporation shall be treated as satisfying*
9 *the purchase requirement of section 1033(a)(2) with*
10 *respect to such property to the extent such require-*
11 *ment is satisfied by another member of the group, and*

12 “(2) *notwithstanding subsections (g) and (h) of*
13 *section 1033, clause (i) of section 1033(a)(2)(B) shall*
14 *be applied by substituting ‘5 years’ for ‘2 years’ with*
15 *respect to property which is compulsorily or involun-*
16 *tarily converted as a result of the terrorist attacks on*
17 *September 11, 2001, in the New York Liberty Zone*
18 *but only if substantially all of the use of the replace-*
19 *ment property is in the City of New York, New*
20 *York.”.*

21 “(b) *EFFECTIVE DATE.*—*The amendments made by this*
22 *Act shall apply to involuntary conversions occurring on or*
23 *after September 11, 2001.*

1 **Subtitle D—Medicare Provisions**

2 **SEC. 561. EQUALIZING URBAN AND RURAL STANDARDIZED**
3 **PAYMENT AMOUNTS UNDER THE MEDICARE**
4 **INPATIENT HOSPITAL PROSPECTIVE PAY-**
5 **MENT SYSTEM.**

6 (a) *IN GENERAL.*—Section 1886(d)(3)(A)(iv) of the
7 *Social Security Act (42 U.S.C. 1395ww(d)(3)(A)(iv))* is
8 *amended—*

9 (1) *by striking “(iv) For discharges” and insert-*
10 *ing “(iv)(I) Subject to subclause (II), for discharges”;*
11 *and*

12 (2) *by adding at the end the following new sub-*
13 *clause:*

14 “(II) *For discharges occurring in a fiscal year*
15 *beginning with fiscal year 2004, the Secretary shall*
16 *compute a standardized amount for hospitals located*
17 *in any area within the United States and within*
18 *each region equal to the standardized amount com-*
19 *puted for the previous fiscal year under this subpara-*
20 *graph for hospitals located in a large urban area (or,*
21 *beginning with fiscal year 2005, for hospitals located*
22 *in any area) increased by the applicable percentage*
23 *increase under subsection (b)(3)(B)(i) for the fiscal*
24 *year involved.”.*

25 (b) *CONFORMING AMENDMENTS.*—

1 (1) *COMPUTING DRG-SPECIFIC RATES.*—Section
2 1886(d)(3)(D) of the Social Security Act (42 U.S.C.
3 1395ww(d)(3)(D)) is amended—

4 (A) in the heading, by striking “IN DIF-
5 FERENT AREAS”;

6 (B) in the matter preceding clause (i), by
7 striking “, each of”;

8 (C) in clause (i)—

9 (i) in the matter preceding subclause
10 (I), by inserting “for fiscal years before fis-
11 cal year 2004,” before “for hospitals”; and

12 (ii) in subclause (II), by striking
13 “and” after the semicolon at the end;

14 (D) in clause (i)—

15 (i) in the matter preceding subclause
16 (I), by inserting “for fiscal years before fis-
17 cal year 2004,” before “for hospitals”; and

18 (ii) in subclause (II), by striking the
19 period at the end and inserting “; and”;

20 and

21 (E) by adding at the end the following new
22 clause:

23 “(iii) for a fiscal year beginning after fiscal
24 year 2003, for hospitals located in all areas, to
25 the product of—

1 “(I) the applicable standardized
2 amount (computed under subparagraph
3 (A)), reduced under subparagraph (B), and
4 adjusted or reduced under subparagraph (C)
5 for the fiscal year; and

6 “(II) the weighting factor (determined
7 under paragraph (4)(B)) for that diagnosis-
8 related group.”.

9 (2) *TECHNICAL CONFORMING SUNSET.*—Section
10 1886(d)(3) of the Social Security Act (42 U.S.C.
11 1395ww(d)(3)) is amended—

12 (A) in the matter preceding subparagraph
13 (A), by inserting “, for fiscal years before fiscal
14 year 1997,” before “a regional adjusted DRG
15 prospective payment rate”; and

16 (B) in subparagraph (D), in the matter
17 preceding clause (i), by inserting “, for fiscal
18 years before fiscal year 1997,” before “a regional
19 DRG prospective payment rate for each region,”.

20 **SEC. 562. FAIRNESS IN THE MEDICARE DISPROPORTIONATE**
21 **SHARE HOSPITAL (DSH) ADJUSTMENT FOR**
22 **RURAL HOSPITALS.**

23 (a) *EQUALIZING DSH PAYMENT AMOUNTS.*—

24 (1) *IN GENERAL.*—Section 1886(d)(5)(F)(vi) of
25 the Social Security Act (42 U.S.C.

1 *1395ww(d)(5)(F)(vii)* is amended by inserting “,
2 and, after October 1, 2003, for any other hospital de-
3 scribed in clause (iv),” after “clause (iv)(I)” in the
4 matter preceding subclause (I).

5 (2) CONFORMING AMENDMENTS.—Section
6 1886(d)(5)(F) of the Social Security Act (42 U.S.C.
7 1395ww(d)(5)(F)) is amended—

8 (A) in clause (iv)—

9 (i) in subclause (II)—

10 (I) by inserting “and before Octo-
11 ber 1, 2003,” after “April 1, 2001,”;
12 and

13 (II) by inserting “or, for dis-
14 charges occurring on or after October
15 1, 2003, is equal to the percent deter-
16 mined in accordance with the applica-
17 ble formula described in clause (vii)”
18 after “clause (xiii)”;

19 (ii) in subclause (III)—

20 (I) by inserting “and before Octo-
21 ber 1, 2003,” after “April 1, 2001,”;
22 and

23 (II) by inserting “or, for dis-
24 charges occurring on or after October
25 1, 2003, is equal to the percent deter-

1 *mined in accordance with the applica-*
2 *ble formula described in clause (vii)”*
3 *after “clause (xi)”;*
4 *(iii) in subclause (IV)—*
5 *(I) by inserting “and before Octo-*
6 *ber 1, 2003,” after “April 1, 2001,”;*
7 *and*
8 *(II) by inserting “or, for dis-*
9 *charges occurring on or after October*
10 *1, 2003, is equal to the percent deter-*
11 *mined in accordance with the applica-*
12 *ble formula described in clause (vii)”*
13 *after “clause (x) or (xi)”;*
14 *(iv) in subclause (V)—*
15 *(I) by inserting “and before Octo-*
16 *ber 1, 2003,” after “April 1, 2001,”;*
17 *and*
18 *(II) by inserting “or, for dis-*
19 *charges occurring on or after October*
20 *1, 2003, is equal to the percent deter-*
21 *mined in accordance with the applica-*
22 *ble formula described in clause (vii)”*
23 *after “clause (xi)”;* and
24 *(v) in subclause (VI)—*

1 (I) by inserting “and before Octo-
2 ber 1, 2003,” after “April 1, 2001,”;
3 and

4 (II) by inserting “or, for dis-
5 charges occurring on or after October
6 1, 2003, is equal to the percent deter-
7 mined in accordance with the applica-
8 ble formula described in clause (vii)”
9 after “clause (x)”;

10 (B) in clause (viii), by striking “The for-
11 mula” and inserting “For discharges occurring
12 before October 1, 2003, the formula”; and

13 (C) in each of clauses (x), (xi), (xii), and
14 (xiii), by striking “For purposes” and inserting
15 “With respect to discharges occurring before Oc-
16 tober 1, 2003, for purposes”.

17 (b) *EFFECTIVE DATE.*—The amendments made by this
18 section shall apply with respect to discharges occurring on
19 or after October 1, 2003.

20 **SEC. 563. MEDICARE INPATIENT HOSPITAL PAYMENT AD-**
21 **JUSTMENT FOR LOW-VOLUME HOSPITALS.**

22 Section 1886(d) of the Social Security Act (42 U.S.C.
23 1395ww(d)) is amended by adding at the end the following
24 new paragraph:

1 “(12) *PAYMENT ADJUSTMENT FOR LOW-VOLUME*
2 *HOSPITALS.—*

3 “(A) *PAYMENT ADJUSTMENT.—*

4 “(i) *IN GENERAL.—Notwithstanding*
5 *any other provision of this section, for each*
6 *cost reporting period (beginning with the*
7 *cost reporting period that begins in fiscal*
8 *year 2005), the Secretary shall provide for*
9 *an additional payment amount to each low-*
10 *volume hospital (as defined in clause (iii))*
11 *for discharges occurring during that cost re-*
12 *porting period to increase the amount paid*
13 *to such hospital under this section for such*
14 *discharges by the applicable percentage in-*
15 *crease determined under clause (ii).*

16 “(ii) *APPLICABLE PERCENTAGE IN-*
17 *CREASE.—The Secretary shall determine a*
18 *percentage increase applicable under this*
19 *paragraph that ensures that—*

20 “(I) *no percentage increase in*
21 *payments under this paragraph ex-*
22 *ceeds 25 percent of the amount of pay-*
23 *ment that would otherwise be made to*
24 *a low-volume hospital under this sec-*

1 *tion for each discharge (but for this*
2 *paragraph);*

3 *“(II) low-volume hospitals that*
4 *have the lowest number of discharges*
5 *during a cost reporting period receive*
6 *the highest percentage increase in pay-*
7 *ments due to the application of this*
8 *paragraph; and*

9 *“(III) the percentage increase in*
10 *payments due to the application of this*
11 *paragraph is reduced as the number of*
12 *discharges per cost reporting period in-*
13 *creases.*

14 *“(iii) LOW-VOLUME HOSPITAL DE-*
15 *FINED.—For purposes of this paragraph,*
16 *the term ‘low-volume hospital’ means, for a*
17 *cost reporting period, a subsection (d) hos-*
18 *pital (as defined in paragraph (1)(B)) other*
19 *than a critical access hospital (as defined in*
20 *section 1861(mm)(1)) that—*

21 *“(I) the Secretary determines had*
22 *an average of less than 2,000 dis-*
23 *charges (determined with respect to all*
24 *patients and not just individuals re-*
25 *ceiving benefits under this title) during*

1 *the 3 most recent cost reporting periods*
2 *for which data are available that pre-*
3 *cede the cost reporting period to which*
4 *this paragraph applies; and*

5 *“(II) is located at least 15 miles*
6 *from a similar hospital (or is deemed*
7 *by the Secretary to be so located by*
8 *reason of such factors as the Secretary*
9 *determines appropriate, including the*
10 *time required for an individual to*
11 *travel to the nearest alternative source*
12 *of appropriate inpatient care (taking*
13 *into account the location of such alter-*
14 *native source of inpatient care and*
15 *any weather or travel conditions that*
16 *may affect such travel time)).*

17 *“(B) PROHIBITING CERTAIN REDUCTIONS.—*
18 *Notwithstanding subsection (e), the Secretary*
19 *shall not reduce the payment amounts under this*
20 *section to offset the increase in payments result-*
21 *ing from the application of subparagraph (A).”.*

1 **SEC. 564. ADJUSTMENT TO THE MEDICARE INPATIENT HOS-**
2 **PITAL PPS WAGE INDEX TO REVISE THE**
3 **LABOR-RELATED SHARE OF SUCH INDEX.**

4 (a) *IN GENERAL.*—Section 1886(d)(3)(E) of the Social
5 Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

6 (1) by striking “WAGE LEVELS.—The Secretary”
7 and inserting “WAGE LEVELS.—

8 “(i) *IN GENERAL.*—Except as provided in
9 clause (ii), the Secretary”; and

10 (2) by adding at the end the following new
11 clause:

12 “(i) *ALTERNATIVE PROPORTION TO BE AD-*
13 *JUSTED BEGINNING IN FISCAL YEAR 2004.*—

14 “(I) *IN GENERAL.*—Except as provided
15 in subclause (II), for discharges occurring
16 on or after October 1, 2003, the Secretary
17 shall substitute ‘62 percent’ for the propor-
18 tion described in the first sentence of clause
19 (i).

20 “(II) *HOLD HARMLESS FOR CERTAIN*
21 *HOSPITALS.*—If the application of subclause
22 (I) would result in lower payments to a hos-
23 pital than would otherwise be made, then
24 this subparagraph shall be applied as if this
25 clause had not been enacted.”.

1 (b) *WAIVING BUDGET NEUTRALITY.*—Section
 2 1886(d)(3)(E) of the Social Security Act (42 U.S.C.
 3 1395ww(d)(3)(E)), as amended by subsection (a), is amend-
 4 ed by adding at the end of clause (i) the following new sen-
 5 tence: “The Secretary shall apply the previous sentence for
 6 any period as if the amendments made by section 564(a)
 7 of the Jobs and Growth Tax Relief Reconciliation Act of
 8 2003 had not been enacted.”.

9 **SEC. 565. ONE-YEAR EXTENSION OF HOLD HARMLESS PRO-**
 10 **VISIONS FOR SMALL RURAL HOSPITALS AND**
 11 **TEMPORARY TREATMENT OF CERTAIN SOLE**
 12 **COMMUNITY HOSPITALS TO LIMIT DECLINE**
 13 **IN PAYMENT UNDER THE OPD PPS.**

14 (a) *HOLD HARMLESS PROVISIONS.*—Section
 15 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C.
 16 1395l(t)(7)(D)(i)) is amended—

17 (1) in the heading, by striking “SMALL” and in-
 18 sserting “CERTAIN”;

19 (2) by inserting “or a sole community hospital
 20 (as defined in section 1886(d)(5)(D)(iii)) located in a
 21 rural area” after “100 beds”; and

22 (3) by striking “2004” and inserting “2005”.

23 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 24 section (a)(2) shall apply with respect to payment for OPD
 25 services furnished on and after January 1, 2004.

1 **SEC. 566. CRITICAL ACCESS HOSPITAL (CAH) IMPROVE-**
2 **MENTS.**

3 (a) *PERMITTING HOSPITALS TO ALLOCATE SWING*
4 *BEDS AND ACUTE CARE INPATIENT BEDS SUBJECT TO A*
5 *TOTAL LIMIT OF 25 BEDS.—*

6 (1) *IN GENERAL.—Section 1820(c)(2)(B)(iii) of*
7 *the Social Security Act (42 U.S.C. 1395i-*
8 *4(c)(2)(B)(iii)) is amended to read as follows:*

9 “(iii) provides not more than a total of
10 25 extended care service beds (pursuant to
11 an agreement under subsection (f)) or acute
12 care inpatient beds (meeting such standards
13 as the Secretary may establish) for pro-
14 viding inpatient care for a period that does
15 not exceed, as determined on an annual, av-
16 erage basis, 96 hours per patient;”

17 (2) *CONFORMING AMENDMENT.—Section 1820(f)*
18 *of the Social Security Act (42 U.S.C. 1395i-4(f)) is*
19 *amended by striking “and the number of beds used at*
20 *any time for acute care inpatient services does not ex-*
21 *ceed 15 beds”.*

22 (b) *ELIMINATION OF THE ISOLATION TEST FOR COST-*
23 *BASED CAH AMBULANCE SERVICES.—*

24 (1) *IN GENERAL.—Section 1834(l)(8) of the So-*
25 *cial Security Act (42 U.S.C. 1395m(l)(8)), as added*
26 *by section 205(a) of the Medicare, Medicaid, and*

1 *SCHIP Benefits Improvement and Protection Act of*
2 *2000 (114 Stat. 2763A–482), as enacted into law by*
3 *section 1(a)(6) of Public Law 106–554 (114 Stat.*
4 *2763), is amended by striking the comma at the end*
5 *of subparagraph (B) and all that follows and insert-*
6 *ing a period.*

7 (2) *TECHNICAL CORRECTION.*—*Section 1834(l) of*
8 *the Social Security Act (42 U.S.C. 1395m(l)) is*
9 *amended by redesignating paragraph (8), as added by*
10 *section 221(a) of the Medicare, Medicaid, and SCHIP*
11 *Benefits Improvement and Protection Act of 2000*
12 *(114 Stat. 2763A–486), as enacted into law by section*
13 *1(a)(6) of Public Law 106–554 (114 Stat. 2763), as*
14 *paragraph (9).*

15 (c) *COVERAGE OF COSTS FOR CERTAIN EMERGENCY*
16 *ROOM ON-CALL PROVIDERS.*—

17 (1) *IN GENERAL.*—*Section 1834(g)(5) of the So-*
18 *cial Security Act (42 U.S.C. 1395m(g)(5)) is*
19 *amended—*

20 (A) *in the heading—*

21 (i) *by inserting “CERTAIN” before*
22 *“EMERGENCY”; and*

23 (ii) *by striking “PHYSICIANS” and in-*
24 *serting “PROVIDERS”;*

1 (B) by striking “emergency room physicians
2 who are on-call (as defined by the Secretary)”
3 and inserting “physicians, physician assistants,
4 nurse practitioners, and clinical nurse specialists
5 who are on-call (as defined by the Secretary) to
6 provide emergency services”; and

7 (C) by striking “physicians’ services” and
8 inserting “services covered under this title”.

9 (2) *EFFECTIVE DATE.*—The amendments made
10 by paragraph (1) shall apply with respect to costs in-
11 curred for services provided on or after January 1,
12 2004.

13 (d) *AUTHORIZATION OF PERIODIC INTERIM PAYMENT*
14 (*PIP*).—

15 (1) *IN GENERAL.*—Section 1815(e)(2) of the So-
16 cial Security Act (42 U.S.C. 1395g(e)(2)) is
17 amended—

18 (A) in subparagraph (C), by striking “and”
19 after the semicolon at the end;

20 (B) in subparagraph (D), by adding “and”
21 after the semicolon at the end; and

22 (C) by inserting after subparagraph (D) the
23 following new subparagraph:

24 “(E) inpatient critical access hospital services,”.

1 (2) *EFFECTIVE DATE.*—*The amendments made*
2 *by paragraph (1) shall apply with respect to pay-*
3 *ments for inpatient critical access hospital services*
4 *furnished on or after January 1, 2004.*

5 (e) *EXCLUSION OF NEW CAHS FROM PPS HOSPITAL*
6 *WAGE INDEX CALCULATION.*—*Section 1886(d)(3)(E)(i) of*
7 *the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)(i)), as*
8 *amended by section 564, is amended by inserting after the*
9 *first sentence the following new sentence: “In calculating*
10 *the hospital wage levels under the preceding sentence appli-*
11 *cable with respect to cost reporting periods beginning on*
12 *or after January 1, 2004, the Secretary shall exclude the*
13 *wage levels of any hospital that became a critical access*
14 *hospital prior to the cost reporting period for which such*
15 *hospital wage levels are calculated.”.*

16 ***SEC. 567. TEMPORARY INCREASE FOR HOME HEALTH SERV-***
17 ***ICES FURNISHED IN A RURAL AREA.***

18 (a) *IN GENERAL.*—*In the case of home health services*
19 *furnished in a rural area (as defined in section*
20 *1886(d)(2)(D) of the Social Security Act (42 U.S.C.*
21 *1395ww(d)(2)(D))) on or after October 1, 2003, and before*
22 *October 1, 2005, the Secretary of Health and Human Serv-*
23 *ices shall increase the payment amount otherwise made*
24 *under section 1895 of such Act (42 U.S.C. 1395fff) for such*
25 *services by 10 percent.*

1 (b) *WAIVING BUDGET NEUTRALITY.*—*The Secretary of*
 2 *Health and Human Services shall not reduce the standard*
 3 *prospective payment amount (or amounts) under section*
 4 *1895 of the Social Security Act (42 U.S.C. 1395fff) appli-*
 5 *cable to home health services furnished during a period to*
 6 *offset the increase in payments resulting from the applica-*
 7 *tion of subsection (a).*

8 (c) *NO EFFECT ON SUBSEQUENT PERIODS.*—*The pay-*
 9 *ment increase provided under subsection (a) for a period*
 10 *under such subsection, shall not apply to episodes and visits*
 11 *ending after such period, and shall not be taken into ac-*
 12 *count in calculating the payment amounts applicable for*
 13 *episodes and visits occurring after such period.*

14 **SEC. 568. TEMPORARY INCREASE IN PAYMENTS FOR CER-**
 15 **TAIN SERVICES FURNISHED BY SMALL RURAL**
 16 **HOSPITALS UNDER MEDICARE PROSPECTIVE**
 17 **PAYMENT SYSTEM FOR HOSPITAL OUT-**
 18 **PATIENT DEPARTMENT SERVICES.**

19 (a) *INCREASE.*—

20 (1) *IN GENERAL.*—*In the case of an applicable*
 21 *covered OPD service (as defined in paragraph (2))*
 22 *that is furnished by a hospital described in para-*
 23 *graph (7)(D)(i) of section 1833(t) of the Social Secu-*
 24 *rity Act (42 U.S.C. 1395l(t)) on or after January 1,*
 25 *2004, and before January 1, 2007, the Secretary of*

1 *Health and Human Services (in this section referred*
2 *to as the “Secretary”) shall increase the medicare*
3 *OPD fee schedule amount (as determined under para-*
4 *graph (4)(A) of such section) that is applicable for*
5 *such service in that year (determined without regard*
6 *to any increase under this section in a previous year)*
7 *by 5 percent.*

8 (2) *APPLICABLE COVERED OPD SERVICES DE-*
9 *FINED.—For purposes of this section, the term “appli-*
10 *cable covered OPD service” means a covered clinic or*
11 *emergency room visit that is classified within the*
12 *groups of covered OPD services (as defined in para-*
13 *graph (1)(B) of section 1833(t) of the Social Security*
14 *Act (42 U.S.C. 1395l(t))) established under paragraph*
15 *(2)(B) of such section.*

16 (b) *NO EFFECT ON COPAYMENT AMOUNT.—The Sec-*
17 *retary shall compute the copayment amount for applicable*
18 *covered OPD services under section 1833(t)(8)(A) of the So-*
19 *cial Security Act (42 U.S.C. 1395l(t)(8)(A)) as if this sec-*
20 *tion had not been enacted.*

21 (c) *NO EFFECT ON INCREASE UNDER HOLD HARM-*
22 *LESS OR OUTLIER PROVISIONS.—The Secretary shall apply*
23 *the temporary hold harmless provision under paragraph*
24 *(7)(D)(i) of section 1833(t) of the Social Security Act (42*

1 *U.S.C. 1395l(t)) and the outlier provision under paragraph*
2 *(5) of such section as if this section had not been enacted.*

3 *(d) WAIVING BUDGET NEUTRALITY AND NO REVISION*
4 *OR ADJUSTMENTS.—The Secretary shall not make any revi-*
5 *sion or adjustment under subparagraph (A), (B), or (C)*
6 *of section 1833(t)(9) of the Social Security Act (42 U.S.C.*
7 *1395l(t)(9)) because of the application of subsection (a)(1).*

8 *(e) NO EFFECT ON PAYMENTS AFTER INCREASE PE-*
9 *RIOD ENDS.—The Secretary shall not take into account any*
10 *payment increase provided under subsection (a)(1) in deter-*
11 *mining payments for covered OPD services (as defined in*
12 *paragraph (1)(B) of section 1833(t) of the Social Security*
13 *Act (42 U.S.C. 1395l(t))) under such section that are fur-*
14 *nished after January 1, 2007.*

15 *(f) FINDINGS.—The Senate finds the following:*

16 *(1) The medicare program has a responsibility*
17 *to pay enough for beneficial new technologies in order*
18 *to ensure that medicare beneficiaries have access to*
19 *care; however, such program must also be a prudent*
20 *purchaser of health care items and services.*

21 *(2) The 2003 Medicare Hospital Outpatient Pro-*
22 *spective Payment System Regulation may have re-*
23 *sulted in limiting beneficiary access to care.*

24 *(3) A methodology should be developed under the*
25 *medicare outpatient prospective payment system*

1 *under section 1833(t) of the Social Security Act (42*
2 *U.S.C. 1395l(t)) with appropriate resources and such*
3 *methodology should be implemented January 1, 2004.*
4 *This will ensure that all hospitals are appropriately*
5 *reimbursed for the drugs and biologics that are used*
6 *in the outpatient setting which in turn will ensure*
7 *patient access to new technologies.*

8 *(g) TECHNICAL AMENDMENT.—Section 1833(t)(2)(B)*
9 *(42 U.S.C. 1395l(t)(2)(B)) is amended by inserting “(and*
10 *periodically revise such groups pursuant to paragraph*
11 *(9)(A))” after “establish groups”.*

12 **SEC. 569 TEMPORARY INCREASE FOR GROUND AMBULANCE**
13 **SERVICES FURNISHED IN A RURAL AREA.**

14 *Section 1834(l) of the Social Security Act (42 U.S.C.*
15 *1395m(l)), as amended by section 566(b)(2), is amended by*
16 *adding at the end the following new paragraph:*

17 *“(10) TEMPORARY INCREASE FOR GROUND AM-*
18 *BULANCE SERVICES FURNISHED IN A RURAL AREA.—*

19 *“(A) IN GENERAL.—Notwithstanding any*
20 *other provision of this subsection, in the case of*
21 *ground ambulance services furnished on or after*
22 *January 1, 2004, and before January 1, 2007,*
23 *for which the transportation originates in a*
24 *rural area described in paragraph (9) or in a*
25 *rural census tract described in such paragraph,*

1 the fee schedule established under this section
 2 shall provide that the rate for the service other-
 3 wise established, after application of any in-
 4 crease under such paragraph, shall be increased
 5 by 5 percent.

6 “(B) *APPLICATION OF INCREASED PAY-*
 7 *MENTS AFTER 2006.*—The increased payments
 8 under subparagraph (A) shall not be taken into
 9 account in calculating payments for services fur-
 10 nished on or after the period specified in such
 11 subparagraph.”.

12 **SEC. 570. EXCLUSION OF CERTAIN RURAL HEALTH CLINIC**
 13 **AND FEDERALLY QUALIFIED HEALTH CENTER**
 14 **SERVICES FROM THE MEDICARE PPS FOR**
 15 **SKILLED NURSING FACILITIES.**

16 (a) *IN GENERAL.*—Section 1888(e) of the Social Secu-
 17 rity Act (42 U.S.C. 1395yy(e)) is amended—

18 (1) in paragraph (2)(A)(i)(II), by striking
 19 “clauses (ii) and (iii)” and inserting “clauses (ii),
 20 (iii), and (iv)”; and

21 (2) by adding at the end of paragraph (2)(A) the
 22 following new clause:

23 “(iv) *EXCLUSION OF CERTAIN RURAL*
 24 *HEALTH CLINIC AND FEDERALLY QUALIFIED*

1 (2) *by adding at the end the following new para-*
2 *graph:*

3 “(2) *The Secretary shall establish procedures under*
4 *which the Secretary, and not the physician furnishing the*
5 *service, is responsible for determining when a payment is*
6 *required to be made under paragraph (1).”.*

7 (b) *EDUCATIONAL PROGRAM REGARDING THE MEDI-*
8 *CARE INCENTIVE PAYMENT PROGRAM.—The Secretary shall*
9 *establish and implement an ongoing educational program*
10 *to provide education to physicians under the medicare pro-*
11 *gram on the medicare incentive payment program under*
12 *section 1833(m) of the Social Security Act (42 U.S.C.*
13 *1395l(m)).*

14 (c) *ONGOING STUDY AND ANNUAL REPORT ON THE*
15 *MEDICARE INCENTIVE PAYMENT PROGRAM.—*

16 (1) *ONGOING STUDY.—The Secretary shall con-*
17 *duct an ongoing study on the medicare incentive pay-*
18 *ment program under section 1833(m) of the Social*
19 *Security Act (42 U.S.C. 1395l(m)). Such study shall*
20 *focus on whether such program increases the access of*
21 *medicare beneficiaries who reside in an area that is*
22 *designated (under section 332(a)(1)(A) of the Public*
23 *Health Service Act (42 U.S.C. 254e(a)(1)(A))) as a*
24 *health professional shortage area to physicians’ serv-*
25 *ices under the medicare program.*

1 (2) *ANNUAL REPORTS.*—*Not later than 1 year*
 2 *after the date of enactment of this Act, and annually*
 3 *thereafter, the Secretary shall submit to Congress a*
 4 *report on the study conducted under paragraph (1),*
 5 *together with recommendations for such legislation*
 6 *and administrative action as the Secretary considers*
 7 *appropriate.*

8 ***SEC. 572. TWO-YEAR TREATMENT OF CERTAIN CLINICAL DI-***
 9 ***AGNOSTIC LABORATORY TESTS FURNISHED***
 10 ***BY A SOLE COMMUNITY HOSPITAL.***

11 *Notwithstanding subsections (a)(1)(D) and (h) of sec-*
 12 *tion 1833 of the Social Security Act (42 U.S.C. 1395l) and*
 13 *section 1834(d)(1) of such Act (42 U.S.C. 1395m(d)(1)), in*
 14 *the case of a clinical diagnostic laboratory test covered*
 15 *under part B of title XVIII of such Act that is furnished*
 16 *in 2004 or 2005 by a sole community hospital (as defined*
 17 *in section 1886(d)(5)(D)(iii) of such Act (42 U.S.C.*
 18 *1395ww(d)(5)(D)(iii))) as part of services provided to pa-*
 19 *tients of the hospital, the following rules shall apply:*

20 (1) *PAYMENT BASED ON REASONABLE COSTS.*—
 21 *The amount of payment for such test shall be 100 per-*
 22 *cent of the reasonable costs of the hospital in fur-*
 23 *nishing such test.*

24 (2) *NO BENEFICIARY COST-SHARING.*—*No coin-*
 25 *surance, deductible, copayment, or other cost-sharing*

1 otherwise applicable under such part B shall apply
2 with respect to such test.

3 **SEC. 573. ESTABLISHMENT OF FLOOR ON GEOGRAPHIC AD-**
4 **JUSTMENTS OF PAYMENTS FOR PHYSICIANS'**
5 **SERVICES.**

6 Section 1848(e)(1) of the Social Security Act (42
7 U.S.C. 1395w-4(e)(1)) is amended—

8 (1) in subparagraph (A), by striking “subpara-
9 graphs (B) and (C)” and inserting “subparagraphs
10 (B), (C), and (E)”; and

11 (2) by adding at the end the following new sub-
12 paragraph:

13 “(E) FLOOR FOR PRACTICE EXPENSE, MAL-
14 PRACTICE, AND WORK GEOGRAPHIC INDICES.—
15 For purposes of payment for services furnished
16 on or after January 1, 2004, after calculating
17 the practice expense, malpractice, and work geo-
18 graphic indices in clauses (i), (ii), and (iii) of
19 subparagraph (A) and in subparagraph (B), the
20 Secretary shall increase any such index to 1.00
21 for any locality for which such index is less than
22 1.00.”.

1 **SEC. 574. FREEZE IN PAYMENTS FOR ITEMS OF DURABLE**
2 **MEDICAL EQUIPMENT AND ORTHOTICS AND**
3 **PROSTHETICS.**

4 (a) *DME.*—Section 1834(a)(14) of the Social Security
5 Act (42 U.S.C. 1395m(a)(14)) is amended—

6 (1) in subparagraph (E), by striking “and” at
7 the end;

8 (2) in subparagraph (F)—

9 (A) by striking “a subsequent year” and in-
10 serting “2003”; and

11 (B) by striking “the previous year.” and in-
12 serting “2002;”; and

13 (3) by adding at the end the following new sub-
14 paragraphs:

15 “(G) for each of the years 2004 through
16 2013, 0 percentage points; and

17 “(H) for a subsequent year, the percentage
18 increase in the consumer price index for all
19 urban consumers (U.S. urban average) for the
20 12-month period ending with June of the pre-
21 vious year.”.

22 (b) *ORTHOTICS AND PROSTHETICS.*—Section
23 1834(h)(4)(A) of the Social Security Act (42 U.S.C.
24 1395m(h)(4)(A)) is amended—

25 (1) in clause (vii), by striking “and” at the end;

26 (2) in clause (viii)—

1 (A) by striking “a subsequent year” and in-
2 serting “2003”; and

3 (B) by striking “the previous year” and in-
4 serting “2002”; and

5 (3) by adding at the end the following new
6 clauses:

7 “(ix) for each of the years 2004
8 through 2013, 0 percent; and

9 “(x) for a subsequent year, the percent-
10 age increase in the consumer price index for
11 all urban consumers (U.S. urban average)
12 for the 12-month period ending with June
13 of the previous year;”.

14 **SEC. 575. APPLICATION OF COINSURANCE AND DEDUCT-**
15 **IBLE FOR CLINICAL DIAGNOSTIC LABORA-**
16 **TORY TESTS.**

17 (a) COINSURANCE.—

18 (1) IN GENERAL.—Section 1833(a) of the Social
19 Security Act (42 U.S.C. 1395l(a)) is amended—

20 (A) in paragraph (1)(D)—

21 (i) in clause (i), by striking “(or 100
22 percent, in the case of such tests for which
23 payment is made on an assignment-related
24 basis)”; and

1 (ii) in clause (ii), by striking “100
2 percent” and inserting “80 percent”; and
3 (B) in paragraph (2)(D)—

4 (i) in clause (i), by striking “(or 100
5 percent, in the case of such tests for which
6 payment is made on an assignment-related
7 basis or to a provider having an agreement
8 under section 1866)”; and

9 (ii) in clause (ii), by striking “100
10 percent” and inserting “80 percent”.

11 (2) *CONFORMING AMENDMENT.*—*The third sen-*
12 *tence of section 1866(a)(2)(A) of the Social Security*
13 *Act (42 U.S.C. 1395cc(a)(2)(A) is amended by strik-*
14 *ing “and with respect to clinical diagnostic labora-*
15 *tory tests for which payment is made under part B”.*

16 (b) *DEDUCTIBLE.*—*Section 1833(b) of the Social Secu-*
17 *arity Act (42 U.S.C. 1395l(b)) is amended—*

18 (1) *by striking paragraph (3); and*

19 (2) *by redesignating paragraphs (4), (5), and (6)*
20 *as paragraphs (3), (4), and (5), respectively.*

21 (c) *EFFECTIVE DATE.*—*The amendments made by this*
22 *section shall apply to tests furnished on or after January*
23 *1, 2004.*

1 **SEC. 576. REVISION IN PAYMENTS FOR COVERED OUT-**
2 **PATIENT DRUGS.**

3 *Section 1842(o)(1) of the Social Security Act (42*
4 *U.S.C. 1395u(o)(1)) is amended by striking “equal to 95*
5 *percent of the average wholesale price.” and inserting*
6 *“equal to—*

7 *“(A) in the case of drugs furnished prior to Jan-*
8 *uary 1, 2004, 95 percent of the average wholesale*
9 *price; and*

10 *“(B) in the case of drugs furnished on or after*
11 *January 1, 2004, the lesser of—*

12 *“(i) 85 percent of the average wholesale*
13 *price; or*

14 *“(ii) the amount payable for the drug or bi-*
15 *ological during the last quarter of the previous*
16 *year (as determined under this subparagraph,*
17 *or, in the case of 2004, under subparagraph (A)*
18 *using the second quarter of 2003) increased by*
19 *the percentage increase in the consumer price*
20 *index for all urban consumers (U.S. urban aver-*
21 *age) for the 12-month period ending with June*
22 *of the previous year.”.*

23 **SEC. 577. INAPPLICABILITY OF SUNSET.**

24 *The provisions of section 1001(a) of this Act shall not*
25 *apply to the provisions of, and amendments made by, this*
26 *subtitle.*

1 ***Subtitle E—Provisions Relating To***
 2 ***S Corporation Reform and Sim-***
 3 ***plification***

4 ***PART I—MAXIMUM NUMBER OF SHAREHOLDERS***
 5 ***OF AN S CORPORATION***

6 ***SEC. 581. MEMBERS OF FAMILY TREATED AS 1 SHARE-***
 7 ***HOLDER.***

8 *(a) IN GENERAL.—Paragraph (1) of section 1361(c)*
 9 *(relating to special rules for applying subsection (b)) is*
 10 *amended to read as follows:*

11 *“(1) MEMBERS OF FAMILY TREATED AS 1*
 12 *SHAREHOLDER.—*

13 *“(A) IN GENERAL.—For purpose of sub-*
 14 *section (b)(1)(A)—*

15 *“(i) except as provided in clause (ii),*
 16 *a husband and wife (and their estates) shall*
 17 *be treated as 1 shareholder, and*

18 *“(ii) in the case of a family with re-*
 19 *spect to which an election is in effect under*
 20 *subparagraph (E), all members of the fam-*
 21 *ily shall be treated as 1 shareholder.*

22 *“(B) MEMBERS OF THE FAMILY.—For pur-*
 23 *pose of subparagraph (A)(ii), the term ‘members*
 24 *of the family’ means the common ancestor, lineal*
 25 *descendants of the common ancestor and the*

1 spouses of such lineal descendants or common
2 ancestor.

3 “(C) COMMON ANCESTOR.—For purposes of
4 this paragraph, an individual shall not be con-
5 sidered a common ancestor if, as of the later of
6 the effective date of this paragraph or the time
7 the election under section 1362(a) is made, the
8 individual is more than 6 generations removed
9 from the youngest generation of shareholders.

10 “(D) EFFECT OF ADOPTION, ETC.—In deter-
11 mining whether any relationship specified in
12 subparagraph (B) or (C) exists, the rules of sec-
13 tion 152(b)(2) shall apply.

14 “(E) ELECTION.—An election under sub-
15 paragraph (A)(i)—

16 “(i) must be made with the consent of
17 all persons who are shareholders (including
18 those that are family members) in the cor-
19 poration on the day the election is made,

20 “(ii) in the case of—

21 “(I) an electing small business
22 trust, shall be made by the trustee of
23 the trust, and

1 “(II) a qualified subchapter S
2 trust, shall be made by the beneficiary
3 of the trust,

4 “(iii) under regulations, shall remain
5 in effect until terminated, and

6 “(iv) shall apply only with respect to
7 1 family in any corporation.”.

8 (b) *RELIEF FROM INADVERTENT INVALID ELECTION*
9 *OR TERMINATION.*—Section 1362(f) (relating to inadvertent
10 *invalid elections or terminations*), as amended by this Act,
11 *is amended—*

12 (1) by inserting “or under section
13 1361(c)(1)(A)(ii)” after “section 1361(b)(3)(B)(ii)” in
14 paragraph (1), and

15 (2) by inserting “or under section
16 1361(c)(1)(E)(iii)” after “section 1361(b)(3)(C)” in
17 paragraph (1)(B).

18 (c) *EFFECTIVE DATE.*—The amendments made by this
19 *section shall apply to taxable years beginning after Decem-*
20 *ber 31, 2003.*

21 **SEC. 582. INCREASE IN NUMBER OF ELIGIBLE SHARE-**
22 **HOLDERS TO 100.**

23 (a) *IN GENERAL.*—Section 1361(b)(1)(A) (defining
24 *small business corporation*) is amended by striking “75”
25 *and inserting “100”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2003.*

4 ***SEC. 583. NONRESIDENT ALIENS ALLOWED AS BENE-***
5 ***FICIARIES OF AN ELECTING SMALL BUSINESS***
6 ***TRUST.***

7 (a) *IN GENERAL.*—*Section 1361(e)(1)(A)(i)(I) is*
8 *amended by inserting “(including a nonresident alien indi-*
9 *vidual)” after “individual”.*

10 (b) *CONFORMING AMENDMENT.*—*Clause (v) of section*
11 *1361(e)(2)(B) is amended by adding at the end the fol-*
12 *lowing new sentence: “This clause shall not apply for pur-*
13 *poses of subsection (b)(1)(C).”.*

14 (c) *EFFECTIVE DATE.*—*The amendments made by this*
15 *section shall take effect on the date of the enactment of this*
16 *Act.*

17 ***PART II—TERMINATION OF ELECTION AND ADDI-***
18 ***TIONS TO TAX DUE TO PASSIVE INVESTMENT***
19 ***INCOME***

20 ***SEC. 584. MODIFICATIONS TO PASSIVE INCOME RULES.***

21 (a) *INCREASED PERCENTAGE LIMIT.*—

22 (1) *IN GENERAL.*—*Subsection (a)(2) of section*
23 *1375 (relating to tax imposed when passive invest-*
24 *ment income of corporation having accumulated earn-*
25 *ings and profits exceeds 25 percent of gross receipts)*

1 *is amended by striking “25 percent” and inserting*
2 *“60 percent”.*

3 (2) *CONFORMING AMENDMENTS.—*

4 (A) *Section 26(b)(2)(J) is amended by*
5 *striking “25 percent” and inserting “60 per-*
6 *cent”.*

7 (B) *Section 1362(d)(3)(A)(i)(II) is amended*
8 *by striking “25 percent” and inserting “60 per-*
9 *cent”.*

10 (C) *The heading for paragraph (3) of sec-*
11 *tion 1362(d) is amended by striking “25 PER-*
12 *CENT” and inserting “60 PERCENT”.*

13 (D) *Section 1375(b)(1)(A)(i) is amended by*
14 *striking “25 percent” and inserting “60 per-*
15 *cent”.*

16 (E) *The heading for section 1375 is amend-*
17 *ed by striking “25 PERCENT” and inserting “60*
18 *PERCENT”.*

19 (F) *The table of sections for part III of sub-*
20 *chapter S of chapter 1 is amended by striking*
21 *“25 percent” in the item relating to section 1375*
22 *and inserting “60 percent”.*

23 (b) *CAPITAL GAIN NOT TREATED AS PASSIVE INVEST-*
24 *MENT INCOME.—Section 1362(d)(3) is amended—*

1 (1) by striking “annuities,” and all that follows
2 in subparagraph (C)(i) and inserting “and annu-
3 ities.”, and

4 (2) by striking subparagraphs (C)(iv) and (D)
5 and by redesignating subparagraph (E) as subpara-
6 graph (D).

7 (c) *CONFORMING AMENDMENTS.*—Section 1375(d) is
8 amended by striking “subchapter C” both places it appears
9 and inserting “accumulated”.

10 (d) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to taxable years beginning after Decem-
12 ber 31, 2003.

13 **PART III—TREATMENT OF S CORPORATION**

14 **SHAREHOLDERS**

15 **SEC. 585. TRANSFER OF SUSPENDED LOSSES INCIDENT TO**

16 **DIVORCE.**

17 (a) *IN GENERAL.*—Section 1366(d) (relating to special
18 rules for losses and deductions) is amended by adding at
19 the end the following new paragraph:

20 “(4) *TRANSFER OF SUSPENDED LOSSES AND DE-*
21 *DUCTIONS WHEN STOCK IS TRANSFERRED INCIDENT*
22 *TO DIVORCE.*—For purposes of paragraph (2), the
23 transfer of any shareholder’s stock in an S corpora-
24 tion incident to a decree of divorce shall include any

1 *loss or deduction described in such paragraph attrib-*
 2 *utable to such stock.”.*

3 *(b) EFFECTIVE DATE.—The amendment made by this*
 4 *section shall apply to transfers in taxable years beginning*
 5 *after December 31, 2003.*

6 **SEC. 586. USE OF PASSIVE ACTIVITY LOSS AND AT-RISK**
 7 **AMOUNTS BY QUALIFIED SUBCHAPTER S**
 8 **TRUST INCOME BENEFICIARIES.**

9 *(a) IN GENERAL.—Section 1361(d)(1) (relating to spe-*
 10 *cial rule for qualified subchapter S trust) is amended—*

11 *(1) by striking “and” at the end of subpara-*
 12 *graph (A),*

13 *(2) by striking the period at the end of subpara-*
 14 *graph (B) and inserting “, and”, and*

15 *(3) by adding at the end the following new sub-*
 16 *paragraph:*

17 *“(C) for purposes of applying sections 465*
 18 *and 469(g) to the beneficiary of the trust, the*
 19 *disposition of the S corporation stock by the*
 20 *trust shall be treated as a disposition by such*
 21 *beneficiary.”.*

22 *(b) EFFECTIVE DATE.—The amendments made by this*
 23 *section shall apply to transfers in taxable years beginning*
 24 *after December 31, 2003.*

1 **SEC. 587. DISREGARD OF UNEXERCISED POWERS OF AP-**
 2 **POINTMENT IN DETERMINING POTENTIAL**
 3 **CURRENT BENEFICIARIES OF ESBT.**

4 (a) *IN GENERAL.*—Section 1361(e)(2) (defining poten-
 5 tial current beneficiary) is amended by inserting “(deter-
 6 mined without regard to any unexercised (in whole or in
 7 part) power of appointment during such period)” after “of
 8 the trust” in the first sentence.

9 (b) *EFFECTIVE DATE.*—The amendment made by this
 10 section shall apply to taxable years beginning after Decem-
 11 ber 31, 2003.

12 **SEC. 588. CLARIFICATION OF ELECTING SMALL BUSINESS**
 13 **TRUST DISTRIBUTION RULES.**

14 (a) *IN GENERAL.*—Section 641(c)(1) (relating to spe-
 15 cial rules for taxation of electing small business trusts) is
 16 amended—

17 (1) by striking “and” at the end of subpara-
 18 graph (A),

19 (2) by redesignating subparagraph (B) as sub-
 20 paragraph (C), and

21 (3) by inserting after subparagraph (A) the fol-
 22 lowing new subparagraph:

23 “(B) any distribution attributable to the
 24 portion treated as a separate trust shall be treat-
 25 ed separately from any distribution attributable
 26 to the portion not so treated, and”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2003.*

4 ***PART IV—PROVISIONS RELATING TO BANKS***

5 ***SEC. 589. SALE OF STOCK IN IRA RELATING TO S CORPORA-***
6 ***TION ELECTION EXEMPT FROM PROHIBITED***
7 ***TRANSACTION RULES.***

8 (a) *IN GENERAL.*—*Section 4975(d) (relating to exemp-*
9 *tions) is amended by striking “or” at the end of paragraph*
10 *(14), by striking the period at the end of paragraph (15)*
11 *and inserting “; or”, and by adding at the end the following*
12 *new paragraph:*

13 “(16) *a sale of stock held by a trust which con-*
14 *stitutes an individual retirement account under sec-*
15 *tion 408(a) to the individual for whose benefit such*
16 *account is established if such sale is pursuant to an*
17 *election under section 1362(a).”.*

18 (b) *EFFECTIVE DATE.*—*The amendments made by this*
19 *section shall apply to sales of stock held by individual re-*
20 *tirement accounts on the date of the enactment of this Act.*

21 ***SEC. 590. EXCLUSION OF INVESTMENT SECURITIES INCOME***
22 ***FROM PASSIVE INCOME TEST FOR BANK S***
23 ***CORPORATIONS.***

24 (a) *IN GENERAL.*—*Section 1362(d)(3) (relating to*
25 *where passive investment income exceeds certain percentage*

1 of gross receipts for 3 consecutive taxable years and corpora-
2 tion has accumulated earnings and profits), as amended by
3 this Act, is amended by adding at the end the following
4 new subparagraph:

5 “(E) EXCEPTION FOR BANKS; ETC.—In the
6 case of a bank (as defined in section 581), a
7 bank holding company (as defined in section
8 246A(c)(3)(B)(ii)), or a qualified subchapter S
9 subsidiary which is a bank, the term ‘passive in-
10 vestment income’ shall not include—

11 “(i) interest income earned by such
12 bank, bank holding company, or qualified
13 subchapter S subsidiary, or

14 “(ii) dividends on assets required to be
15 held by such bank, bank holding company,
16 or qualified subchapter S subsidiary to con-
17 duct a banking business, including stock in
18 the Federal Reserve Bank, the Federal
19 Home Loan Bank, or the Federal Agricul-
20 tural Mortgage Bank or participation cer-
21 tificates issued by a Federal Intermediate
22 Credit Bank.”.

23 (b) EFFECTIVE DATE.—The amendment made by this
24 section shall apply to taxable years beginning after Decem-
25 ber 31, 2003.

1 **SEC. 591. TREATMENT OF QUALIFYING DIRECTOR SHARES.**

2 (a) *IN GENERAL.*—Section 1361 (defining S corpora-
3 tion) is amended by adding at the end the following new
4 subsection:

5 “(f) *TREATMENT OF QUALIFYING DIRECTOR*
6 *SHARES.*—

7 “(1) *IN GENERAL.*—For purposes of this
8 subchapter—

9 “(A) *qualifying director shares shall not be*
10 *treated as a second class of stock, and*

11 “(B) *no person shall be treated as a share-*
12 *holder of the corporation by reason of holding*
13 *qualifying director shares.*

14 “(2) *QUALIFYING DIRECTOR SHARES DEFINED.*—
15 *For purposes of this subsection, the term ‘qualifying*
16 *director shares’ means any shares of stock in a bank*
17 *(as defined in section 581) or in a bank holding com-*
18 *pany registered as such with the Federal Reserve*
19 *System—*

20 “(i) *which are held by an individual*
21 *solely by reason of status as a director of*
22 *such bank or company or its controlled sub-*
23 *subsidiary; and*

24 “(ii) *which are subject to an agreement*
25 *pursuant to which the holder is required to*
26 *dispose of the shares of stock upon termi-*

1 *nation of the holder's status as a director at*
2 *the same price as the individual acquired*
3 *such shares of stock.*

4 “(3) *DISTRIBUTIONS.*—*A distribution (not in*
5 *part or full payment in exchange for stock) made by*
6 *the corporation with respect to qualifying director*
7 *shares shall be includible as ordinary income of the*
8 *holder and deductible to the corporation as an expense*
9 *in computing taxable income under section 1363(b) in*
10 *the year such distribution is received.”.*

11 (b) *CONFORMING AMENDMENT.*—*Section 1366(a) is*
12 *amended by adding at the end the following new paragraph:*

13 “(3) *ALLOCATION WITH RESPECT TO QUALIFYING*
14 *DIRECTOR SHARES.*—*The holders of qualifying direc-*
15 *tor shares (as defined in section 1361(f)) shall not,*
16 *with respect to such shares of stock, be allocated any*
17 *of the items described in paragraph (1).”.*

18 (c) *EFFECTIVE DATE.*—*The amendments made by this*
19 *section shall apply to taxable years beginning after Decem-*
20 *ber 31, 2003.*

1 **PART V—QUALIFIED SUBCHAPTER S**

2 **SUBSIDIARIES**

3 **SEC. 592. RELIEF FROM INADVERTENTLY INVALID QUALI-**
4 **FIED SUBCHAPTER S SUBSIDIARY ELECTIONS**
5 **AND TERMINATIONS.**

6 (a) *IN GENERAL.*—Section 1362(f) (relating to inad-
7 vertent invalid elections or terminations) is amended—

8 (1) by inserting “or under section
9 1361(b)(3)(B)(ii)” after “subsection (a)” in paragraph
10 (1),

11 (2) by inserting “or under section
12 1361(b)(3)(C)” after “subsection (d)” in paragraph
13 (1)(B),

14 (3) by inserting “or a qualified subchapter S
15 subsidiary, as the case may be” after “small business
16 corporation” in paragraph (3)(A),

17 (4) by inserting “or a qualified subchapter S
18 subsidiary, as the case may be” after “S corporation”
19 in paragraph (4), and

20 (5) by inserting “or a qualified subchapter S
21 subsidiary, as the case may be” after “S corporation”
22 in the matter following paragraph (4).

23 (b) *EFFECTIVE DATE.*—The amendments made by this
24 section shall apply to taxable years beginning after Decem-
25 ber 31, 2003.

1 **SEC. 593. INFORMATION RETURNS FOR QUALIFIED SUB-**
2 **CHAPTER S SUBSIDIARIES.**

3 (a) *IN GENERAL.*—Section 1361(b)(3)(A) (relating to
4 treatment of certain wholly owned subsidiaries) is amended
5 by inserting “and in the case of information returns re-
6 quired under part III of subchapter A of chapter 61” after
7 “Secretary”.

8 (b) *EFFECTIVE DATE.*—The amendment made by this
9 section shall apply to taxable years beginning after Decem-
10 ber 31, 2003.

11 **PART VI—ADDITIONAL PROVISIONS**

12 **SEC. 594. ELIMINATION OF ALL EARNINGS AND PROFITS AT-**
13 **TRIBUTABLE TO PRE-1983 YEARS.**

14 (a) *IN GENERAL.*—Subsection (a) of section 1311 of
15 the Small Business Job Protection Act of 1996 is amended
16 to read as follows:

17 “(a) *IN GENERAL.*—If a corporation was an electing
18 small business corporation under subchapter S of chapter
19 1 of the Internal Revenue Code of 1986 for any taxable year
20 beginning before January 1, 1983, the amount of such cor-
21 poration’s accumulated earnings and profits (as of the be-
22 ginning of the first taxable year beginning after December
23 31, 2003) shall be reduced by an amount equal to the por-
24 tion (if any) of such accumulated earnings and profits
25 which were accumulated in any taxable year beginning be-
26 fore January 1, 1983, for which such corporation was an

1 *electing small business corporation under such subchapter*
 2 *S.”.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 4 *section shall apply to taxable years beginning after Decem-*
 5 *ber 31, 2003.*

6 ***TITLE VI—BLUE RIBBON COM-***
 7 ***MISSION ON COMPREHEN-***
 8 ***SIVE TAX REFORM***

9 ***SEC. 601. SHORT TITLE.***

10 *This Act may be cited as the “Fundamental Tax Re-*
 11 *form Commission Act of 2003”.*

12 ***SEC. 602. ESTABLISHMENT OF COMMISSION.***

13 (a) *ESTABLISHMENT.*—*There is established the “Blue*
 14 *Ribbon Commission on Comprehensive Tax Reform” (in*
 15 *this Act referred to as the “Commission”).*

16 (b) *MEMBERSHIP.*—

17 (1) *COMPOSITION.*—*The Commission shall be*
 18 *composed of 12 members of whom—*

19 (A) *1 shall be the Chairman of the Board*
 20 *of Governors of the Federal Reserve System;*

21 (B) *2 shall be appointed by the majority*
 22 *leader of the Senate;*

23 (C) *2 shall be appointed by the minority*
 24 *leader of the Senate;*

1 (D) 2 shall be appointed by the Speaker of
2 the House of Representatives;

3 (E) 2 shall be appointed by the minority
4 leader of the House of Representatives; and

5 (F) 3 shall be appointed by the President,
6 of which no more than 2 shall be of the same
7 party as the President.

8 (2) *FEDERAL EMPLOYEES.*—The members of the
9 Commission may be employees or former employees of
10 the Federal Government.

11 (3) *DATE.*—The appointments of the members of
12 the Commission shall be made not later than July 30,
13 2003.

14 (c) *PERIOD OF APPOINTMENT; VACANCIES.*—Members
15 shall be appointed for the life of the Commission. Any va-
16 cancy in the Commission shall not affect its powers, but
17 shall be filled in the same manner as the original appoint-
18 ment.

19 (d) *INITIAL MEETING.*—Not later than 30 days after
20 the date on which all members of the Commission have been
21 appointed, the Commission shall hold its first meeting.

22 (e) *MEETINGS.*—The Commission shall meet at the call
23 of the Chairman.

1 (f) *QUORUM.*—A majority of the members of the Com-
2 mission shall constitute a quorum, but a lesser number of
3 members may hold hearings.

4 (g) *CHAIRMAN AND VICE CHAIRMAN.*—The President
5 shall select a Chairman and Vice Chairman from among
6 its members.

7 **SEC. 603. DUTIES OF THE COMMISSION.**

8 (a) *STUDY.*—The Commission shall conduct a thor-
9 ough study of all matters relating to a comprehensive re-
10 form of the Federal tax system, including the reform of the
11 Internal Revenue Code of 1986 and the implementation (if
12 appropriate) of other types of tax systems.

13 (b) *RECOMMENDATIONS.*—The Commission shall de-
14 velop recommendations on how to comprehensively reform
15 the Federal tax system in a manner that generates appro-
16 priate revenue for the Federal Government.

17 (c) *REPORT.*—Not later than 18 months after the date
18 on which all initial members of the commission have been
19 appointed pursuant to section 602(b), the Commission shall
20 submit a report to the President and Congress which shall
21 contain a detailed statement of the findings and conclusions
22 of the Commission, together with its recommendations for
23 such legislation and administrative actions as it considers
24 appropriate.

1 **SEC. 604. POWERS OF THE COMMISSION.**

2 (a) *HEARINGS.*—*The Commission may hold such hear-*
3 *ings, sit and act at such times and places, take such testi-*
4 *mony, and receive such evidence as the Commission con-*
5 *siders advisable to carry out this Act.*

6 (b) *INFORMATION FROM FEDERAL AGENCIES.*—*The*
7 *Commission may secure directly from any Federal depart-*
8 *ment or agency such information as the Commission con-*
9 *siders necessary to carry out this Act. Upon request of the*
10 *Chairman of the Commission, the head of such department*
11 *or agency shall furnish such information to the Commis-*
12 *sion.*

13 (c) *POSTAL SERVICES.*—*The Commission may use the*
14 *United States mails in the same manner and under the*
15 *same conditions as other departments and agencies of the*
16 *Federal Government.*

17 (d) *GIFTS.*—*The Commission may accept, use, and*
18 *dispose of gifts or donations of services or property.*

19 **SEC. 605. COMMISSION PERSONNEL MATTERS.**

20 (a) *COMPENSATION OF MEMBERS.*—*Each member of*
21 *the Commission who is not an officer or employee of the*
22 *Federal Government shall be compensated at a rate equal*
23 *to the daily equivalent of the annual rate of basic pay pre-*
24 *scribed for level IV of the Executive Schedule under section*
25 *5315 of title 5, United States Code, for each day (including*
26 *travel time) during which such member is engaged in the*

1 *performance of the duties of the Commission. All members*
2 *of the Commission who are officers or employees of the*
3 *United States shall serve without compensation in addition*
4 *to that received for their services as officers or employees*
5 *of the United States.*

6 **(b) TRAVEL EXPENSES.**—*The members of the Commis-*
7 *sion shall be allowed travel expenses, including per diem*
8 *in lieu of subsistence, at rates authorized for employees of*
9 *agencies under subchapter I of chapter 57 of title 5, United*
10 *States Code, while away from their homes or regular places*
11 *of business in the performance of services for the Commis-*
12 *sion.*

13 **(c) STAFF.**—

14 **(1) IN GENERAL.**—*The Chairman of the Com-*
15 *mission may, without regard to the civil service laws*
16 *and regulations, appoint and terminate an executive*
17 *director and such other additional personnel as may*
18 *be necessary to enable the Commission to perform its*
19 *duties. The employment of an executive director shall*
20 *be subject to confirmation by the Commission.*

21 **(2) COMPENSATION.**—*The Chairman of the Com-*
22 *mission may fix the compensation of the executive di-*
23 *rector and other personnel without regard to chapter*
24 *51 and subchapter III of chapter 53 of title 5, United*
25 *States Code, relating to classification of positions and*

1 *General Schedule pay rates, except that the rate of*
2 *pay for the executive director and other personnel*
3 *may not exceed the rate payable for level V of the Ex-*
4 *ecutive Schedule under section 5316 of such title.*

5 *(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Fed-*
6 *eral Government employee may be detailed to the Commis-*
7 *sion without reimbursement, and such detail shall be with-*
8 *out interruption or loss of civil service status or privilege.*

9 *(e) PROCUREMENT OF TEMPORARY AND INTERMIT-*
10 *TENT SERVICES.—The Chairman of the Commission may*
11 *procure temporary and intermittent services under section*
12 *3109(b) of title 5, United States Code, at rates for individ-*
13 *uals which do not exceed the daily equivalent of the annual*
14 *rate of basic pay prescribed for level V of the Executive*
15 *Schedule under section 5316 of such title.*

16 **SEC. 606. TERMINATION OF THE COMMISSION.**

17 *The Commission shall terminate 90 days after the date*
18 *on which the Commission submits its report under section*
19 *603.*

20 **SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

21 *There are authorized to be appropriated such sums as*
22 *are necessary to the Commission to carry out this Act.*

1 **TITLE VII—REAL ESTATE**
2 **INVESTMENT TRUSTS**
3 **Subtitle A—REIT Corrections**

4 **SEC. 701. REVISIONS TO REIT ASSET TEST.**

5 (a) *EXPANSION OF STRAIGHT DEBT SAFE HARBOR.*—
6 Section 856 (defining real estate investment trust) is
7 amended—

8 (1) in subsection (c) by striking paragraph (7),
9 and

10 (2) by adding at the end the following new sub-
11 section:

12 “(m) *SAFE HARBOR IN APPLYING SUBSECTION*
13 (c)(4).—

14 “(1) *IN GENERAL.*—In applying subclause (III)
15 of subsection (c)(4)(B)(iii), except as otherwise deter-
16 mined by the Secretary in regulations, the following
17 shall not be considered securities held by the trust:

18 “(A) *Straight debt securities of an issuer*
19 which meet the requirements of paragraph (2).

20 “(B) *Any loan to an individual or an es-*
21 tate.

22 “(C) *Any section 467 rental agreement (as*
23 defined in section 467(d)), other than with a per-
24 son described in subsection (d)(2)(B).

1 “(D) Any obligation to pay rents from real
2 property (as defined in subsection (d)(1)).

3 “(E) Any security issued by a State or any
4 political subdivision thereof, the District of Co-
5 lumbia, a foreign government or any political
6 subdivision thereof, or the Commonwealth of
7 Puerto Rico, but only if the determination of
8 any payment received or accrued under such se-
9 curity does not depend in whole or in part on
10 the profits of any entity not described in this
11 subparagraph or payments on any obligation
12 issued by such an entity.

13 “(F) Any security issued by a real estate
14 investment trust.

15 “(G) Any other arrangement as determined
16 by the Secretary.

17 “(2) SPECIAL RULES RELATING TO STRAIGHT
18 DEBT SECURITIES.—

19 “(A) IN GENERAL.—For purposes of para-
20 graph (1)(A), securities meet the requirements of
21 this paragraph if such securities are straight
22 debt, as defined in section 1361(c)(5) (without
23 regard to subparagraph (B)(iii) thereof).

24 “(B) SPECIAL RULES RELATING TO CERTAIN
25 CONTINGENCIES.—For purposes of subparagraph

1 (A), any interest or principal shall not be treat-
2 ed as failing to satisfy section 1361(c)(5)(B)(i)
3 solely by reason of the fact that the time of pay-
4 ment of such interest or principal is subject to
5 a contingency, but only if—

6 “(i) any such contingency does not
7 have the effect of changing the effective yield
8 to maturity, as determined under section
9 1272, other than a change in the annual
10 yield to maturity which either—

11 “(I) does not exceed the greater of
12 $\frac{1}{4}$ of 1 percent or 5 percent of the an-
13 nual yield to maturity, or

14 “(II) results solely from a default
15 or the exercise of a prepayment right
16 by the issuer of the debt, or

17 “(ii) neither the aggregate issue price
18 nor the aggregate face amount of the issuer’s
19 debt instruments held by the trust,
20 exceeds \$1,000,000 and not more than 12 months
21 of unaccrued interest can be required to be pre-
22 paid thereunder.

23 “(C) SPECIAL RULES RELATING TO COR-
24 PORATE OR PARTNERSHIP ISSUERS.—In the case
25 of an issuer which is a corporation or a partner-

1 *ship, securities that otherwise would be described*
 2 *in paragraph (1)(A) shall be considered not to be*
 3 *so described if the trust holding such securities*
 4 *and any of its controlled taxable REIT subsidi-*
 5 *aries (as defined in subsection (d)(8)(A)(iv))*
 6 *hold any securities of the issuer which—*

7 “(i) *are not described in paragraph (1)*
 8 *(prior to the application of paragraph*
 9 *(1)(C)), and*

10 “(ii) *have an aggregate value greater*
 11 *than 1 percent of the issuer’s outstanding*
 12 *securities.*

13 “(3) *LOOK-THROUGH RULE FOR PARTNERSHIP*
 14 *SECURITIES.—*

15 “(A) *IN GENERAL.—For purposes of apply-*
 16 *ing subclause (III) of subsection (c)(4)(B)(iii)—*

17 “(i) *a trust’s interest as a partner in*
 18 *a partnership (as defined in section*
 19 *7701(a)(2)) shall not be considered a secu-*
 20 *rity, and*

21 “(ii) *the trust shall be deemed to own*
 22 *its proportionate share of each of the assets*
 23 *of the partnership.*

24 “(B) *DETERMINATION OF TRUST’S INTER-*
 25 *EST IN PARTNERSHIP ASSETS.—For purposes of*

1 subparagraph (A), with respect to any taxable
2 year beginning after the date of the enactment of
3 this subparagraph—

4 “(i) the trust’s interest in the partner-
5 ship assets shall be the trust’s proportionate
6 interest in any securities issued by the part-
7 nership (determined without regard to sub-
8 paragraph (A)(i) and paragraph (4), but
9 not including securities described in para-
10 graph (1)), and

11 “(ii) the value of any debt instrument
12 shall be the adjusted issue price thereof, as
13 defined in section 1272(a)(4).

14 “(4) CERTAIN PARTNERSHIP DEBT INSTRUMENTS
15 NOT TREATED AS A SECURITY.—For purposes of ap-
16 plying subclause (III) of subsection (c)(4)(B)(iii)—

17 “(A) any debt instrument issued by a part-
18 nership and not described in paragraph (1) shall
19 not be considered a security to the extent of the
20 trust’s interest as a partner in the partnership,
21 and

22 “(B) any debt instrument issued by a part-
23 nership and not described in paragraph (1) shall
24 not be considered a security if at least 75 percent
25 of the partnership’s gross income (excluding

1 *gross income from prohibited transactions) is de-*
2 *derived from sources referred to in subsection*
3 *(c)(3).*

4 “(5) *SECRETARIAL GUIDANCE.*—*The Secretary is*
5 *authorized to provide guidance (including through the*
6 *issuance of a written determination, as defined in sec-*
7 *tion 6110(b)) that an arrangement shall not be con-*
8 *sidered a security held by the trust for purposes of ap-*
9 *plying subclause (III) of subsection (c)(4)(B)(iii) not-*
10 *withstanding that such arrangement otherwise could*
11 *be considered a security under subparagraph (F) of*
12 *subsection (c)(5).”.*

13 **SEC. 702. CLARIFICATION OF APPLICATION OF LIMITED**
14 **RENTAL EXCEPTION.**

15 *Subparagraph (A) of section 856(d)(8) (relating to*
16 *special rules for taxable REIT subsidiaries) is amended to*
17 *read as follows:*

18 “(A) *LIMITED RENTAL EXCEPTION.*—

19 “(i) *IN GENERAL.*—*The requirements*
20 *of this subparagraph are met with respect*
21 *to any property if at least 90 percent of the*
22 *leased space of the property is rented to per-*
23 *sons other than taxable REIT subsidiaries*
24 *of such trust and other than persons de-*
25 *scribed in paragraph (2)(B).*

1 “(ii) *RENTS MUST BE SUBSTANTIALLY*
2 *COMPARABLE.*—*Clause (i) shall apply only*
3 *to the extent that the amounts paid to the*
4 *trust as rents from real property (as defined*
5 *in paragraph (1) without regard to para-*
6 *graph (2)(B)) from such property are sub-*
7 *stantially comparable to such rents paid by*
8 *the other tenants of the trust’s property for*
9 *comparable space.*

10 “(iii) *TIMES FOR TESTING RENT COM-*
11 *PARABILITY.*—*The substantial com-*
12 *parability requirement of clause (i) shall be*
13 *treated as met with respect to a lease to a*
14 *taxable REIT subsidiary of the trust if such*
15 *requirement is met under the terms of the*
16 *lease—*

17 “(I) *at the time such lease is en-*
18 *tered into,*

19 “(II) *at the time of each extension*
20 *of the lease, including a failure to exer-*
21 *cise a right to terminate, and*

22 “(III) *at the time of any modi-*
23 *fication of the lease between the trust*
24 *and the taxable REIT subsidiary if the*

1 *rent under such lease is effectively in-*
2 *creased pursuant to such modification.*

3 *With respect to subclause (III), if the tax-*
4 *able REIT subsidiary of the trust is a con-*
5 *trolled taxable REIT subsidiary of the trust,*
6 *the term ‘rents from real property’ shall not*
7 *in any event include rent under such lease*
8 *to the extent of the increase in such rent on*
9 *account of such modification.*

10 “(iv) *CONTROLLED TAXABLE REIT*
11 *SUBSIDIARY.—For purposes of clause (iii),*
12 *the term ‘controlled taxable REIT sub-*
13 *subsidiary’ means, with respect to any real es-*
14 *tate investment trust, any taxable REIT*
15 *subsidiary of such trust if such trust owns*
16 *directly or indirectly—*

17 “(I) *stock possessing more than 50*
18 *percent of the total voting power of the*
19 *outstanding stock of such subsidiary,*
20 *or*

21 “(II) *stock having a value of more*
22 *than 50 percent of the total value of the*
23 *outstanding stock of such subsidiary.*

24 “(v) *CONTINUING QUALIFICATION*
25 *BASED ON THIRD PARTY ACTIONS.—If the*

1 requirements of clause (i) are met at a time
2 referred to in clause (iii), such requirements
3 shall continue to be treated as met so long
4 as there is no increase in the space leased
5 to any taxable REIT subsidiary of such
6 trust or to any person described in para-
7 graph (2)(B).

8 “(vi) CORRECTION PERIOD.—If there is
9 an increase referred to in clause (v) during
10 any calendar quarter with respect to any
11 property, the requirements of clause (iii)
12 shall be treated as met during the quarter
13 and the succeeding quarter if such require-
14 ments are met at the close of such suc-
15 ceeding quarter.”.

16 **SEC. 703. DELETION OF CUSTOMARY SERVICES EXCEPTION.**

17 Subparagraph (B) of section 857(b)(7) (relating to re-
18 determined rents) is amended by striking clause (ii) and
19 by redesignating clauses (iii), (iv), (v), (vi), and (vii) as
20 clauses (ii), (iii), (iv), (v), and (vi), respectively.

21 **SEC. 704. CONFORMITY WITH GENERAL HEDGING DEFINI-**
22 **TION.**

23 (a) DEFINITION.—Subparagraph (G) of section
24 856(c)(5) (relating to treatment of certain hedging instru-
25 ments) is amended to read as follows:

1 “(G) *TREATMENT OF CERTAIN HEDGING IN-*
2 *STRUMENTS.—Except to the extent provided by*
3 *regulations, any income of a real estate invest-*
4 *ment trust from a hedging transaction (as de-*
5 *fin ed in clause (ii) or (iii) of section*
6 *1221(b)(2)(A)) which is clearly identified pursu-*
7 *ant to section 1221(a)(7), including gain from*
8 *the sale or disposition of such a transaction,*
9 *shall not constitute gross income under para-*
10 *graph (2) to the extent that the transaction*
11 *hedges any indebtedness incurred or to be in-*
12 *curred by the trust to acquire or carry real estate*
13 *assets.”.*

14 **SEC. 705. CONFORMITY WITH REGULATED INVESTMENT**
15 **COMPANY RULES.**

16 *Clause (i) of section 857(b)(5)(A) (relating to imposi-*
17 *tion of tax in case of failure to meet certain requirements)*
18 *is amended by striking “90 percent” and inserting “95 per-*
19 *cent”.*

20 **SEC. 706. PROHIBITED TRANSACTIONS PROVISIONS.**

21 *(a) EXPANSION OF PROHIBITED TRANSACTION SAFE*
22 *HARBOR.—Section 857(b)(6) (relating to income from pro-*
23 *hibited transactions) is amended by redesignating subpara-*
24 *graphs (D) and (E) as subparagraphs (E) and (F), respec-*

1 tively, and by inserting after subparagraph (C) the fol-
2 lowing new subparagraph:

3 “(D) *CERTAIN SALES NOT TO CONSTITUTE*
4 *PROHIBITED TRANSACTIONS.*—For purposes of
5 this part, the term ‘prohibited transaction’ does
6 not include a sale of property which is a real es-
7 tate asset (as defined in section 856(c)(5)(B))
8 if—

9 “(i) the trust held the property for not
10 less than 4 years in connection with the
11 trade or business of producing timber,

12 “(ii) the aggregate expenditures made
13 by the trust, or a partner of the trust, dur-
14 ing the 4-year period preceding the date of
15 sale which—

16 “(I) are includible in the basis of
17 the property (other than timberland
18 acquisition expenditures), and

19 “(II) are directly related to oper-
20 ation of the property for the produc-
21 tion of timber or for the preservation of
22 the property for use as timberland,
23 do not exceed 30 percent of the net selling
24 price of the property,

1 “(iii) the aggregate expenditures made
2 by the trust, or a partner of the trust, dur-
3 ing the 4-year period preceding the date of
4 sale which—

5 “(I) are includible in the basis of
6 the property (other than timberland
7 acquisition expenditures), and

8 “(II) are not directly related to
9 operation of the property for the pro-
10 duction of timber, or for the preserva-
11 tion of the property for use as
12 timberland,
13 do not exceed 5 percent of the net selling
14 price of the property,

15 “(iv)(I) during the taxable year the
16 trust does not make more than 7 sales of
17 property (other than sales of foreclosure
18 property or sales to which section 1033 ap-
19 plies), or

20 “(II) the aggregate adjusted bases (as
21 determined for purposes of computing earn-
22 ings and profits) of property (other than
23 sales of foreclosure property or sales to
24 which section 1033 applies) sold during the
25 taxable year does not exceed 10 percent of

1 the aggregate bases (as so determined) of all
2 of the assets of the trust as of the beginning
3 of the taxable year,

4 “(v) in the case that the requirement of
5 clause (iv)(I) is not satisfied, substantially
6 all of the marketing expenditures with re-
7 spect to the property were made through an
8 independent contractor (as defined in sec-
9 tion 856(d)(3)) from whom the trust itself
10 does not derive or receive any income, and

11 “(vi) the sales price of the property
12 sold by the trust to its taxable REIT sub-
13 sidiary is not based in whole or in part on
14 the income or profits of the subsidiary or
15 the income or profits that the subsidiary de-
16 rives from the sale or operation of such
17 property.”.

18 **SEC. 707. EFFECTIVE DATES.**

19 (a) *IN GENERAL.*—Except as provided in subsection
20 (b), the amendments made by this title shall apply to tax-
21 able years beginning after December 31, 2000.

22 (b) *SECTIONS 703 THROUGH 706.*—The amendments
23 made by sections 703, 704, 705 and 706 shall apply to tax-
24 able years beginning after the date of the enactment of this
25 Act.

1 **Subtitle B—REIT Savings**
2 **Provisions**

3 **SEC. 711. REVISIONS TO REIT PROVISIONS.**

4 (a) *RULES OF APPLICATION FOR FAILURE TO SATISFY*
5 *SECTION 856(c)(4).*—Section 856(c) (relating to definition
6 of real estate investment trust), as amended by section 701,
7 is amended by inserting after paragraph (6) the following
8 new paragraph:

9 “(7) *RULES OF APPLICATION FOR FAILURE TO*
10 *SATISFY PARAGRAPH (4).*—

11 “(A) *DE MINIMIS FAILURE.*—A corporation,
12 trust, or association that fails to meet the re-
13 quirements of paragraph (4)(B)(iii) for a par-
14 ticular quarter shall nevertheless be considered to
15 have satisfied the requirements of such para-
16 graph for such quarter if—

17 “(i) such failure is due to the owner-
18 ship of assets the total value of which does
19 not exceed the lesser of—

20 “(I) 1 percent of the total value of
21 the trust’s assets at the end of the quar-
22 ter for which such measurement is
23 done, and

24 “(II) \$10,000,000, and

1 “(i)(I) the corporation, trust, or asso-
2 ciation, following the identification of such
3 failure, disposes of assets in order to meet
4 the requirements of such paragraph within
5 6 months after the last day of the quarter
6 in which the corporation, trust or associa-
7 tion’s identification of the failure to satisfy
8 the requirements of such paragraph oc-
9 curred or such other time period prescribed
10 by the Secretary and in the manner pre-
11 scribed by the Secretary, or

12 “(II) the requirements of such para-
13 graph are otherwise met within the time pe-
14 riod specified in subclause (I).

15 “(B) *FAILURES EXCEEDING DE MINIMIS*
16 *AMOUNT.*—A corporation, trust, or association
17 that fails to meet the requirements of paragraph
18 (4) for a particular quarter shall nevertheless be
19 considered to have satisfied the requirements of
20 such paragraph for such quarter if—

21 “(i) such failure involves the ownership
22 of assets the total value of which exceeds the
23 de minimis standard described in subpara-
24 graph (A)(i) at the end of the quarter for
25 which such measurement is done,

1 “(ii) following the corporation, trust,
2 or association’s identification of the failure
3 to satisfy the requirements of such para-
4 graph for a particular quarter, a descrip-
5 tion of each asset that causes the corpora-
6 tion, trust, or association to fail to satisfy
7 the requirements of such paragraph at the
8 close of such quarter of any taxable year is
9 set forth in a schedule for such quarter filed
10 in accordance with regulations prescribed
11 by the Secretary,

12 “(iii) the failure to meet the require-
13 ments of such paragraph for a particular
14 quarter is due to reasonable cause and not
15 due to willful neglect,

16 “(iv) the corporation, trust, or associa-
17 tion pays a tax computed under subpara-
18 graph (C), and

19 “(v)(I) the corporation, trust, or asso-
20 ciation disposes of the assets set forth on the
21 schedule specified in clause (ii) within 6
22 months after the last day of the quarter in
23 which the corporation, trust or association’s
24 identification of the failure to satisfy the re-
25 quirements of such paragraph occurred or

1 *such other time period prescribed by the*
2 *Secretary and in the manner prescribed by*
3 *the Secretary, or*

4 “(II) *the requirements of such para-*
5 *graph are otherwise met within the time pe-*
6 *riod specified in subclause (I).*

7 “(C) *TAX.—For purposes of subparagraph*
8 *(B)(iv)—*

9 “(i) *TAX IMPOSED.—If a corporation,*
10 *trust, or association elects the application of*
11 *this subparagraph, there is hereby imposed*
12 *a tax on the failure described in subpara-*
13 *graph (B) of such corporation, trust, or as-*
14 *sociation. Such tax shall be paid by the cor-*
15 *poration, trust, or association.*

16 “(ii) *TAX COMPUTED.—The amount of*
17 *the tax imposed by clause (i) shall be the*
18 *greater of—*

19 “(I) *\$50,000, or*

20 “(II) *the amount determined*
21 *(pursuant to regulations promulgated*
22 *by the Secretary) by multiplying the*
23 *net income generated by the assets de-*
24 *scribed in the schedule specified in sub-*
25 *paragraph (B)(ii) for the period speci-*

1 *fied in clause (iii) by the highest rate*
2 *of tax specified in section 11.*

3 “(iii) *PERIOD.*—*For purposes of clause*
4 *(ii)(II), the period described in this clause*
5 *is the period beginning on the first date*
6 *that the failure to satisfy the requirements*
7 *of such paragraph (4) occurs as a result of*
8 *the ownership of such assets and ending on*
9 *the earlier of the date on which the trust*
10 *disposes of such assets or the end of the first*
11 *quarter when there is no longer a failure to*
12 *satisfy such paragraph (4).*

13 “(iv) *ADMINISTRATIVE PROVISIONS.*—
14 *For purposes of subtitle F, the taxes im-*
15 *posed by this subparagraph shall be treated*
16 *as excise taxes with respect to which the de-*
17 *ficiency procedures of such subtitle apply.”.*

18 **(b) MODIFICATION OF RULES OF APPLICATION FOR**
19 **FAILURE TO SATISFY SECTIONS 856(c)(2) OR 856(c)(3).**—
20 *Paragraph (6) of section 856(c) (relating to definition of*
21 *real estate investment trust) is amended by striking sub-*
22 *paragraphs (A) and (B), by redesignating subparagraph*
23 *(C) as subparagraph (B), and by inserting before subpara-*
24 *graph (B) (as so redesignated) the following new subpara-*
25 *graph:*

1 “(A) following the corporation, trust, or as-
2 sociation’s identification of the failure to meet
3 the requirements of paragraph (2) or (3), or of
4 both such paragraphs, for any taxable year, a
5 description of each item of its gross income de-
6 scribed in such paragraphs is set forth in a
7 schedule for such taxable year filed in accordance
8 with regulations prescribed by the Secretary,
9 and”.

10 (c) *REASONABLE CAUSE EXCEPTION TO LOSS OF*
11 *REIT STATUS IF FAILURE TO SATISFY REQUIREMENTS.*—
12 *Subsection (g) of section 856 (relating to termination of*
13 *election) is amended—*

14 (1) *in paragraph (1) by inserting before the pe-*
15 *riod at the end of the first sentence the following: “un-*
16 *less paragraph (5) applies”, and*

17 (2) *by adding at the end the following new para-*
18 *graph:*

19 “(5) *ENTITIES TO WHICH PARAGRAPH AP-*
20 *PLIES.*—*This paragraph applies to a corporation,*
21 *trust, or association—*

22 “(A) *which is not a real estate investment*
23 *trust to which the provisions of this part apply*
24 *for the taxable year due to one or more failures*
25 *to comply with one or more of the provisions of*

1 *this part (other than subsection (c)(6) or (c)(7)*
2 *of section 856),*

3 “(B) *such failures are due to reasonable*
4 *cause and not due to willful neglect, and*

5 “(C) *if such corporation, trust, or associa-*
6 *tion pays (as prescribed by the Secretary in reg-*
7 *ulations and in the same manner as tax) a pen-*
8 *alty of \$50,000 for each failure to satisfy a pro-*
9 *vision of this part due to reasonable cause and*
10 *not willful neglect.”.*

11 (d) *DEDUCTION OF TAX PAID FROM AMOUNT RE-*
12 *QUIRED TO BE DISTRIBUTED.*—*Subparagraph (E) of sec-*
13 *tion 857(b)(2) is amended by striking “(7)” and inserting*
14 *“(7) of this subsection, section 856(c)(7)(B)(iii), and section*
15 *856(g)(1).”.*

16 (e) *EXPANSION OF DEFICIENCY DIVIDEND PROCE-*
17 *DURE.*—*Subsection (e) of section 860 is amended by strik-*
18 *ing “or” at the end of paragraph (2), by striking the period*
19 *at the end of paragraph (3) and inserting “; or”, and by*
20 *adding at the end the following new paragraph:*

21 “(4) *a statement by the taxpayer attached to its*
22 *amendment or supplement to a return of tax for the*
23 *relevant tax year.”.*

1 (f) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after date*
 3 *of enactment.*

4 ***TITLE VIII—EXTENSIONS OF***
 5 ***CERTAIN EXPIRING PROVISIONS***
 6 ***Subtitle A—Extensions of Expiring***
 7 ***Provisions***

8 ***SEC. 801. PARITY IN THE APPLICATION OF CERTAIN LIMITS***
 9 ***TO MENTAL HEALTH BENEFITS.***

10 (a) *IN GENERAL.*—*Subsection (f) of section 9812 is*
 11 *amended by striking “2003” and inserting “2004”.*

12 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 13 *section (a) shall apply to plan years beginning after Decem-*
 14 *ber 31, 2002.*

15 ***SEC. 802. ALLOWANCE OF NONREFUNDABLE PERSONAL***
 16 ***CREDITS AGAINST REGULAR AND MINIMUM***
 17 ***TAX LIABILITY.***

18 (a) *IN GENERAL.*—*Paragraph (2) of section 26(a) is*
 19 *amended—*

20 (1) *by striking “RULE FOR 2000, 2001, 2002, AND*
 21 *2003.—” and inserting “RULE FOR 2000, 2001, 2002,*
 22 *2003, AND 2004.—”, and*

23 (2) *by striking “during 2000, 2001, 2002, or*
 24 *2003,” and inserting “during 2000, 2001, 2002, 2003,*
 25 *or 2004”.*

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *Section 904(h) is amended by striking “dur-*
3 *ing 2000, 2001, 2002, or 2003” and inserting “during*
4 *2000, 2001, 2002, 2003, or 2004”.*

5 (2) *The amendments made by sections 201(b),*
6 *202(f), and 618(b) of the Economic Growth and Tax*
7 *Relief Reconciliation Act of 2001 shall not apply to*
8 *taxable years beginning during 2004.*

9 (c) *EFFECTIVE DATE.*—*The amendments made by this*
10 *section shall apply to taxable years beginning after Decem-*
11 *ber 31, 2002.*

12 ***SEC. 803. CREDIT FOR ELECTRICITY PRODUCED FROM CER-***
13 ***TAIN RENEWABLE RESOURCES.***

14 (a) *IN GENERAL.*—*Subparagraphs (A), (B), and (C)*
15 *of section 45(c)(3) are each amended by striking “2004”*
16 *and inserting “2005”.*

17 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
18 *section (a) shall apply to facilities placed in service after*
19 *December 31, 2002.*

20 ***SEC. 804. WORK OPPORTUNITY CREDIT.***

21 (a) *IN GENERAL.*—*Subparagraph (B) of section*
22 *51(c)(4) is amended by striking “2003” and inserting*
23 *“2004”.*

1 (b) *EFFECTIVE DATE.*—The amendment made by sub-
2 section (a) shall apply to individuals who begin work for
3 the employer after December 31, 2002.

4 **SEC. 805. WELFARE-TO-WORK CREDIT.**

5 (a) *IN GENERAL.*—Subsection (f) of section 51A is
6 amended by striking “2003” and inserting “2004”.

7 (b) *EFFECTIVE DATE.*—The amendment made by sub-
8 section (a) shall apply to individuals who begin work for
9 the employer after December 31, 2002.

10 **SEC. 806. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLE-**

11 **TION FOR OIL AND NATURAL GAS PRODUCED**

12 **FROM MARGINAL PROPERTIES.**

13 (a) *IN GENERAL.*—Subparagraph (H) of section
14 613A(c)(6) is amended by striking “2004” and inserting
15 “2005”.

16 (b) *EFFECTIVE DATE.*—The amendment made by sub-
17 section (a) shall apply to taxable years beginning after De-
18 cember 31, 2002.

19 **SEC. 807. QUALIFIED ZONE ACADEMY BONDS.**

20 (a) *IN GENERAL.*—Paragraph (1) of section 1397E(e)
21 is amended by striking “2000, 2001, 2002, and 2003” and
22 inserting “2000, 2001, 2002, 2003, and 2004”.

23 (b) *EFFECTIVE DATE.*—The amendment made by sub-
24 section (a) shall apply to obligations issued after the date
25 of the enactment of this Act.

1 **SEC. 808. COVER OVER OF TAX ON DISTILLED SPIRITS.**

2 (a) *IN GENERAL.*—Paragraph (1) of section 7652(f) is
3 amended by striking “January 1, 2004” and inserting
4 “January 1, 2005”.

5 (b) *EFFECTIVE DATE.*—The amendment made by sub-
6 section (a) shall apply to articles brought into the United
7 States after December 31, 2002.

8 **SEC. 809. DEDUCTION FOR CORPORATE DONATIONS OF**
9 **COMPUTER TECHNOLOGY.**

10 (a) *EXTENSION OF DEDUCTION.*—Section 170(e)(6)(G)
11 (relating to termination) is amended by striking “December
12 31, 2003” and inserting “December 31, 2004”.

13 (b) *EFFECTIVE DATE.*—The amendments made by this
14 section shall apply to contributions made after December
15 31, 2002.

16 **SEC. 810. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

17 (a) *IN GENERAL.*—Section 30 is amended—

18 (1) in subsection (b)(2)—

19 (A) by striking “December 31, 2003,” and
20 inserting “December 31, 2004,” and

21 (B) in subparagraphs (A), (B), and (C), by
22 striking “2004”, “2005”, and “2006”, respec-
23 tively, and inserting “2005”, “2006”, and
24 “2007”, respectively.

25 (2) in subsection (e), by striking “December 31,
26 2006” and inserting “December 31, 2007”.

1 (b) *CONFORMING AMENDMENTS.*—Clause (iii) of sec-
2 tion 280F(a)(1)(C) is amended by striking “2007” and in-
3 serting “2008”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply to property placed in service after De-
6 cember 31, 2002.

7 **SEC. 811. DEDUCTION FOR CLEAN-FUEL VEHICLES AND**
8 **CERTAIN REFUELING PROPERTY.**

9 (a) *IN GENERAL.*—Section 179A is amended—

10 (1) in subsection (b)(1)(B)—

11 (A) by striking “December 31, 2003,” and
12 inserting “December 31, 2004,” and

13 (B) in clauses (i), (ii), and (iii), by striking
14 “2004”, “2005”, and “2006”, respectively, and
15 inserting “2005”, “2006”, and “2007”, respec-
16 tively, and

17 (2) in subsection (f), by striking “December 31,
18 2006” and inserting “December 31, 2007”.

19 (b) *EFFECTIVE DATE.*—The amendments made by sub-
20 section (a) shall apply to property placed in service after
21 December 31, 2002.

1 **SEC. 812. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL**
2 **TEACHERS.**

3 (a) *IN GENERAL.*—Subparagraph (D) of section
4 62(a)(2) is amended by striking “during 2002 or 2003” and
5 inserting “during 2002, 2003, or 2004”.

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-
7 section (a) shall apply to taxable years beginning after De-
8 cember 31, 2002.

9 **SEC. 813. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

10 (a) *IN GENERAL.*—Paragraphs (2) and (3)(B) of sec-
11 tion 220(i) (defining cut-off year) are each amended by
12 striking “2003” each place it appears and inserting
13 “2004”.

14 (b) *CONFORMING AMENDMENTS.*—

15 (1) Paragraph (2) of section 220(j) is amended
16 by striking “1998, 1999, 2001, or 2002” each place it
17 appears and inserting “1998, 1999, 2001, 2002, or
18 2003”.

19 (2) Subparagraph (A) of section 220(j)(4) is
20 amended by striking “and 2002” and inserting
21 “2002, and 2003”.

22 (c) *EFFECTIVE DATE.*—The amendments made by this
23 section shall take effect on January 1, 2003.

1 **SEC. 814. EXPENSING OF ENVIRONMENTAL REMEDIATION**
2 **COSTS.**

3 (a) *EXTENSION OF TERMINATION DATE.*—Subsection
4 (h) of section 198 is amended by striking “2003” and in-
5 serting “2004”.

6 (b) *EFFECTIVE DATE.*—The amendments made by this
7 section shall apply to expenditures paid or incurred after
8 December 31, 2002.

9 **TITLE IX—IMPROVING TAX EQ-**
10 **UITY FOR MILITARY PER-**
11 **SONNEL**

12 **SEC. 900. SHORT TITLE.**

13 *This title may be cited as the “Armed Forces Tax Fair-*
14 *ness Act of 2003”.*

15 **SEC. 901. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**
16 **RESIDENCE BY A MEMBER OF THE UNI-**
17 **FORMED SERVICES OR THE FOREIGN SERV-**
18 **ICE.**

19 (a) *IN GENERAL.*—Subsection (d) of section 121 (relat-
20 ing to exclusion of gain from sale of principal residence)
21 is amended by redesignating paragraph (9) as paragraph
22 (10) and by inserting after paragraph (8) the following new
23 paragraph:

24 “(9) *MEMBERS OF UNIFORMED SERVICES AND*
25 *FOREIGN SERVICE.*—

1 “(A) *IN GENERAL.*—*At the election of an*
2 *individual with respect to a property, the run-*
3 *ning of the 5-year period described in subsections*
4 *(a) and (c)(1)(B) and paragraph (7) of this sub-*
5 *section with respect to such property shall be sus-*
6 *pending during any period that such individual*
7 *or such individual’s spouse is serving on quali-*
8 *fied official extended duty as a member of the*
9 *uniformed services or of the Foreign Service of*
10 *the United States.*

11 “(B) *MAXIMUM PERIOD OF SUSPENSION.*—
12 *The 5-year period described in subsection (a)*
13 *shall not be extended more than 10 years by rea-*
14 *son of subparagraph (A).*

15 “(C) *QUALIFIED OFFICIAL EXTENDED*
16 *DUTY.*—*For purposes of this paragraph—*

17 “(i) *IN GENERAL.*—*The term ‘qualified*
18 *official extended duty’ means any extended*
19 *duty while serving at a duty station which*
20 *is at least 50 miles from such property or*
21 *while residing under Government orders in*
22 *Government quarters.*

23 “(ii) *UNIFORMED SERVICES.*—*The*
24 *term ‘uniformed services’ has the meaning*
25 *given such term by section 101(a)(5) of title*

1 10, *United States Code*, as in effect on the
2 date of the enactment of this paragraph.

3 “(iii) *FOREIGN SERVICE OF THE*
4 *UNITED STATES.*—The term ‘member of the
5 *Foreign Service of the United States*’ has
6 the meaning given the term ‘member of the
7 *Service*’ by paragraph (1), (2), (3), (4), or
8 (5) of section 103 of the *Foreign Service Act*
9 of 1980, as in effect on the date of the enact-
10 ment of this paragraph.

11 “(iv) *EXTENDED DUTY.*—The term ‘ex-
12 tended duty’ means any period of active
13 duty pursuant to a call or order to such
14 duty for a period in excess of 90 days or for
15 an indefinite period.

16 “(D) *SPECIAL RULES RELATING TO ELEC-*
17 *TION.*—

18 “(i) *ELECTION LIMITED TO 1 PROP-*
19 *ERTY AT A TIME.*—An election under sub-
20 paragraph (A) with respect to any property
21 may not be made if such an election is in
22 effect with respect to any other property.

23 “(ii) *REVOCATION OF ELECTION.*—An
24 election under subparagraph (A) may be re-
25 voked at any time.”

1 (b) *EFFECTIVE DATE; SPECIAL RULE.*—

2 (1) *EFFECTIVE DATE.*—*The amendments made*
3 *by this section shall take effect as if included in the*
4 *amendments made by section 312 of the Taxpayer Re-*
5 *lief Act of 1997.*

6 (2) *WAIVER OF LIMITATIONS.*—*If refund or cred-*
7 *it of any overpayment of tax resulting from the*
8 *amendments made by this section is prevented at any*
9 *time before the close of the 1-year period beginning on*
10 *the date of the enactment of this Act by the operation*
11 *of any law or rule of law (including res judicata),*
12 *such refund or credit may nevertheless be made or al-*
13 *lowed if claim therefor is filed before the close of such*
14 *period.*

15 **SEC. 902. EXCLUSION FROM GROSS INCOME OF CERTAIN**
16 **DEATH GRATUITY PAYMENTS.**

17 (a) *IN GENERAL.*—*Subsection (b)(3) of section 134 (re-*
18 *lating to certain military benefits) is amended by adding*
19 *at the end the following new subparagraph:*

20 “(C) *EXCEPTION FOR DEATH GRATUITY AD-*
21 *JUSTMENTS MADE BY LAW.*—*Subparagraph (A)*
22 *shall not apply to any adjustment to the amount*
23 *of death gratuity payable under chapter 75 of*
24 *title 10, United States Code, which is pursuant*

1 to a provision of law enacted after September 9,
2 1986.”.

3 (b) *CONFORMING AMENDMENT.*—Subparagraph (A) of
4 section 134(b)(3) is amended by striking “subparagraph
5 (B)” and inserting “subparagraphs (B) and (C)”.

6 (c) *EFFECTIVE DATE.*—The amendments made by this
7 section shall apply with respect to deaths occurring after
8 September 10, 2001.

9 **SEC. 903. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**
10 **PARTMENT OF DEFENSE HOMEOWNERS AS-**
11 **SISTANCE PROGRAM.**

12 (a) *IN GENERAL.*—Section 132(a) (relating to the ex-
13 clusion from gross income of certain fringe benefits) is
14 amended by striking “or” at the end of paragraph (6), by
15 striking the period at the end of paragraph (7) and insert-
16 ing “, or”, and by adding at the end the following new
17 paragraph:

18 “(8) qualified military base realignment and clo-
19 sure fringe.”.

20 (b) *QUALIFIED MILITARY BASE REALIGNMENT AND*
21 *CLOSURE FRINGE.*—Section 132 is amended by redesign-
22 ating subsection (n) as subsection (o) and by inserting
23 after subsection (m) the following new subsection:

24 “(n) *QUALIFIED MILITARY BASE REALIGNMENT AND*
25 *CLOSURE FRINGE.*—For purposes of this section—

1 *ignated by the Secretary of Defense as a contingency*
2 *operation (as defined in section 101(a)(13) of title 10,*
3 *United States Code) or which became such a contin-*
4 *gency operation by operation of law” after “section*
5 *112”,*

6 (2) *by inserting in the first sentence “or at any*
7 *time during the period of such contingency operation”*
8 *after “for purposes of such section”,*

9 (3) *by inserting “or operation” after “such an*
10 *area”, and*

11 (4) *by inserting “or operation” after “such*
12 *area”.*

13 (b) *CONFORMING AMENDMENTS.—*

14 (1) *Section 7508(d) is amended by inserting “or*
15 *contingency operation” after “area”.*

16 (2) *The heading for section 7508 is amended by*
17 *inserting “**OR CONTINGENCY OPERATION**” after*
18 *“**COMBAT ZONE**”.*

19 (3) *The item relating to section 7508 in the table*
20 *of sections for chapter 77 is amended by inserting “or*
21 *contingency operation” after “combat zone”.*

22 (c) *EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply to any period for performing an act*
24 *which has not expired before the date of the enactment of*
25 *this Act.*

1 **SEC. 905. MODIFICATION OF MEMBERSHIP REQUIREMENT**
 2 **FOR EXEMPTION FROM TAX FOR CERTAIN**
 3 **VETERANS' ORGANIZATIONS.**

4 (a) *IN GENERAL.*—Subparagraph (B) of section
 5 501(c)(19) (relating to list of exempt organizations) is
 6 amended by striking “or widowers” and inserting “, wid-
 7 owers, ancestors, or lineal descendants”.

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

11 **SEC. 906. CLARIFICATION OF THE TREATMENT OF CERTAIN**
 12 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

13 (a) *IN GENERAL.*—Section 134(b) (defining qualified
 14 military benefit) is amended by adding at the end the fol-
 15 lowing new paragraph:

16 “(4) *CLARIFICATION OF CERTAIN BENEFITS.*—
 17 For purposes of paragraph (1), such term includes
 18 any dependent care assistance program (as in effect
 19 on the date of the enactment of this paragraph) for
 20 any individual described in paragraph (1)(A).”.

21 (b) *CONFORMING AMENDMENTS.*—

22 (1) Section 134(b)(3)(A), as amended by section
 23 102, is amended by inserting “and paragraph (4)”
 24 after “subparagraphs (B) and (C)”.

25 (2) Section 3121(a)(18) is amended by striking
 26 “or 129” and inserting “, 129, or 134(b)(4)”.

1 (3) Section 3306(b)(13) is amended by striking
2 “or 129” and inserting “, 129, or 134(b)(4)”.

3 (4) Section 3401(a)(18) is amended by striking
4 “or 129” and inserting “, 129, or 134(b)(4)”.

5 (c) *EFFECTIVE DATE.*—The amendments made by this
6 section shall apply to taxable years beginning after Decem-
7 ber 31, 2002.

8 (d) *NO INFERENCE.*—No inference may be drawn from
9 the amendments made by this section with respect to the
10 tax treatment of any amounts under the program described
11 in section 134(b)(4) of the Internal Revenue Code of 1986
12 (as added by this section) for any taxable year beginning
13 before January 1, 2003.

14 **SEC. 907. CLARIFICATION RELATING TO EXCEPTION FROM**
15 **ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS,**
16 **ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.**

19 (a) *IN GENERAL.*—Subparagraph (B) of section
20 530(d)(4) (relating to exceptions from additional tax for
21 distributions not used for educational purposes) is amended
22 by striking “or” at the end of clause (iii), by redesignating
23 clause (iv) as clause (v), and by inserting after clause (iii)
24 the following new clause:

1 “(iv) made on account of the attend-
2 ance of the designated beneficiary at the
3 United States Military Academy, the
4 United States Naval Academy, the United
5 States Air Force Academy, the United
6 States Coast Guard Academy, or the United
7 States Merchant Marine Academy, to the
8 extent that the amount of the payment or
9 distribution does not exceed the costs of ad-
10 vanced education (as defined by section
11 2005(e)(3) of title 10, United States Code,
12 as in effect on the date of the enactment of
13 this section) attributable to such attendance,
14 or”.

15 (b) *EFFECTIVE DATE.*—The amendments made by this
16 section shall apply to taxable years beginning after Decem-
17 ber 31, 2002.

18 **SEC. 908. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
19 **RORIST ORGANIZATIONS.**

20 (a) *IN GENERAL.*—Section 501 (relating to exemption
21 from tax on corporations, certain trusts, etc.) is amended
22 by redesignating subsection (p) as subsection (q) and by in-
23 serting after subsection (o) the following new subsection:

24 “(p) *SUSPENSION OF TAX-EXEMPT STATUS OF TER-*
25 *RORIST ORGANIZATIONS.*—

1 “(1) *IN GENERAL.*—*The exemption from tax*
2 *under subsection (a) with respect to any organization*
3 *described in paragraph (2), and the eligibility of any*
4 *organization described in paragraph (2) to apply for*
5 *recognition of exemption under subsection (a), shall*
6 *be suspended during the period described in para-*
7 *graph (3).*

8 “(2) *TERRORIST ORGANIZATIONS.*—*An organiza-*
9 *tion is described in this paragraph if such organiza-*
10 *tion is designated or otherwise individually*
11 *identified—*

12 “(A) *under section 212(a)(3)(B)(vi)(II) or*
13 *219 of the Immigration and Nationality Act as*
14 *a terrorist organization or foreign terrorist orga-*
15 *nization,*

16 “(B) *in or pursuant to an Executive order*
17 *which is related to terrorism and issued under*
18 *the authority of the International Emergency*
19 *Economic Powers Act or section 5 of the United*
20 *Nations Participation Act of 1945 for the pur-*
21 *pose of imposing on such organization an eco-*
22 *nomie or other sanction, or*

23 “(C) *in or pursuant to an Executive order*
24 *issued under the authority of any Federal law*
25 *if—*

1 “(i) the organization is designated or
2 otherwise individually identified in or pur-
3 suant to such Executive order as supporting
4 or engaging in terrorist activity (as defined
5 in section 212(a)(3)(B) of the Immigration
6 and Nationality Act) or supporting ter-
7 rorism (as defined in section 140(d)(2) of
8 the Foreign Relations Authorization Act,
9 Fiscal Years 1988 and 1989); and

10 “(ii) such Executive order refers to this
11 subsection.

12 “(3) PERIOD OF SUSPENSION.—With respect to
13 any organization described in paragraph (2), the pe-
14 riod of suspension—

15 “(A) begins on the later of—

16 “(i) the date of the first publication of
17 a designation or identification described in
18 paragraph (2) with respect to such organi-
19 zation, or

20 “(ii) the date of the enactment of this
21 subsection, and

22 “(B) ends on the first date that all designa-
23 tions and identifications described in paragraph
24 (2) with respect to such organization are re-
25 scinded pursuant to the law or Executive order

1 *under which such designation or identification*
2 *was made.*

3 “(4) *DENIAL OF DEDUCTION.*—*No deduction*
4 *shall be allowed under any provision of this title, in-*
5 *cluding sections 170, 545(b)(2), 556(b)(2), 642(c),*
6 *2055, 2106(a)(2), and 2522, with respect to any con-*
7 *tribution to an organization described in paragraph*
8 *(2) during the period described in paragraph (3).*

9 “(5) *DENIAL OF ADMINISTRATIVE OR JUDICIAL*
10 *CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-*
11 *TION.*—*Notwithstanding section 7428 or any other*
12 *provision of law, no organization or other person may*
13 *challenge a suspension under paragraph (1), a des-*
14 *ignation or identification described in paragraph (2),*
15 *the period of suspension described in paragraph (3),*
16 *or a denial of a deduction under paragraph (4) in*
17 *any administrative or judicial proceeding relating to*
18 *the Federal tax liability of such organization or other*
19 *person.*

20 “(6) *ERRONEOUS DESIGNATION.*—

21 “(A) *IN GENERAL.*—*If—*

22 “(i) *the tax exemption of any organi-*
23 *zation described in paragraph (2) is sus-*
24 *pending under paragraph (1),*

1 “(ii) each designation and identifica-
2 tion described in paragraph (2) which has
3 been made with respect to such organization
4 is determined to be erroneous pursuant to
5 the law or Executive order under which
6 such designation or identification was
7 made, and

8 “(iii) the erroneous designations and
9 identifications result in an overpayment of
10 income tax for any taxable year by such or-
11 ganization,

12 credit or refund (with interest) with respect to
13 such overpayment shall be made.

14 “(B) WAIVER OF LIMITATIONS.—If the cred-
15 it or refund of any overpayment of tax described
16 in subparagraph (A)(iii) is prevented at any
17 time by the operation of any law or rule of law
18 (including *res judicata*), such credit or refund
19 may nevertheless be allowed or made if the claim
20 therefor is filed before the close of the 1-year pe-
21 riod beginning on the date of the last determina-
22 tion described in subparagraph (A)(ii).

23 “(7) NOTICE OF SUSPENSIONS.—If the tax ex-
24 emption of any organization is suspended under this
25 subsection, the Internal Revenue Service shall update

1 *the listings of tax-exempt organizations and shall*
2 *publish appropriate notice to taxpayers of such sus-*
3 *pension and of the fact that contributions to such or-*
4 *ganization are not deductible during the period of*
5 *such suspension.”.*

6 *(b) EFFECTIVE DATE.—The amendments made by this*
7 *section shall apply to designations made before, on, or after*
8 *the date of the enactment of this Act.*

9 **SEC. 909. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
10 **TRAVEL EXPENSES OF NATIONAL GUARD AND**
11 **RESERVE MEMBERS.**

12 *(a) DEDUCTION ALLOWED.—Section 162 (relating to*
13 *certain trade or business expenses) is amended by redesign-*
14 *ating subsection (p) as subsection (q) and inserting after*
15 *subsection (o) the following new subsection:*

16 *“(p) TREATMENT OF EXPENSES OF MEMBERS OF RE-*
17 *SERVE COMPONENT OF ARMED FORCES OF THE UNITED*
18 *STATES.—For purposes of subsection (a)(2), in the case of*
19 *an individual who performs services as a member of a re-*
20 *serve component of the Armed Forces of the United States*
21 *at any time during the taxable year, such individual shall*
22 *be deemed to be away from home in the pursuit of a trade*
23 *or business for any period during which such individual*
24 *is away from home in connection with such service.”.*

1 (b) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*
2 *PAYER ELECTS TO ITEMIZE.*—Section 62(a)(2) (relating to
3 *certain trade and business deductions of employees*) is
4 *amended by adding at the end the following new subpara-*
5 *graph:*

6 “(E) *CERTAIN EXPENSES OF MEMBERS OF*
7 *RESERVE COMPONENTS OF THE ARMED FORCES*
8 *OF THE UNITED STATES.*—*The deductions al-*
9 *lowed by section 162 which consist of expenses,*
10 *determined at a rate not in excess of the rates for*
11 *travel expenses (including per diem in lieu of*
12 *subsistence) authorized for employees of agencies*
13 *under subchapter I of chapter 57 of title 5,*
14 *United States Code, paid or incurred by the tax-*
15 *payer in connection with the performance of*
16 *services by such taxpayer as a member of a re-*
17 *serve component of the Armed Forces of the*
18 *United States for any period during which such*
19 *individual is more than 100 miles away from*
20 *home in connection with such services.”.*

21 (c) *EFFECTIVE DATE.*—*The amendments made by this*
22 *section shall apply to amounts paid or incurred in taxable*
23 *years beginning after December 31, 2002.*

1 **SEC. 910. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF**
2 **SPACE SHUTTLE COLUMBIA HEROES.**

3 (a) *INCOME TAX RELIEF.*—

4 (1) *IN GENERAL.*—*Subsection (d) of section 692*
5 *(relating to income taxes of members of Armed Forces*
6 *and victims of certain terrorist attacks on death) is*
7 *amended by adding at the end the following new*
8 *paragraph:*

9 “(5) *RELIEF WITH RESPECT TO ASTRONAUTS.*—
10 *The provisions of this subsection shall apply to any*
11 *astronaut whose death occurs in the line of duty, ex-*
12 *cept that paragraph (3)(B) shall be applied by using*
13 *the date of the death of the astronaut rather than Sep-*
14 *tember 11, 2001.”.*

15 (2) *CONFORMING AMENDMENTS.*—

16 (A) *Section 5(b)(1) is amended by inserting*
17 *“, astronauts,” after “Forces”.*

18 (B) *Section 6013(f)(2)(B) is amended by*
19 *inserting “, astronauts,” after “Forces”.*

20 (3) *CLERICAL AMENDMENTS.*—

21 (A) *The heading of section 692 is amended*
22 *by inserting “, **ASTRONAUTS,**” after*
23 *“**FORCES**”.*

24 (B) *The item relating to section 692 in the*
25 *table of sections for part II of subchapter J of*

1 chapter 1 is amended by inserting “, astro-
2 nauts,” after “Forces”.

3 (4) *EFFECTIVE DATE.*—The amendments made
4 by this subsection shall apply with respect to any as-
5 tronaut whose death occurs after December 31, 2002.

6 (b) *DEATH BENEFIT RELIEF.*—

7 (1) *IN GENERAL.*—Subsection (i) of section 101
8 (relating to certain death benefits) is amended by
9 adding at the end the following new paragraph:

10 “(4) *RELIEF WITH RESPECT TO ASTRONAUTS.*—
11 The provisions of this subsection shall apply to any
12 astronaut whose death occurs in the line of duty.”.

13 (2) *CLERICAL AMENDMENT.*—The heading for
14 subsection (i) of section 101 is amended by inserting
15 “OR ASTRONAUTS” after “VICTIMS”.

16 (3) *EFFECTIVE DATE.*—The amendments made
17 by this subsection shall apply to amounts paid after
18 December 31, 2002, with respect to deaths occurring
19 after such date.

20 (c) *ESTATE TAX RELIEF.*—

21 (1) *IN GENERAL.*—Section 2201(b) (defining
22 qualified decedent) is amended by striking “and” at
23 the end of paragraph (1)(B), by striking the period
24 at the end of paragraph (2) and inserting “, and”,

1 *and by adding at the end the following new para-*
2 *graph:*

3 “(3) *any astronaut whose death occurs in the*
4 *line of duty.*”.

5 (2) *CLERICAL AMENDMENTS.—*

6 (A) *The heading of section 2201 is amended*
7 *by inserting “, DEATHS OF ASTRONAUTS,”*
8 *after “FORCES”.*

9 (B) *The item relating to section 2201 in the*
10 *table of sections for subchapter C of chapter 11*
11 *is amended by inserting “, deaths of astronauts,”*
12 *after “Forces”.*

13 (3) *EFFECTIVE DATE.—The amendments made*
14 *by this subsection shall apply to estates of decedents*
15 *dying after December 31, 2002.*

16 **TITLE X—SUNSET**

17 **SEC. 1001. SUNSET.**

18 (a) *IN GENERAL.—Except as otherwise provided, the*
19 *provisions of, and amendments made, by this Act shall not*
20 *apply to taxable years beginning after December 31, 2012,*
21 *and the Internal Revenue Code of 1986 shall be applied and*
22 *administered to such years as if such amendments had*
23 *never been enacted.*

1 *(b) EXCEPTIONS.—Subsection (a) shall not apply to*
2 *the following provisions of, and amendments made by, this*
3 *Act:*

4 *(1) Title I (other than section 107).*

5 *(2) Title III (other than section 362).*

Attest:

Secretary.

108TH CONGRESS
1ST SESSION

H. R. 2

AMENDMENT