

110TH CONGRESS
1ST SESSION

H. R. 4351

To amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2007

Mr. RANGEL introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “AMT Relief Act of 2007”.

6 (b) **REFERENCE.**—Except as otherwise expressly pro-
7 vided, whenever in this Act an amendment or repeal is
8 expressed in terms of an amendment to, or repeal of, a
9 section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the In-
 2 ternal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—INDIVIDUAL TAX RELIEF

Sec. 101. Extension of alternative minimum tax relief for nonrefundable personal credits.

Sec. 102. Extension of increased alternative minimum tax exemption amount.

Sec. 103. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

Sec. 104. Refundable child credit.

TITLE II—REVENUE PROVISIONS

Subtitle A—Nonqualified Deferred Compensation From Certain Tax Indifferent Parties

Sec. 201. Nonqualified deferred compensation from certain tax indifferent parties.

Subtitle B—Codification of Economic Substance Doctrine

Sec. 211. Codification of economic substance doctrine.

Sec. 212. Penalties for underpayments.

Subtitle C—Other Provisions

Sec. 221. Delay in application of worldwide allocation of interest.

Sec. 222. Modification of penalty for failure to file partnership returns.

Sec. 223. Penalty for failure to file S corporation returns.

Sec. 224. Increase in minimum penalty on failure to file a return of tax.

Sec. 225. Time for payment of corporate estimated taxes.

5 **TITLE I—INDIVIDUAL TAX** 6 **RELIEF**

7 **SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-** 8 **LIEF FOR NONREFUNDABLE PERSONAL** 9 **CREDITS.**

10 (a) IN GENERAL.—Paragraph (2) of section 26(a)
 11 (relating to special rule for taxable years 2000 through
 12 2006) is amended—

1 (1) by striking “or 2006” and inserting “2006,
2 or 2007”, and

3 (2) by striking “2006” in the heading thereof
4 and inserting “2007”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2006.

8 **SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MIN-**
9 **IMUM TAX EXEMPTION AMOUNT.**

10 (a) **IN GENERAL.**—Paragraph (1) of section 55(d)
11 (relating to exemption amount) is amended—

12 (1) by striking “(\$62,550 in the case of taxable
13 years beginning in 2006)” in subparagraph (A) and
14 inserting “(\$66,250 in the case of taxable years be-
15 ginning in 2007)”, and

16 (2) by striking “(\$42,500 in the case of taxable
17 years beginning in 2006)” in subparagraph (B) and
18 inserting “(\$44,350 in the case of taxable years be-
19 ginning in 2007)”.

20 (b) **EFFECTIVE DATE.**—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2006.

1 **SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT**
2 **AMOUNT FOR INDIVIDUALS WITH LONG-**
3 **TERM UNUSED CREDITS FOR PRIOR YEAR**
4 **MINIMUM TAX LIABILITY, ETC.**

5 (a) IN GENERAL.—Paragraph (2) of section 53(e) is
6 amended to read as follows:

7 “(2) AMT REFUNDABLE CREDIT AMOUNT.—
8 For purposes of paragraph (1), the term ‘AMT re-
9 fundable credit amount’ means, with respect to any
10 taxable year, the amount (not in excess of the long-
11 term unused minimum tax credit for such taxable
12 year) equal to the greater of—

13 “(A) 50 percent of the long-term unused
14 minimum tax credit for such taxable year, or

15 “(B) the amount (if any) of the AMT re-
16 fundable credit amount determined under this
17 paragraph for the taxpayer’s preceding taxable
18 year.”.

19 (b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
20 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
21 MENT OF INCENTIVE STOCK OPTIONS.—Section 53 is
22 amended by adding at the end the following new sub-
23 section:

24 “(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
25 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
26 MENT OF INCENTIVE STOCK OPTIONS.—

1 “(1) ABATEMENT.—Any underpayment of tax
2 outstanding on the date of the enactment of this
3 subsection which is attributable to the application of
4 section 56(b)(3) for any taxable year ending before
5 January 1, 2007 (and any interest or penalty with
6 respect to such underpayment which is outstanding
7 on such date of enactment), is hereby abated. No
8 credit shall be allowed under this section with re-
9 spect to any amount abated under this paragraph.

10 “(2) INCREASE IN CREDIT FOR CERTAIN INTER-
11 EST AND PENALTIES ALREADY PAID.—Any interest
12 or penalty paid before the date of the enactment of
13 this subsection which would (but for such payment)
14 have been abated under paragraph (1) shall be treat-
15 ed for purposes of this section as an amount of ad-
16 justed net minimum tax imposed for the taxable
17 year of the underpayment to which such interest or
18 penalty relates.”.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendments made by this section
22 shall apply to taxable years beginning after Decem-
23 ber 31, 2006.

24 (2) ABATEMENT.—Section 53(f)(1) of the In-
25 ternal Revenue Code of 1986, as added by sub-

1 section (b), shall take effect on the date of the en-
2 actment of this Act.

3 **SEC. 104. REFUNDABLE CHILD CREDIT.**

4 (a) MODIFICATION OF THRESHOLD AMOUNT.—
5 Clause (i) of section 24(d)(1)(B) is amended by inserting
6 “(\$8,500 in the case of taxable years beginning in 2008)”
7 after “\$10,000”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to taxable years beginning after
10 December 31, 2007.

11 **TITLE II—REVENUE PROVISIONS**
12 **Subtitle A—Nonqualified Deferred**
13 **Compensation From Certain**
14 **Tax Indifferent Parties**

15 **SEC. 201. NONQUALIFIED DEFERRED COMPENSATION**
16 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

17 (a) IN GENERAL.—Subpart B of part II of sub-
18 chapter E of chapter 1 (relating to taxable year for which
19 items of gross income included) is amended by inserting
20 after section 457 the following new section:

21 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**
22 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

23 “(a) IN GENERAL.—Any compensation which is de-
24 ferred under a nonqualified deferred compensation plan of
25 a nonqualified entity shall be taken into account for pur-

1 poses of this chapter when there is no substantial risk of
2 forfeiture of the rights to such compensation.

3 “(b) NONQUALIFIED ENTITY.—For purposes of this
4 section, the term ‘nonqualified entity’ means—

5 “(1) any foreign corporation unless substan-
6 tially all of its income is—

7 “(A) effectively connected with the conduct
8 of a trade or business in the United States, or

9 “(B) subject to a comprehensive foreign in-
10 come tax, and

11 “(2) any partnership unless substantially all of
12 its income is allocated to persons other than—

13 “(A) foreign persons with respect to whom
14 such income is not subject to a comprehensive
15 foreign income tax, and

16 “(B) organizations which are exempt from
17 tax under this title.

18 “(c) ASCERTAINABILITY OF AMOUNTS OF COM-
19 PENSATION.—

20 “(1) IN GENERAL.—If the amount of any com-
21 pensation is not ascertainable at the time that such
22 compensation is otherwise to be taken into account
23 under subsection (a)—

24 “(A) such amount shall be so taken into
25 account when ascertainable, and

1 “(B) the tax imposed under this chapter
2 for the taxable year in which such compensation
3 is taken into account under subparagraph (A)
4 shall be increased by the sum of—

5 “(i) the amount of interest determined
6 under paragraph (2), and

7 “(ii) an amount equal to 20 percent of
8 the amount of such compensation.

9 “(2) INTEREST.—For purposes of paragraph
10 (1)(B)(i), the interest determined under this para-
11 graph for any taxable year is the amount of interest
12 at the underpayment rate under section 6621 plus
13 1 percentage point on the underpayments that would
14 have occurred had the deferred compensation been
15 includible in gross income for the taxable year in
16 which first deferred or, if later, the first taxable year
17 in which such deferred compensation is not subject
18 to a substantial risk of forfeiture.

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

21 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

22 “(A) IN GENERAL.—The rights of a person
23 to compensation shall be treated as subject to
24 a substantial risk of forfeiture only if such per-
25 son’s rights to such compensation are condi-

1 tioned upon the future performance of substan-
2 tial services by any individual.

3 “(B) EXCEPTION FOR COMPENSATION
4 BASED ON GAIN RECOGNIZED ON AN INVEST-
5 MENT ASSET.—

6 “(i) IN GENERAL.—To the extent pro-
7 vided in regulations prescribed by the Sec-
8 retary, if compensation is determined solely
9 by reference to the amount of gain recog-
10 nized on the disposition of an investment
11 asset, such compensation shall be treated
12 as subject to a substantial risk of for-
13 feiture until the date of such disposition.

14 “(ii) INVESTMENT ASSET.—For pur-
15 poses of clause (i), the term ‘investment
16 asset’ means any single asset (other than
17 an investment fund or similar entity)—

18 “(I) acquired directly by an in-
19 vestment fund or similar entity,

20 “(II) with respect to which such
21 entity does not (nor does any person
22 related to such entity) participate in
23 the active management of such asset
24 (or if such asset is an interest in an

1 entity, in the active management of
2 the activities of such entity), and

3 “(III) substantially all of any
4 gain on the disposition of which (other
5 than such deferred compensation) is
6 allocated to investors in such entity.

7 “(iii) COORDINATION WITH SPECIAL
8 RULE FOR SHORT-TERM DEFERRALS OF
9 COMPENSATION.—Paragraph (3)(B) shall
10 not apply to any compensation to which
11 clause (i) applies.

12 “(2) COMPREHENSIVE FOREIGN INCOME TAX.—
13 The term ‘comprehensive foreign income tax’ means,
14 with respect to any foreign person, the income tax
15 of a foreign country if—

16 “(A) such person is eligible for the benefits
17 of a comprehensive income tax treaty between
18 such foreign country and the United States, or

19 “(B) such person demonstrates to the sat-
20 isfaction of the Secretary that such foreign
21 country has a comprehensive income tax.

22 Such term shall not include any tax unless such tax
23 includes rules for the deductibility of deferred com-
24 pensation which are similar to the rules of this title.

1 “(3) NONQUALIFIED DEFERRED COMPENSA-
2 TION PLAN.—

3 “(A) IN GENERAL.—The term ‘non-
4 qualified deferred compensation plan’ has the
5 meaning given such term under section
6 409A(d), except that such term shall include
7 any plan that provides a right to compensation
8 based on the appreciation in value of a specified
9 number of equity units of the service recipient.

10 “(B) EXCEPTION FOR SHORT-TERM DE-
11 FERRALS.—Compensation shall not be treated
12 as deferred for purposes of this section if the
13 service provider receives payment of such com-
14 pensation not later than 12 months after the
15 end of the taxable year of the service recipient
16 during which the right to the payment of such
17 compensation is no longer subject to a substan-
18 tial risk of forfeiture.

19 “(4) EXCEPTION FOR CERTAIN COMPENSATION
20 WITH RESPECT TO EFFECTIVELY CONNECTED IN-
21 COME.—In the case a foreign corporation with in-
22 come which is taxable under section 882, this section
23 shall not apply to compensation which, had such
24 compensation had been paid in cash on the date that
25 such compensation ceased to be subject to a sub-

1 stantial risk of forfeiture, would have been deduct-
2 ible by such foreign corporation against such income.

3 “(5) APPLICATION OF RULES.—Rules similar to
4 the rules of paragraphs (5) and (6) of section
5 409A(d) shall apply.

6 “(e) REGULATIONS.—The Secretary shall prescribe
7 such regulations as may be necessary or appropriate to
8 carry out the purposes of this section, including regula-
9 tions disregarding a substantial risk of forfeiture in cases
10 where necessary to carry out the purposes of this sec-
11 tion.”.

12 (b) CONFORMING AMENDMENT.—Section 26(b)(2) is
13 amended by striking “and” at the end of subparagraph
14 (S), by striking the period at the end of subparagraph (T)
15 and inserting “, and”, and by adding at the end the fol-
16 lowing new subparagraph:

17 “(U) section 457A(c)(1)(B) (relating to as-
18 certainty of amounts of compensation).”.

19 (c) CLERICAL AMENDMENT.—The table of sections
20 of subpart B of part II of subchapter E of chapter 1 is
21 amended by inserting after the item relating to section
22 457 the following new item:

 “Sec. 457A. Nonqualified deferred compensation from certain tax indifferent
 parties.”.

23 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to amounts deferred which
4 are attributable to services performed after Decem-
5 ber 31, 2007.

6 (2) APPLICATION TO EXISTING DEFERRALS.—
7 In the case of any amount deferred to which the
8 amendments made by this section do not apply solely
9 by reason of the fact that the amount is attributable
10 to services performed before January 1, 2008, to the
11 extent such amount is not includible in gross income
12 in a taxable year beginning before 2017, such
13 amounts shall be includible in gross income in the
14 later of—

15 (A) the last taxable year beginning before
16 2017, or

17 (B) the taxable year in which there is no
18 substantial risk of forfeiture of the rights to
19 such compensation (determined in the same
20 manner as determined for purposes of section
21 457A of the Internal Revenue Code of 1986, as
22 added by this section).

23 (3) ACCELERATED PAYMENTS.—No later than
24 60 days after the date of the enactment of this Act,
25 the Secretary shall issue guidance providing a lim-

1 ited period of time during which a nonqualified de-
2 ferred compensation arrangement attributable to
3 services performed on or before December 31, 2007,
4 may, without violating the requirements of section
5 409A(a) of the Internal Revenue Code of 1986, be
6 amended to conform the date of distribution to the
7 date the amounts are required to be included in in-
8 come.

9 (4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—

10 If the taxpayer is also a service recipient and main-
11 tains one or more nonqualified deferred compensa-
12 tion arrangements for its service providers under
13 which any amount is attributable to services per-
14 formed on or before December 31, 2007, the guid-
15 ance issued under paragraph (3) shall permit such
16 arrangements to be amended to conform the dates of
17 distribution under such arrangement to the date
18 amounts are required to be included in the income
19 of such taxpayer under this subsection.

20 (5) ACCELERATED PAYMENT NOT TREATED AS

21 MATERIAL MODIFICATION.—Any amendment to a
22 nonqualified deferred compensation arrangement
23 made pursuant to paragraph (3) or (4) shall not be
24 treated as a material modification of the arrange-

1 ment for purposes of section 409A of the Internal
2 Revenue Code of 1986.

3 **Subtitle B—Codification of**
4 **Economic Substance Doctrine**

5 **SEC. 211. CODIFICATION OF ECONOMIC SUBSTANCE DOC-**
6 **TRINE.**

7 (a) IN GENERAL.—Section 7701 is amended by re-
8 designating subsection (p) as subsection (q) and by insert-
9 ing after subsection (o) the following new subsection:

10 “(p) CLARIFICATION OF ECONOMIC SUBSTANCE
11 DOCTRINE.—

12 “(1) APPLICATION OF DOCTRINE.—In the case
13 of any transaction to which the economic substance
14 doctrine is relevant, such transaction shall be treated
15 as having economic substance only if—

16 “(A) the transaction changes in a mean-
17 ingful way (apart from Federal income tax ef-
18 fects) the taxpayer’s economic position, and

19 “(B) the taxpayer has a substantial pur-
20 pose (apart from Federal income tax effects)
21 for entering into such transaction.

22 “(2) SPECIAL RULE WHERE TAXPAYER RELIES
23 ON PROFIT POTENTIAL.—

24 “(A) IN GENERAL.—The potential for
25 profit of a transaction shall be taken into ac-

1 count in determining whether the requirements
2 of subparagraphs (A) and (B) of paragraph (1)
3 are met with respect to the transaction only if
4 the present value of the reasonably expected
5 pre-tax profit from the transaction is substan-
6 tial in relation to the present value of the ex-
7 pected net tax benefits that would be allowed if
8 the transaction were respected.

9 “(B) TREATMENT OF FEES AND FOREIGN
10 TAXES.—Fees and other transaction expenses
11 and foreign taxes shall be taken into account as
12 expenses in determining pre-tax profit under
13 subparagraph (A).

14 “(3) STATE AND LOCAL TAX BENEFITS.—For
15 purposes of paragraph (1), any State or local income
16 tax effect which is related to a Federal income tax
17 effect shall be treated in the same manner as a Fed-
18 eral income tax effect.

19 “(4) FINANCIAL ACCOUNTING BENEFITS.—For
20 purposes of paragraph (1)(B), achieving a financial
21 accounting benefit shall not be taken into account as
22 a purpose for entering into a transaction if such
23 transaction results in a Federal income tax benefit.

24 “(5) DEFINITIONS AND SPECIAL RULES.—For
25 purposes of this subsection—

1 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
2 The term ‘economic substance doctrine’ means
3 the common law doctrine under which tax bene-
4 fits under subtitle A with respect to a trans-
5 action are not allowable if the transaction does
6 not have economic substance or lacks a business
7 purpose.

8 “(B) EXCEPTION FOR PERSONAL TRANS-
9 ACTIONS OF INDIVIDUALS.—In the case of an
10 individual, paragraph (1) shall apply only to
11 transactions entered into in connection with a
12 trade or business or an activity engaged in for
13 the production of income.

14 “(C) OTHER COMMON LAW DOCTRINES
15 NOT AFFECTED.—Except as specifically pro-
16 vided in this subsection, the provisions of this
17 subsection shall not be construed as altering or
18 supplanting any other rule of law, and the re-
19 quirements of this subsection shall be construed
20 as being in addition to any such other rule of
21 law.

22 “(D) DETERMINATION OF APPLICATION OF
23 DOCTRINE NOT AFFECTED.—The determination
24 of whether the economic substance doctrine is
25 relevant to a transaction shall be made in the

1 same manner as if this subsection had never
2 been enacted.

3 “(6) REGULATIONS.—The Secretary shall pre-
4 scribe such regulations as may be necessary or ap-
5 propriate to carry out the purposes of this sub-
6 section. Such regulations may include exemptions
7 from the application of this subsection.”.

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

11 **SEC. 212. PENALTIES FOR UNDERPAYMENTS.**

12 (a) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE
13 TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

14 (1) IN GENERAL.—Subsection (b) of section
15 6662 is amended by inserting after paragraph (5)
16 the following new paragraph:

17 “(6) Any disallowance of claimed tax benefits
18 by reason of a transaction lacking economic sub-
19 stance (within the meaning of section 7701(p)) or
20 failing to meet the requirements of any similar rule
21 of law.”.

22 (2) INCREASED PENALTY FOR NONDISCLOSED
23 TRANSACTIONS.—Section 6662 is amended by add-
24 ing at the end the following new subsection:

1 “(i) INCREASE IN PENALTY IN CASE OF NONDIS-
2 CLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

3 “(1) IN GENERAL.—To the extent that a por-
4 tion of the underpayment to which this section ap-
5 plies is attributable to one or more nondisclosed non-
6 economic substance transactions, subsection (a) shall
7 be applied with respect to such portion by sub-
8 stituting ‘40 percent’ for ‘20 percent’.

9 “(2) NONDISCLOSED NONECONOMIC SUB-
10 STANCE TRANSACTIONS.—For purposes of this sub-
11 section, the term ‘nondisclosed noneconomic sub-
12 stance transaction’ means any portion of a trans-
13 action described in subsection (b)(6) with respect to
14 which the relevant facts affecting the tax treatment
15 are not adequately disclosed in the return nor in a
16 statement attached to the return.

17 “(3) SPECIAL RULE FOR AMENDED RE-
18 TURNS.—Except as provided in regulations, in no
19 event shall any amendment or supplement to a re-
20 turn of tax be taken into account for purposes of
21 this subsection if the amendment or supplement is
22 filed after the earlier of the date the taxpayer is first
23 contacted by the Secretary regarding the examina-
24 tion of the return or such other date as is specified
25 by the Secretary.”.

1 (3) CONFORMING AMENDMENT.—Subparagraph
2 (B) of section 6662A(e)(2) is amended—

3 (A) by striking “section 6662(h)” and in-
4 serting “subsection (h) or (i) of section 6662”,
5 and

6 (B) by striking “GROSS VALUATION
7 MISSTATEMENT PENALTY” in the heading and
8 inserting “CERTAIN INCREASED UNDER-
9 PAYMENT PENALTIES”.

10 (b) REASONABLE CAUSE EXCEPTION NOT APPLICA-
11 BLE TO NONECONOMIC SUBSTANCE TRANSACTIONS, TAX
12 SHELTERS, AND CERTAIN LARGE CORPORATIONS.—Sub-
13 section (c) of section 6664 is amended—

14 (1) by redesignating paragraphs (2) and (3) as
15 paragraphs (3) and (4), respectively,

16 (2) by striking “paragraph (2)” in paragraph
17 (4), as so redesignated, and inserting “paragraph
18 (3)”, and

19 (3) by inserting after paragraph (1) the fol-
20 lowing new paragraph:

21 “(2) EXCEPTION FOR NONECONOMIC SUB-
22 STANCE TRANSACTIONS, TAX SHELTERS, AND CER-
23 TAIN LARGE CORPORATIONS.—Paragraph (1) shall
24 not apply—

1 “(A) to any portion of an underpayment
2 which is attributable to one or more tax shelters
3 (as defined in section 6662(d)(2)(C)) or trans-
4 actions described in section 6662(b)(6), and

5 “(B) to any taxpayer if such taxpayer is a
6 specified large corporation (as defined in section
7 6662(d)(2)(D)(ii)).”.

8 (c) APPLICATION OF PENALTY FOR ERRONEOUS
9 CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUB-
10 STANCE TRANSACTIONS.—Section 6676 is amended by re-
11 designating subsection (c) as subsection (d) and inserting
12 after subsection (b) the following new subsection:

13 “(c) NONECONOMIC SUBSTANCE TRANSACTIONS
14 TREATED AS LACKING REASONABLE BASIS.—For pur-
15 poses of this section, any excessive amount which is attrib-
16 utable to any transaction described in section 6662(b)(6)
17 shall not be treated as having a reasonable basis.”.

18 (d) SPECIAL UNDERSTATEMENT REDUCTION RULE
19 FOR CERTAIN LARGE CORPORATIONS.—

20 (1) IN GENERAL.—Paragraph (2) of section
21 6662(d) is amended by adding at the end the fol-
22 lowing new subparagraph:

23 “(D) SPECIAL REDUCTION RULE FOR CER-
24 TAIN LARGE CORPORATIONS.—

1 “(i) IN GENERAL.—In the case of any
2 specified large corporation—

3 “(I) subparagraph (B) shall not
4 apply, and

5 “(II) the amount of the under-
6 statement under subparagraph (A)
7 shall be reduced by that portion of the
8 understatement which is attributable
9 to any item with respect to which the
10 taxpayer has a reasonable belief that
11 the tax treatment of such item by the
12 taxpayer is more likely than not the
13 proper tax treatment of such item.

14 “(ii) SPECIFIED LARGE CORPORA-
15 TION.—

16 “(I) IN GENERAL.—For purposes
17 of this subparagraph, the term ‘speci-
18 fied large corporation’ means any cor-
19 poration with gross receipts in excess
20 of \$100,000,000 for the taxable year
21 involved.

22 “(II) AGGREGATION RULE.—All
23 persons treated as a single employer
24 under section 52(a) shall be treated as

1 one person for purposes of subclause
2 (I).”.

3 (2) CONFORMING AMENDMENT.—Subparagraph
4 (C) of section 6662(d)(2) is amended by striking
5 “Subparagraph (B)” and inserting “Subparagraphs
6 (B) and (D)(i)(II)”.

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

10 **Subtitle C—Other Provisions**

11 **SEC. 221. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-** 12 **TION OF INTEREST.**

13 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-
14 tion 864(f) are each amended by striking “December 31,
15 2008” and inserting “December 31, 2017”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2008.

19 **SEC. 222. MODIFICATION OF PENALTY FOR FAILURE TO** 20 **FILE PARTNERSHIP RETURNS.**

21 (a) EXTENSION OF TIME LIMITATION.—Subsection
22 (a) of section 6698 (relating to general rule) is amended
23 by striking “5 months” and inserting “12 months”.

1 (b) INCREASE IN PENALTY AMOUNT.—Paragraph
2 (1) of section 6698(b) is amended by striking “\$50” and
3 inserting “\$100”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to returns required to be filed after
6 the date of the enactment of this Act.

7 **SEC. 223. PENALTY FOR FAILURE TO FILE S CORPORATION**
8 **RETURNS.**

9 (a) IN GENERAL.—Part I of subchapter B of chapter
10 68 (relating to assessable penalties) is amended by adding
11 at the end the following new section:

12 **“SEC. 6699A. FAILURE TO FILE S CORPORATION RETURN.**

13 “(a) GENERAL RULE.—In addition to the penalty im-
14 posed by section 7203 (relating to willful failure to file
15 return, supply information, or pay tax), if any S corpora-
16 tion required to file a return under section 6037 for any
17 taxable year—

18 “(1) fails to file such return at the time pre-
19 scribed therefor (determined with regard to any ex-
20 tension of time for filing), or

21 “(2) files a return which fails to show the infor-
22 mation required under section 6037,

23 such S corporation shall be liable for a penalty determined
24 under subsection (b) for each month (or fraction thereof)
25 during which such failure continues (but not to exceed 12

1 months), unless it is shown that such failure is due to rea-
2 sonable cause.

3 “(b) AMOUNT PER MONTH.—For purposes of sub-
4 section (a), the amount determined under this subsection
5 for any month is the product of—

6 “(1) \$100, multiplied by

7 “(2) the number of persons who were share-
8 holders in the S corporation during any part of the
9 taxable year.

10 “(c) ASSESSMENT OF PENALTY.—The penalty im-
11 posed by subsection (a) shall be assessed against the S
12 corporation.

13 “(d) DEFICIENCY PROCEDURES NOT TO APPLY.—
14 Subchapter B of chapter 63 (relating to deficiency proce-
15 dures for income, estate, gift, and certain excise taxes)
16 shall not apply in respect of the assessment or collection
17 of any penalty imposed by subsection (a).”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for part I of subchapter B of chapter 68 is amended by
20 adding at the end the following new item:

“Sec. 6699A. Failure to file S corporation return.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to returns required to be filed after
23 the date of the enactment of this Act.

1 **SEC. 224. INCREASE IN MINIMUM PENALTY ON FAILURE TO**
2 **FILE A RETURN OF TAX.**

3 (a) **IN GENERAL.**—Subsection (a) of section 6651 is
4 amended by striking “\$100” in the last sentence and in-
5 serting “\$150”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
7 this section shall apply to returns the due date for the
8 filing of which (including extensions) is after December
9 31, 2007.

10 **SEC. 225. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
11 **TAXES.**

12 The percentage under subparagraph (B) of section
13 401(1) of the Tax Increase Prevention and Reconciliation
14 Act of 2005 in effect on the date of the enactment of this
15 Act is increased by 52.5 percentage points.

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