

111TH CONGRESS
2^D SESSION

H. R. 4849

To amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, extend the Build America Bonds program, provide other infrastructure job creation tax incentives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2010

Mr. LEVIN (for himself, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. POMEROY, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. KIND, Mr. PASCRELL, Ms. BERKLEY, Mr. CROWLEY, Mr. VAN HOLLEN, Ms. SCHWARTZ, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. ETHERIDGE, Ms. LINDA T. SÁNCHEZ of California, and Mr. YARMUTH) 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 tax incentives for small business job creation, extend the Build America Bonds program, provide other infrastructure job creation tax incentives, and for other purposes.

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

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

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

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

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

Sec. 1. Short title; etc.

TITLE I—SMALL BUSINESS TAX INCENTIVES

Subtitle A—General Provisions

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

Subtitle B—Limitations and Reporting on Certain Penalties

Sec. 111. Limitation on penalty for failure to disclose certain information.
 Sec. 112. Annual reports on penalties and certain other enforcement actions.

Subtitle C—Other Provisions

Sec. 121. Nonrecourse small business investment company loans from the Small Business Administration treated as amounts at risk.
 Sec. 122. Increase in amount allowed as deduction for start-up expenditures.

TITLE II—INFRASTRUCTURE INCENTIVES

Sec. 201. Extension of Build America Bonds.
 Sec. 202. Exempt-facility bonds for sewage and water supply facilities.
 Sec. 203. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.
 Sec. 204. Elective payments in lieu of low-income housing credits.
 Sec. 205. Extension and additional allocations of recovery zone bond authority.
 Sec. 206. Allowance of new markets tax credit against alternative minimum tax.

TITLE III—REVENUE PROVISIONS

- Sec. 301. Limitation on treaty benefits for certain deductible payments.
- Sec. 302. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.
- Sec. 303. Repeal of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.
- Sec. 304. Information reporting for rental property expense payments.
- Sec. 305. Application of levy to payments to Federal vendors relating to property.
- Sec. 306. Application of continuous levy to employment tax liability of certain Federal contractors.
- Sec. 307. Required minimum 10-year term, etc., for grantor retained annuity trusts.
- Sec. 308. Increase in information return penalties.

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

3 **Subtitle A—General Provisions**

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

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

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

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

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

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

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

1 (1) by striking “after the date of the enactment
2 of this paragraph and before January 1, 2011” and
3 inserting “after February 17, 2009, and before
4 March 16, 2010”, and

5 (2) by striking “SPECIAL RULE FOR 2009 AND
6 2010” in the heading and inserting “SPECIAL 75
7 PERCENT EXCLUSION”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to stock acquired after March 15,
10 2010.

11 **Subtitle B—Limitations and** 12 **Reporting on Certain Penalties**

13 **SEC. 111. LIMITATION ON PENALTY FOR FAILURE TO DIS-** 14 **CLOSE CERTAIN INFORMATION.**

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

17 “(b) AMOUNT OF PENALTY.—

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

1 “(2) MAXIMUM PENALTY.—The amount of the
2 penalty under subsection (a) with respect to any re-
3 portable transaction for any taxable year shall not
4 exceed—

5 “(A) in the case of a listed transaction,
6 \$200,000 (\$100,000 in the case of a natural
7 person), or

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

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

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

19 **SEC. 112. ANNUAL REPORTS ON PENALTIES AND CERTAIN**
20 **OTHER ENFORCEMENT ACTIONS.**

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

1 assessed by the Internal Revenue Service during the pre-
2 ceding year under each of the following provisions of the
3 Internal Revenue Code of 1986:

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

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

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

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

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

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

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

23 (2) Any extension of the time for assessment of
24 tax enforced, or assessment of any amount under

1 such an extension, under paragraph (10) of section
2 6501(e) of the Internal Revenue Code of 1986.

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

6 **Subtitle C—Other Provisions**

7 **SEC. 121. NONRECOURSE SMALL BUSINESS INVESTMENT** 8 **COMPANY LOANS FROM THE SMALL BUSI-** 9 **NESS ADMINISTRATION TREATED AS** 10 **AMOUNTS AT RISK.**

11 (a) IN GENERAL.—Subparagraph (B) of section
12 465(b)(6) is amended to read as follows:

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

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

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

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

1 “(III) which is not convertible
2 debt.

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

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

10 “(II) is secured by real property
11 used in such activity, and

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

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

22 “(I) is borrowed by a small busi-
23 ness investment company (within the
24 meaning of section 301 of the Small

1 Business Investment Act of 1958),
2 and

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

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

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

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

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

16 **SEC. 122. INCREASE IN AMOUNT ALLOWED AS DEDUCTION**
17 **FOR START-UP EXPENDITURES.**

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

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

1 “(A) by substituting ‘\$20,000’ for
2 ‘\$5,000’, and

3 “(B) by substituting ‘\$75,000’ for
4 ‘\$50,000’.”.

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

8 **TITLE II—INFRASTRUCTURE**
9 **INCENTIVES**

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

11 (a) IN GENERAL.—Subparagraph (B) of section
12 54AA(d)(1) is amended by striking “January 1, 2011”
13 and inserting “July 1, 2013”.

14 (b) EXTENSION OF PAYMENTS TO ISSUERS.—

15 (1) IN GENERAL.—Subsection (a) of section
16 6431 is amended by striking “January 1, 2011” and
17 inserting “July 1, 2013”.

18 (2) CONFORMING AMENDMENTS.—Subsection
19 (g) of section 54AA is amended—

20 (A) by striking “January 1, 2011” and in-
21 serting “July 1, 2013”, and

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

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

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

5 “(1) IN GENERAL.—The Secretary”,

6 (2) by striking “35 percent” and inserting “the
 7 applicable percentage”, and

8 (3) by adding at the end the following new
 9 paragraph:

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

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

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

17 “(3) TREATMENT OF CURRENT REFUNDING
 18 BONDS.—

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

1 issued to refund a qualified build America bond
2 if—

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

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

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

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

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

1 **SEC. 202. EXEMPT-FACILITY BONDS FOR SEWAGE AND**
2 **WATER SUPPLY FACILITIES.**

3 (a) BONDS FOR WATER AND SEWAGE FACILITIES
4 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY
5 BONDS.—Paragraph (3) of section 146(g) is amended by
6 inserting “(4), (5),” after “(2),”.

7 (b) CONFORMING CHANGE.—Paragraphs (2) and
8 (3)(B) of section 146(k) are both amended by striking
9 “(4), (5), (6),” and inserting “(6)”.

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

13 **SEC. 203. EXTENSION OF EXEMPTION FROM ALTERNATIVE**
14 **MINIMUM TAX TREATMENT FOR CERTAIN**
15 **TAX-EXEMPT BONDS.**

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

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

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

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

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

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

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

6 **SEC. 204. ELECTIVE PAYMENTS IN LIEU OF LOW-INCOME**
7 **HOUSING CREDITS.**

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

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

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

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

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

1 “(b) QUALIFIED BOND-FINANCED LOW-INCOME
2 BUILDING.—For purposes of this section, the term ‘quali-
3 fied bond-financed low-income building’ means any quali-
4 fied low-income building to which paragraph (1) of section
5 42(h) does not apply by reason of paragraph (4)(B) of
6 such section.

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

11 “(d) SPECIAL RULES FOR CERTAIN NON-TAX-
12 PAYERS.—

13 “(1) DENIAL OF PAYMENT.—Subsection (a)
14 shall not apply with respect to any building placed
15 in service by—

16 “(A) any governmental entity, or

17 “(B) any organization described in section
18 501(c) or 401(a) and exempt from tax under
19 section 501(a).

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

1 “(A) the election under subsection (a) may
2 be made only by such partnership or S corpora-
3 tion,

4 “(B) such partnership or S corporation
5 shall be treated as making the payment referred
6 to in subsection (a) only to the extent of the
7 proportionate share of such partnership or S
8 corporation as is owned by persons who would
9 be treated as making such payment if the build-
10 ing were placed in service by such persons, and

11 “(C) the return required to be made by
12 such partnership or S corporation under section
13 6031 or 6037 (as the case may be) shall be
14 treated as a return of tax for purposes of sub-
15 section (a).

16 For purposes of subparagraph (B), rules similar to the
17 rules of section 168(h)(6) (other than subparagraph (F)
18 thereof) shall apply.

19 “(e) COORDINATION WITH LOW-INCOME HOUSING
20 CREDIT.—In the case of any property with respect to
21 which an election is made under this section, no credit
22 shall be determined under section 42 with respect to such
23 building for any taxable year.

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

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

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

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

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

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

23 (b) CONFORMING AMENDMENTS.—

24 (1) Subparagraph (A) of section 6211(b)(4)(A)
25 is amended by inserting “and subchapter C of chap-

1 ter 65 (including any payment treated as made
2 under such subchapter)” after “6431”.

3 (2) Subparagraph (B) of section 6425(c)(1) is
4 amended—

5 (A) by striking “the credits” and inserting

6 “the sum of—

7 “(i) the credits”,

8 (B) by striking the period at the end of

9 clause (i) thereof (as amended by this para-
10 graph) and inserting “, plus”, and

11 (C) by adding at the end the following new

12 clause:

13 “(ii) the credits allowed (and pay-

14 ments treated as made) under subchapter

15 C of chapter 65.”.

16 (3) Paragraph (3) of section 6654(f) is amend-
17 ed—

18 (A) by striking “the credits” and inserting

19 “the sum of—

20 “(A) the credits”,

21 (B) by striking the period at the end of

22 subparagraph (A) thereof (as amended by this
23 paragraph) and inserting “, and”, and

24 (C) by adding at the end the following new

25 subparagraph:

1 “(B) the credits allowed (and payments
2 treated as made) under subchapter C of chapter
3 65.”.

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

6 (A) by striking “the credits” and inserting
7 “the sum of—

8 “(i) the credits”,

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

12 (C) by adding at the end the following new
13 clause:

14 “(ii) the credits allowed (and pay-
15 ments treated as made) under subchapter
16 C of chapter 65.”.

17 (5) Paragraph (2) of section 1324(b) of title
18 31, United States Code, is amended by inserting “,
19 or from the provisions of subchapter C of chapter 65
20 of such Code” before the period at the end.

21 (6) The table of subchapters for chapter 65 is
22 amended by adding at the end the following new
23 item:

SUBCHAPTER C. DIRECT PAYMENT PROVISIONS.

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

4 **SEC. 205. EXTENSION AND ADDITIONAL ALLOCATIONS OF**
5 **RECOVERY ZONE BOND AUTHORITY.**

6 (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-
7 ITY.—Section 1400U–2(b)(1) and section 1400U–
8 3(b)(1)(B) are each amended by striking “January 1,
9 2011” and inserting “January 1, 2012”.

10 (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE
11 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section
12 1400U–1 is amended by adding at the end the following
13 new subsection:

14 “(c) ALLOCATION OF 2010 RECOVERY ZONE BOND
15 LIMITATIONS BASED ON UNEMPLOYMENT.—

16 “(1) IN GENERAL.—The Secretary shall allo-
17 cate the 2010 national recovery zone economic devel-
18 opment bond limitation and the 2010 national recov-
19 ery zone facility bond limitation among the States in
20 the proportion that each such State’s 2009 unem-
21 ployment number bears to the aggregate of the 2009
22 unemployment numbers for all of the States.

23 “(2) MINIMUM ALLOCATION.—The Secretary
24 shall adjust the allocations under paragraph (1) for
25 each State to the extent necessary to ensure that no

1 State (prior to any reduction under paragraph (3))
2 receives less than 0.9 percent of the 2010 national
3 recovery zone economic development bond limitation
4 and 0.9 percent of the 2010 national recovery zone
5 facility bond limitation.

6 “(3) ALLOCATIONS BY STATES.—

7 “(A) IN GENERAL.—Each State with re-
8 spect to which an allocation is made under
9 paragraph (1) shall reallocate such allocation
10 among the counties and large municipalities (as
11 defined in subsection (a)(3)(B)) in such State
12 in the proportion that each such county’s or
13 municipality’s 2009 unemployment number
14 bears to the aggregate of the 2009 unemploy-
15 ment numbers for all the counties and large
16 municipalities (as so defined) in such State.

17 “(B) 2010 ALLOCATION REDUCED BY
18 AMOUNT OF PREVIOUS ALLOCATION.—Each
19 State shall reduce (but not below zero)—

20 “(i) the amount of the 2010 national
21 recovery zone economic development bond
22 limitation allocated to each county or large
23 municipality (as so defined) in such State
24 by the amount of the national recovery
25 zone economic development bond limitation

1 allocated to such county or large municipi-
2 pality under subsection (a)(3)(A) (deter-
3 mined without regard to any waiver there-
4 of), and

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

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

22 “(D) SPECIAL RULE FOR A MUNICIPALITY
23 IN A COUNTY.—In the case of any large municipi-
24 pality any portion of which is in a county, such

1 portion shall be treated as part of such municipi-
2 pality and not part of such county.

3 “(4) 2009 UNEMPLOYMENT NUMBER.—For
4 purposes of this subsection, the term ‘2009 unem-
5 ployment number’ means, with respect to any State,
6 county or municipality, the number of individuals in
7 such State, county, or municipality who were deter-
8 mined to be unemployed by the Bureau of Labor
9 Statistics for December 2009.

10 “(5) 2010 NATIONAL LIMITATIONS.—

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

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

1 (c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009
2 ALLOCATIONS.—Subparagraph (A) of section 1400U—
3 1(a)(3) is amended by adding at the end the following:
4 “A State may by law treat a county or municipality as
5 waiving any portion of an allocation made under this sub-
6 paragraph if there is a reasonable expectation that such
7 allocation would not otherwise be used.”.

8 **SEC. 206. ALLOWANCE OF NEW MARKETS TAX CREDIT**
9 **AGAINST ALTERNATIVE MINIMUM TAX.**

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

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

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

1 **TITLE III—REVENUE**
2 **PROVISIONS**

3 **SEC. 301. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
4 **DEDUCTIBLE PAYMENTS.**

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

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

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

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

1 members of the same foreign controlled group of en-
2 tities.

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

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

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

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

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

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

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

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

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

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

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to payments made after the date
24 of the enactment of this Act.

1 **SEC. 302. TREATMENT OF SECURITIES OF A CONTROLLED**
2 **CORPORATION EXCHANGED FOR ASSETS IN**
3 **CERTAIN REORGANIZATIONS.**

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

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

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

18 “(2) the first sentence of subsection (b)(3) shall
19 apply only to the extent that the sum of the money
20 and the fair market value of the other property
21 transferred to such creditors does not exceed the ad-
22 justed bases of such assets transferred (reduced by
23 the amount of the liabilities assumed (within the
24 meaning of section 357(c)).”.

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

1 (c) EFFECTIVE DATE.—

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

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

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

12 (B) described in a ruling request submitted
13 to the Internal Revenue Service on or before
14 such date, or

15 (C) described on or before such date in a
16 public announcement or in a filing with the Se-
17 curities and Exchange Commission.

18 **SEC. 303. REPEAL OF SPECIAL RULES FOR INTEREST AND**
19 **DIVIDENDS RECEIVED FROM PERSONS MEET-**
20 **ING THE 80-PERCENT FOREIGN BUSINESS RE-**
21 **QUIREMENTS.**

22 (a) REPEAL OF SPECIAL RULE TREATING INTEREST
23 AS UNITED STATES SOURCE.—Paragraph (1) of section
24 861(a) is amended by striking subparagraph (A) and by

1 redesignating subparagraphs (B) and (C) as subpara-
2 graphs (A) and (B), respectively.

3 (b) REPEAL OF EXCEPTION TO TAX ON DIVIDENDS
4 RECEIVED BY NONRESIDENT ALIENS.—Paragraph (2) of
5 section 871(i) is amended by striking subparagraph (B)
6 and by redesignating subparagraphs (C) and (D) as sub-
7 paragraphs (B) and (C), respectively.

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 861 is amended by striking sub-
10 section (c) and by redesignating subsections (d), (e),
11 and (f) as subsections (c), (d), and (e), respectively.

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

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

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

24 (d) EFFECTIVE DATE.—

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

5 (2) GRANDFATHER RULE FOR OUTSTANDING
6 DEBT OBLIGATIONS.—

7 (A) IN GENERAL.—The amendments made
8 by this section shall not apply to payments of
9 interest on obligations issued before the date of
10 the enactment of this Act.

11 (B) EXCEPTION FOR RELATED PARTY
12 DEBT.—Subparagraph (A) shall not apply to
13 any interest which is payable to a related per-
14 son (determined under rules similar to the rules
15 of section 954(d)(3)).

16 (C) SIGNIFICANT MODIFICATIONS TREAT-
17 ED AS NEW ISSUES.—For purposes of subpara-
18 graph (A), a significant modification of the
19 terms of any obligation (including any extension
20 of the term of such obligation) shall be treated
21 as a new issue.

22 **SEC. 304. INFORMATION REPORTING FOR RENTAL PROP-**
23 **ERTY EXPENSE PAYMENTS.**

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

1 “(h) TREATMENT OF RENTAL PROPERTY EXPENSE
2 PAYMENTS.—

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

8 “(2) QUALIFIED RESIDENCE.—For purposes of
9 paragraph (1), the term ‘qualified residence’
10 means—

11 “(A) the principal residence (within the
12 meaning of section 121) of the taxpayer, and

13 “(B) 1 other residence of the taxpayer
14 which is selected by the taxpayer for purposes
15 of this subsection for the taxable year and
16 which is used by the taxpayer as a residence
17 (within the meaning of section 280A(d)(1)).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to payments made after December
20 31, 2010.

21 **SEC. 305. APPLICATION OF LEVY TO PAYMENTS TO FED-**
22 **ERAL VENDORS RELATING TO PROPERTY.**

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

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

4 **SEC. 306. APPLICATION OF CONTINUOUS LEVY TO EMPLOY-**
5 **MENT TAX LIABILITY OF CERTAIN FEDERAL**
6 **CONTRACTORS.**

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

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to levies issued after December 31,
15 2010.

16 **SEC. 307. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
17 **GRANTOR RETAINED ANNUITY TRUSTS.**

18 (a) IN GENERAL.—Subsection (b) of section 2702 is
19 amended—

20 (1) by redesignating paragraphs (1), (2) and
21 (3) as subparagraphs (A), (B), and (C), respectively,
22 and by moving such subparagraphs (as so redesign-
23 nated) 2 ems to the right,

24 (2) by striking “For purposes of” and inserting
25 the following:

1 “(1) IN GENERAL.—For purposes of”, and
2 (3) by striking “paragraph (1) or (2)” in para-
3 graph (1)(C) (as so redesignated) and inserting
4 “subparagraph (A) or (B)”, and
5 (4) by adding at the end the following new
6 paragraph:

7 “(2) ADDITIONAL REQUIREMENTS WITH RE-
8 SPECT TO GRANTOR RETAINED ANNUITIES.—For
9 purposes of subsection (a), in the case of an interest
10 described in paragraph (1)(A) (determined without
11 regard to this paragraph) which is retained by the
12 transferor, such interest shall be treated as de-
13 scribed in such paragraph only if—

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

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

21 “(C) the remainder interest has a value
22 greater than zero determined as of the time of
23 the transfer.”.

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

4 **SEC. 308. INCREASE IN INFORMATION RETURN PENALTIES.**

5 (a) FAILURE TO FILE CORRECT INFORMATION RE-
6 TURNS.—

7 (1) IN GENERAL.—Subsections (a)(1),
8 (b)(1)(A), and (b)(2)(A) of section 6721 are each
9 amended by striking “\$50” and inserting “\$100”.

10 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
11 sections (a)(1), (d)(1)(A), and (e)(3)(A) of section
12 6721 are each amended by striking “\$250,000” and
13 inserting “\$1,500,000”.

14 (b) REDUCTION WHERE CORRECTION WITHIN 30
15 DAYS.—

16 (1) IN GENERAL.—Subparagraph (A) of section
17 6721(b)(1) is amended by striking “\$15” and insert-
18 ing “\$30”.

19 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
20 sections (b)(1)(B) and (d)(1)(B) of section 6721 are
21 each amended by striking “\$75,000” and inserting
22 “\$250,000”.

23 (c) REDUCTION WHERE CORRECTION ON OR BE-
24 FORE AUGUST 1.—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 6721(b)(2) is amended by striking “\$30” and insert-
3 ing “\$60”.

4 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
5 sections (b)(2)(B) and (d)(1)(C) of section 6721 are
6 each amended by striking “\$150,000” and inserting
7 “\$500,000”.

8 (d) AGGREGATE ANNUAL LIMITATIONS FOR PER-
9 SONS WITH GROSS RECEIPTS OF NOT MORE THAN
10 \$5,000,000.—Paragraph (1) of section 6721(d) is amend-
11 ed—

12 (1) by striking “\$100,000” in subparagraph
13 (A) and inserting “\$500,000”,

14 (2) by striking “\$25,000” in subparagraph (B)
15 and inserting “\$75,000”, and

16 (3) by striking “\$50,000” in subparagraph (C)
17 and inserting “\$200,000”.

18 (e) PENALTY IN CASE OF INTENTIONAL DIS-
19 REGARD.—Paragraph (2) of section 6721(e) is amended
20 by striking “\$100” and inserting “\$250”.

21 (f) ADJUSTMENT FOR INFLATION.—Section 6721 is
22 amended by adding at the end the following new sub-
23 section:

24 “(f) ADJUSTMENT FOR INFLATION.—

1 “(1) IN GENERAL.—For each fifth calendar
2 year beginning after 2012, each of the dollar
3 amounts under subsections (a), (b), (d) (other than
4 paragraph (2)(A) thereof), and (e) shall be increased
5 by such dollar amount multiplied by the cost-of-liv-
6 ing adjustment determined under section 1(f)(3) de-
7 termined by substituting ‘calendar year 2011’ for
8 ‘calendar year 1992’ in subparagraph (B) thereof.

9 “(2) ROUNDING.—If any amount adjusted
10 under paragraph (1)—

11 “(A) is not less than \$75,000 and is not
12 a multiple of \$500, such amount shall be
13 rounded to the next lowest multiple of \$500,
14 and

15 “(B) is not described in subparagraph (A)
16 and is not a multiple of \$10, such amount shall
17 be rounded to the next lowest multiple of \$10.”.

18 (g) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to information returns
20 required to be filed on or after January 1, 2011.

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