

103D CONGRESS
1ST SESSION

H. R. 3419

To simplify certain provisions of the Internal Revenue Code of 1986, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 1993

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

A BILL

To simplify certain provisions of the Internal Revenue Code
of 1986, 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 “Tax Simplification and Technical Corrections Act of
6 1993”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

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1 **TITLE I—PROVISIONS RELATING**
2 **TO INDIVIDUALS**

3 **Subtitle A—Provisions Relating to**
4 **Rollover of Gain on Sale of**
5 **Principal Residence**

6 **SEC. 101. MULTIPLE SALES WITHIN ROLLOVER PERIOD.**

7 (a) GENERAL RULE.—

8 (1) Section 1034 (relating to rollover of gain on
9 sale of principal residence) is amended by striking
10 subsection (d).

11 (2) Paragraph (4) of section 1034(c) is amend-
12 ed to read as follows:

13 “(4) If the taxpayer, during the period de-
14 scribed in subsection (a), purchases more than 1 res-
15 idence which is used by him as his principal resi-
16 dence at some time within 2 years after the date of
17 the sale of the old residence, only the first of such
18 residences so used by him after the date of such sale
19 shall constitute the new residence.”

1 (3) Subsections (h)(1) and (k) of section 1034
2 are each amended by striking “(other than the 2
3 years referred to in subsection (c)(4))”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to sales of old residences (within
6 the meaning of section 1034 of the Internal Revenue Code
7 of 1986) after the date of the enactment of this Act.

8 **SEC. 102. SPECIAL RULES IN CASE OF DIVORCE.**

9 (a) IN GENERAL.—Subsection (c) of section 1034 is
10 amended by adding at the end thereof the following new
11 paragraph:

12 “(5) If—

13 “(A) a residence is sold by an individual
14 pursuant to a divorce or marital separation,
15 and

16 “(B) the taxpayer used such residence as
17 his principal residence at any time during the
18 2-year period ending on the date of such sale,
19 for purposes of this section, such residence shall be
20 treated as the taxpayer’s principal residence at the
21 time of such sale.”

22 (b) EFFECTIVE DATES.—The amendment made by
23 subsection (a) shall apply to sales of old residences (within
24 the meaning of section 1034 of the Internal Revenue Code
25 of 1986) after the date of the enactment of this Act.

1 **Subtitle B—Other Provisions**

2 **SEC. 111. DE MINIMIS EXCEPTION TO PASSIVE LOSS RULES.**

3 (a) GENERAL RULE.—Section 469 (relating to pas-
4 sive activity losses and credits limited) is amended—

5 (1) by striking subsection (m),

6 (2) by redesignating subsection (l) as subsection
7 (m), and

8 (3) by inserting after subsection (k) the follow-
9 ing new subsection:

10 “(l) DE MINIMIS EXCEPTION.—

11 “(1) IN GENERAL.—In the case of a natural
12 person, subsection (a) shall not apply to the passive
13 activity loss for any taxable year if the amount of
14 such loss does not exceed \$200.

15 “(2) EXCEPTION FOR ITEMS ATTRIBUTABLE TO
16 PUBLICLY TRADED PARTNERSHIPS.—This subsection
17 shall not apply to items treated separately under
18 subsection (k) (and such items shall not be taken
19 into account in determining whether paragraph (1)
20 applies to the taxpayer for the taxable year with re-
21 spect to other items).

22 “(3) ESTATES ELIGIBLE.—For purposes of this
23 subsection, an estate shall be treated as a natural
24 person with respect to any taxable year ending less
25 than 2 years after the death of the decedent.

1 “(4) MARRIED INDIVIDUALS FILING SEPA-
2 RATELY.—

3 “(A) IN GENERAL.—This subsection shall
4 not apply to a taxpayer who—

5 “(i) is a married individual filing a
6 separate return for the taxable year, and

7 “(ii) does not live apart from his
8 spouse at all times during such taxable
9 year.

10 “(B) LIMITATION.—Paragraph (1) shall be
11 applied by substituting ‘\$100’ for ‘\$200’ in the
12 case of a married individual who files a sepa-
13 rate return for the taxable year and to whom
14 this subsection applies after the application of
15 subparagraph (A).”

16 (b) CONFORMING AMENDMENTS.—

17 (1) Subparagraph (C) of section 56(b)(1) is
18 amended by striking clause (ii) and redesignating
19 the following clauses accordingly.

20 (2) Subsection (b) of section 58 is amended by
21 inserting “and” at the end of paragraph (1), by
22 striking paragraph (2), and by redesignating para-
23 graph (3) as paragraph (2).

24 (3) Paragraph (4) of section 163(d) is amended
25 by striking subparagraph (E).

1 (4) Subsection (d) of section 163 is amended by
2 striking paragraph (6).

3 (5) Subsection (h) of section 163 is amended by
4 striking paragraph (5).

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 1993.

8 **SEC. 112. PAYMENT OF TAX BY CREDIT CARD.**

9 (a) GENERAL RULE.—Section 6311 is amended to
10 read as follows:

11 **“SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR**
12 **OTHER MEANS.**

13 “(a) AUTHORITY TO RECEIVE.—It shall be lawful for
14 the Secretary to receive for internal revenue taxes (or in
15 payment for internal revenue stamps) checks, money or-
16 ders, or any other commercially acceptable means that the
17 Secretary deems appropriate, including payment by use of
18 credit cards or debit cards, to the extent and under the
19 conditions provided in regulations prescribed by the Sec-
20 retary.

21 “(b) ULTIMATE LIABILITY.—If a check, money
22 order, or other method of payment, including payment by
23 credit card or debit card, so received is not duly paid, or
24 is paid and subsequently charged back to the Secretary,
25 the person by whom such check, or money order, or other

1 method of payment has been tendered shall remain liable
2 for the payment of the tax or for the stamps, and for all
3 legal penalties and additions, to the same extent as if such
4 check, money order, or other method of payment had not
5 been tendered.

6 “(c) LIABILITY OF BANKS AND OTHERS.—If any cer-
7 tified, treasurer’s, or cashier’s check (or other guaranteed
8 draft), or any money order, or any other means of pay-
9 ment that has been guaranteed by a financial institution
10 (such as a credit card or debit card transaction which has
11 been guaranteed expressly by a financial institution) so
12 received is not duly paid, the United States shall, in addi-
13 tion to its right to exact payment from the party originally
14 indebted therefor, have a lien for—

15 “(1) the amount of such check (or draft) upon
16 all assets of the financial institution on which
17 drawn,

18 “(2) the amount of such money order upon all
19 the assets of the issuer thereof, or

20 “(3) the guaranteed amount of any other trans-
21 action upon all the assets of the institution making
22 such guarantee,

23 and such amount shall be paid out of such assets in pref-
24 erence to any other claims whatsoever against such finan-
25 cial institution, issuer, or guaranteeing institution, except

1 the necessary costs and expenses of administration and
2 the reimbursement of the United States for the amount
3 expended in the redemption of the circulating notes of
4 such financial institution.

5 “(d) PAYMENT BY OTHER MEANS.—

6 “(1) AUTHORITY TO PRESCRIBE REGULA-
7 TIONS.—The Secretary shall prescribe such regula-
8 tions as the Secretary deems necessary to receive
9 payment by commercially acceptable means, includ-
10 ing regulations that—

11 “(A) specify which methods of payment by
12 commercially acceptable means will be accept-
13 able,

14 “(B) specify when payment by such means
15 will be considered received,

16 “(C) identify types of nontax matters re-
17 lated to payment by such means that are to be
18 resolved by persons ultimately liable for pay-
19 ment and financial intermediaries, without the
20 involvement of the Secretary, and

21 “(D) ensure that tax matters will be re-
22 solved by the Secretary, without the involve-
23 ment of financial intermediaries.

24 “(2) AUTHORITY TO ENTER INTO CON-
25 TRACTS.—Notwithstanding section 3718(f) of title

1 31, United States Code, the Secretary is authorized
2 to enter into contracts to obtain services related to
3 receiving payment by other means where cost bene-
4 ficial to the Government and is further authorized to
5 pay any fees required by such contracts.

6 “(3) SPECIAL PROVISIONS FOR USE OF CREDIT
7 CARDS.—If use of credit cards is accepted as a
8 method of payment of taxes pursuant to subsection
9 (a)—

10 “(A) a payment of internal revenue taxes
11 (or a payment for internal revenue stamps) by
12 a person by use of a credit card shall not be
13 subject to section 161 of the Truth-in-Lending
14 Act (15 U.S.C. 1666), or to any similar provi-
15 sions of State law, if the error alleged by the
16 person is an error relating to the underlying tax
17 liability, rather than an error relating to the
18 credit card account such as a computational
19 error or numerical transposition in the credit
20 card transaction or an issue as to whether the
21 person authorized payment by use of the credit
22 card,

23 “(B) a payment of internal revenue taxes
24 (or a payment for internal revenue stamps)
25 shall not be subject to section 170 of the Truth-

1 in-Lending Act (15 U.S.C. 1666i), or to any
2 similar provisions of State law,

3 “(C) a payment of internal revenue taxes
4 (or a payment for internal revenue stamps) by
5 a person by use of a debit card shall not be
6 subject to section 908 of the Electronic Fund
7 Transfer Act (15 U.S.C. 1693f), or to any simi-
8 lar provisions of State law, if the error alleged
9 by the person is an error relating to the under-
10 lying tax liability, rather than an error relating
11 to the debit card account such as a computa-
12 tional error or numerical transposition in the
13 debit card transaction or an issue as to whether
14 the person authorized payment by use of the
15 debit card,

16 “(D) the term ‘creditor’ under section
17 103(f) of the Truth-in-Lending Act (15 U.S.C.
18 1602(f)) shall not include the Secretary with re-
19 spect to credit card transactions in payment of
20 internal revenue taxes (or payment for internal
21 revenue stamps), and

22 “(E) notwithstanding any other provision
23 of law to the contrary, in the case of payment
24 made by credit card or debit card transaction of
25 an amount owed to a person as the result of the

1 correction of an error under section 161 of the
2 Truth-in-Lending Act (15 U.S.C. 1666) or sec-
3 tion 908 of the Electronic Fund Transfer Act
4 (15 U.S.C. 1693f), the Secretary is authorized
5 to provide such amount to such person as a
6 credit to that person's credit card or debit card
7 account through the applicable credit card or
8 debit card system.

9 “(e) CONFIDENTIALITY OF INFORMATION.—

10 “(1) IN GENERAL.—Except as otherwise au-
11 thorized by this subsection, no person may use or
12 disclose any information relating to credit or debit
13 card transactions obtained pursuant to section
14 6103(k)(8) other than for purposes directly related
15 to the processing of such transactions, or the billing
16 or collection of amounts charged or debited pursuant
17 thereto.

18 “(2) EXCEPTIONS.—

19 “(A) Debit or credit card issuers or others
20 acting on behalf of such issuers may also use
21 and disclose such information for purposes di-
22 rectly related to servicing an issuer's accounts.

23 “(B) Debit or credit card issuers or others
24 directly involved in the processing of credit or
25 debit card transactions or the billing or collec-

1 tion of amounts charged or debited thereto may
2 also use and disclose such information for pur-
3 poses directly related to—

4 “(i) statistical risk and profitability
5 assessment;

6 “(ii) transferring receivables, ac-
7 counts, or interest therein;

8 “(iii) auditing the account informa-
9 tion;

10 “(iv) complying with Federal, State,
11 or local law; and

12 “(v) properly authorized civil, crimi-
13 nal, or regulatory investigation by Federal,
14 State, or local authorities.

15 “(3) PROCEDURES.—Use and disclosure of in-
16 formation under this paragraph shall be made only
17 to the extent authorized by written procedures pro-
18 mulgated by the Secretary.

19 “(4) CROSS REFERENCE.—

**“For provision providing for civil damages for vio-
 lation of paragraph (1), see section 7431.”**

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for subchapter B of chapter 64 is amended by striking
22 the item relating to section 6311 and inserting the follow-
23 ing:

 “Sec. 6311. Payment by check, money order, or other means.”

1 (c) AMENDMENTS TO SECTIONS 6103 AND 7431
2 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

3 (1) Subsection (k) of section 6103 (relating to
4 confidentiality and disclosure of returns and return
5 information) is amended by adding at the end there-
6 of the following new paragraph:

7 “(8) DISCLOSURE OF INFORMATION TO ADMIN-
8 ISTER SECTION 6311.—The Secretary may disclose
9 returns or return information to financial institu-
10 tions and others to the extent the Secretary deems
11 necessary for the administration of section 6311.
12 Disclosures of information for purposes other than
13 to accept payments by checks or money orders shall
14 be made only to the extent authorized by written
15 procedures promulgated by the Secretary.”

16 (2) Section 7431 (relating to civil damages for
17 unauthorized disclosure of returns and return infor-
18 mation) is amended by adding at the end thereof the
19 following new subsection:

20 “(g) SPECIAL RULE FOR INFORMATION OBTAINED
21 UNDER SECTION 6103(k)(8).—For purposes of this sec-
22 tion, any reference to section 6103 shall be treated as in-
23 cluding a reference to section 6311(e).”

1 “(II) for each such child, 15 per-
2 cent of the lesser of the amount de-
3 scribed in paragraph (4)(A)(ii)(I) or
4 the excess of the gross income of such
5 child over the amount so described,
6 and”.

7 (c) **MINIMUM TAX.**—Subparagraph (B) of section
8 59(j)(1) is amended by striking “\$1,000” and inserting
9 “twice the amount in effect for the taxable year under sec-
10 tion 63(c)(5)(A)”.

11 (d) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 1993.

14 **SEC. 114. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION**
15 **FOR INDIVIDUALS.**

16 (a) **GENERAL RULE.**—Section 904 (relating to limi-
17 tations on foreign tax credit) is amended by redesignating
18 subsection (j) as subsection (k) and by inserting after sub-
19 section (i) the following new subsection:

20 “(j) **SIMPLIFIED LIMITATION FOR CERTAIN INDIVID-**
21 **UALS.**—

22 “(1) **IN GENERAL.**—In the case of an individual
23 to whom this subsection applies for any taxable year,
24 the limitation of subsection (a) shall be the lesser
25 of—

1 “(A) 25 percent of such individual’s gross
2 income for the taxable year from sources with-
3 out the United States, or

4 “(B) the amount of the creditable foreign
5 taxes paid or accrued by the individual during
6 the taxable year (determined without regard to
7 subsection (c)).

8 No taxes paid or accrued by the individual during
9 such taxable year may be deemed paid or accrued in
10 any other taxable year under subsection (c).

11 “(2) INDIVIDUALS TO WHOM SUBSECTION AP-
12 PLIES.—This subsection shall apply to an individual
13 for any taxable year if—

14 “(A) the entire amount of such individual’s
15 gross income for the taxable year from sources
16 without the United States consists of qualified
17 passive income,

18 “(B) the amount of the creditable foreign
19 taxes paid or accrued by the individual during
20 the taxable year does not exceed \$200 (\$400 in
21 the case of a joint return), and

22 “(C) such individual elects to have this
23 subsection apply for the taxable year.

24 “(3) DEFINITIONS.—For purposes of this sub-
25 section—

1 “(A) QUALIFIED PASSIVE INCOME.—The
2 term ‘qualified passive income’ means any item
3 of gross income if—

4 “(i) such item of income is passive in-
5 come (as defined in subsection (d)(2)(A)
6 without regard to clause (iii) thereof), and

7 “(ii) such item of income is shown on
8 a payee statement furnished to the individ-
9 ual.

10 “(B) CREDITABLE FOREIGN TAXES.—The
11 term ‘creditable foreign taxes’ means any taxes
12 for which a credit is allowable under section
13 901; except that such term shall not include
14 any tax unless such tax is shown on a payee
15 statement furnished to such individual.

16 “(C) PAYEE STATEMENT.—The term
17 ‘payee statement’ has the meaning given to
18 such term by section 6724(d)(2).

19 “(D) ESTATES AND TRUSTS NOT ELIGI-
20 BLE.—This subsection shall not apply to any
21 estate or trust.”

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to taxable years beginning after
24 December 31, 1993.

1 **SEC. 115. TREATMENT OF PERSONAL TRANSACTIONS BY**
2 **INDIVIDUALS UNDER FOREIGN CURRENCY**
3 **RULES.**

4 (a) GENERAL RULE.—Subsection (e) of section 988
5 (relating to application to individuals) is amended to read
6 as follows:

7 “(e) APPLICATION TO INDIVIDUALS.—

8 “(1) IN GENERAL.—The preceding provisions of
9 this section shall not apply to any section 988 trans-
10 action entered into by an individual which is a per-
11 sonal transaction.

12 “(2) EXCLUSION FOR CERTAIN PERSONAL
13 TRANSACTIONS.—If—

14 “(A) nonfunctional currency is disposed of
15 by an individual in any transaction, and

16 “(B) such transaction is a personal trans-
17 action,

18 no gain shall be recognized for purposes of this sub-
19 title by reason of changes in exchange rates after
20 such currency was acquired by such individual and
21 before such disposition. The preceding sentence shall
22 not apply if the gain which would otherwise be rec-
23 ognized exceeds \$200.

24 “(3) PERSONAL TRANSACTIONS.—For purposes
25 of this subsection, the term ‘personal transaction’
26 means any transaction entered into by an individual,

1 except that such term shall not include any trans-
2 action to the extent that expenses properly allocable
3 to such transaction meet the requirements of section
4 162 or 212 (other than that part of section 212
5 dealing with expenses incurred in connection with
6 taxes).”

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1992.

10 **SEC. 116. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX**
11 **RETURNS.**

12 (a) GENERAL RULE.—The Secretary of the Treasury
13 or his delegate shall take such actions as may be appro-
14 priate to expand access to simplified individual income tax
15 returns and to otherwise simplify the individual income tax
16 returns, including—

17 (1) (if appropriate) allowing taxpayers who
18 itemize deductions to file their return on Form
19 1040A, and

20 (2) removing or raising the taxable income limi-
21 tations on taxpayers who may file Form 1040A.

22 (b) REPORT.—Not later than the date 1 year after
23 the date of the enactment of this Act, the Secretary of
24 the Treasury or his delegate shall submit a report to the
25 Committee on Ways and Means of the House of Rep-

1 representatives and the Committee on Finance of the Senate,
2 a report on his actions under subsection (a), together with
3 such recommendations as he may deem advisable.

4 **SEC. 117. TREATMENT OF CERTAIN REIMBURSED EX-**
5 **PENSES OF RURAL MAIL CARRIERS.**

6 (a) IN GENERAL.—Section 162 (relating to trade or
7 business expenses) is amended by redesignating subsection
8 (o) as subsection (p) and by inserting after subsection (n)
9 the following new subsection:

10 “(o) TREATMENT OF CERTAIN REIMBURSED EX-
11 PENSES OF RURAL MAIL CARRIERS.—

12 “(1) GENERAL RULE.—In the case of any em-
13 ployee of the United States Postal Service who per-
14 forms services involving the collection and delivery of
15 mail on a rural route and who receives qualified re-
16 imbursements for the expenses incurred by such em-
17 ployee for the use of a vehicle in performing such
18 services—

19 “(A) the amount allowable as a deduction
20 under this chapter for the use of a vehicle in
21 performing such services shall be equal to the
22 amount of such qualified reimbursements; and

23 “(B) such qualified reimbursements shall
24 be treated as paid under a reimbursement or
25 other expense allowance arrangement for pur-

1 poses of section 62(a)(2)(A) (and section 62(c)
2 shall not apply to such qualified reimburse-
3 ments).

4 “(2) DEFINITION OF QUALIFIED REIMBURSE-
5 MENTS.—For purposes of this subsection, the term
6 ‘qualified reimbursements’ means the amounts paid
7 by the United States Postal Service to employees as
8 an equipment maintenance allowance under the
9 1991 collective bargaining agreement between the
10 United States Postal Service and the National Rural
11 Letter Carriers’ Association. Amounts paid as an
12 equipment maintenance allowance by such Postal
13 Service under later collective bargaining agreements
14 that supersede the 1991 agreement shall be consid-
15 ered qualified reimbursements if such amounts do
16 not exceed the amounts that would have been paid
17 under the 1991 agreement, adjusted for changes in
18 the Consumer Price Index (as defined in section
19 1(f)(5)) since 1991.”

20 (b) TECHNICAL AMENDMENT.—Section 6008 of the
21 Technical and Miscellaneous Revenue Act of 1988 is here-
22 by repealed.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 1992.

1 **SEC. 118. EXCLUSION OF COMBAT PAY FROM WITHHOLD-**
2 **ING LIMITED TO AMOUNT EXCLUDABLE**
3 **FROM GROSS INCOME.**

4 (a) IN GENERAL.—Paragraph (1) of section 3401(a)
5 (defining wages) is amended by inserting before the semi-
6 colon the following: “to the extent remuneration for such
7 service is excludable from gross income under such
8 section”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to remuneration paid after
11 December 31, 1994.

12 **TITLE II—PENSION**
13 **SIMPLIFICATION**
14 **Subtitle A—Simplified Distribution**
15 **Rules**

16 **SEC. 201. REPEAL OF 5-YEAR INCOME AVERAGING FOR**
17 **LUMP-SUM DISTRIBUTIONS.**

18 (a) IN GENERAL.—Subsection (d) of section 402 (re-
19 lating to taxability of beneficiary of employees’ trust) is
20 amended to read as follows:

21 “(d) TAXABILITY OF BENEFICIARY OF CERTAIN
22 FOREIGN SITUS TRUSTS.—For purposes of subsections
23 (a), (b), and (c), a stock bonus, pension, or profit-sharing
24 trust which would qualify for exemption from tax under
25 section 501(a) except for the fact that it is a trust created
26 or organized outside the United States shall be treated

1 as if it were a trust exempt from tax under section
2 501(a).”

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subparagraph (D) of section 402(e)(4) (re-
5 lating to other rules applicable to exempt trusts) is
6 amended to read as follows:

7 “(D) LUMP-SUM DISTRIBUTION.—For pur-
8 poses of this paragraph—

9 “(i) IN GENERAL.—The term ‘lump
10 sum distribution’ means the distribution or
11 payment within one taxable year of the re-
12 cipient of the balance to the credit of an
13 employee which becomes payable to the re-
14 cipient—

15 “(I) on account of the employee’s
16 death,

17 “(II) after the employee attains
18 age 59½,

19 “(III) on account of the employ-
20 ee’s separation from service, or

21 “(IV) after the employee has be-
22 come disabled (within the meaning of
23 section 72(m)(7)),

24 from a trust which forms a part of a plan
25 described in section 401(a) and which is

1 exempt from tax under section 501 or from
2 a plan described in section 403(a).
3 Subclause (III) of this clause shall be ap-
4 plied only with respect to an individual
5 who is an employee without regard to sec-
6 tion 401(c)(1), and subclause (IV) shall be
7 applied only with respect to an employee
8 within the meaning of section 401(c)(1).
9 For purposes of this clause, a distribution
10 to two or more trusts shall be treated as
11 a distribution to one recipient. For pur-
12 poses of this paragraph, the balance to the
13 credit of the employee does not include the
14 accumulated deductible employee contribu-
15 tions under the plan (within the meaning
16 of section 72(o)(5)).

17 “(ii) AGGREGATION OF CERTAIN
18 TRUSTS AND PLANS.—For purposes of de-
19 termining the balance to the credit of an
20 employee under clause (i)—

21 “(I) all trusts which are part of
22 a plan shall be treated as a single
23 trust, all pension plans maintained by
24 the employer shall be treated as a sin-
25 gle plan, all profit-sharing plans main-

1 tained by the employer shall be treat-
2 ed as a single plan, and all stock
3 bonus plans maintained by the em-
4 ployer shall be treated as a single
5 plan, and

6 “(II) trusts which are not quali-
7 fied trusts under section 401(a) and
8 annuity contracts which do not satisfy
9 the requirements of section 404(a)(2)
10 shall not be taken into account.

11 “(iii) COMMUNITY PROPERTY LAWS.—
12 The provisions of this paragraph shall be
13 applied without regard to community prop-
14 erty laws.

15 “(iv) AMOUNTS SUBJECT TO PEN-
16 ALTY.—This paragraph shall not apply to
17 amounts described in subparagraph (A) of
18 section 72(m)(5) to the extent that section
19 72(m)(5) applies to such amounts.

20 “(v) BALANCE TO CREDIT OF EM-
21 PLOYEE NOT TO INCLUDE AMOUNTS PAY-
22 ABLE UNDER QUALIFIED DOMESTIC RELA-
23 TIONS ORDER.—For purposes of this para-
24 graph, the balance to the credit of an em-
25 ployee shall not include any amount pay-

1 able to an alternate payee under a quali-
2 fied domestic relations order (within the
3 meaning of section 414(p)).

4 “(vi) TRANSFERS TO COST-OF-LIVING
5 ARRANGEMENT NOT TREATED AS DIS-
6 TRIBUTION.—For purposes of this para-
7 graph, the balance to the credit of an em-
8 ployee under a defined contribution plan
9 shall not include any amount transferred
10 from such defined contribution plan to a
11 qualified cost-of-living arrangement (within
12 the meaning of section 415(k)(2)) under a
13 defined benefit plan.

14 “(vii) LUMP-SUM DISTRIBUTIONS OF
15 ALTERNATE PAYEES.—If any distribution
16 or payment of the balance to the credit of
17 an employee would be treated as a lump-
18 sum distribution, then, for purposes of this
19 paragraph, the payment under a qualified
20 domestic relations order (within the mean-
21 ing of section 414(p)) of the balance to the
22 credit of an alternate payee who is the
23 spouse or former spouse of the employee
24 shall be treated as a lump-sum distribu-
25 tion. For purposes of this clause, the bal-

1 ance to the credit of the alternate payee
2 shall not include any amount payable to
3 the employee.”

4 (2) Section 402(c) (relating to rules applicable
5 to rollovers from exempt trusts) is amended by strik-
6 ing paragraph (10).

7 (3) Paragraph (1) of section 55(c) (defining
8 regular tax) is amended by striking “shall not in-
9 clude any tax imposed by section 402(d) and”.

10 (4) Paragraph (8) of section 62(a) (relating to
11 certain portion of lump-sum distributions from pen-
12 sion plans taxed under section 402(d)) is hereby
13 repealed.

14 (5) Section 401(a)(28)(B) (relating to coordina-
15 tion with distribution rules) is amended by striking
16 clause (v).

17 (6) Subparagraph (B)(ii) of section 401(k)(10)
18 (relating to distributions that must be lump-sum dis-
19 tributions) is amended to read as follows:

20 “(ii) LUMP-SUM DISTRIBUTION.—For pur-
21 poses of this subparagraph, the term ‘lump-sum
22 distribution’ means any distribution of the bal-
23 ance to the credit of an employee immediately
24 before the distribution.”

1 (7) Section 406(c) (relating to termination of
2 status as deemed employee not to be treated as sep-
3 aration from service for purposes of limitation of
4 tax) is hereby repealed.

5 (8) Section 407(c) (relating to termination of
6 status as deemed employee not to be treated as sep-
7 aration from service for purposes of limitation of
8 tax) is hereby repealed.

9 (9) Section 691(c) (relating to deduction for es-
10 tate tax) is amended by striking paragraph (5).

11 (10) Paragraph (1) of section 871(b) (relating
12 to imposition of tax) is amended by striking “section
13 1, 55, or 402(d)(1)” and inserting “section 1 or
14 55”.

15 (11) Subsection (b) of section 877 (relating to
16 alternative tax) is amended by striking “section 1,
17 55, or 402(d)(1)” and inserting “section 1 or 55”.

18 (12) Section 4980A(c)(4) is amended—

19 (A) by striking “to which an election under
20 section 402(d)(4)(B) applies” and inserting
21 “(as defined in section 402(e)(4)(D)) with re-
22 spect to which the individual elects to have this
23 paragraph apply”,

24 (B) by adding at the end the following new
25 flush sentence:

1 “An individual may elect to have this paragraph
2 apply to only one lump-sum distribution.”, and

3 (C) by striking the heading and inserting:

4 “(4) SPECIAL ONE-TIME ELECTION.—”.

5 (13) Section 402(e) is amended by striking
6 paragraph (5).

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to taxable years beginning
10 after December 31, 1993.

11 (2) RETENTION OF CERTAIN TRANSITION
12 RULES.—Notwithstanding any other provision of
13 this section, the amendments made by this section
14 shall not apply to any distribution for which the tax-
15 payer elects the benefits of section 1122 (h)(3) or
16 (h)(5) of the Tax Reform Act of 1986. For purposes
17 of the preceding sentence, the rules of sections
18 402(c)(10) and 402(d) of the Internal Revenue Code
19 of 1986 (as in effect before the amendments made
20 by this Act) shall apply.

21 **SEC. 202. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES’**

22 **DEATH BENEFITS.**

23 (a) IN GENERAL.—Subsection (b) of section 101 is
24 hereby repealed.

1 (b) CONFORMING AMENDMENT.—Subsection (c) of
2 section 101 is amended by striking “subsection (a) or (b)”
3 and inserting “subsection (a)”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 1993.

7 **SEC. 203. SIMPLIFIED METHOD FOR TAXING ANNUITY DIS-**
8 **TRIBUTIONS UNDER CERTAIN EMPLOYER**
9 **PLANS.**

10 (a) GENERAL RULE.—Subsection (d) of section 72
11 (relating to annuities; certain proceeds of endowment and
12 life insurance contracts) is amended to read as follows:

13 “(d) SPECIAL RULES FOR QUALIFIED EMPLOYER
14 RETIREMENT PLANS.—

15 “(1) SIMPLIFIED METHOD OF TAXING ANNUITY
16 PAYMENTS.—

17 “(A) IN GENERAL.—In the case of any
18 amount received as an annuity under a quali-
19 fied employer retirement plan—

20 “(i) subsection (b) shall not apply,
21 and

22 “(ii) the investment in the contract
23 shall be recovered as provided in this para-
24 graph.

1 “(B) METHOD OF RECOVERING INVEST-
2 MENT IN CONTRACT.—

3 “(i) IN GENERAL.—Gross income
4 shall not include so much of any monthly
5 annuity payment under a qualified em-
6 ployer retirement plan as does not exceed
7 the amount obtained by dividing—

8 “(I) the investment in the con-
9 tract (as of the annuity starting date),
10 by

11 “(II) the number of anticipated
12 payments determined under the table
13 contained in clause (iii) (or, in the
14 case of a contract to which subsection
15 (c)(3)(B) applies, the number of
16 monthly annuity payments under such
17 contract).

18 “(ii) CERTAIN RULES MADE APPLICA-
19 BLE.—Rules similar to the rules of para-
20 graphs (2) and (3) of subsection (b) shall
21 apply for purposes of this paragraph.

22 “(iii) NUMBER OF ANTICIPATED PAY-
23 MENTS.—

“If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300

More than 55 but not more than 60 ...	260
More than 60 but not more than 65 ...	240
More than 65 but not more than 70 ...	170
More than 70	120

1 “(C) ADJUSTMENT FOR REFUND FEATURE
2 NOT APPLICABLE.—For purposes of this para-
3 graph, investment in the contract shall be de-
4 termined under subsection (c)(1) without re-
5 gard to subsection (c)(2).

6 “(D) SPECIAL RULE WHERE LUMP SUM
7 PAID IN CONNECTION WITH COMMENCEMENT
8 OF ANNUITY PAYMENTS.—If, in connection with
9 the commencement of annuity payments under
10 any qualified employer retirement plan, the tax-
11 payer receives a lump sum payment—

12 “(i) such payment shall be taxable
13 under subsection (e) as if received before
14 the annuity starting date, and

15 “(ii) the investment in the contract
16 for purposes of this paragraph shall be de-
17 termined as if such payment had been so
18 received.

19 “(E) EXCEPTION.—This paragraph shall
20 not apply in any case where the primary annu-
21 itant has attained age 75 on the annuity start-
22 ing date unless there are fewer than 5 years of
23 guaranteed payments under the annuity.

1 “(F) ADJUSTMENT WHERE ANNUITY PAY-
2 MENTS NOT ON MONTHLY BASIS.—In any case
3 where the annuity payments are not made on a
4 monthly basis, appropriate adjustments in the
5 application of this paragraph shall be made to
6 take into account the period on the basis of
7 which such payments are made.

8 “(G) QUALIFIED EMPLOYER RETIREMENT
9 PLAN.—For purposes of this paragraph, the
10 term ‘qualified employer retirement plan’ means
11 any plan or contract described in paragraph
12 (1), (2), or (3) of section 4974(c).

13 “(2) TREATMENT OF EMPLOYEE CONTRIBU-
14 TIONS UNDER DEFINED CONTRIBUTION PLANS.—
15 For purposes of this section, employee contributions
16 (and any income allocable thereto) under a defined
17 contribution plan may be treated as a separate con-
18 tract.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply in cases where the annuity start-
21 ing date is after December 31, 1993.

22 **SEC. 204. REQUIRED DISTRIBUTIONS.**

23 (a) IN GENERAL.—Section 401(a)(9)(C) (defining re-
24 quired beginning date) is amended to read as follows:

1 “(C) REQUIRED BEGINNING DATE.—For
2 purposes of this paragraph—

3 “(i) IN GENERAL.—The term ‘re-
4 quired beginning date’ means April 1 of
5 the calendar year following the later of—

6 “(I) the calendar year in which
7 the employee attains age 70½, or

8 “(II) the calendar year in which
9 the employee retires.

10 “(ii) EXCEPTION.—Subclause (II) of
11 clause (i) shall not apply—

12 “(I) except as provided in section
13 409(d), in the case of an employee
14 who is a 5-percent owner (as defined
15 in section 416) with respect to the
16 plan year ending in the calendar year
17 in which the employee attains age
18 70½, or

19 “(II) for purposes of section 408
20 (a)(6) or (b)(3).

21 “(iii) ACTUARIAL ADJUSTMENT.—In
22 the case of an employee to whom clause
23 (i)(II) applies who retires in a calendar
24 year after the calendar year in which the
25 employee attains age 70½, the employee’s

1 accrued benefit shall be actuarially in-
2 creased to take into account the period
3 after age 70½ in which the employee was
4 not receiving any benefits under the plan.

5 “(iv) EXCEPTION FOR GOVERN-
6 MENTAL AND CHURCH PLANS.—Clauses
7 (ii) and (iii) shall not apply in the case of
8 a governmental plan or church plan. For
9 purposes of this clause, the term ‘church
10 plan’ means a plan maintained by a church
11 for church employees, and the term
12 ‘church’ means any church (as defined in
13 section 3121(w)(3)(A)) or qualified church-
14 controlled organization (as defined in sec-
15 tion 3121(w)(3)(B)).”

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to years beginning after Decem-
18 ber 31, 1993.

19 **Subtitle B—Increased Access to** 20 **Pension Plans**

21 **SEC. 211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PEN-** 22 **SIONS.**

23 (a) INCREASE IN NUMBER OF ALLOWABLE PARTICI-
24 PANTS FOR SALARY REDUCTION ARRANGEMENTS.—Sec-
25 tion 408(k)(6)(B) is amended by striking “25” each place

1 it appears in the text and heading thereof and inserting
2 “100”.

3 (b) REPEAL OF PARTICIPATION REQUIREMENT.—
4 Section 408(k)(6)(A) is amended by striking clause (ii)
5 and by redesignating clauses (iii) and (iv) as clauses (ii)
6 and (iii), respectively.

7 (c) CONFORMING AMENDMENTS.—Clause (ii) of sec-
8 tion 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F)
9 are each amended by striking “subparagraph (A)(iii)” and
10 inserting “subparagraph (A)(ii)”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to years beginning after December
13 31, 1993.

14 **SEC. 212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER**
15 **SECTION 401(k).**

16 (a) GENERAL RULE.—Subparagraph (B) of section
17 401(k)(4) is amended to read as follows:

18 “(B) STATE AND LOCAL GOVERNMENTS
19 NOT ELIGIBLE.—A cash or deferred arrange-
20 ment shall not be treated as a qualified cash or
21 deferred arrangement if it is part of a plan
22 maintained by a State or local government or
23 political subdivision thereof, or any agency or
24 instrumentality thereof. This subparagraph
25 shall not apply to a rural cooperative plan.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 1993, but shall not apply to any cash or de-
4 ferred arrangement to which clause (i) of section
5 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

6 **SEC. 213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE**
7 **PLANS.**

8 (a) IN GENERAL.—The Secretary of the Treasury
9 may, as a condition of sponsorship, prescribe rules defin-
10 ing the duties and responsibilities of sponsors of master
11 and prototype plans, regional prototype plans, and other
12 Internal Revenue Service preapproved plans.

13 (b) DUTIES RELATING TO PLAN AMENDMENT, NOTI-
14 FICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—
15 The duties and responsibilities referred to in subsection
16 (a) may include—

17 (1) the maintenance of lists of persons adopting
18 the sponsor's plans, including the updating of such
19 lists not less frequently than annually,

20 (2) the furnishing of notices at least annually
21 to such persons and to the Secretary or his delegate,
22 in such form and at such time as the Secretary shall
23 prescribe,

24 (3) duties relating to administrative services to
25 such persons in the operation of their plans, and

1 (4) other duties that the Secretary considers
2 necessary to ensure that—

3 (A) the master and prototype, regional
4 prototype, and other preapproved plans of
5 adopting employers are timely amended to meet
6 the requirements of the Internal Revenue Code
7 of 1986 or of any rule or regulation of the Sec-
8 retary, and

9 (B) adopting employers receive timely noti-
10 fication of amendments and other actions taken
11 by sponsors with respect to their plans.

12 **Subtitle C—Nondiscrimination**

13 **Provisions**

14 **SEC. 221. DEFINITION OF HIGHLY COMPENSATED EM-** 15 **PLOYEES.**

16 (a) IN GENERAL.—Paragraph (1) of section 414(q)
17 (defining highly compensated employee) is amended to
18 read as follows:

19 “(1) IN GENERAL.—The term ‘highly com-
20 pensated employee’ means any employee who—

21 “(A) was a 5-percent owner at any time
22 during the year or the preceding year, or

23 “(B) had compensation for the preceding
24 year from the employer in excess of \$50,000.

1 The Secretary shall adjust the \$50,000 amount
2 under subparagraph (B) at the same time and in the
3 same manner as under section 415(d).”

4 (b) SPECIAL RULE WHERE NO EMPLOYEES TREAT-
5 ED AS HIGHLY COMPENSATED.—Paragraph (2) of section
6 414(q) is amended to read as follows:

7 “(2) SPECIAL RULE IF NO EMPLOYEE DE-
8 SCRIBED IN PARAGRAPH (1).—If no employee is
9 treated as a highly compensated employee under
10 paragraph (1), the highest paid officer for the year
11 shall be treated as a highly compensated employee.”

12 (c) TREATMENT OF FAMILY MEMBERS.—Paragraph
13 (6) of section 414(q) is hereby repealed.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Paragraphs (4), (5), (8), and (12) of section
16 414(q) are hereby repealed.

17 (2)(A) Section 414(r) is amended by adding at
18 the end thereof the following new paragraph:

19 “(9) EXCLUDED EMPLOYEES.—For purposes of
20 this subsection, the following employees shall be ex-
21 cluded:

22 “(A) Employees who have not completed 6
23 months of service.

24 “(B) Employees who normally work less
25 than 17½ hours per week.

1 “(C) Employees who normally work not
2 more than 6 months during any year.

3 “(D) Employees who have not attained the
4 age of 21.

5 “(E) Except to the extent provided in reg-
6 ulations, employees who are included in a unit
7 of employees covered by an agreement which
8 the Secretary of Labor finds to be a collective
9 bargaining agreement between employee rep-
10 resentatives and the employer.

11 Except as provided by the Secretary, the employer
12 may elect to apply subparagraph (A), (B), (C), or
13 (D) by substituting a shorter period of service,
14 smaller number of hours or months, or lower age for
15 the period of service, number of hours or months, or
16 age (as the case may be) specified in such subpara-
17 graph.”

18 (B) Subparagraph (A) of section 414(r)(2) is
19 amended by striking “subsection (q)(8)” and insert-
20 ing “paragraph (9)”.

21 (3) Subparagraph (A) of section 401(a)(17) is
22 amended by striking the last sentence.

23 (4) Subsection (l) of section 404 is amended by
24 striking the last sentence.

1 (5) Section 1114(c)(4) of the Tax Reform Act
2 of 1986 is amended by adding at the end the follow-
3 ing new sentence: “Any reference in this paragraph
4 to section 414(q) shall be treated as a reference to
5 such section as in effect before the Tax Simplifica-
6 tion and Technical Corrections Act of 1993.”

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 1993.

10 **SEC. 222. MODIFICATION OF ADDITIONAL PARTICIPATION**
11 **REQUIREMENTS.**

12 (a) GENERAL RULE.—Section 401(a)(26)(A) (relat-
13 ing to additional participation requirements) is amended
14 to read as follows:

15 “(A) IN GENERAL.—In the case of a trust
16 which is a part of a defined benefit plan, such trust
17 shall not constitute a qualified trust under this sub-
18 section unless on each day of the plan year such
19 trust benefits at least the lesser of—

20 “(i) 50 employees of the employer, or

21 “(ii) the greater of—

22 “(I) 40 percent of all employees of the
23 employer, or

24 “(II) 2 employees (or if there is only
25 1 employee, such employee).”

1 (b) SEPARATE LINE OF BUSINESS TEST.—Section
2 401(a)(26)(G) (relating to separate line of business) is
3 amended by striking “paragraph (7)” and inserting “para-
4 graph (2)(A) or (7)”.

5 (c) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to years beginning after December
7 31, 1993.

8 **SEC. 223. NONDISCRIMINATION RULES FOR QUALIFIED**
9 **CASH OR DEFERRED ARRANGEMENTS AND**
10 **MATCHING CONTRIBUTIONS.**

11 (a) ALTERNATIVE METHODS OF SATISFYING SEC-
12 TION 401(k) NONDISCRIMINATION TESTS.—Section
13 401(k) (relating to cash or deferred arrangements) is
14 amended by adding at the end thereof the following new
15 paragraph:

16 “(11) ALTERNATIVE METHODS OF MEETING
17 NONDISCRIMINATION REQUIREMENTS.—

18 “(A) IN GENERAL.—A cash or deferred ar-
19 rangement shall be treated as meeting the re-
20 quirements of paragraph (3)(A)(ii) if such ar-
21 rangement—

22 “(i) meets the contribution require-
23 ments of subparagraph (B) or (C), and

24 “(ii) meets the notice requirements of
25 subparagraph (D).

1 “(B) MATCHING CONTRIBUTIONS.—

2 “(i) IN GENERAL.—The requirements
3 of this subparagraph are met if, under the
4 arrangement, the employer makes match-
5 ing contributions on behalf of each em-
6 ployee who is not a highly compensated
7 employee in an amount equal to—

8 “(I) 100 percent of the elective
9 contributions of the employee to the
10 extent such elective contributions do
11 not exceed 3 percent of the employee’s
12 compensation, and

13 “(II) 50 percent of the elective
14 contributions of the employee to the
15 extent that such elective contributions
16 exceed 3 percent but do not exceed 5
17 percent of the employee’s compensa-
18 tion.

19 “(ii) RATE FOR HIGHLY COM-
20 PENSATED EMPLOYEES.—The require-
21 ments of this subparagraph are not met if,
22 under the arrangement, the matching con-
23 tribution with respect to any elective con-
24 tribution of a highly compensated employee
25 at any level of compensation is greater

1 than that with respect to an employee who
2 is not a highly compensated employee.

3 “(iii) ALTERNATIVE PLAN DESIGNS.—

4 If the matching contribution with respect
5 to any elective contribution at any specific
6 level of compensation is not equal to the
7 percentage required under clause (i), an
8 arrangement shall not be treated as
9 failing to meet the requirements of
10 clause (i) if—

11 “(I) the level of an employer’s
12 matching contribution does not in-
13 crease as an employee’s elective con-
14 tributions increase, and

15 “(II) the aggregate amount of
16 matching contributions with respect to
17 elective contributions not in excess of
18 such level of compensation is at least
19 equal to the amount of matching con-
20 tributions which would be made if
21 matching contributions were made on
22 the basis of the percentages described
23 in clause (i).

24 “(C) NONELECTIVE CONTRIBUTIONS.—

25 The requirements of this subparagraph are met

1 if, under the arrangement, the employer is re-
2 quired, without regard to whether the employee
3 makes an elective contribution or employee con-
4 tribution, to make a contribution to a defined
5 contribution plan on behalf of each employee
6 who is not a highly compensated employee and
7 who is eligible to participate in the arrangement
8 in an amount equal to at least 3 percent of the
9 employee's compensation.

10 “(D) NOTICE REQUIREMENT.—An ar-
11 rangement meets the requirements of this para-
12 graph if, under the arrangement, each employee
13 eligible to participate is, within a reasonable pe-
14 riod before any year, given written notice of the
15 employee's rights and obligations under the ar-
16 rangement which—

17 “(i) is sufficiently accurate and com-
18 prehensive to appraise the employee of
19 such rights and obligations, and

20 “(ii) is written in a manner calculated
21 to be understood by the average employee
22 eligible to participate.

23 “(E) OTHER REQUIREMENTS.—

24 “(i) WITHDRAWAL AND VESTING RE-
25 STRICTIONS.—An arrangement shall not be

1 treated as meeting the requirements of
2 subparagraph (B) or (C) unless the re-
3 quirements of subparagraphs (B) and (C)
4 of paragraph (2) are met with respect to
5 all employer contributions (including
6 matching contributions).

7 “(ii) SOCIAL SECURITY AND SIMILAR
8 CONTRIBUTIONS NOT TAKEN INTO AC-
9 COUNT.—An arrangement shall not be
10 treated as meeting the requirements of
11 subparagraph (B) or (C) unless such re-
12 quirements are met without regard to sub-
13 section (l), and, for purposes of subsection
14 (l), employer contributions under subpara-
15 graph (B) or (C) shall not be taken into
16 account.

17 “(F) OTHER PLANS.—An arrangement
18 shall be treated as meeting the requirements
19 under subparagraph (A)(i) if any other plan
20 maintained by the employer meets such require-
21 ments with respect to employees eligible under
22 the arrangement.”

23 (b) ALTERNATIVE METHODS OF SATISFYING SEC-
24 TION 401(m) NONDISCRIMINATION TESTS.—Section
25 401(m) (relating to nondiscrimination test for matching

1 contributions and employee contributions) is amended by
2 redesignating paragraph (10) as paragraph (11) and by
3 adding after paragraph (9) the following new paragraph:

4 “(10) ALTERNATIVE METHOD OF SATISFYING
5 TESTS.—

6 “(A) IN GENERAL.—A defined contribution
7 plan shall be treated as meeting the require-
8 ments of paragraph (2) with respect to match-
9 ing contributions if the plan—

10 “(i) meets the contribution require-
11 ments of subparagraph (B) or (C) of sub-
12 section (k)(11),

13 “(ii) meets the notice requirements of
14 subsection (k)(11)(D), and

15 “(iii) meets the requirements of sub-
16 paragraph (B).

17 “(B) LIMITATION ON MATCHING CON-
18 TRIBUTIONS.—The requirements of this sub-
19 paragraph are met if—

20 “(i) matching contributions on behalf
21 of any employee may not be made with
22 respect to an employee’s contributions or
23 elective deferrals in excess of 6 percent of
24 the employee’s compensation,

1 “(ii) the level of an employer’s match-
2 ing contribution does not increase as an
3 employee’s contributions or elective defer-
4 rals increase, and

5 “(iii) the matching contribution with
6 respect to any highly compensated em-
7 ployee at a specific level of compensation is
8 not greater than that with respect to an
9 employee who is not a highly compensated
10 employee.”

11 (c) YEAR FOR COMPUTING NONHIGHLY COM-
12 PENSATED EMPLOYEE PERCENTAGE.—

13 (1) CASH OR DEFERRED ARRANGEMENTS.—

14 Clause (ii) of section 401(k)(3)(A) is amended—

15 (A) by striking “such year” and inserting
16 “the plan year”, and

17 (B) by striking “for such plan year” and
18 inserting “the preceding plan year”.

19 (2) MATCHING AND EMPLOYEE CONTRIBU-
20 TIONS.—Section 401(m)(2)(A) is amended—

21 (A) by inserting “for such plan year” after
22 “highly compensated employee”, and

23 (B) by inserting “for the preceding plan
24 year” after “eligible employees” each place it
25 appears in clause (i) and clause (ii).

1 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-
2 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

3 (1) Paragraph (3) of section 401(k) is amended
4 by adding at the end thereof the following new sub-
5 paragraph:

6 “(E) For purposes of this paragraph, in
7 the case of the first plan year of any plan, the
8 amount taken into account as the actual defer-
9 ral percentage of nonhighly compensated em-
10 ployees for the preceding plan year shall be—

11 “(i) 3 percent, or

12 “(ii) if the employer makes an election
13 under this subclause, the actual deferral
14 percentage of nonhighly compensated em-
15 ployees determined for such first plan
16 year.”

17 (2) Paragraph (3) of section 401(m) is amend-
18 ed by adding at the end thereof the following:
19 “Rules similar to the rules of subsection (k)(3)(E)
20 shall apply for purposes of this subsection.”

21 (e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

22 (1) Subparagraph (C) of section 401(k)(8) (re-
23 lating to arrangement not disqualified if excess con-
24 tributions distributed) is amended by striking “on
25 the basis of the respective portions of the excess con-

1 tributions attributable to each of such employees”
2 and inserting “on the basis of the amount of con-
3 tributions by, or on behalf of, each of such employ-
4 ees”.

5 (2) Subparagraph (C) of section 401(m)(6) (re-
6 lating to method of distributing excess aggregate
7 contributions) is amended by striking “on the basis
8 of the respective portions of such amounts attrib-
9 utable to each of such employees” and inserting “on
10 the basis of the amount of contributions on behalf
11 of, or by, each such employee”.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to years beginning after December
14 31, 1993.

15 **Subtitle D—Miscellaneous** 16 **Simplification**

17 **SEC. 231. TREATMENT OF LEASED EMPLOYEES.**

18 (a) GENERAL RULE.—Subparagraph (C) of section
19 414(n)(2) (defining leased employee) is amended to read
20 as follows:

21 “(C) such services are performed under
22 significant direction or control by the recipi-
23 ent.”

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply to years beginning after Decem-

ber 31, 1993, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 232. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

“(d) COST-OF-LIVING ADJUSTMENTS.—

“(1) IN GENERAL.—The Secretary shall adjust annually—

“(A) the \$90,000 amount in subsection (b)(1)(A), and

“(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

“(2) METHOD.—

“(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts

1 under section 215(i)(2)(A) of the Social Secu-
2 rity Act.

3 “(B) PERIODS FOR ADJUSTMENT OF DOL-
4 LAR AMOUNT.—For purposes of paragraph
5 (1)(A)—

6 “(i) IN GENERAL.—The adjustment
7 with respect to any calendar year shall be
8 based on the increase in the applicable
9 index as of the close of the calendar quar-
10 ter ending September 30 of the preceding
11 calendar year over such index as of the
12 close of the base period.

13 “(ii) BASE PERIOD.—For purposes of
14 clause (i), the base period is the calendar
15 quarter beginning October 1, 1986.

16 “(C) BASE PERIOD FOR SEPARATIONS.—
17 For purposes of paragraph (1)(B), the base pe-
18 riod is the last calendar quarter of the calendar
19 year preceding the calendar year in which the
20 participant separated from service.

21 “(3) ROUNDING.—Any amount determined
22 under paragraph (1) (or by reference to this sub-
23 section) shall be rounded to the nearest \$1,000, ex-
24 cept that the amounts under sections 402(g)(1),
25 408(k)(2)(C), and 457(e)(14) shall be rounded to

1 the nearest \$100 and the amount under section
2 401(a)(17) shall be rounded, to the next lowest mul-
3 tiple of \$10,000.”

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section apply to adjustments with respect to calendar
6 years beginning after December 31, 1993.

7 **SEC. 233. PLANS COVERING SELF-EMPLOYED INDIVID-**
8 **UALS.**

9 (a) AGGREGATION RULES.—Section 401(d) (relating
10 to additional requirements for qualification of trusts and
11 plans benefiting owner-employees) is amended to read as
12 follows:

13 “(d) CONTRIBUTION LIMIT ON OWNER-EMPLOY-
14 EES.—A trust forming part of a pension or profit-sharing
15 plan which provides contributions or benefits for employ-
16 ees some or all of whom are owner-employees shall con-
17 stitute a qualified trust under this section only if, in addi-
18 tion to meeting the requirements of subsection (a), the
19 plan provides that contributions on behalf of any owner-
20 employee may be made only with respect to the earned
21 income of such owner-employee which is derived from the
22 trade or business with respect to which such plan is
23 established.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to years beginning after December
3 31, 1993.

4 **SEC. 234. ELIMINATION OF SPECIAL VESTING RULE FOR**
5 **MULTIEMPLOYER PLANS.**

6 (a) IN GENERAL.—Paragraph (2) of section 411(a)
7 (relating to minimum vesting standards) is amended—
8 (1) by striking “subparagraph (A), (B), or (C)”
9 and inserting “subparagraph (A) or (B)”; and
10 (2) by striking subparagraph (C).

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to plan years beginning on or after
13 the earlier of—

14 (1) the later of—

15 (A) January 1, 1994, or

16 (B) the date on which the last of the col-
17 lective bargaining agreements pursuant to
18 which the plan is maintained terminates (deter-
19 mined without regard to any extension thereof
20 after the date of the enactment of this Act), or

21 (2) January 1, 1996.

22 Such amendments shall not apply to any individual who
23 does not have more than 1 hour of service under the plan
24 on or after the 1st day of the 1st plan year to which such
25 amendments apply.

1 **SEC. 235. FULL-FUNDING LIMITATION OF MULTIEM-**
2 **PLOYER PLANS.**

3 (a) FULL-FUNDING LIMITATION.—Section
4 412(c)(7)(C) (relating to full-funding limitation) is
5 amended—

6 (1) by inserting “or in the case of a multiem-
7 ployer plan,” after “paragraph (6)(B),”, and

8 (2) by inserting “AND MULTIEMPLOYER PLANS”
9 after “PARAGRAPH (6)(B)” in the heading thereof.

10 (b) VALUATION.—Section 412(c)(9) is amended—

11 (1) by inserting “(3 years in the case of a mul-
12 tiemployer plan)” after “year”, and

13 (2) by striking “ANNUAL VALUATION” in the
14 heading and inserting “VALUATION”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to years beginning after December
17 31, 1993.

18 **SEC. 236. ALTERNATIVE FULL-FUNDING LIMITATION.**

19 (a) IN GENERAL.—Subsection (c) of section 412 (re-
20 lating to minimum funding standards) is amended by re-
21 designating paragraphs (8) through (11) as paragraphs
22 (9) through (12), respectively, and by adding after para-
23 graph (7) the following new paragraph:

24 “(8) ALTERNATIVE FULL-FUNDING LIMITA-
25 TION.—

1 “(A) GENERAL RULE.—An employer may
2 elect the full-funding limitation under this para-
3 graph with respect to any defined benefit plan
4 of the employer in lieu of the full-funding limi-
5 tation determined under paragraph (7) if the
6 requirements of subparagraphs (C) and (D) are
7 met.

8 “(B) ALTERNATIVE FULL-FUNDING LIMI-
9 TATION.—The full-funding limitation under this
10 paragraph is the full-funding limitation deter-
11 mined under paragraph (7) without regard to
12 subparagraph (A)(i)(I) thereof.

13 “(C) REQUIREMENTS RELATING TO PLAN
14 ELIGIBILITY.—

15 “(i) IN GENERAL.—The requirements
16 of this subparagraph are met with respect
17 to a defined benefit plan if—

18 “(I) as of the 1st day of the elec-
19 tion period, the average accrued liabil-
20 ity of participants accruing benefits
21 under the plan for the 5 immediately
22 preceding plan years is at least 80
23 percent of the plan’s total accrued li-
24 ability,

1 “(II) the plan is not a top-heavy
2 plan (as defined in section 416(g)) for
3 the 1st plan year of the election pe-
4 riod or either of the 2 preceding plan
5 years, and

6 “(III) each defined benefit plan
7 of the employer (and each defined
8 benefit plan of each employer who is
9 a member of any controlled group
10 which includes such employer) meets
11 the requirements of subclauses (I) and
12 (II).

13 “(ii) FAILURE TO CONTINUE TO MEET
14 REQUIREMENTS.—

15 “(I) If any plan fails to meet the
16 requirement of clause (i)(I) for any
17 plan year during an election period,
18 the benefits of the election under this
19 paragraph shall be phased out under
20 regulations prescribed by the Sec-
21 retary.

22 “(II) If any plan fails to meet
23 the requirement of clause (i)(II) for
24 any plan year during an election pe-
25 riod, such plan shall be treated as not

1 meeting the requirements of clause (i)
2 for the remainder of the election
3 period.

4 If there is a failure described in subclause
5 (I) or (II) with respect to any plan, such
6 plan (and each plan described in clause
7 (i)(III) with respect to such plan) shall be
8 treated as not meeting the requirements of
9 clause (i) for any of the 10 plan years be-
10 ginning after the election period.

11 “(D) REQUIREMENTS RELATING TO ELEC-
12 TION.—

13 “(i) IN GENERAL.—The requirements
14 of this subparagraph are met with respect
15 to an election if—

16 “(I) FILING DATE.—Notice of
17 such election is filed with the Sec-
18 retary (in such form and manner and
19 containing such information as the
20 Secretary may provide) by January 1
21 of any calendar year, and is effective
22 as of the 1st day of the election period
23 beginning on or after January 1 of
24 the following calendar year.

1 “(II) CONSISTENT ELECTION.—

2 Such an election is made for all de-
3 fined benefit plans maintained by the
4 employer or by any member of a con-
5 trolled group which includes the em-
6 ployer.

7 “(ii) TRANSITION PERIOD.—In the
8 case of any election period beginning on or
9 after July 1, 1994, and before January 1,
10 1995, the requirements of clause (i) shall
11 not apply and the requirements of this
12 subparagraph are met with respect to such
13 election period if—

14 “(I) FILING DATE.—Notice of
15 election is filed with the Secretary by
16 October 1, 1994.

17 “(II) INFORMATION.—The notice
18 sets forth the name and tax identifica-
19 tion number of the plan sponsor, the
20 names and tax identification numbers
21 of the plans to which the election ap-
22 plies, the limitation under paragraph
23 (7) (determined with and without re-
24 gard to this paragraph), and a signed
25 certification by an officer of the em-

1 ployer stating that the requirements
2 of this paragraph have been met.

3 “(iii) REVENUE OFFSET PROCE-
4 DURES.—The Secretary shall, by January
5 1, 1995, notify defined benefit plans that
6 have not made an election under this para-
7 graph for the transition period described in
8 clause (ii) of the adjustment required by
9 subparagraph (H). The revenue offset for
10 the transition period shall apply to plan
11 years beginning on or after July 1, 1994,
12 and before January 1, 1995.

13 “(iv) EXCESS CONTRIBUTIONS MADE
14 BY NON-ELECTING PLANS.—To the extent
15 a defined benefit plan sponsor makes a
16 contribution to a defined benefit plan with
17 respect to the transition period described
18 in clause (ii) which exceeds the limitation
19 of paragraph (7), as adjusted by the Sec-
20 retary for the transition period, the spon-
21 sor shall offset the excess contribution
22 against allowable contributions to the plan
23 in subsequent quarters in the taxable year
24 of the sponsor. If no subsequent contribu-
25 tions may be made for the taxable year,

1 the trustee of the defined benefit plan shall
2 return the excess contribution to the spon-
3 sor in that taxable year or the following
4 taxable year. Notwithstanding any other
5 provision of this title, no deduction shall be
6 allowed for any contribution made in ex-
7 cess of the limitation of paragraph (7), as
8 adjusted by the Secretary for the transi-
9 tion period, and no penalty shall apply
10 with respect to contributions made in ex-
11 cess of such limitation to the extent such
12 excess contributions are either used to off-
13 set subsequent contributions, or returned
14 to the plan sponsor, as provided in this
15 clause.

16 “(E) TERM OF ELECTION.—Any election
17 made under this paragraph shall apply for the
18 election period.

19 “(F) OTHER CONSEQUENCES OF ELEC-
20 TION.—

21 “(i) NO FUNDING WAIVERS.—In the
22 case of a plan with respect to which an
23 election is made under this paragraph, no
24 waiver may be granted under subsection
25 (d) for any plan year beginning after the

1 date the election was made and ending at
2 the close of the election period with respect
3 thereto.

4 “(ii) FAILURE TO MAKE SUCCESSIVE
5 ELECTIONS.—If an election is made under
6 this paragraph with respect to any plan
7 and such an election does not apply for
8 each successive plan year of such plan,
9 such plan shall be treated as not meeting
10 the requirements of subparagraph (C) for
11 the period of 10 plan years beginning after
12 the close of the last election period for
13 such plan.

14 “(G) DEFINITIONS.—For purposes of this
15 paragraph—

16 “(i) ELECTION PERIOD.—The term
17 ‘election period’ means the period of 5 con-
18 secutive plan years beginning with the 1st
19 plan year for which the election is made.

20 “(ii) CONTROLLED GROUP.—The term
21 ‘controlled group’ means all persons who
22 are treated as a single employer under sub-
23 section (b), (c), (m), or (o) of section 414.

1 “(H) PROCEDURES IF ALTERNATIVE
2 FUNDING LIMITATION REDUCES NET FEDERAL
3 REVENUES.—

4 “(i) IN GENERAL.—At least once with
5 respect to each fiscal year, the Secretary
6 shall estimate whether the application of
7 this paragraph will result in a net reduc-
8 tion in Federal revenues for such fiscal
9 year.

10 “(ii) ADJUSTMENT OF FULL-FUNDING
11 LIMITATION IF REVENUE SHORTFALL.—If
12 the Secretary estimates that the applica-
13 tion of this paragraph will result in a more
14 than insubstantial net reduction in Federal
15 revenues for any fiscal year, the Sec-
16 retary—

17 “(I) shall make the adjustment
18 described in clause (iii), and

19 “(II) to the extent such adjust-
20 ment is not sufficient to reduce such
21 reduction to an insubstantial amount,
22 shall make the adjustment described
23 in clause (iv).

24 Such adjustments shall apply only to de-
25 fined benefit plans with respect to which

1 an election under this paragraph is not in
2 effect.

3 “(iii) REDUCTION IN LIMITATION
4 BASED ON 150 PERCENT OF CURRENT LI-
5 ABILITY.—The adjustment described in
6 this clause is an adjustment which sub-
7 stitutes a percentage (not lower than 140
8 percent) for the percentage described in
9 paragraph (7)(A)(i)(I) determined by re-
10 ducing the percentage of current liability
11 taken into account with respect to partici-
12 pants who are not accruing benefits under
13 the plan.

14 “(iv) REDUCTION IN LIMITATION
15 BASED ON ACCRUED LIABILITY.—The ad-
16 justment described in this clause is an ad-
17 justment which reduces the percentage of
18 accrued liability taken into account under
19 paragraph (7)(A)(i)(II). In no event may
20 the amount of accrued liability taken into
21 account under such paragraph after the
22 adjustment be less than 140 percent of
23 current liability.”

24 (b) ALTERATION OF DISCRETIONARY REGULATORY
25 AUTHORITY.—Subparagraph (D) of section 412(c)(7) is

1 amended by striking “provide—” and all that follows
2 through “(iii) for” and inserting “provide for”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on January 1, 1995, except
5 that, in the case of an election under subparagraph (D)(ii)
6 of paragraph (8) of section 412(c) of the Internal Revenue
7 Code of 1986, as added by this section, such amendments
8 shall take effect on July 1, 1994.

9 **SEC. 237. DISTRIBUTIONS UNDER RURAL COOPERATIVE**
10 **PLANS.**

11 (a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section
12 401(k)(7) is amended by adding at the end thereof the
13 following new subparagraph:

14 “(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a
15 qualified cash or deferred arrangement shall not be
16 treated as violating the requirements of section
17 401(a) merely by reason of a distribution to a par-
18 ticipant after attainment of age 59½.”

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to distributions after the date of
21 this section shall apply to distributions after the date of
22 the enactment of this Act.

1 **SEC. 238. TREATMENT OF GOVERNMENTAL PLANS UNDER**
2 **SECTION 415.**

3 (a) DEFINITION OF COMPENSATION.—Subsection (k)
4 of section 415 (regarding limitations on benefits and con-
5 tributions under qualified plans) is amended by adding im-
6 mediately after paragraph (2) thereof the following new
7 paragraph:

8 “(3) DEFINITION OF COMPENSATION FOR GOV-
9 ERNMENTAL PLANS.—For purposes of this section,
10 in the case of a governmental plan (as defined in
11 section 414(d)), the term ‘compensation’ includes, in
12 addition to the amounts described in subsection
13 (c)(3)—

14 “(A) any elective deferral (as defined in
15 section 402(g)(3)), and

16 “(B) any amount which is contributed by
17 the employer at the election of the employee
18 and which is not includible in the gross income
19 of an employee under section 125 or 457.”

20 (b) COMPENSATION LIMIT.—Subsection (b) of sec-
21 tion 415 is amended by adding immediately after para-
22 graph (10) the following new paragraph:

23 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
24 MENTAL PLANS.—In the case of a governmental
25 plan (as defined in section 414(d)), subparagraph
26 (B) of paragraph (1) shall not apply.”

1 (c) TREATMENT OF CERTAIN EXCESS BENEFIT
2 PLANS.—

3 (1) IN GENERAL.—Section 415 is amended by
4 adding at the end thereof the following new sub-
5 section:

6 “(m) TREATMENT OF QUALIFIED GOVERNMENTAL
7 EXCESS BENEFIT ARRANGEMENTS.—

8 “(1) GOVERNMENTAL PLAN NOT AFFECTED.—

9 In determining whether a governmental plan (as de-
10 fined in section 414(d)) meets the requirements of
11 this section, benefits provided under a qualified gov-
12 ernmental excess benefit arrangement shall not be
13 taken into account. Income accruing to a govern-
14 mental plan (or to a trust that is maintained solely
15 for the purpose of providing benefits under a quali-
16 fied governmental excess benefit arrangement) in re-
17 spect of a qualified governmental excess benefit ar-
18 rangement shall constitute income derived from the
19 exercise of an essential governmental function upon
20 which such governmental plan (or trust) shall be ex-
21 empt from tax under section 115.

22 “(2) TAXATION OF PARTICIPANT.—For pur-
23 poses of this chapter—

24 “(A) the taxable year or years for which
25 amounts in respect of a qualified governmental

1 excess benefit arrangement are includible in
2 gross income by a participant, and

3 “(B) the treatment of such amounts when
4 so includible by the participant,

5 shall be determined as if such qualified govern-
6 mental excess benefit arrangement were treated as a
7 plan for the deferral of compensation which is main-
8 tained by a corporation not exempt from tax under
9 this chapter and which does not meet the require-
10 ments for qualification under section 401.

11 “(3) QUALIFIED GOVERNMENTAL EXCESS BEN-
12 EFIT ARRANGEMENT.—For purposes of this sub-
13 section, the term ‘qualified governmental excess ben-
14 efit arrangement’ means a portion of a governmental
15 plan if—

16 “(A) such portion is maintained solely for
17 the purpose of providing to participants in the
18 plan that part of the participant’s annual bene-
19 fit otherwise payable under the terms of the
20 plan that exceeds the limitations on benefits im-
21 posed by this section,

22 “(B) under such portion no election is pro-
23 vided at any time to the participant (directly or
24 indirectly) to defer compensation, and

1 “(C) benefits described in subparagraph
2 (A) are not paid from a trust forming a part
3 of such governmental plan unless such trust is
4 maintained solely for the purpose of providing
5 such benefits.”

6 (2) COORDINATION WITH SECTION 457.—Sub-
7 section (e) of section 457 is amended by adding at
8 the end thereof the following new paragraph:

9 “(15) TREATMENT OF QUALIFIED GOVERN-
10 MENTAL EXCESS BENEFIT ARRANGEMENTS.—Sub-
11 sections (b)(2) and (c)(1) shall not apply to any
12 qualified governmental excess benefit arrangement
13 (as defined in section 415(m)(3)), and benefits pro-
14 vided under such an arrangement shall not be taken
15 into account in determining whether any other plan
16 is an eligible deferred compensation plan.”

17 (3) CONFORMING AMENDMENT.—Paragraph (2)
18 of section 457(f) is amended by striking the word
19 “and” at the end of subparagraph (C), by striking
20 the period after subparagraph (D) and inserting the
21 words “, and”, and by inserting immediately there-
22 after the following new subparagraph:

23 “(E) a qualified governmental excess bene-
24 fit arrangement described in section 415(m).”

1 (d) EXEMPTION FOR SURVIVOR AND DISABILITY
2 BENEFITS.—Paragraph (2) of section 415(b) is amended
3 by adding at the end thereof the following new subpara-
4 graph:

5 “(I) EXEMPTION FOR SURVIVOR AND DIS-
6 ABILITY BENEFITS PROVIDED UNDER GOVERN-
7 MENTAL PLANS.—Subparagraph (B) of para-
8 graph (1), subparagraph (C) of this paragraph,
9 and paragraph (5) shall not apply to—

10 “(i) income received from a govern-
11 mental plan (as defined in section 414(d))
12 as a pension, annuity, or similar allowance
13 as the result of the recipient becoming dis-
14 abled by reason of personal injuries or
15 sickness, or

16 “(ii) amounts received from a govern-
17 mental plan by the beneficiaries, survivors,
18 or the estate of an employee as the result
19 of the death of the employee.”

20 (e) REVOCATION OF GRANDFATHER ELECTION.—
21 Subparagraph (C) of section 415(b)(10) is amended by
22 adding at the end thereof the following new sentence: “An
23 election made pursuant to the preceding sentence to have
24 the provisions of this paragraph applied to the plan may
25 be revoked not later than the last day of the 3rd plan year

1 beginning after the date of enactment with respect to all
2 plan years as to which such election has been applicable
3 and all subsequent plan years; provided that any amount
4 paid by the plan in a taxable year ending after revocation
5 of such election in respect of benefits attributable to a tax-
6 able year during which such election was in effect shall
7 be includible in income by the recipient in accordance with
8 the rules of this chapter in the taxable year in which such
9 amount is received (except that such amount shall be
10 treated as received for purposes of the limitations imposed
11 by this section in the earlier taxable year or years to which
12 such amount is attributable).”

13 (f) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 subsections (a), (b), (c), and (d) shall apply to tax-
16 able years beginning on or after the date of the en-
17 actment of this Act. The amendments made by sub-
18 section (e) shall apply with respect to election rev-
19 ocations adopted after the date of the enactment of
20 this Act.

21 (2) TREATMENT FOR YEARS BEGINNING BE-
22 FORE DATE OF ENACTMENT.—In the case of a gov-
23 ernmental plan (as defined in section 414(d) of the
24 Internal Revenue Code of 1986), such plan shall be
25 treated as satisfying the requirements of section 415

1 of such Code for all taxable years beginning before
2 the date of the enactment of this Act.

3 **SEC. 239. UNIFORM RETIREMENT AGE.**

4 (a) DISCRIMINATION TESTING.—Paragraph (5) of
5 section 401(a) (relating to special rules relating to non-
6 discrimination requirements) is amended by adding at the
7 end thereof the following new subparagraph:

8 “(F) SOCIAL SECURITY RETIREMENT
9 AGE.—For purposes of testing for discrimina-
10 tion under paragraph (4)—

11 “(i) the social security retirement age
12 (as defined in section 415(b)(8)) shall be
13 treated as a uniform retirement age, and

14 “(ii) subsidized early retirement bene-
15 fits and joint and survivor annuities shall
16 not be treated as being unavailable to em-
17 ployees on the same terms merely because
18 such benefits or annuities are based in
19 whole or in part on an employee’s social
20 security retirement age (as so defined).”

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 1993.

1 **SEC. 240. UNIFORM PENALTY PROVISIONS TO APPLY TO**
2 **CERTAIN PENSION REPORTING REQUIRE-**
3 **MENTS.**

4 (a) IN GENERAL.—

5 (1) Paragraph (1) of section 6724(d) is amend-
6 ed by striking “and” at the end of subparagraph
7 (A), by striking the period at the end of subpara-
8 graph (B) and inserting “, and”, and by inserting
9 after subparagraph (B) the following new subpara-
10 graph:

11 “(C) any statement of the amount of pay-
12 ments to another person required to be made to
13 the Secretary under—

14 “(i) section 408(i) (relating to reports
15 with respect to individual retirement ac-
16 counts or annuities), or

17 “(ii) section 6047(d) (relating to re-
18 ports by employers, plan administrators,
19 etc.).”

20 (2) Paragraph (2) of section 6724(d) is amend-
21 ed by striking “or” at the end of subparagraph (S),
22 by striking the period at the end of subparagraph
23 (T) and inserting a comma, and by inserting after
24 subparagraph (T) the following new
25 subparagraphs:

1 “(U) section 408(i) (relating to reports
2 with respect to individual retirement plans) to
3 any person other than the Secretary with re-
4 spect to the amount of payments made to such
5 person, or

6 “(V) section 6047(d) (relating to reports
7 by plan administrators) to any person other
8 than the Secretary with respect to the amount
9 of payments made to such person.”

10 (b) MODIFICATION OF REPORTABLE DESIGNATED
11 DISTRIBUTIONS.—

12 (1) SECTION 408.—Subsection (i) of section 408
13 (relating to individual retirement account reports) is
14 amended by inserting “aggregating \$10 or more in
15 any calendar year” after “distributions”.

16 (2) SECTION 6047.—Paragraph (1) of section
17 6047(d) (relating to reports by employers, plan ad-
18 ministrators, etc.) is amended by adding at the end
19 thereof the following new sentence: “No return or
20 report may be required under the preceding sentence
21 with respect to distributions to any person during
22 any year unless such distributions aggregate \$10 or
23 more.”

24 (c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Sec-
25 tion 6652(i) is amended—

1 (1) by striking “the \$10” and inserting
2 “\$100”, and

3 (2) by striking “\$5,000” and inserting
4 “\$50,000”.

5 (d) CONFORMING AMENDMENTS.—

6 (1) Paragraph (1) of section 6047(f) is amend-
7 ed to read as follows:

“(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.”

8 (2) Subsection (e) of section 6652 is amended
9 by adding at the end thereof the following new sen-
10 tence: “This subsection shall not apply to any return
11 or statement which is an information return de-
12 scribed in section 6724(d)(1)(C)(ii) or a payee state-
13 ment described in section 6724(d)(2)(U).”

14 (3) Subsection (a) of section 6693 is amended
15 by adding at the end thereof the following new sen-
16 tence: “This subsection shall not apply to any report
17 which is an information return described in section
18 6724(d)(1)(C)(i) or a payee statement described in
19 section 6724(d)(2)(T).”

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to returns, reports, and other
22 statements the due date for which (determined without re-
23 gard to extensions) is after December 31, 1993.

1 **SEC. 241. CONTRIBUTIONS ON BEHALF OF DISABLED EM-**
2 **PLOYEES.**

3 (a) ALL DISABLED PARTICIPANTS RECEIVING CON-
4 TRIBUTIONS.—Section 415(c)(3)(C) is amended by adding
5 at the end thereof the following: “If a defined contribution
6 plan provides for the continuation of contributions on be-
7 half of all participants described in clause (i) for a fixed
8 or determinable period, this subparagraph shall be applied
9 without regard to clauses (ii) and (iii).”

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to years beginning after December
12 31, 1993.

13 **SEC. 242. SPECIAL RULES FOR PLANS COVERING PILOTS.**

14 (a) GENERAL RULE.—

15 (1) Subparagraph (B) of section 410(b)(3) is
16 amended to read as follows:

17 “(B) in the case of a plan established or
18 maintained by one or more employers to provide
19 contributions or benefits for air pilots employed
20 by one or more common carriers engaged in
21 interstate or foreign commerce or air pilots em-
22 ployed by carriers transporting mail for or
23 under contract with the United States Govern-
24 ment, all employees who are not air pilots.”

25 (2) Paragraph (3) of section 410(b) is amended
26 by striking the last sentence and inserting the fol-

1 lowing new sentence: “Subparagraph (B) shall not
2 apply in the case of a plan which provides contribu-
3 tions or benefits for employees who are not air pilots
4 or for air pilots whose principal duties are not cus-
5 tomarily performed aboard aircraft in flight.”

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall apply to years beginning after Decem-
8 ber 31, 1993.

9 **SEC. 243. TREATMENT OF DEFERRED COMPENSATION**
10 **PLANS OF STATE AND LOCAL GOVERNMENTS**
11 **AND TAX-EXEMPT ORGANIZATIONS.**

12 (a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—
13 Paragraph (9) of section 457(e) (relating to other defini-
14 tions and special rules) is amended to read as follows:

15 “(9) BENEFITS NOT TREATED AS MADE AVAIL-
16 ABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

17 “(A) TOTAL AMOUNT PAYABLE IS \$3,500
18 OR LESS.—The total amount payable to a par-
19 ticipant under the plan shall not be treated as
20 made available merely because the participant
21 may elect to receive such amount (or the plan
22 may distribute such amount without the partici-
23 pant’s consent) if—

24 “(i) such amount does not exceed
25 \$3,500, and

1 “(ii) such amount may be distributed
2 only if—

3 “(I) no amount has been deferred
4 under the plan with respect to such
5 participant during the 2-year period
6 ending on the date of the distribution,
7 and

8 “(II) there has been no prior dis-
9 tribution under the plan to such par-
10 ticipant to which this subparagraph
11 applied.

12 A plan shall not be treated as failing to
13 meet the distribution requirements of sub-
14 section (d) by reason of a distribution to which
15 this subparagraph applies.

16 “(B) ELECTION TO DEFER COMMENCE-
17 MENT OF DISTRIBUTIONS.—The total amount
18 payable to a participant under the plan shall
19 not be treated as made available merely because
20 the participant may elect to defer commence-
21 ment of distributions under the plan if—

22 “(i) such election is made after
23 amounts may be available under the plan
24 in accordance with subsection (d)(1)(A)

1 and before commencement of such dis-
2 tributions, and

3 “(ii) the participant may make only 1
4 such election.”

5 (b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-
6 FERRAL AMOUNT.—Subsection (e) of section 457 is
7 amended by adding at the end thereof the following new
8 paragraph:

9 “(14) COST-OF-LIVING ADJUSTMENT OF MAXI-
10 MUM DEFERRAL AMOUNT.—The Secretary shall ad-
11 just the \$7,500 amount specified in subsections
12 (b)(2) and (c)(1) at the same time and in the same
13 manner as under section 415(d), except that the
14 base year in applying such section for purposes of
15 this paragraph shall be 1993.”

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

19 **SEC. 244. TREATMENT OF EMPLOYER REVERSIONS RE-**
20 **QUIRED BY CONTRACT TO BE PAID TO THE**
21 **UNITED STATES.**

22 (a) IN GENERAL.—Subparagraph (B) of section
23 4980(c)(2) (defining employer reversion) is amended by
24 striking “or” at the end of clause (i), by striking the pe-

1 riod at the end of clause (ii) and inserting “, or”, and
2 by adding at the end thereof the following new clause:

3 “(iii) any distribution to the employer
4 to the extent that the distribution is paid
5 within a reasonable period to the United
6 States in satisfaction of a Federal claim
7 for an equitable share of the plan’s surplus
8 assets, as determined pursuant to Federal
9 contracting regulations.”

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to reversions on or after the date
12 of the enactment of this Act.

13 **SEC. 245. CONTINUATION HEALTH COVERAGE FOR EM-**
14 **PLOYEES OF FAILED FINANCIAL INSTITU-**
15 **TIONS.**

16 (a) ENFORCEMENT OF CONTINUATION OF HEALTH
17 PLAN REQUIREMENTS OF ACQUIRERS OF FAILED DEPOS-
18 ITORY INSTITUTIONS.—Subsection (f) of section 4980B
19 (relating to continuation of coverage requirements of
20 group health plans) is amended by adding at the end
21 thereof the following new paragraph:

22 “(9) SPECIAL RULES FOR ACQUIRERS OF
23 FAILED DEPOSITORY INSTITUTIONS.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), any acquirer of a failed de-
3 pository institution—

4 “(i) shall have the same obligation to
5 provide a group health plan meeting the
6 requirements of this subsection with re-
7 spect to qualified individuals of such insti-
8 tution as the failed depository institution
9 would have had but for its failure, and

10 “(ii) shall be treated as the employer
11 of such qualified individuals for purposes
12 of this section.

13 “(B) TAX NOT TO APPLY IF FDIC OR RTC
14 PROVIDE CONTINUATION COVERAGE.—No per-
15 son shall be subject to any liability under this
16 section by reason of being an acquirer of a
17 failed depository institution if the Federal De-
18 posit Insurance Corporation or the Resolution
19 Trust Corporation elects to relieve such
20 acquirer from its obligations under subpara-
21 graph (A). In any such case, the requirements
22 of subparagraph (A) shall apply to the Federal
23 Deposit Insurance Corporation or the Resolu-
24 tion Trust Corporation, as the case may be.

1 “(C) ACQUIRER.—For purposes of this
2 paragraph, an entity is an acquirer of a failed
3 depository institution during any period if—

4 “(i) such entity holds substantially all
5 of the assets or liabilities of such institu-
6 tion, and

7 “(ii)(I) such entity is a bridge bank,
8 or

9 “(II) such entity acquired such assets
10 or liabilities from the Federal Deposit In-
11 surance Corporation, the Resolution Trust
12 Corporation, or a bridge bank.

13 “(D) FAILED DEPOSITORY INSTITUTION.—
14 For purposes of this section, the term ‘failed
15 depository institution’ means any depository in-
16 stitution (as defined in section 3(c) of the Fed-
17 eral Deposit Insurance Act) for which a receiver
18 or conservator has been appointed.

19 “(E) QUALIFIED INDIVIDUAL.—For pur-
20 poses of this section, the term ‘qualified individ-
21 ual’ means—

22 “(i) any individual who was, on the
23 day before the date of the appointment of
24 the receiver or conservator, provided cov-
25 erage under a group health plan of the

1 failed depository institution by reason of
2 the performance of services for such insti-
3 tution, and

4 “(ii) any individual who was, on such
5 day, a beneficiary under such plan as the
6 spouse or dependent child of the individual
7 described in clause (i).”

8 (b) TREATMENT OF DEPOSITORY INSTITUTION FAIL-
9 URES AS QUALIFYING EVENTS FOR RETIREES OF SUCH
10 INSTITUTIONS.—

11 (1) IN GENERAL.—Subparagraph (B) of section
12 4980B(f)(3) is amended—

13 (A) by striking “The termination” and in-
14 serting “(i) The termination”,

15 (B) by striking the period at the end and
16 inserting “, or”, and

17 (C) by inserting after clause (i) the follow-
18 ing new clause:

19 “(ii) the appointment of a receiver or
20 conservator for a failed depository institu-
21 tion from whose employment the covered
22 employee retired at any time.”

23 (2) CONFORMING AMENDMENT.—Subclause (I)
24 of section 4980B(f)(2)(B)(i) is amended by striking
25 “AND REDUCED HOURS” and inserting “, REDUCED

1 HOURS, AND FAILURES OF DEPOSITORY INSTITU-
2 TIONS”.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply as if included in section 451 of the Fed-
7 eral Deposit Insurance Corporation Improvement
8 Act of 1991 as of the date of the enactment of such
9 Act.

10 (2) LIABILITY OF FDIC.—In the case of the
11 Federal Deposit Insurance Corporation or any
12 acquirer from such Corporation, the amendments
13 made by this section shall apply only to failed depos-
14 itory institutions for which the receiver or conserva-
15 tor is appointed after the date of the enactment of
16 this Act.

17 (3) SPECIAL RULE FOR COVERAGE UNDER FDIC
18 PLAN.—Effective as of the date of the enactment of
19 the Federal Deposit Insurance Corporation Improve-
20 ment Act of 1991, coverage under the health care
21 continuation plan maintained by the Federal Deposit
22 Insurance Corporation on June 25, 1992, and any
23 other substantially similar plan maintained by such
24 Corporation, shall be deemed to satisfy the obliga-
25 tions of the Federal Deposit Insurance Corporation

1 (and any acquirer from such Corporation) under sec-
2 tion 4980B(f) of the Internal Revenue Code of 1986
3 and section 451 of the Federal Deposit Insurance
4 Corporation Improvement Act of 1991 with respect
5 to qualified individuals of failed depository institu-
6 tions.

7 **SEC. 246. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

8 If any amendment made by this title requires an
9 amendment to any plan, such plan amendment shall not
10 be required to be made before the first day of the first
11 plan year beginning on or after January 1, 1995, if—

12 (1) during the period after such amendment
13 takes effect and before such first plan year, the plan
14 is operated in accordance with the requirements of
15 such amendment, and

16 (2) such plan amendment applies retroactively
17 to such period.

18 **TITLE III—TREATMENT OF**

19 **LARGE PARTNERSHIPS**

20 **Subtitle A—General Provisions**

21 **SEC. 301. SIMPLIFIED FLOW-THROUGH FOR LARGE PART-**
22 **NERSHIPS.**

23 (a) GENERAL RULE.—Subchapter K (relating to
24 partners and partnerships) is amended by adding at the
25 end thereof the following new part:

1 **“PART IV—SPECIAL RULES FOR LARGE**
 2 **PARTNERSHIPS**

“Sec. 771. Application of subchapter to large partnerships.

“Sec. 772. Simplified flow-through.

“Sec. 773. Computations at partnership level.

“Sec. 774. Other modifications.

“Sec. 775. Large partnership defined.

“Sec. 776. Special rules for partnerships holding oil and gas
 properties.

“Sec. 777. Regulations.

3 **“SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PART-**
 4 **NERSHIPS.**

5 “The preceding provisions of this subchapter to the
 6 extent inconsistent with the provisions of this part shall
 7 not apply to a large partnership and its partners.

8 **“SEC. 772. SIMPLIFIED FLOW-THROUGH.**

9 “(a) GENERAL RULE.—In determining the income
 10 tax of a partner of a large partnership, such partner shall
 11 take into account separately such partner’s distributive
 12 share of the partnership’s—

13 “(1) taxable income or loss from passive loss
 14 limitation activities,

15 “(2) taxable income or loss from other activi-
 16 ties,

17 “(3) net capital gain (or net capital loss)—

18 “(A) to the extent allocable to passive loss
 19 limitation activities, and

20 “(B) to the extent allocable to other activi-
 21 ties,

1 “(4) tax-exempt interest,

2 “(5) applicable net AMT adjustment separately
3 computed for—

4 “(A) passive loss limitation activities, and

5 “(B) other activities,

6 “(6) general credits,

7 “(7) low-income housing credit determined
8 under section 42,

9 “(8) rehabilitation credit determined under sec-
10 tion 47,

11 “(9) foreign income taxes,

12 “(10) the credit allowable under section 29, and

13 “(11) other items to the extent that the Sec-
14 retary determines that the separate treatment of
15 such items is appropriate.

16 “(b) SEPARATE COMPUTATIONS.—In determining
17 the amounts required under subsection (a) to be sepa-
18 rately taken into account by any partner, this section and
19 section 773 shall be applied separately with respect to
20 such partner by taking into account such partner’s dis-
21 tributive share of the items of income, gain, loss, deduc-
22 tion, or credit of the partnership.

23 “(c) TREATMENT AT PARTNER LEVEL.—

24 “(1) IN GENERAL.—Except as provided in this
25 subsection, rules similar to the rules of section

1 702(b) shall apply to any partner's distributive share
2 of the amounts referred to in subsection (a).

3 “(2) INCOME OR LOSS FROM PASSIVE LOSS LIM-
4 ITATION ACTIVITIES.—For purposes of this chapter,
5 any partner's distributive share of any income or
6 loss described in subsection (a)(1) shall be treated as
7 an item of income or loss (as the case may be) from
8 the conduct of a trade or business which is a single
9 passive activity (as defined in section 469). A similar
10 rule shall apply to a partner's distributive share of
11 amounts referred to in paragraphs (3)(A) and
12 (5)(A) of subsection (a).

13 “(3) INCOME OR LOSS FROM OTHER ACTIVI-
14 TIES.—

15 “(A) IN GENERAL.—For purposes of this
16 chapter, any partner's distributive share of any
17 income or loss described in subsection (a)(2)
18 shall be treated as an item of income or expense
19 (as the case may be) with respect to property
20 held for investment.

21 “(B) DEDUCTIONS FOR LOSS NOT SUB-
22 JECT TO SECTION 67.—The deduction under
23 section 212 for any loss described in subpara-
24 graph (A) shall not be treated as a miscellane-

1 ous itemized deduction for purposes of section
2 67.

3 “(4) TREATMENT OF NET CAPITAL GAIN OR
4 LOSS.—For purposes of this chapter, any partner’s
5 distributive share of any gain or loss described in
6 subsection (a)(3) shall be treated as a long-term
7 capital gain or loss, as the case may be.

8 “(5) MINIMUM TAX TREATMENT.—In determin-
9 ing the alternative minimum taxable income of any
10 partner, such partner’s distributive share of any ap-
11 plicable net AMT adjustment shall be taken into ac-
12 count in lieu of making the separate adjustments
13 provided in sections 56, 57, and 58 with respect to
14 the items of the partnership. Except as provided in
15 regulations, the applicable net AMT adjustment
16 shall be treated, for purposes of section 53, as an
17 adjustment or item of tax preference not specified in
18 section 53(d)(1)(B)(ii).

19 “(6) GENERAL CREDITS.—A partner’s distribu-
20 tive share of the amount referred to in paragraph
21 (6) of subsection (a) shall be taken into account as
22 a current year business credit.

23 “(d) OPERATING RULES.—For purposes of this sec-
24 tion—

1 “(1) PASSIVE LOSS LIMITATION ACTIVITY.—

2 The term ‘passive loss limitation activity’ means—

3 “(A) any activity which involves the con-
4 duct of a trade or business, and

5 “(B) any rental activity.

6 For purposes of the preceding sentence, the term
7 ‘trade or business’ includes any activity treated as a
8 trade or business under paragraph (5) or (6) of sec-
9 tion 469(c).

10 “(2) TAX-EXEMPT INTEREST.—The term ‘tax-
11 exempt interest’ means interest excludable from
12 gross income under section 103.

13 “(3) APPLICABLE NET AMT ADJUSTMENT.—

14 “(A) IN GENERAL.—The applicable net
15 AMT adjustment is—

16 “(i) with respect to taxpayers other
17 than corporations, the net adjustment de-
18 termined by using the adjustments applica-
19 ble to individuals, and

20 “(ii) with respect to corporations, the
21 net adjustment determined by using the
22 adjustments applicable to corporations.

23 “(B) NET ADJUSTMENT.—The term ‘net
24 adjustment’ means the net adjustment in the
25 items attributable to passive loss activities or

1 other activities (as the case may be) which
2 would result if such items were determined with
3 the adjustments of sections 56, 57, and 58.

4 “(4) TREATMENT OF CERTAIN SEPARATELY
5 STATED ITEMS.—

6 “(A) EXCLUSION FOR CERTAIN PUR-
7 POSES.—In determining the amounts referred
8 to in paragraphs (1) and (2) of subsection (a),
9 any net capital gain or net capital loss (as the
10 case may be), and any item referred to in sub-
11 section (a)(11), shall be excluded.

12 “(B) ALLOCATION RULES.—The net cap-
13 ital gain shall be treated—

14 “(i) as allocable to passive loss limita-
15 tion activities to the extent the net capital
16 gain does not exceed the net capital gain
17 determined by only taking into account
18 gains and losses from sales and exchanges
19 of property used in connection with such
20 activities, and

21 “(ii) as allocable to other activities to
22 the extent such gain exceeds the amount
23 allocated under clause (i).

24 A similar rule shall apply for purposes of allo-
25 cating any net capital loss.

1 “(C) NET CAPITAL LOSS.—The term ‘net
2 capital loss’ means the excess of the losses from
3 sales or exchanges of capital assets over the
4 gains from sales or exchange of capital assets.

5 “(5) GENERAL CREDITS.—The term ‘general
6 credits’ means any credit other than the low-income
7 housing credit, the rehabilitation credit, the foreign
8 tax credit, and the credit allowable under section 29.

9 “(6) FOREIGN INCOME TAXES.—The term ‘for-
10 foreign income taxes’ means taxes described in section
11 901 which are paid or accrued to foreign countries
12 and to possessions of the United States.

13 “(e) SPECIAL RULE FOR UNRELATED BUSINESS
14 TAX.—In the case of a partner which is an organization
15 subject to tax under section 511, such partner’s distribu-
16 tive share of any items shall be taken into account sepa-
17 rately to the extent necessary to comply with the provi-
18 sions of section 512(c)(1).

19 “(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS
20 LIMITATIONS.—If any person holds an interest in a large
21 partnership other than as a limited partner—

22 “(1) paragraph (2) of subsection (c) shall not
23 apply to such partner, and

24 “(2) such partner’s distributive share of the
25 partnership items allocable to passive loss limitation

1 activities shall be taken into account separately to
2 the extent necessary to comply with the provisions of
3 section 469.

4 The preceding sentence shall not apply to any items alloca-
5 ble to an interest held as a limited partner.

6 **“SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.**

7 “(a) GENERAL RULE.—

8 “(1) TAXABLE INCOME.—The taxable income of
9 a large partnership shall be computed in the same
10 manner as in the case of an individual except that—

11 “(A) the items described in section 772(a)
12 shall be separately stated, and

13 “(B) the modifications of subsection (b)
14 shall apply.

15 “(2) ELECTIONS.—All elections affecting the
16 computation of the taxable income of a large part-
17 nership or the computation of any credit of a large
18 partnership shall be made by the partnership; except
19 that the election under section 901, and any election
20 under section 108, shall be made by each partner
21 separately.

22 “(3) LIMITATIONS, ETC.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), all limitations and other pro-
25 visions affecting the computation of the taxable

1 income of a large partnership or the computa-
2 tion of any credit of a large partnership shall
3 be applied at the partnership level (and not at
4 the partner level).

5 “(B) CERTAIN LIMITATIONS APPLIED AT
6 PARTNER LEVEL.—The following provisions
7 shall be applied at the partner level (and not at
8 the partnership level):

9 “(i) Section 68 (relating to overall
10 limitation on itemized deductions).

11 “(ii) Sections 49 and 465 (relating to
12 at risk limitations).

13 “(iii) Section 469 (relating to limita-
14 tion on passive activity losses and credits).

15 “(iv) Any other provision specified in
16 regulations.

17 “(4) COORDINATION WITH OTHER PROVI-
18 SIONS.—Paragraphs (2) and (3) shall apply notwith-
19 standing any other provision of this chapter other
20 than this part.

21 “(b) MODIFICATIONS TO DETERMINATION OF TAX-
22 ABLE INCOME.—In determining the taxable income of a
23 large partnership—

24 “(1) CERTAIN DEDUCTIONS NOT ALLOWED.—
25 The following deductions shall not be allowed:

1 “(A) The deduction for personal exemp-
2 tions provided in section 151.

3 “(B) The net operating loss deduction pro-
4 vided in section 172.

5 “(C) The additional itemized deductions
6 for individuals provided in part VII of sub-
7 chapter B (other than section 212 thereof).

8 “(2) CHARITABLE DEDUCTIONS.—In determin-
9 ing the amount allowable under section 170, the lim-
10 itation of section 170(b)(2) shall apply.

11 “(3) COORDINATION WITH SECTION 67.—In lieu
12 of applying section 67, 70 percent of the amount of
13 the miscellaneous itemized deductions shall be dis-
14 allowed.

15 “(c) SPECIAL RULES FOR INCOME FROM DISCHARGE
16 OF INDEBTEDNESS.—If a large partnership has income
17 from the discharge of any indebtedness—

18 “(1) such income shall be excluded in determin-
19 ing the amounts referred to in section 772(a), and

20 “(2) in determining the income tax of any part-
21 ner of such partnership—

22 “(A) such income shall be treated as an
23 item required to be separately taken into ac-
24 count under section 772(a), and

1 “(B) the provisions of section 108 shall be
2 applied without regard to this part.

3 **“SEC. 774. OTHER MODIFICATIONS.**

4 “(a) TREATMENT OF CERTAIN OPTIONAL ADJUST-
5 MENTS, ETC.—In the case of a large partnership—

6 “(1) computations under section 773 shall be
7 made without regard to any adjustment under sec-
8 tion 743(b) or 108(b), but

9 “(2) a partner’s distributive share of any
10 amount referred to in section 772(a) shall be appro-
11 priately adjusted to take into account any adjust-
12 ment under section 743(b) or 108(b) with respect to
13 such partner.

14 “(b) CREDIT RECAPTURE DETERMINED AT PART-
15 NERSHIP LEVEL.—

16 “(1) IN GENERAL.—In the case of a large part-
17 nership—

18 “(A) any credit recapture shall be taken
19 into account by the partnership, and

20 “(B) the amount of such recapture shall be
21 determined as if the credit with respect to
22 which the recapture is made had been fully uti-
23 lized to reduce tax.

24 “(2) METHOD OF TAKING RECAPTURE INTO AC-
25 COUNT.—A large partnership shall take into account

1 a credit recapture by reducing the amount of the ap-
2 propriate current year credit to the extent thereof,
3 and if such recapture exceeds the amount of such
4 current year credit, the partnership shall be liable to
5 pay such excess.

6 “(3) DISPOSITIONS NOT TO TRIGGER RECAP-
7 TURE.—No credit recapture shall be required by rea-
8 son of any transfer of an interest in a large partner-
9 ship.

10 “(4) CREDIT RECAPTURE.—For purposes of
11 this subsection, the term ‘credit recapture’ means
12 any increase in tax under section 42(j) or 50(a).

13 “(c) PARTNERSHIP NOT TERMINATED BY REASON
14 OF CHANGE IN OWNERSHIP.—Subparagraph (B) of sec-
15 tion 708(b)(1) shall not apply to a large partnership.

16 “(d) PARTNERSHIP ENTITLED TO CERTAIN CRED-
17 ITS.—The following shall be allowed to a large partnership
18 and shall not be taken into account by the partners of
19 such partnership:

20 “(1) The credit provided by section 34.

21 “(2) Any credit or refund under section
22 852(b)(3)(D).

23 “(e) TREATMENT OF REMIC RESIDUALS.—For pur-
24 poses of applying section 860E(e)(6) to any large partner-
25 ship—

1 “(1) all interests in such partnership shall be
2 treated as held by disqualified organizations,

3 “(2) in lieu of applying subparagraph (C) of
4 section 860E(e)(6), the amount subject to tax under
5 section 860E(e)(6) shall be excluded from the gross
6 income of such partnership, and

7 “(3) subparagraph (D) of section 860E(e)(6)
8 shall not apply.

9 “(f) SPECIAL RULES FOR APPLYING CERTAIN IN-
10 STALLMENT SALE RULES.—In the case of a large partner-
11 ship—

12 “(1) the provisions of sections 453(l)(3) and
13 453A shall be applied at the partnership level, and

14 “(2) in determining the amount of interest pay-
15 able under such sections, such partnership shall be
16 treated as subject to tax under this chapter at the
17 highest rate of tax in effect under section 1 or 11.

18 **“SEC. 775. LARGE PARTNERSHIP.**

19 “(a) GENERAL RULE.—For purposes of this part—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this section or section 776, the term ‘large
22 partnership’ means, with respect to any partnership
23 taxable year, any partnership if the number of per-
24 sons who were partners in such partnership in such
25 taxable year or any preceding partnership taxable

1 year ending on or after December 31, 1994, equaled
2 or exceeded 250. To the extent provided in regula-
3 tions, a partnership shall cease to be treated as a
4 large partnership for any partnership taxable year if
5 in such taxable year fewer than 100 persons were
6 partners in such partnership.

7 “(2) ELECTION FOR PARTNERSHIPS WITH AT
8 LEAST 100 PARTNERS.—If a partnership makes an
9 election under this paragraph, paragraph (1) shall
10 be applied by substituting ‘100’ for ‘250’. Such an
11 election shall apply to the taxable year for which
12 made and all subsequent taxable years unless re-
13 voked with the consent of the Secretary.

14 “(b) SPECIAL RULES FOR CERTAIN SERVICE PART-
15 NERSHIPS.—

16 “(1) CERTAIN PARTNERS NOT COUNTED.—For
17 purposes of this section, the term ‘partner’ does not
18 include any individual performing substantial serv-
19 ices in connection with the activities of the partner-
20 ship and holding an interest in such partnership, or
21 an individual who formerly performed substantial
22 services in connection with such activities and who
23 held an interest in such partnership at the time the
24 individual performed such services.

1 “(2) EXCLUSION.—For purposes of this part,
2 the term ‘large partnership’ does not include any
3 partnership if substantially all the partners of such
4 partnership—

5 “(A) are individuals performing substantial
6 services in connection with the activities of such
7 partnership or are personal service corporations
8 (as defined in section 269A(b)) the owner-em-
9 ployees (as defined in section 269A(b)) of which
10 perform such substantial services,

11 “(B) are retired partners who had per-
12 formed such substantial services, or

13 “(C) are spouses of partners who are per-
14 forming (or had previously performed) such
15 substantial services.

16 “(3) SPECIAL RULE FOR LOWER TIER PART-
17 NERSHIPS.—For purposes of this subsection, the ac-
18 tivities of a partnership shall include the activities of
19 any other partnership in which the partnership owns
20 directly an interest in the capital and profits of at
21 least 80 percent.

22 “(c) EXCLUSION OF COMMODITY POOLS.—For pur-
23 poses of this part, the term ‘large partnership’ does not
24 include any partnership the principal activity of which is
25 the buying and selling of commodities (not described in

1 section 1221(1)), or options, futures, or forwards with re-
2 spect to such commodities.

3 “(d) SECRETARY MAY RELY ON TREATMENT ON RE-
4 TURN.—If, on the partnership return of any partnership,
5 such partnership is treated as a large partnership, such
6 treatment shall be binding on such partnership and all
7 partners of such partnership but not on the Secretary.

8 **“SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING**
9 **OIL AND GAS PROPERTIES.**

10 “(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIG-
11 NIFICANT OIL AND GAS PROPERTIES.—

12 “(1) IN GENERAL.—For purposes of this part,
13 the term ‘large partnership’ shall not include any
14 partnership if the average percentage of assets (by
15 value) held by such partnership during the taxable
16 year which are oil or gas properties is at least 25
17 percent. For purposes of the preceding sentence, any
18 interest held by a partnership in another partnership
19 shall be disregarded, except that the partnership
20 shall be treated as holding its proportionate share of
21 the assets of such other partnership.

22 “(2) ELECTION TO WAIVE EXCEPTION.—Any
23 partnership may elect to have paragraph (1) not
24 apply. Such an election shall apply to the partner-
25 ship taxable year for which made and all subsequent

1 partnership taxable years unless revoked with the
2 consent of the Secretary.

3 “(b) SPECIAL RULES WHERE PART APPLIES.—

4 “(1) COMPUTATION OF PERCENTAGE DEPLE-
5 TION.—In the case of a large partnership, except as
6 provided in paragraph (2)—

7 “(A) the allowance for depletion under sec-
8 tion 611 with respect to any partnership oil or
9 gas property shall be computed at the partner-
10 ship level without regard to any provision of
11 section 613A requiring such allowance to be
12 computed separately by each partner,

13 “(B) such allowance shall be determined
14 without regard to the provisions of section
15 613A(c) limiting the amount of production for
16 which percentage depletion is allowable and
17 without regard to paragraph (1) of section
18 613A(d), and

19 “(C) paragraph (3) of section 705(a) shall
20 not apply.

21 “(2) TREATMENT OF CERTAIN PARTNERS.—

22 “(A) IN GENERAL.—In the case of a dis-
23 qualified person, the treatment under this chap-
24 ter of such person’s distributive share of any
25 item of income, gain, loss, deduction, or credit

1 attributable to any partnership oil or gas prop-
2 erty shall be determined without regard to this
3 part. Such person’s distributive share of any
4 such items shall be excluded for purposes of
5 making determinations under sections 772 and
6 773.

7 “(B) DISQUALIFIED PERSON.—For pur-
8 poses of subparagraph (A), the term ‘disquali-
9 fied person’ means, with respect to any partner-
10 ship taxable year—

11 “(i) any person referred to in para-
12 graph (2) or (4) of section 613A(d) for
13 such person’s taxable year in which such
14 partnership taxable year ends, and

15 “(ii) any other person if such person’s
16 average daily production of domestic crude
17 oil and natural gas for such person’s tax-
18 able year in which such partnership tax-
19 able year ends exceeds 500 barrels.

20 “(C) AVERAGE DAILY PRODUCTION.—For
21 purposes of subparagraph (B), a person’s aver-
22 age daily production of domestic crude oil and
23 natural gas for any taxable year shall be com-
24 puted as provided in section 613A(c)(2)—

1 “(i) by taking into account all produc-
2 tion of domestic crude oil and natural gas
3 (including such person’s proportionate
4 share of any production of a partnership),

5 “(ii) by treating 6,000 cubic feet of
6 natural gas as a barrel of crude oil, and

7 “(iii) by treating as 1 person all per-
8 sons treated as 1 taxpayer under section
9 613A(c)(8) or among whom allocations are
10 required under such section.

11 **“SEC. 777. REGULATIONS.**

12 “The Secretary shall prescribe such regulations as
13 may be appropriate to carry out the purposes of this
14 part.”

15 (b) CLERICAL AMENDMENT.—The table of parts for
16 subchapter K of chapter 1 is amended by adding at the
17 end thereof the following new item:

“Part IV. Special rules for large partnerships.”

18 **SEC. 302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE**
19 **PARTNERSHIPS.**

20 (a) GENERAL RULE.—Chapter 63 is amended by
21 adding at the end thereof the following new subchapter:

22 **“SUBCHAPTER D—TREATMENT OF LARGE**
23 **PARTNERSHIPS**

“Part I. Treatment of partnership items and adjustments.

“Part II. Partnership level adjustments.

“Part III. Definitions and special rules.

1 **“PART I—TREATMENT OF PARTNERSHIP ITEMS**
2 **AND ADJUSTMENTS**

“Sec. 6240. Application of subchapter.

“Sec. 6241. Partner’s return must be consistent with partnership return.

“Sec. 6242. Procedures for taking partnership adjustments into account.

3 **“SEC. 6240. APPLICATION OF SUBCHAPTER.**

4 “(a) GENERAL RULE.—This subchapter shall only
5 apply to large partnerships and partners in such partner-
6 ships.

7 “(b) COORDINATION WITH OTHER PARTNERSHIP
8 AUDIT PROCEDURES.—

9 “(1) IN GENERAL.—Subchapter C of this chap-
10 ter shall not apply to any large partnership other
11 than in its capacity as a partner in another partner-
12 ship which is not a large partnership.

13 “(2) TREATMENT WHERE PARTNER IN OTHER
14 PARTNERSHIP.—If a large partnership is a partner
15 in another partnership which is not a large partner-
16 ship—

17 “(A) subchapter C of this chapter shall
18 apply to items of such large partnership which
19 are partnership items with respect to such other
20 partnership, but

21 “(B) any adjustment under such sub-
22 chapter C shall be taken into account in the
23 manner provided by section 6242.

1 **“SEC. 6241. PARTNER’S RETURN MUST BE CONSISTENT**
2 **WITH PARTNERSHIP RETURN.**

3 “(a) GENERAL RULE.—A partner of any large part-
4 nership shall, on the partner’s return, treat each partner-
5 ship item attributable to such partnership in a manner
6 which is consistent with the treatment of such partnership
7 item on the partnership return.

8 “(b) UNDERPAYMENT DUE TO INCONSISTENT
9 TREATMENT ASSESSED AS MATH ERROR.—Any
10 underpayment of tax by a partner by reason of failing to
11 comply with the requirements of subsection (a) shall be
12 assessed and collected in the same manner as if such
13 underpayment were on account of a mathematical or cleri-
14 cal error appearing on the partner’s return. Paragraph (2)
15 of section 6213(b) shall not apply to any assessment of
16 an underpayment referred to in the preceding sentence.

17 “(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR
18 OF PARTNERS.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), subsections (a) and (b) shall apply with-
21 out regard to any adjustment to the partnership
22 item under part II.

23 “(2) CERTAIN CHANGES IN DISTRIBUTIVE
24 SHARE TAKEN INTO ACCOUNT BY PARTNER.—

25 “(A) IN GENERAL.—To the extent that
26 any adjustment under part II involves a change

1 under section 704 in a partner's distributive
2 share of the amount of any partnership item
3 shown on the partnership return, such adjust-
4 ment shall be taken into account in applying
5 this title to such partner for the partner's tax-
6 able year for which such item was required to
7 be taken into account.

8 “(B) COORDINATION WITH DEFICIENCY
9 PROCEDURES.—

10 “(i) IN GENERAL.—Subchapter B
11 shall not apply to the assessment or collec-
12 tion of any underpayment of tax attrib-
13 utable to an adjustment referred to in sub-
14 paragraph (A).

15 “(ii) ADJUSTMENT NOT PRE-
16 CLUDED.—Notwithstanding any other law
17 or rule of law, nothing in subchapter B (or
18 in any proceeding under subchapter B)
19 shall preclude the assessment or collection
20 of any underpayment of tax (or the allow-
21 ance of any credit or refund of any over-
22 payment of tax) attributable to an adjust-
23 ment referred to in subparagraph (A) and
24 such assessment or collection or allowance
25 (or any notice thereof) shall not preclude

1 any notice, proceeding, or determination
2 under subchapter B.

3 “(C) PERIOD OF LIMITATIONS.—The pe-
4 riod for—

5 “(i) assessing any underpayment of
6 tax, or

7 “(ii) filing a claim for credit or refund
8 of any overpayment of tax,
9 attributable to an adjustment referred to in
10 subparagraph (A) shall not expire before the
11 close of the period prescribed by section 6248
12 for making adjustments with respect to the
13 partnership taxable year involved.

14 “(D) TIERED STRUCTURES.—If the part-
15 ner referred to in subparagraph (A) is another
16 partnership or an S corporation, the rules of
17 this paragraph shall also apply to persons hold-
18 ing interests in such partnership or S corpora-
19 tion (as the case may be); except that, if such
20 partner is a large partnership, the adjustment
21 referred to in subparagraph (A) shall be taken
22 into account in the manner provided by section
23 6242.

1 “(d) ADDITION TO TAX FOR FAILURE TO COMPLY
2 WITH SECTION.—

“For addition to tax in case of partner’s disregard
of requirements of this section, see part II of sub-
chapter A of chapter 68.

3 “SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP AD-
4 JUSTMENTS INTO ACCOUNT.

5 “(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS
6 FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

7 “(1) IN GENERAL.—If any partnership adjust-
8 ment with respect to any partnership item takes ef-
9 fect (within the meaning of subsection (d)(2)) during
10 any partnership taxable year and if an election
11 under paragraph (2) does not apply to such adjust-
12 ment, such adjustment shall be taken into account
13 in determining the amount of such item for the part-
14 nership taxable year in which such adjustment takes
15 effect. In applying this title to any person who is
16 (directly or indirectly) a partner in such partnership
17 during such partnership taxable year, such adjust-
18 ment shall be treated as an item actually arising
19 during such taxable year.

20 “(2) PARTNERSHIP LIABLE IN CERTAIN
21 CASES.—If—

22 “(A) a partnership elects under this para-
23 graph to not take an adjustment into account
24 under paragraph (1),

1 “(B) a partnership does not make such an
2 election but in filing its return for any partner-
3 ship taxable year fails to take fully into account
4 any partnership adjustment as required under
5 paragraph (1), or

6 “(C) any partnership adjustment involves a
7 reduction in a credit which exceeds the
8 amount of such credit determined for the
9 partnership taxable year in which the adjust-
10 ment takes effect,

11 the partnership shall pay to the Secretary an
12 amount determined by applying the rules of sub-
13 section (b)(4) to the adjustments not so taken into
14 account and any excess referred to in subparagraph
15 (C).

16 “(3) OFFSETTING ADJUSTMENTS TAKEN INTO
17 ACCOUNT.—If a partnership adjustment requires an-
18 other adjustment in a taxable year after the ad-
19 justed year and before the partnership taxable year
20 in which such partnership adjustment takes effect,
21 such other adjustment shall be taken into account
22 under this subsection for the partnership taxable
23 year in which such partnership adjustment takes ef-
24 fect.

1 “(4) COORDINATION WITH PART II.—Amounts
2 taken into account under this subsection for any
3 partnership taxable year shall continue to be treated
4 as adjustments for the adjusted year for purposes of
5 determining whether such amounts may be read-
6 justed under part II.

7 “(b) PARTNERSHIP LIABLE FOR INTEREST AND
8 PENALTIES.—

9 “(1) IN GENERAL.—If a partnership adjust-
10 ment takes effect during any partnership taxable
11 year and such adjustment results in an imputed
12 underpayment for the adjusted year, the partner-
13 ship—

14 “(A) shall pay to the Secretary interest
15 computed under paragraph (2), and

16 “(B) shall be liable for any penalty, addi-
17 tion to tax, or additional amount as provided in
18 paragraph (3).

19 “(2) DETERMINATION OF AMOUNT OF INTER-
20 EST.—The interest computed under this paragraph
21 with respect to any partnership adjustment is the in-
22 terest which would be determined under chapter
23 67—

1 “(A) on the imputed underpayment deter-
2 mined under paragraph (4) with respect to such
3 adjustment,

4 “(B) for the period beginning on the day
5 after the return due date for the adjusted year
6 and ending on the return due date for the part-
7 nership taxable year in which such adjustment
8 takes effect (or, if earlier, in the case of any ad-
9 justment to which subsection (a)(2) applies, the
10 date on which the payment under subsection
11 (a)(2) is made).

12 Proper adjustments in the amount determined under
13 the preceding sentence shall be made for adjust-
14 ments required for partnership taxable years after
15 the adjusted year and before the year in which the
16 partnership adjustment takes effect by reason of
17 such partnership adjustment.

18 “(3) PENALTIES.—A partnership shall be liable
19 for any penalty, addition to tax, or additional
20 amount for which it would have been liable if such
21 partnership had been an individual subject to tax
22 under chapter 1 for the adjusted year and the im-
23 puted underpayment determined under paragraph
24 (4) were an actual underpayment (or understatement)
25 for such year.

1 “(4) IMPUTED UNDERPAYMENT.—For purposes
2 of this subsection, the imputed underpayment deter-
3 mined under this paragraph with respect to any
4 partnership adjustment is the underpayment (if any)
5 which would result—

6 “(A) by netting all adjustments to items of
7 income, gain, loss, or deduction and by treating
8 any net increase in income as an underpayment
9 equal to the amount of such net increase multi-
10 plied by the highest rate of tax in effect under
11 section 1 or 11 for the adjusted year, and

12 “(B) by taking adjustments to credits into
13 account as increases or decreases (whichever is
14 appropriate) in the amount of tax.

15 For purposes of the preceding sentence, any net de-
16 crease in a loss shall be treated as an increase in in-
17 come and a similar rule shall apply to a net increase
18 in a loss.

19 “(c) ADMINISTRATIVE PROVISIONS.—

20 “(1) IN GENERAL.—Any payment required by
21 subsection (a)(2) or (b)(1)(A)—

22 “(A) shall be assessed and collected in the
23 same manner as if it were a tax imposed by
24 subtitle C, and

1 “(B) shall be paid on or before the return
2 due date for the partnership taxable year in
3 which the partnership adjustment takes effect.

4 “(2) INTEREST.—For purposes of determining
5 interest, any payment required by subsection (a)(2)
6 or (b)(1)(A) shall be treated as an underpayment
7 of tax.

8 “(3) PENALTIES.—

9 “(A) IN GENERAL.—In the case of any
10 failure by any partnership to pay on the date
11 prescribed therefor any amount required by
12 subsection (a)(2) or (b)(1)(A), there is hereby
13 imposed on such partnership a penalty of 10
14 percent of the underpayment. For purposes of
15 the preceding sentence, the term
16 ‘underpayment’ means the excess of any pay-
17 ment required under this section over the
18 amount (if any) paid on or before the date pre-
19 scribed therefor.

20 “(B) ACCURACY-RELATED AND FRAUD
21 PENALTIES MADE APPLICABLE.—For purposes
22 of part II of subchapter A of chapter 68, any
23 payment required by subsection (a)(2) shall be
24 treated as an underpayment of tax.

1 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) PARTNERSHIP ADJUSTMENT.—The term
4 ‘partnership adjustment’ means any adjustment in
5 the amount of any partnership item of a large part-
6 nership.

7 “(2) WHEN ADJUSTMENT TAKES EFFECT.—A
8 partnership adjustment takes effect—

9 “(A) in the case of an adjustment pursu-
10 ant to the decision of a court in a proceeding
11 brought under part II, when such decision be-
12 comes final,

13 “(B) in the case of an adjustment pursu-
14 ant to any administrative adjustment request
15 under section 6251, when such adjustment is
16 allowed by the Secretary, or

17 “(C) in any other case, when such adjust-
18 ment is made.

19 “(3) ADJUSTED YEAR.—The term ‘adjusted
20 year’ means the partnership taxable year to which
21 the item being adjusted relates.

22 “(4) RETURN DUE DATE.—The term ‘return
23 due date’ means, with respect to any taxable year,
24 the date prescribed for filing the partnership return

1 for such taxable year (determined without regard to
2 extensions).

3 “(5) ADJUSTMENTS INVOLVING CHANGES IN
4 CHARACTER.—Under regulations, appropriate ad-
5 justments in the application of this section shall be
6 made for purposes of taking into account partner-
7 ship adjustments which involve a change in the char-
8 acter of any item of income, gain, loss, or deduction.

9 “(e) PAYMENTS NONDEDUCTIBLE.—No deduction
10 shall be allowed under subtitle A for any payment required
11 to be made by a large partnership under this section.

12 **“PART II—PARTNERSHIP LEVEL ADJUSTMENTS**

“Subpart A. Adjustments by Secretary.

“Subpart B. Claims for adjustments by partnership.

13 **“Subpart A—Adjustments by Secretary**

“Sec. 6245. Secretarial authority.

“Sec. 6246. Restrictions on partnership adjustments.

“Sec. 6247. Judicial review of partnership adjustment.

“Sec. 6248. Period of limitations for making adjustments.

14 **“SEC. 6245. SECRETARIAL AUTHORITY.**

15 “(a) GENERAL RULE.—The Secretary is authorized
16 and directed to make adjustments at the partnership level
17 in any partnership item to the extent necessary to have
18 such item be treated in the manner required.

19 “(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

20 “(1) IN GENERAL.—If the Secretary determines
21 that a partnership adjustment is required, the Sec-
22 retary is authorized to send notice of such adjust-

1 ment to the partnership by certified mail or reg-
2 istered mail. Such notice shall be sufficient if mailed
3 to the partnership at its last known address even if
4 the partnership has terminated its existence.

5 “(2) FURTHER NOTICES RESTRICTED.—If the
6 Secretary mails a notice of a partnership adjustment
7 to any partnership for any partnership taxable year
8 and the partnership files a petition under section
9 6247 with respect to such notice, in the absence of
10 a showing of fraud, malfeasance, or misrepresenta-
11 tion of a material fact, the Secretary shall not mail
12 another such notice to such partnership with respect
13 to such taxable year.

14 “(3) AUTHORITY TO RESCIND NOTICE WITH
15 PARTNERSHIP CONSENT.—The Secretary may, with
16 the consent of the partnership, rescind any notice of
17 a partnership adjustment mailed to such partner-
18 ship. Any notice so rescinded shall not be treated as
19 a notice of a partnership adjustment, for purposes of
20 this section, section 6246, and section 6247, and the
21 taxpayer shall have no right to bring a proceeding
22 under section 6247 with respect to such notice.
23 Nothing in this subsection shall affect any suspen-
24 sion of the running of any period of limitations dur-

1 “(1) ADJUSTMENTS ARISING OUT OF MATH OR
2 CLERICAL ERRORS.—

3 “(A) IN GENERAL.—If the partnership is
4 notified that, on account of a mathematical or
5 clerical error appearing on the partnership re-
6 turn, an adjustment to a partnership item is re-
7 quired, rules similar to the rules of paragraphs
8 (1) and (2) of section 6213(b) shall apply to
9 such adjustment.

10 “(B) SPECIAL RULE.—If a large partner-
11 ship is a partner in another large partnership,
12 any adjustment on account of such partner-
13 ship’s failure to comply with the requirements
14 of section 6241(a) with respect to its interest in
15 such other partnership shall be treated as an
16 adjustment referred to in subparagraph (A), ex-
17 cept that paragraph (2) of section 6213(b) shall
18 not apply to such adjustment.

19 “(2) PARTNERSHIP MAY WAIVE RESTRIC-
20 TIONS.—The partnership shall at any time (whether
21 or not a notice of partnership adjustment has been
22 issued) have the right, by a signed notice in writing
23 filed with the Secretary, to waive the restrictions
24 provided in subsection (a) on the making of any
25 partnership adjustment.

1 the United States or the Claims Court only if the
2 partnership filing the petition deposits with the Sec-
3 retary, on or before the date the petition is filed, the
4 amount for which the partnership would be liable
5 under section 6242(b) (as of the date of the filing
6 of the petition) if the partnership items were ad-
7 justed as provided by the notice of partnership ad-
8 justment. The court may by order provide that the
9 jurisdictional requirements of this paragraph are
10 satisfied where there has been a good faith attempt
11 to satisfy such requirement and any shortfall of the
12 amount required to be deposited is timely corrected.

13 “(2) INTEREST PAYABLE.—Any amount depos-
14 ited under paragraph (1), while deposited, shall not
15 be treated as a payment of tax for purposes of this
16 title (other than chapter 67).

17 “(c) SCOPE OF JUDICIAL REVIEW.—A court with
18 which a petition is filed in accordance with this section
19 shall have jurisdiction to determine all partnership items
20 of the partnership for the partnership taxable year to
21 which the notice of partnership adjustment relates and the
22 proper allocation of such items among the partners (and
23 the applicability of any penalty, addition to tax, or addi-
24 tional amount for which the partnership may be liable
25 under section 6242(b)).

1 “(d) DETERMINATION OF COURT REVIEWABLE.—
2 Any determination by a court under this section shall have
3 the force and effect of a decision of the Tax Court or a
4 final judgment or decree of the district court or the Claims
5 Court, as the case may be, and shall be reviewable as such.
6 The date of any such determination shall be treated as
7 being the date of the court’s order entering the decision.

8 “(e) EFFECT OF DECISION DISMISSING ACTION.—If
9 an action brought under this section is dismissed other
10 than by reason of a rescission under section 6245(b)(3),
11 the decision of the court dismissing the action shall be con-
12 sidered as its decision that the notice of partnership ad-
13 justment is correct, and an appropriate order shall be en-
14 tered in the records of the court.

15 **“SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUST-**
16 **MENTS.**

17 “(a) GENERAL RULE.—Except as otherwise provided
18 in this section, no adjustment under this subpart to any
19 partnership item for any partnership taxable year may be
20 made after the date which is 3 years after the later of—

21 “(1) the date on which the partnership return
22 for such taxable year was filed, or

23 “(2) the last day for filing such return for such
24 year (determined without regard to extensions).

1 “(b) EXTENSION BY AGREEMENT.—The period de-
2 scribed in subsection (a) (including an extension period
3 under this subsection) may be extended by an agreement
4 entered into by the Secretary and the partnership before
5 the expiration of such period.

6 “(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

7 “(1) FALSE RETURN.—In the case of a false or
8 fraudulent partnership return with intent to evade
9 tax, the adjustment may be made at any time.

10 “(2) SUBSTANTIAL OMISSION OF INCOME.—If
11 any partnership omits from gross income an amount
12 properly includible therein which is in excess of 25
13 percent of the amount of gross income stated in its
14 return, subsection (a) shall be applied by substitut-
15 ing ‘6 years’ for ‘3 years’.

16 “(3) NO RETURN.—In the case of a failure by
17 a partnership to file a return for any taxable year,
18 the adjustment may be made at any time.

19 “(4) RETURN FILED BY SECRETARY.—For pur-
20 poses of this section, a return executed by the Sec-
21 retary under subsection (b) of section 6020 on be-
22 half of the partnership shall not be treated as a re-
23 turn of the partnership.

24 “(d) SUSPENSION WHEN SECRETARY MAILS NOTICE
25 OF ADJUSTMENT.—If notice of a partnership adjustment

1 with respect to any taxable year is mailed to the partner-
2 ship, the running of the period specified in subsection (a)
3 (as modified by the other provisions of this section) shall
4 be suspended—

5 “(1) for the period during which an action may
6 be brought under section 6247 (and, if a petition is
7 filed under section 6247 with respect to such notice,
8 until the decision of the court becomes final), and

9 “(2) for 1 year thereafter.

10 **“Subpart B—Claims for Adjustments by Partnership**

“Sec. 6251. Administrative adjustment requests.

“Sec. 6252. Judicial review where administrative adjustment re-
quest is not allowed in full.

11 **“SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.**

12 “(a) GENERAL RULE.—A partnership may file a re-
13 quest for an administrative adjustment of partnership
14 items for any partnership taxable year at any time which
15 is—

16 “(1) within 3 years after the later of—

17 “(A) the date on which the partnership re-
18 turn for such year is filed, or

19 “(B) the last day for filing the partnership
20 return for such year (determined without re-
21 gard to extensions), and

22 “(2) before the mailing to the partnership of a
23 notice of a partnership adjustment with respect to
24 such taxable year.

1 “(b) SECRETARIAL ACTION.—If a partnership files
2 an administrative adjustment request under subsection
3 (a), the Secretary may allow any part of the requested
4 adjustments.

5 “(c) SPECIAL RULE IN CASE OF EXTENSION UNDER
6 SECTION 6248.—If the period described in section
7 6248(a) is extended pursuant to an agreement under sec-
8 tion 6248(b), the period prescribed by subsection (a)(1)
9 shall not expire before the date 6 months after the expira-
10 tion of the extension under section 6248(b).

11 **“SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE**
12 **ADJUSTMENT REQUEST IS NOT ALLOWED IN**
13 **FULL.**

14 “(a) IN GENERAL.—If any part of an administrative
15 adjustment request filed under section 6251 is not allowed
16 by the Secretary, the partnership may file a petition for
17 an adjustment with respect to the partnership items to
18 which such part of the request relates with—

19 “(1) the Tax Court,

20 “(2) the district court of the United States for
21 the district in which the principal place of business
22 of the partnership is located, or

23 “(3) the Claims Court.

1 “(b) PERIOD FOR FILING PETITION.—A petition may
2 be filed under subsection (a) with respect to partnership
3 items for a partnership taxable year only—

4 “(1) after the expiration of 6 months from the
5 date of filing of the request under section 6251, and

6 “(2) before the date which is 2 years after the
7 date of such request.

8 The 2-year period set forth in paragraph (2) shall be ex-
9 tended for such period as may be agreed upon in writing
10 by the partnership and the Secretary.

11 “(c) COORDINATION WITH SUBPART A.—

12 “(1) NOTICE OF PARTNERSHIP ADJUSTMENT
13 BEFORE FILING OF PETITION.—No petition may be
14 filed under this section after the Secretary mails to
15 the partnership a notice of a partnership adjustment
16 for the partnership taxable year to which the request
17 under section 6251 relates.

18 “(2) NOTICE OF PARTNERSHIP ADJUSTMENT
19 AFTER FILING BUT BEFORE HEARING OF PETI-
20 TION.—If the Secretary mails to the partnership a
21 notice of a partnership adjustment for the partner-
22 ship taxable year to which the request under section
23 6251 relates after the filing of a petition under this
24 subsection but before the hearing of such petition,
25 such petition shall be treated as an action brought

1 under section 6247 with respect to such notice, ex-
2 cept that subsection (b) of section 6247 shall not
3 apply.

4 “(3) NOTICE MUST BE BEFORE EXPIRATION OF
5 STATUTE OF LIMITATIONS.—A notice of a partner-
6 ship adjustment for the partnership taxable year
7 shall be taken into account under paragraphs (1)
8 and (2) only if such notice is mailed before the expi-
9 ration of the period prescribed by section 6248 for
10 making adjustments to partnership items for such
11 taxable year.

12 “(d) SCOPE OF JUDICIAL REVIEW.—Except in the
13 case described in paragraph (2) of subsection (c), a court
14 with which a petition is filed in accordance with this sec-
15 tion shall have jurisdiction to determine only those part-
16 nership items to which the part of the request under sec-
17 tion 6251 not allowed by the Secretary relates and those
18 items with respect to which the Secretary asserts adjust-
19 ments as offsets to the adjustments requested by the part-
20 nership.

21 “(e) DETERMINATION OF COURT REVIEWABLE.—
22 Any determination by a court under this subsection shall
23 have the force and effect of a decision of the Tax Court
24 or a final judgment or decree of the district court or the
25 Claims Court, as the case may be, and shall be reviewable

1 as such. The date of any such determination shall be
2 treated as being the date of the court's order entering the
3 decision.

4 **“PART III—DEFINITIONS AND SPECIAL RULES**

“Sec. 6255. Definitions and special rules.

5 **“SEC. 6255. DEFINITIONS AND SPECIAL RULES.**

6 “(a) DEFINITIONS.—For purposes of this sub-
7 chapter—

8 “(1) LARGE PARTNERSHIP.—The term ‘large
9 partnership’ has the meaning given to such term by
10 section 775 without regard to section 776(a).

11 “(2) PARTNERSHIP ITEM.—The term ‘partner-
12 ship item’ has the meaning given to such term by
13 section 6231(a)(3).

14 “(b) PARTNERS BOUND BY ACTIONS OF PARTNER-
15 SHIP, ETC.—

16 “(1) DESIGNATION OF PARTNER.—Each large
17 partnership shall designate (in the manner pre-
18 scribed by the Secretary) a partner (or other person)
19 who shall have the sole authority to act on behalf of
20 such partnership under this subchapter. In any case
21 in which such a designation is not in effect, the Sec-
22 retary may select any partner as the partner with
23 such authority.

1 “(2) BINDING EFFECT.—A large partnership
2 and all partners of such partnership shall be
3 bound—

4 “(A) by actions taken under this sub-
5 chapter by the partnership, and

6 “(B) by any decision in a proceeding
7 brought under this subchapter.

8 “(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF
9 BUSINESS OUTSIDE THE UNITED STATES.—For purposes
10 of sections 6247 and 6252, a principal place of business
11 located outside the United States shall be treated as lo-
12 cated in the District of Columbia.

13 “(d) TREATMENT WHERE PARTNERSHIP CEASES TO
14 EXIST.—If a partnership ceases to exist before a partner-
15 ship adjustment under this subchapter takes effect, such
16 adjustment shall be taken into account by the former part-
17 ners of such partnership under regulations prescribed by
18 the Secretary.

19 “(e) DATE DECISION BECOMES FINAL.—For pur-
20 poses of this subchapter, the principles of section 7481(a)
21 shall be applied in determining the date on which a deci-
22 sion of a district court or the Claims Court becomes final.

23 “(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF
24 THE UNITED STATES CODE.—The running of any period
25 of limitations provided in this subchapter on making a

1 partnership adjustment (or provided by section 6501 or
2 6502 on the assessment or collection of any amount re-
3 quired to be paid under section 6242) shall, in a case
4 under title 11 of the United States Code, be suspended
5 during the period during which the Secretary is prohibited
6 by reason of such case from making the adjustment (or
7 assessment or collection) and—

8 “(1) for adjustment or assessment, 60 days
9 thereafter, and

10 “(2) for collection, 6 months thereafter.

11 “(g) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary to carry out the pro-
13 visions of this subchapter, including regulations—

14 “(1) to prevent abuse through manipulation of
15 the provisions of this subchapter, and

16 “(2) providing that this subchapter shall not
17 apply to any case described in section 6231(c)(1) (or
18 the regulations prescribed thereunder) where the ap-
19 plication of this subchapter to such a case would
20 interfere with the effective and efficient enforcement
21 of this title.

22 In any case to which this subchapter does not apply by
23 reason of paragraph (2), rules similar to the rules of sec-
24 tions 6229(f) and 6255(f) shall apply.”

1 (b) CLERICAL AMENDMENT.—The table of sub-
2 chapters for chapter 63 is amended by adding at the end
3 thereof the following new item:

“SUBCHAPTER D. Treatment of large partnerships.”

4 **SEC. 303. DUE DATE FOR FURNISHING INFORMATION TO**
5 **PARTNERS OF LARGE PARTNERSHIPS.**

6 (a) GENERAL RULE.—Subsection (b) of section 6031
7 (relating to copies to partners) is amended by adding at
8 the end thereof the following new sentence: “In the case
9 of a large partnership (as defined in sections 775 and
10 776(a)), such information shall be furnished on or before
11 the first March 15 following the close of such taxable
12 year.”

13 (b) TREATMENT AS INFORMATION RETURN.—Sec-
14 tion 6724 is amended by adding at the end thereof the
15 following new subsection:

16 “(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RE-
17 TURNS.—If any partnership return under section 6031(a)
18 is required under section 6011(e) to be filed on magnetic
19 media or in other machine-readable form, for purposes of
20 this part, each schedule required to be included with such
21 return with respect to each partner shall be treated as a
22 separate information return.”

1 **SEC. 304. RETURNS MAY BE REQUIRED ON MAGNETIC**
2 **MEDIA.**

3 Paragraph (2) of section 6011(e) (relating to returns
4 on magnetic media) is amended by adding at the end
5 thereof the following new sentence:

6 “The preceding sentence shall not apply in the case
7 of the partnership return of a large partnership (as
8 defined in sections 775 and 776(a)) or any other
9 partnership with 250 or more partners.”

10 **SEC. 305. TREATMENT OF PARTNERSHIP ITEMS OF INDI-**
11 **VIDUAL RETIREMENT ACCOUNTS.**

12 Subsection (b) of section 6012 is amended by adding
13 at the end thereof the following new paragraph:

14 “(6) IRA SHARE OF PARTNERSHIP INCOME.—
15 In the case of a trust which is exempt from taxation
16 under section 408(e), for purposes of this section,
17 the trust’s distributive share of items of gross in-
18 come and gain of any partnership to which sub-
19 chapter C or D of chapter 63 applies shall be treat-
20 ed as equal to the trust’s distributive share of the
21 taxable income of such partnership.”

22 **SEC. 306. EFFECTIVE DATE.**

23 (a) GENERAL RULE.—Except as otherwise provided
24 in this section, the amendments made by this subtitle shall
25 apply to partnership taxable years ending on or after De-
26 cember 31, 1994.

1 (b) SPECIAL RULE FOR SECTION 304.—In the case
2 of a partnership which is not a large partnership (as de-
3 fined in sections 775 and 776(a) of the Internal Revenue
4 Code of 1986, as added by this subtitle), the amendment
5 made by section 304 shall only apply to partnership tax-
6 able years ending on or after December 31, 1998.

7 (c) SPECIAL RULE FOR SECTION 305.—The amend-
8 ment made by section 305 shall apply to taxable years be-
9 ginning after December 31, 1993.

10 **Subtitle B—Provisions Related to** 11 **TEFRA Partnership Proceedings**

12 **SEC. 311. TREATMENT OF PARTNERSHIP ITEMS IN DEFI-** 13 **CIENCY PROCEEDINGS.**

14 (a) IN GENERAL.—Subchapter C of chapter 63 is
15 amended by adding at the end thereof the following new
16 section:

17 **“SEC. 6234. DECLARATORY JUDGMENT RELATING TO** 18 **TREATMENT OF ITEMS OTHER THAN PART-** 19 **NERSHIP ITEMS WITH RESPECT TO AN** 20 **OVERSHELTERED RETURN.**

21 “(a) GENERAL RULE.—If—

22 “(1) a taxpayer files an oversheltered return for
23 a taxable year,

24 “(2) the Secretary makes a determination with
25 respect to the treatment of items (other than part-

1 nership items) of such taxpayer for such taxable
2 year, and

3 “(3) the adjustments resulting from such deter-
4 mination do not give rise to a deficiency (as defined
5 in section 6211) but would give rise to a deficiency
6 if there were no net loss from partnership items,

7 the Secretary is authorized to send a notice of adjustment
8 reflecting such determination to the taxpayer by certified
9 or registered mail.

10 “(b) OVERSHELTERED RETURN.—For purposes of
11 this section, the term ‘oversheltered return’ means an in-
12 come tax return which—

13 “(1) shows no taxable income for the taxable
14 year, and

15 “(2) shows a net loss from partnership items.

16 “(c) JUDICIAL REVIEW IN THE TAX COURT.—Within
17 90 days, or 150 days if the notice is addressed to a person
18 outside the United States, after the day on which the no-
19 tice of adjustment authorized in subsection (a) is mailed
20 to the taxpayer, the taxpayer may file a petition with the
21 Tax Court for redetermination of the adjustments. Upon
22 the filing of such a petition, the Tax Court shall have ju-
23 risdiction to make a declaration with respect to all items
24 (other than partnership items and affected items which
25 require partner level determinations as described in sec-

1 tion 6230(a)(2)(A)(i)) for the taxable year to which the
2 notice of adjustment relates, in accordance with the prin-
3 ciples of section 6214(a). Any such declaration shall have
4 the force and effect of a decision of the Tax Court and
5 shall be reviewable as such.

6 “(d) FAILURE TO FILE PETITION.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), if the taxpayer does not file a petition
9 with the Tax Court within the time prescribed in
10 subsection (c), the determination of the Secretary
11 set forth in the notice of adjustment that was mailed
12 to the taxpayer shall be deemed to be correct.

13 “(2) EXCEPTION.—Paragraph (1) shall not
14 apply after the date that the taxpayer—

15 “(A) files a petition with the Tax Court
16 within the time prescribed in subsection (c)
17 with respect to a subsequent notice of adjust-
18 ment relating to the same taxable year, or

19 “(B) files a claim for refund of an overpay-
20 ment of tax under section 6511 for the taxable
21 year involved.

22 If a claim for refund is filed by the taxpayer, then
23 solely for purposes of determining (for the taxable
24 year involved) the amount of any computational ad-
25 justment in connection with a partnership proceed-

1 ing under this subchapter (other than under this
2 section) or the amount of any deficiency attributable
3 to affected items in a proceeding under section
4 6230(a)(2), the items that are the subject of the no-
5 tice of adjustment shall be presumed to have been
6 correctly reported on the taxpayer's return during
7 the pendency of the refund claim (and, if within the
8 time prescribed by section 6532 the taxpayer com-
9 mences a civil action for refund under section 7422,
10 until the decision in the refund action becomes
11 final).

12 “(e) LIMITATIONS PERIOD.—

13 “(1) IN GENERAL.—Any notice to a taxpayer
14 under subsection (a) shall be mailed before the expi-
15 ration of the period prescribed by section 6501 (re-
16 lating to the period of limitations on assessment).

17 “(2) SUSPENSION WHEN SECRETARY MAILES NO-
18 TICE OF ADJUSTMENT.—If the Secretary mails a no-
19 tice of adjustment to the taxpayer for a taxable year,
20 the period of limitations on the making of assess-
21 ments shall be suspended for the period during
22 which the Secretary is prohibited from making the
23 assessment (and, in any event, if a proceeding in re-
24 spect of the notice of adjustment is placed on the
25 docket of the Tax Court, until the decision of the

1 Tax Court becomes final), and for 60 days there-
2 after.

3 “(3) RESTRICTIONS ON ASSESSMENT.—Except
4 as otherwise provided in section 6851, 6852, or
5 6861, no assessment of a deficiency with respect to
6 any tax imposed by subtitle A attributable to any
7 item (other than a partnership item or any item af-
8 fected by a partnership item) shall be made—

9 “(A) until the expiration of the applicable
10 90-day or 150-day period set forth in sub-
11 section (c) for filing a petition with the Tax
12 Court, or

13 “(B) if a petition has been filed with the
14 Tax Court, until the decision of the Tax Court
15 has become final.

16 “(f) FURTHER NOTICES OF ADJUSTMENT RE-
17 STRICTED.—If the Secretary mails a notice of adjustment
18 to the taxpayer for a taxable year and the taxpayer files
19 a petition with the Tax Court within the time prescribed
20 in subsection (c), the Secretary may not mail another such
21 notice to the taxpayer with respect to the same taxable
22 year in the absence of a showing of fraud, malfeasance,
23 or misrepresentation of a material fact.

24 “(g) COORDINATION WITH OTHER PROCEEDINGS
25 UNDER THIS SUBCHAPTER.—

1 “(1) IN GENERAL.—The treatment of any item
2 that has been determined pursuant to subsection (c)
3 or (d) shall be taken into account in determining the
4 amount of any computational adjustment that is
5 made in connection with a partnership proceeding
6 under this subchapter (other than under this sec-
7 tion), or the amount of any deficiency attributable to
8 affected items in a proceeding under section
9 6230(a)(2), for the taxable year involved. Notwith-
10 standing any other law or rule of law pertaining to
11 the period of limitations on the making of assess-
12 ments, for purposes of the preceding sentence, any
13 adjustment made in accordance with this section
14 shall be taken into account regardless of whether
15 any assessment has been made with respect to such
16 adjustment.

17 “(2) SPECIAL RULE IN CASE OF COMPUTA-
18 TIONAL ADJUSTMENT.—In the case of a computa-
19 tional adjustment that is made in connection with a
20 partnership proceeding under this subchapter (other
21 than under this section), the provisions of paragraph
22 (1) shall apply only if the computational adjustment
23 is made within the period prescribed by section 6229
24 for assessing any tax under subtitle A which is at-

1 tributable to any partnership item or affected item
2 for the taxable year involved.

3 “(3) CONVERSION TO DEFICIENCY PROCEED-
4 ING.—If—

5 “(A) after the notice referred to in sub-
6 section (a) is mailed to a taxpayer for a taxable
7 year but before the expiration of the period for
8 filing a petition with the Tax Court under sub-
9 section (c) (or, if a petition is filed with the Tax
10 Court, before the Tax Court makes a declara-
11 tion for that taxable year), the treatment of any
12 partnership item for the taxable year is finally
13 determined, or any such item ceases to be a
14 partnership item pursuant to section 6231(b),
15 and

16 “(B) as a result of that final determination
17 or cessation, a deficiency can be determined
18 with respect to the items that are the subject
19 of the notice of adjustment,
20 the notice of adjustment shall be treated as a notice
21 of deficiency under section 6212 and any petition
22 filed in respect of the notice shall be treated as an
23 action brought under section 6213.

1 “(4) FINALLY DETERMINED.—For purposes of
2 this subsection, the treatment of partnership items
3 shall be treated as finally determined if—

4 “(A) the Secretary enters into a settlement
5 agreement (within the meaning of section 6224)
6 with the taxpayer regarding such items,

7 “(B) a notice of final partnership adminis-
8 trative adjustment has been issued and—

9 “(i) no petition has been filed under
10 section 6226 and the time for doing so has
11 expired, or

12 “(ii) a petition has been filed under
13 section 6226 and the decision of the court
14 has become final, or

15 “(C) the period within which any tax at-
16 tributable to such items may be assessed
17 against the taxpayer has expired.

18 “(h) SPECIAL RULES IF SECRETARY INCORRECTLY
19 DETERMINES APPLICABLE PROCEDURE.—

20 “(1) SPECIAL RULE IF SECRETARY ERRO-
21 NEOUSLY MAILES NOTICE OF ADJUSTMENT.—If the
22 Secretary erroneously determines that subchapter B
23 does not apply to a taxable year of a taxpayer and
24 consistent with that determination timely mails a no-
25 tice of adjustment to the taxpayer pursuant to sub-

1 section (a) of this section, the notice of adjustment
2 shall be treated as a notice of deficiency under sec-
3 tion 6212 and any petition that is filed in respect of
4 the notice shall be treated as an action brought
5 under section 6213.

6 “(2) SPECIAL RULE IF SECRETARY ERRO-
7 NEOUSLY MAILS NOTICE OF DEFICIENCY.—If the
8 Secretary erroneously determines that subchapter B
9 applies to a taxable year of a taxpayer and consist-
10 ent with that determination timely mails a notice of
11 deficiency to the taxpayer pursuant to section 6212,
12 the notice of deficiency shall be treated as a notice
13 of adjustment under subsection (a) and any petition
14 that is filed in respect of the notice shall be treated
15 as an action brought under subsection (c).”

16 (b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICI-
17 CIENCY PROCEEDINGS.—Section 6211 (defining defi-
18 ciency) is amended by adding at the end thereof the follow-
19 ing new subsection:

20 “(c) COORDINATION WITH SUBCHAPTER C.—In de-
21 termining the amount of any deficiency for purposes of
22 this subchapter, adjustments to partnership items shall be
23 made only as provided in subchapter C.”

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for subchapter C of chapter 63 is amended by adding at
 3 the end thereof the following new item:

“Sec. 6234. Declaratory judgment relating to treatment of items
 other than partnership items with respect to an
 oversheltered return.”

4 (d) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to partnership taxable years ending
 6 after the date of the enactment of this Act.

7 **SEC. 312. PARTNERSHIP RETURN TO BE DETERMINATIVE**
 8 **OF AUDIT PROCEDURES TO BE FOLLOWED.**

9 (a) IN GENERAL.—Section 6231 (relating to defini-
 10 tions and special rules) is amended by adding at the end
 11 thereof the following new subsection:

12 “(g) PARTNERSHIP RETURN TO BE DETERMINATIVE
 13 OF WHETHER SUBCHAPTER APPLIES.—

14 “(1) DETERMINATION THAT SUBCHAPTER AP-
 15 PLIES.—If, on the basis of a partnership return for
 16 a taxable year, the Secretary reasonably determines
 17 that this subchapter applies to such partnership for
 18 such year but such determination is erroneous, then
 19 the provisions of this subchapter are hereby ex-
 20 tended to such partnership (and its items) for such
 21 taxable year and to partners of such partnership.

22 “(2) DETERMINATION THAT SUBCHAPTER DOES
 23 NOT APPLY.—If, on the basis of a partnership re-
 24 turn for a taxable year, the Secretary reasonably de-

1 termines that this subchapter does not apply to such
2 partnership for such year but such determination is
3 erroneous, then the provisions of this subchapter
4 shall not apply to such partnership (and its items)
5 for such taxable year or to partners of such partner-
6 ship.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to partnership taxable years ending
9 after the date of the enactment of this Act.

10 **SEC. 313. PROVISIONS RELATING TO STATUTE OF LIMITA-**
11 **TIONS.**

12 (a) SUSPENSION OF STATUTE WHERE UNTIMELY
13 PETITION FILED.—Paragraph (1) of section 6229(d) (re-
14 lating to suspension where Secretary makes administrative
15 adjustment) is amended by striking all that follows “sec-
16 tion 6226” and inserting the following: “(and, if a petition
17 is filed under section 6226 with respect to such adminis-
18 trative adjustment, until the decision of the court becomes
19 final), and”.

20 (b) SUSPENSION OF STATUTE DURING BANKRUPTCY
21 PROCEEDING.—Section 6229 is amended by adding at the
22 end thereof the following new subsection:

23 “(h) SUSPENSION DURING PENDENCY OF BANK-
24 RUPTCY PROCEEDING.—If a petition is filed naming a
25 partner as a debtor in a bankruptcy proceeding under title

1 11 of the United States Code, the running of the period
2 of limitations provided in this section with respect to such
3 partner shall be suspended—

4 “(1) for the period during which the Secretary
5 is prohibited by reason of such bankruptcy proceed-
6 ing from making an assessment, and

7 “(2) for 60 days thereafter.”

8 (c) TAX MATTERS PARTNER IN BANKRUPTCY.—Sec-
9 tion 6229(b) is amended by redesignating paragraph (2)
10 as paragraph (3) and by inserting after paragraph (1) the
11 following new paragraph:

12 “(2) SPECIAL RULE WITH RESPECT TO DEBT-
13 ORS IN TITLE 11 CASES.—Notwithstanding any other
14 law or rule of law, if an agreement is entered into
15 under paragraph (1)(B) and the agreement is signed
16 by a person who would be the tax matters partner
17 but for the fact that, at the time that the agreement
18 is executed, the person is a debtor in a bankruptcy
19 proceeding under title 11 of the United States Code,
20 such agreement shall be binding on all partners in
21 the partnership unless the Secretary has been noti-
22 fied of the bankruptcy proceeding in accordance with
23 regulations prescribed by the Secretary.”

24 (d) EFFECTIVE DATES.—

1 (1) SUBSECTIONS (a) AND (b).—The amend-
2 ments made by subsections (a) and (b) shall apply
3 to partnership taxable years with respect to which
4 the period under section 6229 of the Internal Reve-
5 nue Code of 1986 for assessing tax has not expired
6 on or before the date of the enactment of this Act.

7 (2) SUBSECTION (c).—The amendment made
8 by subsection (c) shall apply to agreements entered
9 into after the date of the enactment of this Act.

10 **SEC. 314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.**

11 (a) IN GENERAL.—Clause (i) of section
12 6231(a)(1)(B) (relating to exception for small partner-
13 ships) is amended to read as follows:

14 “(i) IN GENERAL.—The term ‘part-
15 nership’ shall not include any partnership
16 having 10 or fewer partners each of whom
17 is an individual (other than a nonresident
18 alien), a C corporation, or an estate of a
19 deceased partner. For purposes of the pre-
20 ceding sentence, a husband and wife (and
21 their estates) shall be treated as 1 part-
22 ner.”

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to partnership taxable years ending
25 after the date of the enactment of this Act.

1 **SEC. 315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1**
2 **YEAR LIMITATION ON ASSESSMENT.**

3 (a) IN GENERAL.—Subsection (f) of section 6229 (re-
4 lating to items becoming nonpartnership items) is amend-
5 ed—

6 (1) by striking “(f) ITEMS BECOMING
7 NONPARTNERSHIP ITEMS.—If” and inserting the
8 following:

9 “(f) SPECIAL RULES.—

10 “(1) ITEMS BECOMING NONPARTNERSHIP
11 ITEMS.—If”,

12 (2) by moving the text of such subsection 2 ems
13 to the right, and

14 (3) by adding at the end thereof the following
15 new paragraph:

16 “(2) SPECIAL RULE FOR PARTIAL SETTLEMENT
17 AGREEMENTS.—If a partner enters into a settlement
18 agreement with the Secretary with respect to the
19 treatment of some of the partnership items in dis-
20 pute for a partnership taxable year but other part-
21 nership items for such year remain in dispute, the
22 period of limitations for assessing any tax attrib-
23 utable to the settled items shall be determined as if
24 such agreement had not been entered into.”

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

4 **SEC. 316. EXTENSION OF TIME FOR FILING A REQUEST**
5 **FOR ADMINISTRATIVE ADJUSTMENT.**

6 (a) IN GENERAL.—Section 6227 (relating to admin-
7 istrative adjustment requests) is amended by redesignat-
8 ing subsections (b) and (c) as subsections (c) and (d), re-
9 spectively, and by inserting after subsection (a) the follow-
10 ing new subsection:

11 “(b) SPECIAL RULE IN CASE OF EXTENSION OF PE-
12 RIOD OF LIMITATIONS UNDER SECTION 6229.—The pe-
13 riod prescribed by subsection (a)(1) for filing of a request
14 for an administrative adjustment shall be extended—

15 “(1) for the period within which an assessment
16 may be made pursuant to an agreement (or any ex-
17 tension thereof) under section 6229(b), and

18 “(2) for 6 months thereafter.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall take effect as if included in the amend-
21 ments made by section 402 of the Tax Equity and Fiscal
22 Responsibility Act of 1982.

1 **SEC. 317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN**
2 **CONTEXT OF PARTNERSHIP PROCEEDINGS.**

3 (a) IN GENERAL.—Subsection (a) of section 6230 is
4 amended by adding at the end thereof the following new
5 paragraph:

6 “(3) SPECIAL RULE IN CASE OF ASSERTION BY
7 PARTNER’S SPOUSE OF INNOCENT SPOUSE RE-
8 LIEF.—

9 “(A) Notwithstanding section 6404(b), if
10 the spouse of a partner asserts that section
11 6013(e) applies with respect to a liability that
12 is attributable to any adjustment to a partner-
13 ship item, then such spouse may file with the
14 Secretary within 60 days after the notice of
15 computational adjustment is mailed to the
16 spouse a request for abatement of the assess-
17 ment specified in such notice. Upon receipt of
18 such request, the Secretary shall abate the as-
19 sessment. Any reassessment of the tax with re-
20 spect to which an abatement is made under this
21 subparagraph shall be subject to the deficiency
22 procedures prescribed by subchapter B. The pe-
23 riod for making any such reassessment shall
24 not expire before the expiration of 60 days after
25 the date of such abatement.

1 “(B) If the spouse files a petition with the
2 Tax Court pursuant to section 6213 with re-
3 spect to the request for abatement described in
4 subparagraph (A), the Tax Court shall only
5 have jurisdiction pursuant to this section to de-
6 termine whether the requirements of section
7 6013(e) have been satisfied. For purposes of
8 such determination, the treatment of partner-
9 ship items under the settlement, the final part-
10 nership administrative adjustment, or the deci-
11 sion of the court (whichever is appropriate) that
12 gave rise to the liability in question shall be
13 conclusive.

14 “(C) Rules similar to the rules contained
15 in subparagraphs (B) and (C) of paragraph (2)
16 shall apply for purposes of this paragraph.”

17 (b) CLAIMS FOR REFUND.—Subsection (c) of section
18 6230 is amended by adding at the end thereof the follow-
19 ing new paragraph:

20 “(5) RULES FOR SEEKING INNOCENT SPOUSE
21 RELIEF.—

22 “(A) IN GENERAL.—The spouse of a part-
23 ner may file a claim for refund on the ground
24 that the Secretary failed to relieve the spouse
25 under section 6013(e) from a liability that is at-

1 tributable to an adjustment to a partnership
2 item.

3 “(B) TIME FOR FILING CLAIM.—Any claim
4 under subparagraph (A) shall be filed within 6
5 months after the day on which the Secretary
6 mails to the spouse the notice of computational
7 adjustment referred to in subsection (a)(3)(A).

8 “(C) SUIT IF CLAIM NOT ALLOWED.—If
9 the claim under subparagraph (B) is not al-
10 lowed, the spouse may bring suit with respect
11 to the claim within the period specified in para-
12 graph (3).

13 “(D) PRIOR DETERMINATIONS ARE BIND-
14 ING.—For purposes of any claim or suit under
15 this paragraph, the treatment of partnership
16 items under the settlement, the final partner-
17 ship administrative adjustment, or the decision
18 of the court (whichever is appropriate) that
19 gave rise to the liability in question shall be
20 conclusive.”

21 (c) TECHNICAL AMENDMENTS.—

22 (1) Paragraph (1) of section 6230(a) is amend-
23 ed by striking “paragraph (2)” and inserting “para-
24 graph (2) or (3)”.

1 “(i) affected items which require part-
2 ner level determinations (other than pen-
3 alties, additions to tax, and additional
4 amounts that relate to adjustments to
5 partnership items), or”.

6 (3)(A) Subparagraph (A) of section 6230(a)(3),
7 as added by section 317, is amended by inserting
8 “(including any liability for any penalty, addition to
9 tax, or additional amount relating to such adjust-
10 ment)” after “partnership item”.

11 (B) Subparagraph (B) of such section is
12 amended by inserting “(and the applicability of any
13 penalties, additions to tax, or additional amounts)”
14 after “partnership items”.

15 (C) Subparagraph (A) of section 6230(c)(5), as
16 added by section 317, is amended by inserting before
17 the period “(including any liability for any penalties,
18 additions to tax, or additional amounts relating to
19 such adjustment)”.

20 (D) Subparagraph (D) of section 6230(c)(5), as
21 added by section 317, is amended by inserting “(and
22 the applicability of any penalties, additions to tax, or
23 additional amounts)” after “partnership items”.

24 (4) Paragraph (1) of section 6230(c) is amend-
25 ed by striking “or” at the end of subparagraph (A),

1 by striking the period at the end of subparagraph
2 (B) and inserting “, or”, and by adding at the end
3 thereof the following new subparagraph:

4 “(C) the Secretary erroneously imposed
5 any penalty, addition to tax, or additional
6 amount which relates to an adjustment to a
7 partnership item.”

8 (5) So much of subparagraph (A) of section
9 6230(c)(2) as precedes “shall be filed” is amended
10 to read as follows:

11 “(A) UNDER PARAGRAPH (1) (A) OR (C).—
12 Any claim under subparagraph (A) or (C) of
13 paragraph (1)”.

14 (6) Paragraph (4) of section 6230(c) is amend-
15 ed by adding at the end thereof the following: “In
16 addition, the determination under the final partner-
17 ship administrative adjustment or under the decision
18 of the court (whichever is appropriate) concerning
19 the applicability of any penalty, addition to tax, or
20 additional amount which relates to an adjustment to
21 a partnership item shall also be conclusive. Notwith-
22 standing the preceding sentence, the partner shall be
23 allowed to assert any partner level defenses that may
24 apply or to challenge the amount of the computa-
25 tional adjustment.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to partnership taxable years ending
3 after the date of the enactment of this Act.

4 **SEC. 319. PROVISIONS RELATING TO COURT JURISDIC-**
5 **TION, ETC.**

6 (a) TAX COURT JURISDICTION TO ENJOIN PRE-
7 MATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE
8 TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225
9 is amended by striking “the proper court.” and inserting
10 “the proper court, including the Tax Court. The Tax
11 Court shall have no jurisdiction to enjoin any action or
12 proceeding under this subsection unless a timely petition
13 for a readjustment of the partnership items for the taxable
14 year has been filed and then only in respect of the adjust-
15 ments that are the subject of such petition.”

16 (b) JURISDICTION TO CONSIDER STATUTE OF LIM-
17 TATIONS WITH RESPECT TO PARTNERS.—Paragraph (1)
18 of section 6226(d) is amended by adding at the end there-
19 of the following new sentence:

20 “Notwithstanding subparagraph (B), any person
21 treated under subsection (c) as a party to an action
22 shall be permitted to participate in such action (or
23 file a readjustment petition under subsection (b) or
24 paragraph (2) of this subsection) solely for the pur-
25 pose of asserting that the period of limitations for

1 assessing any tax attributable to partnership items
2 has expired with respect to such person, and the
3 court having jurisdiction of such action shall have
4 jurisdiction to consider such assertion.”

5 (c) TAX COURT JURISDICTION TO DETERMINE
6 OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

7 (1) Paragraph (6) of section 6230(d) is amend-
8 ed by striking “(or an affected item)”.

9 (2) Paragraph (3) of section 6512(b) is amend-
10 ed by adding at the end thereof the following new
11 sentence:

12 “In the case of a credit or refund relating to an af-
13 fected item (within the meaning of section
14 6231(a)(5)), the preceding sentence shall be applied
15 by substituting the periods under sections 6229 and
16 6230(d) for the periods under section 6511(b)(2),
17 (c), and (d).”

18 (d) VENUE ON APPEAL.—

19 (1) Paragraph (1) of section 7482(b) is amend-
20 ed by striking “or” at the end of subparagraph (D),
21 by striking the period at the end of subparagraph
22 (E) and inserting “, or”, and by inserting after sub-
23 paragraph (E) the following new subparagraph:

24 “(F) in the case of a petition under section
25 6234(c)—

1 “(i) the legal residence of the peti-
2 tioner if the petitioner is not a corporation,
3 and

4 “(ii) the place or office applicable
5 under subparagraph (B) if the petitioner is
6 a corporation.”

7 (2) The last sentence of section 7482(b)(1) is
8 amended by striking “or 6228(a)” and inserting “,
9 6228(a), or 6234(c)”.

10 (e) OTHER PROVISIONS.—

11 (1) Subsection (c) of section 7459 is amended
12 by striking “or section 6228(a)” and inserting “,
13 6228(a), or 6234(c)”.

14 (2) Subsection (o) of section 6501 is amended
15 by adding at the end thereof the following new para-
16 graph:

17 “(3) For declaratory judgment relating to treat-
18 ment of items other than partnership items with re-
19 spect to an oversheltered return, see section 6234.”

20 (f) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to partnership taxable years ending
22 after the date of the enactment of this Act.

1 **SEC. 320. TREATMENT OF PREMATURE PETITIONS FILED**
2 **BY NOTICE PARTNERS OR 5-PERCENT**
3 **GROUPS.**

4 (a) IN GENERAL.—Subsection (b) of section 6226
5 (relating to judicial review of final partnership administra-
6 tive adjustments) is amended by redesignating paragraph
7 (5) as paragraph (6) and by inserting after paragraph (4)
8 the following new paragraph:

9 “(5) TREATMENT OF PREMATURE PETI-
10 TIONS.—If—

11 “(A) a petition for a readjustment of part-
12 nership items for the taxable year involved is
13 filed by a notice partner (or a 5-percent group)
14 during the 90-day period described in sub-
15 section (a), and

16 “(B) no action is brought under paragraph
17 (1) during the 60-day period described therein
18 with respect to such taxable year which is not
19 dismissed,

20 such petition shall be treated for purposes of para-
21 graph (1) as filed on the last day of such 60-day pe-
22 riod.”

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

1 **SEC. 321. BONDS IN CASE OF APPEALS FROM TEFRA PRO-**
2 **CEEDING.**

3 (a) IN GENERAL.—Subsection (b) of section 7485
4 (relating to bonds to stay assessment of collection) is
5 amended—

6 (1) by inserting “penalties,” after “any inter-
7 est,”, and

8 (2) by striking “aggregate of such deficiencies”
9 and inserting “aggregate liability of the parties to
10 the action”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall take effect as if included in the amend-
13 ments made by section 402 of the Tax Equity and Fiscal
14 Responsibility Act of 1982.

15 **SEC. 322. SUSPENSION OF INTEREST WHERE DELAY IN**
16 **COMPUTATIONAL ADJUSTMENT RESULTING**
17 **FROM TEFRA SETTLEMENTS.**

18 (a) IN GENERAL.—Subsection (c) of section 6601
19 (relating to interest on underpayment, nonpayment, or ex-
20 tension of time for payment, of tax) is amended by adding
21 at the end thereof the following new sentence: “In the case
22 of a settlement under section 6224(c) which results in the
23 conversion of partnership items to nonpartnership items
24 pursuant to section 6231(b)(1)(C), the preceding sentence
25 shall apply to a computational adjustment resulting from
26 such settlement in the same manner as if such adjustment

1 were a deficiency and such settlement were a waiver re-
2 ferred to in the preceding sentence.”

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to adjustments with respect to
5 partnership taxable years beginning after the date of the
6 enactment of this Act.

7 **SEC. 323. SPECIAL RULES FOR ADMINISTRATIVE ADJUST-**
8 **MENT REQUESTS WITH RESPECT TO BAD**
9 **DEBTS OR WORTHLESS SECURITIES.**

10 (a) GENERAL RULE.—Section 6227 (relating to ad-
11 ministrative adjustment requests) is amended by adding
12 at the end thereof the following new subsection:

13 “(d) REQUESTS WITH RESPECT TO BAD DEBTS OR
14 WORTHLESS SECURITIES.—In the case of that portion of
15 any request for an administrative adjustment which re-
16 lates to the deductibility by the partnership under section
17 166 of a debt as a debt which became worthless, or under
18 section 165(g) of a loss from worthlessness of a security,
19 the period prescribed in subsection (a)(1) shall be 7 years
20 from the last day for filing the partnership return for the
21 year with respect to which such request is made (deter-
22 mined without regard to extensions).”

23 (b) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendment made by
25 subsection (a) shall take effect as if included in the

1 amendments made by section 402 of the Tax Equity
2 and Fiscal Responsibility Act of 1982.

3 (2) TREATMENT OF REQUESTS FILED BEFORE
4 DATE OF ENACTMENT.—In the case of that portion
5 of any request (filed before the date of the enact-
6 ment of this Act) for an administrative adjustment
7 which relates to the deductibility of a debt as a debt
8 which became worthless or the deductibility of a loss
9 from the worthlessness of a security—

10 (A) paragraph (2) of section 6227(a) of
11 the Internal Revenue Code of 1986 shall not
12 apply,

13 (B) the period for filing a petition under
14 section 6228 of the Internal Revenue Code of
15 1986 with respect to such request shall not ex-
16 pire before the date 6 months after the date of
17 the enactment of this Act, and

18 (C) such a petition may be filed without
19 regard to whether there was a notice of the be-
20 ginning of an administrative proceeding or a
21 final partnership administrative adjustment.

1 **TITLE IV—FOREIGN PROVISIONS**
2 **Subtitle A—Simplification of Treat-**
3 **ment of Passive Foreign Cor-**
4 **porations**

5 **SEC. 401. REPEAL OF FOREIGN PERSONAL HOLDING COM-**
6 **PANY RULES AND FOREIGN INVESTMENT**
7 **COMPANY RULES.**

8 (a) GENERAL RULE.—The following provisions are
9 hereby repealed:

10 (1) Part III of subchapter G of chapter 1 (re-
11 lating to foreign personal holding companies).

12 (2) Section 1246 (relating to gain on foreign in-
13 vestment company stock).

14 (3) Section 1247 (relating to election by foreign
15 investment companies to distribute income cur-
16 rently).

17 (b) EXEMPTION OF FOREIGN CORPORATIONS FROM
18 ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING
19 COMPANY RULES.—

20 (1) ACCUMULATED EARNINGS TAX.—Subsection
21 (b) of section 532 (relating to exceptions) is amend-
22 ed—

23 (A) by striking paragraph (2) and insert-
24 ing the following:

25 “(2) a foreign corporation, or”,

1 (B) by striking “, or” at the end of para-
2 graph (3) and inserting a period, and

3 (C) by striking paragraph (4).

4 (2) PERSONAL HOLDING COMPANY RULES.—
5 Subsection (c) of section 542 (relating to exceptions)
6 is amended—

7 (A) by striking paragraph (5) and insert-
8 ing the following:

9 “(5) a foreign corporation,”

10 (B) by striking paragraphs (7) and (10)
11 and by redesignating paragraphs (8) and (9) as
12 paragraphs (7) and (8), respectively,

13 (C) by inserting “and” at the end of para-
14 graph (7) (as so redesignated), and

15 (D) by striking “; and” at the end of para-
16 graph (8) (as so redesignated) and inserting a
17 period.

18 (c) TREATMENT OF CERTAIN SERVICE CONTRACTS
19 UNDER SUBPART F.—

20 (1) Paragraph (1) of section 954(c) (defining
21 foreign personal holding company income) is amend-
22 ed by adding at the end thereof the following new
23 subparagraph:

24 “(F) PERSONAL SERVICE CONTRACTS.—

1 “(i) Amounts received under a con-
2 tract under which the corporation is to fur-
3 nish personal services, if some person other
4 than the corporation has the right to des-
5 ignate (by name or by description) the in-
6 dividual who is to perform the services, or
7 if the individual who is to perform the
8 services is designated (by name or by de-
9 scription) in the contract.

10 “(ii) Amounts received from the sale
11 or other disposition of such contract.

12 This subparagraph shall apply with respect to
13 amounts received for services under a particular
14 contract only if at some time during the taxable
15 year 25 percent or more in value of the out-
16 standing stock of the corporation is owned, di-
17 rectly or indirectly, by or for the individual who
18 has performed, is to perform, or may be des-
19 ignated (by name or by description) as the one
20 to perform, such services. For purposes of the
21 preceding sentence, the attribution rules of sec-
22 tion 544 shall apply, determined as if any ref-
23 erence to section 543(a)(7) were a reference to
24 this subparagraph.”

1 (2) Clause (iii) of section 904(d)(2)(A) is
 2 amended by striking “and” at the end of subclause
 3 (III), by striking the period at the end of subclause
 4 (IV) and inserting “, and”, and by adding at the
 5 end thereof the following new subclause:

6 “(V) any income described in section
 7 954(c)(1)(F) (relating to personal service con-
 8 tracts).”

9 **SEC. 402. REPLACEMENT FOR PASSIVE FOREIGN INVEST-**
 10 **MENT COMPANY RULES.**

11 (a) GENERAL RULE.—Part VI of subchapter P of
 12 chapter 1 (relating to treatment of certain passive foreign
 13 investment companies) is amended to read as follows:

14 **“PART VI—TREATMENT OF PASSIVE FOREIGN**
 15 **CORPORATIONS**

“Subpart A. Current taxation rules.

“Subpart B. Interest on holdings to which subpart A does not
 apply.

“Subpart C. General provisions.

16 **“Subpart A—Current Taxation Rules**

“Sec. 1291. Stock in certain passive foreign corporations marked
 to market.

“Sec. 1292. Inclusion of income of certain passive foreign cor-
 porations.

17 **“SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN COR-**
 18 **PORATIONS MARKED TO MARKET.**

19 “(a) GENERAL RULE.—In the case of marketable
 20 stock in a passive foreign corporation which is owned (or

1 treated under subsection (g) as owned) by a United States
2 person at the close of any taxable year of such person—

3 “(1) If the fair market value of such stock as
4 of the close of such taxable year exceeds its adjusted
5 basis, such United States person shall include in
6 gross income for such taxable year an amount equal
7 to the amount of such excess.

8 “(2) If the adjusted basis of such stock exceeds
9 the fair market value of such stock as of the close
10 of such taxable year, such United States person
11 shall be allowed a deduction for such taxable year
12 equal to the lesser of—

13 “(A) the amount of such excess, or

14 “(B) the unreversed inclusions with respect
15 to such stock.

16 “(b) BASIS ADJUSTMENTS.—

17 “(1) IN GENERAL.—The adjusted basis of stock
18 in a passive foreign corporation—

19 “(A) shall be increased by the amount in-
20 cluded in the gross income of the United States
21 person under subsection (a)(1) with respect to
22 such stock, and

23 “(B) shall be decreased by the amount al-
24 lowed as a deduction to the United States per-

1 son under subsection (a)(2) with respect to
2 such stock.

3 “(2) SPECIAL RULE FOR STOCK CONSTRUC-
4 TIVELY OWNED.—In the case of stock in a passive
5 foreign corporation which the United States person
6 is treated as owning under subsection (g)—

7 “(A) the adjustments under paragraph (1)
8 shall apply to such stock in the hands of the
9 person actually holding such stock but only for
10 purposes of determining the subsequent treat-
11 ment under this chapter of the United States
12 person with respect to such stock, and

13 “(B) similar adjustments shall be made to
14 the adjusted basis of the property by reason of
15 which the United States person is treated as
16 owning such stock.

17 “(c) CHARACTER AND SOURCE RULES.—

18 “(1) ORDINARY TREATMENT.—

19 “(A) GAIN.—Any amount included in gross
20 income under subsection (a)(1), and any gain
21 on the sale or other disposition of marketable
22 stock in a passive foreign corporation, shall be
23 treated as ordinary income.

24 “(B) LOSS.—Any—

1 “(i) amount allowed as a deduction
2 under subsection (a)(2), and

3 “(ii) loss on the sale or other disposi-
4 tion of marketable stock in a passive for-
5 eign corporation to the extent that the
6 amount of such loss does not exceed the
7 unreversed inclusions with respect to such
8 stock,

9 shall be treated as an ordinary loss. The
10 amount so treated shall be treated as a deduc-
11 tion allowable in computing adjusted gross in-
12 come.

13 “(2) SOURCE.—The source of any amount in-
14 cluded in gross income under subsection (a)(1) (or
15 allowed as a deduction under subsection (a)(2)) shall
16 be determined in the same manner as if such
17 amount were gain or loss (as the case may be) from
18 the sale of stock in the passive foreign corporation.

19 “(d) UNREVERSED INCLUSIONS.—For purposes of
20 this section, the term ‘unreversed inclusions’ means, with
21 respect to any stock in a passive foreign corporation, the
22 excess (if any) of—

23 “(1) the amount included in gross income of
24 the taxpayer under subsection (a)(1) with respect to
25 such stock for prior taxable years, over

1 “(2) the amount allowed as a deduction under
2 subsection (a)(2) with respect to such stock for prior
3 taxable years.

4 The amount referred to in paragraph (1) shall include any
5 amount which would have been included in gross income
6 under subsection (a)(1) with respect to such stock for any
7 prior taxable year but for section 1293.

8 “(e) COORDINATION WITH SECTION 1292.—This
9 section shall not apply with respect to any stock in a pas-
10 sive foreign corporation—

11 “(1) which is U.S. controlled,

12 “(2) which is a qualified electing fund with re-
13 spect to the United States person for the taxable
14 year, or

15 “(3) in which the United States person is a 25-
16 percent shareholder.

17 “(f) TREATMENT OF CONTROLLED FOREIGN COR-
18 PORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE
19 FOREIGN CORPORATIONS.—In the case of a foreign cor-
20 poration which is a controlled foreign corporation (or is
21 treated as a controlled foreign corporation under section
22 1292) and which owns (or is treated under subsection (g)
23 as owning) stock in a passive foreign corporation—

24 “(1) this section (other than subsection (c)(2)
25 thereof) shall apply to such foreign corporation in

1 the same manner as if such corporation were a
2 United States person, and

3 “(2) for purposes of subpart F of part III of
4 subchapter N—

5 “(A) any amount included in gross income
6 under subsection (a)(1) shall be treated as for-
7 eign personal holding company income de-
8 scribed in section 954(c)(1)(A), and

9 “(B) any amount allowed as a deduction
10 under subsection (a)(2) shall be treated as a de-
11 duction allocable to foreign personal holding
12 company income so described.

13 “(g) STOCK OWNED THROUGH CERTAIN FOREIGN
14 ENTITIES.—Except as provided in regulations—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, stock owned, directly or indirectly, by or for a
17 foreign partnership or foreign trust or foreign estate
18 shall be considered as being owned proportionately
19 by its partners or beneficiaries. Stock considered to
20 be owned by a person by reason of the application
21 of the preceding sentence shall, for purposes of ap-
22 plying such sentence, be treated as actually owned
23 by such person.

24 “(2) TREATMENT OF CERTAIN DISPOSITIONS.—
25 In any case in which a United States person is

1 treated as owning stock in a passive foreign corpora-
2 tion by reason of paragraph (1)—

3 “(A) any disposition by the United States
4 person or by any other person which results in
5 the United States person being treated as no
6 longer owning such stock, and

7 “(B) any disposition by the person owning
8 such stock,
9 shall be treated as a disposition by the United
10 States person of the stock in the passive foreign cor-
11 poration.

12 “(h) COORDINATION WITH SECTION 851(b).—For
13 purposes of paragraphs (2) and (3) of section 851(b), any
14 amount included in gross income under subsection (a)
15 shall be treated as a dividend.

16 “(i) TRANSITION RULES.—

17 “(1) INDIVIDUALS BECOMING SUBJECT TO
18 UNITED STATES TAX.—If any individual becomes a
19 United States person in a taxable year beginning
20 after December 31, 1993, solely for purposes of this
21 section, the adjusted basis (before adjustments
22 under subsection (b)) of any marketable stock in a
23 passive foreign corporation owned (or treated as
24 owned under subsection (g)) by such individual on
25 the first day of such taxable year shall be treated as

1 being the greater of its fair market value on such
2 first day or its adjusted basis on such first day.

3 “(2) MARKETABLE STOCK HELD BEFORE EF-
4 FECTIVE DATE.—

5 “(A) IN GENERAL.—If any marketable
6 stock in a passive foreign corporation is owned
7 (or treated under subsection (g) as owned) by
8 a United States person on the first day of such
9 person’s first taxable year, beginning after De-
10 cember 31, 1993—

11 “(i) paragraph (2) of section 1294(a)
12 shall apply to such stock as if it became
13 marketable during such first taxable year;
14 except that—

15 “(I) section 1293 shall not apply
16 to the amount included in gross in-
17 come under subsection (a) to the ex-
18 tent such amount is attributable to in-
19 creases in fair market value during
20 such first taxable year, and

21 “(II) the taxpayer’s holding pe-
22 riod shall be treated as having ended
23 on the last day of the preceding tax-
24 able year for purposes of allocating

1 amounts under section 1293(a)(1)(A),
2 and

3 “(ii) such person may elect to extend
4 the time for the payment of the applicable
5 section 1293 deferred tax as provided in
6 subparagraph (B).

7 “(B) ELECTION TO EXTEND TIME FOR
8 PAYMENT.—

9 “(i) IN GENERAL.—At the election of
10 the taxpayer, the time for the payment of
11 the applicable section 1293 deferred tax
12 shall be extended to the extent and subject
13 to the limitations provided in this subpara-
14 graph.

15 “(ii) TERMINATION OF EXTENSION.—

16 “(I) DISTRIBUTIONS.—If any
17 distribution is received with respect to
18 any stock to which an extension under
19 clause (i) relates and such distribution
20 would be an excess distribution within
21 the meaning of section 1293 if such
22 section applied to such stock, then the
23 extension under clause (i) for the ap-
24 propriate portion (as determined
25 under regulations) of the applicable

1 section 1293 deferred tax shall expire
2 on the last day prescribed by law (de-
3 termined without regard to exten-
4 sions) for filing the return of tax for
5 the taxable year in which the distribu-
6 tion is received.

7 “(II) REVERSAL OF INCLU-
8 SION.—If an amount is allowable as a
9 deduction under subsection (a)(2)
10 with respect to any stock to which an
11 extension under clause (i) relates and
12 the amount so allowable is allocable to
13 the amount which gave rise to the ap-
14 plicable section 1293 deferred tax,
15 then the extension under clause (i) for
16 the appropriate portion (as deter-
17 mined under regulations) of the appli-
18 cable section 1293 deferred tax shall
19 expire on the last day prescribed by
20 law (determined without regard to ex-
21 tensions) for filing the return of the
22 tax for the taxable year for which
23 such deduction is allowed.

24 “(III) DISPOSITIONS, ETC.—If
25 stock in a passive foreign corporation

1 is disposed of during the taxable year,
2 all extensions under clause (i) for pay-
3 ment of the applicable section 1293
4 deferred tax attributable to such stock
5 which have not expired before the date
6 of such disposition shall expire on the
7 last date prescribed by law (deter-
8 mined without regard to extensions)
9 for filing the return of tax for the tax-
10 able year in which such disposition oc-
11 curs. To the extent provided in regu-
12 lations, the preceding sentence shall
13 not apply in the case of a disposition
14 in a transaction with respect to which
15 gain or loss is not recognized (in
16 whole or in part), and the person ac-
17 quiring such stock in such transaction
18 shall succeed to the treatment under
19 this section of the person making such
20 disposition.

21 “(iii) OTHER RULES.—

22 “(I) ELECTION.—The election
23 under clause (i) shall be made not
24 later than the time prescribed by law
25 (including extensions) for filing the

1 return of tax imposed by this chapter
2 for the first taxable year referred to
3 in subparagraph (A).

4 “(II) TREATMENT OF LOANS TO
5 SHAREHOLDER.—For purposes of this
6 subparagraph, any loan by a passive
7 foreign corporation (directly or indi-
8 rectly) to a shareholder of such cor-
9 poration shall be treated as a distribu-
10 tion to such shareholder.

11 “(C) CROSS REFERENCE.—

**“For provisions providing for interest for the pe-
riod of the extension under this paragraph, see sec-
tion 6601.**

12 “(D) APPLICABLE SECTION 1293 DE-
13 FERRED TAX.—For purposes of this paragraph,
14 the term ‘applicable section 1293 deferred tax’
15 means the deferred tax amount determined
16 under section 1293 with respect to the amount
17 which, but for section 1293, would have been
18 included in gross income for the first taxable
19 year referred to in subparagraph (A). Such
20 term also includes the tax imposed by this
21 chapter for such first taxable year to the extent
22 attributable to the amounts allocated under sec-
23 tion 1293(a)(1)(A) to a period described in sec-
24 tion 1293(a)(1)(B)(ii).

1 “(3) SPECIAL RULES FOR REGULATED INVEST-
2 MENT COMPANIES.—

3 “(A) IN GENERAL.—If any marketable
4 stock in a passive foreign corporation is owned
5 (or treated under subsection (g) as owned) by
6 a regulated investment company on the first
7 day of such company’s first taxable year begin-
8 ning after December 31, 1993—

9 “(i) section 1293 shall not apply to
10 such stock with respect to any distribution
11 or disposition during, or amount included
12 in gross income under this section for,
13 such first taxable year, but

14 “(ii) such company’s tax under this
15 chapter for such first taxable year shall be
16 increased by the aggregate amount of in-
17 terest which would have been determined
18 under section 1293(c)(3) if section 1293
19 were applied without regard to this sub-
20 paragraph.

21 “(B) DISALLOWANCE OF DEDUCTION.—No
22 deduction shall be allowed to any regulated in-
23 vestment company for the increase in tax under
24 subparagraph (A)(ii).

1 **“SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN**
2 **PASSIVE FOREIGN CORPORATIONS.**

3 “(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE
4 UNITED STATES CONTROLLED.—

5 “(1) TREATMENT UNDER SUBPART F.—

6 “(A) IN GENERAL.—If a passive foreign
7 corporation is United States controlled, then for
8 purposes of subpart F of part III of subchapter
9 N—

10 “(i) such corporation, if not otherwise
11 a controlled foreign corporation, shall be
12 treated as a controlled foreign corporation,

13 “(ii) the term ‘United States share-
14 holder’ means, with respect to such cor-
15 poration, any United States person who
16 owns (within the meaning of section
17 958(a)) any stock in such corporation,

18 “(iii) the entire gross income of such
19 corporation shall, after being reduced
20 under the principles of paragraph (5) of
21 section 954(b), be treated as foreign base
22 company income, and

23 “(iv) sections 970 and 971 shall not
24 apply to such corporation.

1 Except as provided in regulations, the preceding
2 sentence shall also apply for purposes of section
3 904(d).

4 “(B) SPECIAL RULES.—If any taxpayer is
5 treated as being a United States shareholder in
6 a controlled foreign corporation solely by reason
7 of this section—

8 “(i) section 954(b)(4) (relating to ex-
9 ception for certain income subject to high
10 foreign taxes) shall not apply for purposes
11 of determining the amount included in the
12 gross income of such taxpayer under sec-
13 tion 951 by reason of being so treated with
14 respect to such corporation,

15 “(ii) the amount so included in the
16 gross income of such taxpayer under sec-
17 tion 951 with respect to such corporation
18 shall be treated as long-term capital gain
19 to the extent attributable to the net capital
20 gain of such corporation, and

21 “(iii) sections 956 and 956A shall not
22 apply to such taxpayer.

23 “(2) U.S. CONTROLLED.—For purposes of this
24 subpart, a passive foreign corporation is United
25 States controlled if—

1 “(A) such corporation is a controlled for-
2 foreign corporation determined without regard to
3 this subsection, or

4 “(B) at any time during the taxable year
5 more than 50 percent of—

6 “(i) the total combined voting power
7 of all classes of stock of such corporation
8 entitled to vote, or

9 “(ii) the total value of the stock of
10 such corporation,

11 is owned directly or indirectly by 5 or fewer
12 United States persons.

13 “(3) CONSTRUCTIVE OWNERSHIP RULES FOR
14 PURPOSES OF PARAGRAPH (2)(B).—For purposes of
15 paragraph (2)(B), the attribution rules provided in
16 section 544 shall apply, determined as if any ref-
17 erence to a personal holding company were a ref-
18 erence to a corporation described in paragraph
19 (2)(B) (and any reference to the stock ownership re-
20 quirement provided in section 542(a)(2) were a ref-
21 erence to the requirement of paragraph (2)(B));
22 except that—

23 “(A) subsection (a)(4) of such section shall
24 be applied by substituting ‘Paragraphs (1), (2),
25 and (3)’ for ‘Paragraphs (2) and (3)’,

1 “(B) stock owned by a nonresident alien
2 individual shall not be considered by reason of
3 attribution through family membership as
4 owned by a citizen or resident alien individual
5 who is not the spouse of the nonresident alien
6 individual and who does not otherwise own
7 stock in the foreign corporation (determined
8 after the application of such attribution rules
9 other than attribution through family member-
10 ship), and

11 “(C) stock of a corporation owned by any
12 foreign person shall not be considered by reason
13 of attribution through partners as owned by a
14 citizen or resident of the United States who
15 does not otherwise own stock in the foreign cor-
16 poration (determined after the application of
17 such attribution rules and subparagraph (A),
18 other than attribution through partners).

19 “(b) TAXPAYERS ELECTING CURRENT INCLUSION
20 AND 25-PERCENT SHAREHOLDERS.—

21 “(1) IN GENERAL.—If a passive foreign cor-
22 poration which is not United States controlled is a
23 qualified electing fund with respect to any taxpayer
24 or the taxpayer is a 25-percent shareholder in such

1 corporation, then for purposes of subpart F of part
2 III of subchapter N—

3 “(A) such passive foreign corporation shall
4 be treated as a controlled foreign corporation
5 with respect to such taxpayer,

6 “(B) such taxpayer shall be treated as a
7 United States shareholder in such corporation,
8 and

9 “(C) the modifications of clauses (iii) and
10 (iv) of subsection (a)(1)(A) and of subpara-
11 graph (B) of subsection (a)(1) shall apply in
12 determining the amount included under such
13 subpart F in the gross income of such taxpayer
14 (and the character of the amount so included).

15 For purposes of section 904(d), any amount in-
16 cluded in the gross income of the taxpayer under the
17 preceding sentence shall be treated as a dividend
18 from a foreign corporation which is not a controlled
19 foreign corporation.

20 “(2) QUALIFIED ELECTING FUND.—For pur-
21 poses of this subpart, the term ‘qualified electing
22 fund’ means any passive foreign corporation if—

23 “(A) an election by the taxpayer under
24 paragraph (3) applies to such corporation for
25 the taxable year of the taxpayer, and

1 “(B) such corporation complies with such
2 requirements as the Secretary may prescribe for
3 purposes of carrying out the purposes of this
4 subpart.

5 “(3) ELECTION.—

6 “(A) IN GENERAL.—A taxpayer may make
7 an election under this paragraph with respect to
8 any passive foreign corporation for any taxable
9 year of the taxpayer. Such an election, once
10 made with respect to any corporation, shall
11 apply to all subsequent taxable years of the tax-
12 payer with respect to such corporation unless
13 revoked by the taxpayer with the consent of the
14 Secretary.

15 “(B) WHEN MADE.—An election under
16 this subsection may be made for any taxable
17 year of the taxpayer at any time on or before
18 the due date (determined with regard to exten-
19 sions) for filing the return of the tax imposed
20 by this chapter for such taxable year. To the
21 extent provided in regulations, such an election
22 may be made later than as required in the pre-
23 ceding sentence where the taxpayer fails to
24 make a timely election because the taxpayer

1 reasonably believes that the corporation was not
2 a passive foreign corporation.

3 “(4) 25-PERCENT SHAREHOLDER.—For pur-
4 poses of this subpart, the term ‘25-percent share-
5 holder’ means, with respect to any passive foreign
6 corporation, any United States person who owns
7 (within the meaning of section 958(a)), or is consid-
8 ered as owning by applying the rules of section
9 958(b), 25 percent or more (by vote or value) of the
10 stock of such corporation.

11 **“Subpart B—Interest on Holdings To Which Subpart**
12 **A Does Not Apply**

“Sec. 1293. Interest on tax deferral.

“Sec. 1294. Definitions and special rules.

13 **“SEC. 1293. INTEREST ON TAX DEFERRAL.**

14 “(a) TREATMENT OF DISTRIBUTIONS AND STOCK
15 DISPOSITIONS.—

16 “(1) DISTRIBUTIONS.—If a United States per-
17 son receives an excess distribution in respect of
18 stock to which this section applies, then—

19 “(A) the amount of the excess distribution
20 shall be allocated ratably to each day in the tax-
21 payer’s holding period for the stock,

22 “(B) with respect to such excess distribu-
23 tion, the taxpayer’s gross income for the cur-
24 rent year shall include (as ordinary income)

1 only the amounts allocated under subparagraph
2 (A) to—

3 “(i) the current year, or

4 “(ii) any period in the taxpayer’s
5 holding period before the first day of the
6 first taxable year of the corporation which
7 begins after December 31, 1986, and for
8 which it was a passive foreign corporation,
9 and

10 “(C) the tax imposed by this chapter for
11 the current year shall be increased by the de-
12 ferred tax amount (determined under sub-
13 section (c)).

14 “(2) DISPOSITIONS.—If the taxpayer disposes
15 of stock to which this section applies, then the rules
16 of paragraph (1) shall apply to any gain recognized
17 on such disposition in the same manner as if such
18 gain were an excess distribution.

19 “(3) DEFINITIONS.—For purposes of this sub-
20 part—

21 “(A) HOLDING PERIOD.—The taxpayer’s
22 holding period shall be determined under sec-
23 tion 1223; except that—

24 “(i) for purposes of applying this sec-
25 tion to an excess distribution, such holding

1 period shall be treated as ending on the
2 date of such distribution, and

3 “(ii) if section 1291 applied to such
4 stock with respect to the taxpayer for any
5 prior taxable year, such holding period
6 shall be treated as beginning on the first
7 day of the first taxable year beginning
8 after the last taxable year for which sec-
9 tion 1291 so applied.

10 “(B) CURRENT YEAR.—The term ‘current
11 year’ means the taxable year in which the ex-
12 cess distribution or disposition occurs.

13 “(b) EXCESS DISTRIBUTION.—

14 “(1) IN GENERAL.—For purposes of this sec-
15 tion, the term ‘excess distribution’ means any dis-
16 tribution in respect of stock received during any tax-
17 able year to the extent such distribution does not ex-
18 ceed its ratable portion of the total excess distribu-
19 tion (if any) for such taxable year.

20 “(2) TOTAL EXCESS DISTRIBUTION.—For pur-
21 poses of this subsection—

22 “(A) IN GENERAL.—The term ‘total excess
23 distribution’ means the excess (if any) of—

1 “(i) the amount of the distributions in
2 respect of the stock received by the tax-
3 payer during the taxable year, over

4 “(ii) 125 percent of the average
5 amount of the distributions received in re-
6 spect of such stock by the taxpayer during
7 the 3 preceding taxable years (or, if short-
8 er, the portion of the taxpayer’s holding
9 period before the taxable year).

10 For purposes of clause (ii), any excess distribu-
11 tion received during such 3-year period shall be
12 taken into account only to the extent it was in-
13 cluded in gross income under subsection
14 (a)(1)(B).

15 “(B) NO EXCESS FOR FIRST YEAR.—The
16 total excess distributions with respect to any
17 stock shall be zero for the taxable year in which
18 the taxpayer’s holding period in such stock be-
19 gins.

20 “(3) ADJUSTMENTS.—Under regulations pre-
21 scribed by the Secretary—

22 “(A) determinations under this subsection
23 shall be made on a share-by-share basis, except
24 that shares with the same holding period may
25 be aggregated,

1 “(B) proper adjustments shall be made for
2 stock splits and stock dividends,

3 “(C) if the taxpayer does not hold the
4 stock during the entire taxable year, distribu-
5 tions received during such year shall be
6 annualized,

7 “(D) if the taxpayer’s holding period in-
8 cludes periods during which the stock was held
9 by another person, distributions received by
10 such other person shall be taken into account
11 as if received by the taxpayer,

12 “(E) if the distributions are received in a
13 foreign currency, determinations under this
14 subsection shall be made in such currency and
15 the amount of any excess distribution deter-
16 mined in such currency shall be translated into
17 dollars,

18 “(F) proper adjustment shall be made for
19 amounts not includible in gross income by rea-
20 son of section 959(a) or for which a deduction
21 is allowable under section 245(c), and

22 “(G) if a charitable deduction was allow-
23 able under section 642(c) to a trust for any dis-
24 tribution of its income, proper adjustments
25 shall be made for the deduction so allowable to

1 the extent allocable to distributions or gain in
2 respect of stock in a passive foreign corpora-
3 tion.

4 For purposes of subparagraph (F), any amount not
5 includible in gross income by reason of section
6 551(d) (as in effect on January 1, 1993) or 1293(c)
7 (as so in effect) shall be treated as an amount not
8 includible in gross income by reason of section
9 959(a).

10 “(c) DEFERRED TAX AMOUNT.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘deferred tax
13 amount’ means, with respect to any distribution or
14 disposition to which subsection (a) applies, an
15 amount equal to the sum of—

16 “(A) the aggregate increases in taxes de-
17 scribed in paragraph (2), plus

18 “(B) the aggregate amount of interest (de-
19 termined in the manner provided under para-
20 graph (3)) on such increases in tax.

21 Any increase in the tax imposed by this chapter for
22 the current year under subsection (a) to the extent
23 attributable to the amount referred to in subpara-
24 graph (B) shall be treated as interest paid under
25 section 6601 on the due date for the current year.

1 “(2) AGGREGATE INCREASES IN TAXES.—For
2 purposes of paragraph (1)(A), the aggregate in-
3 creases in taxes shall be determined by multiplying
4 each amount allocated under subsection (a)(1)(A) to
5 any taxable year (other than any taxable year re-
6 ferred to in subsection (a)(1)(B)) by the highest rate
7 of tax in effect for such taxable year under section
8 1 or 11, whichever applies.

9 “(3) COMPUTATION OF INTEREST.—

10 “(A) IN GENERAL.—The amount of inter-
11 est referred to in paragraph (1)(B) on any in-
12 crease determined under paragraph (2) for any
13 taxable year shall be determined for the pe-
14 riod—

15 “(i) beginning on the day after the
16 due date for such taxable year, and

17 “(ii) ending on the due date for the
18 taxable year with or within which the dis-
19 tribution or disposition occurs,

20 by using the rates and method applicable under
21 section 6621 for underpayments of tax for such
22 period.

23 “(B) DUE DATE.—For purposes of this
24 subsection, the term ‘due date’ means the date
25 prescribed by law (determined without regard to

1 extensions) for filing the return of the tax im-
2 posed by this chapter for the taxable year.

3 “(C) SPECIAL RULE.—For purposes of de-
4 termining the amount of interest referred to in
5 paragraph (1)(B), the amount of any increase
6 in tax determined under paragraph (2) shall be
7 determined without regard to any reduction
8 under section 1294(d) for a tax described in
9 paragraph (2)(A)(ii) thereof.

10 **“SEC. 1294. DEFINITIONS AND SPECIAL RULES.**

11 “(a) STOCK TO WHICH SECTION 1293 APPLIES.—

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, section 1293 shall apply to
14 any stock in a passive foreign corporation unless—

15 “(A) such stock is marketable stock as of
16 the time of the distribution or disposition in-
17 volved, or

18 “(B)(i) with respect to each of such cor-
19 poration’s taxable years for which such corpora-
20 tion was a passive foreign corporation and
21 which began after December 31, 1993, and in-
22 cluded any portion of the taxpayer’s holding pe-
23 riod in such stock—

1 “(I) such corporation was United
2 States controlled (within the meaning of
3 section 1292(a)(2)), or

4 “(II) such corporation was treated as
5 a controlled foreign corporation under sec-
6 tion 1292(b) with respect to the taxpayer,
7 and

8 “(ii) with respect to each of such corpora-
9 tion’s taxable years for which such corporation
10 was a passive foreign corporation and which
11 begin after December 31, 1986, and before
12 January 1, 1994, and included any portion of
13 the taxpayer’s holding period in such stock,
14 such corporation was treated as a qualified
15 electing fund under this part (as in effect on
16 January 1, 1993) with respect to the taxpayer.

17 “(2) TREATMENT WHERE STOCK BECOMES
18 MARKETABLE.—If any stock in a passive foreign
19 corporation becomes marketable stock after the be-
20 ginning of the taxpayer’s holding period in such
21 stock, and if the requirements of paragraph (1)(B)
22 are not satisfied, section 1293 shall apply to—

23 “(A) any distributions with respect to, or
24 disposition of, such stock in the taxable year of

1 the taxpayer in which it becomes so marketable,
2 and

3 “(B) any amount which, but for section
4 1293, would have been included in gross income
5 under section 1291(a) with respect to such
6 stock for such taxable year in the same manner
7 as if such amount were gain on the disposition
8 of such stock.

9 “(3) ELECTION TO RECOGNIZE GAIN WHERE
10 COMPANY BECOMES SUBJECT TO CURRENT INCLU-
11 SIONS.—

12 “(A) IN GENERAL.—If—

13 “(i) a passive foreign corporation first
14 meets the requirements of clause (i) of
15 paragraph (1)(B) with respect to the tax-
16 payer for a taxable year of such taxpayer
17 which begins after December 31, 1993,

18 “(ii) the taxpayer holds stock in such
19 company on the first day of such taxable
20 year, and

21 “(iii) the taxpayer establishes to the
22 satisfaction of the Secretary the fair mar-
23 ket value of such stock on such first day,

1 the taxpayer may elect to recognize gain as if
2 he sold such stock on such first day for such
3 fair market value.

4 “(B) ADDITIONAL ELECTION FOR SHARE-
5 HOLDER OF CONTROLLED FOREIGN CORPORA-
6 TIONS.—

7 “(i) IN GENERAL.—If—

8 “(I) a passive foreign corporation
9 first meets the requirements of
10 subclause (I) of paragraph (1)(B)(i)
11 with respect to the taxpayer for a tax-
12 able year of such taxpayer which be-
13 gins after December 31, 1993,

14 “(II) the taxpayer holds stock in
15 such corporation on the first day of
16 such taxable year, and

17 “(III) such corporation is a con-
18 trolled foreign corporation without re-
19 gard to this part,

20 the taxpayer may elect to be treated as receiv-
21 ing a dividend on such first day in an amount
22 equal to the portion of the post-1986 earnings
23 and profits of such corporation attributable
24 (under regulations prescribed by the Secretary)
25 to the stock in such corporation held by the tax-

1 payer on such first day. The amount treated as
2 a dividend under the preceding sentence shall
3 be treated as an excess distribution and shall be
4 allocated under section 1293(a)(1)(A) only to
5 days during periods taken into account in deter-
6 mining the post-1986 earnings and profits so
7 attributable.

8 “(ii) POST-1986 EARNINGS AND PROF-
9 ITS.—For purposes of clause (i), the term
10 ‘post-1986 earnings and profits’ means
11 earnings and profits which were accumu-
12 lated in taxable years of the corporation
13 beginning after December 31, 1986, and
14 during the period or periods the stock was
15 held by the taxpayer while the corporation
16 was a passive foreign corporation.

17 “(iii) COORDINATION WITH SECTION
18 959(e).—For purposes of section 959(e),
19 any amount treated as a dividend under
20 this subparagraph shall be treated as in-
21 cluded in gross income under section
22 1248(a).

23 “(C) ADJUSTMENTS.—In the case of any
24 stock to which subparagraph (A) or (B) ap-
25 plies—

1 “(i) the adjusted basis of such stock
2 shall be increased by the gain recognized
3 under subparagraph (A) or the amount
4 treated as a dividend under subparagraph
5 (B), as the case may be, and

6 “(ii) the taxpayer’s holding period in
7 such stock shall be treated as beginning on
8 the first day referred to in such subpara-
9 graph.

10 “(b) RULES RELATING TO STOCK ACQUIRED FROM
11 A DECEDENT.—

12 “(1) BASIS.—In the case of stock of a passive
13 foreign corporation acquired by bequest, devise, or
14 inheritance (or by the decedent’s estate), notwith-
15 standing section 1014, the basis of such stock in the
16 hands of the person so acquiring it shall be the ad-
17 justed basis of such stock in the hands of the dece-
18 dent immediately before his death (or, if lesser, the
19 basis which would have been determined under sec-
20 tion 1014 without regard to this paragraph).

21 “(2) DEDUCTION FOR ESTATE TAX.—If stock
22 in a passive foreign corporation is acquired from a
23 decedent, the taxpayer shall, under regulations pre-
24 scribed by the Secretary, be allowed (for the taxable
25 year of the sale or exchange) a deduction from gross

1 income equal to that portion of the decedent's estate
2 tax deemed paid which is attributable to the excess
3 of (A) the value at which such stock was taken into
4 account for purposes of determining the value of the
5 decedent's gross estate, over (B) the basis deter-
6 mined under paragraph (1).

7 “(3) EXCEPTIONS.—This subsection shall not
8 apply to any stock in a passive foreign corporation
9 if—

10 “(A) section 1293 would not have applied
11 to a disposition of such stock by the decedent
12 immediately before his death, or

13 “(B) the decedent was a nonresident alien
14 at all times during his holding period in such
15 stock.

16 “(c) RECOGNITION OF GAIN.—Except as otherwise
17 provided in regulations, in the case of any transfer of stock
18 in a passive foreign company to which section 1293 ap-
19 plies, where (but for this subsection) there is not full rec-
20 ognition of gain, the excess (if any) of—

21 “(1) the fair market value of such stock, over

22 “(2) its adjusted basis,

23 shall be treated as gain from the sale or exchange of such
24 stock and shall be recognized notwithstanding any provi-
25 sion of law. Proper adjustment shall be made to the basis

1 of property for gain recognized under the preceding sen-
2 tence.

3 “(d) COORDINATION WITH FOREIGN TAX CREDIT
4 RULES.—

5 “(1) IN GENERAL.—If there are creditable for-
6 eign taxes with respect to any distribution in respect
7 of stock in a passive foreign corporation—

8 “(A) the amount of such distribution shall
9 be determined for purposes of section 1293 with
10 regard to section 78,

11 “(B) the excess distribution taxes shall be
12 allocated ratably to each day in the taxpayer’s
13 holding period for the stock, and

14 “(C) to the extent—

15 “(i) that such excess distribution
16 taxes are allocated to a taxable year re-
17 ferred to in section 1293(a)(1)(B), such
18 taxes shall be taken into account under
19 section 901 for the current year, and

20 “(ii) that such excess distribution
21 taxes are allocated to any other taxable
22 year, such taxes shall reduce (subject to
23 the principles of section 904 and not below
24 zero) the increase in tax determined under
25 section 1293(c)(2) for such taxable year by

1 reason of such distribution (but such taxes
2 shall not be taken into account under sec-
3 tion 901).

4 “(2) DEFINITIONS.—For purposes of this sub-
5 section—

6 “(A) CREDITABLE FOREIGN TAXES.—The
7 term ‘creditable foreign taxes’ means, with re-
8 spect to any distribution—

9 “(i) any foreign taxes deemed paid
10 under section 902 with respect to such dis-
11 tribution, and

12 “(ii) any withholding tax imposed with
13 respect to such distribution,

14 but only if the taxpayer chooses the benefits of
15 section 901 and such taxes are creditable under
16 section 901 (determined without regard to
17 paragraph (1)(C)(ii)).

18 “(B) EXCESS DISTRIBUTION TAXES.—The
19 term ‘excess distribution taxes’ means, with re-
20 spect to any distribution, the portion of the
21 creditable foreign taxes with respect to such
22 distribution which is attributable (on a pro rata
23 basis) to the portion of such distribution which
24 is an excess distribution.

1 “(C) SECTION 1248 GAIN.—The rules of
2 this subsection also shall apply in the case of
3 any gain which but for this section would be in-
4 cludible in gross income as a dividend under
5 section 1248.

6 “(e) ATTRIBUTION OF OWNERSHIP.—For purposes
7 of this subpart—

8 “(1) ATTRIBUTION TO UNITED STATES PER-
9 SONS.—This subsection—

10 “(A) shall apply to the extent that the ef-
11 fect is to treat stock of a passive foreign cor-
12 poration as owned by a United States person,
13 and

14 “(B) except as provided in paragraph (3)
15 or in regulations, shall not apply to treat stock
16 owned (or treated as owned under this sub-
17 section) by a United States person as owned by
18 any other person.

19 “(2) CORPORATIONS.—

20 “(A) IN GENERAL.—If 50 percent or more
21 in value of the stock of a corporation (other
22 than an S corporation) is owned, directly or in-
23 directly, by or for any person, such person shall
24 be considered as owning the stock owned di-
25 rectly or indirectly by or for such corporation in

1 that proportion which the value of the stock
2 which such person so owns bears to the value
3 of all stock in the corporation.

4 “(B) 50-PERCENT LIMITATION NOT TO
5 APPLY IN CERTAIN CASES.—For purposes of de-
6 termining whether a shareholder of a passive
7 foreign corporation (or whether a United States
8 shareholder of a controlled foreign corporation
9 which is not a passive foreign corporation) is
10 treated as owning stock owned directly or indi-
11 rectly by or for such corporation, subparagraph
12 (A) shall be applied without regard to the 50-
13 percent limitation contained therein.

14 “(C) FAMILY AND PARTNER CONTRIBUTION
15 FOR 50-PERCENT LIMITATION.—For purposes of
16 determining whether the 50-percent limitation
17 of subparagraph (A) is met, the constructive
18 ownership rules of section 544(a)(2) shall apply
19 in addition to the other rules of this subsection.

20 “(3) PARTNERSHIPS, ETC.—Except as provided
21 in regulations, stock owned, directly or indirectly, by
22 or for a partnership, S corporation, estate, or trust
23 shall be considered as being owned proportionately
24 by its partners, shareholders, or beneficiaries (as the
25 case may be).

1 “(4) OPTIONS.—To the extent provided in regu-
2 lations, if any person has an option to acquire stock,
3 such stock shall be considered as owned by such per-
4 son. For purposes of this paragraph, an option to
5 acquire such an option, and each one of a series of
6 such options, shall be considered as an option to ac-
7 quire such stock.

8 “(5) SUCCESSIVE APPLICATION.—Stock consid-
9 ered to be owned by a person by reason of the appli-
10 cation of paragraph (2), (3), or (4) shall, for pur-
11 poses of applying such paragraphs, be considered as
12 actually owned by such person.

13 “(f) OTHER SPECIAL RULES.—For purposes of this
14 subpart—

15 “(1) TIME FOR DETERMINATION.—Stock held
16 by a taxpayer shall be treated as stock in a passive
17 foreign corporation if, at any time during the hold-
18 ing period of the taxpayer with respect to such
19 stock, such corporation (or any predecessor) was a
20 passive foreign corporation. The preceding sentence
21 shall not apply if the taxpayer elects to recognize
22 gain (as of the last day of the last taxable year for
23 which the company was a passive foreign corpora-
24 tion) under rules similar to the rules of subsection
25 (a)(3)(A).

1 “(2) APPLICATION OF SUBPART WHERE STOCK
2 HELD BY OTHER ENTITY.—Under regulations—

3 “(A) IN GENERAL.—In any case in which
4 a United States person is treated as owning
5 stock in a passive foreign corporation by reason
6 of subsection (e)—

7 “(i) any transaction which results in
8 the United States person being treated as
9 no longer owning such stock,

10 “(ii) any disposition of such stock by
11 the person owning such stock, and

12 “(iii) any distribution of property in
13 respect of such stock to the person holding
14 such stock,

15 shall be treated as a disposition by, or distribu-
16 tion to, the United States person with respect
17 to the stock in the passive foreign corporation.

18 “(B) AMOUNT TREATED IN SAME MANNER
19 AS PREVIOUSLY TAXED INCOME.—Rules similar
20 to the rules of section 959(b) shall apply to any
21 amount described in subparagraph (A) in re-
22 spect of stock which the taxpayer is treated as
23 owning under subsection (e).

24 “(C) COORDINATION WITH SECTION 951.—
25 If, but for this subparagraph, an amount would

1 be taken into account under section 1293 by
2 reason of subparagraph (A) and such amount
3 would also be included in the gross income of
4 the taxpayer under section 951, such amount
5 shall only be taken into account under section
6 1293.

7 “(3) DISPOSITIONS.—Except as provided in
8 regulations, if a taxpayer uses any stock in a passive
9 foreign corporation as security for a loan, the tax-
10 payer shall be treated as having disposed of such
11 stock.

12 **“Subpart C—General Provisions**

“Sec. 1296. Passive foreign corporation.

“Sec. 1297. Special rules.

13 **“SEC. 1296. PASSIVE FOREIGN CORPORATION.**

14 “(a) IN GENERAL.—For purposes of this part, except
15 as otherwise provided in this subpart, the term ‘passive
16 foreign corporation’ means any foreign corporation if—

17 “(1) 60 percent or more of the gross income of
18 such corporation for the taxable year is passive in-
19 come,

20 “(2) the average percentage of assets (by value)
21 held by such corporation during the taxable year
22 which produce passive income or which are held for
23 the production of passive income is at least 50 per-
24 cent, or

1 “(3) such corporation is registered under the
2 Investment Company Act of 1940, as amended (15
3 U.S.C. 80a-1 to 80b-2), either as a management
4 company or as a unit investment trust.

5 In the case of a controlled foreign corporation (or any
6 other foreign corporation if such corporation so elects), the
7 determination under paragraph (2) shall be based on the
8 adjusted bases (as determined for purposes of computing
9 earnings and profits) of its assets in lieu of their value.
10 Such an election, once made, may be revoked only with
11 the consent of the Secretary.

12 “(b) PASSIVE INCOME.—For purposes of this sec-
13 tion—

14 “(1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, the term ‘passive income’
16 means any income which is of a kind which would
17 be foreign personal holding company income as de-
18 fined in section 954(c) without regard to paragraph
19 (3) thereof.

20 “(2) EXCEPTIONS.—Except as provided in reg-
21 ulations, the term ‘passive income’ does not include
22 any income—

23 “(A) derived in the active conduct of a
24 banking business by an institution licensed to
25 do business as a bank in the United States (or,

1 to the extent provided in regulations, by any
2 other corporation),

3 “(B) derived in the active conduct of an in-
4 surance business by a corporation which is pre-
5 dominantly engaged in an insurance business
6 and which would be subject to tax under sub-
7 chapter L if it were a domestic corporation,

8 “(C) which is interest, a dividend, or a
9 rent or royalty, which is received or accrued
10 from a related person (within the meaning of
11 section 954(d)(3)) to the extent such amount is
12 properly allocable (under regulations prescribed
13 by the Secretary) to income of such related per-
14 son which is not passive income, or

15 “(D) any foreign trade income of a FSC.
16 For purposes of subparagraph (C), the term ‘related
17 person’ has the meaning given such term by section
18 954(d)(3) determined by substituting ‘foreign cor-
19 poration’ for ‘controlled foreign corporation’ each
20 place it appears in section 954(d)(3).

21 “(3) TREATMENT OF INCOME FROM CERTAIN
22 ASSETS.—To the extent that any asset is properly
23 treated as not held for the production of passive in-
24 come for purposes of subsection (a)(2), all income

1 from such asset shall be treated as income which is
2 not passive income.

3 “(4) TREATMENT OF CERTAIN DEALERS IN SE-
4 CURITIES.—

5 “(A) IN GENERAL.—In the case of any for-
6 eign corporation which is a controlled foreign
7 corporation (as defined in section 957(a)), the
8 term ‘passive income’ does not include any in-
9 come derived in the active conduct of a securi-
10 ties business by such corporation if such cor-
11 poration is registered as a securities broker or
12 dealer under section 15(a) of the Securities Ex-
13 change Act of 1934 or is registered as a Gov-
14 ernment securities broker or dealer under sec-
15 tion 15C(a) of such Act. To the extent provided
16 in regulations, such term shall not include any
17 income derived in the active conduct of a securi-
18 ties business by a controlled foreign corporation
19 which is not so registered.

20 “(B) APPLICATION OF LOOK-THROUGH
21 RULES.—For purposes of paragraph (2)(C),
22 rules similar to the rules of subparagraph (A)
23 of this paragraph shall apply in determining
24 whether any income of a related person (wheth-
25 er or not a corporation) is passive income.

1 “(C) LIMITATION.—The preceding provi-
2 sions of this paragraph shall only apply in the
3 case of persons who are United States share-
4 holders (as defined in section 951(b)) in the
5 controlled foreign corporation.

6 “(c) LOOK-THROUGH IN CASE OF 25-PERCENT
7 OWNED CORPORATION.—If a foreign corporation owns
8 (directly or indirectly) at least 25 percent (by value) of
9 the stock of another corporation, for purposes of determin-
10 ing whether such foreign corporation is a passive foreign
11 corporation, such foreign corporation shall be treated as
12 if it—

13 “(1) held its proportionate share of the assets
14 of such other corporation, and

15 “(2) received directly its proportionate share of
16 the income of such other corporation.

17 **“SEC. 1297. SPECIAL RULES.**

18 “(a) UNITED STATES PERSON.—For purposes of this
19 part, the term ‘United States person’ has the meaning
20 given to such term by section 7701(a)(30).

21 “(b) CONTROLLED FOREIGN CORPORATION.—For
22 purposes of this part, the term ‘controlled foreign corpora-
23 tion’ has the meaning given such term by section 957(a).

24 “(c) MARKETABLE STOCK.—For purposes of this
25 part—

1 “(1) IN GENERAL.—The term ‘marketable
2 stock’ means—

3 “(A) any stock which is regularly traded
4 on—

5 “(i) a national securities exchange
6 which is registered with the Securities and
7 Exchange Commission or the national mar-
8 ket system established pursuant to section
9 11A of the Securities and Exchange Act of
10 1934, or

11 “(ii) any exchange or other market
12 which the Secretary determines has rules
13 adequate to carry out the purposes of this
14 part, and

15 “(B) to the extent provided in regulations,
16 stock in any foreign corporation which is com-
17 parable to a regulated investment company and
18 which offers for sale or has outstanding any
19 stock of which it is the issuer and which is re-
20 deemable at its net asset value.

21 “(2) SPECIAL RULE FOR REGULATED INVEST-
22 MENT COMPANIES.—In the case of any regulated in-
23 vestment company which is offering for sale or has
24 outstanding any stock of which it is the issuer and
25 which is redeemable at its net asset value, all stock

1 in a passive foreign corporation which it owns (or is
2 treated under section 1291(g) as owning) shall be
3 treated as marketable stock for purposes of this
4 part. Except as provided in regulations, a similar
5 rule shall apply in the case of any other regulated
6 investment company.

7 “(d) OTHER SPECIAL RULES.—For purposes of this
8 part—

9 “(1) CERTAIN CORPORATIONS NOT TREATED AS
10 PASSIVE.—A corporation shall not be treated as a
11 passive foreign corporation for the 1st taxable year
12 such corporation has gross income (hereinafter in
13 this paragraph referred to as the ‘start-up year’)
14 if—

15 “(A) no predecessor of such corporation
16 was a passive foreign corporation,

17 “(B) it is established to the satisfaction of
18 the Secretary that such corporation will not be
19 a passive foreign corporation for either of the
20 1st 2 taxable years following the start-up year,
21 and

22 “(C) such corporation is not a passive for-
23 eign corporation for either of the 1st 2 taxable
24 years following the start-up year.

1 “(2) CERTAIN CORPORATIONS CHANGING BUSI-
2 NESSES.—A corporation shall not be treated as a
3 passive foreign corporation for any taxable year if—

4 “(A) neither such corporation (nor any
5 predecessor) was a passive foreign corporation
6 for any prior taxable year,

7 “(B) it is established to the satisfaction of
8 the Secretary that—

9 “(i) substantially all of the passive in-
10 come of the corporation for the taxable
11 year is attributable to proceeds from the
12 disposition of 1 or more active trades or
13 businesses, and

14 “(ii) such corporation will not be a
15 passive foreign corporation for either of
16 the first 2 taxable years following the tax-
17 able year, and

18 “(C) such corporation is not a passive for-
19 eign corporation for either of such 2 taxable
20 years.

21 For purposes of section 1296(c), any passive income
22 referred to in subparagraph (B)(i) shall be treated
23 as income which is not passive income and any as-
24 sets which produce income so described shall be

1 treated as assets producing income other than pas-
2 sive income.

3 “(3) TREATMENT OF CERTAIN FOREIGN COR-
4 PORATIONS OWNING STOCK IN 25-PERCENT OWNED
5 DOMESTIC CORPORATION.—

6 “(A) IN GENERAL.—If a foreign corpora-
7 tion owns at least 25 percent (by value) of the
8 stock of a domestic corporation, for purposes of
9 determining whether such foreign corporation is
10 a passive foreign corporation, any qualified
11 stock held by such domestic corporation shall be
12 treated as an asset which does not produce pas-
13 sive income (and is not held for the production
14 of passive income) and any amount included in
15 gross income with respect to such stock shall
16 not be treated as passive income.

17 “(B) QUALIFIED STOCK.—For purposes of
18 subparagraph (A), the term ‘qualified stock’
19 means any stock in a C corporation which is a
20 domestic corporation and which is not a regu-
21 lated investment company or real estate invest-
22 ment trust.

23 “(4) TREATMENT OF CORPORATION WHICH WAS
24 A PFIC.—A corporation shall be treated as a passive
25 foreign corporation for any taxable year beginning

1 before January 1, 1994, if and only if such corpora-
2 tion was a passive foreign investment company
3 under this part as in effect for such taxable year.

4 “(5) SEPARATE INTERESTS TREATED AS SEPA-
5 RATE CORPORATIONS.—Under regulations prescribed
6 by the Secretary, where necessary to carry out the
7 purposes of this part, separate classes of stock (or
8 other interests) in a corporation shall be treated as
9 interests in separate corporations.

10 “(6) TREATMENT OF CERTAIN SUBPART F IN-
11 CLUSIONS.—Any amount included in gross income
12 under subparagraph (B) or (C) of section 951(a)(1)
13 shall be treated as a distribution received with re-
14 spect to the stock.

15 “(e) TREATMENT OF CERTAIN LEASED PROP-
16 erty.—For purposes of this part—

17 “(1) IN GENERAL.—Any tangible personal
18 property with respect to which a foreign corporation
19 is the lessee under a lease with a term of at least
20 12 months shall be treated as an asset actually held
21 by such corporation.

22 “(2) AMOUNT TAKEN INTO ACCOUNT.—

23 “(A) IN GENERAL.—The amount taken
24 into account under section 1296(a)(2) with re-
25 spect to any asset to which paragraph (1) ap-

1 plies shall be the unamortized portion (as deter-
2 mined under regulations prescribed by the Sec-
3 retary) of the present value of the payments
4 under the lease for the use of such property.

5 “(B) PRESENT VALUE.—For purposes of
6 subparagraph (A), the present value of pay-
7 ments described in subparagraph (A) shall be
8 determined in the manner provided in regula-
9 tions prescribed by the Secretary—

10 “(i) as of the beginning of the lease
11 term, and

12 “(ii) except as provided in such regu-
13 lations, by using a discount rate equal to
14 the applicable Federal rate determined
15 under section 1274(d)—

16 “(I) by substituting the lease
17 term for the term of the debt instru-
18 ment, and

19 “(II) without regard to para-
20 graph (2) or (3) thereof.

21 “(3) EXCEPTIONS.—This subsection shall not
22 apply in any case where—

23 “(A) the lessor is a related person (as de-
24 fined in section 954(d)(3)) with respect to the
25 foreign corporation, or

1 “(B) a principal purpose of leasing the
2 property was to avoid the provisions of this part
3 or section 956A.

4 “(f) SPECIAL RULES FOR CERTAIN INTANGIBLES.—
5 For purposes of this part—

6 “(1) RESEARCH EXPENDITURES.—The adjusted
7 basis of the total assets of a controlled foreign cor-
8 poration shall be increased by the research or experi-
9 mental expenditures (within the meaning of section
10 174) paid or incurred by such foreign corporation
11 during the taxable year and the preceding 2 taxable
12 years. Any expenditure otherwise taken into account
13 under the preceding sentence shall be reduced by the
14 amount of any reimbursement received by the con-
15 trolled foreign corporation with respect to such ex-
16 penditure.

17 “(2) CERTAIN LICENSED INTANGIBLES.—

18 “(A) IN GENERAL.—In the case of any in-
19 tangible property (as defined in section
20 936(h)(3)(B)) with respect to which a con-
21 trolled foreign corporation is a licensee and
22 which is used by such foreign corporation in the
23 active conduct of a trade or business, the ad-
24 justed basis of the total assets of such foreign
25 corporation shall be increased by an amount

1 equal to 300 percent of the payments made
2 during the taxable year by such foreign cor-
3 poration for the use of such intangible property.

4 “(B) EXCEPTIONS.—Subparagraph (A)
5 shall not apply to—

6 “(i) any payments to a foreign person
7 if such foreign person is a related person
8 (as defined in section 954(d)(3)) with re-
9 spect to the controlled foreign corporation,
10 and

11 “(ii) any payments under a license if
12 a principal purpose of entering into such
13 license was to avoid the provisions of this
14 part or section 956A.

15 “(3) CONTROLLED FOREIGN CORPORATION.—
16 For purposes of this subsection, the term ‘controlled
17 foreign corporation’ has the meaning given such
18 term by section 957(a).

19 “(g) ELECTION BY CERTAIN PASSIVE FOREIGN COR-
20 PORATIONS TO BE TREATED AS A DOMESTIC CORPORA-
21 TION.—

22 “(1) IN GENERAL.—For purposes of this title,
23 if—

24 “(A) a passive foreign corporation would
25 qualify as a regulated investment company

1 under part I of subchapter M if such passive
2 foreign corporation were a domestic corpora-
3 tion,

4 “(B) such passive foreign corporation
5 meets such requirements as the Secretary shall
6 prescribe to ensure that the taxes imposed by
7 this title on such passive foreign corporation
8 are paid, and

9 “(C) such passive foreign corporation
10 makes an election to have this paragraph apply
11 and waives all benefits which are granted by the
12 United States under any treaty and to which
13 such corporation would otherwise be entitled by
14 reason of being a resident of another country,
15 such corporation shall be treated as a domestic cor-
16 poration.

17 “(2) CERTAIN RULES MADE APPLICABLE.—
18 Rules similar to the rules of paragraphs (2), (3),
19 (4)(A), and (5) of section 953(d) shall apply with re-
20 spect to any corporation making an election under
21 paragraph (1).

22 “(h) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

23 “(1) TAX-EXEMPT ORGANIZATIONS.—In the
24 case of any organization exempt from tax under sec-
25 tion 501—

1 “(A) this part shall apply to any stock in
2 a passive foreign corporation owned (or treated
3 as owned under section 1294(e)) by such orga-
4 nization only to the extent that a dividend on
5 such stock would be taken into account in de-
6 termining the unrelated business taxable income
7 of such organization, and

8 “(B) to the extent that this part applies to
9 any such stock, this part shall be applied in the
10 same manner as if such organization were not
11 exempt from tax under section 501(a).

12 “(2) TREATMENT OF STOCK HELD BY POOLED
13 INCOME FUND.—If stock in a passive foreign cor-
14 poration is owned (or treated as owned under section
15 1294(e)) by a pooled income fund (as defined in sec-
16 tion 642(c)(5)) and no portion of any gain from a
17 disposition of such stock may be allocated to income
18 under the terms of the governing instrument of such
19 fund—

20 “(A) section 1293 shall not apply to any
21 gain on a disposition of such stock by such fund
22 if (without regard to section 1293) a deduction
23 would be allowable with respect to such gain
24 under section 642(c)(3),

1 “(B) subpart A shall not apply with re-
2 spect to such stock, and

3 “(C) in determining whether section 1293
4 applies to any distribution in respect of such
5 stock, such stock shall be treated as failing to
6 qualify for the exceptions under section
7 1294(a)(1).

8 “(i) INFORMATION FROM SHAREHOLDERS.—Every
9 United States person who owns stock in any passive for-
10 eign corporation shall furnish with respect to such cor-
11 poration such information as the Secretary may prescribe.

12 “(j) REGULATIONS.—The Secretary shall prescribe
13 such regulations as may be necessary or appropriate to
14 carry out the purposes of this part, including regula-
15 tions—

16 “(1) providing that gross income shall be deter-
17 mined without regard to section 1293 for such pur-
18 poses as may be specified in such regulations, and

19 “(2) to prevent avoidance of the provisions of
20 this part through changes in citizenship or residence
21 status.”

22 (b) INSTALLMENT SALES TREATMENT NOT AVAIL-
23 ABLE.—Paragraph (2) of section 453(k) is amended by
24 striking “or” at the end of subparagraph (A), by inserting

1 “or” at the end of subparagraph (B), and by adding at
2 the end thereof the following new subparagraph:

3 “(C) stock in a passive foreign corporation
4 (as defined in section 1296) if section 1293 ap-
5 plies to such sale.”.

6 (c) TREATMENT OF MARK-TO-MARKET GAIN UNDER
7 SECTION 4982.—

8 (1) Subsection (e) of section 4982 is amended
9 by adding at the end thereof the following new para-
10 graph:

11 “(6) TREATMENT OF GAIN RECOGNIZED UNDER
12 SECTION 1291.—For purposes of determining a regu-
13 lated investment company’s ordinary income—

14 “(A) notwithstanding paragraph (1)(C),
15 section 1291 shall be applied as if such compa-
16 ny’s taxable year ended on October 31, and

17 “(B) any ordinary gain or loss from an ac-
18 tual disposition of stock in a passive foreign
19 corporation during the portion of the calendar
20 year after October 31 shall be taken into ac-
21 count in determining such company’s ordinary
22 income for the following calendar year.

23 In the case of a company making an election under
24 paragraph (4), the preceding sentence shall be ap-

1 plied by substituting the last day of the company's
2 taxable year for October 31."

3 (2) Subsection (b) of section 852 is amended by
4 adding at the end thereof the following new para-
5 graph:

6 “(10) SPECIAL RULE FOR CERTAIN LOSSES ON
7 STOCK IN PASSIVE FOREIGN CORPORATIONS.—To
8 the extent provided in regulations, the taxable in-
9 come of a regulated investment company (other than
10 a company to which an election under section
11 4982(e)(4) applies) shall be computed without re-
12 gard to any net reduction in the value of any stock
13 of a passive foreign corporation to which section
14 1291 applies occurring after October 31 of the tax-
15 able year, and any such reduction shall be treated as
16 occurring on the first day of the following taxable
17 year.”

18 (3) Subsection (c) of section 852 is amended by
19 inserting after “October 31 of such year” the follow-
20 ing: “, without regard to any net reduction in the
21 value of any stock of a passive foreign corporation
22 to which section 1291 applies occurring after Octo-
23 ber 31 of such year,”.

24 (d) TREATMENT OF CERTAIN PREVIOUSLY TAXED
25 AMOUNTS.—Subsection (e) of section 959 is amended—

1 (1) by adding at the end thereof the following
2 new sentence: “A similar rule shall apply in the case
3 of amounts included in gross income under section
4 1293 (as in effect on January 1, 1993).”, and

5 (2) by striking “AMOUNTS PREVIOUSLY TAXED
6 UNDER SECTION 1248” in the subsection heading
7 and inserting “CERTAIN PREVIOUSLY TAXED
8 AMOUNTS”.

9 **SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.**

10 (a) GENERAL RULE.—

11 (1) Paragraph (2) of section 171(c) is amend-
12 ed—

13 (A) by striking “, or by a foreign personal
14 holding company, as defined in section 552”,
15 and

16 (B) by striking “, or a foreign personal
17 holding company”.

18 (2) Section 312 is amended by striking sub-
19 section (j).

20 (3) Subsection (m) of section 312 is amended
21 by striking “, a foreign investment company (within
22 the meaning of section 1246(b)), or a foreign per-
23 sonal holding company (within the meaning of sec-
24 tion 552)” and inserting “or a passive foreign cor-
25 poration (as defined in section 1296)”.

1 (4) Subsection (e) of section 443 is amended by
2 striking paragraph (3) and by redesignating para-
3 graphs (4) and (5) as paragraphs (3) and (4), re-
4 spectively.

5 (5) Clause (ii) of section 465(c)(7)(B) is
6 amended to read as follows:

7 “(ii) a passive foreign corporation
8 with respect to which the stock ownership
9 requirements of section 1292(a)(2)(B) are
10 met, or”.

11 (6) Subsection (b) of section 535 is amended by
12 striking paragraph (9).

13 (7) Subsection (d) of section 535 is hereby re-
14 pealed.

15 (8) Paragraph (1) of section 543(b) is amended
16 by inserting “and” at the end of subparagraph (A),
17 by striking “, and” at the end of subparagraph (B)
18 and inserting a period, and by striking subparagraph
19 (C).

20 (9) Section 545 is amended by striking sub-
21 sections (b)(7) and (c).

22 (10) Paragraph (1) of section 562(b) is amend-
23 ed by striking “or a foreign personal holding com-
24 pany described in section 552”.

25 (11) Section 563 is amended—

1 (A) by striking subsection (c),

2 (B) by redesignating subsection (d) as sub-
3 section (c), and

4 (C) by striking “subsection (a), (b), or (c)”
5 in subsection (c) (as so redesignated) and in-
6 serting “subsection (a) or (b)”.

7 (12) Paragraph (2) of section 751(d) is amend-
8 ed by striking “subsection (a) of section 1246 (relat-
9 ing to gain on foreign investment company stock)”
10 and inserting “section 1291 (relating to stock in cer-
11 tain passive foreign corporations marked to mar-
12 ket)”.

13 (13) Subsection (b) of section 851 is amended
14 by striking the sentence following paragraph (4)(B)
15 which contains a reference to section 1293(a).

16 (14) Clause (ii) of section 864(b)(2)(A) is
17 amended by striking “(other than” and all that fol-
18 lows down through “holding company)” and insert-
19 ing “(other than a corporation which would be a
20 personal holding company but for section 542(c)(5)
21 and which is not United States controlled (as de-
22 fined in section 1292(a)(2))”.

23 (15) Subsection (d) of section 904 is amended
24 by striking paragraphs (2)(A)(ii), (2)(E)(iii), and
25 (3)(I).

1 (16)(A) Subparagraph (A) of section 904(g)(1)
2 is amended to read as follows:

3 “(A) Any amount included in gross income
4 under section 951(a) (relating to amounts in-
5 cluded in gross income of United States share-
6 holders).”

7 (B) The paragraph heading of paragraph (2) of
8 section 904(g) is amended by striking “AND FOR-
9 EIGN PERSONAL HOLDING OR PASSIVE FOREIGN IN-
10 VESTMENT COMPANY”.

11 (17) Section 951 is amended by striking sub-
12 sections (c), (d), and (f), and by redesignating sub-
13 section (e) as subsection (c).

14 (18) Paragraph (3) of section 956A(c) is
15 amended—

16 (A) by striking “1297(d)” in subparagraph

17 (B) and inserting “1297(e)”, and

18 (B) by striking “1297(e)” in subparagraph

19 (C) and inserting “1297(f)”.

20 (19) Paragraph (1) of section 986(c) is amend-
21 ed by striking “or 1293(c)”.

22 (20) Paragraph (3) of section 989(b) is amend-
23 ed by striking “, 551(a), or 1293(a)”.

24 (21) Paragraph (5) of section 1014(b) is hereby
25 repealed.

1 (22) Subsection (a) of section 1016 is amended
2 by striking paragraph (13) and by redesignating the
3 following paragraphs accordingly.

4 (23) Paragraph (3) of section 1212(a) is
5 amended—

6 (A) by striking subparagraph (A),

7 (B) by redesignating subparagraphs (B)
8 and (C) as subparagraphs (A) and (B), respec-
9 tively, and

10 (C) by amending subparagraph (D) to read
11 as follows:

12 “(C) for which it is a passive foreign cor-
13 poration.”

14 (24) Section 1223 is amended by striking para-
15 graph (10) and by redesignating the following para-
16 graphs accordingly.

17 (25) Subsection (d) of section 1248 is amended
18 by striking paragraphs (5) and (7).

19 (26)(A) Subsection (a) of section 6035 is
20 amended by striking “foreign personal holding com-
21 pany (as defined in section 552)” and inserting
22 “passive foreign corporation with respect to which
23 the stock ownership requirements of section
24 1292(a)(2)(B) are met”.

1 (B) The section heading for section 6035 is
2 amended by striking “**FOREIGN PERSONAL HOLD-**
3 **ING COMPANIES**” and inserting “**CLOSELY HELD**
4 **PASSIVE FOREIGN CORPORATIONS**”.

5 (C) The table of sections for subpart A of part
6 III of subchapter A of chapter 61 is amended by
7 striking “foreign personal holding companies” in the
8 item relating to section 6035 and inserting “closely-
9 held passive foreign corporations”.

10 (27) Subparagraph (D) of section 6103(e)(1) is
11 amended by striking clause (iv) and redesignating
12 clauses (v) and (vi) as clauses (iv) and (v), respec-
13 tively.

14 (28) Subparagraph (B) of section 6501(e)(1) is
15 amended to read as follows:

16 “(B) CONSTRUCTIVE DIVIDENDS.—If the
17 taxpayer omits from gross income an amount
18 properly includible therein under section
19 951(a), the tax may be assessed, or a proceed-
20 ing in court for the collection of such tax may
21 be done without assessing, at any time within
22 6 years after the return was filed.”

23 (29) Section 4947 and section 4948(c)(4) are
24 each amended by striking “556(b)(2),” each place it
25 appears.

1 (b) CLERICAL AMENDMENTS.—

2 (1) The table of parts for subchapter G of
3 chapter 1 is amended by striking the item relating
4 to part III.

5 (2) The table of sections for part IV of sub-
6 chapter P of chapter 1 is amended by striking the
7 items relating to sections 1246 and 1247.

8 (3) The table of parts for subchapter P of chap-
9 ter 1 is amended by striking the item relating to
10 part VI and inserting the following:

“Part VI. Treatment of passive foreign corporations.”

11 **SEC. 404. EFFECTIVE DATE.**

12 (a) GENERAL RULE.—Except as otherwise provided
13 in this section, the amendments made by this subtitle shall
14 apply to—

15 (1) taxable years of United States persons be-
16 ginning after December 31, 1993, and

17 (2) taxable years of foreign corporations ending
18 with or within such taxable years of United States
19 persons.

20 (b) DENIAL OF INSTALLMENT SALES TREATMENT.—
21 The amendment made by section 402(b) shall apply to dis-
22 positions after December 31, 1993.

23 (c) BASIS RULE.—The amendments made by this
24 subtitle shall not affect the determination of the basis of

1 any stock acquired from a decedent in a taxable year be-
2 ginning before January 1, 1994.

3 **Subtitle B—Treatment of**
4 **Controlled Foreign Corporations**

5 **SEC. 411. GAIN ON CERTAIN STOCK SALES BY CON-**
6 **TROLLED FOREIGN CORPORATIONS TREAT-**
7 **ED AS DIVIDENDS.**

8 (a) GENERAL RULE.—Section 964 (relating to mis-
9 cellaneous provisions) is amended by adding at the end
10 thereof the following new subsection:

11 “(f) GAIN ON CERTAIN STOCK SALES BY CON-
12 TROLLED FOREIGN CORPORATIONS TREATED AS DIVI-
13 DENDS.—

14 “(1) IN GENERAL.—If a controlled foreign cor-
15 poration sells or exchanges stock in any other for-
16 eign corporation, gain recognized on such sale or ex-
17 change shall be included in the gross income of such
18 controlled foreign corporation as a dividend to the
19 same extent that it would have been so included
20 under section 1248(a) if such controlled foreign cor-
21 poration were a United States person. For purposes
22 of determining the amount which would have been so
23 includible, the determination of whether such other
24 foreign corporation was a controlled foreign corpora-

1 tion shall be made without regard to the preceding
2 sentence.

3 “(2) SAME COUNTRY EXCEPTION NOT APPLICA-
4 BLE.—Clause (i) of section 954(c)(3)(A) shall not
5 apply to any amount treated as a dividend by reason
6 of paragraph (1).

7 “(3) CLARIFICATION OF DEEMED SALES.—For
8 purposes of this subsection, a controlled foreign cor-
9 poration shall be treated as having sold or ex-
10 changed any stock if, under any provision of this
11 subtitle, such controlled foreign corporation is treat-
12 ed as having gain from the sale or exchange of such
13 stock.”.

14 (b) AMENDMENT OF SECTION 904(d).—Clause (i) of
15 section 904(d)(2)(E) is amended by striking “and except
16 as provided in regulations, the taxpayer was a United
17 States shareholder in such corporation”.

18 (c) EFFECTIVE DATES.—

19 (1) The amendment made by subsection (a)
20 shall apply to gain recognized on transactions occur-
21 ring after the date of the enactment of this Act.

22 (2) The amendment made by subsection (b)
23 shall apply to distributions after the date of the en-
24 actment of this Act.

1 **SEC. 412. MISCELLANEOUS MODIFICATIONS TO SUBPART**

2 **F.**

3 (a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN
4 DETERMINING PRO RATA SHARE.—

5 (1) IN GENERAL.—Paragraph (2) of section
6 951(a) (defining pro rata share of subpart F in-
7 come) is amended by adding at the end thereof the
8 following new sentence: “For purposes of subpara-
9 graph (B), any gain included in the gross income of
10 any person as a dividend under section 1248 shall
11 be treated as a distribution received by such person
12 with respect to the stock involved.”

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to dispositions after the
15 date of the enactment of this Act.

16 (b) BASIS ADJUSTMENTS IN STOCK HELD BY FOR-
17 EIGN CORPORATION.—

18 (1) IN GENERAL.—Section 961 (relating to ad-
19 justments to basis of stock in controlled foreign cor-
20 porations and of other property) is amended by add-
21 ing at the end thereof the following new subsection:

22 “(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOR-
23 EIGN CORPORATION.—Under regulations prescribed by
24 the Secretary, if a United States shareholder is treated
25 under section 958(a)(2) as owning any stock in a con-
26 trolled foreign corporation which is actually owned by an-

1 other controlled foreign corporation, adjustments similar
2 to the adjustments provided by subsections (a) and (b)
3 shall be made to the basis of such stock in the hands of
4 such other controlled foreign corporation, but only for the
5 purposes of determining the amount included under sec-
6 tion 951 in the gross income of such United States share-
7 holder (or any other United States shareholder who ac-
8 quires from any person any portion of the interest of such
9 United States shareholder by reason of which such share-
10 holder was treated as owning such stock, but only to the
11 extent of such portion, and subject to such proof of iden-
12 tity of such interest as the Secretary may prescribe by reg-
13 ulations).”

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) shall apply for purposes of deter-
16 mining inclusions for taxable years of United States
17 shareholders beginning after December 31, 1993.

18 (c) DETERMINATION OF PREVIOUSLY TAXED IN-
19 COME IN SECTION 304 DISTRIBUTIONS, ETC.—

20 (1) IN GENERAL.—Section 959 (relating to ex-
21 clusion from gross income of previously taxed earn-
22 ings and profits) is amended by adding at the end
23 thereof the following new subsection:

24 “(g) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—

25 If by reason of—

1 “(1) a transaction to which section 304 applies,

2 “(2) the structure of a United States sharehold-
3 er’s holdings in controlled foreign corporations, or

4 “(3) other circumstances,

5 there would be a multiple inclusion of any item in income
6 (or an inclusion or exclusion without an appropriate basis
7 adjustment) by reason of this subpart, the Secretary may
8 prescribe regulations providing such modifications in the
9 application of this subpart as may be necessary to elimi-
10 nate such multiple inclusion or provide such basis adjust-
11 ment, as the case may be.”

12 (2) EFFECTIVE DATE.—The amendment made
13 by paragraph (1) shall take effect on the date of the
14 enactment of this Act.

15 (d) CLARIFICATION OF TREATMENT OF BRANCH TAX
16 EXEMPTIONS OR REDUCTIONS.—

17 (1) IN GENERAL.—Subsection (b) of section
18 952 is amended by adding at the end thereof the fol-
19 lowing new sentence: “For purposes of this sub-
20 section, any exemption (or reduction) with respect to
21 the tax imposed by section 884 shall not be taken
22 into account.”

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall apply to taxable years begin-
25 ning after December 31, 1986.

1 **SEC. 413. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR**
2 **CERTAIN LOWER TIER COMPANIES.**

3 (a) SECTION 902 CREDIT.—

4 (1) IN GENERAL.—Subsection (b) of section
5 902 (relating to deemed taxes increased in case of
6 certain 2nd and 3rd tier foreign corporations) is
7 amended to read as follows:

8 “(b) DEEMED TAXES INCREASED IN CASE OF CER-
9 TAIN LOWER TIER CORPORATIONS.—

10 “(1) IN GENERAL.—If—

11 “(A) any foreign corporation is a member
12 of a qualified group, and

13 “(B) such foreign corporation owns 10 per-
14 cent or more of the voting stock of another
15 member of such group from which it receives
16 dividends in any taxable year,

17 such foreign corporation shall be deemed to have
18 paid the same proportion of such other member’s
19 post-1986 foreign income taxes as would be deter-
20 mined under subsection (a) if such foreign corpora-
21 tion were a domestic corporation.

22 “(2) QUALIFIED GROUP.—For purposes of
23 paragraph (1), the term ‘qualified group’ means—

24 “(A) the foreign corporation described in
25 subsection (a), and

26 “(B) any other foreign corporation if—

1 “(i) the domestic corporation owns at
2 least 5 percent of the voting stock of such
3 other foreign corporation indirectly
4 through a chain of foreign corporations
5 connected through stock ownership of at
6 least 10 percent of their voting stock,

7 “(ii) the foreign corporation described
8 in subsection (a) is the first tier corpora-
9 tion in such chain, and

10 “(iii) such other corporation is not
11 below the sixth tier in such chain,

12 The term ‘qualified group’ shall not include any for-
13 eign corporation below the third tier in the chain re-
14 ferred to in clause (i) unless such foreign corpora-
15 tion is a controlled foreign corporation (as defined in
16 section 957) and the domestic corporation is a Unit-
17 ed States shareholder (as defined in section 951(b))
18 in such foreign corporation. Paragraph (1) shall
19 apply to those taxes paid by a member of the quali-
20 fied group below the third tier only with respect to
21 periods during which it was a controlled foreign cor-
22 poration.”

23 (2) CONFORMING AMENDMENTS.—

24 (A) Subparagraph (B) of section 902(c)(3)
25 is amended by adding “or” at the end of clause

1 (i) and by striking clauses (ii) and (iii) and in-
2 serting the following new clause:

3 “(ii) the requirements of subsection
4 (b)(2) are met with respect to such foreign
5 corporation.”

6 (B) Subparagraph (B) of section 902(c)(4)
7 is amended by striking “3rd foreign corpora-
8 tion” and inserting “sixth tier foreign corpora-
9 tion”.

10 (C) The heading for paragraph (3) of sec-
11 tion 902(c) is amended by striking “WHERE DO-
12 MESTIC CORPORATION ACQUIRES 10 PERCENT
13 OF FOREIGN CORPORATION” and inserting
14 “WHERE FOREIGN CORPORATION FIRST QUALI-
15 FIES”.

16 (D) Paragraph (3) of section 902(c) is
17 amended by striking “ownership” each place it
18 appears.

19 (b) SECTION 960 CREDIT.—Paragraph (1) of section
20 960(a) (relating to special rules for foreign tax credits)
21 is amended to read as follows:

22 “(1) DEEMED PAID CREDIT.—For purposes of
23 subpart A of this part, if there is included under
24 section 951(a) in the gross income of a domestic cor-
25 poration any amount attributable to earnings and

1 profits of a foreign corporation which is a member
2 of a qualified group (as defined in section 902(b))
3 with respect to the domestic corporation, then, ex-
4 cept to the extent provided in regulations, section
5 902 shall be applied as if the amount so included
6 were a dividend paid by such foreign corporation
7 (determined by applying section 902(c) in accord-
8 ance with section 904(d)(3)(B)).”

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to taxes of foreign corpora-
12 tions for taxable years of such corporations begin-
13 ning after the date of enactment of this Act.

14 (2) SPECIAL RULE.—In the case of any chain
15 of foreign corporations described in clauses (i) and
16 (ii) of section 902(b)(2)(B) of the Internal Revenue
17 Code of 1986 (as amended by this section), no liq-
18 uidation, reorganization, or similar transaction in a
19 taxable year beginning after the date of the enact-
20 ment of this Act shall have the effect of permitting
21 taxes to be taken into account under section 902 of
22 the Internal Revenue Code of 1986 which could not
23 have been taken into account under such section but
24 for such transaction.

1 **Subtitle C—Other Provisions**

2 **SEC. 421. EXCHANGE RATE USED IN TRANSLATING FOR-**
3 **EIGN TAXES.**

4 (a) ACCRUED TAXES TRANSLATED BY USING AVER-
5 AGE RATE FOR YEAR TO WHICH TAXES RELATE.—

6 (1) IN GENERAL.—Subsection (a) of section
7 986 (relating to translation of foreign taxes) is
8 amended to read as follows:

9 “(a) FOREIGN INCOME TAXES.—

10 “(1) TRANSLATION OF ACCRUED TAXES.—

11 “(A) IN GENERAL.—For purposes of deter-
12 mining the amount of the foreign tax credit, in
13 the case of a taxpayer who takes foreign income
14 taxes into account when accrued, the amount of
15 any foreign income taxes (and any adjustment
16 thereto) shall be translated into dollars by using
17 the average exchange rate for the taxable year
18 to which such taxes relate.

19 “(B) EXCEPTION FOR TAXES NOT PAID
20 WITHIN FOLLOWING 2 YEARS.—

21 “(i) Subparagraph (A) shall not apply
22 to any foreign income taxes paid after the
23 date 2 years after the close of the taxable
24 year to which such taxes relate.

1 “(ii) Subparagraph (A) shall not
2 apply to taxes paid before the beginning of
3 the taxable year to which such taxes relate.

4 “(C) EXCEPTION FOR INFLATIONARY CUR-
5 RENCIES.—To the extent provided in regula-
6 tions, subparagraph (A) shall not apply to any
7 foreign income taxes the liability for which is
8 denominated in any currency determined to be
9 an inflationary currency under such regulations.

10 “(D) CROSS REFERENCE.—

**“For adjustments where tax is not paid within 2
 years, see section 905(c).**

11 “(2) TRANSLATION OF TAXES TO WHICH PARA-
12 GRAPH (1) DOES NOT APPLY.—For purposes of de-
13 termining the amount of the foreign tax credit, in
14 the case of any foreign income taxes to which sub-
15 paragraph (A) of paragraph (1) does not apply—

16 “(A) such taxes shall be translated into
17 dollars using the exchange rates as of the time
18 such taxes were paid to the foreign country or
19 possession of the United States, and

20 “(B) any adjustment to the amount of
21 such taxes shall be translated into dollars
22 using—

23 “(i) except as provided in clause (ii),
24 the exchange rate as of the time when such

1 adjustment is paid to the foreign country
2 or possession, or

3 “(ii) in the case of any refund or cred-
4 it of foreign income taxes, using the ex-
5 change rate as of the time of the original
6 payment of such foreign income taxes.

7 “(3) FOREIGN INCOME TAXES.—For purposes
8 of this subsection, the term ‘foreign income taxes’
9 means any income, war profits, or excess profits
10 taxes paid or accrued to any foreign country or to
11 any possession of the United States.”

12 (2) ADJUSTMENT WHEN NOT PAID WITHIN 2
13 YEARS AFTER YEAR TO WHICH TAXES RELATE.—
14 Subsection (c) of section 905 is amended to read as
15 follows:

16 “(c) ADJUSTMENTS TO ACCRUED TAXES.—

17 “(1) IN GENERAL.—If—

18 “(A) accrued taxes when paid differ from
19 the amounts claimed as credits by the taxpayer,

20 “(B) accrued taxes are not paid before the
21 date 2 years after the close of the taxable year
22 to which such taxes relate, or

23 “(C) any tax paid is refunded in whole or
24 in part,

1 the taxpayer shall notify the Secretary, who shall re-
2 determine the amount of the tax for the year or
3 years affected.

4 “(2) SPECIAL RULE FOR TAXES NOT PAID
5 WITHIN 2 YEARS.—In making the redetermination
6 under paragraph (1), no credit shall be allowed for
7 accrued taxes not paid before the date referred to in
8 subparagraph (B) of paragraph (1). Any such taxes
9 if subsequently paid shall be taken into account for
10 the taxable year in which paid and no redetermina-
11 tion under this section shall be made on account of
12 such payment.

13 “(3) ADJUSTMENTS.—The amount of tax due
14 on any redetermination under paragraph (1) (if any)
15 shall be paid by the taxpayer on notice and demand
16 by the Secretary, and the amount of tax overpaid (if
17 any) shall be credited or refunded to the taxpayer in
18 accordance with subchapter B of chapter 66 (section
19 6511 et seq.).

20 “(4) BOND REQUIREMENTS.—In the case of
21 any tax accrued but not paid, the Secretary, as a
22 condition precedent to the allowance of the credit
23 provided in this subpart, may require the taxpayer
24 to give a bond, with sureties satisfactory to and ap-
25 proved by the Secretary, in such sum as the Sec-

1 retary may require, conditioned on the payment by
2 the taxpayer of any amount of tax found due on any
3 such redetermination. Any such bond shall contain
4 such further conditions as the Secretary may re-
5 quire.

6 “(5) OTHER SPECIAL RULES.—In any redeter-
7 mination under paragraph (1) by the Secretary of
8 the amount of tax due from the taxpayer for the
9 year or years affected by a refund, the amount of
10 the taxes refunded for which credit has been allowed
11 under this section shall be reduced by the amount of
12 any tax described in section 901 imposed by the for-
13 eign country or possession of the United States with
14 respect to such refund; but no credit under this sub-
15 part, or deduction under section 164, shall be al-
16 lowed for any taxable year with respect to any such
17 tax imposed on the refund. No interest shall be as-
18 sessed or collected on any amount of tax due on any
19 redetermination by the Secretary, resulting from a
20 refund to the taxpayer, for any period before the re-
21 ceipt of such refund, except to the extent interest
22 was paid by the foreign country or possession of the
23 United States on such refund for such period.”

24 (b) AUTHORITY TO USE AVERAGE RATES.—

1 (1) IN GENERAL.—Subsection (a) of section
2 986 (relating to foreign taxes) is amended by adding
3 at the end thereof the following new paragraph:

4 “(3) AUTHORITY TO PERMIT USE OF AVERAGE
5 RATES.—To the extent prescribed in regulations, the
6 average exchange rate for the period (specified in
7 such regulations) during which the taxes or adjust-
8 ment is paid may be used instead of the exchange
9 rate as of the time of such payment.”

10 (2) DETERMINATION OF AVERAGE RATES.—
11 Subsection (c) of section 989 is amended by striking
12 “and” at the end of paragraph (4), by striking the
13 period at the end of paragraph (5) and inserting “,
14 and”, and by adding at the end thereof the following
15 new paragraph:

16 “(6) setting forth procedures for determining
17 the average exchange rate for any period.”

18 (3) CONFORMING AMENDMENTS.—Subsection
19 (b) of section 989 is amended by striking “weight-
20 ed” each place it appears.

21 (c) EFFECTIVE DATES.—

22 (1) IN GENERAL.—The amendments made by
23 subsections (a)(1) and (b) shall apply to taxes paid
24 or accrued in taxable years beginning after Decem-
25 ber 31, 1992.

1 (2) SUBSECTION (a)(2).—The amendment made
2 by subsection (a)(2) shall apply to taxes which relate
3 to taxable years beginning after December 31, 1992.

4 **SEC. 422. ELECTION TO USE SIMPLIFIED SECTION 904 LIM-**
5 **ITATION FOR ALTERNATIVE MINIMUM TAX.**

6 (a) GENERAL RULE.—Subsection (a) of section 59
7 (relating to alternative minimum tax foreign tax credit)
8 is amended by adding at the end thereof the following new
9 paragraph:

10 “(3) ELECTION TO USE SIMPLIFIED SECTION
11 904 LIMITATION.—

12 “(A) IN GENERAL.—In determining the al-
13 ternative minimum tax foreign tax credit for
14 any taxable year to which an election under this
15 paragraph applies—

16 “(i) subparagraph (B) of paragraph
17 (1) shall not apply, and

18 “(ii) the limitation of section 904
19 shall be based on the proportion which—

20 “(I) the taxpayer’s taxable in-
21 come (as determined for purposes of
22 the regular tax) from sources without
23 the United States (but not in excess
24 of the taxpayer’s entire alternative
25 minimum taxable income), bears to

1 “(II) the taxpayer’s entire alter-
2 native minimum taxable income for
3 the taxable year.

4 “(B) ELECTION.—

5 “(i) IN GENERAL.—An election under
6 this paragraph may be made only for the
7 taxpayer’s first taxable year which begins
8 after December 31, 1993, and for which
9 the taxpayer claims an alternative mini-
10 mum tax foreign tax credit.

11 “(ii) ELECTION REVOCABLE ONLY
12 WITH CONSENT.—An election under this
13 paragraph, once made, shall apply to the
14 taxable year for which made and all subse-
15 quent taxable years unless revoked with
16 the consent of the Secretary.”

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 1993.

20 **SEC. 423. MODIFICATION OF SECTION 1491.**

21 (a) GENERAL RULE.—So much of chapter 5 (relating
22 to tax on transfers to avoid income tax) as precedes sec-
23 tion 1492 is amended to read as follows:

1 **“CHAPTER 5—TREATMENT OF TRANSFERS**
2 **TO AVOID INCOME TAX**

“Sec. 1491. Recognition of gain.

“Sec. 1492. Exceptions.

3 **“SEC. 1491. RECOGNITION OF GAIN.**

4 “In the case of any transfer of property by a United
5 States person to a foreign corporation as paid-in surplus
6 or as a contribution to capital, to a foreign estate or trust,
7 or to a foreign partnership, for purposes of this subtitle,
8 such transfer shall be treated as a sale or exchange for
9 an amount equal to the fair market value of the property
10 transferred, and the transferor shall recognize as gain the
11 excess of—

12 “(1) the fair market value of the property so
13 transferred, over

14 “(2) the adjusted basis (for purposes of deter-
15 mining gain) of such property in the hands of the
16 transferor.”

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 1057 is hereby repealed.

19 (2) Section 1492 is amended to read as follows:

20 **“SEC. 1492. EXCEPTIONS.**

21 “The provisions of section 1491 shall not apply—

22 “(1) If the transferee is an organization exempt
23 from income tax under part I of subchapter F of

1 chapter 1 (other than an organization described in
2 section 401(a)),

3 “(2) To a transfer described in section 367, or

4 “(3) To any other transfer, to the extent pro-
5 vided in regulations in accordance with principles
6 similar to the principles of section 367 or otherwise
7 consistent with the purpose of section 1491.”

8 (3) Section 1494 is hereby repealed.

9 (4) The table of sections for part IV of sub-
10 chapter O of chapter 1 is amended by striking the
11 item relating to section 1057.

12 (5) The table of chapters for subtitle A is
13 amended by striking “Tax on” in the item relating
14 to chapter 5 and inserting “Treatment of”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to transfers after December 31,
17 1994.

18 **SEC. 424. MODIFICATION OF SECTION 367(b).**

19 (a) GENERAL RULE.—Paragraph (1) of section
20 367(b) is amended to read as follows:

21 “(1) IN GENERAL.—In the case of any trans-
22 action described in section 332, 351, 354, 355, 356,
23 or 361 in which the status of a foreign corporation
24 as a corporation is a general condition for non-
25 recognition by 1 or more of the parties to the trans-

1 action, income shall be required to be recognized to
2 the extent provided in regulations prescribed by the
3 Secretary which are necessary or appropriate to pre-
4 vent the avoidance of Federal income taxes. This
5 subsection shall not apply to a transaction in which
6 the foreign corporation is not treated as a corpora-
7 tion under subsection (a)(1).”

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to transfers after December 31,
10 1994.

11 **TITLE V—OTHER INCOME TAX**
12 **PROVISIONS**
13 **Subtitle A—Provisions Relating to**
14 **Subchapter S Corporations**

15 **SEC. 501. AUTHORITY TO VALIDATE CERTAIN INVALID**
16 **ELECTIONS.**

17 (a) GENERAL RULE.—Subsection (f) of section 1362
18 (relating to inadvertent terminations) is amended to read
19 as follows:

20 “(f) INADVERTENT INVALID ELECTIONS OR TERMI-
21 NATIONS.—If—

22 “(1) an election under subsection (a) by any
23 corporation—

24 “(A) was not effective for the taxable year
25 for which made (determined without regard to

1 subsection (b)(2)) by reason of a failure to meet
2 the requirements of section 1361(b) or to ob-
3 tain shareholder consents, or

4 “(B) was terminated under paragraph (2)
5 or (3) of subsection (d),

6 “(2) the Secretary determines that the cir-
7 cumstances resulting in such ineffectiveness or ter-
8 mination were inadvertent,

9 “(3) no later than a reasonable period of time
10 after discovery of the circumstances resulting in
11 such ineffectiveness or termination, steps were
12 taken—

13 “(A) so that the corporation is a small
14 business corporation, or

15 “(B) to acquire the required shareholder
16 consents, and

17 “(4) the corporation, and each person who was
18 a shareholder in the corporation at any time during
19 the period specified pursuant to this subsection,
20 agrees to make such adjustments (consistent with
21 the treatment of the corporation as an S corpora-
22 tion) as may be required by the Secretary with re-
23 spect to such period,

24 then, notwithstanding the circumstances resulting in such
25 ineffectiveness or termination, such corporation shall be

1 treated as an S corporation during the period specified
2 by the Secretary.”

3 (b) LATE ELECTIONS.—Subsection (b) of section
4 1362 is amended by adding at the end thereof the follow-
5 ing new paragraph:

6 “(5) AUTHORITY TO TREAT LATE ELECTIONS
7 AS TIMELY.—If—

8 “(A) an election under subsection (a) is
9 made for any taxable year (determined without
10 regard to paragraph (3)) after the date pre-
11 scribed by this subsection for making such elec-
12 tion for such taxable year, and

13 “(B) the Secretary determines that there
14 was reasonable cause for the failure to timely
15 make such election,

16 the Secretary may treat such election as timely
17 made for such taxable year (and paragraph (3) shall
18 not apply).”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to elections for taxable
21 years beginning after December 31, 1982.

22 **SEC. 502. TREATMENT OF DISTRIBUTIONS DURING LOSS**
23 **YEARS.**

24 (a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO
25 ACCOUNT BEFORE LOSSES.—

1 (1) Subparagraph (A) of section 1366(d)(1) is
2 amended by striking “paragraph (1)” and inserting
3 “paragraphs (1) and (2)(A)”.

4 (2) Subsection (d) of section 1368 is amended
5 by adding at the end thereof the following new sen-
6 tence:

7 “In the case of any distribution made during any taxable
8 year, the adjusted basis of the stock shall be determined
9 with regard to the adjustments provided in paragraph (1)
10 of section 1367(a) for the taxable year.”

11 (b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Para-
12 graph (1) of section 1368(e) (relating to accumulated ad-
13 justments account) is amended by adding at the end there-
14 of the following new subparagraph:

15 “(C) NET LOSS FOR YEAR DISREGARDED.—

16 “(i) IN GENERAL.—In applying this section
17 to distributions made during any taxable year,
18 the amount in the accumulated adjustments ac-
19 count as of the close of such taxable year shall
20 be determined without regard to any net nega-
21 tive adjustment for such taxable year.

22 “(ii) NET NEGATIVE ADJUSTMENT.—For
23 purposes of clause (i), the term ‘net negative
24 adjustment’ means, with respect to any taxable
25 year, the excess (if any) of—

1 “(I) the reductions in the account for
2 the taxable year (other than for distribu-
3 tions), over

4 “(II) the increases in such account for
5 such taxable year.”

6 (c) CONFORMING AMENDMENTS.—Subparagraph (A)
7 of section 1368(e)(1) is amended—

8 (1) by striking “as provided in subparagraph
9 (B)” and inserting “as otherwise provided in this
10 paragraph”, and

11 (2) by striking “section 1367(b)(2)(A)” and in-
12 serting “section 1367(a)(2)”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to distributions in taxable years
15 beginning after December 31, 1992.

16 **SEC. 503. ELECTING SMALL BUSINESS TRUSTS.**

17 (a) GENERAL RULE.—Subparagraph (A) of section
18 1361(c)(2) (relating to certain trusts permitted as share-
19 holders) is amended by inserting after clause (iv) the fol-
20 lowing new clause:

21 “(v) An electing small business trust.”

22 (b) CURRENT BENEFICIARIES TREATED AS SHARE-
23 HOLDERS.—Subparagraph (B) of section 1361(c)(2) is
24 amended by adding at the end the following new clause:

1 “(v) In the case of a trust described
2 in clause (v) of subparagraph (A), each po-
3 tential current beneficiary of such trust
4 shall be treated as a shareholder; except
5 that, if for any period there is no potential
6 current beneficiary of such trust, such
7 trust shall be treated as the shareholder
8 during such period.”

9 (c) ELECTING SMALL BUSINESS TRUST DEFINED.—
10 Section 1361 (defining S corporation) is amended by add-
11 ing at the end the following new subsection:

12 “(e) ELECTING SMALL BUSINESS TRUST DE-
13 FINED.—

14 “(1) ELECTING SMALL BUSINESS TRUST.—For
15 purposes of this section—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the term ‘electing small
18 business trust’ means any trust if—

19 “(i) such trust does not have as a
20 beneficiary any person other than (I) an
21 individual, (II) an estate, or (III) an orga-
22 nization described in paragraph (2), (3),
23 (4), or (5) of section 170(c) which holds a
24 contingent interest and is not a potential
25 current beneficiary,

1 “(ii) no interest in such trust was ac-
2 quired by purchase, and

3 “(iii) an election under this subsection
4 applies to such trust.

5 “(B) CERTAIN TRUSTS NOT ELIGIBLE.—
6 The term ‘electing small business trust’ shall
7 not include—

8 “(i) any qualified subchapter S trust
9 (as defined in subsection (d)(3)) if an elec-
10 tion under subsection (d)(2) applies to any
11 corporation the stock of which is held by
12 such trust, and

13 “(ii) any trust exempt from tax under
14 this subtitle.

15 “(C) PURCHASE.—For purposes of sub-
16 paragraph (A), the term ‘purchase’ means any
17 acquisition if the basis of the property acquired
18 is determined under section 1012.

19 “(2) POTENTIAL CURRENT BENEFICIARY.—For
20 purposes of this section, the term ‘potential current
21 beneficiary’ means, with respect to any period, any
22 person who at any time during such period is enti-
23 tled to, or at the discretion of any person may re-
24 ceive, a distribution from the principal or income of
25 the trust. If a trust disposes of all of the stock which

1 it holds in an S corporation, then, with respect to
2 such corporation, the term ‘potential current bene-
3 ficiary’ does not include any person who first met
4 the requirements of the preceding sentence during
5 the 60-day period ending on the date of such dis-
6 position.

7 “(3) ELECTION.—An election under this sub-
8 section shall be made by the trustee. Any such elec-
9 tion shall apply to the taxable year of the trust for
10 which made and all subsequent taxable years of such
11 trust unless revoked with the consent of the Sec-
12 retary.

13 “(4) CROSS REFERENCE.—

“For special treatment of electing small business trusts, see section 641(d).”

14 (d) TAXATION OF ELECTING SMALL BUSINESS
15 TRUSTS.—Section 641 (relating to imposition of tax on
16 trusts) is amended by adding at the end the following new
17 subsection:

18 “(d) SPECIAL RULES FOR TAXATION OF ELECTING
19 SMALL BUSINESS TRUSTS.—

20 “(1) IN GENERAL.—For purposes of this chap-
21 ter—

22 “(A) the portion of any electing small busi-
23 ness trust which consists of stock in 1 or more

1 S corporations shall be treated as a separate
2 trust, and

3 “(B) the amount of the tax imposed by
4 this chapter on such separate trust shall be de-
5 termined with the modifications of paragraph
6 (2).

7 “(2) MODIFICATIONS.—For purposes of para-
8 graph (1), the modifications of this paragraph are
9 the following:

10 “(A) Except as provided in section 1(h),
11 the amount of the tax imposed by section 1(e)
12 shall be determined by using the highest rate of
13 tax set forth in section 1(e).

14 “(B) The exemption amount under section
15 55(d) shall be zero.

16 “(C) The only items of income, loss, deduc-
17 tion, or credit to be taken into account are the
18 following:

19 “(i) The items required to be taken
20 into account under section 1366.

21 “(ii) Any gain or loss from the dis-
22 position of stock in an S corporation.

23 “(iii) To the extent provided in regu-
24 lations, State or local income taxes or ad-
25 ministrative expenses to the extent alloca-

1 ble to items described in clauses (i) and
2 (ii).

3 No deduction or credit shall be allowed for any
4 amount not described in this paragraph, and no
5 item described in this paragraph shall be appor-
6 tioned to any beneficiary.

7 “(D) No amount shall be allowed under
8 paragraph (1) or (2) of section 1211(b).

9 “(3) TREATMENT OF REMAINDER OF TRUST
10 AND DISTRIBUTIONS.—For purposes of determin-
11 ing—

12 “(A) the amount of the tax imposed by
13 this chapter on the portion of any electing small
14 business trust not treated as a separate trust
15 under paragraph (1), and

16 “(B) the distributable net income of the
17 entire trust,

18 the items referred to in paragraph (2)(C) shall be
19 excluded. Except as provided in the preceding sen-
20 tence, this subsection shall not affect the taxation of
21 any distribution from the trust.

22 “(4) TREATMENT OF UNUSED DEDUCTIONS
23 WHERE TERMINATION OF SEPARATE TRUST.—If a
24 portion of an electing small business trust ceases to
25 be treated as a separate trust under paragraph (1),

1 any carryover or excess deduction of the separate
2 trust which is referred to in section 642(h) shall be
3 taken into account by the entire trust.

4 “(5) ELECTING SMALL BUSINESS TRUST.—For
5 purposes of this subsection, the term ‘electing small
6 business trust’ has the meaning given such term by
7 section 1361(e)(1).”

8 (e) TECHNICAL AMENDMENT.—Paragraph (1) of sec-
9 tion 1366(a) is amended by inserting “, or of a trust or
10 estate which terminates,” after “who dies”.

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

14 **SEC. 504. OTHER MODIFICATIONS.**

15 (a) TREATMENT OF S CORPORATIONS UNDER SUB-
16 CHAPTER C.—Subsection (a) of section 1371 (relating to
17 application of subchapter C rules) is amended to read as
18 follows:

19 “(a) APPLICATION OF SUBCHAPTER C RULES.—Ex-
20 cept as otherwise provided in this title, and except to the
21 extent inconsistent with this subchapter, subchapter C
22 shall apply to an S corporation and its shareholders.”

23 (b) S CORPORATIONS PERMITTED TO HOLD SUB-
24 SIDIARIES.—

1 (1) IN GENERAL.—Paragraph (2) of section
2 1361(b) (defining ineligible corporation) is amended
3 by striking subparagraph (A) and by redesignating
4 subparagraphs (B), (C), (D), and (E) as subpara-
5 graphs (A), (B), (C), and (D), respectively.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Subsection (c) of section 1361 is
8 amended by striking paragraph (6).

9 (B) Subsection (b) of section 1504 (defin-
10 ing includible corporation) is amended by add-
11 ing at the end thereof the following new para-
12 graph:

13 “(8) An S corporation.”

14 (c) ELIMINATION OF PRE-1983 EARNINGS AND
15 PROFITS.—

16 (1) IN GENERAL.—If—

17 (A) a corporation was an electing small
18 business corporation under subchapter S of
19 chapter 1 of the Internal Revenue Code of 1986
20 for any taxable year beginning before January
21 1, 1983, and

22 (B) such corporation is an S corporation
23 under subchapter S of chapter 1 of such Code
24 for its first taxable year beginning after Decem-
25 ber 31, 1992,

1 the amount of such corporation's accumulated earn-
2 ings and profits (as of the beginning of such first
3 taxable year) shall be reduced by an amount equal
4 to the portion (if any) of such accumulated earnings
5 and profits which were accumulated in any taxable
6 year beginning before January 1, 1983, for which
7 such corporation was an electing small business cor-
8 poration under such subchapter S.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Paragraph (3) of section 1362(d) is
11 amended—

12 (i) by striking “subchapter C” in the
13 paragraph heading and inserting “accumu-
14 lated”,

15 (ii) by striking “subchapter C” in
16 subparagraph (A)(i)(I) and inserting “ac-
17 cumulated”, and

18 (iii) by striking subparagraph (B) and
19 redesignating the following subparagraphs
20 accordingly.

21 (B)(i) Subsection (a) of section 1375 is
22 amended by striking “subchapter C” in para-
23 graph (1) and inserting “accumulated”.

24 (ii) Paragraph (3) of section 1375(b) is
25 amended to read as follows:

1 “(3) PASSIVE INVESTMENT INCOME, ETC.—The
2 terms ‘passive investment income’ and ‘gross re-
3 ceipts’ have the same respective meanings as when
4 used in paragraph (3) of section 1362(d).”

5 (iii) The section heading for section 1375
6 is amended by striking “**SUBCHAPTER C**” and
7 inserting “**ACCUMULATED**”.

8 (iv) The table of sections for part III of
9 subchapter S of chapter 1 is amended by strik-
10 ing “subchapter C” in the item relating to sec-
11 tion 1375 and inserting “accumulated”.

12 (C) Clause (i) of section 1042(c)(4)(A) is
13 amended by striking “section 1362(d)(3)(D)”
14 and inserting “section 1362(d)(3)(C)”.

15 (d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK
16 TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection
17 (b) of section 1367 (relating to adjustments to basis of
18 stock of shareholders, etc.) is amended by adding at the
19 end thereof the following new paragraph:

20 “(4) ADJUSTMENTS IN CASE OF INHERITED
21 STOCK.—

22 “(A) IN GENERAL.—If any person acquires
23 stock in an S corporation by reason of the
24 death of a decedent or by bequest, devise, or in-
25 heritance, section 691 shall be applied with re-

1 percentage of completion method) is amended by adding
2 at the end thereof the following new paragraph:

3 “(6) ELECTION TO HAVE LOOK-BACK METHOD
4 NOT APPLY IN DE MINIMIS CASES.—

5 “(A) AMOUNTS TAKEN INTO ACCOUNT
6 AFTER COMPLETION OF CONTRACT.—Para-
7 graph (1)(B) shall not apply with respect to
8 any taxable year (beginning after the taxable
9 year in which the contract is completed) if—

10 “(i) the cumulative taxable income (or
11 loss) under the contract as of the close of
12 such taxable year, is within

13 “(ii) 10 percent of the cumulative
14 look-back taxable income (or loss) under
15 the contract as of the close of the most re-
16 cent taxable year to which paragraph
17 (1)(B) applied (or would have applied but
18 for subparagraph (B)).

19 “(B) DE MINIMIS DISCREPANCIES.—Para-
20 graph (1)(B) shall not apply in any case to
21 which it would otherwise apply if—

22 “(i) the cumulative taxable income (or
23 loss) under the contract as of the close of
24 each prior contract year, is within

1 “(ii) 10 percent of the cumulative
2 look-back income (or loss) under the con-
3 tract as of the close of such prior contract
4 year.

5 “(C) DEFINITIONS.—For purposes of this
6 paragraph—

7 “(i) CONTRACT YEAR.—The term
8 ‘contract year’ means any taxable year for
9 which income is taken into account under
10 the contract.

11 “(ii) LOOK-BACK INCOME OR LOSS.—
12 The look-back income (or loss) is the
13 amount which would be the taxable income
14 (or loss) under the contract if the alloca-
15 tion method set forth in paragraph (2)(A)
16 were used in determining taxable income.

17 “(iii) DISCOUNTING NOT APPLICA-
18 BLE.—The amounts taken into account
19 after the completion of the contract shall
20 be determined without regard to any dis-
21 counting under the 2nd sentence of para-
22 graph (2).

23 “(D) CONTRACTS TO WHICH PARAGRAPH
24 APPLIES.—This paragraph shall only apply if
25 the taxpayer makes an election under this sub-

1 paragraph. Unless revoked with the consent of
2 the Secretary, such an election shall apply to all
3 long-term contracts completed during the tax-
4 able year for which election is made or during
5 any subsequent taxable year.”

6 (b) MODIFICATION OF INTEREST RATE.—

7 (1) IN GENERAL.—Subparagraph (C) of section
8 460(b)(2) is amended by striking “the overpayment
9 rate established by section 6621” and inserting “the
10 adjusted overpayment rate (as defined in paragraph
11 (7))”.

12 (2) ADJUSTED OVERPAYMENT RATE.—Sub-
13 section (b) of section 460 is amended by adding at
14 the end thereof the following new paragraph:

15 “(7) ADJUSTED OVERPAYMENT RATE.—

16 “(A) IN GENERAL.—The adjusted overpay-
17 ment rate for any interest accrual period is the
18 overpayment rate in effect under section 6621
19 for the calendar quarter in which such interest
20 accrual period begins.

21 “(B) INTEREST ACCRUAL PERIOD.—For
22 purposes of subparagraph (A), the term ‘inter-
23 est accrual period’ means the period—

1 “(i) beginning on the day after the re-
2 turn due date for any taxable year of the
3 taxpayer, and

4 “(ii) ending on the return due date
5 for the following taxable year.

6 For purposes of the preceding sentence, the
7 term ‘return due date’ means the date pre-
8 scribed for filing the return of the tax imposed
9 by this chapter (determined without regard to
10 extensions).”

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to contracts completed in taxable
13 years ending after the date of the enactment of this Act.

14 **Subtitle C—Provisions Relating To**
15 **Regulated Investment Companies**

16 **SEC. 521. REPEAL OF 30-PERCENT GROSS INCOME LIMITA-**
17 **TION.**

18 (a) GENERAL RULE.—Subsection (b) of section 851
19 (relating to limitations) is amended by striking paragraph
20 (3), by adding “and” at the end of paragraph (2), and
21 by redesignating paragraph (4) as paragraph (3).

22 (b) TECHNICAL AMENDMENTS.—

23 (1) The material following paragraph (3) of sec-
24 tion 851 (as redesignated by subsection (a)) is
25 amended—

1 (A) by striking out “paragraphs (2) and
2 (3)” and inserting “paragraph (2)”, and

3 (B) by striking out the last sentence there-
4 of.

5 (2) Subsection (c) of section 851 is amended by
6 striking “subsection (b)(4)” each place it appears
7 (including the heading) and inserting “subsection
8 (b)(3)”.

9 (3) Subsection (d) of section 851 is amended by
10 striking “subsections (b)(4)” and inserting “sub-
11 sections (b)(3)”.

12 (4) Paragraph (1) of section 851(e) is amended
13 by striking “subsection (b)(4)” and inserting “sub-
14 section (b)(3)”.

15 (5) Paragraph (4) of section 851(e) is amended
16 by striking “subsections (b)(4)” and inserting “sub-
17 sections (b)(3)”.

18 (6) Section 851 is amended by striking sub-
19 section (g) and redesignating subsection (h) as sub-
20 section (g).

21 (7) Subsection (g) of section 851 (as redesign-
22 ated by paragraph (6)) is amended by striking
23 paragraph (3).

24 (8) Section 817(h)(2) is amended—

1 (A) by striking “851(b)(4)” in subpara-
2 graph (A) and inserting “851(b)(3)”, and

3 (B) by striking “851(b)(4)(A)(i)” in sub-
4 paragraph (B) and inserting “851(b)(3)(A)(i)”.

5 (9) Section 1092(f)(2) is amended by striking
6 “Except for purposes of section 851(b)(3), the” and
7 inserting “The”.

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

11 **SEC. 522. BASIS RULES FOR SHARES IN OPEN-END REGU-**
12 **LATED INVESTMENT COMPANIES.**

13 (a) ADDITIONAL REPORTING REQUIREMENT.—Sec-
14 tion 6045 (relating to returns of brokers) is amended by
15 adding at the end thereof the following new subsection:

16 “(f) ADDITIONAL INFORMATION REQUIRED WITH
17 RESPECT TO OPEN-END REGULATED INVESTMENT COM-
18 PANIES.—

19 “(1) IN GENERAL.—If any person is required
20 under subsection (a) to make a return regarding the
21 gross proceeds from any disposition of stock in an
22 open-end regulated investment company, such return
23 shall include—

24 “(A) the basis of the stock disposed of (de-
25 termined by reference to the average basis of all

1 of the stock in the account from which the dis-
2 position was made immediately before the dis-
3 position), and

4 “(B) the portion of such basis and such
5 gross proceeds attributable to stock held for
6 more than 1 year and the portion not so attrib-
7 utable.

8 Determinations under subparagraph (B) shall be
9 made on a first-in, first-out, basis and determina-
10 tions of basis and holding period shall be made in
11 such manner as the Secretary may prescribe.

12 “(2) OPEN-END REGULATED INVESTMENT COM-
13 PANY.—For purposes of this subsection, the term
14 ‘open-end regulated investment company’ means any
15 regulated investment company which is offering for
16 sale or has outstanding any redeemable security (as
17 defined in section 2(a)(32) of the Investment Com-
18 pany Act of 1940) of which it is the issuer.

19 “(3) INFORMATION TRANSFERS.—To the extent
20 provided in regulations, there shall be such ex-
21 changes of information between brokers as such reg-
22 ulations may require for purposes of enabling bro-
23 kers to meet the requirements of this subsection.

1 “(4) APPLICATION OF SUBSECTION.—This sub-
2 section shall not apply with respect to stock in any
3 account—

4 “(A) which was established before January
5 1, 1995, or

6 “(B) which includes any stock not acquired
7 by purchase.”

8 (b) BASIS FOR INCOME TAX PURPOSES.—Section
9 1012 of such Code is amended—

10 (1) by striking “The basis” and inserting “(a)
11 GENERAL RULE.—The basis”, and

12 (2) by adding at the end thereof the following
13 new subsection:

14 “(b) SPECIAL RULES FOR STOCK IN OPEN-END REG-
15 ULATED INVESTMENT COMPANIES.—

16 “(1) IN GENERAL.—In the case of any disposi-
17 tion of stock from a covered account—

18 “(A) the basis of such stock shall be deter-
19 mined by reference to the average basis of all
20 of the stock in such account immediately before
21 such disposition, and

22 “(B) the determination of which stock in
23 such account is so disposed of shall be made on
24 a first-in, first-out, basis.

1 “(2) COVERED ACCOUNT.—For purposes of this
2 subsection—

3 “(A) IN GENERAL.—The term ‘covered ac-
4 count’ means any account of stock in an open-
5 end regulated investment company if section
6 6045(f) applies to such account.

7 “(B) ELECTION OUT.—The term ‘covered
8 account’ shall not include any account if, on the
9 taxpayer’s return for his first taxable year in
10 which a disposition from such account occurs,
11 the taxpayer elects to have this subsection not
12 apply to such account.”

13 (c) COORDINATION WITH WASH SALE RULES.—Sec-
14 tion 1091 is amended by adding at the end thereof the
15 following new subsection:

16 “(f) SPECIAL RULES FOR CERTAIN ACCOUNTS IN
17 OPEN-END REGULATED INVESTMENT COMPANIES.—

18 “(1) IN GENERAL.—In applying this section to
19 a disposition during December of any calendar year
20 of stock from a covered account, any acquisition of
21 stock after January 15 of the following calendar
22 year shall be disregarded if such acquisition is a re-
23 sult of a dividend reinvestment pursuant to a divi-
24 dend reinvestment program established at the time

1 such account was opened or, if later, at least 6
2 months before the date of such disposition.

3 “(2) DE MINIMIS EXCEPTION.—If

4 “(A) but for this paragraph, losses from
5 dispositions during December of any calendar
6 year of stock from a covered account would
7 have been disallowed under this section by rea-
8 son of acquisitions during January of the fol-
9 lowing calendar year, and

10 “(B) the amount of such losses which
11 would have been so disallowed does not exceed
12 \$25,

13 nothing in this section shall disallow such losses.

14 “(3) COVERED ACCOUNT.—For purposes of this
15 subsection, the term ‘covered account’ means any ac-
16 count of stock in an open-end regulated investment
17 company if section 6045(f) applies to such account.”

18 (d) MODIFICATION OF LOAD BASIS DEFERRAL RULE
19 FOR CERTAIN ACQUISITIONS OCCURRING AFTER JANU-
20 ARY 15.—

21 (1) Paragraph (1) of section 852(f) is amended
22 by striking “subparagraph (C)) shall not” and all
23 that follows and inserting “subparagraph (C)) shall
24 be recaptured as provided in paragraph (2). To the
25 extent such charge is recaptured under paragraph

1 (2), such charge shall be treated as incurred in con-
2 nection with the acquisition referred to in subpara-
3 graph (C) (including for purposes of reapplying this
4 paragraph).”

5 (2) Subsection (f) of section 852 is amended by
6 redesignating paragraph (2) as paragraph (3) and
7 by inserting after paragraph (1) the following new
8 paragraph:

9 “(2) RECAPTURE.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), any load charge required by
12 paragraph (1) to be recaptured shall not be
13 taken into account in determining the amount
14 of gain or loss on the disposition referred to in
15 paragraph (1)(B).

16 “(B) SUBSEQUENT ACQUISITIONS OCCUR-
17 RING AFTER DECEMBER 31.—If—

18 “(i) the acquisition referred to in
19 paragraph (1)(A) occurs in a calendar
20 year, and

21 “(ii) the subsequent acquisition re-
22 ferred to in paragraph (1)(C) occurs after
23 December 31 of such calendar year,
24 subparagraph (A) shall not apply and the
25 amount of the load charge required by para-

1 graph (1) to be recaptured shall be included in
2 gross income as short-term capital gain for the
3 taxable year in which the subsequent acquisi-
4 tion referred to in paragraph (1)(C) occurs.”

5 (e) TECHNICAL AMENDMENT.—Section 6724 of such
6 Code is amended by adding at the end thereof the follow-
7 ing new subsection:

8 “(e) SPECIAL RULE FOR CERTAIN REPORTS WITH
9 RESPECT TO STOCK IN OPEN END REGULATED INVEST-
10 MENT COMPANIES.—For purposes of sections
11 6721(e)(2)(B) and 6722(c)(1)(B), the amount required to
12 be reported under section 6045 shall be determined with-
13 out regard to subsection (f) thereof.”

14 (f) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to returns and statements required for
18 calendar year 1995 and subsequent calendar years.

19 (2) SUBSECTIONS (b).—The amendments made
20 by subsections (b), (c), and (d) shall apply to dis-
21 positions after December 31, 1994.

1 **SEC. 523. NONRECOGNITION TREATMENT FOR CERTAIN**
2 **TRANSFERS BY COMMON TRUST FUNDS TO**
3 **REGULATED INVESTMENT COMPANIES.**

4 (a) GENERAL RULE.—Section 584 (relating to com-
5 mon trust funds) is amended by redesignating subsection
6 (h) as subsection (i) and by inserting after subsection (g)
7 the following new subsection:

8 “(h) NONRECOGNITION TREATMENT FOR CERTAIN
9 TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

10 “(1) IN GENERAL.—If—

11 “(A) a common trust fund transfers sub-
12 stantially all of its assets to a regulated invest-
13 ment company in exchange solely for stock in
14 such company, and

15 “(B) such stock is distributed by such
16 common trust fund to participants in such com-
17 mon trust fund in exchange solely for their in-
18 terests in such common trust fund,

19 no gain or loss shall be recognized by such common
20 trust fund by reason of such transfer or distribution,
21 and no gain or loss shall be recognized by any par-
22 ticipant in such common trust fund by reason of
23 such exchange.

24 “(2) BASIS RULES.—

25 “(A) REGULATED INVESTMENT COM-
26 PANY.—The basis of any asset received by a

1 regulated investment company in a transfer re-
2 ferred to in paragraph (1)(A) shall be the same
3 as it would be in the hands of the common
4 trust fund.

5 “(B) PARTICIPANTS.—The basis of any
6 stock in a regulated investment company which
7 is received in an exchange referred to in para-
8 graph (1)(B) shall be the same as that of the
9 property exchanged.

10 “(3) TREATMENT OF ASSUMPTIONS OF LIABIL-
11 ITY.—

12 “(A) IN GENERAL.—In determining wheth-
13 er the transfer referred to in paragraph (1)(A)
14 is in exchange solely for stock in the regulated
15 investment company, the assumption by such
16 company of a liability of the common trust
17 fund, and the fact that any property trans-
18 ferred by the common trust fund is subject to
19 a liability, shall be disregarded.

20 “(B) SPECIAL RULE WHERE ASSUMED LI-
21 ABILITIES EXCEED BASIS.—

22 “(i) IN GENERAL.—If in any transfer
23 referred to in paragraph (1)(A) the as-
24 sumed liabilities exceed the aggregate ad-
25 justed bases (in the hands of the common

1 trust fund) of the assets transferred to the
2 regulated investment company—

3 “(I) notwithstanding paragraph
4 (1), gain shall be recognized to the
5 common trust fund on such transfer
6 in an amount equal to such excess,

7 “(II) the basis of the assets re-
8 ceived by the regulated investment
9 company in such transfer shall be in-
10 creased by the amount so recognized,
11 and

12 “(III) any adjustment to the
13 basis of a participant’s interest in the
14 common trust fund as a result of the
15 gain so recognized shall be treated as
16 occurring immediately before the ex-
17 change referred to in paragraph
18 (1)(B).

19 “(ii) ASSUMED LIABILITIES.—For
20 purposes of clause (i), the term ‘assumed
21 liabilities’ means the aggregate of—

22 “(I) any liability of the common
23 trust fund assumed by the regulated
24 investment company in connection

1 with the transfer referred to in para-
2 graph (1)(A), and

3 “(II) any liability to which prop-
4 erty so transferred is subject.

5 “(4) COMMON TRUST FUND MUST MEET DIVER-
6 SIFICATION RULES.—This subsection shall not apply
7 to any common trust fund which would not meet the
8 requirements of section 368(a)(2)(F)(ii) if it were a
9 corporation. For purposes of the preceding sentence,
10 Government securities shall not be treated as securi-
11 ties of an issuer in applying the 25-percent and 50-
12 percent test and such securities shall not be excluded
13 for purposes of determining total assets under clause
14 (iv) of section 368(a)(2)(F).”

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to transfers after the date of
17 the enactment of this Act.

18 **Subtitle D—Tax-Exempt Bond** 19 **Provisions**

20 **SEC. 531. REPEAL OF \$100,000 LIMITATION ON UNSPENT** 21 **PROCEEDS UNDER 1-YEAR EXCEPTION FROM** 22 **REBATE.**

23 Subclause (I) of section 148(f)(4)(B)(ii) (relating to
24 additional period for certain bonds) is amended by striking
25 “the lesser of 5 percent of the proceeds of the issue or

1 \$100,000” and inserting “5 percent of the proceeds of the
2 issue”.

3 **SEC. 532. EXCEPTION FROM REBATE FOR EARNINGS ON**
4 **BONA FIDE DEBT SERVICE FUND UNDER**
5 **CONSTRUCTION BOND RULES.**

6 Subparagraph (C) of section 148(f)(4) is amended by
7 adding at the end thereof the following new clause:

8 “(xvii) TREATMENT OF BONA FIDE
9 DEBT SERVICE FUNDS.—If the spending
10 requirements of clause (ii) are met with re-
11 spect to the available construction proceeds
12 of a construction issue, then paragraph (2)
13 shall not apply to earnings on a bona fide
14 debt service fund for such issue.”

15 **SEC. 533. REPEAL OF DEBT SERVICE-BASED LIMITATION**
16 **ON INVESTMENT IN CERTAIN NONPURPOSE**
17 **INVESTMENTS.**

18 Subsection (d) of section 148 (relating to special
19 rules for reasonably required reserve or replacement fund)
20 is amended by striking paragraph (3).

21 **SEC. 534. REPEAL OF EXPIRED PROVISIONS.**

22 (a) Paragraph (2) of section 148(c) is amended by
23 striking subparagraph (B) and by redesignating subpara-
24 graphs (C), (D), and (E) as subparagraph (B), (C), and
25 (D), respectively.

1 (b) Paragraph (4) of section 148(f) is amended by
2 striking subparagraph (E).

3 **SEC. 535. CLARIFICATION OF INVESTMENT-TYPE PROP-**
4 **ERTY.**

5 Subparagraph (D) of section 148(b)(2) is amended
6 to read as follows:

7 “(D) any investment-type property, or”.

8 **SEC. 536. EFFECTIVE DATES.**

9 (a) IN GENERAL.—Except as provided in subsection
10 (b), the amendments made by this subtitle shall apply to
11 bonds issued after the date of the enactment of this Act.

12 (b) INVESTMENT-TYPE PROPERTY.—The amend-
13 ment made by section 535 shall take effect as if included
14 in the amendments made by section 1301 of the Tax Re-
15 form Act of 1986.

16 **Subtitle E—Insurance Provisions**

17 **SEC. 541. TREATMENT OF CERTAIN INSURANCE CON-**
18 **TRACTS ON RETIRED LIVES.**

19 (a) GENERAL RULE.—

20 (1) Paragraph (2) of section 817(d) (defining
21 variable contract) is amended by striking “or” at the
22 end of subparagraph (A), by striking “and” at the
23 end of subparagraph (B) and inserting “or”, and by
24 inserting after subparagraph (B) the following new
25 subparagraph:

1 **“SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED**
2 **CONTRACTS.**

3 “(a) COMPUTATION OF RESERVES.—In the case of
4 a modified guaranteed contract, clause (ii) of section
5 807(e)(1)(A) shall not apply.

6 “(b) SEGREGATED ASSETS UNDER MODIFIED GUAR-
7 ANTEED CONTRACTS MARKED TO MARKET.—

8 “(1) IN GENERAL.—In the case of any life in-
9 surance company, for purposes of this subtitle—

10 “(A) Any gain or loss with respect to a
11 segregated asset shall be treated as ordinary in-
12 come or loss, as the case may be.

13 “(B) If any segregated asset is held by
14 such company as of the close of any taxable
15 year—

16 “(i) such company shall recognize
17 gain or loss as if such asset were sold for
18 its fair market value on the last business
19 day of such taxable year, and

20 “(ii) any such gain or loss shall be
21 taken into account for such taxable year.

22 Proper adjustment shall be made in the amount
23 of any gain or loss subsequently realized for
24 gain or loss taken into account under the pre-
25 ceding sentence. The Secretary may provide by
26 regulations for the application of this subpara-

1 graph at times other than the times provided in
2 this subparagraph.

3 “(2) SEGREGATED ASSET.—For purposes of
4 paragraph (1), the term ‘segregated asset’ means
5 any asset held as part of a segregated account re-
6 ferred to in subsection (d)(1) under a modified guar-
7 anteed contract.

8 “(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE
9 RESERVES.—For purposes of applying section
10 816(b)(1)(A) to any modified guaranteed contract, an as-
11 sumed rate of interest shall include a rate of interest de-
12 termined, from time to time, with reference to a market
13 rate of interest.

14 “(d) MODIFIED GUARANTEED CONTRACT DE-
15 FINED.—For purposes of this section, the term ‘modified
16 guaranteed contract’ means a contract not described in
17 section 817—

18 “(1) all or part of the amounts received under
19 which are allocated to an account which, pursuant to
20 State law or regulation, is segregated from the gen-
21 eral asset accounts of the company and is valued
22 from time to time with reference to market values,

23 “(2) which—

24 “(A) provides for the payment of annuities,

25 “(B) is a life insurance contract, or

1 “(C) is a pension plan contract which is
2 not a life, accident, or health, property, cas-
3 ualty, or liability contract,

4 “(3) for which reserves are valued at market for
5 annual statement purposes, and

6 “(4) which provides for a net surrender value or
7 a policyholder’s fund (as defined in section
8 807(e)(1)).

9 “(e) REGULATIONS.—The Secretary may prescribe
10 regulations—

11 “(1) to provide for the treatment of market
12 value adjustments under sections 72, 7702, 7702A,
13 and 807(e)(1)(B),

14 “(2) to determine the interest rates applicable
15 under sections 807(c)(3), 807(d)(2)(B), and 812
16 with respect to a modified guaranteed contract an-
17 nually, in a manner appropriate for modified guar-
18 anteed contracts and, to the extent appropriate for
19 such a contract, to modify or waive the applicability
20 of section 811(d),

21 “(3) to provide rules to limit ordinary gain or
22 loss treatment to assets constituting reserves for
23 modified guaranteed contracts (and not other assets)
24 of the company,

1 “(4) to provide appropriate treatment of trans-
2 fers of assets to and from the segregated account,
3 and

4 “(5) as may be necessary or appropriate to
5 carry out the purposes of this section.”

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for subpart E of part I of subchapter L of chapter 1 is
8 amended by inserting after the item relating to section
9 817 the following new item:

 “Sec. 817A. Special rules for modified guaranteed contracts.”

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall apply to taxable years beginning
13 after December 31, 1992.

14 (2) TREATMENT OF NET ADJUSTMENTS.—In
15 the case of any taxpayer required by the amend-
16 ments made by this section to change its calculation
17 of reserves to take into account market value adjust-
18 ments and to mark segregated assets to market for
19 any taxable year—

20 (A) such changes shall be treated as a
21 change in method of accounting initiated by the
22 taxpayer,

23 (B) such changes shall be treated as made
24 with the consent of the Secretary, and

1 (C) the adjustments required by reason of
2 section 481 of the Internal Revenue Code of
3 1986 shall be taken into account as ordinary in-
4 come or loss by the taxpayer for the taxpayer's
5 first taxable year beginning after December 31,
6 1992.

7 **Subtitle F—Other Provisions**

8 **SEC. 551. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH** 9 **RESPECT TO DECEASED PARTNER, ETC.**

10 (a) GENERAL RULE.—Subparagraph (A) of section
11 706(c)(2) (relating to disposition of entire interest) is
12 amended to read as follows:

13 “(A) DISPOSITION OF ENTIRE INTER-
14 EST.—The taxable year of a partnership shall
15 close with respect to a partner whose entire in-
16 terest in the partnership terminates (whether
17 by reason of death, liquidation, or otherwise).”

18 (b) CLERICAL AMENDMENT.—The paragraph head-
19 ing for paragraph (2) of section 706(c) is amended to read
20 as follows:

21 “(2) TREATMENT OF DISPOSITIONS.—”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to partnership taxable years begin-
24 ning after December 31, 1993.

1 **SEC. 552. MODIFICATION OF CREDIT FOR PRODUCING**
2 **FUEL FROM A NONCONVENTIONAL SOURCE.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 29(c)(2) (relating to gas from geopressured brine, etc.) is
5 amended by adding at the end the following new sentence:
6 “If the Federal Energy Regulatory Commission ceases to
7 make the determinations described in the preceding sen-
8 tence, the Secretary shall make such determinations in ac-
9 cordance with section 503 of such Act.”

10 (b) CONFORMING AMENDMENT.—Section
11 29(c)(2)(A) is amended by inserting “(as in effect before
12 its repeal by the Natural Gas Wellhead Decontrol Act of
13 1989)” after “Natural Gas Policy Act of 1978”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on January 1, 1993.

16 **TITLE VI—ESTATE AND GIFT TAX**
17 **PROVISIONS**

18 **SEC. 601. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS**
19 **OF RECOVERY.**

20 (a) AMENDMENT TO SECTION 2207A.—Paragraph
21 (2) of section 2207A(a) (relating to right of recovery in
22 the case of certain marital deduction property) is amended
23 to read as follows:

24 “(2) DECEDENT MAY OTHERWISE DIRECT.—
25 Paragraph (1) shall not apply with respect to any
26 property to the extent that the decedent in his will

1 (or a revocable trust) specifically indicates an intent
2 to waive any right of recovery under this subchapter
3 with respect to such property.”

4 (b) AMENDMENT TO SECTION 2207B.—Paragraph
5 (2) of section 2207B(a) (relating to right of recovery
6 where decedent retained interest) is amended to read as
7 follows:

8 “(2) DECEDENT MAY OTHERWISE DIRECT.—
9 Paragraph (1) shall not apply with respect to any
10 property to the extent that the decedent in his will
11 (or a revocable trust) specifically indicates an intent
12 to waive any right of recovery under this subchapter
13 with respect to such property.”

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to the estates of dece-
16 dents dying after the date of the enactment of this Act.

17 **SEC. 602. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF**
18 **DECEDENT’S DEATH.**

19 (a) GENERAL RULE.—Section 2035 is amended to
20 read as follows:

21 **“SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE**
22 **WITHIN 3 YEARS OF DECEDENT’S DEATH.**

23 “(a) INCLUSION OF CERTAIN PROPERTY IN GROSS
24 ESTATE.—If—

1 “(1) the decedent made a transfer (by trust or
2 otherwise) of an interest in any property, or relin-
3 quished a power with respect to any property, during
4 the 3-year period ending on the date of the dece-
5 dent’s death, and

6 “(2) the value of such property (or an interest
7 therein) would have been included in the decedent’s
8 gross estate under section 2036, 2037, 2038, or
9 2042 if such transferred interest or relinquished
10 power had been retained by the decedent on the date
11 of his death,

12 the value of the gross estate shall include the value of any
13 property (or interest therein) which would have been so
14 included.

15 “(b) INCLUSION OF GIFT TAX ON GIFTS MADE DUR-
16 ING 3 YEARS BEFORE DECEDENT’S DEATH.—The
17 amount of the gross estate (determined without regard to
18 this subsection) shall be increased by the amount of any
19 tax paid under chapter 12 by the decedent or his estate
20 on any gift made by the decedent or his spouse during
21 the 3-year period ending on the date of the decedent’s
22 death.

23 “(c) OTHER RULES RELATING TO TRANSFERS
24 WITHIN 3 YEARS OF DEATH.—

25 “(1) IN GENERAL.—For purposes of—

1 “(A) section 303(b) (relating to distribu-
2 tions in redemption of stock to pay death
3 taxes),

4 “(B) section 2032A (relating to special
5 valuation of certain farms, etc., real property),
6 and

7 “(C) subchapter C of chapter 64 (relating
8 to lien for taxes),

9 the value of the gross estate shall include the value
10 of all property to the extent of any interest therein
11 of which the decedent has at any time made a trans-
12 fer, by trust or otherwise, during the 3-year period
13 ending on the date of the decedent’s death.

14 “(2) COORDINATION WITH SECTION 6166.—An
15 estate shall be treated as meeting the 35 percent of
16 adjusted gross estate requirement of section
17 6166(a)(1) only if the estate meets such requirement
18 both with and without the application of paragraph
19 (1).

20 “(3) SMALL TRANSFERS.—Paragraph (1) shall
21 not apply to any transfer (other than a transfer with
22 respect to a life insurance policy) made during a cal-
23 endar year to any donee if the decedent was not re-
24 quired by section 6019 (other than by reason of sec-

1 tion 6019(a)(2)) to file any gift tax return for such
2 year with respect to transfers to such donee.

3 “(d) EXCEPTION.—Subsection (a) shall not apply to
4 any bona fide sale for an adequate and full consideration
5 in money or money’s worth.

6 “(e) TREATMENT OF CERTAIN TRANSFERS FROM
7 REVOCABLE TRUSTS.—For purposes of this section and
8 section 2038, any transfer from any portion of a trust with
9 respect to which the decedent was the grantor during any
10 period when the decedent held the power to revest in the
11 decedent title to such portion shall be treated as a transfer
12 made directly by the decedent.”

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for part III of subchapter A of chapter 11 is amended
15 by striking “gifts” in the item relating to section 2035
16 and inserting “certain gifts”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to the estates of decedents dying
19 after the date of the enactment of this Act.

20 **SEC. 603. CLARIFICATION OF QUALIFIED TERMINABLE IN-**
21 **TEREST RULES.**

22 (a) GENERAL RULE.—

23 (1) ESTATE TAX.—Subparagraph (B) of section
24 2056(b)(7) (defining qualified terminable interest

1 property) is amended by adding at the end thereof
2 the following new clause:

3 “(v)(i) TREATMENT OF CERTAIN IN-
4 COME DISTRIBUTIONS.—An income inter-
5 est shall not fail to qualify as a qualified
6 income interest for life solely because in-
7 come for the period after the last distribu-
8 tion date and on or before the date of the
9 surviving spouse’s death is not required to
10 be distributed to the surviving spouse or to
11 the estate of the surviving spouse.”

12 (2) GIFT TAX.—Paragraph (3) of section
13 2523(f) is amended by striking “and (iv)” and in-
14 serting “, (iv), and (vi)”.

15 (b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—
16 Section 2044 is amended by adding at the end thereof the
17 following new subsection:

18 “(d) CLARIFICATION OF INCLUSION OF CERTAIN IN-
19 COME.—The amount included in the gross estate under
20 subsection (a) shall include the amount of any income
21 from the property to which this section applies for the pe-
22 riod after the last distribution date and on or before the
23 date of the decedent’s death if such income is not other-
24 wise included in the decedent’s gross estate.”

25 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply with respect to the estates of
3 decedents dying, and gifts made, after the date of
4 the enactment of this Act.

5 (2) APPLICATION OF SECTION 2044 TO TRANS-
6 FERS BEFORE DATE OF ENACTMENT.—In the case
7 of the estate of any decedent dying after the date of
8 the enactment of this Act, if there was a transfer of
9 property on or before such date—

10 (A) such property shall not be included in
11 the gross estate of the decedent under section
12 2044 of the Internal Revenue Code of 1986 if
13 no prior marital deduction was allowed with re-
14 spect to such a transfer of such property to the
15 decedent, but

16 (B) such property shall be so included if
17 such a deduction was allowed.

18 **SEC. 604. TRANSITIONAL RULE UNDER SECTION 2056A.**

19 (a) GENERAL RULE.—In the case of any trust cre-
20 ated under an instrument executed before the date of the
21 enactment of the Revenue Reconciliation Act of 1990,
22 such trust shall be treated as meeting the requirements
23 of paragraph (1) of section 2056A(a) of the Internal Reve-
24 nue Code of 1986 if the trust instrument requires that

1 all trustees of the trust be individual citizens of the United
2 States or domestic corporations.

3 (b) EFFECTIVE DATE.—The provisions of subsection
4 (a) shall take effect as if included in the provisions of sec-
5 tion 11702(g) of the Revenue Reconciliation Act of 1990.

6 **SEC. 605. OPPORTUNITY TO CORRECT CERTAIN FAILURES**
7 **UNDER SECTION 2032A.**

8 (a) GENERAL RULE.—Paragraph (3) of section
9 2032A(d) (relating to modification of election and agree-
10 ment to be permitted) is amended to read as follows:

11 “(3) MODIFICATION OF ELECTION AND AGREE-
12 MENT TO BE PERMITTED.—The Secretary shall pre-
13 scribe procedures which provide that in any case in
14 which the executor makes an election under para-
15 graph (1) (and submits the agreement referred to in
16 paragraph (2)) within the time prescribed therefor,
17 but—

18 “(A) the notice of election, as filed, does
19 not contain all required information, or

20 “(B) signatures of 1 or more persons re-
21 quired to enter into the agreement described in
22 paragraph (2) are not included on the agree-
23 ment as filed, or the agreement does not con-
24 tain all required information,

1 the executor will have a reasonable period of time
2 (not exceeding 90 days) after notification of such
3 failures to provide such information or signatures.”

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to the estates of decedents dying
6 after the date of the enactment of this Act.

7 **TITLE VII—EXCISE TAX**
8 **SIMPLIFICATION**

9 **Subtitle A—Provisions Related to**
10 **Distilled Spirits, Wines, and Beer**

11 **SEC. 701. CREDIT OR REFUND FOR IMPORTED BOTTLED**
12 **DISTILLED SPIRITS RETURNED TO DIS-**
13 **TILLED SPIRITS PLANT.**

14 (a) IN GENERAL.—Paragraph (1) of section 5008(c)
15 (relating to distilled spirits returned to bonded premises)
16 is amended by striking “withdrawn from bonded premises
17 on payment or determination of tax” and inserting “on
18 which tax has been determined or paid”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect at the beginning of the first
21 calendar quarter beginning more than 180 days after the
22 date of the enactment of this Act.

1 **SEC. 702. AUTHORITY TO CANCEL OR CREDIT EXPORT**
2 **BONDS WITHOUT SUBMISSION OF RECORDS.**

3 (a) IN GENERAL.—Subsection (c) of section 5175
4 (relating to export bonds) is amended by striking “on the
5 submission of” and all that follows and inserting “if there
6 is such proof of exportation as the Secretary may by regu-
7 lations require.”

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall take effect at the beginning of the first
10 calendar quarter beginning more than 180 days after the
11 date of the enactment of this Act.

12 **SEC. 703. REPEAL OF REQUIRED MAINTENANCE OF**
13 **RECORDS ON PREMISES OF DISTILLED SPIR-**
14 **ITS PLANT.**

15 (a) IN GENERAL.—Subsection (c) of section 5207
16 (relating to records and reports) is amended by striking
17 “shall be kept on the premises where the operations cov-
18 ered by the record are carried on and”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect at the beginning of the first
21 calendar quarter beginning more than 180 days after the
22 date of the enactment of this Act.

1 **SEC. 704. FERMENTED MATERIAL FROM ANY BREWERY**
2 **MAY BE RECEIVED AT A DISTILLED SPIRITS**
3 **PLANT.**

4 (a) IN GENERAL.—Paragraph (2) of section 5222(b)
5 (relating to production, receipt, removal, and use of distill-
6 ing materials) is amended to read as follows:

7 “(2) beer conveyed without payment of tax
8 from brewery premises, beer which has been lawfully
9 removed from brewery premises upon determination
10 of tax, or”.

11 (b) CLARIFICATION OF AUTHORITY TO PERMIT RE-
12 MOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE
13 AS DISTILLING MATERIAL.—Section 5053 (relating to ex-
14 emptions) is amended by redesignating subsection (f) as
15 subsection (i) and by inserting after subsection (e) the fol-
16 lowing new subsection:

17 “(f) REMOVAL FOR USE AS DISTILLING MATE-
18 RIAL.—Subject to such regulations as the Secretary may
19 prescribe, beer may be removed from a brewery without
20 payment of tax to any distilled spirits plant for use as
21 distilling material.”

22 (c) CLARIFICATION OF REFUND AND CREDIT OF
23 TAX.—Section 5056 (relating to refund and credit of tax,
24 or relief from liability) is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (d) and by inserting after subsection (b) the
3 following new subsection:

4 “(c) BEER RECEIVED AT A DISTILLED SPIRITS
5 PLANT.—Any tax paid by any brewer on beer produced
6 in the United States may be refunded or credited to the
7 brewer, without interest, or if the tax has not been paid,
8 the brewer may be relieved of liability therefor, under reg-
9 ulations as the Secretary may prescribe, if such beer is
10 received on the bonded premises of a distilled spirits plant
11 pursuant to the provisions of section 5222(b)(2), for use
12 in the production of distilled spirits.”, and

13 (2) by striking “or rendering unmerchantable”
14 in subsection (d) (as so redesignated) and inserting
15 “rendering unmerchantable, or receipt on the bond-
16 ed premises of a distilled spirits plant”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect at the beginning of the first
19 calendar quarter beginning more than 180 days after the
20 date of the enactment of this Act.

21 **SEC. 705. REPEAL OF REQUIREMENT FOR WHOLESALE**
22 **DEALERS IN LIQUORS TO POST SIGN.**

23 (a) IN GENERAL.—Section 5115 (relating to sign re-
24 quired on premises) is hereby repealed.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (a) of section 5681 is amended
2 by striking “, and every wholesale dealer in liquors,”
3 and by striking “section 5115(a) or”.

4 (2) Subsection (c) of section 5681 is amend-
5 ed—

6 (A) by striking “or wholesale liquor estab-
7 lishment, on which no sign required by section
8 5115(a) or” and inserting “on which no sign
9 required by”, and

10 (B) by striking “or wholesale liquor estab-
11 lishment, or who” and inserting “or who”.

12 (3) The table of sections for subpart D of part
13 II of subchapter A of chapter 51 is amended by
14 striking the item relating to section 5115.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. 706. REFUND OF TAX TO WINE RETURNED TO BOND**

19 **NOT LIMITED TO UNMERCHANTABLE WINE.**

20 (a) IN GENERAL.—Subsection (a) of section 5044
21 (relating to refund of tax on unmerchantable wine) is
22 amended by striking “as unmerchantable”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 5361 is amended by striking
25 “unmerchantable”.

1 (2) The section heading for section 5044 is
2 amended by striking “**UNMERCHANTABLE**”.

3 (3) The item relating to section 5044 in the
4 table of sections for subpart C of part I of sub-
5 chapter A of chapter 51 is amended by striking
6 “unmerchantable”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect at the beginning of the first
9 calendar quarter beginning more than 180 days after the
10 date of the enactment of this Act.

11 **SEC. 707. USE OF ADDITIONAL AMELIORATING MATERIAL**
12 **IN CERTAIN WINES.**

13 (a) IN GENERAL.—Subparagraph (D) of section
14 5384(b)(2) (relating to ameliorated fruit and berry wines)
15 is amended by striking “loganberries, currants, or goose-
16 berries,” and inserting “any fruit or berry with a natural
17 fixed acid of 20 parts per thousand or more (before any
18 correction of such fruit or berry)”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall take effect at the beginning of the first
21 calendar quarter beginning more than 180 days after the
22 date of the enactment of this Act.

1 **SEC. 708. DOMESTICALLY PRODUCED BEER MAY BE WITH-**
2 **DRAWN FREE OF TAX FOR USE OF FOREIGN**
3 **EMBASSIES, LEGATIONS, ETC.**

4 (a) IN GENERAL.—Section 5053 (relating to exemp-
5 tions) is amended by inserting after subsection (f) the fol-
6 lowing new subsection:

7 “(g) REMOVALS FOR USE OF FOREIGN EMBASSIES,
8 LEGATIONS, ETC.—

9 “(1) IN GENERAL.—Subject to such regulations
10 as the Secretary may prescribe—

11 “(A) beer may be withdrawn from the
12 brewery without payment of tax for transfer to
13 any customs bonded warehouse for entry pend-
14 ing withdrawal therefrom as provided in sub-
15 paragraph (B), and

16 “(B) beer entered into any customs bonded
17 warehouse under subparagraph (A) may be
18 withdrawn for consumption in the United
19 States by, and for the official and family use of,
20 such foreign governments, organizations, and
21 individuals as are entitled to withdraw imported
22 beer from such warehouses free of tax.

23 Beer transferred to any customs bonded warehouse
24 under subparagraph (A) shall be entered, stored,
25 and accounted for in such warehouse under such
26 regulations and bonds as the Secretary may pre-

1 scribe, and may be withdrawn therefrom by such
2 governments, organizations, and individuals free of
3 tax under the same conditions and procedures as im-
4 ported beer.

5 “(2) OTHER RULES TO APPLY.—Rules similar
6 to the rules of paragraphs (2) and (3) of section
7 5362(e) of such section shall apply for purposes of
8 this subsection.”

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect at the beginning of the first
11 calendar quarter beginning more than 180 days after the
12 date of the enactment of this Act.

13 **SEC. 709. BEER MAY BE WITHDRAWN FREE OF TAX FOR**
14 **DESTRUCTION.**

15 (a) IN GENERAL.—Section 5053 is amended by in-
16 serting after subsection (g) the following new subsection:

17 “(h) REMOVALS FOR DESTRUCTION.—Subject to
18 such regulations as the Secretary may prescribe, beer may
19 be removed from the brewery without payment of tax for
20 destruction.”

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect at the beginning of the first
23 calendar quarter beginning more than 180 days after the
24 date of the enactment of this Act.

1 **SEC. 710. AUTHORITY TO ALLOW DRAWBACK ON EX-**
2 **PORTED BEER WITHOUT SUBMISSION OF**
3 **RECORDS.**

4 (a) IN GENERAL.—The first sentence of section 5055
5 (relating to drawback of tax on beer) is amended by strik-
6 ing “found to have been paid” and all that follows and
7 inserting “paid on such beer if there is such proof of ex-
8 portation as the Secretary may by regulations require.”

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect at the beginning of the first
11 calendar quarter beginning more than 180 days after the
12 date of the enactment of this Act.

13 **SEC. 711. TRANSFER TO BREWERY OF BEER IMPORTED IN**
14 **BULK WITHOUT PAYMENT OF TAX.**

15 (a) IN GENERAL.—Part II of subchapter G of chap-
16 ter 51 is amended by adding at the end thereof the follow-
17 ing new section:

18 **“SEC. 5418. BEER IMPORTED IN BULK.**

19 “Beer imported or brought into the United States in
20 bulk containers may, under such regulations as the Sec-
21 retary may prescribe, be withdrawn from customs custody
22 and transferred in such bulk containers to the premises
23 of a brewery without payment of the internal revenue tax
24 imposed on such beer. The proprietor of a brewery to
25 which such beer is transferred shall become liable for the
26 tax on the beer withdrawn from customs custody under

1 this section upon release of the beer from customs custody,
2 and the importer, or the person bringing such beer into
3 the United States, shall thereupon be relieved of the liabil-
4 ity for such tax.”

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for such part II is amended by adding at the end thereof
7 the following new item:

“Sec. 5418. Beer imported in bulk.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect at the beginning of the first
10 calendar quarter beginning more than 180 days after the
11 date of the enactment of this Act.

12 **Subtitle B—Other Excise Tax**

13 **Provisions**

14 **SEC. 721. AUTHORITY TO GRANT EXEMPTIONS FROM REG-**

15 **ISTRATION REQUIREMENTS.**

16 (a) IN GENERAL.—The first sentence of section 4222
17 (relating to registration) is amended to read as follows:
18 “Except as provided in subsection (b), section 4221 shall
19 not apply with respect to the sale of any article by or to
20 any person who is required by the Secretary to be reg-
21 istered under this section and who is not so registered.”

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to sales after the 180th day
24 after the date of the enactment of this Act.

1 **SEC. 722. REPEAL OF EXPIRED PROVISIONS.**

2 (a) PIGGY-BACK TRAILERS.—Section 4051 is amend-
3 ed by striking subsection (d) and by redesignating sub-
4 section (e) as subsection (d).

5 (b) DEEP SEABED MINING.—

6 (1) Subchapter F of chapter 36 (relating to tax
7 on removal of hard mineral resources from deep sea-
8 bed) is hereby repealed.

9 (2) The table of subchapters for chapter 36 is
10 amended by striking the item relating to subchapter
11 F.

12 **TITLE VIII—ADMINISTRATIVE**
13 **PROVISIONS**
14 **Subtitle A—General Provisions**

15 **SEC. 801. USE OF REPRODUCTIONS OF RETURNS STORED**
16 **IN DIGITAL IMAGE FORMAT.**

17 (a) IN GENERAL.—Paragraph (2) of section 6103(p)
18 (relating to procedure and recordkeeping) is amended by
19 adding at the end thereof the following new subparagraph:

20 “(D) REPRODUCTION FROM DIGITAL IM-
21 AGES.—For purposes of this paragraph, the
22 term ‘reproduction’ includes a reproduction
23 from digital images.”

24 (b) STUDY.—The Comptroller General of the United
25 States shall conduct a study of available digital image
26 technology for the purpose of determining the extent to

1 which reproductions of documents stored using that tech-
2 nology accurately reflect the data on the original document
3 and the appropriate period for retaining the original docu-
4 ment. Not later than 1 year after the date of the enact-
5 ment of this Act, a report on the results of such study
6 shall be submitted to the Committee on Ways and Means
7 of the House of Representatives and the Committee on
8 Finance of the Senate.

9 **SEC. 802. REPEAL OF AUTHORITY TO DISCLOSE WHETHER**
10 **PROSPECTIVE JUROR HAS BEEN AUDITED.**

11 (a) IN GENERAL.—Subsection (h) of section 6103
12 (relating to disclosure to certain Federal officers and em-
13 ployees for purposes of tax administration, etc.) is amend-
14 ed by striking paragraph (5) and by redesignating para-
15 graph (6) as paragraph (5).

16 (b) CONFORMING AMENDMENT.—Paragraph (4) of
17 section 6103(p) is amended by striking “(h)(6)” each
18 place it appears and inserting “(h)(5)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to judicial proceedings pending on,
21 or commenced after, the date of the enactment of this Act.

1 **SEC. 803. REPEAL OF SPECIAL AUDIT PROVISIONS FOR**
2 **SUBCHAPTER S ITEMS.**

3 (a) GENERAL RULE.—Subchapter D of chapter 63
4 (relating to tax treatment of subchapter S items) is hereby
5 repealed.

6 (b) CONSISTENT TREATMENT REQUIRED.—Section
7 6037 (relating to return of S corporation) is amended by
8 adding at the end thereof the following new subsection:

9 “(c) SHAREHOLDER’S RETURN MUST BE CONSIST-
10 ENT WITH CORPORATE RETURN OR SECRETARY NOTI-
11 FIED OF INCONSISTENCY.—

12 “(1) IN GENERAL.—A shareholder of an S cor-
13 poration shall, on such shareholder’s return, treat a
14 subchapter S item in a manner which is consistent
15 with the treatment of such item on the corporate
16 return.

17 “(2) NOTIFICATION OF INCONSISTENT TREAT-
18 MENT.—

19 “(A) IN GENERAL.—In the case of any
20 subchapter S item, if—

21 “(i)(I) the corporation has filed a re-
22 turn but the shareholder’s treatment on
23 his return is (or may be) inconsistent with
24 the treatment of the item on the corporate
25 return, or

1 “(II) the corporation has not filed a
2 return, and

3 “(ii) the shareholder files with the
4 Secretary a statement identifying the in-
5 consistency,

6 paragraph (1) shall not apply to such item.

7 “(B) SHAREHOLDER RECEIVING INCOR-
8 RECT INFORMATION.—A shareholder shall be
9 treated as having complied with clause (ii) of
10 subparagraph (A) with respect to a subchapter
11 S item if the shareholder—

12 “(i) demonstrates to the satisfaction
13 of the Secretary that the treatment of the
14 subchapter S item on the shareholder’s re-
15 turn is consistent with the treatment of the
16 item on the schedule furnished to the
17 shareholder by the corporation, and

18 “(ii) elects to have this paragraph
19 apply with respect to that item.

20 “(3) EFFECT OF FAILURE TO NOTIFY.—In any
21 case—

22 “(A) described in subparagraph (A)(i)(I)
23 of paragraph (2), and

1 “(B) in which the shareholder does not
2 comply with subparagraph (A)(ii) of paragraph
3 (2),

4 any adjustment required to make the treatment of
5 the items by such shareholder consistent with the
6 treatment of the items on the corporate return shall
7 be treated as arising out of mathematical or clerical
8 errors and assessed according to section 6213(b)(1).
9 Paragraph (2) of section 6213(b) shall not apply to
10 any assessment referred to in the preceding sen-
11 tence.

12 “(4) SUBCHAPTER S ITEM.—For purposes of
13 this subsection, the term ‘subchapter S item’ means
14 any item of an S corporation to the extent that reg-
15 ulations prescribed by the Secretary provide that, for
16 purposes of this subtitle, such item is more appro-
17 priately determined at the corporation level than at
18 the shareholder level.

19 “(5) ADDITION TO TAX FOR FAILURE TO COM-
20 PLY WITH SECTION.—

**“For addition to tax in the case of a shareholder’s
negligence in connection with, or disregard of, the
requirements of this section, see part II of sub-
chapter A of chapter 68.”**

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 1366 is amended by striking sub-
23 section (g).

1 (2) Subsection (b) of section 6233 is amended
2 to read as follows:

3 “(b) SIMILAR RULES IN CERTAIN CASES.—If a part-
4 nership return is filed for any taxable year but it is deter-
5 mined that there is no entity for such taxable year, to the
6 extent provided in regulations, rules similar to the rules
7 of subsection (a) shall apply.”

8 (3) The table of subchapters for chapter 63 is
9 amended by striking the item relating to subchapter
10 D.

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

14 **SEC. 804. CLARIFICATION OF STATUTE OF LIMITATIONS.**

15 (a) IN GENERAL.—Subsection (a) of section 6501
16 (relating to limitations on assessment and collection) is
17 amended by adding at the end thereof the following new
18 sentence: “For purposes of this chapter, the term ‘return’
19 means the return required to be filed by the taxpayer (and
20 does not include a return of any person from whom the
21 taxpayer has received an item of income, gain, loss, deduc-
22 tion, or credit).”

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

1 **SEC. 805. CERTAIN NOTICES DISREGARDED UNDER PROVI-**
2 **SION INCREASING INTEREST RATE ON LARGE**
3 **CORPORATE UNDERPAYMENTS.**

4 (a) GENERAL RULE.—Subparagraph (B) of section
5 6621(c)(2) (defining applicable date) is amended by add-
6 ing at the end thereof the following new clause:

7 “(iii) EXCEPTION FOR LETTERS OR
8 NOTICES INVOLVING SMALL AMOUNTS.—
9 For purposes of this paragraph, any letter
10 or notice shall be disregarded if the
11 amount of the deficiency or proposed defi-
12 ciency (or the assessment or proposed as-
13 sessment) set forth in such letter or notice
14 is not greater than \$100,000 (determined
15 by not taking into account any interest,
16 penalties, or additions to tax).”

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply for purposes of determining in-
19 terest for periods after December 31, 1993.

20 **Subtitle B—Tax Court Procedures**

21 **SEC. 811. OVERPAYMENT DETERMINATIONS OF TAX**
22 **COURT.**

23 (a) APPEAL OF ORDER.—Paragraph (2) of section
24 6512(b) (relating to jurisdiction to enforce) is amended
25 by adding at the end the following new sentence: “An
26 order of the Tax Court disposing of a motion under this

1 paragraph shall be reviewable in the same manner as a
2 decision of the Tax Court, but only with respect to the
3 matters determined in such order.”

4 (b) DENIAL OF JURISDICTION REGARDING CERTAIN
5 CREDITS AND REDUCTIONS.—Subsection (b) of section
6 6512 (relating to overpayment determined by Tax Court)
7 is amended by adding at the end the following new
8 paragraph:

9 “(4) DENIAL OF JURISDICTION REGARDING
10 CERTAIN CREDITS AND REDUCTIONS.—The Tax
11 Court shall have no jurisdiction under this sub-
12 section to restrain or review any credit or reduction
13 made by the Secretary under section 6402.”

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act.

17 **SEC. 812. AWARDING OF ADMINISTRATIVE COSTS.**

18 (a) RIGHT TO APPEAL TAX COURT DECISION.—Sub-
19 section (f) of section 7430 (relating to right of appeal)
20 is amended by adding at the end the following new
21 paragraph:

22 “(3) APPEAL OF TAX COURT DECISION.—An
23 order of the Tax Court disposing of a petition under
24 paragraph (2) shall be reviewable in the same man-

1 ner as a decision of the Tax Court, but only with re-
2 spect to the matters determined in such order.”

3 (b) PERIOD FOR APPLYING TO IRS FOR COSTS.—
4 Subsection (b) of section 7430 (relating to limitations) is
5 amended by adding at the end the following new
6 paragraph:

7 “(5) PERIOD FOR APPLYING TO IRS FOR AD-
8 MINISTRATIVE COSTS.—An award may be made
9 under subsection (a) by the Internal Revenue Serv-
10 ice for reasonable administrative costs only if the
11 prevailing party files an application with the Inter-
12 nal Revenue Service for such costs before the 91st
13 day after the date on which the final decision of the
14 Internal Revenue Service as to the determination of
15 the tax, interest, or penalty is mailed to such party.”

16 (c) PERIOD FOR PETITIONING OF TAX COURT FOR
17 REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section
18 7430(f) (relating to right of appeal) is amended—

19 (1) by striking “appeal to” and inserting “the
20 filing of a petition for review with”, and

21 (2) by adding at the end the following new sen-
22 tence: “If the Secretary sends by certified or reg-
23 istered mail a notice of such decision to the peti-
24 tioner, no proceeding in the Tax Court may be initi-
25 ated under this paragraph unless such petition is

1 filed before the 91st day after the date of such
2 mailing.”

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to civil actions or proceedings com-
5 menced after the date of the enactment of this Act.

6 **SEC. 813. REDETERMINATION OF INTEREST PURSUANT TO**
7 **MOTION.**

8 (a) IN GENERAL.—Paragraph (3) of section 7481(c)
9 (relating to jurisdiction over interest determinations) is
10 amended by striking “petition” and inserting “motion”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall take effect on the date of the enactment
13 of this Act.

14 **SEC. 814. APPLICATION OF NET WORTH REQUIREMENT**
15 **FOR AWARDS OF LITIGATION COSTS.**

16 (a) IN GENERAL.—Paragraph (4) of section 7430(c)
17 (defining prevailing party) is amended by adding at the
18 end thereof the following new subparagraph:

19 “(C) SPECIAL RULES FOR APPLYING NET
20 WORTH REQUIREMENT.—In applying the re-
21 quirements of section 2412(d)(2)(B) of title 28,
22 United States Code, for purposes of subpara-
23 graph (A)(iii) of this paragraph—

24 “(i) the net worth limitation in clause
25 (i) of such section shall apply to—

1 “(I) an estate but shall be deter-
2 mined as of the date of the decedent’s
3 death, and

4 “(II) a trust but shall be deter-
5 mined as of the last day of the taxable
6 year involved in the proceeding, and

7 “(ii) individuals filing a joint return
8 shall be treated as 1 individual for pur-
9 poses of clause (i) of such section, except
10 in the case of a spouse relieved of liability
11 under section 6013(e).”

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to proceedings commenced after
14 the date of the enactment of this Act.

15 **Subtitle C—Authority for Certain**
16 **Cooperative Agreements**

17 **SEC. 821. COOPERATIVE AGREEMENTS WITH STATE TAX**
18 **AUTHORITIES.**

19 (a) GENERAL RULE.—Chapter 77 (relating to mis-
20 cellaneous provisions) is amended by adding at the end
21 thereof the following new section:

22 **“SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX**
23 **AUTHORITIES.**

24 “(a) AUTHORIZATION OF AGREEMENTS.—The Sec-
25 retary is hereby authorized to enter into cooperative agree-

1 ments with State tax authorities for purposes of enhancing
2 joint tax administration. Such agreements may provide
3 for—

4 “(1) joint filing of Federal and State income
5 tax returns,

6 “(2) single processing of such returns,

7 “(3) joint collection of taxes (other than Fed-
8 eral income taxes), and

9 “(4) such other provisions as may enhance joint
10 tax administration.

11 “(b) SERVICES ON REIMBURSABLE BASIS.—Any
12 agreement under subsection (a) may require reimburse-
13 ment for services provided by either party to the
14 agreement.

15 “(c) AVAILABILITY OF FUNDS.—Any funds appro-
16 priated for purposes of the administration of this title
17 shall be available for purposes of carrying out the Sec-
18 retary’s responsibility under an agreement entered into
19 under subsection (a). Any reimbursement received pursu-
20 ant to such an agreement shall be credited to the amount
21 so appropriated.

22 “(d) STATE TAX AUTHORITY.—For purposes of this
23 section, the term ‘State tax authority’ means agency,
24 body, or commission referred to in section 6103(d)(1).”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 77 is amended by adding at the end thereof
3 the following new item:

“Sec. 7524. Cooperative agreements with State tax authorities.”

4 **Subtitle D—Administrative Prac-**
5 **tice and Procedural Simplifica-**
6 **tion**

7 **SEC. 831. NOTIFICATION OF REASONS FOR TERMINATION**
8 **OR DENIAL OF INSTALLMENT AGREEMENTS.**

9 (a) TERMINATIONS.—Subsection (b) of section 6159
10 (relating to extent to which agreements remain in effect)
11 is amended by adding at the end thereof the following new
12 paragraph:

13 “(5) NOTICE REQUIREMENTS.—The Secretary
14 may not take any action under paragraph (2), (3),
15 or (4) unless—

16 “(A) a notice of such action is provided to
17 the taxpayer not later than the day 30 days be-
18 fore the date of such action, and

19 “(B) such notice includes an explanation
20 why the Secretary intends to take such action.

21 The preceding sentence shall not apply in any case
22 in which the Secretary believes that collection of any
23 tax to which an agreement under this section relates
24 is in jeopardy.”

1 (b) DENIALS.—Section 6159 (relating to agreements
2 for payment of tax liability in installments) is amended
3 by adding at the end thereof the following new subsection:

4 “(c) NOTICE REQUIREMENTS FOR DENIALS.—The
5 Secretary may not deny any request for an installment
6 agreement under this section unless—

7 “(1) a notice of the proposed denial is provided
8 to the taxpayer not later than the day 30 days be-
9 fore the date of such denial, and

10 “(2) such notice includes an explanation why
11 the Secretary intends to deny such request.

12 The preceding sentence shall not apply in any case in
13 which the Secretary believes that collection of any tax to
14 which a request for an agreement under this section re-
15 lates is in jeopardy.”

16 (c) CONFORMING AMENDMENT.—Paragraph (3) of
17 section 6159(b) is amended to read as follows:

18 “(3) SUBSEQUENT CHANGE IN FINANCIAL CON-
19 DITIONS.—If the Secretary makes a determination
20 that the financial condition of a taxpayer with whom
21 the Secretary has entered into an agreement under
22 subsection (a) has significantly changed, the Sec-
23 retary may alter, modify, or terminate such agree-
24 ment.”

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date 6 months after
3 the date of the enactment of this Act.

4 **SEC. 832. JOINT RETURN MAY BE MADE AFTER SEPARATE**
5 **RETURNS WITHOUT FULL PAYMENT OF TAX.**

6 (a) GENERAL RULE.—Paragraph (2) of section
7 6013(b) (relating to limitations on filing of joint return
8 after filing separate returns) is amended by striking sub-
9 paragraph (A) and redesignating the following subpara-
10 graphs accordingly.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply to taxable years beginning after
13 the date of the enactment of this Act.

14 **SEC. 833. OFFERS-IN-COMPROMISE.**

15 (a) GENERAL RULE.—Subsection (a) of section 7122
16 (relating to compromises) is amended by adding at the end
17 thereof the following new sentence: “The Secretary may
18 make such a compromise in any case where the Secretary
19 determines that such compromise would be in the best in-
20 terests of the United States.”.

21 (b) REVIEW REQUIREMENTS.—Subsection (b) of sec-
22 tion 7122 (relating to records) is amended by striking
23 “\$500.” and inserting “\$50,000. However, such com-
24 promise shall be subject to continuing quality review by
25 the Secretary.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 834. PRELIMINARY NOTICE REQUIREMENT.**

5 (a) IN GENERAL.—Section 6672 (relating to failure
6 to collect and pay over tax, or attempt to evade or defeat
7 tax) is amended by redesignating subsection (b) as sub-
8 section (c) and by inserting after subsection (a) the follow-
9 ing new subsection:

10 “(b) PRELIMINARY NOTICE REQUIREMENT.—

11 “(1) IN GENERAL.—No penalty shall be im-
12 posed under subsection (a) unless the Secretary noti-
13 fies the taxpayer in writing by mail to an address as
14 determined under section 6212(b) that the taxpayer
15 shall be subject to an assessment of such penalty.

16 “(2) TIMING OF NOTICE.—The mailing of the
17 notice described in paragraph (1) shall precede any
18 notice and demand of any penalty under subsection
19 (a) by at least 60 days.

20 “(3) STATUTE OF LIMITATIONS.—If a notice
21 described in paragraph (1) with respect to any pen-
22 alty is mailed before the expiration of the period
23 provided by section 6501 for the assessment of such
24 penalty (determined without regard to this para-
25 graph), the period provided by such section for the

1 assessment of such penalty shall not expire before
2 the date 90 days after the date on which such notice
3 was mailed.

4 “(4) EXCEPTION FOR JEOPARDY.—This sub-
5 section shall not apply if the Secretary finds that the
6 collection of the penalty is in jeopardy.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to assessments made after June
9 30, 1995.

10 **SEC. 835. PENALTIES UNDER SECTION 6672.**

11 (a) PUBLIC INFORMATION REQUIREMENTS.—The
12 Secretary of the Treasury or the Secretary’s delegate
13 (hereafter in this section referred to as the “Secretary”)
14 shall take such actions as may be appropriate to ensure
15 that employees are aware of their responsibilities under
16 the Federal tax depository system, the circumstances
17 under which employees may be liable for the penalty im-
18 posed by section 6672 of the Internal Revenue Code of
19 1986, and the responsibility to promptly report to the In-
20 ternal Revenue Service any failure referred to in sub-
21 section (a) of such section 6672. Such actions shall in-
22 clude—

23 (1) printing of a warning on deposit coupon
24 booklets and the appropriate tax returns that certain

1 employees may be liable for the penalty imposed by
2 such section 6672, and

3 (2) the development of a special information
4 packet.

5 (b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZA-
6 TIONS.—

7 (1) VOLUNTARY BOARD MEMBERS.—

8 (A) IN GENERAL.—The penalty under sec-
9 tion 6672 of the Internal Revenue Code of 1986
10 shall not be imposed on unpaid, volunteer mem-
11 bers of any board of trustees or directors of an
12 organization referred to in section 501 of such
13 Code to the extent such members are solely
14 serving in an honorary capacity, do not partici-
15 pate in the day-to-day or financial operations of
16 the organization, and do not have actual knowl-
17 edge of the failure on which such penalty is
18 imposed.

19 (B) APPLICATION OF PARAGRAPH.—This
20 paragraph shall not apply if it results in no per-
21 son being held liable for the penalty described
22 in section 6672(a) of the Internal Revenue
23 Code of 1986.

24 (2) DEVELOPMENT OF EXPLANATORY MATE-
25 RIALS.—The Secretary shall develop materials ex-

1 plaining the circumstances under which board mem-
2 bers of tax-exempt organizations (including vol-
3 untary and honorary members) may be subject to
4 penalty under section 6672 of such Code. Such ma-
5 terials shall be made available to tax-exempt organi-
6 zations.

7 (3) IRS INSTRUCTIONS.—The Secretary shall
8 clarify the instructions to Internal Revenue Service
9 employees on the application of the penalty under
10 section 6672 of such Code with regard to voluntary
11 members of boards of trustees or directors of tax-ex-
12 empt organizations.

13 (c) PROMPT NOTIFICATION.—To the maximum ex-
14 tent practicable, the Secretary shall notify all persons who
15 have failed to make timely and complete deposit of any
16 taxes described in section 6672 of the Internal Revenue
17 Code of 1986 of such failure within 30 days after the re-
18 turn was filed reflecting such failure or after the date on
19 which the Secretary is first aware of such failure. If the
20 person failing to make the deposit is not an individual,
21 the Secretary shall notify the entity subject to such deposit
22 requirement and that entity shall notify, within 15 days
23 of the notification by the Secretary, all officers, general
24 partners, trustees, or other managers of the failure.

1 **SEC. 836. REQUIRED CONTENT OF CERTAIN NOTICES.**

2 (a) GENERAL RULE.—Subsection (a) of section 7522
3 (relating to content of tax due, deficiency, and other no-
4 tices) is amended by striking “shall describe the basis for,
5 and identify” and inserting “shall set forth the adjust-
6 ments which are the basis for, and shall identify”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to notices sent after the date
9 6 months after the date of the enactment of this Act.

10 **SEC. 837. REQUIRED NOTICE OF CERTAIN PAYMENTS.**

11 If any payment is received by the Secretary of the
12 Treasury or the Secretary’s delegate (hereafter in the sec-
13 tion referred to as the “Secretary”) from any taxpayer
14 and the Secretary cannot associate such payment with any
15 outstanding tax liability of such taxpayer, the Secretary
16 shall make reasonable efforts to notify the taxpayer of
17 such inability within 60 days after the receipt of such
18 payment.

19 **SEC. 838. IMPROVED PROCEDURES FOR NOTIFYING SERV-**
20 **ICE OF CHANGE OF ADDRESS OR NAME.**

21 The Secretary of the Treasury shall provide improved
22 procedures for taxpayers to notify the Secretary of
23 changes in names and addresses. Not later than December
24 31, 1994, the Secretary shall institute procedures for
25 timely updating all Internal Revenue Service records with

1 change-of-address information provided to the Secretary
2 by taxpayers.

3 **SEC. 839. RIGHTS AND RESPONSIBILITIES OF DIVORCED**
4 **INDIVIDUALS.**

5 The Secretary of the Treasury shall include in the
6 Internal Revenue Service publication entitled “Your
7 Rights As A Taxpayer” a section on the rights and respon-
8 sibilities of divorced individuals.

9 **TITLE IX—FINANCING**
10 **PROVISIONS**

11 **SEC. 901. CERTAIN AMOUNTS DERIVED FROM FOREIGN**
12 **CORPORATIONS TREATED AS UNRELATED**
13 **BUSINESS TAXABLE INCOME.**

14 (a) GENERAL RULE.—Subsection (b) of section 512
15 (relating to modifications) is amended by adding at the
16 end thereof the following new paragraph:

17 “(17) TREATMENT OF CERTAIN AMOUNTS DE-
18 RIVED FROM FOREIGN CORPORATIONS.—

19 “(A) IN GENERAL.—Notwithstanding para-
20 graph (1), any disqualified amount derived by
21 an organization from a foreign corporation in
22 which such organization is a 10-percent share-
23 holder shall be included as an item of gross in-
24 come derived from an unrelated trade or busi-
25 ness. There shall be allowed all deductions di-

1 rectly connected with amounts included in gross
2 income under the preceding sentence.

3 “(B) DISQUALIFIED AMOUNT.—For pur-
4 poses of subparagraph (A), the term ‘disquali-
5 fied amount’ means any of the following:

6 “(i) SUBPART F INCLUSION.—Any
7 amount included in gross income under
8 section 951(a)(1)(A) to the extent the
9 amount so included is attributable to in-
10 come which, if derived directly by the orga-
11 nization, would be treated as gross income
12 from an unrelated trade or business.

13 “(ii) DIVIDENDS.—Any dividend paid
14 out of the earnings and profits of any for-
15 eign corporation in proportion to the ratio
16 of—

17 “(I) the portion of the earnings
18 and profits attributable to income
19 which, if derived directly by the orga-
20 nization, would be treated as gross in-
21 come from an unrelated trade or busi-
22 ness, to

23 “(II) the total amount of earn-
24 ings and profits.

1 For purposes of the preceding sentence,
2 earnings and profits accumulated in tax-
3 able years beginning before January 1,
4 1994, shall not be taken into account.

5 “(C) 10-PERCENT SHAREHOLDER.—The
6 term ‘10-percent shareholder’ means any orga-
7 nization who owns (within the meaning of sec-
8 tion 958(a)), or is considered as owning by ap-
9 plying the rules of section 958(b), 10 percent or
10 more of the combined voting power of all class
11 of stock entitled to vote of the foreign corpora-
12 tion.

13 “(D) TREATMENT OF CERTAIN AMOUNTS
14 AS DIVIDENDS.—The rules of section
15 904(d)(3)(G) shall apply for purposes of this
16 paragraph.

17 “(E) REGULATIONS.—The Secretary shall
18 prescribe such regulations as may be necessary
19 or appropriate to carry out the purposes of this
20 paragraph, including regulations for the appli-
21 cation of this paragraph in the case of income
22 paid through 1 or more entities or between 2 or
23 more chains of entities.”

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to—

1 “(2) the income derived from such use for the
2 taxable year shall not be included in the gross in-
3 come of such taxpayer under section 61.

4 “(h) REGULATIONS.—The Secretary shall prescribe
5 such regulations as may be appropriate to carry out the
6 purposes of this section, including regulations providing
7 such de minimis rules as the Secretary may deem appro-
8 priate.”

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to taxable years beginning after
11 December 31, 1993.

12 **SEC. 903. LOSS CARRYOVERS AND CARRYBACKS NOT EX-**
13 **CLUDED IN APPLYING TAXABLE INCOME LIM-**
14 **ITATION ON CERTAIN RESERVE DEDUCTIONS.**

15 (a) GENERAL RULE.—Subparagraph (D) of section
16 593(b)(2) (relating to computation of taxable income) is
17 amended by adding at the end thereof the following new
18 sentence:

19 “Except as providing in the preceding sen-
20 tence, for purposes of this paragraph, taxable
21 income shall be computed as provided in this
22 chapter, including the application of any carry-
23 over or carryback.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to losses incurred in taxable
3 years ending after December 31, 1993.

4 **SEC. 904. EXTENSION OF WITHHOLDING TO CERTAIN GAM-**
5 **BLING WINNINGS.**

6 (a) REPEAL OF EXEMPTION FOR BINGO AND
7 KENO.—Paragraph (5) of section 3402(q) is amended to
8 read as follows:

9 “(5) EXEMPTION FOR SLOT MACHINES.—The
10 tax imposed by paragraph (1) shall not apply to
11 winnings from a slot machine.”

12 (b) THRESHOLD AMOUNT.—Paragraph (3) of section
13 3402(q) is amended—

14 (1) by striking “(B) and (C)” in subparagraph
15 (A) and inserting “(B), (C), and (D)”, and

16 (2) by adding at the end thereof the following
17 new subparagraph:

18 “(D) BINGO AND KENO.—Proceeds of
19 more than \$10,000 from a wager placed in a
20 bingo or keno game.”

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on January 1, 1994.

1 **TITLE X—TECHNICAL**
2 **CORRECTIONS**
3 **Subtitle A—Revenue Provisions**

4 **SEC. 1001. AMENDMENTS RELATED TO REVENUE REC-**
5 **ONCILIATION ACT OF 1990.**

6 (a) AMENDMENTS RELATED TO SUBTITLE A.—

7 (1) Subparagraph (B) of section 59(j)(3) is
8 amended by striking “section 1(i)(3)(B)” and insert-
9 ing “section 1(g)(3)(B)”.

10 (2) Clause (i) of section 151(d)(3)(C) is amend-
11 ed by striking “joint of a return” and inserting
12 “joint return”.

13 (3) Subsection (b) of section 1 (as in effect on
14 the day before the date of the enactment of the Rev-
15 enue Reconciliation Act of 1993) is amended by
16 striking “\$26,500” in the table contained therein
17 and inserting “\$26,050”.

18 (b) AMENDMENTS RELATED TO SUBTITLE B.—

19 (1) Paragraph (1) of section 11212(e) of the
20 Revenue Reconciliation Act of 1990 is amended by
21 striking “Paragraph (1) of section 6724(d)” and in-
22 serting “Subparagraph (B) of section 6724(d)(1)”.

23 (2)(A) Subparagraph (B) of section 4093(c)(2),
24 as in effect before the amendments made by the
25 Revenue Reconciliation Act of 1993, is amended be-

1 fore the period “unless such fuel is sold for exclusive
2 use by a State or any political subdivision thereof”.

3 (B) Paragraph (4) of section 6427(l), as in ef-
4 fect before the amendments made by the Revenue
5 Reconciliation Act of 1993, is amended by inserting
6 before the period “unless such fuel was used by a
7 State or any political subdivision thereof”.

8 (3) Paragraph (1) of section 6416(b) is amend-
9 ed by striking “chapter 32 or by section 4051” and
10 inserting “chapter 31 or 32”.

11 (4) Section 7012 is amended—

12 (A) by striking “production or importation
13 of gasoline” in paragraph (3) and inserting
14 “taxes on gasoline and diesel fuel”, and

15 (B) by striking paragraph (4) and redesign-
16 ating paragraphs (5) and (6) as paragraphs
17 (4) and (5), respectively.

18 (5) Subsection (c) of section 5041 is amended
19 by striking paragraph (6) and by inserting the fol-
20 lowing new paragraphs:

21 “(6) CREDIT FOR TRANSFEREE IN BOND.—If—

22 “(A) wine produced by any person would
23 be eligible for any credit under paragraph (1)
24 if removed by such person during the calendar
25 year,

1 “(B) wine produced by such person is re-
2 moved during such calendar year by any other
3 person (hereafter in this paragraph referred to
4 as the ‘transferee’) to whom such wine was
5 transferred in bond and who is liable for the tax
6 imposed by this section with respect to such
7 wine, and

8 “(C) such producer holds title to such wine
9 at the time of its removal and provides to the
10 transferee such information as is necessary to
11 properly determine the transferee’s credit under
12 this paragraph,

13 then, the transferee (and not the producer) shall be
14 allowed the credit under paragraph (1) which would
15 be allowed to the producer if the wine removed by
16 the transferee had been removed by the producer on
17 that date.

18 “(7) REGULATIONS.—The Secretary may pre-
19 scribe such regulations as may be necessary to carry
20 out the purposes of this subsection, including regula-
21 tions—

22 “(A) to prevent the credit provided in this
23 subsection from benefiting any person who pro-
24 duces more than 250,000 wine gallons during a
25 calendar year, and

1 “(B) to assure proper reduction of such
2 credit for persons producing more than 150,000
3 wine gallons of wine during a calendar year.”

4 (6) Paragraph (3) of section 5061(b) is amend-
5 ed to read as follows:

6 “(3) section 5041(f),”.

7 (7) Section 5354 is amended by inserting “(tak-
8 ing into account the appropriate amount of credit
9 with respect to such wine under section 5041(c))”
10 after “any one time”.

11 (8) Effective on the date of the enactment of
12 this Act, paragraph (7) of section 11202(i) of the
13 Revenue Reconciliation Act of 1990 is amended by
14 adding at the end thereof the following: “The Sec-
15 retary may treat any person who bore the ultimate
16 burden of the tax imposed by this subsection as the
17 person to whom a credit or refund under such provi-
18 sions may be allowed or made.”

19 (c) AMENDMENTS RELATED TO SUBTITLE C.—

20 (1) Paragraph (4) of section 56(g) is amended
21 by redesignating subparagraphs (I) and (J) as sub-
22 paragraphs (H) and (I), respectively.

23 (2) Subparagraph (B) of section 6724(d)(1) is
24 amended—

1 (A) by striking “or” at the end of clause
2 (xii), and

3 (B) by striking the period at the end of
4 clause (xiii) and inserting “, or”.

5 (3) Subsection (g) of section 6302 is amended
6 by inserting “, 22,” after “chapters 21”.

7 (4) The earnings and profits of any insurance
8 company to which section 11305(c)(3) of the Reve-
9 nue Reconciliation Act of 1990 applies shall be de-
10 termined without regard to any deduction allowed
11 under such section; except that, for purposes of ap-
12 plying sections 56 and 902, and subpart F of part
13 III of subchapter N of chapter 1 of the Internal
14 Revenue Code of 1986, such deduction shall be
15 taken into account.

16 (5) Subparagraph (D) of section 6038A(e)(4) is
17 amended—

18 (A) by striking “any transaction to which
19 the summons relates” and inserting “any af-
20 fected taxable year”, and

21 (B) by adding at the end thereof the fol-
22 lowing new sentence: “For purposes of this sub-
23 paragraph, the term ‘affected taxable year’
24 means any taxable year if the determination of
25 the amount of tax imposed for such taxable

1 year is affected by the treatment of the trans-
2 action to which the summons relates.”

3 (6) Subparagraph (A) of section 6621(c)(2) is
4 amended by adding at the end thereof the following
5 new sentence: “The preceding sentence shall be ap-
6 plied without regard to any such letter or notice
7 which is withdrawn by the Secretary.”

8 (7) Clause (i) of section 6621(c)(2)(B) is
9 amended by striking “this subtitle” and inserting
10 “this title”.

11 (d) AMENDMENTS RELATED TO SUBTITLE D.—

12 (1) Notwithstanding section 11402(c) of the
13 Revenue Reconciliation Act of 1990, the amendment
14 made by section 11402(b)(1) of such Act shall apply
15 to taxable years ending after December 31, 1989.

16 (2) Clause (ii) of section 143(m)(4)(C) is
17 amended—

18 (A) by striking “any month of the 10-year
19 period” and inserting “any year of the 4-year
20 period”,

21 (B) by striking “succeeding months” and
22 inserting “succeeding years”, and

23 (C) by striking “over the remainder of
24 such period (or, if lesser, 5 years)” and insert-
25 ing “to zero over the succeeding 5 years”.

1 (e) AMENDMENTS RELATED TO SUBTITLE E.—

2 (1)(A) Clause (ii) of section 56(d)(1)(B) is
3 amended to read as follows:

4 “(ii) appropriate adjustments in the
5 application of section 172(b)(2) shall be
6 made to take into account the limitation of
7 subparagraph (A).”

8 (B) For purposes of applying sections 56(g)(1)
9 and 56(g)(3) of the Internal Revenue Code of 1986
10 with respect to taxable years beginning in 1991 and
11 1992, the reference in such sections to the alter-
12 native tax net operating loss deduction shall be
13 treated as including a reference to the deduction
14 under section 56(h) of such Code as in effect before
15 the amendments made by section 1915 of the En-
16 ergy Policy Act of 1992.

17 (2) Clause (i) of section 613A(c)(3)(A) is
18 amended by striking “the table contained in”.

19 (3) Section 6501 is amended—

20 (A) by striking subsection (m) (relating to
21 deficiency attributable to election under section
22 44B) and by redesignating subsections (n) and
23 (o) as subsections (m) and (n), respectively, and

24 (B) by striking “section 40(f) or 51(j)” in
25 subsection (m) (as redesignated by subpara-

1 graph (A)) and inserting “section 40(f), 43, or
2 51(j)”.

3 (4) Subparagraph (C) of section 38(c)(2) (as in
4 effect on the day before the date of the enactment
5 of the Revenue Reconciliation Act of 1990) is
6 amended by inserting before the period at the end
7 of the first sentence the following: “and without re-
8 gard to the deduction under section 56(h)”.

9 (5) The amendment made by section
10 1913(b)(2)(C)(i) of the Energy Policy Act of 1992
11 shall apply to taxable years beginning after Decem-
12 ber 31, 1990.

13 (f) AMENDMENTS RELATED TO SUBTITLE F.—

14 (1)(A) Section 2701(a)(3) is amended by add-
15 ing at the end thereof the following new subpara-
16 graph:

17 “(C) VALUATION OF QUALIFIED PAYMENTS
18 WHERE NO LIQUIDATION, ETC. RIGHTS.—In the
19 case of an applicable retained interest which is
20 described in subparagraph (B)(i) but not sub-
21 paragraph (B)(ii), the value of the distribution
22 right shall be determined without regard to this
23 section.”

1 (B) Section 2701(a)(3)(B) is amended by in-
2 sserting “CERTAIN” before “QUALIFIED” in the head-
3 ing thereof.

4 (C) Sections 2701 (d)(1) and (d)(4) are each
5 amended by striking “subsection (a)(3)(B)” and in-
6 sserting “subsection (a)(3) (B) or (C)”.

7 (2) Clause (i) of section 2701(a)(4)(B) is
8 amended by inserting “(or, to the extent provided in
9 regulations, the rights as to either income or cap-
10 ital)” after “income and capital”.

11 (3)(A) Section 2701(b)(2) is amended by add-
12 ing at the end thereof the following new subpara-
13 graph:

14 “(C) APPLICABLE FAMILY MEMBER.—For
15 purposes of this subsection, the term ‘applicable
16 family member’ includes any lineal descendant
17 of any parent of the transferor or the transfer-
18 or’s spouse.”

19 (B) Section 2701(e)(3) is amended—

20 (i) by striking subparagraph (B), and

21 (ii) by striking so much of paragraph (3)
22 as precedes “shall be treated as holding” and
23 inserting:

24 “(3) ATTRIBUTION OF INDIRECT HOLDINGS
25 AND TRANSFERS.—An individual”.

1 (C) Section 2704(c)(3) is amended by striking
2 “section 2701(e)(3)(A)” and inserting “section
3 2701(e)(3)”.

4 (4) Clause (i) of section 2701(c)(1)(B) is
5 amended to read as follows:

6 “(i) a right to distributions with respect to
7 any interest which is junior to the rights of the
8 transferred interest.”.

9 (5)(A) Clause (i) of section 2701(c)(3)(C) is
10 amended to read as follows:

11 “(i) IN GENERAL.—Payments under any
12 interest held by a transferor which (without re-
13 gard to this subparagraph) are qualified pay-
14 ments shall be treated as qualified payments
15 unless the transferor elects not to treat such
16 payments as qualified payments. Payments de-
17 scribed in the preceding sentence which are held
18 by an applicable family member shall be treated
19 as qualified payments only if such member
20 elects to treat such payments as qualified pay-
21 ments.”.

22 (B) The first sentence of section
23 2701(c)(3)(C)(ii) is amended to read as follows: “A
24 transferor or applicable family member holding any
25 distribution right which (without regard to this sub-

1 paragraph) is not a qualified payment may elect to
2 treat such right as a qualified payment, to be paid
3 in the amounts and at the times specified in such
4 election.”

5 (C) The time for making an election under the
6 second sentence of section 2701(c)(3)(C)(i) of the
7 Internal Revenue Code of 1986 (as amended by sub-
8 paragraph (A)) shall not expire before the due date
9 (including extensions) for filing the transferor’s re-
10 turn of the tax imposed by section 2501 of such
11 Code for the first calendar year ending after the
12 date of enactment.

13 (6) Section 2701(d)(3)(A)(iii) is amended by
14 striking “the period ending on the date of”.

15 (7) Subclause (I) of section 2701(d)(3)(B)(ii) is
16 amended by inserting “or the exclusion under sec-
17 tion 2503(b),” after “section 2523,”.

18 (8) Section 2701(e)(5) is amended—

19 (A) by striking “such contribution to cap-
20 ital or such redemption, recapitalization, or
21 other change” in subparagraph (A) and insert-
22 ing “such transaction”, and

23 (B) by striking “the transfer” in subpara-
24 graph (B) and inserting “such transaction”.

1 (9) Section 2701(d)(4) is amended by adding at
2 the end thereof the following new subparagraph:

3 “(C) TRANSFER TO TRANSFERORS.—In
4 the case of a taxable event described in para-
5 graph (3)(A)(ii) involving a transfer of an ap-
6 plicable retained interest from an applicable
7 family member to a transferor, this subsection
8 shall continue to apply to the transferor during
9 any period the transferor holds such interest.”

10 (10) Section 2701(e)(6) is amended by insert-
11 ing “or to reflect the application of subsection (d)”
12 before the period at the end thereof.

13 (11)(A) Section 2702(a)(3)(A) is amended—

14 (i) by striking “to the extent” and insert-
15 ing “if” in clause (i),

16 (ii) by striking “or” at the end of clause
17 (i),

18 (iii) by striking the period at the end of
19 clause (ii) and inserting “, or”, and

20 (iv) by adding at the end thereof the fol-
21 lowing new clause:

22 “(iii) to the extent that regulations
23 provide that such transfer is not inconsis-
24 tent with the purposes of this section.”

1 (B)(i) Section 2702(a)(3) is amended by strik-
2 ing “incomplete transfer” each place it appears and
3 inserting “incomplete gift”.

4 (ii) The heading for section 2702(a)(3)(B) is
5 amended by striking “INCOMPLETE TRANSFER” and
6 inserting “INCOMPLETE GIFT”.

7 (g) AMENDMENTS RELATED TO SUBTITLE G.—

8 (1)(A) Subsection (a) of section 1248 is amend-
9 ed—

10 (i) by striking “, or if a United States per-
11 son receives a distribution from a foreign cor-
12 poration which, under section 302 or 331, is
13 treated as an exchange of stock” in paragraph
14 (1), and

15 (ii) by adding at the end thereof the follow-
16 ing new sentence: “For purposes of this section,
17 a United States person shall be treated as hav-
18 ing sold or exchanged any stock if, under any
19 provision of this subtitle, such person is treated
20 as realizing gain from the sale or exchange of
21 such stock.”

22 (B) Paragraph (1) of section 1248(e) is amend-
23 ed by striking “or receives a distribution from a do-
24 mestic corporation which, under section 302 or 331,
25 is treated as an exchange of stock”.

1 (C) Subparagraph (B) of section 1248(f)(1) is
2 amended by striking “or 361(c)(1)” and inserting
3 “355(c)(1), or 361(c)(1)”.

4 (D) Paragraph (1) of section 1248(i) is amend-
5 ed to read as follows:

6 “(1) IN GENERAL.—If any shareholder of a 10-
7 percent corporate shareholder of a foreign corpora-
8 tion exchanges stock of the 10-percent corporate
9 shareholder for stock of the foreign corporation,
10 such 10-percent corporate shareholder shall recog-
11 nize gain in the same manner as if the stock of the
12 foreign corporation received in such exchange had
13 been—

14 “(A) issued to the 10-percent corporate
15 shareholder, and

16 “(B) then distributed by the 10-percent
17 corporate shareholder to such shareholder in re-
18 demption or liquidation (whichever is appro-
19 priate).

20 The amount of gain recognized by such 10-percent
21 corporate shareholder under the preceding sentence
22 shall not exceed the amount treated as a dividend
23 under this section.”

24 (2) Section 897 is amended by striking sub-
25 section (f).

1 (3) Paragraph (13) of section 4975(d) is
2 amended by striking “section 408(b)” and inserting
3 “section 408(b)(12)”.

4 (4) Clause (iii) of section 56(g)(4)(D) is amend-
5 ed by inserting “, but only with respect to taxable
6 years beginning after December 31, 1989” before
7 the period at the end thereof.

8 (5)(A) Paragraph (11) of section 11701(a) of
9 the Revenue Reconciliation Act of 1990 (and the
10 amendment made by such paragraph) are hereby re-
11 pealed, and section 7108(r)(2) of the Revenue Rec-
12 onciliation Act of 1989 shall be applied as if such
13 paragraph (and amendment) had never been en-
14 acted.

15 (B) Subparagraph (A) shall not apply to any
16 building if the owner of such building establishes to
17 the satisfaction of the Secretary of the Treasury or
18 his delegate that such owner reasonably relied on the
19 amendment made by such paragraph (11).

20 (h) AMENDMENTS RELATED TO SUBTITLE H.—

21 (1)(A) Clause (vi) of section 168(e)(3)(B) is
22 amended by striking “or” at the end of subclause
23 (I), by striking the period at the end of subclause
24 (II) and inserting “, or”, and by adding at the end
25 thereof the following new subclause:

1 “(III) is described in section
2 48(l)(3)(A)(ix) (as in effect on the day be-
3 fore the date of the enactment of the Reve-
4 nue Reconciliation Act of 1990).”

5 (B) Subparagraph (K) of section 168(g)(4) is
6 amended by striking “section 48(a)(3)(A)(iii)” and
7 inserting “section 48(l)(3)(A)(ix) (as in effect on the
8 day before the date of the enactment of the Revenue
9 Reconciliation Act of 1990)”.

10 (2) Clause (ii) of section 172(b)(1)(E) is
11 amended by striking “subsection (m)” and inserting
12 “subsection (h)”.

13 (3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II),
14 and 832(b)(5)(D)(ii)(II) are each amended by strik-
15 ing “243(b)(5)” and inserting “243(b)(2)”.

16 (4) Subparagraph (A) of section 243(b)(3) is
17 amended by inserting “of” after “In the case”.

18 (5) The subsection heading for subsection (a) of
19 section 280F is amended by striking “INVESTMENT
20 TAX CREDIT AND”.

21 (6) Clause (i) of section 1504(c)(2)(B) is
22 amended by inserting “section” before “243(b)(2)”.

23 (7) Paragraph (3) of section 341(f) is amended
24 by striking “351, 361, 371(a), or 374(a)” and in-
25 serting “351, or 361”.

1 (8) Paragraph (2) of section 243(b) is amended
2 to read as follows:

3 “(2) AFFILIATED GROUP.—For purposes of this
4 subsection:

5 “(A) IN GENERAL.—The term ‘affiliated
6 group’ has the meaning given such term by sec-
7 tion 1504(b), except that for such purposes sec-
8 tions 1504(b)(2), 1504(b)(4), and 1504(c) shall
9 not apply.

10 “(B) GROUP MUST BE CONSISTENT IN
11 FOREIGN TAX TREATMENT.—The requirements
12 of paragraph (1)(A) shall not be treated as
13 being met with respect to any dividend received
14 by a corporation if, for any taxable year which
15 includes the day on which such dividend is re-
16 ceived—

17 “(i) 1 or more members of the affili-
18 ated group referred to in paragraph (1)(A)
19 choose to any extent to take the benefits of
20 section 901, and

21 “(ii) 1 or more other members of such
22 group claim to any extent a deduction for
23 taxes otherwise creditable under section
24 901.”

1 (9) The amendment made by section
2 11813(b)(17) of the Revenue Reconciliation Act of
3 1990 shall be applied as if the material stricken by
4 such amendment included the closing parenthesis
5 after “section 48(a)(5)”.

6 (10) Paragraph (1) of section 179(d) is amend-
7 ed—

8 (A) by striking “in a trade or business”
9 and inserting “a trade or business”, and

10 (B) by adding at the end thereof the fol-
11 lowing new sentence: “Such term shall not in-
12 clude any property described in section 50(b)
13 and shall not include air conditioning or heating
14 units and horses”.

15 (11) Subparagraph (E) of section 50(a)(2) is
16 amended by striking “section 48(a)(5)(A)” and in-
17 serting “section 48(a)(5)”.

18 (12) The amendment made by section
19 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act
20 of 1990 shall be applied as if it struck “Section
21 422A(c)(2)” and inserted “Section 422(c)(2)”.

22 (13) Subparagraph (B) of section 424(c)(3) is
23 amended by striking “a qualified stock option, an in-
24 centive stock option, an option granted under an em-
25 ployee stock purchase plan, or a restricted stock op-

1 tion” and inserting “an incentive stock option or an
2 option granted under an employee stock purchase
3 plan”.

4 (14) Subparagraph (E) of section 1367(a)(2) is
5 amended by striking “section 613A(c)(13)(B)” and
6 inserting “section 613A(c)(11)(B)”.

7 (15) Subparagraph (B) of section 460(e)(6) is
8 amended by striking “section 167(k)” and inserting
9 “section 168(e)(2)(A)(ii)”.

10 (16) Subparagraph (C) of section 172(h)(4) is
11 amended by striking “subsection (b)(1)(M)” and in-
12 serting “subsection (b)(1)(E)”.

13 (17) Section 6503 is amended—

14 (A) by redesignating the subsection relat-
15 ing to extension in case of certain summonses
16 as subsection (j), and

17 (B) by redesignating the subsection relat-
18 ing to cross references as subsection (k).

19 (18) Paragraph (4) of section 1250(e) is hereby
20 repealed.

21 (19) Subsection (c) of section 2104 is amended
22 by striking “subparagraph (A), (C), or (D)” and in-
23 serting “subparagraph (A)”.

24 (i) EFFECTIVE DATE.—Except as otherwise expressly
25 provided—

1 (1) the amendments made by this section shall
2 be treated as amendments to the Internal Revenue
3 Code of 1986 as amended by the Revenue Reconcili-
4 ation Act of 1993; and

5 (2) any amendment made by this section shall
6 apply to periods before the date of the enactment of
7 this section in the same manner as if it had been in-
8 cluded in the provision of the Revenue Reconciliation
9 Act of 1990 to which such amendment relates.

10 **SEC. 1002. AMENDMENTS RELATED TO REVENUE REC-**
11 **ONCILIATION ACT OF 1993.**

12 (a) AMENDMENT RELATED TO SECTION 13114.—
13 Paragraph (2) of section 1044(c) is amended to read as
14 follows:

15 “(2) PURCHASE.—The taxpayer shall be consid-
16 ered to have purchased any property if, but for sub-
17 section (d), the unadjusted basis of such property
18 would be its cost within the meaning of section
19 1012.”

20 (b) AMENDMENTS RELATED TO SECTION 13142.—

21 (1) Subparagraph (B) of section 13142(b)(6) of
22 the Revenue Reconciliation Act of 1993 is amended
23 to read as follows:

24 “(B) FULL-TIME STUDENTS, WAIVER AU-
25 THORITY, AND PROHIBITED DISCRIMINATION.—

1 The amendments made by paragraphs (2), (3),
2 and (4) shall take effect on the date of the en-
3 actment of this Act.”

4 (2) Subparagraph (C) of section 13142(b)(6) of
5 such Act is amended by striking “paragraph (2)”
6 and inserting “paragraph (5)”.

7 (c) AMENDMENT RELATED TO SECTION 13161.—

8 (1) IN GENERAL.—Subsection (e) of section
9 4001 (relating to inflation adjustment) is amended
10 to read as follows:

11 “(e) INFLATION ADJUSTMENT.—

12 “(1) IN GENERAL.—In the case of any calendar
13 year after 1993, the \$30,000 amount in subsection
14 (a) and section 4003(a) shall be increased by an
15 amount equal to—

16 “(A) \$30,000, multiplied by

17 “(B) the cost-of-living adjustment under
18 section 1(f)(3) for such calendar year, deter-
19 mined by substituting ‘calendar year 1990’ for
20 ‘calendar year 1992’ in subparagraph (B)
21 thereof.

22 “(2) ROUNDING.—If any amount as adjusted
23 under paragraph (1) is not a multiple of \$2,000,
24 such amount shall be rounded to the next lowest
25 multiple of \$2,000.”

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall take effect on January 1,
3 1994.

4 (d) AMENDMENT RELATED TO SECTION 13201.—
5 Clause (ii) of section 135(b)(2)(B) is amended by insert-
6 ing before the period at the end thereof the following: “,
7 determined by substituting ‘calendar year 1989’ for ‘cal-
8 endar year 1992’ in subparagraph (B) thereof”.

9 (e) AMENDMENTS RELATED TO SECTION 13203.—
10 Subsection (a) of section 59 is amended—

11 (1) by striking “the amount determined under
12 section 55(b)(1)(A)” in paragraph (1)(A) and
13 2(A)(i) and inserting “the pre-credit tentative mini-
14 mum tax”,

15 (2) by striking “specified in section
16 55(b)(1)(A)” in paragraph (1)(C) and inserting
17 “specified in subparagraph (A)(i) or (B)(i) of section
18 55(b)(1) (whichever applies)”,

19 (3) by striking “which would be determined
20 under section 55(b)(1)(A)” in paragraph (2)(A)(ii)
21 and inserting “which would be the pre-credit ten-
22 tative minimum tax”, and

23 (4) by adding at the end thereof the following
24 new paragraph:

1 “(3) PRE-CREDIT TENTATIVE MINIMUM TAX.—
2 For purposes of this subsection, the term ‘pre-credit
3 tentative minimum tax’ means—

4 “(A) in the case of a taxpayer other than
5 a corporation, the amount determined under the
6 first sentence of section 55(b)(1)(A)(i), or

7 “(B) in the case of a corporation, the
8 amount determined under section
9 55(b)(1)(B)(i).”

10 (f) AMENDMENT RELATED TO SECTION 13212.—

11 Subparagraph (B) of section 401(a)(17) is amended to
12 read as follows:

13 “(B) COST-OF-LIVING ADJUSTMENT.—The
14 Secretary shall adjust annually the \$150,000
15 amount in subparagraph (A) for increases in
16 the cost-of-living at the same time and in the
17 same manner as under section 415(d), except
18 that the base period for purposes of section
19 415(d)(1)(A) shall be the calendar quarter be-
20 ginning October 1, 1993.”

21 (g) AMENDMENT RELATED TO SECTION 13221.—

22 Subparagraph (A) of section 7518(g)(6) is amended by
23 striking “34 percent” and inserting “35 percent”.

24 (h) AMENDMENTS RELATED TO SECTION 13222.—

1 (1) Subparagraph (B) of section 6033(e)(1) is
2 amended by adding at the end thereof the following
3 new clause:

4 “(iii) COORDINATION WITH SECTION
5 527(f).—This subsection shall not apply to
6 any amount on which tax is imposed by
7 reason of section 527(f).”.

8 (2) Clause (i) of section 6033(e)(1)(B) is
9 amended by striking “this subtitle” and inserting
10 “section 501”.

11 (i) AMENDMENT RELATED TO SECTION 13225.—
12 Paragraph (3) of section 6655(g) is amended by striking
13 all that follows “‘3rd month’” in the sentence following
14 subparagraph (C) and inserting “, subsection (e)(2)(A)
15 shall be applied by substituting ‘2 months’ for ‘3 months’
16 in clause (i)(I), the election under clause (i) of subsection
17 (e)(2)(C) may be made separately for each installment,
18 and clause (ii) of subsection (e)(2)(C) shall not apply.”.

19 (j) AMENDMENTS RELATED TO SECTION 13231.—

20 (1) Paragraph (1) of section 956A(b) is amend-
21 ed to read as follows:

22 “(1) the amount (not including a deficit) re-
23 ferred to in section 316(a)(1) to the extent such
24 amount was accumulated in prior taxable years be-
25 ginning after September 30, 1993, and”.

1 (2) Subsection (f) of section 956A is amended
2 by inserting before the period at the end thereof:
3 “and regulations coordinating the provisions of sub-
4 sections (c)(3)(A) and (d)”.

5 (3)(A) Subparagraph (A) of section 1297(d)(2)
6 is amended by striking “The adjusted basis of any
7 asset” and inserting “The amount taken into ac-
8 count under section 1296(a)(2) with respect to any
9 asset”.

10 (B) The paragraph heading of paragraph (2) of
11 section 1297(d) is amended to read as follows:

12 “(2) AMOUNT TAKEN INTO ACCOUNT.—”.

13 (4) Subsection (e) of section 1297 is amended
14 by inserting “For purposes of this part—” after the
15 subsection heading.

16 (k) AMENDMENT RELATED TO SECTION 13241.—
17 Subparagraph (B) of section 40(e)(1) is amended to read
18 as follows:

19 “(B) for any period before January 1,
20 2001, during which the rates of tax under sec-
21 tion 4081(a)(2)(A) are 4.3 cents per gallon.”

22 (l) AMENDMENT RELATED TO SECTION 13261.—
23 Clause (iii) of section 13261(g)(2)(A) of the Revenue Rec-
24 onciliation Act of 1993 is amended by striking “by the

1 taxpayer” and inserting “by the taxpayer or a related per-
2 son”.

3 (m) AMENDMENT RELATED TO SECTION 13301.—
4 Subparagraph (B) of section 1397B(d)(5) is amended by
5 striking “preceding”.

6 (n) CLERICAL AMENDMENTS.—

7 (1) Subsection (d) of section 39 is amended—

8 (A) by striking “45” in the heading of
9 paragraph (5) and inserting “45A”, and

10 (B) by striking “45” in the heading of
11 paragraph (6) and inserting “45B”.

12 (2) Subparagraph (A) of section 108(d)(9) is
13 amended by striking “paragraph (3)(B)” and insert-
14 ing “paragraph (3)(C)”.

15 (3) Subparagraph (C) of section 143(d)(2) is
16 amended by striking the period at the end thereof
17 and inserting a comma.

18 (4) Clause (ii) of section 163(j)(6)(E) is amend-
19 ed by striking “which is a” and inserting “which is”.

20 (5) Subparagraph (A) of section 1017(b)(4) is
21 amended by striking “subsection (b)(2)(D)” and in-
22 serting “subsection (b)(2)(E)”.

23 (6) So much of section 1245(a)(3) as precedes
24 subparagraph (A) thereof is amended to read as fol-
25 lows:

1 “(3) SECTION 1245 PROPERTY.—For purposes
2 of this section, the term ‘section 1245 property’
3 means any property which is or has been property
4 of a character subject to the allowance for deprecia-
5 tion provided in section 167 and is either—”.

6 (7) Paragraph (2) of section 1394(e) is amend-
7 ed—

8 (A) by striking “(i)” and inserting “(A)”,
9 and

10 (B) by striking “(ii)” and inserting “(B)”.

11 (8) Subsection (m) of section 6501 (as redesign-
12 nated by section 1001) is amended by striking “or
13 51(j)” and inserting “45B, or 51(j)”.

14 (9)(A) The section 6714 added by section
15 13242(b)(1) of the Revenue Reconciliation Act of
16 1993 is hereby redesignated as section 6715.

17 (B) The table of sections for part I of sub-
18 chapter B of chapter 68 is amended by striking
19 “6714” in the item added by such section
20 13242(b)(2) of such Act and inserting “6715”.

21 (10) Paragraph (2) of section 9502(b) is
22 amended by inserting “and before” after “1982,”.

23 (11) Subsections (a)(2) and (a)(3) of section
24 13206 of the Revenue Reconciliation Act of 1993

1 are each amended by striking “this section” and in-
2 serting “this subsection”.

3 (12) Paragraph (1) of section 13215(c) of the
4 Revenue Reconciliation Act of 1993 is amended by
5 striking “Public Law 92–21” and inserting “Public
6 Law 98–21”.

7 (13) Paragraph (2) of section 13311(e) of the
8 Revenue Reconciliation Act of 1993 is amended by
9 striking “section 1393(a)(3)” and inserting “section
10 1393(a)(2)”.

11 (14) Subparagraph (B) of section 117(d)(2) is
12 amended by striking “section 132(f)” and inserting
13 “section 132(h)”.

14 (o) EFFECTIVE DATE.—Any amendment made by
15 this section shall take effect as if included in the provision
16 of the Revenue Reconciliation Act of 1993 to which such
17 amendment relates.

18 **SEC. 1003. MISCELLANEOUS PROVISIONS.**

19 (a) APPLICATION OF AMENDMENTS MADE BY TITLE
20 XII OF OMNIBUS BUDGET RECONCILIATION ACT OF
21 1990.—Except as otherwise expressly provided, whenever
22 in title XII of the Omnibus Budget Reconciliation Act of
23 1990 an amendment or repeal is expressed in terms of
24 an amendment to, or repeal of, a section or other provi-
25 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 (b) TREATMENT OF CERTAIN AMOUNTS UNDER
4 HEDGE BOND RULES.—

5 (1) Clause (iii) of section 149(g)(3)(B) is
6 amended to read as follows:

7 “(iii) AMOUNTS HELD PENDING REIN-
8 VESTMENT OR REDEMPTION.—Amounts
9 held for not more than 30 days pending re-
10 investment or bond redemption shall be
11 treated as invested in bonds described in
12 clause (i).”

13 (2) The amendment made by paragraph (1)
14 shall take effect as if included in the amendments
15 made by section 7651 of the Omnibus Budget Rec-
16 onciliation Act of 1989.

17 (c) TREATMENT OF CERTAIN DISTRIBUTIONS
18 UNDER SECTION 1445.—

19 (1) IN GENERAL.—Paragraph (3) of section
20 1445(e) is amended by adding at the end thereof
21 the following new sentence: “Rules similar to the
22 rules of the preceding provisions of this paragraph
23 shall apply in the case of any distribution to which
24 section 301 applies and which is not made out of the

1 earnings and profits of such a domestic corpora-
2 tion.”

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall apply to distributions after
5 the date of the enactment of this Act.

6 (d) TREATMENT OF CERTAIN CREDITS UNDER SEC-
7 TION 469.—

8 (1) IN GENERAL.—Subparagraph (B) of section
9 469(c)(3) is amended by adding at the end thereof
10 the following new sentence: “If the preceding sen-
11 tence applies to the net income from any property
12 for any taxable year, any credits allowable under
13 subpart B (other than section 27(a)) or D of part
14 IV of subchapter A for such taxable year which are
15 attributable to such property shall be treated as
16 credits not from a passive activity to the extent the
17 amount of such credits does not exceed the regular
18 tax liability of the taxpayer for the taxable year
19 which is allocable to such net income.”

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall apply to taxable years begin-
22 ning after December 31, 1986.

23 (e) TREATMENT OF DISPOSITIONS UNDER PASSIVE
24 LOSS RULES.—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 469(g)(1) is amended to read as follows:

3 “(A) IN GENERAL.—If all gain or loss real-
4 ized on such disposition is recognized, the ex-
5 cess of—

6 “(i) any loss from such activity for
7 such taxable year (determined after the ap-
8 plication of subsection (b)), over

9 “(ii) any net income or gain for such
10 taxable year from all other passive activi-
11 ties (determined after the application of
12 subsection (b)),

13 shall be treated as a loss which is not from a
14 passive activity.”

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall apply to taxable years begin-
17 ning after December 31, 1986.

18 (f) MISCELLANEOUS AMENDMENTS TO FOREIGN
19 PROVISIONS.—

20 (1) COORDINATION OF UNIFIED ESTATE TAX
21 CREDIT WITH TREATIES.—Subparagraph (A) of sec-
22 tion 2102(c)(3) is amended by adding at the end
23 thereof the following new sentence: “For purposes
24 of the preceding sentence, property shall not be
25 treated as situated in the United States if such

1 property is exempt from the tax imposed by this
2 subchapter under any treaty obligation of the United
3 States.”

4 (2) TREATMENT OF CERTAIN INTEREST PAID
5 TO RELATED PERSON.—

6 (A) IN GENERAL.—Subparagraph (B) of
7 section 163(j)(1) is amended by inserting before
8 the period at the end thereof the following:
9 “(and clause (ii) of paragraph (2)(A) shall not
10 apply for purposes of applying this subsection
11 to the amount so treated)”.

12 (B) EFFECTIVE DATE.—The amendment
13 made by subparagraph (A) shall apply as if in-
14 cluded in the amendments made by section
15 7210(a) of the Revenue Reconciliation Act of
16 1989.

17 (3) TREATMENT OF INTEREST ALLOCABLE TO
18 EFFECTIVELY CONNECTED INCOME.—

19 (A) IN GENERAL.—

20 (i) Subparagraph (B) of section
21 884(f)(1) is amended by striking “to the
22 extent” and all that follows down through
23 “subparagraph (A)” and inserting “to the
24 extent that the allocable interest exceeds

1 the interest described in subparagraph
2 (A)”.

3 (ii) The second sentence of section
4 884(f)(1) is amended by striking “reason-
5 ably expected” and all that follows down
6 through the period at the end thereof and
7 inserting “reasonably expected to be alloca-
8 ble interest.”

9 (iii) Paragraph (2) of section 884(f) is
10 amended to read as follows:

11 “(2) ALLOCABLE INTEREST.—For purposes of
12 this subsection, the term ‘allocable interest’ means
13 any interest which is allocable to income which is ef-
14 fectively connected (or treated as effectively con-
15 nected) with the conduct of a trade or business in
16 the United States.”

17 (B) EFFECTIVE DATE.—The amendments
18 made by subparagraph (A) shall take effect as
19 if included in the amendments made by section
20 1241(a) of the Tax Reform Act of 1986.

21 (4) CLARIFICATION OF SOURCE RULE.—

22 (A) IN GENERAL.—Paragraph (2) of sec-
23 tion 865(b) is amended by striking “863(b)”
24 and inserting “863”.

1 (B) EFFECTIVE DATE.—The amendment
2 made by subparagraph (A) shall take effect as
3 if included in the amendments made by section
4 1211 of the Tax Reform Act of 1986.

5 (5) REPEAL OF OBSOLETE PROVISIONS.—

6 (A) Paragraph (1) of section 6038(a) is
7 amended by striking “, and” at the end of sub-
8 paragraph (E) and inserting a period, and by
9 striking subparagraph (F).

10 (B) Subsection (b) of section 6038A is
11 amended by adding “and” at the end of para-
12 graph (2), by striking “, and” at the end of
13 paragraph (3) and inserting a period, and by
14 striking paragraph (4).

15 (g) TREATMENT OF ASSIGNMENT OF INTEREST IN
16 CERTAIN BOND-FINANCED FACILITIES.—

17 (1) IN GENERAL.—Subparagraph (A) of section
18 1317(3) of the Tax Reform Act of 1986 is amended
19 by adding at the end thereof the following new sen-
20 tence: “A facility shall not fail to be treated as de-
21 scribed in this subparagraph by reason of an assign-
22 ment (or an agreement to an assignment) by the
23 governmental unit on whose behalf the bonds are is-
24 sued of any part of its interest in the property fi-

1 nanced by such bonds to another governmental
2 unit.”

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall take effect as if included in
5 such section 1317 on the date of the enactment of
6 the Tax Reform Act of 1986.

7 (h) CLARIFICATION OF TREATMENT OF MEDICARE
8 ENTITLEMENT UNDER COBRA PROVISIONS.—

9 (1) IN GENERAL.—

10 (A) Subclause (V) of section
11 4980B(f)(2)(B)(i) is amended to read as fol-
12 lows:

13 “(V) MEDICARE ENTITLEMENT
14 FOLLOWED BY QUALIFYING EVENT.—
15 In the case of a qualifying event de-
16 scribed in paragraph (3)(B) that oc-
17 curs less than 18 months after the
18 date the covered employee became en-
19 titled to benefits under title XVIII of
20 the Social Security Act, the period of
21 coverage for qualified beneficiaries
22 other than the covered employee shall
23 not terminate under this clause before
24 the close of the 36-month period be-

1 ginning on the date the covered em-
2 ployee became so entitled.”

3 (B) Clause (v) of section 602(2)(A) of the
4 Employee Retirement Income Security Act of
5 1974 is amended to read as follows:

6 “(v) MEDICARE ENTITLEMENT FOL-
7 LOWED BY QUALIFYING EVENT.—In the
8 case of a qualifying event described in sec-
9 tion 603(2) that occurs less than 18
10 months after the date the covered em-
11 ployee became entitled to benefits under
12 title XVIII of the Social Security Act, the
13 period of coverage for qualified bene-
14 ficiaries other than the covered employee
15 shall not terminate under this subpara-
16 graph before the close of the 36-month pe-
17 riod beginning on the date the covered em-
18 ployee became so entitled.”

19 (C) Clause (iv) of section 2202(2)(A) of
20 the Public Health Service Act is amended to
21 read as follows:

22 “(iv) MEDICARE ENTITLEMENT FOL-
23 LOWED BY QUALIFYING EVENT.—In the
24 case of a qualifying event described in sec-
25 tion 2203(2) that occurs less than 18

1 months after the date the covered em-
2 ployee became entitled to benefits under
3 title XVIII of the Social Security Act, the
4 period of coverage for qualified bene-
5 ficiaries other than the covered employee
6 shall not terminate under this subpara-
7 graph before the close of the 36-month pe-
8 riod beginning on the date the covered em-
9 ployee became so entitled.”

10 (2) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply to plan years begin-
12 ning after December 31, 1989.

13 (i) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

14 (1) IN GENERAL.—Subsection (a) of section
15 860E is amended by adding at the end thereof the
16 following new paragraph:

17 “(6) COORDINATION WITH MINIMUM TAX.—For
18 purposes of part VI of subchapter A of this chap-
19 ter—

20 “(A) the reference in section 55(b)(2) to
21 taxable income shall be treated as a reference
22 to taxable income determined without regard to
23 this subsection,

24 “(B) the alternative minimum taxable in-
25 come of any holder of a residual interest in a

1 REMIC for any taxable year shall in no event
2 be less than the excess inclusion for such tax-
3 able year, and

4 “(C) any excess inclusion shall be dis-
5 regarded for purposes of computing the alter-
6 native tax net operating loss deduction.

7 The preceding sentence shall not apply to any orga-
8 nization to which section 593 applies, except to the
9 extent provided in regulations prescribed by the Sec-
10 retary under paragraph (2).”

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall take effect as if included in
13 the amendments made by section 671 of the Tax Re-
14 form Act of 1986 unless the taxpayer elects to apply
15 such amendment only to taxable years beginning
16 after the date of the enactment of this Act.

17 (j) EXEMPTION FROM HARBOR MAINTENANCE TAX
18 FOR CERTAIN PASSENGERS.—

19 (1) IN GENERAL.—Subparagraph (D) of section
20 4462(b)(1) (relating to special rule for Alaska, Ha-
21 warii, and possessions) is amended by inserting be-
22 fore the period the following: “, or passengers trans-
23 ported on United States flag vessels operating solely
24 within the State waters of Alaska or Hawaii and ad-
25 jacent international waters”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall take effect as if included in
3 the amendments made by section 1402(a) of the
4 Harbor Maintenance Revenue Act of 1986.

5 (k) AMENDMENTS RELATED TO REVENUE PROVI-
6 SIONS OF ENERGY POLICY ACT OF 1992.—

7 (1) Effective with respect to taxable years be-
8 ginning after December 31, 1990, subclause (II) of
9 section 53(d)(1)(B)(iv) is amended to read as fol-
10 lows:

11 “(II) the adjusted net minimum
12 tax for any taxable year is the amount
13 of the net minimum tax for such year
14 increased in the manner provided in
15 clause (iii).”

16 (2) Subsection (g) of section 179A is redesign-
17 nated as subsection (f).

18 (l) MISCELLANEOUS CLERICAL AMENDMENTS.—

19 (1) Subclause (II) of section 56(g)(4)(C)(ii) is
20 amended by striking “of the subclause” and insert-
21 ing “of subclause”.

22 (2) Paragraph (2) of section 72(m) is amended
23 by inserting “and” at the end of subparagraph (A),
24 by striking subparagraph (B), and by redesignating
25 subparagraph (C) as subparagraph (B).

1 (3) Paragraph (2) of section 86(b) is amended
2 by striking “adusted” and inserting “adjusted”.

3 (4)(A) The heading for section 112 is amended
4 by striking “**COMBAT PAY**” and inserting “**COM-**
5 **BAT ZONE COMPENSATION**”.

6 (B) The item relating to section 112 in the
7 table of sections for part III of subchapter B of
8 chapter 1 is amended by striking “combat pay” and
9 inserting “combat zone compensation”.

10 (C) Paragraph (1) of section 3401(a) is amend-
11 ed by striking “combat pay” and inserting “combat
12 zone compensation”.

13 (5) Clause (i) of section 172(h)(3)(B) is amend-
14 ed by striking the comma at the end thereof and in-
15 serting a period.

16 (6) Clause (ii) of section 543(a)(2)(B) is
17 amended by striking “section 563(c)” and inserting
18 “section 563(d)”.

19 (7) Paragraph (1) of section 958(a) is amended
20 by striking “sections 955(b)(1)(A) and (B),
21 955(c)(2)(A)(ii), and 960(a)(1)” and inserting “sec-
22 tion 960(a)(1)”.

23 (8) Subparagraph (B) of section 4092(b)(1) is
24 amended by striking “or” at the end of clause (i).

1 (9) Subsection (g) of section 642 is amended by
2 striking “under 2621(a)(2)” and inserting “under
3 section 2621(a)(2)”.

4 (10) Section 1463 is amended by striking “this
5 subsection” and inserting “this section”.

6 (11) Subsection (k) of section 3306 is amended
7 by inserting a period at the end thereof.

8 (12) The item relating to section 4472 in the
9 table of sections for subchapter B of chapter 36 is
10 amended by striking “and special rules”.

11 (13) Paragraph (2) of section 4978(b) is
12 amended by striking the period at the end of sub-
13 paragraph (A) and inserting a comma, and by strik-
14 ing the period and quotation marks at the end of
15 subparagraph (B) and inserting a comma.

16 (14) Paragraph (3) of section 5134(c) is
17 amended by striking “section 6662(a)” and inserting
18 “section 6665(a)”.

19 (15) Paragraph (2) of section 5206(f) is
20 amended by striking “section 5(e)” and inserting
21 “section 105(e)”.

22 (16) Paragraph (1) of section 6050B(c) is
23 amended by striking “section 85(c)” and inserting
24 “section 85(b)”.

1 (17) Subsection (k) of section 6166 is amended
2 by striking paragraph (6).

3 (18) Subsection (e) of section 6214 is amended
4 to read as follows:

5 “(e) CROSS REFERENCE.—
6 **“For provision giving Tax Court jurisdiction to
7 order a refund of an overpayment and to award
8 sanctions, see section 6512(b)(2).”**

9 (19) The section heading for section 6043 is
10 amended by striking the semicolon and inserting a
11 comma.

12 (20) The item relating to section 6043 in the
13 table of sections for subpart B of part III of sub-
14 chapter A of chapter 61 is amended by striking the
15 semicolon and inserting a comma.

16 (21) The table of sections for part I of sub-
17 chapter A of chapter 68 is amended by striking the
18 item relating to section 6662.

19 (22)(A) Section 7232 is amended—

20 (i) by striking “**LUBRICATING OIL,**” in
21 the heading, and

22 (ii) by striking “lubricating oil,” in the
23 text.

24 (B) The table of sections for part II of sub-
25 chapter A of chapter 75 is amended by striking “lu-
26 bricating oil,” in the item relating to section 7232.

1 (23) Paragraph (1) of section 6701(a) of the
2 Omnibus Budget Reconciliation Act of 1989 is
3 amended by striking “subclause (IV)” and inserting
4 “subclause (V)”.

5 (24) Clause (ii) of section 7304(a)(2)(D) of
6 such Act is amended by striking “subsection (c)(2)”
7 and inserting “subsection (c)”.

8 (25) Paragraph (1) of section 7646(b) of such
9 Act is amended by striking “section 6050H(b)(1)”
10 and inserting “section 6050H(b)(2)”.

11 (26) Paragraph (10) of section 7721(c) of
12 such Act is amended by striking “section
13 6662(b)(2)(C)(ii)” and inserting “section
14 6661(b)(2)(C)(ii)”.

15 (27) Subparagraph (A) of section 7811(i)(3) of
16 such Act is amended by inserting “the first place it
17 appears” before “in clause (i)”.

18 (28) Paragraph (10) of section 7841(d) of
19 such Act is amended by striking “section 381(a)”
20 and inserting “section 381(c)”.

21 (29) Paragraph (2) of section 7861(c) of such
22 Act is amended by inserting “the second place it ap-
23 pears” before “and inserting”.

24 (30) Paragraph (1) of section 460(b) is amend-
25 ed by striking “the look-back method of paragraph

1 (3)” and inserting “the look-back method of para-
2 graph (2)”.

3 (31) Subparagraph (C) of section 50(a)(2) is
4 amended by striking “subsection (c)(4)” and insert-
5 ing “subsection (d)(5)”.

6 (32) Subparagraph (B) of section 172(h)(4) is
7 amended by striking the material following the head-
8 ing and preceding clause (i) and inserting “For pur-
9 poses of subsection (b)(2)—”.

10 (33) Subparagraph (A) of section 355(d)(7) is
11 amended by inserting “section” before “267(b)”.

12 (34) Subparagraph (C) of section 420(e)(1) is
13 amended by striking “mean” and inserting “means”.

14 (35) Paragraph (4) of section 537(b) is amend-
15 ed by striking “section 172(i)” and inserting “sec-
16 tion 172(f)”.

17 (36) Subparagraph (B) of section 613(e)(1) is
18 amended by striking the comma at the end thereof
19 and inserting a period.

20 (37) Paragraph (4) of section 856(a) is amend-
21 ed by striking “section 582(c)(5)” and inserting
22 “section 582(c)(2)”.

23 (38) Sections 904(f)(2)(B)(i) and
24 907(c)(4)(B)(iii) are each amended by inserting “(as
25 in effect on the day before the date of the enactment

1 of the Revenue Reconciliation Act of 1990)” after
2 “section 172(h)”.

3 (39) Subsection (b) of section 936 is amended
4 by striking “subparagraphs (D)(ii)(I)” and inserting
5 “subparagraphs (D)(ii)”.

6 (40) Subsection (c) of section 2104 is amended
7 by striking “subparagraph (A), (C), or (D) of sec-
8 tion 861(a)(1)” and inserting “section
9 861(a)(1)(A)”.

10 (41) Paragraph (1) of section 5002(b) is
11 amended by striking “section 5041(c)” and inserting
12 “section 5041(d)”.

13 (42) Section 6038 is amended by redesignating
14 the subsection relating to cross references as sub-
15 section (f).

16 (43) Clause (iv) of section 6103(e)(1)(A) is
17 amended by striking all that follows “provisions of”
18 and inserting “section 1(g) or 59(j);”.

19 (44) The subsection (f) of section 6109 of the
20 Internal Revenue Code of 1986 which was added by
21 section 2201(d) of Public Law 101-624 is redesi-
22 gnated as subsection (g).

23 (45) Subsection (b) of section 7454 is amended
24 by striking “section 4955(e)(2)” and inserting “sec-
25 tion 4955(f)(2)”.

1 (46) Subsection (d) of section 11231 of the
2 Revenue Reconciliation Act of 1990 shall be applied
3 as if “comma” appeared instead of “period” and as
4 if the paragraph (9) proposed to be added ended
5 with a comma.

6 (47) Paragraph (1) of section 11303(b) of the
7 Revenue Reconciliation Act of 1990 shall be applied
8 as if “paragraph” appeared instead of “subpara-
9 graph” in the material proposed to be stricken.

10 (48) Subsection (f) of section 11701 of the Rev-
11 enue Reconciliation Act of 1990 is amended by in-
12 sserting “(relating to definitions)” after “section
13 6038(e)”.

14 (49) Subsection (i) of section 11701 of the Rev-
15 enue Reconciliation Act of 1990 shall be applied as
16 if “subsection” appeared instead of “section” in the
17 material proposed to be stricken.

18 (50) Subparagraph (B) of section 11801(c)(2)
19 of the Revenue Reconciliation Act of 1990 shall be
20 applied as if “section 56(g)” appeared instead of
21 “section 59(g)”.

22 (51) Subparagraph (C) of section 11801(c)(8)
23 of the Revenue Reconciliation Act of 1990 shall be
24 applied as if “reorganizations” appeared instead of

1 “reorganization” in the material proposed to be
2 stricken.

3 (52) Subparagraph (H) of section 11801(c)(9)
4 of the Revenue Reconciliation Act of 1990 shall be
5 applied as if “section 1042(c)(1)(B)” appeared in-
6 stead of “section 1042(c)(2)(B)”.

7 (53) Subparagraph (F) of section 11801(c)(12)
8 of the Revenue Reconciliation Act of 1990 shall be
9 applied as if “and (3)” appeared instead of “and
10 (E)”.

11 (54) Subparagraph (A) of section 11801(c)(22)
12 of the Revenue Reconciliation Act of 1990 shall be
13 applied as if “chapters 21” appeared instead of
14 “chapter 21” in the material proposed to be strick-
15 en.

16 (55) Paragraph (3) of section 11812(b) of the
17 Revenue Reconciliation Act of 1990 shall be applied
18 by not executing the amendment therein to the
19 heading of section 42(d)(5)(B).

20 (56) Clause (i) of section 11813(b)(9)(A) of the
21 Revenue Reconciliation Act of 1990 shall be applied
22 as if a comma appeared after “(3)(A)(ix)” in the
23 material proposed to be stricken.

24 (57) Subparagraph (F) of section 11813(b)(13)
25 of the Revenue Reconciliation Act of 1990 shall be

1 applied as if “tax” appeared after “investment” in
2 the material proposed to be stricken.

3 (58) Paragraph (19) of section 11813(b) of the
4 Revenue Reconciliation Act of 1990 shall be applied
5 as if “Paragraph (20) of section 1016(a), as redesign-
6 gated by section 11801,” appeared instead of “Para-
7 graph (21) of section 1016(a)”.

8 (59) Paragraph (5) section 8002(a) of the Sur-
9 face Transportation Revenue Act of 1991 shall be
10 applied as if “4481(e)” appeared instead of
11 “4481(c)”.

12 (60) Section 7872 is amended—

13 (A) by striking “foregone” each place it
14 appears in subsections (a) and (e)(2) and in-
15 serting “forgone”, and

16 (B) by striking “FOREGONE” in the head-
17 ing for subsection (e) and the heading for para-
18 graph (2) of subsection (e) and inserting “FOR-
19 GONE”.

20 (61) Paragraph (7) of section 7611(h) is
21 amended by striking “appropriate” and inserting
22 “appropriate”.

23 (62) The heading of paragraph (3) of section
24 419A(c) is amended by striking “severance” and in-
25 serting “severance”.

1 (63) Clause (ii) of section 807(d)(3)(B) is
2 amended by striking “Commissioners’ ” and insert-
3 ing “Commissioners’ ”.

4 (64) Subparagraph (B) of section 1274A(c)(1)
5 is amended by striking “instrument” and inserting
6 “instrument”.

7 (65) Subparagraph (B) of section 724(d)(3) by
8 striking “Subparagraph” and inserting “Subpara-
9 graph”.

10 (66) The last sentence of paragraph (2) of sec-
11 tion 42(c) is amended by striking “of 1988”.

12 (67) Paragraph (1) of section 9707(d) is
13 amended by striking “diligence,” and inserting “dili-
14 gence”.

15 (68) Subsection (c) of section 4977 is amended
16 by striking “section 132(g)(2)” and inserting “sec-
17 tion 132(h)”.

18 (69) The last sentence of section 401(a)(20) is
19 amended by striking “section 211” and inserting
20 “section 521”.

21 (70) Subparagraph (A) of section 402(g)(3) is
22 amended by striking “subsection (a)(8)” and insert-
23 ing “subsection (e)(3)”.

1 (71) The last sentence of section 403(b)(10) is
2 amended by striking “an direct” and inserting “a di-
3 rect”.

4 (72) Subparagraph (A) of section 4973(b)(1) is
5 amended by striking “sections 402(c)” and inserting
6 “section 402(c)”.

7 (73) Paragraph (12) of section 3405(e) is
8 amended by striking “(b)(3)” and inserting
9 “(b)(2)”.

10 (74) Paragraph (41) of section 521(b) of the
11 Unemployment Compensation Amendments of 1992
12 shall be applied as if “section” appeared instead of
13 “sections” in the material proposed to be stricken.

14 (75) Paragraph (27) of section 521(b) of the
15 Unemployment Compensation Amendments of 1992
16 shall be applied as if “Section 691(c)(5)” appeared
17 instead of “Section 691(c)”.

18 (76) Paragraph (5) of section 860F(a)(5) is
19 amended by striking “paragraph (1)” and inserting
20 “paragraph (2)”.

1 **Subtitle B—Income Security and**
2 **Human Resource Amendments**

3 **PART I—AMENDMENTS RELATING TO OLD-AGE,**
4 **SURVIVORS, AND DISABILITY INSURANCE**
5 **PROGRAM**

6 **SEC. 1011. TECHNICAL CORRECTIONS RELATED TO OASDI**
7 **IN THE OMNIBUS BUDGET RECONCILIATION**
8 **ACT OF 1990.**

9 (a) AMENDMENTS RELATED TO PROVISIONS IN SEC-
10 TION 5103(b) RELATING TO DISABLED WIDOWS.—Sec-
11 tion 223(f)(2) of the Social Security Act (42 U.S.C.
12 423(f)(2)) is amended—

13 (1) in subparagraph (A), by striking “(in a case
14 to which clause (ii)(II) does not apply)”; and

15 (2) by striking subparagraph (B)(ii) and insert-
16 ing the following:

17 “(ii) the individual is now able to en-
18 gage in substantial gainful activity; or”.

19 (b) AMENDMENTS RELATED TO PROVISIONS IN SEC-
20 TION 5105(d) RELATING TO REPRESENTATIVE PAY-
21 EES.—Section 5105(d)(1)(A) of the Omnibus Budget
22 Reconciliation Act of 1990 (Public Law 101–508) is
23 amended—

24 (1) by striking “Section 205(j)(5)” and insert-
25 ing “Section 205(j)(6)”; and

1 (2) by redesignating the paragraph (5) as
2 amended thereby as paragraph (6).

3 (c) AMENDMENTS RELATED TO PROVISIONS IN SEC-
4 TION 5106 RELATING TO COORDINATION OF RULES
5 UNDER TITLES II AND XVI GOVERNING FEES FOR REP-
6 RESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS
7 UNDER BOTH TITLES.—

8 (1) CALCULATION OF FEE OF CLAIMANT’S REP-
9 RESENTATIVE BASED ON AMOUNT OF PAST-DUE
10 SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER
11 APPLICATION OF WINDFALL OFFSET PROVISION.—
12 Section 1631(d)(2)(A)(i) of the Social Security Act
13 (as amended by section 5106(a)(2) of the Omnibus
14 Budget Reconciliation Act of 1990) (42 U.S.C.
15 1383(d)(2)(A)(i)) is amended to read as follows:

16 “(i) by substituting, in subparagraphs (A)(ii)(I)
17 and (C)(i), the phrase ‘(as determined before any
18 applicable reduction under section 1631(g), and re-
19 duced by the amount of any reduction in benefits
20 under this title or title II made pursuant to section
21 1127(a))’ for the parenthetical phrase contained
22 therein; and”.

23 (2) CALCULATION OF PAST-DUE BENEFITS FOR
24 PURPOSES OF DETERMINING ATTORNEY FEES IN JU-
25 DICIAL PROCEEDINGS.—

1 (A) IN GENERAL.—Section 206(b)(1) of
2 such Act (42 U.S.C. 406(b)(1)) is amended—

3 (i) by inserting “(A)” after “(b)(1)”;

4 and

5 (ii) by adding at the end the following
6 new subparagraph:

7 “(B) For purposes of this paragraph—

8 “(i) the term ‘past-due benefits’ excludes any
9 benefits with respect to which payment has been
10 continued pursuant to subsection (g) or (h) of sec-
11 tion 223, and

12 “(ii) amounts of past-due benefits shall be
13 taken into account to the extent provided under the
14 rules applicable in cases before the Secretary.”.

15 (B) PROTECTION FROM OFFSETTING SSI
16 BENEFITS.—The last sentence of section
17 1127(a) of such Act (as added by section
18 5106(b) of the Omnibus Budget Reconciliation
19 Act of 1990) (42 U.S.C. 1320a-6(a)) is amend-
20 ed by striking “section 206(a)(4)” and inserting
21 “subsection (a)(4) or (b) of section 206”.

22 (3) APPLICATION OF SINGLE DOLLAR AMOUNT
23 CEILING TO CONCURRENT CLAIMS UNDER TITLES II
24 AND XVI.—

1 (A) IN GENERAL.—Section 206(a)(2) of
2 such Act (as amended by section 5106(a)(1) of
3 the Omnibus Budget Reconciliation Act of
4 1990) (42 U.S.C. 406(a)(2)) is amended—

5 (i) by redesignating subparagraph (C)
6 as subparagraph (D); and

7 (ii) by inserting after subparagraph
8 (B) the following new subparagraph:

9 “(C) In any case involving—

10 “(i) an agreement described in subparagraph
11 (A) with any person relating to both a claim of enti-
12 tlement to past-due benefits under this title and a
13 claim of entitlement to past-due benefits under title
14 XVI, and

15 “(ii) a favorable determination made by the
16 Secretary with respect to both such claims,
17 the Secretary may approve such agreement only if the
18 total fee or fees specified in such agreement does not ex-
19 ceed, in the aggregate, the dollar amount in effect under
20 subparagraph (A) (ii) (II).”.

21 (B) CONFORMING AMENDMENT.—Section
22 206(a)(3)(A) of such Act (as amended by sec-
23 tion 5106(a)(1) of the Omnibus Budget Rec-
24 onciliation Act of 1990) (42 U.S.C.
25 406(a)(3)(A)) is amended by striking “para-

1 graph (2)(C)” and inserting “paragraph
2 (2)(D)”.

3 (d) AMENDMENT RELATED TO PROVISIONS IN SEC-
4 TION 5115 RELATING TO ADVANCE TAX TRANSFERS.—
5 Section 201(a) of the Social Security Act (42 U.S.C.
6 401(a)) is amended in the last sentence by striking “and”
7 the second place it appears.

8 (e) EFFECTIVE DATE.—Each amendment made by
9 this section shall take effect as if included in the provisions
10 of the Omnibus Budget Reconciliation Act of 1990 to
11 which such amendment relates.

12 **SEC. 1012. ELIMINATION OF ROUNDING DISTORTION IN**
13 **THE CALCULATION OF THE OLD-AGE, SURVI-**
14 **VORS, AND DISABILITY INSURANCE CON-**
15 **TRIBUTION AND BENEFIT BASE AND THE**
16 **EARNINGS TEST EXEMPT AMOUNTS.**

17 (a) ADJUSTMENT OF OASDI CONTRIBUTION AND
18 BENEFIT BASE.—

19 (1) IN GENERAL.—Section 230(b) of the Social
20 Security Act (42 U.S.C. 430(b)) is amended by
21 striking paragraphs (1) and (2) and inserting the
22 following:

23 “(1) \$60,600, and

24 “(2) the ratio of (A) the deemed average total
25 wages (as defined in section 209(k)(1)) for the cal-

1 endar year before the calendar year in which the de-
2 termination under subsection (a) is made to (B) the
3 deemed average total wages (as so defined) for
4 1992.”.

5 (2) CONFORMING AMENDMENT RELATING TO
6 APPLICABLE PRIOR LAW.—Section 230(d) of such
7 Act (42 U.S.C. 430(d)) is amended by striking “(ex-
8 cept that” and all that follows through the end and
9 inserting “(except that, for purposes of subsection
10 (b) of such section 230 as so in effect, the reference
11 to the contribution and benefit base in paragraph
12 (1) of such subsection (b) shall be deemed a ref-
13 erence to an amount equal to \$45,000, each ref-
14 erence in paragraph (2) of such subsection (b) to the
15 average of the wages of all employees as reported to
16 the Secretary of the Treasury shall be deemed a ref-
17 erence to the deemed average total wages (as defined
18 in section 209(k)(1)), the reference to a preceding
19 calendar year in paragraph (2)(A) of such sub-
20 section (b) shall be deemed a reference to the cal-
21 endar year before the calendar year in which the de-
22 termination under subsection (a) of such section 230
23 is made, and the reference to a calendar year in
24 paragraph (2)(B) of such subsection (b) shall be
25 deemed a reference to 1992).”.

1 (3) ADJUSTMENT OF CONTRIBUTION AND BEN-
2 EFIT BASE APPLICABLE IN DETERMINING YEARS OF
3 COVERAGE FOR PURPOSES OF SPECIAL MINIMUM
4 PRIMARY INSURANCE AMOUNT.—Section
5 215(a)(1)(C)(ii) of such Act is amended by striking
6 “(except that” and all that follows through the end
7 and inserting “(except that, for purposes of sub-
8 section (b) of such section 230 as so in effect, the
9 reference to the contribution and benefit base in
10 paragraph (1) of such subsection (b) shall be
11 deemed a reference to an amount equal to \$45,000,
12 each reference in paragraph (2) of such subsection
13 (b) to the average of the wages of all employees as
14 reported to the Secretary of the Treasury shall be
15 deemed a reference to the deemed average total
16 wages (as defined in section 209(k)(1)), the ref-
17 erence to a preceding calendar year in paragraph
18 (2)(A) of such subsection (b) shall be deemed a ref-
19 erence to the calendar year before the calendar year
20 in which the determination under subsection (a) of
21 such section 230 is made, and the reference to a cal-
22 endar year in paragraph (2)(B) of such subsection
23 (b) shall be deemed a reference to 1992).”.

24 (b) ADJUSTMENT OF EARNINGS TEST EXEMPT
25 AMOUNT.—Section 203(f)(8)(B)(ii) of the Social Security

1 Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended to read as
2 follows:

3 “(ii) the product of the corresponding ex-
4 empt amount which is in effect with respect to
5 months in the taxable year ending after 1993
6 and before 1995, and the ratio of—

7 “(I) the deemed average total wages
8 (as defined in section 209(k)(1)) for the
9 calendar year before the calendar year in
10 which the determination under subpara-
11 graph (A) is made, to

12 “(II) the deemed average total wages
13 (as so defined) for 1992,

14 with such product, if not a multiple of \$10,
15 being rounded to the next higher multiple of
16 \$10 where such product is a multiple of \$5 but
17 not of \$10 and to the nearest multiple of \$10
18 in any other case.”.

19 (c) EFFECTIVE DATES.—

20 (1) The amendments made by subsection (a)
21 shall be effective with respect to the determination
22 of the contribution and benefit base for years after
23 1994.

24 (2) The amendment made by subsection (b)
25 shall be effective with respect to the determination

1 of the exempt amounts applicable to any taxable
2 year ending after 1994.

3 **PART II—HUMAN RESOURCES PROVISIONS**

4 **SEC. 1016. CORRECTIONS RELATED TO THE INCOME SECUR-**
5 **ITY AND HUMAN RESOURCES PROVISIONS**
6 **OF THE OMNIBUS BUDGET RECONCILIATION**
7 **ACT OF 1990.**

8 (a) AMENDMENT RELATED TO SECTION
9 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget
10 Reconciliation Act of 1990 (Public Law 101–508) is
11 amended by striking “a semicolon” and inserting
12 “ ‘; and’ ”.

13 (b) REPEAL OF PROVISION INADVERTENTLY IN-
14 CLUDED.—Section 5057 of the Omnibus Budget Rec-
15 onciliation Act of 1990 (Public Law 101–508), and the
16 amendment made by such section, are hereby repealed,
17 and section 1139(d) of the Social Security Act shall be
18 applied and administered as if such section 5057 had
19 never been enacted.

20 (c) AMENDMENT RELATED TO SECTION
21 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus
22 Budget Reconciliation Act of 1990 (Public Law 101–508;
23 104 Stat. 1388–266) is amended to read as follows:

24 “(B) TITLE XVI.—Section 1631(a)(2)(F)
25 (42 U.S.C. 1383(a)(2)(F)), as so redesignated

1 by subsection (c)(2) of this section, is amended
2 to read as follows:

3 ““(F) The Secretary shall include as a part of the
4 annual report required under section 704 information with
5 respect to the implementation of the preceding provisions
6 of this paragraph, including—

7 ““(i) the number of cases in which the rep-
8 resentative payee was changed;

9 ““(ii) the number of cases discovered where
10 there has been a misuse of funds;

11 ““(iii) how any such cases were dealt with by
12 the Secretary;

13 ““(iv) the final disposition of such cases (in-
14 cluding any criminal penalties imposed); and

15 ““(v) such other information as the Secretary
16 determines to be appropriate.’.”

17 (d) AMENDMENT RELATED TO SECTION
18 5105(a)(1)(B).—The second paragraph of section 1631(a)
19 of the Social Security Act (42 U.S.C. 1383(a)) is amended
20 by striking “(A)(i) Payments” and inserting “(2)(A)(i)
21 Payments”.

22 (e) AMENDMENTS RELATED TO SECTION 5105(b).—
23 Section 1631(a)(2)(C) of the Social Security Act (42
24 U.S.C. 1383(a)(2)(C)) is amended—

25 (1) by striking clause (ii);

1 (2) by redesignating clauses (iii), (iv), and (v)
2 as clauses (ii), (iii), and (iv), respectively; and

3 (3) in clause (iv) (as so redesignated), by strik-
4 ing “(iii), and (iv)” and inserting “and (iii)”.

5 (f) AMENDMENTS RELATED TO SECTION
6 5107(a)(2)(B).—Section 1631(c)(1)(B) of the Social Se-
7 curity Act (42 U.S.C. 1383(c)(1)(B)) is amended by strik-
8 ing “paragraph (1)” each place such term appears and
9 inserting “subparagraph (A)”.

10 (g) AMENDMENT RELATED TO SECTION
11 5109(a)(2).—Section 1631 of the Social Security Act (42
12 U.S.C. 1383) is amended by redesignating the subsection
13 (n) added by section 5109(a)(2) of the Omnibus Budget
14 Reconciliation Act of 1990, as subsection (o).

15 (h) AMENDMENTS RELATED TO SECTION
16 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budg-
17 et Reconciliation Act of 1990 (Public Law 101–508) is
18 amended—

19 (1) in subparagraph (A), by striking “para-
20 graph (8)” and inserting “paragraph (9)”;

21 (2) in subparagraph (B), by striking “para-
22 graph (9)” and inserting “paragraph (10)”;

23 (3) in subparagraph (C), by redesignating the
24 new paragraph added thereby as paragraph (11).

1 (i) AMENDMENT RELATED TO SECTION
2 13101(d)(2).—Section 256(k)(2)(A) of the Balanced
3 Budget and Emergency Deficit Control Act of 1985 is
4 amended—

5 (1) by striking “—” the second place it appears
6 and all that follows through “(I)”; and

7 (2) by striking “; or” and all that follows
8 through “(II)” and inserting “, except that a State
9 may not be allotted an amount under this subpara-
10 graph that exceeds”.

11 (j) EFFECTIVE DATE.—Each amendment made by
12 this section shall take effect as if included in the provision
13 of the Omnibus Budget Reconciliation Act of 1990 to
14 which the amendment relates at the time such provision
15 became law.

16 **SEC. 1017. TECHNICAL CORRECTIONS RELATED TO THE**
17 **HUMAN RESOURCE AND INCOME SECURITY**
18 **PROVISIONS OF OMNIBUS BUDGET REC-**
19 **ONCILIATION ACT OF 1989.**

20 (a) AMENDMENT RELATING TO SECTION 8004(a).—
21 Section 408(m)(2)(A) of the Social Security Act (42
22 U.S.C. 608(m)(2)(A)) is amended by striking “a fiscal”
23 and inserting “the fiscal”.

24 (b) AMENDMENT RELATING TO SECTION 8006(a).—
25 Section 473(a)(6)(B) of such Act (42 U.S.C.

1 673(a)(6)(B)) is amended by striking “474(a)(3)(B)” and
2 inserting “474(a)(3)(C)”.

3 (c) AMENDMENT RELATING TO SECTION
4 8007(b)(3).—Subparagraph (D) of section 475(5) of such
5 Act (42 U.S.C. 675(5)(D)) is amended by moving such
6 subparagraph 2 ems to the right so that the left margin
7 of such subparagraph is aligned with the left margin of
8 subparagraph (C) of such section.

9 (d) EFFECTIVE DATE.—Each amendment made by
10 this section shall take effect as if the amendment had been
11 included in the provision of the Omnibus Budget Rec-
12 onciliation Act of 1989 to which the amendment relates,
13 at the time the provision became law.

14 **SEC. 1018. ELIMINATION OF OBSOLETE PROVISIONS RE-**
15 **LATING TO TREATMENT OF THE EARNED IN-**
16 **COME TAX CREDIT.**

17 (a) TREATMENT OF EITC AS EARNED INCOME.—
18 Section 1612(a)(1) of the Social Security Act (42 U.S.C.
19 1382a(a)(1)) is amended by striking subparagraph (C)
20 and by redesignating subparagraphs (D) and (E) as sub-
21 paragraphs (C) and (D), respectively.

22 (b) ADJUSTMENT OF BENEFITS DUE TO TREAT-
23 MENT OF EITC AS EARNED INCOME.—Section 1631(b)
24 of such Act (42 U.S.C. 1383(b)) is amended by striking

1 paragraph (3) and by redesignating paragraphs (4) and
2 (5) as paragraphs (3) and (4), respectively.

3 **SEC. 1019. REDESIGNATION OF CERTAIN PROVISIONS.**

4 Section 1631(e)(6) of the Social Security Act (42
5 U.S.C. 1383(e)(6)) is amended by redesignating subpara-
6 graphs (1) and (2) as subparagraphs (A) and (B), respec-
7 tively.

8 **Subtitle C—Tariff and Customs**

9 **SEC. 1021. TECHNICAL AMENDMENTS TO THE HAR-**
10 **MONIZED TARIFF SCHEDULE OF THE UNITED**
11 **STATES.**

12 (a) IN GENERAL.—The Harmonized Tariff Schedule
13 of the United States is amended as follows:

14 (1) TAPESTRY AND UPHOLSTERY FABRICS.—
15 The article description for subheading 5112.19.20 is
16 amended by striking “of a weight exceeding 300 g/
17 m²”.

18 (2) GLOVES.—

19 (A) Chapter 61 is amended by redesignat-
20 ing subheading 6116.10.45 as subheading
21 6116.10.48.

22 (B) Chapter 62 is amended by striking the
23 superior text “Other:” that appears between
24 subheadings 6216.00.46 and 6216.00.52.

1 (3) AGGLOMERATE STONE FLOOR AND WALL
2 TILES.—The article description for subheading
3 6810.19.12 is amended to read as follows: “Of stone
4 agglomerated with binders other than cement”.

5 (4) 2,4-DIAMINOBENZENESULFONIC ACID.—
6 The article description for heading 9902.30.43 is
7 amended by striking “2921.51.50” and inserting
8 “2921.59.50”.

9 (5) MACHINES USED IN THE MANUFACTURE OF
10 BICYCLE PARTS.—The article description for heading
11 9902.84.79 is amended by striking “8479.89.90”
12 and inserting “8462.49.00, 8479.89.90 or
13 9031.80.00”.

14 (6) COPYING MACHINES AND PARTS.—The arti-
15 cle description for heading 9902.90.90 is amended
16 by inserting “or 8473.40.40” after “8472.90.80”.

17 (b) STAGED RATE REDUCTIONS FOR GLOVES.—Any
18 staged reduction of a special rate of duty set forth in sub-
19 heading 6116.10.45 of such Schedule that takes effect on
20 or after October 1, 1990, by reason of section 10011(a)(2)
21 of the Omnibus Budget Reconciliation Act of 1990 shall
22 apply to the corresponding rate of duty in subheading
23 6116.10.48 (as redesignated by subsection (a)(2)(A)).

24 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by subsection (a)
3 shall apply with respect to goods entered, or with-
4 drawn from warehouse for consumption, on or after
5 the 15th day after the date of the enactment of this
6 Act.

7 (2) RETROACTIVE APPLICATION FOR CERTAIN
8 LIQUIDATIONS AND RELIQUIDATIONS.—

9 (A) Notwithstanding section 514 of the
10 Tariff Act of 1930 or any other provision of
11 law, upon proper request filed with the appro-
12 priate customs officer on or before the 90th day
13 after the date of the enactment of this Act, any
14 entry—

15 (i) that was made after the applicable
16 date and before the 15th day after such
17 date of enactment; and

18 (ii) with respect to which there would
19 have been a lesser or no duty if any
20 amendment made by subsection (a) applied
21 to such entry;

22 shall be liquidated or reliquidated as though
23 such amendment applied to such entry.

24 (B) For purposes of this subsection, the
25 term “applicable date” means—

1 (i) if such amendment is made by sub-
2 section (a)(3) or (a)(6), December 31,
3 1988; and

4 (ii) if such amendment is made by
5 subsection (a)(1), (a)(2), (a)(4), (a)(5),
6 September 30, 1990.

7 **SEC. 1022. CLARIFICATION REGARDING THE APPLICATION**
8 **OF CUSTOMS USER FEES.**

9 (a) IN GENERAL.—Subparagraph (D) of section
10 13031(b)(8) of the Consolidated Omnibus Budget Rec-
11 onciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is
12 amended—

13 (1) by striking “and” at the end of clause (iv);

14 (2) by striking the period at the end of clause
15 (v) and inserting “; and”; and

16 (3) by inserting after clause (v) the following
17 new clause:

18 “(vi) in the case of merchandise entered from
19 a foreign trade zone (other than merchandise to
20 which clause (v) applies), be applied only to the
21 value of the privileged or nonprivileged foreign sta-
22 tus merchandise under section 3 of the Act of June
23 18, 1934 (commonly known as the Foreign Trade
24 Zones Act, 19 U.S.C. 81c).”

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) apply to—

3 (1) any entry made from a foreign trade zone
4 on or after the 15th day after the date of the enact-
5 ment of this Act; and

6 (2) any entry made from a foreign trade zone
7 after November 30, 1986, and before such 15th day
8 if the entry was not liquidated before such 15th day.

9 (c) APPLICATION OF FEES TO CERTAIN AGRICUL-
10 TURAL PRODUCTS.—The amendment made by section
11 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990
12 shall apply to—

13 (1) any entry made from a foreign trade zone
14 on or after the 15th day after the date of the enact-
15 ment of this Act; and

16 (2) any entry made from a foreign trade zone
17 after November 30, 1986, and before such 15th day
18 if the entry was not liquidated before such 15th day.

19 **SEC. 1023. TECHNICAL AMENDMENTS TO THE OMNIBUS**
20 **TRADE AND COMPETITIVENESS ACT OF 1988.**

21 (a) IN GENERAL.—Paragraph (2) of section 1102(a)
22 of the Omnibus Trade and Competitiveness Act of 1988
23 (19 U.S.C. 2902(a)(2)) is amended—

24 (1) in subparagraph (A)—

1 (A) by striking “the date of enactment of
2 this Act” and inserting “January 1, 1989”; and

3 (B) by striking “such date of enactment”
4 and inserting “January 1, 1989”; and

5 (2) in subparagraph (B), by striking “such date
6 of enactment” and inserting “January 1, 1989”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall take effect January 1, 1989.

9 (c) CONSTRUCTION.—For purposes of applying the
10 amendments made by subsection (a), the column 1-general
11 rate of duty established by any amendment to the Har-
12 monized Tariff Schedule of the United States that was
13 enacted after January 1, 1989, shall, if—

14 (1) such amendment has, or is statutorily treat-
15 ed as having, an effective date of January 1, 1989;
16 or

17 (2) application for liquidation or reliquidation
18 at such rate with respect to entries made after De-
19 cember 31, 1988, and before the effective date of the
20 amendment, is provided for;

21 be treated as the rate in effect on January 1, 1989.

22 **SEC. 1024. TECHNICAL AMENDMENT TO THE CUSTOMS**
23 **AND TRADE ACT OF 1990.**

24 Subsection (b) of section 484H of the Customs and
25 Trade Act of 1990 (19 U.S.C. 1553 note) is amended by

1 striking “, or withdrawn from warehouse for consump-
2 tion,” and inserting “for transportation in bond”.

3 **SEC. 1025. TECHNICAL AMENDMENTS REGARDING CER-**
4 **TAIN BENEFICIARY COUNTRIES.**

5 (a) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—
6 Section 213(h)(1) of the Caribbean Basin Economic Re-
7 covery Act (19 U.S.C. 2703(h)(1)) is amended by adding
8 at the end thereof the following flush sentence:

9 “The duty reductions provided for under this para-
10 graph shall not apply to textile and apparel articles
11 which are subject to textile agreements.”

12 (b) ANDEAN TRADE PREFERENCE ACT.—Section
13 204(c)(1) of the Andean Trade Preference Act (19 U.S.C.
14 3203(c)(1)) is amended by adding at the end thereof the
15 following flush sentence:

16 “The duty reductions provided for under this para-
17 graph shall not apply to textile and apparel articles
18 which are subject to textile agreements.”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section apply with respect to—

21 (1) articles entered, or withdrawn from ware-
22 house for consumption, on or after the 15th day
23 after the date of the enactment of this Act, and

1 (2) articles entered after December 31, 1991,
2 and before such 15th day, which are not liquidated
3 before such 15th day.

4 **SEC. 1026. CLARIFICATION OF FEES FOR CERTAIN CUS-**
5 **TOMS SERVICES.**

6 (a) IN GENERAL.—Section 13031(b)(9)(A) of the
7 Consolidated Omnibus Budget Reconciliation Act of 1985
8 (19 U.S.C. 58c(b)(9)(A)) is amended—

9 (1) by striking “centralized hub facility or” in
10 clause (i); and

11 (2) in clause (ii)—

12 (A) by striking “facility—” and inserting
13 “facility or centralized hub facility—”,

14 (B) by striking “customs inspectional” in
15 subclause (I), and

16 (C) by striking “at the facility” in
17 subclause (I) and inserting “for the facility”.

18 (b) DEFINITIONS.—Section 13031(b)(9)(B)(i) of the
19 Consolidated Omnibus Budget Reconciliation Act of 1985
20 (19 U.S.C. 58c(b)(9)(B)(i)) is amended—

21 (1) by striking “, as in effect on July 30,
22 1990”, and

23 (2) by adding at the end thereof the following
24 new sentence: “Nothing in this paragraph shall be
25 construed as prohibiting the Secretary of the Treas-

1 ury from processing merchandise that is informally
 2 entered or released at any centralized hub facility or
 3 express consignment carrier facility during the nor-
 4 mal operating hours of the Customs Service, subject
 5 to reimbursement and payment under subparagraph
 6 (A).”.

7 (c) CITATION.—Section 13031(b)(9)(B)(ii) of the
 8 Consolidated Omnibus Budget Reconciliation Act of 1985
 9 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking “sec-
 10 tion 236 of the Tariff and Trade Act of 1984” and insert-
 11 ing “section 236 of the Trade and Tariff Act of 1984”.

12 **SEC. 1027. CONFORMING AMENDMENT TO SECTION 337 OF**
 13 **THE TARIFF ACT OF 1930.**

14 (a) IN GENERAL.—The second sentence of section
 15 337(b)(3) of the Tariff Act of 1930 is amended by striking
 16 “section 303, 671, or 673” and inserting “section 303,
 17 701, or 731”.

18 (b) EFFECTIVE DATE.—The amendment made by
 19 subsection (a) shall take effect October 28, 1992.

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