

In the Senate of the United States,

July 9, 1996.

Resolved, That the bill from the House of Representatives (H.R. 3448) entitled “An Act to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act.”, do pass with the following

AMENDMENTS:

- 1 **(1)**Page 2, strike out all after line 5, over to and includ-
- 2 ing line 9 on page 236 and insert:
- 3 *(b) TABLE OF CONTENTS.—*



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1 **TITLE I—SMALL BUSINESS AND**
2 **OTHER TAX PROVISIONS**

3 **SEC. 1101. AMENDMENT OF 1986 CODE.**

4 *Except as otherwise expressly provided, whenever in*
5 *this title an amendment or repeal is expressed in terms of*
6 *an amendment to, or repeal of, a section or other provision,*
7 *the reference shall be considered to be made to a section or*
8 *other provision of the Internal Revenue Code of 1986.*

9 **SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.**

10 *No addition to the tax shall be made under section*
11 *6654 or 6655 of the Internal Revenue Code of 1986 (relating*
12 *to failure to pay estimated tax) with respect to any under-*
13 *payment of an installment required to be paid before the*

1 *date of the enactment of this Act to the extent such under-*
 2 *payment was created or increased by any provision of this*
 3 *title.*

4 ***Subtitle A—Expensing; Etc.***

5 **SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL** 6 **BUSINESSES.**

7 (a) *GENERAL RULE.—Paragraph (1) of section 179(b)*
 8 *(relating to dollar limitation) is amended to read as follows:*

9 “(1) *DOLLAR LIMITATION.—The aggregate cost*
 10 *which may be taken into account under subsection (a)*
 11 *for any taxable year shall not exceed the following ap-*
 12 *plicable amount:*

<i>“If the taxable year begins in:</i>	<i>The applicable amount is:</i>
1997	18,000
1998	18,500
1999	19,000
2000	20,000
2001	24,000
2002	24,000
2003 or thereafter	25,000.”.

13 (b) *EFFECTIVE DATE.—The amendment made by sub-*
 14 *section (a) shall apply to taxable years beginning after De-*
 15 *cember 31, 1996.*

16 **SEC. 1112. TREATMENT OF EMPLOYEE TIPS.**

17 (a) *EMPLOYEE CASH TIPS.—*

18 (1) *REPORTING REQUIREMENT NOT CONSID-*
 19 *ERED.—Subparagraph (A) of section 45B(b)(1) (re-*
 20 *lating to excess employer social security tax) is*
 21 *amended by inserting “(without regard to whether*

1 *such tips are reported under section 6053)” after “sec-*
2 *tion 3121(q)”.*

3 (2) *TAXES PAID.—Subsection (d) of section*
4 *13443 of the Revenue Reconciliation Act of 1993 is*
5 *amended by inserting “, with respect to services per-*
6 *formed before, on, or after such date” after “1993”.*

7 (3) *EFFECTIVE DATE.—The amendments made*
8 *by this subsection shall take effect as if included in*
9 *the amendments made by, and the provisions of, sec-*
10 *tion 13443 of the Revenue Reconciliation Act of 1993.*

11 (b) *TIPS FOR EMPLOYEES DELIVERING FOOD OR BEV-*
12 *ERAGES.—*

13 (1) *IN GENERAL.—Paragraph (2) of section*
14 *45B(b) is amended to read as follows:*

15 “(2) *ONLY TIPS RECEIVED FOR FOOD OR BEV-*
16 *ERAGES TAKEN INTO ACCOUNT.—In applying para-*
17 *graph (1), there shall be taken into account only tips*
18 *received from customers in connection with the deliv-*
19 *ering or serving of food or beverages for consumption*
20 *if the tipping of employees delivering or serving food*
21 *or beverages by customers is customary.”.*

22 (2) *EFFECTIVE DATE.—The amendment made by*
23 *paragraph (1) shall apply to tips received for services*
24 *performed after December 31, 1996.*

1 **SEC. 1113. TREATMENT OF DUES PAID TO AGRICULTURAL**
2 **OR HORTICULTURAL ORGANIZATIONS.**

3 (a) *GENERAL RULE.*—Section 512 (defining unrelated
4 business taxable income) is amended by adding at the end
5 the following new subsection:

6 “(d) *TREATMENT OF DUES OF AGRICULTURAL OR*
7 *HORTICULTURAL ORGANIZATIONS.*—

8 “(1) *IN GENERAL.*—If—

9 “(A) *an agricultural or horticultural orga-*
10 *nization described in section 501(c)(5) requires*
11 *annual dues to be paid in order to be a member*
12 *of such organization, and*

13 “(B) *the amount of such required annual*
14 *dues does not exceed \$100,*
15 *in no event shall any portion of such dues be treated*
16 *as derived by such organization from an unrelated*
17 *trade or business by reason of any benefits or privi-*
18 *leges to which members of such organization are enti-*
19 *tled.*

20 “(2) *INDEXATION OF \$100 AMOUNT.*—*In the case*
21 *of any taxable year beginning in a calendar year*
22 *after 1995, the \$100 amount in paragraph (1) shall*
23 *be increased by an amount equal to—*

24 “(A) *\$100, multiplied by*

25 “(B) *the cost-of-living adjustment deter-*
26 *mined under section 1(f)(3) for the calendar year*

1 *in which the taxable year begins, by substituting*
2 *‘calendar year 1994’ for ‘calendar year 1992’ in*
3 *subparagraph (B) thereof.*

4 “(3) *DUES.*—*For purposes of this subsection, the*
5 *term ‘dues’ means any payment (whether or not des-*
6 *ignated as dues) which is required to be made in*
7 *order to be recognized by the organization as a mem-*
8 *ber of the organization.”.*

9 **(b) EFFECTIVE DATES.**—

10 (1) *IN GENERAL.*—*The amendment made by this*
11 *section shall apply to taxable years beginning after*
12 *December 31, 1986.*

13 (2) *TRANSITIONAL RULE.*—*If—*

14 (A) *for purposes of applying part III of*
15 *subchapter F of chapter 1 of the Internal Reve-*
16 *nue Code of 1986 to any taxable year beginning*
17 *before January 1, 1987, an agricultural or horti-*
18 *cultural organization did not treat any portion*
19 *of membership dues received by it as income de-*
20 *rived in an unrelated trade or business, and*

21 (B) *such organization had a reasonable*
22 *basis for not treating such dues as income de-*
23 *rived in an unrelated trade or business,*

24 *then, for purposes of applying such part III to any*
25 *such taxable year, in no event shall any portion of*

1 *such dues be treated as derived in an unrelated trade*
2 *or business.*

3 (3) *REASONABLE BASIS.*—*For purposes of para-*
4 *graph (2), an organization shall be treated as having*
5 *a reasonable basis for not treating membership dues*
6 *as income derived in an unrelated trade or business*
7 *if the taxpayer’s treatment of such dues was in rea-*
8 *sonable reliance on any of the following:*

9 (A) *Judicial precedent, published rulings,*
10 *technical advice with respect to the organization,*
11 *or a letter ruling to the organization.*

12 (B) *A past Internal Revenue Service audit*
13 *of the organization in which there was no assess-*
14 *ment attributable to the reclassification of mem-*
15 *bership dues for purposes of the tax on unrelated*
16 *business income.*

17 (C) *Long-standing recognized practice of*
18 *agricultural or horticultural organizations.*

19 **SEC. 1114. CLARIFICATION OF EMPLOYMENT TAX STATUS**
20 **OF CERTAIN FISHERMEN.**

21 (a) *CLARIFICATION OF EMPLOYMENT TAX STATUS.*—

22 (1) *AMENDMENTS OF INTERNAL REVENUE CODE*
23 *OF 1986.*—

24 (A) *DETERMINATION OF SIZE OF CREW.*—

25 *Subsection (b) of section 3121 (defining employ-*

1 ment) is amended by adding at the end the fol-
2 lowing new sentence:

3 *“For purposes of paragraph (20), the operating crew of a*
4 *boat shall be treated as normally made up of fewer than*
5 *10 individuals if the average size of the operating crew on*
6 *trips made during the preceding 4 calendar quarters con-*
7 *sisted of fewer than 10 individuals.”.*

8 (B) CERTAIN CASH REMUNERATION PER-
9 MITTED.—Subparagraph (A) of section
10 3121(b)(20) is amended to read as follows:

11 “(A) such individual does not receive any
12 cash remuneration other than as provided in
13 subparagraph (B) and other than cash remun-
14 eration—

15 “(i) which does not exceed \$100 per
16 trip;

17 “(ii) which is contingent on a mini-
18 mum catch; and

19 “(iii) which is paid solely for addi-
20 tional duties (such as mate, engineer, or
21 cook) for which additional cash remunera-
22 tion is traditional in the industry.”.

23 (C) CONFORMING AMENDMENT.—Section
24 6050A(a) is amended by striking “and” at the
25 end of paragraph (3), by striking the period at

1 *the end of paragraph (4) and inserting “; and”,*
2 *and by adding at the end the following new*
3 *paragraph:*

4 *“(5) any cash remuneration described in section*
5 *3121(b)(20)(A).”.*

6 (2) *AMENDMENT OF SOCIAL SECURITY ACT.—*

7 (A) *DETERMINATION OF SIZE OF CREW.—*

8 *Subsection (a) of section 210 of the Social Secu-*
9 *rity Act is amended by adding at the end the fol-*
10 *lowing new sentence:*

11 *“For purposes of paragraph (20), the operating crew of a*
12 *boat shall be treated as normally made up of fewer than*
13 *10 individuals if the average size of the operating crew on*
14 *trips made during the preceding 4 calendar quarters con-*
15 *sisted of fewer than 10 individuals.”.*

16 (B) *CERTAIN CASH REMUNERATION PER-*

17 *MITTED.—Subparagraph (A) of section*
18 *210(a)(20) of such Act is amended to read as fol-*
19 *lows:*

20 *“(A) such individual does not receive any*
21 *additional compensation other than as provided*
22 *in subparagraph (B) and other than cash remu-*
23 *neration—*

24 *“(i) which does not exceed \$100 per*
25 *trip;*

1 “(ii) which is contingent on a mini-
2 mum catch; and

3 “(iii) which is paid solely for addi-
4 tional duties (such as mate, engineer, or
5 cook) for which additional cash remunera-
6 tion is traditional in the industry.”.

7 (b) *EFFECTIVE DATES.*—

8 (1) *IN GENERAL.*—The amendments made by
9 this section shall apply to remuneration paid—

10 (A) after December 31, 1994, and

11 (B) after December 31, 1984, and before
12 January 1, 1995, unless the payor treated such
13 remuneration (when paid) as being subject to tax
14 under chapter 21 of the Internal Revenue Code
15 of 1986.

16 (2) *REPORTING REQUIREMENT.*—The amend-
17 ment made by subsection (a)(1)(C) shall apply to re-
18 muneration paid after December 31, 1996.

19 **SEC. 1115. MODIFICATIONS OF TAX-EXEMPT BOND RULES**
20 **FOR FIRST-TIME FARMERS.**

21 (a) *ACQUISITION FROM RELATED PERSON AL-*
22 *LOWED.*—Section 147(c)(2) (relating to exception for first-
23 time farmers) is amended by adding at the end the follow-
24 ing new subparagraph:

1 “(G) *ACQUISITION FROM RELATED PER-*
2 *SON.—For purposes of this paragraph and sec-*
3 *tion 144(a), the acquisition by a first-time farm-*
4 *er of land or personal property from a related*
5 *person (within the meaning of section 144(a)(3))*
6 *shall not be treated as an acquisition from a re-*
7 *lated person, if—*

8 “(i) *the acquisition price is for the fair*
9 *market value of such land or property, and*

10 “(ii) *subsequent to such acquisition,*
11 *the related person does not have a financial*
12 *interest in the farming operation with re-*
13 *spect to which the bond proceeds are to be*
14 *used.”.*

15 (b) *SUBSTANTIAL FARMLAND AMOUNT DOUBLED.—*

16 *Clause (i) of section 147(c)(2)(E) (defining substantial*
17 *farmland) is amended by striking “15 percent” and insert-*
18 *ing “30 percent”.*

19 (c) *EFFECTIVE DATE.—The amendments made by this*
20 *section shall apply to bonds issued after the date of the en-*
21 *actment of this Act.*

22 **SEC. 1116. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT**
23 **SELLERS.**

24 (a) *IN GENERAL.—Section 3508(b)(2)(A) is amended*
25 *by striking “or” at the end of clause (i), by inserting “or”*

1 *at the end of clause (ii), and by inserting after clause (ii)*
2 *the following new clause:*

3 “(iii) *is engaged in the trade or busi-*
4 *ness of the delivering or distribution of*
5 *newspapers or shopping news (including*
6 *any services directly related to such trade or*
7 *business),”.*

8 (b) *EFFECTIVE DATE.*—*The amendments made by this*
9 *section shall apply to services performed after December 31,*
10 *1995.*

11 **SEC. 1117. APPLICATION OF INVOLUNTARY CONVERSION**
12 **RULES TO PRESIDENTIALLY DECLARED DIS-**
13 **ASTERS.**

14 (a) *IN GENERAL.*—*Section 1033(h) is amended by re-*
15 *designating paragraphs (2) and (3) as paragraphs (3) and*
16 *(4) and by inserting after paragraph (1) the following new*
17 *paragraph:*

18 “(2) *TRADE OR BUSINESS AND INVESTMENT*
19 *PROPERTY.*—*If a taxpayer’s property held for produc-*
20 *tive use in a trade or business or for investment is*
21 *compulsorily or involuntarily converted as a result of*
22 *a Presidentially declared disaster, tangible property*
23 *of a type held for productive use in a trade or busi-*
24 *ness shall be treated for purposes of subsection (a) as*

1 *property similar or related in service or use to the*
 2 *property so converted.”.*

3 (b) *CONFORMING AMENDMENTS.—Section 1033(h) is*
 4 *amended—*

5 (1) *by striking “residence” in paragraph (3) (as*
 6 *redesignated by subsection (a)) and inserting “prop-*
 7 *erty”,*

8 (2) *by striking “PRINCIPAL RESIDENCES” in the*
 9 *heading and inserting “PROPERTY”, and*

10 (3) *by striking “(1) IN GENERAL.—” and insert-*
 11 *ing “(1) PRINCIPAL RESIDENCES.—”.*

12 (c) *EFFECTIVE DATE.—The amendments made by this*
 13 *section shall apply to disasters declared after December 31,*
 14 *1994, in taxable years ending after such date.*

15 **SEC. 1118. CLASS LIFE FOR GAS STATION CONVENIENCE**
 16 **STORES AND SIMILAR STRUCTURES.**

17 (a) *IN GENERAL.—Section 168(e)(3)(E) (classifying*
 18 *certain property as 15-year property) is amended by strik-*
 19 *ing “and” at the end of clause (i), by striking the period*
 20 *at the end of clause (ii) and inserting “, and”, and by add-*
 21 *ing at the end the following new clause:*

22 *“(iii) any section 1250 property which*
 23 *is a retail motor fuels outlet (whether or not*
 24 *food or other convenience items are sold at*
 25 *the outlet).”.*

1 (b) *CONFORMING AMENDMENT.*—Subparagraph (B) of
 2 section 168(g)(3) is amended by inserting after the item re-
 3 lating to subparagraph (E)(ii) in the table contained there-
 4 in the following new item:

“(E)(iii)..... 20”.

5 (c) *EFFECTIVE DATE.*—The amendments made by this
 6 section shall apply to property which is placed in service
 7 on or after the date of the enactment of this Act and to
 8 which section 168 of the Internal Revenue Code of 1986 ap-
 9 plies after the amendment made by section 201 of the Tax
 10 Reform Act of 1986. A taxpayer may elect (in such form
 11 and manner as the Secretary of the Treasury may pre-
 12 scribe) to have such amendments apply with respect to any
 13 property placed in service before such date and to which
 14 such section so applies.

15 **SEC. 1119. TREATMENT OF ABANDONMENT OF LESSOR IM-**
 16 **PROVEMENTS AT TERMINATION OF LEASE.**

17 (a) *IN GENERAL.*—Paragraph (8) of section 168(i) is
 18 amended to read as follows:

19 “(8) *TREATMENT OF LEASEHOLD IMPROVE-*
 20 *MENTS.*—

21 “(A) *IN GENERAL.*—In the case of any
 22 building erected (or improvements made) on
 23 leased property, if such building or improvement
 24 is property to which this section applies, the de-

1 *preciation deduction shall be determined under*
 2 *the provisions of this section.*

3 “(B) *TREATMENT OF LESSOR IMPROVE-*
 4 *MENTS WHICH ARE ABANDONED AT TERMINATION*
 5 *OF LEASE.—An improvement—*

6 *“(i) which is made by the lessor of*
 7 *leased property for the lessee of such prop-*
 8 *erty, and*

9 *“(ii) which is irrevocably disposed of*
 10 *or abandoned by the lessor at the termi-*
 11 *nation of the lease by such lessee,*
 12 *shall be treated for purposes of determining gain*
 13 *or loss under this title as disposed of by the les-*
 14 *sor when so disposed of or abandoned.”.*

15 (b) *EFFECTIVE DATE.—Subparagraph (B) of section*
 16 *168(i)(8) of the Internal Revenue Code of 1986, as added*
 17 *by the amendment made by subsection (a), shall apply to*
 18 *improvements disposed of or abandoned after June 12,*
 19 *1996.*

20 **SEC. 1120. DEDUCTIBILITY OF BUSINESS MEAL EXPENSES**
 21 **FOR CERTAIN SEAFOOD PROCESSING FACILI-**
 22 **TIES.**

23 (a) *IN GENERAL.—Subparagraph (E) of section*
 24 *274(n)(2) is amended by striking “or” at the end of clause*
 25 *(iii), by striking the period at the end of clause (iv) and*

1 inserting “, or”, and by inserting after clause (iv) the fol-
 2 lowing new clause:

3 “(v) provided at a remote seafood proc-
 4 essing facility located in the United States
 5 north of 53 degrees north latitude.”.

6 (b) *EFFECTIVE DATE.*—The amendments made by this
 7 section shall apply to taxable years beginning after Decem-
 8 ber 31, 1996.

9 **SEC. 1121. CLARIFICATION OF TAX TREATMENT OF HARD**
 10 **CIDER.**

11 (a) *HARD CIDER CONTAINING NOT MORE THAN 7*
 12 *PERCENT ALCOHOL TAXED AS WINE.*—Subsection (b) of
 13 section 5041 (relating to imposition and rate of tax) is
 14 amended by striking “and” at the end of paragraph (4),
 15 by striking the period at the end of paragraph (5) and in-
 16 serting “; and”, and by adding at the end the following
 17 new paragraph:

18 “(6) On hard cider derived primarily from ap-
 19 ples or apple concentrate and water, containing no
 20 other fruit product, and containing at least one-half
 21 of 1 percent and not more than 7 percent of alcohol
 22 by volume, 22.6 cents per wine gallon.”.

23 (b) *EXCLUSION FROM SMALL PRODUCER CREDIT.*—
 24 Paragraph (1) of section 5041(c) (relating to credit for
 25 small domestic producers) is amended by striking “sub-

1 *section (b)(4)” and inserting “paragraphs (4) and (6) of*
 2 *subsection (b)”.*

3 *(c) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall take effect on January 1, 1997.*

5 **SEC. 1122. SPECIAL RULES RELATING TO DETERMINATION**
 6 **WHETHER INDIVIDUALS ARE EMPLOYEES**
 7 **FOR PURPOSES OF EMPLOYMENT TAXES.**

8 *(a) IN GENERAL.—Section 530 of the Revenue Act of*
 9 *1978 is amended by adding at the end the following new*
 10 *subsection:*

11 *“(e) SPECIAL RULES FOR APPLICATION OF SEC-*
 12 *TION.—*

13 *“(1) NOTICE REQUIREMENTS.—*

14 *“(A) WRITTEN AGREEMENT REQUIRED BE-*
 15 *TWEEN TAXPAYER AND INDIVIDUAL.—The provi-*
 16 *sions of subsection (a)(1) shall not apply with*
 17 *respect to a taxpayer and any individual unless*
 18 *such taxpayer and individual sign a statement*
 19 *(at such time and in such form as the Secretary*
 20 *may prescribe) which provides that such individ-*
 21 *ual will not be treated as an employee of the tax-*
 22 *payer for purposes of employment taxes.*

23 *“(B) NOTICE OF AVAILABILITY OF SEC-*
 24 *TION.—An officer or employee of the Internal*
 25 *Revenue Service shall, before or at the commence-*

1 *ment of any audit relating to the employment*
2 *status of one or more individuals who perform*
3 *services for the taxpayer, provide the taxpayer*
4 *with a written notice of the provisions of this*
5 *section.*

6 “(2) *RULES RELATING TO STATUTORY STAND-*
7 *ARDS.—For purposes of subsection (a)(2)—*

8 “(A) *a taxpayer may not rely on an audit*
9 *commenced after December 31, 1996, for pur-*
10 *poses of subparagraph (B) thereof unless such*
11 *audit included an examination for employment*
12 *tax purposes of whether the individual involved*
13 *(or any individual holding a position substan-*
14 *tially similar to the position held by the individ-*
15 *ual involved) should be treated as an employee of*
16 *the taxpayer,*

17 “(B) *in no event shall the significant seg-*
18 *ment requirement of subparagraph (C) thereof be*
19 *construed to require a reasonable showing of the*
20 *practice of more than 25 percent of the industry*
21 *(determined by not taking into account the tax-*
22 *payer), and*

23 “(C) *in applying the long-standing recog-*
24 *nized practice requirement of subparagraph (C)*
25 *thereof—*

1 “(i) such requirement shall not be con-
2 strued as requiring the practice to have con-
3 tinued for more than 10 years, and

4 “(ii) a practice shall not fail to be
5 treated as long-standing merely because
6 such practice began after 1978.

7 “(3) AVAILABILITY OF SAFE HARBORS.—Nothing
8 in this section shall be construed to provide that sub-
9 section (a) only applies where the individual involved
10 is otherwise an employee of the taxpayer.

11 “(4) BURDEN OF PROOF.—

12 “(A) IN GENERAL.—If—

13 “(i) a taxpayer establishes a prima
14 facie case that it was reasonable not to treat
15 an individual as an employee for purposes
16 of this section, and

17 “(ii) the taxpayer has fully cooperated
18 with reasonable requests from the Secretary
19 of the Treasury or his delegate,
20 then the burden of proof with respect to such
21 treatment shall be on the Secretary.

22 “(B) EXCEPTION FOR OTHER REASONABLE
23 BASIS.—In the case of any issue involving
24 whether the taxpayer had a reasonable basis not
25 to treat an individual as an employee for pur-

1 poses of this section, subparagraph (A) shall only
2 apply for purposes of determining whether the
3 taxpayer meets the requirements of subparagraph
4 (A), (B), or (C) of subsection (a)(2).

5 “(5) *PRESERVATION OF PRIOR PERIOD SAFE*
6 *HARBOR.—If—*

7 “(A) an individual would (but for the treat-
8 ment referred to in subparagraph (B)) be deemed
9 not to be an employee of the taxpayer under sub-
10 section (a) for any prior period, and

11 “(B) such individual is treated by the tax-
12 payer as an employee for employment tax pur-
13 poses for any subsequent period,

14 then, for purposes of applying such taxes for such
15 prior period with respect to the taxpayer, the individ-
16 ual shall be deemed not to be an employee.

17 “(6) *SUBSTANTIALLY SIMILAR POSITION.—For*
18 *purposes of this section, the determination as to*
19 *whether an individual holds a position substantially*
20 *similar to a position held by another individual shall*
21 *include consideration of the relationship between the*
22 *taxpayer and such individuals.”.*

23 (b) *EFFECTIVE DATES.—*

1 (1) *IN GENERAL.*—*The amendment made by this*
2 *section shall apply to periods after December 31,*
3 *1996.*

4 (2) *NOTICE REQUIREMENTS.*—

5 (A) *WRITTEN AGREEMENT.*—*In the case of*
6 *individuals who first perform services for a tax-*
7 *payer before January 1, 1997, the requirements*
8 *of section 530(e)(1)(A) of the Revenue Act of*
9 *1978 (as added by subsection (a)) shall not*
10 *apply before January 1, 1998, unless the tax-*
11 *payer elects to apply such requirements before*
12 *such date.*

13 (B) *NOTICE BY INTERNAL REVENUE SERV-*
14 *ICE.*—*Section 530(e)(1)(B) of the Revenue Act of*
15 *1978 (as added by subsection (a)) shall apply to*
16 *audits which commence after December 31, 1996.*

17 (3) *BURDEN OF PROOF.*—

18 (A) *IN GENERAL.*—*Section 530(e)(4) of the*
19 *Revenue Act of 1978 (as added by subsection (a))*
20 *shall apply to disputes involving periods after*
21 *December 31, 1996.*

22 (B) *NO INFERENCE.*—*Nothing in the*
23 *amendments made by this section shall be con-*
24 *strued to infer the proper treatment of the bur-*

1 *den of proof with respect to disputes involving*
2 *periods before January 1, 1997.*

3 **SEC. 1123. TREATMENT OF HOUSING PROVIDED TO EM-**
4 **PLOYEES BY ACADEMIC HEALTH CENTERS.**

5 *(a) IN GENERAL.—Paragraph (4) of section 119(d)*
6 *(relating to lodging furnished by certain educational insti-*
7 *tutions to employees) is amended to read as follows:*

8 *“(4) EDUCATIONAL INSTITUTION.—For purposes*
9 *of this subsection—*

10 *“(A) IN GENERAL.—The term ‘educational*
11 *institution’ means—*

12 *“(i) an institution described in section*
13 *170(b)(1)(A)(ii), or*

14 *“(ii) an academic health center.*

15 *“(B) ACADEMIC HEALTH CENTER.—For*
16 *purposes of subparagraph (A), the term ‘aca-*
17 *demie health center’ means an entity—*

18 *“(i) which is described in section*
19 *170(b)(1)(A)(iii),*

20 *“(ii) which receives (during the cal-*
21 *endar year in which the taxable year of the*
22 *taxpayer begins) payments under subsection*
23 *(d)(5)(B) or (h) of section 1886 of the So-*
24 *cial Security Act (relating to graduate med-*
25 *ical education), and*

1 “(iii) which has as one of its principal
2 purposes or functions the providing and
3 teaching of basic and clinical medical
4 science and research with the entity’s own
5 faculty.”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall apply to taxable years beginning after Decem-
8 ber 31, 1995.

9 ***Subtitle B—Extension of Certain***
10 ***Expiring Provisions***

11 ***SEC. 1201. WORK OPPORTUNITY TAX CREDIT.***

12 (a) *AMOUNT OF CREDIT.*—Subsection (a) of section 51
13 (relating to amount of credit) is amended by striking “40
14 percent” and inserting “35 percent”.

15 (b) *MEMBERS OF TARGETED GROUPS.*—Subsection (d)
16 of section 51 is amended to read as follows:

17 “(d) *MEMBERS OF TARGETED GROUPS.*—For purposes
18 of this subpart—

19 “(1) *IN GENERAL.*—An individual is a member
20 of a targeted group if such individual is—

21 “(A) a qualified IV–A recipient,

22 “(B) a qualified veteran,

23 “(C) a qualified ex-felon,

24 “(D) a high-risk youth,

25 “(E) a vocational rehabilitation referral,

1 “(F) a qualified summer youth employee, or

2 “(G) a qualified food stamp recipient.

3 “(2) QUALIFIED IV–A RECIPIENT.—

4 “(A) IN GENERAL.—The term ‘qualified IV–
5 A recipient’ means any individual who is cer-
6 tified by the designated local agency as being a
7 member of a family receiving assistance under a
8 IV–A program for at least a 9-month period end-
9 ing during the 9-month period ending on the
10 hiring date.

11 “(B) IV–A PROGRAM.—For purposes of this
12 paragraph, the term ‘IV–A program’ means any
13 program providing assistance under a State
14 plan approved under part A of title IV of the So-
15 cial Security Act (relating to assistance for
16 needy families with minor children) and any
17 successor of such program.

18 “(3) QUALIFIED VETERAN.—

19 “(A) IN GENERAL.—The term ‘qualified vet-
20 eran’ means any veteran who is certified by the
21 designated local agency as being—

22 “(i) a member of a family receiving as-
23 sistance under a IV–A program (as defined
24 in paragraph (2)(B)) for at least a 9-month

1 *period ending during the 12-month period*
2 *ending on the hiring date, or*

3 “(ii) *a member of a family receiving*
4 *assistance under a food stamp program*
5 *under the Food Stamp Act of 1977 for at*
6 *least a 3-month period ending during the*
7 *12-month period ending on the hiring date.*

8 “(B) *VETERAN.—For purposes of subpara-*
9 *graph (A), the term ‘veteran’ means any individ-*
10 *ual who is certified by the designated local agen-*
11 *cy as—*

12 “(i)(I) *having served on active duty*
13 *(other than active duty for training) in the*
14 *Armed Forces of the United States for a pe-*
15 *riod of more than 180 days, or*

16 “(II) *having been discharged or re-*
17 *leased from active duty in the Armed Forces*
18 *of the United States for a service-connected*
19 *disability, and*

20 “(ii) *not having any day during the*
21 *60-day period ending on the hiring date*
22 *which was a day of extended active duty in*
23 *the Armed Forces of the United States.*

24 *For purposes of clause (ii), the term ‘extended*
25 *active duty’ means a period of more than 90*

1 *days during which the individual was on active*
2 *duty (other than active duty for training).*

3 “(4) *QUALIFIED EX-FELON.*—*The term ‘qualified*
4 *ex-felon’ means any individual who is certified by the*
5 *designated local agency—*

6 “(A) *as having been convicted of a felony*
7 *under any statute of the United States or any*
8 *State,*

9 “(B) *as having a hiring date which is not*
10 *more than 1 year after the last date on which*
11 *such individual was so convicted or was released*
12 *from prison, and*

13 “(C) *as being a member of a family which*
14 *had an income during the 6 months immediately*
15 *preceding the earlier of the month in which such*
16 *income determination occurs or the month in*
17 *which the hiring date occurs, which, on an an-*
18 *nual basis, would be 70 percent or less of the Bu-*
19 *reau of Labor Statistics lower living standard.*

20 *Any determination under subparagraph (C) shall be*
21 *valid for the 45-day period beginning on the date*
22 *such determination is made.*

23 “(5) *HIGH-RISK YOUTH.*—

1 “(A) *IN GENERAL.*—*The term ‘high-risk*
2 *youth’ means any individual who is certified by*
3 *the designated local agency—*

4 “(i) *as having attained age 18 but not*
5 *age 25 on the hiring date, and*

6 “(ii) *as having his principal place of*
7 *abode within an empowerment zone or en-*
8 *terprise community.*

9 “(B) *YOUTH MUST CONTINUE TO RESIDE IN*
10 *ZONE.*—*In the case of a high-risk youth, the term*
11 *‘qualified wages’ shall not include wages paid or*
12 *incurred for services performed while such*
13 *youth’s principal place of abode is outside an*
14 *empowerment zone or enterprise community.*

15 “(6) *VOCATIONAL REHABILITATION REFERRAL.*—
16 *The term ‘vocational rehabilitation referral’ means*
17 *any individual who is certified by the designated*
18 *local agency as—*

19 “(A) *having a physical or mental disability*
20 *which, for such individual, constitutes or results*
21 *in a substantial handicap to employment, and*

22 “(B) *having been referred to the employer*
23 *upon completion of (or while receiving) rehabili-*
24 *tative services pursuant to—*

1 “(i) *an individualized written rehabili-*
2 *tation plan under a State plan for voca-*
3 *tional rehabilitation services approved*
4 *under the Rehabilitation Act of 1973, or*

5 “(ii) *a program of vocational rehabili-*
6 *tation carried out under chapter 31 of title*
7 *38, United States Code.*

8 “(7) *QUALIFIED SUMMER YOUTH EMPLOYEE.—*

9 “(A) *IN GENERAL.—The term ‘qualified*
10 *summer youth employee’ means any individ-*
11 *ual—*

12 “(i) *who performs services for the em-*
13 *ployer between May 1 and September 15,*

14 “(ii) *who is certified by the designated*
15 *local agency as having attained age 16 but*
16 *not 18 on the hiring date (or if later, on*
17 *May 1 of the calendar year involved),*

18 “(iii) *who has not been an employee of*
19 *the employer during any period prior to the*
20 *90-day period described in subparagraph*
21 *(B)(i), and*

22 “(iv) *who is certified by the designated*
23 *local agency as having his principal place*
24 *of abode within an empowerment zone or*
25 *enterprise community.*

1 “(B) *SPECIAL RULES FOR DETERMINING*
2 *AMOUNT OF CREDIT.*—*For purposes of applying*
3 *this subpart to wages paid or incurred to any*
4 *qualified summer youth employee—*

5 “(i) *subsection (b)(2) shall be applied*
6 *by substituting ‘any 90-day period between*
7 *May 1 and September 15’ for ‘the 1-year*
8 *period beginning with the day the individ-*
9 *ual begins work for the employer’, and*

10 “(ii) *subsection (b)(3) shall be applied*
11 *by substituting ‘\$3,000’ for ‘\$6,000’.*

12 *The preceding sentence shall not apply to an in-*
13 *dividual who, with respect to the same employer,*
14 *is certified as a member of another targeted*
15 *group after such individual has been a qualified*
16 *summer youth employee.*

17 “(C) *YOUTH MUST CONTINUE TO RESIDE IN*
18 *ZONE.*—*Paragraph (5)(B) shall apply for pur-*
19 *poses of subparagraph (A)(iv).*

20 “(8) *QUALIFIED FOOD STAMP RECIPIENT.*—

21 “(A) *IN GENERAL.*—*The term ‘qualified*
22 *food stamp recipient’ means any individual who*
23 *is certified by the designated local agency—*

24 “(i) *as having attained age 18 but not*
25 *age 25 on the hiring date, and*

1 “(ii) as being a member of a family re-
2 ceiving assistance under a food stamp pro-
3 gram under the Food Stamp Act of 1977 for
4 the 3-month period ending on the hiring
5 date.

6 “(B) *PARTICIPATION INFORMATION.*—Not-
7 withstanding any other provision of law, the
8 Secretary of the Treasury and the Secretary of
9 Agriculture shall enter into an agreement to pro-
10 vide information to designated local agencies
11 with respect to participation in the food stamp
12 program.

13 “(9) *HIRING DATE.*—The term ‘hiring date’
14 means the day the individual is hired by the em-
15 ployer.

16 “(10) *DESIGNATED LOCAL AGENCY.*—The term
17 ‘designated local agency’ means a State employment
18 security agency established in accordance with the Act
19 of June 6, 1933, as amended (29 U.S.C. 49–49n).

20 “(11) *SPECIAL RULES FOR CERTIFICATIONS.*—

21 “(A) *IN GENERAL.*—An individual shall not
22 be treated as a member of a targeted group un-
23 less—

24 “(i) on or before the day on which such
25 individual begins work for the employer, the

1 *employer has received a certification from a*
2 *designated local agency that such individual*
3 *is a member of a targeted group, or*

4 *“(ii)(I) on or before the day the indi-*
5 *vidual is offered employment with the em-*
6 *ployer, a pre-screening notice is completed*
7 *by the employer with respect to such indi-*
8 *vidual, and*

9 *“(II) not later than the 21st day after*
10 *the individual begins work for the employer,*
11 *the employer submits such notice, signed by*
12 *the employer and the individual under pen-*
13 *alties of perjury, to the designated local*
14 *agency as part of a written request for such*
15 *a certification from such agency.*

16 *For purposes of this paragraph, the term ‘pre-*
17 *screening notice’ means a document (in such*
18 *form as the Secretary shall prescribe) which con-*
19 *tains information provided by the individual on*
20 *the basis of which the employer believes that the*
21 *individual is a member of a targeted group.*

22 *“(B) INCORRECT CERTIFICATIONS.—If—*

23 *“(i) an individual has been certified by*
24 *a designated local agency as a member of a*
25 *targeted group, and*

1 “(ii) such certification is incorrect be-
2 cause it was based on false information pro-
3 vided by such individual,
4 the certification shall be revoked and wages paid
5 by the employer after the date on which notice
6 of revocation is received by the employer shall
7 not be treated as qualified wages.

8 “(C) *EXPLANATION OF DENIAL OF RE-*
9 *QUEST.—If a designated local agency denies a*
10 *request for certification of membership in a tar-*
11 *geted group, such agency shall provide to the per-*
12 *son making such request a written explanation*
13 *of the reasons for such denial.”.*

14 (c) *MINIMUM EMPLOYMENT PERIOD.—Paragraph (3)*
15 *of section 51(i) (relating to certain individuals ineligible)*
16 *is amended to read as follows:*

17 “(3) *INDIVIDUALS NOT MEETING MINIMUM EM-*
18 *PLOYMENT PERIOD.—No wages shall be taken into ac-*
19 *count under subsection (a) with respect to any indi-*
20 *vidual unless such individual either—*

21 “(A) *is employed by the employer at least*
22 *180 days (20 days in the case of a qualified*
23 *summer youth employee), or*

24 “(B) *has completed at least 375 hours (120*
25 *hours in the case of a qualified summer youth*

1 employee) of services performed for the em-
2 ployer.”.

3 (d) *TERMINATION*.—Paragraph (4) of section 51(c)
4 (relating to wages defined) is amended to read as follows:

5 “(4) *TERMINATION*.—The term ‘wages’ shall not
6 include any amount paid or incurred to an individ-
7 ual who begins work for the employer—

8 “(A) after December 31, 1994, and before
9 October 1, 1996, or

10 “(B) after September 30, 1997.”.

11 (e) *REDESIGNATION OF CREDIT*.—

12 (1) Sections 38(b)(2) and 51(a) are each amend-
13 ed by striking “targeted jobs credit” and inserting
14 “work opportunity credit”.

15 (2) The subpart heading for subpart F of part IV
16 of subchapter A of chapter 1 is amended by striking
17 “**Targeted Jobs Credit**” and inserting “**Work**
18 **Opportunity Credit**”.

19 (3) The table of subparts for such part IV is
20 amended by striking “targeted jobs credit” and insert-
21 ing “work opportunity credit”.

22 (4) The heading for paragraph (3) of section
23 1396(c) is amended by striking “TARGETED JOBS
24 CREDIT” and inserting “WORK OPPORTUNITY CRED-
25 IT”.

1 (f) *TECHNICAL AMENDMENT.*—Paragraph (1) of sec-
2 tion 51(c) is amended by striking “, subsection (d)(8)(D),”.

3 (g) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to individuals who begin work for the
5 employer after September 30, 1996.

6 **SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSIST-**
7 **ANCE PROGRAMS.**

8 (a) *EXTENSION.*—Subsection (d) of section 127 (relat-
9 ing to educational assistance programs) is amended by
10 striking “December 31, 1994” and inserting “December 31,
11 1997”.

12 (b) *EFFECTIVE DATES.*—

13 (1) *EXTENSION.*—The amendment made by sub-
14 section (a) shall apply to taxable years beginning
15 after December 31, 1994.

16 (2) *EXPEDITED PROCEDURES.*—The Secretary of
17 the Treasury shall establish expedited procedures for
18 the refund of any overpayment of taxes imposed by
19 the Internal Revenue Code of 1986 which is attrib-
20 utable to amounts excluded from gross income during
21 1995 or 1996 under section 127 of such Code, includ-
22 ing procedures waiving the requirement that an em-
23 ployer obtain an employee’s signature where the em-
24 ployer demonstrates to the satisfaction of the Sec-

1 retary that any refund collected by the employer on
2 behalf of the employee will be paid to the employee.

3 **SEC. 1203. RESEARCH CREDIT.**

4 (a) *IN GENERAL.*—Subsection (h) of section 41 (relat-
5 ing to credit for research activities) is amended to read as
6 follows:

7 “(h) *TERMINATION.*—

8 “(1) *IN GENERAL.*—This section shall not apply
9 to any amount paid or incurred—

10 “(A) after June 30, 1995, and before July
11 1, 1996, or

12 “(B) after December 31, 1997.

13 Notwithstanding the preceding sentence, in the case of
14 a taxpayer making an election under subsection (c)(4)
15 for its first taxable year beginning after June 30,
16 1996, and before July 1, 1997, this section shall
17 apply to amounts paid or incurred during such first
18 taxable year and the first 6 months of the succeeding
19 taxable year.”

20 “(2) *COMPUTATION OF BASE AMOUNT.*—In the
21 case of any taxable year with respect to which this
22 section applies to a number of days which is less than
23 the total number of days in such taxable year, the
24 base amount with respect to such taxable year shall
25 be the amount which bears the same ratio to the base

1 *amount for such year (determined without regard to*
2 *this paragraph) as the number of days in such tax-*
3 *able year to which this section applies bears to the*
4 *total number of days in such taxable year.”.*

5 *(b) BASE AMOUNT FOR START-UP COMPANIES.—*
6 *Clause (i) of section 41(c)(3)(B) (relating to start-up com-*
7 *panies) is amended to read as follows:*

8 *“(i) TAXPAYERS TO WHICH SUBPARA-*
9 *GRAPH APPLIES.—The fixed-base percentage*
10 *shall be determined under this subpara-*
11 *graph if—*

12 *“(I) the first taxable year in*
13 *which a taxpayer had both gross re-*
14 *ceipts and qualified research expenses*
15 *begins after December 31, 1983, or*

16 *“(II) there are fewer than 3 tax-*
17 *able years beginning after December*
18 *31, 1983, and before January 1, 1989,*
19 *in which the taxpayer had both gross*
20 *receipts and qualified research ex-*
21 *penses.”.*

22 *(c) ELECTION OF ALTERNATIVE INCREMENTAL CRED-*
23 *IT.—Subsection (c) of section 41 is amended by redesignat-*
24 *ing paragraphs (4) and (5) as paragraphs (5) and (6), re-*

1 *spectively, and by inserting after paragraph (3) the follow-*
2 *ing new paragraph:*

3 “(4) *ELECTION OF ALTERNATIVE INCREMENTAL*
4 *CREDIT.—*

5 “(A) *IN GENERAL.—At the election of the*
6 *taxpayer, the credit determined under subsection*
7 *(a)(1) shall be equal to the sum of—*

8 “(i) *1.65 percent of so much of the*
9 *qualified research expenses for the taxable*
10 *year as exceeds 1 percent of the average de-*
11 *scribed in subsection (c)(1)(B) but does not*
12 *exceed 1.5 percent of such average,*

13 “(ii) *2.2 percent of so much of such ex-*
14 *penses as exceeds 1.5 percent of such average*
15 *but does not exceed 2 percent of such aver-*
16 *age, and*

17 “(iii) *2.75 percent of so much of such*
18 *expenses as exceeds 2 percent of such aver-*
19 *age.*

20 “(B) *ELECTION.—An election under this*
21 *paragraph may be made only for the first tax-*
22 *able year of the taxpayer beginning after June*
23 *30, 1996. Such an election shall apply to the*
24 *taxable year for which made and all succeeding*

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

3 *(d) INCREASED CREDIT FOR CONTRACT RESEARCH*
4 *EXPENSES WITH RESPECT TO CERTAIN RESEARCH CON-*
5 *SORTIA.—Paragraph (3) of section 41(b) is amended by*
6 *adding at the end the following new subparagraph:*

7 *“(C) AMOUNTS PAID TO CERTAIN RESEARCH*
8 *CONSORTIA.—*

9 *“(i) IN GENERAL.—Subparagraph (A)*
10 *shall be applied by substituting ‘75 percent’*
11 *for ‘65 percent’ with respect to amounts*
12 *paid or incurred by the taxpayer to a quali-*
13 *fied research consortium for qualified re-*
14 *search on behalf of the taxpayer and 1 or*
15 *more unrelated taxpayers. For purposes of*
16 *the preceding sentence, all persons treated*
17 *as a single employer under subsection (a) or*
18 *(b) of section 52 shall be treated as related*
19 *taxpayers.*

20 *“(ii) QUALIFIED RESEARCH CONSOR-*
21 *TIUM.—The term ‘qualified research consor-*
22 *tium’ means any organization which—*

23 *“(I) is described in section*
24 *501(c)(3) or 501(c)(6) and is exempt*
25 *from tax under section 501(a),*

1 “(II) is organized and operated
2 primarily to conduct scientific re-
3 search, and

4 “(III) is not a private founda-
5 tion.”.

6 (e) *CONFORMING AMENDMENT.*—Subparagraph (D) of
7 section 28(b)(1) is amended by inserting “, and before July
8 1, 1996, and periods after December 31, 1997” after “June
9 30, 1995”.

10 (f) *EFFECTIVE DATES.*—

11 (1) *IN GENERAL.*—Except as provided in para-
12 graph (2), the amendments made by this section shall
13 apply to taxable years ending after June 30, 1996.

14 (2) *SUBSECTIONS (c) AND (d).*—The amendments
15 made by subsections (c) and (d) shall apply to taxable
16 years beginning after June 30, 1996.

17 (3) *ESTIMATED TAX.*—The amendments made by
18 this section shall not be taken into account under sec-
19 tion 6654 or 6655 of the Internal Revenue Code of
20 1986 (relating to failure to pay estimated tax) in de-
21 termining the amount of any installment required to
22 be paid before October 1, 1996.

23 **SEC. 1204. ORPHAN DRUG TAX CREDIT.**

24 (a) *RECATEGORIZED AS A BUSINESS CREDIT.*—

1 (1) *IN GENERAL.*—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

2
3
4
5
6 (2) *CONFORMING AMENDMENT.*—Subsection (b) of section 38 (relating to general business credit) is amended by striking “plus” at the end of paragraph 7 (10), by striking the period at the end of paragraph 8 (11) and inserting “, plus”, and by adding at the end 9 the following new paragraph: 10

11 “(12) the orphan drug credit determined under 12 section 45C(a).”.

13
14 (3) *CLERICAL AMENDMENTS.*—

15 (A) The table of sections for subpart B of 16 such part IV is amended by striking the item relating to section 28. 17

18 (B) The table of sections for subpart D of 19 such part IV is amended by adding at the end 20 the following new item:

 “Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.”.

21 (b) *CREDIT TERMINATION.*—Subsection (e) of section 22 45C, as redesignated by subsection (a)(1), is amended to 23 read as follows:

1 “(e) *TERMINATION.*—*This section shall not apply to*
2 *any amount paid or incurred—*

3 “(A) *after December 31, 1994, and before*
4 *July 1, 1996, or*

5 “(B) *after December 31, 1997.*”.

6 (c) *NO PRE-JULY 1, 1996 CARRYBACKS.*—*Subsection*
7 *(d) of section 39 (relating to carryback and carryforward*
8 *of unused credits) is amended by adding at the end the fol-*
9 *lowing new paragraph:*

10 “(7) *NO CARRYBACK OF SECTION 45C CREDIT BE-*
11 *FORE JULY 1, 1996.*—*No portion of the unused busi-*
12 *ness credit for any taxable year which is attributable*
13 *to the orphan drug credit determined under section*
14 *45C may be carried back to a taxable year ending be-*
15 *fore July 1, 1996.*”.

16 (d) *ADDITIONAL CONFORMING AMENDMENTS.*—

17 (1) *Section 45C(a), as redesignated by subsection*
18 *(a)(1), is amended by striking “There shall be allowed*
19 *as a credit against the tax imposed by this chapter*
20 *for the taxable year” and inserting “For purposes of*
21 *section 38, the credit determined under this section*
22 *for the taxable year is”.*

23 (2) *Section 45C(d), as so redesignated, is amend-*
24 *ed by striking paragraph (2) and by redesignating*

1 paragraphs (3), (4), and (5) as paragraphs (2), (3),
2 and (4).

3 (3) Section 29(b)(6)(A) is amended by striking
4 “sections 27 and 28” and inserting “section 27”.

5 (4) Section 30(b)(3)(A) is amended by striking
6 “sections 27, 28, and 29” and inserting “sections 27
7 and 29”.

8 (5) Section 53(d)(1)(B) is amended—

9 (A) by striking “or not allowed under sec-
10 tion 28 solely by reason of the application of sec-
11 tion 28(d)(2)(B),” in clause (iii), and

12 (B) by striking “or not allowed under sec-
13 tion 28 solely by reason of the application of sec-
14 tion 28(d)(2)(B)” in clause (iv)(II).

15 (6) Section 55(c)(2) is amended by striking
16 “28(d)(2),”.

17 (7) Section 280C(b) is amended—

18 (A) by striking “section 28(b)” in para-
19 graph (1) and inserting “section 45C(b),”

20 (B) by striking “section 28” in paragraphs
21 (1) and (2)(A) and inserting “section 45C(b),”
22 and

23 (C) by striking “subsection (d)(2) thereof”
24 in paragraphs (1) and (2)(A) and inserting “sec-
25 tion 38(c)”.

1 (e) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to amounts paid or incurred in taxable*
3 *years ending after June 30, 1996.*

4 **SEC. 1205. CONTRIBUTIONS OF STOCK TO PRIVATE FOUN-**
5 **DATIONS.**

6 (a) *IN GENERAL.*—*Subparagraph (D) of section*
7 *170(e)(5) (relating to special rule for contributions of stock*
8 *for which market quotations are readily available) is*
9 *amended to read as follows:*

10 “(D) *TERMINATION.*—*This paragraph shall*
11 *not apply to contributions made—*

12 “(A) *after December 31, 1994, and before*
13 *July 1, 1996, or*

14 “(B) *after December 31, 1997.*”.

15 (b) *EFFECTIVE DATE.*—*The amendment made by this*
16 *section shall apply to contributions made after June 30,*
17 *1996.*

18 **SEC. 1206. EXTENSION OF BINDING CONTRACT DATE FOR**
19 **BIOMASS AND COAL FACILITIES.**

20 (a) *IN GENERAL.*—*Subparagraph (A) of section*
21 *29(g)(1) (relating to extension of certain facilities) is*
22 *amended by striking “January 1, 1997” and inserting*
23 *“January 1, 1999” and by striking “January 1, 1996” and*
24 *inserting “the date which is 6 months after the date of the*

1 *enactment of the Small Business Job Protection Act of*
2 *1996”.*

3 **(b) EFFECTIVE DATE.**—*The amendment made by this*
4 *section shall take effect on the date of the enactment of this*
5 *Act.*

6 **SEC. 1207. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL**
7 **SOLD FOR USE OR USED IN DIESEL-POWERED**
8 **MOTORBOATS.**

9 *Subparagraph (D) of section 4041(a)(1) (relating to*
10 *the imposition of tax on diesel fuel and special motor fuels)*
11 *is amended by redesignating clauses (i) and (ii) as clauses*
12 *(ii) and (iii), respectively, and by inserting before clause*
13 *(ii) (as redesignated) the following new clause:*

14 *“(i) no tax shall be imposed by sub-*
15 *section (a) or (d)(1) during the period be-*
16 *ginning on the date which is 7 days after*
17 *the date of the enactment of the Small Busi-*
18 *ness Job Protection Act of 1996 and ending*
19 *on December 31, 1997.”.*

20 **SEC. 1208. EXTENSION OF TRANSITION RULE FOR CERTAIN**
21 **PUBLICLY TRADED PARTNERSHIPS.**

22 **(a) IN GENERAL.**—*Subparagraph (B) of section*
23 *10211(c)(1) of the Revenue Act of 1987 (Public Law 100-*
24 *203) is amended by striking “December 31, 1997” and in-*
25 *serting “December 31, 1999”.*

1 (b) *CONFORMING AMENDMENT.*—Subparagraph (C)(i)
 2 of section 10211(c)(2) of the Revenue Act of 1987, as added
 3 by section 2004(f)(2) of the Technical and Miscellaneous
 4 Revenue Act of 1988, is amended by striking “December 31,
 5 1997” and inserting “December 31, 1999”.

6 (c) *EFFECTIVE DATE.*—The amendments made by this
 7 section shall take effect as if included in the provisions of
 8 section 10211 of the Revenue Act of 1987.

9 **Subtitle C—Provisions Relating to**
 10 **S Corporations**

11 **SEC. 1301. S CORPORATIONS PERMITTED TO HAVE 75**
 12 **SHAREHOLDERS.**

13 Subparagraph (A) of section 1361(b)(1) (defining
 14 small business corporation) is amended by striking “35
 15 shareholders” and inserting “75 shareholders”.

16 **SEC. 1302. 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 follow-
 20 ing 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 in*
2 *clause (v) of subparagraph (A), each poten-*
3 *tial current beneficiary of such trust shall*
4 *be treated as a shareholder; except that, if*
5 *for any period there is no potential current*
6 *beneficiary of such trust, such trust shall be*
7 *treated as the shareholder during such pe-*
8 *riod.”.*

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 DEFINED.—*

13 “(1) *ELECTING SMALL BUSINESS TRUST.—For*
14 *purposes of this section—*

15 “(A) *IN GENERAL.—Except as provided in*
16 *subparagraph (B), the term ‘electing small busi-*
17 *ness trust’ means any trust if—*

18 “(i) *such trust does not have as a bene-*
19 *ficiary any person other than (I) an indi-*
20 *vidual, (II) an estate, or (III) an organiza-*
21 *tion described in paragraph (2), (3), (4), or*
22 *(5) of section 170(c) which holds a contin-*
23 *gent interest and is not a potential current*
24 *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.—The
6 term ‘electing small business trust’ shall not in-
7 clude—

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 subpara-
16 graph (A), the term ‘purchase’ means any acqui-
17 sition if the basis of the property acquired is de-
18 termined 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 entitled
23 to, or at the discretion of any person may receive, a
24 distribution from the principal or income of the trust.
25 If a trust disposes of all of the stock which it holds

1 *in an S corporation, then, with respect to such cor-*
 2 *poration, the term ‘potential current beneficiary’ does*
 3 *not include any person who first met the requirements*
 4 *of the preceding sentence during the 60-day period*
 5 *ending on the date of such disposition.*

6 *“(3) ELECTION.—An election under this sub-*
 7 *section shall be made by the trustee. Any such election*
 8 *shall apply to the taxable year of the trust for which*
 9 *made and all subsequent taxable years of such trust*
 10 *unless revoked with the consent of the Secretary.*

11 *“(4) CROSS REFERENCE.—*

“For special treatment of electing small business trusts, see section 641(d).”.

12 *(d) TAXATION OF ELECTING SMALL BUSINESS*
 13 *TRUSTS.—Section 641 (relating to imposition of tax on*
 14 *trusts) is amended by adding at the end the following new*
 15 *subsection:*

16 *“(d) SPECIAL RULES FOR TAXATION OF ELECTING*
 17 *SMALL BUSINESS TRUSTS.—*

18 *“(1) IN GENERAL.—For purposes of this chap-*
 19 *ter—*

20 *“(A) the portion of any electing small busi-*
 21 *ness trust which consists of stock in 1 or more*
 22 *S corporations shall be treated as a separate*
 23 *trust, and*

1 “(B) the amount of the tax imposed by this
2 chapter on such separate trust shall be deter-
3 mined with the modifications of paragraph (2).

4 “(2) MODIFICATIONS.—For purposes of para-
5 graph (1), the modifications of this paragraph are the
6 following:

7 “(A) Except as provided in section 1(h), the
8 amount of the tax imposed by section 1(e) shall
9 be determined by using the highest rate of tax set
10 forth in section 1(e).

11 “(B) The exemption amount under section
12 55(d) shall be zero.

13 “(C) The only items of income, loss, deduc-
14 tion, or credit to be taken into account are the
15 following:

16 “(i) The items required to be taken
17 into account under section 1366.

18 “(ii) Any gain or loss from the disposi-
19 tion of stock in an S corporation.

20 “(iii) To the extent provided in regula-
21 tions, State or local income taxes or admin-
22 istrative expenses to the extent allocable to
23 items described in clauses (i) and (ii).

24 No deduction or credit shall be allowed for any
25 amount not described in this paragraph, and no

1 *item described in this paragraph shall be appor-*
2 *tioned to any beneficiary.*

3 *“(D) No amount shall be allowed under*
4 *paragraph (1) or (2) of section 1211(b).*

5 *“(3) TREATMENT OF REMAINDER OF TRUST AND*
6 *DISTRIBUTIONS.—For purposes of determining—*

7 *“(A) the amount of the tax imposed by this*
8 *chapter on the portion of any electing small*
9 *business trust not treated as a separate trust*
10 *under paragraph (1), and*

11 *“(B) the distributable net income of the en-*
12 *tire trust,*

13 *the items referred to in paragraph (2)(C) shall be ex-*
14 *cluded. Except as provided in the preceding sentence,*
15 *this subsection shall not affect the taxation of any dis-*
16 *tribution from the trust.*

17 *“(4) TREATMENT OF UNUSED DEDUCTIONS*
18 *WHERE TERMINATION OF SEPARATE TRUST.—If a*
19 *portion of an electing small business trust ceases to*
20 *be treated as a separate trust under paragraph (1),*
21 *any carryover or excess deduction of the separate*
22 *trust which is referred to in section 642(h) shall be*
23 *taken into account by the entire trust.*

24 *“(5) ELECTING SMALL BUSINESS TRUST.—For*
25 *purposes of this subsection, the term ‘electing small*

1 *business trust’ has the meaning given such term by*
 2 *section 1361(e)(1).”.*

3 *(e) TECHNICAL AMENDMENT.—Paragraph (1) of sec-*
 4 *tion 1366(a) is amended by inserting “, or of a trust or*
 5 *estate which terminates,” after “who dies”.*

6 **SEC. 1303. EXPANSION OF POST-DEATH QUALIFICATION**
 7 **FOR CERTAIN TRUSTS.**

8 *Subparagraph (A) of section 1361(c)(2) (relating to*
 9 *certain trusts permitted as shareholders) is amended—*

10 *(1) by striking “60-day period” each place it ap-*
 11 *pears in clauses (ii) and (iii) and inserting “2-year*
 12 *period”, and*

13 *(2) by striking the last sentence in clause (ii).*

14 **SEC. 1304. FINANCIAL INSTITUTIONS PERMITTED TO HOLD**
 15 **SAFE HARBOR DEBT.**

16 *Clause (iii) of section 1361(c)(5)(B) (defining straight*
 17 *debt) is amended by striking “or a trust described in para-*
 18 *graph (2)” and inserting “a trust described in paragraph*
 19 *(2), or a person which is actively and regularly engaged*
 20 *in the business of lending money”.*

21 **SEC. 1305. RULES RELATING TO INADVERTENT TERMI-**
 22 **NATIONS AND INVALID ELECTIONS.**

23 *(a) GENERAL RULE.—Subsection (f) of section 1362*
 24 *(relating to inadvertent terminations) is amended to read*
 25 *as follows:*

1 “(f) *INADVERTENT INVALID ELECTIONS OR TERMI-*
2 *NATIONS.—If—*

3 “(1) *an election under subsection (a) by any cor-*
4 *poration—*

5 “(A) *was not effective for the taxable year*
6 *for which made (determined without regard to*
7 *subsection (b)(2)) by reason of a failure to meet*
8 *the requirements of section 1361(b) or to obtain*
9 *shareholder consents, or*

10 “(B) *was terminated under paragraph (2)*
11 *or (3) of subsection (d),*

12 “(2) *the Secretary determines that the cir-*
13 *cumstances resulting in such ineffectiveness or termi-*
14 *nation were inadvertent,*

15 “(3) *no later than a reasonable period of time*
16 *after discovery of the circumstances resulting in such*
17 *ineffectiveness or termination, steps were taken—*

18 “(A) *so that the corporation is a small busi-*
19 *ness corporation, or*

20 “(B) *to acquire the required shareholder*
21 *consents, and*

22 “(4) *the corporation, and each person who was*
23 *a shareholder in the corporation at any time during*
24 *the period specified pursuant to this subsection, agrees*
25 *to make such adjustments (consistent with the treat-*

1 *ment of the corporation as an S corporation) as may*
2 *be required by the Secretary with respect to such pe-*
3 *riod,*
4 *then, notwithstanding the circumstances resulting in such*
5 *ineffectiveness or termination, such corporation shall be*
6 *treated as an S corporation during the period specified by*
7 *the Secretary.”.*

8 *(b) LATE ELECTIONS, ETC.—Subsection (b) of section*
9 *1362 is amended by adding at the end the following new*
10 *paragraph:*

11 *“(5) AUTHORITY TO TREAT LATE ELECTIONS,*
12 *ETC., AS TIMELY.—If—*

13 *“(A) an election under subsection (a) is*
14 *made for any taxable year (determined without*
15 *regard to paragraph (3)) after the date pre-*
16 *scribed by this subsection for making such elec-*
17 *tion for such taxable year or no such election is*
18 *made for any taxable year, and*

19 *“(B) the Secretary determines that there*
20 *was reasonable cause for the failure to timely*
21 *make such election,*

22 *the Secretary may treat such an election as timely*
23 *made for such taxable year (and paragraph (3) shall*
24 *not apply).”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by sub-*
2 *section (a) and (b) shall apply with respect to elections for*
3 *taxable years beginning after December 31, 1982.*

4 **SEC. 1306. AGREEMENT TO TERMINATE YEAR.**

5 *Paragraph (2) of section 1377(a) (relating to pro rata*
6 *share) is amended to read as follows:*

7 “(2) *ELECTION TO TERMINATE YEAR.*—

8 “(A) *IN GENERAL.*—*Under regulations pre-*
9 *scribed by the Secretary, if any shareholder ter-*
10 *minates the shareholder’s interest in the corpora-*
11 *tion during the taxable year and all affected*
12 *shareholders and the corporation agree to the ap-*
13 *plication of this paragraph, paragraph (1) shall*
14 *be applied to the affected shareholders as if the*
15 *taxable year consisted of 2 taxable years the first*
16 *of which ends on the date of the termination.*

17 “(B) *AFFECTED SHAREHOLDERS.*—*For*
18 *purposes of subparagraph (A), the term ‘affected*
19 *shareholders’ means the shareholder whose inter-*
20 *est is terminated and all shareholders to whom*
21 *such shareholder has transferred shares during*
22 *the taxable year. If such shareholder has trans-*
23 *ferred shares to the corporation, the term ‘af-*
24 *ected shareholders’ shall include all persons who*
25 *are shareholders during the taxable year.’”.*

1 **SEC. 1307. EXPANSION OF POST-TERMINATION TRANSITION**
2 **PERIOD.**

3 (a) *IN GENERAL.*—Paragraph (1) of section 1377(b)
4 (relating to post-termination transition period) is amended
5 by striking “and” at the end of subparagraph (A), by redesi-
6 gnating subparagraph (B) as subparagraph (C), and by
7 inserting after subparagraph (A) the following new sub-
8 paragraph:

9 “(B) the 120-day period beginning on the
10 date of any determination pursuant to an audit
11 of the taxpayer which follows the termination of
12 the corporation’s election and which adjusts a
13 subchapter S item of income, loss, or deduction
14 of the corporation arising during the S period
15 (as defined in section 1368(e)(2)), and”.

16 (b) *DETERMINATION DEFINED.*—Paragraph (2) of sec-
17 tion 1377(b) is amended by striking subparagraphs (A) and
18 (B), by redesignating subparagraph (C) as subparagraph
19 (B), and by inserting before subparagraph (B) (as so redesi-
20 gnated) the following new subparagraph:

21 “(A) a determination as defined in section
22 1313(a), or”.

23 (c) *REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUB-*
24 *CHAPTER S ITEMS.*—

1 (1) *GENERAL RULE.*—Subchapter D of chapter
2 63 (relating to tax treatment of subchapter S items)
3 is hereby repealed.

4 (2) *CONSISTENT TREATMENT REQUIRED.*—Sec-
5 tion 6037 (relating to return of S corporation) is
6 amended by adding at the end the following new sub-
7 section:

8 “(c) *SHAREHOLDER’S RETURN MUST BE CONSISTENT*
9 *WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF*
10 *INCONSISTENCY.*—

11 “(1) *IN GENERAL.*—A shareholder of an S cor-
12 poration shall, on such shareholder’s return, treat a
13 subchapter S item in a manner which is consistent
14 with the treatment of such item on the corporate re-
15 turn.

16 “(2) *NOTIFICATION OF INCONSISTENT TREAT-*
17 *MENT.*—

18 “(A) *IN GENERAL.*—In the case of any sub-
19 chapter S item, if—

20 “(i)(I) the corporation has filed a re-
21 turn but the shareholder’s treatment on his
22 return is (or may be) inconsistent with the
23 treatment of the item on the corporate re-
24 turn, or

1 “(II) the corporation has not filed a re-
2 turn, and

3 “(ii) the shareholder files with the Sec-
4 retary a statement identifying the inconsis-
5 tency,

6 paragraph (1) shall not apply to such item.

7 “(B) *SHAREHOLDER RECEIVING INCORRECT*
8 *INFORMATION.*—A shareholder shall be treated as
9 having complied with clause (ii) of subpara-
10 graph (A) with respect to a subchapter S item if
11 the shareholder—

12 “(i) demonstrates to the satisfaction of
13 the Secretary that the treatment of the sub-
14 chapter S item on the shareholder’s return
15 is consistent with the treatment of the item
16 on the schedule furnished to the shareholder
17 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) of
23 paragraph (2), and

24 “(B) in which the shareholder does not com-
25 ply with subparagraph (A)(ii) of paragraph (2),

1 *any adjustment required to make the treatment of the*
2 *items by such shareholder consistent with the treat-*
3 *ment of the items on the corporate return shall be*
4 *treated as arising out of mathematical or clerical er-*
5 *rors and assessed according to section 6213(b)(1).*
6 *Paragraph (2) of section 6213(b) shall not apply to*
7 *any assessment referred to in the preceding sentence.*

8 “(4) *SUBCHAPTER S ITEM.*—*For purposes of this*
9 *subsection, the term ‘subchapter S item’ means any*
10 *item of an S corporation to the extent that regula-*
11 *tions prescribed by the Secretary provide that, for*
12 *purposes of this subtitle, such item is more appro-*
13 *priately determined at the corporation level than at*
14 *the shareholder level.*

15 “(5) *ADDITION TO TAX FOR FAILURE TO COMPLY*
16 *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.”.**

17 (3) *CONFORMING AMENDMENTS.*—

18 (A) *Section 1366 is amended by striking*
19 *subsection (g).*

20 (B) *Subsection (b) of section 6233 is*
21 *amended to read as follows:*

22 “(b) *SIMILAR RULES IN CERTAIN CASES.*—*If a part-*
23 *nership return is filed for any taxable year but it is deter-*

1 *mined that there is no entity for such taxable year, to the*
 2 *extent provided in regulations, rules similar to the rules*
 3 *of subsection (a) shall apply.”.*

4 *(C) The table of subchapters for chapter 63*
 5 *is amended by striking the item relating to sub-*
 6 *chapter D.*

7 **SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUBSIDI-**
 8 **ARIES.**

9 *(a) IN GENERAL.—Paragraph (2) of section 1361(b)*
 10 *(defining ineligible corporation) is amended by striking*
 11 *subparagraph (A) and by redesignating subparagraphs (B),*
 12 *(C), (D), and (E) as subparagraphs (A), (B), (C), and (D),*
 13 *respectively.*

14 *(b) TREATMENT OF CERTAIN WHOLLY OWNED S COR-*
 15 *PORATION SUBSIDIARIES.—Section 1361(b) (defining small*
 16 *business corporation) is amended by adding at the end the*
 17 *following new paragraph:*

18 *“(3) TREATMENT OF CERTAIN WHOLLY OWNED*
 19 *SUBSIDIARIES.—*

20 *“(A) IN GENERAL.—For purposes of this*
 21 *title—*

22 *“(i) a corporation which is a qualified*
 23 *subchapter S subsidiary shall not be treated*
 24 *as a separate corporation, and*

1 “(ii) all assets, liabilities, and items of
2 income, deduction, and credit of a qualified
3 subchapter S subsidiary shall be treated as
4 assets, liabilities, and such items (as the
5 case may be) of the S corporation.

6 “(B) QUALIFIED SUBCHAPTER S SUBSIDI-
7 ARY.—For purposes of this paragraph, the term
8 ‘qualified subchapter S subsidiary’ means any
9 domestic corporation which is not an ineligible
10 corporation (as defined in paragraph (2)), if—

11 “(i) 100 percent of the stock of such
12 corporation is held by the S corporation,
13 and

14 “(ii) the S corporation elects to treat
15 such corporation as a qualified subchapter
16 S subsidiary.

17 “(C) TREATMENT OF TERMINATIONS OF
18 QUALIFIED SUBCHAPTER S SUBSIDIARY STA-
19 TUS.—For purposes of this title, if any corpora-
20 tion which was a qualified subchapter S subsidi-
21 ary ceases to meet the requirements of subpara-
22 graph (B), such corporation shall be treated as
23 a new corporation acquiring all of its assets
24 (and assuming all of its liabilities) immediately

1 *before such cessation from the S corporation in*
2 *exchange for its stock.*

3 “(D) *ELECTION AFTER TERMINATION.*—*If a*
4 *corporation’s status as a qualified subchapter S*
5 *subsidiary terminates, such corporation (and*
6 *any successor corporation) shall not be eligible to*
7 *make—*

8 “(i) *an election under subparagraph*
9 *(B)(ii) to be treated as a qualified sub-*
10 *chapter S subsidiary, or*

11 “(ii) *an election under section 1362(a)*
12 *to be treated as an S corporation,*

13 *before its 5th taxable year which begins after the*
14 *1st taxable year for which such termination was*
15 *effective, unless the Secretary consents to such*
16 *election.”.*

17 (c) *CERTAIN DIVIDENDS NOT TREATED AS PASSIVE*
18 *INVESTMENT INCOME.*—*Paragraph (3) of section 1362(d) is*
19 *amended by adding at the end the following new subpara-*
20 *graph:*

21 “(F) *TREATMENT OF CERTAIN DIVI-*
22 *DENDS.*—*If an S corporation holds stock in a C*
23 *corporation meeting the requirements of section*
24 *1504(a)(2), the term ‘passive investment income’*
25 *shall not include dividends from such C corpora-*

1 *tion to the extent such dividends are attributable*
2 *to the earnings and profits of such C corporation*
3 *derived from the active conduct of a trade or*
4 *business.”.*

5 *(d) CONFORMING AMENDMENTS.—*

6 *(1) Subsection (c) of section 1361 is amended by*
7 *striking paragraph (6).*

8 *(2) Subsection (b) of section 1504 (defining in-*
9 *cludible corporation) is amended by adding at the*
10 *end the following new paragraph:*

11 *“(8) An S corporation.”.*

12 **SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS**
13 **YEARS.**

14 *(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO*
15 *ACCOUNT BEFORE LOSSES.—*

16 *(1) Subparagraph (A) of section 1366(d)(1) (re-*
17 *lating to losses and deductions cannot exceed share-*
18 *holder’s basis in stock and debt) is amended by strik-*
19 *ing “paragraph (1)” and inserting “paragraphs (1)*
20 *and (2)(A)”.*

21 *(2) Subsection (d) of section 1368 (relating to*
22 *certain adjustments taken into account) is amended*
23 *by adding at the end the following new sentence:*

24 *“In the case of any distribution made during any taxable*
25 *year, the adjusted basis of the stock shall be determined with*

1 *regard to the adjustments provided in paragraph (1) of sec-*
2 *tion 1367(a) for the taxable year.”.*

3 (b) *ACCUMULATED ADJUSTMENTS ACCOUNT.*—Para-
4 *graph (1) of section 1368(e) (relating to accumulated ad-*
5 *justments account) is amended by adding at the end the*
6 *following new subparagraph:*

7 “(C) *NET LOSS FOR YEAR DISREGARDED.*—

8 “(i) *IN GENERAL.*—*In applying this section*
9 *to distributions made during any taxable year,*
10 *the amount in the accumulated adjustments ac-*
11 *count as of the close of such taxable year shall*
12 *be determined without regard to any net negative*
13 *adjustment for such taxable year.*

14 “(ii) *NET NEGATIVE ADJUSTMENT.*—*For*
15 *purposes of clause (i), the term ‘net negative ad-*
16 *justment’ means, with respect to any taxable*
17 *year, the excess (if any) of—*

18 “(I) *the reductions in the account for*
19 *the taxable year (other than for distribu-*
20 *tions), over*

21 “(II) *the increases in such account for*
22 *such taxable year.”.*

23 (c) *CONFORMING AMENDMENTS.*—*Subparagraph (A)*
24 *of section 1368(e)(1) is amended—*

1 *be reduced by an amount equal to the portion (if any) of*
2 *such accumulated earnings and profits which were accumu-*
3 *lated in any taxable year beginning before January 1, 1983,*
4 *for which such corporation was an electing small business*
5 *corporation under such subchapter S.*

6 *(b) CONFORMING AMENDMENTS.—*

7 *(1) Paragraph (3) of section 1362(d), as amend-*
8 *ed by section 1308, is amended—*

9 *(A) by striking “SUBCHAPTER C” in the*
10 *paragraph heading and inserting “ACCUMU-*
11 *LATED”;*

12 *(B) by striking “subchapter C” in subpara-*
13 *graph (A)(i)(I) and inserting “accumulated”,*
14 *and*

15 *(C) by striking subparagraph (B) and re-*
16 *designating the following subparagraphs accord-*
17 *ingly.*

18 *(2)(A) Subsection (a) of section 1375 is amended*
19 *by striking “subchapter C” in paragraph (1) and in-*
20 *serting “accumulated”.*

21 *(B) Paragraph (3) of section 1375(b) is amended*
22 *to read as follows:*

23 *“(3) PASSIVE INVESTMENT INCOME, ETC.—The*
24 *terms ‘passive investment income’ and ‘gross receipts’*

1 *have the same respective meanings as when used in*
2 *paragraph (3) of section 1362(d).”.*

3 (C) *The section heading for section 1375 is*
4 *amended by striking “SUBCHAPTER C” and insert-*
5 *ing “ACCUMULATED”.*

6 (D) *The table of sections for part III of sub-*
7 *chapter S of chapter 1 is amended by striking “sub-*
8 *chapter C” in the item relating to section 1375 and*
9 *inserting “accumulated”.*

10 (3) *Clause (i) of section 1042(c)(4)(A) is amend-*
11 *ed by striking “section 1362(d)(3)(D)” and inserting*
12 *“section 1362(d)(3)(C)”.*

13 **SEC. 1312. CARRYOVER OF DISALLOWED LOSSES AND DE-**
14 **DUCTIONS UNDER AT-RISK RULES ALLOWED.**

15 *Paragraph (3) of section 1366(d) (relating to carryover*
16 *of disallowed losses and deductions to post-termination*
17 *transition period) is amended by adding at the end the fol-*
18 *lowing new subparagraph:*

19 “(D) *AT-RISK LIMITATIONS.—To the extent*
20 *that any increase in adjusted basis described in*
21 *subparagraph (B) would have increased the*
22 *shareholder’s amount at risk under section 465 if*
23 *such increase had occurred on the day preceding*
24 *the commencement of the post-termination tran-*
25 *sition period, rules similar to the rules described*

1 *in subparagraphs (A) through (C) shall apply to*
 2 *any losses disallowed by reason of section*
 3 *465(a).”.*

4 **SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK**
 5 **TO REFLECT CERTAIN ITEMS OF INCOME.**

6 *(a) IN GENERAL.—Subsection (b) of section 1367 (re-*
 7 *lating to adjustments to basis of stock of shareholders, etc.)*
 8 *is amended by adding at the end the following new para-*
 9 *graph:*

10 “(4) *ADJUSTMENTS IN CASE OF INHERITED*
 11 *STOCK.—*

12 “(A) *IN GENERAL.—If any person acquires*
 13 *stock in an S corporation by reason of the death*
 14 *of a decedent or by bequest, devise, or inherit-*
 15 *ance, section 691 shall be applied with respect to*
 16 *any item of income of the S corporation in the*
 17 *same manner as if the decedent had held directly*
 18 *his pro rata share of such item.*

19 “(B) *ADJUSTMENTS TO BASIS.—The basis*
 20 *determined under section 1014 of any stock in*
 21 *an S corporation shall be reduced by the portion*
 22 *of the value of the stock which is attributable to*
 23 *items constituting income in respect of the dece-*
 24 *dent.”.*

1 (b) *EFFECTIVE DATE.*—The amendment made by sub-
2 section (a) shall apply in the case of decedents dying after
3 the date of the enactment of this Act.

4 **SEC. 1314. S CORPORATIONS ELIGIBLE FOR RULES APPLI-**
5 **CABLE TO REAL PROPERTY SUBDIVIDED FOR**
6 **SALE BY NONCORPORATE TAXPAYERS.**

7 (a) *IN GENERAL.*—Subsection (a) of section 1237 (re-
8 lating to real property subdivided for sale) is amended by
9 striking “other than a corporation” in the material preced-
10 ing paragraph (1) and inserting “other than a C corpora-
11 tion”.

12 (b) *CONFORMING AMENDMENT.*—Subparagraph (A) of
13 section 1237(a)(2) is amended by inserting “an S corpora-
14 tion which included the taxpayer as a shareholder,” after
15 “controlled by the taxpayer,”.

16 **SEC. 1315. FINANCIAL INSTITUTIONS.**

17 Subparagraph (A) of section 1361(b)(2) (defining in-
18 eligible corporation), as redesignated by section 1308(a), is
19 amended to read as follows:

20 “(A) a financial institution which uses the
21 reserve method of accounting for bad debts de-
22 scribed in section 585 or 593,”.

23 **SEC. 1316. CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO**
24 **BE SHAREHOLDERS.**

25 (a) *ELIGIBILITY TO BE SHAREHOLDERS.*—

1 (1) *IN GENERAL.*—Subparagraph (B) of section
2 1361(b)(1) (defining small business corporation) is
3 amended to read as follows:

4 “(B) have as a shareholder a person (other
5 than an estate, a trust described in subsection
6 (c)(2), or an organization described in subsection
7 (c)(7)) who is not an individual.”.

8 (2) *ELIGIBLE EXEMPT ORGANIZATIONS.*—Section
9 1361(c) (relating to special rules for applying sub-
10 section (b)) is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(7) *CERTAIN EXEMPT ORGANIZATIONS PER-*
13 *MITTED AS SHAREHOLDERS.*—For purposes of sub-
14 section (b)(1)(B), an organization which is—

15 “(A) described in section 401(a) or
16 501(c)(3), and

17 “(B) exempt from taxation under section
18 501(a),

19 may be a shareholder in an S corporation.”.

20 (b) *CONTRIBUTIONS OF S CORPORATION STOCK.*—Sec-
21 tion 170(e)(1) (relating to certain contributions of ordinary
22 income and capital gain property) is amended by adding
23 at the end the following new sentence: “For purposes of ap-
24 plying this paragraph in the case of a charitable contribu-
25 tion of stock in an S corporation, rules similar to the rules

1 of section 751 shall apply in determining whether gain on
2 such stock would have been long-term capital gain if such
3 stock were sold by the taxpayer.”

4 (c) TREATMENT OF INCOME.—Section 512 (relating to
5 unrelated business taxable income), as amended by section
6 1113, is amended by adding at the end the following new
7 subsection:

8 “(e) SPECIAL RULES APPLICABLE TO S CORPORA-
9 TIONS.—If an organization described in section 1361(c)(7)
10 holds stock in an S corporation—

11 “(1) such interest shall be treated as an interest
12 in an unrelated trade or business; and

13 “(2) notwithstanding any other provision of this
14 part, all items of income, loss, deduction, or credit
15 taken into account under section 1366(a) and any
16 gain or loss on the disposition of the stock in the S
17 corporation shall be taken into account in computing
18 the unrelated business taxable income of such organi-
19 zation.”.

20 (d) CERTAIN BENEFITS NOT APPLICABLE TO S COR-
21 PORATIONS.—

22 (1) CONTRIBUTION TO ESOPS.—Paragraph (9) of
23 section 404(a) (relating to certain contributions to
24 employee ownership plans) is amended by inserting
25 at the end the following new subparagraph:

1 “(C) *S* CORPORATIONS.—This paragraph
2 shall not apply to an *S* corporation.”.

3 (2) *DIVIDENDS ON EMPLOYER SECURITIES*.—
4 Paragraph (1) of section 404(k) (relating to deduction
5 for dividends on certain employer securities) is
6 amended by striking “a corporation” and inserting
7 “a *C* corporation”.

8 (3) *EXCHANGE TREATMENT*.—Subparagraph (A)
9 of section 1042(c)(1) (defining qualified securities) is
10 amended by striking “domestic corporation” and in-
11 serting “domestic *C* corporation”.

12 (e) *CONFORMING AMENDMENT*.—Clause (i) of section
13 1361(e)(1)(A), as added by section 1302, is amended by
14 striking “which holds a contingent interest and is not a
15 potential current beneficiary”.

16 (f) *EFFECTIVE DATE*.—The amendments made by this
17 section shall apply to taxable years beginning after Decem-
18 ber 31, 1997.

19 **SEC. 1317. EFFECTIVE DATE.**

20 (a) *IN GENERAL*.—Except as otherwise provided in
21 this subtitle, the amendments made by this subtitle shall
22 apply to taxable years beginning after December 31, 1996.

23 (b) *TREATMENT OF CERTAIN ELECTIONS UNDER*
24 *PRIOR LAW*.—For purposes of section 1362(g) of the Inter-
25 nal Revenue Code of 1986 (relating to election after termi-

1 nation), any termination under section 1362(d) of such
 2 Code in a taxable year beginning before January 1, 1997,
 3 shall not be taken into account.

4 **Subtitle D—Pension Simplification**
 5 **CHAPTER 1—SIMPLIFIED DISTRIBUTION**
 6 **RULES**

7 **SEC. 1401. REPEAL OF 5-YEAR INCOME AVERAGING FOR**
 8 **LUMP-SUM DISTRIBUTIONS.**

9 (a) *IN GENERAL.*—Subsection (d) of section 402 (relat-
 10 ing to taxability of beneficiary of employees’ trust) is
 11 amended to read as follows:

12 “(d) *TAXABILITY OF BENEFICIARY OF CERTAIN FOR-*
 13 *EIGN SITUS TRUSTS.*—For purposes of subsections (a), (b),
 14 and (c), a stock bonus, pension, or profit-sharing trust
 15 which would qualify for exemption from tax under section
 16 501(a) except for the fact that it is a trust created or orga-
 17 nized outside the United States shall be treated as if it were
 18 a trust exempt from tax under section 501(a).”.

19 (b) *CONFORMING AMENDMENTS.*—

20 (1) Subparagraph (D) of section 402(e)(4) (relat-
 21 ing to other rules applicable to exempt trusts) is
 22 amended to read as follows:

23 “(D) *LUMP-SUM DISTRIBUTION.*—For pur-
 24 poses of this paragraph—

1 “(i) *IN GENERAL.*—*The term ‘lump*
2 *sum distribution’ means the distribution or*
3 *payment within one taxable year of the re-*
4 *recipient of the balance to the credit of an em-*
5 *ployee which becomes payable to the recipi-*
6 *ent—*

7 “(I) *on account of the employee’s*
8 *death,*

9 “(II) *after the employee attains*
10 *age 59½,*

11 “(III) *on account of the employ-*
12 *ee’s separation from service, or*

13 “(IV) *after the employee has be-*
14 *come disabled (within the meaning of*
15 *section 72(m)(7)),*

16 *from a trust which forms a part of a plan*
17 *described in section 401(a) and which is ex-*
18 *empt from tax under section 501 or from a*
19 *plan described in section 403(a). Subclause*
20 *(III) of this clause shall be applied only*
21 *with respect to an individual who is an em-*
22 *ployee without regard to section 401(c)(1),*
23 *and subclause (IV) shall be applied only*
24 *with respect to an employee within the*
25 *meaning of section 401(c)(1). For purposes*

1 of this clause, a distribution to two or more
2 trusts shall be treated as a distribution to
3 one recipient. For purposes of this para-
4 graph, the balance to the credit of the em-
5 ployee does not include the accumulated de-
6 ductible employee contributions under the
7 plan (within the meaning of section
8 72(o)(5)).

9 “(ii) *AGGREGATION OF CERTAIN*
10 *TRUSTS AND PLANS.*—For purposes of deter-
11 mining the balance to the credit of an em-
12 ployee under clause (i)—

13 “(I) all trusts which are part of a
14 plan shall be treated as a single trust,
15 all pension plans maintained by the
16 employer shall be treated as a single
17 plan, all profit-sharing plans main-
18 tained by the employer shall be treated
19 as a single plan, and all stock bonus
20 plans maintained by the employer
21 shall be treated as a single plan, and

22 “(II) trusts which are not quali-
23 fied trusts under section 401(a) and
24 annuity contracts which do not satisfy

1 *the requirements of section 404(a)(2)*
2 *shall not be taken into account.*

3 “(iii) *COMMUNITY PROPERTY LAWS.—*
4 *The provisions of this paragraph shall be*
5 *applied without regard to community prop-*
6 *erty laws.*

7 “(iv) *AMOUNTS SUBJECT TO PEN-*
8 *ALTY.—This paragraph shall not apply to*
9 *amounts described in subparagraph (A) of*
10 *section 72(m)(5) to the extent that section*
11 *72(m)(5) applies to such amounts.*

12 “(v) *BALANCE TO CREDIT OF EM-*
13 *PLOYEE NOT TO INCLUDE AMOUNTS PAY-*
14 *ABLE UNDER QUALIFIED DOMESTIC RELA-*
15 *TIONS ORDER.—For purposes of this para-*
16 *graph, the balance to the credit of an em-*
17 *ployee shall not include any amount pay-*
18 *able to an alternate payee under a qualified*
19 *domestic relations order (within the mean-*
20 *ing of section 414(p)).*

21 “(vi) *TRANSFERS TO COST-OF-LIVING*
22 *ARRANGEMENT NOT TREATED AS DISTRIBU-*
23 *TION.—For purposes of this paragraph, the*
24 *balance to the credit of an employee under*
25 *a defined contribution plan shall not in-*

1 *clude any amount transferred from such de-*
2 *defined contribution plan to a qualified cost-*
3 *of-living arrangement (within the meaning*
4 *of section 415(k)(2)) under a defined benefit*
5 *plan.*

6 “(vii) *LUMP-SUM DISTRIBUTIONS OF*
7 *ALTERNATE PAYEES.—If any distribution*
8 *or payment of the balance to the credit of*
9 *an employee would be treated as a lump-*
10 *sum distribution, then, for purposes of this*
11 *paragraph, the payment under a qualified*
12 *domestic relations order (within the mean-*
13 *ing of section 414(p)) of the balance to the*
14 *credit of an alternate payee who is the*
15 *spouse or former spouse of the employee*
16 *shall be treated as a lump-sum distribution.*
17 *For purposes of this clause, the balance to*
18 *the credit of the alternate payee shall not*
19 *include any amount payable to the em-*
20 *ployee.”.*

21 (2) *Section 402(c) (relating to rules applicable to*
22 *rollovers from exempt trusts) is amended by striking*
23 *paragraph (10).*

1 (3) Paragraph (1) of section 55(c) (defining reg-
2 ular tax) is amended by striking “shall not include
3 any tax imposed by section 402(d) and”.

4 (4) Paragraph (8) of section 62(a) (relating to
5 certain portion of lump-sum distributions from pen-
6 sion plans taxed under section 402(d)) is hereby re-
7 pealed.

8 (5) Section 401(a)(28)(B) (relating to coordina-
9 tion with distribution rules) is amended by striking
10 clause (v).

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

14 “(ii) *LUMP-SUM DISTRIBUTION.*—For
15 purposes of this subparagraph, the term
16 ‘lump-sum distribution’ has the meaning
17 given such term by section 402(e)(4)(D)
18 (without regard to subclauses (I), (II), (III),
19 and (IV) of clause (i) thereof).”.

20 (7) Section 406(c) (relating to termination of
21 status as deemed employee not to be treated as sepa-
22 ration from service for purposes of limitation of tax)
23 is hereby repealed.

24 (8) Section 407(c) (relating to termination of
25 status as deemed employee not to be treated as sepa-

1 *ration from service for purposes of limitation of tax)*
2 *is hereby repealed.*

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

5 (10) *Paragraph (1) of section 871(b) (relating to*
6 *imposition of tax) is amended by striking “section 1,*
7 *55, or 402(d)(1)” and inserting “section 1 or 55”.*

8 (11) *Subsection (b) of section 877 (relating to al-*
9 *ternative tax) is amended by striking “section 1, 55,*
10 *or 402(d)(1)” and inserting “section 1 or 55”.*

11 (12) *Section 4980A(c)(4) is amended—*

12 (A) *by striking “to which an election under*
13 *section 402(d)(4)(B) applies” and inserting “(as*
14 *defined in section 402(e)(4)(D)) with respect to*
15 *which the individual elects to have this para-*
16 *graph apply”,*

17 (B) *by adding at the end the following new*
18 *flush sentence:*

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

21 (C) *by striking the heading and inserting:*

22 *“(4) SPECIAL ONE-TIME ELECTION.—”.*

23 (13) *Section 402(e) is amended by striking para-*
24 *graph (5).*

25 (c) *EFFECTIVE DATES.—*

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to taxable years beginning*
3 *after December 31, 1999.*

4 (2) *RETENTION OF CERTAIN TRANSITION*
5 *RULES.*—*The amendments made by this section shall*
6 *not apply to any distribution for which the taxpayer*
7 *is eligible to elect the benefits of section 1122 (h)(3)*
8 *or (h)(5) of the Tax Reform Act of 1986. Notwith-*
9 *standing the preceding sentence, individuals who elect*
10 *such benefits after December 31, 1999, shall not be eli-*
11 *gible for 5-year averaging under section 402(d) of the*
12 *Internal Revenue Code of 1986 (as in effect imme-*
13 *diately before such amendments).*

14 **SEC. 1402. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES'**
15 **DEATH BENEFITS.**

16 (a) *IN GENERAL.*—*Subsection (b) of section 101 is*
17 *hereby repealed.*

18 (b) *CONFORMING AMENDMENTS.*—

19 (1) *Subsection (c) of section 101 is amended by*
20 *striking “subsection (a) or (b)” and inserting “sub-*
21 *section (a)”.*

22 (2) *Sections 406(e) and 407(e) are each amended*
23 *by striking paragraph (2) and by redesignating para-*
24 *graph (3) as paragraph (2).*

1 (3) Section 7701(a)(20) is amended by striking
2 “; for the purpose of applying the provisions of sec-
3 tion 101(b) with respect to employees’ death benefits”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply with respect to decedents dying after the
6 date of the enactment of this Act.

7 **SEC. 1403. SIMPLIFIED METHOD FOR TAXING ANNUITY DIS-**
8 **TRIBUTIONS UNDER CERTAIN EMPLOYER**
9 **PLANS.**

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

13 “(d) *SPECIAL RULES FOR QUALIFIED EMPLOYER RE-*
14 *TIREMENT 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 qualified
19 employer retirement plan—

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

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

24 “(B) *METHOD OF RECOVERING INVESTMENT*
25 *IN CONTRACT.*—

1 “(i) *IN GENERAL.*—*Gross income shall*
 2 *not include so much of any monthly annu-*
 3 *ity payment under a qualified employer re-*
 4 *tirement plan as does not exceed the amount*
 5 *obtained by dividing—*

6 “(I) *the investment in the con-*
 7 *tract (as of the annuity starting date),*
 8 *by*

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

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

20 “(iii) *NUMBER OF ANTICIPATED PAY-*
 21 *MENTS.*—

<i>“If the age of the primary annuitant on the annuity starting date is:</i>	<i>The number of anticipated payments is:</i>
<i>Not more than 55</i>	<i>360</i>
<i>More than 55 but not more than 60</i>	<i>310</i>
<i>More than 60 but not more than 65</i>	<i>260</i>

<i>More than 65 but not more than 70</i>	210
<i>More than 70</i>	160.

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

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

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

15 “(ii) *the investment in the contract for*
16 *purposes of this paragraph shall be deter-*
17 *mined as if such payment had been so re-*
18 *ceived.*

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 term*
10 *‘qualified employer retirement plan’ means any*
11 *plan or contract described in paragraph (1), (2),*
12 *or (3) of section 4974(c).*

13 “(2) *TREATMENT OF EMPLOYEE CONTRIBUTIONS*
14 *UNDER DEFINED CONTRIBUTION PLANS.—For pur-*
15 *poses of this section, employee contributions (and any*
16 *income allocable thereto) under a defined contribution*
17 *plan may be treated as a separate contract.”.*

18 (b) *EFFECTIVE DATE.—The amendment made by this*
19 *section shall apply in cases where the annuity starting date*
20 *is after the 90th day after the date of the enactment of this*
21 *Act.*

22 **SEC. 1404. 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 ‘required*
4 *beginning date’ means April 1 of the cal-*
5 *endar year following the later of—*

6 “(I) *the calendar year in which*
7 *the employee attains age 70¹/₂, 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 who*
14 *is a 5-percent owner (as defined in sec-*
15 *tion 416) with respect to the plan year*
16 *ending in the calendar year in which*
17 *the employee attains age 70¹/₂, or*

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

20 “(iii) *ACTUARIAL ADJUSTMENT.*—*In*
21 *the case of an employee to whom clause*
22 *(i)(II) applies who retires in a calendar*
23 *year after the calendar year in which the*
24 *employee attains age 70¹/₂, the employee’s*
25 *accrued benefit shall be actuarially in-*

1 *creased to take into account the period after*
 2 *age 70½ in which the employee was not re-*
 3 *ceiving any benefits under the plan.*

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

15 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 16 *section (a) shall apply to years beginning after December*
 17 *31, 1996.*

18 **CHAPTER 2—INCREASED ACCESS TO**

19 **RETIREMENT PLANS**

20 **Subchapter A—Simple Savings Plans**

21 **SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH**

22 **PLANS FOR EMPLOYEES OF SMALL EMPLOY-**
 23 **ERS.**

24 *(a) IN GENERAL.—Section 408 (relating to individual*
 25 *retirement accounts) is amended by redesignating sub-*

1 *section (p) as subsection (q) and by inserting after sub-*
2 *section (o) the following new subsection:*

3 “(p) *SIMPLE RETIREMENT ACCOUNTS.*—

4 “(1) *IN GENERAL.*—*For purposes of this title, the*
5 *term ‘simple retirement account’ means an individual*
6 *retirement plan (as defined in section 7701(a)(37))—*

7 “(A) *with respect to which the requirements*
8 *of paragraphs (3), (4), and (5) are met; and*

9 “(B) *with respect to which the only con-*
10 *tributions allowed are contributions under a*
11 *qualified salary reduction arrangement.*

12 “(2) *QUALIFIED SALARY REDUCTION ARRANGE-*
13 *MENT.*—

14 “(A) *IN GENERAL.*—*For purposes of this*
15 *subsection, the term ‘qualified salary reduction*
16 *arrangement’ means a written arrangement of*
17 *an eligible employer under which—*

18 “(i) *an employee eligible to participate*
19 *in the arrangement may elect to have the*
20 *employer make payments—*

21 “(I) *as elective employer contribu-*
22 *tions to a simple retirement account on*
23 *behalf of the employee, or*

24 “(II) *to the employee directly in*
25 *cash,*

1 “(ii) the amount which an employee
2 may elect under clause (i) for any year is
3 required to be expressed as a percentage of
4 compensation and may not exceed a total of
5 \$6,000 for any year,

6 “(iii) the employer is required to make
7 a matching contribution to the simple re-
8 tirement account for any year in an
9 amount equal to so much of the amount the
10 employee elects under clause (i)(I) as does
11 not exceed the applicable percentage of com-
12 pensation for the year, and

13 “(iv) no contributions may be made
14 other than contributions described in clause
15 (i) or (iii).

16 “(B) EMPLOYER MAY ELECT 2-PERCENT
17 NONELECTIVE CONTRIBUTION.—

18 “(i) IN GENERAL.—An employer shall
19 be treated as meeting the requirements of
20 subparagraph (A)(iii) for any year if, in
21 lieu of the contributions described in such
22 clause, the employer elects to make nonelec-
23 tive contributions of 2 percent of compensa-
24 tion for each employee who is eligible to
25 participate in the arrangement and who

1 *has at least \$5,000 of compensation from*
2 *the employer for the year. If an employer*
3 *makes an election under this subparagraph*
4 *for any year, the employer shall notify em-*
5 *ployees of such election within a reasonable*
6 *period of time before the 60-day period for*
7 *such year under paragraph (5)(C).*

8 “(ii) *COMPENSATION LIMITATION.—*
9 *The compensation taken into account under*
10 *clause (i) for any year shall not exceed the*
11 *limitation in effect for such year under sec-*
12 *tion 401(a)(17).*

13 “(C) *DEFINITIONS.—For purposes of this*
14 *subsection—*

15 “(i) *ELIGIBLE EMPLOYER.—*

16 “(I) *IN GENERAL.—The term ‘eli-*
17 *gible employer’ means, with respect to*
18 *any year, an employer which had no*
19 *more than 100 employees who received*
20 *at least \$5,000 of compensation from*
21 *the employer for the preceding year.*

22 “(II) *2-YEAR GRACE PERIOD.—An*
23 *eligible employer who establishes and*
24 *maintains a plan under this subsection*
25 *for 1 or more years and who fails to be*

1 *an eligible employer for any subsequent*
2 *year shall be treated as an eligible em-*
3 *ployer for the 2 years following the last*
4 *year the employer was an eligible em-*
5 *ployer. If such failure is due to any ac-*
6 *quisition, disposition, or similar trans-*
7 *action involving an eligible employer,*
8 *the preceding sentence shall apply only*
9 *in accordance with rules similar to the*
10 *rules of section 410(b)(6)(C)(i).*

11 *“(i) APPLICABLE PERCENTAGE.—*

12 *“(I) IN GENERAL.—The term ‘ap-*
13 *plicable percentage’ means 3 percent.*

14 *“(II) ELECTION OF LOWER PER-*
15 *CENTAGE.—An employer may elect to*
16 *apply a lower percentage (not less than*
17 *1 percent) for any year for all employ-*
18 *ees eligible to participate in the plan*
19 *for such year if the employer notifies*
20 *the employees of such lower percentage*
21 *within a reasonable period of time be-*
22 *fore the 60-day election period for such*
23 *year under paragraph (5)(C). An em-*
24 *ployer may not elect a lower percent-*
25 *age under this subclause for any year*

1 *if that election would result in the ap-*
2 *plicable percentage being lower than 3*
3 *percent in more than 2 of the years in*
4 *the 5-year period ending with such*
5 *year.*

6 *“(III) SPECIAL RULE FOR YEARS*
7 *ARRANGEMENT NOT IN EFFECT.—If*
8 *any year in the 5-year period de-*
9 *scribed in subclause (II) is a year*
10 *prior to the first year for which any*
11 *qualified salary reduction arrangement*
12 *is in effect with respect to the employer*
13 *(or any predecessor), the employer*
14 *shall be treated as if the level of the*
15 *employer matching contribution was at*
16 *3 percent of compensation for such*
17 *prior year.*

18 *“(D) ARRANGEMENT MAY BE ONLY PLAN OF*
19 *EMPLOYER.—*

20 *“(i) IN GENERAL.—An arrangement*
21 *shall not be treated as a qualified salary re-*
22 *duction arrangement for any year if the*
23 *employer (or any predecessor employer)*
24 *maintained a qualified plan with respect to*
25 *which contributions were made, or benefits*

1 *were accrued, for service in any year in the*
2 *period beginning with the year such ar-*
3 *rangement became effective and ending with*
4 *the year for which the determination is*
5 *being made.*

6 “(ii) *QUALIFIED PLAN.*—*For purposes*
7 *of this subparagraph, the term ‘qualified*
8 *plan’ means a plan, contract, pension, or*
9 *trust described in subparagraph (A) or (B)*
10 *of section 219(g)(5).*

11 “(E) *COST-OF-LIVING ADJUSTMENT.*—*The*
12 *Secretary shall adjust the \$6,000 amount under*
13 *subparagraph (A)(ii) at the same time and in*
14 *the same manner as under section 415(d), except*
15 *that the base period taken into account shall be*
16 *the calendar quarter ending September 30, 1996,*
17 *and any increase under this subparagraph which*
18 *is not a multiple of \$500 shall be rounded to the*
19 *next lower multiple of \$500.*

20 “(3) *VESTING REQUIREMENTS.*—*The require-*
21 *ments of this paragraph are met with respect to a*
22 *simple retirement account if the employee’s rights to*
23 *any contribution to the simple retirement account are*
24 *nonforfeitable. For purposes of this paragraph, rules*
25 *similar to the rules of subsection (k)(4) shall apply.*

1 “(4) *PARTICIPATION REQUIREMENTS.*—

2 “(A) *IN GENERAL.*—*The requirements of*
3 *this paragraph are met with respect to any sim-*
4 *ple retirement account for a year only if, under*
5 *the qualified salary reduction arrangement, all*
6 *employees of the employer who—*

7 “(i) *received at least \$5,000 in com-*
8 *ensation from the employer during any 2*
9 *preceding years, and*

10 “(ii) *are reasonably expected to receive*
11 *at least \$5,000 in compensation during the*
12 *year,*

13 *are eligible to make the election under paragraph*
14 *(2)(A)(i) or receive the nonelective contribution*
15 *described in paragraph (2)(B).*

16 “(B) *EXCLUDABLE EMPLOYEES.*—*An em-*
17 *ployer may elect to exclude from the requirement*
18 *under subparagraph (A) employees described in*
19 *section 410(b)(3).*

20 “(5) *ADMINISTRATIVE REQUIREMENTS.*—*The re-*
21 *quirements of this paragraph are met with respect to*
22 *any simplified retirement account if, under the quali-*
23 *fied salary reduction arrangement—*

24 “(A) *an employer must—*

1 “(i) make the elective employer con-
2 tributions under paragraph (2)(A)(i) not
3 later than the close of the 30-day period fol-
4 lowing the last day of the month with re-
5 spect to which the contributions are to be
6 made, and

7 “(ii) make the matching contributions
8 under paragraph (2)(A)(iii) or the nonelec-
9 tive contributions under paragraph (2)(B)
10 not later than the date described in section
11 404(m)(2)(B),

12 “(B) an employee may elect to terminate
13 participation in such arrangement at any time
14 during the year, except that if an employee so
15 terminates, the arrangement may provide that
16 the employee may not elect to resume participa-
17 tion until the beginning of the next year, and

18 “(C) each employee eligible to participate
19 may elect, during the 60-day period before the
20 beginning of any year (and the 60-day period
21 before the first day such employee is eligible to
22 participate), to participate in the arrangement,
23 or to modify the amounts subject to such ar-
24 rangement, for such year.

1 “(6) *DEFINITIONS.*—*For purposes of this sub-*
2 *section—*

3 “(A) *COMPENSATION.*—

4 “(i) *IN GENERAL.*—*The term ‘com-*
5 *pen-sation’ means amounts described in*
6 *paragraphs (3) and (8) of section 6051(a).*

7 “(ii) *SELF-EMPLOYED.*—*In the case of*
8 *an employee described in subparagraph (B),*
9 *the term ‘compensation’ means net earnings*
10 *from self-employment determined under sec-*
11 *tion 1402(a) without regard to any con-*
12 *tribution under this subsection.*

13 “(B) *EMPLOYEE.*—*The term ‘employee’ in-*
14 *cludes an employee as defined in section*
15 *401(c)(1).*

16 “(C) *YEAR.*—*The term ‘year’ means the cal-*
17 *endar year.*

18 “(7) *USE OF DESIGNATED FINANCIAL INSTITU-*
19 *TION.*—*A plan shall not be treated as failing to sat-*
20 *isfy the requirements of this subsection or any other*
21 *provision of this title merely because the employer*
22 *makes all contributions to the individual retirement*
23 *accounts or annuities of a designated trustee or is-*
24 *suer. The preceding sentence shall not apply unless*
25 *each plan participant is notified in writing (either*

1 *separately or as part of the notice under subsection*
 2 *(l)(2)(C)) that the participant's balance may be*
 3 *transferred without cost or penalty to another indi-*
 4 *vidual account or annuity in accordance with section*
 5 *408(d)(3)(G).”.*

6 *(b) TAX TREATMENT OF SIMPLE RETIREMENT AC-*
 7 *COUNTS.—*

8 *(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EM-*
 9 *PLOYEES.—*

10 *(A) Section 219(b) (relating to maximum*
 11 *amount of deduction) is amended by adding at*
 12 *the end the following new paragraph:*

13 *“(4) SPECIAL RULE FOR SIMPLE RETIREMENT*
 14 *ACCOUNTS.—This section shall not apply with respect*
 15 *to any amount contributed to a simple retirement ac-*
 16 *count established under section 408(p).”.*

17 *(B) Section 219(g)(5)(A) (defining active*
 18 *participant) is amended by striking “or” at the*
 19 *end of clause (iv) and by adding at the end the*
 20 *following new clause:*

21 *“(vi) any simple retirement account*
 22 *(within the meaning of section 408(p)), or”.*

23 *(2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-*
 24 *TIONS.—Section 404 (relating to deductions for con-*
 25 *tributions of an employer to pension, etc. plans) is*

1 *amended by adding at the end the following new sub-*
2 *section:*

3 “(m) *SPECIAL RULES FOR SIMPLE RETIREMENT AC-*
4 *COUNTS.—*

5 “(1) *IN GENERAL.—Employer contributions to a*
6 *simple retirement account shall be treated as if they*
7 *are made to a plan subject to the requirements of this*
8 *section.*

9 “(2) *TIMING.—*

10 “(A) *DEDUCTION.—Contributions described*
11 *in paragraph (1) shall be deductible in the tax-*
12 *able year of the employer with or within which*
13 *the calendar year for which the contributions*
14 *were made ends.*

15 “(B) *CONTRIBUTIONS AFTER END OF*
16 *YEAR.—For purposes of this subsection, contribu-*
17 *tions shall be treated as made for a taxable year*
18 *if they are made on account of the taxable year*
19 *and are made not later than the time prescribed*
20 *by law for filing the return for the taxable year*
21 *(including extensions thereof).”.*

22 “(3) *CONTRIBUTIONS AND DISTRIBUTIONS.—*

23 “(A) *Section 402 (relating to taxability of*
24 *beneficiary of employees’ trust) is amended by*
25 *adding at the end the following new subsection:*

1 “(k) *TREATMENT OF SIMPLE RETIREMENT AC-*
2 *COUNTS.—Rules similar to the rules of paragraphs (1) and*
3 *(3) of subsection (h) shall apply to contributions and dis-*
4 *tributions with respect to a simple retirement account*
5 *under section 408(p).”.*

6 (B) *Section 408(d)(3) is amended by add-*
7 *ing at the end the following new subparagraph:*

8 “(G) *SIMPLE RETIREMENT ACCOUNTS.—*
9 *This paragraph shall not apply to any amount*
10 *paid or distributed out of a simple retirement*
11 *account (as defined in section 408(p)) unless—*

12 “(i) *it is paid into another simple re-*
13 *tirement account, or*

14 “(ii) *in the case of any payment or*
15 *distribution to which section 72(t)(6) does*
16 *not apply, it is paid into an individual re-*
17 *tirement plan.”.*

18 (C) *Clause (i) of section 457(c)(2)(B) is*
19 *amended by striking “section 402(h)(1)(B)” and*
20 *inserting “section 402(h)(1)(B) or (k)”.*

21 (4) *PENALTIES.—*

22 (A) *EARLY WITHDRAWALS.—Section 72(t)*
23 *(relating to additional tax in early distribu-*
24 *tions) is amended by adding at the end the fol-*
25 *lowing new paragraph:*

1 “(6) *SPECIAL RULES FOR SIMPLE RETIREMENT*
2 *ACCOUNTS.*—*In the case of any amount received from*
3 *a simple retirement account (within the meaning of*
4 *section 408(p)) during the 2-year period beginning on*
5 *the date such individual first participated in any*
6 *qualified salary reduction arrangement maintained*
7 *by the individual’s employer under section 408(p)(2),*
8 *paragraph (1) shall be applied by substituting ‘25*
9 *percent’ for ‘10 percent’.*”.

10 (B) *FAILURE TO REPORT.*—*Section 6693 is*
11 *amended by redesignating subsection (c) as sub-*
12 *section (d) and by inserting after subsection (b)*
13 *the following new subsection:*

14 “(c) *PENALTIES RELATING TO SIMPLE RETIREMENT*
15 *ACCOUNTS.*—

16 “(1) *EMPLOYER PENALTIES.*—*An employer who*
17 *fails to provide 1 or more notices required by section*
18 *408(l)(2)(C) shall pay a penalty of \$50 for each day*
19 *on which such failures continue.*

20 “(2) *TRUSTEE PENALTIES.*—*A trustee who*
21 *fails—*

22 “(A) *to provide 1 or more statements re-*
23 *quired by the last sentence of section 408(i) shall*
24 *pay a penalty of \$50 for each day on which such*
25 *failures continue, or*

1 “(B) to provide 1 or more summary de-
2 scriptions required by section 408(l)(2)(B) shall
3 pay a penalty of \$50 for each day on which such
4 failures continue.

5 “(3) *REASONABLE CAUSE EXCEPTION.*—No pen-
6 alty shall be imposed under this subsection with re-
7 spect to any failure which the taxpayer shows was
8 due to reasonable cause.”.

9 (5) *REPORTING REQUIREMENTS.*—

10 (A) Section 408(l) is amended by adding at
11 the end the following new paragraph:

12 “(2) *SIMPLE RETIREMENT ACCOUNTS.*—

13 “(A) *NO EMPLOYER REPORTS.*—Except as
14 provided in this paragraph, no report shall be
15 required under this section by an employer
16 maintaining a qualified salary reduction ar-
17 rangement under subsection (p).

18 “(B) *SUMMARY DESCRIPTION.*—The trustee
19 of any simple retirement account established
20 pursuant to a qualified salary reduction ar-
21 rangement under subsection (p) shall provide to
22 the employer maintaining the arrangement, each
23 year a description containing the following in-
24 formation:

1 “(i) *The name and address of the em-*
2 *ployer and the trustee.*

3 “(ii) *The requirements for eligibility*
4 *for participation.*

5 “(iii) *The benefits provided with re-*
6 *spect to the arrangement.*

7 “(iv) *The time and method of making*
8 *elections with respect to the arrangement.*

9 “(v) *The procedures for, and effects of,*
10 *withdrawals (including rollovers) from the*
11 *arrangement.*

12 “(C) *EMPLOYEE NOTIFICATION.—The em-*
13 *ployer shall notify each employee immediately*
14 *before the period for which an election described*
15 *in subsection (p)(5)(C) may be made of the em-*
16 *ployee’s opportunity to make such election. Such*
17 *notice shall include a copy of the description de-*
18 *scribed in subparagraph (B).”.*

19 (B) *Section 408(l) is amended by striking*
20 *“An employer” and inserting the following:*

21 “(1) *IN GENERAL.—An employer”.*

22 (6) *REPORTING REQUIREMENTS.—Section 408(i)*
23 *is amended by adding at the end the following new*
24 *flush sentence:*

1 *“In the case of a simple retirement account under sub-*
 2 *section (p), only one report under this subsection shall be*
 3 *required to be submitted each calendar year to the Secretary*
 4 *(at the time provided under paragraph (2)) but, in addition*
 5 *to the report under this subsection, there shall be furnished,*
 6 *within 30 days after each calendar year, to the individual*
 7 *on whose behalf the account is maintained a statement with*
 8 *respect to the account balance as of the close of, and the*
 9 *account activity during, such calendar year.”.*

10 (7) *EXEMPTION FROM TOP-HEAVY PLAN*
 11 *RULES.—Section 416(g)(4) (relating to special rules*
 12 *for top-heavy plans) is amended by adding at the end*
 13 *the following new subparagraph:*

14 *“(G) SIMPLE RETIREMENT ACCOUNTS.—The*
 15 *term ‘top-heavy plan’ shall not include a simple*
 16 *retirement account under section 408(p).”.*

17 (8) *EMPLOYMENT TAXES.—*

18 (A) *Paragraph (5) of section 3121(a) is*
 19 *amended by striking “or” at the end of subpara-*
 20 *graph (F), by inserting “or” at the end of sub-*
 21 *paragraph (G), and by adding at the end the fol-*
 22 *lowing new subparagraph:*

23 *“(H) under an arrangement to which sec-*
 24 *tion 408(p) applies, other than any elective con-*
 25 *tributions under paragraph (2)(A)(i) thereof,”.*

1 (B) Section 209(a)(4) of the Social Security
2 Act is amended by inserting “; or (J) under an
3 arrangement to which section 408(p) of such
4 Code applies, other than any elective contribu-
5 tions under paragraph (2)(A)(i) thereof” before
6 the semicolon at the end thereof.

7 (C) Paragraph (5) of section 3306(b) is
8 amended by striking “or” at the end of subpara-
9 graph (F), by inserting “or” at the end of sub-
10 paragraph (G), and by adding at the end the fol-
11 lowing new subparagraph:

12 “(H) under an arrangement to which sec-
13 tion 408(p) applies, other than any elective con-
14 tributions under paragraph (2)(A)(i) thereof.”.

15 (D) Paragraph (12) of section 3401(a) is
16 amended by adding the following new subpara-
17 graph:

18 “(D) under an arrangement to which sec-
19 tion 408(p) applies; or”.

20 (9) CONFORMING AMENDMENTS.—

21 (A) Section 280G(b)(6) is amended by strik-
22 ing “or” at the end of subparagraph (B), by
23 striking the period at the end of subparagraph
24 (C) and inserting “, or” and by adding after

1 *subparagraph (C) the following new subpara-*
2 *graph:*

3 “(D) a simple retirement account described
4 in section 408(p).”.

5 (B) Section 402(g)(3) is amended by strik-
6 ing “and” at the end of subparagraph (B), by
7 striking the period at the end of subparagraph
8 (C) and inserting “, and”, and by adding after
9 subparagraph (C) the following new subpara-
10 graph:

11 “(D) any elective employer contribution
12 under section 408(p)(2)(A)(i).”.

13 (C) Subsections (b), (c), (m)(4)(B), and
14 (n)(3)(B) of section 414 are each amended by in-
15 serting “408(p),” after “408(k),”.

16 (D) Section 4972(d)(1)(A) is amended by
17 striking “and” at the end of clause (ii), by strik-
18 ing the period at the end of clause (iii) and in-
19 serting “, and”, and by adding after clause (iii)
20 the following new clause:

21 “(iv) any simple retirement account
22 (within the meaning of section 408(p)).”.

23 (c) *REPEAL OF SALARY REDUCTION SIMPLIFIED EM-*
24 *PLOYEE PENSIONS.*—Section 408(k)(6) is amended by add-
25 ing at the end the following new subparagraph:

1 “(H) *TERMINATION.*—*This paragraph shall*
2 *not apply to years beginning after December 31,*
3 *1996. The preceding sentence shall not apply to*
4 *a simplified employee pension if the terms of*
5 *such pension, as in effect on December 31, 1996,*
6 *provide that an employee may make the election*
7 *described in subparagraph (A).”.*

8 (d) *MODIFICATIONS OF ERISA.*—

9 (1) *REPORTING REQUIREMENTS.*—*Section 101 of*
10 *the Employee Retirement Income Security Act of*
11 *1974 (29 U.S.C. 1021) is amended by redesignating*
12 *subsection (g) as subsection (h) and by inserting after*
13 *subsection (f) the following new subsection:*

14 “(g) *SIMPLE RETIREMENT ACCOUNTS.*—

15 “(1) *NO EMPLOYER REPORTS.*—*Except as pro-*
16 *vided in this subsection, no report shall be required*
17 *under this section by an employer maintaining a*
18 *qualified salary reduction arrangement under section*
19 *408(p) of the Internal Revenue Code of 1986.*

20 “(2) *SUMMARY DESCRIPTION.*—*The trustee of*
21 *any simple retirement account established pursuant*
22 *to a qualified salary reduction arrangement under*
23 *section 408(p) of such Code shall provide to the em-*
24 *ployer maintaining the arrangement each year a de-*
25 *scription containing the following information:*

1 “(A) *The name and address of the employer*
2 *and the trustee.*

3 “(B) *The requirements for eligibility for*
4 *participation.*

5 “(C) *The benefits provided with respect to*
6 *the arrangement.*

7 “(D) *The time and method of making elec-*
8 *tions with respect to the arrangement.*

9 “(E) *The procedures for, and effects of,*
10 *withdrawals (including rollovers) from the ar-*
11 *rangement.*

12 “(3) *EMPLOYEE NOTIFICATION.—The employer*
13 *shall notify each employee immediately before the pe-*
14 *riod for which an election described in section*
15 *408(p)(5)(C) of such Code may be made of the em-*
16 *ployee’s opportunity to make such election. Such no-*
17 *tice shall include a copy of the description described*
18 *in paragraph (2).”*

19 “(2) *FIDUCIARY DUTIES.—Section 404(c) of such*
20 *Act (29 U.S.C. 1104(c)) is amended by inserting*
21 *“(1)” after “(c)”, by redesignating paragraphs (1)*
22 *and (2) as subparagraphs (A) and (B), respectively,*
23 *and by adding at the end the following new para-*
24 *graph:*

1 “(2) *In the case of a simple retirement account*
2 *established pursuant to a qualified salary reduction*
3 *arrangement under section 408(p) of the Internal*
4 *Revenue Code of 1986, a participant or beneficiary*
5 *shall, for purposes of paragraph (1), be treated as ex-*
6 *ercising control over the assets in the account upon*
7 *the earliest of—*

8 “(A) *an affirmative election with respect to*
9 *the initial investment of any contribution,*

10 “(B) *a rollover to any other simple retire-*
11 *ment account or individual retirement plan, or*

12 “(C) *one year after the simple retirement*
13 *account is established.*

14 *No reports, other than those required under section*
15 *101(g), shall be required with respect to a simple re-*
16 *tirement account established pursuant to such a*
17 *qualified salary reduction arrangement.”.*

18 *(e) EFFECTIVE DATE.—The amendments made by this*
19 *section shall apply to taxable years beginning after Decem-*
20 *ber 31, 1996.*

21 **SEC. 1422. EXTENSION OF SIMPLE PLAN TO 401(k) AR-**
22 **RANGEMENTS.**

23 *(a) ALTERNATIVE METHOD OF SATISFYING SECTION*
24 *401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relat-*

1 *ing to cash or deferred arrangements) is amended by adding*
2 *at the end the following new paragraph:*

3 “(11) *ADOPTION OF SIMPLE PLAN TO MEET NON-*
4 *DISCRIMINATION TESTS.—*

5 “(A) *IN GENERAL.—A cash or deferred ar-*
6 *rangement maintained by an eligible employer*
7 *shall be treated as meeting the requirements of*
8 *paragraph (3)(A)(ii) if such arrangement*
9 *meets—*

10 “(i) *the contribution requirements of*
11 *subparagraph (B),*

12 “(ii) *the exclusive plan requirements of*
13 *subparagraph (C), and*

14 “(iii) *the vesting requirements of sec-*
15 *tion 408(p)(3).*

16 “(B) *CONTRIBUTION REQUIREMENTS.—*

17 “(i) *IN GENERAL.—The requirements*
18 *of this subparagraph are met if, under the*
19 *arrangement—*

20 “(I) *an employee may elect to*
21 *have the employer make elective con-*
22 *tributions for the year on behalf of the*
23 *employee to a trust under the plan in*
24 *an amount which is expressed as a*
25 *percentage of compensation of the em-*

1 *ployee but which in no event exceeds*
2 *\$6,000,*

3 *“(II) the employer is required to*
4 *make a matching contribution to the*
5 *trust for the year in an amount equal*
6 *to so much of the amount the employee*
7 *elects under subclause (I) as does not*
8 *exceed 3 percent of compensation for*
9 *the year, and*

10 *“(III) no other contributions may*
11 *be made other than contributions de-*
12 *scribed in subclause (I) or (II).*

13 *“(i) EMPLOYER MAY ELECT 2-PER-*
14 *CENT NONELECTIVE CONTRIBUTION.—An*
15 *employer shall be treated as meeting the re-*
16 *quirements of clause (i)(II) for any year if,*
17 *in lieu of the contributions described in*
18 *such clause, the employer elects (pursuant to*
19 *the terms of the arrangement) to make non-*
20 *elective contributions of 2 percent of com-*
21 *penetration for each employee who is eligible*
22 *to participate in the arrangement and who*
23 *has at least \$5,000 of compensation from*
24 *the employer for the year. If an employer*
25 *makes an election under this subparagraph*

1 *for any year, the employer shall notify em-*
2 *ployees of such election within a reasonable*
3 *period of time before the 60th day before the*
4 *beginning of such year.*

5 “(C) *EXCLUSIVE PLAN REQUIREMENT.*—*The*
6 *requirements of this subparagraph are met for*
7 *any year to which this paragraph applies if no*
8 *contributions were made, or benefits were ac-*
9 *crued, for services during such year under any*
10 *qualified plan of the employer on behalf of any*
11 *employee eligible to participate in the cash or de-*
12 *ferred arrangement, other than contributions de-*
13 *scribed in subparagraph (B).*

14 “(D) *DEFINITIONS AND SPECIAL RULE.*—

15 “(i) *DEFINITIONS.*—*For purposes of*
16 *this paragraph, any term used in this para-*
17 *graph which is also used in section 408(p)*
18 *shall have the meaning given such term by*
19 *such section.*

20 “(ii) *COORDINATION WITH TOP-HEAVY*
21 *RULES.*—*A plan meeting the requirements*
22 *of this paragraph for any year shall not be*
23 *treated as a top-heavy plan under section*
24 *416 for such year.”.*

1 **(b) ALTERNATIVE METHODS OF SATISFYING SECTION**
 2 **401(m) NONDISCRIMINATION TESTS.**—Section 401(m) (re-
 3 *lating to nondiscrimination test for matching contributions*
 4 *and employee contributions)* is amended by redesignating
 5 *paragraph (10) as paragraph (11) and by adding after*
 6 *paragraph (9) the following new paragraph:*

7 “(10) **ALTERNATIVE METHOD OF SATISFYING**
 8 **TESTS.**—A defined contribution plan shall be treated
 9 *as meeting the requirements of paragraph (2) with re-*
 10 *spect to matching contributions if the plan—*

11 “(A) *meets the contribution requirements of*
 12 *subparagraph (B) of subsection (k)(11),*

13 “(B) *meets the exclusive plan requirements*
 14 *of subsection (k)(11)(C), and*

15 “(C) *meets the vesting requirements of sec-*
 16 *tion 408(p)(3).”.*

17 **(c) EFFECTIVE DATE.**—The amendments made by this
 18 *section shall apply to plan years beginning after December*
 19 *31, 1996.*

20 **Subchapter B—Other Provisions**

21 **SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER** 22 **SECTION 401(k).**

23 **(a) IN GENERAL.**—Subparagraph (B) of section
 24 *401(k)(4) is amended to read as follows:*

1 “(B) *ELIGIBILITY OF STATE AND LOCAL*
2 *GOVERNMENTS AND TAX-EXEMPT ORGANIZA-*
3 *TIONS.—*

4 “(i) *TAX-EXEMPTS ELIGIBLE.—Except*
5 *as provided in clause (ii), any organization*
6 *exempt from tax under this subtitle may in-*
7 *clude a qualified cash or deferred arrange-*
8 *ment as part of a plan maintained by it.*

9 “(ii) *GOVERNMENTS INELIGIBLE.—A*
10 *cash or deferred arrangement shall not be*
11 *treated as a qualified cash or deferred ar-*
12 *rangement if it is part of a plan main-*
13 *tained by a State or local government or*
14 *political subdivision thereof, or any agency*
15 *or instrumentality thereof. This clause shall*
16 *not apply to a rural cooperative plan or to*
17 *a plan of an employer described in clause*
18 *(iii).*

19 “(iii) *TREATMENT OF INDIAN TRIBAL*
20 *GOVERNMENTS.—An employer which is an*
21 *Indian tribal government (as defined in sec-*
22 *tion 7701(a)(40)), a subdivision of an In-*
23 *Indian tribal government (determined in ac-*
24 *cordance with section 7871(d)), an agency*
25 *or instrumentality of an Indian tribal gov-*

1 *ernment or subdivision thereof, or a cor-*
2 *poration chartered under Federal, State, or*
3 *tribal law which is owned in whole or in*
4 *part by any of the foregoing may include a*
5 *qualified cash or deferred arrangement as*
6 *part of a plan maintained by the em-*
7 *ployer.”.*

8 *(b) EFFECTIVE DATE.—The amendment made by this*
9 *section shall apply to plan years beginning after December*
10 *31, 1996, but shall not apply to any cash or deferred ar-*
11 *rangement to which clause (i) of section 1116(f)(2)(B) of*
12 *the Tax Reform Act of 1986 applies.*

13 **SEC. 1427. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUC-**
14 **TION.**

15 *(a) SPOUSAL IRA COMPUTED ON BASIS OF COM-*
16 *PENSATION OF BOTH SPOUSES.—Subsection (c) of section*
17 *219 (relating to special rules for certain married individ-*
18 *uals) is amended to read as follows:*

19 *“(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVID-*
20 *UALS.—*

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

1 “(A) the dollar amount in effect under sub-
2 section (b)(1)(A) for the taxable year, or

3 “(B) the sum of—

4 “(i) the compensation includible in
5 such individual’s gross income for the tax-
6 able year, plus

7 “(ii) the compensation includible in
8 the gross income of such individual’s spouse
9 for the taxable year reduced by the amount
10 allowed as a deduction under subsection (a)
11 to such spouse for such taxable year.

12 “(2) INDIVIDUALS TO WHOM PARAGRAPH (1) AP-
13 PLIES.—Paragraph (1) shall apply to any individual
14 if—

15 “(A) such individual files a joint return for
16 the taxable year, and

17 “(B) the amount of compensation (if any)
18 includible in such individual’s gross income for
19 the taxable year is less than the compensation
20 includible in the gross income of such individ-
21 ual’s spouse for the taxable year.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Paragraph (2) of section 219(f) (relating to
24 other definitions and special rules) is amended by

1 *striking “subsections (b) and (c)” and inserting “sub-*
 2 *section (b)”.*

3 (2) *Section 219(g)(1) is amended by striking*
 4 *“(c)(2)” and inserting “(c)(1)(A)”.*

5 (3) *Section 408(d)(5) is amended by striking*
 6 *“\$2,250” and inserting “the dollar amount in effect*
 7 *under section 219(b)(1)(A)”.*

8 (c) *EFFECTIVE DATE.—The amendments made by this*
 9 *section shall apply to taxable years beginning after Decem-*
 10 *ber 31, 1996.*

11 **CHAPTER 3—NONDISCRIMINATION**
 12 **PROVISIONS**

13 **SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**
 14 **EES; REPEAL OF FAMILY AGGREGATION.**

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

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

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

22 “(B) *for the preceding year had compensa-*
 23 *tion from the employer in excess of \$80,000.*

24 *The Secretary shall adjust the \$80,000 amount under*
 25 *subparagraph (B) at the same time and in the same*

1 *manner as under section 415(d), except that the base*
2 *period shall be the calendar quarter ending September*
3 *30, 1996.”.*

4 *(b) REPEAL OF FAMILY AGGREGATION RULES.—*

5 *(1) IN GENERAL.—Paragraph (6) of section*
6 *414(q) is hereby repealed.*

7 *(2) COMPENSATION LIMIT.—Paragraph (17)(A)*
8 *of section 401(a) is amended by striking the last sen-*
9 *tence.*

10 *(3) DEDUCTION.—Subsection (l) of section 404 is*
11 *amended by striking the last sentence.*

12 *(c) CONFORMING AMENDMENTS.—*

13 *(1)(A) Subsection (q) of section 414 is amended*
14 *by striking paragraphs (2), (4), (5), (8), and (12)*
15 *and by redesignating paragraphs (3), (7), (9), (10),*
16 *and (11) as paragraphs (2) through (6), respectively.*

17 *(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),*
18 *408(k)(2)(C), and 416(i)(1)(D) are each amended by*
19 *striking “section 414(q)(7)” and inserting “section*
20 *414(q)(3)”.*

21 *(C) Section 416(i)(1)(A) is amended by striking*
22 *“section 414(q)(8)” and inserting “section 414(r)(9)”.*

23 *(2)(A) Section 414(r) is amended by adding at*
24 *the end the following new paragraph:*

1 “(9) *EXCLUDED EMPLOYEES.*—*For purposes of*
2 *paragraph (2)(A), the following employees shall be ex-*
3 *cluded:*

4 “(A) *Employees who have not completed 6*
5 *months of service.*

6 “(B) *Employees who normally work less*
7 *than 17½ hours per week.*

8 “(C) *Employees who normally work not*
9 *more than 6 months during any year.*

10 “(D) *Employees who have not attained the*
11 *age of 21.*

12 “(E) *Except to the extent provided in regu-*
13 *lations, employees who are included in a unit of*
14 *employees covered by an agreement which the*
15 *Secretary of Labor finds to be a collective bar-*
16 *gaining agreement between employee representa-*
17 *tives and the employer.*

18 *Except as provided by the Secretary, the employer*
19 *may elect to apply subparagraph (A), (B), (C), or (D)*
20 *by substituting a shorter period of service, smaller*
21 *number of hours or months, or lower age for the pe-*
22 *riod of service, number of hours or months, or age (as*
23 *the case may be) specified in such subparagraph.”.*

1 (B) Subparagraph (A) of section 414(r)(2) is
2 amended by striking “subsection (q)(8)” and inserting
3 “paragraph (9)”.

4 (3) Section 1114(c)(4) of the Tax Reform Act of
5 1986 is amended by adding at the end the following
6 new sentence: “Any reference in this paragraph to
7 section 414(q) shall be treated as a reference to such
8 section as in effect on the day before the date of the
9 enactment of the Small Business Job Protection Act
10 of 1996.”.

11 (d) *EFFECTIVE DATE.*—

12 (1) *IN GENERAL.*—The amendments made by
13 this section shall apply to years beginning after De-
14 cember 31, 1996, except that in determining whether
15 an employee is a highly compensated employee for
16 years beginning in 1997, such amendments shall be
17 treated as having been in effect for years beginning in
18 1996.

19 (2) *FAMILY AGGREGATION.*—The amendments
20 made by subsection (b) shall apply to years beginning
21 after December 31, 1996.

1 **SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION**
2 **REQUIREMENTS.**

3 (a) *GENERAL RULE.*—Section 401(a)(26)(A) (relating
4 to additional participation requirements) is amended to
5 read as follows:

6 “(A) *IN GENERAL.*—In the case of a trust
7 which is a part of a defined benefit plan, such
8 trust shall not constitute a qualified trust under
9 this subsection unless on each day of the plan
10 year such trust benefits at least the lesser of—

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

12 “(ii) the greater of—

13 “(I) 40 percent of all employees of
14 the employer, or

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

17 (b) *SEPARATE LINE OF BUSINESS TEST.*—Section
18 401(a)(26)(G) (relating to separate line of business) is
19 amended by striking “paragraph (7)” and inserting “para-
20 graph (2)(A) or (7)”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to years beginning after December 31,
23 1996.

1 **SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED**
2 **CASH OR DEFERRED ARRANGEMENTS AND**
3 **MATCHING CONTRIBUTIONS.**

4 (a) *ALTERNATIVE METHODS OF SATISFYING SECTION*
5 *401(k) NONDISCRIMINATION TESTS.*—Section 401(k) (relat-
6 *ing to cash or deferred arrangements), as amended by sec-*
7 *tion 1422, is amended by adding at the end the following*
8 *new paragraph:*

9 “(12) *ALTERNATIVE METHODS OF MEETING NON-*
10 *DISCRIMINATION REQUIREMENTS.*—

11 “(A) *IN GENERAL.*—A cash or deferred ar-
12 *rangement shall be treated as meeting the re-*
13 *quirements of paragraph (3)(A)(ii) if such ar-*
14 *rangement—*

15 “(i) *meets the contribution require-*
16 *ments of subparagraph (B) or (C), and*

17 “(ii) *meets the notice requirements of*
18 *subparagraph (D).*

19 “(B) *MATCHING CONTRIBUTIONS.*—

20 “(i) *IN GENERAL.*—The requirements
21 *of this subparagraph are met if, under the*
22 *arrangement, the employer makes matching*
23 *contributions on behalf of each employee*
24 *who is not a highly compensated employee*
25 *in an amount equal to—*

1 “(I) 100 percent of the elective
2 contributions of the employee to the ex-
3 tent such elective contributions do not
4 exceed 3 percent of the employee’s com-
5 pensation, and

6 “(II) 50 percent of the elective
7 contributions of the employee to the ex-
8 tent that such elective contributions ex-
9 ceed 3 percent but do not exceed 5 per-
10 cent of the employee’s compensation.

11 “(ii) *RATE FOR HIGHLY COMPENSATED*
12 *EMPLOYEES.—The requirements of this sub-*
13 *paragraph are not met if, under the ar-*
14 *rangement, the rate of matching contribu-*
15 *tion with respect to any elective contribu-*
16 *tion of a highly compensated employee at*
17 *any rate of elective contribution is greater*
18 *than that with respect to an employee who*
19 *is not a highly compensated employee.*

20 “(iii) *ALTERNATIVE PLAN DESIGNS.—*
21 *If the rate of any matching contribution*
22 *with respect to any rate of elective contribu-*
23 *tion is not equal to the percentage required*
24 *under clause (i), an arrangement shall not*

1 *be treated as failing to meet the require-*
2 *ments of clause (i) if—*

3 *“(I) the rate of an employer’s*
4 *matching contribution does not in-*
5 *crease as an employee’s rate of elective*
6 *contributions increase, and*

7 *“(II) the aggregate amount of*
8 *matching contributions at such rate of*
9 *elective contribution is at least equal to*
10 *the aggregate amount of matching con-*
11 *tributions which would be made if*
12 *matching contributions were made on*
13 *the basis of the percentages described in*
14 *clause (i).*

15 *“(C) NONELECTIVE CONTRIBUTIONS.—The*
16 *requirements of this subparagraph are met if,*
17 *under the arrangement, the employer is required,*
18 *without regard to whether the employee makes an*
19 *elective contribution or employee contribution, to*
20 *make a contribution to a defined contribution*
21 *plan on behalf of each employee who is not a*
22 *highly compensated employee and who is eligible*
23 *to participate in the arrangement in an amount*
24 *equal to at least 3 percent of the employee’s com-*
25 *pensation.*

1 “(D) *NOTICE REQUIREMENT.*—*An arrange-*
2 *ment meets the requirements of this paragraph*
3 *if, under the arrangement, each employee eligible*
4 *to participate is, within a reasonable period be-*
5 *fore any year, given written notice of the em-*
6 *ployee’s rights and obligations under the ar-*
7 *rangement which—*

8 “(i) *is sufficiently accurate and com-*
9 *prehensive to appraise the employee of such*
10 *rights and obligations, and*

11 “(ii) *is written in a manner calculated*
12 *to be understood by the average employee el-*
13 *igible to participate.*

14 “(E) *OTHER REQUIREMENTS.*—

15 “(i) *WITHDRAWAL AND VESTING RE-*
16 *STRICTIONS.*—*An arrangement shall not be*
17 *treated as meeting the requirements of sub-*
18 *paragraph (B) or (C) of this paragraph un-*
19 *less the requirements of subparagraphs (B)*
20 *and (C) of paragraph (2) are met with re-*
21 *spect to all employer contributions (includ-*
22 *ing matching contributions) taken into ac-*
23 *count in determining whether the require-*
24 *ments of subparagraphs (B) and (C) of this*
25 *paragraph are met.*

1 “(i) *SOCIAL SECURITY AND SIMILAR*
2 *CONTRIBUTIONS NOT TAKEN INTO AC-*
3 *COUNT.—An arrangement shall not be treat-*
4 *ed as meeting the requirements of subpara-*
5 *graph (B) or (C) unless such requirements*
6 *are met without regard to subsection (l),*
7 *and, for purposes of subsection (l), employer*
8 *contributions under subparagraph (B) or*
9 *(C) shall not be taken into account.*

10 “(F) *OTHER PLANS.—An arrangement shall*
11 *be treated as meeting the requirements under*
12 *subparagraph (A)(i) if any other plan main-*
13 *tained by the employer meets such requirements*
14 *with respect to employees eligible under the ar-*
15 *rangement.”.*

16 (b) *ALTERNATIVE METHODS OF SATISFYING SECTION*
17 *401(m) NONDISCRIMINATION TESTS.—Section 401(m) (re-*
18 *lating to nondiscrimination test for matching contributions*
19 *and employee contributions), as amended by this section*
20 *1422(b), is amended by redesignating paragraph (11) as*
21 *paragraph (12) and by adding after paragraph (10) the*
22 *following new paragraph:*

23 “(11) *ALTERNATIVE METHOD OF SATISFYING*
24 *TESTS.—*

1 “(A) *IN GENERAL.*—A defined contribution
2 plan shall be treated as meeting the requirements
3 of paragraph (2) with respect to matching con-
4 tributions if the plan—

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

8 “(ii) meets the notice requirements of
9 subsection (k)(12)(D), and

10 “(iii) meets the requirements of sub-
11 paragraph (B).

12 “(B) *LIMITATION ON MATCHING CONTRIBU-*
13 *TIONS.*—The requirements of this subparagraph
14 are met if—

15 “(i) matching contributions on behalf
16 of any employee may not be made with re-
17 spect to an employee’s contributions or elec-
18 tive deferrals in excess of 6 percent of the
19 employee’s compensation,

20 “(ii) the rate of an employer’s match-
21 ing contribution does not increase as the
22 rate of an employee’s contributions or elec-
23 tive deferrals increase, and

24 “(iii) the matching contribution with
25 respect to any highly compensated employee

1 *at any rate of an employee contribution or*
2 *rate of elective deferral is not greater than*
3 *that with respect to an employee who is not*
4 *a highly compensated employee.”.*

5 (c) *YEAR FOR COMPUTING NONHIGHLY COMPENSATED*
6 *EMPLOYEE PERCENTAGE.—*

7 (1) *CASH OR DEFERRED ARRANGEMENTS.—Section*
8 *401(k)(3)(A) is amended—*

9 (A) *by striking “such year” in clause (ii)*
10 *and inserting “the plan year”,*

11 (B) *by striking “for such plan year” in*
12 *clause (ii) and inserting “for the preceding plan*
13 *year”, and*

14 (C) *by adding at the end the following new*
15 *sentence: “An arrangement may apply clause*
16 *(ii) by using the plan year rather than the pre-*
17 *ceding plan year if the employer so elects, except*
18 *that if such an election is made, it may not be*
19 *changed except as provided by the Secretary.”.*

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

22 (A) *by inserting “for such plan year” after*
23 *“highly compensated employees”,*

1 (B) by inserting “for the preceding plan
2 year” after “eligible employees” each place it ap-
3 pears in clause (i) and clause (ii), and

4 (C) by adding at the end the following flush
5 sentence:

6 “*This subparagraph may be applied by using the*
7 *plan year rather than the preceding plan year if*
8 *the employer so elects, except that if such an elec-*
9 *tion is made, it may not be changed except as*
10 *provided the Secretary.*”

11 (d) *SPECIAL RULE FOR DETERMINING AVERAGE DE-*
12 *FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—*

13 (1) *Paragraph (3) of section 401(k) is amended*
14 *by adding at the end the following new subparagraph:*

15 “*(E) For purposes of this paragraph, in the*
16 *case of the first plan year of any plan (other*
17 *than a successor plan), the amount taken into*
18 *account as the actual deferral percentage of non-*
19 *highly compensated employees for the preceding*
20 *plan year shall be—*

21 “*(i) 3 percent, or*

22 “*(ii) if the employer makes an election*
23 *under this subclause, the actual deferral*
24 *percentage of nonhighly compensated em-*

1 *ployees determined for such first plan*
2 *year.”.*

3 *(2) Paragraph (3) of section 401(m) is amended*
4 *by adding at the end the following: “Rules similar to*
5 *the rules of subsection (k)(3)(E) shall apply for pur-*
6 *poses of this subsection.”.*

7 *(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND*
8 *EXCESS AGGREGATE CONTRIBUTIONS.—*

9 *(1) Subparagraph (C) of section 401(k)(8) (relat-*
10 *ing to arrangement not disqualified if excess contribu-*
11 *tions distributed) is amended by striking “on the*
12 *basis of the respective portions of the excess contribu-*
13 *tions attributable to each of such employees” and in-*
14 *serting “on the basis of the amount of contributions*
15 *by, or on behalf of, each of such employees”.*

16 *(2) Subparagraph (C) of section 401(m)(6) (re-*
17 *lating to method of distributing excess aggregate con-*
18 *tributions) is amended by striking “on the basis of the*
19 *respective portions of such amounts attributable to*
20 *each of such employees” and inserting “on the basis*
21 *of the amount of contributions on behalf of, or by,*
22 *each such employee”.*

23 *(f) EFFECTIVE DATES.—*

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to years beginning after De-*
3 *cember 31, 1998.*

4 (2) *EXCEPTIONS.*—*The amendments made by*
5 *subsections (c), (d), and (e) shall apply to years be-*
6 *ginning after December 31, 1996.*

7 **SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION**
8 **415 PURPOSES.**

9 (a) *GENERAL RULE.*—*Section 415(c)(3) (defining par-*
10 *ticipant’s compensation) is amended by adding at the end*
11 *the following new subparagraph:*

12 “(D) *CERTAIN DEFERRALS INCLUDED.*—*The*
13 *term ‘participant’s compensation’ shall in-*
14 *clude—*

15 “(i) *any elective deferral (as defined in*
16 *section 402(g)(3)), and*

17 “(ii) *any amount which is contributed*
18 *or deferred by the employer at the election*
19 *of the employee and which is not includible*
20 *in the gross income of the employee by rea-*
21 *son of section 125 or 457.”.*

22 (b) *CONFORMING AMENDMENTS.*—

23 (1) *Section 414(q)(3), as redesignated by section*
24 *1431, is amended to read as follows:*

1 “(4) *COMPENSATION.*—For purposes of this sub-
2 section, the term ‘compensation’ has the meaning
3 given such term by section 415(c)(3).”.

4 (2) Section 414(s)(2) is amended by inserting
5 “not” after “elect” in the text and heading thereof.

6 (c) *EFFECTIVE DATE.*—The amendments made by this
7 section shall apply to years beginning after December 31,
8 1997.

9 **CHAPTER 4—MISCELLANEOUS**

10 **PROVISIONS**

11 **SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVID-** 12 **UALS.**

13 (a) *AGGREGATION RULES.*—Section 401(d) (relating
14 to additional requirements for qualification of trusts and
15 plans benefiting owner-employees) is amended to read as
16 follows:

17 “(d) *CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.*—
18 A trust forming part of a pension or profit-sharing plan
19 which provides contributions or benefits for employees some
20 or all of whom are owner-employees shall constitute a quali-
21 fied trust under this section only if, in addition to meeting
22 the requirements of subsection (a), the plan provides that
23 contributions on behalf of any owner-employee may be
24 made only with respect to the earned income of such owner-

1 *employee which is derived from the trade or business with*
 2 *respect to which such plan is established.”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to years beginning after December 31,*
 5 *1996.*

6 **SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR**
 7 **MULTIEMPLOYER PLANS.**

8 (a) *AMENDMENTS TO 1986 CODE.*—*Paragraph (2) of*
 9 *section 411(a) (relating to minimum vesting standards) is*
 10 *amended—*

11 (1) *by striking “subparagraph (A), (B), or (C)”*
 12 *and inserting “subparagraph (A) or (B)”;* and

13 (2) *by striking subparagraph (C).*

14 (b) *AMENDMENTS TO ERISA.*—*Paragraph (2) of sec-*
 15 *tion 203(a) of the Employee Retirement Income Security*
 16 *Act of 1974 (29 U.S.C. 1053(a)) is amended—*

17 (1) *by striking “subparagraph (A), (B), or (C)”*
 18 *and inserting “subparagraph (A) or (B)”;* and

19 (2) *by striking subparagraph (C).*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 21 *section shall apply to plan years beginning on or after the*
 22 *earlier of—*

23 (1) *the later of—*

24 (A) *January 1, 1997, or*

1 *gard to the limitation of its application to prof-*
2 *it-sharing or stock bonus plans).”.*

3 **(b) PUBLIC UTILITY DISTRICTS.**—*Clause (i) of section*
4 *401(k)(7)(B) (defining rural cooperative) is amended to*
5 *read as follows:*

6 *“(i) any organization which—*
7 *“(I) is engaged primarily in pro-*
8 *viding electric service on a mutual or*
9 *cooperative basis, or*

10 *“(II) is engaged primarily in pro-*
11 *viding electric service to the public in*
12 *its area of service and which is exempt*
13 *from tax under this subtitle or which is*
14 *a State or local government (or an*
15 *agency or instrumentality thereof),*
16 *other than a municipality (or an agen-*
17 *cy or instrumentality thereof),”.*

18 **(c) EFFECTIVE DATES.**—

19 **(1) DISTRIBUTIONS.**—*The amendments made by*
20 *subsection (a) shall apply to distributions after the*
21 *date of the enactment of this Act.*

22 **(2) PUBLIC UTILITY DISTRICTS.**—*The amend-*
23 *ments made by subsection (b) shall apply to plan*
24 *years beginning after December 31, 1996.*

1 **SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER**
2 **SECTION 415.**

3 (a) *COMPENSATION LIMIT.*—Subsection (b) of section
4 415 is amended by adding immediately after paragraph
5 (10) the following new paragraph:

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

10 (b) *TREATMENT OF CERTAIN EXCESS BENEFIT*
11 *PLANS.*—

12 (1) *IN GENERAL.*—Section 415 is amended by
13 adding at the end the following new subsection:

14 “(m) *TREATMENT OF QUALIFIED GOVERNMENTAL EX-*
15 *CESS BENEFIT ARRANGEMENTS.*—

16 “(1) *GOVERNMENTAL PLAN NOT AFFECTED.*—In
17 determining whether a governmental plan (as defined
18 in section 414(d)) meets the requirements of this sec-
19 tion, benefits provided under a qualified governmental
20 excess benefit arrangement shall not be taken into ac-
21 count. Income accruing to a governmental plan (or to
22 a trust that is maintained solely for the purpose of
23 providing benefits under a qualified governmental ex-
24 cess benefit arrangement) in respect of a qualified
25 governmental excess benefit arrangement shall con-
26 stitute income derived from the exercise of an essen-

1 *tial governmental function upon which such govern-*
2 *mental plan (or trust) shall be exempt from tax under*
3 *section 115.*

4 “(2) *TAXATION OF PARTICIPANT.—For purposes*
5 *of this chapter—*

6 “(A) *the taxable year or years for which*
7 *amounts in respect of a qualified governmental*
8 *excess benefit arrangement are includible in*
9 *gross income by a participant, and*

10 “(B) *the treatment of such amounts when so*
11 *includible by the participant,*
12 *shall be determined as if such qualified governmental*
13 *excess benefit arrangement were treated as a plan for*
14 *the deferral of compensation which is maintained by*
15 *a corporation not exempt from tax under this chapter*
16 *and which does not meet the requirements for quali-*
17 *fication under section 401.*

18 “(3) *QUALIFIED GOVERNMENTAL EXCESS BENE-*
19 *FIT ARRANGEMENT.—For purposes of this subsection,*
20 *the term ‘qualified governmental excess benefit ar-*
21 *rangement’ means a portion of a governmental plan*
22 *if—*

23 “(A) *such portion is maintained solely for*
24 *the purpose of providing to participants in the*
25 *plan that part of the participant’s annual bene-*

1 *fit otherwise payable under the terms of the plan*
2 *that exceeds the limitations on benefits imposed*
3 *by this section,*

4 “(B) *under such portion no election is pro-*
5 *vided at any time to the participant (directly or*
6 *indirectly) to defer compensation, and*

7 “(C) *benefits described in subparagraph (A)*
8 *are not paid from a trust forming a part of such*
9 *governmental plan unless such trust is main-*
10 *tained solely for the purpose of providing such*
11 *benefits.”.*

12 (2) *COORDINATION WITH SECTION 457.—Sub-*
13 *section (e) of section 457 is amended by adding at the*
14 *end the following new paragraph:*

15 “(14) *TREATMENT OF QUALIFIED GOVERN-*
16 *MENTAL EXCESS BENEFIT ARRANGEMENTS.—Sub-*
17 *sections (b)(2) and (c)(1) shall not apply to any*
18 *qualified governmental excess benefit arrangement (as*
19 *defined in section 415(m)(3)), and benefits provided*
20 *under such an arrangement shall not be taken into*
21 *account in determining whether any other plan is an*
22 *eligible deferred compensation plan.”.*

23 (3) *CONFORMING AMENDMENT.—Paragraph (2)*
24 *of section 457(f) is amended by striking “and” at the*
25 *end of subparagraph (C), by striking the period at the*

1 *end of subparagraph (D) and inserting “, and”, and*
2 *by inserting immediately thereafter the following new*
3 *subparagraph:*

4 *“(E) a qualified governmental excess benefit*
5 *arrangement described in section 415(m).”.*

6 *(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENE-*
7 *FITS.—Paragraph (2) of section 415(b) is amended by add-*
8 *ing at the end the following new subparagraph:*

9 *“(I) EXEMPTION FOR SURVIVOR AND DIS-*
10 *ABILITY BENEFITS PROVIDED UNDER GOVERN-*
11 *MENTAL PLANS.—Subparagraph (C) of this*
12 *paragraph and paragraph (5) shall not apply*
13 *to—*

14 *“(i) income received from a govern-*
15 *mental plan (as defined in section 414(d))*
16 *as a pension, annuity, or similar allowance*
17 *as the result of the recipient becoming dis-*
18 *abled by reason of personal injuries or sick-*
19 *ness, or*

20 *“(ii) amounts received from a govern-*
21 *mental plan by the beneficiaries, survivors,*
22 *or the estate of an employee as the result of*
23 *the death of the employee.”.*

24 *(d) REVOCATION OF GRANDFATHER ELECTION.—*

1 (1) *IN GENERAL.*—Subparagraph (C) of section
2 415(b)(10) is amended by adding at the end the fol-
3 lowing new clause:

4 “(i) *REVOCATION OF ELECTION.*—An
5 election under clause (i) may be revoked not
6 later than the last day of the third plan
7 year beginning after the date of the enact-
8 ment of this clause. The revocation shall
9 apply to all plan years to which the election
10 applied and to all subsequent plan years.
11 Any amount paid by a plan in a taxable
12 year ending after the revocation shall be in-
13 cludible in income in such taxable year
14 under the rules of this chapter in effect for
15 such taxable year, except that, for purposes
16 of applying the limitations imposed by this
17 section, any portion of such amount which
18 is attributable to any taxable year during
19 which the election was in effect shall be
20 treated as received in such taxable year.”.

21 (2) *CONFORMING AMENDMENT.*—Subparagraph
22 (C) of section 415(b)(10) is amended by striking
23 “*This*” and inserting:

24 “(i) *IN GENERAL.*—*This*”.

25 (e) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *subsections (a), (b), and (c) shall apply to years be-*
3 *ginning after December 31, 1994. The amendments*
4 *made by subsection (d) shall apply with respect to*
5 *revocations adopted after the date of the enactment of*
6 *this Act.*

7 (2) *TREATMENT FOR YEARS BEGINNING BEFORE*
8 *JANUARY 1, 1995.*—*Nothing in the amendments made*
9 *by this section shall be construed to imply that a gov-*
10 *ernmental plan (as defined in section 414(d) of the*
11 *Internal Revenue Code of 1986) fails to satisfy the re-*
12 *quirements of section 415 of such Code for any tax-*
13 *able year beginning before January 1, 1995.*

14 **SEC. 1445. UNIFORM RETIREMENT AGE.**

15 (a) *DISCRIMINATION TESTING.*—*Paragraph (5) of sec-*
16 *tion 401(a) (relating to special rules relating to non-*
17 *discrimination requirements) is amended by adding at the*
18 *end the following new subparagraph:*

19 “(F) *SOCIAL SECURITY RETIREMENT AGE.*—

20 *For purposes of testing for discrimination under*
21 *paragraph (4)—*

22 “(i) *the social security retirement age*
23 *(as defined in section 415(b)(8)) shall be*
24 *treated as a uniform retirement age, and*

1 **SEC. 1447. TREATMENT OF DEFERRED COMPENSATION**
2 **PLANS OF STATE AND LOCAL GOVERNMENTS**
3 **AND TAX-EXEMPT ORGANIZATIONS.**

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

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

9 “(A) *TOTAL AMOUNT PAYABLE IS \$3,500 OR*
10 *LESS.—The total amount payable to a partici-*
11 *part under the plan shall not be treated as made*
12 *available merely because the participant may*
13 *elect to receive such amount (or the plan may*
14 *distribute such amount without the participant’s*
15 *consent) if—*

16 “(i) *such amount does not exceed*
17 *\$3,500, and*

18 “(ii) *such amount may be distributed*
19 *only if—*

20 “(I) *no amount has been deferred*
21 *under the plan with respect to such*
22 *participant during the 2-year period*
23 *ending on the date of the distribution,*
24 *and*

25 “(II) *there has been no prior dis-*
26 *tribution under the plan to such par-*

1 *participant to which this subparagraph*
2 *applied.*

3 *A plan shall not be treated as failing to meet the*
4 *distribution requirements of subsection (d) by*
5 *reason of a distribution to which this subpara-*
6 *graph applies.*

7 *“(B) ELECTION TO DEFER COMMENCEMENT*
8 *OF DISTRIBUTIONS.—The total amount payable*
9 *to a participant under the plan shall not be*
10 *treated as made available merely because the*
11 *participant may elect to defer commencement of*
12 *distributions under the plan if—*

13 *“(i) such election is made after*
14 *amounts may be available under the plan*
15 *in accordance with subsection (d)(1)(A) and*
16 *before commencement of such distributions,*
17 *and*

18 *“(ii) the participant may make only 1*
19 *such election.”.*

20 *(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-*
21 *FERRAL AMOUNT.—Subsection (e) of section 457, as amend-*
22 *ed by section 1444(b)(2) (relating to governmental plans),*
23 *is amended by adding at the end the following new para-*
24 *graph:*

1 *exclusive benefit of participants and their bene-*
2 *ficiaries.*

3 “(2) *TAXABILITY OF TRUSTS AND PARTICI-*
4 *PANTS.—For purposes of this title—*

5 “(A) *a trust described in paragraph (1)*
6 *shall be treated as an organization exempt from*
7 *taxation under section 501(a), and*

8 “(B) *notwithstanding any other provision*
9 *of this title, amounts in the trust shall be includ-*
10 *ible in the gross income of participants and*
11 *beneficiaries only to the extent, and at the time,*
12 *provided in this section.*

13 “(3) *CUSTODIAL ACCOUNTS AND CONTRACTS.—*
14 *For purposes of this subsection, custodial accounts*
15 *and contracts described in section 401(f) shall be*
16 *treated as trusts under rules similar to the rules*
17 *under section 401(f).”.*

18 (b) *CONFORMING AMENDMENT.—Paragraph (6) of sec-*
19 *tion 457(b) is amended by inserting “except as provided*
20 *in subsection (g),” before “which provides that”.*

21 (c) *EFFECTIVE DATES.—*

22 (1) *IN GENERAL.—Except as provided in para-*
23 *graph (2), the amendments made by this section shall*
24 *apply to assets and income described in section*
25 *457(b)(6) of the Internal Revenue Code of 1986 held*

1 by a plan on and after the date of the enactment of
2 this Act.

3 (2) *TRANSITION RULE.*—In the case of a plan in
4 existence on the date of the enactment of this Act, a
5 trust need not be established by reason of the amend-
6 ments made by this section before January 1, 1999.

7 **SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM**
8 **BENEFITS UNDER SECTION 415 LIMITATIONS.**

9 (a) *IN GENERAL.*—Subparagraph (A) of section
10 767(d)(3) of the Uruguay Round Agreements Act is amend-
11 ed to read as follows:

12 “(A) *EXCEPTION.*—A plan that was adopt-
13 ed and in effect before December 8, 1994, shall
14 not be required to apply the amendments made
15 by subsection (b) with respect to benefits accrued
16 before the earlier of—

17 “(i) the later of the date a plan amend-
18 ment applying the amendments made by
19 subsection (b) is adopted or made effective,
20 or

21 “(ii) the first day of the first limita-
22 tion year beginning after December 31,
23 1999.

24 Determinations under section 415(b)(2)(E) of the
25 Internal Revenue Code of 1986 before such ear-

1 *lier date shall be made with respect to such bene-*
2 *fits on the basis of such section as in effect on*
3 *December 7, 1994 (except that the modification*
4 *made by section 1449(b) of the Small Business*
5 *Job Protection Act of 1996 shall be taken into*
6 *account), and the provisions of the plan as in ef-*
7 *fect on December 7, 1994, but only if such provi-*
8 *sions of the plan meet the requirements of such*
9 *section (as so in effect).”.*

10 *(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR AD-*
11 *JUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR*
12 *EARLY RETIREES.—Subparagraph (E) of section 415(b)(2)*
13 *(relating to limitation on certain assumptions) is amend-*
14 *ed—*

15 *(1) by striking “Except as provided in clause*
16 *(ii), for purposes of adjusting any benefit or limita-*
17 *tion under subparagraph (B) or (C),” in clause (i)*
18 *and inserting “For purposes of adjusting any limita-*
19 *tion under subparagraph (C) and, except as provided*
20 *in clause (ii), for purposes of adjusting any benefit*
21 *under subparagraph (B),”, and*

22 *(2) by striking “For purposes of adjusting the*
23 *benefit or limitation of any form of benefit subject to*
24 *section 417(e)(3),” in clause (ii) and inserting “For*
25 *purposes of adjusting any benefit under subparagraph*

1 (B) for any form of benefit subject to section
2 417(e)(3).”.

3 (c) *EFFECTIVE DATE.*—The amendments made by this
4 section shall take effect as if included in the provisions of
5 section 767 of the Uruguay Round Agreements Act.

6 (d) *TRANSITIONAL RULE.*—In the case of a plan that
7 was adopted and in effect before December 8, 1994, if—

8 (1) a plan amendment was adopted or made ef-
9 fective on or before the date of the enactment of this
10 Act applying the amendments made by section 767 of
11 the Uruguay Round Agreements Act, and

12 (2) within 1 year after the date of the enactment
13 of this Act, a plan amendment is adopted which re-
14 peals the amendment referred to in paragraph (1),
15 the amendment referred to in paragraph (1) shall not be
16 taken into account in applying section 767(d)(3)(A) of the
17 Uruguay Round Agreements Act, as amended by subsection
18 (a).

19 **SEC. 1450. MODIFICATIONS OF SECTION 403(b).**

20 (a) *MULTIPLE SALARY REDUCTION AGREEMENTS*
21 *PERMITTED.*—

22 (1) *GENERAL RULE.*—For purposes of section
23 403(b) of the Internal Revenue Code of 1986, the fre-
24 quency that an employee is permitted to enter into a
25 salary reduction agreement, the salary to which such

1 *an agreement may apply, and the ability to revoke*
2 *such an agreement shall be determined under the rules*
3 *applicable to cash or deferred elections under section*
4 *401(k) of such Code.*

5 (2) *CONSTRUCTIVE RECEIPT.*—Section 402(e)(3)
6 *is amended by inserting “or which is part of a salary*
7 *reduction agreement under section 403(b)” after “sec-*
8 *tion 401(k)(2))”.*

9 (3) *EFFECTIVE DATE.*—This subsection shall
10 *apply to taxable years beginning after December 31,*
11 *1995.*

12 (b) *TREATMENT OF INDIAN TRIBAL GOVERNMENTS.*—

13 (1) *IN GENERAL.*—Subparagraph (A) of section
14 *403(b)(1) (relating to taxability of beneficiary under*
15 *annuity purchased by section 501(c)(3) organization*
16 *or public school) is amended by striking “or” at the*
17 *end of clause (i), by inserting “or” at the end of*
18 *clause (ii), and by adding at the end the following*
19 *new clause:*

20 “(iii) *for an employee by an employer*
21 *which is an Indian tribal government (as*
22 *defined in section 7701(a)(40)), a subdivi-*
23 *sion of an Indian tribal government (deter-*
24 *mined in accordance with section 7871(d)),*
25 *an agency or instrumentality of an Indian*

1 *tribal government or subdivision thereof, or*
2 *a corporation chartered under Federal,*
3 *State, or tribal law which is owned in*
4 *whole or part by any of the foregoing,”.*

5 (2) *CONFORMING AMENDMENT.*—*The heading for*
6 *section 403(b) is amended by striking “OR PUBLIC*
7 *SCHOOL” and inserting “, PUBLIC SCHOOL, OR IN-*
8 *DIAN TRIBE”.*

9 (3) *EFFECTIVE DATES.*—

10 (A) *IN GENERAL.*—*The amendments made*
11 *by this section shall apply to plan years begin-*
12 *ning after December 31, 1996.*

13 (B) *TRANSITION RULES.*—

14 (i) *IN GENERAL.*—*In the case of any*
15 *contract purchased in a plan year begin-*
16 *ning before January 1, 1997, section 403(b)*
17 *of the Internal Revenue Code of 1986 shall*
18 *be applied as if any reference to an em-*
19 *ployer described in section 501(c)(3) of the*
20 *Internal Revenue Code of 1986 which is ex-*
21 *empt from tax under section 501 of such*
22 *Code included a reference to an employer*
23 *which is an Indian tribal government (as*
24 *defined by section 7701(a)(40) of such*
25 *Code), a subdivision of an Indian tribal*

1 government (determined in accordance with
2 section 7871(d) of such Code), an agency or
3 instrumentality of an Indian tribal govern-
4 ment or subdivision thereof, or a corpora-
5 tion chartered under Federal, State, or trib-
6 al law which is owned in whole or in part
7 by any of the foregoing.

8 (ii) *ROLLOVERS*.—Solely for purposes
9 of applying section 403(b)(8) of such Code
10 to a contract to which clause (i) applies, a
11 qualified cash or deferred arrangement
12 under section 401(k) of such Code shall be
13 treated as if it were a plan or contract de-
14 scribed in clause (ii) of section 403(b)(8)(A)
15 of such Code.

16 (c) *ELECTIVE DEFERRALS*.—

17 (1) *IN GENERAL*.—Subparagraph (E) of section
18 403(b)(1) is amended to read as follows:

19 “(E) in the case of a contract purchased
20 under a salary reduction agreement, the contract
21 meets the requirements of section 401(a)(30),”.

22 (2) *EFFECTIVE DATE*.—The amendment made by
23 this subsection shall apply to years beginning after
24 December 31, 1995, except a contract shall not be re-
25 quired to meet any change in any requirement by

1 *reason of such amendment before the 90th day after*
2 *the date of the enactment of this Act.*

3 **SEC. 1451. MISSING PARTICIPANTS.**

4 *(a) IN GENERAL.—Section 4050 of the Employee Re-*
5 *tirement Income Security Act of 1974 (29 U.S.C. 1350) is*
6 *amended by redesignating subsection (c) as subsection (e)*
7 *and by inserting after subsection (b) the following new sub-*
8 *sections:*

9 *“(c) MULTIEMPLOYER PLANS.—The corporation shall*
10 *prescribe rules similar to the rules in subsection (a) for mul-*
11 *tiemployer plans covered by this title that terminate under*
12 *section 4041A.*

13 *“(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—*

14 *“(1) TRANSFER TO CORPORATION.—The plan ad-*
15 *ministrator of a plan described in paragraph (4) may*
16 *elect to transfer a missing participant’s benefits to the*
17 *corporation upon termination of the plan.*

18 *“(2) INFORMATION TO THE CORPORATION.—To*
19 *the extent provided in regulations, the plan adminis-*
20 *trator of a plan that makes the election described in*
21 *paragraph (1) shall, upon termination of the plan,*
22 *provide the corporation information with respect to*
23 *benefits of a missing participant.*

24 *“(3) PAYMENT BY THE CORPORATION.—If bene-*
25 *fits of a missing participant were transferred to the*

1 *corporation under paragraph (1), the corporation*
2 *shall, upon location of the participant or beneficiary,*
3 *pay to the participant or beneficiary the amount*
4 *transferred (or the appropriate survivor benefit) ei-*
5 *ther—*

6 *“(A) in a single sum (plus interest), or*

7 *“(B) in such other form as is specified in*
8 *regulations of the corporation.*

9 *“(4) PLANS DESCRIBED.—A plan is described in*
10 *this paragraph if—*

11 *“(A) the plan is a pension plan (within the*
12 *meaning of section 3(2))—*

13 *“(i) to which the provisions of this sec-*
14 *tion do not apply (without regard to this*
15 *subsection), and*

16 *“(ii) which is not a plan described in*
17 *paragraphs (2) through (11) of section*
18 *4021(b), and*

19 *“(B) at the time the assets are to be distrib-*
20 *uted upon termination, the plan—*

21 *“(i) has missing participants, and*

22 *“(ii) has not provided for the transfer*
23 *of assets to pay the benefits of all missing*
24 *participants to another pension plan (with-*
25 *in the meaning of section 3(2)).*

1 “(5) *CERTAIN PROVISIONS NOT TO APPLY.*—Sub-
 2 sections (a)(1) and (a)(3) shall not apply to a plan
 3 described in paragraph (4).”.

4 (b) *CONFORMING AMENDMENTS.*—

5 (1) *Section 206(f) of the Employee Retirement*
 6 *Income Security Act of 1974 (29 U.S.C. 1056(f)) is*
 7 *amended—*

8 (A) *by striking “title IV” and inserting*
 9 *“section 4050”, and*

10 (B) *by striking “the plan shall provide*
 11 *that”.*

12 (2) *Section 401(a)(34) (relating to benefits of*
 13 *missing participants on plan termination) is amend-*
 14 *ed by striking “title IV” and inserting “section*
 15 *4050”.*

16 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 17 *section shall apply to distributions made after final regula-*
 18 *tions implementing subsections (c) and (d) of section 4050*
 19 *of the Employee Retirement Income Security Act of 1974*
 20 *(as added by subsection (a)), respectively, are prescribed.*

21 **SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED**
 22 **BENEFIT PLAN AND DEFINED CONTRIBUTION**
 23 **PLAN FOR SAME EMPLOYEE; EXCESS DIS-**
 24 **TRIBUTIONS.**

25 (a) *IN GENERAL.*—*Section 415(e) is repealed.*

1 (b) *EXCESS DISTRIBUTIONS.*—Section 4980A is
2 amended by adding at the end the following new subsection:

3 “(g) *LIMITATION ON APPLICATION.*—This section shall
4 not apply to distributions during years beginning after De-
5 cember 31, 1996, and before January 1, 2000, and such dis-
6 tributions shall be treated as made first from amounts not
7 described in subsection (f).”.

8 (c) *CONFORMING AMENDMENTS.*—

9 (1) Paragraph (1) of section 415(a) is amend-
10 ed—

11 (A) by adding “or” at the end of subpara-
12 graph (A),

13 (B) by striking “, or” at the end of sub-
14 paragraph (B) and inserting a period, and

15 (C) by striking subparagraph (C).

16 (2) Subparagraph (B) of section 415(b)(5) is
17 amended by striking “and subsection (e)”.

18 (3) Paragraph (1) of section 415(f) is amended
19 by striking “subsections (b), (c), and (e)” and insert-
20 ing “subsections (b) and (c)”.

21 (4) Subsection (g) of section 415 is amended by
22 striking “subsections (e) and (f)” in the last sentence
23 and inserting “subsection (f)”.

24 (5) Clause (i) of section 415(k)(2)(A) is amended
25 to read as follows:

1 “(i) any contribution made directly by
2 an employee under such an arrangement
3 shall not be treated as an annual addition
4 for purposes of subsection (c), and”.

5 (6) Clause (ii) of section 415(k)(2)(A) is amend-
6 ed by striking “subsections (c) and (e)” and inserting
7 “subsection (c)”.

8 (7) Section 416 is amended by striking sub-
9 section (h).

10 (d) *EFFECTIVE DATE.*—

11 (1) *IN GENERAL.*—Except as provided in para-
12 graph (2), the amendments made by this section shall
13 apply to limitation years beginning after December
14 31, 1999.

15 (2) *EXCESS DISTRIBUTIONS.*—The amendment
16 made by subsection (b) shall apply to years beginning
17 after December 31, 1996.

18 **SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.**

19 (a) *IN GENERAL.*—Section 4975(a) is amended by
20 striking “5 percent” and inserting “10 percent”.

21 (b) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply to prohibited transactions occurring
23 after the date of the enactment of this Act.

1 **SEC. 1454. TREATMENT OF LEASED EMPLOYEES.**

2 (a) *GENERAL RULE.*—Subparagraph (C) of section
3 414(n)(2) (defining leased employee) is amended to read as
4 follows:

5 “(C) such services are performed under pri-
6 mary direction or control by the recipient.”.

7 (b) *EFFECTIVE DATE.*—The amendment made by sub-
8 section (a) shall apply to years beginning after December
9 31, 1996, but shall not apply to any relationship deter-
10 mined under an Internal Revenue Service ruling issued be-
11 fore the date of the enactment of this Act pursuant to section
12 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in
13 effect on the day before such date) not to involve a leased
14 employee.

15 **SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO**
16 **CERTAIN PENSION REPORTING REQUIRE-**
17 **MENTS.**

18 (a) *PENALTIES.*—

19 (1) *STATEMENTS.*—Paragraph (1) of section
20 6724(d) is amended by striking “and” at the end of
21 subparagraph (A), by striking the period at the end
22 of subparagraph (B) and inserting “, and”, and by
23 inserting after subparagraph (B) the following new
24 subparagraph:

1 “(C) any statement of the amount of pay-
2 ments to another person required to be made to
3 the Secretary under—

4 “(i) section 408(i) (relating to reports
5 with respect to individual retirement ac-
6 counts or annuities), or

7 “(ii) section 6047(d) (relating to re-
8 ports by employers, plan administrators,
9 etc.).”.

10 (2) *REPORTS*.—Paragraph (2) of section 6724(d)
11 is amended by striking “or” at the end of subpara-
12 graph (S), by striking the period at the end of sub-
13 paragraph (T) and inserting a comma, and by insert-
14 ing after subparagraph (T) the following new sub-
15 paragraphs:

16 “(U) section 408(i) (relating to reports with
17 respect to individual retirement plans) to any
18 person other than the Secretary with respect to
19 the amount of payments made to such person, or

20 “(V) section 6047(d) (relating to reports by
21 plan administrators) to any person other than
22 the Secretary with respect to the amount of pay-
23 ments made to such person.”.

24 (b) *MODIFICATION OF REPORTABLE DESIGNATED DIS-*
25 *TRIBUTIONS*.—

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

5 (2) *SECTION 6047.*—*Paragraph (1) of section*
6 *6047(d) (relating to reports by employers, plan ad-*
7 *ministrators, etc.) is amended by adding at the end*
8 *the following new sentence: “No return or report may*
9 *be required under the preceding sentence with respect*
10 *to distributions to any person during any year unless*
11 *such distributions aggregate \$10 or more.”.*

12 (c) *QUALIFYING ROLLOVER DISTRIBUTIONS.*—*Section*
13 *6652(i) is amended—*

14 (1) *by striking “the \$10” and inserting “\$100”,*
15 *and*

16 (2) *by striking “\$5,000” and inserting*
17 *“\$50,000”.*

18 (d) *CONFORMING AMENDMENTS.*—

19 (1) *Paragraph (1) of section 6047(f) is amended*
20 *to read as follows:*

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

21 (2) *Subsection (e) of section 6652 is amended by*
22 *adding at the end the following new sentence: “This*
23 *subsection shall not apply to any return or statement*
24 *which is an information return described in section*

1 6724(d)(1)(C)(ii) or a payee statement described in
2 section 6724(d)(2)(V).”.

3 (3) Subsection (a) of section 6693 is amended by
4 adding at the end the following new sentence: “This
5 subsection shall not apply to any report which is an
6 information return described in section
7 6724(d)(1)(C)(i) or a payee statement described in
8 section 6724(d)(2)(U).”.

9 (e) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to returns, reports, and other statements
11 the due date for which (determined without regard to exten-
12 sions) is after December 31, 1996.

13 **SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUB-**
14 **JECT TO TAX ON NET EARNINGS FROM SELF-**
15 **EMPLOYMENT.**

16 (a) *IN GENERAL.*—Section 1402(a)(8) (defining net
17 earning from self-employment) is amended by inserting “,
18 but shall not include in such net earnings from self-employ-
19 ment the rental value of any parsonage or any parsonage
20 allowance (whether or not excludable under section 107)
21 provided after the individual retires, or any other retire-
22 ment benefit received by such individual from a church plan
23 (as defined in section 414(e)) after the individual retires”
24 before the semicolon at the end.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to years beginning before, on, or after*
3 *December 31, 1994.*

4 **SEC. 1457. MODEL FORMS FOR SPOUSAL CONSENT AND**
5 **QUALIFIED DOMESTIC RELATIONS FORMS.**

6 (a) *DEVELOPMENT OF FORMS.*—*Not later than Janu-*
7 *ary 1, 1997, the Secretary of the Treasury shall develop—*
8 (1) *a model form for the spousal consent required*
9 *under section 417(a)(2) of the Internal Revenue Code*
10 *of 1986 and section 205(c)(2) of the Employee Retirement*
11 *Income Security Act of 1974 which—*

12 (A) *is written in a manner calculated to be*
13 *understood by the average person, and*

14 (B) *discloses in plain form—*

15 (i) *whether the waiver to which the*
16 *spouse consents is irrevocable, and*

17 (ii) *whether such waiver may be re-*
18 *voked by a qualified domestic relations*
19 *order, and*

20 (2) *a model form for a qualified domestic rela-*
21 *tions order described in section 414(p)(1)(A) of such*
22 *Code and section 206(d)(3)(B)(i) of such Act which—*

23 (A) *meets the requirements contained in*
24 *such sections, and*

1 (B) the provisions of which focus attention
2 on the need to consider the treatment of any
3 lump sum payment, qualified joint and survivor
4 annuity, or qualified preretirement survivor an-
5 nuity.

6 (b) *PUBLICITY.*—The Secretary of the Treasury shall
7 include publicity for the model forms developed under sub-
8 section (a) in the pension outreach efforts undertaken by
9 the Secretary.

10 **SEC. 1458. TREATMENT OF LENGTH OF SERVICE AWARDS**
11 **TO VOLUNTEERS PERFORMING FIRE FIGHT-**
12 **ING OR PREVENTION SERVICES, EMERGENCY**
13 **MEDICAL SERVICES, OR AMBULANCE SERV-**
14 **ICES.**

15 (a) *IN GENERAL.*—Paragraph (11) of section 457(e)
16 (relating to deferred compensation plans of State and local
17 governments and tax-exempt organizations) is amended to
18 read as follows:

19 “(11) *CERTAIN PLANS EXCLUDED.*—

20 “(A) *IN GENERAL.*—The following plans
21 shall be treated as not providing for the deferral
22 of compensation:

23 “(i) Any bona fide vacation leave, sick
24 leave, compensatory time, severance pay,
25 disability pay, or death benefit plan.

1 “(ii) Any plan paying solely length of
2 service awards to bona fide volunteers (or
3 their beneficiaries) on account of qualified
4 services performed by such volunteers.

5 “(B) SPECIAL RULES APPLICABLE TO
6 LENGTH OF SERVICE AWARD PLANS.—

7 “(i) BONA FIDE VOLUNTEER.—An in-
8 dividual shall be treated as a bona fide vol-
9 unteer for purposes of subparagraph (A)(ii)
10 if the only compensation received by such
11 individual for performing qualified services
12 is in the form of—

13 “(I) reimbursement for (or a rea-
14 sonable allowance for) reasonable ex-
15 penses incurred in the performance of
16 such services, or

17 “(II) reasonable benefits (includ-
18 ing length of service awards), and
19 nominal fees for such services, cus-
20 tomarily paid by eligible employers in
21 connection with the performance of
22 such services by volunteers.

23 “(ii) LIMITATION ON ACCRUALS.—A
24 plan shall not be treated as described in
25 subparagraph (A)(ii) if the aggregate

1 *amount of length of service awards accruing*
2 *with respect to any year of service for any*
3 *bona fide volunteer exceeds \$3,000.*

4 “(C) *QUALIFIED SERVICES.*—*For purposes*
5 *of this paragraph, the term ‘qualified services’*
6 *means fire fighting and prevention services,*
7 *emergency medical services, and ambulance serv-*
8 *ices.”.*

9 (b) *EXEMPTION FROM SOCIAL SECURITY TAXES.*—

10 (1) *Subsection (a)(5) of section 3121, as amend-*
11 *ed by section 1421, is amended by striking “(or)” at*
12 *the end of subparagraph (G), by inserting “or” at the*
13 *end of subparagraph (H), and by adding at the end*
14 *the following new subparagraph:*

15 “(I) *under a plan described in section*
16 *457(e)(11)(A)(ii) and maintained by an eligible*
17 *employer (as defined in section 457(e)(1)).”.*

18 (2) *Section 209(a)(4) of the Social Security Act*
19 *is amended by inserting “; or (K) under a plan de-*
20 *scribed in section 457(e)(11)(A)(ii) of the Internal*
21 *Revenue Code of 1986 and maintained by an eligible*
22 *employer (as defined in section 457(e)(1) of such*
23 *Code)” before the semicolon at the end thereof.*

24 (c) *EFFECTIVE DATE.*—

1 (1) *SUBSECTION (a).*—*The amendment made by*
2 *subsection (a) shall apply to accruals of length of*
3 *service awards after December 31, 1996.*

4 (2) *SUBSECTION (b).*—*The amendments made by*
5 *subsection (b) shall apply to remuneration paid after*
6 *December 31, 1996.*

7 **SEC. 1459. ALTERNATIVE NONDISCRIMINATION RULES FOR**
8 **CERTAIN PLANS THAT PROVIDE FOR EARLY**
9 **PARTICIPATION.**

10 (a) *CASH OR DEFERRED ARRANGEMENTS.*—*Para-*
11 *graph (3) of section 401(k) (relating to application of par-*
12 *ticipation and discrimination standards), as amended by*
13 *section 1433(d)(1) of this Act, is amended by adding at the*
14 *end the following new subparagraph:*

15 “(F) *SPECIAL RULE FOR EARLY PARTICIPA-*
16 *TION.*—*If an employer elects to apply section*
17 *410(b)(4)(B) in determining whether a cash or*
18 *deferred arrangement meets the requirements of*
19 *subparagraph (A)(i), the employer may, in de-*
20 *termining whether the arrangement meets the re-*
21 *quirements of subparagraph (A)(ii), exclude from*
22 *consideration all eligible employees (other than*
23 *highly compensated employees) who have not met*
24 *the minimum age and service requirements of*
25 *section 410(a)(1)(A).”.*

1 (b) *MATCHING CONTRIBUTIONS.*—Paragraph (5) of
 2 section 401(m) (relating to employees taken into consider-
 3 ation) is amended by adding at the end the following new
 4 subparagraph:

5 “(C) *SPECIAL RULE FOR EARLY PARTICIPA-*
 6 *TION.*—If an employer elects to apply section
 7 410(b)(4)(B) in determining whether a plan
 8 meets the requirements of section 410(b), the em-
 9 ployer may, in determining whether the plan
 10 meets the requirements of paragraph (2), exclude
 11 from consideration all eligible employees (other
 12 than highly compensated employees) who have
 13 not met the minimum age and service require-
 14 ments of section 410(a)(1)(A).”.

15 (c) *EFFECTIVE DATE.*—The amendments made by this
 16 section shall apply to plan years beginning after December
 17 31, 1998.

18 **SEC. 1460. MODIFICATIONS OF JOINT AND SURVIVOR ANNU-**
 19 **ITY REQUIREMENTS.**

20 (a) *AMENDMENTS TO INTERNAL REVENUE CODE.*—
 21 Section 417(b) is amended—

22 (1) by striking “For” and inserting:

23 “(1) *IN GENERAL.*—”,

24 (2) by redesignating paragraphs (1) and (2) as
 25 subparagraphs (A) and (B), respectively, and

1 (3) *by adding at the end the following new para-*
2 *graph:*

3 “(2) *ELECTION OF 66²/₃ PERCENT SURVIVOR AN-*
4 *NUITY.—*

5 “(A) *IN GENERAL.—In the case of any plan*
6 *with respect to which the survivor annuity under*
7 *a qualified joint and survivor annuity is not*
8 *equal to 66²/₃ percent of the amount of the annu-*
9 *ity which is payable during the joint lives of the*
10 *participant and the spouse, such plan shall not*
11 *be treated as meeting the requirements of section*
12 *401(a)(11) unless the participant may elect a*
13 *qualified joint and survivor annuity with a sur-*
14 *vivor annuity which is equal to 66²/₃ percent of*
15 *such amount.*

16 “(B) *TREATMENT OF ANNUITY.—If a par-*
17 *ticipant elects a survivor annuity under sub-*
18 *paragraph (A), such annuity shall be treated as*
19 *a qualified joint and survivor annuity for pur-*
20 *poses of this title (other than subsection*
21 *(c)(1)(A)).”.*

22 (b) *AMENDMENTS TO ERISA.—Subsection (d) of sec-*
23 *tion 205 of the Employee Retirement Income Security Act*
24 *of 1974 (29 U.S.C. 1055) is amended—*

1 (1) *by redesignating paragraphs (1) and (2) as*
2 *subparagraphs (A) and (B), respectively,*

3 (2) *by inserting “(1)” after “(d)”, and*

4 (3) *by adding at the end the following new para-*
5 *graph:*

6 “(2)(A) *In the case of any plan with respect to*
7 *which the survivor annuity under a qualified joint*
8 *and survivor annuity is not equal to 66²/₃ percent of*
9 *the amount of the annuity which is payable during*
10 *the joint lives of the participant and the spouse, such*
11 *plan shall not be treated as meeting the requirements*
12 *of subsection (a) unless the participant may elect a*
13 *qualified joint and survivor annuity with a survivor*
14 *annuity which is equal to 66²/₃ percent of such*
15 *amount.*

16 “(B) *If a participant elects a survivor annuity*
17 *under subparagraph (A), such annuity shall be treat-*
18 *ed as a qualified joint and survivor annuity for pur-*
19 *poses of this title (other than subsection (e)(1)(A)).”.*

20 (c) *EFFECTIVE DATES.—*

21 (1) *IN GENERAL.—The amendments made by*
22 *this section shall apply to plan years beginning after*
23 *December 31, 1996.*

24 (2) *SPECIAL RULE FOR EXISTING PLANS.—In the*
25 *case of a plan in existence on the date of the enact-*

1 “(2) *In issuing regulations under paragraph (1), the*
2 *Secretary—*

3 “(A) *subject to subparagraph (C), may exclude*
4 *any assets of the insurer with respect to its oper-*
5 *ations, products, or services from treatment as plan*
6 *assets,*

7 “(B) *shall provide that assets not treated as plan*
8 *assets under subsection (b)(2) shall not be treated as*
9 *plan assets under paragraph (1), and*

10 “(C) *shall ensure that the regulations—*

11 “(i) *are administratively feasible, and*

12 “(ii) *are designed to protect the inter-*
13 *ests and rights of the plan and of its par-*
14 *ticipants and beneficiaries.*

15 “(3)(A) *Subject to subparagraph (B), any regulations*
16 *issued under paragraph (1) shall not take effect before the*
17 *date on which such regulations become final.*

18 “(B) *No person shall be subject to liability under this*
19 *part or section 4975 of the Internal Revenue Code of 1986*
20 *for conduct which occurred before the date which is 18*
21 *months following the date described in subparagraph (A)*
22 *on the basis of a claim that the assets of an insurer (other*
23 *than plan assets held in a separate account) constitute as-*
24 *sets of the plan, except—*

1 “(i) as otherwise provided by the Secretary in
2 regulations intended to prevent avoidance of the regu-
3 lations issued under paragraph (1), or

4 “(ii) as provided in an action brought by the
5 Secretary pursuant to subsection (a) (2) or (5) of sec-
6 tion 502 for a breach of fiduciary responsibilities
7 which would also constitute a violation of Federal
8 criminal law or constitute a felony under applicable
9 State law.

10 “(4) Nothing in this subsection shall preclude the ap-
11 plication of any Federal criminal law.

12 “(5) For purposes of this subsection, the term ‘policy’
13 includes a contract.”.

14 (b) *EFFECTIVE DATE.*—

15 (1) *IN GENERAL.*—Except as provided in para-
16 graph (2), the amendment made by this section shall
17 take effect on January 1, 1975.

18 (2) *CIVIL ACTIONS.*—The amendment made by
19 this section shall not apply to any civil action com-
20 menced before November 7, 1995.

21 **SEC. 1462. SPECIAL RULES FOR CHAPLAINS AND SELF-EM-**
22 **PLOYED MINISTERS.**

23 (a) *IN GENERAL.*—Section 414(e) (defining church
24 plan) is amended by adding at the end the following new
25 paragraph:

1 “(5) *SPECIAL RULES FOR CHAPLAINS AND SELF-*
2 *EMPLOYED MINISTERS.—*

3 “(A) *CERTAIN MINISTERS MAY PARTICI-*
4 *PATE.—For purposes of this part—*

5 “(i) *IN GENERAL.—An employee of a*
6 *church or a convention or association of*
7 *churches shall include a duly ordained,*
8 *commissioned, or licensed minister of a*
9 *church who, in connection with the exercise*
10 *of his or her ministry—*

11 “(I) *is a self-employed individual*
12 *(within the meaning of section*
13 *401(c)(1)(B)), or*

14 “(II) *is employed by an organiza-*
15 *tion other than an organization de-*
16 *scribed in section 501(c)(3).*

17 “(ii) *TREATMENT AS EMPLOYER AND*
18 *EMPLOYEE.—*

19 “(I) *SELF-EMPLOYED.—A min-*
20 *ister described in clause (i)(I) shall be*
21 *treated as his or her own employer*
22 *which is an organization described in*
23 *section 501(c)(3) and which is exempt*
24 *from tax under section 501(a).*

1 “(II) *OTHERS.*—A minister de-
2 scribed in clause (i)(II) shall be treated
3 as employed by an organization de-
4 scribed in section 501(c)(3) and exempt
5 from tax under section 501(a).

6 “(B) *SPECIAL RULES FOR APPLYING SEC-*
7 *TION 403(b) TO SELF-EMPLOYED MINISTERS.*—In
8 the case of a minister described in subparagraph
9 (A)(i)(I)—

10 “(i) the minister’s includible com-
11 pensation under section 403(b)(3) shall be
12 determined by reference to the minister’s
13 earned income (within the meaning of sec-
14 tion 401(c)(2)) from such ministry rather
15 than the amount of compensation which is
16 received from an employer, and

17 “(ii) the years (and portions of years)
18 in which such minister was a self-employed
19 individual (within the meaning of section
20 401(c)(1)(B)) with respect to such ministry
21 shall be included for purposes of section
22 403(b)(4).

23 “(C) *EFFECT ON NON-DENOMINATIONAL*
24 *PLANS.*—If a duly ordained, commissioned, or li-
25 censed minister of a church in the exercise of his

1 or her ministry participates in a church plan
2 (within the meaning of this section) and is em-
3 ployed by an employer not eligible to participate
4 in such church plan, then such minister shall not
5 be treated as an employee of such employer for
6 purposes of applying sections 401(a)(3),
7 401(a)(4), and 401(a)(5), as in effect on Septem-
8 ber 1, 1974, and sections 401(a)(4), 401(a)(5),
9 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (in-
10 cluding section 403(b)(12)), and 410 to any stock
11 bonus, pension, profit-sharing, or annuity plan
12 (including an annuity described in section
13 403(b) or a retirement income account described
14 in section 403(b)(9)).”.

15 (b) *CONTRIBUTIONS BY CERTAIN MINISTERS TO RE-*
16 *TIREMENT INCOME ACCOUNTS.*—Section 404(a) (relating to
17 *deduction for contributions of an employer to an employees’*
18 *trust or annuity plan and compensation under a deferred-*
19 *payment plan) is amended by adding at the end the follow-*
20 *ing new paragraph:*

21 “(10) *CONTRIBUTIONS BY CERTAIN MINISTERS*
22 *TO RETIREMENT INCOME ACCOUNTS.*—*In the case of*
23 *contributions made by a minister described in section*
24 *414(e)(5) to a retirement income account described in*

1 *section 403(b)(9) and not by a person other than such*
2 *minister, such contributions—*

3 *“(A) shall be treated as made to a trust*
4 *which is exempt from tax under section 501(a)*
5 *and which is part of a plan which is described*
6 *in section 401(a), and*

7 *“(B) shall be deductible under this sub-*
8 *section to the extent such contributions do not ex-*
9 *ceed the limit on elective deferrals under section*
10 *402(g), the exclusion allowance under section*
11 *403(b)(2), or the limit on annual additions*
12 *under section 415.*

13 *For purposes of this paragraph, all plans in which*
14 *the minister is a participant shall be treated as one*
15 *plan.”.*

16 *(c) EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply to years beginning after December 31,*
18 *1996.*

19 **SEC. 1463. DEFINITION OF HIGHLY COMPENSATED EM-**
20 **PLOYEE FOR PRE-ERISA CHURCH PLANS.**

21 *(a) IN GENERAL.—Section 414(q) (defining highly*
22 *compensated employee), as amended by section 1431(c)1(A)*
23 *of this Act, is amended by adding at the end the following*
24 *new paragraph:*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 1996.*

4 **SEC. 1465. INCREASE IN GUARANTEED AMOUNT OF MULTI-**
5 **EMPLOYER PLAN BENEFITS.**

6 (a) *IN GENERAL.*—*Section 4022A(c) of the Employee*
7 *Retirement Income Security Act of 1974 is amended by*
8 *adding at the end the following new paragraph:*

9 “(7)(A) *In the case of a multiemployer plan*
10 *which first receives financial assistance (within the*
11 *meaning of section 4261) during the applicable pe-*
12 *riod—*

13 “(i) *paragraph (1) shall be applied with re-*
14 *spect to the guarantee of benefits under such plan*
15 *by substituting ‘\$11’ for ‘\$5’ each place it ap-*
16 *pears and by substituting ‘\$33’ for ‘\$15’, and*

17 “(ii) *paragraphs (2), (5), and (6) shall not*
18 *apply with respect to such plan.*

19 “(B) *For purposes of subparagraph (A), the ap-*
20 *plicable period is the period—*

21 “(i) *beginning on the date of the enactment*
22 *of this paragraph, and*

23 “(ii) *ending on the last day of the first fis-*
24 *cal year for which the surplus in the corpora-*
25 *tion’s multiemployer insurance program is less*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to years beginning after December 31,*
3 *1996.*

4 **SEC. 1468. PAYMENT OF LUMP-SUM CREDIT FOR FORMER**
5 **SPOUSES OF FEDERAL EMPLOYEES.**

6 (a) *IN GENERAL.*—*Title 5, United States Code, is*
7 *amended—*

8 (1) *in section 8342(c) by striking “Lump-sum”*
9 *and inserting “Except as provided in section 8345(j),*
10 *lump-sum”;*

11 (2) *in section 8345(j)—*

12 (A) *in paragraph (1) by inserting after*
13 *“that individual” the following: “, or be made*
14 *under section 8342(d) through (f) to an individ-*
15 *ual entitled under section 8342(c),”;* and

16 (B) *by adding at the end the following:*

17 “(4) *Any payment under this subsection to a person*
18 *bars recovery by any other person.”;*

19 (3) *in section 8424(d) by striking “Lump-sum”*
20 *and inserting “Except as provided in section 8467(a),*
21 *lump-sum”;* and

22 (4) *in section 8467—*

23 (A) *in subsection (a) by inserting after*
24 *“that individual” the following: “, or be made*

1 under section 8424 (e) through (g) to an individ-
2 ual entitled under section 8424(d),”; and

3 (B) by adding at the end the following:

4 “(d) Any payment under this section to a person bars
5 recovery by any other person.”.

6 (b) *EFFECTIVE DATE.*—The amendments made by this
7 section shall apply with respect to any death occurring after
8 the 90th day after the date of the enactment of this Act.

9 **SEC. 1469. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

10 If any amendment made by this subtitle requires an
11 amendment to any plan or annuity contract, such amend-
12 ment shall not be required to be made before the first day
13 of the first plan year beginning on or after January 1,
14 1997, if—

15 (1) during the period after such amendment
16 takes effect and before such first plan year, the plan
17 or contract is operated in accordance with the re-
18 quirements of such amendment, and

19 (2) such amendment applies retroactively to such
20 period.

21 In the case of a governmental plan (as defined in section
22 414(d) of the Internal Revenue Code of 1986), this section
23 shall be applied by substituting “1999” for “1997”.

1 ***Subtitle E—Revenue Offsets***

2 ***PART I—GENERAL PROVISIONS***

3 ***SEC. 1601. MODIFICATIONS OF PUERTO RICO AND POSSES-***
 4 ***SION TAX CREDIT.***

5 (a) *IN GENERAL.*—Section 936 is amended by adding
 6 at the end the following new subsection:

7 “(j) *TERMINATION OF QPSII AND REDUCED CREDIT;*
 8 *REDUCTION IN ECONOMIC ACTIVITY CREDIT.*—

9 “(1) *IN GENERAL.*—Except as otherwise provided
 10 in this subsection, this section shall not apply to any
 11 taxable year beginning after December 31, 1995.

12 “(2) *SPECIAL RULES FOR ACTIVE BUSINESS IN-*
 13 *COME CREDIT.*—Except as provided in paragraph
 14 (3)—

15 “(A) *ECONOMIC ACTIVITY CREDIT.*—In the
 16 case of an existing credit claimant—

17 “(i) with respect to a possession other
 18 than Puerto Rico, and

19 “(ii) to which subsection (a)(4)(B) does
 20 not apply,

21 the credit determined under subsection (a)(1)(A)
 22 shall be allowed for taxable years beginning after
 23 December 31, 1995, except that in the case of
 24 taxable years beginning after December 31, 2005,

1 subsection (a)(4)(A)(i) shall be applied by sub-
 2 stituting ‘40 percent’ for ‘60 percent’.

3 “(B) *REDUCED CREDIT.*—

4 “(i) *IN GENERAL.*—In the case of an
 5 existing credit claimant to which subsection
 6 (a)(4)(B) applies, the credit determined
 7 under subsection (a)(1)(A) shall be allowed
 8 for taxable years beginning after December
 9 31, 1995, and before January 1, 2006.

10 “(ii) *ELECTION IRREVOCABLE AFTER*
 11 *1997.*—An election under subsection
 12 (a)(4)(B)(iii) which is in effect for the tax-
 13 payer’s last taxable year beginning before
 14 1997 may not be revoked unless it is re-
 15 voked for the taxpayer’s first taxable year
 16 beginning in 1997 and all subsequent tax-
 17 able years.

18 “(C) *ECONOMIC ACTIVITY CREDIT FOR*
 19 *PUERTO RICO.*—

“**For economic activity credit for Puerto Rico, see section 30A.**

20 “(3) *ADDITIONAL RESTRICTION ON CREDIT.*—

21 “(A) *IN GENERAL.*—In the case of an exist-
 22 ing credit claimant, the aggregate amount of
 23 taxable income taken into account under sub-

1 *section (a)(1)(A) shall not exceed the adjusted*
2 *base period income of such claimant—*

3 *“(i) in the case of the credit described*
4 *in paragraph (2)(A), for any taxable year*
5 *beginning after December 31, 2001, and*

6 *“(ii) in the case of the credit described*
7 *in paragraph (2)(B), for any taxable year*
8 *beginning after December 31, 1997.*

9 *“(B) COORDINATION WITH SUBSECTION*
10 *(a)(4).—The amount of income described in sub-*
11 *section (a)(1)(A) which is taken into account in*
12 *applying subsection (a)(4) shall be such income*
13 *as reduced under this paragraph.*

14 *“(4) ADJUSTED BASE PERIOD INCOME.—For*
15 *purposes of paragraph (3)—*

16 *“(A) IN GENERAL.—The term ‘adjusted base*
17 *period income’ means the average of the infla-*
18 *tion-adjusted possession incomes of the corpora-*
19 *tion for each base period year.*

20 *“(B) INFLATION-ADJUSTED POSSESSION IN-*
21 *COME.—For purposes of subparagraph (A), the*
22 *inflation-adjusted possession income of any cor-*
23 *poration for any base period year shall be an*
24 *amount equal to the sum of—*

1 “(i) the possession income of such cor-
2 poration for such base period year, plus

3 “(ii) such possession income multiplied
4 by the inflation adjustment percentage for
5 such base period year.

6 “(C) INFLATION ADJUSTMENT PERCENT-
7 AGE.—For purposes of subparagraph (B), the in-
8 flation adjustment percentage for any base pe-
9 riod year means the percentage (if any) by
10 which—

11 “(i) the CPI for 1995, exceeds

12 “(ii) the CPI for the calendar year in
13 which the base period year for which the de-
14 termination is being made ends.

15 For purposes of the preceding sentence, the CPI
16 for any calendar year is the CPI (as defined in
17 section 1(f)(5)) for such year under section
18 1(f)(4).

19 “(D) INCREASE IN INFLATION ADJUSTMENT
20 PERCENTAGE FOR GROWTH DURING BASE
21 YEARS.—The inflation adjustment percentage
22 (determined under subparagraph (C) without re-
23 gard to this subparagraph) for each of the 5 tax-
24 able years referred to in paragraph (5)(A) shall
25 be increased by—

1 “(i) 5 percentage points in the case of
2 a taxable year ending during the 1-year pe-
3 riod ending on October 13, 1995;

4 “(ii) 10.25 percentage points in the
5 case of a taxable year ending during the 1-
6 year period ending on October 13, 1994;

7 “(iii) 15.76 percentage points in the
8 case of a taxable year ending during the 1-
9 year period ending on October 13, 1993;

10 “(iv) 21.55 percentage points in the
11 case of a taxable year ending during the 1-
12 year period ending on October 13, 1992;
13 and

14 “(v) 27.63 percentage points in the
15 case of a taxable year ending during the 1-
16 year period ending on October 13, 1991.

17 “(5) *BASE PERIOD YEAR.*—For purposes of this
18 subsection—

19 “(A) *IN GENERAL.*—The term ‘base period
20 year’ means each of 3 taxable years which are
21 among the 5 most recent taxable years of the cor-
22 poration ending before October 14, 1995, deter-
23 mined by disregarding—

1 “(i) one taxable year for which the cor-
2 poration had the largest inflation-adjusted
3 possession income, and

4 “(ii) one taxable year for which the
5 corporation had the smallest inflation-ad-
6 justed possession income.

7 “(B) CORPORATIONS NOT HAVING SIGNIFI-
8 CANT POSSESSION INCOME THROUGHOUT 5-YEAR
9 PERIOD.—

10 “(i) IN GENERAL.—If a corporation
11 does not have significant possession income
12 for each of the most recent 5 taxable years
13 ending before October 14, 1995, then, in lieu
14 of applying subparagraph (A), the term
15 ‘base period year’ means only those taxable
16 years (of such 5 taxable years) for which the
17 corporation has significant possession in-
18 come; except that, if such corporation has
19 significant possession income for 4 of such
20 5 taxable years, the rule of subparagraph
21 (A)(ii) shall apply.

22 “(ii) SPECIAL RULE.—If there is no
23 year (of such 5 taxable years) for which a
24 corporation has significant possession in-
25 come—

1 “(I) the term ‘base period year’
2 means the first taxable year ending on
3 or after October 14, 1995, but

4 “(II) the amount of possession in-
5 come for such year which is taken into
6 account under paragraph (4) shall be
7 the amount which would be determined
8 if such year were a short taxable year
9 ending on September 30, 1995.

10 “(iii) *SIGNIFICANT POSSESSION IN-*
11 *COME.—For purposes of this subparagraph,*
12 *the term ‘significant possession income’*
13 *means possession income which exceeds 2*
14 *percent of the possession income of the tax-*
15 *payer for the taxable year (of the period of*
16 *6 taxable years ending with the first taxable*
17 *year ending on or after October 14, 1995)*
18 *having the greatest possession income.*

19 “(C) *ELECTION TO USE ONE BASE PERIOD*
20 *YEAR.—*

21 “(i) *IN GENERAL.—At the election of*
22 *the taxpayer, the term ‘base period year’*
23 *means—*

1 “(I) only the last taxable year of
2 the corporation ending in calendar
3 year 1992, or

4 “(II) a deemed taxable year which
5 includes the first ten months of cal-
6 endar year 1995.

7 “(ii) *BASE PERIOD INCOME FOR*
8 1995.—In determining the adjusted base pe-
9 riod income of the corporation for the
10 deemed taxable year under clause (i)(II),
11 the possession income shall be annualized
12 and shall be determined without regard to
13 any extraordinary item.

14 “(iii) *ELECTION.*—An election under
15 this subparagraph by any possession cor-
16 poration may be made only for the corpora-
17 tion’s first taxable year beginning after De-
18 cember 31, 1995, for which it is a possession
19 corporation. The rules of subclauses (II)
20 and (III) of subsection (a)(4)(B)(iii) shall
21 apply to the election under this subpara-
22 graph.

23 “(D) *ACQUISITIONS AND DISPOSITIONS.*—
24 Rules similar to the rules of subparagraphs (A)

1 *and (B) of section 41(f)(3) shall apply for pur-*
2 *poses of this subsection.*

3 “(6) *POSSESSION INCOME.*—*For purposes of this*
4 *subsection, the term ‘possession income’ means, with*
5 *respect to any possession, the income referred to in*
6 *subsection (a)(1)(A) determined with respect to that*
7 *possession. In no event shall possession income be*
8 *treated as being less than zero.*

9 “(7) *SHORT YEARS.*—*If the current year or a*
10 *base period year is a short taxable year, the applica-*
11 *tion of this subsection shall be made with such*
12 *annualizations as the Secretary shall prescribe.*

13 “(8) *SPECIAL RULES FOR CERTAIN POSSES-*
14 *SIONS.*—

15 “(A) *IN GENERAL.*—*In the case of an exist-*
16 *ing credit claimant with respect to an applicable*
17 *possession—*

18 “(i) *this section (other than the preced-*
19 *ing paragraphs of this subsection) shall*
20 *apply to such claimant with respect to such*
21 *applicable possession for taxable years be-*
22 *ginning after December 31, 1995, and before*
23 *January 1, 2006, and*

24 “(ii) *this section (including the preced-*
25 *ing paragraphs of this subsection) shall*

1 *apply to such claimant with respect to such*
2 *applicable possession for taxable years be-*
3 *ginning after December 31, 2005.*

4 “(B) *APPLICABLE POSSESSION.*—*For pur-*
5 *poses of this paragraph, the term ‘applicable pos-*
6 *session’ means Guam, American Samoa, and the*
7 *Commonwealth of the Northern Mariana Islands.*

8 “(9) *EXISTING CREDIT CLAIMANT.*—*For purposes*
9 *of this subsection—*

10 “(A) *IN GENERAL.*—*The term ‘existing cred-*
11 *it claimant’ means a corporation—*

12 “(i) *which was actively conducting a*
13 *trade or business in a possession on October*
14 *13, 1995, and*

15 “(ii) *with respect to which an election*
16 *under this section is in effect for the cor-*
17 *poration’s taxable year which includes Octo-*
18 *ber 13, 1995.*

19 “(B) *NEW LINES OF BUSINESS PROHIB-*
20 *ITED.*—*If, after October 13, 1995, a corporation*
21 *which would (but for this subparagraph) be an*
22 *existing credit claimant adds a substantial new*
23 *line of business, such corporation shall cease to*
24 *be treated as an existing credit claimant as of*

1 *the close of the taxable year ending before the*
2 *date of such addition.*

3 “(C) *BINDING CONTRACT EXCEPTION.—If,*
4 *on October 13, 1995, and at all times thereafter,*
5 *there is in effect with respect to a corporation a*
6 *binding contract for the acquisition of assets to*
7 *be used in, or for the sale of assets to be produced*
8 *from, a trade or business, the corporation shall*
9 *be treated for purposes of this paragraph as ac-*
10 *tively conducting such trade or business on Octo-*
11 *ber 13, 1995. The preceding sentence shall not*
12 *apply if such trade or business is not actively*
13 *conducted before January 1, 1996.*

14 “(10) *SEPARATE APPLICATION TO EACH POSSES-*
15 *SION.—For purposes of determining—*

16 “(A) *whether a taxpayer is an existing*
17 *credit claimant, and*

18 “(B) *the amount of the credit allowed under*
19 *this section,*

20 *this subsection (and so much of this section as relates*
21 *to this subsection) shall be applied separately with re-*
22 *spect to each possession.”.*

23 (b) *ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—*

1 (1) *IN GENERAL.*—*Subpart B of part IV of sub-*
2 *chapter A of chapter 1 is amended by adding at the*
3 *end the following new section:*

4 **“SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.**

5 “(a) *ALLOWANCE OF CREDIT.*—

6 “(1) *IN GENERAL.*—*Except as otherwise provided*
7 *in this section, if the conditions of both paragraph (1)*
8 *and paragraph (2) of subsection (b) are satisfied with*
9 *respect to a qualified domestic corporation, there shall*
10 *be allowed as a credit against the tax imposed by this*
11 *chapter an amount equal to the portion of the tax*
12 *which is attributable to the taxable income, from*
13 *sources without the United States, from—*

14 “(A) *the active conduct of a trade or busi-*
15 *ness within Puerto Rico, or*

16 “(B) *the sale or exchange of substantially*
17 *all of the assets used by the taxpayer in the ac-*
18 *tive conduct of such trade or business.*

19 *In the case of any taxable year beginning after De-*
20 *cember 31, 2001, the aggregate amount of taxable in-*
21 *come taken into account under the preceding sentence*
22 *(and in applying subsection (d)) shall not exceed the*
23 *adjusted base period income of such corporation, as*
24 *determined in the same manner as under section*
25 *936(j).*

1 “(2) *QUALIFIED DOMESTIC CORPORATION.*—For
2 purposes of paragraph (1), the term ‘qualified domes-
3 tic corporation’ means a domestic corporation—

4 “(A) *which is an existing credit claimant*
5 *with respect to Puerto Rico, and*

6 “(B) *with respect to which section*
7 *936(a)(4)(B) does not apply for the taxable year.*

8 “(3) *SEPARATE APPLICATION.*—For purposes of
9 determining—

10 “(A) *whether a taxpayer is an existing*
11 *credit claimant with respect to Puerto Rico, and*

12 “(B) *the amount of the credit allowed under*
13 *this section,*

14 *this section (and so much of section 936 as relates to*
15 *this section) shall be applied separately with respect*
16 *to Puerto Rico.*

17 “(b) *CONDITIONS WHICH MUST BE SATISFIED.*—The
18 conditions referred to in subsection (a) are—

19 “(1) *3-YEAR PERIOD.*—If 80 percent or more of
20 *the gross income of the qualified domestic corporation*
21 *for the 3-year period immediately preceding the close*
22 *of the taxable year (or for such part of such period*
23 *immediately preceding the close of such taxable year*
24 *as may be applicable) was derived from sources with-*

1 *in a possession of the United States (determined with-*
2 *out regard to section 904(f)).*

3 “(2) *TRADE OR BUSINESS.*—*If 75 percent or*
4 *more of the gross income of the qualified domestic cor-*
5 *poration for such period or such part thereof was de-*
6 *ived from the active conduct of a trade or business*
7 *within a possession of the United States.*

8 “(c) *CREDIT NOT ALLOWED AGAINST CERTAIN*
9 *TAXES.*—*The credit provided by subsection (a) shall not be*
10 *allowed against the tax imposed by—*

11 “(1) *section 59A (relating to environmental tax),*

12 “(2) *section 531 (relating to the tax on accumu-*
13 *lated earnings),*

14 “(3) *section 541 (relating to personal holding*
15 *company tax), or*

16 “(4) *section 1351 (relating to recoveries of for-*
17 *ign expropriation losses).*

18 “(d) *LIMITATIONS ON CREDIT.*—*The amount of the*
19 *credit determined under subsection (a) for any taxable year*
20 *shall not exceed the sum of the following amounts:*

21 “(1) *60 percent (40 percent in the case of taxable*
22 *years beginning after December 31, 2005) of the sum*
23 *of—*

1 “(A) the aggregate amount of the qualified
2 domestic corporation’s qualified possession wages
3 for such taxable year, plus

4 “(B) the allocable employee fringe benefit
5 expenses of the qualified domestic corporation for
6 such taxable year.

7 “(2) The sum of—

8 “(A) 15 percent of the depreciation allow-
9 ances for the taxable year with respect to short-
10 life qualified tangible property,

11 “(B) 40 percent of the depreciation allow-
12 ances for the taxable year with respect to me-
13 dium-life qualified tangible property, and

14 “(C) 65 percent of the depreciation allow-
15 ances for the taxable year with respect to long-
16 life qualified tangible property.

17 “(3) If the qualified domestic corporation does
18 not have an election to use the method described in
19 section 936(h)(5)(C)(ii) (relating to profit split) in ef-
20 fect for the taxable year, the amount of the qualified
21 possession income taxes for the taxable year allocable
22 to nonsheltered income.

23 “(e) ADMINISTRATIVE PROVISIONS.—For purposes of
24 this title (other than section 27)—

1 “(1) the provisions of section 936 (including any
2 applicable election thereunder) shall apply in the
3 same manner as if the credit under this section were
4 a credit under section 936(a)(1)(A) for a domestic
5 corporation to which section 936(a)(4)(A) applies,

6 “(2) the credit under this section shall be treated
7 in the same manner as the credit under section 936,
8 and

9 “(3) a corporation to which this section applies
10 shall be treated in the same manner as if it were a
11 corporation electing the application of section 936.

12 “(f) *DEFINITIONS.*—For purposes of this section, any
13 term used in this section which is also used in section 936
14 shall have the same meaning given such term by section
15 936.

16 “(g) *APPLICATION OF SECTION.*—This section shall
17 apply to taxable years beginning after December 31, 1995.”.

18 (2) *CONFORMING AMENDMENTS.*—

19 (A) Paragraph (1) of section 55(c) is
20 amended by striking “and the section 936 credit
21 allowable under section 27(b)” and inserting “,
22 the section 936 credit allowable under section
23 27(b), and the Puerto Rican economic activity
24 credit under section 30A”.

1 (B) Subclause (I) of section 56(g)(4)(C)(ii)
2 is amended—

3 (i) by inserting “30A,” before “936”,
4 and
5 (ii) by striking “and (i)” and insert-
6 ing “, (i), and (j)”.

7 (C) Clause (iii) of section 56(g)(4)(C) is
8 amended by adding at the end the following new
9 subclause:

10 “(VI) APPLICATION TO SECTION
11 30A CORPORATIONS.—References in this
12 clause to section 936 shall be treated as
13 including references to section 30A.”.

14 (D)(i) Subsection (b) of section 59 is
15 amended by striking “section 936,” and all that
16 follows and inserting “section 30A or 936, alter-
17 native minimum taxable income shall not in-
18 clude any income with respect to which a credit
19 is determined under section 30A or 936.”.

20 (ii) The heading for section 59(b) is amend-
21 ed by inserting “30A OR” before “936”.

22 (E) The table of sections for subpart B of
23 part IV of subchapter A of chapter 1 is amended
24 by adding at the end the following new item:

“Sec. 30A. Puerto Rican economic activity credit.”.

1 (F)(i) *The heading for subpart B of part IV*
 2 *of subchapter A of chapter 1 is amended to read*
 3 *as follows:*

4 **“Subpart B—Other Credits”.**

5 (ii) *The table of subparts for part IV of sub-*
 6 *chapter A of chapter 1 is amended by striking*
 7 *the item relating to subpart B and inserting the*
 8 *following new item:*

 “Subpart B. Other credits.”.

9 (c) **EFFECTIVE DATES.**—

10 (1) **IN GENERAL.**—*The amendments made by*
 11 *this section shall apply to taxable years beginning*
 12 *after December 31, 1995.*

13 (2) **SPECIAL RULE FOR QUALIFIED POSSESSION**
 14 **SOURCE INVESTMENT INCOME.**—*The amendments*
 15 *made by this section shall not apply to qualified pos-*
 16 *session source investment income received or accrued*
 17 *before July 1, 1996, without regard to the taxable*
 18 *year in which received or accrued.*

19 **SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON**
 20 **LOANS USED TO ACQUIRE EMPLOYER SECUR-**
 21 **ITIES.**

22 (a) **IN GENERAL.**—*Section 133 (relating to interest on*
 23 *certain loans used to acquire employer securities) is hereby*
 24 *repealed.*

25 (b) **CONFORMING AMENDMENTS.**—

1 (1) *Subparagraph (B) of section 291(e)(1) is*
2 *amended by striking clause (iv) and by redesignating*
3 *clause (v) as clause (iv).*

4 (2) *Section 812 is amended by striking sub-*
5 *section (g).*

6 (3) *Paragraph (5) of section 852(b) is amended*
7 *by striking subparagraph (C).*

8 (4) *Paragraph (2) of section 4978(b) is amended*
9 *by striking subparagraph (A) and all that follows and*
10 *inserting the following:*

11 *“(A) first from qualified securities to which*
12 *section 1042 applied acquired during the 3-year*
13 *period ending on the date of the disposition, be-*
14 *ginning with the securities first so acquired, and*

15 *“(B) then from any other employer securi-*
16 *ties.*

17 *If subsection (d) applies to a disposition, the disposi-*
18 *tion shall be treated as made from employer securities*
19 *in the opposite order of the preceding sentence.”.*

20 (5)(A) *Section 4978B (relating to tax on disposi-*
21 *tion of employer securities to which section 133 ap-*
22 *plied) is hereby repealed.*

23 (B) *The table of sections for chapter 43 is*
24 *amended by striking the item relating to section*
25 *4978B.*

1 (6) Subsection (e) of section 6047 is amended by
2 striking paragraphs (1), (2), and (3) and inserting
3 the following new paragraphs:

4 “(1) any employer maintaining, or the plan ad-
5 ministrator (within the meaning of section 414(g)) of,
6 an employee stock ownership plan which holds stock
7 with respect to which section 404(k) applies to divi-
8 dends paid on such stock, or

9 “(2) both such employer or plan administrator;”.

10 (7) Subsection (f) of section 7872 is amended by
11 striking paragraph (12).

12 (8) The table of sections for part III of sub-
13 chapter B of chapter 1 is amended by striking the
14 item relating to section 133.

15 (c) *EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—The amendments made by
17 this section shall apply to loans made after the date
18 of the enactment of this Act.

19 (2) *REFINANCINGS.*—The amendments made by
20 this section shall not apply to loans made after the
21 date of the enactment of this Act to refinance securi-
22 ties acquisition loans (determined without regard to
23 section 133(b)(1)(B) of the Internal Revenue Code of
24 1986, as in effect on the day before the date of the en-

1 *actment of this Act) made on or before such date or*
2 *to refinance loans described in this paragraph if—*

3 *(A) the refinancing loans meet the require-*
4 *ments of section 133 of such Code (as so in ef-*
5 *fect),*

6 *(B) immediately after the refinancing the*
7 *principal amount of the loan resulting from the*
8 *refinancing does not exceed the principal amount*
9 *of the refinanced loan (immediately before the re-*
10 *financing), and*

11 *(C) the term of such refinancing loan does*
12 *not extend beyond the last day of the term of the*
13 *original securities acquisition loan.*

14 *For purposes of this paragraph, the term “securities*
15 *acquisition loan” includes a loan from a corporation*
16 *to an employee stock ownership plan described in sec-*
17 *tion 133(b)(3) of such Code (as so in effect).*

18 *(3) EXCEPTION.—Any loan made pursuant to a*
19 *binding written contract in effect before June 10,*
20 *1996, and at all times thereafter before such loan is*
21 *made, shall be treated for purposes of paragraphs (1)*
22 *and (2) as a loan made on or before the date of the*
23 *enactment of this Act.*

1 **SEC. 1603. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES.**

2 (a) *IN GENERAL.*—Paragraph (2) of section 104(a)
3 *(relating to compensation for injuries or sickness)* is amend-
4 *ed to read as follows:*

5 “(2) *the amount of any damages (other than pu-*
6 *nitive damages) received (whether by suit or agree-*
7 *ment and whether as lump sums or as periodic pay-*
8 *ments) on account of personal injuries or sickness;”.*

9 (b) *APPLICATION OF PRIOR LAW FOR STATES IN*
10 *WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN*
11 *WRONGFUL DEATH ACTIONS.*—Section 104 is amended by
12 *redesignating subsection (c) as subsection (d) and by insert-*
13 *ing after subsection (b) the following new subsection:*

14 “(c) *APPLICATION OF PRIOR LAW IN CERTAIN*
15 *CASES.*—Notwithstanding subsection (a)(2), gross income
16 *shall not include punitive damages awarded in a civil ac-*
17 *tion—*

18 “(1) *which is a wrongful death action, and*

19 “(2) *with respect to which applicable State law*
20 *(as in effect on September 13, 1995 and without re-*
21 *gard to any modification after such date) provides, or*
22 *has been construed to provide by a court of competent*
23 *jurisdiction pursuant to a decision issued on or before*
24 *September 13, 1995, that only punitive damages may*
25 *be awarded in such an action.*

1 *This subsection shall cease to apply to any civil action filed*
2 *on or after the first date on which the applicable State law*
3 *ceases to provide (or is no longer construed to provide) the*
4 *treatment described in paragraph (2).”.*

5 (c) *CONFORMING AMENDMENT.—Section 104(a) is*
6 *amended by striking the last sentence.*

7 (d) *EFFECTIVE DATE.—*

8 (1) *IN GENERAL.—Except as provided in para-*
9 *graph (2), the amendments made by this section shall*
10 *apply to amounts received after June 30, 1996, in*
11 *taxable years ending after such date.*

12 (2) *EXCEPTION.—The amendments made by this*
13 *section shall not apply to any amount received under*
14 *a written binding agreement, court decree, or medi-*
15 *ation award in effect on (or issued on or before) Sep-*
16 *tember 13, 1995.*

17 **SEC. 1604. EXTENSION AND PHASEDOWN OF LUXURY PAS-**
18 **SENGER AUTOMOBILE TAX.**

19 (a) *EXTENSION.—Subsection (f) of section 4001 is*
20 *amended by striking “1999” and inserting “2002”.*

21 (b) *PHASEDOWN.—Section 4001 is amended by redес-*
22 *ignating subsection (f) (as amended by subsection (a) of this*
23 *section) as subsection (g) and by inserting after subsection*
24 *(e) the following new subsection:*

1 “(f) *PHASEDOWN.*—*For sales occurring in calendar*
 2 *years after 1995 and before 2003, subsection (a) shall be*
 3 *applied by substituting for ‘10 percent’ the percentage deter-*
 4 *mined in accordance with the following table:*

“If the calendar year is:	The percentage is:
1996	9 percent
1997	8 percent
1998	7 percent
1999	6 percent
2000	5 percent
2001	4 percent
2002	3 percent.”.

5 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply with respect to sales occurring after the*
 7 *date which is 7 days after the date of the enactment of this*
 8 *Act.*

9 **SEC. 1605. TERMINATION OF FUTURE TAX-EXEMPT BOND FI-**
 10 **NANCING FOR LOCAL FURNISHERS OF ELEC-**
 11 **TRICITY AND GAS.**

12 *Section 142(f) (relating to local furnishing of electric*
 13 *energy or gas) is amended by adding at the end the follow-*
 14 *ing new paragraphs:*

15 “(3) *TERMINATION OF FUTURE FINANCING.*—*For*
 16 *purposes of this section, no bond may be issued as*
 17 *part of an issue described in subsection (a)(8) with*
 18 *respect to a facility for the local furnishing of electric*
 19 *energy or gas on or after the date of the enactment*
 20 *of this paragraph unless—*

21 “(A) *the facility will—*

1 “(i) be used by a person who is en-
2 gaged in the local furnishing of that energy
3 source on such date, and

4 “(ii) be used to provide service within
5 the area served by such person on such date,
6 or

7 “(B) the facility will be used by a successor
8 in interest to such person for the same use and
9 within the same service area as described in sub-
10 paragraph (A).

11 “(4) *ELECTION TO TERMINATE TAX-EXEMPT*
12 *BOND FINANCING BY CERTAIN FURNISHERS.—*

13 “(A) *IN GENERAL.—*In the case of a facility
14 financed with bonds issued before the date of the
15 enactment of this paragraph which would cease
16 to be tax-exempt by reason of the failure to meet
17 the local furnishing requirement of subsection
18 (a)(8) as a result of a service area expansion,
19 such bonds shall not cease to be tax-exempt bonds
20 (and section 150(b)(4) shall not apply) if the
21 person engaged in such local furnishing by such
22 facility makes an election described in subpara-
23 graph (B).

24 “(B) *ELECTION.—*An election is described
25 in this subparagraph if it is an election made in

1 *such manner as the Secretary prescribes, and*
2 *such person (or its predecessor in interest) agrees*
3 *that—*

4 “(i) *such election is made with respect*
5 *to all facilities for the local furnishing of*
6 *electric energy or gas, or both, by such per-*
7 *son,*

8 “(ii) *no bond exempt from tax under*
9 *section 103 and described in subsection*
10 *(a)(8) may be issued on or after the date of*
11 *the enactment of this paragraph with re-*
12 *spect to all such facilities of such person,*

13 “(iii) *any expansion of the service*
14 *area—*

15 “(I) *is not financed with the pro-*
16 *ceeds of any exempt facility bond de-*
17 *scribed in subsection (a)(8), and*

18 “(II) *is not treated as a non-*
19 *qualifying use under the rules of para-*
20 *graph (2), and*

21 “(iv) *all outstanding bonds used to fi-*
22 *nance the facilities for such person are re-*
23 *deemed not later than 6 months after the*
24 *later of—*

1 “(I) the earliest date on which
2 such bonds may be redeemed, or

3 “(II) the date of the election.

4 “(C) *RELATED PERSONS.*—For purposes of
5 this paragraph, the term ‘person’ includes a
6 group of related persons (within the meaning of
7 section 144(a)(3)) which includes such person.”.

8 **SEC. 1606. REPEAL OF FINANCIAL INSTITUTION TRANSI-**
9 **TION RULE TO INTEREST ALLOCATION**
10 **RULES.**

11 (a) *IN GENERAL.*—Paragraph (5) of section 1215(c)
12 of the Tax Reform Act of 1986 (Public Law 99–514, 100
13 Stat. 2548) is hereby repealed.

14 (b) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to taxable years beginning after Decem-
16 ber 31, 1995.

17 **SEC. 1607. EXTENSION OF AIRPORT AND AIRWAY TRUST**
18 **FUND EXCISE TAXES.**

19 (a) *FUEL TAX.*—

20 (1) Subparagraph (A) of section 4091(b)(3) is
21 amended to read as follows:

22 “(A) The rate of tax specified in paragraph
23 (1) shall be 4.3 cents per gallon—

24 “(i) after December 31, 1995, and be-
25 fore the date which is 7 days after the date

1 *of the enactment of the Small Business Job*
2 *Protection Act of 1996, and*
3 *“(ii) after April 15, 1997.”.*

4 (2) *Section 4081(d) is amended—*

5 (A) *by adding at the end the following new*
6 *paragraph:*

7 “(3) *AVIATION GASOLINE.—After April 15, 1997,*
8 *the rate of tax specified in subsection (a)(2)(A)(i) on*
9 *aviation gasoline shall be 4.3 cents per gallon.”, and*

10 (B) *by inserting “(other than the tax on*
11 *aviation gasoline)” after “subsection (a)(2)(A)”.*

12 (3) *Section 4041(c)(5) is amended by inserting*
13 *“, and during the period beginning on the date which*
14 *is 7 days after the date of the enactment of the Small*
15 *Business Job Protection Act of 1996 and ending on*
16 *April 15, 1997” after “December 31, 1995”.*

17 (b) *TICKET TAXES.—Sections 4261(g) and 4271(d) are*
18 *each amended by striking “January 1, 1996” and inserting*
19 *“January 1, 1996, and to transportation beginning on or*
20 *after the date which is 7 days after the date of the enactment*
21 *of the Small Business Job Protection Act of 1996 and before*
22 *April 16, 1997”.*

23 (c) *TRANSFERS TO AIRPORT AND AIRWAY TRUST*
24 *FUND.—*

1 (1) *Subsection (b) of section 9502 is amended by*
2 *striking “January 1, 1996” each place it appears and*
3 *inserting “April 16, 1997”.*

4 (2) *Paragraph (3) of section 9502(f) is amended*
5 *to read as follows:*

6 “(3) *TERMINATION.—Notwithstanding the pre-*
7 *ceding provisions of this subsection, the Airport and*
8 *Airway Trust Fund financing rate shall be zero with*
9 *respect to—*

10 *“(A) taxes imposed after December 31,*
11 *1995, and before the date which is 7 days after*
12 *the date of the enactment of the Small Business*
13 *Job Protection Act of 1996, and*

14 *“(B) taxes imposed after April 15, 1997.”.*

15 (3) *Subsection (d) of section 9502 is amended by*
16 *adding at the end the following new paragraph:*

17 “(5) *TRANSFERS FROM AIRPORT AND AIRWAY*
18 *TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON*
19 *TRANSPORTATION BY AIR.—The Secretary of the*
20 *Treasury shall pay from time to time from the Air-*
21 *port and Airway Trust Fund into the general fund*
22 *of the Treasury amounts equivalent to the amounts*
23 *paid after December 31, 1995, under section 6402 (re-*
24 *lating to authority to make credits or refunds) or sec-*
25 *tion 6415 (relating to credits or refunds to persons*

1 *who collected certain taxes) in respect of taxes under*
2 *sections 4261 and 4271.”.*

3 (d) *EXCISE TAX EXEMPTION FOR CERTAIN EMER-*
4 *GENCY MEDICAL TRANSPORTATION BY AIR AMBULANCE.—*

5 *Subsection (f) of section 4261 (relating to imposition of tax*
6 *on transportation by air) is amended to read as follows:*

7 “(f) *EXEMPTION FOR AIR AMBULANCES PROVIDING*
8 *CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No*
9 *tax shall be imposed under this section or section 4271 on*
10 *any air transportation for the purpose of providing emer-*
11 *gency medical services—*

12 “(1) *by helicopter, or*

13 “(2) *by a fixed-wing aircraft equipped for and*
14 *exclusively dedicated to acute care emergency medical*
15 *services.”.*

16 (e) *EXEMPTION FOR CERTAIN HELICOPTER USES.—*

17 *Subsection (e) of section 4261 is amended by adding at the*
18 *end the following new sentence: “In the case of helicopter*
19 *transportation described in paragraph (1), this subsection*
20 *shall be applied by treating each flight segment as a distinct*
21 *flight.”.*

22 (f) *FLOOR STOCKS TAXES ON AVIATION FUEL.—*

23 (1) *IMPOSITION OF TAX.—In the case of aviation*
24 *fuel on which tax was imposed under section 4091 of*
25 *the Internal Revenue Code of 1986 before the tax-in-*

1 crease date described in paragraph (3)(A)(i) and
2 which is held on such date by any person, there is
3 hereby imposed a floor stocks tax of 17.5 cents per
4 gallon.

5 (2) *LIABILITY FOR TAX AND METHOD OF PAY-*
6 *MENT.*—

7 (A) *LIABILITY FOR TAX.*—A person holding
8 aviation fuel on a tax-increase date to which the
9 tax imposed by paragraph (1) applies shall be
10 liable for such tax.

11 (B) *METHOD OF PAYMENT.*—The tax im-
12 posed by paragraph (1) shall be paid in such
13 manner as the Secretary shall prescribe.

14 (C) *TIME FOR PAYMENT.*—The tax imposed
15 by paragraph (1) with respect to any tax-in-
16 crease date shall be paid on or before the first
17 day of the 7th month beginning after such tax-
18 increase date.

19 (3) *DEFINITIONS.*—For purposes of this sub-
20 section—

21 (A) *TAX INCREASE DATE.*—The term “tax-
22 increase date” means the date which is 7 days
23 after the date of the enactment of this Act.

1 (B) *AVIATION FUEL.*—The term “aviation
2 fuel” has the meaning given such term by section
3 4093 of such Code.

4 (C) *HELD BY A PERSON.*—Aviation fuel
5 shall be considered as “held by a person” if title
6 thereto has passed to such person (whether or not
7 delivery to the person has been made).

8 (D) *SECRETARY.*—The term “Secretary”
9 means the Secretary of the Treasury or his dele-
10 gate.

11 (4) *EXCEPTION FOR EXEMPT USES.*—The tax
12 imposed by paragraph (1) shall not apply to aviation
13 fuel held by any person on any tax-increase date ex-
14 clusively for any use for which a credit or refund of
15 the entire tax imposed by section 4091 of such Code
16 is allowable for aviation fuel purchased on or after
17 such tax-increase date for such use.

18 (5) *EXCEPTION FOR CERTAIN AMOUNTS OF*
19 *FUEL.*—

20 (A) *IN GENERAL.*—No tax shall be imposed
21 by paragraph (1) on aviation fuel held on any
22 tax-increase date by any person if the aggregate
23 amount of aviation fuel held by such person on
24 such date does not exceed 2,000 gallons. The pre-
25 ceding sentence shall apply only if such person

1 *submits to the Secretary (at the time and in the*
2 *manner required by the Secretary) such informa-*
3 *tion as the Secretary shall require for purposes*
4 *of this paragraph.*

5 *(B) EXEMPT FUEL.—For purposes of sub-*
6 *paragraph (A), there shall not be taken into ac-*
7 *count fuel held by any person which is exempt*
8 *from the tax imposed by paragraph (1) by rea-*
9 *son of paragraph (4).*

10 *(C) CONTROLLED GROUPS.—For purposes of*
11 *this paragraph—*

12 *(i) CORPORATIONS.—*

13 *(I) IN GENERAL.—All persons*
14 *treated as a controlled group shall be*
15 *treated as 1 person.*

16 *(II) CONTROLLED GROUP.—The*
17 *term “controlled group” has the mean-*
18 *ing given to such term by subsection*
19 *(a) of section 1563 of such Code; except*
20 *that for such purposes the phrase*
21 *“more than 50 percent” shall be sub-*
22 *stituted for the phrase “at least 80 per-*
23 *cent” each place it appears in such*
24 *subsection.*

1 (ii) *NONINCORPORATED PERSONS*
2 *UNDER COMMON CONTROL.—Under regula-*
3 *tions prescribed by the Secretary, principles*
4 *similar to the principles of clause (i) shall*
5 *apply to a group of persons under common*
6 *control where 1 or more of such persons is*
7 *not a corporation.*

8 (6) *OTHER LAW APPLICABLE.—All provisions of*
9 *law, including penalties, applicable with respect to*
10 *the taxes imposed by section 4091 of such Code shall,*
11 *insofar as applicable and not inconsistent with the*
12 *provisions of this subsection, apply with respect to the*
13 *floor stock taxes imposed by paragraph (1) to the*
14 *same extent as if such taxes were imposed by such sec-*
15 *tion 4091.*

16 (g) *EFFECTIVE DATE.—The amendments made by this*
17 *section shall take effect 7 days after the date of the enact-*
18 *ment of this Act, except that the amendments made by sub-*
19 *section (b) shall not apply to any amount paid on or before*
20 *such date.*

1 **SEC. 1608. BASIS ADJUSTMENT TO PROPERTY HELD BY**
2 **CORPORATION WHERE STOCK IN CORPORA-**
3 **TION IS REPLACEMENT PROPERTY UNDER IN-**
4 **VOLUNTARY CONVERSION RULES.**

5 (a) *IN GENERAL.*—Subsection (b) of section 1033 is
6 amended to read as follows:

7 “(b) *BASIS OF PROPERTY ACQUIRED THROUGH IN-*
8 *VOLUNTARY CONVERSION.*—

9 “(1) *CONVERSIONS DESCRIBED IN SUBSECTION*
10 *(a)(1).*—If the property was acquired as the result of
11 a compulsory or involuntary conversion described in
12 subsection (a)(1), the basis shall be the same as in the
13 case of the property so converted—

14 “(A) decreased in the amount of any money
15 received by the taxpayer which was not expended
16 in accordance with the provisions of law (appli-
17 cable to the year in which such conversion was
18 made) determining the taxable status of the gain
19 or loss upon such conversion, and

20 “(B) increased in the amount of gain or de-
21 creased in the amount of loss to the taxpayer rec-
22 ognized upon such conversion under the law ap-
23 plicable to the year in which such conversion
24 was made.

25 “(2) *CONVERSIONS DESCRIBED IN SUBSECTION*
26 *(a)(2).*—In the case of property purchased by the tax-

1 *payer in a transaction described in subsection (a)(2)*
2 *which resulted in the nonrecognition of any part of*
3 *the gain realized as the result of a compulsory or in-*
4 *voluntary conversion, the basis shall be the cost of*
5 *such property decreased in the amount of the gain not*
6 *so recognized; and if the property purchased consists*
7 *of more than 1 piece of property, the basis determined*
8 *under this sentence shall be allocated to the purchased*
9 *properties in proportion to their respective costs.*

10 *“(3) PROPERTY HELD BY CORPORATION THE*
11 *STOCK OF WHICH IS REPLACEMENT PROPERTY.—*

12 *“(A) IN GENERAL.—If the basis of stock in*
13 *a corporation is decreased under paragraph (2),*
14 *an amount equal to such decrease shall also be*
15 *applied to reduce the basis of property held by*
16 *the corporation at the time the taxpayer ac-*
17 *quired control (as defined in subsection*
18 *(a)(2)(E)) of such corporation.*

19 *“(B) LIMITATION.—Subparagraph (A) shall*
20 *not apply to the extent that it would (but for*
21 *this subparagraph) require a reduction in the*
22 *aggregate adjusted bases of the property of the*
23 *corporation below the taxpayer’s adjusted basis*
24 *of the stock in the corporation (determined im-*

1 *mediately after such basis is decreased under*
2 *paragraph (2)).*

3 “(C) *ALLOCATION OF BASIS REDUCTION.—*
4 *The decrease required under subparagraph (A)*
5 *shall be allocated—*

6 “(i) *first to property which is similar*
7 *or related in service or use to the converted*
8 *property,*

9 “(ii) *second to depreciable property (as*
10 *defined in section 1017(b)(3)(B)) not de-*
11 *scribed in clause (i), and*

12 “(iii) *then to other property.*

13 “(D) *SPECIAL RULES.—*

14 “(i) *REDUCTION NOT TO EXCEED AD-*
15 *JUSTED BASIS OF PROPERTY.—No reduction*
16 *in the basis of any property under this*
17 *paragraph shall exceed the adjusted basis of*
18 *such property (determined without regard*
19 *to such reduction).*

20 “(ii) *ALLOCATION OF REDUCTION*
21 *AMONG PROPERTIES.—If more than 1 prop-*
22 *erty is described in a clause of subpara-*
23 *graph (C), the reduction under this para-*
24 *graph shall be allocated among such prop-*

1 erty in proportion to the adjusted bases of
2 such property (as so determined).”.

3 (b) *EFFECTIVE DATE.*—The amendment made by this
4 section shall apply to involuntary conversions occurring
5 after the date of the enactment of this Act.

6 **SEC. 1609. EXTENSION OF WITHHOLDING TO CERTAIN GAM-**
7 **BLING WINNINGS.**

8 (a) *REPEAL OF EXEMPTION FOR BINGO AND KENO.*—
9 Paragraph (5) of section 3402(q) is amended to read as fol-
10 lows:

11 “(5) *EXEMPTION FOR SLOT MACHINES.*—The tax
12 imposed under paragraph (1) shall not apply to
13 winnings from a slot machine.”.

14 (b) *THRESHOLD AMOUNT.*—Paragraph (3) of section
15 3402(q) is amended—

16 (1) by striking “(B) and (C)” in subparagraph
17 (A) and inserting “(B), (C), and (D)”, and

18 (2) by adding at the end the following new sub-
19 paragraph:

20 “(D) *BINGO AND KENO.*—Proceeds of more
21 than \$5,000 from a wager placed in a bingo or
22 keno game.”.

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 section shall take effect on the 30th day after the date of
25 the enactment of this Act.

1 **SEC. 1610. TREATMENT OF CERTAIN INSURANCE CON-**
2 **TRACTS ON RETIRED LIVES.**

3 (a) *GENERAL RULE.*—

4 (1) *Paragraph (2) of section 817(d) (defining*
5 *variable contract) is amended by striking “or” at the*
6 *end of subparagraph (A), by striking “and” at the*
7 *end of subparagraph (B) and inserting “or”, and by*
8 *inserting after subparagraph (B) the following new*
9 *subparagraph:*

10 “(C) *provides for funding of insurance on*
11 *retired lives as described in section 807(c)(6),*
12 *and”.*

13 (2) *Paragraph (3) of section 817(d) is amended*
14 *by striking “or” at the end of subparagraph (A), by*
15 *striking the period at the end of subparagraph (B)*
16 *and inserting “, or”, and by inserting after subpara-*
17 *graph (B) the following new subparagraph:*

18 “(C) *in the case of funds held under a con-*
19 *tract described in paragraph (2)(C), the amounts*
20 *paid in, or the amounts paid out, reflect the in-*
21 *vestment return and the market value of the seg-*
22 *regated asset account.”.*

23 (b) *EFFECTIVE DATE.*—*The amendments made by this*
24 *section shall apply to taxable years beginning after Decem-*
25 *ber 31, 1995.*

1 **SEC. 1611. TREATMENT OF CONTRIBUTIONS IN AID OF CON-**
2 **STRUCTION.**

3 (a) *TREATMENT OF CONTRIBUTIONS IN AID OF CON-*
4 *STRUCTION.—*

5 (1) *IN GENERAL.—Section 118 (relating to con-*
6 *tributions to the capital of a corporation) is amend-*
7 *ed—*

8 (A) *by redesignating subsection (c) as sub-*
9 *section (e), and*

10 (B) *by inserting after subsection (b) the fol-*
11 *lowing new subsections:*

12 “(c) *SPECIAL RULES FOR WATER AND SEWERAGE*
13 *DISPOSAL UTILITIES.—*

14 “(1) *GENERAL RULE.—For purposes of this sec-*
15 *tion, the term ‘contribution to the capital of the tax-*
16 *payer’ includes any amount of money or other prop-*
17 *erty received from any person (whether or not a*
18 *shareholder) by a regulated public utility which pro-*
19 *vides water or sewerage disposal services if—*

20 “(A) *such amount is a contribution in aid*
21 *of construction,*

22 “(B) *in the case of contribution of property*
23 *other than water or sewerage disposal facilities,*
24 *such amount meets the requirements of the ex-*
25 *penditure rule of paragraph (2), and*

1 “(C) such amount (or any property ac-
2 quired or constructed with such amount) is not
3 included in the taxpayer’s rate base for rate-
4 making purposes.

5 “(2) *EXPENDITURE RULE.*—An amount meets
6 the requirements of this paragraph if—

7 “(A) an amount equal to such amount is
8 expended for the acquisition or construction of
9 tangible property described in section 1231(b)—

10 “(i) which is the property for which
11 the contribution was made or is of the same
12 type as such property, and

13 “(ii) which is used predominantly in
14 the trade or business of furnishing water or
15 sewerage disposal services,

16 “(B) the expenditure referred to in subpara-
17 graph (A) occurs before the end of the second tax-
18 able year after the year in which such amount
19 was received, and

20 “(C) accurate records are kept of the
21 amounts contributed and expenditures made, the
22 expenditures to which contributions are allo-
23 cated, and the year in which the contributions
24 and expenditures are received and made.

1 “(3) *DEFINITIONS.*—*For purposes of this sub-*
2 *section—*

3 “(A) *CONTRIBUTION IN AID OF CONSTRU-*
4 *CTION.*—*The term ‘contribution in aid of con-*
5 *struction’ shall be defined by regulations pre-*
6 *scribed by the Secretary, except that such term*
7 *shall not include amounts paid as service*
8 *charges for starting or stopping services.*

9 “(B) *PREDOMINANTLY.*—*The term ‘pre-*
10 *dominantly’ means 80 percent or more.*

11 “(C) *REGULATED PUBLIC UTILITY.*—*The*
12 *term ‘regulated public utility’ has the meaning*
13 *given such term by section 7701(a)(33), except*
14 *that such term shall not include any utility*
15 *which is not required to provide water or sewer-*
16 *age disposal services to members of the general*
17 *public in its service area.*

18 “(4) *DISALLOWANCE OF DEDUCTIONS AND CRED-*
19 *ITS; ADJUSTED BASIS.*—*Notwithstanding any other*
20 *provision of this subtitle, no deduction or credit shall*
21 *be allowed for, or by reason of, any expenditure which*
22 *constitutes a contribution in aid of construction to*
23 *which this subsection applies. The adjusted basis of*
24 *any property acquired with contributions in aid of*

1 *construction to which this subsection applies shall be*
2 *zero.*

3 “(d) *STATUTE OF LIMITATIONS.*—*If the taxpayer for*
4 *any taxable year treats an amount as a contribution to the*
5 *capital of the taxpayer described in subsection (c), then—*

6 “(1) *the statutory period for the assessment of*
7 *any deficiency attributable to any part of such*
8 *amount shall not expire before the expiration of 3*
9 *years from the date the Secretary is notified by the*
10 *taxpayer (in such manner as the Secretary may pre-*
11 *scribe) of—*

12 “(A) *the amount of the expenditure referred*
13 *to in subparagraph (A) of subsection (c)(2),*

14 “(B) *the taxpayer’s intention not to make*
15 *the expenditures referred to in such subpara-*
16 *graph, or*

17 “(C) *a failure to make such expenditure*
18 *within the period described in subparagraph (B)*
19 *of subsection (c)(2), and*

20 “(2) *such deficiency may be assessed before the*
21 *expiration of such 3-year period notwithstanding the*
22 *provisions of any other law or rule of law which*
23 *would otherwise prevent such assessment.”.*

1 (2) *CONFORMING AMENDMENT.*—Section 118(b)
2 is amended by inserting “except as provided in sub-
3 section (c),” before “the term”.

4 (3) *EFFECTIVE DATE.*—The amendments made
5 by this subsection shall apply to amounts received
6 after June 12, 1996.

7 (b) *RECOVERY METHOD AND PERIOD FOR WATER*
8 *UTILITY PROPERTY.*—

9 (1) *REQUIREMENT TO USE STRAIGHT LINE*
10 *METHOD.*—Section 168(b)(3) is amended by adding
11 at the end the following new subparagraph:

12 “(F) Water utility property described in
13 subsection (e)(5).”.

14 (2) *25-YEAR RECOVERY PERIOD.*—The table con-
15 tained in section 168(c)(1) is amended by inserting
16 the following item after the item relating to 20-year
17 property:

“Water utility property 25 years”.

18 (3) *WATER UTILITY PROPERTY.*—

19 (A) *IN GENERAL.*—Section 168(e) is amend-
20 ed by adding at the end the following new para-
21 graph:

22 “(5) *WATER UTILITY PROPERTY.*—The term
23 ‘water utility property’ means property—

24 “(A) which is an integral part of the gath-
25 ering, treatment, or commercial distribution of

1 *water, and which, without regard to this para-*
 2 *graph, would be 20-year property, and*

3 *“(B) any municipal sewer.”.*

4 *(B) CONFORMING AMENDMENTS.—Section*
 5 *168 is amended—*

6 *(i) by striking subparagraph (F) of*
 7 *subsection (e)(3), and*

8 *(ii) by striking the item relating to*
 9 *subparagraph (F) in the table in subsection*
 10 *(g)(3).*

11 *(4) ALTERNATIVE SYSTEM.—Clause (iv) of sec-*
 12 *tion 168(g)(2)(C) is amended by inserting “or water*
 13 *utility property” after “tunnel bore”.*

14 *(5) EFFECTIVE DATE.—The amendments made*
 15 *by this subsection shall apply to property placed in*
 16 *service after June 12, 1996, other than property*
 17 *placed in service pursuant to a binding contract in*
 18 *effect before June 10, 1996, and at all times thereafter*
 19 *before the property is placed in service.*

20 **SEC. 1612. ELECTION TO CEASE STATUS AS QUALIFIED**
 21 **SCHOLARSHIP FUNDING CORPORATION.**

22 *(a) IN GENERAL.—Subsection (d) of section 150 (relat-*
 23 *ing to definitions and special rules) is amended by adding*
 24 *at the end the following new paragraph:*

1 “(3) *ELECTION TO CEASE STATUS AS QUALIFIED*
2 *SCHOLARSHIP FUNDING CORPORATION.*—

3 “(A) *IN GENERAL.*—*Any qualified scholar-*
4 *ship funding bond, and qualified student loan*
5 *bond, outstanding on the date of the issuer’s elec-*
6 *tion under this paragraph (and any bond (or se-*
7 *ries of bonds) issued to refund such a bond) shall*
8 *not fail to be a tax-exempt bond solely because*
9 *the issuer ceases to be described in subpara-*
10 *graphs (A) and (B) of paragraph (2) if the is-*
11 *suer meets the requirements of subparagraphs*
12 *(B) and (C) of this paragraph.*

13 “(B) *ASSETS AND LIABILITIES OF ISSUER*
14 *TRANSFERRED TO TAXABLE SUBSIDIARY.*—*The*
15 *requirements of this subparagraph are met by an*
16 *issuer if—*

17 “(i) *all of the student loan notes of the*
18 *issuer and other assets pledged to secure the*
19 *repayment of qualified scholarship funding*
20 *bond indebtedness of the issuer are trans-*
21 *ferred to another corporation within a rea-*
22 *sonable period after the election is made*
23 *under this paragraph;*

24 “(ii) *such transferee corporation as-*
25 *sumes or otherwise provides for the payment*

1 *of all of the qualified scholarship funding*
2 *bond indebtedness of the issuer within a*
3 *reasonable period after the election is made*
4 *under this paragraph;*

5 *“(iii) to the extent permitted by law,*
6 *such transferee corporation assumes all of*
7 *the responsibilities, and succeeds to all of*
8 *the rights, of the issuer under the issuer’s*
9 *agreements with the Secretary of Education*
10 *in respect of student loans;*

11 *“(iv) immediately after such transfer,*
12 *the issuer, together with any other issuer*
13 *which has made an election under this*
14 *paragraph in respect of such transferee,*
15 *hold all of the senior stock in such transferee*
16 *corporation; and*

17 *“(v) such transferee corporation is not*
18 *exempt from tax under this chapter.*

19 *“(C) ISSUER TO OPERATE AS INDEPENDENT*
20 *ORGANIZATION DESCRIBED IN SECTION*
21 *501(C)(3).—The requirements of this subpara-*
22 *graph are met by an issuer if, within a reason-*
23 *able period after the transfer referred to in sub-*
24 *paragraph (B)—*

1 “(i) the issuer is described in section
2 501(c)(3) and exempt from tax under sec-
3 tion 501(a);

4 “(ii) the issuer no longer is described
5 in subparagraphs (A) and (B) of paragraph
6 (2); and

7 “(iii) at least 80 percent of the mem-
8 bers of the board of directors of the issuer
9 are independent members.

10 “(D) SENIOR STOCK.—For purposes of this
11 paragraph, the term ‘senior stock’ means stock—

12 “(i) which participates pro rata and
13 fully in the equity value of the corporation
14 with all other common stock of the corpora-
15 tion but which has the right to payment of
16 liquidation proceeds prior to payment of
17 liquidation proceeds in respect of other com-
18 mon stock of the corporation;

19 “(ii) which has a fixed right upon liq-
20 uidation and upon redemption to an
21 amount equal to the greater of—

22 “(I) the fair market value of such
23 stock on the date of liquidation or re-
24 demption (whichever is applicable); or

1 “(II) the fair market value of all
2 assets transferred in exchange for such
3 stock and reduced by the amount of all
4 liabilities of the corporation which has
5 made an election under this paragraph
6 assumed by the transferee corporation
7 in such transfer;

8 “(iii) the holder of which has the right
9 to require the transferee corporation to re-
10 deem on a date that is not later than 10
11 years after the date on which an election
12 under this paragraph was made and pursu-
13 ant to such election such stock was issued;
14 and

15 “(iv) in respect of which, during the
16 time such stock is outstanding, there is not
17 outstanding any equity interest in the cor-
18 poration having any liquidation, redemp-
19 tion or dividend rights in the corporation
20 which are superior to those of such stock.

21 “(E) INDEPENDENT MEMBER.—The term
22 ‘independent member’ means a member of the
23 board of directors of the issuer who (except for
24 services as a member of such board) receives no
25 compensation directly or indirectly—

1 “(i) for services performed in connec-
2 tion with such transferee corporation, or

3 “(ii) for services as a member of the
4 board of directors or as an officer of such
5 transferee corporation.

6 For purposes of clause (ii), the term ‘officer’ in-
7 cludes any individual having powers or respon-
8 sibilities similar to those of officers.

9 “(F) COORDINATION WITH CERTAIN PRI-
10 VATE FOUNDATION TAXES.—For purposes of sec-
11 tions 4942 (relating to the excise tax on a failure
12 to distribute income) and 4943 (relating to the
13 excise tax on excess business holdings), the trans-
14 feree corporation referred to in subparagraph (B)
15 shall be treated as a functionally related business
16 (within the meaning of section 4942(j)(4)) with
17 respect to the issuer during the period commenc-
18 ing with the date on which an election is made
19 under this paragraph and ending on the date
20 that is the earlier of—

21 “(i) the last day of the last taxable
22 year for which more than 50 percent of the
23 gross income of such transferee corporation
24 is derived from, or more than 50 percent of
25 the assets (by value) of such transferee cor-

1 (2) *CONFORMING AMENDMENTS.*—

2 (A) *Subsection (e) of section 6109 is re-*
3 *pealed.*

4 (B) *Section 6724(d)(3) is amended by add-*
5 *ing “and” at the end of subparagraph (C), by*
6 *striking subparagraph (D), and by redesignating*
7 *subparagraph (E) as subparagraph (D).*

8 (b) *DEPENDENT CARE CREDIT.*—*Subsection (e) of sec-*
9 *tion 21 (relating to expenses for household and dependent*
10 *care services necessary for gainful employment) is amended*
11 *by adding at the end the following new paragraph:*

12 “(10) *IDENTIFYING INFORMATION REQUIRED*
13 *WITH RESPECT TO QUALIFYING INDIVIDUALS.*—*No*
14 *credit shall be allowed under this section with respect*
15 *to any qualifying individual unless the TIN of such*
16 *individual is included on the return claiming the*
17 *credit.”.*

18 (c) *EXTENSION OF PROCEDURES APPLICABLE TO*
19 *MATHEMATICAL OR CLERICAL ERRORS.*—*Section*
20 *6213(g)(2) (relating to the definition of mathematical or*
21 *clerical errors) is amended by striking “and’ at the end of*
22 *subparagraph (D), by striking the period at the end of sub-*
23 *paragraph (E) and inserting “, and”, and by inserting at*
24 *the end the following new subparagraph:*

1 “(F) an omission of a correct TIN required
2 under section 21 (relating to expenses for house-
3 hold and dependent care services necessary for
4 gainful employment) or section 151 (relating to
5 allowance of deductions for personal exemp-
6 tions).”.

7 (d) *EFFECTIVE DATE.*—

8 (1) *IN GENERAL.*—The amendments made by
9 this section shall apply with respect to returns the
10 due date for which (without regard to extensions) is
11 on or after the 30th day after the date of the enact-
12 ment of this Act.

13 (2) *SPECIAL RULE FOR 1995 AND 1996.*—In the
14 case of returns for taxable years beginning in 1995 or
15 1996, a taxpayer shall not be required by the amend-
16 ments made by this section to provide a taxpayer
17 identification number for a child who is born after
18 October 31, 1995, in the case of a taxable year begin-
19 ning in 1995 or November 30, 1996, in the case of a
20 taxable year beginning in 1996.

1 **PART II—FINANCIAL ASSET SECURITIZATION**2 **INVESTMENTS**3 **SEC. 1621. FINANCIAL ASSET SECURITIZATION INVEST-**
4 **MENT TRUSTS.**

5 (a) *IN GENERAL.*—Subchapter M of chapter 1 is
6 amended by adding at the end the following new part:

7 **“PART V—FINANCIAL ASSET SECURITIZATION**8 **INVESTMENT TRUSTS**

“Sec. 860H. *Taxation of a FASIT; other general rules.*

“Sec. 860I. *Gain recognition on contributions to and distributions from a FASIT and in other cases.*

“Sec. 860J. *Non-FASIT losses not to offset certain FASIT inclusions.*

“Sec. 860K. *Treatment of transfers of high-yield interests to disqualified holders.*

“Sec. 860L. *Definitions and other special rules.*

9 **“SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.**

10 “(a) *TAXATION OF FASIT.*—A FASIT as such shall
11 not be subject to taxation under this subtitle (and shall not
12 be treated as a trust, partnership, corporation, or taxable
13 mortgage pool).

14 “(b) *TAXATION OF HOLDER OF OWNERSHIP INTER-*
15 *EST.*—In determining the taxable income of the holder of
16 the ownership interest in a FASIT—

17 “(1) *all assets, liabilities, and items of income,*
18 *gain, deduction, loss, and credit of a FASIT shall be*
19 *treated as assets, liabilities, and such items (as the*
20 *case may be) of such holder,*

1 “(2) *the constant yield method (including the*
2 *rules of section 1272(a)(6)) shall be applied under an*
3 *accrual method of accounting in determining all in-*
4 *terest, acquisition discount, original issue discount,*
5 *and market discount and all premium deductions or*
6 *adjustments with respect to all debt instruments of the*
7 *FASIT,*

8 “(3) *there shall not be taken into account any*
9 *item of income, gain, or deduction allocable to a pro-*
10 *hibited transaction, and*

11 “(4) *interest accrued by the FASIT which is ex-*
12 *empt from tax imposed by this subtitle shall, when*
13 *taken into account by such holder, be treated as ordi-*
14 *nary income.*

15 *For purposes of this subtitle, securities treated as held by*
16 *such holder under paragraph (1) shall be treated as held*
17 *for investment.*

18 “(c) *TREATMENT OF REGULAR INTERESTS.—For pur-*
19 *poses of this title—*

20 “(1) *a regular interest in a FASIT, if not other-*
21 *wise a debt instrument, shall be treated as a debt in-*
22 *strument,*

23 “(2) *section 163(e)(5) shall not apply to such an*
24 *interest, and*

1 “(3) amounts includible in gross income with re-
2 spect to such an interest shall be determined under an
3 accrual method of accounting.

4 **“SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO**
5 **AND DISTRIBUTIONS FROM A FASIT AND IN**
6 **OTHER CASES.**

7 “(a) *TREATMENT OF PROPERTY ACQUIRED BY*
8 *FASIT.*—

9 “(1) *PROPERTY ACQUIRED FROM HOLDER OF*
10 *OWNERSHIP INTEREST OR RELATED PERSON.*—If
11 *property is sold or contributed to a FASIT by the*
12 *holder of the ownership interest in such FASIT (or by*
13 *a related person) gain (if any) shall be recognized to*
14 *such holder (or person) in an amount equal to the ex-*
15 *cess (if any) of such property’s value under subsection*
16 *(d) on the date of such sale or contribution over its*
17 *adjusted basis on such date.*

18 “(2) *PROPERTY ACQUIRED OTHER THAN FROM*
19 *HOLDER OF OWNERSHIP INTEREST OR RELATED PER-*
20 *SON.*—Property which is acquired by a FASIT other
21 than in a transaction to which paragraph (1) applies
22 shall be treated—

23 “(A) as having been acquired by the holder
24 of the ownership interest in the FASIT for an
25 amount equal to the FASIT’s adjusted basis in

1 *such property as of the date such property is ac-*
2 *quired by the FASIT, and*

3 “(B) *as having been sold by such holder to*
4 *the FASIT at its value under subsection (d) on*
5 *such date.*

6 “(b) *GAIN RECOGNITION ON PROPERTY OUTSIDE*
7 *FASIT WHICH SUPPORTS REGULAR INTERESTS.—If prop-*
8 *erty held by the holder of the ownership interest in a FASIT*
9 *(or by any person related to such holder) supports any regu-*
10 *lar interest in such FASIT—*

11 “(1) *gain shall be recognized to such holder in*
12 *the same manner as if such holder had sold such*
13 *property at its value under subsection (d) on the ear-*
14 *liest date such property supports such an interest,*
15 *and*

16 “(2) *such property shall be treated as held by*
17 *such FASIT for purposes of this part.*

18 “(c) *DEFERRAL OF GAIN RECOGNITION.—The Sec-*
19 *retary may prescribe regulations which—*

20 “(1) *provide that gain otherwise recognized*
21 *under subsection (a) or (b) shall not be recognized be-*
22 *fore the earliest date on which such property supports*
23 *any regular interest in such FASIT or any indebted-*
24 *ness of the holder of the ownership interest (or of any*
25 *person related to such holder), and*

1 “(2) provide such adjustments to the other provi-
2 sions of this part to the extent appropriate in the con-
3 text of the treatment provided under paragraph (1).

4 “(d) VALUATION.—For purposes of this section—

5 “(1) IN GENERAL.—The value of any property
6 under this subsection shall be—

7 “(A) in the case of a debt instrument which
8 is not traded on an established securities market,
9 the sum of the present values of the reasonably
10 expected payments under such instrument deter-
11 mined (in the manner provided by regulations
12 prescribed by the Secretary)—

13 “(i) as of the date of the event resulting
14 in the gain recognition under this section,
15 and

16 “(ii) by using a discount rate equal to
17 120 percent of the applicable Federal rate
18 (as defined in section 1274(d)), or such
19 other discount rate specified in such regula-
20 tions, compounded semiannually, and

21 “(B) in the case of any other property, its
22 fair market value.

23 “(2) SPECIAL RULE FOR REVOLVING LOAN AC-
24 COUNTS.—For purposes of paragraph (1)—

1 “(A) each extension of credit (other than the
2 accrual of interest) on a revolving loan account
3 shall be treated as a separate debt instrument,
4 and

5 “(B) payments on such extensions of credit
6 having substantially the same terms shall be ap-
7 plied to such extensions beginning with the earli-
8 est such extension.

9 “(e) *SPECIAL RULES.*—

10 “(1) *NONRECOGNITION RULES NOT TO APPLY.*—
11 Gain required to be recognized under this section
12 shall be recognized notwithstanding any other provi-
13 sion of this subtitle.

14 “(2) *BASIS ADJUSTMENTS.*—The basis of any
15 property on which gain is recognized under this sec-
16 tion shall be increased by the amount of gain so rec-
17 ognized.

18 **“SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN**
19 **FASIT INCLUSIONS.**

20 “(a) *IN GENERAL.*—The taxable income of the holder
21 of the ownership interest or any high-yield interest in a
22 FASIT for any taxable year shall in no event be less than
23 such holder’s taxable income determined solely with respect
24 to such interests.

1 “(b) *COORDINATION WITH SECTION 172.*—Any in-
2 *crease in the taxable income of any holder of the ownership*
3 *interest or a high-yield interest in a FASIT for any taxable*
4 *year by reason of subsection (a) shall be disregarded—*

5 “(1) *in determining under section 172 the*
6 *amount of any net operating loss for such taxable*
7 *year, and*

8 “(2) *in determining taxable income for such tax-*
9 *able year for purposes of the 2nd sentence of section*
10 *172(b)(2).*

11 “(c) *COORDINATION WITH MINIMUM TAX.*—For pur-
12 *poses of part VI of subchapter A of this chapter—*

13 “(1) *the reference in section 55(b)(2) to taxable*
14 *income shall be treated as a reference to taxable in-*
15 *come determined without regard to this section,*

16 “(2) *the alternative minimum taxable income of*
17 *any holder of the ownership interest or a high-yield*
18 *interest in a FASIT for any taxable year shall in no*
19 *event be less than such holder’s taxable income deter-*
20 *mined solely with respect to such interests, and*

21 “(3) *any increase in taxable income under this*
22 *section shall be disregarded for purposes of computing*
23 *the alternative tax net operating loss deduction.*

1 **“SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD IN-**
2 **TERESTS TO DISQUALIFIED HOLDERS.**

3 *“(a) GENERAL RULE.—In the case of any high-yield*
4 *interest which is held by a disqualified holder—*

5 *“(1) the gross income of such holder shall not in-*
6 *clude any income (other than gain) attributable to*
7 *such interest, and*

8 *“(2) amounts not includible in the gross income*
9 *of such holder by reason of paragraph (1) shall be in-*
10 *cluded (at the time otherwise includible under para-*
11 *graph (1)) in the gross income of the most recent*
12 *holder of such interest which is not a disqualified*
13 *holder.*

14 *“(b) EXCEPTIONS.—Rules similar to the rules of para-*
15 *graphs (4) and (7) of section 860E(e) shall apply to the*
16 *tax imposed by reason of subsection (a).*

17 *“(c) DISQUALIFIED HOLDER.—For purposes of this*
18 *section, the term ‘disqualified holder’ means any holder*
19 *other than—*

20 *“(1) an eligible corporation (as defined in sec-*
21 *tion 860L(a)(2)), or*

22 *“(2) a FASIT.*

23 *“(d) TREATMENT OF INTERESTS HELD BY SECURI-*
24 *TIES DEALERS.—*

25 *“(1) IN GENERAL.—Subsection (a) shall not*
26 *apply to any high-yield interest held by a disqualified*

1 holder if such holder is a dealer in securities who ac-
2 quired such interest exclusively for sale to customers
3 in the ordinary course of business (and not for invest-
4 ment).

5 “(2) CHANGE IN DEALER STATUS.—

6 “(A) IN GENERAL.—In the case of a dealer
7 in securities which is not an eligible corporation
8 (as defined in section 860L(a)(2)), if—

9 “(i) such dealer ceases to be a dealer in
10 securities, or

11 “(ii) such dealer commences holding
12 the high-yield interest for investment,

13 there is hereby imposed (in addition to other
14 taxes) an excise tax equal to the product of the
15 highest rate of tax specified in section 11(b)(1)
16 and the income of such dealer attributable to
17 such interest for periods after the date of such
18 cessation or commencement.

19 “(B) HOLDING FOR 31 DAYS OR LESS.—For
20 purposes of subparagraph (A)(i), a dealer shall
21 not be treated as holding an interest for invest-
22 ment before the 32d day after the date such deal-
23 er acquired such interest unless such interest is
24 so held as part of a plan to avoid the purposes
25 of this paragraph.

1 “(C) *ADMINISTRATIVE PROVISIONS.*—*The*
2 *deficiency procedures of subtitle F shall apply to*
3 *the tax imposed by this paragraph.*

4 “(e) *TREATMENT OF HIGH-YIELD INTERESTS IN PASS-*
5 *THRU ENTITIES.*—

6 “(1) *IN GENERAL.*—*If a pass-thru entity (as de-*
7 *fined in section 860E(e)(6)) issues a debt or equity*
8 *interest—*

9 “(A) *which is supported by any regular in-*
10 *terest in a FASIT, and*

11 “(B) *which has an original yield to matu-*
12 *rity which is greater than each of—*

13 “(i) *the sum determined under clauses*
14 *(i) and (ii) of section 163(i)(1)(B) with re-*
15 *spect to such debt or equity interest, and*

16 “(ii) *the yield to maturity to such en-*
17 *tity on such regular interest (determined as*
18 *of the date such entity acquired such inter-*
19 *est),*

20 *there is hereby imposed on the pass-thru entity a tax*
21 *(in addition to other taxes) equal to the product of the*
22 *highest rate of tax specified in section 11(b)(1) and*
23 *the income of the holder of such debt or equity interest*
24 *which is properly attributable to such regular inter-*
25 *est. For purposes of the preceding sentence, the yield*

1 *to maturity of any equity interest shall be determined*
2 *under regulations prescribed by the Secretary.*

3 “(2) *EXCEPTION.*—*The Secretary may provide*
4 *that paragraph (1) shall not apply to arrangements*
5 *not having as a principal purpose the avoidance of*
6 *the purposes of this subsection.*

7 **“SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.**

8 “(a) *FASIT.*—

9 “(1) *IN GENERAL.*—*For purposes of this title, the*
10 *terms ‘financial asset securitization investment trust’*
11 *and ‘FASIT’ mean any entity—*

12 “(A) *for which an election to be treated as*
13 *a FASIT applies for the taxable year,*

14 “(B) *all of the interests in which are regu-*
15 *lar interests or the ownership interest,*

16 “(C) *which has only 1 ownership interest*
17 *and such ownership interest is held directly by*
18 *an eligible corporation,*

19 “(D) *as of the close of the 3rd month begin-*
20 *ning after the day of its formation and at all*
21 *times thereafter, substantially all of the assets of*
22 *which (including assets treated as held by the en-*
23 *tity under section 860I(c)(2)) consist of per-*
24 *mitted assets, and*

1 “(E) which is not described in section
2 851(a).

3 *A rule similar to the rule of the last sentence of sec-*
4 *tion 860D(a) shall apply for purposes of this para-*
5 *graph.*

6 “(2) *ELIGIBLE CORPORATION.*—*For purposes of*
7 *paragraph (1)(C), the term ‘eligible corporation’*
8 *means any domestic C corporation other than—*

9 “(A) *a corporation which is exempt from, or*
10 *is not subject to, tax under this chapter,*

11 “(B) *an entity described in section 851(a)*
12 *or 856(a),*

13 “(C) *a REMIC, and*

14 “(D) *an organization to which part I of*
15 *subchapter T applies.*

16 “(3) *ELECTION.*—*An entity (otherwise meeting*
17 *the requirements of paragraph (1)) may elect to be*
18 *treated as a FASIT. Except as provided in paragraph*
19 *(5), such an election shall apply to the taxable year*
20 *for which made and all subsequent taxable years un-*
21 *less revoked with the consent of the Secretary.*

22 “(4) *TERMINATION.*—*If any entity ceases to be a*
23 *FASIT at any time during the taxable year, such en-*
24 *tity shall not be treated as a FASIT for such taxable*
25 *year or any succeeding taxable year.*

1 “(5) *INADVERTENT TERMINATIONS, ETC.*—Rules
2 *similar to the rules of section 860D(b)(2)(B) shall*
3 *apply to inadvertent failures to qualify or remain*
4 *qualified as a FASIT.*

5 “(b) *INTERESTS IN FASIT.*—For purposes of this
6 *part—*

7 “(1) *REGULAR INTEREST.*—

8 “(A) *IN GENERAL.*—The term ‘regular in-
9 *terest’ means any interest which is issued by a*
10 *FASIT after the startup date with fixed terms*
11 *and which is designated as a regular interest*
12 *if—*

13 “(i) *such interest unconditionally enti-*
14 *ties the holder to receive a specified prin-*
15 *cipal amount (or other similar amount),*

16 “(ii) *except as otherwise provided by*
17 *the Secretary—*

18 “(I) *in the case of a FASIT which*
19 *would be treated as a REMIC if an*
20 *election under section 860D(b) had*
21 *been made, interest payments (or other*
22 *similar amounts), if any, with respect*
23 *to such interest at or before maturity*
24 *meet the requirements applicable under*

1 *clause (i) or (ii) of section*
2 *860G(a)(1)(B), or*

3 *“(II) in the case of any other*
4 *FASIT, interest payments (or other*
5 *similar amounts), if any, with respect*
6 *to such interest are determined based*
7 *on a fixed rate, a current rate which is*
8 *reasonably expected to measure contem-*
9 *poraneous variations in the cost of*
10 *newly borrowed funds in the currency*
11 *in which the regular interest is de-*
12 *nominated, or any combination of such*
13 *rates,*

14 *“(iii) such interest does not have a*
15 *stated maturity (including options to*
16 *renew) greater than 30 years (or such*
17 *longer period as may be permitted by regu-*
18 *lations),*

19 *“(iv) the issue price of such interest*
20 *does not exceed 125 percent of its stated*
21 *principal amount, and*

22 *“(v) the yield to maturity on such in-*
23 *terest is less than the sum determined under*
24 *section 163(i)(1)(B) with respect to such in-*
25 *terest.*

1 *An interest shall not fail to meet the require-*
2 *ments of clause (i) merely because the timing*
3 *(but not the amount) of the principal payments*
4 *(or other similar amounts) may be contingent on*
5 *the extent that payments on debt instruments*
6 *held by the FASIT are made in advance of an-*
7 *ticipated payments and on the amount of income*
8 *from permitted assets.*

9 “(B) *HIGH-YIELD INTERESTS.*—

10 “(i) *IN GENERAL.*—*The term ‘regular*
11 *interest’ includes any high-yield interest.*

12 “(ii) *HIGH-YIELD INTEREST.*—*The*
13 *term ‘high-yield interest’ means any interest*
14 *which would be described in subparagraph*
15 *(A) but for failing to meet the requirements*
16 *of one or more of clauses (i), (iv), or (v)*
17 *thereof.*

18 “(2) *OWNERSHIP INTEREST.*—*The term ‘owner-*
19 *ship interest’ means the interest issued by a FASIT*
20 *after the startup day which is designated as an own-*
21 *ership interest and which is not a regular interest.*

22 “(c) *PERMITTED ASSETS.*—*For purposes of this*
23 *part—*

24 “(1) *IN GENERAL.*—*The term ‘permitted asset’*
25 *means—*

1 “(A) cash or cash equivalents,

2 “(B) any debt instrument (as defined in
3 section 1275(a)(1)) under which interest pay-
4 ments (or other similar amounts), if any, at or
5 before maturity meet the requirements applicable
6 under clause (i) or (ii) of section 860G(a)(1)(B),

7 “(C) foreclosure property,

8 “(D) any asset—

9 “(i) which is an interest rate or foreign
10 currency notional principal contract, letter
11 of credit, insurance, guarantee against pay-
12 ment defaults, or other similar instrument
13 permitted by the Secretary, and

14 “(ii) which is reasonably required to
15 guarantee or hedge against the FASIT’s
16 risks associated with being the obligor on
17 interests issued by the FASIT,

18 “(E) contract rights to acquire debt instru-
19 ments described in subparagraph (B) or assets
20 described in subparagraph (D), and

21 “(F) any regular interest in another
22 FASIT.

23 “(2) DEBT ISSUED BY HOLDER OF OWNERSHIP
24 INTEREST NOT PERMITTED ASSET.—The term ‘per-
25 mitted asset’ shall not include any debt instrument is-

1 sued by the holder of the ownership interest in the
2 *FASIT* or by any person related to such holder or
3 any direct or indirect interest in such a debt instru-
4 ment. The preceding sentence shall not apply to cash
5 equivalents and to any other investment specified in
6 regulations prescribed by the Secretary.

7 “(3) *FORECLOSURE PROPERTY*.—The term ‘fore-
8 closure property’ means property—

9 “(A) which would be foreclosure property
10 under section 856(e) (determined without regard
11 to paragraph (5) thereof) if acquired by a real
12 estate investment trust, and

13 “(B) which is acquired in connection with
14 the default or imminent default of a debt instru-
15 ment held by the *FASIT* unless the security in-
16 terest in such property was created for the prin-
17 cipal purpose of permitting the *FASIT* to invest
18 in such property.

19 Solely for purposes of subsection (a)(1), the deter-
20 mination of whether any property is foreclosure prop-
21 erty shall be made without regard to section
22 856(e)(4).

23 “(d) *STARTUP DAY*.—For purposes of this part—

24 “(1) *IN GENERAL*.—The term ‘startup day’
25 means the date designated in the election under sub-

1 *section (a)(3) as the startup day of the FASIT. Such*
2 *day shall be the beginning of the first taxable year of*
3 *the FASIT.*

4 “(2) *TREATMENT OF PROPERTY HELD ON START-*
5 *UP DAY.*—*All property held (or treated as held under*
6 *section 860I(c)(2)) by an entity as of the startup day*
7 *shall be treated as contributed to such entity on such*
8 *day by the holder of the ownership interest in such*
9 *entity.*

10 “(e) *TAX ON PROHIBITED TRANSACTIONS.*—

11 “(1) *IN GENERAL.*—*There is hereby imposed for*
12 *each taxable year of a FASIT a tax equal to 100 per-*
13 *cent of the net income derived from prohibited trans-*
14 *actions. Such tax shall be paid by the holder of the*
15 *ownership interest in the FASIT.*

16 “(2) *PROHIBITED TRANSACTIONS.*—*For purposes*
17 *of this part, the term ‘prohibited transaction’*
18 *means—*

19 “(A) *the receipt of any income derived from*
20 *any asset that is not a permitted asset,*

21 “(B) *except as provided in paragraph (3),*
22 *the disposition of any permitted asset,*

23 “(C) *the receipt of any income derived from*
24 *any loan originated by the FASIT, and*

1 “(D) the receipt of any income representing
2 a fee or other compensation for services (other
3 than any fee received as compensation for a
4 waiver, amendment, or consent under permitted
5 assets (other than foreclosure property) held by
6 the FASIT).

7 “(3) EXCEPTION FOR INCOME FROM CERTAIN
8 DISPOSITIONS.—

9 “(A) IN GENERAL.—Paragraph (2)(B) shall
10 not apply to a disposition which would not be a
11 prohibited transaction (as defined in section
12 860F(a)(2)) by reason of—

13 “(i) clause (ii), (iii), or (iv) of section
14 860F(a)(2)(A), or

15 “(ii) section 860F(a)(5),
16 if the FASIT were treated as a REMIC and debt
17 instruments described in subsection (c)(1)(B)
18 were treated as qualified mortgages.

19 “(B) SUBSTITUTION OF DEBT INSTRU-
20 MENTS; REDUCTION OF OVER-
21 COLLATERALIZATION.—Paragraph (2)(B) shall
22 not apply to—

23 “(i) the substitution of a debt instru-
24 ment described in subsection (c)(1)(B) for

1 *another debt instrument which is a per-*
2 *mitted asset, or*

3 *“(ii) the distribution of a debt instru-*
4 *ment contributed by the holder of the owner-*
5 *ship interest to such holder in order to re-*
6 *duce over-collateralization of the FASIT,*

7 *but only if a principal purpose of acquiring the*
8 *debt instrument which is disposed of was not the*
9 *recognition of gain (or the reduction of a loss) as*
10 *a result of an increase in the market value of the*
11 *debt instrument after its acquisition by the*
12 *FASIT.*

13 *“(C) LIQUIDATION OF CLASS OF REGULAR*
14 *INTERESTS.—Paragraph (2)(B) shall not apply*
15 *to the complete liquidation of any class of regu-*
16 *lar interests.*

17 *“(4) NET INCOME.—For purposes of this sub-*
18 *section, net income shall be determined in accordance*
19 *with section 860F(a)(3).*

20 *“(f) COORDINATION WITH WASH SALES RULES.—*
21 *Rules similar to the rules of section 860F(d) shall apply*
22 *to the ownership interest in a FASIT.*

23 *“(g) RELATED PERSON.—For purposes of this part, a*
24 *person (hereinafter in this subsection referred to as the ‘re-*
25 *lated person’) is related to any person if—*

1 “(1) the related person bears a relationship to
2 such person specified in section 267(b) or section
3 707(b)(1), or

4 “(2) the related person and such person are en-
5 gaged in trades or businesses under common control
6 (within the meaning of subsections (a) and (b) of sec-
7 tion 52).

8 For purposes of paragraph (1), in applying section 267(b)
9 or 707(b)(1), ‘20 percent’ shall be substituted for ‘50 per-
10 cent’.

11 “(h) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this part, including regulations
14 to prevent the abuse of the purposes of this part through
15 transactions which are not primarily related to
16 securitization of debt instruments by a FASIT.”.

17 (b) TECHNICAL AMENDMENTS.—

18 (1) Paragraph (2) of section 26(b) is amended by
19 striking “and” at the end of subparagraph (M), by
20 striking the period at the end of subparagraph (N)
21 and inserting “, and”, and by adding at the end the
22 following new subparagraph:

23 “(O) section 860K (relating to treatment of
24 transfers of high-yield interests to disqualified
25 holders).”.

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

4 (3) Clause (ii) of section 382(l)(4)(B) is amended
5 by striking “or a REMIC to which part IV of sub-
6 chapter M applies” and inserting “a REMIC to
7 which part IV of subchapter M applies, or a FASIT
8 to which part V of subchapter M applies”.

9 (4) Paragraph (1) of section 582(c) is amended
10 by inserting “, and any regular or ownership interest
11 in a FASIT,” after “REMIC”.

12 (5) Subparagraph (E) of section 856(c)(6) is
13 amended by adding at the end the following new sen-
14 tence: “The principles of the preceding provisions of
15 this subparagraph shall apply to regular and owner-
16 ship interests in a FASIT.”.

17 (6) Subparagraph (C) of section 1202(e)(4) is
18 amended by striking “or REMIC” and inserting
19 “REMIC, or FASIT”.

20 (7) Clause (xi) of section 7701(a)(19)(C) is
21 amended to read as follows:

22 “(xi) any regular or residual interest
23 in a REMIC, and any regular or ownership
24 interest in a FASIT, but only in the pro-
25 portion which the assets of such REMIC or

1 *FASIT* consist of property described in any
2 of the preceding clauses of this subpara-
3 graph; except that if 95 percent or more of
4 the assets of such REMIC or FASIT are as-
5 sets described in clauses (i) through (x), the
6 entire interest in the REMIC or FASIT
7 shall qualify.”.

8 (8) Subparagraph (A) of section 7701(i)(2) is
9 amended by inserting “or a FASIT” after “a
10 REMIC”.

11 (c) *CLERICAL AMENDMENT.*—The table of parts for
12 subchapter M of chapter 1 is amended by adding at the
13 end the following new item:

 “Part V. Financial asset securitization investment trusts.”.

14 (d) *EFFECTIVE DATE.*—The amendments made by this
15 section shall take effect on the date of the enactment of this
16 Act.

17 (e) *TREATMENT OF EXISTING SECURITIZATION ENTI-*
18 *TIES.*—

19 (1) *IN GENERAL.*—In the case of the holder of the
20 ownership interest in a pre-effective date FASIT—

21 (A) gain shall not be recognized under sec-
22 tion 860L(d)(2) of the Internal Revenue Code of
23 1986 on property deemed contributed to the
24 FASIT, and

1 (B) gain shall not be recognized under sec-
2 tion 860I of such Code on property contributed
3 to such FASIT,
4 until such property (or portion thereof) ceases to be
5 properly allocable to a pre-FASIT interest.

6 (2) ALLOCATION OF PROPERTY TO PRE-FASIT IN-
7 TEREST.—For purposes of paragraph (1), property
8 shall be allocated to a pre-FASIT interest in such
9 manner as the Secretary of the Treasury may pre-
10 scribe, except that all property in a FASIT shall be
11 treated as properly allocable to pre-FASIT interests if
12 the fair market value of all such property does not ex-
13 ceed 107 percent of the aggregate principal amount of
14 all outstanding pre-FASIT interests.

15 (3) DEFINITIONS.—For purposes of this sub-
16 section—

17 (A) PRE-EFFECTIVE DATE FASIT.—The
18 term “pre-effective date FASIT” means any
19 FASIT if the entity (with respect to which the
20 election under section 860L(a)(3) of such Code
21 was made) was in existence on June 10, 1996.

22 (B) PRE-FASIT INTEREST.—The term “pre-
23 FASIT interest” means any interest in the en-
24 tity referred to in subparagraph (A) which was
25 issued before the startup day (other than any in-

1 *terest held by the holder of the ownership interest*
2 *in the FASIT).*

3 **PART III—TREATMENT OF INDIVIDUALS WHO**
4 **EXPATRIATE**

5 **SEC. 1631. REVISION OF TAX RULES ON EXPATRIATION.**

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

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

10 *“(a) GENERAL RULES.—For purposes of this sub-*
11 *title—*

12 *“(1) MARK TO MARKET.—Except as provided in*
13 *subsection (f), all property of a covered expatriate to*
14 *which this section applies shall be treated as sold on*
15 *the expatriation date for its fair market value.*

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

18 *“(A) notwithstanding any other provision of*
19 *this title, any gain arising from such sale shall*
20 *be taken into account for the taxable year of the*
21 *sale unless such gain is excluded from gross in-*
22 *come under part III of subchapter B, and*

23 *“(B) any loss arising from such sale shall*
24 *be taken into account for the taxable year of the*
25 *sale to the extent otherwise provided by this title,*

1 *except that section 1091 shall not apply (and*
2 *section 1092 shall apply) to any such loss.*

3 “(3) *EXCLUSION FOR CERTAIN GAIN.—The*
4 *amount which would (but for this paragraph) be in-*
5 *cludible in the gross income of any individual by rea-*
6 *son of this section shall be reduced (but not below*
7 *zero) by \$600,000. For purposes of this paragraph, al-*
8 *locable expatriation gain taken into account under*
9 *subsection (f)(2) shall be treated in the same manner*
10 *as an amount required to be includible in gross in-*
11 *come.*

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

14 “(A) *IN GENERAL.—If an expatriate elects*
15 *the application of this paragraph—*

16 “(i) *this section (other than this para-*
17 *graph) shall not apply to the expatriate, but*

18 “(ii) *the expatriate shall be subject to*
19 *tax under this title, with respect to property*
20 *to which this section would apply but for*
21 *such election, in the same manner as if the*
22 *individual were a United States citizen.*

23 “(B) *LIMITATION ON AMOUNT OF ESTATE,*
24 *GIFT, AND GENERATION-SKIPPING TRANSFER*
25 *TAXES.—The aggregate amount of taxes imposed*

1 *under subtitle B with respect to any transfer of*
2 *property by reason of an election under subpara-*
3 *graph (A) shall not exceed the amount of income*
4 *tax which would be due if the property were sold*
5 *for its fair market value immediately before the*
6 *time of the transfer or death (taking into account*
7 *the rules of paragraph (2)).*

8 “(C) *REQUIREMENTS.*—*Subparagraph (A)*
9 *shall not apply to an individual unless the indi-*
10 *vidual—*

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

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

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

22 “(D) *ELECTION.*—*An election under sub-*
23 *paragraph (A) shall apply to all property to*
24 *which this section would apply but for the elec-*
25 *tion and, once made, shall be irrevocable. Such*

1 *election shall also apply to property the basis of*
2 *which is determined in whole or in part by ref-*
3 *erence to the property with respect to which the*
4 *election was made.*

5 “(b) *ELECTION TO DEFER TAX.*—

6 “*(1) IN GENERAL.*—*If the taxpayer elects the ap-*
7 *plication of this subsection with respect to any prop-*
8 *erty—*

9 “*(A) no amount shall be required to be in-*
10 *cluded in gross income under subsection (a)(1)*
11 *with respect to the gain from such property for*
12 *the taxable year of the sale, but*

13 “*(B) the taxpayer’s tax for the taxable year*
14 *in which such property is disposed of shall be in-*
15 *creased by the deferred tax amount with respect*
16 *to the property.*

17 *Except to the extent provided in regulations, subpara-*
18 *graph (B) shall apply to a disposition whether or not*
19 *gain or loss is recognized in whole or in part on the*
20 *disposition.*

21 “(2) *DEFERRED TAX AMOUNT.*—

22 “*(A) IN GENERAL.*—*For purposes of para-*
23 *graph (1), the term ‘deferred tax amount’ means,*
24 *with respect to any property, an amount equal*
25 *to the sum of—*

1 “(i) the difference between the amount
2 of tax paid for the taxable year described in
3 paragraph (1)(A) and the amount which
4 would have been paid for such taxable year
5 if the election under paragraph (1) had not
6 applied to such property, plus

7 “(ii) an amount of interest on the
8 amount described in clause (i) determined
9 for the period—

10 “(I) beginning on the 91st day
11 after the expatriation date, and

12 “(II) ending on the due date for
13 the taxable year described in para-
14 graph (1)(B),

15 by using the rates and method applicable
16 under section 6621 for underpayments of
17 tax for such period.

18 For purposes of clause (ii), the due date is the
19 date prescribed by law (determined without re-
20 gard to extension) for filing the return of the tax
21 imposed by this chapter for the taxable year.

22 “(B) ALLOCATION OF LOSSES.—For pur-
23 poses of subparagraph (A), any losses described
24 in subsection (a)(2)(B) shall be allocated ratably

1 among the gains described in subsection
2 (a)(2)(A).

3 “(3) SECURITY.—

4 “(A) IN GENERAL.—No election may be
5 made under paragraph (1) with respect to any
6 property unless adequate security is provided
7 with respect to such property.

8 “(B) ADEQUATE SECURITY.—For purposes
9 of subparagraph (A), security with respect to
10 any property shall be treated as adequate secu-
11 rity if—

12 “(i) it is a bond in an amount equal
13 to the deferred tax amount under paragraph
14 (2)(A) for the property, or

15 “(ii) the taxpayer otherwise establishes
16 to the satisfaction of the Secretary that the
17 security is adequate.

18 “(4) WAIVER OF CERTAIN RIGHTS.—No election
19 may be made under paragraph (1) unless the tax-
20 payer consents to the waiver of any right under any
21 treaty of the United States which would preclude as-
22 sessment or collection of any tax imposed by reason
23 of this section.

24 “(5) DISPOSITIONS.—For purposes of this sub-
25 section, a taxpayer making an election under this

1 subsection with respect to any property shall be treat-
2 ed as having disposed of such property—

3 “(A) immediately before death if such prop-
4 erty is held at such time, and

5 “(B) at any time the security provided with
6 respect to the property fails to meet the require-
7 ments of paragraph (3) and the taxpayer does
8 not correct such failure within the time specified
9 by the Secretary.

10 “(6) *ELECTIONS.*—An election under paragraph
11 (1) shall only apply to property described in the elec-
12 tion and, once made, is irrevocable. An election may
13 be under paragraph (1) with respect to an interest in
14 a trust with respect to which gain is required to be
15 recognized under subsection (f)(1).

16 “(c) *COVERED EXPATRIATE.*—For purposes of this sec-
17 tion—

18 “(1) *IN GENERAL.*—The term ‘covered expatriate’
19 means an expatriate—

20 “(A) whose average annual net income tax
21 (as defined in section 38(c)(1)) for the period of
22 5 taxable years ending before the expatriation
23 date is greater than \$100,000, or

24 “(B) whose net worth as of such date is
25 \$500,000 or more.

1 *If the expatriation date is after 1996, such \$100,000*
2 *and \$500,000 amounts shall be increased by an*
3 *amount equal to such dollar amount multiplied by*
4 *the cost-of-living adjustment determined under section*
5 *1(f)(3) for such calendar year by substituting ‘1995’*
6 *for ‘1992’ in subparagraph (B) thereof. Any increase*
7 *under the preceding sentence shall be rounded to the*
8 *nearest multiple of \$1,000.*

9 “(2) *EXCEPTIONS.—An individual shall not be*
10 *treated as a covered expatriate if—*

11 “(A) *the individual—*

12 “(i) *became at birth a citizen of the*
13 *United States and a citizen of another*
14 *country and, as of the expatriation date,*
15 *continues to be a citizen of, and is taxed as*
16 *a resident of, such other country, and*

17 “(ii) *has been a resident of the United*
18 *States (as defined in section*
19 *7701(b)(1)(A)(ii)) for not more than 8 tax-*
20 *able years during the 15-taxable year period*
21 *ending with the taxable year during which*
22 *the expatriation date occurs, or*

23 “(B)(i) *the individual’s relinquishment of*
24 *United States citizenship occurs before such indi-*
25 *vidual attains age 18½, and*

1 “(ii) the individual has been a resident of
2 the United States (as so defined) for not more
3 than 5 taxable years before the date of relin-
4 quishment.

5 “(d) *PROPERTY TO WHICH SECTION APPLIES.*—For
6 purposes of this section—

7 “(1) *IN GENERAL.*—Except as otherwise provided
8 by the Secretary, this section shall apply to—

9 “(A) any interest in property held by a cov-
10 ered expatriate on the expatriation date the gain
11 from which would be includible in the gross in-
12 come of the expatriate if such interest had been
13 sold for its fair market value on such date in a
14 transaction in which gain is recognized in whole
15 or in part, and

16 “(B) any other interest in a trust to which
17 subsection (f) applies.

18 “(2) *EXCEPTIONS.*—This section shall not apply
19 to the following property:

20 “(A) *UNITED STATES REAL PROPERTY IN-*
21 *TERESTS.*—Any United States real property in-
22 terest (as defined in section 897(c)(1)), other
23 than stock of a United States real property hold-
24 ing corporation which does not, on the expatria-

1 *tion date, meet the requirements of section*
2 *897(c)(2).*

3 *“(B) INTEREST IN CERTAIN RETIREMENT*
4 *PLANS.—*

5 *“(i) IN GENERAL.—Any interest in a*
6 *qualified retirement plan (as defined in sec-*
7 *tion 4974(c)), other than any interest at-*
8 *tributable to contributions which are in ex-*
9 *cess of any limitation or which violate any*
10 *condition for tax-favored treatment.*

11 *“(ii) FOREIGN PENSION PLANS.—*

12 *“(I) IN GENERAL.—Under regula-*
13 *tions prescribed by the Secretary, in-*
14 *terests in foreign pension plans or*
15 *similar retirement arrangements or*
16 *programs.*

17 *“(II) LIMITATION.—The value of*
18 *property which is treated as not sold*
19 *by reason of this subparagraph shall*
20 *not exceed \$500,000.*

21 *“(e) DEFINITIONS.—For purposes of this section—*

22 *“(1) EXPATRIATE.—The term ‘expatriate’*
23 *means—*

24 *“(A) any United States citizen who relin-*
25 *quishes his citizenship, or*

1 “(B) any long-term resident of the United
2 States who—

3 “(i) ceases to be a lawful permanent
4 resident of the United States (within the
5 meaning of section 7701(b)(6)), or

6 “(ii) commences to be treated as a resi-
7 dent of a foreign country under the provi-
8 sions of a tax treaty between the United
9 States and the foreign country and who
10 does not waive the benefits of such treaty
11 applicable to residents of the foreign coun-
12 try.

13 “(2) *EXPATRIATION DATE*.—The term ‘expatria-
14 tion date’ means—

15 “(A) the date an individual relinquishes
16 United States citizenship, or

17 “(B) in the case of a long-term resident of
18 the United States, the date of the event described
19 in clause (i) or (ii) of paragraph (1)(B).

20 “(3) *RELINQUISHMENT OF CITIZENSHIP*.—A citi-
21 zen shall be treated as relinquishing his United States
22 citizenship on the earliest of—

23 “(A) the date the individual renounces his
24 United States nationality before a diplomatic or
25 consular officer of the United States pursuant to

1 paragraph (5) of section 349(a) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1481(a)(5)),

3 “(B) the date the individual furnishes to the
4 United States Department of State a signed
5 statement of voluntary relinquishment of United
6 States nationality confirming the performance of
7 an act of expatriation specified in paragraph
8 (1), (2), (3), or (4) of section 349(a) of the Im-
9 migration and Nationality Act (8 U.S.C.
10 1481(a)(1)–(4)),

11 “(C) the date the United States Department
12 of State issues to the individual a certificate of
13 loss of nationality, or

14 “(D) the date a court of the United States
15 cancels a naturalized citizen’s certificate of natu-
16 ralization.

17 Subparagraph (A) or (B) shall not apply to any in-
18 dividual unless the renunciation or voluntary relin-
19 quishment is subsequently approved by the issuance to
20 the individual of a certificate of loss of nationality by
21 the United States Department of State.

22 “(4) LONG-TERM RESIDENT.—

23 “(A) IN GENERAL.—The term ‘long-term
24 resident’ means any individual (other than a cit-
25 izen of the United States) who is a lawful per-

1 *manent resident of the United States in at least*
2 *8 taxable years during the period of 15 taxable*
3 *years ending with the taxable year during which*
4 *the expatriation date occurs. For purposes of the*
5 *preceding sentence, an individual shall not be*
6 *treated as a lawful permanent resident for any*
7 *taxable year if such individual is treated as a*
8 *resident of a foreign country for the taxable year*
9 *under the provisions of a tax treaty between the*
10 *United States and the foreign country and does*
11 *not waive the benefits of such treaty applicable*
12 *to residents of the foreign country.*

13 *“(B) SPECIAL RULE.—For purposes of sub-*
14 *paragraph (A), there shall not be taken into ac-*
15 *count—*

16 *“(i) any taxable year during which*
17 *any prior sale is treated under subsection*
18 *(a)(1) as occurring, or*

19 *“(ii) any taxable year prior to the tax-*
20 *able year referred to in clause (i).*

21 *“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’*
22 *INTERESTS IN TRUST.—*

23 *“(1) IN GENERAL.—Except as provided in para-*
24 *graph (2), if an individual is determined under para-*
25 *graph (3) to hold an interest in a trust—*

1 “(A) *the individual shall not be treated as*
2 *having sold such interest,*

3 “(B) *such interest shall be treated as a sep-*
4 *arate share in the trust, and*

5 “(C)(i) *such separate share shall be treated*
6 *as a separate trust consisting of the assets alloca-*
7 *ble to such share,*

8 “(ii) *the separate trust shall be treated as*
9 *having sold its assets immediately before the ex-*
10 *patiation date for their fair market value and*
11 *as having distributed all of its assets to the indi-*
12 *vidual as of such time, and*

13 “(iii) *the individual shall be treated as hav-*
14 *ing recontributed the assets to the separate trust.*

15 *Subsection (a)(2) shall apply to any income, gain, or*
16 *loss of the individual arising from a distribution de-*
17 *scribed in subparagraph (C)(ii).*

18 “(2) *SPECIAL RULES FOR INTERESTS IN QUALI-*
19 *FIED TRUSTS.—*

20 “(A) *IN GENERAL.—If the trust interest de-*
21 *scribed in paragraph (1) is an interest in a*
22 *qualified trust—*

23 “(i) *paragraph (1) and subsection (a)*
24 *shall not apply, and*

1 “(i) in addition to any other tax im-
2 posed by this title, there is hereby imposed
3 on each distribution with respect to such in-
4 terest a tax in the amount determined
5 under subparagraph (B).

6 “(B) AMOUNT OF TAX.—The amount of tax
7 under subparagraph (A)(i) shall be equal to the
8 lesser of—

9 “(i) the highest rate of tax imposed by
10 section 1(e) for the taxable year in which
11 the expatriation date occurs, multiplied by
12 the amount of the distribution, or

13 “(ii) the balance in the deferred tax ac-
14 count immediately before the distribution
15 determined without regard to any increases
16 under subparagraph (C)(i) after the 30th
17 day preceding the distribution.

18 “(C) DEFERRED TAX ACCOUNT.—For pur-
19 poses of subparagraph (B)(i)—

20 “(i) OPENING BALANCE.—The opening
21 balance in a deferred tax account with re-
22 spect to any trust interest is an amount
23 equal to the tax which would have been im-
24 posed on the allocable expatriation gain
25 with respect to the trust interest if such

1 *gain had been included in gross income*
2 *under subsection (a).*

3 “(ii) *INCREASE FOR INTEREST.—The*
4 *balance in the deferred tax account shall be*
5 *increased by the amount of interest deter-*
6 *mined (on the balance in the account at the*
7 *time the interest accrues), for periods after*
8 *the 90th day after the expatriation date, by*
9 *using the rates and method applicable*
10 *under section 6621 for underpayments of*
11 *tax for such periods.*

12 “(iii) *DECREASE FOR TAXES PRE-*
13 *VIOUSLY PAID.—The balance in the tax de-*
14 *ferred account shall be reduced—*

15 “(I) *by the amount of taxes im-*
16 *posed by subparagraph (A) on any dis-*
17 *tribution to the person holding the*
18 *trust interest, and*

19 “(II) *in the case of a person hold-*
20 *ing a nonvested interest, to the extent*
21 *provided in regulations, by the amount*
22 *of taxes imposed by subparagraph (A)*
23 *on distributions from the trust with re-*
24 *spect to nonvested interests not held by*
25 *such person.*

1 “(D) *ALLOCABLE EXPATRIATION GAIN.*—For
2 purposes of this paragraph, the allocable expa-
3 triation gain with respect to any beneficiary’s
4 interest in a trust is the amount of gain which
5 would be allocable to such beneficiary’s vested
6 and nonvested interests in the trust if the bene-
7 ficiary held directly all assets allocable to such
8 interests.

9 “(E) *TAX DEDUCTED AND WITHHELD.*—

10 “(i) *IN GENERAL.*—The tax imposed by
11 subparagraph (A)(i) shall be deducted and
12 withheld by the trustees from the distribu-
13 tion to which it relates.

14 “(ii) *EXCEPTION WHERE FAILURE TO*
15 *WAIVE TREATY RIGHTS.*—If an amount may
16 not be deducted and withheld under clause
17 (i) by reason of the distributee failing to
18 waive any treaty right with respect to such
19 distribution—

20 “(I) the tax imposed by subpara-
21 graph (A)(i) shall be imposed on the
22 trust and each trustee shall be person-
23 ally liable for the amount of such tax,
24 and

1 “(II) any other beneficiary of the
2 trust shall be entitled to recover from
3 the distributee the amount of such tax
4 imposed on the other beneficiary.

5 “(F) DISPOSITION.—If a trust ceases to be
6 a qualified trust at any time, a covered expatri-
7 ate disposes of an interest in a qualified trust,
8 or a covered expatriate holding an interest in a
9 qualified trust dies, then, in lieu of the tax im-
10 posed by subparagraph (A)(ii), there is hereby
11 imposed a tax equal to the lesser of—

12 “(i) the tax determined under para-
13 graph (1) as if the expatriation date were
14 the date of such cessation, disposition, or
15 death, whichever is applicable, or

16 “(ii) the balance in the tax deferred ac-
17 count immediately before such date.

18 Such tax shall be imposed on the trust and each
19 trustee shall be personally liable for the amount
20 of such tax and any other beneficiary of the trust
21 shall be entitled to recover from the covered expa-
22 triate or the estate the amount of such tax im-
23 posed on the other beneficiary.

24 “(G) DEFINITIONS AND SPECIAL RULE.—

25 For purposes of this paragraph—

1 “(i) *QUALIFIED TRUST.*—The term
2 ‘*qualified trust*’ means a trust—

3 “(I) *which is organized under,*
4 *and governed by, the laws of the Unit-*
5 *ed States or a State, and*

6 “(II) *with respect to which the*
7 *trust instrument requires that at least*
8 *1 trustee of the trust be an individual*
9 *citizen of the United States or a do-*
10 *mestic corporation.*

11 “(ii) *VESTED INTEREST.*—The term
12 ‘*vested interest*’ means any interest which,
13 *as of the expatriation date, is vested in the*
14 *beneficiary.*

15 “(iii) *NONVESTED INTEREST.*—The
16 term ‘*nonvested interest*’ means, with re-
17 spect to any beneficiary, any interest in a
18 trust which is not a vested interest. Such
19 interest shall be determined by assuming the
20 maximum exercise of discretion in favor of
21 the beneficiary and the occurrence of all
22 contingencies in favor of the beneficiary.

23 “(iv) *ADJUSTMENTS.*—The Secretary
24 may provide for such adjustments to the
25 bases of assets in a trust or a deferred tax

1 *account, and the timing of such adjust-*
2 *ments, in order to ensure that gain is taxed*
3 *only once.*

4 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
5 *EST IN TRUST.—*

6 “(A) *DETERMINATIONS UNDER PARAGRAPH*
7 *(1).—For purposes of paragraph (1), a bene-*
8 *ficiary’s interest in a trust shall be based upon*
9 *all relevant facts and circumstances, including*
10 *the terms of the trust instrument and any letter*
11 *of wishes or similar document, historical pat-*
12 *terns of trust distributions, and the existence of*
13 *and functions performed by a trust protector or*
14 *any similar advisor.*

15 “(B) *OTHER DETERMINATIONS.—For pur-*
16 *poses of this section—*

17 “(i) *CONSTRUCTIVE OWNERSHIP.—If a*
18 *beneficiary of a trust is a corporation, part-*
19 *nership, trust, or estate, the shareholders,*
20 *partners, or beneficiaries shall be deemed to*
21 *be the trust beneficiaries for purposes of this*
22 *section.*

23 “(ii) *TAXPAYER RETURN POSITION.—A*
24 *taxpayer shall clearly indicate on its in-*
25 *come tax return—*

1 “(I) the methodology used to de-
2 termine that taxpayer’s trust interest
3 under this section, and

4 “(II) if the taxpayer knows (or
5 has reason to know) that any other
6 beneficiary of such trust is using a dif-
7 ferent methodology to determine such
8 beneficiary’s trust interest under this
9 section.

10 “(g) *TERMINATION OF DEFERRALS, ETC.*—On the date
11 any property held by an individual is treated as sold under
12 subsection (a), notwithstanding any other provision of this
13 title—

14 “(1) any period during which recognition of in-
15 come or gain is deferred shall terminate, and

16 “(2) any extension of time for payment of tax
17 shall cease to apply and the unpaid portion of such
18 tax shall be due and payable at the time and in the
19 manner prescribed by the Secretary.

20 “(h) *IMPOSITION OF TENTATIVE TAX.*—

21 “(1) *IN GENERAL.*—If an individual is required
22 to include any amount in gross income under sub-
23 section (a) for any taxable year, there is hereby im-
24 posed, immediately before the expatriation date, a tax
25 in an amount equal to the amount of tax which

1 *would be imposed if the taxable year were a short tax-*
2 *able year ending on the expatriation date.*

3 “(2) *DUE DATE.*—*The due date for any tax im-*
4 *posed by paragraph (1) shall be the 90th day after the*
5 *expatriation date.*

6 “(3) *TREATMENT OF TAX.*—*Any tax paid under*
7 *paragraph (1) shall be treated as a payment of the*
8 *tax imposed by this chapter for the taxable year to*
9 *which subsection (a) applies.*

10 “(4) *DEFERRAL OF TAX.*—*The provisions of sub-*
11 *section (b) shall apply to the tax imposed by this sub-*
12 *section to the extent attributable to gain includible in*
13 *gross income by reason of this section.*

14 “(i) *COORDINATION WITH ESTATE AND GIFT*
15 *TAXES.*—*If subsection (a) applies to property held by an*
16 *individual for any taxable year and—*

17 “(1) *such property is includible in the gross es-*
18 *tate of such individual solely by reason of section*
19 *2107, or*

20 “(2) *section 2501 applies to a transfer of such*
21 *property by such individual solely by reason of sec-*
22 *tion 2501(a)(3),*

23 *then there shall be allowed as a credit against the additional*
24 *tax imposed by section 2101 or 2501, whichever is applica-*
25 *ble, solely by reason of section 2107 or 2501(a)(3) an*

1 *amount equal to the increase in the tax imposed by this*
2 *chapter for such taxable year by reason of this section.*

3 “(j) *REGULATIONS.*—*The Secretary shall prescribe*
4 *such regulations as may be necessary or appropriate to*
5 *carry out the purposes of this section, including regula-*
6 *tions—*

7 “(1) *to prevent double taxation by ensuring*
8 *that—*

9 “(A) *appropriate adjustments are made to*
10 *basis to reflect gain recognized by reason of sub-*
11 *section (a) and the exclusion provided by sub-*
12 *section (a)(3), and*

13 “(B) *any gain by reason of a deemed sale*
14 *under subsection (a) of an interest in a corpora-*
15 *tion, partnership, trust, or estate is reduced to*
16 *reflect that portion of such gain which is attrib-*
17 *utable to an interest in a trust which a share-*
18 *holder, partner, or beneficiary is treated as hold-*
19 *ing directly under subsection (f)(3)(B)(i), and*

20 “(2) *which provide for the proper allocation of*
21 *the exclusion under subsection (a)(3) to property to*
22 *which this section applies.*

1 “(k) *CROSS REFERENCE.*—

“For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).”.

2 (b) *INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.*—Section 102 (relating to gifts, etc. not included in gross income) is amended

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5 by adding at the end the following new subsection:

6 “(d) *GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.*—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest,

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devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.”.

(c) *DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.*—Section 7701(a) is amended by adding at the end the following new paragraph:

“(47) *TERMINATION OF UNITED STATES CITIZENSHIP.*—An individual shall not cease to be treated as a United States citizen before the date on which the individual’s citizenship is treated as relinquished under section 877A(e)(3).”.

(d) *COMPARABLE ESTATE AND GIFT TAX TREATMENT.*—

(1) *ESTATE TAX.*—

1 (A) *IN GENERAL.*—Subsection (a) of section
2 2107 is amended to read as follows:

3 “(a) *TREATMENT OF EXPATRIATES.*—

4 “(1) *RATE OF TAX.*—A tax computed in accord-
5 ance with the table contained in section 2001 is here-
6 by imposed on the transfer of the taxable estate, deter-
7 mined as provided in section 2106, of every decedent
8 nonresident who is an expatriate if the expatriation
9 date of the decedent is within the 10-year period end-
10 ing with the date of death, unless such expatriation
11 did not have for 1 of its principal purposes the avoid-
12 ance of taxes under this subtitle or subtitle A.

13 “(2) *CERTAIN INDIVIDUALS TREATED AS HAVING*
14 *TAX AVOIDANCE PURPOSE.*—For purposes of para-
15 graph (1), an individual shall be treated as having a
16 principal purpose to avoid such taxes if such individ-
17 ual is a covered expatriate.

18 “(3) *DEFINITIONS.*—For purposes of this sub-
19 section, the terms ‘expatriate’, ‘expatriation date’, and
20 ‘covered expatriate’ have the meanings given such
21 terms by section 877A.”.

22 (B) *CREDIT FOR FOREIGN DEATH TAXES.*—
23 Subsection (c) of section 2107 is amended by re-
24 designating paragraph (2) as paragraph (3) and

1 *by inserting after paragraph (1) the following*
2 *new paragraph:*

3 “(2) *CREDIT FOR FOREIGN DEATH TAXES.—*

4 “(A) *IN GENERAL.—The tax imposed by*
5 *subsection (a) shall be credited with the amount*
6 *of any estate, inheritance, legacy, or succession*
7 *taxes actually paid to any foreign country in re-*
8 *spect of any property which is included in the*
9 *gross estate solely by reason of subsection (b).*

10 “(B) *LIMITATIONS ON CREDIT.—The credit*
11 *allowed by subparagraph (A) for such taxes paid*
12 *to a foreign country shall not exceed the lesser*
13 *of—*

14 “(i) *the amount which bears the same*
15 *ratio to the amount of such taxes actually*
16 *paid to such foreign country in respect of*
17 *property included in the gross estate as the*
18 *value of the property included in the gross*
19 *estate solely by reason of subsection (b)*
20 *bears to the value of all property subjected*
21 *to such taxes by such foreign country, or*

22 “(ii) *such property’s proportionate*
23 *share of the excess of—*

24 “(I) *the tax imposed by subsection*
25 *(a), over*

1 “(II) the tax which would be im-
2 posed by section 2101 but for this sec-
3 tion.

4 *The amount applicable under clause (i) or (ii)*
5 *shall be reduced by the amount of any credit al-*
6 *lowed under section 877A(i).*

7 “(C) *PROPORTIONATE SHARE.*—For pur-
8 poses of subparagraph (B), a property’s propor-
9 tionate share is the percentage of the value of the
10 property which is included in the gross estate
11 solely by reason of subsection (b) bears to the
12 total value of the gross estate.”.

13 (C) *EXPANSION OF INCLUSION IN GROSS ES-*
14 *TATE OF STOCK OF FOREIGN CORPORATIONS.*—
15 Paragraph (2) of section 2107(b) is amended by
16 striking “more than 50 percent of” and all that
17 follows and inserting “more than 50 percent of—

18 “(A) the total combined voting power of all
19 classes of stock entitled to vote of such corpora-
20 tion, or

21 “(B) the total value of the stock of such cor-
22 poration,”.

23 (2) *GIFT TAX.*—

24 (A) *IN GENERAL.*—Paragraph (3) of section
25 2501(a) is amended to read as follows:

1 “(3) *EXCEPTION.*—

2 “(A) *CERTAIN INDIVIDUALS.*—*Paragraph*
3 *(2) shall not apply in the case of a donor who*
4 *is an expatriate if the expatriation date of the*
5 *donor is within the 10-year period ending with*
6 *the date of transfer, unless such expatriation did*
7 *not have for 1 of its principal purposes the*
8 *avoidance of taxes under this subtitle or subtitle*
9 *A.*

10 “(B) *CERTAIN INDIVIDUALS TREATED AS*
11 *HAVING TAX AVOIDANCE PURPOSE.*—*For pur-*
12 *poses of subparagraph (A), an individual shall*
13 *be treated as having a principal purpose to*
14 *avoid such taxes if such individual is a covered*
15 *expatriate.*

16 “(C) *CREDIT FOR FOREIGN GIFT TAXES.*—
17 *The tax imposed by this section solely by reason*
18 *of this paragraph shall be credited with the*
19 *amount of any gift tax actually paid to any for-*
20 *foreign country in respect of any gift which is tax-*
21 *able under this section solely by reason of this*
22 *paragraph. The amount of such credit shall be*
23 *reduced by the amount of the credit allowed*
24 *under section 877A(i).*

1 “(D) *DEFINITIONS.*—*For purposes of this*
2 *paragraph, the term ‘expatriate’, ‘expatriation*
3 *date’, and ‘covered expatriate’ have the meanings*
4 *given such terms by section 877A.”.*

5 *(e) CONFORMING AMENDMENTS.*—

6 (1) *Section 877 is amended by adding at the end*
7 *the following new subsection:*

8 “(f) *APPLICATION.*—*This section shall not apply to*
9 *any individual who relinquishes (within the meaning of*
10 *section 877A(e)(3)) United States citizenship on or after*
11 *February 6, 1995.”.*

12 (2) *Section 2107(c) is amended by adding at the*
13 *end the following new paragraph:*

14 “(3) *CROSS REFERENCE.*—*For credit against the*
15 *tax imposed by subsection (a) for expatriation tax, see*
16 *section 877A(i).”.*

17 (3) *Section 2501(a)(3) is amended by adding at*
18 *the end the following new flush sentence:*

19 “*For credit against the tax imposed under this section*
20 *by reason of this paragraph, see section 877A(i).”.*

21 (4) *Paragraph (10) of section 7701(b) is amend-*
22 *ed by adding at the end the following new sentence:*

23 “*This paragraph shall not apply to any long-term*
24 *resident of the United States who is an expatriate (as*
25 *defined in section 877A(e)(1)).”.*

1 (f) *CLERICAL AMENDMENT.*—*The table of sections for*
2 *subpart A of part II of subchapter N of chapter 1 is amend-*
3 *ed by inserting after the item relating to section 877 the*
4 *following new item:*

 “*Sec. 877A. Tax responsibilities of expatriation.*”.

5 (g) *EFFECTIVE DATE.*—

6 (1) *IN GENERAL.*—*Except as provided in this*
7 *subsection, the amendments made by this section shall*
8 *apply to expatriates (within the meaning of section*
9 *877A(e) of the Internal Revenue Code of 1986, as*
10 *added by this section) whose expatriation date (as so*
11 *defined) occurs on or after February 6, 1995.*

12 (2) *GIFTS AND BEQUESTS.*—*Section 102(d) of*
13 *the Internal Revenue Code of 1986 (as added by sub-*
14 *section (b)) shall apply to amounts received from ex-*
15 *patriates (as so defined) whose expatriation date (as*
16 *so defined) occurs on and after February 6, 1995.*

17 (3) *SPECIAL RULES RELATING TO CERTAIN ACTS*
18 *OCCURRING BEFORE FEBRUARY 6, 1995.*—*In the case*
19 *of an individual who took an act of expatriation spec-*
20 *ified in paragraph (1), (2), (3), or (4) of section*
21 *349(a) of the Immigration and Nationality Act (8*
22 *U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but*
23 *whose expatriation date (as so defined) occurs after*
24 *February 6, 1995—*

1 (A) the amendment made by subsection (c)
2 shall not apply,

3 (B) the amendment made by subsection
4 (e)(1) shall not apply for any period prior to the
5 expatriation date, and

6 (C) the other amendments made by this sec-
7 tion shall apply as of the expatriation date.

8 (4) *DUE DATE FOR TENTATIVE TAX.*—The due
9 date under section 877A(h)(2) of such Code shall in
10 no event occur before the 90th day after the date of
11 the enactment of this Act.

12 **SEC. 1632. INFORMATION ON INDIVIDUALS EXPATRIATING.**

13 (a) *IN GENERAL.*—Subpart A of part III of subchapter
14 A of chapter 61 is amended by inserting after section 6039E
15 the following new section:

16 **“SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIAT-**
17 **ING.**

18 “(a) *REQUIREMENT.*—

19 “(1) *IN GENERAL.*—Notwithstanding any other
20 provision of law, any expatriate (within the meaning
21 of section 877A(e)(1)) shall provide a statement which
22 includes the information described in subsection (b).

23 “(2) *TIMING.*—

1 “(A) *CITIZENS.*—*In the case of an expatri-*
2 *ate described in section 877(e)(1)(A), such state-*
3 *ment shall be—*

4 “(i) *provided not later than the expa-*
5 *triation date (within the meaning of section*
6 *877A(e)(2)), and*

7 “(ii) *provided to the person or court*
8 *referred to in section 877A(e)(3).*

9 “(B) *NONCITIZENS.*—*In the case of an ex-*
10 *patriate described in section 877A(e)(1)(B), such*
11 *statement shall be provided to the Secretary with*
12 *the return of tax imposed by chapter 1 for the*
13 *taxable year during which the event described in*
14 *such section occurs.*

15 “(b) *INFORMATION TO BE PROVIDED.*—*Information*
16 *required under subsection (a) shall include—*

17 “(1) *the taxpayer’s TIN,*

18 “(2) *the mailing address of such individual’s*
19 *principal foreign residence,*

20 “(3) *the foreign country in which such individ-*
21 *ual is residing,*

22 “(4) *the foreign country of which such individual*
23 *is a citizen,*

24 “(5) *in the case of an individual having a net*
25 *worth of at least the dollar amount applicable under*

1 *section 877A(c)(1)(B), information detailing the as-*
2 *sets and liabilities of such individual, and*

3 *“(6) such other information as the Secretary*
4 *may prescribe.*

5 *“(c) PENALTY.—Any individual failing to provide a*
6 *statement required under subsection (a) shall be subject to*
7 *a penalty for each year during any portion of which such*
8 *failure continues in an amount equal to the greater of—*

9 *“(1) 5 percent of the additional tax required to*
10 *be paid under section 877A for such year, or*

11 *“(2) \$1,000,*

12 *unless it is shown that such failure is due to reasonable*
13 *cause and not to willful neglect.*

14 *“(d) INFORMATION TO BE PROVIDED TO SEC-*
15 *RETARY.—Notwithstanding any other provision of law—*

16 *“(1) any Federal agency or court which collects*
17 *(or is required to collect) the statement under sub-*
18 *section (a) shall provide to the Secretary—*

19 *“(A) a copy of any such statement, and*

20 *“(B) the name (and any other identifying*
21 *information) of any individual refusing to com-*
22 *ply with the provisions of subsection (a),*

23 *“(2) the Secretary of State shall provide to the*
24 *Secretary a copy of each certificate as to the loss of*
25 *American nationality under section 358 of the Immi-*

1 *gration and Nationality Act which is approved by the*
2 *Secretary of State, and*

3 *“(3) the Federal agency primarily responsible for*
4 *administering the immigration laws shall provide to*
5 *the Secretary the name of each lawful permanent resi-*
6 *dent of the United States (within the meaning of sec-*
7 *tion 7701(b)(6)) whose status as such has been re-*
8 *voked or has been administratively or judicially de-*
9 *termined to have been abandoned.*

10 *Notwithstanding any other provision of law, not later than*
11 *30 days after the close of each calendar quarter, the Sec-*
12 *retary shall publish in the Federal Register the name of*
13 *each individual relinquishing United States citizenship*
14 *(within the meaning of section 877A(e)(3)) with respect to*
15 *whom the Secretary receives information under the preced-*
16 *ing sentence during such quarter.*

17 *“(e) EXEMPTION.—The Secretary may by regulations*
18 *exempt any class of individuals from the requirements of*
19 *this section if the Secretary determines that applying this*
20 *section to such individuals is not necessary to carry out*
21 *the purposes of this section.”.*

22 *(b) CLERICAL AMENDMENT.—The table of sections for*
23 *such subpart A is amended by inserting after the item relat-*
24 *ing to section 6039E the following new item:*

“Sec. 6039F. Information on individuals expatriating.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to individuals to whom section 877A*
3 *of the Internal Revenue Code of 1986 applies and whose*
4 *expatriation date (as defined in section 877A(e)(2)) occurs*
5 *on or after February 6, 1995, except that no statement shall*
6 *be required by such amendments before the 90th day after*
7 *the date of the enactment of this Act.*

8 **SEC. 1633. REPORT ON TAX COMPLIANCE BY UNITED**
9 **STATES CITIZENS AND RESIDENTS LIVING**
10 **ABROAD.**

11 *Not later than 90 days after the date of the enactment*
12 *of this Act, the Secretary of the Treasury shall prepare and*
13 *submit to the Committee on Ways and Means of the House*
14 *of Representatives and the Committee on Finance of the*
15 *Senate a report—*

16 (1) *describing the compliance with subtitle A of*
17 *the Internal Revenue Code of 1986 by citizens and*
18 *lawful permanent residents of the United States*
19 *(within the meaning of section 7701(b)(6) of such*
20 *Code) residing outside the United States, and*

21 (2) *recommending measures to improve such*
22 *compliance (including improved coordination between*
23 *executive branch agencies).*

1 **Subtitle F—Technical Corrections**

2 **SEC. 1701. COORDINATION WITH OTHER SUBTITLES.**

3 *For purposes of applying the amendments made by*
4 *any subtitle of this title other than this subtitle, the provi-*
5 *sions of this subtitle shall be treated as having been enacted*
6 *immediately before the provisions of such other subtitles.*

7 **SEC. 1702. AMENDMENTS RELATED TO REVENUE REC-**
8 **ONCILIATION ACT OF 1990.**

9 *(a) AMENDMENTS RELATED TO SUBTITLE A.—*

10 (1) *Subparagraph (B) of section 59(j)(3) is*
11 *amended by striking “section 1(i)(3)(B)” and insert-*
12 *ing “section 1(g)(3)(B)”.*

13 (2) *Clause (i) of section 151(d)(3)(C) is amended*
14 *by striking “joint of a return” and inserting “joint*
15 *return”.*

16 *(b) AMENDMENTS RELATED TO SUBTITLE B.—*

17 (1) *Paragraph (1) of section 11212(e) of the Rev-*
18 *enue Reconciliation Act of 1990 is amended by strik-*
19 *ing “Paragraph (1) of section 6724(d)” and inserting*
20 *“Subparagraph (B) of section 6724(d)(1)”.*

21 (2)(A) *Subparagraph (B) of section 4093(c)(2),*
22 *as in effect before the amendments made by the Reve-*
23 *nue Reconciliation Act of 1993, is amended by insert-*
24 *ing before the period “unless such fuel is sold for ex-*

1 *clusive use by a State or any political subdivision*
2 *thereof”.*

3 *(B) Paragraph (4) of section 6427(l), as in effect*
4 *before the amendments made by the Revenue Rec-*
5 *onciliation Act of 1993, is amended by inserting be-*
6 *fore the period “unless such fuel was used by a State*
7 *or any political subdivision thereof”.*

8 *(3) Paragraph (1) of section 6416(b) is amended*
9 *by striking “chapter 32 or by section 4051” and in-*
10 *serting “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 by*
19 *striking paragraph (6) and by inserting the following*
20 *new paragraphs:*

21 *“(6) CREDIT FOR TRANSFEREE IN BOND.—If—*

22 *“(A) wine produced by any person would be*
23 *eligible for any credit under paragraph (1) if re-*
24 *moved by such person during the calendar 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 as
4 the ‘transferee’) to whom such wine was trans-
5 ferred in bond and who is liable for the tax im-
6 posed by this section with respect to such wine,
7 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 al-
14 lowed the credit under paragraph (1) which would be
15 allowed to the producer if the wine removed by the
16 transferee had been removed by the producer on that
17 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 of wine
25 during a 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 amended
5 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 (c) AMENDMENTS RELATED TO SUBTITLE C.—

12 (1) Paragraph (4) of section 56(g) is amended by
13 redesignating subparagraphs (I) and (J) as subpara-
14 graphs (H) and (I), respectively.

15 (2) Subparagraph (B) of section 6724(d)(1) is
16 amended—

17 (A) by striking “or” at the end of clause
18 (xii), and

19 (B) by striking the period at the end of
20 clause (xiii) and inserting “, or”.

21 (3) Subsection (g) of section 6302 is amended by
22 inserting “, 22,” after “chapters 21”.

23 (4) The earnings and profits of any insurance
24 company to which section 11305(c)(3) of the Revenue
25 Reconciliation Act of 1990 applies shall be deter-

1 *mined without regard to any deduction allowed under*
2 *such section; except that, for purposes of applying sec-*
3 *tions 56 and 902, and subpart F of part III of sub-*
4 *chapter N of chapter 1 of the Internal Revenue Code*
5 *of 1986, such deduction shall be taken into account.*

6 (5) *Subparagraph (D) of section 6038A(e)(4) is*
7 *amended—*

8 (A) *by striking “any transaction to which*
9 *the summons relates” and inserting “any af-*
10 *ected taxable year”, and*

11 (B) *by adding at the end thereof the follow-*
12 *ing new sentence: “For purposes of this subpara-*
13 *graph, the term ‘affected taxable year’ means*
14 *any taxable year if the determination of the*
15 *amount of tax imposed for such taxable year is*
16 *affected by the treatment of the transaction to*
17 *which the summons relates.”.*

18 (6) *Subparagraph (A) of section 6621(c)(2) is*
19 *amended by adding at the end thereof the following*
20 *new flush sentence:*

21 *“The preceding sentence shall be applied without*
22 *regard to any such letter or notice which is with-*
23 *drawn by the Secretary.”.*

1 (7) *Clause (i) of section 6621(c)(2)(B) is amend-*
2 *ed by striking “this subtitle” and inserting “this*
3 *title”.*

4 *(d) AMENDMENTS RELATED TO SUBTITLE D.—*

5 (1) *Notwithstanding section 11402(c) of the Rev-*
6 *enue Reconciliation Act of 1990, the amendment*
7 *made by section 11402(b)(1) of such Act shall apply*
8 *to taxable years ending after December 31, 1989.*

9 (2) *Clause (ii) of section 143(m)(4)(C) is amend-*
10 *ed—*

11 (A) *by striking “any month of the 10-year*
12 *period” and inserting “any year of the 4-year*
13 *period”,*

14 (B) *by striking “succeeding months” and*
15 *inserting “succeeding years”, and*

16 (C) *by striking “over the remainder of such*
17 *period (or, if lesser, 5 years)” and inserting “to*
18 *zero over the succeeding 5 years”.*

19 *(e) AMENDMENTS RELATED TO SUBTITLE E.—*

20 (1)(A) *Clause (ii) of section 56(d)(1)(B) is*
21 *amended to read as follows:*

22 *“(ii) appropriate adjustments in the*
23 *application of section 172(b)(2) shall be*
24 *made to take into account the limitation of*
25 *subparagraph (A).”.*

1 (B) For purposes of applying sections 56(g)(1)
2 and 56(g)(3) of the Internal Revenue Code of 1986
3 with respect to taxable years beginning in 1991 and
4 1992, the reference in such sections to the alternative
5 tax net operating loss deduction shall be treated as
6 including a reference to the deduction under section
7 56(h) of such Code as in effect before the amendments
8 made by section 1915 of the Energy Policy Act of
9 1992.

10 (2) Clause (i) of section 613A(c)(3)(A) is amend-
11 ed by striking “the table contained in”.

12 (3) Section 6501 is amended—

13 (A) by striking subsection (m) (relating to
14 deficiency attributable to election under section
15 44B) and by redesignating subsections (n) and
16 (o) as subsections (m) and (n), respectively, and

17 (B) by striking “section 40(f) or 51(j)” in
18 subsection (m) (as redesignated by subparagraph
19 (A)) and inserting “section 40(f), 43, or 51(j)”.

20 (4) Subparagraph (C) of section 38(c)(2) (as in
21 effect on the day before the date of the enactment of
22 the Revenue Reconciliation Act of 1990) is amended
23 by inserting before the period at the end of the first
24 sentence the following: “and without regard to the de-
25 duction under section 56(h)”.

1 (5) *The amendment made by section*
2 *1913(b)(2)(C)(i) of the Energy Policy Act of 1992*
3 *shall apply to taxable years beginning after December*
4 *31, 1990.*

5 *(f) AMENDMENTS RELATED TO SUBTITLE F.—*

6 (1)(A) *Section 2701(a)(3) is amended by adding*
7 *at the end thereof the following new subparagraph:*

8 “(C) *VALUATION OF QUALIFIED PAYMENTS*
9 *WHERE NO LIQUIDATION, ETC. RIGHTS.—In the*
10 *case of an applicable retained interest which is*
11 *described in subparagraph (B)(i) but not sub-*
12 *paragraph (B)(ii), the value of the distribution*
13 *right shall be determined without regard to this*
14 *section.”.*

15 (B) *Section 2701(a)(3)(B) is amended by insert-*
16 *ing “CERTAIN” before “QUALIFIED” in the heading*
17 *thereof.*

18 (C) *Sections 2701 (d)(1) and (d)(4) are each*
19 *amended by striking “subsection (a)(3)(B)” and in-*
20 *serting “subsection (a)(3) (B) or (C)”.*

21 (2) *Clause (i) of section 2701(a)(4)(B) is amend-*
22 *ed by inserting “(or, to the extent provided in regula-*
23 *tions, the rights as to either income or capital)” after*
24 *“income and capital”.*

1 (3) *Clause (i) of section 2701(c)(1)(B) is amend-*
2 *ed to read as follows:*

3 “(i) *a right to distributions with re-*
4 *spect to any interest which is junior to the*
5 *rights of the transferred interest,”.*

6 (4)(A) *Clause (i) of section 2701(c)(3)(C) is*
7 *amended to read as follows:*

8 “(i) *IN GENERAL.—Payments under*
9 *any interest held by a transferor which*
10 *(without regard to this subparagraph) are*
11 *qualified payments shall be treated as*
12 *qualified payments unless the transferor*
13 *elects not to treat such payments as quali-*
14 *fied payments. Payments described in the*
15 *preceding sentence which are held by an ap-*
16 *plicable family member shall be treated as*
17 *qualified payments only if such member*
18 *elects to treat such payments as qualified*
19 *payments.”.*

20 (B) *The first sentence of section 2701(c)(3)(C)(ii)*
21 *is amended to read as follows: “A transferor or appli-*
22 *cable family member holding any distribution right*
23 *which (without regard to this subparagraph) is not a*
24 *qualified payment may elect to treat such right as a*

1 *qualified payment, to be paid in the amounts and at*
2 *the times specified in such election.”.*

3 *(C) The time for making an election under the*
4 *second sentence of section 2701(c)(3)(C)(i) of the In-*
5 *ternal Revenue Code of 1986 (as amended by sub-*
6 *paragraph (A)) shall not expire before the due date*
7 *(including extensions) for filing the transferor’s re-*
8 *turn of the tax imposed by section 2501 of such Code*
9 *for the first calendar year ending after the date of en-*
10 *actment.*

11 *(5) Section 2701(d)(3)(A)(iii) is amended by*
12 *striking “the period ending on the date of”.*

13 *(6) Subclause (I) of section 2701(d)(3)(B)(ii) is*
14 *amended by inserting “or the exclusion under section*
15 *2503(b),” after “section 2523,”.*

16 *(7) Section 2701(e)(5) is amended—*

17 *(A) by striking “such contribution to cap-*
18 *ital or such redemption, recapitalization, or*
19 *other change” in subparagraph (A) and insert-*
20 *ing “such transaction”, and*

21 *(B) by striking “the transfer” in subpara-*
22 *graph (B) and inserting “such transaction”.*

23 *(8) Section 2701(d)(4) is amended by adding at*
24 *the end thereof the following new subparagraph:*

1 “(C) *TRANSFER TO TRANSFERORS.*—*In the*
2 *case of a taxable event described in paragraph*
3 *(3)(A)(ii) involving a transfer of an applicable*
4 *retained interest from an applicable family*
5 *member to a transferor, this subsection shall con-*
6 *tinue to apply to the transferor during any pe-*
7 *riod the transferor holds such interest.”.*

8 (9) *Section 2701(e)(6) is amended by inserting*
9 *“or to reflect the application of subsection (d)” before*
10 *the period at the end thereof.*

11 (10)(A) *Section 2702(a)(3)(A) is amended—*

12 (i) *by striking “to the extent” and inserting*
13 *“if” in clause (i),*

14 (ii) *by striking “or” at the end of clause (i),*

15 (iii) *by striking the period at the end of*
16 *clause (ii) and inserting “, or”, and*

17 (iv) *by adding at the end thereof the follow-*
18 *ing new clause:*

19 “(iii) *to the extent that regulations*
20 *provide that such transfer is not inconsis-*
21 *ent with the purposes of this section.”.*

22 (B)(i) *Section 2702(a)(3) is amended by striking*
23 *“incomplete transfer” each place it appears and in-*
24 *serting “incomplete gift”.*

1 (ii) *The heading for section 2702(a)(3)(B) is*
2 *amended by striking “INCOMPLETE TRANSFER” and*
3 *inserting “INCOMPLETE GIFT”.*

4 *(g) AMENDMENTS RELATED TO SUBTITLE G.—*

5 (1)(A) *Subsection (a) of section 1248 is amend-*
6 *ed—*

7 (i) *by striking “, or if a United States per-*
8 *son receives a distribution from a foreign cor-*
9 *poration which, under section 302 or 331, is*
10 *treated as an exchange of stock” in paragraph*
11 *(1), and*

12 (ii) *by adding at the end thereof the follow-*
13 *ing new sentence: “For purposes of this section,*
14 *a United States person shall be treated as having*
15 *sold or exchanged any stock if, under any provi-*
16 *sion of this subtitle, such person is treated as re-*
17 *alizing gain from the sale or exchange of such*
18 *stock.”.*

19 (B) *Paragraph (1) of section 1248(e) is amended*
20 *by striking “, or receives a distribution from a domes-*
21 *tic corporation which, under section 302 or 331, is*
22 *treated as an exchange of stock”.*

23 (C) *Subparagraph (B) of section 1248(f)(1) is*
24 *amended by striking “or 361(c)(1)” and inserting*
25 *“355(c)(1), or 361(c)(1)”.*

1 (D) Paragraph (1) of section 1248(i) is amended
2 to read as follows:

3 “(1) *IN GENERAL.*—If any shareholder of a 10-
4 percent corporate shareholder of a foreign corporation
5 exchanges stock of the 10-percent corporate share-
6 holder for stock of the foreign corporation, such 10-
7 percent corporate shareholder shall recognize gain in
8 the same manner as if the stock of the foreign cor-
9 poration received in such exchange had been—

10 “(A) issued to the 10-percent corporate
11 shareholder, and

12 “(B) then distributed by the 10-percent cor-
13 porate shareholder to such shareholder in re-
14 demption or liquidation (whichever is appro-
15 priate).

16 The amount of gain recognized by such 10-percent
17 corporate shareholder under the preceding sentence
18 shall not exceed the amount treated as a dividend
19 under this section.”.

20 (2) Section 897 is amended by striking sub-
21 section (f).

22 (3) Paragraph (13) of section 4975(d) is amend-
23 ed by striking “section 408(b)” and inserting “section
24 408(b)(12)”.

1 (4) *Clause (iii) of section 56(g)(4)(D) is amend-*
2 *ed by inserting “, but only with respect to taxable*
3 *years beginning after December 31, 1989” before the*
4 *period at the end thereof.*

5 (5)(A) *Paragraph (11) of section 11701(a) of the*
6 *Revenue Reconciliation Act of 1990 (and the amend-*
7 *ment made by such paragraph) are hereby repealed,*
8 *and section 7108(r)(2) of the Revenue Reconciliation*
9 *Act of 1989 shall be applied as if such paragraph*
10 *(and amendment) had never been enacted.*

11 (B) *Subparagraph (A) shall not apply to any*
12 *building if the owner of such building establishes to*
13 *the satisfaction of the Secretary of the Treasury or his*
14 *delegate that such owner reasonably relied on the*
15 *amendment made by such paragraph (11).*

16 (h) *AMENDMENTS RELATED TO SUBTITLE H.—*

17 (1)(A) *Clause (vi) of section 168(e)(3)(B) is*
18 *amended by striking “or” at the end of subclause (I),*
19 *by striking the period at the end of subclause (II) and*
20 *inserting “, or”, and by adding at the end thereof the*
21 *following new subclause:*

22 *“(III) is described in section*
23 *48(l)(3)(A)(ix) (as in effect on the day*
24 *before the date of the enactment of the*
25 *Revenue Reconciliation Act of 1990).”.*

1 (B) Subparagraph (B) of section 168(e)(3) (re-
2 relating to 5-year property) is amended by adding at
3 the end the following flush sentence:

4 “Nothing in any provision of law shall be con-
5 strued to treat property as not being described in
6 clause (vi)(I) (or the corresponding provisions of
7 prior law) by reason of being public utility
8 property (within the meaning of section
9 48(a)(3)).”.

10 (C) Subparagraph (K) of section 168(g)(4) is
11 amended by striking “section 48(a)(3)(A)(iii)” and
12 inserting “section 48(l)(3)(A)(ix) (as in effect on the
13 day before the date of the enactment of the Revenue
14 Reconciliation Act of 1990)”.

15 (2) Clause (ii) of section 172(b)(1)(E) is amend-
16 ed by striking “subsection (m)” and inserting “sub-
17 section (h)”.

18 (3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II),
19 and 832(b)(5)(D)(ii)(II) are each amended by strik-
20 ing “243(b)(5)” and inserting “243(b)(2)”.

21 (4) Subparagraph (A) of section 243(b)(3) is
22 amended by inserting “of” after “In the case”.

23 (5) The subsection heading for subsection (a) of
24 section 280F is amended by striking “INVESTMENT
25 TAX CREDIT AND”.

1 (6) *Clause (i) of section 1504(c)(2)(B) is amend-*
2 *ed by inserting “section” before “243(b)(2)”.*

3 (7) *Paragraph (3) of section 341(f) is amended*
4 *by striking “351, 361, 371(a), or 374(a)” and insert-*
5 *ing “351, or 361”.*

6 (8) *Paragraph (2) of section 243(b) is amended*
7 *to read as follows:*

8 “(2) *AFFILIATED GROUP.—For purposes of this*
9 *subsection:*

10 “(A) *IN GENERAL.—The term ‘affiliated*
11 *group’ has the meaning given such term by sec-*
12 *tion 1504(a), except that for such purposes sec-*
13 *tions 1504(b)(2), 1504(b)(4), and 1504(c) shall*
14 *not apply.*

15 “(B) *GROUP MUST BE CONSISTENT IN FOR-*
16 *EIGN TAX TREATMENT.—The requirements of*
17 *paragraph (1)(A) shall not be treated as being*
18 *met with respect to any dividend received by a*
19 *corporation if, for any taxable year which in-*
20 *cludes the day on which such dividend is re-*
21 *ceived—*

22 “(i) *1 or more members of the affili-*
23 *ated group referred to in paragraph (1)(A)*
24 *choose to any extent to take the benefits of*
25 *section 901, and*

1 “(ii) 1 or more other members of such
2 group claim to any extent a deduction for
3 taxes otherwise creditable under section
4 901.”.

5 (9) The amendment made by section
6 11813(b)(17) of the Revenue Reconciliation Act of
7 1990 shall be applied as if the material stricken by
8 such amendment included the closing parenthesis
9 after “section 48(a)(5)”.

10 (10) Paragraph (1) of section 179(d) is amended
11 by striking “in a trade or business” and inserting “a
12 trade or business”.

13 (11) Subparagraph (E) of section 50(a)(2) is
14 amended by striking “section 48(a)(5)(A)” and in-
15 serting “section 48(a)(5)”.

16 (12) The amendment made by section
17 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act
18 of 1990 shall be applied as if it struck “Section
19 422A(c)(2)” and inserted “Section 422(c)(2)”.

20 (13) Subparagraph (B) of section 424(c)(3) is
21 amended by striking “a qualified stock option, an in-
22 centive stock option, an option granted under an em-
23 ployee stock purchase plan, or a restricted stock op-
24 tion” and inserting “an incentive stock option or an

1 *option granted under an employee stock purchase*
2 *plan”.*

3 (14) *Subparagraph (E) of section 1367(a)(2) is*
4 *amended by striking “section 613A(c)(13)(B)” and*
5 *inserting “section 613A(c)(11)(B)”.*

6 (15) *Subparagraph (B) of section 460(e)(6) is*
7 *amended by striking “section 167(k)” and inserting*
8 *“section 168(e)(2)(A)(ii)”.*

9 (16) *Subparagraph (C) of section 172(h)(4) is*
10 *amended by striking “subsection (b)(1)(M)” and in-*
11 *serting “subsection (b)(1)(E)”.*

12 (17) *Section 6503 is amended—*

13 (A) *by redesignating the subsection relating*
14 *to extension in case of certain summonses as sub-*
15 *section (j), and*

16 (B) *by redesignating the subsection relating*
17 *to cross references as subsection (k).*

18 (18) *Paragraph (4) of section 1250(e) is hereby*
19 *repealed.*

20 (19) *Paragraph (1) of section 179(d) is amended*
21 *by adding at the end the following new sentence:*
22 *“Such term shall not include any property described*
23 *in section 50(b) and shall not include air condi-*
24 *tioning or heating units.”.*

1 “(i) *EFFECTIVE DATE.*—*Except as otherwise expressly*
2 *provided, any amendment made by this section shall take*
3 *effect as if included in the provision of the Revenue Rec-*
4 *onciliation Act of 1990 to which such amendment relates.”.*

5 **SEC. 1703. AMENDMENTS RELATED TO REVENUE REC-**
6 **ONCILIATION ACT OF 1993.**

7 (a) *AMENDMENT RELATED TO SECTION 13114.*—
8 *Paragraph (2) of section 1044(c) is amended to read as fol-*
9 *lows:*

10 “(2) *PURCHASE.*—*The taxpayer shall be consid-*
11 *ered to have purchased any property if, but for sub-*
12 *section (d), the unadjusted basis of such property*
13 *would be its cost within the meaning of section*
14 *1012.”.*

15 (b) *AMENDMENTS RELATED TO SECTION 13142.*—

16 (1) *Subparagraph (B) of section 13142(b)(6) of*
17 *the Revenue Reconciliation Act of 1993 is amended to*
18 *read as follows:*

19 “(B) *FULL-TIME STUDENTS, WAIVER AU-*
20 *THORITY, AND PROHIBITED DISCRIMINATION.*—
21 *The amendments made by paragraphs (2), (3),*
22 *and (4) shall take effect on the date of the enact-*
23 *ment of this Act.”.*

1 (2) *Subparagraph (C) of section 13142(b)(6) of*
2 *such Act is amended by striking “paragraph (2)” and*
3 *inserting “paragraph (5)”.*

4 *(c) AMENDMENT RELATED TO SECTION 13161.—*

5 (1) *IN GENERAL.—Subsection (e) of section 4001*
6 *(relating to inflation adjustment) is amended to read*
7 *as follows:*

8 *“(e) INFLATION ADJUSTMENT.—*

9 *“(1) IN GENERAL.—The \$30,000 amount in sub-*
10 *section (a) and section 4003(a) shall be increased by*
11 *an amount equal to—*

12 *“(A) \$30,000, multiplied by*

13 *“(B) the cost-of-living adjustment under sec-*
14 *tion 1(f)(3) for the calendar year in which the*
15 *vehicle is sold, determined by substituting ‘cal-*
16 *endar year 1990’ for ‘calendar year 1992’ in*
17 *subparagraph (B) thereof.*

18 *“(2) ROUNDING.—If any amount as adjusted*
19 *under paragraph (1) is not a multiple of \$2,000, such*
20 *amount shall be rounded to the next lowest multiple*
21 *of \$2,000.”.*

22 (2) *EFFECTIVE DATE.—The amendment made by*
23 *paragraph (1) shall take effect on the date of the en-*
24 *actment of this Act.*

1 (d) *AMENDMENT RELATED TO SECTION 13201.*—
2 *Clause (ii) of section 135(b)(2)(B) is amended by inserting*
3 *before the period at the end thereof the following: “, deter-*
4 *mined by substituting ‘calendar year 1989’ for ‘calendar*
5 *year 1992’ in subparagraph (B) thereof”.*

6 (e) *AMENDMENTS RELATED TO SECTION 13203.*—Sub-
7 *section (a) of section 59 is amended—*

8 (1) *by striking “the amount determined under*
9 *section 55(b)(1)(A)” in paragraph (1)(A) and*
10 *(2)(A)(i) and inserting “the pre-credit tentative mini-*
11 *imum tax”,*

12 (2) *by striking “specified in section 55(b)(1)(A)”*
13 *in paragraph (1)(C) and inserting “specified in sub-*
14 *paragraph (A)(i) or (B)(i) of section 55(b)(1) (which-*
15 *ever applies)”,*

16 (3) *by striking “which would be determined*
17 *under section 55(b)(1)(A)” in paragraph (2)(A)(ii)*
18 *and inserting “which would be the pre-credit tentative*
19 *minimum tax”, and*

20 (4) *by adding at the end thereof the following*
21 *new paragraph:*

22 “(3) *PRE-CREDIT TENTATIVE MINIMUM TAX.*—
23 *For purposes of this subsection, the term ‘pre-credit*
24 *tentative minimum tax’ means—*

1 “(A) in the case of a taxpayer other than a
2 corporation, the amount determined under the
3 first sentence of section 55(b)(1)(A)(i), or

4 “(B) in the case of a corporation, the
5 amount determined under section
6 55(b)(1)(B)(i).”.

7 (f) AMENDMENT RELATED TO SECTION 13221.—Sec-
8 tions 1201(a) and 1561(a) are each amended by striking
9 “last sentence” each place it appears and inserting “last
10 2 sentences”.

11 (g) AMENDMENTS RELATED TO SECTION 13222.—

12 (1) Subparagraph (B) of section 6033(e)(1) is
13 amended by adding at the end thereof the following
14 new clause:

15 “(iii) COORDINATION WITH SECTION
16 527(f).—This subsection shall not apply to
17 any amount on which tax is imposed by
18 reason of section 527(f).”.

19 (2) Clause (i) of section 6033(e)(1)(B) is amend-
20 ed by striking “this subtitle” and inserting “section
21 501”.

22 (h) AMENDMENT RELATED TO SECTION 13225.—Para-
23 graph (3) of section 6655(g) is amended by striking all that
24 follows “‘3rd month’” in the sentence following subpara-
25 graph (C) and inserting “, subsection (e)(2)(A) shall be ap-

1 *plied by substituting ‘2 months’ for ‘3 months’ in clause*
2 *(i)(I), the election under clause (i) of subsection (e)(2)(C)*
3 *may be made separately for each installment, and clause*
4 *(ii) of subsection (e)(2)(C) shall not apply.”.*

5 *(i) AMENDMENTS RELATED TO SECTION 13231.—*

6 *(1) Subparagraph (G) of section 904(d)(3) is*
7 *amended by striking “section 951(a)(1)(B)” and in-*
8 *serting “subparagraph (B) or (C) of section*
9 *951(a)(1)”.*

10 *(2) Paragraph (1) of section 956A(b) is amended*
11 *to read as follows:*

12 *“(1) the amount (not including a deficit) re-*
13 *ferred to in section 316(a)(1) to the extent such*
14 *amount was accumulated in prior taxable years be-*
15 *ginning after September 30, 1993, and”.*

16 *(3) Subsection (f) of section 956A is amended by*
17 *inserting before the period at the end thereof: “and*
18 *regulations coordinating the provisions of subsections*
19 *(c)(3)(A) and (d)”.*

20 *(4) Subsection (b) of section 958 is amended by*
21 *striking “956(b)(2)” each place it appears and insert-*
22 *ing “956(c)(2)”.*

23 *(5)(A) Subparagraph (A) of section 1297(d)(2) is*
24 *amended by striking “The adjusted basis of any*

1 *asset” and inserting “The amount taken into account*
2 *under section 1296(a)(2) with respect to any asset”.*

3 *(B) The paragraph heading of paragraph (2) of*
4 *section 1297(d) is amended to read as follows:*

5 *“(2) AMOUNT TAKEN INTO ACCOUNT.—”.*

6 *(6) Subsection (e) of section 1297 is amended by*
7 *inserting “For purposes of this part—” after the sub-*
8 *section heading.*

9 *(j) AMENDMENT RELATED TO SECTION 13241.—Sub-*
10 *paragraph (B) of section 40(e)(1) is amended to read as*
11 *follows:*

12 *“(B) for any period before January 1, 2001,*
13 *during which the rates of tax under section*
14 *4081(a)(2)(A) are 4.3 cents per gallon.”.*

15 *(k) AMENDMENT RELATED TO SECTION 13242.—Para-*
16 *graph (4) of section 6427(f) is amended by striking “1995”*
17 *and inserting “1999”.*

18 *(l) AMENDMENT RELATED TO SECTION 13261.—*
19 *Clause (iii) of section 13261(g)(2)(A) of the Revenue Rec-*
20 *onciliation Act of 1993 is amended by striking “by the tax-*
21 *payer” and inserting “by the taxpayer or a related person”.*

22 *(m) AMENDMENT RELATED TO SECTION 13301.—Sub-*
23 *paragraph (B) of section 1397B(d)(5) is amended by strik-*
24 *ing “preceding”.*

25 *(n) CLERICAL AMENDMENTS.—*

1 (1) *Subsection (d) of section 39 is amended—*

2 (A) *by striking “45” in the heading of*
3 *paragraph (5) and inserting “45A”, and*

4 (B) *by striking “45” in the heading of*
5 *paragraph (6) and inserting “45B”.*

6 (2) *Subparagraph (A) of section 108(d)(9) is*
7 *amended by striking “paragraph (3)(B)” and insert-*
8 *ing “paragraph (3)(C)”.*

9 (3) *Subparagraph (C) of section 143(d)(2) is*
10 *amended by striking the period at the end thereof and*
11 *inserting a comma.*

12 (4) *Clause (ii) of section 163(j)(6)(E) is amended*
13 *by striking “which is a” and inserting “which is”.*

14 (5) *Subparagraph (A) of section 1017(b)(4) is*
15 *amended by striking “subsection (b)(2)(D)” and in-*
16 *serting “subsection (b)(2)(E)”.*

17 (6) *So much of section 1245(a)(3) as precedes*
18 *subparagraph (A) thereof is amended to read as fol-*
19 *lows:*

20 “(3) *SECTION 1245 PROPERTY.—For purposes of*
21 *this section, the term ‘section 1245 property’ means*
22 *any property which is or has been property of a char-*
23 *acter subject to the allowance for depreciation pro-*
24 *vided in section 167 and is either—”.*

1 (7) Paragraph (2) of section 1394(e) is amend-
2 ed—

3 (A) by striking “(i)” and inserting “(A)”,
4 and

5 (B) by striking “(ii)” and inserting “(B)”.

6 (8) Subsection (m) of section 6501 (as redesign-
7 ated by section 1602) is amended by striking “or
8 51(j)” and inserting “45B, or 51(j)”.

9 (9)(A) The section 6714 added by section
10 13242(b)(1) of the Revenue Reconciliation Act of 1993
11 is hereby redesignated as section 6715.

12 (B) The table of sections for part I of subchapter
13 B of chapter 68 is amended by striking “6714” in the
14 item added by such section 13242(b)(2) of such Act
15 and inserting “6715”.

16 (10) Paragraph (2) of section 9502(b) is amend-
17 ed by inserting “and before” after “1982,”.

18 (11) Subsection (a)(3) of section 13206 of the
19 Revenue Reconciliation Act of 1993 is amended by
20 striking “this section” and inserting “this sub-
21 section”.

22 (12) Paragraph (1) of section 13215(c) of the
23 Revenue Reconciliation Act of 1993 is amended by
24 striking “Public Law 92–21” and inserting “Public
25 Law 98–21”.

1 (13) Paragraph (2) of section 13311(e) of the
2 Revenue Reconciliation Act of 1993 is amended by
3 striking “section 1393(a)(3)” and inserting “section
4 1393(a)(2)”.

5 (14) Subparagraph (B) of section 117(d)(2) is
6 amended by striking “section 132(f)” and inserting
7 “section 132(h)”.

8 (o) *EFFECTIVE DATE.*—Any amendment made by this
9 section shall take effect as if included in the provision of
10 the Revenue Reconciliation Act of 1993 to which such
11 amendment relates.

12 **SEC. 1704. MISCELLANEOUS PROVISIONS.**

13 (a) *APPLICATION OF AMENDMENTS MADE BY TITLE*
14 *XII OF OMNIBUS BUDGET RECONCILIATION ACT OF*
15 *1990.*—Except as otherwise expressly provided, whenever in
16 title XII of the Omnibus Budget Reconciliation Act of 1990
17 an amendment or repeal is expressed in terms of an amend-
18 ment to, or repeal of, a section or other provision, the ref-
19 erence shall be considered to be made to a section or other
20 provision of the Internal Revenue Code of 1986.

21 (b) *TREATMENT OF CERTAIN AMOUNTS UNDER*
22 *HEDGE BOND RULES.*—

23 (1) *IN GENERAL.*—Clause (iii) of section
24 149(g)(3)(B) is amended to read as follows:

1 “(iii) *AMOUNTS HELD PENDING REIN-*
2 *VESTMENT OR REDEMPTION.*—*Amounts held*
3 *for not more than 30 days pending reinvest-*
4 *ment or bond redemption shall be treated as*
5 *invested in bonds described in clause (i).”.*

6 (2) *EFFECTIVE DATE.*—*The amendment made by*
7 *paragraph (1) shall take effect as if included in the*
8 *amendments made by section 7651 of the Omnibus*
9 *Budget Reconciliation Act of 1989.*

10 (c) *TREATMENT OF CERTAIN DISTRIBUTIONS UNDER*
11 *SECTION 1445.*—

12 (1) *IN GENERAL.*—*Paragraph (3) of section*
13 *1445(e) is amended by adding at the end thereof the*
14 *following new sentence: “Rules similar to the rules of*
15 *the preceding provisions of this paragraph shall*
16 *apply in the case of any distribution to which section*
17 *301 applies and which is not made out of the earn-*
18 *ings and profits of such a domestic corporation.”.*

19 (2) *EFFECTIVE DATE.*—*The amendment made by*
20 *paragraph (1) shall apply to distributions after the*
21 *date of the enactment of this Act.*

22 (d) *TREATMENT OF CERTAIN CREDITS UNDER SEC-*
23 *TION 469.*—

24 (1) *IN GENERAL.*—*Subparagraph (B) of section*
25 *469(c)(3) is amended by adding at the end thereof the*

1 following new sentence: “If the preceding sentence ap-
2 plies to the net income from any property for any
3 taxable year, any credits allowable under subpart B
4 (other than section 27(a)) or D of part IV of sub-
5 chapter A for such taxable year which are attributable
6 to such property shall be treated as credits not from
7 a passive activity to the extent the amount of such
8 credits does not exceed the regular tax liability of the
9 taxpayer for the taxable year which is allocable to
10 such net income.”.

11 (2) *EFFECTIVE DATE.*—The amendment made by
12 paragraph (1) shall apply to taxable years beginning
13 after December 31, 1986.

14 (e) *TREATMENT OF DISPOSITIONS UNDER PASSIVE*
15 *LOSS RULES.*—

16 (1) *IN GENERAL.*—Subparagraph (A) of section
17 469(g)(1) is amended to read as follows:

18 “(A) *IN GENERAL.*—If all gain or loss real-
19 ized on such disposition is recognized, the excess
20 of—

21 “(i) any loss from such activity for
22 such taxable year (determined after the ap-
23 plication of subsection (b)), over

24 “(ii) any net income or gain for such
25 taxable year from all other passive activities

1 *(determined after the application of sub-*
2 *section (b)),*
3 *shall be treated as a loss which is not from a*
4 *passive activity.”.*

5 (2) *EFFECTIVE DATE.*—*The amendment made by*
6 *paragraph (1) shall apply to taxable years beginning*
7 *after December 31, 1986.*

8 (f) *MISCELLANEOUS AMENDMENTS TO FOREIGN PRO-*
9 *VISIONS.*—

10 (1) *COORDINATION OF UNIFIED ESTATE TAX*
11 *CREDIT WITH TREATIES.*—*Subparagraph (A) of sec-*
12 *tion 2102(c)(3) is amended by adding at the end*
13 *thereof the following new sentence: “For purposes of*
14 *the preceding sentence, property shall not be treated*
15 *as situated in the United States if such property is*
16 *exempt from the tax imposed by this subchapter*
17 *under any treaty obligation of the United States.”.*

18 (2) *TREATMENT OF CERTAIN INTEREST PAID TO*
19 *RELATED PERSON.*—

20 (A) *Subparagraph (B) of section 163(j)(1)*
21 *is amended by inserting before the period at the*
22 *end thereof the following: “(and clause (ii) of*
23 *paragraph (2)(A) shall not apply for purposes of*
24 *applying this subsection to the amount so treat-*
25 *ed)”.*

1 (B) Subsection (j) of section 163 is amended
2 by redesignating paragraph (7) as paragraph
3 (8) and by inserting after paragraph (6) the fol-
4 lowing new paragraph:

5 “(7) COORDINATION WITH PASSIVE LOSS RULES,
6 ETC.—This subsection shall be applied before sections
7 465 and 469.”.

8 (C) The amendments made by this para-
9 graph shall apply as if included in the amend-
10 ments made by section 7210(a) of the Revenue
11 Reconciliation Act of 1989.

12 (3) TREATMENT OF INTEREST ALLOCABLE TO
13 EFFECTIVELY CONNECTED INCOME.—

14 (A) IN GENERAL.—

15 (i) Subparagraph (B) of section
16 884(f)(1) is amended by striking “to the ex-
17 tent” and all that follows down through
18 “subparagraph (A)” and inserting “to the
19 extent that the allocable interest exceeds the
20 interest described in subparagraph (A)”.

21 (ii) The second sentence of section
22 884(f)(1) is amended by striking “reason-
23 ably expected” and all that follows down
24 through the period at the end thereof and

1 inserting “reasonably expected to be alloca-
2 ble interest.”.

3 (iii) Paragraph (2) of section 884(f) is
4 amended to read as follows:

5 “(2) *ALLOCABLE INTEREST*.—For purposes of
6 this subsection, the term ‘allocable interest’ means any
7 interest which is allocable to income which is effec-
8 tively connected (or treated as effectively connected)
9 with the conduct of a trade or business in the United
10 States.”.

11 (B) *EFFECTIVE DATE*.—The amendments
12 made by subparagraph (A) shall take effect as if
13 included in the amendments made by section
14 1241(a) of the Tax Reform Act of 1986.

15 (4) *CLARIFICATION OF SOURCE RULE*.—

16 (A) *IN GENERAL*.—Paragraph (2) of section
17 865(b) is amended by striking “863(b)” and in-
18 serting “863”.

19 (B) *EFFECTIVE DATE*.—The amendment
20 made by subparagraph (A) shall take effect as if
21 included in the amendments made by section
22 1211 of the Tax Reform Act of 1986.

23 (5) *REPEAL OF OBSOLETE PROVISIONS*.—

24 (A) Paragraph (1) of section 6038(a) is
25 amended by striking “, and” at the end of sub-

1 *paragraph (E) and inserting a period, and by*
2 *striking subparagraph (F).*

3 *(B) Subsection (b) of section 6038A is*
4 *amended by adding “and” at the end of para-*
5 *graph (2), by striking “, and” at the end of*
6 *paragraph (3) and inserting a period, and by*
7 *striking paragraph (4).*

8 *(g) TREATMENT OF ASSIGNMENT OF INTEREST IN*
9 *CERTAIN BOND-FINANCED FACILITIES.—*

10 *(1) IN GENERAL.—Subparagraph (A) of section*
11 *1317(3) of the Tax Reform Act of 1986 is amended*
12 *by adding at the end thereof the following new sen-*
13 *tence: “A facility shall not fail to be treated as de-*
14 *scribed in this subparagraph by reason of an assign-*
15 *ment (or an agreement to an assignment) by the gov-*
16 *ernmental unit on whose behalf the bonds are issued*
17 *of any part of its interest in the property financed by*
18 *such bonds to another governmental unit.”.*

19 *(2) EFFECTIVE DATE.—The amendment made by*
20 *paragraph (1) shall take effect as if included in such*
21 *section 1317 on the date of the enactment of the Tax*
22 *Reform Act of 1986.*

23 *(h) CLARIFICATION OF TREATMENT OF MEDICARE EN-*
24 *TITLEMENT UNDER COBRA PROVISIONS.—*

25 *(1) IN GENERAL.—*

1 (A) Subclause (V) of section
2 4980B(f)(2)(B)(i) is amended to read as follows:

3 “(V) MEDICARE ENTITLEMENT
4 FOLLOWED BY QUALIFYING EVENT.—In
5 the case of a qualifying event described
6 in paragraph (3)(B) that occurs less
7 than 18 months after the date the cov-
8 ered employee became entitled to bene-
9 fits under title XVIII of the Social Se-
10 curity Act, the period of coverage for
11 qualified beneficiaries other than the
12 covered employee shall not terminate
13 under this clause before the close of the
14 36-month period beginning on the date
15 the covered employee became so enti-
16 tled.”.

17 (B) Clause (v) of section 602(2)(A) of the
18 Employee Retirement Income Security Act of
19 1974 is amended to read as follows:

20 “(v) MEDICARE ENTITLEMENT FOL-
21 LOWED BY QUALIFYING EVENT.—In the case
22 of a qualifying event described in section
23 603(2) that occurs less than 18 months after
24 the date the covered employee became enti-
25 tled to benefits under title XVIII of the So-

1 *cial Security Act, the period of coverage for*
2 *qualified beneficiaries other than the covered*
3 *employee shall not terminate under this*
4 *subparagraph before the close of the 36-*
5 *month period beginning on the date the cov-*
6 *ered employee became so entitled.”.*

7 *(C) Clause (iv) of section 2202(2)(A) of the*
8 *Public Health Service Act is amended to read as*
9 *follows:*

10 *“(iv) MEDICARE ENTITLEMENT FOL-*
11 *LOWED BY QUALIFYING EVENT.—In the case*
12 *of a qualifying event described in section*
13 *2203(2) that occurs less than 18 months*
14 *after the date the covered employee became*
15 *entitled to benefits under title XVIII of the*
16 *Social Security Act, the period of coverage*
17 *for qualified beneficiaries other than the*
18 *covered employee shall not terminate under*
19 *this subparagraph before the close of the 36-*
20 *month period beginning on the date the cov-*
21 *ered employee became so entitled.”.*

22 *(2) EFFECTIVE DATE.—The amendments made*
23 *by this subsection shall apply to plan years beginning*
24 *after December 31, 1989.*

25 *(i) TREATMENT OF CERTAIN REMIC INCLUSIONS.—*

1 (1) *IN GENERAL.*—Subsection (a) of section 860E
2 is amended by adding at the end thereof the following
3 new paragraph:

4 “(6) *COORDINATION WITH MINIMUM TAX.*—For
5 purposes of part VI of subchapter A of this chapter—

6 “(A) the reference in section 55(b)(2) to tax-
7 able income shall be treated as a reference to tax-
8 able income determined without regard to this
9 subsection,

10 “(B) the alternative minimum taxable in-
11 come of any holder of a residual interest in a
12 REMIC for any taxable year shall in no event
13 be less than the excess inclusion for such taxable
14 year, and

15 “(C) any excess inclusion shall be dis-
16 regarded for purposes of computing the alter-
17 native tax net operating loss deduction.

18 The preceding sentence shall not apply to any organi-
19 zation to which section 593 applies, except to the ex-
20 tent provided in regulations prescribed by the Sec-
21 retary under paragraph (2).”.

22 (2) *EFFECTIVE DATE.*—The amendment made by
23 paragraph (1) shall take effect as if included in the
24 amendments made by section 671 of the Tax Reform
25 Act of 1986 unless the taxpayer elects to apply such

1 *amendment only to taxable years beginning after the*
2 *date of the enactment of this Act.*

3 *(j) EXEMPTION FROM HARBOR MAINTENANCE TAX*
4 *FOR CERTAIN PASSENGERS.—*

5 *(1) IN GENERAL.—Subparagraph (D) of section*
6 *4462(b)(1) (relating to special rule for Alaska, Ha-*
7 *waii, and possessions) is amended by inserting before*
8 *the period the following: “, or passengers transported*
9 *on United States flag vessels operating solely within*
10 *the State waters of Alaska or Hawaii and adjacent*
11 *international waters”.*

12 *(2) EFFECTIVE DATE.—The amendment made by*
13 *paragraph (1) shall take effect as if included in the*
14 *amendments made by section 1402(a) of the Harbor*
15 *Maintenance Revenue Act of 1986.*

16 *(k) AMENDMENTS RELATED TO REVENUE PROVISIONS*
17 *OF ENERGY POLICY ACT OF 1992.—*

18 *(1) Effective with respect to taxable years begin-*
19 *ning after December 31, 1990, subclause (II) of sec-*
20 *tion 53(d)(1)(B)(iv) is amended to read as follows:*

21 *“(II) the adjusted net minimum*
22 *tax for any taxable year is the amount*
23 *of the net minimum tax for such year*
24 *increased in the manner provided in*
25 *clause (iii).”.*

1 (2) *Subsection (g) of section 179A is redesignated*
2 *as subsection (f).*

3 (3) *Subparagraph (E) of section 6724(d)(3) is*
4 *amended by striking “section 6109(f)” and inserting*
5 *“section 6109(h)”.*

6 (4)(A) *Subsection (d) of section 30 is amended—*

7 (i) *by inserting “(determined without re-*
8 *gard to subsection (b)(3))” before the period at*
9 *the end of paragraph (1) thereof, and*

10 (ii) *by adding at the end thereof the follow-*
11 *ing new paragraph:*

12 “*(4) ELECTION TO NOT TAKE CREDIT.—No credit*
13 *shall be allowed under subsection (a) for any vehicle*
14 *if the taxpayer elects to not have this section apply*
15 *to such vehicle.*”.

16 (B) *Subsection (m) of section 6501 (as redesign-*
17 *ated by section 1602) is amended by striking “sec-*
18 *tion 40(f)” and inserting “section 30(d)(4), 40(f)”.*

19 (5) *Subclause (III) of section 501(c)(21)(D)(ii) is*
20 *amended by striking “section 101(6)” and inserting*
21 *“section 101(7)” and by striking “1752(6)” and in-*
22 *serting “1752(7)”.*

23 (6) *Paragraph (1) of section 1917(b) of the En-*
24 *ergy Policy Act of 1992 shall be applied as if “at a*

1 *rate” appeared instead of “at the rate” in the mate-*
2 *rial proposed to be stricken.*

3 *(7) Paragraph (2) of section 1921(b) of the En-*
4 *ergy Policy Act of 1992 shall be applied as if a*
5 *comma appeared after “(2)” in the material proposed*
6 *to be stricken.*

7 *(8) Subsection (a) of section 1937 of the Energy*
8 *Policy Act of 1992 shall be applied as if “Subpart B”*
9 *appeared instead of “Subpart C”.*

10 *(l) TREATMENT OF QUALIFIED FOOTBALL COACHES*
11 *PLAN.—*

12 *(1) IN GENERAL.—For purposes of the Internal*
13 *Revenue Code of 1986, a qualified football coaches*
14 *plan—*

15 *(A) shall be treated as a multiemployer col-*
16 *lectively bargained plan, and*

17 *(B) notwithstanding section 401(k)(4)(B) of*
18 *such Code, may include a qualified cash and de-*
19 *ferred arrangement under section 401(k) of such*
20 *Code.*

21 *(2) QUALIFIED FOOTBALL COACHES PLAN.—For*
22 *purposes of this subsection, the term “qualified foot-*
23 *ball coaches plan” means any defined contribution*
24 *plan which is established and maintained by an orga-*
25 *nization—*

1 (A) which is described in section 501(c) of
2 such Code,

3 (B) the membership of which consists en-
4 tirely of individuals who primarily coach foot-
5 ball as full-time employees of 4-year colleges or
6 universities described in section 170(b)(1)(A)(ii)
7 of such Code, and

8 (C) which was in existence on September
9 18, 1986.

10 (3) *EFFECTIVE DATE.*—This subsection shall
11 apply to years beginning after December 22, 1987.

12 (m) *DETERMINATION OF UNRECOVERED INVESTMENT*
13 *IN ANNUITY CONTRACT.*—

14 (1) *IN GENERAL.*—Subparagraph (A) of section
15 72(b)(4) is amended by inserting “(determined with-
16 out regard to subsection (c)(2))” after “contract”.

17 (2) *EFFECTIVE DATE.*—The amendment made by
18 paragraph (1) shall take effect as if included in the
19 amendments made by section 1122(c) of the Tax Re-
20 form Act of 1986.

21 (n) *MODIFICATIONS TO ELECTION TO INCLUDE*
22 *CHILD’S INCOME ON PARENT’S RETURN.*—

23 (1) *ELIGIBILITY FOR ELECTION.*—Clause (i) of
24 section 1(g)(7)(A) (relating to election to include cer-

1 tain unearned income of child on parent's return) is
2 amended to read as follows:

3 “(ii) such gross income is more than
4 the amount described in paragraph
5 (4)(A)(ii)(I) and less than 10 times the
6 amount so described.”.

7 (2) *COMPUTATION OF TAX.*—Subparagraph (B)
8 of section 1(g)(7) (relating to income included on par-
9 ent's return) is amended—

10 (A) by striking “\$1,000” in clause (i) and
11 inserting “twice the amount described in para-
12 graph (4)(A)(ii)(I)”, and

13 (B) by amending subclause (II) of clause
14 (ii) to read as follows:

15 “(II) for each such child, 15 per-
16 cent of the lesser of the amount de-
17 scribed in paragraph (4)(A)(ii)(I) or
18 the excess of the gross income of such
19 child over the amount so described,
20 and”.

21 (3) *MINIMUM TAX.*—Subparagraph (B) of section
22 59(j)(1) is amended by striking “\$1,000” and insert-
23 ing “twice the amount in effect for the taxable year
24 under section 63(c)(5)(A)”.

1 (4) *EFFECTIVE DATE.*—*The amendments made*
2 *by this subsection shall apply to taxable years begin-*
3 *ning after December 31, 1995.*

4 (o) *TREATMENT OF CERTAIN VETERANS' REEMPLOY-*
5 *MENT RIGHTS.*—

6 (1) *IN GENERAL.*—*Section 414 is amended by*
7 *adding at the end the following new subsection:*

8 “(u) *SPECIAL RULES RELATING TO VETERANS' REEM-*
9 *PLOYMENT RIGHTS UNDER USERRA.*—

10 “(1) *TREATMENT OF CERTAIN CONTRIBUTIONS*
11 *MADE PURSUANT TO VETERANS' REEMPLOYMENT*
12 *RIGHTS.*—*If any contribution is made by an em-*
13 *ployer or an employee under an individual account*
14 *plan with respect to an employee, or by an employee*
15 *to a defined benefit plan that provides for employee*
16 *contributions, and such contribution is required by*
17 *reason of such employee's rights under chapter 43 of*
18 *title 38, United States Code, resulting from qualified*
19 *military service, then—*

20 “(A) *such contribution shall not be subject*
21 *to any otherwise applicable limitation contained*
22 *in section 402(g), 402(h), 403(b), 404(a), 404(h),*
23 *408, 415, or 457, and shall not be taken into ac-*
24 *count in applying such limitations to other con-*
25 *tributions or benefits under such plan or any*

1 *other plan, with respect to the year in which the*
2 *contribution is made,*

3 “(B) *such contribution shall be subject to*
4 *the limitations referred to in subparagraph (A)*
5 *with respect to the year to which the contribu-*
6 *tion relates (in accordance with rules prescribed*
7 *by the Secretary), and*

8 “(C) *such plan shall not be treated as fail-*
9 *ing to meet the requirements of section 401(a)(4),*
10 *401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12),*
11 *401(m), 403(b)(12), 408(k)(3), 408(k)(6), 408(p),*
12 *410(b), or 416 by reason of the making of (or the*
13 *right to make) such contribution.*

14 *For purposes of the preceding sentence, any elective*
15 *deferral or employee contribution made under para-*
16 *graph (2) shall be treated as required by reason of the*
17 *employee’s rights under such chapter 43.*

18 “(2) *REEMPLOYMENT RIGHTS UNDER USERRA*
19 *WITH RESPECT TO ELECTIVE DEFERRALS.—*

20 “(A) *IN GENERAL.—For purposes of this*
21 *subchapter and section 457, if an employee is en-*
22 *titled to the benefits of chapter 43 of title 38,*
23 *United States Code, with respect to any plan*
24 *which provides for elective deferrals, the em-*
25 *ployer sponsoring the plan shall be treated as*

1 meeting the requirements of such chapter 43 with
2 respect to such elective deferrals only if such em-
3 ployer—

4 “(i) permits such employee to make ad-
5 ditional elective deferrals under such plan
6 (in the amount determined under subpara-
7 graph (B) or such lesser amount as is elect-
8 ed by the employee) during the period which
9 begins on the date of the reemployment of
10 such employee with such employer and has
11 the same length as the lesser of—

12 “(I) the product of 3 and the pe-
13 riod of qualified military service which
14 resulted in such rights, and

15 “(II) 5 years, and

16 “(ii) makes a matching contribution
17 with respect to any additional elective defer-
18 ral made pursuant to clause (i) which
19 would have been required had such deferral
20 actually been made during the period of
21 such qualified military service.

22 “(B) AMOUNT OF MAKEUP REQUIRED.—The
23 amount determined under this subparagraph
24 with respect to any plan is the maximum
25 amount of the elective deferrals that the individ-

1 *ual would have been permitted to make under the*
2 *plan in accordance with the limitations referred*
3 *to in paragraph (1)(A) during the period of*
4 *qualified military service if the individual had*
5 *continued to be employed by the employer during*
6 *such period and received compensation as deter-*
7 *mined under paragraph (7). Proper adjustment*
8 *shall be made to the amount determined under*
9 *the preceding sentence for any elective deferrals*
10 *actually made during the period of such quali-*
11 *fied military service.*

12 *“(C) ELECTIVE DEFERRAL.—For purposes*
13 *of this paragraph, the term ‘elective deferral’ has*
14 *the meaning given such term by section*
15 *402(g)(3); except that such term shall include*
16 *any deferral of compensation under an eligible*
17 *deferred compensation plan (as defined in sec-*
18 *tion 457(b)).*

19 *“(D) AFTER-TAX EMPLOYEE CONTRIBU-*
20 *TIONS.—References in subparagraphs (A) and*
21 *(B) to elective deferrals shall be treated as in-*
22 *cluding references to employee contributions.*

23 *“(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT*
24 *REQUIRED.—For purposes of this subchapter and sub-*

1 *chapter E, no provision of chapter 43 of title 38,*
2 *United States Code, shall be construed as requiring—*

3 *“(A) any crediting of earnings to an em-*
4 *ployee with respect to any contribution before*
5 *such contribution is actually made, or*

6 *“(B) any allocation of any forfeiture with*
7 *respect to the period of qualified military service.*

8 *“(4) LOAN REPAYMENT SUSPENSIONS PER-*
9 *MITTED.—If any plan suspends the obligation to*
10 *repay any loan made to an employee from such plan*
11 *for any part of any period during which such em-*
12 *ployee is performing service in the uniformed services*
13 *(as defined in chapter 43 of title 38, United States*
14 *Code), whether or not qualified military service, such*
15 *suspension shall not be taken into account for pur-*
16 *poses of section 72(p), 401(a), or 4975(d)(1).*

17 *“(5) QUALIFIED MILITARY SERVICE.—For pur-*
18 *poses of this subsection, the term ‘qualified military*
19 *service’ means any service in the uniformed services*
20 *(as defined in chapter 43 of title 38, United States*
21 *Code) by any individual if such individual is entitled*
22 *to reemployment rights under such chapter with re-*
23 *spect to such service.*

24 *“(6) INDIVIDUAL ACCOUNT PLAN.—For purposes*
25 *of this subsection, the term ‘individual account plan’*

1 means any defined contribution plan (including any
2 tax-sheltered annuity plan under section 403(b), any
3 simplified employee pension under section 408(k),
4 any qualified salary reduction arrangement under
5 section 408(p), and any eligible deferred compensa-
6 tion plan (as defined in section 457(b)).

7 “(7) COMPENSATION.—For purposes of sections
8 403(b)(3), 415(c)(3), and 457(e)(5), an employee who
9 is in qualified military service shall be treated as re-
10 ceiving compensation from the employer during such
11 period of qualified military service equal to—

12 “(A) the compensation the employee would
13 have received during such period if the employee
14 were not in qualified military service, deter-
15 mined based on the rate of pay the employee
16 would have received from the employer but for
17 absence during the period of qualified military
18 service, or

19 “(B) if the compensation the employee
20 would have received during such period was not
21 reasonably certain, the employee’s average com-
22 pensation from the employer during the 12-
23 month period immediately preceding the quali-
24 fied military service (or, if shorter, the period of

1 *employment immediately preceding the qualified*
2 *military service).*

3 “(8) *USERRA REQUIREMENTS FOR QUALIFIED*
4 *RETIREMENT PLANS.—For purposes of this subchapter*
5 *and section 457, an employer sponsoring a retirement*
6 *plan shall be treated as meeting the requirements of*
7 *chapter 43 of title 38, United States Code, only if*
8 *each of the following requirements is met:*

9 “(A) *An individual reemployed under such*
10 *chapter is treated with respect to such plan as*
11 *not having incurred a break in service with the*
12 *employer maintaining the plan by reason of such*
13 *individual’s period of qualified military service.*

14 “(B) *Each period of qualified military serv-*
15 *ice served by an individual is, upon reemploy-*
16 *ment under such chapter, deemed with respect to*
17 *such plan to constitute service with the employer*
18 *maintaining the plan for the purpose of deter-*
19 *mining the nonforfeitability of the individual’s*
20 *accrued benefits under such plan and for the*
21 *purpose of determining the accrual of benefits*
22 *under such plan.*

23 “(C) *An individual reemployed under such*
24 *chapter is entitled to accrued benefits that are*
25 *contingent on the making of, or derived from,*

1 *employee contributions or elective deferrals only*
2 *to the extent the individual makes payment to*
3 *the plan with respect to such contributions or de-*
4 *ferrals. No such payment may exceed the amount*
5 *the individual would have been permitted or re-*
6 *quired to contribute had the individual remained*
7 *continuously employed by the employer through-*
8 *out the period of qualified military service. Any*
9 *payment to such plan shall be made during the*
10 *period beginning with the date of reemployment*
11 *and whose duration is 3 times the period of the*
12 *qualified military service (but not greater than*
13 *5 years).*

14 “(9) *PLANS NOT SUBJECT TO TITLE 38.—This*
15 *subsection shall not apply to any retirement plan to*
16 *which chapter 43 of title 38, United States Code, does*
17 *not apply.*

18 “(10) *REFERENCES.—For purposes of this sec-*
19 *tion, any reference to chapter 43 of title 38, United*
20 *States Code, shall be treated as a reference to such*
21 *chapter as in effect on December 12, 1994 (without re-*
22 *gard to any subsequent amendment).”.*

23 “(2) *EFFECTIVE DATE.—The amendment made by*
24 *this subsection shall be effective as of December 12,*
25 *1994.*

1 (p) *REPORTING OF REAL ESTATE TRANSACTIONS.*—

2 (1) *IN GENERAL.*—Paragraph (3) of section
3 6045(e) (relating to prohibition of separate charge for
4 filing return) is amended by adding at the end the
5 following new sentence: “Nothing in this paragraph
6 shall be construed to prohibit the real estate reporting
7 person from taking into account its cost of complying
8 with such requirement in establishing its charge
9 (other than a separate charge for complying with such
10 requirement) to any customer for performing services
11 in the case of a real estate transaction.”.

12 (2) *EFFECTIVE DATE.*—The amendment made by
13 paragraph (1) shall take effect as if included in sec-
14 tion 1015(e)(2)(A) of the Technical and Miscellaneous
15 Revenue Act of 1988.

16 (q) *CLARIFICATION OF DENIAL OF DEDUCTION FOR*
17 *STOCK REDEMPTION EXPENSES.*

18 (1) *IN GENERAL.*—Paragraph (1) of section
19 162(k) is amended by striking “the redemption of its
20 stock” and inserting “the reacquisition of its stock or
21 of the stock of any related person (as defined in sec-
22 tion 465(b)(3)(C))”.

23 (2) *CERTAIN DEDUCTIONS PERMITTED.*—Sub-
24 paragraph (A) of section 162(k)(2) is amended by
25 striking “or” at the end of clause (i), by redesignating

1 *clause (ii) as clause (iii), and by inserting after*
2 *clause (i) the following new clause:*

3 *“(ii) deduction for amounts which are*
4 *properly allocable to indebtedness and am-*
5 *ortized over the term of such indebtedness,*
6 *or”.*

7 (3) *CLERICAL AMENDMENT.—The subsection*
8 *heading for subsection (k) of section 162 is amended*
9 *by striking “REDEMPTION” and inserting “REACQUI-*
10 *SITION”.*

11 (4) *EFFECTIVE DATE.—*

12 (A) *IN GENERAL.—Except as provided in*
13 *subparagraph (B), the amendments made by this*
14 *subsection shall apply to amounts paid or in-*
15 *curring after September 13, 1995, in taxable*
16 *years ending after such date.*

17 (B) *PARAGRAPH (2).—The amendment*
18 *made by paragraph (2) shall take effect as if in-*
19 *cluded in the amendment made by section 613 of*
20 *the Tax Reform Act of 1986.*

21 (r) *CLERICAL AMENDMENT TO SECTION 404.—*

22 (1) *IN GENERAL.—Paragraph (1) of section*
23 *404(j) is amended by striking “(10)” and inserting*
24 *“(9)”.*

1 (2) *EFFECTIVE DATE.*—*The amendment made by*
2 *paragraph (1) shall take effect as if included in the*
3 *amendments made by section 713(d)(4)(A) of the Def-*
4 *icit Reduction Act of 1984.*

5 (s) *PASSIVE INCOME NOT TO INCLUDE FSC INCOME,*
6 *ETC.*—

7 (1) *IN GENERAL.*—*Paragraph (2) of section*
8 *1296(b) is amended by striking “or” at the end of*
9 *subparagraph (B), by striking the period at the end*
10 *of subparagraph (C) and inserting “, or”, and by in-*
11 *serting after subparagraph (C) the following new sub-*
12 *paragraph:*

13 *“(D) which is foreign trade income of a*
14 *FSC or export trade income of an export trade*
15 *corporation (as defined in section 971).”.*

16 (2) *EFFECTIVE DATE.*—*The amendment made by*
17 *paragraph (1) shall take effect as if included in the*
18 *amendments made by section 1235 of the Tax Reform*
19 *Act of 1986.*

20 (t) *MISCELLANEOUS CLERICAL AMENDMENTS.*—

21 (1) *Subclause (II) of section 56(g)(4)(C)(ii) is*
22 *amended by striking “of the subclause” and inserting*
23 *“of subclause”.*

24 (2) *Paragraph (2) of section 72(m) is amended*
25 *by inserting “and” at the end of subparagraph (A),*

1 *by striking subparagraph (B), and by redesignating*
2 *subparagraph (C) as subparagraph (B).*

3 *(3) Paragraph (2) of section 86(b) is amended by*
4 *striking “adusted” and inserting “adjusted”.*

5 *(4)(A) The heading for section 112 is amended*
6 *by striking “COMBAT PAY” and inserting “COMBAT*
7 *ZONE COMPENSATION”.*

8 *(B) The item relating to section 112 in the table*
9 *of sections for part III of subchapter B of chapter 1*
10 *is amended by striking “combat pay” and inserting*
11 *“combat zone compensation”.*

12 *(C) Paragraph (1) of section 3401(a) is amended*
13 *by striking “combat pay” and inserting “combat zone*
14 *compensation”.*

15 *(5) Clause (i) of section 172(h)(3)(B) is amended*
16 *by striking the comma at the end thereof and insert-*
17 *ing a period.*

18 *(6) Clause (ii) of section 543(a)(2)(B) is amend-*
19 *ed by striking “section 563(c)” and inserting “section*
20 *563(d)”.*

21 *(7) Paragraph (1) of section 958(a) is amended*
22 *by striking “sections 955(b)(1) (A) and (B),*
23 *955(c)(2)(A)(ii), and 960(a)(1)” and inserting “sec-*
24 *tion 960(a)(1)”.*

1 (8) *Subsection (g) of section 642 is amended by*
2 *striking “under 2621(a)(2)” and inserting “under*
3 *section 2621(a)(2)”.*

4 (9) *Section 1463 is amended by striking “this*
5 *subsection” and inserting “this section”.*

6 (10) *Subsection (k) of section 3306 is amended*
7 *by inserting a period at the end thereof.*

8 (11) *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 (12) *Paragraph (3) of section 5134(c) is amend-*
12 *ed by striking “section 6662(a)” and inserting “sec-*
13 *tion 6665(a)”.*

14 (13) *Paragraph (2) of section 5206(f) is amended*
15 *by striking “section 5(e)” and inserting “section*
16 *105(e)”.*

17 (14) *Paragraph (1) of section 6050B(c) is*
18 *amended by striking “section 85(c)” and inserting*
19 *“section 85(b)”.*

20 (15) *Subsection (k) of section 6166 is amended*
21 *by striking paragraph (6).*

22 (16) *Subsection (e) of section 6214 is amended to*
23 *read as follows:*

1 “(e) *CROSS REFERENCE.*—

“*For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).*”.

2 (17) *The section heading for section 6043 is*
3 *amended by striking the semicolon and inserting a*
4 *comma.*

5 (18) *The item relating to section 6043 in the*
6 *table of sections for subpart B of part III of sub-*
7 *chapter A of chapter 61 is amended by striking the*
8 *semicolon and inserting a comma.*

9 (19) *The table of sections for part I of subchapter*
10 *A of chapter 68 is amended by striking the item relat-*
11 *ing to section 6662.*

12 (20)(A) *Section 7232 is amended—*

13 (i) *by striking “LUBRICATING OIL,” in*
14 *the heading, and*

15 (ii) *by striking “lubricating oil,” in the*
16 *text.*

17 (B) *The table of sections for part II of sub-*
18 *chapter A of chapter 75 is amended by striking “lu-*
19 *bricating oil,” in the item relating to section 7232.*

20 (21) *Paragraph (1) of section 6701(a) of the Om-*
21 *nibus Budget Reconciliation Act of 1989 is amended*
22 *by striking “subclause (IV)” and inserting “subclause*
23 *(V)”.*

1 (22) Clause (ii) of section 7304(a)(2)(D) of such
2 Act is amended by striking “subsection (c)(2)” and
3 inserting “subsection (c)”.

4 (23) Paragraph (1) of section 7646(b) of such
5 Act is amended by striking “section 6050H(b)(1)”
6 and inserting “section 6050H(b)(2)”.

7 (24) Paragraph (10) of section 7721(c) of such
8 Act is amended by striking “section
9 6662(b)(2)(C)(ii)” and inserting “section
10 6661(b)(2)(C)(ii)”.

11 (25) Subparagraph (A) of section 7811(i)(3) of
12 such Act is amended by inserting “the first place it
13 appears” before “in clause (i)”.

14 (26) Paragraph (10) of section 7841(d) of such
15 Act is amended by striking “section 381(a)” and in-
16 serting “section 381(c)”.

17 (27) Paragraph (2) of section 7861(c) of such Act
18 is amended by inserting “the second place it appears”
19 before “and inserting”.

20 (28) Paragraph (1) of section 460(b) is amended
21 by striking “the look-back method of paragraph (3)”
22 and inserting “the look-back method of paragraph
23 (2)”.

1 (29) *Subparagraph (C) of section 50(a)(2) is*
2 *amended by striking “subsection (c)(4)” and inserting*
3 *“subsection (d)(5)”.*

4 (30) *Subparagraph (B) of section 172(h)(4) is*
5 *amended by striking the material following the head-*
6 *ing and preceding clause (i) and inserting “For pur-*
7 *poses of subsection (b)(2)—”.*

8 (31) *Subparagraph (A) of section 355(d)(7) is*
9 *amended by inserting “section” before “267(b)”.*

10 (32) *Subparagraph (C) of section 420(e)(1) is*
11 *amended by striking “mean” and inserting “means”.*

12 (33) *Paragraph (4) of section 537(b) is amended*
13 *by striking “section 172(i)” and inserting “section*
14 *172(f)”.*

15 (34) *Subparagraph (B) of section 613(e)(1) is*
16 *amended by striking the comma at the end thereof*
17 *and inserting a period.*

18 (35) *Paragraph (4) of section 856(a) is amended*
19 *by striking “section 582(c)(5)” and inserting “section*
20 *582(c)(2)”.*

21 (36) *Sections 904(f)(2)(B)(i) and*
22 *907(c)(4)(B)(iii) are each amended by inserting “(as*
23 *in effect on the day before the date of the enactment*
24 *of the Revenue Reconciliation Act of 1990)” after*
25 *“section 172(h)”.*

1 (37) Subsection (b) of section 936 is amended by
2 striking “subparagraphs (D)(ii)(I)” and inserting
3 “subparagraphs (D)(ii)”.

4 (38) Subsection (c) of section 2104 is amended
5 by striking “subparagraph (A), (C), or (D) of section
6 861(a)(1)” and inserting “section 861(a)(1)(A)”.

7 (39) Subparagraph (A) of section 280A(c)(1) is
8 amended to read as follows:

9 “(A) as the principal place of business for
10 any trade or business of the taxpayer,”.

11 (40) Section 6038 is amended by redesignating
12 the subsection relating to cross references as subsection
13 (f).

14 (41) Clause (iv) of section 6103(e)(1)(A) is
15 amended by striking all that follows “provisions of”
16 and inserting “section 1(g) or 59(j);”.

17 (42) The subsection (f) of section 6109 of the In-
18 ternal Revenue Code of 1986 which was added by sec-
19 tion 2201(d) of Public Law 101–624 is redesignated
20 as subsection (g).

21 (43) Subsection (b) of section 7454 is amended
22 by striking “section 4955(e)(2)” and inserting “sec-
23 tion 4955(f)(2)”.

24 (44) Subsection (d) of section 11231 of the Reve-
25 nue Reconciliation Act of 1990 shall be applied as if

1 “comma” appeared instead of “period” and as if the
2 paragraph (9) proposed to be added ended with a
3 comma.

4 (45) Paragraph (1) of section 11303(b) of the
5 Revenue Reconciliation Act of 1990 shall be applied
6 as if “paragraph” appeared instead of “subpara-
7 graph” in the material proposed to be stricken.

8 (46) Subsection (f) of section 11701 of the Reve-
9 nue Reconciliation Act of 1990 is amended by insert-
10 ing “(relating to definitions)” after “section 6038(e)”.

11 (47) Subsection (i) of section 11701 of the Reve-
12 nue Reconciliation Act of 1990 shall be applied as if
13 “subsection” appeared instead of “section” in the ma-
14 terial proposed to be stricken.

15 (48) Subparagraph (B) of section 11801(c)(2) of
16 the Revenue Reconciliation Act of 1990 shall be ap-
17 plied as if “section 56(g)” appeared instead of “sec-
18 tion 59(g)”.

19 (49) Subparagraph (C) of section 11801(c)(8) of
20 the Revenue Reconciliation Act of 1990 shall be ap-
21 plied as if “reorganizations” appeared instead of “re-
22 organization” in the material proposed to be stricken.

23 (50) Subparagraph (H) of section 11801(c)(9) of
24 the Revenue Reconciliation Act of 1990 shall be ap-

1 *plied as if “section 1042(c)(1)(B)” appeared instead*
2 *of “section 1042(c)(2)(B)”.*

3 *(51) Subparagraph (F) of section 11801(c)(12) of*
4 *the Revenue Reconciliation Act of 1990 shall be ap-*
5 *plied as if “and (3)” appeared instead of “and (E)”.*

6 *(52) Subparagraph (A) of section 11801(c)(22) of*
7 *the Revenue Reconciliation Act of 1990 shall be ap-*
8 *plied as if “chapters 21” appeared instead of “chap-*
9 *ter 21” in the material proposed to be stricken.*

10 *(53) Paragraph (3) of section 11812(b) of the*
11 *Revenue Reconciliation Act of 1990 shall be applied*
12 *by not executing the amendment therein to the head-*
13 *ing of section 42(d)(5)(B).*

14 *(54) Clause (i) of section 11813(b)(9)(A) of the*
15 *Revenue Reconciliation Act of 1990 shall be applied*
16 *as if a comma appeared after “(3)(A)(ix)” in the ma-*
17 *terial proposed to be stricken.*

18 *(55) Subparagraph (F) of section 11813(b)(13)*
19 *of the Revenue Reconciliation Act of 1990 shall be ap-*
20 *plied as if “tax” appeared after “investment” in the*
21 *material proposed to be stricken.*

22 *(56) Paragraph (19) of section 11813(b) of the*
23 *Revenue Reconciliation Act of 1990 shall be applied*
24 *as if “Paragraph (20) of section 1016(a), as redesi-*

1 *nated by section 11801,” appeared instead of “Para-*
2 *graph (21) of section 1016(a)”.*

3 *(57) Paragraph (5) section 8002(a) of the Sur-*
4 *face Transportation Revenue Act of 1991 shall be ap-*
5 *plied as if “4481(e)” appeared instead of “4481(c)”.*

6 *(58) Section 7872 is amended—*

7 *(A) by striking “foregone” each place it ap-*
8 *pears in subsections (a) and (e)(2) and inserting*
9 *“forgone”, and*

10 *(B) by striking “FOREGONE” in the heading*
11 *for subsection (e) and the heading for paragraph*
12 *(2) of subsection (e) and inserting “FORGONE”.*

13 *(59) Paragraph (7) of section 7611(h) is amend-*
14 *ed by striking “appropriiate” and inserting “appro-*
15 *priate”.*

16 *(60) The heading of paragraph (3) of section*
17 *419A(c) is amended by striking “SEVERANCE” and*
18 *inserting “SEVERANCE”.*

19 *(61) Clause (ii) of section 807(d)(3)(B) is*
20 *amended by striking “Commissoners’ ” and inserting*
21 *“Commissioners’ ”.*

22 *(62) Subparagraph (B) of section 1274A(c)(1) is*
23 *amended by striking “instument” and inserting “in-*
24 *strument”.*

1 (63) *Subparagraph (B) of section 724(d)(3) by*
2 *striking “Subparagraph” and inserting “Subpara-*
3 *graph”.*

4 (64) *The last sentence of paragraph (2) of section*
5 *42(c) is amended by striking “of 1988”.*

6 (65) *Paragraph (1) of section 9707(d) is amend-*
7 *ed by striking “diligence,” and inserting “diligence”.*

8 (66) *Subsection (c) of section 4977 is amended*
9 *by striking “section 132(i)(2)” and inserting “section*
10 *132(h)”.*

11 (67) *The last sentence of section 401(a)(20) is*
12 *amended by striking “section 211” and inserting*
13 *“section 521”.*

14 (68) *Subparagraph (A) of section 402(g)(3) is*
15 *amended by striking “subsection (a)(8)” and insert-*
16 *ing “subsection (e)(3)”.*

17 (69) *The last sentence of section 403(b)(10) is*
18 *amended by striking “an direct” and inserting “a*
19 *direct”.*

20 (70) *Subparagraph (A) of section 4973(b)(1) is*
21 *amended by striking “sections 402(c)” and inserting*
22 *“section 402(c)”.*

23 (71) *Paragraph (12) of section 3405(e) is*
24 *amended by striking “(b)(3)” and inserting “(b)(2)”.*

1 (72) Paragraph (41) of section 521(b) of the Un-
2 employment Compensation Amendments of 1992 shall
3 be applied as if “section” appeared instead of “sec-
4 tions” in the material proposed to be stricken.

5 (73) Paragraph (27) of section 521(b) of the Un-
6 employment Compensation Amendments of 1992 shall
7 be applied as if “Section 691(c)(5)” appeared instead
8 of “Section 691(c)”.

9 (74) Paragraph (5) of section 860F(a) is amend-
10 ed by striking “paragraph (1)” and inserting “para-
11 graph (2)”.

12 (75) Paragraph (1) of section 415(k) is amended
13 by adding “or” at the end of subparagraph (C), by
14 striking subparagraphs (D) and (E), and by redesign-
15 ating subparagraph (F) as subparagraph (D).

16 (76) Paragraph (2) of section 404(a) is amended
17 by striking “(18),”.

18 (77) Clause (ii) of section 72(p)(4)(A) is amend-
19 ed to read as follows:

20 “(ii) SPECIAL RULE.—The term ‘quali-
21 fied employer plan’ shall include any plan
22 which was (or was determined to be) a
23 qualified employer plan or a government
24 plan.”.

1 (78) Sections 461(i)(3)(C) and 1274(b)(3)(B)(i)
2 are each amended by striking “section
3 6662(d)(2)(C)(ii)” and inserting “section
4 6662(d)(2)(C)(iii)”.

5 (79) Subsection (a) of section 164 is amended by
6 striking the paragraphs relating to the generation-
7 skipping tax and the environmental tax imposed by
8 section 59A and by inserting after paragraph (3) the
9 following new paragraphs:

10 “(4) The GST tax imposed on income distribu-
11 tions.

12 “(5) The environmental tax imposed by section
13 59A.”.

14 (80) Subclause (I) of section 936(a)(4)(A)(ii) is
15 amended by striking “depreciation” and inserting “de-
16 preciation”.

17 **Subtitle G—Other Provisions**

18 **SEC. 1801. EXEMPTION FROM DIESEL FUEL DYEING** 19 **REQUIREMENTS WITH RESPECT TO CERTAIN** 20 **STATES.**

21 (a) *IN GENERAL.*—Section 4082 (relating to exemp-
22 tions for diesel fuel) is amended by redesignating sub-
23 sections (c) and (d) as subsections (d) and (e), respectively,
24 and by inserting after subsection (b) the following new sub-
25 section:

1 “(c) *EXCEPTION TO DYEING REQUIREMENTS.*—Para-
2 *graph (2) of subsection (a) shall not apply with respect to*
3 *any diesel fuel—*

4 “(1) *removed, entered, or sold in a State for ulti-*
5 *mate sale or use in an area of such State during the*
6 *period such area is exempted from the fuel dyeing re-*
7 *quirements under subsection (i) of section 211 of the*
8 *Clean Air Act (as in effect on the date of the enact-*
9 *ment of this subsection) by the Administrator of the*
10 *Environmental Protection Agency under paragraph*
11 *(4) of such subsection (i) (as so in effect), and*

12 “(2) *the use of which is certified pursuant to reg-*
13 *ulations issued by the Secretary.*”

14 “(b) *EFFECTIVE DATE.*—*The amendments made by this*
15 *section shall apply with respect to fuel removed, entered,*
16 *or sold on or after the first day of the first calendar quarter*
17 *beginning after the date of the enactment of this Act.*

18 **SEC. 1802. TREATMENT OF CERTAIN UNIVERSITY AC-**
19 **COUNTS.**

20 “(a) *IN GENERAL.*—*For purposes of subsection (s) of*
21 *section 3121 of the Internal Revenue Code of 1986 (relating*
22 *to concurrent employment by 2 or more employers)—*

23 “(1) *the following entities shall be deemed to be*
24 *related corporations that concurrently employ the*
25 *same individual:*

1 (A) a State university which employs health
2 professionals as faculty members at a medical
3 school, and

4 (B) an agency account of a State university
5 which is described in subparagraph (A) and
6 from which there is distributed to such faculty
7 members payments forming a part of the com-
8 pensation that the State, or such State univer-
9 sity, as the case may be, agrees to pay to such
10 faculty members, but only if—

11 (i) such agency account is authorized
12 by State law and receives the funds for such
13 payments from a faculty practice plan de-
14 scribed in section 501(c)(3) of such Code
15 and exempt from tax under section 501(a)
16 of such Code,

17 (ii) such payments are distributed by
18 such agency account to such faculty mem-
19 bers who render patient care at such medi-
20 cal school, and

21 (iii) such faculty members comprise at
22 least 30 percent of the membership of such
23 faculty practice plan, and

24 (2) remuneration which is disbursed by such
25 agency account to any such faculty member of the

1 *medical school described in paragraph (1)(A) shall be*
2 *deemed to have been actually disbursed by the State,*
3 *or such State university, as the case may be, as a*
4 *common paymaster and not to have been actually dis-*
5 *bursed by such agency account.*

6 *(b) EFFECTIVE DATE.—The provisions of subsection*
7 *(a) shall apply to remuneration paid after December 31,*
8 *1996.*

9 **SEC. 1803. MODIFICATIONS TO EXCISE TAX ON OZONE-DE-**
10 **PLETING CHEMICALS.**

11 *(a) RECYCLED HALON.—*

12 *(1) IN GENERAL.—Section 4682(d)(1) (relating*
13 *to recycling) is amended by inserting “, or on any re-*
14 *cycled halon imported from any country which is a*
15 *signatory to the Montreal Protocol on Substances that*
16 *Deplete the Ozone Layer” before the period at the end.*

17 *(2) CERTIFICATION SYSTEM.—The Secretary of*
18 *the Treasury, after consultation with the Adminis-*
19 *trator of the Environmental Protection Agency, shall*
20 *develop a certification system to ensure compliance*
21 *with the recycling requirement for imported halon*
22 *under section 4682(d)(1) of the Internal Revenue Code*
23 *of 1986, as amended by paragraph (1).*

24 *(b) CHEMICALS USED AS PROPELLANTS IN METERED-*
25 *DOSE INHALERS TAX-EXEMPT.—Paragraph (4) of section*

1 4682(g) (relating to phase-in of tax on certain substances)
2 is amended to read as follows:

3 “(4) *CHEMICALS USED AS PROPELLANTS IN ME-*
4 *TERED-DOSE INHALERS.*—

5 “(A) *TAX-EXEMPT.*—

6 “(i) *IN GENERAL.*—No tax shall be im-
7 posed by section 4681 on—

8 “(I) any use of any substance as
9 a propellant in metered-dose inhalers,
10 or

11 “(II) any qualified sale by the
12 manufacturer, producer, or importer of
13 any substance.

14 “(ii) *QUALIFIED SALE.*—For purposes
15 of clause (i), the term ‘qualified sale’ means
16 any sale by the manufacturer, producer, or
17 importer of any substance—

18 “(I) for use by the purchaser as a
19 propellant in metered-dose inhalers, or

20 “(II) for resale by the purchaser
21 to a 2d purchaser for such use by the
22 2d purchaser.

23 *The preceding sentence shall apply only if*
24 *the manufacturer, producer, and importer,*
25 *and the 1st and 2d purchasers (if any) meet*

1 *such registration requirements as may be*
2 *prescribed by the Secretary.*

3 “(B) *OVERPAYMENTS.*—*If any substance on*
4 *which tax was paid under this subchapter is*
5 *used by any person as a propellant in metered-*
6 *dose inhalers, credit or refund without interest*
7 *shall be allowed to such person in an amount*
8 *equal to the excess of—*

9 “(i) *the tax paid under this subchapter*
10 *on such substance, over*

11 “(ii) *the tax (if any) which would be*
12 *imposed by section 4681 if such substance*
13 *were used for such use by the manufacturer,*
14 *producer, or importer thereof on the date of*
15 *its use by such person.*

16 *Amounts payable under the preceding sen-*
17 *tence with respect to uses during the taxable*
18 *year shall be treated as described in section*
19 *34(a) for such year unless claim thereof has*
20 *been timely filed under this subparagraph.”*

21 (c) *EFFECTIVE DATES.*—

22 (1) *RECYCLED HALON.*—*The amendment made*
23 *by subsection (a)(1) shall take effect on January 1,*
24 *1997.*

1 (2) *METERED-DOSE INHALERS.*—*The amend-*
 2 *ment made by subsection (b) shall take effect on the*
 3 *7th day after the date of the enactment of this Act.*

4 **SEC. 1804. TAX-EXEMPT BONDS FOR SALE OF ALASKA**
 5 **POWER ADMINISTRATION FACILITY.**

6 *Sections 142(f)(3) (as added by section 1605) and*
 7 *147(d) of the Internal Revenue Code of 1986 shall not apply*
 8 *in determining whether any private activity bond issued*
 9 *after the date of the enactment of this Act and used to fi-*
 10 *nance the acquisition of the Snettisham hydroelectric*
 11 *project from the Alaska Power Administration is a quali-*
 12 *fied bond for purposes of such Code.*

13 **SEC. 1805. NONRECOGNITION TREATMENT FOR CERTAIN**
 14 **TRANSFERS BY COMMON TRUST FUNDS TO**
 15 **REGULATED INVESTMENT COMPANIES.**

16 (a) *GENERAL RULE.*—*Section 584 (relating to com-*
 17 *mon trust funds) is amended by redesignating subsection*
 18 *(h) as subsection (i) and by inserting after subsection (g)*
 19 *the following new subsection:*

20 “(h) *NONRECOGNITION TREATMENT FOR CERTAIN*
 21 *TRANSFERS TO REGULATED INVESTMENT COMPANIES.*—

22 “(1) *IN GENERAL.*—*If—*

23 “(A) *a common trust fund transfers sub-*
 24 *stantially all of its assets to one or more regu-*
 25 *lated investment companies in exchange solely*

1 *for stock in the company or companies to which*
2 *such assets are so transferred, and*

3 “(B) *such stock is distributed by such com-*
4 *mon trust fund to participants in such common*
5 *trust fund in exchange solely for their interests*
6 *in such common trust fund,*

7 *no gain or loss shall be recognized by such common*
8 *trust fund by reason of such transfer or distribution,*
9 *and no gain or loss shall be recognized by any partic-*
10 *ipant in such common trust fund by reason of such*
11 *exchange.*

12 “(2) *BASIS RULES.—*

13 “(A) *REGULATED INVESTMENT COMPANY.—*
14 *The basis of any asset received by a regulated in-*
15 *vestment company in a transfer referred to in*
16 *paragraph (1)(A) shall be the same as it would*
17 *be in the hands of the common trust fund.*

18 “(B) *PARTICIPANTS.—The basis of the stock*
19 *which is received in an exchange referred to in*
20 *paragraph (1)(B) shall be the same as that of the*
21 *property exchanged. If stock in more than one*
22 *regulated investment company is received in*
23 *such exchange, the basis determined under the*
24 *preceding sentence shall be allocated among the*

1 *stock in each such company on the basis of re-*
2 *spective fair market values.*

3 “(3) *TREATMENT OF ASSUMPTIONS OF*
4 *LIABILITY.—*

5 “(A) *IN GENERAL.—In determining whether*
6 *the transfer referred to in paragraph (1)(A) is in*
7 *exchange solely for stock in one or more regu-*
8 *lated investment companies, the assumption by*
9 *any such company of a liability of the common*
10 *trust fund, and the fact that any property trans-*
11 *ferred by the common trust fund is subject to a*
12 *liability, shall be disregarded.*

13 “(B) *SPECIAL RULE WHERE ASSUMED*
14 *LIABILITIES EXCEED BASIS.—*

15 “(i) *IN GENERAL.—If, in any transfer*
16 *referred to in paragraph (1)(A), the as-*
17 *sumed liabilities exceed the aggregate ad-*
18 *justed bases (in the hands of the common*
19 *trust fund) of the assets transferred to the*
20 *regulated investment company or*
21 *companies—*

22 “(I) *notwithstanding paragraph*
23 *(1), gain shall be recognized to the*
24 *common trust fund on such transfer in*
25 *an amount equal to such excess,*

1 “(II) the basis of the assets re-
2 ceived by the regulated investment
3 company or companies in such trans-
4 fer shall be increased by the amount so
5 recognized, and

6 “(III) any adjustment to the basis
7 of a participant’s interest in the com-
8 mon trust fund as a result of the gain
9 so recognized shall be treated as occur-
10 ring immediately before the exchange
11 referred to in paragraph (1)(B).

12 If the transfer referred to in paragraph
13 (1)(A) is to two or more regulated invest-
14 ment companies, the basis increase under
15 subclause (II) shall be allocated among such
16 companies on the basis of the respective fair
17 market values of the assets received by each
18 of such companies.

19 “(ii) ASSUMED LIABILITIES.—For pur-
20 poses of clause (i), the term ‘assumed liabil-
21 ities’ means the aggregate of—

22 “(I) any liability of the common
23 trust fund assumed by any 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 sub-*
16 *section (a) shall apply to transfers after December 31, 1995.*

17 **SEC. 1806. QUALIFIED STATE TUITION PROGRAMS.**

18 (a) *IN GENERAL.*—*Subchapter F of chapter 1 (relating*
19 *to exempt organizations) is amended by adding at the end*
20 *the following new part:*

21 **“PART VIII—QUALIFIED STATE TUITION**
22 **PROGRAMS**

 “Sec. 529. Qualified State tuition programs.

1 **“SEC. 529. QUALIFIED STATE TUITION PROGRAMS.**

2 “(a) *GENERAL RULE.*—*A qualified State tuition pro-*
3 *gram shall be exempt from taxation under this subtitle. Not-*
4 *withstanding the preceding sentence, such program shall be*
5 *subject to the taxes imposed by section 511 (relating to im-*
6 *position of tax on unrelated business income of charitable*
7 *organizations).*

8 “(b) *QUALIFIED STATE TUITION PROGRAM.*—*For pur-*
9 *poses of this section—*

10 “(1) *IN GENERAL.*—*The term ‘qualified State*
11 *tuition program’ means a program established and*
12 *maintained by a State or agency or instrumentality*
13 *thereof—*

14 “(A) *under which a person—*

15 “(i) *may purchase tuition credits or*
16 *certificates on behalf of a designated bene-*
17 *ficiary which entitle the beneficiary to the*
18 *waiver or payment of qualified higher edu-*
19 *cation expenses of the beneficiary, or*

20 “(ii) *may make contributions to an ac-*
21 *count which is established for the sole pur-*
22 *pose of meeting the qualified higher edu-*
23 *cation expenses of the designated beneficiary*
24 *of the account, and*

25 “(B) *which meets the other requirements of*
26 *this subsection.*

1 “(2) *CASH CONTRIBUTIONS.*—A program shall
2 *not be treated as a qualified State tuition program*
3 *unless it provides that purchases or contributions*
4 *may only be made in cash.*

5 “(3) *REFUNDS.*—A program shall not be treated
6 *as a qualified State tuition program unless it imposes*
7 *a more than de minimis penalty on any refund of*
8 *earnings from the account which are not—*

9 “(A) *used for qualified higher education ex-*
10 *penses of the designated beneficiary,*

11 “(B) *made on account of the death or dis-*
12 *ability of the designated beneficiary, or*

13 “(C) *made on account of a scholarship re-*
14 *ceived by the designated beneficiary to the extent*
15 *the amount of the refund does not exceed the*
16 *amount of the scholarship used for qualified*
17 *higher education expenses.*

18 “(4) *SEPARATE ACCOUNTING.*—A program shall
19 *not be treated as a qualified State tuition program*
20 *unless it provides separate accounting for each des-*
21 *ignated beneficiary.*

22 “(5) *NO INVESTMENT DIRECTION.*—A program
23 *shall not be treated as a qualified State tuition pro-*
24 *gram unless it provides that any contributor to, or*
25 *designated beneficiary under, such program may not*

1 *direct the investment of any contributions to the pro-*
2 *gram (or any earnings thereon).*

3 “(6) *NO PLEDGING OF INTEREST AS SECURITY.—*

4 *A program shall not be treated as a qualified State*
5 *tuition program if it allows any interest in the pro-*
6 *gram or any portion thereof to be used as security for*
7 *a loan.*

8 “(c) *TAX TREATMENT OF DESIGNATED BENE-*
9 *FICIARIES AND CONTRIBUTORS.—*

10 “(1) *IN GENERAL.—Except as otherwise provided*
11 *in this subsection, no amount shall be includible in*
12 *gross income of—*

13 “(A) *a designated beneficiary under a*
14 *qualified State tuition program, or*

15 “(B) *a contributor to such program on be-*
16 *half of a designated beneficiary,*
17 *with respect to any distribution from, or earnings*
18 *under, such program.*

19 “(2) *DISTRIBUTIONS.—*

20 “(A) *IN GENERAL.—Any distribution under*
21 *a qualified State tuition program shall be in-*
22 *cludible in the gross income of the distributee in*
23 *the same manner as provided under section 72*
24 *to the extent not excluded from gross income*
25 *under any other provision of this chapter.*

1 “(B) *IN-KIND DISTRIBUTIONS.*—*The fur-*
2 *nishing of education to a designated beneficiary*
3 *under a qualified State tuition program shall be*
4 *treated as a distribution to the beneficiary.*

5 “(C) *CHANGE IN BENEFICIARIES.*—

6 “(i) *ROLLOVERS.*—*Subparagraph (A)*
7 *shall not apply to that portion of any dis-*
8 *tribution which, within 60 days of such dis-*
9 *tribution, is transferred to the credit of an-*
10 *other designated beneficiary under a quali-*
11 *fied State tuition program who is a member*
12 *of the same family as the designated bene-*
13 *ficiary with respect to which the distribu-*
14 *tion was made.*

15 “(ii) *CHANGE IN DESIGNATED BENE-*
16 *FICIARIES.*—*Any change in the designated*
17 *beneficiary of an interest in a qualified*
18 *State tuition program shall not be treated*
19 *as a distribution for purposes of subpara-*
20 *graph (A) if the new beneficiary is a mem-*
21 *ber of the same family as the old bene-*
22 *ficiary.*

23 “(D) *OPERATING RULES.*—*For purposes of*
24 *applying section 72—*

1 “(i) all qualified State tuition pro-
2 grams of which an individual is a des-
3 ignated beneficiary shall be treated as one
4 program,

5 “(ii) all distributions during a taxable
6 year shall be treated as one distribution,
7 and

8 “(iii) the value of the contract, income
9 on the contract, and investment in the con-
10 tract shall be computed as of the close of the
11 calendar year in which the taxable year be-
12 gins.

13 “(3) GIFT TAX TREATMENT.—Any contribution
14 on behalf of a designated beneficiary to a qualified
15 State tuition program shall be treated as a qualified
16 transfer for purposes of section 2503(e).

17 “(d) REPORTING REQUIREMENTS.—

18 “(1) IN GENERAL.—If—

19 “(A) a designated beneficiary is furnished
20 education under a qualified State tuition pro-
21 gram during any calendar year, or

22 “(B) there is a distribution to any individ-
23 ual with respect to an interest in such program
24 during any calendar year,

1 *each officer or employee having control of the quali-*
2 *fied State tuition program or their designee shall*
3 *make such reports as the Secretary may require re-*
4 *garding such education or distribution to the Sec-*
5 *retary and to the designated beneficiary or the indi-*
6 *vidual to whom the distribution was made. Any such*
7 *report shall include such information as the Secretary*
8 *may prescribe.*

9 *“(2) TIMING OF REPORTS.—Any report required*
10 *by this subsection—*

11 *“(A) shall be filed at such time and in such*
12 *matter as the Secretary prescribes, and*

13 *“(B) shall be furnished to individuals not*
14 *later than January 31 of the calendar year fol-*
15 *lowing the calendar year to which such report re-*
16 *lates.*

17 *“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For*
18 *purposes of this section—*

19 *“(1) DESIGNATED BENEFICIARY.—The term ‘des-*
20 *ignated beneficiary’ means—*

21 *“(A) the individual designated at the com-*
22 *mencement of participation in the qualified*
23 *State tuition program as the beneficiary of*
24 *amounts paid (or to be paid) to the program,*

1 “(B) in the case of a change in beneficiaries
2 described in subsection (c)(2)(C)(i), the individ-
3 ual who is the new beneficiary, and

4 “(C) in the case of an interest in a qualified
5 State tuition program purchased by a State or
6 local government or an organization described in
7 section 501(c)(3) and exempt from taxation
8 under section 501(a) as part of a scholarship
9 program operated by such government or organi-
10 zation, the individual receiving such interest as
11 a scholarship.

12 “(2) MEMBER OF FAMILY.—The term ‘member of
13 family’ has the same meaning given such term as sec-
14 tion 2032A(e)(2).

15 “(3) QUALIFIED HIGHER EDUCATION EX-
16 PENSES.—The term ‘qualified higher education ex-
17 penses’ means tuition, fees, books, supplies, and
18 equipment required for the enrollment or attendance
19 of a designated beneficiary at an eligible education
20 institution (as defined in section 135(c)(3)).

21 “(4) APPLICATION OF SECTION 514.—An interest
22 in a qualified State tuition program shall not be
23 treated as debt for purposes of section 514.”.

24 (b) EFFECTIVE DATES.—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to taxable years ending after*
3 *the date of the enactment of this Act.*

4 (2) *TRANSITION RULE.*—*If—*

5 (A) *a State or agency or instrumentality*
6 *thereof maintains, on the date of the enactment*
7 *of this Act, a program under which persons may*
8 *purchase tuition credits or certificates on behalf*
9 *of, or make contributions for education expenses*
10 *of, a designated beneficiary, and*

11 (B) *such program meets the requirements of*
12 *a qualified State tuition program before the later*
13 *of—*

14 (i) *the date which is 1 year after such*
15 *date of enactment, or*

16 (ii) *the first day of the first calendar*
17 *quarter after the close of the first regular*
18 *session of the State legislature that begins*
19 *after such date of enactment,*

20 *the amendments made by this section shall apply*
21 *to contributions (and earnings allocable thereto)*
22 *made before the later of such dates without re-*
23 *gard to whether any requirements of such*
24 *amendments are met with respect to such con-*
25 *tributions and earnings. For purposes of sub-*

1 *paragraph (B)(ii), if a State has a 2-year legis-*
2 *lative session, each year of such session shall be*
3 *deemed to be a separate regular session of the*
4 *State legislature.*

5 **(2)**Page 236, line 11, strike out **【SECTION 1】** and in-
6 sert: **SEC. 2101**

7 **(3)**Page 236, line 14, strike out **【SEC. 2】** and insert:
8 **SEC. 2102**

9 **(4)**Page 237, line 3, strike out **【SEC. 3】** and insert: **SEC.**
10 **2103**

11 **(5)**Page 237, line 10, strike out **【SEC. 4】** and insert:
12 **SEC. 2104**

13 **(6)**Page 237, line 22, strike out **【SEC. 5】** and insert:
14 **SEC. 2105**

Attest:

Secretary.

104TH CONGRESS
2^D SESSION

H. R. 3448

AMENDMENTS

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