

Union Calendar No. 290

104TH CONGRESS
2^D SESSION

H. R. 3448

[Report No. 104-586]

A BILL

To provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, and for other purposes.

MAY 20, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1996

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

MAY 20, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 14, 1996]

A BILL

To provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
 3 *“Small Business Job Protection Act of 1996”.*

4 (b) *TABLE OF CONTENTS.*—

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

Sec. 1101. Amendment of 1986 Code.

Sec. 1102. Underpayments of estimated tax.

Subtitle A—Expensing; Etc.

Sec. 1111. Increase in expense treatment for small businesses.

Sec. 1112. Treatment of employee tips.

Sec. 1113. Treatment of storage of product samples.

Sec. 1114. Treatment of certain charitable risk pools.

Sec. 1115. Treatment of dues paid to agricultural or horticultural organizations.

Sec. 1116. Clarification of employment tax status of certain fishermen; information reporting.

Subtitle B—Extension of Certain Expiring Provisions

Sec. 1201. Work opportunity tax credit.

Sec. 1202. Employer-provided educational assistance programs.

Sec. 1203. FUTA exemption for alien agricultural workers.

Subtitle C—Provisions Relating to S Corporations

Sec. 1301. S corporations permitted to have 75 shareholders.

Sec. 1302. Electing small business trusts.

Sec. 1303. Expansion of post-death qualification for certain trusts.

Sec. 1304. Financial institutions permitted to hold safe harbor debt.

Sec. 1305. Rules relating to inadvertent terminations and invalid elections.

Sec. 1306. Agreement to terminate year.

Sec. 1307. Expansion of post-termination transition period.

Sec. 1308. S corporations permitted to hold subsidiaries.

Sec. 1309. Treatment of distributions during loss years.

Sec. 1310. Treatment of S corporations under subchapter C.

Sec. 1311. Elimination of certain earnings and profits.

Sec. 1312. Carryover of disallowed losses and deductions under at-risk rules allowed.

Sec. 1313. Adjustments to basis of inherited S stock to reflect certain items of income.

Sec. 1314. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers.

Sec. 1315. Effective date.

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

Sec. 1401. Repeal of 5-year income averaging for lump-sum distributions.

Sec. 1402. Repeal of \$5,000 exclusion of employees' death benefits.

- Sec. 1403. Simplified method for taxing annuity distributions under certain employer plans.*
- Sec. 1404. Required distributions.*

CHAPTER 2—INCREASED ACCESS TO PENSION PLANS

SUBCHAPTER A—SIMPLE SAVINGS PLANS

- Sec. 1421. Establishment of savings incentive match plans for employees of small employers.*
- Sec. 1422. Extension of simple plan to 401(k) arrangements.*

SUBCHAPTER B—OTHER PROVISIONS

- Sec. 1426. Tax-exempt organizations eligible under section 401(k).*

CHAPTER 3—NONDISCRIMINATION PROVISIONS

- Sec. 1431. Definition of highly compensated employees; repeal of family aggregation.*
- Sec. 1432. Modification of additional participation requirements.*
- Sec. 1433. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.*
- Sec. 1434. Definition of compensation for section 415 purposes.*

CHAPTER 4—MISCELLANEOUS PROVISIONS

- Sec. 1441. Plans covering self-employed individuals.*
- Sec. 1442. Elimination of special vesting rule for multiemployer plans.*
- Sec. 1443. Distributions under rural cooperative plans.*
- Sec. 1444. Treatment of governmental plans under section 415.*
- Sec. 1445. Uniform retirement age.*
- Sec. 1446. Contributions on behalf of disabled employees.*
- Sec. 1447. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.*
- Sec. 1448. Trust requirement for deferred compensation plans of State and local governments.*
- Sec. 1449. Transition rule for computing maximum benefits under section 415 limitations.*
- Sec. 1450. Modifications of section 403(b).*
- Sec. 1451. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.*
- Sec. 1452. Repeal of limitation in case of defined benefit plan and defined contribution plan for same employee; excess distributions.*
- Sec. 1453. Tax on prohibited transactions.*
- Sec. 1454. Treatment of leased employees.*
- Sec. 1455. Uniform penalty provisions to apply to certain pension reporting requirements.*
- Sec. 1456. Retirement benefits of ministers not subject to tax on net earnings from self-employment.*
- Sec. 1457. Date for adoption of plan amendments.*

Subtitle E—Foreign Simplification

- Sec. 1501. Repeal of inclusion of certain earnings invested in excess passive assets.*

*Subtitle F—Revenue Offsets**Sec. 1601. Termination of Puerto Rico and possession tax credit.**Sec. 1602. Repeal of exclusion for interest on loans used to acquire employer securities.**Sec. 1603. Certain amounts derived from foreign corporations treated as unrelated business taxable income.**Sec. 1604. Depreciation under income forecast method.**Sec. 1605. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.**Sec. 1606. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.**Subtitle G—Technical Corrections**Sec. 1701. Coordination with other subtitles.**Sec. 1702. Amendments related to Revenue Reconciliation Act of 1990.**Sec. 1703. Amendments related to Revenue Reconciliation Act of 1993.**Sec. 1704. Miscellaneous provisions.*

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*
 14 *date of the enactment of this Act to the extent such under-*
 15 *payment was created or increased by any provision of this*
 16 *title.*

1 **Subtitle A—Expensing; Etc.**

2 **SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL**
 3 **BUSINESSES.**

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

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

| “If the taxable year begins in: | The applicable amount is: |
|--|--------------------------------------|
| 1996 | \$18,500 |
| 1997 | 19,000 |
| 1998 | 20,000 |
| 1999 | 21,000 |
| 2000 | 22,000 |
| 2001 | 23,000 |
| 2002 | 23,500 |
| 2003 or thereafter | 25,000.” |

10 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 11 section (a) shall apply to taxable years beginning after De-
 12 cember 31, 1995.

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

14 (a) *EMPLOYEE CASH TIPS.*—

15 (1) *REPORTING REQUIREMENT NOT CONSID-*
 16 *ERED.*—Subparagraph (A) of section 45B(b)(1) (re-
 17 lating to excess employer social security tax) is
 18 amended by inserting “(without regard to whether
 19 such tips are reported under section 6053)” after “sec-
 20 tion 3121(q)”.

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

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

9 (b) *TIPS FOR EMPLOYEES DELIVERING FOOD OR BEV-*
10 *ERAGES.*—

11 (1) *IN GENERAL.*—*Paragraph (2) of section*
12 *45B(b) is amended to read as follows:*

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

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

1 **SEC. 1113. TREATMENT OF STORAGE OF PRODUCT SAM-**
 2 **PLES.**

3 (a) *IN GENERAL.*—Paragraph (2) of section 280A(c)
 4 is amended by striking “inventory” and inserting “inven-
 5 tory or product samples”.

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 7 section (a) shall apply to taxable years beginning after De-
 8 cember 31, 1995.

9 **SEC. 1114. TREATMENT OF CERTAIN CHARITABLE RISK**
 10 **POOLS.**

11 (a) *GENERAL RULE.*—Section 501 (relating to exemp-
 12 tion from tax on corporations, certain trusts, etc.) is
 13 amended by redesignating subsection (n) as subsection (o)
 14 and by inserting after subsection (m) the following new sub-
 15 section:

16 “(n) *CHARITABLE RISK POOLS.*—

17 “(1) *IN GENERAL.*—For purposes of this title—

18 “(A) a qualified charitable risk pool shall be
 19 treated as an organization organized and oper-
 20 ated exclusively for charitable purposes, and

21 “(B) subsection (m) shall not apply to a
 22 qualified charitable risk pool.

23 “(2) *QUALIFIED CHARITABLE RISK POOL.*—For
 24 purposes of this subsection, the term ‘qualified chari-
 25 table risk pool’ means any organization—

1 “(A) which is organized and operated solely
2 to pool insurable risks of its members (other than
3 risks related to medical malpractice) and to pro-
4 vide information to its members with respect to
5 loss control and risk management,

6 “(B) which is comprised solely of members
7 that are organizations described in subsection
8 (c)(3) and exempt from tax under subsection (a),
9 and

10 “(C) which meets the organizational re-
11 quirements of paragraph (3).

12 “(3) ORGANIZATIONAL REQUIREMENTS.—An or-
13 ganization (hereinafter in this subsection referred to
14 as the ‘risk pool’) meets the organizational require-
15 ments of this paragraph if—

16 “(A) such risk pool is organized as a non-
17 profit organization under State law provisions
18 authorizing risk pooling arrangements for chari-
19 table organizations,

20 “(B) such risk pool is exempt from any in-
21 come tax imposed by the State (or will be so ex-
22 empt after such pool qualifies as an organization
23 exempt from tax under this title),

1 “(C) such risk pool has obtained at least
2 \$1,000,000 in startup capital from nonmember
3 charitable organizations,

4 “(D) such risk pool is controlled by a board
5 of directors elected by its members, and

6 “(E) the organizational documents of such
7 risk pool require that—

8 “(i) each member of such pool shall at
9 all times be an organization described in
10 subsection (c)(3) and exempt from tax
11 under subsection (a),

12 “(ii) any member which receives a
13 final determination that it no longer quali-
14 fies as an organization described in sub-
15 section (c)(3) shall immediately notify the
16 pool of such determination and the effective
17 date of such determination, and

18 “(iii) each policy of insurance issued
19 by the risk pool shall provide that such pol-
20 icy will not cover the insured with respect
21 to events occurring after the date such final
22 determination was issued to the insured.

23 *An organization shall not cease to qualify as a quali-*
24 *fied charitable risk pool solely by reason of the failure*
25 *of any of its members to continue to be an organiza-*

1 *tion described in subsection (c)(3) if, within a reason-*
2 *able period of time after such pool is notified as re-*
3 *quired under subparagraph (C)(ii), such pool takes*
4 *such action as may be reasonably necessary to remove*
5 *such member from such pool.*

6 *“(4) OTHER DEFINITIONS.—For purposes of this*
7 *subsection—*

8 *“(A) STARTUP CAPITAL.—The term ‘startup*
9 *capital’ means any capital contributed to, and*
10 *any program-related investments (within the*
11 *meaning of section 4944(c)) made in, the risk*
12 *pool before such pool commences operations.*

13 *“(B) NONMEMBER CHARITABLE ORGANIZA-*
14 *TION.—The term ‘nonmember charitable organi-*
15 *zation’ means any organization which is de-*
16 *scribed in subsection (c)(3) and exempt from tax*
17 *under subsection (a) and which is not a member*
18 *of the risk pool and does not benefit (directly or*
19 *indirectly) from the insurance coverage provided*
20 *by the pool to its members.”*

21 *(b) EFFECTIVE DATE.—The amendment made by sub-*
22 *section (a) shall apply to taxable years beginning after the*
23 *date of the enactment of this Act.*

1 **SEC. 1115. 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 thereof 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’ includes any payment required to be*
6 *made in order to be recognized by the organization as*
7 *a member of the organization.”*

8 *(b) EFFECTIVE DATE.*—*The amendment made by sub-*
9 *section (a) shall apply to taxable years beginning after De-*
10 *cember 31, 1994.*

11 **SEC. 1116. CLARIFICATION OF EMPLOYMENT TAX STATUS**
12 **OF CERTAIN FISHERMEN; INFORMATION RE-**
13 **PORTING.**

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

15 *(1) AMENDMENTS OF INTERNAL REVENUE CODE*
16 *OF 1986.—*

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

18 *Subsection (b) of section 3121 (defining employ-*
19 *ment) is amended by adding at the end thereof*
20 *the following new sentence:*

21 *“For purposes of paragraph (20), the operating crew of a*
22 *boat shall be treated as normally made up of fewer than*
23 *10 individuals if the average size of the operating crew*
24 *on trips made during the preceding 4 calendar quarters*
25 *consisted of fewer than 10 individuals.”*

1 (B) *CERTAIN CASH REMUNERATION PER-*
2 *MITTED.—Subparagraph (A) of section*
3 *3121(b)(20) is amended to read as follows:*

4 “(A) *such individual does not receive any*
5 *cash remuneration other than as provided in*
6 *subparagraph (B) and other than cash remu-*
7 *neration—*

8 “(i) *which does not exceed \$100 per*
9 *trip;*

10 “(ii) *which is contingent on a mini-*
11 *imum catch; and*

12 “(iii) *which is paid solely for addi-*
13 *tional duties (such as mate, engineer, or*
14 *cook) for which additional cash remunera-*
15 *tion is traditional in the industry.”.*

16 (C) *CONFORMING AMENDMENT.—Section*
17 *6050A(a) is amended by striking “and” at the*
18 *end of paragraph (3), by striking the period at*
19 *the end of paragraph (4) and inserting “; and”,*
20 *and by adding at the end thereof the following*
21 *new paragraph:*

22 “(5) *any cash remuneration described in section*
23 *3121(b)(20)(A).”*

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

1 (A) *DETERMINATION OF SIZE OF CREW.—*
2 *Subsection (a) of section 210 of the Social Secu-*
3 *rity Act is amended by adding at the end thereof*
4 *the following new sentence:*

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

10 (B) *CERTAIN CASH REMUNERATION PER-*
11 *MITTED.—Subparagraph (A) of section*
12 *210(a)(20) of such Act is amended to read as fol-*
13 *lows:*

14 *“(A) such individual does not receive any*
15 *additional compensation other than as provided*
16 *in subparagraph (B) and other than cash remu-*
17 *neration—*

18 *“(i) which does not exceed \$100 per*
19 *trip;*

20 *“(ii) which is contingent on a mini-*
21 *imum catch; and*

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

1 (3) *EFFECTIVE DATE.*—

2 (A) *IN GENERAL.*—*The amendments made*
3 *by this subsection shall apply to remuneration*
4 *paid after December 31, 1996.*

5 (B) *SPECIAL RULE.*—*The amendments*
6 *made by this subsection (other than paragraph*
7 *(1)(C)) shall also apply to remuneration paid*
8 *after December 31, 1984, and before January 1,*
9 *1997, unless the payor treated such remunera-*
10 *tion (when paid) as being subject to tax under*
11 *chapter 21 of the Internal Revenue Code of 1986.*

12 (b) *INFORMATION REPORTING.*—

13 (1) *IN GENERAL.*—*Subpart B of part III of sub-*
14 *chapter A of chapter 68 (relating to information con-*
15 *cerning transactions with other persons) is amended*
16 *by adding at the end the following new section:*

17 **“SEC. 6050Q. RETURNS RELATING TO CERTAIN PURCHASES**
18 **OF FISH.**

19 “(a) *REQUIREMENT OF REPORTING.*—*Every person—*

20 “(1) *who is engaged in the trade or business of*
21 *purchasing fish for resale from any person engaged in*
22 *the trade or business of catching fish; and*

23 “(2) *who makes payments in cash in the course*
24 *of such trade or business to such a person of \$600 or*

1 *more during any calendar year for the purchase of*
2 *fish,*
3 *shall make a return (at such times as the Secretary may*
4 *prescribe) described in subsection (b) with respect to each*
5 *person to whom such a payment was made during such cal-*
6 *endar year.*

7 *“(b) RETURN.—A return is described in this subsection*
8 *if such return—*

9 *“(1) is in such form as the Secretary may pre-*
10 *scribe, and*

11 *“(2) contains—*

12 *“(A) the name, address, and TIN of each*
13 *person to whom a payment described in sub-*
14 *section (a)(2) was made during the calendar*
15 *year;*

16 *“(B) the aggregate amount of such pay-*
17 *ments made to such person during such calendar*
18 *year and the date and amount of each such pay-*
19 *ment, and*

20 *“(C) such other information as the Sec-*
21 *retary may require.*

22 *“(c) STATEMENT TO BE FURNISHED WITH RESPECT*
23 *TO WHOM INFORMATION IS REQUIRED.—Every person re-*
24 *quired to make a return under subsection (a) shall furnish*

1 to each person whose name is required to be set forth in
2 such return a written statement showing—

3 “(1) the name and address of the person required
4 to make such a return, and

5 “(2) the aggregate amount of payments to the
6 person required to be shown on the return.

7 The written statement required under the preceding sen-
8 tence shall be furnished to the person on or before January
9 31 of the year following the calendar year for which the
10 return under subsection (a) is required to be made.

11 “(d) DEFINITIONS.—For purposes of this section:

12 “(1) CASH.—The term ‘cash’ has the meaning
13 given such term by section 6050I(d).

14 “(2) FISH.—The term ‘fish’ includes other forms
15 of aquatic life.”.

16 (2) TECHNICAL AMENDMENTS.—

17 (A) Subparagraph (A) of section 6724(d)(1)
18 is amended by striking “or” at the end of clause
19 (vi), by striking “and” at the end of clause (vii)
20 and inserting “or”, and by adding at the end the
21 following new clause:

22 “(viii) section 6050Q (relating to re-
23 turns relating to certain purchases of fish),
24 and”.

1 (B) Paragraph (2) of section 6724(d) is
 2 amended by redesignating subparagraphs (Q)
 3 through (T) as subparagraphs (R) through (U),
 4 respectively, and by inserting after subparagraph
 5 (P) the following new subparagraph:

6 “(Q) section 6050Q(c) (relating to returns
 7 relating to certain purchases of fish),”.

8 (C) The table of sections for subpart B of
 9 part III of subchapter A of chapter 68 is amend-
 10 ed by adding at the end the following new item:

 “Sec. 6050Q. Returns relating to certain purchases of fish.”.

11 (3) *EFFECTIVE DATE.*—The amendments made
 12 by this subsection shall apply to payments made after
 13 December 31, 1996.

14 ***Subtitle B—Extension of Certain***
 15 ***Expiring Provisions***

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

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

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

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

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

1 “(A) a qualified IV–A recipient,

2 “(B) a qualified veteran,

3 “(C) a qualified ex-felon,

4 “(D) a high-risk youth,

5 “(E) a vocational rehabilitation referral, or

6 “(F) a qualified summer youth employee.

7 “(2) QUALIFIED IV–A RECIPIENT.—

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

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

22 “(3) QUALIFIED VETERAN.—

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

1 “(i) a member of a family receiving as-
2 sistance under a IV–A program (as defined
3 in paragraph (2)(B)) for at least a 9-month
4 period ending during the 12-month period
5 ending on the hiring date, or

6 “(ii) a member of a family receiving
7 assistance under a food stamp program
8 under the Food Stamp Act of 1977 for at
9 least a 3-month period ending during the
10 12-month period ending on the hiring date.

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

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

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

23 “(ii) not having any day during the
24 60-day period ending on the hiring date

1 *which was a day of extended active duty in*
2 *the Armed Forces of the United States.*

3 *For purposes of clause (ii), the term ‘extended*
4 *active duty’ means a period of more than 90*
5 *days during which the individual was on active*
6 *duty (other than active duty for training).*

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

10 “(A) *as having been convicted of a felony*
11 *under any statute of the United States or any*
12 *State,*

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

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

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

4 “(5) *HIGH-RISK YOUTH.*—

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

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

10 “(ii) *as having his principal place of*
11 *abode within an empowerment zone or en-*
12 *terprise community.*

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

19 “(6) *VOCATIONAL REHABILITATION REFERRAL.*—

20 *The term ‘vocational rehabilitation referral’ means*
21 *any individual who is certified by the designated*
22 *local agency as—*

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

1 “(B) having been referred to the employer
2 upon completion of (or while receiving) rehabili-
3 tative services pursuant to—

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

8 “(ii) a program of vocational rehabili-
9 tation carried out under chapter 31 of title
10 38, United States Code.

11 “(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

12 “(A) IN GENERAL.—The term ‘qualified
13 summer youth employee’ means any individ-
14 ual—

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

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

21 “(iii) who has not been an employee of
22 the employer during any period prior to the
23 90-day period described in subparagraph
24 (B)(i), and

1 “(iv) who is certified by the designated
2 local agency as having his principal place
3 of abode within an empowerment zone or
4 enterprise community.

5 “(B) SPECIAL RULES FOR DETERMINING
6 AMOUNT OF CREDIT.—For purposes of applying
7 this subpart to wages paid or incurred to any
8 qualified summer youth employee—

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

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

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

21 “(C) YOUTH MUST CONTINUE TO RESIDE IN
22 ZONE.—Paragraph (5)(B) shall apply for pur-
23 poses of this paragraph.

1 “(8) *HIRING DATE.*—*The term ‘hiring date’*
2 *means the day the individual is hired by the em-*
3 *ployer.*

4 “(9) *DESIGNATED LOCAL AGENCY.*—*The term*
5 *‘designated local agency’ means a State employment*
6 *security agency established in accordance with the Act*
7 *of June 6, 1933, as amended (29 U.S.C. 49-49n).*

8 “(10) *SPECIAL RULES FOR CERTIFICATIONS.*—

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

12 “(i) *on or before the day on which such*
13 *individual begins work for the employer, the*
14 *employer has received a certification from a*
15 *designated local agency that such individual*
16 *is a member of a targeted group, or*

17 “(ii) *(I) on or before the day the indi-*
18 *vidual is offered employment with the em-*
19 *ployer, a pre-screening notice is completed*
20 *by the employer with respect to such indi-*
21 *vidual, and*

22 “(II) *not later than the 14th day after*
23 *the individual begins work for the employer,*
24 *the employer submits such notice, signed by*
25 *the employer and the individual under pen-*

1 *alties of perjury, to the designated local*
2 *agency as part of a written request for such*
3 *a certification from such agency.*

4 *For purposes of this paragraph, the term ‘pre-*
5 *screening notice’ means a document (in such*
6 *form as the Secretary shall prescribe) which con-*
7 *tains information provided by the individual on*
8 *the basis of which the employer believes that the*
9 *individual is a member of a targeted group.*

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

11 *“(i) an individual has been certified by*
12 *a designated local agency as a member of a*
13 *targeted group, and*

14 *“(ii) such certification is incorrect be-*
15 *cause it was based on false information pro-*
16 *vided by such individual,*

17 *the certification shall be revoked and wages paid*
18 *by the employer after the date on which notice*
19 *of revocation is received by the employer shall*
20 *not be treated as qualified wages.*

21 *“(C) EXPLANATION OF DENIAL OF RE-*
22 *QUEST.—If a designated local agency denies a*
23 *request for certification of membership in a tar-*
24 *geted group, such agency shall provide to the per-*

1 son making such request a written explanation
2 of the reasons for such denial.”

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

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

10 “(A) is employed by the employer at least
11 180 days (20 days in the case of a qualified
12 summer youth employee), or

13 “(B) has completed at least 500 hours (120
14 hours in the case of a qualified summer youth
15 employee) of services performed for the em-
16 ployer.”

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

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

22 “(A) after December 31, 1994, and before
23 July 1, 1996, or

24 “(B) after June 30, 1997.”

25 (e) *REDESIGNATION OF CREDIT.*—

1 (b) *LIMITATION TO EDUCATION BELOW GRADUATE*
2 *LEVEL.*—*The last sentence of section 127(c)(1) is amended*
3 *by inserting before the period “or at the graduate level”.*

4 (c) *EFFECTIVE DATES.*—

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

8 (2) *LIMITATION.*—*The amendment made by sub-*
9 *section (b) shall apply to taxable years beginning*
10 *after December 31, 1995.*

11 (3) *EXPEDITED PROCEDURES.*—*The Secretary of*
12 *the Treasury shall establish expedited procedures for*
13 *the refund of any overpayment of taxes imposed by*
14 *chapter 24 of the Internal Revenue Code of 1986*
15 *which is attributable to amounts excluded from gross*
16 *income during 1995 or 1996 under section 127 of*
17 *such Code, including procedures waiving the require-*
18 *ment that an employer obtain an employee’s signa-*
19 *ture where the employer demonstrates to the satisfac-*
20 *tion of the Secretary that any refund collected by the*
21 *employer on behalf of the employee will be paid to the*
22 *employee.*

1 **SEC. 1203. FUTA EXEMPTION FOR ALIEN AGRICULTURAL**
 2 **WORKERS.**

3 (a) *IN GENERAL.*—Subparagraph (B) of section
 4 3306(c)(1) (defining employment) is amended by striking
 5 “before January 1, 1995.”

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 7 section (a) shall apply to services performed after December
 8 31, 1994.

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:

25 “(v) In the case of a trust described in
 26 clause (v) of subparagraph (A), each poten-

1 *tial current beneficiary of such trust shall*
2 *be treated as a shareholder; except that, if*
3 *for any period there is no potential current*
4 *beneficiary of such trust, such trust shall be*
5 *treated as the shareholder during such pe-*
6 *riod.”*

7 *(c) ELECTING SMALL BUSINESS TRUST DEFINED.—*
8 *Section 1361 (defining S corporation) is amended by add-*
9 *ing at the end the following new subsection:*

10 *“(e) ELECTING SMALL BUSINESS TRUST DEFINED.—*

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

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

16 *“(i) such trust does not have as a bene-*
17 *ficiary any person other than (I) an indi-*
18 *vidual, (II) an estate, or (III) an organiza-*
19 *tion described in paragraph (2), (3), (4), or*
20 *(5) of section 170(c) which holds a contin-*
21 *gent interest and is not a potential current*
22 *beneficiary,*

23 *“(ii) no interest in such trust was ac-*
24 *quired by purchase, and*

1 “(iii) an election under this subsection
2 applies to such trust.

3 “(B) CERTAIN TRUSTS NOT ELIGIBLE.—The
4 term ‘electing small business trust’ shall not in-
5 clude—

6 “(i) any qualified subchapter S trust
7 (as defined in subsection (d)(3)) if an elec-
8 tion under subsection (d)(2) applies to any
9 corporation the stock of which is held by
10 such trust, and

11 “(ii) any trust exempt from tax under
12 this subtitle.

13 “(C) PURCHASE.—For purposes of subpara-
14 graph (A), the term ‘purchase’ means any acqui-
15 sition if the basis of the property acquired is de-
16 termined under section 1012.

17 “(2) POTENTIAL CURRENT BENEFICIARY.—For
18 purposes of this section, the term ‘potential current
19 beneficiary’ means, with respect to any period, any
20 person who at any time during such period is entitled
21 to, or at the discretion of any person may receive, a
22 distribution from the principal or income of the trust.
23 If a trust disposes of all of the stock which it holds
24 in an S corporation, then, with respect to such cor-
25 poration, the term ‘potential current beneficiary’ does

1 *not include any person who first met the requirements*
 2 *of the preceding sentence during the 60-day period*
 3 *ending on the date of such disposition.*

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

9 “(4) *CROSS REFERENCE.*—

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

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

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

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

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

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

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

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

8 “(B) *The exemption amount under section*
9 *55(d) shall be zero.*

10 “(C) *The only items of income, loss, deduc-*
11 *tion, or credit to be taken into account are the*
12 *following:*

13 “(i) *The items required to be taken*
14 *into account under section 1366.*

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

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

21 *No deduction or credit shall be allowed for any*
22 *amount not described in this paragraph, and no*
23 *item described in this paragraph shall be appor-*
24 *tioned to any beneficiary.*

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

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

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

9 “(B) the distributable net income of the en-
10 tire trust,

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

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

22 “(5) ELECTING SMALL BUSINESS TRUST.—For
23 purposes of this subsection, the term ‘electing small
24 business trust’ has the meaning given such term by
25 section 1361(e)(1).”

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

4 **SEC. 1303. EXPANSION OF POST-DEATH QUALIFICATION**
 5 **FOR CERTAIN TRUSTS.**

6 Subparagraph (A) of section 1361(c)(2) (relating to
 7 certain trusts permitted as shareholders) is amended—

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

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

12 **SEC. 1304. FINANCIAL INSTITUTIONS PERMITTED TO HOLD**
 13 **SAFE HARBOR DEBT.**

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

19 **SEC. 1305. RULES RELATING TO INADVERTENT TERMI-**
 20 **NATIONS AND INVALID ELECTIONS.**

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

24 “(f) *INADVERTENT INVALID ELECTIONS OR TERMI-*
 25 *NATIONS.*—If—

1 “(1) an election under subsection (a) by any cor-
2 poration—

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

8 “(B) was terminated under paragraph (2)
9 or (3) of subsection (d),

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

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

16 “(A) so that the corporation is a small busi-
17 ness corporation, or

18 “(B) to acquire the required shareholder
19 consents, and

20 “(4) the corporation, and each person who was
21 a shareholder in the corporation at any time during
22 the period specified pursuant to this subsection, agrees
23 to make such adjustments (consistent with the treat-
24 ment of the corporation as an S corporation) as may

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

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

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

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

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

21 *the Secretary may treat such an election as timely*
22 *made for such taxable year (and paragraph (3) shall*
23 *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 (c) *CERTAIN DIVIDENDS NOT TREATED AS PASSIVE*
4 *INVESTMENT INCOME.*—*Paragraph (3) of section 1362(d) is*
5 *amended by adding at the end the following new subpara-*
6 *graph:*

7 “(F) *TREATMENT OF CERTAIN DIVI-*
8 *DENDS.*—*If an S corporation holds stock in a C*
9 *corporation meeting the requirements of section*
10 *1504(a)(2), the term ‘passive investment income’*
11 *shall not include dividends from such C corpora-*
12 *tion to the extent such dividends are attributable*
13 *to the earnings and profits of such C corporation*
14 *derived from the active conduct of a trade or*
15 *business.”*

16 (d) *CONFORMING AMENDMENTS.*—

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

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

22 “(8) *An S corporation.*”

1 **SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS**
2 **YEARS.**

3 (a) *ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO*
4 *ACCOUNT BEFORE LOSSES.—*

5 (1) *Subparagraph (A) of section 1366(d)(1) (re-*
6 *lating to losses and deductions cannot exceed share-*
7 *holder's basis in stock and debt) is amended by strik-*
8 *ing "paragraph (1)" and inserting "paragraphs (1)*
9 *and (2)(A)".*

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

13 *"In the case of any distribution made during any taxable*
14 *year, the adjusted basis of the stock shall be determined with*
15 *regard to the adjustments provided in paragraph (1) of sec-*
16 *tion 1367(a) for the taxable year."*

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

21 *"(C) NET LOSS FOR YEAR DISREGARDED.—*

22 *"(i) IN GENERAL.—In applying this section*
23 *to distributions made during any taxable year,*
24 *the amount in the accumulated adjustments ac-*
25 *count as of the close of such taxable year shall*

1 *be determined without regard to any net negative*
2 *adjustment for such taxable year.*

3 “(i) *NET NEGATIVE ADJUSTMENT.*—*For*
4 *purposes of clause (i), the term ‘net negative ad-*
5 *justment’ means, with respect to any taxable*
6 *year, the excess (if any) of—*

7 “(I) *the reductions in the account for*
8 *the taxable year (other than for distribu-*
9 *tions), over*

10 “(II) *the increases in such account for*
11 *such taxable year.”*

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

14 (1) *by striking “as provided in subparagraph*
15 *(B)” and inserting “as otherwise provided in this*
16 *paragraph”, and*

17 (2) *by striking “section 1367(b)(2)(A)” and in-*
18 *serting “section 1367(a)(2)”.*

19 **SEC. 1310. TREATMENT OF S CORPORATIONS UNDER SUB-**
20 **CHAPTER C.**

21 *Subsection (a) of section 1371 (relating to application*
22 *of subchapter C rules) is amended to read as follows:*

23 “(a) *APPLICATION OF SUBCHAPTER C RULES.*—*Ex-*
24 *cept as otherwise provided in this title, and except to the*

1 *extent inconsistent with this subchapter, subchapter C shall*
2 *apply to an S corporation and its shareholders.”*

3 **SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND PROF-**
4 **ITS.**

5 (a) *IN GENERAL.—If—*

6 (1) *a corporation was an electing small business*
7 *corporation under subchapter S of chapter 1 of the*
8 *Internal Revenue Code of 1986 for any taxable year*
9 *beginning before January 1, 1983, and*

10 (2) *such corporation is an S corporation under*
11 *subchapter S of chapter 1 of such Code for its first*
12 *taxable year beginning after December 31, 1996,*

13 *the amount of such corporation’s accumulated earnings and*
14 *profits (as of the beginning of such first taxable year) shall*
15 *be reduced by an amount equal to the portion (if any) of*
16 *such accumulated earnings and profits which were accumu-*
17 *lated in any taxable year beginning before January 1, 1983,*
18 *for which such corporation was an electing small business*
19 *corporation under such subchapter S.*

20 (b) *CONFORMING AMENDMENTS.—*

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

23 (A) *by striking “SUBCHAPTER C” in the*
24 *paragraph heading and inserting “ACCUMU-*
25 *LATED”,*

1 (B) by striking “subchapter C” in subpara-
2 graph (A)(i)(I) and inserting “accumulated”,
3 and

4 (C) by striking subparagraph (B) and re-
5 designating the following subparagraphs accord-
6 ingly.

7 (2)(A) Subsection (a) of section 1375 is amended
8 by striking “subchapter C” in paragraph (1) and in-
9 serting “accumulated”.

10 (B) Paragraph (3) of section 1375(b) is amended
11 to read as follows:

12 “(3) *PASSIVE INVESTMENT INCOME, ETC.—The*
13 *terms ‘passive investment income’ and ‘gross receipts’*
14 *have the same respective meanings as when used in*
15 *paragraph (3) of section 1362(d).”*

16 (C) The section heading for section 1375 is
17 amended by striking “**SUBCHAPTER C**” and insert-
18 ing “**ACCUMULATED**”.

19 (D) The table of sections for part III of sub-
20 chapter S of chapter 1 is amended by striking “sub-
21 chapter C” in the item relating to section 1375 and
22 inserting “accumulated”.

23 (3) Clause (i) of section 1042(c)(4)(A) is amend-
24 ed by striking “section 1362(d)(3)(D)” and inserting
25 “section 1362(d)(3)(C)”.

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

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

7 *“(D) AT-RISK LIMITATIONS.—To the extent*
 8 *that any increase in adjusted basis described in*
 9 *subparagraph (B) would have increased the*
 10 *shareholder’s amount at risk under section 465 if*
 11 *such increase had occurred on the day preceding*
 12 *the commencement of the post-termination tran-*
 13 *sition period, rules similar to the rules described*
 14 *in subparagraphs (A) through (C) shall apply to*
 15 *any losses disallowed by reason of section*
 16 *465(a).”*

17 **SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK**
 18 **TO REFLECT CERTAIN ITEMS OF INCOME.**

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

23 *“(4) ADJUSTMENTS IN CASE OF INHERITED*
 24 *STOCK.—*

25 *“(A) IN GENERAL.—If any person acquires*
 26 *stock in an S corporation by reason of the death*

1 tion which included the taxpayer as a shareholder,” after
 2 “controlled by the taxpayer.”

3 **SEC. 1315. EFFECTIVE DATE.**

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

7 (b) *TREATMENT OF CERTAIN ELECTIONS UNDER*
 8 *PRIOR LAW.*—For purposes of section 1362(g) of the Inter-
 9 nal Revenue Code of 1986 (relating to election after termi-
 10 nation), any termination under section 1362(d) of such
 11 Code in a taxable year beginning before January 1, 1997,
 12 shall not be taken into account.

13 ***Subtitle D—Pension Simplification***

14 ***CHAPTER 1—SIMPLIFIED DISTRIBUTION***

15 ***RULES***

16 ***SEC. 1401. REPEAL OF 5-YEAR INCOME AVERAGING FOR***
 17 ***LUMP-SUM DISTRIBUTIONS.***

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

21 “(d) *TAXABILITY OF BENEFICIARY OF CERTAIN FOR-*
 22 *EIGN SITUS TRUSTS.*—For purposes of subsections (a), (b),
 23 and (c), a stock bonus, pension, or profit-sharing trust
 24 which would qualify for exemption from tax under section
 25 501(a) except for the fact that it is a trust created or orga-

1 nized outside the United States shall be treated as if it were
2 a trust exempt from tax under section 501(a).”

3 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

1 *empt from tax under section 501 or from a*
2 *plan described in section 403(a). Subclause*
3 *(III) of this clause shall be applied only*
4 *with respect to an individual who is an em-*
5 *ployee without regard to section 401(c)(1),*
6 *and subclause (IV) shall be applied only*
7 *with respect to an employee within the*
8 *meaning of section 401(c)(1). For purposes*
9 *of this clause, a distribution to two or more*
10 *trusts shall be treated as a distribution to*
11 *one recipient. For purposes of this para-*
12 *graph, the balance to the credit of the em-*
13 *ployee does not include the accumulated de-*
14 *ductible employee contributions under the*
15 *plan (within the meaning of section*
16 *72(o)(5)).*

17 *“(ii) AGGREGATION OF CERTAIN*
18 *TRUSTS AND PLANS.—For purposes of deter-*
19 *mining the balance to the credit of an em-*
20 *ployee under clause (i)—*

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

1 *tained by the employer shall be treated*
2 *as a single plan, and all stock bonus*
3 *plans maintained by the employer*
4 *shall be treated as a single plan, and*

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

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

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

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

1 *domestic relations order (within the mean-*
2 *ing of section 414(p)).*

3 “(vi) *TRANSFERS TO COST-OF-LIVING*
4 *ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the*
5 *balance to the credit of an employee under*
6 *a defined contribution plan shall not in-*
7 *clude any amount transferred from such de-*
8 *defined contribution plan to a qualified cost-*
9 *of-living arrangement (within the meaning*
10 *of section 415(k)(2)) under a defined benefit*
11 *plan.*

12 “(vii) *LUMP-SUM DISTRIBUTIONS OF*
13 *ALTERNATE PAYEES.—If any distribution*
14 *or payment of the balance to the credit of*
15 *an employee would be treated as a lump-*
16 *sum distribution, then, for purposes of this*
17 *paragraph, the payment under a qualified*
18 *domestic relations order (within the mean-*
19 *ing of section 414(p)) of the balance to the*
20 *credit of an alternate payee who is the*
21 *spouse or former spouse of the employee*
22 *shall be treated as a lump-sum distribution.*
23 *For purposes of this clause, the balance to*
24 *the credit of the alternate payee shall not*
25

1 include any amount payable to the em-
2 ployee.”

3 (2) Section 402(c) (relating to rules applicable to
4 rollovers from exempt trusts) is amended by striking
5 paragraph (10).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (C) by striking the heading and inserting:

4 “(4) SPECIAL ONE-TIME ELECTION.—”.

5 (13) Section 402(e) is amended by striking para-
6 graph (5).

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to taxable years beginning
10 after December 31, 1998.

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

21 **SEC. 1402. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES’**

22 **DEATH BENEFITS.**

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

25 (b) CONFORMING AMENDMENTS.—

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

2 “(ii) the investment in the contract
3 shall be recovered as provided in this para-
4 graph.

5 “(B) *METHOD OF RECOVERING INVESTMENT*
6 *IN CONTRACT.*—

7 “(i) *IN GENERAL.*—Gross income shall
8 not include so much of any monthly annu-
9 ity payment under a qualified employer re-
10 tirement plan as does not exceed the amount
11 obtained by dividing—

12 “(I) the investment in the con-
13 tract (as of the annuity starting date),
14 by

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

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

1 “(iii) NUMBER OF ANTICIPATED PAY-
 2 MENTS.—

| “If the age of the primary annuitant on the annuity starting date is: | The number of anticipated payments is: |
|--|---|
| Not more than 55 | 360 |
| More than 55 but not more than 60 | 310 |
| More than 60 but not more than 65 | 260 |
| More than 65 but not more than 70 | 210 |
| More than 70 | 160. |

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

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

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

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

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

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

13 “(G) *QUALIFIED EMPLOYER RETIREMENT*
14 *PLAN.*—*For purposes of this paragraph, the term*
15 *‘qualified employer retirement plan’ means any*
16 *plan or contract described in paragraph (1), (2),*
17 *or (3) of section 4974(c).*

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

23 “(b) *EFFECTIVE DATE.*—*The amendment made by this*
24 *section shall apply in cases where the annuity starting date*

1 *is after the 90th day after the date of the enactment of this*
2 *Act.*

3 **SEC. 1404. REQUIRED DISTRIBUTIONS.**

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

6 *“(C) REQUIRED BEGINNING DATE.—For*
7 *purposes of this paragraph—*

8 *“(i) IN GENERAL.—The term ‘required*
9 *beginning date’ means April 1 of the cal-*
10 *endar year following the later of—*

11 *“(I) the calendar year in which*
12 *the employee attains age 70½, or*

13 *“(II) the calendar year in which*
14 *the employee retires.*

15 *“(ii) EXCEPTION.—Subclause (II) of*
16 *clause (i) shall not apply—*

17 *“(I) except as provided in section*
18 *409(d), in the case of an employee who*
19 *is a 5-percent owner (as defined in sec-*
20 *tion 416) with respect to the plan year*
21 *ending in the calendar year in which*
22 *the employee attains age 70½, or*

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

1 “(iii) *ACTUARIAL ADJUSTMENT.*—*In*
2 *the case of an employee to whom clause*
3 *(i)(II) applies who retires in a calendar*
4 *year after the calendar year in which the*
5 *employee attains age 70½, the employee’s*
6 *accrued benefit shall be actuarially in-*
7 *creased to take into account the period after*
8 *age 70½ in which the employee was not re-*
9 *ceiving any benefits under the plan.*

10 “(iv) *EXCEPTION FOR GOVERNMENTAL*
11 *AND CHURCH PLANS.*—*Clauses (ii) and (iii)*
12 *shall not apply in the case of a govern-*
13 *mental plan or church plan. For purposes*
14 *of this clause, the term ‘church plan’ means*
15 *a plan maintained by a church for church*
16 *employees, and the term ‘church’ means any*
17 *church (as defined in section*
18 *3121(w)(3)(A)) or qualified church-con-*
19 *trolled organization (as defined in section*
20 *3121(w)(3)(B)).”*

21 “(b) *EFFECTIVE DATE.*—*The amendment made by sub-*
22 *section (a) shall apply to years beginning after December*
23 *31, 1996.*

1 **CHAPTER 2—INCREASED ACCESS TO**
2 **PENSION PLANS**

3 **Subchapter A—Simple Savings Plans**

4 **SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH**
5 **PLANS FOR EMPLOYEES OF SMALL EMPLOY-**
6 **ERS.**

7 (a) *IN GENERAL.*—Section 408 (relating to individual
8 retirement accounts) is amended by redesignating sub-
9 section (p) as subsection (q) and by inserting after sub-
10 section (o) the following new subsection:

11 “(p) *SIMPLE RETIREMENT ACCOUNTS.*—

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

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

17 “(B) with respect to which the only con-
18 tributions allowed are contributions under a
19 qualified salary reduction arrangement.

20 “(2) *QUALIFIED SALARY REDUCTION ARRANGE-*
21 *MENT.*—

22 “(A) *IN GENERAL.*—For purposes of this
23 subsection, the term ‘qualified salary reduction
24 arrangement’ means a written arrangement of
25 an eligible employer under which—

1 “(i) an employee eligible to participate
2 in the arrangement may elect to have the
3 employer make payments—

4 “(I) as elective employer contribu-
5 tions to a simple retirement account on
6 behalf of the employee, or

7 “(II) to the employee directly in
8 cash,

9 “(ii) the amount which an employee
10 may elect under clause (i) for any year is
11 required to be expressed as a percentage of
12 compensation and may not exceed a total of
13 \$6,000 for any year,

14 “(iii) the employer is required to make
15 a matching contribution to the simple re-
16 tirement account for any year in an
17 amount equal to so much of the amount the
18 employee elects under clause (i)(I) as does
19 not exceed the applicable percentage of com-
20 pensation for the year, and

21 “(iv) no contributions may be made
22 other than contributions described in clause
23 (i) or (iii).

24 “(B) EMPLOYER MAY ELECT 2-PERCENT
25 NONELECTIVE CONTRIBUTION.—An employer

1 *shall be treated as meeting the requirements of*
2 *subparagraph (A)(iii) for any year if, in lieu of*
3 *the contributions described in such clause, the*
4 *employer elects to make nonelective contributions*
5 *of 2 percent of compensation for each employee*
6 *who is eligible to participate in the arrangement*
7 *and who has at least \$5,000 of compensation*
8 *from the employer for the year. If an employer*
9 *makes an election under this subparagraph for*
10 *any year, the employer shall notify employees of*
11 *such election within a reasonable period of time*
12 *before the 30-day period for such year under*
13 *paragraph (5)(C).*

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

16 “(i) *ELIGIBLE EMPLOYER.*—*The term*
17 *‘eligible employer’ means an employer who*
18 *employs 100 or fewer employees on any day*
19 *during the year.*

20 “(ii) *APPLICABLE PERCENTAGE.*—

21 “(I) *IN GENERAL.*—*The term ‘ap-*
22 *licable percentage’ means 3 percent.*

23 “(II) *ELECTION OF LOWER PER-*
24 *CENTAGE.*—*An employer may elect to*
25 *apply a lower percentage (not less than*

1 1 percent) for any year for all employ-
2 ees eligible to participate in the plan
3 for such year if the employer notifies
4 the employees of such lower percentage
5 within a reasonable period of time be-
6 fore the 30-day election period for such
7 year under paragraph (5)(C). An em-
8 ployer may not elect a lower percent-
9 age under this subclause for any year
10 if that election would result in the ap-
11 plicable percentage being lower than 3
12 percent in more than 2 of the years in
13 the 5-year period ending with such
14 year.

15 “(III) SPECIAL RULE FOR YEARS
16 ARRANGEMENT NOT IN EFFECT.—If
17 any year in the 5-year period de-
18 scribed in subclause (II) is a year
19 prior to the first year for which any
20 qualified salary reduction arrangement
21 is in effect with respect to the employer
22 (or any predecessor), the employer
23 shall be treated as if the level of the
24 employer matching contribution was at

1 3 percent of compensation for such
2 prior year.

3 “(D) *ARRANGEMENT MAY BE ONLY PLAN OF*
4 *EMPLOYER.—*

5 “(i) *IN GENERAL.—An arrangement*
6 *shall not be treated as a qualified salary re-*
7 *duction arrangement for any year if the*
8 *employer (or any predecessor employer)*
9 *maintained a qualified plan with respect to*
10 *which contributions were made, or benefits*
11 *were accrued, for service in any year in the*
12 *period beginning with the year such ar-*
13 *rangement became effective and ending with*
14 *the year for which the determination is*
15 *being made.*

16 “(ii) *QUALIFIED PLAN.—For purposes*
17 *of this subparagraph, the term ‘qualified*
18 *plan’ means a plan, contract, pension, or*
19 *trust described in subparagraph (A) or (B)*
20 *of section 219(g)(5).*

21 “(E) *COST-OF-LIVING ADJUSTMENT.—The*
22 *Secretary shall adjust the \$6,000 amount under*
23 *subparagraph (A)(ii) at the same time and in*
24 *the same manner as under section 415(d), except*
25 *that the base period taken into account shall be*

1 *the calendar quarter ending September 30, 1995,*
2 *and any increase under this subparagraph which*
3 *is not a multiple of \$500 shall be rounded to the*
4 *next lower multiple of \$500.*

5 “(3) *VESTING REQUIREMENTS.—The require-*
6 *ments of this paragraph are met with respect to a*
7 *simple retirement account if the employee’s rights to*
8 *any contribution to the simple retirement account are*
9 *nonforfeitable. For purposes of this paragraph, rules*
10 *similar to the rules of subsection (k)(4) shall apply.*

11 “(4) *PARTICIPATION REQUIREMENTS.—*

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

17 “(i) *received at least \$5,000 in com-*
18 *penetration from the employer during any 2*
19 *preceding years, and*

20 “(ii) *are reasonably expected to receive*
21 *at least \$5,000 in compensation during the*
22 *year,*

23 *are eligible to make the election under paragraph*
24 *(2)(A)(i) or receive the nonelective contribution*
25 *described in paragraph (2)(B).*

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

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

9 “(A) an employer must—

10 “(i) make the elective employer con-
11 tributions under paragraph (2)(A)(i) not
12 later than the close of the 30-day period fol-
13 lowing the last day of the month with re-
14 spect to which the contributions are to be
15 made, and

16 “(ii) make the matching contributions
17 under paragraph (2)(A)(iii) or the
18 nonelective contributions under paragraph
19 (2)(B) not later than the date described in
20 section 404(m)(2)(B),

21 “(B) an employee may elect to terminate
22 participation in such arrangement at any time
23 during the year, except that if an employee so
24 terminates, the arrangement may provide that

1 *the employee may not elect to resume participa-*
2 *tion until the beginning of the next year, and*

3 “(C) *each employee eligible to participate*
4 *may elect, during the 30-day period before the*
5 *beginning of any year (and the 30-day period*
6 *before the first day such employee is eligible to*
7 *participate), to participate in the arrangement,*
8 *or to modify the amounts subject to such ar-*
9 *rangement, for such year.*

10 “(6) *DEFINITIONS.—For purposes of this sub-*
11 *section—*

12 “(A) *COMPENSATION.—*

13 “(i) *IN GENERAL.—The term ‘com-*
14 *ensation’ means amounts described in*
15 *paragraphs (3) and (8) of section 6051(a).*

16 “(ii) *SELF-EMPLOYED.—In the case of*
17 *an employee described in subparagraph (B),*
18 *the term ‘compensation’ means net earnings*
19 *from self-employment determined under sec-*
20 *tion 1402(a) without regard to any con-*
21 *tribution under this subsection.*

22 “(B) *EMPLOYEE.—The term ‘employee’ in-*
23 *cludes an employee as defined in section*
24 *401(c)(1).*

1 “(C) YEAR.—The term ‘year’ means the cal-
2 endar year.”

3 (b) TAX TREATMENT OF SIMPLE RETIREMENT AC-
4 COUNTS.—

5 (1) DEDUCTIBILITY OF CONTRIBUTIONS BY EM-
6 PLOYEES.—

7 (A) Section 219(b) (relating to maximum
8 amount of deduction) is amended by adding at
9 the end the following new paragraph:

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

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

18 “(vi) any simple retirement account
19 (within the meaning of section 408(p)), or”.

20 (2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-
21 TIONS.—Section 404 (relating to deductions for con-
22 tributions of an employer to pension, etc. plans) is
23 amended by adding at the end the following new sub-
24 section:

1 “(m) *SPECIAL RULES FOR SIMPLE RETIREMENT AC-*
2 *COUNTS.—*

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

7 “(2) *TIMING.—*

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

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

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

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

24 “(k) *TREATMENT OF SIMPLE RETIREMENT AC-*
25 *COUNTS.—Rules similar to the rules of paragraphs (1) and*

1 (3) of subsection (h) shall apply to contributions and dis-
2 tributions with respect to a simple retirement account
3 under section 408(p).”

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

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

10 “(i) it is paid into another simple re-
11 tirement account, or

12 “(ii) in the case of any payment or
13 distribution to which section 72(t)(8) does
14 not apply, it is paid into an individual re-
15 tirement plan.”

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

19 (4) PENALTIES.—

20 (A) EARLY WITHDRAWALS.—Section 72(t)
21 (relating to additional tax in early distribu-
22 tions), as amended by this Act, is amended by
23 adding at the end the following new paragraph:

24 “(6) SPECIAL RULES FOR SIMPLE RETIREMENT
25 ACCOUNTS.—In the case of any amount received from

1 *a simple retirement account (within the meaning of*
 2 *section 408(p)) during the 2-year period beginning on*
 3 *the date such individual first participated in any*
 4 *qualified salary reduction arrangement maintained*
 5 *by the individual’s employer under section 408(p)(2),*
 6 *paragraph (1) shall be applied by substituting ‘25*
 7 *percent’ for ‘10 percent.’”*

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

12 *“(c) PENALTIES RELATING TO SIMPLE RETIREMENT*
 13 *ACCOUNTS.—*

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

18 *“(2) TRUSTEE PENALTIES.—A trustee who*
 19 *fails—*

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

24 *“(B) to provide 1 or more summary de-*
 25 *scriptions required by section 408(l)(2)(B) shall*

1 *pay a penalty of \$50 for each day on which such*
2 *failures continue.*

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

7 (5) *REPORTING REQUIREMENTS.*—

8 (A) *Section 408(l) is amended by adding at*
9 *the end the following new paragraph:*

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

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

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

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

1 “(ii) *The requirements for eligibility*
2 *for participation.*

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

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

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

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

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

19 “(1) *IN GENERAL.—An employer”.*

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

23 *“In the case of a simple retirement account under sub-*
24 *section (p), only one report under this subsection shall be*
25 *required to be submitted each calendar year to the Secretary*

1 *(at the time provided under paragraph (2)) but, in addition*
2 *to the report under this subsection, there shall be furnished,*
3 *within 30 days after each calendar year, to the individual*
4 *on whose behalf the account is maintained a statement with*
5 *respect to the account balance as of the close of, and the*
6 *account activity during, such calendar year.”*

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

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

14 (8) *EMPLOYMENT TAXES.—*

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

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

23 (B) *Section 209(a)(4) of the Social Security Act*
24 *is amended by inserting “, or (J) under an arrange-*
25 *ment to which section 408(p) of such Code applies,*

1 *other than any elective contributions under para-*
2 *graph (2)(A)(i) thereof” before the semicolon at the*
3 *end thereof.*

4 *(C) Paragraph (5) of section 3306(b) is amended*
5 *by striking “or” at the end of subparagraph (F), by*
6 *inserting “or” at the end of subparagraph (G), and*
7 *by adding at the end the following new subparagraph:*

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

11 *(D) Paragraph (12) of section 3401(a) is amend-*
12 *ed by adding the following new subparagraph:*

13 *“(D) under an arrangement to which sec-*
14 *tion 408(p) applies; or”.*

15 *(9) CONFORMING AMENDMENTS.—*

16 *(A) Section 280G(b)(6) is amended by strik-*
17 *ing “or” at the end of subparagraph (B), by*
18 *striking the period at the end of subparagraph*
19 *(C) and inserting “, or” and by adding after*
20 *subparagraph (C) the following new subpara-*
21 *graph:*

22 *“(D) a simple retirement account described*
23 *in section 408(p).”*

24 *(B) Section 402(g)(3) is amended by strik-*
25 *ing “and” at the end of subparagraph (B), by*

1 *striking the period at the end of subparagraph*
2 *(C) and inserting “, and”, and by adding after*
3 *subparagraph (C) the following new subpara-*
4 *graph:*

5 *“(D) any elective employer contribution*
6 *under section 408(p)(2)(A)(i).”*

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

10 *(D) Section 4972(d)(1)(A) is amended by*
11 *striking “and” at the end of clause (ii), by strik-*
12 *ing the period at the end of clause (iii) and in-*
13 *serting “, and”, and by adding after clause (iii)*
14 *the following new clause:*

15 *“(iv) any simple retirement account*
16 *(within the meaning of section 408(p)).”*

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

20 *“(H) TERMINATION.—This paragraph shall*
21 *not apply to years beginning after December 31,*
22 *1996. The preceding sentence shall not apply to*
23 *a simplified employee pension if the terms of*
24 *such pension, as in effect on December 31, 1996,*

1 *provide that an employee may make the election*
 2 *described in subparagraph (A).”*

3 *(d) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to taxable years beginning after Decem-*
 5 *ber 31, 1996.*

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

8 *(a) ALTERNATIVE METHOD OF SATISFYING SECTION*
 9 *401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relat-*
 10 *ing to cash or deferred arrangements) is amended by adding*
 11 *at the end the following new paragraph:*

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

14 *“(A) IN GENERAL.—A cash or deferred ar-*
 15 *rangement maintained by an eligible employer*
 16 *shall be treated as meeting the requirements of*
 17 *paragraph (3)(A)(ii) if such arrangement*
 18 *meets—*

19 *“(i) the contribution requirements of*
 20 *subparagraph (B),*

21 *“(ii) the exclusive benefit requirements*
 22 *of subparagraph (C), and*

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

25 *“(B) CONTRIBUTION REQUIREMENTS.—*

1 “(i) *IN GENERAL.*—*The requirements*
2 *of this subparagraph are met if, under the*
3 *arrangement—*

4 “(I) *an employee may elect to*
5 *have the employer make elective con-*
6 *tributions for the year on behalf of the*
7 *employee to a trust under the plan in*
8 *an amount which is expressed as a*
9 *percentage of compensation of the em-*
10 *ployee but which in no event exceeds*
11 *\$6,000,*

12 “(II) *the employer is required to*
13 *make a matching contribution to the*
14 *trust for the year in an amount equal*
15 *to so much of the amount the employee*
16 *elects under subclause (I) as does not*
17 *exceed 3 percent of compensation for*
18 *the year, and*

19 “(III) *no other contributions may*
20 *be made other than contributions de-*
21 *scribed in subclause (I) or (II).*

22 “(i) *EMPLOYER MAY ELECT 2-PER-*
23 *CENT NONELECTIVE CONTRIBUTION.*—*An*
24 *employer shall be treated as meeting the re-*
25 *quirements of clause (i)(II) for any year if,*

1 *in lieu of the contributions described in*
2 *such clause, the employer elects (pursuant to*
3 *the terms of the arrangement) to make non-*
4 *elective contributions of 2 percent of com-*
5 *pen-sation for each employee who is eligible*
6 *to participate in the arrangement and who*
7 *has at least \$5,000 of compensation from*
8 *the employer for the year. If an employer*
9 *makes an election under this subparagraph*
10 *for any year, the employer shall notify em-*
11 *ployees of such election within a reasonable*
12 *period of time before the 30th day before the*
13 *beginning of such year.*

14 “(C) *EXCLUSIVE BENEFIT.*—*The require-*
15 *ments of this subparagraph are met for any year*
16 *to which this paragraph applies if no contribu-*
17 *tions were made, or benefits were accrued, for*
18 *services during such year under any qualified*
19 *plan of the employer on behalf of any employee*
20 *eligible to participate in the cash or deferred ar-*
21 *range-ment, other than contributions described in*
22 *subparagraph (B).*

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

24 “(i) *DEFINITIONS.*—*For purposes of*
25 *this paragraph, any term used in this para-*

1 *graph which is also used in section 408(p)*
2 *shall have the meaning given such term by*
3 *such section.*

4 “(i) *COORDINATION WITH TOP-HEAVY*
5 *RULES.—A plan meeting the requirements*
6 *of this paragraph for any year shall not be*
7 *treated as a top-heavy plan under section*
8 *416 for such year.”*

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

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

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

21 “(B) *meets the exclusive benefit require-*
22 *ments of subsection (k)(11)(C), and*

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

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to plan years beginning after December*
 3 *31, 1996.*

4 ***Subchapter B—Other Provisions***

5 ***SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER***
 6 ***SECTION 401(k).***

7 (a) *IN GENERAL.*—*Subparagraph (B) of section*
 8 *401(k)(4) is amended to read as follows:*

9 “(B) *ELIGIBILITY OF STATE AND LOCAL*
 10 *GOVERNMENTS AND TAX-EXEMPT ORGANIZA-*
 11 *TIONS.*—

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

17 “(ii) *GOVERNMENTS INELIGIBLE.*—*A*
 18 *cash or deferred arrangement shall not be*
 19 *treated as a qualified cash or deferred ar-*
 20 *rangement if it is part of a plan main-*
 21 *tained by a State or local government or*
 22 *political subdivision thereof, or any agency*
 23 *or instrumentality thereof. This clause shall*
 24 *not apply to a rural cooperative plan or to*

1 a plan of an employer described in clause
2 (iii).

3 “(iii) *TREATMENT OF INDIAN TRIBAL*
4 *GOVERNMENTS.—An employer which is an*
5 *Indian tribal government (as defined in sec-*
6 *tion 7701(a)(40)), a subdivision of an In-*
7 *Indian tribal government (determined in ac-*
8 *cordance with section 7871(d)), an agency*
9 *or instrumentality of an Indian tribal gov-*
10 *ernment or subdivision thereof, or a cor-*
11 *poration chartered under Federal, State, or*
12 *tribal law which is owned in whole or in*
13 *part by any of the foregoing shall be treated*
14 *as an organization exempt from tax under*
15 *this subtitle for purposes of clause (i).”*

16 (b) *EFFECTIVE DATE.—The amendment made by this*
17 *section shall apply to plan years beginning after December*
18 *31, 1996, but shall not apply to any cash or deferred ar-*
19 *rangement to which clause (i) of section 1116(f)(2)(B) of*
20 *the Tax Reform Act of 1986 applies.*

1 **CHAPTER 3—NONDISCRIMINATION**
2 **PROVISIONS**

3 **SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**
4 **EES; REPEAL OF FAMILY AGGREGATION.**

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

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

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

12 “(B) *for the preceding year—*

13 “(i) *had compensation from the em-*
14 *ployer in excess of \$80,000, and*

15 “(ii) *was in the top-paid group of the*
16 *employer.*

17 *The Secretary shall adjust the \$80,000 amount under*
18 *subparagraph (B) at the same time and in the same*
19 *manner as under section 415(d), except that the base*
20 *period shall be the calendar quarter ending September*
21 *30, 1996.”*

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

23 (1) *IN GENERAL.*—Paragraph (6) of section
24 *414(q) is hereby repealed.*

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

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

6 (c) *CONFORMING AMENDMENTS.*—

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

11 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
12 408(k)(2)(C), and 416(i)(1)(D) are each amended by
13 striking “section 414(q)(7)” and inserting “section
14 414(q)(4)”.

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

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

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

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

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

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

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

5 “(E) *Except to the extent provided in regu-*
6 *lations, employees who are included in a unit of*
7 *employees covered by an agreement which the*
8 *Secretary of Labor finds to be a collective bar-*
9 *gaining agreement between employee representa-*
10 *tives and the employer.*

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

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

20 (3) *Section 1114(c)(4) of the Tax Reform Act of*
21 *1986 is amended by adding at the end the following*
22 *new sentence: “Any reference in this paragraph to*
23 *section 414(q) shall be treated as a reference to such*
24 *section as in effect on the day before the date of the*

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

3 *(d) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—The amendments made by*
5 *this section shall apply to years beginning after De-*
6 *cember 31, 1996, except that in determining whether*
7 *an employee is a highly compensated employee for*
8 *years beginning in 1997, such amendments shall be*
9 *treated as having been in effect for years beginning in*
10 *1996.*

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

14 **SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION**
15 **REQUIREMENTS.**

16 *(a) GENERAL RULE.—Section 401(a)(26)(A) (relating*
17 *to additional participation requirements) is amended to*
18 *read as follows:*

19 *“(A) IN GENERAL.—In the case of a trust*
20 *which is a part of a defined benefit plan, such*
21 *trust shall not constitute a qualified trust under*
22 *this subsection unless on each day of the plan*
23 *year such trust benefits at least the lesser of—*

24 *“(i) 50 employees of the employer, or*

25 *“(ii) the greater of—*

1 “(I) 40 percent of all employees of
2 the employer, or

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

5 (b) *SEPARATE LINE OF BUSINESS TEST.*—Section
6 401(a)(26)(G) (relating to separate line of business) is
7 amended by striking “paragraph (7)” and inserting “para-
8 graph (2)(A) or (7)”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to years beginning after December 31,
11 1996.

12 **SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED**
13 **CASH OR DEFERRED ARRANGEMENTS AND**
14 **MATCHING CONTRIBUTIONS.**

15 (a) *ALTERNATIVE METHODS OF SATISFYING SECTION*
16 *401(k) NONDISCRIMINATION TESTS.*—Section 401(k) (relat-
17 ing to cash or deferred arrangements), as amended by sec-
18 tion 1422, is amended by adding at the end the following
19 new paragraph:

20 “(12) *ALTERNATIVE METHODS OF MEETING NON-*
21 *DISCRIMINATION REQUIREMENTS.*—

22 “(A) *IN GENERAL.*—A cash or deferred ar-
23 rangement shall be treated as meeting the re-
24 quirements of paragraph (3)(A)(ii) if such ar-
25 rangement—

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

3 “(ii) meets the notice requirements of
4 subparagraph (D).

5 “(B) MATCHING CONTRIBUTIONS.—

6 “(i) IN GENERAL.—The requirements
7 of this subparagraph are met if, under the
8 arrangement, the employer makes matching
9 contributions on behalf of each employee
10 who is not a highly compensated employee
11 in an amount equal to—

12 “(I) 100 percent of the elective
13 contributions of the employee to the ex-
14 tent such elective contributions do not
15 exceed 3 percent of the employee’s com-
16 pensation, and

17 “(II) 50 percent of the elective
18 contributions of the employee to the ex-
19 tent that such elective contributions ex-
20 ceed 3 percent but do not exceed 5 per-
21 cent of the employee’s compensation.

22 “(ii) RATE FOR HIGHLY COMPENSATED
23 EMPLOYEES.—The requirements of this sub-
24 paragraph are not met if, under the ar-
25 rangement, the rate of matching contribu-

1 *tion with respect to any elective contribu-*
2 *tion of a highly compensated employee at*
3 *any rate of elective contribution is greater*
4 *than that with respect to an employee who*
5 *is not a highly compensated employee.*

6 “(iii) *ALTERNATIVE PLAN DESIGNS.—*
7 *If the rate of any matching contribution*
8 *with respect to any rate of elective contribu-*
9 *tion is not equal to the percentage required*
10 *under clause (i), an arrangement shall not*
11 *be treated as failing to meet the require-*
12 *ments of clause (i) if—*

13 *“(I) the rate of an employer’s*
14 *matching contribution does not in-*
15 *crease as an employee’s rate of elective*
16 *contributions increase, and*

17 *“(II) the aggregate amount of*
18 *matching contributions at such rate of*
19 *elective contribution is at least equal to*
20 *the aggregate amount of matching con-*
21 *tributions which would be made if*
22 *matching contributions were made on*
23 *the basis of the percentages described in*
24 *clause (i).*

1 “(C) *NONELECTIVE CONTRIBUTIONS.*—*The*
2 *requirements of this subparagraph are met if,*
3 *under the arrangement, the employer is required,*
4 *without regard to whether the employee makes an*
5 *elective contribution or employee contribution, to*
6 *make a contribution to a defined contribution*
7 *plan on behalf of each employee who is not a*
8 *highly compensated employee and who is eligible*
9 *to participate in the arrangement in an amount*
10 *equal to at least 3 percent of the employee’s com-*
11 *penensation.*

12 “(D) *NOTICE REQUIREMENT.*—*An arrange-*
13 *ment meets the requirements of this paragraph*
14 *if, under the arrangement, each employee eligible*
15 *to participate is, within a reasonable period be-*
16 *fore any year, given written notice of the em-*
17 *ployee’s rights and obligations under the ar-*
18 *rangement which—*

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

22 “(ii) *is written in a manner calculated*
23 *to be understood by the average employee el-*
24 *igible to participate.*

25 “(E) *OTHER REQUIREMENTS.*—

1 “(i) *WITHDRAWAL AND VESTING RE-*
2 *STRICTIONS.*—*An arrangement shall not be*
3 *treated as meeting the requirements of sub-*
4 *paragraph (B) or (C) of this paragraph un-*
5 *less the requirements of subparagraphs (B)*
6 *and (C) of paragraph (2) are met with re-*
7 *spect to all employer contributions (includ-*
8 *ing matching contributions) taken into ac-*
9 *count in determining whether the require-*
10 *ments of subparagraphs (B) and (C) of this*
11 *paragraph are met.*

12 “(ii) *SOCIAL SECURITY AND SIMILAR*
13 *CONTRIBUTIONS NOT TAKEN INTO AC-*
14 *COUNT.*—*An arrangement shall not be treat-*
15 *ed as meeting the requirements of subpara-*
16 *graph (B) or (C) unless such requirements*
17 *are met without regard to subsection (l),*
18 *and, for purposes of subsection (l), employer*
19 *contributions under subparagraph (B) or*
20 *(C) shall not be taken into account.*

21 “(F) *OTHER PLANS.*—*An arrangement shall*
22 *be treated as meeting the requirements under*
23 *subparagraph (A)(i) if any other plan main-*
24 *tained by the employer meets such requirements*

1 *with respect to employees eligible under the ar-*
 2 *rangement.”*

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

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

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

16 **“(i) meets the contribution require-**
 17 **ments of subparagraph (B) or (C) of sub-**
 18 **section (k)(12),**

19 **“(ii) meets the notice requirements of**
 20 **subsection (k)(12)(D), and**

21 **“(iii) meets the requirements of sub-**
 22 **paragraph (B).**

23 **“(B) LIMITATION ON MATCHING CONTRIBU-**
 24 **TIONS.**—*The requirements of this subparagraph*
 25 *are met if—*

1 “(i) matching contributions on behalf
2 of any employee may not be made with re-
3 spect to an employee’s contributions or elec-
4 tive deferrals in excess of 6 percent of the
5 employee’s compensation,

6 “(ii) the rate of an employer’s match-
7 ing contribution does not increase as the
8 rate of an employee’s contributions or elec-
9 tive deferrals increase, and

10 “(iii) the matching contribution with
11 respect to any highly compensated employee
12 at any rate of an employee contribution or
13 rate of elective deferral is not greater than
14 that with respect to an employee who is not
15 a highly compensated employee.”

16 (c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED
17 EMPLOYEE PERCENTAGE.—

18 (1) CASH OR DEFERRED ARRANGEMENTS.—

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

20 (A) by striking “such year” and inserting
21 “the plan year”,

22 (B) by striking “for such plan year” and
23 inserting “for the preceding plan year”, and

24 (C) by adding at the end the following new
25 sentence: “An arrangement may apply this

1 *clause by using the plan year rather than the*
2 *preceding plan year if the employer so elects, ex-*
3 *cept that if such an election is made, it may not*
4 *be changed except as provided by the Secretary.”*

5 (2) *MATCHING AND EMPLOYEE CONTRIBU-*
6 *TIONS.—Section 401(m)(2)(A) is amended—*

7 (A) *by inserting “for such plan year” after*
8 *“highly compensated employees”,*

9 (B) *by inserting “for the preceding plan*
10 *year” after “eligible employees” each place it ap-*
11 *pears in clause (i) and clause (ii), and*

12 (C) *by adding at the end the following flush*
13 *sentence: “This subparagraph may be applied by*
14 *using the plan year rather than the preceding*
15 *plan year if the employer so elects, except that*
16 *if such an election is made, it may not be*
17 *changed except as provided the Secretary.”*

18 (d) *SPECIAL RULE FOR DETERMINING AVERAGE DE-*
19 *FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—*

20 (1) *Paragraph (3) of section 401(k) is amended*
21 *by adding at the end the following new subparagraph:*

22 (E) *For purposes of this paragraph, in the*
23 *case of the first plan year of any plan (other*
24 *than a successor plan), the amount taken into*
25 *account as the actual deferral percentage of non-*

1 *highly compensated employees for the preceding*
2 *plan year shall be—*

3 “(i) 3 percent, or

4 “(ii) if the employer makes an election
5 under this subclause, the actual deferral
6 percentage of nonhighly compensated em-
7 ployees determined for such first plan
8 year.”

9 (2) Paragraph (3) of section 401(m) is amended
10 by adding at the end the following: “Rules similar to
11 the rules of subsection (k)(3)(E) shall apply for pur-
12 poses of this subsection.”

13 (e) *DISTRIBUTION OF EXCESS CONTRIBUTIONS AND*
14 *EXCESS AGGREGATE CONTRIBUTIONS.—*

15 (1) Subparagraph (C) of section 401(k)(8) (relat-
16 ing to arrangement not disqualified if excess contribu-
17 tions distributed) is amended by striking “on the
18 basis of the respective portions of the excess contribu-
19 tions attributable to each of such employees” and in-
20 serting “on the basis of the amount of contributions
21 by, or on behalf of, each of such employees”.

22 (2) Subparagraph (C) of section 401(m)(6) (re-
23 lating to method of distributing excess aggregate con-
24 tributions) is amended by striking “on the basis of the
25 respective portions of such amounts attributable to

1 *each of such employees” and inserting “on the basis*
2 *of the amount of contributions on behalf of, or by,*
3 *each such employee”.*

4 *(f) EFFECTIVE DATES.—*

5 *(1) IN GENERAL.—The amendments made by*
6 *this section shall apply to years beginning after De-*
7 *cember 31, 1998.*

8 *(2) EXCEPTIONS.—The amendments made by*
9 *subsections (c), (d), and (e) shall apply to years be-*
10 *ginning after December 31, 1996.*

11 **SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION**

12 **415 PURPOSES.**

13 *(a) GENERAL RULE.—Section 415(c)(3) (defining par-*
14 *ticipant’s compensation) is amended by adding at the end*
15 *the following new subparagraph:*

16 *“(D) CERTAIN DEFERRALS INCLUDED.—The*
17 *term ‘participant’s compensation’ shall in-*
18 *clude—*

19 *“(i) any elective deferral (as defined in*
20 *section 402(g)(3)), and*

21 *“(ii) any amount which is contributed*
22 *by the employer at the election of the em-*
23 *ployee and which is not includible in the*
24 *gross income of the employee under section*
25 *125 or 457.”*

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *Section 414(q)(4), as redesignated by section*
3 *1431, is amended to read as follows:*

4 “(4) *COMPENSATION.*—*For purposes of this sub-*
5 *section, the term ‘compensation’ has the meaning*
6 *given such term by section 415(c)(3).”*

7 (2) *Section 414(s)(2) is amended by inserting*
8 *“not” after “elect” in the text and heading thereof.*

9 (c) *EFFECTIVE DATE.*—*The amendments made by this*
10 *section shall apply to years beginning after December 31,*
11 *1997.*

12 **CHAPTER 4—MISCELLANEOUS**

13 **PROVISIONS**

14 **SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVID-** 15 **UALS.**

16 (a) *AGGREGATION RULES.*—*Section 401(d) (relating*
17 *to additional requirements for qualification of trusts and*
18 *plans benefiting owner-employees) is amended to read as*
19 *follows:*

20 “(d) *CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.*—
21 *A trust forming part of a pension or profit-sharing plan*
22 *which provides contributions or benefits for employees some*
23 *or all of whom are owner-employees shall constitute a quali-*
24 *fied trust under this section only if, in addition to meeting*
25 *the requirements of subsection (a), the plan provides that*

1 *contributions on behalf of any owner-employee may be*
2 *made only with respect to the earned income of such owner-*
3 *employee which is derived from the trade or business with*
4 *respect to which such plan is established.”*

5 (b) *EFFECTIVE DATE.*—*The amendments made by this*
6 *section shall apply to years beginning after December 31,*
7 *1996.*

8 **SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR**
9 **MULTIEMPLOYER PLANS.**

10 (a) *IN GENERAL.*—*Paragraph (2) of section 411(a)*
11 *(relating to minimum vesting standards) is amended—*

12 (1) *by striking “subparagraph (A), (B), or (C)”*
13 *and inserting “subparagraph (A) or (B)”;* and

14 (2) *by striking subparagraph (C).*

15 (b) *EFFECTIVE DATE.*—*The amendments made by this*
16 *section shall apply to plan years beginning on or after the*
17 *earlier of—*

18 (1) *the later of—*

19 (A) *January 1, 1997, or*

20 (B) *the date on which the last of the collec-*
21 *tive bargaining agreements pursuant to which*
22 *the plan is maintained terminates (determined*
23 *without regard to any extension thereof after the*
24 *date of the enactment of this Act), or*

25 (2) *January 1, 1999.*

1 *Such amendments shall not apply to any individual who*
 2 *does not have more than 1 hour of service under the plan*
 3 *on or after the 1st day of the 1st plan year to which such*
 4 *amendments apply.*

5 **SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE**
 6 **PLANS.**

7 *(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CER-*
 8 *TAIN AGE.—Section 401(k)(7) is amended by adding at the*
 9 *end the following new subparagraph:*

10 *“(C) SPECIAL RULE FOR CERTAIN DIS-*
 11 *TRIBUTIONS.—A rural cooperative plan which*
 12 *includes a qualified cash or deferred arrange-*
 13 *ment shall not be treated as violating the re-*
 14 *quirements of section 401(a) or of paragraph (2)*
 15 *merely by reason of a hardship distribution or a*
 16 *distribution to a participant after attainment of*
 17 *age 59½. For purposes of this section, the term*
 18 *‘hardship distribution’ means a distribution de-*
 19 *scribed in paragraph (2)(B)(i)(IV) (without re-*
 20 *gard to the limitation of its application to prof-*
 21 *it-sharing or stock bonus plans).”*

22 *(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section*
 23 *401(k)(7)(B) (defining rural cooperative) is amended to*
 24 *read as follows:*

25 *“(i) any organization which—*

1 *(as defined in section 414(d)), subparagraph (B) of*
2 *paragraph (1) shall not apply.”*

3 ***(b) TREATMENT OF CERTAIN EXCESS BENEFIT***
4 ***PLANS.—***

5 ***(1) IN GENERAL.—****Section 415 is amended by*
6 *adding at the end the following new subsection:*

7 ***“(m) TREATMENT OF QUALIFIED GOVERNMENTAL EX-***
8 ***CESS BENEFIT ARRANGEMENTS.—***

9 ***“(1) GOVERNMENTAL PLAN NOT AFFECTED.—****In*
10 *determining whether a governmental plan (as defined*
11 *in section 414(d)) meets the requirements of this sec-*
12 *tion, benefits provided under a qualified governmental*
13 *excess benefit arrangement shall not be taken into ac-*
14 *count. Income accruing to a governmental plan (or to*
15 *a trust that is maintained solely for the purpose of*
16 *providing benefits under a qualified governmental ex-*
17 *cess benefit arrangement) in respect of a qualified*
18 *governmental excess benefit arrangement shall con-*
19 *stitute income derived from the exercise of an essen-*
20 *tial governmental function upon which such govern-*
21 *mental plan (or trust) shall be exempt from tax under*
22 *section 115.*

23 ***“(2) TAXATION OF PARTICIPANT.—****For purposes*
24 *of this chapter—*

1 “(A) the taxable year or years for which
2 amounts in respect of a qualified governmental
3 excess benefit arrangement are includible in
4 gross income by a participant, and

5 “(B) the treatment of such amounts when so
6 includible by the participant,
7 shall be determined as if such qualified governmental
8 excess benefit arrangement were treated as a plan for
9 the deferral of compensation which is maintained by
10 a corporation not exempt from tax under this chapter
11 and which does not meet the requirements for quali-
12 fication under section 401.

13 “(3) QUALIFIED GOVERNMENTAL EXCESS BENE-
14 FIT ARRANGEMENT.—For purposes of this subsection,
15 the term ‘qualified governmental excess benefit ar-
16 rangement’ means a portion of a governmental plan
17 if—

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

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

4 “(C) benefits described in subparagraph (A)
5 are not paid from a trust forming a part of such
6 governmental plan unless such trust is main-
7 tained solely for the purpose of providing such
8 benefits.”

9 (2) *COORDINATION WITH SECTION 457.*—Sub-
10 section (e) of section 457 is amended by adding at the
11 end the following new paragraph:

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

20 (3) *CONFORMING AMENDMENT.*—Paragraph (2)
21 of section 457(f) is amended by striking “and” at the
22 end of subparagraph (C), by striking the period at the
23 end of subparagraph (D) and inserting “, and”, and
24 by inserting immediately thereafter the following new
25 subparagraph:

1 “(E) a qualified governmental excess benefit
2 arrangement described in section 415(m).”

3 (c) *EXEMPTION FOR SURVIVOR AND DISABILITY BENE-*
4 *FITS.*—Paragraph (2) of section 415(b) is amended by add-
5 *ing at the end the following new subparagraph:*

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

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

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

21 (d) *REVOCATION OF GRANDFATHER ELECTION.*—

22 (1) *IN GENERAL.*—Subparagraph (C) of section
23 *415(b)(10) is amended by adding at the end the fol-*
24 *lowing new clause:*

1 “(i) *REVOCATION OF ELECTION.*—An
2 election under clause (i) may be revoked not
3 later than the last day of the third plan
4 year beginning after the date of the enact-
5 ment of this clause. The revocation shall
6 apply to all plan years to which the election
7 applied and to all subsequent plan years.
8 Any amount paid by a plan in a taxable
9 year ending after the revocation shall be in-
10 cludible in income in such taxable year
11 under the rules of this chapter in effect for
12 such taxable year, except that, for purposes
13 of applying the limitations imposed by this
14 section, any portion of such amount which
15 is attributable to any taxable year during
16 which the election was in effect shall be
17 treated as received in such taxable year.”

18 (2) *CONFORMING AMENDMENT.*—Subparagraph
19 (C) of section 415(b)(10) is amended by striking
20 “*This*” and inserting:

21 “(i) *IN GENERAL.*—*This*”.

22 (e) *EFFECTIVE DATE.*—

23 (1) *IN GENERAL.*—The amendments made by
24 subsections (a), (b), and (c) shall apply to years be-
25 ginning after December 31, 1994. The amendments

1 *made by subsection (d) shall apply with respect to*
2 *revocations adopted after the date of the enactment of*
3 *this Act.*

4 (2) *TREATMENT FOR YEARS BEGINNING BEFORE*
5 *JANUARY 1, 1995.—Nothing in the amendments made*
6 *by this section shall be construed to infer that a gov-*
7 *ernmental plan (as defined in section 414(d) of the*
8 *Internal Revenue Code of 1986) fails to satisfy the re-*
9 *quirements of section 415 of such Code for any tax-*
10 *able year beginning before January 1, 1995.*

11 **SEC. 1445. UNIFORM RETIREMENT AGE.**

12 (a) *DISCRIMINATION TESTING.—Paragraph (5) of sec-*
13 *tion 401(a) (relating to special rules relating to non-*
14 *discrimination requirements) is amended by adding at the*
15 *end the following new subparagraph:*

16 “(F) *SOCIAL SECURITY RETIREMENT AGE.—*
17 *For purposes of testing for discrimination under*
18 *paragraph (4)—*

19 “(i) *the social security retirement age*
20 *(as defined in section 415(b)(8)) shall be*
21 *treated as a uniform retirement age, and*

22 “(ii) *subsidized early retirement bene-*
23 *fits and joint and survivor annuities shall*
24 *not be treated as being unavailable to em-*
25 *ployees on the same terms merely because*

1 *such benefits or annuities are based in*
2 *whole or in part on an employee's social se-*
3 *curity retirement age (as so defined)."*

4 **(b) EFFECTIVE DATE.**—*The amendment made by this*
5 *section shall apply to years beginning after December 31,*
6 *1996.*

7 **SEC. 1446. CONTRIBUTIONS ON BEHALF OF DISABLED EM-**
8 **PLOYEES.**

9 **(a) ALL DISABLED PARTICIPANTS RECEIVING CON-**
10 **TRIBUTIONS.**—*Section 415(c)(3)(C) is amended by adding*
11 *at the end the following: "If a defined contribution plan*
12 *provides for the continuation of contributions on behalf of*
13 *all participants described in clause (i) for a fixed or deter-*
14 *minable period, this subparagraph shall be applied without*
15 *regard to clauses (ii) and (iii)."*

16 **(b) EFFECTIVE DATE.**—*The amendment made by this*
17 *section shall apply to years beginning after December 31,*
18 *1996.*

19 **SEC. 1447. TREATMENT OF DEFERRED COMPENSATION**
20 **PLANS OF STATE AND LOCAL GOVERNMENTS**
21 **AND TAX-EXEMPT ORGANIZATIONS.**

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

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

3 “(A) *TOTAL AMOUNT PAYABLE IS \$3,500 OR*
4 *LESS.—The total amount payable to a partici-*
5 *part under the plan shall not be treated as made*
6 *available merely because the participant may*
7 *elect to receive such amount (or the plan may*
8 *distribute such amount without the participant’s*
9 *consent) if—*

10 “(i) *such amount does not exceed*
11 *\$3,500, and*

12 “(ii) *such amount may be distributed*
13 *only if—*

14 “(I) *no amount has been deferred*
15 *under the plan with respect to such*
16 *participant during the 2-year period*
17 *ending on the date of the distribution,*
18 *and*

19 “(II) *there has been no prior dis-*
20 *tribution under the plan to such par-*
21 *ticipant to which this subparagraph*
22 *applied.*

23 *A plan shall not be treated as failing to meet the*
24 *distribution requirements of subsection (d) by*

1 *reason of a distribution to which this subpara-*
2 *graph applies.*

3 “(B) *ELECTION TO DEFER COMMENCEMENT*
4 *OF DISTRIBUTIONS.—The total amount payable*
5 *to a participant under the plan shall not be*
6 *treated as made available merely because the*
7 *participant may elect to defer commencement of*
8 *distributions under the plan if—*

9 *“(i) such election is made after*
10 *amounts may be available under the plan*
11 *in accordance with subsection (d)(1)(A) and*
12 *before commencement of such distributions,*
13 *and*

14 *“(ii) the participant may make only 1*
15 *such election.”*

16 (b) *COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-*
17 *FERRAL AMOUNT.—Subsection (e) of section 457, as amend-*
18 *ed by section 1444(b)(2) (relating to governmental plans),*
19 *is amended by adding at the end the following new para-*
20 *graph:*

21 “(15) *COST-OF-LIVING ADJUSTMENT OF MAXIMUM*
22 *DEFERRAL AMOUNT.—The Secretary shall adjust the*
23 *\$7,500 amount specified in subsections (b)(2) and*
24 *(c)(1) at the same time and in the same manner as*
25 *under section 415(d), except that the base period shall*

1 “(A) a trust described in paragraph (1)
2 shall be treated as an organization exempt from
3 taxation under section 501(a), and

4 “(B) notwithstanding any other provision
5 of this title, amounts in the trust shall be includ-
6 ible in the gross income of participants and
7 beneficiaries only to the extent, and at the time,
8 provided in this section.

9 “(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—
10 For purposes of this subsection, custodial accounts
11 and contracts described in section 401(f) shall be
12 treated as trusts under rules similar to the rules
13 under section 401(f).”

14 (b) CONFORMING AMENDMENT.—Paragraph (6) of sec-
15 tion 457(b) is amended by inserting “except as provided
16 in subsection (g),” before “which provides that”.

17 (c) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section shall
20 apply to assets and income described in section
21 457(b)(6) of the Internal Revenue Code of 1986 held
22 by a plan on and after the date of the enactment of
23 this Act.

24 (2) TRANSITION RULE.—In the case of assets and
25 income described in paragraph (1) held by a plan on

1 *the date of the enactment of this Act, a trust need*
2 *not be established by reason of the amendments made*
3 *by this section before January 1, 1999.*

4 **SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM**
5 **BENEFITS UNDER SECTION 415 LIMITATIONS.**

6 *(a) IN GENERAL.—Subparagraph (A) of section*
7 *767(d)(3) of the Uruguay Round Agreements Act is amend-*
8 *ed to read as follows:*

9 “(A) *EXCEPTION.—A plan that was adopt-*
10 *ed and in effect before December 8, 1994, shall*
11 *not be required to apply the amendments made*
12 *by subsection (b) with respect to benefits accrued*
13 *before the earlier of—*

14 “(i) *the later of the date a plan amend-*
15 *ment applying such amendment is adopted*
16 *or made effective, or*

17 “(ii) *the first day of the first limita-*
18 *tion year beginning after December 31,*
19 *1999.*

20 *Determinations under section 415(b)(2)(E) of the*
21 *Internal Revenue Code of 1986 before such ear-*
22 *lier date shall be made with respect to such bene-*
23 *fits on the basis of such section as in effect on*
24 *December 7, 1994 (except that the modification*
25 *made by section 1449(b) of the Small Business*

1 *Job Protection Act of 1996 shall be taken into*
2 *account), and the provisions of the plan as in ef-*
3 *fect on December 7, 1994, but only if such provi-*
4 *sions of the plan meet the requirements of such*
5 *section (as so in effect).”*

6 **(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR AD-**
7 **JUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR**
8 **EARLY RETIREES.**—*Subparagraph (E) of section 415(b)(2)*
9 *(relating to limitation on certain assumptions) is amend-*
10 *ed—*

11 (1) *by striking “Except as provided in clause*
12 *(ii), for purposes of adjusting any benefit or limita-*
13 *tion under subparagraph (B) or (C),” in clause (i)*
14 *and inserting “For purposes of adjusting any limita-*
15 *tion under subparagraph (C) and, except as provided*
16 *in clause (ii), for purposes of adjusting any benefit*
17 *under subparagraph (B),”, and*

18 (2) *by striking “For purposes of adjusting the*
19 *benefit or limitation of any form of benefit subject to*
20 *section 417(e)(3),” in clause (i) and inserting “For*
21 *purposes of adjusting any benefit under subparagraph*
22 *(B) for any form of benefit subject to section*
23 *417(e)(3),”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect as if included in the provisions of*
3 *section 767 of the Uruguay Round Agreements Act.*

4 (d) *TRANSITIONAL RULE.*—*In the case of a plan that*
5 *was adopted and in effect before December 8, 1994, if—*

6 (1) *a plan amendment was adopted or made ef-*
7 *fective on or before the date of the enactment of this*
8 *Act applying the amendments made by section 767 of*
9 *the Uruguay Round Agreements Act, and*

10 (2) *within 1 year after the date of the enactment*
11 *of this Act, a plan amendment is adopted which re-*
12 *peals the amendment referred to in paragraph (1),*

13 *the amendment referred to in paragraph (1) shall not be*
14 *taken into account in applying section 767(d)(3)(A) of the*
15 *Uruguay Round Agreements Act, as amended by subsection*
16 *(a).*

17 **SEC. 1450. MODIFICATIONS OF SECTION 403(b).**

18 (a) *MULTIPLE SALARY REDUCTION AGREEMENTS*
19 *PERMITTED.*—

20 (1) *GENERAL RULE.*—*For purposes of section*
21 *403(b) of the Internal Revenue Code of 1986, the fre-*
22 *quency that an employee is permitted to enter into a*
23 *salary reduction agreement, the salary to which such*
24 *an agreement may apply, and the ability to revoke*
25 *such an agreement shall be determined under the rules*

1 applicable to cash or deferred elections under section
2 401(k) of such Code.

3 (2) *EFFECTIVE DATE.*—*This subsection shall*
4 *apply to taxable years beginning after December 31,*
5 *1995.*

6 (b) *TREATMENT OF INDIAN TRIBAL GOVERNMENTS.*—

7 (1) *IN GENERAL.*—*In the case of any contract*
8 *purchased in a plan year beginning before January*
9 *1, 1995, section 403(b) of the Internal Revenue Code*
10 *of 1986 shall be applied as if any reference to an em-*
11 *ployer described in section 501(c)(3) of the Internal*
12 *Revenue Code of 1986 which is exempt from tax*
13 *under section 501 of such Code included a reference*
14 *to an employer which is an Indian tribal government*
15 *(as defined by section 7701(a)(40) of such Code), a*
16 *subdivision of an Indian tribal government (deter-*
17 *mined in accordance with section 7871(d) of such*
18 *Code), an agency or instrumentality of an Indian*
19 *tribal government or subdivision thereof, or a cor-*
20 *poration chartered under Federal, State, or tribal law*
21 *which is owned in whole or in part by any of the*
22 *foregoing.*

23 (2) *ROLLOVERS.*—*Solely for purposes of apply-*
24 *ing section 403(b)(8) of such Code to a contract to*
25 *which paragraph (1) applies, a qualified cash or de-*

1 *ferred arrangement under section 401(k) of such Code*
 2 *shall be treated as if it were a plan or contract de-*
 3 *scribed in clause (ii) of section 403(b)(8)(A) of such*
 4 *Code.*

5 *(c) ELECTIVE DEFERRALS.—*

6 *(1) IN GENERAL.—Subparagraph (E) of section*
 7 *403(b)(1) is amended to read as follows:*

8 *“(E) in the case of a contract purchased*
 9 *under a salary reduction agreement, the contract*
 10 *meets the requirements of section 401(a)(30),”.*

11 *(2) EFFECTIVE DATE.—The amendment made by*
 12 *this subsection shall apply to years beginning after*
 13 *December 31, 1995, except a contract shall not be re-*
 14 *quired to meet any change in any requirement by*
 15 *reason of such amendment before the 90th day after*
 16 *the date of the enactment of this Act.*

17 **SEC. 1451. WAIVER OF MINIMUM PERIOD FOR JOINT AND**

18 **SURVIVOR ANNUITY EXPLANATION BEFORE**

19 **ANNUITY STARTING DATE.**

20 *(a) GENERAL RULE.—For purposes of section*
 21 *417(a)(3)(A) of the Internal Revenue Code of 1986 (relating*
 22 *to plan to provide written explanations), the minimum pe-*
 23 *riod prescribed by the Secretary of the Treasury between*
 24 *the date that the explanation referred to in such section is*
 25 *provided and the annuity starting date shall not apply if*

1 *waived by the participant and, if applicable, the partici-*
 2 *part's spouse.*

3 (b) *EFFECTIVE DATE.*—Subsection (a) shall apply to
 4 *plan years beginning after December 31, 1996.*

5 **SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED**
 6 **BENEFIT PLAN AND DEFINED CONTRIBUTION**
 7 **PLAN FOR SAME EMPLOYEE; EXCESS DIS-**
 8 **TRIBUTIONS.**

9 (a) *IN GENERAL.*—Section 415(e) is repealed.

10 (b) *EXCESS DISTRIBUTIONS.*—Section 4980A is
 11 *amended by adding at the end the following new subsection:*

12 “(g) *LIMITATION ON APPLICATION.*—This section shall
 13 *not apply to distributions during years beginning after De-*
 14 *cember 31, 1995, and before January 1, 1999, and such dis-*
 15 *tributions shall be treated as made first from amounts not*
 16 *described in subsection (f).”*

17 (c) *CONFORMING AMENDMENTS.*—

18 (1) *Paragraph (1) of section 415(a) is amend-*
 19 *ed—*

20 (A) *by adding “or” at the end of subpara-*
 21 *graph (A),*

22 (B) *by striking “, or” at the end of sub-*
 23 *paragraph (B) and inserting a period, and*

24 (C) *by striking subparagraph (C).*

1 (2) *Subparagraph (B) of section 415(b)(5) is*
2 *amended by striking “and subsection (e)”.*

3 (3) *Paragraph (1) of section 415(f) is amended*
4 *by striking “subsections (b), (c), and (e)” and insert-*
5 *ing “subsections (b) and (c)”.*

6 (4) *Subsection (g) of section 415 is amended by*
7 *striking “subsections (e) and (f)” in the last sentence*
8 *and inserting “subsection (f)”.*

9 (5) *Clause (i) of section 415(k)(2)(A) is amended*
10 *to read as follows:*

11 *“(i) any contribution made directly by*
12 *an employee under such an arrangement*
13 *shall not be treated as an annual addition*
14 *for purposes of subsection (c), and”.*

15 (6) *Clause (ii) of section 415(k)(2)(A) is amend-*
16 *ed by striking “subsections (c) and (e)” and inserting*
17 *“subsection (c)”.*

18 (7) *Section 416 is amended by striking sub-*
19 *section (h).*

20 (d) *EFFECTIVE DATE.—*

21 (1) *IN GENERAL.—Except as provided in para-*
22 *graph (2), the amendments made by this section shall*
23 *apply to limitation years beginning after December*
24 *31, 1998.*

1 (2) *EXCESS DISTRIBUTIONS.*—*The amendment*
2 *made by subsection (b) shall apply to years beginning*
3 *after December 31, 1995.*

4 **SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.**

5 (a) *IN GENERAL.*—*Section 4975(a) is amended by*
6 *striking “5 percent” and inserting “10 percent”.*

7 (b) *EFFECTIVE DATE.*—*The amendment made by this*
8 *section shall apply to prohibited transactions occurring*
9 *after the date of the enactment of this Act.*

10 **SEC. 1454. TREATMENT OF LEASED EMPLOYEES.**

11 (a) *GENERAL RULE.*—*Subparagraph (C) of section*
12 *414(n)(2) (defining leased employee) is amended to read as*
13 *follows:*

14 *“(C) such services are performed under pri-*
15 *mary direction or control by the recipient.”*

16 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
17 *section (a) shall apply to years beginning after December*
18 *31, 1996, but shall not apply to any relationship deter-*
19 *mined under an Internal Revenue Service ruling issued be-*
20 *fore the date of the enactment of this Act pursuant to section*
21 *414(n)(2)(C) of the Internal Revenue Code of 1986 (as in*
22 *effect on the day before such date) not to involve a leased*
23 *employee.*

1 **SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO**
2 **CERTAIN PENSION REPORTING REQUIRE-**
3 **MENTS.**

4 (a) *PENALTIES.*—

5 (1) *STATEMENTS.*—*Paragraph (1) of section*
6 *6724(d) is amended by striking “and” at the end of*
7 *subparagraph (A), by striking the period at the end*
8 *of subparagraph (B) and inserting “, and”, and by*
9 *inserting after subparagraph (B) the following new*
10 *subparagraph:*

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

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

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

20 (2) *REPORTS.*—*Paragraph (2) of section*
21 *6724(d), as amended by section 1116, is amended by*
22 *striking “or” at the end of subparagraph (T), by*
23 *striking the period at the end of subparagraph (U)*
24 *and inserting a comma, and by inserting after sub-*
25 *paragraph (U) the following new subparagraphs:*

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

5 “(W) section 6047(d) (relating to reports by
6 plan administrators) to any person other than
7 the Secretary with respect to the amount of pay-
8 ments made to such person.”

9 (b) *MODIFICATION OF REPORTABLE DESIGNATED DIS-*
10 *TRIBUTIONS.—*

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

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

22 (c) *QUALIFYING ROLLOVER DISTRIBUTIONS.—*Section
23 6652(i) is amended—

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

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

3 (d) *CONFORMING AMENDMENTS.*—

4 (1) Paragraph (1) of section 6047(f) is amended
5 to read as follows:

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

6 (2) Subsection (e) of section 6652 is amended by
7 adding at the end the following new sentence: “This
8 subsection shall not apply to any return or statement
9 which is an information return described in section
10 6724(d)(1)(C)(ii) or a payee statement described in
11 section 6724(d)(2)(W).”

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

18 (e) *EFFECTIVE DATE.*—*The amendments made by this*
19 *section shall apply to returns, reports, and other statements*
20 *the due date for which (determined without regard to exten-*
21 *sions) is after December 31, 1996.*

1 **SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUB-**
2 **JECT TO TAX ON NET EARNINGS FROM SELF-**
3 **EMPLOYMENT.**

4 (a) *IN GENERAL.*—Section 1402(a)(8) (defining net
5 earning from self-employment) is amended by inserting “,
6 but shall not include in such net earnings from self-employ-
7 ment the rental value of any parsonage (whether or not ex-
8 cludable under section 107) provided after the individual
9 retires, or any other retirement benefit received by such in-
10 dividual from a church plan (as defined in section 414(e))
11 after the individual retires” before the semicolon at the end.

12 (b) *EFFECTIVE DATE.*—The amendments made by this
13 section shall apply to years beginning before, on, or after
14 December 31, 1994.

15 **SEC. 1457. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

16 *If any amendment made by this subtitle requires an*
17 *amendment to any plan or annuity contract, such amend-*
18 *ment shall not be required to be made before the first day*
19 *of the first plan year beginning on or after January 1,*
20 *1997, if—*

21 (1) *during the period after such amendment*
22 *takes effect and before such first plan year, the plan*
23 *or contract is operated in accordance with the re-*
24 *quirements of such amendment, and*

25 (2) *such amendment applies retroactively to such*
26 *period.*

1 *In the case of a governmental plan (as defined in section*
2 *414(d) of the Internal Revenue Code of 1986), this section*
3 *shall be applied by substituting “1999” for “1997”.*

4 ***Subtitle E—Foreign Simplification***

5 ***SEC. 1501. REPEAL OF INCLUSION OF CERTAIN EARNINGS***

6 ***INVESTED IN EXCESS PASSIVE ASSETS.***

7 *(a) IN GENERAL.—*

8 *(1) REPEAL OF INCLUSION.—Paragraph (1) of*
9 *section 951(a) (relating to amounts included in gross*
10 *income of United States shareholders) is amended by*
11 *striking subparagraph (C), by striking “; and” at the*
12 *end of subparagraph (B) and inserting a period, and*
13 *by adding “and” at the end of subparagraph (A).*

14 *(2) REPEAL OF INCLUSION AMOUNT.—Section*
15 *956A (relating to earnings invested in excess passive*
16 *assets) is repealed.*

17 *(b) CONFORMING AMENDMENTS.—*

18 *(1) Paragraph (1) of section 956(b) is amended*
19 *to read as follows:*

20 *“(1) APPLICABLE EARNINGS.—For purposes of*
21 *this section, the term ‘applicable earnings’ means,*
22 *with respect to any controlled foreign corporation, the*
23 *sum of—*

24 *“(A) the amount (not including a deficit)*
25 *referred to in section 316(a)(1), and*

1 “(B) the amount referred to in section
2 316(a)(2),
3 but reduced by distributions made during the taxable
4 year.”

5 (2) Paragraph (3) of section 956(b) is amended
6 to read as follows:

7 “(3) *SPECIAL RULE WHERE CORPORATION*
8 *CEASES TO BE CONTROLLED FOREIGN CORPORA-*
9 *TION.—If any foreign corporation ceases to be a con-*
10 *trolled foreign corporation during any taxable year—*

11 “(A) the determination of any United
12 States shareholder’s pro rata share shall be made
13 on the basis of stock owned (within the meaning
14 of section 958(a)) by such shareholder on the last
15 day during the taxable year on which the foreign
16 corporation is a controlled foreign corporation,

17 “(B) the average referred to in subsection
18 (a)(1)(A) for such taxable year shall be deter-
19 mined by only taking into account quarters end-
20 ing on or before such last day, and

21 “(C) in determining applicable earnings,
22 the amount taken into account by reason of
23 being described in paragraph (2) of section
24 316(a) shall be the portion of the amount so de-
25 scribed which is allocable (on a pro rata basis)

1 to the part of such year during which the cor-
2 poration is a controlled foreign corporation.”

3 (3) Subsection (a) of section 959 (relating to ex-
4 clusion from gross income of previously taxed earn-
5 ings and profits) is amended by adding “or” at the
6 end of paragraph (1), by striking “or” at the end of
7 paragraph (2), and by striking paragraph (3).

8 (4) Subsection (a) of section 959 is amended by
9 striking “paragraphs (2) and (3)” in the last sentence
10 and inserting “paragraph (2)”.

11 (5) Subsection (c) of section 959 is amended by
12 adding at the end the following flush sentence:

13 “References in this subsection to section 951(a)(1)(C) and
14 subsection (a)(3) shall be treated as references to such provi-
15 sions as in effect on the day before the date of the enactment
16 of the Small Business Job Protection Act of 1996.”

17 (6) Paragraph (1) of section 959(f) is amended
18 to read as follows:

19 “(1) *IN GENERAL.*—For purposes of this section,
20 amounts that would be included under subparagraph
21 (B) of section 951(a)(1) (determined without regard
22 to this section) shall be treated as attributable first to
23 earnings described in subsection (c)(2), and then to
24 earnings described in subsection (c)(3).”

1 (7) Paragraph (2) of section 959(f) is amended
2 by striking “subparagraphs (B) and (C) of section
3 951(a)(1)” and inserting “section 951(a)(1)(B)”.

4 (8) Subsection (b) of section 989 is amended by
5 striking “subparagraph (B) or (C) of section
6 951(a)(1)” and inserting “section 951(a)(1)(B)”.

7 (9) Paragraph (9) of section 1297(b) is amended
8 by striking “subparagraph (B) or (C) of section
9 951(a)(1)” and inserting “section 951(a)(1)(B)”.

10 (10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of
11 section 1297 are each amended by striking “or section
12 956A”.

13 (c) *CLERICAL AMENDMENT.*—The table of sections for
14 subpart F of part III of subchapter N of chapter 1 is
15 amended by striking the item relating to section 956A.

16 (d) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply to taxable years of foreign corporations
18 beginning after December 31, 1996, and to taxable years
19 of United States shareholders within which or with which
20 such taxable years of foreign corporations end.

21 **Subtitle F—Revenue Offsets**

22 **SEC. 1601. TERMINATION OF PUERTO RICO AND POSSES-** 23 **SION TAX CREDIT.**

24 (a) *IN GENERAL.*—Section 936 is amended by adding
25 at the end the following new subsection:

1 “(j) *TERMINATION.*—

2 “(1) *IN GENERAL.*—*Except as otherwise provided*
3 *in this subsection, this section shall not apply to any*
4 *taxable year beginning after December 31, 1995.*

5 “(2) *TRANSITION RULES FOR ACTIVE BUSINESS*
6 *INCOME CREDIT.*—*Except as provided in paragraph*
7 *(3)—*

8 “(A) *ECONOMIC ACTIVITY CREDIT.*—*In the*
9 *case of an existing credit claimant—*

10 “(i) *with respect to a possession other*
11 *than Puerto Rico, and*

12 “(ii) *to which subsection (a)(4)(B) does*
13 *not apply,*

14 *the credit determined under subsection (a)(1)(A)*
15 *shall be allowed for taxable years beginning after*
16 *December 31, 1995, and before January 1, 2002.*

17 “(B) *SPECIAL RULE FOR REDUCED CRED-*
18 *IT.*—

19 “(i) *IN GENERAL.*—*In the case of an*
20 *existing credit claimant to which subsection*
21 *(a)(4)(B) applies, the credit determined*
22 *under subsection (a)(1)(A) shall be allowed*
23 *for taxable years beginning after December*
24 *31, 1995, and before January 1, 1998.*

1 “(i) *ELECTION IRREVOCABLE AFTER*
2 *1997.—An election under subsection*
3 *(a)(4)(B)(iii) which is in effect for the tax-*
4 *payer’s last taxable year beginning before*
5 *1997 may not be revoked unless it is re-*
6 *voked for the taxpayer’s first taxable year*
7 *beginning in 1997 and all subsequent tax-*
8 *able years.*

9 “(C) *ECONOMIC ACTIVITY CREDIT FOR*
10 *PUERTO RICO.—*

**“For economic activity credit for Puerto Rico, see
 section 30A.**

11 “(3) *ADDITIONAL RESTRICTED CREDIT.—*

12 “(A) *IN GENERAL.—In the case of an exist-*
13 *ing credit claimant—*

14 “(i) *the credit under subsection*
15 *(a)(1)(A) shall be allowed for the period be-*
16 *ginning with the first taxable year after the*
17 *last taxable year to which subparagraph (A)*
18 *or (B) of paragraph (2), whichever is ap-*
19 *propriate, applied and ending with the last*
20 *taxable year beginning before January 1,*
21 *2006, except that*

22 “(ii) *the aggregate amount of taxable*
23 *income taken into account under subsection*
24 *(a)(1)(A) for any such taxable year shall*

1 *not exceed the adjusted base period income*
2 *of such claimant.*

3 “(B) *COORDINATION WITH SUBSECTION*
4 *(a)(4).*—*The amount of income described in sub-*
5 *section (a)(1)(A) which is taken into account in*
6 *applying subsection (a)(4) shall be such income*
7 *as reduced under this paragraph.*

8 “(4) *ADJUSTED BASE PERIOD INCOME.*—*For*
9 *purposes of paragraph (3)*—

10 “(A) *IN GENERAL.*—*The term ‘adjusted base*
11 *period income’ means the average of the infla-*
12 *tion-adjusted possession incomes of the corpora-*
13 *tion for each base period year.*

14 “(B) *INFLATION-ADJUSTED POSSESSION IN-*
15 *COME.*—*For purposes of subparagraph (A), the*
16 *inflation-adjusted possession income of any cor-*
17 *poration for any base period year shall be an*
18 *amount equal to the sum of—*

19 “(i) *the possession income of such cor-*
20 *poration for such base period year, plus*

21 “(ii) *such possession income multiplied*
22 *by the inflation adjustment percentage for*
23 *such base period year.*

24 “(C) *INFLATION ADJUSTMENT PERCENT-*
25 *AGE.*—*For purposes of subparagraph (B), the in-*

1 *flation adjustment percentage for any base pe-*
2 *riod year means the percentage (if any) by*
3 *which—*

4 *“(i) the CPI for 1995, exceeds*

5 *“(ii) the CPI for the calendar year in*
6 *which the base period year for which the de-*
7 *termination is being made ends.*

8 *For purposes of the preceding sentence, the CPI*
9 *for any calendar year is the CPI (as defined in*
10 *section 1(f)(5)) for such year under section*
11 *1(f)(4).*

12 *“(D) INCREASE IN INFLATION ADJUSTMENT*
13 *PERCENTAGE FOR GROWTH DURING BASE*
14 *YEARS.—The inflation adjustment percentage*
15 *(determined under subparagraph (C) without re-*
16 *gard to this subparagraph) for each of the 5 tax-*
17 *able years referred to in paragraph (5)(A) shall*
18 *be increased by—*

19 *“(i) 5 percentage points in the case of*
20 *a taxable year ending during the 1-year pe-*
21 *riod ending on October 13, 1995;*

22 *“(ii) 10.25 percentage points in the*
23 *case of a taxable year ending during the 1-*
24 *year period ending on October 13, 1994;*

1 “(iii) 15.76 percentage points in the
2 case of a taxable year ending during the 1-
3 year period ending on October 13, 1993;

4 “(iv) 21.55 percentage points in the
5 case of a taxable year ending during the 1-
6 year period ending on October 13, 1992;
7 and

8 “(v) 27.63 percentage points in the
9 case of a taxable year ending during the 1-
10 year period ending on October 13, 1991.

11 “(5) *BASE PERIOD YEAR.*—For purposes of this
12 subsection—

13 “(A) *IN GENERAL.*—The term ‘base period
14 year’ means each of 3 taxable years which are
15 among the 5 most recent taxable years of the cor-
16 poration ending before October 14, 1995, deter-
17 mined by disregarding—

18 “(i) one taxable year for which the cor-
19 poration had the largest inflation-adjusted
20 possession income, and

21 “(ii) one taxable year for which the
22 corporation had the smallest inflation-ad-
23 justed possession income.

1 “(B) CORPORATIONS NOT HAVING SIGNIFI-
2 CANT POSSESSION INCOME THROUGHOUT 5-YEAR
3 PERIOD.—

4 “(i) IN GENERAL.—If a corporation
5 does not have significant possession income
6 for each of the most recent 5 taxable years
7 ending before October 14, 1995, then, in lieu
8 of applying subparagraph (A), the term
9 ‘base period year’ means only those taxable
10 years (of such 5 taxable years) for which the
11 corporation has significant possession in-
12 come; except that, if such corporation has
13 significant possession income for 4 of such
14 5 taxable years, the rule of subparagraph
15 (A)(ii) shall apply.

16 “(ii) SPECIAL RULE.—If there is no
17 year (of such 5 taxable years) for which a
18 corporation has significant possession in-
19 come—

20 “(I) the term ‘base period year’
21 means the first taxable year ending on
22 or after October 14, 1995, but

23 “(II) the amount of possession in-
24 come for such year which is taken into
25 account under paragraph (4) shall be

1 *the amount which would be determined*
2 *if such year were a short taxable year*
3 *ending on September 30, 1995.*

4 “(iii) *SIGNIFICANT POSSESSION IN-*
5 *COME.—For purposes of this subparagraph,*
6 *the term ‘significant possession income’*
7 *means possession income which exceeds 2*
8 *percent of the possession income of the tax-*
9 *payer for the taxable year (of the period of*
10 *6 taxable years ending with the first taxable*
11 *year ending on or after October 14, 1995)*
12 *having the greatest possession income.*

13 “(C) *ELECTION TO USE ONE BASE PERIOD*
14 *YEAR.—*

15 “(i) *IN GENERAL.—At the election of*
16 *the taxpayer, the term ‘base period year’*
17 *means—*

18 “(I) *only the last taxable year of*
19 *the corporation ending in calendar*
20 *year 1992, or*

21 “(II) *a deemed taxable year which*
22 *includes the first ten months of cal-*
23 *endar year 1995.*

24 “(ii) *BASE PERIOD INCOME FOR*
25 *1995.—In determining the adjusted base pe-*

1 *riod income of the corporation for the*
2 *deemed taxable year under clause (i)(II),*
3 *the possession income shall be annualized*
4 *and shall be determined without regard to*
5 *any extraordinary item.*

6 *“(iii) ELECTION.—An election under*
7 *this subparagraph by any possession cor-*
8 *poration may be made only for the corpora-*
9 *tion’s first taxable year beginning after De-*
10 *cember 31, 1995, for which it is a possession*
11 *corporation. The rules of subclauses (II)*
12 *and (III) of subsection (a)(4)(B)(iii) shall*
13 *apply to the election under this subpara-*
14 *graph.*

15 *“(D) ACQUISITIONS AND DISPOSITIONS.—*
16 *Rules similar to the rules of subparagraphs (A)*
17 *and (B) of section 41(f)(3) shall apply for pur-*
18 *poses of this subsection.*

19 *“(6) POSSESSION INCOME.—For purposes of this*
20 *subsection, the term ‘possession income’ means, with*
21 *respect to any possession, the income referred to in*
22 *subsection (a)(1)(A) determined with respect to that*
23 *possession. In no event shall possession income be*
24 *treated as being less than zero.*

1 “(7) *SHORT YEARS.*—*If the current year or a*
2 *base period year is a short taxable year, the applica-*
3 *tion of this subsection shall be made with such*
4 *annualizations as the Secretary shall prescribe.*

5 “(8) *SPECIAL RULES FOR CERTAIN POSSES-*
6 *SIONS.*—

7 “(A) *IN GENERAL.*—*In the case of an exist-*
8 *ing credit claimant with respect to an applicable*
9 *possession, this section (other than the preceding*
10 *paragraphs of this subsection) shall apply to*
11 *such claimant with respect to such applicable*
12 *possession for taxable years beginning after De-*
13 *cember 31, 1995, and before January 1, 2006.*

14 “(B) *APPLICABLE POSSESSION.*—*For pur-*
15 *poses of this paragraph, the term ‘applicable pos-*
16 *session’ means Guam, American Samoa, and the*
17 *Commonwealth of the Northern Mariana Islands.*

18 “(9) *EXISTING CREDIT CLAIMANT.*—*For purposes*
19 *of this subsection—*

20 “(A) *IN GENERAL.*—*The term ‘existing cred-*
21 *it claimant’ means a corporation—*

22 “(i) *which was actively conducting a*
23 *trade or business in a possession on October*
24 *13, 1995, and*

1 “(ii) with respect to which an election
2 under this section is in effect for the cor-
3 poration’s taxable year which includes Octo-
4 ber 13, 1995.

5 “(B) NEW LINES OF BUSINESS PROHIB-
6 ITED.—If, after October 13, 1995, a corporation
7 which would (but for this subparagraph) be an
8 existing credit claimant adds a substantial new
9 line of business, such corporation shall cease to
10 be treated as an existing credit claimant as of
11 the close of the taxable year ending before the
12 date of such addition.

13 “(C) BINDING CONTRACT EXCEPTION.—If,
14 on October 13, 1995, and at all times thereafter,
15 there is in effect with respect to a corporation a
16 binding contract for the acquisition of assets to
17 be used in, or for the sale of assets to be produced
18 from, a trade or business, the corporation shall
19 be treated for purposes of this paragraph as ac-
20 tively conducting such trade or business on Octo-
21 ber 13, 1995. The preceding sentence shall not
22 apply if such trade or business is not actively
23 conducted before January 1, 1996.

24 “(10) SEPARATE APPLICATION TO EACH POSSES-
25 SION.—For purposes of determining—

1 “(A) whether a taxpayer is an existing
2 credit claimant, and

3 “(B) the amount of the credit allowed under
4 this section,

5 this subsection (and so much of this section as relates
6 to this subsection) shall be applied separately with re-
7 spect to each possession.”

8 (b) *ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.*—

9 (1) *IN GENERAL.*—Subpart B of part IV of sub-
10 chapter A of chapter 1 is amended by adding at the
11 end the following new section:

12 **“SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.**

13 “(a) *ALLOWANCE OF CREDIT.*—

14 “(1) *IN GENERAL.*—Except as otherwise provided
15 in this section, if the conditions of both paragraph (1)
16 and paragraph (2) of subsection (b) are satisfied with
17 respect to a qualified domestic corporation, there shall
18 be allowed as a credit against the tax imposed by this
19 chapter an amount equal to the portion of the tax
20 which is attributable to the taxable income, from
21 sources without the United States, from—

22 “(A) the active conduct of a trade or busi-
23 ness within Puerto Rico, or

1 “(B) the sale or exchange of substantially
2 all of the assets used by the taxpayer in the ac-
3 tive conduct of such trade or business.

4 *In the case of any taxable year beginning after De-*
5 *cember 31, 2001, the aggregate amount of taxable in-*
6 *come taken into account under the preceding sentence*
7 *(and in applying subsection (d)) shall not exceed the*
8 *adjusted base period income of such corporation, as*
9 *determined in the same manner as under section*
10 *936(j).*

11 “(2) *QUALIFIED DOMESTIC CORPORATION.*—*For*
12 *purposes of paragraph (1), the term ‘qualified domes-*
13 *tic corporation’ means a domestic corporation—*

14 “(A) *which is an existing credit claimant*
15 *with respect to Puerto Rico, and*

16 “(B) *with respect to which section*
17 *936(a)(4)(B) does not apply for the taxable year.*

18 “(3) *SEPARATE APPLICATION.*—*For purposes of*
19 *determining—*

20 “(A) *whether a taxpayer is an existing*
21 *credit claimant with respect to Puerto Rico, and*

22 “(B) *the amount of the credit allowed under*
23 *this section,*

1 *this section (and so much of section 936 as relates to*
2 *this section) shall be applied separately with respect*
3 *to Puerto Rico.*

4 “(b) *CONDITIONS WHICH MUST BE SATISFIED.*—*The*
5 *conditions referred to in subsection (a) are—*

6 “(1) *3-YEAR PERIOD.*—*If 80 percent or more of*
7 *the gross income of the qualified domestic corporation*
8 *for the 3-year period immediately preceding the close*
9 *of the taxable year (or for such part of such period*
10 *immediately preceding the close of such taxable year*
11 *as may be applicable) was derived from sources with-*
12 *in a possession (determined without regard to section*
13 *904(f)).*

14 “(2) *TRADE OR BUSINESS.*—*If 75 percent or*
15 *more of the gross income of the qualified domestic cor-*
16 *poration for such period or such part thereof was de-*
17 *derived from the active conduct of a trade or business*
18 *within a possession.*

19 “(c) *CREDIT NOT ALLOWED AGAINST CERTAIN*
20 *TAXES.*—*The credit provided by subsection (a) shall not be*
21 *allowed against the tax imposed by—*

22 “(1) *section 59A (relating to environmental tax),*

23 “(2) *section 531 (relating to the tax on accumu-*
24 *lated earnings),*

1 “(3) section 541 (relating to personal holding
2 company tax), or

3 “(4) section 1351 (relating to recoveries of for-
4 eign expropriation losses).

5 “(d) *LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS*
6 *INCOME.*—*The amount of the credit determined under sub-*
7 *section (a) for any taxable year shall not exceed the sum*
8 *of the following amounts:*

9 “(1) 60 percent of the sum of—

10 “(A) the aggregate amount of the qualified
11 domestic corporation’s qualified possession wages
12 for such taxable year, plus

13 “(B) the allocable employee fringe benefit
14 expenses of the qualified domestic corporation for
15 such taxable year.

16 “(2) The sum of—

17 “(A) 15 percent of the depreciation allow-
18 ances for the taxable year with respect to short-
19 life qualified tangible property,

20 “(B) 40 percent of the depreciation allow-
21 ances for the taxable year with respect to me-
22 dium-life qualified tangible property, and

23 “(C) 65 percent of the depreciation allow-
24 ances for the taxable year with respect to long-
25 life qualified tangible property.

1 “(3) If the qualified domestic corporation does
2 not have an election to use the method described in
3 section 936(h)(5)(C)(ii) (relating to profit split) in ef-
4 fect for the taxable year, the amount of the qualified
5 possession income taxes for the taxable year allocable
6 to nonsheltered income.

7 “(e) *ADMINISTRATIVE PROVISIONS.*—For purposes of
8 *this title*—

9 “(1) the provisions of section 936 (including any
10 applicable election thereunder) shall apply in the
11 same manner as if the credit under this section were
12 a credit under section 936(a)(1)(A) for a domestic
13 corporation to which section 936(a)(4)(A) applies,

14 “(2) the credit under this section shall be treated
15 in the same manner as the credit under section 936,
16 and

17 “(3) a corporation to which this section applies
18 shall be treated in the same manner as if it were a
19 corporation electing the application of section 936.

20 “(f) *DEFINITIONS.*—For purposes of this section, any
21 *term used in this section which is also used in section 936*
22 *shall have the same meaning given such term by section*
23 *936.*

1 “(g) *APPLICATION OF SECTION.*—*This section shall*
2 *apply to taxable years beginning after December 31, 1995,*
3 *and before January 1, 2006.*”

4 (2) *CONFORMING AMENDMENTS.*—

5 (A) *Paragraph (1) of section 55(c) is*
6 *amended by striking “and the section 936 credit*
7 *allowable under section 27(b)” and inserting “,*
8 *the section 936 credit allowable under section*
9 *27(b), and the Puerto Rican economic activity*
10 *credit under section 30A”.*

11 (B) *Subclause (I) of section 56(g)(4)(C)(ii)*
12 *is amended—*

13 (i) *by inserting “30A,” before “936,”*
14 *and*

15 (ii) *by striking “and (i)” and insert-*
16 *ing “, (i), and (j)”.*

17 (C) *Clause (iii) of section 56(g)(4)(C) is*
18 *amended by adding at the end the following new*
19 *subclause:*

20 “(VI) *APPLICATION TO SECTION*
21 *30A CORPORATIONS.*—*References in this*
22 *clause to section 936 shall be treated as*
23 *including references to section 30A.”*

24 (D) *Subsection (b) of section 59 is amended*
25 *by striking “section 936,” and all that follows*

1 and inserting “section 30A or 936, alternative
2 minimum taxable income shall not include any
3 income with respect to which a credit is deter-
4 mined under section 30A or 936.”.

5 (E) The table of sections for subpart B of
6 part IV of subchapter A of chapter 1 is amended
7 by adding at the end the following new item:

 “Sec. 30A. Puerto Rican economic activity credit.”

8 (F)(i) The heading for subpart B of part IV
9 of subchapter A of chapter 1 is amended to read
10 as follows:

11 **“Subpart B—Other Credits”.**

12 (ii) The table of subparts for part IV of sub-
13 chapter A of chapter 1 is amended by striking
14 the item relating to subpart B and inserting the
15 following new item:

 “Subpart B. Other credits.”

16 (c) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply to taxable years beginning after Decem-
18 ber 31, 1995.

19 **SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON**
20 **LOANS USED TO ACQUIRE EMPLOYER SECU-**
21 **RITIES.**

22 (a) *IN GENERAL.*—Section 133 (relating to interest on
23 certain loans used to acquire employer securities) is hereby
24 repealed.

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *Subparagraph (B) of section 291(e)(1) is*
3 *amended by striking clause (iv) and by redesignating*
4 *clause (v) as clause (iv).*

5 (2) *Section 812 is amended by striking sub-*
6 *section (g).*

7 (3) *Paragraph (5) of section 852(b) is amended*
8 *by striking subparagraph (C).*

9 (4) *Paragraph (2) of section 4978(b) is amended*
10 *by striking subparagraph (A) and all that follows and*
11 *inserting the following:*

12 “(A) *first from qualified securities to which*
13 *section 1042 applied acquired during the 3-year*
14 *period ending on the date of the disposition, be-*
15 *ginning with the securities first so acquired, and*

16 “(B) *then from any other employer securi-*
17 *ties.*”

18 *If subsection (d) applies to a disposition, the disposi-*
19 *tion shall be treated as made from employer securities*
20 *in the opposite order of the preceding sentence.”.*

21 (5)(A) *Section 4978B (relating to tax on disposi-*
22 *tion of employer securities to which section 133 ap-*
23 *plied) is hereby repealed.*

1 (B) *The table of sections for chapter 43 is*
2 *amended by striking the item relating to section*
3 *4978B.*

4 (6) *Subsection (e) of section 6047 is amended by*
5 *striking paragraphs (1), (2), and (3) and inserting*
6 *the following new paragraphs:*

7 “(1) *any employer maintaining, or the plan ad-*
8 *ministrator (within the meaning of section 414(g)) of,*
9 *an employee stock ownership plan which holds stock*
10 *with respect to which section 404(k) applies to divi-*
11 *dends paid on such stock, or*

12 “(2) *both such employer or plan administrator,”.*

13 (7) *Subsection (f) of section 7872 is amended by*
14 *striking paragraph (12).*

15 (8) *The table of sections for part III of sub-*
16 *chapter B of chapter 1 is amended by striking the*
17 *item relating to section 133.*

18 (c) *EFFECTIVE DATE.—*

19 (1) *IN GENERAL.—The amendments made by*
20 *this section shall apply to loans made after October*
21 *13, 1995.*

22 (2) *REFINANCINGS.—The amendments made by*
23 *this section shall not apply to loans made after Octo-*
24 *ber 13, 1995, to refinance securities acquisition loans*
25 *(determined without regard to section 133(b)(1)(B) of*

1 *the Internal Revenue Code of 1986, as in effect on the*
2 *day before the date of the enactment of this Act) made*
3 *on or before such date or to refinance loans described*
4 *in this paragraph if—*

5 *(A) the refinancing loans meet the require-*
6 *ments of section 133 of such Code (as so in ef-*
7 *fect),*

8 *(B) immediately after the refinancing the*
9 *principal amount of the loan resulting from the*
10 *refinancing does not exceed the principal amount*
11 *of the refinanced loan (immediately before the re-*
12 *financing), and*

13 *(C) the term of such refinancing loan does*
14 *not extend beyond the last day of the term of the*
15 *original securities acquisition loan.*

16 *For purposes of this paragraph, the term “securities*
17 *acquisition loan” includes a loan from a corporation*
18 *to an employee stock ownership plan described in sec-*
19 *tion 133(b)(3) of such Code (as so in effect).*

20 *(3) EXCEPTION.—Any loan made pursuant to a*
21 *binding written contract in effect on October 13,*
22 *1995, and at all times thereafter before such loan is*
23 *made, shall be treated for purposes of paragraphs (1)*
24 *and (2) as a loan made before such date.*

1 **SEC. 1603. CERTAIN AMOUNTS DERIVED FROM FOREIGN**
2 **CORPORATIONS TREATED AS UNRELATED**
3 **BUSINESS TAXABLE INCOME.**

4 (a) *GENERAL RULE.*—Subsection (b) of section 512
5 (relating to modifications) is amended by adding at the end
6 the following new paragraph:

7 “(17) *TREATMENT OF CERTAIN AMOUNTS DE-*
8 *RIVED FROM FOREIGN CORPORATIONS.*—

9 “(A) *IN GENERAL.*—Notwithstanding para-
10 graph (1), any amount included in gross income
11 under section 951(a)(1)(A) shall be included as
12 an item of gross income derived from an unre-
13 lated trade or business to the extent the amount
14 so included is attributable to insurance income
15 (as defined in section 953) which, if derived di-
16 rectly by the organization, would be treated as
17 gross income from an unrelated trade or busi-
18 ness. There shall be allowed all deductions di-
19 rectly connected with amounts included in gross
20 income under the preceding sentence.

21 “(B) *EXCEPTION.*—Subparagraph (A) shall
22 not apply to income attributable to a policy of
23 insurance or reinsurance with respect to which
24 the person (directly or indirectly) insured is—

25 “(i) such organization,

1 “(ii) an affiliate of such organization
2 which is exempt from tax under section
3 501(a), or

4 “(iii) a director or officer of, or an in-
5 dividual who (directly or indirectly) per-
6 forms services for, such organization or af-
7 filiate but only if the insurance covers pri-
8 marily risks associated with the perform-
9 ance of services in connection with such or-
10 ganization or affiliate.

11 For purposes of this subparagraph, the deter-
12 mination as to whether an entity is an affiliate
13 of an organization shall be made under rules
14 similar to the rules of section 168(h)(4)(B).

15 “(C) REGULATIONS.—The Secretary shall
16 prescribe such regulations as may be necessary
17 or appropriate to carry out the purposes of this
18 paragraph, including regulations for the appli-
19 cation of this paragraph in the case of income
20 paid through 1 or more entities or between 2 or
21 more chains of entities.”

22 (b) EFFECTIVE DATE.—The amendment made by this
23 section shall apply to amounts included in gross income
24 in any taxable year beginning after December 31, 1995.

1 **SEC. 1604. DEPRECIATION UNDER INCOME FORECAST**
2 **METHOD.**

3 (a) *GENERAL RULE.*—Section 167 (relating to depre-
4 ciation) is amended by redesignating subsection (g) as sub-
5 section (h) and by inserting after subsection (f) the follow-
6 ing new subsection:

7 “(g) *DEPRECIATION UNDER INCOME FORECAST*
8 *METHOD.*—

9 “(1) *IN GENERAL.*—If the depreciation deduction
10 allowable under this section to any taxpayer with re-
11 spect to any property is determined under the income
12 forecast method or any similar method—

13 “(A) the income from the property to be
14 taken into account in determining the deprecia-
15 tion deduction under such method shall be equal
16 to the amount of income earned in connection
17 with the property before the close of the 10th tax-
18 able year following the taxable year in which the
19 property was placed in service,

20 “(B) the adjusted basis of the property shall
21 only include amounts with respect to which the
22 requirements of section 461(h) are satisfied,

23 “(C) the depreciation deduction under such
24 method for the 10th taxable year beginning after
25 the taxable year in which the property was
26 placed in service shall be equal to the adjusted

1 *basis of such property as of the beginning of such*
2 *10th taxable year, and*

3 “(D) *such taxpayer shall pay (or be entitled*
4 *to receive) interest computed under the look-back*
5 *method of paragraph (2) for any recomputation*
6 *year.*

7 “(2) *LOOK-BACK METHOD.—The interest com-*
8 *puted under the look-back method of this paragraph*
9 *for any recomputation year shall be determined by—*

10 “(A) *first determining the depreciation de-*
11 *ductions under this section with respect to such*
12 *property which would have been allowable for*
13 *prior taxable years if the determination of the*
14 *amounts so allowable had been made on the basis*
15 *of the sum of the following (instead of the esti-*
16 *mated income from such property)—*

17 “(i) *the actual income earned in con-*
18 *nection with such property for periods be-*
19 *fore the close of the recomputation year, and*

20 “(ii) *an estimate of the future income*
21 *to be earned in connection with such prop-*
22 *erty for periods after the recomputation*
23 *year and before the close of the 10th taxable*
24 *year following the taxable year in which the*
25 *property was placed in service,*

1 “(B) second, determining (solely for pur-
2 poses of computing such interest) the overpay-
3 ment or underpayment of tax for each such prior
4 taxable year which would result solely from the
5 application of subparagraph (A), and

6 “(C) then using the adjusted overpayment
7 rate (as defined in section 460(b)(7)),
8 compounded daily, on the overpayment or under-
9 payment determined under subparagraph (B).

10 For purposes of the preceding sentence, any cost in-
11 curred after the property is placed in service (which
12 is not treated as a separate property under para-
13 graph (5)) shall be taken into account by discounting
14 (using the Federal mid-term rate determined under
15 section 1274(d) as of the time such cost is incurred)
16 such cost to its value as of the date the property is
17 placed in service. The taxpayer may elect with respect
18 to any property to have the preceding sentence not
19 apply to such property.

20 “(3) *EXCEPTION FROM LOOK-BACK METHOD.*—
21 Paragraph (1)(D) shall not apply with respect to any
22 property which, when placed in service by the tax-
23 payer, had a basis of \$100,000 or less.

24 “(4) *RECOMPUTATION YEAR.*—For purposes of
25 this subsection, except as provided in regulations, the

1 *term ‘recomputation year’ means, with respect to any*
2 *property, the 3d and the 10th taxable years beginning*
3 *after the taxable year in which the property was*
4 *placed in service, unless the actual income earned in*
5 *connection with the property for the period before the*
6 *close of such 3d or 10th taxable year is within 10 per-*
7 *cent of the income earned in connection with the*
8 *property for such period which was taken into ac-*
9 *count under paragraph (1)(A).*

10 *“(5) SPECIAL RULES.—*

11 *“(A) CERTAIN COSTS TREATED AS SEPA-*
12 *RATE PROPERTY.—For purposes of this sub-*
13 *section, the following costs shall be treated as*
14 *separate properties:*

15 *“(i) Any costs incurred with respect to*
16 *any property after the 10th taxable year be-*
17 *ginning after the taxable year in which the*
18 *property was placed in service.*

19 *“(ii) Any costs incurred after the prop-*
20 *erty is placed in service and before the close*
21 *of such 10th taxable year if such costs are*
22 *significant and give rise to a significant in-*
23 *crease in the income from the property*
24 *which was not included in the estimated in-*
25 *come from the property.*

1 “(B) *SYNDICATION INCOME FROM TELE-*
2 *VISION SERIES.*—*In the case of property which is*
3 *an episode in a television series, income from*
4 *syndicating such series shall not be required to*
5 *be taken into account under this subsection be-*
6 *fore the earlier of—*

7 “(i) *the 4th taxable year beginning*
8 *after the date the first episode in such series*
9 *is placed in service, or*

10 “(ii) *the earliest taxable year in which*
11 *the taxpayer has an arrangement relating*
12 *to the future syndication of such series.*

13 “(C) *SPECIAL RULES FOR FINANCIAL EX-*
14 *PLOITATION OF CHARACTERS, ETC.*—*For pur-*
15 *poses of this subsection, in the case of television*
16 *and motion picture films, the income from the*
17 *property shall include income from the exploi-*
18 *tation of characters, designs, scripts, scores, and*
19 *other incidental income associated with such*
20 *films, but only to the extent that such income is*
21 *earned in connection with the ultimate use of*
22 *such items by, or the ultimate sale of merchan-*
23 *dise to, persons who are not related persons*
24 *(within the meaning of section 267(b)) to the*
25 *taxpayer.*

1 “(D) *COLLECTION OF INTEREST.*—For pur-
2 poses of subtitle F (other than sections 6654 and
3 6655), any interest required to be paid by the
4 taxpayer under paragraph (1) for any recom-
5 putation year shall be treated as an increase in
6 the tax imposed by this chapter for such year.

7 “(E) *DETERMINATIONS.*—For purposes of
8 paragraph (2), determinations of the amount of
9 income earned in connection with any property
10 shall be made in the same manner as for pur-
11 poses of applying the income forecast method; ex-
12 cept that any income from the disposition of
13 such property shall be taken into account.

14 “(F) *TREATMENT OF PASS-THRU ENTI-*
15 *TIES.*—Rules similar to the rules of section
16 460(b)(4) shall apply for purposes of this sub-
17 section.”

18 (b) *EFFECTIVE DATE.*—

19 (1) *IN GENERAL.*—The amendment made by sub-
20 section (a) shall apply to property placed in service
21 after September 13, 1995.

22 (2) *BINDING CONTRACTS.*—The amendment
23 made by subsection (a) shall not apply to any prop-
24 erty produced or acquired by the taxpayer pursuant
25 to a written contract which was binding on Septem-

1 *ber 13, 1995, and at all times thereafter before such*
2 *production or acquisition.*

3 **SEC. 1605. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES**
4 **AND FOR DAMAGES NOT ATTRIBUTABLE TO**
5 **PHYSICAL INJURIES OR SICKNESS.**

6 (a) *IN GENERAL.*—*Paragraph (2) of section 104(a)*
7 *(relating to compensation for injuries or sickness) is amend-*
8 *ed to read as follows:*

9 “(2) *the amount of any damages (other than pu-*
10 *nitive damages) received (whether by suit or agree-*
11 *ment and whether as lump sums or as periodic pay-*
12 *ments) on account of personal physical injuries or*
13 *physical sickness;”.*

14 (b) *EMOTIONAL DISTRESS AS SUCH TREATED AS NOT*
15 *PHYSICAL INJURY OR PHYSICAL SICKNESS.*—*Section*
16 *104(a) is amended by striking the last sentence and insert-*
17 *ing the following new sentence: “For purposes of paragraph*
18 *(2), emotional distress shall not be treated as a physical*
19 *injury or physical sickness. The preceding sentence shall not*
20 *apply to an amount of damages not in excess of the amount*
21 *paid for medical care (described in subparagraph (A) or*
22 *(B) of section 213(d)(1)) attributable to emotional dis-*
23 *tress.”.*

24 (c) *APPLICATION OF PRIOR LAW FOR STATES IN*
25 *WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN*

1 *WRONGFUL DEATH ACTIONS.*—*Section 104 is amended by*
2 *redesignating subsection (c) as subsection (d) and by insert-*
3 *ing after subsection (b) the following new subsection:*

4 “(c) *APPLICATION OF PRIOR LAW IN CERTAIN*
5 *CASES.*—*The phrase ‘(other than punitive damages)’ shall*
6 *not apply to punitive damages awarded in a civil action—*

7 “(1) *which is a wrongful death action, and*

8 “(2) *with respect to which applicable State law*
9 *(as in effect on September 13, 1995 and without re-*
10 *gard to any modification after such date) provides, or*
11 *has been construed to provide by a court of competent*
12 *jurisdiction pursuant to a decision issued on or before*
13 *September 13, 1995, that only punitive damages may*
14 *be awarded in such an action.*

15 *This subsection shall cease to apply to any civil action filed*
16 *on or after the first date on which the applicable State law*
17 *ceases to provide (or is no longer construed to provide) the*
18 *treatment described in paragraph (2).”*

19 (d) *EFFECTIVE DATE.*—

20 (1) *IN GENERAL.*—*Except as provided in para-*
21 *graph (2), the amendments made by this section shall*
22 *apply to amounts received after June 30, 1996, in*
23 *taxable years ending after such date.*

24 (2) *EXCEPTION.*—*The amendments made by this*
25 *section shall not apply to any amount received under*

1 **Subtitle G—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 during a
25 calendar year, and

1 “(B) to assure proper reduction of such
2 credit for persons producing more than 150,000
3 wine gallons of wine during a calendar year.”

4 (6) Paragraph (3) of section 5061(b) is 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)(A) Section 2701(b)(2) is amended by adding
2 at the end thereof the following new subparagraph:

3 “(C) *APPLICABLE FAMILY MEMBER.*—For
4 purposes of this subsection, the term ‘applicable
5 family member’ includes any lineal descendant
6 of any parent of the transferor or the transferor’s
7 spouse.”

8 (B) Section 2701(e)(3) is amended—

9 (i) by striking subparagraph (B), and

10 (ii) by striking so much of paragraph (3) as
11 precedes “shall be treated as holding” and insert-
12 ing:

13 “(3) *ATTRIBUTION OF INDIRECT HOLDINGS AND*
14 *TRANSFERS.*—An individual”.

15 (C) Section 2704(c)(3) is amended by striking
16 “section 2701(e)(3)(A)” and inserting “section
17 2701(e)(3)”.

18 (4) Clause (i) of section 2701(c)(1)(B) is amend-
19 ed to read as follows:

20 “(i) a right to distributions with re-
21 spect to any interest which is junior to the
22 rights of the transferred interest,”.

23 (5)(A) Clause (i) of section 2701(c)(3)(C) is
24 amended to read as follows:

1 “(i) *IN GENERAL.—Payments under*
2 *any interest held by a transferor which*
3 *(without regard to this subparagraph) are*
4 *qualified payments shall be treated as*
5 *qualified payments unless the transferor*
6 *elects not to treat such payments as quali-*
7 *fied payments. Payments described in the*
8 *preceding sentence which are held by an ap-*
9 *plicable family member shall be treated as*
10 *qualified payments only if such member*
11 *elects to treat such payments as qualified*
12 *payments.”*

13 (B) *The first sentence of section 2701(c)(3)(C)(ii)*
14 *is amended to read as follows: “A transferor or appli-*
15 *cable family member holding any distribution right*
16 *which (without regard to this subparagraph) is not a*
17 *qualified payment may elect to treat such right as a*
18 *qualified payment, to be paid in the amounts and at*
19 *the times specified in such election.”.*

20 (C) *The time for making an election under the*
21 *second sentence of section 2701(c)(3)(C)(i) of the In-*
22 *ternal Revenue Code of 1986 (as amended by sub-*
23 *paragraph (A)) shall not expire before the due date*
24 *(including extensions) for filing the transferor’s re-*
25 *turn of the tax imposed by section 2501 of such Code*

1 *for the first calendar year ending after the date of en-*
2 *actment.*

3 (6) *Section 2701(d)(3)(A)(iii) is amended by*
4 *striking “the period ending on the date of”.*

5 (7) *Subclause (I) of section 2701(d)(3)(B)(ii) is*
6 *amended by inserting “or the exclusion under section*
7 *2503(b),” after “section 2523,”.*

8 (8) *Section 2701(e)(5) is amended—*

9 (A) *by striking “such contribution to cap-*
10 *ital or such redemption, recapitalization, or*
11 *other change” in subparagraph (A) and insert-*
12 *ing “such transaction”, and*

13 (B) *by striking “the transfer” in subpara-*
14 *graph (B) and inserting “such transaction”.*

15 (9) *Section 2701(d)(4) is amended by adding at*
16 *the end thereof the following new subparagraph:*

17 “(C) *TRANSFER TO TRANSFERORS.—In the*
18 *case of a taxable event described in paragraph*
19 *(3)(A)(ii) involving a transfer of an applicable*
20 *retained interest from an applicable family*
21 *member to a transferor, this subsection shall con-*
22 *tinue to apply to the transferor during any pe-*
23 *riod the transferor holds such interest.”*

1 (10) Section 2701(e)(6) is amended by inserting
2 “or to reflect the application of subsection (d)” before
3 the period at the end thereof.

4 (11)(A) Section 2702(a)(3)(A) is amended—

5 (i) by striking “to the extent” and inserting
6 “if” in clause (i),

7 (ii) by striking “or” at the end of clause (i),

8 (iii) by striking the period at the end of
9 clause (ii) and inserting “, or”, and

10 (iv) by adding at the end thereof the follow-
11 ing new clause:

12 “(iii) to the extent that regulations
13 provide that such transfer is not inconsis-
14 tent with the purposes of this section.”

15 (B)(i) Section 2702(a)(3) is amended by striking
16 “incomplete transfer” each place it appears and in-
17 serting “incomplete gift”.

18 (ii) The heading for section 2702(a)(3)(B) is
19 amended by striking “INCOMPLETE TRANSFER” and
20 inserting “INCOMPLETE GIFT”.

21 (g) AMENDMENTS RELATED TO SUBTITLE G.—

22 (1)(A) Subsection (a) of section 1248 is
23 amended—

24 (i) by striking “, or if a United States per-
25 son receives a distribution from a foreign cor-

1 *poration which, under section 302 or 331, is*
2 *treated as an exchange of stock” in paragraph*
3 *(1), and*

4 *(ii) by adding at the end thereof the follow-*
5 *ing new sentence: “For purposes of this section,*
6 *a United States person shall be treated as having*
7 *sold or exchanged any stock if, under any provi-*
8 *sion of this subtitle, such person is treated as re-*
9 *alizing gain from the sale or exchange of such*
10 *stock.”.*

11 *(B) Paragraph (1) of section 1248(e) is amended*
12 *by striking “, or receives a distribution from a domes-*
13 *tic corporation which, under section 302 or 331, is*
14 *treated as an exchange of stock”.*

15 *(C) Subparagraph (B) of section 1248(f)(1) is*
16 *amended by striking “or 361(c)(1)” and inserting*
17 *“355(c)(1), or 361(c)(1)”.*

18 *(D) Paragraph (1) of section 1248(i) is amended*
19 *to read as follows:*

20 *“(1) IN GENERAL.—If any shareholder of a 10-*
21 *percent corporate shareholder of a foreign corporation*
22 *exchanges stock of the 10-percent corporate share-*
23 *holder for stock of the foreign corporation, such 10-*
24 *percent corporate shareholder shall recognize gain in*

1 *the same manner as if the stock of the foreign cor-*
2 *poration received in such exchange had been—*

3 *“(A) issued to the 10-percent corporate*
4 *shareholder, and*

5 *“(B) then distributed by the 10-percent cor-*
6 *porate shareholder to such shareholder in re-*
7 *demption or liquidation (whichever is appro-*
8 *priate).*

9 *The amount of gain recognized by such 10-percent*
10 *corporate shareholder under the preceding sentence*
11 *shall not exceed the amount treated as a dividend*
12 *under this section.”*

13 *(2) Section 897 is amended by striking sub-*
14 *section (f).*

15 *(3) Paragraph (13) of section 4975(d) is*
16 *amended by striking “section 408(b)” and inserting*
17 *“section 408(b)(12)”.*

18 *(4) Clause (iii) of section 56(g)(4)(D) is*
19 *amended by inserting “, but only with respect to tax-*
20 *able years beginning after December 31, 1989” before*
21 *the period at the end thereof.*

22 *(5)(A) Paragraph (11) of section 11701(a) of the*
23 *Revenue Reconciliation Act of 1990 (and the amend-*
24 *ment made by such paragraph) are hereby repealed,*
25 *and section 7108(r)(2) of the Revenue Reconciliation*

1 *Act of 1989 shall be applied as if such paragraph*
2 *(and amendment) had never been enacted.*

3 *(B) Subparagraph (A) shall not apply to any*
4 *building if the owner of such building establishes to*
5 *the satisfaction of the Secretary of the Treasury or his*
6 *delegate that such owner reasonably relied on the*
7 *amendment made by such paragraph (11).*

8 *(h) AMENDMENTS RELATED TO SUBTITLE H.—*

9 *(1)(A) Clause (vi) of section 168(e)(3)(B) is*
10 *amended by striking “or” at the end of subclause (I),*
11 *by striking the period at the end of subclause (II) and*
12 *inserting “, or”, and by adding at the end thereof the*
13 *following new subclause:*

14 *“(III) is described in section*
15 *48(l)(3)(A)(ix) (as in effect on the day*
16 *before the date of the enactment of the*
17 *Revenue Reconciliation Act of 1990).”*

18 *(B) Subparagraph (B) of section 168(e)(3) (re-*
19 *lating to 5-year property) is amended by adding at*
20 *the end the following flush sentence:*

21 *“Nothing in any provision of law shall be con-*
22 *strued to treat property as not being described in*
23 *clause (vi)(I) (or the corresponding provisions of*
24 *prior law) by reason of being public utility*

1 *property (within the meaning of section*
2 *48(a)(3)).”*

3 *(C) Subparagraph (K) of section 168(g)(4) is*
4 *amended by striking “section 48(a)(3)(A)(iii)” and*
5 *inserting “section 48(l)(3)(A)(ix) (as in effect on the*
6 *day before the date of the enactment of the Revenue*
7 *Reconciliation Act of 1990)”.*

8 *(2) Clause (ii) of section 172(b)(1)(E) is amend-*
9 *ed by striking “subsection (m)” and inserting “sub-*
10 *section (h)”.*

11 *(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II),*
12 *and 832(b)(5)(D)(ii)(II) are each amended by strik-*
13 *ing “243(b)(5)” and inserting “243(b)(2)”.*

14 *(4) Subparagraph (A) of section 243(b)(3) is*
15 *amended by inserting “of” after “In the case”.*

16 *(5) The subsection heading for subsection (a) of*
17 *section 280F is amended by striking “INVESTMENT*
18 *TAX CREDIT AND”.*

19 *(6) Clause (i) of section 1504(c)(2)(B) is amend-*
20 *ed by inserting “section” before “243(b)(2)”.*

21 *(7) Paragraph (3) of section 341(f) is amended*
22 *by striking “351, 361, 371(a), or 374(a)” and insert-*
23 *ing “351, or 361”.*

24 *(8) Paragraph (2) of section 243(b) is amended*
25 *to read as follows:*

1 “(2) *AFFILIATED GROUP.*—*For purposes of this*
2 *subsection:*

3 “(A) *IN GENERAL.*—*The term ‘affiliated*
4 *group’ has the meaning given such term by sec-*
5 *tion 1504(a), except that for such purposes sec-*
6 *tions 1504(b)(2), 1504(b)(4), and 1504(c) shall*
7 *not apply.*

8 “(B) *GROUP MUST BE CONSISTENT IN FOR-*
9 *EIGN TAX TREATMENT.*—*The requirements of*
10 *paragraph (1)(A) shall not be treated as being*
11 *met with respect to any dividend received by a*
12 *corporation if, for any taxable year which in-*
13 *cludes the day on which such dividend is re-*
14 *ceived—*

15 “(i) *1 or more members of the affili-*
16 *ated group referred to in paragraph (1)(A)*
17 *choose to any extent to take the benefits of*
18 *section 901, and*

19 “(ii) *1 or more other members of such*
20 *group claim to any extent a deduction for*
21 *taxes otherwise creditable under section*
22 *901.”*

23 (9) *The amendment made by section*
24 *11813(b)(17) of the Revenue Reconciliation Act of*
25 *1990 shall be applied as if the material stricken by*

1 *such amendment included the closing parenthesis*
2 *after “section 48(a)(5)”.*

3 *(10) Paragraph (1) of section 179(d) is amended*
4 *by striking “in a trade or business” and inserting “a*
5 *trade or business”.*

6 *(11) Subparagraph (E) of section 50(a)(2) is*
7 *amended by striking “section 48(a)(5)(A)” and in-*
8 *serting “section 48(a)(5)”.*

9 *(12) The amendment made by section*
10 *11801(c)(9)(G)(ii) of the Revenue Reconciliation Act*
11 *of 1990 shall be applied as if it struck “Section*
12 *422A(c)(2)” and inserted “Section 422(c)(2)”.*

13 *(13) Subparagraph (B) of section 424(c)(3) is*
14 *amended by striking “a qualified stock option, an in-*
15 *centive stock option, an option granted under an em-*
16 *ployee stock purchase plan, or a restricted stock op-*
17 *tion” and inserting “an incentive stock option or an*
18 *option granted under an employee stock purchase*
19 *plan”.*

20 *(14) Subparagraph (E) of section 1367(a)(2) is*
21 *amended by striking “section 613A(c)(13)(B)” and*
22 *inserting “section 613A(c)(11)(B)”.*

23 *(15) Subparagraph (B) of section 460(e)(6) is*
24 *amended by striking “section 167(k)” and inserting*
25 *“section 168(e)(2)(A)(ii)”.*

1 (16) *Subparagraph (C) of section 172(h)(4) is*
2 *amended by striking “subsection (b)(1)(M)” and in-*
3 *serting “subsection (b)(1)(E)”.*

4 (17) *Section 6503 is amended—*

5 *(A) by redesignating the subsection relating*
6 *to extension in case of certain summonses as sub-*
7 *section (j), and*

8 *(B) by redesignating the subsection relating*
9 *to cross references as subsection (k).*

10 (18) *Paragraph (4) of section 1250(e) is hereby*
11 *repealed.*

12 (i) *EFFECTIVE DATE.—Except as otherwise expressly*
13 *provided—*

14 (1) *the amendments made by this section shall be*
15 *treated as amendments to the Internal Revenue Code*
16 *of 1986 as amended by the Revenue Reconciliation*
17 *Act of 1993; and*

18 (2) *any amendment made by this section shall*
19 *apply to periods before the date of the enactment of*
20 *this section in the same manner as if it had been in-*
21 *cluded in the provision of the Revenue Reconciliation*
22 *Act of 1990 to which such amendment relates.*

1 **SEC. 1703. AMENDMENTS RELATED TO REVENUE REC-**
2 **ONCILIATION ACT OF 1993.**

3 (a) *AMENDMENT RELATED TO SECTION 13114.—*
4 *Paragraph (2) of section 1044(c) is amended to read as fol-*
5 *lows:*

6 “(2) *PURCHASE.—The taxpayer shall be consid-*
7 *ered to have purchased any property if, but for sub-*
8 *section (d), the unadjusted basis of such property*
9 *would be its cost within the meaning of section 1012.”*

10 (b) *AMENDMENTS RELATED TO SECTION 13142.—*

11 (1) *Subparagraph (B) of section 13142(b)(6) of*
12 *the Revenue Reconciliation Act of 1993 is amended to*
13 *read as follows:*

14 “(B) *FULL-TIME STUDENTS, WAIVER AU-*
15 *THORITY, AND PROHIBITED DISCRIMINATION.—*
16 *The amendments made by paragraphs (2), (3),*
17 *and (4) shall take effect on the date of the enact-*
18 *ment of this Act.”*

19 (2) *Subparagraph (C) of section 13142(b)(6) of*
20 *such Act is amended by striking “paragraph (2)” and*
21 *inserting “paragraph (5)”.*

22 (c) *AMENDMENT RELATED TO SECTION 13161.—*

23 (1) *IN GENERAL.—Subsection (e) of section 4001*
24 *(relating to inflation adjustment) is amended to read*
25 *as follows:*

26 “(e) *INFLATION ADJUSTMENT.—*

1 “(1) *IN GENERAL.*—The \$30,000 amount in sub-
2 section (a) and section 4003(a) shall be increased by
3 an amount equal to—

4 “(A) \$30,000, multiplied by

5 “(B) the cost-of-living adjustment under sec-
6 tion 1(f)(3) for the calendar year in which the
7 vehicle is sold, determined by substituting ‘cal-
8 endar year 1990’ for ‘calendar year 1992’ in
9 subparagraph (B) thereof.

10 “(2) *ROUNDING.*—If any amount as adjusted
11 under paragraph (1) is not a multiple of \$2,000, such
12 amount shall be rounded to the next lowest multiple
13 of \$2,000.”

14 (2) *EFFECTIVE DATE.*—The amendment made by
15 paragraph (1) shall take effect on the date of the en-
16 actment of this Act.

17 (d) *AMENDMENT RELATED TO SECTION 13201.*—
18 Clause (ii) of section 135(b)(2)(B) is amended by inserting
19 before the period at the end thereof the following: “, deter-
20 mined by substituting ‘calendar year 1989’ for ‘calendar
21 year 1992’ in subparagraph (B) thereof”.

22 (e) *AMENDMENTS RELATED TO SECTION 13203.*—Sub-
23 section (a) of section 59 is amended—

24 (1) by striking “the amount determined under
25 section 55(b)(1)(A)” in paragraph (1)(A) and

1 (2)(A)(i) and inserting “the pre-credit tentative mini-
2 mum tax”,

3 (2) by striking “specified in section 55(b)(1)(A)”
4 in paragraph (1)(C) and inserting “specified in sub-
5 paragraph (A)(i) or (B)(i) of section 55(b)(1) (which-
6 ever applies)”,

7 (3) by striking “which would be determined
8 under section 55(b)(1)(A)” in paragraph (2)(A)(ii)
9 and inserting “which would be the pre-credit tentative
10 minimum tax”, and

11 (4) by adding at the end thereof the following
12 new paragraph:

13 “(3) *PRE-CREDIT TENTATIVE MINIMUM TAX.*—
14 For purposes of this subsection, the term ‘pre-credit
15 tentative minimum tax’ means—

16 “(A) in the case of a taxpayer other than a
17 corporation, the amount determined under the
18 first sentence of section 55(b)(1)(A)(i), or

19 “(B) in the case of a corporation, the
20 amount determined under section
21 55(b)(1)(B)(i).”

22 (f) *AMENDMENT RELATED TO SECTION 13221.*—Sec-
23 tions 1201(a) and 1561(a) are each amended by striking
24 “last sentence” each place it appears and inserting “last
25 2 sentences”.

1 (g) *AMENDMENTS RELATED TO SECTION 13222.*—

2 (1) *Subparagraph (B) of section 6033(e)(1) is*
3 *amended by adding at the end thereof the following*
4 *new clause:*

5 “(iii) *COORDINATION WITH SECTION*
6 *527(f).*—*This subsection shall not apply to*
7 *any amount on which tax is imposed by*
8 *reason of section 527(f).*”.

9 (2) *Clause (i) of section 6033(e)(1)(B) is amend-*
10 *ed by striking “this subtitle” and inserting “section*
11 *501”.*

12 (h) *AMENDMENT RELATED TO SECTION 13225.*—*Para-*
13 *graph (3) of section 6655(g) is amended by striking all that*
14 *follows “‘3rd month’” in the sentence following subpara-*
15 *graph (C) and inserting “, subsection (e)(2)(A) shall be ap-*
16 *plied by substituting ‘2 months’ for ‘3 months’ in clause*
17 *(i)(I), the election under clause (i) of subsection (e)(2)(C)*
18 *may be made separately for each installment, and clause*
19 *(ii) of subsection (e)(2)(C) shall not apply.*”.

20 (i) *AMENDMENTS RELATED TO SECTION 13231.*—

21 (1) *Subparagraph (G) of section 904(d)(3) is*
22 *amended by striking “section 951(a)(1)(B)” and in-*
23 *serting “subparagraph (B) or (C) of section*
24 *951(a)(1)”.*

1 (2) Paragraph (1) of section 956A(b) is amended
2 to read as follows:

3 “(1) the amount (not including a deficit) re-
4 ferred to in section 316(a)(1) to the extent such
5 amount was accumulated in prior taxable years be-
6 ginning after September 30, 1993, and”.

7 (3) Subsection (f) of section 956A is amended by
8 inserting before the period at the end thereof: “and
9 regulations coordinating the provisions of subsections
10 (c)(3)(A) and (d)”.

11 (4) Subsection (b) of section 958 is amended by
12 striking “956(b)(2)” each place it appears and insert-
13 ing “956(c)(2)”.

14 (5)(A) Subparagraph (A) of section 1297(d)(2) is
15 amended by striking “The adjusted basis of any
16 asset” and inserting “The amount taken into account
17 under section 1296(a)(2) with respect to any asset”.

18 (B) The paragraph heading of paragraph (2) of
19 section 1297(d) is amended to read as follows:

20 “(2) AMOUNT TAKEN INTO ACCOUNT.—”.

21 (6) Subsection (e) of section 1297 is amended by
22 inserting “For purposes of this part—” after the sub-
23 section heading.

1 (j) *AMENDMENT RELATED TO SECTION 13241.*—Sub-
2 *paragraph (B) of section 40(e)(1) is amended to read as*
3 *follows:*

4 “(B) *for any period before January 1, 2001,*
5 *during which the rates of tax under section*
6 *4081(a)(2)(A) are 4.3 cents per gallon.”*

7 (k) *AMENDMENT RELATED TO SECTION 13261.*—
8 *Clause (iii) of section 13261(g)(2)(A) of the Revenue Rec-*
9 *onciliation Act of 1993 is amended by striking “by the tax-*
10 *payer” and inserting “by the taxpayer or a related person”.*

11 (l) *AMENDMENT RELATED TO SECTION 13301.*—Sub-
12 *paragraph (B) of section 1397B(d)(5) is amended by strik-*
13 *ing “preceding”.*

14 (m) *CLERICAL AMENDMENTS.*—

15 (1) *Subsection (d) of section 39 is amended—*

16 (A) *by striking “45” in the heading of*
17 *paragraph (5) and inserting “45A”, and*

18 (B) *by striking “45” in the heading of*
19 *paragraph (6) and inserting “45B”.*

20 (2) *Subparagraph (A) of section 108(d)(9) is*
21 *amended by striking “paragraph (3)(B)” and insert-*
22 *ing “paragraph (3)(C)”.*

23 (3) *Subparagraph (C) of section 143(d)(2) is*
24 *amended by striking the period at the end thereof and*
25 *inserting a comma.*

1 (4) *Clause (ii) of section 163(j)(6)(E) is amended*
2 *by striking “which is a” and inserting “which is”.*

3 (5) *Subparagraph (A) of section 1017(b)(4) is*
4 *amended by striking “subsection (b)(2)(D)” and in-*
5 *serting “subsection (b)(2)(E)”.*

6 (6) *So much of section 1245(a)(3) as precedes*
7 *subparagraph (A) thereof is amended to read as*
8 *follows:*

9 “(3) *SECTION 1245 PROPERTY.—For purposes of*
10 *this section, the term ‘section 1245 property’ means*
11 *any property which is or has been property of a char-*
12 *acter subject to the allowance for depreciation pro-*
13 *vided in section 167 and is either—”.*

14 (7) *Paragraph (2) of section 1394(e) is amend-*
15 *ed—*

16 (A) *by striking “(i)” and inserting “(A)”,*
17 *and*

18 (B) *by striking “(ii)” and inserting “(B)”.*

19 (8) *Subsection (m) of section 6501 (as redesign-*
20 *ated by section 1602) is amended by striking “or*
21 *51(j)” and inserting “45B, or 51(j)”.*

22 (9)(A) *The section 6714 added by section*
23 *13242(b)(1) of the Revenue Reconciliation Act of 1993*
24 *is hereby redesignated as section 6715.*

1 (B) *The table of sections for part I of subchapter*
2 *B of chapter 68 is amended by striking “6714” in the*
3 *item added by such section 13242(b)(2) of such Act*
4 *and inserting “6715”.*

5 (10) *Paragraph (2) of section 9502(b) is amend-*
6 *ed by inserting “and before” after “1982,”.*

7 (11) *Subsection (a)(3) of section 13206 of the*
8 *Revenue Reconciliation Act of 1993 is amended by*
9 *striking “this section” and inserting “this sub-*
10 *section”.*

11 (12) *Paragraph (1) of section 13215(c) of the*
12 *Revenue Reconciliation Act of 1993 is amended by*
13 *striking “Public Law 92–21” and inserting “Public*
14 *Law 98–21”.*

15 (13) *Paragraph (2) of section 13311(e) of the*
16 *Revenue Reconciliation Act of 1993 is amended by*
17 *striking “section 1393(a)(3)” and inserting “section*
18 *1393(a)(2)”.*

19 (14) *Subparagraph (B) of section 117(d)(2) is*
20 *amended by striking “section 132(f)” and inserting*
21 *“section 132(h)”.*

22 (n) *EFFECTIVE DATE.—Any amendment made by this*
23 *section shall take effect as if included in the provision of*
24 *the Revenue Reconciliation Act of 1993 to which such*
25 *amendment relates.*

1 **SEC. 1704. MISCELLANEOUS PROVISIONS.**

2 (a) *APPLICATION OF AMENDMENTS MADE BY TITLE*
3 *XII OF OMNIBUS BUDGET RECONCILIATION ACT OF*
4 *1990.—Except as otherwise expressly provided, whenever in*
5 *title XII of the Omnibus Budget Reconciliation Act of 1990*
6 *an amendment or repeal is expressed in terms of an amend-*
7 *ment to, or repeal of, a section or other provision, the ref-*
8 *erence shall be considered to be made to a section or other*
9 *provision of the Internal Revenue Code of 1986.*

10 (b) *TREATMENT OF CERTAIN AMOUNTS UNDER*
11 *HEDGE BOND RULES.—*

12 (1) *Clause (iii) of section 149(g)(3)(B) is amend-*
13 *ed to read as follows:*

14 “(iii) *AMOUNTS HELD PENDING REIN-*
15 *VESTMENT OR REDEMPTION.—Amounts held*
16 *for not more than 30 days pending reinvest-*
17 *ment or bond redemption shall be treated as*
18 *invested in bonds described in clause (i).”*

19 (2) *The amendment made by paragraph (1) shall*
20 *take effect as if included in the amendments made by*
21 *section 7651 of the Omnibus Budget Reconciliation*
22 *Act of 1989.*

23 (c) *TREATMENT OF CERTAIN DISTRIBUTIONS UNDER*
24 *SECTION 1445.—*

25 (1) *IN GENERAL.—Paragraph (3) of section*
26 *1445(e) is amended by adding at the end thereof the*

1 following new sentence: “Rules similar to the rules of
2 the preceding provisions of this paragraph shall
3 apply in the case of any distribution to which section
4 301 applies and which is not made out of the earn-
5 ings and profits of such a domestic corporation.”

6 (2) *EFFECTIVE DATE.*—The amendment made by
7 paragraph (1) shall apply to distributions after the
8 date of the enactment of this Act.

9 (d) *TREATMENT OF CERTAIN CREDITS UNDER SEC-*
10 *TION 469.*—

11 (1) *IN GENERAL.*—Subparagraph (B) of section
12 469(c)(3) is amended by adding at the end thereof the
13 following new sentence: “If the preceding sentence ap-
14 plies to the net income from any property for any
15 taxable year, any credits allowable under subpart B
16 (other than section 27(a)) or D of part IV of sub-
17 chapter A for such taxable year which are attributable
18 to such property shall be treated as credits not from
19 a passive activity to the extent the amount of such
20 credits does not exceed the regular tax liability of the
21 taxpayer for the taxable year which is allocable to
22 such net income.”

23 (2) *EFFECTIVE DATE.*—The amendment made by
24 paragraph (1) shall apply to taxable years beginning
25 after December 31, 1986.

1 (e) *TREATMENT OF DISPOSITIONS UNDER PASSIVE*
2 *LOSS RULES.*—

3 (1) *IN GENERAL.*—Subparagraph (A) of section
4 469(g)(1) is amended to read as follows:

5 “(A) *IN GENERAL.*—If all gain or loss real-
6 ized on such disposition is recognized, the excess
7 of—

8 “(i) any loss from such activity for
9 such taxable year (determined after the ap-
10 plication of subsection (b)), over

11 “(ii) any net income or gain for such
12 taxable year from all other passive activities
13 (determined after the application of sub-
14 section (b)),

15 shall be treated as a loss which is not from a
16 passive activity.”

17 (2) *EFFECTIVE DATE.*—The amendment made by
18 paragraph (1) shall apply to taxable years beginning
19 after December 31, 1986.

20 (f) *MISCELLANEOUS AMENDMENTS TO FOREIGN PRO-*
21 *VISIONS.*—

22 (1) *COORDINATION OF UNIFIED ESTATE TAX*
23 *CREDIT WITH TREATIES.*—Subparagraph (A) of sec-
24 tion 2102(c)(3) is amended by adding at the end
25 thereof the following new sentence: “For purposes of

1 *the preceding sentence, property shall not be treated*
2 *as situated in the United States if such property is*
3 *exempt from the tax imposed by this subchapter*
4 *under any treaty obligation of the United States.”*

5 (2) *TREATMENT OF CERTAIN INTEREST PAID TO*
6 *RELATED PERSON.—*

7 (A) *Subparagraph (B) of section 163(j)(1)*
8 *is amended by inserting before the period at the*
9 *end thereof the following: “(and clause (ii) of*
10 *paragraph (2)(A) shall not apply for purposes of*
11 *applying this subsection to the amount so treat-*
12 *ed)”.*

13 (B) *Subsection (j) of section 163 is amended*
14 *by redesignating paragraph (7) as paragraph*
15 *(8) and by inserting after paragraph (6) the fol-*
16 *lowing new paragraph:*

17 “(7) *COORDINATION WITH PASSIVE LOSS RULES,*
18 *ETC.—This subsection shall be applied before sections*
19 *465 and 469.”*

20 (C) *The amendments made by this para-*
21 *graph shall apply as if included in the amend-*
22 *ments made by section 7210(a) of the Revenue*
23 *Reconciliation Act of 1989.*

24 (3) *TREATMENT OF INTEREST ALLOCABLE TO*
25 *EFFECTIVELY CONNECTED INCOME.—*

1 (A) *IN GENERAL.*—

2 (i) *Subparagraph (B) of section*
3 *884(f)(1) is amended by striking “to the ex-*
4 *tent” and all that follows down through*
5 *“subparagraph (A)” and inserting “to the*
6 *extent that the allocable interest exceeds the*
7 *interest described in subparagraph (A)”.*

8 (ii) *The second sentence of section*
9 *884(f)(1) is amended by striking “reason-*
10 *ably expected” and all that follows down*
11 *through the period at the end thereof and*
12 *inserting “reasonably expected to be alloca-*
13 *ble interest.”*

14 (iii) *Paragraph (2) of section 884(f) is*
15 *amended to read as follows:*

16 “(2) *ALLOCABLE INTEREST.*—*For purposes of*
17 *this subsection, the term ‘allocable interest’ means any*
18 *interest which is allocable to income which is effec-*
19 *tively connected (or treated as effectively connected)*
20 *with the conduct of a trade or business in the United*
21 *States.”*

22 (B) *EFFECTIVE DATE.*—*The amendments*
23 *made by subparagraph (A) shall take effect as if*
24 *included in the amendments made by section*
25 *1241(a) of the Tax Reform Act of 1986.*

1 (4) *CLARIFICATION OF SOURCE RULE.*—

2 (A) *IN GENERAL.*—Paragraph (2) of section
3 865(b) is amended by striking “863(b)” and in-
4 serting “863”.

5 (B) *EFFECTIVE DATE.*—The amendment
6 made by subparagraph (A) shall take effect as if
7 included in the amendments made by section
8 1211 of the Tax Reform Act of 1986.

9 (5) *REPEAL OF OBSOLETE PROVISIONS.*—

10 (A) Paragraph (1) of section 6038(a) is
11 amended by striking “, and” at the end of sub-
12 paragraph (E) and inserting a period, and by
13 striking subparagraph (F).

14 (B) Subsection (b) of section 6038A is
15 amended by adding “and” at the end of para-
16 graph (2), by striking “, and” at the end of
17 paragraph (3) and inserting a period, and by
18 striking paragraph (4).

19 (g) *TREATMENT OF ASSIGNMENT OF INTEREST IN*
20 *CERTAIN BOND-FINANCED FACILITIES.*—

21 (1) *IN GENERAL.*—Subparagraph (A) of section
22 1317(3) of the Tax Reform Act of 1986 is amended
23 by adding at the end thereof the following new sen-
24 tence: “A facility shall not fail to be treated as de-
25 scribed in this subparagraph by reason of an assign-

1 *ment (or an agreement to an assignment) by the gov-*
2 *ernmental unit on whose behalf the bonds are issued*
3 *of any part of its interest in the property financed by*
4 *such bonds to another governmental unit.”*

5 (2) *EFFECTIVE DATE.*—*The amendment made by*
6 *paragraph (1) shall take effect as if included in such*
7 *section 1317 on the date of the enactment of the Tax*
8 *Reform Act of 1986.*

9 (h) *CLARIFICATION OF TREATMENT OF MEDICARE EN-*
10 *TITLEMENT UNDER COBRA PROVISIONS.*—

11 (1) *IN GENERAL.*—

12 (A) *Subclause (V) of section*
13 *4980B(f)(2)(B)(i) is amended to read as follows:*

14 “(V) *MEDICARE ENTITLEMENT*
15 *FOLLOWED BY QUALIFYING EVENT.*—*In*
16 *the case of a qualifying event described*
17 *in paragraph (3)(B) that occurs less*
18 *than 18 months after the date the cov-*
19 *ered employee became entitled to bene-*
20 *fits under title XVIII of the Social Se-*
21 *curity Act, the period of coverage for*
22 *qualified beneficiaries other than the*
23 *covered employee shall not terminate*
24 *under this clause before the close of the*
25 *36-month period beginning on the date*

1 *the covered employee became so enti-*
2 *tled.”*

3 *(B) Clause (v) of section 602(2)(A) of the*
4 *Employee Retirement Income Security Act of*
5 *1974 is amended to read as follows:*

6 “*(v) MEDICARE ENTITLEMENT FOL-*
7 *LOWED BY QUALIFYING EVENT.—In the case*
8 *of a qualifying event described in section*
9 *603(2) that occurs less than 18 months after*
10 *the date the covered employee became enti-*
11 *tled to benefits under title XVIII of the So-*
12 *cial Security Act, the period of coverage for*
13 *qualified beneficiaries other than the covered*
14 *employee shall not terminate under this*
15 *subparagraph before the close of the 36-*
16 *month period beginning on the date the cov-*
17 *ered employee became so entitled.”*

18 *(C) Clause (iv) of section 2202(2)(A) of the*
19 *Public Health Service Act is amended to read as*
20 *follows:*

21 “*(iv) MEDICARE ENTITLEMENT FOL-*
22 *LOWED BY QUALIFYING EVENT.—In the case*
23 *of a qualifying event described in section*
24 *2203(2) that occurs less than 18 months*
25 *after the date the covered employee became*

1 *entitled to benefits under title XVIII of the*
2 *Social Security Act, the period of coverage*
3 *for qualified beneficiaries other than the*
4 *covered employee shall not terminate under*
5 *this subparagraph before the close of the 36-*
6 *month period beginning on the date the cov-*
7 *ered employee became so entitled.”*

8 (2) *EFFECTIVE DATE.*—*The amendments made*
9 *by this subsection shall apply to plan years beginning*
10 *after December 31, 1989.*

11 (i) *TREATMENT OF CERTAIN REMIC INCLUSIONS.*—

12 (1) *IN GENERAL.*—*Subsection (a) of section 860E*
13 *is amended by adding at the end thereof the following*
14 *new paragraph:*

15 “(6) *COORDINATION WITH MINIMUM TAX.*—*For*
16 *purposes of part VI of subchapter A of this chapter—*

17 “(A) *the reference in section 55(b)(2) to tax-*
18 *able income shall be treated as a reference to tax-*
19 *able income determined without regard to this*
20 *subsection,*

21 “(B) *the alternative minimum taxable in-*
22 *come of any holder of a residual interest in a*
23 *REMIC for any taxable year shall in no event*
24 *be less than the excess inclusion for such taxable*
25 *year, and*

1 “(C) any excess inclusion shall be dis-
2 regarded for purposes of computing the alter-
3 native tax net operating loss deduction.

4 *The preceding sentence shall not apply to any organi-
5 zation to which section 593 applies, except to the ex-
6 tent provided in regulations prescribed by the Sec-
7 retary under paragraph (2).”*

8 (2) *EFFECTIVE DATE.*—*The amendment made by
9 paragraph (1) shall take effect as if included in the
10 amendments made by section 671 of the Tax Reform
11 Act of 1986 unless the taxpayer elects to apply such
12 amendment only to taxable years beginning after the
13 date of the enactment of this Act.*

14 (j) *EXEMPTION FROM HARBOR MAINTENANCE TAX
15 FOR CERTAIN PASSENGERS.*—

16 (1) *IN GENERAL.*—*Subparagraph (D) of section
17 4462(b)(1) (relating to special rule for Alaska, Ha-
18 wahi, and possessions) is amended by inserting before
19 the period the following: “, or passengers transported
20 on United States flag vessels operating solely within
21 the State waters of Alaska or Hawaii and adjacent
22 international waters”.*

23 (2) *EFFECTIVE DATE.*—*The amendment made by
24 paragraph (1) shall take effect as if included in the*

1 *amendments made by section 1402(a) of the Harbor*
2 *Maintenance Revenue Act of 1986.*

3 *(k) AMENDMENTS RELATED TO REVENUE PROVISIONS*
4 *OF ENERGY POLICY ACT OF 1992.—*

5 *(1) Effective with respect to taxable years begin-*
6 *ning after December 31, 1990, subclause (II) of sec-*
7 *tion 53(d)(1)(B)(iv) is amended to read as follows:*

8 *“(II) the adjusted net minimum*
9 *tax for any taxable year is the amount*
10 *of the net minimum tax for such year*
11 *increased in the manner provided in*
12 *clause (iii).”*

13 *(2) Subsection (g) of section 179A is redesignated*
14 *as subsection (f).*

15 *(3) Subparagraph (E) of section 6724(d)(3) is*
16 *amended by striking “section 6109(f)” and inserting*
17 *“section 6109(h)”.*

18 *(4)(A) Subsection (d) of section 30 is amended—*

19 *(i) by inserting “(determined without re-*
20 *gard to subsection (b)(3))” before the period at*
21 *the end of paragraph (1) thereof, and*

22 *(ii) by adding at the end thereof the follow-*
23 *ing new paragraph:*

24 *“(4) ELECTION TO NOT TAKE CREDIT.—No credit*
25 *shall be allowed under subsection (a) for any vehicle*

1 *if the taxpayer elects to not have this section apply*
2 *to such vehicle.”*

3 *(B) Subsection (m) of section 6501 (as redesign-*
4 *ated by section 1602) is amended by striking “sec-*
5 *tion 40(f)” and inserting “section 30(d)(4), 40(f)”.*

6 *(5) Subclause (III) of section 501(c)(21)(D)(ii) is*
7 *amended by striking “section 101(6)” and inserting*
8 *“section 101(7)” and by striking “1752(6)” and in-*
9 *serting “1752(7)”.*

10 *(6) Paragraph (1) of section 1917(b) of the En-*
11 *ergy Policy Act of 1992 shall be applied as if “at a*
12 *rate” appeared instead of “at the rate” in the mate-*
13 *rial proposed to be stricken.*

14 *(7) Paragraph (2) of section 1921(b) of the En-*
15 *ergy Policy Act of 1992 shall be applied as if a*
16 *comma appeared after “(2)” in the material proposed*
17 *to be stricken.*

18 *(8) Subsection (a) of section 1937 of the Energy*
19 *Policy Act of 1992 shall be applied as if “Subpart B”*
20 *appeared instead of “Subpart C”.*

21 *(l) TREATMENT OF QUALIFIED FOOTBALL COACHES*

22 *PLAN.—*

23 *(1) IN GENERAL.—Subparagraph (F) of section*
24 *3(37) of the Employee Retirement Income Security*
25 *Act of 1974 (29 U.S.C. 1002(37)(F)) is amended by*

1 *redesignating clause (ii) as clause (iii) and by insert-*
2 *ing after clause (i) the following new clause:*

3 *“(ii) For purposes of the Internal Revenue Code of*
4 *1986—*

5 *“(I) clause (i) shall apply, and*

6 *“(II) a qualified football coaches plan shall be*
7 *treated as a multiemployer collectively bargained*
8 *plan.”.*

9 *(2) EFFECTIVE DATE.—The amendment made by*
10 *paragraph (1) shall apply to years beginning after*
11 *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 (ii) 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
8 such 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
15 such Act is amended by striking “section 381(a)”
16 and inserting “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 not include any
22 plan which was (or was determined to be)
23 a 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 (u) CERTAIN PROPERTY NOT TREATED AS SECTION
15 179 PROPERTY.—

16 (1) IN GENERAL.—Paragraph (1) of section
17 179(d) is amended by adding at the end thereof the
18 following new sentence: “Such term shall not include
19 any property described in section 50(b) and shall not
20 include air conditioning or heating units and horses.”

21 (2) EFFECTIVE DATE.—The amendment made by
22 paragraph (1) shall apply to property placed in serv-
23 ice after May 14, 1996.