

104TH CONGRESS
1ST SESSION

S. 453

To amend the Internal Revenue Code of 1986 to modify the eligibility criteria for the earned income tax credit, to improve tax compliance by United States persons establishing or benefiting from foreign trusts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16 (legislative day, JANUARY 30), 1995

Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to modify the eligibility criteria for the earned income tax credit, to improve tax compliance by United States persons establishing or benefiting from foreign trusts, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Compliance Act of 1995”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—PROVISIONS RELATING TO THE EARNED INCOME
 CREDIT

Sec. 101. Earned income tax credit denied to individuals not authorized to be
 employed in the United States.

Sec. 102. Earned income tax credit denied to individuals with substantial un-
 earned income.

TITLE II—PROVISIONS RELATING TO INTERNATIONAL TAXATION

Sec. 201. Revision of tax rules on expatriation.

Sec. 202. Improved information reporting on foreign trusts.

Sec. 203. Modification of rules relating to foreign trusts having one or more
 United States beneficiaries.

Sec. 204. Foreign persons not to be treated as owners under grantor trust
 rules.

Sec. 205. Gratuitous transfers by partnerships and foreign corporations.

Sec. 206. Information reporting regarding large foreign gifts.

Sec. 207. Modification of rules relating to foreign trusts which are not grantor
 trusts.

Sec. 208. Residence of estates and trusts.

TITLE III—ADDITIONAL EMPOWERMENT ZONES

Sec. 301. Additional empowerment zones.

6 **TITLE I—PROVISIONS RELATING**
 7 **TO THE EARNED INCOME**
 8 **CREDIT**

9 **SEC. 101. EARNED INCOME TAX CREDIT DENIED TO INDI-**
 10 **VIDUALS NOT AUTHORIZED TO BE EM-**
 11 **PLOYED IN THE UNITED STATES.**

12 (a) IN GENERAL.—Section 32(c)(1) (relating to indi-
 13 viduals eligible to claim the earned income tax credit) is

1 amended by adding at the end the following new subpara-
2 graph:

3 “(F) IDENTIFICATION NUMBER REQUIRE-
4 MENT.—The term ‘eligible individual’ does not
5 include any individual who does not include on
6 the return of tax for the taxable year—

7 “(i) such individual’s taxpayer identi-
8 fication number, and

9 “(ii) if the individual is married (with-
10 in the meaning of section 7703), the tax-
11 payer identification number of such indi-
12 vidual’s spouse.”

13 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32
14 is amended by adding at the end the following new sub-
15 section:

16 “(k) IDENTIFICATION NUMBERS.—Solely for pur-
17 poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer
18 identification number means a social security number is-
19 sued to an individual by the Social Security Administra-
20 tion (other than a social security number issued pursuant
21 to clause (II) (or that portion of clause (III) that relates
22 to clause (II)) of section 205(c)(2)(B)(i) of the Social Se-
23 curity Act).”

24 (c) EXTENSION OF PROCEDURES APPLICABLE TO
25 MATHEMATICAL OR CLERICAL ERRORS.—Section

1 6213(g)(2) (relating to the definition of mathematical or
2 clerical errors) is amended by striking “and’ at the end
3 of subparagraph (D), by striking the period at the end
4 of subparagraph (E) and inserting “, and”, and by insert-
5 ing after subparagraph (E) the following new subpara-
6 graph:

7 “(F) an omission of a correct taxpayer
8 identification number required under section 23
9 (relating to credit for families with younger
10 children) or section 32 (relating to the earned
11 income tax credit) to be included on a return.”

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 1995.

15 **SEC. 102. EARNED INCOME TAX CREDIT DENIED TO INDI-**
16 **VIDUALS WITH SUBSTANTIAL UNEARNED IN-**
17 **COME.**

18 (a) IN GENERAL.—Paragraph (1) of section 32(c)
19 (relating to individuals eligible to claim the earned income
20 tax credit) is amended by adding at the end the following
21 new subparagraph:

22 “(G) EXCEPTION FOR INDIVIDUAL WITH
23 SUBSTANTIAL INTEREST AND DIVIDEND IN-
24 COME.—The term ‘eligible individual’ shall not
25 include any individual if the aggregate amount

1 of interest and dividends includible in the gross
2 income of the taxpayer for the taxable year ex-
3 ceeds \$2,500.”

4 (b) CONFORMING AMENDMENT.—

5 (1) Paragraph (2) of section 32(i) (relating to
6 inflation adjustments) is amended to read as follows:

7 “(2) UNEARNED INCOME LIMITATION.—In the
8 case of a taxable year beginning in a calendar year
9 after 1996, the dollar amount contained in sub-
10 section (c)(1)(G) shall be increased by an amount
11 equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(f)(3) for the calendar
15 year in which the taxable year begins, deter-
16 mined by substituting ‘calendar year 1995’ for
17 ‘calendar year 1992’ in subparagraph (B)
18 thereof.

19 If any amount as adjusted under the preceding sen-
20 tence is not a multiple of \$50, such dollar amount
21 shall be rounded to the nearest multiple of \$50.”

22 (2) Paragraph (1) of section 32(i) is amended
23 by adding at the end the following new flush sen-
24 tence:

1 “If any amount as adjusted under the preceding
2 sentence is not a multiple of \$10, such dollar
3 amount shall be rounded to the nearest multiple of
4 \$10.”

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 1995.

8 **TITLE II—PROVISIONS RELAT-**
9 **ING TO INTERNATIONAL TAX-**
10 **ATION**

11 **SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.**

12 (a) IN GENERAL.—Subpart A of part II of sub-
13 chapter N of chapter 1 is amended by inserting after sec-
14 tion 877 the following new section:

15 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

16 “(a) GENERAL RULES.—For purposes of this sub-
17 title:

18 “(1) CITIZENS.—If any United States citizen
19 relinquishes his citizenship during a taxable year, all
20 property held by such citizen at the time imme-
21 diately before such relinquishment shall be treated
22 as sold at such time for its fair market value and
23 any gain or loss shall be taken into account for such
24 taxable year.

1 “(2) CERTAIN RESIDENTS.—If any long-term
2 resident of the United States ceases to be subject to
3 tax as a resident of the United States for any por-
4 tion of any taxable year, all property held by such
5 resident at the time of such cessation shall be treat-
6 ed as sold at such time for its fair market value and
7 any gain or loss shall be taken into account for the
8 taxable year which includes the date of such ces-
9 sation.

10 “(b) EXCLUSION FOR CERTAIN GAIN.—The amount
11 which would (but for this subsection) be includible in the
12 gross income of any taxpayer by reason of subsection (a)
13 shall be reduced (but not below zero) by \$600,000.

14 “(c) PROPERTY TREATED AS HELD.—For purposes
15 of this section, except as otherwise provided by the Sec-
16 retary, an individual shall be treated as holding—

17 “(1) all property which would be includible in
18 his gross estate under chapter 11 were such individ-
19 ual to die at the time the property is treated as sold,

20 “(2) any other interest in a trust which the in-
21 dividual is treated as holding under the rules of sec-
22 tion 679(e) (determined by treating such section as
23 applying to foreign and domestic trusts), and

1 “(3) any other interest in property specified by
2 the Secretary as necessary or appropriate to carry
3 out the purposes of this section.

4 “(d) EXCEPTIONS.—The following property shall not
5 be treated as sold for purposes of this section:

6 “(1) UNITED STATES REAL PROPERTY INTER-
7 ESTS.—Any United States real property interest (as
8 defined in section 897(c)(1)), other than stock of a
9 United States real property holding corporation
10 which does not, on the date the individual relin-
11 quishes his citizenship or ceases to be subject to tax
12 as a resident, meet the requirements of section
13 897(c)(2).

14 “(2) INTEREST IN CERTAIN RETIREMENT
15 PLANS.—

16 “(A) IN GENERAL.—Any interest in a
17 qualified retirement plan (as defined in section
18 4974(d)), other than any interest attributable
19 to contributions which are in excess of any limi-
20 tation or which violate any condition for tax-
21 favored treatment.

22 “(B) FOREIGN PENSION PLANS.—

23 “(i) IN GENERAL.—Under regulations
24 prescribed by the Secretary, interests in

1 foreign pension plans or similar retirement
2 arrangements or programs.

3 “(ii) LIMITATION.—The value of prop-
4 erty which is treated as not sold by reason
5 of this subparagraph shall not exceed
6 \$500,000.

7 “(e) DEFINITIONS.—For purposes of this section—

8 “(1) RELINQUISHMENT OF CITIZENSHIP.—A
9 citizen shall be treated as relinquishing his United
10 States citizenship on the date the United States De-
11 partment of State issues to the individual a certifi-
12 cate of loss of nationality or on the date a court of
13 the United States cancels a naturalized citizen’s cer-
14 tificate of naturalization.

15 “(2) LONG-TERM RESIDENT.—

16 “(A) IN GENERAL.—The term ‘long-term
17 resident’ means any individual (other than a
18 citizen of the United States) who is a lawful
19 permanent resident of the United States and,
20 as a result of such status, has been subject to
21 tax as a resident in at least 10 taxable years
22 during the period of 15 taxable years ending
23 with the taxable year during which the sale
24 under subsection (a) is treated as occurring.

1 “(B) SPECIAL RULE.—For purposes of
2 subparagraph (A), there shall not be taken into
3 account—

4 “(i) any taxable year during which
5 any prior sale is treated under subsection
6 (a) as occurring, or

7 “(ii) any taxable year prior to the tax-
8 able year referred to in clause (i).

9 “(f) TERMINATION OF DEFERRALS, ETC.—On the
10 date any property held by an individual is treated as sold
11 under subsection (a)—

12 “(1) any period deferring recognition of income
13 or gain shall terminate, and

14 “(2) any extension of time for payment of tax
15 shall cease to apply and the unpaid portion of such
16 tax shall be due and payable.

17 “(g) ELECTION BY EXPATRIATING RESIDENTS.—
18 Solely for purposes of determining gain under subsection
19 (a)—

20 “(1) IN GENERAL.—At the election of a resi-
21 dent not a citizen of the United States, property—

22 “(A) which was held by such resident on
23 the date the individual first became a resident
24 of the United States during the period of long-

1 term residency to which the treatment under
2 subsection (a) relates, and

3 “(B) which is treated as sold under sub-
4 section (a),

5 shall be treated as having a basis on such date of
6 not less than the fair market value of such property
7 on such date.

8 “(2) ELECTION.—Such an election shall apply
9 to all property described in paragraph (1), and, once
10 made, shall be irrevocable.

11 “(h) DEFERRAL OF TAX ON CLOSELY HELD BUSI-
12 NESS INTERESTS.—The District Director may enter into
13 an agreement with any individual which permits such indi-
14 vidual to defer payment for not more than 5 years of any
15 tax imposed by subsection (a) by reason of holding any
16 interest in a closely held business (as defined in section
17 6166(b)) other than a United States real property interest
18 described in subsection (d)(1).

19 “(i) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary or appropriate to
21 carry out the purposes of this section.

1 “(j) CROSS REFERENCE.—

“**For termination of United States citizenship for tax purposes, see section 7701(a)(47).**”

2 (b) DEFINITION OF TERMINATION OF UNITED
3 STATES CITIZENSHIP.—Section 7701(a) is amended by
4 adding at the end the following new paragraph:

5 “(47) TERMINATION OF UNITED STATES CITI-
6 ZENSHIP.—An individual shall not cease to be treat-
7 ed as a United States citizen before the date on
8 which the individual’s citizenship is treated as relin-
9 quished under section 877A(e)(1).”

10 (c) CONFORMING AMENDMENTS.—

11 (1) Section 877 is amended by adding at the
12 end the following new subsection:

13 “(f) TERMINATION.—This section shall not apply to
14 any individual who is subject to the provisions of section
15 877A.”

16 (2) Paragraph (10) of section 7701(b) is
17 amended by adding at the end the following new
18 sentence: “This paragraph shall not apply to any in-
19 dividual who is subject to the provisions of section
20 877A.”

21 (d) CLERICAL AMENDMENT.—The table of sections
22 for subpart A of part II of subchapter N of chapter 1
23 is amended by inserting after the item relating to section
24 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to—

3 (1) United States citizens who relinquish (with-
4 in the meaning of section 877A(e)(1) of the Internal
5 Revenue Code of 1986, as added by this section)
6 United States citizenship on or after February 6,
7 1995, and

8 (2) long-term residents (as defined in such sec-
9 tion) who cease to be subject to tax as residents of
10 the United States on or after such date.

11 **SEC. 202. IMPROVED INFORMATION REPORTING ON FOR-**
12 **EIGN TRUSTS.**

13 (a) IN GENERAL.—Section 6048 (relating to returns
14 as to certain foreign trusts) is amended to read as follows:

15 **“SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN**
16 **FOREIGN TRUSTS.**

17 “(a) NOTICE OF CERTAIN EVENTS.—

18 “(1) GENERAL RULE.—On or before the 90th
19 day (or such later day as the Secretary may pre-
20 scribe) after any reportable event, the responsible
21 party shall—

22 “(A) notify each trustee of the trust of the
23 requirements of subsection (b), and

1 “(B) provide written notice of such event
2 to the Secretary in accordance with paragraph
3 (2).

4 “(2) CONTENTS OF NOTICE.—The notice re-
5 quired by paragraph (1)(B) shall contain such infor-
6 mation as the Secretary may prescribe, including—

7 “(A) the amount of money or other prop-
8 erty (if any) transferred to the trust in connec-
9 tion with the reportable event,

10 “(B) the identity of the trust and of each
11 trustee and beneficiary (or class of bene-
12 ficiaries) of the trust, and

13 “(C) a statement that each trustee of the
14 trust has been informed of the requirements of
15 subsection (b).

16 “(3) REPORTABLE EVENT.—For purposes of
17 this subsection, the term ‘reportable event’ means—

18 “(A) the creation of any foreign trust by a
19 United States person,

20 “(B) the transfer of any money or property
21 to a foreign trust by a United States person, in-
22 cluding a transfer by reason of death,

23 “(C) a domestic trust becoming a foreign
24 trust,

1 “(D) the death of a citizen or resident of
2 the United States who is a grantor of a foreign
3 trust, and

4 “(E) the residency starting date (within
5 the meaning of section 7701(b)(2)(A)) of a
6 grantor of a foreign trust subject to tax under
7 section 679(a)(3).

8 Subparagraphs (A) and (B) shall not apply with re-
9 spect to a trust described in section 404(a)(4) or
10 404A.

11 “(4) RESPONSIBLE PARTY.—For purposes of
12 this subsection, the term ‘responsible party’
13 means—

14 “(A) the grantor in the case of a report-
15 able event described in subparagraph (A) or (E)
16 of paragraph (3),

17 “(B) the transferor in the case of a report-
18 able event described in paragraph (3)(B) other
19 than a transfer by reason of death,

20 “(C) the trustee of the domestic trust in
21 the case of a reportable event described in para-
22 graph (3)(C), and

23 “(D) the executor of the decedent’s estate
24 in the case of a transfer by reason of death.

1 “(b) TRUST REPORTING REQUIREMENTS.—If a for-
2 eign trust, at any time during a taxable year of such
3 trust—

4 “(1) has a grantor who is a United States per-
5 son and—

6 “(A) such grantor is treated as the owner
7 of any portion of such trust under the rules of
8 subpart E of part I of subchapter J of chapter
9 1, or

10 “(B) any portion of such trust would be in-
11 cluded in the gross estate of such grantor if the
12 grantor were to die at such time, or

13 “(2) directly or indirectly distributes, credits, or
14 allocates money or property to any United States
15 person (whether or not the trust has a grantor de-
16 scribed in paragraph (1)),

17 then such trust shall meet the requirements of subsection
18 (c) (relating to trust information and agent) and sub-
19 section (d) (relating to annual return).

20 “(c) CONTENTS OF SECTION 6048 STATEMENT.—

21 “(1) IN GENERAL.—The requirements of this
22 subsection are met if the trust files with the Sec-
23 retary a statement which contains such information
24 as the Secretary may prescribe and which—

1 “(A) identifies a United States person who
2 is the trust’s limited agent to provide the Sec-
3 retary with such information that reasonably
4 should be available to the trust for purposes of
5 applying sections 7602, 7603, and 7604 with
6 respect to any request by the Secretary to ex-
7 amine trust records or produce testimony relat-
8 ed to any transaction by the trust or with re-
9 spect to any summons by the Secretary for such
10 records or testimony, and

11 “(B) contains an agreement to comply with
12 the requirements of subsection (d).

13 “(2) SPECIAL RULE.—A foreign trust which ap-
14 points an agent described in paragraph (1)(A) shall
15 not be considered to have an office or a permanent
16 establishment in the United States solely because of
17 the activities of such agent pursuant to this section.
18 For purposes of this section, the appearance of per-
19 sons or production of records by reason of the cre-
20 ation of the agency shall not subject such persons or
21 records to legal process for any purpose other than
22 determining the correct treatment under this title of
23 the activities and operations of the trust.

24 “(d) ANNUAL RETURNS AND STATEMENTS.—The re-
25 quirements of this subsection are met if—

1 “(1) the trust makes a return for the taxable
2 year which sets forth a full and complete accounting
3 of all trust activities and operations for the taxable
4 year, and contains such other information as the
5 Secretary may prescribe; and

6 “(2) the trust furnishes such information as the
7 Secretary may prescribe to each United States per-
8 son—

9 “(A) who is treated as the owner of any
10 portion of such trust under the rules of subpart
11 E of part I of subchapter J of chapter 1,

12 “(B) to whom any item with respect to the
13 taxable year is credited or allocated, or

14 “(C) who receives a distribution from such
15 trust with respect to the taxable year.

16 “(e) TIME AND MANNER OF FILING INFORMA-
17 TION.—Any notice, statement, or return required under
18 this section shall be made at such time and in such man-
19 ner as the Secretary shall prescribe.

20 “(f) MODIFICATION OF RETURN REQUIREMENTS.—
21 The Secretary is authorized to suspend or modify any re-
22 quirement of this section if the Secretary determines that
23 the United States has no significant tax interest in obtain-
24 ing the required information.”

1 (b) PENALTIES.—Section 6677 (relating to failure to
2 file information returns with respect to certain foreign
3 trusts) is amended to read as follows:

4 **“SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT**
5 **TO CERTAIN FOREIGN TRUSTS.**

6 “(a) FAILURE TO REPORT CERTAIN EVENTS.—

7 “(1) IN GENERAL.—In the case of a reportable
8 event described in any subparagraph of section
9 6048(a)(3) for which a responsible party does not
10 file a written notice meeting the requirements of sec-
11 tion 6048(a)(2) within the time specified in section
12 6048(a)(1), the responsible party shall pay a penalty
13 of \$10,000. If any failure described in the preceding
14 sentence continues for more than 90 days after the
15 day on which the Secretary mails notice of such fail-
16 ure to the responsible party, such party shall pay a
17 penalty (in addition to the \$10,000 amount) of
18 \$10,000 for each 30-day period (or fraction thereof)
19 during which such failure continues after the expira-
20 tion of such 90-day period.

21 “(2) 35-PERCENT PENALTY.—In the case of a
22 reportable event described in subparagraph (A), (B),
23 or (C) of section 6048(a)(3) (other than a transfer
24 by reason of death), the aggregate amount of the
25 penalties under paragraph (1) shall not be less than

1 an amount equal to 35 percent of the gross value of
2 the property involved in such event (determined as
3 of the date of the event).

4 “(3) RESPONSIBLE PARTY.—For purposes of
5 this subsection, the term ‘responsible party’ has the
6 meaning given to such term by section 6048(a)(4).

7 “(b) FAILURE TO MAKE CERTAIN STATEMENTS AND
8 RETURNS.—

9 “(1) IN GENERAL.—In the case of any failure
10 to meet the requirements of section 6048(b), the ap-
11 propriate tax treatment of any trust transactions or
12 operations shall be determined by the Secretary in
13 the Secretary’s sole discretion from the Secretary’s
14 own knowledge or from such information as the Sec-
15 retary may obtain through testimony or otherwise.

16 “(2) MONETARY PENALTY.—In the case of any
17 failure to meet the requirements of section 6048(b)
18 with respect to a trust described in such section by
19 reason of paragraph (1) thereof, the grantor de-
20 scribed in such paragraph (1) shall pay a penalty of
21 \$10,000 for each taxable year with respect to which
22 the foreign trust fails to meet such requirements. If
23 any failure described in the preceding sentence con-
24 tinues for more than 90 days after the day on which
25 the Secretary mails notice of such failure to such

1 grantor, such grantor shall pay a penalty (in addi-
2 tion to any other penalty) of \$10,000 for each 30-
3 day period (or fraction thereof) during which such
4 failure continues after the expiration of such 90-day
5 period.

6 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
7 shall be imposed by this section on any failure which is
8 shown to be due to reasonable cause and not due to willful
9 neglect. The fact that a foreign jurisdiction would impose
10 a civil or criminal penalty on the taxpayer (or any other
11 person) for disclosing the requested documentation is not
12 reasonable cause.

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

18 (c) CLERICAL AMENDMENTS.—

19 (1) The table of sections for subpart B of part
20 III of subchapter A of chapter 61 is amended by
21 striking the item relating to section 6048 and insert-
22 ing the following new item:

“Sec. 6048. Information with respect to certain foreign trusts.”

23 (2) The table of sections for part I of sub-
24 chapter B of chapter 68 is amended by striking the

1 item relating to section 6677 and inserting the fol-
2 lowing new item:

“Sec. 6677. Failure to file information with respect to certain for-
eign trusts.”

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply—

6 (A) to reportable events occurring on or
7 after February 6, 1995, and

8 (B) to the extent such amendments require
9 reporting for any taxable year under section
10 6048(b) of the Internal Revenue Code of 1986
11 (as added by this section), to taxable years be-
12 ginning after the date of the enactment of this
13 Act.

14 (2) NOTICES.—For purposes of section 6048(a)
15 of such Code, the 90th day referred to therein shall
16 in no event be treated as being earlier than the 90th
17 day after the date of the enactment of this Act.

18 **SEC. 203. MODIFICATION OF RULES RELATING TO FOREIGN**
19 **TRUSTS HAVING ONE OR MORE UNITED**
20 **STATES BENEFICIARIES.**

21 (a) IN GENERAL.—Section 679 (relating to foreign
22 trusts having one or more United States beneficiaries) is
23 amended to read as follows:

1 **“SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE**
2 **UNITED STATES BENEFICIARIES.**

3 “(a) TRANSFEROR TREATED AS OWNER.—

4 “(1) IN GENERAL.—A United States person
5 who directly or indirectly transfers property to a for-
6 eign trust (other than a trust described in section
7 404(a)(4) or section 404A) shall be treated as the
8 owner for his taxable year of the portion of such
9 trust attributable to such property if for such year
10 there is a United States beneficiary of such trust.

11 “(2) EXCEPTION.—

12 “(A) IN GENERAL.—Paragraph (1) shall
13 not apply to any sale or exchange of property
14 to a trust if—

15 “(i) the trust pays fair market value
16 for such property, and

17 “(ii) all of the gain to the transferor
18 is recognized at the time of transfer.

19 “(B) CERTAIN OBLIGATIONS NOT TAKEN
20 INTO ACCOUNT.—For purposes of subparagraph
21 (A), in determining whether the transferor re-
22 ceived fair market value, there shall not be
23 taken into account—

24 “(i) any obligation of—

25 “(I) the trust,

1 “(II) any grantor or beneficiary
2 of the trust, or

3 “(III) any person who is related
4 (within the meaning of section
5 643(i)(3)) to any grantor or bene-
6 ficiary of the trust, and

7 “(ii) except as provided in regulations,
8 any obligation which is guaranteed by a
9 person described in clause (i).

10 “(C) TREATMENT OF DEEMED SALE ELEC-
11 TION UNDER SECTION 1057.—For purposes of
12 subparagraph (A), a transfer with respect to
13 which an election under section 1057 is made
14 shall not be treated as a sale or exchange.

15 “(3) SPECIAL RULES APPLICABLE TO FOREIGN
16 GRANTOR WHO LATER BECOMES A UNITED STATES
17 PERSON.—A nonresident alien individual who be-
18 comes a United States resident within 5 years after
19 directly or indirectly transferring property to a for-
20 eign trust shall be treated for purposes of this sec-
21 tion and section 6048 as having transferred such
22 property, and any undistributed income (including
23 all realized and unrealized gains) attributable there-
24 to, to the foreign trust immediately after becoming
25 a United States resident. For this purpose, a non-

1 resident alien shall be treated as becoming a resi-
2 dent of the United States on the residency starting
3 date (within the meaning of section 7701(b)(2)(A)).

4 “(b) BENEFICIARIES TREATED AS TRANSFERORS IN
5 CERTAIN CASES.—For purposes of this section and sec-
6 tion 6048, if—

7 “(1) a citizen or resident of the United States
8 who is treated as the owner of any portion of a trust
9 under subsection (a) dies,

10 “(2) property is transferred to a foreign trust
11 by reason of the death of a citizen or resident of the
12 United States, or

13 “(3) a domestic trust to which any United
14 States person made a transfer becomes a foreign
15 trust,

16 then, except as otherwise provided in regulations, the trust
17 beneficiaries shall be treated as having transferred to such
18 trust (as of the date of the applicable event under para-
19 graph (1), (2), or (3)) their respective interests (as deter-
20 mined under subsection (e)) in the property involved.

21 “(c) TRUSTS ACQUIRING UNITED STATES BENE-
22 FICIARIES.—If—

23 “(1) subsection (a) applies to a trust for the
24 transferor’s taxable year, and

1 “(2) subsection (a) would have applied to the
2 trust for the transferor’s immediately preceding tax-
3 able year but for the fact that for such preceding
4 taxable year there was no United States beneficiary
5 for any portion of the trust,
6 then, for purposes of this subtitle, the transferor shall be
7 treated as having received as an accumulation distribution
8 taxable under subpart D an amount equal to the undis-
9 tributed net income (as determined under section 665(a)
10 as of the close of such immediately preceding taxable year)
11 attributable to the portion of the trust referred to in sub-
12 section (a).

13 “(d) TRUSTS TREATED AS HAVING A UNITED
14 STATES BENEFICIARY.—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, a trust shall be treated as having a United
17 States beneficiary for the taxable year unless—

18 “(A) under the terms of the trust, no part
19 of the income or corpus of the trust may be
20 paid or accumulated during the taxable year to
21 or for the benefit of a United States person,
22 and

23 “(B) if the trust were terminated at any
24 time during the taxable year, no part of the in-

1 come or corpus of such trust could be paid to
2 or for the benefit of a United States person.

3 To the extent provided by the Secretary, for pur-
4 poses of this subsection, the term ‘United States
5 person’ includes any person who was a United
6 States person at any time during the existence of
7 the trust.

8 “(2) ATTRIBUTION OF OWNERSHIP.—For pur-
9 poses of paragraph (1), an amount shall be treated
10 as paid or accumulated to or for the benefit of a
11 United States person if such amount is paid to or
12 accumulated for a foreign corporation, foreign part-
13 nership, or foreign trust or estate, and—

14 “(A) in the case of a foreign corporation,
15 more than 50 percent of the total combined vot-
16 ing power of all classes of stock of such cor-
17 poration entitled to vote is owned (within the
18 meaning of section 958(a)) or is considered to
19 be owned (within the meaning of section
20 958(b)) by United States shareholders (as de-
21 fined in section 951(b)),

22 “(B) in the case of a foreign partnership,
23 a United States person is a partner of such
24 partnership, or

1 “(C) in the case of a foreign trust or es-
2 tate, such trust or estate has a United States
3 beneficiary (within the meaning of paragraph
4 (1)).

5 “(e) DETERMINATION OF BENEFICIARIES’ INTER-
6 ESTS IN TRUST.—

7 “(1) GENERAL RULE.—For purposes of this
8 section, a beneficiary’s interest in a foreign trust
9 shall be based upon all relevant facts and cir-
10 cumstances, including the terms of the trust instru-
11 ment and any letter of wishes or similar document,
12 historical patterns of trust distributions, and the ex-
13 istence of and functions performed by a trust protec-
14 tor or any similar advisor.

15 “(2) SPECIAL RULE.—In the case of bene-
16 ficiaries whose interests in a trust cannot be deter-
17 mined under paragraph (1)—

18 “(A) the beneficiary having the closest de-
19 gree of kinship to the grantor shall be treated
20 as holding the remaining interests in the trust
21 not determined under paragraph (1) to be held
22 by any other beneficiary, and

23 “(B) if 2 or more beneficiaries have the
24 same degree of kinship to the grantor, such re-

1 maintaining interests shall be treated as held equal-
2 ly by such beneficiaries.

3 “(3) CONSTRUCTIVE OWNERSHIP.—If a bene-
4 ficiary of a foreign trust is a corporation, partner-
5 ship, trust, or estate, the shareholders, partners, or
6 beneficiaries shall be deemed to be the trust bene-
7 ficiaries for purposes of this section.

8 “(4) TAXPAYER RETURN POSITION.—A tax-
9 payer shall clearly indicate on its income tax re-
10 turn—

11 “(A) the methodology used to determine
12 that taxpayer’s trust interest under this section,
13 and

14 “(B) if the taxpayer knows (or has reason
15 to know) that any other beneficiary of such
16 trust is using a different methodology to deter-
17 mine such beneficiary’s trust interest under this
18 section.

19 “(f) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary or appropriate to
21 carry out the purposes of this section.”

22 (b) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, the amendments made by

1 this section shall apply to taxable years ending on or
2 after February 6, 1995.

3 (2) SECTION 679(a).—Paragraphs (2) and (3)
4 of section 679(a) of the Internal Revenue Code of
5 1986 (as added by this section) shall apply to—

6 (A) any trust created on or after February
7 6, 1995, and

8 (B) the portion of any trust created before
9 such date which is attributable to actual trans-
10 fers of property to the trust on or after such
11 date.

12 (3) SECTION 679(b).—

13 (A) IN GENERAL.—Paragraphs (1) and (2)
14 of section 679(b) of such Code (as so added)
15 shall apply to—

16 (i) any trust created on or after the
17 date of the enactment of this Act, and

18 (ii) the portion of any trust created
19 before such date which is attributable to
20 actual transfers of property to the trust on
21 or after such date.

22 (B) SECTION 679(b)(3).—Section
23 679(b)(3) of such Code (as so added) shall take
24 effect on February 6, 1995, without regard to
25 when the property was transferred to the trust.

1 **SEC. 204. FOREIGN PERSONS NOT TO BE TREATED AS OWN-**
2 **ERS UNDER GRANTOR TRUST RULES.**

3 (a) IN GENERAL.—So much of section 672(f) (relat-
4 ing to special rule where grantor is foreign person) as pre-
5 cedes paragraph (2) is amended to read as follows:

6 “(f) SUBPART NOT TO RESULT IN FOREIGN OWNER-
7 SHIP.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of this subpart, this subpart shall apply
10 only to the extent such application results in an
11 amount being included (directly or through 1 or
12 more entities) in the gross income of a citizen or
13 resident of the United States or a domestic corpora-
14 tion. The preceding sentence shall not apply to any
15 portion of an investment trust if such trust is treat-
16 ed as a trust for purposes of this title and the grant-
17 or of such portion is the sole beneficiary of such por-
18 tion.”

19 (b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of
20 section 665(d) is amended by adding at the end the follow-
21 ing new sentence: “Under rules or regulations prescribed
22 by the Secretary, in the case of any foreign trust of which
23 the settlor or another person would be treated as owner
24 of any portion of the trust under subpart E but for section
25 672(f), the term ‘taxes imposed on the trust’ includes the
26 allocable amount of any income, war profits, and excess

1 profits taxes imposed by any foreign country or possession
2 of the United States on the settlor or such other person
3 in respect of trust income.”

4 (c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
5 THROUGH NOMINEES.—

6 (1) Section 643 is amended by adding at the
7 end the following new subsection:

8 “(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
9 THROUGH NOMINEES.—For purposes of this part, any
10 amount paid to a United States person which is derived
11 directly or indirectly from a foreign trust of which the
12 payor is not the grantor shall be deemed in the year of
13 payment to have been directly paid by the foreign trust
14 to such United States person.”

15 (2) Section 665 is amended by striking sub-
16 section (c).

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date of the enactment
19 of this Act.

20 (e) TRANSITIONAL RULE.—If—

21 (1) by reason of the amendments made by this
22 section, any person other than a United States per-
23 son ceases to be treated as the owner of a portion
24 of a domestic trust, and

1 (2) before January 1, 1996, such trust becomes
2 a foreign trust, or the assets of such trust are trans-
3 ferred to a foreign trust,
4 no tax shall be imposed by section 1491 of the Internal
5 Revenue Code of 1986 by reason of such trust becoming
6 a foreign trust or the assets of such trust being trans-
7 ferred to a foreign trust.

8 **SEC. 205. GRATUITOUS TRANSFERS BY PARTNERSHIPS AND**
9 **FOREIGN CORPORATIONS.**

10 (a) IN GENERAL.—Subchapter C of chapter 80 (re-
11 lating to provisions affecting more than one subtitle) is
12 amended by adding at the end the following new section:

13 **“SEC. 7874. PURPORTED GIFTS BY PARTNERSHIPS AND**
14 **FOREIGN CORPORATIONS.**

15 “(a) IN GENERAL.—Any property (including money)
16 that is purportedly a direct or indirect gift by a partner-
17 ship or a foreign corporation to a person who is not a
18 partner of the partnership or a shareholder of the corpora-
19 tion, respectively, may be recharacterized by the Secretary
20 to prevent the avoidance of tax. The Secretary may not
21 recharacterize gifts made for bona fide business or chari-
22 table purposes.

23 “(b) STATEMENTS ON RECIPIENT’S RETURN.—A
24 taxpayer who receives a purported gift subject to sub-
25 section (a) shall attach a statement to his income tax re-

1 turn for the year of receipt that identifies the property
2 received and describes fully the circumstances surrounding
3 the purported gift.

4 “(c) EXEMPTION.—Subsection (a) shall not apply to
5 purported gifts received by any person during any taxable
6 year if the amount thereof is less than \$2,500.

7 “(d) REGULATIONS.—The Secretary may prescribe
8 such rules as may be necessary or appropriate to carry
9 out the purposes of this section.”

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for such subchapter C is amended by adding at the end
12 the following new item:

“Sec. 7874. Purported gifts by partnerships and foreign corpora-
tions.”

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

16 **SEC. 206. INFORMATION REPORTING REGARDING LARGE**
17 **FOREIGN GIFTS.**

18 (a) IN GENERAL.—Subpart A of part III of sub-
19 chapter A of chapter 61 is amended by inserting after sec-
20 tion 6039E the following new section:

21 **“SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM**
22 **FOREIGN PERSONS.**

23 “(a) IN GENERAL.—If the value of the aggregate for-
24 eign gifts received by a United States person (other than

1 an organization described in section 501(c) and exempt
2 from tax under section 501(a)) during any taxable year
3 exceeds \$100,000, such United States person shall furnish
4 (at such time and in such manner as the Secretary shall
5 prescribe) such information as the Secretary may pre-
6 scribe regarding each foreign gift received during such
7 year.

8 “(b) FOREIGN GIFT.—For purposes of this section,
9 the term ‘foreign gift’ means any amount received from
10 a person other than a United States person which the re-
11 cipient treats as a gift or bequest. Such term shall not
12 include any qualified transfer (within the meaning of sec-
13 tion 2503(e)(2)).

14 “(c) PENALTY FOR FAILURE TO FILE INFORMA-
15 TION.—

16 “(1) IN GENERAL.—If a United States person
17 fails to furnish the information required by sub-
18 section (a) with respect to any foreign gift within
19 the time prescribed therefor (including extensions)—

20 “(A) the tax consequences of the receipt of
21 such gift shall be determined by the Secretary
22 in the Secretary’s sole discretion from the Sec-
23 retary’s own knowledge or from such informa-
24 tion as the Secretary may obtain through testi-
25 mony or otherwise, and

1 “(B) such United States person shall pay
2 (upon notice and demand by the Secretary and
3 in the same manner as tax) an amount equal to
4 5 percent of the amount of such foreign gift for
5 each month for which the failure continues (not
6 to exceed 25 percent of such amount in the ag-
7 gregate).

8 “(2) REASONABLE CAUSE EXCEPTION.— Para-
9 graph (1) shall not apply to any failure to report a
10 foreign gift if the United States person shows that
11 the failure is due to reasonable cause and not due
12 to willful neglect.

13 “(d) REGULATIONS.—The Secretary shall prescribe
14 such regulations as may be necessary to carry out the pur-
15 poses of this section.”

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for such subpart is amended by inserting after the item
18 relating to section 6039E the following new item:

 “Sec. 6039F. Notice of large gifts received from foreign persons.”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to amounts received after the date
21 of the enactment of this Act in taxable years ending after
22 such date.

1 **SEC. 207. MODIFICATION OF RULES RELATING TO FOREIGN**
2 **TRUSTS WHICH ARE NOT GRANTOR TRUSTS.**

3 (a) MODIFICATION OF INTEREST CHARGE ON ACCU-
4 MULATION DISTRIBUTIONS.—Subsection (a) of section
5 668 (relating to interest charge on accumulation distribu-
6 tions from foreign trusts) is amended to read as follows:

7 “(a) GENERAL RULE.—For purposes of the tax de-
8 termined under section 667(a)—

9 “(1) SUM OF INTEREST CHARGES FOR EACH
10 THROWBACK YEAR.—The interest charge (deter-
11 mined under paragraph (2)) with respect to any dis-
12 tribution is the sum of the interest charges for each
13 of the throwback years to which such distribution is
14 allocated under section 666(a).

15 “(2) INTEREST CHARGE FOR YEAR.—Except as
16 provided in paragraph (6), the interest charge for
17 any throwback year on such year’s allocable share of
18 the partial tax computed under section 667(b) with
19 respect to any distribution shall be determined for
20 the period—

21 “(A) beginning on the due date for the
22 throwback year, and

23 “(B) ending on the due date for the tax-
24 able year of the distribution,

25 by using the rates and method applicable under sec-
26 tion 6621 for underpayments of tax for such period.

1 For purposes of the preceding sentence, the term
2 ‘due date’ means the date prescribed by law (deter-
3 mined without regard to extensions) for filing the re-
4 turn of the tax imposed by this chapter for the tax-
5 able year.

6 “(3) ALLOCABLE PARTIAL TAX.—For purposes
7 of paragraph (2), a throwback year’s allocable share
8 of the partial tax is an amount equal to such partial
9 tax multiplied by the fraction—

10 “(A) the numerator of which is the amount
11 deemed by section 666(a) to be distributed on
12 the last day of such throwback year, and

13 “(B) the denominator of which is the accu-
14 mulation distribution taken into account under
15 section 666(a).

16 “(4) THROWBACK YEAR.—For purposes of this
17 subsection, the term ‘throwback year’ means any
18 taxable year to which a distribution is allocated
19 under section 666(a).

20 “(5) PERIODS OF NONRESIDENCE.—The period
21 under paragraph (2) shall not include any portion
22 thereof during which the beneficiary was not a citi-
23 zen or resident of the United States.

24 “(6) THROWBACK YEARS BEFORE 1996.—In the
25 case of any throwback year beginning before 1996—

1 “(A) interest for the portion of the period
2 described in paragraph (2) which occurs before
3 the first taxable year beginning after 1995 shall
4 be determined by using an interest rate of 6
5 percent and no compounding, and

6 “(B) interest for the remaining portion of
7 such period shall be determined as if the partial
8 tax computed under section 667(b) for the
9 throwback year were increased (as of the begin-
10 ning of such first taxable year) by the amount
11 of the interest determined under subparagraph
12 (A).”

13 (b) RULE WHEN INFORMATION NOT AVAILABLE.—
14 Subsection (d) of section 666 is amended by adding at
15 the end the following: “In the case of a distribution from
16 a foreign trust to which section 6048(b) applies, adequate
17 records shall not be considered to be available for purposes
18 of the preceding sentence unless such trust meets the re-
19 quirements referred to in such section. If a taxpayer is
20 not able to demonstrate when a trust was created, the Sec-
21 retary may use any reasonable approximation based on
22 available evidence.”

23 (c) ABUSIVE TRANSACTIONS.—Section 643(a) is
24 amended by inserting after paragraph (6) the following
25 new paragraph:

1 “(7) ABUSIVE TRANSACTIONS.—The Secretary
2 shall prescribe such regulations as may be necessary
3 or appropriate to carry out the purposes of this part,
4 including regulations to prevent avoidance of such
5 purposes.”

6 (d) TREATMENT OF USE OF TRUST PROPERTY.—
7 Section 643 (relating to definitions applicable to subparts
8 A, B, C, and D) is amended by adding at the end the
9 following new subsection:

10 “(i) USE OF FOREIGN TRUST PROPERTY.—

11 “(1) GENERAL RULE.—For purposes of sub-
12 parts B, C, and D, if, during a taxable year of a for-
13 eign trust a trust participant of such trust directly
14 or indirectly uses any of the trust’s property, the use
15 value for such taxable year shall be treated as an
16 amount paid to such participant (other than from
17 income for the taxable year) within the meaning of
18 sections 661(a)(2) and section 662(a)(2).

19 “(2) EXEMPTION.—Paragraph (1) shall not
20 apply to any trust participant as to whom the aggre-
21 gate use value during the taxable year does not ex-
22 ceed \$2,500.

23 “(3) DEFINITIONS AND SPECIAL RULES.—For
24 purposes of this subsection—

1 “(A) USE VALUE.—Except as provided in
2 subparagraph (B), the term ‘use value’ means
3 the fair market value of the use of property re-
4 duced by any amount paid for such use by the
5 trust participant or by any person who is relat-
6 ed to such participant.

7 “(B) SPECIAL RULE FOR CASH AND CASH
8 EQUIVALENT.—A direct or indirect loan of
9 cash, or cash equivalent, by a foreign trust shall
10 be treated as a use of trust property by the bor-
11 rower and the full amount of the loan principal
12 shall be the use value.

13 “(C) USE BY RELATED PARTY.—

14 “(i) Use by a person who is related to
15 a trust participant shall be treated as use
16 by the participant.

17 “(ii) If property is used by any person
18 who is a related person with respect to
19 more than one trust participant, then the
20 property shall be treated as used by the
21 trust participant most closely related, by
22 blood or otherwise, to such person.

23 “(D) PROPERTY INCLUDES CASH AND
24 CASH EQUIVALENTS.—The term ‘property’ in-
25 cludes cash and cash equivalents.

1 “(E) TRUST PARTICIPANT.—The term
2 ‘trust participant’ means each grantor and ben-
3 eficiary of the trust.

4 “(F) RELATED PERSON.—A person is re-
5 lated to a trust participant if the relationship
6 between such persons would result in a dis-
7 allowance of losses under section 267(b) or
8 707(b). In applying section 267 for purposes of
9 the preceding sentence—

10 “(i) section 267(e) shall be applied as
11 if such person or the trust participant were
12 a pass-thru entity,

13 “(ii) section 267(b) shall be applied
14 by substituting ‘at least 10 percent’ for
15 ‘more than 50 percent’ each place it ap-
16 pears, and

17 “(iii) in determining the family of an
18 individual under section 267(c)(4), such
19 section shall be treated as including the
20 spouse (and former spouse) of such indi-
21 vidual and of each other person who is
22 treated under such section as being a
23 member of the family of such individual or
24 spouse.

1 “(G) SUBSEQUENT TRANSACTIONS RE-
2 GARDING LOAN PRINCIPAL.—If any loan de-
3 scribed in subparagraph (B) is taken into ac-
4 count under paragraph (1), any subsequent
5 transaction between the trust and the original
6 borrower regarding the principal of the loan (by
7 way of complete or partial repayment, satisfac-
8 tion, cancellation, discharge, or otherwise) shall
9 be disregarded for purposes of this title.”

10 (e) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 shall apply to taxable years beginning after the date
14 of the enactment of this Act.

15 (2) INTEREST CHARGE.—The amendment made
16 by subsection (a) shall apply to interest for throw-
17 back years beginning before, on, or after the date of
18 the enactment of this Act.

19 **SEC. 208. RESIDENCE OF ESTATES AND TRUSTS.**

20 (a) TREATMENT AS UNITED STATES PERSON.—
21 Paragraph (30) of section 7701(a) is amended by striking
22 subparagraph (D) and by inserting after subparagraph
23 (C) the following:

24 “(D) any estate or trust if—

1 “(i) a court within the United States
2 is able to exercise primary supervision over
3 the administration of the estate or trust,
4 and

5 “(ii) in the case of a trust, one or
6 more United States fiduciaries have the
7 authority to control all substantial deci-
8 sions of the trust.”

9 (b) CONFORMING AMENDMENT.—Paragraph (31) of
10 section 7701(a) is amended to read as follows:

11 “(31) FOREIGN ESTATE OR TRUST.—The term
12 ‘foreign estate’ or ‘foreign trust’ means any estate or
13 trust other than an estate or trust described in sec-
14 tion 7701(a)(30)(D).”

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply—

17 (1) to taxable years beginning after December
18 31, 1996, and

19 (2) at the election of the trustee of a trust, to
20 taxable years beginning after the date of the enact-
21 ment of this Act and on or before December 31,
22 1996.

23 Such an election, once made, shall be irrevocable.

1 **TITLE III—ADDITIONAL**
 2 **EMPOWERMENT ZONES**

3 **SEC. 301. ADDITIONAL EMPOWERMENT ZONES.**

4 (a) IN GENERAL.—Paragraph (2) of section 1391(b)
 5 (relating to designations of empowerment zones and enter-
 6 prise communities) is amended—

7 (1) by striking “9” and inserting “11”,

8 (2) by striking “6” and inserting “8”, and

9 (3) by striking “750,000” and inserting
 10 “1,000,000”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 this section shall take effect on the date of the enactment
 13 of this Act.

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