

105TH CONGRESS  
1ST SESSION

# H. R. 2676

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 5, 1997

Received; read twice and referred to the Committee on Finance

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## AN ACT

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, 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; AMENDMENT OF 1986 CODE;**

**2 TABLE OF CONTENTS.**

3       (a) SHORT TITLE.—This Act may be cited as the  
 4 “Internal Revenue Service Restructuring and Reform Act  
 5 of 1997”.

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

**12 (c) TABLE OF CONTENTS.—**

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

**TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR  
 MANAGEMENT OF THE INTERNAL REVENUE SERVICE**

Subtitle A—Executive Branch Governance and Senior Management

Sec. 101. Internal Revenue Service Oversight Board.  
 Sec. 102. Commissioner of Internal Revenue; other officials.  
 Sec. 103. Other personnel.  
 Sec. 104. Prohibition on executive branch influence over taxpayer audits and  
 other investigations.

Subtitle B—Personnel Flexibilities

Sec. 111. Personnel flexibilities.

**TITLE II—ELECTRONIC FILING**

Sec. 201. Electronic filing of tax and information returns.  
 Sec. 202. Due date for certain information returns filed electronically.  
 Sec. 203. Paperless electronic filing.  
 Sec. 204. Return-free tax system.  
 Sec. 205. Access to account information.

**TITLE III—TAXPAYER PROTECTION AND RIGHTS**

Sec. 300. Short title.

Subtitle A—Burden of Proof

Sec. 301. Burden of proof.

#### Subtitle B—Proceedings by Taxpayers

- Sec. 311. Expansion of authority to award costs and certain fees.
- Sec. 312. Civil damages for negligence in collection actions.
- Sec. 313. Increase in size of cases permitted on small case calendar.

#### Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

- Sec. 321. Spouse relieved in whole or in part of liability in certain cases.
- Sec. 322. Suspension of statute of limitations on filing refund claims during periods of disability.

#### Subtitle D—Provisions Relating to Interest

- Sec. 331. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.
- Sec. 332. Increase in overpayment rate payable to taxpayers other than corporations.

#### Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

- Sec. 341. Privilege of confidentiality extended to taxpayer's dealings with non-attorneys authorized to practice before Internal Revenue Service.
- Sec. 342. Expansion of authority to issue taxpayer assistance orders.
- Sec. 343. Limitation on financial status audit techniques.
- Sec. 344. Limitation on authority to require production of computer source code.
- Sec. 345. Procedures relating to extensions of statute of limitations by agreement.
- Sec. 346. Offers-in-compromise.
- Sec. 347. Notice of deficiency to specify deadlines for filing Tax Court petition.
- Sec. 348. Refund or credit of overpayments before final determination.
- Sec. 349. Threat of audit prohibited to coerce Tip Reporting Alternative Commitment Agreements.

#### Subtitle F—Disclosures to Taxpayers

- Sec. 351. Explanation of joint and several liability.
- Sec. 352. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.
- Sec. 353. Disclosure of criteria for examination selection.
- Sec. 354. Explanations of appeals and collection process.

#### Subtitle G—Low Income Taxpayer Clinics

- Sec. 361. Low income taxpayer clinics.

#### Subtitle H—Other Matters

- Sec. 371. Actions for refund with respect to certain estates which have elected the installment method of payment.
- Sec. 372. Cataloging complaints.
- Sec. 373. Archive of records of Internal Revenue Service.
- Sec. 374. Payment of taxes.

Sec. 375. Clarification of authority of Secretary relating to the making of elections.

Sec. 376. Limitation on penalty on individual's failure to pay for months during period of installment agreement.

#### Subtitle I—Studies

Sec. 381. Penalty administration.

Sec. 382. Confidentiality of tax return information.

### TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

#### Subtitle A—Oversight

Sec. 401. Expansion of duties of the Joint Committee on Taxation.

Sec. 402. Coordinated oversight reports.

#### Subtitle B—Budget

Sec. 411. Funding for century date change.

Sec. 412. Financial Management Advisory Group.

#### Subtitle C—Tax Law Complexity

Sec. 421. Role of the Internal Revenue Service.

Sec. 422. Tax complexity analysis.

### TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION

Sec. 501. Clarification of deduction for deferred compensation.

### TITLE VI—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Sec. 601. Short title.

Sec. 602. Definitions.

Sec. 603. Amendments related to title I of 1997 Act.

Sec. 604. Amendments related to title II of 1997 Act.

Sec. 605. Amendments related to title III of 1997 Act.

Sec. 606. Amendments related to title V of 1997 Act.

Sec. 607. Amendments related to title VII of 1997 Act.

Sec. 608. Amendments related to title IX of 1997 Act.

Sec. 609. Amendments related to title X of 1997 Act.

Sec. 610. Amendments related to title XI of 1997 Act.

Sec. 611. Amendments related to title XII of 1997 Act.

Sec. 612. Amendments related to title XIII of 1997 Act.

Sec. 613. Amendments related to title XIV of 1997 Act.

Sec. 614. Amendments related to title XV of 1997 Act.

Sec. 615. Amendments related to title XVI of 1997 Act.

Sec. 616. Amendments related to Omnibus Budget Reconciliation Act of 1993.

Sec. 617. Amendments related to Tax Reform Act of 1984.

Sec. 618. Amendments related to Tax Reform Act of 1986.

Sec. 619. Miscellaneous clerical and deadwood changes.

Sec. 620. Effective date.

1   **TITLE I—EXECUTIVE BRANCH**  
2   **GOVERNANCE AND SENIOR**  
3   **MANAGEMENT OF THE INTER-**  
4   **NAL REVENUE SERVICE**

5   **Subtitle A—Executive Branch Gov-**  
6   **ernance and Senior Manage-**  
7   **ment**

8   **SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT**  
9                   **BOARD.**

10       (a) IN GENERAL.—Section 7802 (relating to the  
11 Commissioner of Internal Revenue) is amended to read as  
12 follows:

13   **“SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT**  
14                   **BOARD.**

15       “(a) ESTABLISHMENT.—There is established within  
16 the Department of the Treasury the Internal Revenue  
17 Service Oversight Board (hereafter in this subchapter re-  
18 ferred to as the ‘Oversight Board’).

19       “(b) MEMBERSHIP.—

20               “(1) COMPOSITION.—The Oversight Board  
21 shall be composed of 11 members, as follows:

22               “(A) 8 members shall be individuals who  
23 are not Federal officers or employees and who  
24 are appointed by the President, by and with the  
25 advice and consent of the Senate.

1                 “(B) 1 member shall be the Secretary of  
2                 the Treasury or, if the Secretary so designates,  
3                 the Deputy Secretary of the Treasury.

4                 “(C) 1 member shall be the Commissioner  
5                 of Internal Revenue.

6                 “(D) 1 member shall be an individual who  
7                 is a representative of an organization that rep-  
8                 resents a substantial number of Internal Reve-  
9                 nue Service employees and who is appointed by  
10                the President, by and with the advice and con-  
11                sent of the Senate.

12                “(2) QUALIFICATIONS AND TERMS.—

13                “(A) QUALIFICATIONS.—Members of the  
14                Oversight Board described in paragraph (1)(A)  
15                shall be appointed solely on the basis of their  
16                professional experience and expertise in 1 or  
17                more of the following areas:

18                “(i) Management of large service or-  
19                ganizations.

20                “(ii) Customer service.

21                “(iii) Federal tax laws, including tax  
22                administration and compliance.

23                “(iv) Information technology.

24                “(v) Organization development.

1                         “(vi) The needs and concerns of tax-  
2                         payers.

3                         In the aggregate, the members of the Oversight  
4                         Board described in paragraph (1)(A) should  
5                         collectively bring to bear expertise in all of the  
6                         areas described in the preceding sentence.

7                         “(B) TERMS.—Each member who is de-  
8                         scribed in paragraph (1)(A) or (D) shall be ap-  
9                         pointed for a term of 5 years, except that of the  
10                        members first appointed under paragraph  
11                        (1)(A)—

12                        “(i) 1 member shall be appointed for  
13                         a term of 1 year,

14                        “(ii) 1 member shall be appointed for  
15                         a term of 2 years,

16                        “(iii) 2 members shall be appointed  
17                         for a term of 3 years, and

18                        “(iv) 2 members shall be appointed  
19                         for a term of 4 years.

20                         Such terms shall begin on the date of appoint-  
21                         ment.

22                         “(C) REAPPOINTMENT.—An individual  
23                         who is described in paragraph (1)(A) may be  
24                         appointed to no more than two 5-year terms on  
25                         the Oversight Board.

1                 “(D) VACANCY.—Any vacancy on the  
2                 Oversight Board shall be filled in the same  
3                 manner as the original appointment. Any mem-  
4                 ber appointed to fill a vacancy occurring before  
5                 the expiration of the term for which the mem-  
6                 ber’s predecessor was appointed shall be ap-  
7                 pointed for the remainder of that term.

8                 “(E) SPECIAL GOVERNMENT EMPLOY-  
9                 EES.—During the entire period that an individ-  
10                 ual appointed under paragraph (1)(A) is a  
11                 member of the Oversight Board, such individual  
12                 shall be treated as—

13                     “(i) serving as a special government  
14                 employee (as defined in section 202 of title  
15                 18, United States Code) and as described  
16                 in section 207(c)(2) of such title 18, and

17                     “(ii) serving as an officer or employee  
18                 referred to in section 101(f) of the Ethics  
19                 in Government Act of 1978 for purposes of  
20                 title I of such Act.

21                 “(3) QUORUM.—6 members of the Oversight  
22                 Board shall constitute a quorum. A majority of  
23                 members present and voting shall be required for the  
24                 Oversight Board to take action.

25                 “(4) REMOVAL.—

1                 “(A) IN GENERAL.—Any member of the  
2                 Oversight Board may be removed at the will of  
3                 the President.

4                 “(B) SECRETARY AND COMMISSIONER.—  
5                 An individual described in subparagraph (B) or  
6                 (C) of paragraph (1) shall be removed upon ter-  
7                 mination of employment.

8                 “(C) REPRESENTATIVE OF INTERNAL REV-  
9                 ENUE SERVICE EMPLOYEES.—The member de-  
10                 scribed in paragraph (1)(D) shall be removed  
11                 upon termination of employment, membership,  
12                 or other affiliation with the organization de-  
13                 scribed in such paragraph.

14                 “(5) CLAIMS.—

15                 “(A) IN GENERAL.—Members of the Over-  
16                 sight Board who are described in paragraph  
17                 (1)(A) or (D) shall have no personal liability  
18                 under Federal law with respect to any claim  
19                 arising out of or resulting from an act or omis-  
20                 sion by such member within the scope of service  
21                 as a member. The preceding sentence shall not  
22                 be construed to limit personal liability for crimi-  
23                 nal acts or omissions, willful or malicious con-  
24                 duct, acts or omissions for private gain, or any

1           other act or omission outside the scope of the  
2           service of such member on the Oversight Board.

3           “(B) EFFECT ON OTHER LAW.—This para-  
4           graph shall not be construed—

5                 “(i) to affect any other immunities  
6                 and protections that may be available to  
7                 such member under applicable law with re-  
8                 spect to such transactions,

9                 “(ii) to affect any other right or rem-  
10                 edy against the United States under appli-  
11                 cable law, or

12                 “(iii) to limit or alter in any way the  
13                 immunities that are available under appli-  
14                 cable law for Federal officers and employ-  
15                 ees.

16           “(c) GENERAL RESPONSIBILITIES.—

17           “(1) IN GENERAL.—The Oversight Board shall  
18                 oversee the Internal Revenue Service in its adminis-  
19                 tration, management, conduct, direction, and super-  
20                 vision of the execution and application of the inter-  
21                 nal revenue laws or related statutes and tax conven-  
22                 tions to which the United States is a party.

23           “(2) EXCEPTIONS.—The Oversight Board shall  
24                 have no responsibilities or authority with respect  
25                 to—

1                 “(A) the development and formulation of  
2                 Federal tax policy relating to existing or pro-  
3                 posed internal revenue laws, related statutes,  
4                 and tax conventions,

5                 “(B) law enforcement activities of the In-  
6                 ternal Revenue Service, including compliance  
7                 activities such as criminal investigations, exami-  
8                 nations, and collection activities, or

9                 “(C) specific procurement activities of the  
10                 Internal Revenue Service.

11                 “(3) RESTRICTION ON DISCLOSURE OF RETURN  
12                 INFORMATION TO OVERSIGHT BOARD MEMBERS.—  
13                 No return, return information, or taxpayer return  
14                 information (as defined in section 6103(b)) may be  
15                 disclosed to any member of the Oversight Board de-  
16                 scribed in subsection (b)(1)(A) or (D). Any request  
17                 for information not permitted to be disclosed under  
18                 the preceding sentence, and any contact relating to  
19                 a specific taxpayer, made by a member of the Over-  
20                 sight Board so described to an officer or employee  
21                 of the Internal Revenue Service shall be reported by  
22                 such officer or employee to the Secretary and the  
23                 Joint Committee on Taxation.

24                 “(d) SPECIFIC RESPONSIBILITIES.—The Oversight  
25                 Board shall have the following specific responsibilities:

1           “(1) STRATEGIC PLANS.—To review and ap-  
2       prove strategic plans of the Internal Revenue Serv-  
3       ice, including the establishment of—

4           “(A) mission and objectives, and standards  
5       of performance relative to either, and

6           “(B) annual and long-range strategic  
7       plans.

8           “(2) OPERATIONAL PLANS.—To review the  
9       operational functions of the Internal Revenue Serv-  
10      ice, including—

11          “(A) plans for modernization of the tax  
12       system,

13          “(B) plans for outsourcing or managed  
14       competition, and

15          “(C) plans for training and education.

16          “(3) MANAGEMENT.—To—

17          “(A) recommend to the President can-  
18       didates for appointment as the Commissioner of  
19       Internal Revenue and recommend to the Presi-  
20       dent the removal of the Commissioner,

21          “(B) review the Commissioner’s selection,  
22       evaluation, and compensation of senior man-  
23       agers, and

1               “(C) review and approve the Commis-  
2               sioner’s plans for any major reorganization of  
3               the Internal Revenue Service.

4               “(4) BUDGET.—To—

5               “(A) review and approve the budget re-  
6               quest of the Internal Revenue Service prepared  
7               by the Commissioner,

8               “(B) submit such budget request to the  
9               Secretary of the Treasury, and

10             “(C) ensure that the budget request sup-  
11             ports the annual and long-range strategic plans.

12             The Secretary shall submit the budget request referred to  
13             in paragraph (4)(B) for any fiscal year to the President  
14             who shall submit such request, without revision, to Con-  
15             gress together with the President’s annual budget request  
16             for the Internal Revenue Service for such fiscal year.

17             “(e) BOARD PERSONNEL MATTERS.—

18             “(1) COMPENSATION OF MEMBERS.—

19             “(A) IN GENERAL.—Each member of the  
20             Oversight Board who is described in subsection  
21             (b)(1)(A) shall be compensated at a rate not to  
22             exceed \$30,000 per year. All other members of  
23             the Oversight Board shall serve without com-  
24             pensation for such service.

1                 “(B) CHAIRPERSON.—In lieu of the  
2                 amount specified in subparagraph (A), the  
3                 Chairperson of the Oversight Board shall be  
4                 compensated at a rate not to exceed \$50,000.

5                 “(2) TRAVEL EXPENSES.—The members of the  
6                 Oversight Board shall be allowed travel expenses, in-  
7                 cluding per diem in lieu of subsistence, at rates au-  
8                 thorized for employees of agencies under subchapter  
9                 I of chapter 57 of title 5, United States Code, while  
10                 away from their homes or regular places of business  
11                 for purposes of attending meetings of the Oversight  
12                 Board.

13                 “(3) STAFF.—At the request of the Chair-  
14                 person of the Oversight Board, the Commissioner  
15                 shall detail to the Oversight Board such personnel as  
16                 may be necessary to enable the Oversight Board to  
17                 perform its duties. Such detail shall be without  
18                 interruption or loss of civil service status or privi-  
19                 lege.

20                 “(4) PROCUREMENT OF TEMPORARY AND  
21                 INTERMITTENT SERVICES.—The Chairperson of the  
22                 Oversight Board may procure temporary and inter-  
23                 mittent services under section 3109(b) of title 5,  
24                 United States Code.

25                 “(f) ADMINISTRATIVE MATTERS.—

1           “(1) CHAIR.—The members of the Oversight  
2       Board shall elect for a 2-year term a chairperson  
3       from among the members appointed under sub-  
4       section (b)(1)(A).

5           “(2) COMMITTEES.—The Oversight Board may  
6       establish such committees as the Oversight Board  
7       determines appropriate.

8           “(3) MEETINGS.—The Oversight Board shall  
9       meet at least once each month and at such other  
10      times as the Oversight Board determines appro-  
11      priate.

12          “(4) REPORTS.—The Oversight Board shall  
13       each year report to the President and the Congress  
14       with respect to the conduct of its responsibilities  
15       under this title.”.

16          (b) CONFORMING AMENDMENTS.—

17           (1) Section 4946(c) (relating to definitions and  
18       special rules for chapter 42) is amended—

19               (A) by striking “or” at the end of para-  
20       graph (5),

21               (B) by striking the period at the end of  
22       paragraph (6) and inserting “, or”, and

23               (C) by adding at the end the following new  
24       paragraph:

1               “(7) a member of the Internal Revenue Service  
2               Oversight Board.”.

3               (2) The table of sections for subchapter A of  
4               chapter 80 is amended by striking the item relating  
5               to section 7802 and inserting the following new  
6               item:

“Sec. 7802. Internal Revenue Service Oversight Board.”.

7               (c) EFFECTIVE DATE.—

8               (1) IN GENERAL.—The amendments made by  
9               this section shall take effect on the date of the en-  
10               actment of this Act.

11               (2) NOMINATIONS TO INTERNAL REVENUE  
12               SERVICE OVERSIGHT BOARD.—The President shall  
13               submit nominations under section 7802 of the Inter-  
14               nal Revenue Code of 1986, as added by this section,  
15               to the Senate not later than 6 months after the date  
16               of the enactment of this Act.

17               **SEC. 102. COMMISSIONER OF INTERNAL REVENUE; OTHER  
18               OFFICIALS.**

19               (a) IN GENERAL.—Section 7803 (relating to other  
20               personnel) is amended to read as follows:

21               **“SEC. 7803. COMMISSIONER OF INTERNAL REVENUE;  
22               OTHER OFFICIALS.**

23               “(a) COMMISSIONER OF INTERNAL REVENUE.—  
24               “(1) APPOINTMENT.—

1                 “(A) IN GENERAL.—There shall be in the  
2                 Department of the Treasury a Commissioner of  
3                 Internal Revenue who shall be appointed by the  
4                 President, by and with the advice and consent  
5                 of the Senate, to a 5-year term. The appoint-  
6                 ment shall be made without regard to political  
7                 affiliation or activity.

8                 “(B) VACANCY.—Any individual appointed  
9                 to fill a vacancy in the position of Commis-  
10                 sioner occurring before the expiration of the  
11                 term for which such individual’s predecessor  
12                 was appointed shall be appointed only for the  
13                 remainder of that term.

14                 “(C) REMOVAL.—The Commissioner may  
15                 be removed at the will of the President.

16                 “(2) DUTIES.—The Commissioner shall have  
17                 such duties and powers as the Secretary may pre-  
18                 scribe, including the power to—

19                 “(A) administer, manage, conduct, direct,  
20                 and supervise the execution and application of  
21                 the internal revenue laws or related statutes  
22                 and ax conventions to which the United States  
23                 is a party; and

24                 “(B) recommend to the President a can-  
25                 didate for appointment as Chief Counsel for the

1           Internal Revenue Service when a vacancy occurs,  
2           and recommend to the President the removal of such Chief Counsel.

4           If the Secretary determines not to delegate a power  
5           specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the  
6           Secretary notifies the Committees on Ways and  
7           Means, Government Reform and Oversight, and Appropriations of the House of Representatives, the  
8           Committees on Finance, Government Operations,  
9           and Appropriations of the Senate, and the Joint  
10          Committee on Taxation.

13          “(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

17          “(b) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—There is established within the Internal Revenue Service an office to be known as the ‘Office of Employee Plans and Exempt Organizations’ to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax

1 under section 501(a) and with respect to plans to which  
2 part I of subchapter D of chapter 1 applies (and with re-  
3 spect to organizations designed to be exempt under such  
4 section and plans designed to be plans to which such part  
5 applies) and other nonqualified deferred compensation ar-  
6 rangements. The Assistant Commissioner shall report an-  
7 nually to the Commissioner with respect to the Assistant  
8 Commissioner's responsibilities under this section.

9       “(c) OFFICE OF TAXPAYER ADVOCATE.—

10           “(1) IN GENERAL.—

11           “(A) ESTABLISHMENT.—There is estab-  
12       lished in the Internal Revenue Service an office  
13       to be known as the ‘Office of the Taxpayer Ad-  
14       vocate’. Such office shall be under the super-  
15       vision and direction of an official to be known  
16       as the ‘Taxpayer Advocate’ who shall be ap-  
17       pointed with the approval of the Oversight  
18       Board by the Commissioner of Internal Reve-  
19       nue and shall report directly to the Commis-  
20       sioner. The Taxpayer Advocate shall be entitled  
21       to compensation at the same rate as the highest  
22       level official reporting directly to the Commis-  
23       sioner of Internal Revenue.

24           “(B) RESTRICTION ON SUBSEQUENT EM-  
25       PLOYMENT.—An individual who is an officer or

1 employee of the Internal Revenue Service may  
2 be appointed as Taxpayer Advocate only if such  
3 individual agrees not to accept any employment  
4 with the Internal Revenue Service for at least  
5 5 years after ceasing to be the Taxpayer Advo-  
6 cate.

7 “(2) FUNCTIONS OF OFFICE.—

8 “(A) IN GENERAL.—It shall be the func-  
9 tion of the Office of Taxpayer Advocate to—

10 “(i) assist taxpayers in resolving prob-  
11 lems with the Internal Revenue Service,

12 “(ii) identify areas in which taxpayers  
13 have problems in dealings with the Internal  
14 Revenue Service,

15 “(iii) to the extent possible, propose  
16 changes in the administrative practices of  
17 the Internal Revenue Service to mitigate  
18 problems identified under clause (ii), and

19 “(iv) identify potential legislative  
20 changes which may be appropriate to miti-  
21 gate such problems.

22 “(B) ANNUAL REPORTS.—

23 “(i) OBJECTIVES.—Not later than  
24 June 30 of each calendar year, the Tax-  
25 payer Advocate shall report to the Commit-

tee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

“(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

“(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

“(II) contain recommendations received from individuals with the au-

1                   thority to issue Taxpayer Assistance  
2                   Orders under section 7811,  
3                   “(III) contain a summary of at  
4                   least 20 of the most serious problems  
5                   encountered by taxpayers, including a  
6                   description of the nature of such prob-  
7                   lems,  
8                   “(IV) contain an inventory of the  
9                   items described in subclauses (I), (II),  
10                  and (III) for which action has been  
11                  taken and the result of such action,  
12                  “(V) contain an inventory of the  
13                  items described in subclauses (I), (II),  
14                  and (III) for which action remains to  
15                  be completed and the period during  
16                  which each item has remained on such  
17                  inventory,  
18                  “(VI) contain an inventory of the  
19                  items described in subclauses (I), (II),  
20                  and (III) for which no action has been  
21                  taken, the period during which each  
22                  item has remained on such inventory,  
23                  the reasons for the inaction, and iden-  
24                  tify any Internal Revenue Service offi-

1                   cial who is responsible for such inac-  
2                   tion,

3                   “(VII) identify any Taxpayer As-  
4                   sistance Order which was not honored  
5                   by the Internal Revenue Service in a  
6                   timely manner, as specified under sec-  
7                   tion 7811(b),

8                   “(VIII) contain recommendations  
9                   for such administrative and legislative  
10                  action as may be appropriate to re-  
11                  solve problems encountered by tax-  
12                  payers,

13                  “(IX) identify areas of the tax  
14                  law that impose significant compliance  
15                  burdens on taxpayers or the Internal  
16                  Revenue Service, including specific  
17                  recommendations for remedying these  
18                  problems,

19                  “(X) in conjunction with the Na-  
20                  tional Director of Appeals, identify  
21                  the 10 most litigated issues for each  
22                  category of taxpayers, including rec-  
23                  ommendations for mitigating such dis-  
24                  putes, and

1                         “(XI) include such other information as the Taxpayer Advocate may  
2                         deem advisable.

3                         “(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this  
4                         subparagraph shall be provided directly to the committees described in clauses (i) and  
5                         (ii) without any prior review or comment from the Oversight Board, the Secretary of  
6                         the Treasury, any other officer or employee of the Department of the Treasury, or the  
7                         Office of Management and Budget.

8                         “(C) OTHER RESPONSIBILITIES.—The  
9                         Taxpayer Advocate shall—

10                         “(i) monitor the coverage and geographic allocation of problem resolution officers, and

11                         “(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to problem resolution officers.

12                         “(3) RESPONSIBILITIES OF COMMISSIONER.—  
13                         The Commissioner shall establish procedures requiring a formal response to all recommendations sub-

1 mitted to the Commissioner by the Taxpayer Advo-  
2 cate within 3 months after submission to the Com-  
3 missioner.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) The table of sections for subchapter A of  
6 chapter 80 is amended by striking the item relating  
7 to section 7803 and inserting the following new  
8 item:

“Sec. 7803. Commissioner of Internal Revenue; other officials.”.

9 (2) Subsection (b) of section 5109 of title 5,  
10 United States Code, is amended by striking  
11 “7802(b)” and inserting “7803(b)”.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by  
14 this section shall take effect on the date of the en-  
15 actment of this Act.

16 (2) CURRENT OFFICERS.—

17 (A) In the case of an individual serving as  
18 Commissioner of Internal Revenue on the date  
19 of the enactment of this Act who was appointed  
20 to such position before such date, the 5-year  
21 term required by section 7803(a)(1) of the In-  
22 ternal Revenue Code of 1986, as added by this  
23 section, shall begin as of the date of such ap-  
24 pointment.

## 5 SEC. 103. OTHER PERSONNEL.

6 (a) IN GENERAL.—Section 7804 (relating to the ef-  
7 fect of reorganization plans) is amended to read as follows:

## 8 "SEC. 7804. OTHER PERSONNEL.

9        "(a) APPOINTMENT AND SUPERVISION.—Unless oth-  
10 erwise prescribed by the Secretary, the Commissioner of  
11 Internal Revenue is authorized to employ such number of  
12 persons as the Commissioner deems proper for the admin-  
13 istration and enforcement of the internal revenue laws,  
14 and the Commissioner shall issue all necessary directions,  
15 instructions, orders, and rules applicable to such persons.

16        "(b) POSTS OF DUTY OF EMPLOYEES IN FIELD  
17 SERVICE OR TRAVELING.—Unless otherwise prescribed by  
18 the Secretary—

19                 “(1) DESIGNATION OF POST OF DUTY.—The  
20                 Commissioner shall determine and designate the  
21                 posts of duty of all such persons engaged in field  
22                 work or traveling on official business outside of the  
23                 District of Columbia.

24               “(2) DETAIL OF PERSONNEL FROM FIELD  
25               SERVICE.—The Commissioner may order any such

1       person engaged in field work to duty in the District  
2       of Columbia, for such periods as the Commissioner  
3       may prescribe, and to any designated post of duty  
4       outside the District of Columbia upon the comple-  
5       tion of such duty.

6       “(c) DELINQUENT INTERNAL REVENUE OFFICERS  
7 AND EMPLOYEES.—If any officer or employee of the  
8 Treasury Department acting in connection with the inter-  
9 nal revenue laws fails to account for and pay over any  
10 amount of money or property collected or received by him  
11 in connection with the internal revenue laws, the Secretary  
12 shall issue notice and demand to such officer or employee  
13 for payment of the amount which he failed to account for  
14 and pay over, and, upon failure to pay the amount de-  
15 manded within the time specified in such notice, the  
16 amount so demanded shall be deemed imposed upon such  
17 officer or employee and assessed upon the date of such  
18 notice and demand, and the provisions of chapter 64 and  
19 all other provisions of law relating to the collection of as-  
20 sessed taxes shall be applicable in respect of such  
21 amount.”.

22       (b) CONFORMING AMENDMENTS.—

23           (1) Subsection (b) of section 6344 is amended  
24       by striking “section 7803(d)” and inserting “section  
25       7804(c)”.

1                             (2) The table of sections for subchapter A of  
2                             chapter 80 is amended by striking the item relating  
3                             to section 7804 and inserting the following new  
4                             item:

“Sec. 7804. Other personnel.”.

5                             (c) EFFECTIVE DATE.—The amendments made by  
6                             this section shall take effect on the date of the enactment  
7                             of this Act.

8                             **SEC. 104. PROHIBITION ON EXECUTIVE BRANCH INFLU-**  
9                             **ENCE OVER TAXPAYER AUDITS AND OTHER**  
10                             **INVESTIGATIONS.**

11                             (a) IN GENERAL.—Part I of subchapter A of chapter  
12                             75 (relating to crimes, other offenses, and forfeitures) is  
13                             amended by adding after section 7216 the following new  
14                             section:

15                             **SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLU-**  
16                             **ENCE OVER TAXPAYER AUDITS AND OTHER**  
17                             **INVESTIGATIONS.**

18                             “(a) PROHIBITION.—It shall be unlawful for any ap-  
19                             plicable person to request any officer or employee of the  
20                             Internal Revenue Service to conduct or terminate an audit  
21                             or other investigation of any particular taxpayer with re-  
22                             spect to the tax liability of such taxpayer.

23                             “(b) REPORTING REQUIREMENT.—Any officer or em-  
24                             ployee of the Internal Revenue Service receiving any re-  
25                             quest prohibited by subsection (a) shall report the receipt

1 of such request to the Chief Inspector of the Internal Rev-  
2 enue Service.

3 “(c) EXCEPTIONS.—Subsection (a) shall not apply  
4 to—

5 “(1) any request made to an applicable person  
6 by the taxpayer or a representative of the taxpayer  
7 and forwarded by such applicable person to the In-  
8 ternal Revenue Service,

9 “(2) any request by an applicable person for  
10 disclosure of return or return information under sec-  
11 tion 6103 if such request is made in accordance with  
12 the requirements of such section, or

13 “(3) any request by the Secretary of the Treas-  
14 ury as a consequence of the implementation of a  
15 change in tax policy.

16 “(d) PENALTY.—Any person who willfully violates  
17 subsection (a) or fails to report under subsection (b) shall  
18 be punished upon conviction by a fine in any amount not  
19 exceeding \$5,000, or imprisonment of not more than 5  
20 years, or both, together with the costs of prosecution.

21 “(e) APPLICABLE PERSON.—For purposes of this  
22 section, the term ‘applicable person’ means—

23 “(1) the President, the Vice President, any em-  
24 ployee of the executive office of the President, and

1       any employee of the executive office of the Vice  
 2       President, and

3           “(2) any individual (other than the Attorney  
 4       General of the United States) serving in a position  
 5       specified in section 5312 of title 5, United States  
 6       Code.”.

7       (b) CLERICAL AMENDMENT.—The table of sections  
 8       for part I of subchapter A of chapter 75 is amended by  
 9       adding after the item relating to section 7216 the follow-  
 10      ing new item:

“Sec. 7217. Prohibition on executive branch influence over tax-  
 payer audits and other investigations.”.

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

## 14      **Subtitle B—Personnel Flexibilities**

### 15      **SEC. 111. PERSONNEL FLEXIBILITIES.**

16       (a) IN GENERAL.—Part III of title 5, United States  
 17      Code, is amended by adding at the end the following new  
 18      subpart:

19                           **“Subpart I—Miscellaneous**

20      **“CHAPTER 93—PERSONNEL FLEXIBILI-**

21      **TIES RELATING TO THE INTERNAL**

22      **REVENUE SERVICE**

“Sec.

“9301. General requirements.

“9302. Flexibilities relating to performance management.

“9303. Staffing flexibilities.

“9304. Flexibilities relating to demonstration projects.

1     **“§ 9301. General requirements**

2         “(a) CONFORMANCE WITH MERIT SYSTEM PRIN-  
3 CIPLES, ETC.—Any flexibilities under this chapter shall  
4 be exercised in a manner consistent with—

5             “(1) chapter 23, relating to merit system prin-  
6 ciples and prohibited personnel practices; and

7             “(2) provisions of this title (outside of this sub-  
8 part) relating to preference eligibles.

9         “(b) REQUIREMENT RELATING TO UNITS REP-  
10 RESENTED BY LABOR ORGANIZATIONS.—

11             “(1) WRITTEN AGREEMENT REQUIRED.—Em-  
12 ployees within a unit with respect to which a labor  
13 organization is accorded exclusive recognition under  
14 chapter 71 shall not be subject to the exercise of any  
15 flexibility under section 9302, 9303, or 9304, unless  
16 there is a written agreement between the Internal  
17 Revenue Service and the organization permitting  
18 such exercise.

19             “(2) DEFINITION OF A WRITTEN AGREE-  
20 MENT.—In order to satisfy paragraph (1), a written  
21 agreement—

22                 “(A) need not be a collective bargaining  
23 agreement within the meaning of section  
24 7103(8); and

1                 “(B) may not be an agreement imposed by  
2                 the Federal Service Impasses Panel under sec-  
3                 tion 7119.

4                 “(3) INCLUDIBLE MATTERS.—The written  
5                 agreement may address any flexibilities under sec-  
6                 tion 9302, 9303, or 9304, including any matter pro-  
7                 posed to be included in a demonstration project  
8                 under section 9304.

9                 **“§ 9302. Flexibilities relating to performance manage-**  
10                 **ment**

11                 “(a) IN GENERAL.—The Commissioner of Internal  
12                 Revenue shall, within a year after the date of the enact-  
13                 ment of this chapter, establish a performance management  
14                 system which—

15                 “(1) subject to section 9301(b), shall cover all  
16                 employees of the Internal Revenue Service other  
17                 than—

18                 “(A) the members of the Internal Revenue  
19                 Service Oversight Board;

20                 “(B) the Commissioner of Internal Reve-  
21                 nue; and

22                 “(C) the Chief Counsel for the Internal  
23                 Revenue Service;

24                 “(2) shall maintain individual accountability  
25                 by—

1                 “(A) establishing standards of performance  
2                 which—

3                         “(i) shall permit the accurate evalua-  
4                 tion of each employee’s performance on the  
5                 basis of the individual and organizational  
6                 performance requirements applicable with  
7                 respect to the evaluation period involved,  
8                 taking into account individual contribu-  
9                 tions toward the attainment of any goals  
10                 or objectives under paragraph (3);

11                 “(ii) shall be communicated to an em-  
12                 ployee before the start of any period with  
13                 respect to which the performance of such  
14                 employee is to be evaluated using such  
15                 standards; and

16                 “(iii) shall include at least 2 stand-  
17                 ards of performance, the lowest of which  
18                 shall denote the retention standard and  
19                 shall be equivalent to fully successful per-  
20                 formance;

21                 “(B) providing for periodic performance  
22                 evaluations to determine whether employees are  
23                 meeting all applicable retention standards; and

24                 “(C) using the results of such employee’s  
25                 performance evaluation as a basis for adjust-

1           ments in pay and other appropriate personnel  
2           actions; and

3           “(3) shall provide for (A) establishing goals or  
4           objectives for individual, group, or organizational  
5           performance (or any combination thereof), consistent  
6           with Internal Revenue Service performance planning  
7           procedures, including those established under the  
8           Government Performance and Results Act of 1993,  
9           the Information Technology Management Reform  
10          Act of 1996, Revenue Procedure 64–22 (as in effect  
11          on July 30, 1997), and taxpayer service surveys, (B)  
12          communicating such goals or objectives to employ-  
13          ees, and (C) using such goals or objectives to make  
14          performance distinctions among employees or groups  
15          of employees.

16 For purposes of this title, performance of an employee  
17 during any period in which such employee is subject to  
18 standards of performance under paragraph (2) shall be  
19 considered to be ‘unacceptable’ if the performance of such  
20 employee during such period fails to meet any retention  
21 standard.

22           “(b) AWARDS.—

23           “(1) FOR SUPERIOR ACCOMPLISHMENTS.—In  
24          the case of a proposed award based on the efforts  
25          of an employee or former employee of the Internal

1       Revenue Service, any approval required under the  
2       provisions of section 4502(b) shall be considered to  
3       have been granted if the Office of Personnel Man-  
4       agement does not disapprove the proposed award  
5       within 60 days after receiving the appropriate cer-  
6       tification described in such provisions.

7                 “(2) FOR EMPLOYEES WHO REPORT DIRECTLY  
8                                  TO THE COMMISSIONER.—

9                 “(A) IN GENERAL.—In the case of an em-  
10                                  ployee of the Internal Revenue Service who re-  
11                                  ports directly to the Commissioner of Internal  
12                                  Revenue, a cash award in an amount up to 50  
13                                  percent of such employee’s annual rate of basic  
14                                  pay may be made if the Commissioner finds  
15                                  such an award to be warranted based on such  
16                                  employee’s performance.

17                 “(B) NATURE OF AN AWARD.—A cash  
18                                  award under this paragraph shall not be consid-  
19                                  ered to be part of basic pay.

20                 “(C) TAX ENFORCEMENT RESULTS.—A  
21                                  cash award under this paragraph may not be  
22                                  based solely on tax enforcement results.

23                 “(D) ELIGIBLE EMPLOYEES.—Whether or  
24                                  not an employee is an employee who reports di-  
25                                  rectly to the Commissioner of Internal Revenue

1 shall, for purposes of this paragraph, be deter-  
2 mined under regulations which the Commis-  
3 sioner shall prescribe, except that in no event  
4 shall more than 8 employees be eligible for a  
5 cash award under this paragraph in any cal-  
6 endar year.

7                 “(E) LIMITATION ON COMPENSATION.—  
8 For purposes of applying section 5307 to an  
9 employee in connection with any calendar year  
10 to which an award made under this paragraph  
11 to such employee is attributable, subsection  
12 (a)(1) of such section shall be applied by sub-  
13 stituting ‘to equal or exceed the annual rate of  
14 compensation for the Vice President for such  
15 calendar year’ for ‘to exceed the annual rate of  
16 basic pay payable for level I of the Executive  
17 Schedule, as of the end of such calendar year’.

18                 “(F) APPROVAL REQUIRED.—An award  
19 under this paragraph may not be made un-  
20 less—

21                         “(i) the Commissioner of Internal  
22 Revenue certifies to the Office of Personnel  
23 Management that such award is war-  
24 ranted; and

1                         “(ii) the Office approves, or does not  
2                         disapprove, the proposed award within 60  
3                         days after the date on which it is so cer-  
4                         tified.

5                         “(3) BASED ON SAVINGS.—

6                         “(A) IN GENERAL.—The Commissioner of  
7                         Internal Revenue may authorize the payment of  
8                         cash awards to employees based on documented  
9                         financial savings achieved by a group or organi-  
10                         zation which such employees comprise, if such  
11                         payments are made pursuant to a plan which—

12                         “(i) specifies minimum levels of serv-  
13                         ice and quality to be maintained while  
14                         achieving such financial savings; and

15                         “(ii) is in conformance with criteria  
16                         prescribed by the Office of Personnel Man-  
17                         agement.

18                         “(B) FUNDING.—A cash award under this  
19                         paragraph may be paid from the fund or appro-  
20                         priation available to the activity primarily bene-  
21                         fiting or the various activities benefiting.

22                         “(C) TAX ENFORCEMENT RESULTS.—A  
23                         cash award under this paragraph may not be  
24                         based solely on tax enforcement results.

25                         “(c) OTHER PROVISIONS.—

1           “(1) NOTICE PROVISIONS.—In applying sections  
2        4303(b)(1)(A) and 7513(b)(1) to employees of the  
3        Internal Revenue Service, ‘15 days’ shall be sub-  
4        stituted for ‘30 days’.

5           “(2) APPEALS.—Notwithstanding the second  
6        sentence of section 5335(c), an employee of the In-  
7        ternal Revenue Service shall not have a right to ap-  
8        peal the denial of a periodic step increase under sec-  
9        tion 5335 to the Merit Systems Protection Board.

10 **“§ 9303. Staffing flexibilities**

11        “(a) ELIGIBILITY TO COMPETE FOR A PERMANENT  
12        APPOINTMENT IN THE COMPETITIVE SERVICE.—

13           “(1) ELIGIBILITY OF QUALIFIED VETERANS.—

14           “(A) IN GENERAL.—No veteran described  
15        in subparagraph (B) shall be denied the oppor-  
16        tunity to compete for an announced vacant  
17        competitive service position within the Internal  
18        Revenue Service by reason of—

19           “(i) not having acquired competitive  
20        status; or

21           “(ii) not being an employee of that  
22        agency.

23           “(B) DESCRIPTION.—An individual shall,  
24        for purposes of a position for which such indi-  
25        vidual is applying, be considered a veteran de-

1           scribed in this subparagraph if such individ-  
2           ual—

3                 “(i) is either a preference eligible, or  
4                 an individual (other than a preference eli-  
5                 gible) who has been separated from the  
6                 armed forces under honorable conditions  
7                 after at least 3 years of active service; and  
8                 “(ii) meets the minimum qualification  
9                 requirements for the position sought.

10          “(2) ELIGIBILITY OF CERTAIN TEMPORARY EM-  
11          PLOYEES.—

12                 “(A) IN GENERAL.—No temporary em-  
13                 ployee described in subparagraph (B) shall be  
14                 denied the opportunity to compete for an an-  
15                 nounced vacant competitive service position  
16                 within the Internal Revenue Service by reason  
17                 of not having acquired competitive status.

18                 “(B) DESCRIPTION.—An individual shall,  
19                 for purposes of a position for which such indi-  
20                 vidual is applying, be considered a temporary  
21                 employee described in this subparagraph if—

22                 “(i) such individual is then currently  
23                 serving as a temporary employee in the In-  
24                 ternal Revenue Service;

1                 “(ii) such individual has completed at  
2                 least 2 years of current continuous service  
3                 in the competitive service under 1 or more  
4                 term appointments, each of which was  
5                 made under competitive procedures pre-  
6                 scribed for permanent appointments;

7                 “(iii) such individual’s performance  
8                 under each term appointment referred to  
9                 in clause (ii) met all applicable retention  
10                 standards; and

11                 “(iv) such individual meets the mini-  
12                 mum qualification requirements for the po-  
13                 sition sought.

14                 “(b) RATING SYSTEMS.—

15                 “(1) IN GENERAL.—Notwithstanding sub-  
16                 chapter I of chapter 33, the Commissioner of Inter-  
17                 nal Revenue may establish category rating systems  
18                 for evaluating job applicants for positions in the  
19                 competitive service, under which qualified candidates  
20                 are divided into 2 or more quality categories on the  
21                 basis of relative degrees of merit, rather than as-  
22                 signed individual numerical ratings. Each applicant  
23                 who meets the minimum qualification requirements  
24                 for the position to be filled shall be assigned to an  
25                 appropriate category based on an evaluation of the

1       applicant's knowledge, skills, and abilities relative to  
2       those needed for successful performance in the job  
3       to be filled.

4             “(2) TREATMENT OF PREFERENCE ELIGI-  
5       BLES.—Within each quality category established  
6       under paragraph (1), preference eligibles shall be  
7       listed ahead of individuals who are not preference  
8       eligibles. For other than scientific and professional  
9       positions at or higher than GS-9 (or equivalent),  
10      preference eligibles who have a compensable service-  
11      connected disability of 10 percent or more, and who  
12      meet the minimum qualification standards, shall be  
13      listed in the highest quality category.

14            “(3) SELECTION PROCESS.—An appointing au-  
15      thority may select any applicant from the highest  
16      quality category or, if fewer than 3 candidates have  
17      been assigned to the highest quality category, from  
18      a merged category consisting of the highest and sec-  
19      ond highest quality categories. Notwithstanding the  
20      preceding sentence, the appointing authority may  
21      not pass over a preference eligible in the same or a  
22      higher category from which selection is made, unless  
23      the requirements of section 3317(b) or 3318(b), as  
24      applicable, are satisfied, except that in no event may  
25      certification of a preference eligible under this sub-

1 section be discontinued by the Internal Revenue  
2 Service under section 3317(b) before the end of the  
3 6-month period beginning on the date of such em-  
4 ployee's first certification.

5       “(c) INVOLUNTARY REASSIGNMENTS AND REMOVALS  
6 OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE  
7 SERVICE.—Neither section 3395(e)(1) nor section  
8 3592(b)(1) shall apply with respect to the Internal Reve-  
9 nue Service.

10       “(d) PROBATIONARY PERIODS.—Notwithstanding  
11 any other provision of law or regulation, the Commissioner  
12 of Internal Revenue may establish a period of probation  
13 under section 3321 of up to 3 years for any position if,  
14 as determined by the Commissioner, a shorter period  
15 would be insufficient for the incumbent to demonstrate  
16 complete proficiency in such position.

17       “(e) PROVISIONS THAT REMAIN APPLICABLE.—No  
18 provision of this section exempts the Internal Revenue  
19 Service from—

20           “(1) any employment priorities established  
21 under direction of the President for the placement of  
22 surplus or displaced employees; or

23           “(2) its obligations under any court order or  
24 decree relating to the employment practices of the  
25 Internal Revenue Service.

1   **“§ 9304. Flexibilities relating to demonstration**  
2                         **projects**

3         “(a) AUTHORITY TO CONDUCT.—The Commissioner  
4     of Internal Revenue may, in accordance with this section,  
5     conduct 1 or more demonstration projects to improve per-  
6     sonnel management; provide increased individual account-  
7     ability; eliminate obstacles to the removal of or imposing  
8     any disciplinary action with respect to poor performers,  
9     subject to the requirements of due process; expedite ap-  
10   peals from adverse actions or performance-based actions;  
11   and promote pay based on performance.

12       “(b) GENERAL REQUIREMENTS.—Except as provided  
13   in subsection (c), each demonstration project under this  
14   section shall comply with the provisions of section 4703.

15       “(c) SPECIAL RULES.—For purposes of any dem-  
16   onstration project under this section—

17               “(1) AUTHORITY OF COMMISSIONER.—The  
18   Commissioner of Internal Revenue shall exercise the  
19   authority provided to the Office of Personnel Man-  
20   agement under section 4703.

21               “(2) PROVISIONS NOT APPLICABLE.—The fol-  
22   lowing provisions of section 4703 shall not apply:

23               “(A) Paragraphs (3) through (6) of sub-  
24   section (b).

25               “(B) Paragraphs (1), (2)(B)(ii), and (4) of  
26   subsection (c).

1                         “(C) Subsections (d) through (g).

2                         “(d) NOTIFICATION REQUIRED TO BE GIVEN.—

3                         “(1) TO EMPLOYEES.—The Commissioner of  
4 Internal Revenue shall notify employees likely to be  
5 affected by a project proposed under this section at  
6 least 90 days in advance of the date such project is  
7 to take effect.

8                         “(2) TO CONGRESS AND OPM.—The Commis-  
9 sioner of Internal Revenue shall, with respect to  
10 each demonstration project under this section, pro-  
11 vide each House of Congress and the Office of Per-  
12 sonnel Management with a report, at least 30 days  
13 in advance of the date such project is to take effect,  
14 setting forth the final version of the plan for such  
15 project. Such report shall, with respect to the project  
16 to which it relates, include the information specified  
17 in section 4703(b)(1).

18                         “(e) LIMITATIONS.—No demonstration project under  
19 this section may—

20                         “(1) provide for a waiver of any regulation pre-  
21 scribed under any provision of law referred to in  
22 paragraph (2)(B)(i) or (3) of section 4703(c);

23                         “(2) provide for a waiver of subchapter V of  
24 chapter 63 or subpart G of part III (or any regula-  
25 tions prescribed under such subchapter or subpart);

1               “(3) provide for a waiver of any law or regulation  
2 relating to preference eligibles as defined in section  
3 2108 or subchapter II or III of chapter 73 (or  
4 any regulations prescribed thereunder);

5               “(4) permit collective bargaining over pay or  
6 benefits, or require collective bargaining over any  
7 matter which would not be required under section  
8 7106; or

9               “(5) include a system for measuring performance  
10 that provides for only 1 level of performance at  
11 or above the level of fully successful or better.

12              “(f) PERMISSIBLE PROJECTS.—Notwithstanding any  
13 other provision of law, a demonstration project under this  
14 section—

15              “(1) may establish alternative means of resolving  
16 any dispute within the jurisdiction of the Equal  
17 Employment Opportunity Commission, the Merit  
18 Systems Protection Board, the Federal Labor Relations  
19 Authority, or the Federal Service Impasses  
20 Panel; and

21              “(2) may permit the Internal Revenue Service  
22 to adopt any alternative dispute resolution procedure  
23 that a private entity may lawfully adopt.

24              “(g) CONSULTATION AND COORDINATION.—The  
25 Commissioner of Internal Revenue shall consult with the

1 Director of the Office of Personnel Management in the  
2 development and implementation of each demonstration  
3 project under this section and shall submit such reports  
4 to the Director as the Director may require. The Director  
5 or the Commissioner of Internal Revenue may terminate  
6 a demonstration project under this section if either of  
7 them determines that the project creates a substantial  
8 hardship on, or is not in the best interests of, the public,  
9 the Federal Government, employees, or qualified appli-  
10 cants for employment with the Internal Revenue Service.

11       “(h) TERMINATION.—Each demonstration project  
12 under this section shall terminate before the end of the  
13 5-year period beginning on the date on which the project  
14 takes effect, except that any such project may continue  
15 beyond the end of such period, for not to exceed 2 years,  
16 if the Commissioner of Internal Revenue, with the concur-  
17 rence of the Director, determines such extension is nec-  
18 essary to validate the results of the project. Not later than  
19 6 months before the end of the 5-year period and any ex-  
20 tension under the preceding sentence, the Commissioner  
21 of Internal Revenue shall, with respect to the demonstra-  
22 tion project involved, submit a legislative proposal to the  
23 Congress if the Commissioner determines that such  
24 project should be made permanent, in whole or in part.”.

1       (b) CLERICAL AMENDMENT.—The analysis for part  
2 III of title 5, United States Code, is amended by adding  
3 at the end the following:

**“Subpart I—Miscellaneous**

“93. Personnel Flexibilities Relating to the Internal Revenue  
Service ..... 9301”.

4       (c) EFFECTIVE DATE.—This section shall take effect  
5 on the date of enactment of this Act.

**6       TITLE II—ELECTRONIC FILING**

**7       SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION**

**8                  RETURNS.**

9       (a) IN GENERAL.—It is the policy of the Congress  
10 that paperless filing should be the preferred and most con-  
11 venient means of filing tax and information returns, and  
12 that by the year 2007, no more than 20 percent of all  
13 such returns should be filed on paper.

14       (b) STRATEGIC PLAN.—

15                  (1) IN GENERAL.—Not later than 180 days  
16 after the date of the enactment of this Act, the Sec-  
17 retary of the Treasury or the Secretary’s delegate  
18 (hereafter in this section referred to as the “Sec-  
19 retary”) shall establish a plan to eliminate barriers,  
20 provide incentives, and use competitive market  
21 forces to increase electronic filing gradually over the  
22 next 10 years while maintaining processing times for  
23 paper returns at 40 days. To the extent practicable,

1 such plan shall provide that all returns prepared  
2 electronically for taxable years beginning after 2001  
3 shall be filed electronically.

4 (2) ELECTRONIC COMMERCE ADVISORY  
5 GROUP.—To ensure that the Secretary receives input  
6 from the private sector in the development and im-  
7 plementation of the plan required by paragraph (1),  
8 the Secretary shall convene an electronic commerce  
9 advisory group to include representatives from the  
10 small business community and from the tax practi-  
11 tioner, preparer, and computerized tax processor  
12 communities and other representatives from the elec-  
13 tronic filing industry.

14 (c) PROMOTION OF ELECTRONIC FILING AND INCEN-  
15 TIVES.—Section 6011 is amended by redesignating sub-  
16 section (f) as subsection (g) and by inserting after sub-  
17 section (e) the following new subsection:

18 “(f) PROMOTION OF ELECTRONIC FILING.—

19 “(1) IN GENERAL.—The Secretary is authorized  
20 to promote the benefits of and encourage the use of  
21 electronic tax administration programs, as they be-  
22 come available, through the use of mass communica-  
23 tions and other means.

1               “(2) INCENTIVES.—The Secretary may imple-  
2       ment procedures to provide for the payment of ap-  
3       propriate incentives for electronically filed returns.”.

4               (d) ANNUAL REPORTS.—Not later than June 30 of  
5       each calendar year after 1997, the Chairperson of the In-  
6       ternal Revenue Service Oversight Board, the Secretary,  
7       and the Chairperson of the electronic commerce advisory  
8       group established under subsection (b)(2) shall report to  
9       the Committees on Ways and Means, Appropriations, and  
10      Government Reform and Oversight of the House of Rep-  
11      resentatives, the Committees on Finance, Appropriations,  
12      and Government Affairs of the Senate, and the Joint Com-  
13      mittee on Taxation, on—

14               (1) the progress of the Internal Revenue Serv-  
15      ice in meeting the goal of receiving electronically 80  
16      percent of tax and information returns by 2007;

17               (2) the status of the plan required by sub-  
18      section (b); and

19               (3) the legislative changes necessary to assist  
20      the Internal Revenue Service in meeting such goal.

21      **SEC. 202. DUE DATE FOR CERTAIN INFORMATION RETURNS**

22               **FILED ELECTRONICALLY.**

23               (a) IN GENERAL.—Section 6071 (relating to time for  
24      filing returns and other documents) is amended by redes-

1 ignating subsection (b) as subsection (c) and by inserting  
2 after subsection (a) the following new subsection:

3       “(b) ELECTRONICALLY FILED INFORMATION RE-  
4 TURNS.—Returns made under subparts B and C of part  
5 III of this subchapter which are filed electronically shall  
6 be filed on or before March 31 of the year following the  
7 calendar year to which such returns relate.”.

8       (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to returns required to be filed after  
10 December 31, 1999.

11 **SEC. 203. PAPERLESS ELECTRONIC FILING.**

12       (a) IN GENERAL.—Section 6061 (relating to signing  
13 of returns and other documents) is amended—

14           (1) by striking “Except as otherwise provided  
15 by” and inserting the following:

16           “(a) GENERAL RULE.—Except as otherwise provided  
17 by subsection (b) and”, and

18           (2) by adding at the end the following new sub-  
19 section:

20       “(b) ELECTRONIC SIGNATURES.—

21           “(1) IN GENERAL.—The Secretary shall develop  
22 procedures for the acceptance of signatures in digital  
23 or other electronic form. Until such time as such  
24 procedures are in place, the Secretary may waive the  
25 requirement of a signature for all returns or classes

1       of returns, or may provide for alternative methods of  
2       subscribing all returns, declarations, statements, or  
3       other documents required or permitted to be made  
4       or written under internal revenue laws and regula-  
5       tions.

6           “(2) TREATMENT OF ALTERNATIVE METH-  
7       ODS.—Notwithstanding any other provision of law,  
8       any return, declaration, statement or other docu-  
9       ment filed without signature under the authority of  
10      this subsection or verified, signed or subscribed  
11      under any method adopted under paragraph (1)  
12      shall be treated for all purposes (both civil and  
13      criminal, including penalties for perjury) in the same  
14      manner as though signed and subscribed. Any such  
15      return, declaration, statement or other document  
16      shall be presumed to have been actually submitted  
17      and subscribed by the person on whose behalf it was  
18      submitted.

19           “(3) PUBLISHED GUIDANCE.—The Secretary  
20      shall publish guidance as appropriate to define and  
21      implement any waiver of the signature require-  
22      ments.”.

23           (b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—  
24      Section 7502(c) is amended to read as follows:

1       “(c) REGISTERED AND CERTIFIED MAILING; ELEC-  
2 TRONIC FILING.—

3           “(1) REGISTERED MAIL.—For purposes of this  
4 section, if any return, claim, statement, or other  
5 document, or payment, is sent by United States reg-  
6 istered mail—

7           “(A) such registration shall be prima facie  
8 evidence that the return, claim, statement, or  
9 other document was delivered to the agency, of-  
10 ficer, or office to which addressed, and

11           “(B) the date of registration shall be  
12 deemed the postmark date.

13           “(2) CERTIFIED MAIL; ELECTRONIC FILING.—  
14 The Secretary is authorized to provide by regula-  
15 tions the extent to which the provisions of paragraph  
16 (1) with respect to prima facie evidence of delivery  
17 and the postmark date shall apply to certified mail  
18 and electronic filing.”.

19           (c) ESTABLISHMENT OF PROCEDURES FOR OTHER  
20 INFORMATION.—In the case of taxable periods beginning  
21 after December 31, 1998, the Secretary of the Treasury  
22 or the Secretary’s delegate shall, to the extent practicable,  
23 establish procedures to accept, in electronic form, any  
24 other information, statements, elections, or schedules,

1 from taxpayers filing returns electronically, so that such  
2 taxpayers will not be required to file any paper.

3       (d) PROCEDURES FOR COMMUNICATIONS BETWEEN  
4 IRS AND PREPARER OF ELECTRONICALLY FILED RE-  
5 TURNS.—The Secretary shall establish procedures for tax-  
6 payers to authorize, on electronically filed returns, the pre-  
7 parer of such returns to communicate with the Internal  
8 Revenue Service on matters included on such returns.

9       (e) EFFECTIVE DATE.—The amendments made by  
10 this section shall take effect on the date of the enactment  
11 of this Act.

**12 SEC. 204. RETURN-FREE TAX SYSTEM.**

13       (a) IN GENERAL.—The Secretary of the Treasury or  
14 the Secretary's delegate shall develop procedures for the  
15 implementation of a return-free tax system under which  
16 appropriate individuals would be permitted to comply with  
17 the Internal Revenue Code of 1986 without making the  
18 return required under section 6012 of such Code for tax-  
19 able years beginning after 2007.

20       (b) REPORT.—Not later than June 30 of each cal-  
21 endar year after 1999, such Secretary shall report to the  
22 Committee on Ways and Means of the House of Rep-  
23 resentatives, the Committee on Finance of the Senate, and  
24 the Joint Committee on Taxation on—

1                   (1) what additional resources the Internal Reve-  
2       nue Service would need to implement such a system,

3                   (2) the changes to the Internal Revenue Code  
4       of 1986 that could enhance the use of such a sys-  
5       tem,

6                   (3) the procedures developed pursuant to sub-  
7       section (a), and

8                   (4) the number and classes of taxpayers that  
9       would be permitted to use the procedures developed  
10      pursuant to subsection (a).

11     **SEC. 205. ACCESS TO ACCOUNT INFORMATION.**

12       Not later than December 31, 2006, the Secretary of  
13      the Treasury or the Secretary's delegate shall develop pro-  
14      cedures under which a taxpayer filing returns electroni-  
15      cally would be able to review the taxpayer's account elec-  
16      tronically, but only if all necessary safeguards to ensure  
17      the privacy of such account information are in place.

18     **TITLE III—TAXPAYER  
19                   PROTECTION AND RIGHTS**

20     **SEC. 300. SHORT TITLE.**

21       This title may be cited as the "Taxpayer Bill of  
22      Rights 3".

## 1           **Subtitle A—Burden of Proof**

### 2   **SEC. 301. BURDEN OF PROOF.**

3           (a) IN GENERAL.—Chapter 76 (relating to judicial  
4 proceedings) is amended by adding at the end the follow-  
5 ing new subchapter:

### 6           **“Subchapter E—Burden of Proof**

“Sec. 7491. Burden of proof.

#### 7   **“SEC. 7491. BURDEN OF PROOF.**

8           “(a) GENERAL RULE.—The Secretary shall have the  
9 burden of proof in any court proceeding with respect to  
10 any factual issue relevant to ascertaining the income tax  
11 liability of a taxpayer.

12          “(b) LIMITATIONS.—Subsection (a) shall only apply  
13 with respect to an issue if—

14           “(1) the taxpayer asserts a reasonable dispute  
15 with respect to such issue,

16           “(2) the taxpayer has fully cooperated with the  
17 Secretary with respect to such issue, including pro-  
18 viding, within a reasonable period of time, access to  
19 and inspection of all witnesses, information, and  
20 documents within the control of the taxpayer, as rea-  
21 sonably requested by the Secretary, and

22           “(3) in the case of a partnership, corporation,  
23 or trust, the taxpayer is described in section  
24 7430(c)(4)(A)(ii).

1       “(c) SUBSTANTIATION.—Nothing in this section shall  
2 be construed to override any requirement of this title to  
3 substantiate any item.”.

4       (b) CONFORMING AMENDMENTS.—

5           (1) Section 6201 is amended by striking sub-  
6 section (d) and redesignating subsection (e) as sub-  
7 section (d).

8           (2) The table of subchapters for chapter 76 is  
9 amended by adding at the end the following new  
10 item:

“Subchapter E. Burden of proof.”.

11       (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to court proceedings arising in con-  
13 nection with examinations commencing after the date of  
14 the enactment of this Act.

## 15           **Subtitle B—Proceedings by 16           Taxpayers**

### 17           **SEC. 311. EXPANSION OF AUTHORITY TO AWARD COSTS 18           AND CERTAIN FEES.**

19       (a) AWARD OF HIGHER ATTORNEY’S FEES BASED  
20 ON COMPLEXITY OF ISSUES.—Clause (iii) of section  
21 7430(c)(1)(B) (relating to the award of costs and certain  
22 fees) is amended by inserting “the difficulty of the issues  
23 presented in the case, or the local availability of tax exper-  
24 tise,” before “justifies a higher rate”.

1       (b) AWARD OF ADMINISTRATIVE COSTS INCURRED  
2 AFTER 30-DAY LETTER.—Paragraph (2) of section  
3 7430(c) is amended by striking the last sentence and in-  
4 serting the following:

5       “Such term shall only include costs incurred on or  
6 after whichever of the following is the earliest: (i)  
7 the date of the receipt by the taxpayer of the notice  
8 of the decision of the Internal Revenue Service Of-  
9 fice of Appeals, (ii) the date of the notice of defi-  
10 ciency, or (iii) the date on which the 1st letter of  
11 proposed deficiency which allows the taxpayer an op-  
12 portunity for administrative review in the Internal  
13 Revenue Service Office of Appeals is sent.”.

14      (c) AWARD OF FEES FOR CERTAIN ADDITIONAL  
15 SERVICES.—Paragraph (3) of section 7430(c) is amended  
16 to read as follows:

17       “(3) ATTORNEY’S FEES.—

18           “(A) IN GENERAL.—For purposes of para-  
19 graphs (1) and (2), fees for the services of an  
20 individual (whether or not an attorney) who is  
21 authorized to practice before the Tax Court or  
22 before the Internal Revenue Service shall be  
23 treated as fees for the services of an attorney.

24           “(B) PRO BONO SERVICES.—In any case in  
25 which the court could have awarded attorney’s

1 fees under subsection (a) but for the fact that  
2 an individual is representing the prevailing  
3 party for no fee or for a fee which (taking into  
4 account all the facts and circumstances) is no  
5 more than a nominal fee, the court may also  
6 award a judgment or settlement for such  
7 amounts as the court determines to be appro-  
8 priate (based on hours worked and costs ex-  
9 pended) for services of such individual but only  
10 if such award is paid to such individual or such  
11 individual's employer.”.

12 (d) DETERMINATION OF WHETHER POSITION OF  
13 UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Sub-  
14 paragraph (B) of section 7430(c)(4) is amended by redes-  
15 ignating clause (iii) as clause (iv) and by inserting after  
16 clause (ii) the following new clause:

17 “(iii) EFFECT OF LOSING ON SUB-  
18 STANTIALLY SIMILAR ISSUES.—In deter-  
19 mining for purposes of clause (i) whether  
20 the position of the United States was sub-  
21 stantially justified, the court shall take  
22 into account whether the United States  
23 has lost in courts of appeal for other cir-  
24 cuits on substantially similar issues.”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to costs incurred (and, in the case  
3 of the amendment made by subsection (c), services per-  
4 formed) more than 180 days after the date of the enact-  
5 ment of this Act.

6 **SEC. 312. CIVIL DAMAGES FOR NEGLIGENCE IN COLLEC-**  
7 **TION ACTIONS.**

8       (a) IN GENERAL.—Section 7433 (relating to civil  
9 damages for certain unauthorized collection actions) is  
10 amended—

11               (1) in subsection (a), by inserting “, or by rea-  
12 son of negligence,” after “recklessly or inten-  
13 tionally”, and

14               (2) in subsection (b)—

15                       (A) in the matter preceding paragraph (1),  
16 by inserting “(\$100,000, in the case of neg-  
17 ligence)” after “\$1,000,000”, and

18                       (B) in paragraph (1), by inserting “or neg-  
19 ligent” after “reckless or intentional”.

20       (b) REQUIREMENT THAT ADMINISTRATIVE REM-  
21 EDIES BE EXHAUSTED.—Paragraph (1) of section  
22 7433(d) is amended to read as follows:

23               “(1) REQUIREMENT THAT ADMINISTRATIVE  
24 REMEDIES BE EXHAUSTED.—A judgment for dam-  
25 ages shall not be awarded under subsection (b) un-

1 less the court determines that the plaintiff has ex-  
2 hausted the administrative remedies available to  
3 such plaintiff within the Internal Revenue Service.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to actions of officers or employees  
6 of the Internal Revenue Service after the date of the en-  
7 actment of this Act.

8 **SEC. 313. INCREASE IN SIZE OF CASES PERMITTED ON**  
9 **SMALL CASE CALENDAR.**

10 (a) IN GENERAL.—Subsection (a) of section 7463  
11 (relating to disputes involving \$10,000 or less) is amended  
12 by striking “\$10,000” each place it appears and inserting  
13 “\$25,000”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) The section heading for section 7463 is  
16 amended by striking “**\$10,000**” and inserting  
17 “**\$25,000**”.

18 (2) The item relating to section 7463 in the  
19 table of sections for part II of subchapter C of chap-  
20 ter 76 is amended by striking “\$10,000” and insert-  
21 ing “\$25,000”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to proceedings commencing after  
24 the date of the enactment of this Act.

1   **Subtitle C—Relief for Innocent**  
2   **Spouses and for Taxpayers Un-**  
3   **able To Manage Their Financial**  
4   **Affairs Due to Disabilities**

5   **SEC. 321. SPOUSE RELIEVED IN WHOLE OR IN PART OF LI-**  
6                   **ABILITY IN CERTAIN CASES.**

7       (a) IN GENERAL.—Subpart B of part II of sub-  
8 chapter A of chapter 61 is amended by inserting after sec-  
9 tion 6014 the following new section:

10   **“SEC. 6015. INNOCENT SPOUSE RELIEF; PETITION TO TAX**  
11                   **COURT.**

12       “(a) SPOUSE RELIEVED OF LIABILITY IN CERTAIN  
13 CASES.—

14               “(1) IN GENERAL.—Under procedures pre-  
15 scribed by the Secretary, if—

16               “(A) a joint return has been made under  
17 section 6013 for a taxable year,

18               “(B) on such return there is an under-  
19 statement of tax attributable to erroneous items  
20 of 1 spouse,

21               “(C) the other spouse establishes that in  
22 signing the return he or she did not know, and  
23 had no reason to know, that there was such un-  
24 derstatement,

1                 “(D) taking into account all the facts and  
2                 circumstances, it is inequitable to hold the other  
3                 spouse liable for the deficiency in tax for such  
4                 taxable year attributable to such understate-  
5                 ment, and

6                 “(E) the other spouse claims (in such form  
7                 as the Secretary may prescribe) the benefits of  
8                 this subsection not later than the date which is  
9                 2 years after the date of the assessment of such  
10                 deficiency,

11                 then the other spouse shall be relieved of liability for  
12                 tax (including interest, penalties, and other  
13                 amounts) for such taxable year to the extent such li-  
14                 ability is attributable to such understatement.

15                 “(2) APPORTIONMENT OF RELIEF.—If a spouse  
16                 who, but for paragraph (1)(C), would be relieved of  
17                 liability under paragraph (1), establishes that in  
18                 signing the return such spouse did not know, and  
19                 had no reason to know, the extent of such under-  
20                 statement, then such spouse shall be relieved of li-  
21                 ability for tax (including interest, penalties, and  
22                 other amounts) for such taxable year to the extent  
23                 that such liability is attributable to the portion of  
24                 such understatement of which such spouse did not  
25                 know and had no reason to know.

1           “(3) UNDERSTATEMENT.—For purposes of this  
2 subsection, the term ‘understatement’ has the mean-  
3 ing given to such term by section 6662(d)(2)(A).

4           “(4) SPECIAL RULE FOR COMMUNITY PROP-  
5 ERTY INCOME.—For purposes of this subsection, the  
6 determination of the spouse to whom items of gross  
7 income (other than gross income from property) are  
8 attributable shall be made without regard to commu-  
9 nity property laws.

10          “(b) PETITION FOR REVIEW BY TAX COURT.—In the  
11 case of an individual who has filed a claim under sub-  
12 section (a) within the period specified in subsection  
13 (a)(1)(E)—

14           “(1) IN GENERAL.—Such individual may peti-  
15 tion the Tax Court (and the Tax Court shall have  
16 jurisdiction) to determine such claim if such petition  
17 is filed during the 90-day period beginning on the  
18 earlier of—

19           “(A) the date which is 6 months after the  
20 date such claim is filed with the Secretary, or

21           “(B) the date on which the Secretary mails  
22 by certified or registered mail a notice to such  
23 individual denying such claim.

1       Such 90-day period shall be determined by not  
2       counting Saturday, Sunday, or a legal holiday in the  
3       District of Columbia as the last day of such period.

4           **“(2) RESTRICTIONS APPLICABLE TO COLLEC-**  
5           **TION OF ASSESSMENT.—**

6           **“(A) IN GENERAL.—**Except as otherwise  
7       provided in section 6851 or 6861, no levy or  
8       proceeding in court for collection of any assess-  
9       ment to which such claim relates shall be made,  
10      begun, or prosecuted, until the expiration of the  
11      90-day period described in paragraph (1), nor,  
12      if a petition has been filed with the Tax Court,  
13      until the decision of the Tax Court has become  
14      final. Rules similar to the rules of section 7485  
15      shall apply with respect to the collection of such  
16      assessment.

17           **“(B) AUTHORITY TO ENJOIN COLLECTION**  
18           **ACTIONS.—**Notwithstanding the provisions of  
19       section 7421(a), the beginning of such proceed-  
20       ing or levy during the time the prohibition  
21       under subparagraph (A) is in force may be en-  
22       joined by a proceeding in the proper court, in-  
23       cluding the Tax Court. The Tax Court shall  
24       have no jurisdiction under this paragraph to en-  
25       join any action or proceeding unless a timely

1           petition for a determination of such claim has  
2           been filed and then only in respect of the  
3           amount of the assessment to which such claim  
4           relates.

5           “(C) JEOPARDY COLLECTION.—If the Sec-  
6           retary makes a finding that the collection of the  
7           tax is in jeopardy, nothing in this subsection  
8           shall prevent the immediate collection of such  
9           tax.

10          “(c) SUSPENSION OF RUNNING OF PERIOD OF LIMI-  
11       TATIONS.—The running of the period of limitations in sec-  
12       tion 6502 on the collection of the assessment to which the  
13       petition under subsection (b) relates shall be suspended  
14       for the period during which the Secretary is prohibited by  
15       subsection (b) from collecting by levy or a proceeding in  
16       court and for 60 days thereafter.

17          “(d) APPLICABLE RULES.—

18           “(1) ALLOWANCE OF APPLICATION.—Except as  
19           provided in paragraph (2), notwithstanding any  
20           other law or rule of law (other than section 6512(b),  
21           7121, or 7122), credit or refund shall be allowed or  
22           made to the extent attributable to the application of  
23           this section.

24           “(2) RES JUDICATA.—In the case of any claim  
25           under subsection (a), the determination of the Tax

1       Court in any prior proceeding for the same taxable  
2       periods in which the decision has become final, shall  
3       be conclusive except with respect to the qualification  
4       of the spouse for relief which was not an issue in  
5       such proceeding. The preceding sentence shall not  
6       apply if the Tax Court determines that the spouse  
7       participated meaningfully in such prior proceeding.

8               “(3) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either spouse  
9       pursuant to section 6532, the Tax Court shall lose  
10      jurisdiction of the spouse’s action under this section  
11      to whatever extent jurisdiction is acquired by the  
12      district court or the United States Court of Federal  
13      Claims over the taxable years that are the subject of  
14      the suit for refund.”.

16               (b) SEPARATE FORM FOR APPLYING FOR SPOUSAL  
17      RELIEF.—Not later than 180 days after the date of the  
18      enactment of this Act, the Secretary of the Treasury shall  
19      develop a separate form with instructions for use by tax-  
20      payers in applying for relief under section 6015(a) of the  
21      Internal Revenue Code of 1986, as added by this section.

22               (c) CONFORMING AMENDMENTS.—

23               (1) Section 6013 is amended by striking sub-  
24      section (e).

1                         (2) Subparagraph (A) of section 6230(c)(5) is  
2                         amended by striking “section 6013(e)” and inserting  
3                         “section 6015”.

4                         (d) CLERICAL AMENDMENT.—The table of sections  
5                         for subpart B of part II of subchapter A of chapter 61  
6                         is amended by inserting after the item relating to section  
7                         6014 the following new item:

“Sec. 6015. Innocent spouse relief; petition to Tax Court.”.

8                         (e) EFFECTIVE DATE.—The amendments made by  
9                         this section shall apply to understatements for taxable  
10                         years beginning after the date of the enactment of this  
11                         Act.

12 **SEC. 322. SUSPENSION OF STATUTE OF LIMITATIONS ON**  
13                         **FILING REFUND CLAIMS DURING PERIODS**  
14                         **OF DISABILITY.**

15                         (a) IN GENERAL.—Section 6511 (relating to limita-  
16                         tions on credit or refund) is amended by redesignating  
17                         subsection (h) as subsection (i) and by inserting after sub-  
18                         section (g) the following new subsection:

19                         “(h) RUNNING OF PERIODS OF LIMITATION SUS-  
20                         PENDED WHILE TAXPAYER IS UNABLE TO MANAGE Fi-  
21                         NANCIAL AFFAIRS DUE TO DISABILITY.—

22                         “(1) IN GENERAL.—In the case of an individ-  
23                         ual, the running of the periods specified in sub-  
24                         sections (a), (b), and (c) shall be suspended during

1       any period of such individual's life that such individ-  
2       ual is financially disabled.

3           “(2) FINANCIALLY DISABLED.—

4           “(A) IN GENERAL.—For purposes of para-  
5       graph (1), an individual is financially disabled  
6       if such individual is unable to manage his fi-  
7       nancial affairs by reason of his medically deter-  
8       minable physical or mental impairment which  
9       can be expected to result in death or which has  
10      lasted or can be expected to last for a continu-  
11      ous period of not less than 12 months. An indi-  
12      vidual shall not be considered to have such an  
13      impairment unless proof of the existence thereof  
14      is furnished in such form and manner as the  
15      Secretary may require.

16           “(B) EXCEPTION WHERE INDIVIDUAL HAS  
17      GUARDIAN, ETC.—An individual shall not be  
18      treated as financially disabled during any pe-  
19      riod that such individual's spouse or any other  
20      person is authorized to act on behalf of such in-  
21      dividual in financial matters.”.

22           (b) EFFECTIVE DATE.—The amendment made by  
23      subsection (a) shall apply to periods of disability before,  
24      on, or after the date of the enactment of this Act but shall  
25      not apply to any claim for credit or refund which (without

1 regard to such amendment) is barred by the operation of  
2 any law or rule of law (including res judicata) as of Janu-  
3 ary 1, 1998.

4 **Subtitle D—Provisions Relating to**  
5 **Interest**

6 **SEC. 331. ELIMINATION OF INTEREST RATE DIFFERENTIAL**  
7 **ON OVERLAPPING PERIODS OF INTEREST ON**  
8 **INCOME TAX OVERPAYMENTS AND UNDER-**  
9 **PAYMENTS.**

10 (a) IN GENERAL.—Section 6621 (relating to deter-  
11 mination of rate of interest) is amended by adding at the  
12 end the following new subsection:

13 “(d) ELIMINATION OF INTEREST ON OVERLAPPING  
14 PERIODS OF INCOME TAX OVERPAYMENTS AND UNDER-  
15 PAYMENTS.—To the extent that, for any period, interest  
16 is payable under subchapter A and allowable under sub-  
17 chapter B on equivalent underpayments and overpayments  
18 by the same taxpayer of tax imposed by chapters 1 and  
19 2, the net rate of interest under this section on such  
20 amounts shall be zero for such period.”.

21 (b) CONFORMING AMENDMENT.—Subsection (f) of  
22 section 6601 (relating to satisfaction by credits) is amend-  
23 ed by adding at the end the following new sentence: “The  
24 preceding sentence shall not apply to the extent that sec-  
25 tion 6621(d) applies.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to interest for calendar quarters  
3 beginning after the date of the enactment of this Act.

4 **SEC. 332. INCREASE IN OVERPAYMENT RATE PAYABLE TO**  
5                   **TAXPAYERS OTHER THAN CORPORATIONS.**

6       (a) IN GENERAL.—Subparagraph (B) of section  
7 6621(a)(1) (defining overpayment rate) is amended to  
8 read as follows:

9                   “(B) 3 percentage points (2 percentage  
10                  points in the case of a corporation).”.

11       (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to interest for calendar quarters  
13 beginning after the date of the enactment of this Act.

14 **Subtitle E—Protections for Tax-**  
15                   **payers Subject to Audit or Col-**  
16                   **lection Activities**

17 **SEC. 341. PRIVILEGE OF CONFIDENTIALITY EXTENDED TO**  
18                   **TAXPAYER'S DEALINGS WITH NON-ATTOR-**  
19                   **NEYS AUTHORIZED TO PRACTICE BEFORE IN-**  
20                   **TERNAL REVENUE SERVICE.**

21       Section 7602 (relating to examination of books and  
22 witnesses) is amended by adding at the end the following  
23 new subsection:

24       “(d) PRIVILEGE OF CONFIDENTIALITY EXTENDED  
25 TO TAXPAYER'S DEALINGS WITH NON-ATTORNEYS AU-

1 AUTHORIZED TO PRACTICE BEFORE INTERNAL REVENUE  
2 SERVICE.—

3                 “(1) IN GENERAL.—In any noncriminal pro-  
4                 ceeding before the Internal Revenue Service, the tax-  
5                 payer shall be entitled to the same common law pro-  
6                 tections of confidentiality with respect to tax advice  
7                 furnished by any qualified individual (in a manner  
8                 consistent with State law for such individual’s pro-  
9                 fession) as the taxpayer would have if such individ-  
10                 ual were an attorney.

“(2) QUALIFIED INDIVIDUAL.—For purposes of paragraph (1), the term ‘qualified individual’ means any individual (other than an attorney) who is authorized to practice before the Internal Revenue Service.”.

**16 SEC. 342. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER  
17 ASSISTANCE ORDERS.**

18       Section 7811(a) (relating to taxpayer assistance or-  
19 ders) is amended—

20                   (1) by striking “Upon application” and insert-  
21                   ing the following:

22                   “(1) IN GENERAL.—Upon application”,

23 (2) by moving the text 2 ems to the right, and  
24 (3) by adding at the end the following new  
25 paragraphs:

1           “(2) ISSUANCE OF TAXPAYER ASSISTANCE OR-  
2         DERS.—For purposes of determining whether to  
3         issue a taxpayer assistance order, the Taxpayer Ad-  
4         vocate shall consider the following factors, among  
5         others:

6           “(A) Whether there is an immediate threat  
7         of adverse action.

8           “(B) Whether there has been an unreason-  
9         able delay in resolving taxpayer account prob-  
10         lems.

11          “(C) Whether the taxpayer will have to pay  
12         significant costs (including fees for professional  
13         representation) if relief is not granted.

14          “(D) Whether the taxpayer will suffer ir-  
15         reparable injury, or a long-term adverse impact,  
16         if relief is not granted.

17          “(3) STANDARD WHERE ADMINISTRATIVE GUID-  
18         ANCE NOT FOLLOWED.—In cases where any Internal  
19         Revenue Service employee is not following applicable  
20         published administrative guidance (including the In-  
21         ternal Revenue Manual), the Taxpayer Advocate  
22         shall construe the factors taken into account in de-  
23         termining whether to issue a taxpayer assistance  
24         order in the manner most favorable to the tax-  
25         payer.”.

1   **SEC. 343. LIMITATION ON FINANCIAL STATUS AUDIT TECH-**

2                   **NIQUES.**

3       Section 7602 is amended by adding at the end the  
4    following new subsection:

5       “(e) **LIMITATION ON EXAMINATION ON UNREPORTED**  
6    **INCOME.**—The Secretary shall not use financial status or  
7    economic reality examination techniques to determine the  
8    existence of unreported income of any taxpayer unless the  
9    Secretary has a reasonable indication that there is a likeli-  
10   hood of such unreported income.”.

11   **SEC. 344. LIMITATION ON AUTHORITY TO REQUIRE PRO-**

12                   **DUCTION OF COMPUTER SOURCE CODE.**

13       (a) **IN GENERAL.**—Section 7602 is amended by add-  
14    ing at the end the following new subsection:

15       “(f) **LIMITATION ON AUTHORITY TO REQUIRE PRO-**  
16    **DUCTION OF COMPUTER SOURCE CODE.**—

17       “(1) **IN GENERAL.**—No summons may be is-  
18    sued under this title, and the Secretary may not  
19    begin any action under section 7604 to enforce any  
20    summons, to produce or examine any tax-related  
21    computer source code.

22       “(2) **EXCEPTION WHERE INFORMATION NOT**  
23    **OTHERWISE AVAILABLE TO VERIFY CORRECTNESS**  
24    **OF ITEM ON RETURN.**—Paragraph (1) shall not  
25    apply to any portion of a tax-related computer  
26    source code if—

1               “(A) the Secretary is unable to otherwise  
2               reasonably ascertain the correctness of any item  
3               on a return from—

4                     “(i) the taxpayer’s books, papers,  
5                     records, or other data, or

6                     “(ii) the computer software program  
7                     and the associated data which, when exe-  
8                     cuted, produces the output to prepare the  
9                     return for the period involved, and

10               “(B) the Secretary identifies with reason-  
11               able specificity such portion as to be used to  
12               verify the correctness of such item.

13               The Secretary shall be treated as meeting the re-  
14               quirements of subparagraphs (A) and (B) after the  
15               90th day after the Secretary makes a formal request  
16               to the taxpayer and the owner or developer of the  
17               computer software program for the material de-  
18               scribed in subparagraph (A)(ii) if such material is  
19               not provided before the close of such 90th day.

20               “(3) OTHER EXCEPTIONS.—Paragraph (1) shall  
21               not apply to—

22                     “(A) any inquiry into any offense con-  
23                     nected with the administration or enforcement  
24                     of the internal revenue laws, and

1                 “(B) any tax-related computer source code  
2                 developed by (or primarily for the benefit of)  
3                 the taxpayer or a related person (within the  
4                 meaning of section 267 or 707(b)) for internal  
5                 use by the taxpayer or such person and not for  
6                 commercial distribution.

7                 “(4) TAX-RELATED COMPUTER SOURCE  
8                 CODE.—For purposes of this subsection, the term  
9                 ‘tax-related computer source code’ means—

10                 “(A) the computer source code for any  
11                 computer software program for accounting, tax  
12                 return preparation or compliance, or tax plan-  
13                 ning, or

14                 “(B) design and development materials re-  
15                 lated to such a software program (including  
16                 program notes and memoranda).

17                 “(5) RIGHT TO CONTEST SUMMONS.—The de-  
18                 termination of whether the requirements of subpara-  
19                 graphs (A) and (B) of paragraph (2) are met or  
20                 whether any exception under paragraph (3) applies  
21                 may be contested in any proceeding under section  
22                 7604.

23                 “(6) PROTECTION OF TRADE SECRETS AND  
24                 OTHER CONFIDENTIAL INFORMATION.—In any court  
25                 proceeding to enforce a summons for any portion of

1       a tax-related computer source code, the court may  
2       issue any order necessary to prevent the disclosure  
3       of trade secrets or other confidential information  
4       with respect to such source code, including providing  
5       that any information be placed under seal to be  
6       opened only as directed by the court.”.

7       (b) APPLICATION OF SPECIAL PROCEDURES FOR  
8       THIRD-PARTY SUMMONSES.—Paragraph (3) of section  
9       7609(a) (defining third-party recordkeeper) is amended by  
10      striking “and” at the end of subparagraph (H), by strik-  
11      ing a period at the end of subparagraph (I) and inserting  
12      “, and”, and by adding at the end the following:

13               “(J) any owner or developer of a tax-relat-  
14               ed computer source code (as defined in section  
15               7602(f)(4)).

16       Subparagraph (J) shall apply only with respect to a  
17       summons requiring the production of the source  
18       code referred to in subparagraph (J) or the program  
19       and data described in section 7602(f)(2)(A)(ii) to  
20       which such source code relates.”.

21       (c) EFFECTIVE DATE.—The amendments made by  
22      this section shall apply to summonses issued more than  
23      90 days after the date of the enactment of this Act.

## 1 SEC. 345. PROCEDURES RELATING TO EXTENSIONS OF

## 2 STATUTE OF LIMITATIONS BY AGREEMENT.

3 (a) IN GENERAL.—Paragraph (4) of section 6501(c)  
4 (relating to the period for limitations on assessment and  
5 collection) is amended—

6 (1) by striking “Where” and inserting the fol-  
7 lowing:

8 “(A) IN GENERAL.—Where”,

9 (2) by moving the text 2 ems to the right, and  
10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(B) NOTICE TO TAXPAYER OF RIGHT TO  
13 REFUSE OR LIMIT EXTENSION.—The Secretary  
14 shall notify the taxpayer of the taxpayer’s right  
15 to refuse to extend the period of limitations, or  
16 to limit such extension to particular issues, on  
17 each occasion when the taxpayer is requested to  
18 provide such consent.”.

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

## 23 SEC. 346. OFFERS-IN-COMPROMISE.

24 (a) ALLOWANCES FOR BASIC LIVING EXPENSES.—  
25 Section 7122 (relating to offers-in-compromise) is amend-  
26 ed by adding at the end the following new subsection:

1       “(c) ALLOWANCES FOR BASIC LIVING EXPENSES.—

2   The Secretary shall develop and publish schedules of na-  
3   tional and local allowances designed to provide that tax-  
4   payers entering into a compromise have an adequate  
5   means to provide for basic living expenses.”.

6       (b) PREPARATION OF STATEMENT RELATING TO OF-

7   FERS-IN-COMPROMISE.—The Secretary of the Treasury  
8   shall prepare a statement which sets forth in simple, non-  
9   technical terms the rights of a taxpayer and the obliga-  
10   tions of the Internal Revenue Service relating to offers-  
11   in-compromise. Such statement shall—

12           (1) advise taxpayers who have entered into a  
13   compromise agreement of the advantages of prompt-  
14   ly notifying the Internal Revenue Service of any  
15   change of address or marital status, and

16           (2) provide notice to taxpayers that in the case  
17   of a compromise agreement terminated due to the  
18   actions of 1 spouse or former spouse, the Internal  
19   Revenue Service will, upon application, reinstate  
20   such agreement with the spouse or former spouse  
21   who remains in compliance with such agreement.

22   **SEC. 347. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES**

23           **FOR FILING TAX COURT PETITION.**

24       (a) IN GENERAL.—The Secretary of the Treasury or  
25   the Secretary’s delegate shall include on each notice of de-

1 deficiency under section 6212 of the Internal Revenue Code  
2 of 1986 the date determined by such Secretary (or dele-  
3 gate) as the last day on which the taxpayer may file a  
4 petition with the Tax Court.

5       (b) LATER FILING DEADLINES SPECIFIED ON NO-  
6 TICE OF DEFICIENCY TO BE BINDING.—Subsection (a)  
7 of section 6213 (relating to restrictions applicable to defi-  
8 ciencies; petition to Tax Court) is amended by adding at  
9 the end the following new sentence: “Any petition filed  
10 with the Tax Court on or before the last date specified  
11 for filing such petition by the Secretary in the notice of  
12 deficiency shall be treated as timely filed.”.

13       (c) EFFECTIVE DATE.—Subsection (a) and the  
14 amendment made by subsection (b) shall apply to notices  
15 mailed after December 31, 1998.

16 **SEC. 348. REFUND OR CREDIT OF OVERPAYMENTS BEFORE  
17 FINAL DETERMINATION.**

18       (a) TAX COURT PROCEEDINGS.—Subsection (a) of  
19 section 6213 is amended—

20               (1) by striking “, including the Tax Court.”  
21               and inserting “, including the Tax Court, and a re-  
22               fund may be ordered by such court of any amount  
23               collected within the period during which the Sec-  
24               retary is prohibited from collecting by levy or

1 through a proceeding in court under the provisions  
2 of this subsection.”, and

3 (2) by striking “to enjoin any action or pro-  
4 ceeding” and inserting “to enjoin any action or pro-  
5 ceeding or order any refund”.

6 (b) OTHER PROCEEDINGS.—Subsection (a) of section  
7 6512 is amended by striking the period at the end of para-  
8 graph (4) and inserting “, and”, and by inserting after  
9 paragraph (4) the following new paragraphs:

10 “(5) As to any amount collected within the pe-  
11 riod during which the Secretary is prohibited from  
12 making the assessment or from collecting by levy or  
13 through a proceeding in court under the provisions  
14 of section 6213(a), and

15 “(6) As to overpayments the Secretary is au-  
16 thorized to refund or credit pending appeal as pro-  
17 vided in subsection (b).”.

18 (c) REFUND OR CREDIT PENDING APPEAL.—Para-  
19 graph (1) of section 6512(b) is amended by adding at the  
20 end the following new sentence: “If a notice of appeal in  
21 respect of the decision of the Tax Court is filed under sec-  
22 tion 7483, the Secretary is authorized to refund or credit  
23 the overpayment determined by the Tax Court to the ex-  
24 tent the overpayment is not contested on appeal.”.

1       (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall take effect on the date of the enactment  
 3 of this Act.

4 **SEC. 349. THREAT OF AUDIT PROHIBITED TO COERCE TIP**  
 5                   **REPORTING ALTERNATIVE COMMITMENT**  
 6                   **AGREEMENTS.**

7       The Secretary of the Treasury or the Secretary's del-  
 8 egate shall instruct employees of the Internal Revenue  
 9 Service that they may not threaten to audit any taxpayer  
 10 in an attempt to coerce the taxpayer into entering into  
 11 a Tip Reporting Alternative Commitment Agreement.

12           **Subtitle F—Disclosures to**  
 13           **Taxpayers**

14 **SEC. 351. EXPLANATION OF JOINT AND SEVERAL LIABIL-**  
 15           **ITY.**

16       The Secretary of the Treasury or the Secretary's del-  
 17 egate shall, as soon as practicable, but not later than 180  
 18 days after the date of the enactment of this Act, establish  
 19 procedures to clearly alert married taxpayers of their joint  
 20 and several liabilities on all appropriate publications and  
 21 instructions.

1   **SEC. 352. EXPLANATION OF TAXPAYERS' RIGHTS IN INTER-**  
2                   **VIEWS WITH THE INTERNAL REVENUE SERV-**  
3                   **ICE.**

4         The Secretary of the Treasury or the Secretary's del-  
5        egate shall, as soon as practicable, but not later than 180  
6        days after the date of the enactment of this Act, revise  
7        the statement required by section 6227 of the Omnibus  
8        Taxpayer Bill of Rights (Internal Revenue Service Publi-  
9        cation No. 1) to more clearly inform taxpayers of their  
10      rights—

11               (1) to be represented at interviews with the In-  
12        ternal Revenue Service by any person authorized to  
13        practice before the Internal Revenue Service, and  
14               (2) to suspend an interview pursuant to section  
15        7521(b)(2) of the Internal Revenue Code of 1986.

16   **SEC. 353. DISCLOSURE OF CRITERIA FOR EXAMINATION SE-**  
17                   **LECTION.**

18         (a) IN GENERAL.—The Secretary of the Treasury or  
19        the Secretary's delegate shall, as soon as practicable, but  
20        not later than 180 days after the date of the enactment  
21        of this Act, incorporate into the statement required by sec-  
22        tion 6227 of the Omnibus Taxpayer Bill of Rights (Inter-  
23        nal Revenue Service Publication No. 1) a statement which  
24        sets forth in simple and nontechnical terms the criteria  
25        and procedures for selecting taxpayers for examination.  
26        Such statement shall not include any information the dis-

1 closure of which would be detrimental to law enforcement,  
2 but shall specify the general procedures used by the Inter-  
3 nal Revenue Service, including whether taxpayers are se-  
4 lected for examination on the basis of information avail-  
5 able in the media or on the basis of information provided  
6 to the Internal Revenue Service by informants.

7       (b) TRANSMISSION TO COMMITTEES OF CON-  
8 GRESS.—The Secretary shall transmit drafts of the state-  
9 ment required under subsection (a) (or proposed revisions  
10 to any such statement) to the Committee on Ways and  
11 Means of the House of Representatives, the Committee on  
12 Finance of the Senate, and the Joint Committee on Tax-  
13 ation on the same day.

**14 SEC. 354. EXPLANATIONS OF APPEALS AND COLLECTION  
15 PROCESS.**

16 The Secretary of the Treasury or the Secretary's del-  
17 egate shall, as soon as practicable but not later than 180  
18 days after the date of the enactment of this Act, include  
19 with any 1st letter of proposed deficiency which allows the  
20 taxpayer an opportunity for administrative review in the  
21 Internal Revenue Service Office of Appeals an explanation  
22 of the appeals process and the collection process with re-  
23 spect to such proposed deficiency.

## **1 Subtitle G—Low Income Taxpayer 2 Clinics**

### **3 SEC. 361. LOW INCOME TAXPAYER CLINICS.**

4 (a) IN GENERAL.—Chapter 77 (relating to mis-  
5 cellaneous provisions) is amended by adding at the end  
6 the following new section:

## **7 “SEC. 7525. LOW INCOME TAXPAYER CLINICS.**

8        "(a) IN GENERAL.—The Secretary may, subject to  
9 the availability of appropriated funds, make grants to pro-  
10 vide matching funds for the development, expansion, or  
11 continuation of qualified low income taxpayer clinics.

12        "(b) DEFINITIONS.—For purposes of this section—  
13            "(1) QUALIFIED LOW INCOME TAXPAYER CLIN-  
14            JC.—

15                         “(A) IN GENERAL.—The term ‘qualified  
16 low income taxpayer clinic’ means a clinic  
17 that—

18                         “(i) does not charge more than a  
19 nominal fee for its services (except for re-  
20 imbursement of actual costs incurred), and

“(ii)(I) represents low income tax-payers in controversies with the Internal Revenue Service or

24 “(II) operates programs to inform in-  
25 dividuals for whom English is a second

1                   language about their rights and responsibilities under this title.

3                   “(B) REPRESENTATION OF LOW INCOME  
4                   TAXPAYERS.—A clinic meets the requirements  
5                   of subparagraph (A)(ii)(I) if—

6                   “(i) at least 90 percent of the tax-  
7                   payers represented by the clinic have in-  
8                   comes which do not exceed 250 percent of  
9                   the poverty level, as determined in accord-  
10                  ance with criteria established by the Direc-  
11                  tor of the Office of Management and  
12                  Budget, and

13                  “(ii) the amount in controversy for  
14                  any taxable year generally does not exceed  
15                  the amount specified in section 7463.

16                  “(2) CLINIC.—The term ‘clinic’ includes—

17                  “(A) a clinical program at an accredited  
18                  law school in which students represent low in-  
19                  come taxpayers in controversies arising under  
20                  this title, and

21                  “(B) an organization described in section  
22                  501(c) and exempt from tax under section  
23                  501(a) which satisfies the requirements of para-  
24                  graph (1) through representation of taxpayers

1           or referral of taxpayers to qualified representa-  
2           tives.

3           “(3) QUALIFIED REPRESENTATIVE.—The term  
4       ‘qualified representative’ means any individual  
5       (whether or not an attorney) who is authorized to  
6       practice before the Internal Revenue Service or the  
7       applicable court.

8           “(c) SPECIAL RULES AND LIMITATIONS.—

9           “(1) AGGREGATE LIMITATION.—Unless other-  
10       wise provided by specific appropriation, the Sec-  
11       retary shall not allocate more than \$3,000,000 per  
12       year (exclusive of costs of administering the pro-  
13       gram) to grants under this section.

14           “(2) LIMITATION ON ANNUAL GRANTS TO A  
15       CLINIC.—The aggregate amount of grants which  
16       may be made under this section to a clinic for a year  
17       shall not exceed \$100,000.

18           “(3) MULTI-YEAR GRANTS.—Upon application  
19       of a qualified low income taxpayer clinic, the Sec-  
20       retary is authorized to award a multi-year grant not  
21       to exceed 3 years.

22           “(4) CRITERIA FOR AWARDS.—In determining  
23       whether to make a grant under this section, the Sec-  
24       retary shall consider—

1               “(A) the numbers of taxpayers who will be  
2               served by the clinic, including the number of  
3               taxpayers in the geographical area for whom  
4               English is a second language,

5               “(B) the existence of other low income tax-  
6               payer clinics serving the same population,

7               “(C) the quality of the program offered by  
8               the low income taxpayer clinic, including the  
9               qualifications of its administrators and qualified  
10               representatives, and its record, if any, in pro-  
11               viding service to low income taxpayers, and

12               “(D) alternative funding sources available  
13               to the clinic, including amounts received from  
14               other grants and contributions, and the endow-  
15               ment and resources of the institution sponsor-  
16               ing the clinic.

17               “(5) REQUIREMENT OF MATCHING FUNDS.—A  
18               low income taxpayer clinic must provide matching  
19               funds on a dollar for dollar basis for all grants pro-  
20               vided under this section. Matching funds may in-  
21               clude—

22               “(A) the salary (including fringe benefits)  
23               of individuals performing services for the clinic,  
24               and

1               “(B) the cost of equipment used in the  
2               clinic.

3               Indirect expenses, including general overhead of the  
4               institution sponsoring the clinic, shall not be counted  
5               as matching funds.”.

6               (b) CLERICAL AMENDMENT.—The table of sections  
7               for chapter 77 is amended by adding at the end the follow-  
8               ing new section:

“Sec. 7525. Low income taxpayer clinics.”.

9               (c) EFFECTIVE DATE.—The amendments made by  
10              this section shall take effect on the date of the enactment  
11              of this Act.

## 12              **Subtitle H—Other Matters**

### 13              **SEC. 371. ACTIONS FOR REFUND WITH RESPECT TO CER-** 14              **TAIN ESTATES WHICH HAVE ELECTED THE** 15              **INSTALLMENT METHOD OF PAYMENT.**

16               (a) IN GENERAL.—Section 7422 is amended by re-  
17               designating subsection (j) as subsection (k) and by insert-  
18               ing after subsection (i) the following new subsection:

19               “(j) SPECIAL RULE FOR ACTIONS WITH RESPECT TO  
20               ESTATES FOR WHICH AN ELECTION UNDER SECTION  
21               6166 IS MADE.—

22               “(1) IN GENERAL.—The district courts of the  
23               United States and the United States Court of Fed-  
24               eral Claims shall have jurisdiction over any action  
25               brought by the representative of an estate to which

1       this subsection applies to determine the correct  
2       amount of the estate tax liability of such estate (or  
3       for any refund with respect thereto) even if the full  
4       amount of such liability has not been paid.

5           “(2) ESTATES TO WHICH SUBSECTION AP-  
6       PLIES.—This subsection shall apply to any estate if,  
7       as of the date the action is filed—

8           “(A) an election under section 6166 is in  
9       effect with respect to such estate,

10          “(B) no portion of the installments payable  
11       under such section have been accelerated, and

12          “(C) all installments the due date for  
13       which is on or before the date the action is filed  
14       have been paid.

15          “(3) PROHIBITION ON COLLECTION OF DIS-  
16       ALLOWED LIABILITY.—If the court redetermines  
17       under paragraph (1) the estate tax liability of an es-  
18       tate, no part of such liability which is disallowed by  
19       a decision of such court which has become final may  
20       be collected by the Secretary, and amounts paid in  
21       excess of the installments determined by the court as  
22       currently due and payable shall be refunded.”.

23          (b) EXTENSION OF TIME TO FILE REFUND SUIT.—  
24       Section 7479 (relating to declaratory judgments relating  
25       to eligibility of estate with respect to installment payments

1 under section 6166) is amended by adding at the end the  
2 following new subsection:

3       “(c) EXTENSION OF TIME TO FILE REFUND SUIT.—  
4       The 2-year period in section 6532(a)(1) for filing suit for  
5       refund after disallowance of a claim shall be suspended  
6       during the 90-day period after the mailing of the notice  
7       referred to in subsection (b)(3) and, if a pleading has been  
8       filed with the Tax Court under this section, until the deci-  
9       sion of the Tax Court has become final.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to any claim for refund filed after  
12 the date of the enactment of this Act.

## 13 SEC. 372. CATALOGING COMPLAINTS.

14 In collecting data for the report required under sec-  
15 tion 1211 of Taxpayer Bill of Rights 2 (Public Law 104–  
16 168), the Secretary of the Treasury or the Secretary's del-  
17 egate shall maintain records of taxpayer complaints of  
18 misconduct by Internal Revenue Service employees on an  
19 individual employee basis.

20 SEC. 373. ARCHIVE OF RECORDS OF INTERNAL REVENUE  
21 SERVICE.

22 (a) IN GENERAL.—Subsection (l) of section 6103 (re-  
23 lating to confidentiality and disclosure of returns and re-  
24 turn information) is amended by adding at the end the  
25 following new paragraph:

1                 “(17) DISCLOSURE TO NATIONAL ARCHIVES  
2 AND RECORDS ADMINISTRATION.—The Secretary  
3 shall, upon written request from the Archivist of the  
4 United States, disclose or authorize the disclosure of  
5 returns and return information to officers and em-  
6 ployees of the National Archives and Records Ad-  
7 ministration for purposes of, and only to the extent  
8 necessary in, the appraisal of records for destruction  
9 or retention. No such officer or employee shall, ex-  
10 cept to the extent authorized by subsections (f),  
11 (i)(7), or (p), disclose any return or return informa-  
12 tion disclosed under the preceding sentence to any  
13 person other than to the Secretary, or to another of-  
14 ficer or employee of the National Archives and  
15 Records Administration whose official duties require  
16 such disclosure for purposes of such appraisal.”.

17                 (b) CONFORMING AMENDMENTS.—Section 6103(p) is  
18 amended—

19                         (1) in paragraph (3)(A), by striking “or (16)”  
20 and inserting “(16), or (17)”,

21                         (2) in paragraph (4), by striking “or (14)” and  
22 inserting “, (14), or (17)” in the matter preceding  
23 subparagraph (A), and

24                         (3) in paragraph (4)(F)(ii), by striking “or  
25 (15)” and inserting “, (15), or (17)”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to requests made by the Archivist  
3 of the United States after the date of the enactment of  
4 this Act.

## **5 SEC. 374. PAYMENT OF TAXES.**

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

## **11 SEC. 375. CLARIFICATION OF AUTHORITY OF SECRETARY**

13 Subsection (d) of section 7805 is amended by striking  
14 “by regulations or forms”.

## **15 SEC. 376. LIMITATION ON PENALTY ON INDIVIDUAL'S FAIL-**

16                   URE TO PAY FOR MONTHS DURING PERIOD  
17                   OF INSTALLMENT AGREEMENT.

18       (a) IN GENERAL.—Section 6651 (relating to failure  
19 to file tax return or to pay tax) is amended by adding  
20 at the end the following new subsection:

21        "(h) LIMITATION ON PENALTY ON INDIVIDUAL'S  
22 FAILURE TO PAY FOR MONTHS DURING PERIOD OF IN-  
23 STALLMENT AGREEMENT.—No addition to the tax shall  
24 be imposed under paragraph (2) or (3) of subsection (a)  
25 with respect to the tax liability of an individual for any

1 month during which an installment agreement under sec-  
2 tion 6159 is in effect for the payment of such tax to the  
3 extent that imposing an addition to the tax under such  
4 paragraph for such month would result in the aggregate  
5 number of percentage points of such addition to the tax  
6 exceeding 9.5.”.

7       (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply for purposes of determining addi-  
9 tions to the tax for months beginning after the date of  
10 the enactment of this Act.

## 11                   **Subtitle I—Studies**

### 12   **SEC. 381. PENALTY ADMINISTRATION.**

13       The Joint Committee on Taxation shall conduct a  
14 study—

15               (1) reviewing the administration and implemen-  
16 tation by the Internal Revenue Service of the pen-  
17 alty reform provisions of the Omnibus Budget Rec-  
18 onciliation Act of 1989, and

19               (2) making any legislative and administrative  
20 recommendations it deems appropriate to simplify  
21 penalty administration and reduce taxpayer burden.

22 Such study shall be submitted to the Committee on Ways  
23 and Means of the House of Representatives and the Com-  
24 mittee on Finance of the Senate not later than 9 months  
25 after the date of enactment of this Act.

1   **SEC. 382. CONFIDENTIALITY OF TAX RETURN INFORMA-**  
2                         **TION.**

3         The Joint Committee on Taxation shall conduct a  
4 study of the scope and use of provisions regarding tax-  
5 payer confidentiality, and shall report the findings of such  
6 study, together with such recommendations as it deems  
7 appropriate, to the Congress not later than one year after  
8 the date of the enactment of this Act. Such study shall  
9 examine the present protections for taxpayer privacy, the  
10 need for third parties to use tax return information, and  
11 the ability to achieve greater levels of voluntary compli-  
12 ance by allowing the public to know who is legally required  
13 to file tax returns, but does not file tax returns.

14   **TITLE IV—CONGRESSIONAL AC-**  
15                         **COUNTABILITY FOR THE IN-**  
16                         **TERNAL REVENUE SERVICE**

17                         **Subtitle A—Oversight**

18   **SEC. 401. EXPANSION OF DUTIES OF THE JOINT COMMIT-**  
19                         **TEE ON TAXATION.**

20         (a) IN GENERAL.—Section 8021 (relating to the pow-  
21 ers of the Joint Committee on Taxation) is amended by  
22 adding at the end the following new subsections:

23                 “(e) INVESTIGATIONS.—The Joint Committee shall  
24 review all requests (other than requests by the chairman  
25 or ranking member of a Committee or Subcommittee) for  
26 investigations of the Internal Revenue Service by the Gen-

1 eral Accounting Office, and approve such requests when  
2 appropriate, with a view towards eliminating overlapping  
3 investigations, ensuring that the General Accounting Of-  
4 fice has the capacity to handle the investigation, and en-  
5 suring that investigations focus on areas of primary im-  
6 portance to tax administration.

7       “(f) RELATING TO JOINT HEARINGS.—

8           “(1) IN GENERAL.—The Chief of Staff, and  
9           such other staff as are appointed pursuant to section  
10          8004, shall provide such assistance as is required for  
11          joint hearings described in paragraph (2).

12           “(2) JOINT HEARINGS.—On or before April 1  
13          of each calendar year after 1997, there shall be a  
14          joint hearing of two members of the majority and  
15          one member of the minority from each of the Com-  
16          mittees on Finance, Appropriations, and Govern-  
17          ment Affairs of the Senate, and the Committees on  
18          Ways and Means, Appropriations, and Government  
19          Reform and Oversight of the House of Representa-  
20          tives, to review the strategic plans and budget for  
21          the Internal Revenue Service. After the conclusion of  
22          the annual filing season, there shall be a second an-  
23          nual joint hearing to review the other matters out-  
24          lined in section 8022(3)(C).”.

25       (b) EFFECTIVE DATES.—

1                         (1) Subsection (e) of section 8021 of the Internal  
2                         Revenue Code of 1986, as added by subsection  
3                         (a) of this section, shall apply to requests made after  
4                         the date of enactment of this Act.

5                         (2) Subsection (f) of section 8021 of the Internal  
6                         Revenue Code of 1986, as added by subsection  
7                         (a) of this section, shall take effect on the date of  
8                         the enactment of this Act.

9 **SEC. 402. COORDINATED OVERSIGHT REPORTS.**

10                         (a) IN GENERAL.—Paragraph (3) of section 8022  
11                         (relating to the duties of the Joint Committee on Tax-  
12                         ation) is amended to read as follows:

13                         “(3) REPORTS.—

14                         “(A) To report, from time to time, to the  
15                         Committee on Finance and the Committee on  
16                         Ways and Means, and, in its discretion, to the  
17                         Senate or House of Representatives, or both,  
18                         the results of its investigations, together with  
19                         such recommendations as it may deem advisable.

21                         “(B) To report, annually, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals

1 and other matters relating to the administra-  
2 tion of the Federal tax system as it may deem  
3 advisable.

4 “(C) To report, annually, to the Commit-  
5 tees on Finance, Appropriations, and Govern-  
6 ment Affairs of the Senate, and to the Commit-  
7 tees on Ways and Means, Appropriations, and  
8 Government Reform and Oversight of the  
9 House of Representatives, with respect to—

10 “(i) strategic and business plans for  
11 the Internal Revenue Service;

12 “(ii) progress of the Internal Revenue  
13 Service in meeting its objectives;

14 “(iii) the budget for the Internal Rev-  
15 enue Service and whether it supports its  
16 objectives;

17 “(iv) progress of the Internal Revenue  
18 Service in improving taxpayer service and  
19 compliance;

20 “(v) progress of the Internal Revenue  
21 Service on technology modernization; and

22 “(vi) the annual filing season.”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall take effect on the date of the enactment  
25 of this Act.

1                   **Subtitle B—Budget**

2   **SEC. 411. FUNDING FOR CENTURY DATE CHANGE.**

3                 It is the sense of Congress that the Internal Revenue  
4   Service efforts to resolve the century date change comput-  
5   ing problems should be funded fully to provide for certain  
6   resolution of such problems.

7   **SEC. 412. FINANCIAL MANAGEMENT ADVISORY GROUP.**

8                 The Commissioner shall convene a financial manage-  
9   ment advisory group consisting of individuals with exper-  
10   tise in governmental accounting and auditing from both  
11   the private sector and the Government to advise the Com-  
12   missioner on financial management issues, including—

13                 (1) the continued partnership between the In-  
14   ternal Revenue Service and the General Accounting  
15   Office;

16                 (2) the financial accounting aspects of the In-  
17   ternal Revenue Service's system modernization;

18                 (3) the necessity and utility of year-round au-  
19   diting; and

20                 (4) the Commissioner's plans for improving its  
21   financial management system.

22                   **Subtitle C—Tax Law Complexity**

23   **SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.**

24                 It is the sense of Congress that the Internal Revenue  
25   Service should provide the Congress with an independent

1 view of tax administration, and that during the legislative  
2 process, the tax writing committees of the Congress should  
3 hear from front-line technical experts at the Internal Rev-  
4 enue Service with respect to the administrability of pend-  
5 ing amendments to the Internal Revenue Code of 1986.

6 **SEC. 422. TAX COMPLEXITY ANALYSIS.**

7 (a) REQUIRING ANALYSIS TO ACCOMPANY CERTAIN  
8 LEGISLATION.—

9 (1) IN GENERAL.—Chapter 92 (relating to pow-  
10 ers and duties of the Joint Committee on Taxation)  
11 is amended by adding at the end the following new  
12 section:

13 **“SEC. 8024. TAX COMPLEXITY ANALYSIS.**

14 “(a) IN GENERAL.—If—

15 “(1) a bill or joint resolution is reported by the  
16 Committee on Finance of the Senate, the Committee  
17 on Ways and Means of the House of Representa-  
18 tives, or any committee of conference, and

19 “(2) such legislation includes any provision  
20 amending the Internal Revenue Code of 1986,

21 the report for such legislation shall contain a Tax Com-  
22 plexity Analysis unless the committee involved causes to  
23 have the Tax Complexity Analysis printed in the Congres-  
24 sional Record prior to the consideration of the legislation

1 in the House of Representatives or the Senate (as the case  
2 may be).

3       “(b) LEGISLATION SUBJECT TO POINT OF ORDER.—  
4 It shall not be in order in the Senate to consider any bill  
5 or joint resolution described in subsection (a) required to  
6 be accompanied by a Tax Complexity Analysis that does  
7 not contain a Tax Complexity Analysis.

8       “(c) RESPONSIBILITIES OF THE COMMISSIONER.—  
9 The Commissioner shall provide the Joint Committee on  
10 Taxation with such information as is necessary to prepare  
11 Tax Complexity Analyses.

12       “(d) TAX COMPLEXITY ANALYSIS DEFINED.—For  
13 purposes of this section, the term ‘Tax Complexity Analy-  
14 sis’ means, with respect to a bill or joint resolution, a re-  
15 port which is prepared by the Joint Committee on Tax-  
16 ation and which identifies the provisions of the legislation  
17 adding significant complexity or providing significant sim-  
18 plification (as determined by the Joint Committee) and  
19 includes the basis for such determination.”.

20           (2) CLERICAL AMENDMENT.—The table of sec-  
21 tions for chapter 92 is amended by adding at the  
22 end the following new item:

“Sec. 8024. Tax complexity analysis.”.

23       (b) LEGISLATION SUBJECT TO POINT OF ORDER IN  
24 HOUSE OF REPRESENTATIVES.—

1                   (1) LEGISLATION REPORTED BY COMMITTEE  
2       ON WAYS AND MEANS.—Clause 2(l) of rule XI of the  
3       Rules of the House of Representatives is amended  
4       by adding at the end the following new subparagraph:  
5                   

6       “(8) The report of the Committee on Ways and  
7       Means on any bill or joint resolution containing any provi-  
8       sion amending the Internal Revenue Code of 1986 shall  
9       include a Tax Complexity Analysis prepared by the Joint  
10      Committee on Taxation in accordance with section 8024  
11      of the Internal Revenue Code of 1986 unless the Commit-  
12      tee on Ways and Means causes to have such Analysis  
13      printed in the Congressional Record prior to the consider-  
14      ation of the bill or joint resolution.”.

15                   (2) CONFERENCE REPORTS.—Rule XXVIII of  
16       the Rules of the House of Representatives is amend-  
17       ed by adding at the end the following new clause:

18       “7. It shall not be in order to consider the report  
19       of a committee of conference which contains any provision  
20       amending the Internal Revenue Code of 1986 unless—

21                   “(a) the accompanying joint explanatory state-  
22       ment contains a Tax Complexity Analysis prepared  
23       by the Joint Committee on Taxation in accordance  
24       with section 8024 of the Internal Revenue Code of  
25       1986, or

1               “(b) such Analysis is printed in the Congressional  
2               Record prior to the consideration of the report.”.

4               (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to legislation considered on or after  
6 January 1, 1998.

7 **TITLE V—CLARIFICATION OF DE-  
8     DUCTION FOR DEFERRED  
9     COMPENSATION**

10 **SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED  
11     COMPENSATION.**

12               (a) IN GENERAL.—Subsection (a) of section 404 is  
13 amended by adding at the end the following new para-  
14 graph:

15               “(11) DETERMINATIONS RELATING TO DE-  
16     FERRED COMPENSATION.—

17               “(A) IN GENERAL.—For purposes of deter-  
18     mining under this section—

19               “(i) whether compensation of an em-  
20     ployee is deferred compensation, and

21               “(ii) when deferred compensation is  
22     paid,

23               no amount shall be treated as received by the  
24     employee, or paid, until it is actually received  
25     by the employee.

1                 “(B)    EXCEPTION.—Subparagraph   (A)  
2                 shall not apply to severance pay.”.

3                 (b) SICK LEAVE PAY TREATED LIKE VACATION  
4 PAY.—Paragraph (5) of section 404(a) is amended by in-  
5 serting “or sick leave pay” after “vacation pay”.

6                 (c) EFFECTIVE DATE.—

7                 (1) IN GENERAL.—The amendments made by  
8 this section shall apply to taxable years ending after  
9 October 8, 1997.

10                 (2) CHANGE IN METHOD OF ACCOUNTING.—In  
11 the case of any taxpayer required by this section to  
12 change its method of accounting for its first taxable  
13 year ending after October 8, 1997—

14                 (A) such change shall be treated as initi-  
15 ated by the taxpayer,

16                 (B) such change shall be treated as made  
17 with the consent of the Secretary of the Treas-  
18 ery, and

19                 (C) the net amount of the adjustments re-  
20 quired to be taken into account by the taxpayer  
21 under section 481 of the Internal Revenue Code  
22 of 1986 shall be taken into account in such first  
23 taxable year.

1           **TITLE VI—TAX TECHNICAL  
2           CORRECTIONS ACT OF 1997**

3   **SEC. 601. SHORT TITLE.**

4         This title may be cited as the “Tax Technical Correc-  
5         tions Act of 1997”.

6   **SEC. 602. DEFINITIONS.**

7         For purposes of this title—

8           (1) 1986 CODE.—The term “1986 Code”  
9         means the Internal Revenue Code of 1986.

10          (2) 1997 ACT.—The term “1997 Act” means  
11         the Taxpayer Relief Act of 1997.

12   **SEC. 603. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.**

13          (a) AMENDMENTS RELATED TO SECTION 101(a) OF  
14         1997 ACT.—

15           (1) Subsection (d) of section 24 of the 1986  
16         Code is amended—

17               (A) by striking paragraphs (3) and (4),  
18               (B) by redesignating paragraph (5) as  
19         paragraph (3), and

20               (C) by striking paragraphs (1) and (2) and  
21         inserting the following new paragraphs:

22               “(1) IN GENERAL.—In the case of a taxpayer  
23         with 3 or more qualifying children for any taxable  
24         year, the aggregate credits allowed under subpart C  
25         shall be increased by the lesser of—

1               “(A) the credit which would be allowed  
2               under this section without regard to this sub-  
3               section and the limitation under section 26(a),

4               or

5               “(B) the amount by which the aggregate  
6               amount of credits allowed by this subpart (with-  
7               out regard to this subsection) would increase if  
8               the limitation imposed by section 26(a) were in-  
9               creased by the excess (if any) of—

10              “(i) the taxpayer’s social security  
11               taxes for the taxable year, over

12              “(ii) the credit allowed under section  
13               32 (determined without regard to sub-  
14               section (n)) for the taxable year.

15              The amount of the credit allowed under this  
16               subsection shall not be treated as a credit al-  
17               lowed under this subpart and shall reduce the  
18               amount of credit otherwise allowable under sub-  
19               section (a) without regard to section 26(a).

20              “(2) REDUCTION OF CREDIT TO TAXPAYER  
21               SUBJECT TO ALTERNATIVE MINIMUM TAX.—The  
22               credit determined under this subsection for the tax-  
23               able year shall be reduced by the excess (if any) of—

24              “(A) the amount of tax imposed by section  
25               55 (relating to alternative minimum tax) with

1 respect to such taxpayer for such taxable year,  
2 over

3 “(B) the amount of the reduction under  
4 section 32(h) with respect to such taxpayer for  
5 such taxable year.”.

6 (2) Paragraph (3) of section 24(d) of the 1986  
7 Code (as redesignated by paragraph (1)) is amended  
8 by striking “paragraph (3)” and inserting “para-  
9 graph (1)”.

10 (b) AMENDMENTS RELATED TO SECTION 101(b) OF  
11 1997 ACT.—

12 (1) The subsection (m) of section 32 of the  
13 1986 Code added by section 101(b) of the 1997 Act  
14 is amended to read as follows:

15 “(n) SUPPLEMENTAL CHILD CREDIT.—

16 “(1) IN GENERAL.—In the case of a taxpayer  
17 with respect to whom a credit is allowed under sec-  
18 tion 24 for the taxable year, the credit otherwise al-  
19 lowable under this section shall be increased by the  
20 lesser of—

21 “(A) the credit which would be allowed  
22 under section 24 without regard to this sub-  
23 section and the limitation under section 26(a),  
24 or

1               “(B) the amount by which the aggregate  
2               amount of credits allowed by subpart A (with-  
3               out regard to this subsection) would be reduced  
4               if the limitation imposed by section 26(a) were  
5               reduced by the excess (if any) of—

6                     “(i) the credit allowed by this section  
7                     (without regard to this subsection) for the  
8                     taxable year, over

9                     “(ii) the taxpayer’s social security  
10                taxes (as defined in section 24(d)) for the  
11                taxable year.

12          The credit determined under this subsection shall be  
13          allowed without regard to any other provision of this  
14          section, including subsection (d).

15          “(2) COORDINATION WITH OTHER CREDITS.—

16               “(A) IN GENERAL.—The amount of the  
17               credit under this subsection shall reduce the  
18               amount of the credit otherwise allowable under  
19               section 24, but the amount of the credit under  
20               this subsection (and such reduction) shall not  
21               otherwise be taken into account in determining  
22               the amount of any other credit allowable under  
23               this part.

24               “(B) TREATMENT OF CREDIT UNDER SEC-  
25               TION 24(d).—For purposes of this subsection,

1           the credit determined under section 24(d) shall  
2           be treated as not allowed under section 24.”.

3 **SEC. 604. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.**

4       (a) AMENDMENTS RELATED TO SECTION 201 OF  
5 1997 ACT.—

6           (1) The item relating to section 25A in the  
7           table of sections for subpart A of part IV of sub-  
8           chapter A of chapter 1 of the 1986 Code is amended  
9           to read as follows:

“Sec. 25A. Hope and Lifetime Learning credits.”.

10          (2) Subsection (a) of section 6050S of the 1986  
11          Code is amended to read as follows:

12       “(a) IN GENERAL.—Any person—

13           “(1) which is an eligible educational institu-  
14           tion—

15           “(A) which receives payments for qualified  
16           tuition and related expenses with respect to any  
17           individual for any calendar year, or

18           “(B) which makes reimbursements or re-  
19           funds (or similar amounts) to any individual of  
20           qualified tuition and related expenses,

21           “(2) which is engaged in a trade or business of  
22           making payments to any individual under an insur-  
23           ance arrangement as reimbursements or refunds (or  
24           similar amounts) of qualified tuition and related ex-  
25           penses, or

1               “(3) except as provided in regulations, any per-  
2       son which is engaged in a trade or business and, in  
3       the course of which, receives from any individual in-  
4       terest aggregating \$600 or more for any calendar  
5       year on 1 or more qualified education loans,  
6       shall make the return described in subsection (b) with re-  
7       spect to the individual at such time as the Secretary may  
8       by regulations prescribe.”.

9               (3) Subparagraph (A) of section 201(c)(2) of  
10      the 1997 Act is amended to read as follows:

11               “(A) Subparagraph (B) of section  
12      6724(d)(1) (relating to definitions) is amended  
13      by redesignating clauses (x) through (xv) as  
14      clauses (xi) through (xvi), respectively, and by  
15      inserting after clause (ix) the following new  
16      clause:

17               ““(x) section 6050S (relating to re-  
18      turns relating to payments for qualified  
19      tuition and related expenses),’”.

20               (b) AMENDMENTS RELATED TO SECTION 211 OF  
21      1997 ACT.—

22               (1) Paragraph (3) of section 135(c) of the 1986  
23      Code is amended to read as follows:

## 1           “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—

2         The term ‘eligible educational institution’ has the  
3         meaning given such term by section 529(e)(5).”.4           (2) Subparagraph (A) of section 529(c)(3) of  
5         the 1986 Code is amended by striking “section  
6         72(b)” and inserting “section 72”.7           (c) AMENDMENTS RELATED TO SECTION 213 OF  
8 1997 ACT.—9           (1)(A) Section 530(b)(1)(E) of the 1986 Code  
10        (defining education individual retirement account) is  
11        amended to read as follows:12           “(E) Any balance to the credit of the des-  
13        ignated beneficiary on the date on which the  
14        beneficiary attains age 30 shall be distributed  
15        within 30 days after such date to the bene-  
16        ficiary or, if the beneficiary dies before attain-  
17        ing age 30, shall be distributed within 30 days  
18        after the date of death to the estate of such  
19        beneficiary.”.20           (B) Subsection (d) of section 530 of the 1986  
21        Code is amended by adding at the end the following  
22        new paragraph:23           “(8) DEEMED DISTRIBUTION ON REQUIRED  
24        DISTRIBUTION DATE.—In any case in which a dis-  
25        tribution is required under subsection (b)(1)(E), any

1       balance to the credit of a designated beneficiary as  
2       of the close of the 30-day period referred to in such  
3       subsection for making such distribution shall be  
4       deemed distributed at the close of such period.”.

5               (2)(A) Paragraph (1) of section 530(d) of the  
6       1986 Code is amended by striking “section 72(b)”  
7       and inserting “section 72”.

8               (B) Subsection (e) of section 72 of the 1986  
9       Code is amended by inserting after paragraph (8)  
10      the following new paragraph:

11               “(9) EXTENSION OF PARAGRAPH (2)(B) TO  
12       QUALIFIED STATE TUITION PROGRAMS AND EDU-  
13       CATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—  
14       Notwithstanding any other provision of this sub-  
15      section, paragraph (2)(B) shall apply to amounts re-  
16      ceived under a qualified State tuition program (as  
17      defined in section 529(b)) or under an education in-  
18      dividual retirement account (as defined in section  
19      530(b)). The rule of paragraph (8)(B) shall apply  
20      for purposes of this paragraph.”.

21               (3) So much of section 530(d)(4)(C) of the  
22       1986 Code as precedes clause (ii) thereof is amended  
23      to read as follows:

24               “(C) CONTRIBUTIONS RETURNED BEFORE  
25       DUE DATE OF RETURN.—Subparagraph (A)

1 shall not apply to the distribution of any con-  
2 tribution made during a taxable year on behalf  
3 of the designated beneficiary if—

4 “(i) such distribution is made on or  
5 before the day prescribed by law (including  
6 extensions of time) for filing the bene-  
7 ficiary’s return of tax for the taxable year  
8 or, if the beneficiary is not required to file  
9 such a return, the 15th day of the 4th  
10 month of the taxable year following the  
11 taxable year, and”.

12 (4) Subparagraph (C) of section 135(c)(2) of  
13 the 1986 Code is amended—

14 (A) by inserting “AND EDUCATION INDI-  
15 VIDUAL RETIREMENT ACCOUNTS” in the head-  
16 ing after “PROGRAM”, and

17 (B) by striking “section 529(c)(3)(A)” and  
18 inserting “section 72”.

19 (5) Subparagraph (A) of section 4973(e)(1) of  
20 the 1986 Code is amended by inserting before the  
21 comma “(or, if less, the sum of the maximum  
22 amounts permitted to be contributed under section  
23 530(c) by the contributors to such accounts for such  
24 year)’.

1       (d) AMENDMENT RELATED TO SECTION 224 OF  
2 1997 ACT.—Section 170(e)(6)(F) of the 1986 Code (relat-  
3 ing to termination) is amended by striking “1999” and  
4 inserting “2000”.

5       (e) AMENDMENTS RELATED TO SECTION 225 OF  
6 1997 ACT.—

7               (1) The last sentence of section 108(f)(2) of the  
8 1986 Code is amended to read as follows:  
9               “The term ‘student loan’ includes any loan made by  
10          an educational organization described in section  
11          170(b)(1)(A)(ii) or by an organization exempt from  
12          tax under section 501(a) to refinance a loan to an  
13          individual to assist the individual in attending any  
14          such educational organization but only if the refi-  
15          nancing loan is pursuant to a program of the refi-  
16          nancing organization which is designed as described  
17          in subparagraph (D)(ii).”.

18               (2) Section 108(f)(3) of the 1986 Code is  
19          amended by striking “(or by an organization de-  
20          scribed in paragraph (2)(E) from funds provided by  
21          an organization described in paragraph (2)(D))”.

22       (f) AMENDMENTS RELATED TO SECTION 226 OF  
23 1997 ACT.—

1                   (1) Section 226(a) of the 1997 Act is amended  
2       by striking “section 1397E” and inserting “section  
3       1397D”.

4                   (2) Section 1397E(d)(4)(B) of the 1986 Code  
5       is amended by striking “local education agency as  
6       defined” and inserting “local educational agency as  
7       defined”.

8 **SEC. 605. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.**

9                   (a) AMENDMENTS RELATED TO SECTION 301 OF  
10 1997 ACT.—Section 219(g) of the 1986 Code is amend-  
11 ed—

12                   (1) by inserting “or the individual’s spouse”  
13       after “individual” in paragraph (1), and

14                   (2) by striking paragraph (7) and inserting:

15                   “(7) SPECIAL RULE FOR SPOUSES WHO ARE  
16       NOT ACTIVE PARTICIPANTS.—If this subsection ap-  
17       plies to an individual for any taxable year solely be-  
18       cause their spouse is an active participant, then, in  
19       applying this subsection to the individual (but not  
20       their spouse)—

21                   “(A) the applicable dollar amount under  
22       paragraph (3)(B)(i) shall be \$150,000, and

23                   “(B) the amount applicable under para-  
24       graph (2)(A)(ii) shall be \$10,000.”.

1       (b) AMENDMENTS RELATED TO SECTION 302 OF  
2 1997 ACT.—

3                 (1) Section 408A(c)(3)(A) of the 1986 Code is  
4 amended by striking “shall be reduced” and inserting  
5 “shall not exceed an amount equal to the  
6 amount determined under paragraph (2)(A) for such  
7 taxable year, reduced”.

8                 (2) Section 408A(c)(3) of the 1986 Code (relat-  
9 ing to limits based on modified adjusted gross in-  
10 come) is amended—

11                     (A) by inserting “or a married individual  
12 filing a separate return” after “joint return” in  
13 subparagraph (A)(ii), and

14                     (B) by striking “and the deduction under  
15 section 219 shall be taken into account” in sub-  
16 paragraph (C)(i).

17                 (3) Section 408A(d)(2) of the 1986 Code (de-  
18 fining qualified distribution) is amended by striking  
19 subparagraph (B) and inserting the following:

20                     “(B) DISTRIBUTIONS WITHIN NONEXCLU-  
21 SION PERIOD.—A payment or distribution from  
22 a Roth IRA shall not be treated as a qualified  
23 distribution under subparagraph (A) if such  
24 payment or distribution is made before the ex-  
25 clusion date for the Roth IRA.

1                 “(C) EXCLUSION DATE.—For purposes of  
2                 this section, the exclusion date for any Roth  
3                 IRA is the first day of the taxable year imme-  
4                 diately following the 5-taxable year period be-  
5                 ginning with—

6                         “(i) the first taxable year for which a  
7                 contribution to any Roth IRA maintained  
8                 for the benefit of the individual was made,  
9                 or

10                         “(ii) in the case of a Roth IRA to  
11                 which 1 or more qualified rollover con-  
12                 tributions were made—

13                         “(I) from an individual retire-  
14                 ment plan other than a Roth IRA, or

15                         “(II) from another Roth IRA to  
16                 the extent such contributions are  
17                 properly allocable to contributions de-  
18                 scribed in subclause (I),

19                         the most recent taxable year for which any  
20                 such qualified rollover contribution was  
21                 made.”.

22                 (4) Section 408A(d)(3) of the 1986 Code (relat-  
23                 ing to rollovers from IRAs other than Roth IRAs)  
24                 is amended by adding at the end the following:

1                 “(F) SPECIAL RULE FOR APPLYING SEC-  
2                 TION 72.—

3                 “(i) IN GENERAL.—If—

4                         “(I) any distribution from a Roth  
5                 IRA is made before the exclusion  
6                 date, and

7                         “(II) any portion of such dis-  
8                 tribution is properly allocable to a  
9                 qualified rollover contribution de-  
10                 scribed in paragraph (2)(C)(ii),

11                 then section 72(t) shall be applied as if  
12                 such portion were includible in gross in-  
13                 come.

14                 “(ii) LIMITATION.—Clause (i) shall  
15                 apply only to the extent of the amount in-  
16                 cludible in gross income under subpara-  
17                 graph (A)(i) by reason of the qualified roll-  
18                 over contribution.

19                 “(G) SPECIAL RULES FOR CONTRIBUTIONS  
20                 TO WHICH 4-YEAR AVERAGING APPLIES.—In the  
21                 case of a qualified rollover contribution to a  
22                 Roth IRA of a distribution to which subpara-  
23                 graph (A)(iii) applied, the following rules shall  
24                 apply:

25                 “(i) DEATH OF DISTRIBUTEE.—

1                         “(I) IN GENERAL.—If the individual required to include amounts in  
2                         gross income under such subparagraph dies before all of such amounts  
3                         are included, all remaining amounts  
4                         shall be included in gross income for  
5                         the taxable year which includes the  
6                         date of death.

7                         “(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to include the remaining amounts described in subclause (I) in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible.

8                         “(ii) ADDITIONAL TAX FOR EARLY  
9                         DISTRIBUTION.—

10                         “(I) IN GENERAL.—If any distribution from a Roth IRA is made

1                   before the exclusion date, and any  
2                   portion of such distribution is prop-  
3                   erly allocable to such qualified rollover  
4                   contribution, the distributee's tax  
5                   under this chapter for the taxable  
6                   year in which the amount is received  
7                   shall be increased by 10 percent of the  
8                   amount of such portion not in excess  
9                   of the amount includible in gross in-  
10                  come under subparagraph (A)(i) by  
11                  reason of such qualified rollover con-  
12                  tribution.

13                 “(II) TREATMENT OF TAX.—For  
14                 purposes of this title, any tax imposed  
15                 by subclause (I) shall be treated as a  
16                 tax imposed by section 72(t) and shall  
17                 be in addition to any other tax im-  
18                 posed by such section.”.

19                 (5)(A) Section 408A(d)(4) of the 1986 Code is  
20                 amended to read as follows:

21                 “(4) AGGREGATION AND ORDERING RULES.—

22                 “(A) AGGREGATION RULES.—Section  
23                 408(d)(2) shall be applied separately with re-  
24                 spect to—

1                 “(i) Roth IRAs and other individual  
2                 retirement plans,

3                 “(ii) Roth IRAs described in para-  
4                 graph (2)(C)(ii) and Roth IRAs not so de-  
5                 scribed, and

6                 “(iii) Roth IRAs described in para-  
7                 graph (2)(C)(ii) with different exclusion  
8                 dates.

9                 “(B) ORDERING RULES.—For purposes of  
10                 applying section 72 to any distribution from a  
11                 Roth IRA which is not a qualified distribution,  
12                 such distribution shall be treated as made—

13                 “(i) from contributions to the extent  
14                 that the amount of such distribution, when  
15                 added to all previous distributions from the  
16                 Roth IRA, does not exceed the aggregate  
17                 contributions to the Roth IRA, and

18                 “(ii) from such contributions in the  
19                 following order:

20                 “(I) Qualified rollover contribu-  
21                 tions to the extent includible in gross  
22                 income in the manner described in  
23                 paragraph (3)(A)(iii).

24                 “(II) Qualified rollover contribu-  
25                 tions not described in subclause (I) to

1                   the extent includible in gross income  
2                   under paragraph (3)(A).

3                   “(III) Contributions not de-  
4                   scribed in subclause (I) or (II).

5                   Such rules shall also apply in determining the  
6                   character of qualified rollover contributions  
7                   from one Roth IRA to another Roth IRA.”.

8                   (B) Section 408A(d)(1) of the 1986 Code is  
9                   amended to read as follows:

10                  “(1) EXCLUSION.—Any qualified distribution  
11                  from a Roth IRA shall not be includible in gross in-  
12                  come.”.

13                  (6)(A) Section 408A(d) of the 1986 Code (re-  
14                  lating to distribution rules) is amended by adding at  
15                  the end the following:

16                  “(6) TAXPAYER MAY MAKE ADJUSTMENTS BE-  
17                  FORE DUE DATE.—

18                  “(A) IN GENERAL.—Except as provided by  
19                  the Secretary, if, on or before the due date for  
20                  any taxable year, a taxpayer transfers in a  
21                  trustee-to-trustee transfer any contribution to  
22                  an individual retirement plan made during such  
23                  taxable year from such plan to any other indi-  
24                  vidual retirement plan, then, for purposes of  
25                  this chapter, such contribution shall be treated

1           as having been made to the transferee plan  
2           (and not the transferor plan).

3           **“(B) SPECIAL RULES.—**

4           “**(i) TRANSFER OF EARNINGS.**—Sub-  
5           paragraph (A) shall not apply to the trans-  
6           fer of any contribution unless such transfer  
7           is accompanied by any net income allocable  
8           to such contribution.

9           “**(ii) NO DEDUCTION.**—Subparagraph  
10          (A) shall apply to the transfer of any con-  
11          tribution only to the extent no deduction  
12          was allowed with respect to the contribu-  
13          tion to the transferor plan.

14          **“(C) DUE DATE.**—For purposes of this  
15          paragraph, the due date for any taxable year is  
16          the last date for filing the return of tax for  
17          such taxable year (including extensions.”.

18          (B) Section 408A(d)(3) of the 1986 Code, as  
19          amended by this subsection, is amended by striking  
20          subparagraph (D) and by redesignating subpara-  
21          graphs (E), (F), and (G) as subparagraphs (D), (E),  
22          and (F), respectively.

23          (7) Section 302(b) of the 1997 Act is amended  
24          by striking “Section 4973(b)” and inserting “Sec-  
25          tion 4973”.

1                 (8) Section 408A of the 1986 Code is amended  
2         by adding at the end the following new subsection:  
3                 “(f) INDIVIDUAL RETIREMENT PLAN.—For purposes  
4         of this section, except as provided by the Secretary, the  
5         term ‘individual retirement plan’ shall not include a sim-  
6         plified employee pension or a simple retirement account.”.

7                 (c) AMENDMENTS RELATED TO SECTION 303 OF  
8         1997 ACT.—

9                 (1) Section 72(t)(8)(E) of the 1986 Code is  
10         amended—

11                         (A) by striking “120 days” and inserting  
12         “120th day”, and

13                         (B) by striking “60 days” and inserting  
14         “60th day”.

15                 (2)(A) Section 402(c) of the 1986 Code is  
16         amended by adding at the end the following:

17                 “(11) DENIAL OF ROLLOVER TREATMENT FOR  
18         TRANSFERS OF HARSHSHIP DISTRIBUTIONS TO INDIVI-  
19         DUAL RETIREMENT PLANS.—This subsection shall  
20         not apply to the transfer of any hardship distribu-  
21         tion described in section 401(k)(2)(B)(i)(IV) from a  
22         qualified cash or deferred arrangement to an eligible  
23         retirement plan described in clause (i) or (ii) of  
24         paragraph (8)(B).”.

1                   (B) The amendment made by this paragraph  
2 shall apply to distributions made after December 31,  
3 1997.

4                   (d) AMENDMENTS RELATED TO SECTION 311 OF  
5 1997 ACT.—

6                   (1) Subsection (h) of section 1 of the 1986  
7 Code (relating to maximum capital gains rate) is  
8 amended to read as follows:

9                   “(h) MAXIMUM CAPITAL GAINS RATE.—

10                  “(1) IN GENERAL.—If a taxpayer has a net  
11 capital gain for any taxable year, the tax imposed by  
12 this section for such taxable year shall not exceed  
13 the sum of—

14                  “(A) a tax computed at the rates and in  
15 the same manner as if this subsection had not  
16 been enacted on the greater of—

17                  “(i) taxable income reduced by the net  
18 capital gain, or

19                  “(ii) the lesser of—

20                  “(I) the amount of taxable in-  
21 come taxed at a rate below 28 per-  
22 cent, or

23                  “(II) taxable income reduced by  
24 the adjusted net capital gain,

1               “(B) 10 percent of so much of the ad-  
2               justed net capital gain (or, if less, taxable in-  
3               come) as does not exceed the excess (if any)  
4               of—

5               “(i) the amount of taxable income  
6               which would (without regard to this para-  
7               graph) be taxed at a rate below 28 per-  
8               cent, over

9               “(ii) the taxable income reduced by  
10              the adjusted net capital gain,

11              “(C) 20 percent of the adjusted net capital  
12              gain (or, if less, taxable income) in excess of the  
13              amount on which a tax is determined under  
14              subparagraph (B),

15              “(D) 25 percent of the excess (if any) of—

16               “(i) the unrecaptured section 1250  
17              gain (or, if less, the net capital gain), over

18               “(ii) the excess (if any) of—

19               “(I) the sum of the amount on  
20              which tax is determined under sub-  
21              paragraph (A) plus the net capital  
22              gain, over

23               “(II) taxable income, and

24              “(E) 28 percent of the amount of taxable  
25              income in excess of the sum of the amounts on

1           which tax is determined under the preceding  
2           subparagraphs of this paragraph.

3           “(2) REDUCED CAPITAL GAIN RATES FOR  
4           QUALIFIED 5-YEAR GAIN.—

5           “(A) REDUCTION IN 10-PERCENT RATE.—

6           In the case of any taxable year beginning after  
7           December 31, 2000, the rate under paragraph  
8           (1)(B) shall be 8 percent with respect to so  
9           much of the amount to which the 10-percent  
10          rate would otherwise apply as does not exceed  
11          qualified 5-year gain, and 10 percent with re-  
12          spect to the remainder of such amount.

13           “(B) REDUCTION IN 20-PERCENT RATE.—

14          The rate under paragraph (1)(C) shall be 18  
15          percent with respect to so much of the amount  
16          to which the 20-percent rate would otherwise  
17          apply as does not exceed the lesser of—

18           “(i) the excess of qualified 5-year gain  
19           over the amount of such gain taken into  
20           account under subparagraph (A) of this  
21           paragraph, or

22           “(ii) the amount of qualified 5-year  
23           gain (determined by taking into account  
24           only property the holding period for which  
25           begins after December 31, 2000),

1           and 20 percent with respect to the remainder of  
2           such amount. For purposes of determining  
3           under the preceding sentence whether the hold-  
4           ing period of property begins after December  
5           31, 2000, the holding period of property ac-  
6           quired pursuant to the exercise of an option (or  
7           other right or obligation to acquire property)  
8           shall include the period such option (or other  
9           right or obligation) was held.

10          “(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT  
11          AS INVESTMENT INCOME.—For purposes of this sub-  
12          section, the net capital gain for any taxable year  
13          shall be reduced (but not below zero) by the amount  
14          which the taxpayer takes into account as investment  
15          income under section 163(d)(4)(B)(iii).

16          “(4) ADJUSTED NET CAPITAL GAIN.—For pur-  
17          poses of this subsection, the term ‘adjusted net cap-  
18          ital gain’ means net capital gain reduced (but not  
19          below zero) by the sum of—

20                 “(A) unrecaptured section 1250 gain, and  
21                 “(B) 28 percent rate gain.

22          “(5) 28 PERCENT RATE GAIN.—For purposes of  
23          this subsection—

24                 “(A) IN GENERAL.—The term ‘28 percent  
25                 rate gain’ means the excess (if any) of—

1                 “(i) the sum of—  
2                         “(I) the aggregate long-term cap-  
3                         ital gain from property held for more  
4                         than 1 year but not more than 18  
5                         months,  
6                         “(II) collectibles gain, and  
7                         “(III) section 1202 gain, over  
8                 “(ii) the sum of—  
9                         “(I) the aggregate long-term cap-  
10                         ital loss (not described in subclause  
11                         (IV)) from property referred to in  
12                         clause (i)(I),  
13                         “(II) collectibles loss,  
14                         “(III) the net short-term capital  
15                         loss, and  
16                         “(IV) the amount of long-term  
17                         capital loss carried under section  
18                         1212(b)(1)(B) to the taxable year.

19                 “(B) SPECIAL RULES.—  
20                 “(i) SHORT SALES AND OPTIONS.—  
21                         Rules similar to the rules of subsections  
22                         (b) and (d) of section 1233 shall apply to  
23                         substantially identical property, and sec-  
24                         tion 1092(f) with respect to stock, held for

1           more than 1 year but not more than 18  
2           months.

3           “(ii) SECTION 1256 CONTRACTS.—

4           Amounts treated as long-term capital gain  
5           or loss under section 1256(a)(3) shall be  
6           treated as attributable to property held for  
7           more than 18 months.

8           “(6) COLLECTIBLES GAIN AND LOSS.—For pur-  
9           poses of this subsection—

10          “(A) IN GENERAL.—The terms ‘collectibles  
11           gain’ and ‘collectibles loss’ mean gain or loss  
12           (respectively) from the sale or exchange of a  
13           collectible (as defined in section 408(m) without  
14           regard to paragraph (3) thereof) which is a  
15           capital asset held for more than 18 months but  
16           only to the extent such gain is taken into ac-  
17           count in computing gross income and such loss  
18           is taken into account in computing taxable in-  
19           come.

20          “(B) PARTNERSHIPS, ETC.—For purposes  
21           of subparagraph (A), any gain from the sale of  
22           an interest in a partnership, S corporation, or  
23           trust which is attributable to unrealized appre-  
24           ciation in the value of collectibles shall be treat-  
25           ed as gain from the sale or exchange of a col-

1           lectible. Rules similar to the rules of section  
2       751 shall apply for purposes of the preceding  
3       sentence.

4       “(7) UNRECAPTURED SECTION 1250 GAIN.—For  
5       purposes of this subsection—

6           “(A) IN GENERAL.—The term  
7       ‘unrecaptured section 1250 gain’ means the ex-  
8       cess (if any) of—

9           “(i) the amount of long-term capital  
10       gain (not otherwise treated as ordinary in-  
11       come) which would be treated as ordinary  
12       income if—

13           “(I) section 1250(b)(1) included  
14       all depreciation and the applicable  
15       percentage under section 1250(a)  
16       were 100 percent, and

17           “(II) only gain from property  
18       held for more than 18 months were  
19       taken into account, over

20           “(ii) the excess (if any) of—

21           “(I) the amount described in  
22       paragraph (5)(A)(ii), over

23           “(II) the amount described in  
24       paragraph (5)(A)(i).

1                 “(B) LIMITATION WITH RESPECT TO SEC-  
2                 TION 1231 PROPERTY.—The amount described  
3                 in subparagraph (A)(i) from sales, exchanges,  
4                 and conversions described in section  
5                 1231(a)(3)(A) for any taxable year shall not ex-  
6                 ceed the net section 1231 gain (as defined in  
7                 section 1231(c)(3)) for such year.

8                 “(8) SECTION 1202 GAIN.—For purposes of this  
9                 subsection, the term ‘section 1202 gain’ means an  
10                 amount equal to the gain excluded from gross in-  
11                 come under section 1202(a).

12                 “(9) QUALIFIED 5-YEAR GAIN.—For purposes  
13                 of this subsection, the term ‘qualified 5-year gain’  
14                 means the amount of long-term capital gain which  
15                 would be computed for the taxable year if only gains  
16                 from the sale or exchange of property held by the  
17                 taxpayer for more than 5 years were taken into ac-  
18                 count. The determination under the preceding sen-  
19                 tence shall be made without regard to collectibles  
20                 gain, gain described in paragraph (7)(A)(i), and sec-  
21                 tion 1202 gain.

22                 “(10) COORDINATION WITH RECAPTURE OF  
23                 NET ORDINARY LOSSES UNDER SECTION 1231.—If  
24                 any amount is treated as ordinary income under sec-  
25                 tion 1231(c), such amount shall be allocated among

1       the separate categories of net section 1231 gain (as  
2       defined in section 1231(c)(3)) in such manner as the  
3       Secretary may by forms or regulations prescribe.

4           “(11) REGULATIONS.—The Secretary may pre-  
5       scribe such regulations as are appropriate (including  
6       regulations requiring reporting) to apply this sub-  
7       section in the case of sales and exchanges by pass-  
8       thru entities and of interests in such entities.

9           “(12) PASS-THRU ENTITY DEFINED.—For pur-  
10      poses of this subsection, the term ‘pass-thru entity’  
11      means—

12           “(A) a regulated investment company,  
13           “(B) a real estate investment trust,  
14           “(C) an S corporation,  
15           “(D) a partnership,  
16           “(E) an estate or trust,  
17           “(F) a common trust fund,  
18           “(G) a foreign investment company which  
19        is described in section 1246(b)(1) and for which  
20        an election is in effect under section 1247, and  
21           “(H) a qualified electing fund (as defined  
22        in section 1295).  
23           “(13) SPECIAL RULES FOR PERIODS DURING  
24        1997.—

1               “(A) DETERMINATION OF 28 PERCENT  
2               RATE GAIN.—In applying paragraph (5)—

3               “(i) the amount determined under  
4               subclause (I) of paragraph (5)(A)(i) shall  
5               include long-term capital gain (not other-  
6               wise described in paragraph (5)(A)(i))  
7               which is properly taken into account for  
8               the portion of the taxable year before May  
9               7, 1997,

10              “(ii) the amounts determined under  
11              subclause (I) of paragraph (5)(A)(ii) shall  
12              include long-term capital loss (not other-  
13              wise described in paragraph (5)(A)(ii))  
14              which is properly taken into account for  
15              the portion of the taxable year before May  
16              7, 1997, and

17              “(iii) clauses (i)(I) and (ii)(I) of para-  
18              graph (5)(A) shall be applied by not taking  
19              into account any gain and loss on property  
20              held for more than 1 year but not more  
21              than 18 months which is properly taken  
22              into account for the portion of the taxable  
23              year after May 6, 1997, and before July  
24              29, 1997.

25              “(B) OTHER SPECIAL RULES.—

1                         “(i) DETERMINATION OF  
2                         UNRECAPTURED SECTION 1250 GAIN NOT  
3                         TO INCLUDE PRE-MAY 7, 1997 GAIN.—The  
4                         amount determined under paragraph  
5                         (7)(A)(i) shall not include gain properly  
6                         taken into account for the portion of the  
7                         taxable year before May 7, 1997.

8                         “(ii) OTHER TRANSITIONAL RULES  
9                         FOR 18-MONTH HOLDING PERIOD.—Para-  
10                         graphs (6)(A) and (7)(A)(i)(II) shall be  
11                         applied by substituting ‘1 year’ for ‘18  
12                         months’ with respect to gain properly  
13                         taken into account for the portion of the  
14                         taxable year after May 6, 1997, and before  
15                         July 29, 1997.

16                         “(C) SPECIAL RULES FOR PASS-THRU EN-  
17                         TITIES.—In applying this paragraph with re-  
18                         spect to any pass-thru entity, the determination  
19                         of when gains and loss are properly taken into  
20                         account shall be made at the entity level.”.

21                         (2) IN GENERAL.—Paragraph (3) of section  
22                         55(b) of the 1986 Code is amended to read as fol-  
23                         lows:

24                         “(3) MAXIMUM RATE OF TAX ON NET CAPITAL  
25                         GAIN OF NONCORPORATE TAXPAYERS.—The amount

1       determined under the first sentence of paragraph  
2       (1)(A)(i) shall not exceed the sum of—  
3               “(A) the amount determined under such  
4               first sentence computed at the rates and in the  
5               same manner as if this paragraph had not been  
6               enacted on the taxable excess reduced by the  
7               lesser of—  
8                       “(i) the net capital gain, or  
9                       “(ii) the sum of—  
10                               “(I) the adjusted net capital  
11                       gain, plus  
12                               “(II) the unrecaptured section  
13                       1250 gain, plus  
14                       “(B) 10 percent of so much of the ad-  
15                       justed net capital gain (or, if less, taxable ex-  
16                       cess) as does not exceed the amount on which  
17                       a tax is determined under section 1(h)(1)(B),  
18                       plus  
19                       “(C) 20 percent of the adjusted net capital  
20                       gain (or, if less, taxable excess) in excess of the  
21                       amount on which tax is determined under sub-  
22                       paragraph (B), plus  
23                       “(D) 25 percent of the amount of taxable  
24                       excess in excess of the sum of the amounts on

1           which tax is determined under the preceding  
2           subparagraphs of this paragraph.

3           In the case of taxable years beginning after Decem-  
4           ber 31, 2000, rules similar to the rules of section  
5           1(h)(2) shall apply for purposes of subparagraphs  
6           (B) and (C). Terms used in this paragraph which  
7           are also used in section 1(h) shall have the respec-  
8           tive meanings given such terms by section 1(h) but  
9           computed with the adjustments under this part.”.

10           (3) Section 57(a)(7) of the 1986 Code is  
11           amended by adding at the end the following new  
12           sentence: “In the case of stock the holding period of  
13           which begins after December 31, 2000 (determined  
14           with the application of the last sentence of section  
15           1(h)(2)(B)), the preceding sentence shall be applied  
16           by substituting ‘28 percent’ for ‘42 percent’.”.

17           (4) Paragraphs (11) and (12) of section 1223,  
18           and section 1235(a), of the 1986 Code are each  
19           amended by striking “1 year” each place it appears  
20           and inserting “18 months”.

21           (e) AMENDMENTS RELATED TO SECTION 312 OF  
22 1997 ACT.—

23           (1) Section 121(c)(1) of the 1986 Code is  
24           amended to read as follows:

1           “(1) IN GENERAL.—In the case of a sale or ex-  
2       change to which this subsection applies, the owner-  
3       ship and use requirements of subsection (a), and  
4       subsection (b)(3), shall not apply; but the dollar lim-  
5       itation under paragraph (1) or (2) of subsection (b),  
6       whichever is applicable, shall be equal to—

7           “(A) the amount which bears the same  
8       ratio to such limitation (determined without re-  
9       gard to this paragraph) as

10          “(B)(i) the shorter of—

11           “(I) the aggregate periods, during the  
12       5-year period ending on the date of such  
13       sale or exchange, such property has been  
14       owned and used by the taxpayer as the  
15       taxpayer’s principal residence, or

16           “(II) the period after the date of the  
17       most recent prior sale or exchange by the  
18       taxpayer to which subsection (a) applied  
19       and before the date of such sale or ex-  
20       change, bears to

21           “(ii) 2 years.”.

22          (2) Section 312(d)(2) of the 1997 Act (relating  
23       to sales before date of enactment) is amended by in-  
24       serting “on or” before “before” each place it ap-  
25       pears in the text and heading.

## 1 (f) AMENDMENT RELATED TO SECTION 313 OF 1997

2 ACT.—Section 1045 of the 1986 Code is amended by add-  
3 ing at the end the following new subsection:

4       “(c) LIMITATION ON APPLICATION TO PARTNER-  
5 SHIPS AND S CORPORATIONS.—Subsection (a) shall apply  
6 to a partnership or S corporation for a taxable year only  
7 if at all times during such taxable year all of the partners  
8 in the partnership, or all of the shareholders of the S cor-  
9 poration, are natural persons or estates.”.

10 **SEC. 606. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.**11 (a) AMENDMENTS RELATED TO SECTION 501 OF  
12 1997 ACT.—

13       (1) Subsection (c) of section 2631 of the 1986  
14 Code is amended by striking “an individual who  
15 dies” and inserting “a generation-skipping trans-  
16 fer”.

17       (2) Subsection (f) of section 501 of the 1997  
18 Act is amended by inserting “(other than the  
19 amendment made by subsection (d))” after “this  
20 section”.

21 (b) AMENDMENTS RELATED TO SECTION 502 OF  
22 1997 ACT.—

23       (1) Subsection (a) of section 2033A of the 1986  
24 Code is amended to read as follows:

25       “(a) EXCLUSION.—

1           “(1) IN GENERAL.—In the case of an estate of  
2        a decedent to which this section applies, the value of  
3        the gross estate shall not include the lesser of—

4           “(A) the adjusted value of the qualified  
5        family-owned business interests of the decedent  
6        otherwise includible in the estate, or

7           “(B) the exclusion limitation with respect  
8        to such estate.

9           “(2) EXCLUSION LIMITATION.—

10          “(A) IN GENERAL.—The exclusion limita-  
11        tion with respect to any estate is the amount of  
12        reduction in the tentative tax base with respect  
13        to such estate which would be required in order  
14        to reduce the tax imposed by section 2001(b)  
15        (determined without regard to this section) by  
16        an amount equal to the maximum credit equiva-  
17        lent benefit.

18          “(B) MAXIMUM CREDIT EQUIVALENT BEN-  
19        EFIT.—For purposes of subparagraph (A), the  
20        term ‘maximum credit equivalent benefit’ means  
21        the excess of—

22           “(i) the amount by which the ten-  
23        tative tax imposed by section 2001(b) (de-  
24        termined without regard to this section)

1           would be reduced if the tentative tax base  
2           were reduced by \$675,000, over

3                 “(ii) the amount by which the applica-  
4                 ble credit amount under section 2010(c)  
5                 with respect to such estate exceeds such  
6                 applicable credit amount in effect for  
7                 1998.

8                 “(C) TENTATIVE TAX BASE.—For pur-  
9                 poses of this paragraph, the term ‘tentative tax  
10                 base’ means the amount with respect to which  
11                 the tax imposed by section 2001(b) would be  
12                 computed without regard to this section.”.

13                 (2) Section 2033A(b)(3) of the 1986 Code is  
14                 amended to read as follows:

15                 “(3) INCLUDIBLE GIFTS OF INTERESTS.—The  
16                 amount of the gifts of qualified family-owned busi-  
17                 ness interests determined under this paragraph is  
18                 the sum of—

19                 “(A) the amount of such gifts from the de-  
20                 cedent to members of the decedent’s family  
21                 taken into account under section  
22                 2001(b)(1)(B), plus

23                 “(B) the amount of such gifts otherwise  
24                 excluded under section 2503(b),

1       to the extent such interests are continuously held by  
2       members of such family (other than the decedent's  
3       spouse) between the date of the gift and the date of  
4       the decedent's death.”.

5           (c) AMENDMENTS RELATED TO SECTION 503 OF  
6 THE 1997 ACT.—

7           (1) Clause (iii) of section 6166(b)(7)(A) of the  
8 1986 Code is amended to read as follows:

9               “(iii) for purposes of applying section  
10              6601(j), the 2-percent portion (as defined  
11              in such section) shall be treated as being  
12              zero.”.

13           (2) Clause (iii) of section 6166(b)(8)(A) of the  
14 1986 Code is amended to read as follows:

15               “(iii) 2-PERCENT INTEREST RATE NOT  
16              TO APPLY.—For purposes of applying sec-  
17              tion 6601(j), the 2-percent portion (as de-  
18              fined in such section) shall be treated as  
19              being zero.”.

20           (d) AMENDMENT RELATED TO SECTION 505 OF THE  
21 1997 ACT.—Paragraphs (1) and (2) of section 7479(a)  
22 of the 1986 Code are each amended by striking “an es-  
23 tate,” and inserting “an estate (or with respect to any  
24 property included therein),”.

1       (e) AMENDMENTS RELATED TO SECTION 506 OF  
2 THE 1997 ACT.—

3                 (1) Subsection (c) of section 2504 of the 1986  
4 Code is amended by striking “was assessed or paid”  
5 and inserting “was finally determined for purposes  
6 of this chapter”.

7                 (2) Paragraph (1) of section 506(e) of the 1997  
8 Act is amended by striking “and (c)” and inserting  
9 “, (c), and (d)”.

10 **SEC. 607. AMENDMENTS RELATED TO TITLE VII OF 1997**  
11                 **ACT.**

12       (a) AMENDMENT RELATED TO SECTION 1400 OF  
13 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is  
14 amended by inserting “as determined on the basis of the  
15 1990 census” after “percent”.

16       (b) AMENDMENTS RELATED TO SECTION 1400B OF  
17 1986 CODE.—

18                 (1) Section 1400B(d)(2) of the 1986 Code is  
19 amended by inserting “as determined on the basis of  
20 the 1990 census” after “percent”.

21                 (2) Section 1400B(b) of the 1986 Code is  
22 amended by redesignating paragraphs (6) and (7) as  
23 paragraphs (5) and (6), respectively.

24       (c) AMENDMENTS RELATED TO SECTION 1400C OF  
25 1986 CODE.—

1                   (1) Paragraph (1) of section 1400C(c) of the  
2                   1986 Code is amended to read as follows:

3                   “(1) IN GENERAL.—The term ‘first-time home-  
4                   buyer’ means any individual if such individual (and  
5                   if married, such individual’s spouse) had no present  
6                   ownership interest in a principal residence in the  
7                   District of Columbia during the 1-year period ending  
8                   on the date of the purchase of the principal resi-  
9                   dence to which this section applies.”.

10                  (2) Subparagraph (B) of section 1400C(e)(2) of  
11                  the 1986 Code is amended by inserting before the  
12                  period “on the date the taxpayer first occupies such  
13                  residence”.

14                  (3) Paragraph (3) of section 1400C(e) of the  
15                  1986 Code is amended by striking all that follows  
16                  “principal residence” and inserting “on the date  
17                  such residence is purchased.”.

18                  (4) Subsection (i) of section 1400C of the 1986  
19                  Code is amended to read as follows:

20                  “(i) APPLICATION OF SECTION.—This section shall  
21                  apply to property purchased after August 4, 1997, and  
22                  before January 1, 2001.”.

23                  (5) Subsection (c) of section 23 of the 1986  
24                  Code is amended by inserting “and section 1400C”  
25                  after “other than this section”.

1                         (6) Subparagraph (C) of section 25(e)(1) of the  
2                         1986 Code is amended by striking “section 23” and  
3                         inserting “sections 23 and 1400C”.

4 **SEC. 608. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.**

5                         (a) AMENDMENT RELATED TO SECTION 901 OF 1997  
6 Act.—Section 9503(c)(7) of the 1986 Code is amended—

7                             (1) by striking “resulting from the amendments  
8                         made by” and inserting “(and transfers to the Mass  
9                         Transit Account) resulting from the amendments  
10                         made by subsections (a) and (b) of section 901 of”,  
11                         and

12                             (2) by inserting before the period “and deposits  
13                         in the Highway Trust Fund (and transfers to the  
14                         Mass Transit Account) shall be treated as made  
15                         when they would have been required to be made  
16                         without regard to section 901(e) of the Taxpayer  
17                         Relief Act of 1997”.

18                         (b) AMENDMENT RELATED TO SECTION 907 OF 1997  
19 Act.—Paragraph (2) of section 9503(e) of the 1986 Code  
20 is amended by striking the last sentence and inserting the  
21 following new sentence: “For purposes of the preceding  
22 sentence, the term ‘mass transit portion’ means, for any  
23 fuel with respect to which tax was imposed under section  
24 4041 or 4081 and otherwise deposited into the Highway  
25 Trust Fund, the amount determined at the rate of—

1                 “(A) except as otherwise provided in this  
2                 sentence, 2.86 cents per gallon,  
3                 “(B) 1.77 cents per gallon in the case of  
4                 any partially exempt methanol or ethanol fuel  
5                 (as defined in section 4041(m)) none of the al-  
6                 cohol in which consists of ethanol,  
7                 “(C) 1.86 cents per gallon in the case of  
8                 liquefied natural gas,  
9                 “(D) 2.13 cents per gallon in the case of  
10                 liquefied petroleum gas, and  
11                 “(E) 9.71 cents per MCF (determined at  
12                 standard temperature and pressure) in the case  
13                 of compressed natural gas.”.

14                 (c) AMENDMENT RELATED TO SECTION 976 OF 1997  
15 Act.—Section 6103(d)(5) of the 1986 Code is amended  
16 by striking “section 967 of the Taxpayer Relief Act of  
17 1997.” and inserting “section 976 of the Taxpayer Relief  
18 Act of 1997. Subsections (a)(2) and (p)(4) and sections  
19 7213 and 7213A shall not apply with respect to diselo-  
20 sures or inspections made pursuant to this paragraph.”.

21 **SEC. 609. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.**

22                 (a) AMENDMENTS RELATED TO SECTION 1001 OF  
23 1997 ACT.—

24                 (1) Paragraph (2) of section 1259(b) of the  
25 1986 Code is amended—

- 1                             (A) by striking “debt” each place it ap-  
2                             pears in clauses (i) and (ii) of subparagraph  
3                             (A) and inserting “position”,  
4                             (B) by striking “and” at the end of sub-  
5                             paragraph (A), and  
6                             (C) by redesignating subparagraph (B) as  
7                             subparagraph (C) and by inserting after sub-  
8                             paragraph (A) the following new subparagraph:  
9                                 “(B) any hedge with respect to a position  
10                             described in subparagraph (A), and”.
- 11                             (2) Section 1259(d)(1) of the 1986 Code is  
12                             amended by inserting “(including cash)” after  
13                             “property”.
- 14                             (3) Subparagraph (D) of section 475(f)(1) of  
15                             the 1986 Code is amended by adding at the end the  
16                             following new sentence: “Subsection (d)(3) shall not  
17                             apply under the preceding sentence for purposes of  
18                             applying sections 1402 and 7704.”.
- 19                             (4) Subparagraph (C) of section 1001(d)(3) of  
20                             the 1997 Act is amended by striking “within the 30-  
21                             day period beginning on” and inserting “before the  
22                             close of the 30th day after”.
- 23                             (b) AMENDMENTS RELATED TO SECTION 1012 OF  
24                             1997 Act.—

1                   (1) Paragraph (1) of section 1012(d) of the  
2         1997 Act is amended by striking “1997, pursuant”  
3         and inserting “1997; except that the amendment  
4         made by subsection (a) shall apply to such distribu-  
5         tions only if pursuant”.

6                   (2) Subparagraph (A) of section 355(e)(3) of  
7         the 1986 Code is amended—

8                   (A) by striking “shall not be treated as de-  
9         scribed in” and inserting “shall not be taken  
10         into account in applying”, and

11                  (B) by striking clause (iv) and inserting  
12         the following new clause:

13                  “(iv) The acquisition of stock in the  
14         distributing corporation or any controlled  
15         corporation to the extent that the percent-  
16         age of stock owned directly or indirectly in  
17         such corporation by each person owning  
18         stock in such corporation immediately be-  
19         fore the acquisition does not decrease.”.

20                  (c) AMENDMENTS RELATED TO SECTION 1014 OF  
21         1997 ACT.—

22                  (1) Paragraph (1) of section 351(g) of the 1986  
23         Code is amended by adding “and” at the end of sub-  
24         paragraph (A) and by striking subparagraphs (B)

1 and (C) and inserting the following new subparagraph:  
2

3 “(B) if (and only if) the transferor receives  
4 stock other than nonqualified preferred stock—

5 “(i) subsection (b) shall apply to such  
6 transferor, and

7 “(ii) such nonqualified preferred stock  
8 shall be treated as other property for pur-  
9 poses of applying subsection (b).”.

10 (2) Clause (ii) of section 354(a)(2)(C) of 1986  
11 Code is amended by adding at the end the following  
12 new subclause:

13 “(III) EXTENSION OF STATUTE  
14 OF LIMITATIONS.—The statutory pe-  
15 riod for the assessment of any defi-  
16 ciency attributable to a corporation  
17 failing to be a family-owned corpora-  
18 tion shall not expire before the expira-  
19 tion of 3 years after the date the Sec-  
20 retary is notified by the corporation  
21 (in such manner as the Secretary may  
22 prescribe) of such failure, and such  
23 deficiency may be assessed before the  
24 expiration of such 3-year period not-  
25 withstanding the provisions of any

1                   other law or rule of law which would  
2                   otherwise prevent such assessment.”.

3                 (d) AMENDMENT RELATED TO SECTION 1024 OF  
4 1997 ACT.—Section 6331(h)(1) of the 1986 Code is  
5 amended by striking “The effect of a levy” and inserting  
6 “If the Secretary approves a levy under this subsection,  
7 the effect of such levy”.

8                 (e) AMENDMENTS RELATED TO SECTION 1031 OF  
9 1997 ACT.—

10               (1) Subsection (l) of section 4041 of the 1986  
11 Code is amended by striking “subsection (e) or (f)”  
12 and inserting “subsection (f) or (g)”.

13               (2) Subsection (b) of section 9502 of the 1986  
14 Code is amended by moving the sentence added at  
15 the end of paragraph (1) to the end of such sub-  
16 section.

17               (3) Subsection (c) of section 6421 of the 1986  
18 Code is amended—

19               (A) by striking “(2)(A)” and inserting  
20 “(2)”, and

21               (B) by adding at the end the following sen-  
22 tence: “Subsection (a) shall not apply to gaso-  
23 line to which this subsection applies.”.

24               (f) AMENDMENTS RELATED TO SECTION 1032 OF  
25 1997 ACT.—

1                   (1) Section 1032(a) of the 1997 Act is amended  
2       by striking “Subsection (a) of section 4083” and in-  
3       serting “Paragraph (1) of section 4083(a)”.

4                   (2) Section 1032(e)(12)(A) of the 1997 Act  
5       shall be applied as if “gasoline, diesel fuel,” were the  
6       material proposed to be stricken.

7                   (3) Paragraph (1) of section 4101(e) of the  
8       1986 Code is amended by striking “dyed diesel fuel  
9       and kerosene” and inserting “such fuel in a dyed  
10      form”.

11                  (g) AMENDMENT RELATED TO SECTION 1055 OF  
12 1997 ACT.—Section 6611(g)(1) of the 1986 Code is  
13 amended by striking “(e), and (h)” and inserting “and  
14 (e)”.

15                  (h) AMENDMENT RELATED TO SECTION 1083 OF  
16 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amend-  
17 ed—

18                   (1) by striking “21” and inserting “20”, and

19                   (2) by striking “22” and inserting “21”.

20                  (i) AMENDMENT RELATED TO SECTION 1084 OF  
21 1997 ACT.—

22                   (1) Paragraph (3) of section 264(a) of the 1986  
23 Code is amended by striking “subsection (c)” and  
24 inserting “subsection (d)”.

1                             (2) Paragraph (4) of section 264(a) of the 1986  
2       Code is amended by striking “subsection (d)” and  
3       inserting “subsection (e)”.

4                             (3) Paragraph (4) of section 264(f) of the 1986  
5       Code is amended by adding at the end the following  
6       new subparagraph:

7                             “(E) MASTER CONTRACTS.—If coverage  
8       for each insured under a master contract is  
9       treated as a separate contract for purposes of  
10      sections 817(h), 7702, and 7702A, coverage for  
11      each such insured shall be treated as a separate  
12      contract for purposes of subparagraph (A). For  
13      purposes of the preceding sentence, the term  
14      ‘master contract’ shall not include any group  
15      life insurance contract (as defined in section  
16      848(e)(2)).”.

17                             (4)(A) Clause (iv) of section 264(f)(5)(A) of the  
18       1986 Code is amended by striking the second sen-  
19       tence.

20                             (B) Subparagraph (B) of section 6724(d)(1) of  
21       the 1986 Code is amended by striking “or” at the  
22       end of clause (xv), by striking the period at the end  
23       of clause (xvi) and inserting “, or”, and by adding  
24       at the end the following new clause:

1                     “(xvii) section 264(f)(5)(A)(iv) (relat-  
2                     ing to reporting with respect to certain life  
3                     insurance and annuity contracts).”.

4                 (C) Paragraph (2) of section 6724(d) of the  
5             1986 Code is amended by striking “or” at the end  
6             of subparagraph (Y), by striking the period at the  
7             end of subparagraph (Z) and inserting “or”, and by  
8             adding at the end the following new subparagraph:

9                     “(AA) section 264(f)(5)(A)(iv) (relating to  
10                     reporting with respect to certain life insurance  
11                     and annuity contracts).”.

12                 (j) AMENDMENT RELATED TO SECTION 1085 OF  
13     1997 ACT.—Paragraph (5) of section 32(c) of the 1986  
14     Code is amended—

15                 (1) by inserting before the period at the end of  
16             subparagraph (A) “and increased by the amounts  
17             described in subparagraph (C)”,

18                 (2) by adding “or” at the end of clause (iii) of  
19             subparagraph (B), and

20                 (3) by striking all that follows subclause (II) of  
21             subparagraph (B)(iv) and inserting the following:

22                     “(III) other trades or businesses.

23                     For purposes of clause (iv), there shall not  
24                     be taken into account items which are at-  
25                     tributable to a trade or business which

1           consists of the performance of services by  
2           the taxpayer as an employee.

3           “(C) CERTAIN AMOUNTS INCLUDED.—An  
4           amount is described in this subparagraph if it  
5           is—

6                 “(i) interest received or accrued dur-  
7                 ing the taxable year which is exempt from  
8                 tax imposed by this chapter, or

9                 “(ii) amounts received as a pension or  
10                annuity, and any distributions or payments  
11                received from an individual retirement  
12                plan, by the taxpayer during the taxable  
13                year to the extent not included in gross in-  
14                come.

15           Clause (ii) shall not include any amount which  
16           is not includible in gross income by reason of  
17           section 402(c), 403(a)(4), 403(b), 408(d) (3),  
18           (4), or (5), or 457(e)(10).”.

19           (k) AMENDMENT RELATED TO SECTION 1088 OF  
20 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is  
21 amended by inserting “more than 1 year” before “after”.

22           (l) AMENDMENT RELATED TO SECTION 1089 OF  
23 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section  
24 664(d) of the 1986 Code are each amended by adding “,  
25 and” at the end.

## 1 SEC. 610. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

2 (a) AMENDMENT RELATED TO SECTION 1103 OF  
3 1997 ACT.—The paragraph (3) of section 59(a) added by  
4 section 1103 of the 1997 Act is redesignated as paragraph  
5 (4).

6 (b) AMENDMENT RELATED TO SECTION 1121 OF  
7 1997 ACT.—Section 1298(a)(2)(B) of the 1986 Code is  
8 amended by adding at the end the following new sentence:  
9 “Section 1297(e) shall not apply in determining whether  
10 a corporation is a passive foreign investment company for  
11 purposes of this subparagraph.”.

12 (c) AMENDMENT RELATED TO SECTION 1122 OF  
13 1997 ACT.—Section 672(f)(3)(B) of the 1986 Code is  
14 amended by striking “section 1296” and inserting “sec-  
15 tion 1297”.

16 (d) AMENDMENT RELATED TO SECTION 1123 OF  
17 1997 ACT.—The subsection (e) of section 1297 of the  
18 1986 Code added by section 1123 of the 1997 Act is re-  
19 designated as subsection (f).

20 (e) AMENDMENT RELATED TO SECTION 1144 OF  
21 1997 ACT.—Paragraphs (1) and (2) of section 1144(c)  
22 of the 1997 Act are each amended by striking “6038B(b)”  
23 and inserting “6038B(c) (as redesignated by subsection  
24 (b))”.

## 1 SEC. 611. AMENDMENTS RELATED TO TITLE XII OF 1997

## 2 ACT.

3 (a) AMENDMENT RELATED TO SECTION 1204 OF  
4 1997 ACT.—The last sentence of section 162(a) of the  
5 1986 Code is amended by striking “investigate” and all  
6 that follows and inserting “investigate or prosecute, or  
7 provide support services for the investigation or prosecu-  
8 tion of, a Federal crime.”.

9 (b) AMENDMENTS RELATED TO SECTION 1205 OF  
10 1997 ACT.—

11 (1) Section 6311(e)(1) of the 1986 Code is  
12 amended by striking “section 6103(k)(8)” and in-  
13 serting “section 6103(k)(9)”.

14 (2) Paragraph (8) of section 6103(k) of the  
15 1986 Code (as added by section 1205(c)(1) of the  
16 1997 Act) is redesignated as paragraph (9).

17 (3) The heading for section 7431(g) of the  
18 1986 Code is amended by striking “(8)” and insert-  
19 ing “(9)”.

20 (4) Section 1205(c)(3) of the 1997 Act shall be  
21 applied as if it read as follows:

22 “(3) Section 6103(p)(3)(A), as amended by sec-  
23 tion 1026(b)(1)(A), is amended by striking “or (8)”  
24 and inserting “(8), or (9)”.

1                         (5) Section 1213(b) of the 1997 Act is amended  
2                         by striking “section 6724(d)(1)(A)” and inserting  
3                         “section 6724(d)(1)”.

4                         (c) AMENDMENT RELATED TO SECTION 1226 OF  
5 1997 ACT.—Section 1226 of the 1997 Act is amended by  
6 striking “ending on or” and inserting “beginning”.

7                         (d) AMENDMENT RELATED TO SECTION 1285 OF  
8 1997 ACT.—Section 7430(b) of the 1986 Code is amended  
9 by redesignating paragraph (5) as paragraph (4).

10 **SEC. 612. AMENDMENTS RELATED TO TITLE XIII OF 1997**  
11                         **ACT.**

12                         (a) Section 646 of the 1986 Code is redesignated as  
13 section 645.

14                         (b) The item relating to section 646 in the table of  
15 sections for subpart A of part I of subchapter J of chapter  
16 1 of the 1986 Code is amended by striking “Sec. 646”  
17 and inserting “Sec. 645”.

18                         (c) Paragraph (1) of section 2652(b) of the 1986  
19 Code is amended by striking “section 646” and inserting  
20 “section 645”.

21                         (d) Paragraph (3) of section 1(g) of the 1986 Code  
22 is amended by striking subparagraph (C) and by redesign-  
23 nating subparagraph (D) as subparagraph (C).

1       (e) Section 641 of the 1986 Code is amended by  
2 striking subsection (c) and by redesignating subsection (d)  
3 as subsection (c).

4 (f) Paragraph (4) of section 1361(e) of the 1986  
5 Code is amended by striking “section 641(d)” and insert-  
6 ing “section 641(c)”.

7       (g) Subparagraph (A) of section 6103(e)(1) of the  
8 1986 Code is amended by striking clause (ii) and by redes-  
9 ignating clauses (iii) and (iv) as clauses (ii) and (iii), re-  
10 spectively.

**11 SEC. 613. AMENDMENTS RELATED TO TITLE XIV OF 1997**

12 ACT.

13       (a) AMENDMENT RELATED TO SECTION 1434 OF  
14 1997 Act.—Paragraph (2) of section 4052(f) of the 1986  
15 Code is amended by striking “this section” and inserting  
16 “such section”.

17       (b) AMENDMENT RELATED TO SECTION 1436 OF  
18 1997 Act.—Paragraph (2) of section 4091(a) of the 1986  
19 Code is amended by inserting “or on which tax has been  
20 credited or refunded” after “such paragraph”.

21 SEC. 614. AMENDMENTS RELATED TO TITLE XV OF 1997

22 ACT.

23 (a) AMENDMENT RELATED TO SECTION 1501 OF  
24 1997 ACT.—The paragraph (8) of section 408(p) of the

1 1986 Code added by section 1501(b) of the 1997 Act is  
2 redesignated as paragraph (9).

3 (b) AMENDMENT RELATED TO SECTION 1505 OF  
4 1997 ACT.—Section 1505(d)(2) of the 1997 Act is amend-  
5 ed by striking “(b)(12)” and inserting “(b)(12)(A)(i)”.

6 (c) AMENDMENT RELATED TO SECTION 1531 OF  
7 1997 ACT.—Subsection (f) of section 9811 of the 1986  
8 Code (as added by section 1531 of the 1997 Act) is redes-  
9 ignated as subsection (e).

10 **SEC. 615. AMENDMENTS RELATED TO TITLE XVI.**

11 (a) AMENDMENTS RELATED TO SECTION 1601(d) OF  
12 1997 ACT.—

13 (1) AMENDMENTS RELATED TO SECTION  
14 1601(d)(1)—

15 (A) Section 408(p)(2)(D)(i) of the 1986  
16 Code is amended by striking “or (B)” in the  
17 last sentence.

18 (B) Section 408(p) of the 1986 Code is  
19 amended by adding at the end the following:  
20 “(10) SPECIAL RULES FOR ACQUISITIONS, DIS-  
21 POSITIONS, AND SIMILAR TRANSACTIONS.—

22 (A) IN GENERAL.—An employer which  
23 fails to meet any applicable requirement by rea-  
24 son of an acquisition, disposition, or similar  
25 transaction shall not be treated as failing to

1           meet such requirement during the transition pe-  
2           riod if—

3                 “(i) the employer satisfies require-  
4                 ments similar to the requirements of sec-  
5                 tion 410(b)(6)(C)(i)(II), and

6                 “(ii) the qualified salary reduction ar-  
7                 rangement maintained by the employer  
8                 would satisfy the requirements of this sub-  
9                 section after the transaction if the em-  
10                 ployer which maintained the arrangement  
11                 before the transaction had remained a sep-  
12                 arate employer.

13                 “(B) APPLICABLE REQUIREMENT.—For  
14                 purposes of this paragraph, the term ‘applicable  
15                 requirement’ means—

16                 “(i) the requirement under paragraph  
17                 (2)(A)(i) that an employer be an eligible  
18                 employer,

19                 “(ii) the requirement under paragraph  
20                 (2)(D) that an arrangement be the only  
21                 plan of an employer, and

22                 “(iii) the participation requirements  
23                 under paragraph (4).

24                 “(C) TRANSITION PERIOD.—For purposes  
25                 of this paragraph, the term ‘transition period’

1 means the period beginning on the date of any  
2 transaction described in subparagraph (A) and  
3 ending on the last day of the second calendar  
4 year following the calendar year in which such  
5 transaction occurs.”.

6 (C) Section 408(p)(2) of the 1986 Code is  
7 amended—

- 8 (i) by striking “the preceding sentence  
9 shall apply only in accordance with rules  
10 similar to the rules of section  
11 410(b)(6)(C)(i)” in the last sentence of  
12 subparagraph (C)(i)(II) and inserting “the  
13 preceding sentence shall not apply”, and  
14 (ii) by striking clause (iii) of subpara-  
15 graph (D).

16 (2) AMENDMENT TO SECTION 1601(d)(4).—Sec-  
17 tion 1601(d)(4)(A) of the 1997 Act is amended—

18 (A) by striking “Section 403(b)(11)” and  
19 inserting “Paragraphs (7)(A)(ii) and (11) of  
20 section 403(b)”, and

21 (B) by striking “403(b)(1)” in clause (ii)  
22 and inserting “403(b)(10)”.

23 (b) AMENDMENT RELATED TO SECTION 1601(f)(4)  
24 OF 1997 ACT.—Subsection (d) of section 6427 of the  
25 1986 Code is amended—

- 1                   (1) by striking “HELICOPTERS” in the heading
- 2                   and inserting “OTHER AIRCRAFT USES”, and
- 3                   (2) by inserting “or a fixed-wing aircraft” after
- 4                   “helicopter”.

5 SEC. 616. AMENDMENT RELATED TO OMNIBUS BUDGET  
6 RECONCILIATION ACT OF 1993.

7       (a) IN GENERAL.—Section 196(c) of the 1986 Code  
8 is amended by striking “and” at the end of paragraph (6),  
9 by striking the period at the end of paragraph (7), and  
10 insert “, and”, and by adding at the end the following  
11 new paragraph:

12               “(8) the employer social security credit deter-  
13               mined under section 45B(a).”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall take effect as if included in the amend-  
16 ments made by section 13443 of the Revenue Reconcili-  
17 ation Act of 1993.

18 SEC. 617. AMENDMENT RELATED TO TAX REFORM ACT OF  
19 1984.

20 (a) IN GENERAL.—Paragraph (3) of section 136(c)  
21 of the Tax Reform Act of 1984 is amended by adding at  
22 the end the following flush sentence:

23        "The treatment under the preceding sentence shall  
24        apply to each period after June 30, 1983, during  
25        which such members are stapled entities, whether or

1       not such members are stapled entities for all periods  
2       after June 30, 1983.”.

3       (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall take effect as if included in the Tax  
5 Reform Act of 1984 as of the date of the enactment of  
6 such Act.

7 **SEC. 618. AMENDMENT RELATED TO TAX REFORM ACT OF**  
8 **1986.**

9       (a) IN GENERAL.—Section 6401(b)(1) of the 1986  
10 Code is amended by striking “and D” and inserting “D,  
11 and G”.

12       (b) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) shall take effect as if included in the  
14 amendments made by section 701(b) of the Tax Reform  
15 Act of 1986.

16 **SEC. 619. MISCELLANEOUS CLERICAL AND DEADWOOD**  
17 **CHANGES.**

18       (a)(1) Section 6421 of the 1986 Code is amended by  
19 redesignating subsections (j) and (k) as subsections (i)  
20 and (j), respectively.

21       (2) Subsection (b) of section 34 of the 1986 Code  
22 is amended by striking “section 6421(j)” and inserting  
23 “section 6421(i)”.

1       (3) Subsections (a) and (b) of section 6421 of the  
2 1986 Code are each amended by striking “subsection (j)”  
3 and inserting “subsection (i)”.

4       (b) Sections 4092(b) and 6427(q)(2) of the 1986  
5 Code are each amended by striking “section 4041(c)(4)”  
6 and inserting “section 4041(c)(2)”.

7       (c) Sections 4221(c) and 4222(d) of the 1986 Code  
8 are each amended by striking “4053(a)(6)” and inserting  
9 “4053(6)”.

10      (d) Paragraph (5) of section 6416(b) of the 1986  
11 Code is amended by striking “section 4216(e)(1)” each  
12 place it appears and inserting “section 4216(d)(1)”.

13      (e) Paragraph (3) of section 6427(f) of the 1986  
14 Code is amended by striking “, (e),”.

15      (f)(1) Section 6427 of the 1986 Code, as amended  
16 by paragraph (2), is amended by redesignating subsections  
17 (n), (p), (q), and (r) as subsections (m), (n), (o), and (p),  
18 respectively.

19      (2) Paragraphs (1) and (2)(A) of section 6427(i) of  
20 the 1986 Code are each amended by striking “(q)” and  
21 inserting “(o)”.

22      (g) Subsection (e) of section 9502 of the 1986 Code  
23 is amended to read as follows:

24      “(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO  
25 REMAIN IN GENERAL FUND.—For purposes of this sec-

1 tion, the amounts which would (but for this subsection)  
2 be required to be appropriated under subparagraphs (A),  
3 (C), and (D) of subsection (b)(1) shall be reduced by—

4           “(1) 0.6 cent per gallon in the case of taxes im-  
5 posed on any mixture at least 10 percent of which  
6 is alcohol (as defined in section 4081(c)(3)) if any  
7 portion of such alcohol is ethanol, and

8           “(2) 0.67 cent per gallon in the case of fuel  
9 used in producing a mixture described in paragraph  
10 (1).”.

11       (h)(1) Clause (i) of section 9503(c)(2)(A) of the 1986  
12 Code is amended by adding “and” at the end of subclause  
13 (II), by striking subclause (III), and by redesignating sub-  
14 clause (IV) as subclause (III).

15       (2) Clause (ii) of such section is amended by striking  
16 “gasoline, special fuels, and lubricating oil” each place it  
17 appears and inserting “fuel”.

18       (i) The amendments made by this section shall take  
19 effect on the date of the enactment of this Act.

20 **SEC. 620. EFFECTIVE DATE.**

21       Except as otherwise provided in this title, the amend-  
22 ments made by this title shall take effect as if included

- 1 in the provisions of the Taxpayer Relief Act of 1997 to
- 2 which they relate.

Passed the House of Representatives November 5,  
1997.

Attest:

ROBIN H. CARLE,

*Clerk.*