

Calendar No. 90

108TH CONGRESS
1ST SESSION

S. 2

To amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2003

Mr. NICKLES (for himself, Mr. MILLER, Mr. KYL, Mr. SMITH, Mr. COCHRAN, Mrs. HUTCHISON, Mr. SANTORUM, and Mr. CHAMBLISS) (by request) introduced the following bill; which was read twice and referred to the Committee on Finance

MAY 9, 2003

Reported by Mr. GRASSLEY, with an amendment and an amendment to the title

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

A BILL

To amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

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; REFERENCES; TABLE OF CON-**
 2 **TENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Jobs and Growth Tax Act of 2003”.

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

11 (c) **TABLE OF CONTENTS.**—The table of contents of
 12 this Act is as follows:

Sec. 1. Short title; references; table of contents.

**TITLE I—ACCELERATION OF CERTAIN PREVIOUSLY ENACTED
 TAX REDUCTIONS; INCREASED EXPENSING FOR SMALL BUSI-
 NESSES**

Sec. 101. Acceleration of 10-percent individual income tax rate bracket expansion.

Sec. 102. Acceleration of reduction in individual income tax rates.

Sec. 103. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.

Sec. 104. Acceleration of increase in standard deduction for married taxpayers filing joint returns.

Sec. 105. Acceleration of increase in child tax credit.

Sec. 106. Increased expensing for small business.

Sec. 107. Minimum tax relief to individuals.

Sec. 108. Application of EGTRRA sunset to this title.

**TITLE II—DIVIDEND EXCLUSION TO ELIMINATE DOUBLE
 TAXATION OF CORPORATE EARNINGS**

Sec. 201. Dividend exclusion to eliminate double taxation of corporate earnings.

Sec. 202. Rules for application of dividend exclusion and retained earnings basis adjustments.

Sec. 203. Treatment of regulated investment companies and real estate investment trusts.

Sec. 204. Treatment of insurance companies.

Sec. 205. Treatment of S corporations.

Sec. 206. Repeal of accumulated earnings tax and personal holding company tax.

Sec. 207. Effective dates.

1 **TITLE I—ACCELERATION OF**
 2 **CERTAIN PREVIOUSLY EN-**
 3 **ACTED TAX REDUCTIONS; IN-**
 4 **CREASED EXPENSING FOR**
 5 **SMALL BUSINESSES**

6 **SEC. 101. ACCELERATION OF 10-PERCENT INDIVIDUAL IN-**
 7 **COME TAX RATE BRACKET EXPANSION.**

8 (a) IN GENERAL.—Clause (i) of section 1(i)(1)(B)
 9 (relating to the initial bracket amount) is amended by
 10 striking “(\$12,000 in the case of taxable years beginning
 11 before January 1, 2008)”.

12 (b) INFLATION ADJUSTMENT BEGINNING IN 2003.—
 13 Section 1(i)(1)(C) (relating to inflation adjustment) is
 14 amended to read as follows:

15 “(C) INFLATION ADJUSTMENT.—In pre-
 16 scribing the tables under subsection (f) which
 17 apply with respect to taxable years beginning in
 18 calendar years after 2002—

19 “(i) the cost-of-living adjustment used
 20 in making adjustments to the initial brack-
 21 et amount shall be determined under sub-
 22 section (f)(3) by substituting ‘2001’ for
 23 ‘1992’ in subparagraph (B) thereof, and

1 “(ii) such adjustment shall not apply
 2 to the amount referred to in subparagraph
 3 (B)(iii).

4 If any amount after adjustment under the pre-
 5 ceeding sentence is not a multiple of \$50, such
 6 amount shall be rounded to the next lowest
 7 multiple of \$50.”.

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendments made by
 10 this section shall apply to taxable years beginning
 11 after December 31, 2002.

12 (2) TABLES FOR 2003.—The Secretary of the
 13 Treasury shall modify each table which has been
 14 prescribed for taxable years beginning in 2003 and
 15 which relates to any amendment made by this sec-
 16 tion, section 102, or section 103 to reflect each such
 17 amendment.

18 **SEC. 102. ACCELERATION OF REDUCTION IN INDIVIDUAL**
 19 **INCOME TAX RATES.**

20 (a) IN GENERAL.—The table in paragraph (2) of sec-
 21 tion 1(i) (relating to reductions in rates after June 30,
 22 2001) is amended to read as follows:

“In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003 and thereafter	25.0%	28.0%	33.0%	35.0%”.

1 (b) ~~EFFECTIVE DATE.~~—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 ~~December 31, 2002.~~

4 **SEC. 103. ACCELERATION OF 15-PERCENT INDIVIDUAL IN-**
 5 **COME TAX RATE BRACKET EXPANSION FOR**
 6 **MARRIED TAXPAYERS FILING JOINT RE-**
 7 **URNS.**

8 (a) ~~IN GENERAL.~~—Paragraph (8) of section 1(f) (re-
 9 lating to phaseout of marriage penalty in 15-percent
 10 bracket) is amended to read as follows:

11 “(8) ~~ELIMINATION OF MARRIAGE PENALTY IN~~
 12 ~~15-PERCENT BRACKET.~~—With respect to taxable
 13 years beginning after ~~December 31, 2002,~~ in pre-
 14 scribing the tables under paragraph (1)—

15 “(A) the maximum taxable income in the
 16 15 percent rate bracket in the table contained
 17 in subsection (a) (and the minimum taxable in-
 18 come in the next higher taxable income bracket
 19 in such table) shall be 200 percent of the max-
 20 imum taxable income in the 15-percent rate
 21 bracket in the table contained in subsection (c)
 22 (after any other adjustment under this sub-
 23 section); and

24 “(B) the comparable taxable income
 25 amounts in the table contained in subsection

1 (d) shall be $\frac{1}{2}$ of the amounts determined
 2 under subparagraph (A).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) The heading for subsection (f) of section 1
 5 is amended by striking “PHASEOUT” and inserting
 6 “ELIMINATION”.

7 (2) Section 302(e) of the Economic Growth and
 8 Tax Relief Reconciliation Act of 2001 is amended by
 9 striking “2004” and inserting “2002”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 2002.

13 **SEC. 104. ACCELERATION OF INCREASE IN STANDARD DE-**
 14 **DUCTION FOR MARRIED TAXPAYERS FILING**
 15 **JOINT RETURNS.**

16 (a) IN GENERAL.—Paragraph (2) of section 63(c)
 17 (relating to basic standard deduction) is amended to read
 18 as follows:

19 “(2) BASIC STANDARD DEDUCTION.—For pur-
 20 poses of paragraph (1), the basic standard deduction
 21 is—

22 “(A) 200 percent of the dollar amount in
 23 effect under subparagraph (C) for the taxable
 24 year in the case of—

25 “(i) a joint return, or

1 “(ii) a surviving spouse (as defined in
2 section 2(a)),

3 “(B) \$4,400 in the case of a head of
4 household (as defined in section 2(b)), or

5 “(C) \$3,000 in any other case.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 63(c)(4) is amended by striking
8 “(2)(D)” each place it occurs and inserting
9 “(2)(C)”.

10 (2) Section 63(c) is amended by striking para-
11 graph (7).

12 (3) Section 301(d) of the Economic Growth and
13 Tax Relief Reconciliation Act of 2001 is amended by
14 striking “2004” and inserting “2002”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2002.

18 **SEC. 105. ACCELERATION OF INCREASE IN CHILD TAX**
19 **CREDIT.**

20 (a) IN GENERAL.—Subsection (a) of section 24 (re-
21 lating to child tax credit) is amended to read as follows:

22 “(a) ALLOWANCE OF CREDIT.—There shall be al-
23 lowed as a credit against the tax imposed by this chapter
24 for the taxable year with respect to each qualifying child
25 of the taxpayer an amount equal to \$1,000.”.

1 (b) ADVANCE PAYMENT OF PORTION OF INCREASED
2 CREDIT IN 2003.—

3 (1) IN GENERAL.—Subchapter B of chapter 65
4 (relating to abatements, credits, and refunds) is
5 amended by adding at the end the following new sec-
6 tion:

7 **“SEC. 6429. ADVANCE PAYMENT OF PORTION OF IN-**
8 **CREASED CHILD CREDIT.**

9 “~~(a)~~ IN GENERAL.—Each eligible taxpayer shall be
10 treated as having made a payment against the tax imposed
11 by chapter 1 for such taxpayer’s first taxable year begin-
12 ning in 2002 in an amount equal to the child tax credit
13 refund amount.

14 “~~(b)~~ ELIGIBLE TAXPAYER.—For purposes of this
15 section, the term ‘eligible taxpayer’ means any taxpayer
16 if—

17 “~~(1)~~ such taxpayer was allowed a credit under
18 section 24 for such taxpayer’s first taxable year be-
19 ginning in 2002, and

20 “~~(2)~~ at least one qualifying child (as defined in
21 section 24(c)) of the taxpayer for such year meets
22 the age requirement for 2003.

23 “~~(c)~~ CHILD TAX CREDIT REFUND AMOUNT.—

1 “(1) IN GENERAL.—For purposes of this sec-
 2 tion, the child tax credit refund amount is equal to
 3 the excess (if any) of—

4 “(A) the amount which would have been
 5 allowed as a credit under section 24 for the tax-
 6 payer’s first taxable year beginning in 2002
 7 if—

8 “(i) the per child amount for such
 9 year were \$1,000, and

10 “(ii) only qualifying children (as de-
 11 fined in section 24(e)) of the taxpayer for
 12 such year who meet the age requirement
 13 for 2003 were taken into account, over

14 “(B) the amount which would have been
 15 allowed as a credit under section 24 for the tax-
 16 payer’s first taxable year beginning in 2002 if
 17 only qualifying children (as defined in section
 18 24(e)) of the taxpayer for such year who meet
 19 the age requirement for 2003 were taken into
 20 account.

21 “(2) ADJUSTMENTS.—The amounts described
 22 in subparagraphs (A) and (B) of paragraph (1) shall
 23 be determined—

24 “(A) without regard to section
 25 24(d)(1)(B)(ii), and

1 “(B) as if the credit allowed under section
2 24(d) were allowed under section 24.

3 “(d) AGE REQUIREMENT.—A child of a taxpayer
4 meets the age requirement for 2003 if such child meets
5 the requirement of section 24(e)(1)(B) for the taxpayer’s
6 first taxable year beginning in 2003.

7 “(e) TIMING OF PAYMENTS.—In the case of any over-
8 payment attributable to this section, the Secretary shall,
9 subject to the provisions of this title, refund or credit such
10 overpayment as rapidly as possible and, to the extent prac-
11 ticable, before December 31, 2003.

12 “(f) COORDINATION WITH CHILD TAX CREDIT.—

13 “(1) IN GENERAL.—The amount of credit
14 which would (but for this paragraph) be allowable
15 under section 24 for the taxpayer’s first taxable year
16 beginning in 2003 shall be reduced (but not below
17 zero) by the aggregate refunds and credits made or
18 allowed to the taxpayer under this section. Any fail-
19 ure to so reduce the credit shall be treated as arising
20 out of a mathematical or clerical error and assessed
21 according to section 6213(b)(1).

22 “(2) JOINT RETURNS.—In the case of a refund
23 or credit made or allowed under this section with re-
24 spect to a joint return, half of such refund or credit

1 shall be treated as having been made or allowed to
 2 each individual filing such return.

3 ~~“(g) NO INTEREST.—No interest shall be allowed on~~
 4 ~~any overpayment attributable to this section.”.~~

5 (2) CLERICAL AMENDMENT.—The table of sec-
 6 tions for subchapter B of chapter 65 is amended by
 7 adding at the end the following new item:

~~“Sec. 6429. Advance payment of portion of increased child credit.”.~~

8 (c) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—The amendment made
 10 by subsection (a) shall apply to taxable years begin-
 11 ning after December 31, 2002.

12 (2) SUBSECTION (b).—The amendments made
 13 by subsection (b) shall take effect on the date of the
 14 enactment of this Act.

15 **SEC. 106. INCREASED EXPENSING FOR SMALL BUSINESS.**

16 (a) IN GENERAL.—Paragraph (1) of section 179(b)
 17 (relating to dollar limitation) is amended to read as fol-
 18 lows:

19 ~~“(1) DOLLAR LIMITATION.—The aggregate cost~~
 20 ~~which may be taken into account under subsection~~
 21 ~~(a) for any taxable year shall not exceed \$75,000.”.~~

22 (b) INCREASE IN QUALIFYING INVESTMENT AT
 23 WHICH PHASEOUT BEGINS.—Paragraph (2) of section
 24 179(b) (relating to reduction in limitation) is amended by
 25 striking “\$200,000” and inserting “\$325,000”.

1 ~~(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Para-~~
 2 graph ~~(1)~~ of section 179(d) (defining section 179 prop-
 3 erty) is amended to read as follows:

4 “(1) SECTION 179 PROPERTY.—For purposes
 5 of this section, the term ‘section 179 property’
 6 means property—

7 “(A) which is—

8 “(i) tangible property (to which sec-
 9 tion 168 applies); or

10 “(ii) computer software (as defined in
 11 section 197(e)(3)(B)) which is described in
 12 section 197(e)(3)(A)(i) and to which sec-
 13 tion 167 applies;

14 “(B) which is section 1245 property (as
 15 defined in section 1245(a)(3)); and

16 “(C) which is acquired by purchase for use
 17 in the active conduct of a trade or business.

18 Such term shall not include any property described
 19 in section 50(b) and shall not include air condi-
 20 tioning or heating units.”.

21 ~~(d) ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT~~
 22 THRESHOLD FOR INFLATION.—Subsection (b) of section
 23 179 (relating to limitations) is amended by adding at the
 24 end the following new paragraph:

25 “(5) INFLATION ADJUSTMENTS.—

1 “(A) IN GENERAL.—In the case of any
 2 taxable year beginning in a calendar year after
 3 2002, the dollar amounts in paragraphs (1) and
 4 (2) shall each be increased by an amount equal
 5 to—

6 “(i) such dollar amount, multiplied by

7 “(ii) the cost-of-living adjustment de-
 8 termined under section 1(f)(3) for the cal-
 9 endar year in which the taxable year be-
 10 gins, by substituting ‘calendar year 2002’
 11 for ‘calendar year 1992’ in subparagraph
 12 (B) thereof.

13 “(B) ROUNDING.—

14 “(i) DOLLAR LIMITATION.—If the
 15 amount in paragraph (1) as increased
 16 under subparagraph (A) is not a multiple
 17 of \$1,000, such amount shall be rounded
 18 to the nearest multiple of \$1,000.

19 “(ii) PHASEOUT AMOUNT.—If the
 20 amount in paragraph (2) as increased
 21 under subparagraph (A) is not a multiple
 22 of \$10,000, such amount shall be rounded
 23 to the nearest multiple of \$10,000.”.

1 (e) ~~REVOCATION OF ELECTION.~~—Paragraph (2) of
 2 section 179(e) (relating to election irrevocable) is amended
 3 to read as follows:

4 “(2) ~~REVOCATION OF ELECTION.~~—The tax-
 5 payer may revoke an election under paragraph (1),
 6 and any specification contained in any such election,
 7 with respect to any property. Such revocation, once
 8 made, shall be irrevocable.”.

9 (f) ~~EFFECTIVE DATE.~~—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 December 31, 2002.

12 **SEC. 107. MINIMUM TAX RELIEF TO INDIVIDUALS.**

13 (a) ~~IN GENERAL.~~—So much of paragraph (1) of sec-
 14 tion 55(d) (relating to exemption amount for taxpayers
 15 other than corporations) as precedes subparagraph (C)
 16 thereof is amended to read as follows:

17 “(1) ~~EXEMPTION AMOUNT FOR TAXPAYERS~~
 18 ~~OTHER THAN CORPORATIONS.~~—In the case of a tax-
 19 payer other than a corporation, the term ‘exemption
 20 amount’ means as follows:

21 “(A) ~~JOINT RETURN AND SURVIVING~~
 22 ~~SPOUSE.~~—In the case of a joint return or a sur-
 23 viving spouse, the amount under the following
 24 table:

“In the case of taxable years beginning:	The exemption amount is:
Before 2001	\$45,000

“In the case of taxable years beginning: The exemption amount is:

In 2001 and 2002	\$49,000
In 2003, 2004, and 2005	\$57,000
After 2005	\$45,000.

1 ~~“(B) INDIVIDUAL NOT MARRIED AND NOT~~
2 ~~A SURVIVING SPOUSE.—In the case of an indi-~~
3 ~~vidual who is not a married individual and is~~
4 ~~not a surviving spouse, the amount under the~~
5 ~~following table:~~

“In the case of taxable years beginning: The exemption amount is:

Before 2001	\$33,750
In 2001 and 2002	\$35,750
In 2003, 2004, and 2005	\$39,750
After 2005	\$33,750.”.

6 ~~(b) CONFORMING AMENDMENTS.—~~

7 ~~(1) Section 55(d)(1)(C) is amended—~~

8 ~~(A) by striking “, and” and inserting a pe-~~
9 ~~riod, and~~

10 ~~(B) by striking “50 percent” and inserting~~
11 ~~“MARRIED INDIVIDUAL FILING A SEPARATE RE-~~
12 ~~TURN.—50 percent”.~~

13 ~~(2) Section 55(d)(1)(D) is amended by striking~~
14 ~~“\$22,500” and inserting “ESTATE AND TRUST.—~~
15 ~~\$22,500”.~~

16 ~~(c) EFFECTIVE DATE.—The amendments made by~~
17 ~~this section shall apply to taxable years beginning after~~
18 ~~December 31, 2002.~~

1 **SEC. 108. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

2 Each amendment made by this title (other than sec-
 3 tion 106) shall be subject to title IX of the Economic
 4 Growth and Tax Relief Reconciliation Act of 2001 to the
 5 same extent and in the same manner as the provision of
 6 such Act to which such amendment relates.

7 **TITLE II—DIVIDEND EXCLUSION**
 8 **TO ELIMINATE DOUBLE TAX-**
 9 **ATION OF CORPORATE EARN-**
 10 **INGS**

11 **SEC. 201. DIVIDEND EXCLUSION TO ELIMINATE DOUBLE**
 12 **TAXATION OF CORPORATE EARNINGS.**

13 (a) IN GENERAL.—Part III of subchapter B of chap-
 14 ter 1 is amended by inserting after section 115 the fol-
 15 lowing new section:

16 **“SEC. 116. DIVIDEND EXCLUSION TO ELIMINATE DOUBLE**
 17 **TAXATION OF CORPORATE EARNINGS.**

18 “(a) EXCLUSION.—Gross income does not include the
 19 excludable portion (as defined in section 281) of any
 20 amount received as a dividend.

21 “(b) COMPARABLE TREATMENT FOR RETAINED
 22 EARNINGS.—If the excludable dividend amount (as de-
 23 fined in section 281) of any corporation for any calendar
 24 year exceeds the dividends paid by the corporation in such
 25 calendar year, the basis of stock in the corporation shall

1 be increased in the manner and to the extent provided in
2 section 282.

3 “(c) ~~REPORTING TO SHAREHOLDERS.~~—For reporting
4 to shareholders, see section 6042.”

5 (b) ~~CLERICAL AMENDMENT.~~—The table of sections
6 for such part III is amended by inserting after the item
7 relating to section 115 the following new item:

“Sec. 116. Dividend exclusion to eliminate double taxation of corporate earnings.”

8 **~~SEC. 202. RULES FOR APPLICATION OF DIVIDEND EXCLU-~~**
9 **~~SION AND RETAINED EARNINGS BASIS AD-~~**
10 **~~JUSTMENTS.~~**

11 (a) ~~IN GENERAL.~~—Subchapter B of chapter 1 (as
12 amended by subsection (d)) is amended by inserting after
13 part IX the following new part:

14 **~~“PART X—RULES FOR APPLICATION OF DIVI-~~**
15 **~~DEND EXCLUSION AND RETAINED EARNINGS~~**
16 **~~BASIS ADJUSTMENTS.~~**

“Sec. 281. Excludable portion of dividends.

“Sec. 282. Retained earnings basis adjustments.

“Sec. 283. Treatment of distributions after previous retained earnings basis adjustments.

“Sec. 284. Special rules for credits and refunds.

“Sec. 285. Special rules for foreign corporations and shareholders.

“Sec. 286. Other special rules.

“Sec. 287. Regulations.

17 **~~“SEC. 281. EXCLUDABLE PORTION OF DIVIDENDS.~~**

18 “(a) ~~EXCLUDABLE PORTION.~~—For purposes of sec-
19 tion 116, the term ‘excludable portion’ means, with respect
20 to any dividend paid by a corporation in a calendar year,

1 an amount which bears the same ratio to such dividend
 2 as the excludable dividend amount of such corporation for
 3 the calendar year bears to the total amount of dividends
 4 paid by such corporation in such calendar year.

5 “(b) EXCLUDABLE DIVIDEND AMOUNT.—For pur-
 6 poses of this part and section 116—

7 “(1) IN GENERAL.—The term ‘excludable divi-
 8 dend amount’ means, with respect to any corpora-
 9 tion for any calendar year, the excess of—

10 “(A) the sum of—

11 “(i) the fully taxed earnings amount
 12 for the preceding calendar year;

13 “(ii) the aggregate amount of divi-
 14 dends received by the corporation during
 15 such preceding year which are excluded
 16 from gross income under section 116(a);
 17 and

18 “(iii) the aggregate amount of in-
 19 creases during such preceding year under
 20 section 116(b) in the basis of stock held by
 21 the corporation, over

22 “(B) the amount of applicable income tax
 23 taken into account under subparagraph (A)(i).

24 “(2) CARRYOVER OF EXCESS OF EXCLUDABLE
 25 DIVIDEND AMOUNT OVER EARNINGS AND PROFITS.—

1 The excludable dividend amount of a corporation for
 2 any calendar year shall be increased by the excess
 3 of—

4 “(A) the excludable dividend amount of
 5 such corporation for the preceding calendar
 6 year; over

7 “(B) the maximum amount which could
 8 have been paid by the corporation as dividends
 9 during such preceding calendar year.

10 “(c) FULLY TAXED EARNINGS AMOUNT.—

11 “(1) IN GENERAL.—The fully taxed earnings
 12 amount for any calendar year is the amount of the
 13 applicable income tax shown on applicable returns
 14 for such year divided by the highest rate of tax spec-
 15 ified in section 11.

16 “(2) INCREASE FOR PRIOR YEAR ASSESS-
 17 MENTS.—The fully taxed earnings amount for any
 18 calendar year shall be increased by the amount of
 19 any applicable income tax (not previously taken into
 20 account under paragraph (1)) which is assessed dur-
 21 ing such year divided by the highest rate of tax spec-
 22 ified in section 11.

23 “(3) LIMITATION TO AMOUNT PAID.—If an
 24 amount described in paragraph (1) or (2) is paid
 25 after the close of the calendar year in which such

1 amount would (but for this paragraph) be taken into
 2 account, such amount shall be taken into account for
 3 the calendar year in which paid.

4 “(4) HIGHEST RATE OF TAX.—For purposes of
 5 this subsection, the highest rate of tax specified in
 6 section 11 with respect to any applicable income tax
 7 shall be such highest rate for the taxable year for
 8 which (or by reference to which) such tax is deter-
 9 mined.

10 “(d) DEFINITIONS.—For purposes of this part—

11 “(1) APPLICABLE INCOME TAX.—

12 “(A) IN GENERAL.—The term ‘applicable
 13 income tax’ means the excess (if any) of—

14 “(i) the sum of the taxes imposed by
 15 sections 11, 55, 511, 801, 831, 882, 1201,
 16 1291 (without regard to section
 17 1291(e)(1)(B)), and 1374, over

18 “(ii) the sum of the credits under part
 19 IV of subchapter A (other than subpart C
 20 and section 27(a)).

21 “(B) TRANSITIONAL RULES.—

22 “(i) IN GENERAL.—Such term shall
 23 not include any tax imposed for any tax-
 24 able year ending before April 1, 2001.

1 ~~“(ii) TREATMENT OF MINIMUM TAX~~
 2 ~~EREDIT.—The applicable income tax shall~~
 3 ~~not be reduced by the credit under section~~
 4 ~~53 attributable (determined as if such~~
 5 ~~credit were used on a first-in first-out~~
 6 ~~basis) to taxable years ending before April~~
 7 ~~1, 2001.~~

8 ~~“(iii) SECTION 1374.—The reference~~
 9 ~~to section 1374 in subparagraph (A)(i)~~
 10 ~~shall not apply to taxable years beginning~~
 11 ~~before January 1, 2003.~~

12 ~~“(iv) OTHER TAXES INCLUDED.—The~~
 13 ~~taxes imposed by sections 531 and 541 (as~~
 14 ~~in effect before their repeal) shall be taken~~
 15 ~~into account under subparagraph (A)(i) for~~
 16 ~~taxable years ending after March 30, 2001,~~
 17 ~~and beginning before January 1, 2003.~~

18 ~~“(2) APPLICABLE RETURN.—~~

19 ~~“(A) IN GENERAL.—The term ‘applicable~~
 20 ~~return’ means, with respect to a calendar year,~~
 21 ~~any return of applicable income tax for a tax-~~
 22 ~~able year if the 15th day of the 8th month fol-~~
 23 ~~lowing the close of such taxable year occurs~~
 24 ~~during such calendar year.~~

1 “(B) FILING REQUIREMENT.—If a return
 2 is filed after the close of the calendar year with
 3 respect to which such return would (but for this
 4 subparagraph) be treated as an applicable re-
 5 turn under subparagraph (A), such return shall
 6 be treated as an applicable return for the cal-
 7 endar year in which filed.

8 **“SEC. 282. RETAINED EARNINGS BASIS ADJUSTMENTS.**

9 “(a) IN GENERAL.—If any portion of the excess de-
 10 scribed in section 116(b) is allocated to a share of stock
 11 in a corporation under subsection (b), the basis of such
 12 share shall be increased by the amount so allocated.

13 “(b) ALLOCATION OF EXCESS.—

14 “(1) IN GENERAL.—A corporation may allocate
 15 the excess described in section 116(b) for any cal-
 16 endar year to shares of stock in the corporation at
 17 1 or more times during the calendar year to the ex-
 18 tent that cash in the amount of such excess, if dis-
 19 tributed at the time of such allocation, would be a
 20 dividend.

21 “(2) MANNER.—Except as provided in regula-
 22 tions prescribed by the Secretary, any amount allo-
 23 cated under paragraph (1) shall be allocated in the
 24 same manner as if cash in such amount were actu-
 25 ally distributed as dividends. No allocation shall be

1 effective before the date on which it is made by the
2 corporation.

3 ~~“(3) EXCEPTION FOR CERTAIN PREFERRED~~
4 ~~STOCK.—No amount may be allocated under this~~
5 ~~subsection to stock described in section 1504(a)(4)~~
6 ~~(determined without regard to subparagraph (A)~~
7 ~~thereof).~~

8 ~~“(e) EFFECT ON EARNINGS AND PROFITS.—Earnings~~
9 ~~and profits of a corporation making an allocation~~
10 ~~under subsection (b), and of a corporation receiving such~~
11 ~~an allocation, shall be adjusted in the same manner as~~
12 ~~if the allocation were treated as a dividend.~~

13 ~~“(d) AUTHORITY TO ALLOW CARRYOVER OF~~
14 ~~UNALLOCATED EXCESS EXCLUDABLE DIVIDEND~~
15 ~~AMOUNT.—Notwithstanding section 281, the Secretary~~
16 ~~may by regulation allow a corporation to increase the ex-~~
17 ~~cludable dividend amount for any calendar year by the~~
18 ~~amount of the excess described in section 116(b) for the~~
19 ~~preceding calendar year which is not allocated under sub-~~
20 ~~section (b).~~

21 **“SEC. 283. TREATMENT OF DISTRIBUTIONS AFTER PRE-**
22 **VIOUS RETAINED EARNINGS BASIS ADJUST-**
23 **MENTS.**

24 ~~“(a) TREATMENT OF DISTRIBUTIONS.—~~

1 “(1) IN GENERAL.—If a corporation makes dis-
 2 tributions described in section 301(a) with respect to
 3 any class of stock in any calendar year which are
 4 not excludable under section 116(a), such distribu-
 5 tions shall not be treated as dividends (and para-
 6 graphs (2) and (3) of section 301(c) shall apply to
 7 such distributions) to the extent such distributions
 8 do not exceed the corporation’s cumulative retained
 9 earnings basis adjustment amount for such class as
 10 of the beginning of such year. If such distributions
 11 exceed such amount, this paragraph shall be applied
 12 to a proportionate share of each such distribution.

13 “(2) SPECIAL RULES FOR RECHARACTERIZED
 14 DIVIDENDS.—If any dividend (determined without
 15 regard to this subsection) during any calendar year
 16 with respect to any class of stock in a corporation
 17 is treated as a distribution other than a dividend
 18 under paragraph (1), such treatment shall be dis-
 19 regarded for purposes of—

20 “(A) determining the excludable portion
 21 under section 281 of dividends paid by the cor-
 22 poration during the calendar year; and

23 “(B) determining whether any distribution
 24 during the calendar year with respect to stock
 25 in the corporation is treated as a dividend.

1 “(b) CUMULATIVE RETAINED EARNINGS BASIS AD-
 2 JUSTMENT AMOUNT.—For purposes of this section, the
 3 term ‘cumulative retained earnings basis adjustment
 4 amount’ means, with respect to any class of stock for any
 5 calendar year, the excess (if any) of—

6 “(1) the aggregate of the excess described in
 7 section 116(b) allocated to shares of such class of
 8 stock under section 282 for all preceding calendar
 9 years, over

10 “(2) the aggregate amount of distributions to
 11 which subsection (a)(1) applies with respect to such
 12 class of stock for all preceding calendar years.

13 **“SEC. 284. SPECIAL RULES FOR CREDITS AND REFUNDS.**

14 “(a) IN GENERAL.—No overpayment of an applicable
 15 income tax may be allowed as a credit or refund to the
 16 extent that the overpayment exceeds the sum of—

17 “(1) the aggregate applicable income taxes for
 18 the calendar year in which the credit or refund
 19 would otherwise be allowed or made, and

20 “(2) an amount equal to the lesser of—

21 “(A) the product of the corporation’s ex-
 22 cludable dividend amount for such calendar
 23 year and the fraction the numerator of which is
 24 the highest rate of tax specified in section 11
 25 (within the meaning of section 281(c)(4)) and

1 the denominator of which is 1 minus such high-
 2 est rate, or

3 “(B) the amount specified by the corpora-
 4 tion for purposes of this paragraph.

5 “(b) ADJUSTMENTS TO EXCLUDABLE DIVIDEND
 6 AMOUNTS RESULTING FROM CREDITS AND REFUNDS.—

7 If subsection (a) applies to any credit or refund which is
 8 allowed or made in a calendar year—

9 “(1) the applicable income taxes described in
 10 subsection (a)(1) otherwise taken into account under
 11 section 281 for determining the excludable dividend
 12 amount for the succeeding calendar year shall be re-
 13 duced (but not below zero) by the amount of the
 14 credit or refund; and

15 “(2) the excludable dividend amount for the cal-
 16 endar year shall be reduced by the excess of—

17 “(A) the amount determined under sub-
 18 section (a)(2) divided by the highest rate of tax
 19 specified in section 11, over

20 “(B) the amount determined under sub-
 21 section (a)(2).

22 “(c) DISALLOWED OVERPAYMENT NOT LOST.—

23 Nothing in subsection (a) shall be construed to reduce the
 24 amount of any overpayment for which credit or refund is
 25 not allowed by reason of subsection (a); and such overpay-

1 ment shall continue to be taken into account in applying
 2 subsection (a) for succeeding calendar years until a credit
 3 or refund is allowed or made.

4 “(d) EXCEPTION FOR FOREIGN TAX CREDIT.—This
 5 section shall not apply to any overpayment to the extent
 6 that such overpayment is attributable to the credit allowed
 7 under section 27(a).

8 “(e) DENIAL OF INTEREST.—No interest shall be al-
 9 lowed on any overpayment during the period that credit
 10 or refund of such overpayment is not allowed by reason
 11 of this section.

12 **“SEC. 285. SPECIAL RULES FOR FOREIGN CORPORATIONS**
 13 **AND SHAREHOLDERS.**

14 “(a) COMPUTATION OF EXCLUDABLE DIVIDEND
 15 AMOUNTS OF FOREIGN CORPORATIONS.—

16 “(1) REDUCTION IN EXCLUDABLE DIVIDEND
 17 AMOUNT FOR CERTAIN TAXES.—The reduction
 18 under section 281(b)(1)(B) (without regard to this
 19 subparagraph) shall be increased by the sum of—

20 “(A) the taxes imposed by section 884 (re-
 21 lating to branch profits tax); and

22 “(B) so much of the taxes imposed by sec-
 23 tion 881 as are attributable to dividends which
 24 would (but for subsection (b)) be excludable
 25 under section 116 or are attributable to dis-

1 tributions which are described in section
2 283(a).

3 ~~“(2) TREATMENT OF DISALLOWED EXCLUSIONS~~
4 ~~AND ADJUSTMENTS.—~~Notwithstanding subsection
5 (b)—

6 ~~“(A) the excludable dividend amount of a~~
7 foreign corporation for a calendar year shall be
8 increased by—

9 ~~“(i) the dividends received by the cor-~~
10 poration which (but for subsection (b))
11 would be excludable under section 116(a),
12 and

13 ~~“(ii) the distributions received by such~~
14 corporation during such year which are de-
15 scribed in section 283(a), and

16 ~~“(B) the earnings and profits of a foreign~~
17 corporation—

18 ~~“(i) shall be increased by the amount~~
19 described in subparagraph (A)(ii), and

20 ~~“(ii) shall not be increased by any ex-~~
21 cess described in section 116(b) allocated
22 to such corporation for which an increase
23 in basis is not allowed by reason of sub-
24 section (b)(2).

1 “(b) TAXATION OF FOREIGN SHAREHOLDERS.—In
 2 the case of a shareholder who is a nonresident alien indi-
 3 vidual or a foreign corporation—

4 “(1) no dividends shall be excludable under sec-
 5 tion 116(a);

6 “(2) there shall be no increase in basis for any
 7 excess described in section 116(b) allocated to such
 8 individual or corporation under section 282; and

9 “(3) any distribution described in section 283
 10 shall be treated as a dividend for purposes of sec-
 11 tions 871 and 881 and chapter 3.

12 “(c) RULES RELATING TO FOREIGN TAX CREDIT.—

13 “(1) IN GENERAL.—No credit shall be allowed
 14 under section 901 for any taxes paid or accrued (or
 15 deemed paid under section 902 or 960) with respect
 16 to any dividend excludable under section 116 and
 17 any distribution described in section 283(a).

18 “(2) EXCLUDABLE DIVIDEND AMOUNT.—The
 19 excludable dividend amount of a corporation for any
 20 calendar year shall be determined without regard to
 21 a reduction in the credit allowed by section 27(a) on
 22 an applicable return for a prior calendar year.

23 **“SEC. 286. OTHER SPECIAL RULES.**

24 “(a) REDEMPTIONS.—If a corporation makes a dis-
 25 tribution to a shareholder during any calendar year with

1 respect to its stock and section 301 does not apply to such
 2 distribution, the excludable dividend amount for the cal-
 3 endar year, and the cumulative retained earnings basis ad-
 4 justment amount as of the beginning of the calendar year
 5 in which the distribution is made, shall be reduced by the
 6 ratable share of such amounts attributable to the stock
 7 so redeemed.

8 “(b) COORDINATION WITH SECTION 246(e).—

9 “(1) HOLDING PERIOD REQUIREMENTS.—If a
 10 shareholder disposes of any share of stock before the
 11 holding period requirements of section 246(e) are
 12 met—

13 “(A) the basis of such share shall be re-
 14 duced by the amount of dividends received with
 15 respect to such share which are excludable
 16 under section 116(a), and

17 “(B) there shall be no increase in basis for
 18 any excess described in section 116(b) allocated
 19 to the shareholder of such stock under section
 20 282.

21 “(2) RELATED PAYMENTS.—No deduction shall
 22 be allowed under this chapter for any related pay-
 23 ments described in section 246(e)(1)(B) with respect
 24 to any dividend excludable under section 116(a) or
 25 basis increase under section 116(b) with respect to

1 any share of stock to the extent that such payments
 2 do not exceed the amount of such dividend or basis
 3 increase.

4 ~~“(3) TREATMENT OF DISALLOWED EXCLUSIONS~~
 5 ~~AND ADJUSTMENTS.—~~The excludable dividend
 6 amount of any corporation for a calendar year, and
 7 its earnings and profits, shall not be increased by—

8 ~~“(A) the dividends received by the corpora-~~
 9 ~~tion which are excludable under section 116(a)~~
 10 ~~and which resulted in a basis reduction under~~
 11 ~~paragraph (1)(A), and~~

12 ~~“(B) the aggregate increases in basis~~
 13 ~~which (but for paragraph (1)(B)) would be~~
 14 ~~made in stock held by the corporation.~~

15 ~~“(c) TREATMENT OF REGULATED INVESTMENT COM-~~
 16 ~~PANIES AND REAL ESTATE INVESTMENT TRUSTS.—~~

17 ~~“(1) IN GENERAL.—~~Except as provided in regu-
 18 lations, the excludable dividend amount of a regu-
 19 lated investment company or real estate investment
 20 trust shall be zero.

21 ~~“(2) CROSS REFERENCE.—~~

**“For special rules relating to application of this
 part to regulated investment companies and real es-
 tate investment trusts, see section 852(g).**

22 ~~“(d) EXCLUSION AND BASIS ALLOCATION REDUCED~~
 23 ~~WHERE PORTFOLIO STOCK HELD BY CORPORATION IS~~
 24 ~~DEBT-FINANCED.—~~

1 “(1) TREATMENT OF EXCLUDABLE DIVI-
 2 DEND.—In the case of any debt-financed portfolio
 3 stock (within the meaning of section 246A), the
 4 amount excluded under section 116(a) with respect
 5 to any dividend received with respect to such stock
 6 shall be an amount equal to the product of—

7 “(A) the amount which would be excluded
 8 under section 116(a) without regard to this
 9 paragraph; and

10 “(B) 100 percent minus the average in-
 11 debtedness percentage (within the meaning of
 12 section 246A(d)).

13 “(2) TREATMENT OF BASIS INCREASE.—In the
 14 case of any debt-financed portfolio stock (within the
 15 meaning of section 246A) with respect to which
 16 there is an increase in basis under section 116(b)
 17 during any taxable year, the gross income of the tax-
 18 payer shall be increased by an amount equal to the
 19 product of—

20 “(A) the amount of the increase under sec-
 21 tion 116(b); and

22 “(B) the average indebtedness percentage
 23 (within the meaning of section 246A(d)).

24 “(3) LIMITATION.—The aggregate amount of
 25 reductions under paragraph (1) and increases in

1 gross income under paragraph (2) with respect to
 2 any debt-financed portfolio stock shall not exceed the
 3 amount of interest deduction (including any deduct-
 4 ible short sale expense) allocable to such stock.

5 “(4) TREATMENT OF INCREASE IN GROSS IN-
 6 COME.—The excludable dividend amount of a cor-
 7 poration for a calendar year shall not be increased
 8 by reason of any increase in gross income under
 9 paragraph (2).

10 “(5) EXCEPTION.—This subsection shall not
 11 apply to any dividend described in paragraph (1) or
 12 (2) of section 246A(b).

13 “(e) COOPERATIVES.—In the case of a cooperative to
 14 which subchapter T applies—

15 “(1) the excludable dividend amount of such co-
 16 operative shall be allocated for purposes of section
 17 116 and this part between shares of such coopera-
 18 tive held by patrons and shares held by other per-
 19 sons in such manner as the Secretary shall prescribe
 20 by regulations; and

21 “(2) no deduction shall be allowed to the coop-
 22 erative under this chapter for any dividend paid to
 23 a patron which is excludable under section 116(a) or
 24 for any distribution described in section 283(a)

1 which reduced the basis of stock held by the cooper-
 2 ative under section 301(e)(2).

3 ~~“(f) ESOP STOCK.—Any dividend allowed as a de-~~
 4 ~~duction under section 404(k) shall not be treated as a divi-~~
 5 ~~dend for purposes of section 116 and this part, and any~~
 6 ~~stock with respect to which such a dividend may be paid~~
 7 ~~shall not be taken into account in making any allocation~~
 8 ~~under 282 or any distribution described in section 283(a).~~

9 **~~“SEC. 287. REGULATIONS.~~**

10 ~~“The Secretary shall prescribe such regulations as~~
 11 ~~may be appropriate to carry out section 116 and this part,~~
 12 ~~including regulations—~~

13 ~~“(1) providing for the treatment of options and~~
 14 ~~convertible debt as stock, including modification of~~
 15 ~~the attribution rules under section 318(a)(4),~~

16 ~~“(2) providing for the allocation of the exclud-~~
 17 ~~able dividend amount and the cumulative retained~~
 18 ~~earnings basis adjustment amount in the case of~~
 19 ~~transactions described in section 312(h),~~

20 ~~“(3) waiving the application of section~~
 21 ~~246(e)(4) for purposes of sections 286(b) and~~
 22 ~~1059(g),~~

23 ~~“(4) modifying the consolidated return regula-~~
 24 ~~tions to the extent necessary or appropriate to apply~~
 25 ~~the provisions of this part, including regulations that~~

1 accelerate the inclusion in the excludable dividend
 2 amount of a higher-tier member with respect to—

3 “(A) activities of lower-tier members of the
 4 group;

5 “(B) dividends excludable under section
 6 116(a) received from such lower-tier members;
 7 and

8 “(C) increases in basis allocated under sec-
 9 tion 282 to stock in such lower-tier members;

10 “(5) providing for the application of section 116
 11 and this part in the case of pass-thru entities, in-
 12 cluding appropriate adjustments to basis; and

13 “(6) as are necessary to further the purposes of
 14 section 116 and this part and to prevent the cir-
 15 cumvention of such purposes.

16 Any regulations under paragraph (4) may be effective as
 17 of the effective date of this part.”

18 (b) REPORTING OF EXCLUDABLE DIVIDENDS AND
 19 RETAINED EARNINGS BASIS ADJUSTMENTS.—

20 (1) IN GENERAL.—Section 6042(a) (relating to
 21 returns regarding payments of dividends and cor-
 22 porate earnings and profits) is amended to read as
 23 follows:

24 “(a) REQUIREMENT OF REPORTING.—

1 “(1) IN GENERAL.—Every person—and this
2 part and to prevent the circumvention of such pur-
3 poses.

4 Any regulations under paragraph (4) may be effective as
5 of the effective date of this part.”

6 (b) REPORTING OF EXCLUDABLE DIVIDENDS AND
7 RETAINED EARNINGS BASIS ADJUSTMENTS.—

8 (1) IN GENERAL.—Section 6042(a) (relating to
9 returns regarding payments of dividends and cor-
10 porate earnings and profits) is amended to read as
11 follows:

12 “(a) REQUIREMENT OF REPORTING.—

13 “(1) IN GENERAL.—Every person—

14 “(A) who makes payments of dividends ag-
15 gregating \$10 or more to any other person dur-
16 ing any calendar year,

17 “(B) who allocates under section 282 in-
18 creases in basis of stock in a corporation aggre-
19 gating \$10 or more to any other person during
20 any calendar year,

21 “(C) who makes distributions described in
22 section 283(a) aggregating \$10 or more to any
23 other person during any calendar year, or

24 “(D) who receives such payments of divi-
25 dends, allocations of increases in basis, or dis-

1 tributions as a nominee and who makes pay-
 2 ments or allocates increases aggregating \$10 or
 3 more during any calendar year to any other
 4 person with respect to the dividends, alloca-
 5 tions, or distributions received,

6 shall make a return at the time and in the manner
 7 prescribed by the Secretary, setting forth the infor-
 8 mation described in paragraph (3).

9 ~~“(2) RETURNS REQUIRED BY SECRETARY.—~~

10 Every person who makes payments of dividends, al-
 11 locations under section 282, or distributions de-
 12 scribed in section 283(a) to which paragraph (1)
 13 does not apply shall, when required by the Secretary,
 14 make a return setting forth the information de-
 15 scribed in paragraph (3).

16 ~~“(3) INFORMATION REPORTED.—~~Information
 17 described in this paragraph includes—

18 ~~“(A) the aggregate amount of dividends,~~
 19 including the portion of such amount excludable
 20 from gross income under section 116(a),

21 ~~“(B) the amount of each allocation of basis~~
 22 under section 282 with respect to each share of
 23 stock and the date of such increase,

24 ~~“(C) the amount of each distribution de-~~
 25 scribed in section 283(a), including the portion

1 of such amount to which paragraph (2) or (3)
 2 of section 301(e) applies and the date of such
 3 distribution, and

4 “(D) such other information as the Sec-
 5 retary may require.

6 In the case of a nominee described in paragraph
 7 (1)(D), this paragraph shall apply with respect to
 8 the payments and allocations made by the nominee.”

9 (2) APPLICATION TO FOREIGN PERSONS.—Sec-
 10 tion 6042 is amended by adding at the end the fol-
 11 lowing new subsection:

12 “(e) APPLICATION TO FOREIGN PERSONS.—The Sec-
 13 retary may provide for the application of this section to
 14 payments, allocations, and distributions made by or to a
 15 foreign person to the extent necessary to carry out the
 16 provisions of section 116 and part X of subchapter B of
 17 chapter 1.”

18 (3) CONFORMING AMENDMENTS.—

19 (A) Section 6042(b)(3) is amended by
 20 striking “or (B)” and inserting “or (D)”.

21 (B) Section 6042(e)(2) is amended to read
 22 as follows:

23 “(2) the information described in subsection
 24 (a)(3) required to be shown on the return.”

25 (c) AMENDMENTS TO OTHER SECTIONS.—

1 (1) MINIMUM TAX.—Clause (i) of section
 2 56(g)(4)(B) is amended by striking “or under sec-
 3 tion 114” and inserting “; section 114, or section
 4 116”.

5 (2) COORDINATION WITH DIVIDEND RECEIVED
 6 DEDUCTIONS.—

7 (A) Section 246 is amended by adding at
 8 the end the following new subsection:

9 “(f) COORDINATION WITH DIVIDEND EXCLUSION.—
 10 No deduction shall be allowed under section 243, 244, or
 11 245 with respect to the amount of any dividend excluded
 12 from gross income under section 116 or would be so ex-
 13 cluded but for sections 285(b)(1) and 286(d).”

14 (B) Section 243 is amended by adding at
 15 the end the following new subsection:

16 “(f) TERMINATION.—Paragraph (1) of subsection (a)
 17 shall not apply to any dividend—

18 “(1) paid from earnings and profits accumu-
 19 lated in taxable years ending after April 1, 2001,

20 “(2) made with respect to stock issued after
 21 February 2, 2003, or

22 “(3) received by a corporation after December
 23 31, 2005.”

~~(3) CARRYOVERS IN CERTAIN CORPORATION AC-~~
~~QUISITIONS.~~—Section 381(c) is amended by adding
 at the end the following new paragraph:

“(27) EDA AND CREBAA.—The acquiring
 corporation shall take into account (to the extent
 proper to carry out the purposes of this section, sec-
 tion 116, and part X of subchapter B, and under
 such regulation as may be prescribed by the Sec-
 retary) the excludable dividend amount and the cu-
 mulative retained earnings basis adjustment amount
 in respect of the distributor or transferor.”

~~(4) TRUSTS AND ESTATES.~~—Subsection (a) of
 section 643 is amended—

(A) by redesignating paragraph (7) as
 paragraph (8) and by inserting after paragraph
 (6) the following new paragraph:

“(7) DIVIDENDS, ETC.—There shall be included
 the amount of any dividends excluded from gross in-
 come under section 116 and the amount of any dis-
 tribution described in section 283.”, and

(B) by striking “and (6)” in the last sen-
 tence and inserting “, (6), and (7)”.

~~(5) PARTNERSHIPS.~~—

(A) Paragraph (5) of section 702(a) is
 amended to read as follows:

1 “(5) dividends with respect to which there is an
2 exclusion under section 116 or a deduction under
3 part VIII of subchapter B,”.

4 (B) Section 705(a)(1) is amended by strik-
5 ing “and” at the end of subparagraph (B), by
6 striking the semicolon at the end of subpara-
7 graph (C) and inserting “, and”, and by adding
8 at the end the following new subparagraph:

9 “(D) increases in basis under section
10 116(b) allocated to the partnership;”.

11 (6) EXTRAORDINARY DIVIDENDS.—

12 (A) IN GENERAL.—Section 1059 is amend-
13 ed by redesignating subsection (g) as subsection
14 (h) and by inserting after subsection (f) the fol-
15 lowing new subsection:

16 “(g) TREATMENT OF EXCLUDABLE DIVIDENDS AND
17 RETAINED EARNINGS BASIS ADJUSTMENTS AS EXTRAOR-
18 DINARY DIVIDENDS.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, any dividend excludable under section 116(a)
21 or increase in basis under section 116(b) shall be
22 treated as an extraordinary dividend, except that
23 this section shall be applied by substituting ‘1 year
24 (or such other period as the Secretary may pre-
25 scribe)’ for ‘2 years’ each place it appears.

1 ~~“(2) TREATMENT OF DEEMED EXTRAORDINARY~~
 2 ~~DIVIDENDS.—The excludable dividend amount of~~
 3 ~~any corporation for a calendar year, and its earnings~~
 4 ~~and profits, shall not be increased by—~~

5 ~~“(A) the dividends received by the corpora-~~
 6 ~~tion which are treated as extraordinary divi-~~
 7 ~~dends by reason of paragraph (1), and~~

8 ~~“(B) the aggregate increases in basis~~
 9 ~~under section 116(b) which are so treated.~~

10 ~~“(3) REGULATIONS.—The Secretary may by~~
 11 ~~regulation provide for exceptions to the application~~
 12 ~~of paragraph (1).”~~

13 ~~(B) Paragraph (3) of section 1059(d) is~~
 14 ~~amended by inserting “section 1223(11) shall~~
 15 ~~not apply and” after “subsection (a),”.~~

16 ~~(C)(i) Section 1059 is amended by striking~~
 17 ~~“corporation” each place it appears in sub-~~
 18 ~~section (a) and inserting “taxpayer”.~~

19 ~~(ii) The section heading for section 1059 is~~
 20 ~~amended by striking “**CORPORATE**” and by in-~~
 21 ~~serting “**AND EXCLUDABLE**” before “**DIVI-**~~
 22 ~~**DENDS**”.~~

23 ~~(iii) The item relating to section 1059 in~~
 24 ~~the table of sections for part IV of subchapter~~
 25 ~~Ø of chapter 1 is amended by striking “cor-~~

1 porate” and by inserting “and excludable” be-
 2 fore “dividends”.

3 ~~(7) PRIVATE FOUNDATIONS.—~~Section 4940(e)
 4 is amended by adding at the end the following new
 5 paragraph:

6 ~~“(6) COORDINATION WITH DIVIDEND EXCLU-~~
 7 ~~SION.—~~For purposes of this section, gross invest-
 8 ment income shall not include—

9 ~~“(A) a dividend to the extent excluded~~
 10 ~~from gross income under section 116(a), and~~

11 ~~“(B) a distribution described in section~~
 12 ~~283.”~~

13 ~~(d) CONFORMING AMENDMENTS.—~~

14 ~~(1)(A) Part X of subchapter B of chapter 1, as~~
 15 ~~in effect on the day before the date of the enactment~~
 16 ~~of this Act, is hereby moved after part XI of such~~
 17 ~~subchapter B and redesignated as part XII.~~

18 ~~(B) Section 281, as so in effect, is redesignated~~
 19 ~~as section 296.~~

20 ~~(C) The table of sections for such part XII, as~~
 21 ~~so designated, is amended by striking “Sec. 281”~~
 22 ~~and inserting “Sec. 296.~~

23 ~~(D) The table of parts for subchapter B of~~
 24 ~~chapter 1 is amended by striking the items relating~~

1 to parts X and XI and inserting the following new
2 items:

“Part X. Rules for application of dividend exclusion and retained earnings basis adjustments.

“Part XI. Special rules relating to corporate preference items.

“Part XII. Terminal railroad corporations and their shareholders.”

3 (2) Subsection (f) of section 301 is amended by
4 adding at the end the following new paragraph:

5 “(4) For exclusion from gross income of certain
6 dividends, see section 116.”

7 **SEC. 203. TREATMENT OF REGULATED INVESTMENT COM-**
8 **PANIES AND REAL ESTATE INVESTMENT**
9 **TRUSTS.**

10 (a) IN GENERAL.—Section 852 is amended by adding
11 at the end the following new subsection:

12 “(g) SPECIAL RULES RELATING TO SECTION 116
13 AND PART X OF SUBCHAPTER B.—

14 “(1) EXCLUDABLE PORTION.—

15 “(A) IN GENERAL.—For purposes of sec-
16 tion 116(a), the excludable portion of any divi-
17 dend paid by any qualified investment entity
18 shall be the amount so designated by such enti-
19 ty in a written notice mailed to its shareholders
20 not later than 60 days after the close of its tax-
21 able year in which such dividend is paid.

22 “(B) LIMITATION.—If the aggregate
23 amount so designated with respect to a taxable

year (including dividends paid after the close of the taxable year as described in section 855) exceeds the aggregate amount of dividends received by such entity during such year which are excludable from gross income under section 116(a), then the amount of a dividend otherwise excludable by reason of a designation under subparagraph (A) shall be reduced by an amount which bears the same ratio to the amount otherwise excludable as such excess bears to the total amount designated under subparagraph (A).

“(C) TREATMENT OF CAPITAL GAIN AND EXEMPT-INTEREST DIVIDENDS.—Any amount designated under subparagraph (A) as excludable under section 116 may not be treated as a capital gain dividend or an exempt-interest dividend.

“(D) COORDINATION WITH SECTION 853.—The election under section 853 shall not apply to dividends excludable under section 116 and distributions described in section 283(a) received by a qualified investment entity.

“(2) RETAINED EARNINGS BASIS ADJUSTMENTS.—

1 “(A) IN GENERAL.—A qualified investment
 2 entity may allocate any increase in basis allo-
 3 cated to the entity under section 282 to shares
 4 of stock in the entity at 1 or more times during
 5 the taxable year in the manner and the time
 6 prescribed in paragraphs (2) and (3) of section
 7 282(b).

8 “(B) DESIGNATION.—For purposes of sec-
 9 tion 116(b), the increase in basis allocated to
 10 any share of stock in the entity shall be the
 11 amount so designated by such entity in a writ-
 12 ten notice mailed to its shareholders not later
 13 than 60 days after the close of its taxable year
 14 in which such allocation is made.

15 “(C) LIMITATION.—Rules similar to the
 16 rules of paragraph (1)(B) shall apply to
 17 amounts allocated under this paragraph.

18 “(D) SHAREHOLDER TREATMENT OF
 19 AMOUNTS DESIGNATED.—Shareholders of such
 20 entity who receive an allocation under this
 21 paragraph from such entity shall take into ac-
 22 count such allocation as if it were an allocation
 23 under section 282.

24 “(E) EARNINGS AND PROFITS.—Earnings
 25 and profits of the entity making such an alloca-

tion shall be adjusted in the same manner as
provided in section 282(e).

~~“(3) CERTAIN DISTRIBUTIONS AFTER PREVIOUS~~
~~RETAINED EARNINGS BASIS ADJUSTMENTS.—~~

~~“(A) IN GENERAL.—~~If any qualified investment entity receives during any taxable year distributions described in section 283(a) which reduced the basis of stock held by such entity under section 301(e)(2), the entity may designate any distributions described in section 301(a) made by such entity in such taxable year which are not excludable under section 116(a) (after the application of paragraph (1)) as distributions described in section 283(a). Such designations shall be made in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year in which such distribution is made.

~~“(B) LIMITATION.—~~If the aggregate amount so designated with respect to a taxable year (including distributions paid after the close of the taxable year as provided in section 855(e)) exceeds the aggregate distributions described in section 283(a) which reduced the basis of stock held by such entity under section

301(c)(2) for such taxable year, then the amount of a distribution otherwise treated as a distribution described in section 283(a) by reason of a designation under subparagraph (A) shall be reduced by an amount which bears the same ratio to the amount otherwise so treated as such excess bears to the total amount designated under subparagraph (A).

“(C) SHAREHOLDER TREATMENT OF AMOUNTS DESIGNATED.—Shareholders of such entity who receive a distribution from such entity which is designated under this paragraph shall treat such distribution as a distribution described in section 283(a).

“(D) TREATMENT OF CAPITAL GAIN AND EXEMPT-INTEREST DIVIDENDS.—Any distribution designated under subparagraph (A) may not be treated as a capital gain dividend or an exempt-interest dividend.

“(E) ADJUSTMENTS.—No adjustment shall be made in the earnings and profits of a qualified investment entity with respect to a distribution by such entity which is designated under subparagraph (A).

1 ~~“(4) COORDINATION WITH DIVIDENDS PAID DE-~~
 2 ~~DUCTION.—No allocation or distribution designated~~
 3 ~~under paragraph (2) or (3) shall be treated as a div-~~
 4 ~~idend for purposes of section 561.~~

5 ~~“(5) DEFINITIONS.—For purposes of this sub-~~
 6 ~~section—~~

7 ~~“(A) QUALIFIED INVESTMENT ENTITY.—~~

8 ~~The term ‘qualified investment entity’ means—~~

9 ~~“(i) a regulated investment company,~~
 10 ~~and~~

11 ~~“(ii) a real estate investment trust.~~

12 ~~“(B) EXEMPT-INTEREST DIVIDEND.—The~~
 13 ~~term ‘exempt-interest dividend’ has the mean-~~
 14 ~~ing given to such term by subsection (b)(5).”~~

15 ~~(b) OTHER RULES RELATING TO REGULATED IN-~~
 16 ~~VESTMENT COMPANIES.—~~

17 ~~(1) DISTRIBUTION REQUIREMENTS.—~~

18 ~~(A) Clause (i) of section 852(a)(1)(B) is~~
 19 ~~amended by inserting “and its dividend income~~
 20 ~~excludable under section 116(a),” before~~
 21 ~~“over”.~~

22 ~~(B) Section 852(a) is amended by striking~~
 23 ~~“and” at the end of paragraph (1), by redesign-~~
 24 ~~ating paragraph (2) as paragraph (3), and by~~

1 inserting after paragraph (1) the following new
2 paragraph:

3 “(2) 90 percent of the distributions described in
4 section 283(a)—

5 “(A) which are received by such company
6 during the taxable year; and

7 “(B) which reduce under section 301(c)(2)
8 the basis of stock held by such company,
9 are distributed during such year under subsection
10 (g)(3)(A), and”.

11 (C) Section 855 is amended by adding at
12 the end the following new subsection:

13 “(e) DISTRIBUTION OF PREVIOUSLY RETAINED
14 EARNINGS BASIS ADJUSTMENTS.—Rules similar to the
15 rules of the preceding provisions of this section shall apply
16 to distributions described in section 852(g)(3)(A).”

17 (2) TAXATION OF ENTITY AND SHARE-
18 HOLDERS.—

19 (A) The material following paragraph (3)
20 of section 851(b) is amended—

21 (i) by inserting “; dividends excludable
22 from gross income under section 116(a);
23 and distributions described in section
24 283(a) which reduce the basis of stock

1 under section 301(c)(2)” after “103(a)” in
 2 the third sentence; and

3 (ii) by adding at the end the following
 4 new sentence: “For purposes of paragraph
 5 (2), distributions described in section
 6 283(a) which reduce the basis of stock
 7 under section 301(c)(2) shall be treated as
 8 dividends.”

9 (B) Section 852(b)(2)(D) is amended by
 10 striking “and exempt-interest dividends” and
 11 inserting “; exempt-interest dividends; and any
 12 dividends excludable under section 116(a)”.

13 (C) Subparagraph (B) of section 852(b)(4)
 14 is amended to read as follows:

15 “(B) LOSS ATTRIBUTABLE TO EXEMPT
 16 DIVIDENDS.—If—

17 “(i) a shareholder of a regulated in-
 18 vestment company receives an exempt-in-
 19 terest dividend, a dividend excludable
 20 under section 116(a), or an allocation
 21 under subsection (g)(2), with respect to
 22 any share; and

23 “(ii) such share is held by the tax-
 24 payer for 6 months or less;

1 then any loss on the sale or exchange of such
 2 share shall, to the extent of the sum of the
 3 amounts of such dividends and allocations, be
 4 disallowed.”

5 (D) Paragraph (3) of section 4982(e) is
 6 amended by striking “and” at the end of sub-
 7 paragraph (A), by striking the period at the
 8 end of subparagraph (B) and inserting “, and”,
 9 and by adding at the end the following new sub-
 10 paragraph:

11 “(C) any dividend excludable from gross
 12 income under section 116(a).”

13 (e) OTHER RULES RELATING TO REAL ESTATE IN-
 14 VESTMENT TRUSTS.—

15 (1) DISTRIBUTION REQUIREMENTS.—

16 (A) Subparagraph (A) of section 857(a)(1)
 17 is amended by striking “and” at the end of
 18 clause (i), by striking “minus” at the end of
 19 clause (ii), and by inserting at the end the fol-
 20 lowing new clause:

21 “(iii) 90 percent of its dividend in-
 22 come excludable under section 116(a);
 23 minus”

24 (B) Subsection (a) of section 857 is
 25 amended by redesignating paragraph (2) as

1 paragraph (3) and by inserting after paragraph
 2 (1) the following new paragraph:

3 “(2) 90 percent of the distributions described in
 4 section 283(a)—

5 “(A) which are received by such trust dur-
 6 ing the taxable year; and

7 “(B) which reduce under section 301(c)(2)
 8 the basis of stock held by such trust,
 9 are distributed during such year under subsection
 10 (g)(3)(A); and”.

11 (C) Section 858 is amended by adding at
 12 the end the following new subsection:

13 “(d) DISTRIBUTION OF PREVIOUSLY RETAINED
 14 EARNINGS BASIS ADJUSTMENTS.—Rules similar to the
 15 rules of the preceding provisions of this section shall apply
 16 to distributions described in section 852(g)(3).”

17 (2) TAXATION OF ENTITY AND SHARE-
 18 HOLDERS.—

19 (A)(i) Section 856(c)(2) is amended—

20 (I) by inserting “(including dividends
 21 excludable from gross income under section
 22 116(a)) and distributions described in sec-
 23 tion 283(a) which reduce the basis of stock
 24 under section 301(c)(2)” after “dividends”
 25 in subparagraph (A); and

1 (H) by inserting “(including tax-ex-
2 empt interest)” after “interest” in sub-
3 paragraph (B).

4 (ii) Section 856(e) is amended by adding
5 at the end the following new paragraph:

6 “(8) GROSS INCOME TESTS.—For purposes of
7 paragraphs (2) and (3), gross income shall be treat-
8 ed as including tax-exempt interest, dividends ex-
9 cludable from gross income under section 116(a),
10 and distributions described in section 283(a) which
11 reduce the basis of stock under section 301(e)(2).”

12 (B) Section 857(b)(2)(B) is amended by
13 inserting “or any dividends paid which are ex-
14 cludable under section 116(a)” after “subpara-
15 graph (D)”.

16 (C) Section 857(b) is amended by adding
17 at the end the following new paragraph:

18 “(10) LOSS ATTRIBUTABLE TO EXEMPT DIVI-
19 DENDS.—If—

20 “(A) a shareholder of a real estate invest-
21 ment trust receives a dividend excludable under
22 section 116(a) or an allocation under section
23 852(g)(2) with respect to any share, and

24 “(B) such share is held by the taxpayer for
25 6 months or less,

1 then any loss on the sale or exchange of such share
 2 shall, to the extent of the sum of the amounts of
 3 such dividends and allocations, be disallowed.”

4 (D) Subsection (g) of section 857 is
 5 amended to read as follows:

6 “(g) CROSS REFERENCES.—

7 “(1) For provisions relating to excise tax based
 8 on certain real estate investment trust taxable in-
 9 come not distributed during the taxable year, see
 10 section 4981.

11 “(2) For special rules relating to application of
 12 dividend exclusion and retained earnings basis ad-
 13 justments, see section 852(g).”

14 (E) Paragraph (1) of section 4981(e) is
 15 amended by striking “and” at the end of sub-
 16 paragraph (A), by striking the period at the
 17 end of subparagraph (B) and inserting “; and”,
 18 and by adding at the end the following new sub-
 19 paragraph:

20 “(C) any dividend excludable from gross
 21 income under section 116(a).”

22 **SEC. 204. TREATMENT OF INSURANCE COMPANIES.**

23 (a) LIFE INSURANCE COMPANIES.—

24 (1) Section 803 is amended by adding at the
 25 end the following new subsection:

1 “(c) SPECIAL RULES FOR EXCLUDABLE DIVIDENDS
2 AND RETAINED EARNINGS BASIS ADJUSTMENTS.—

3 “(1) IN GENERAL.—The exclusion under sec-
4 tion 116(a) with respect to any dividend received by
5 a life insurance company shall only apply to such
6 company’s share (as determined under section 812)
7 of such dividend.

8 “(2) RETAINED EARNINGS BASIS ADJUST-
9 MENTS.—In the case of any increase in basis under
10 section 116(b) allocated under section 282 to stock
11 held by a life insurance company—

12 “(A) the life insurance company’s and pol-
13 icyholders’ shares of such allocation shall be de-
14 termined in accordance with section 812 in the
15 same manner as if it were a dividend; and

16 “(B) life insurance company gross income
17 of such company shall be increased by the pol-
18 icyholders’ share of such allocation.

19 “(3) RULES FOR SEGREGATED ASSET AC-
20 COUNTS.—In the case of stock held in a segregated
21 asset account (within the meaning of section 817);
22 this subsection shall be applied as if the policy-
23 holders’ share of the excludable portion of any divi-
24 dend; or any increase in basis under section 116(b);
25 with respect to such stock were 100 percent.

1 ~~“(4) COMPUTATION OF EXCLUDABLE DIVIDEND~~
 2 ~~AMOUNT.—In the case of a life insurance company,~~
 3 ~~the increase under clause (ii) or (iii) of section~~
 4 ~~281(b)(1)(A) in the company’s excludable dividend~~
 5 ~~amount shall be limited to the company’s share (as~~
 6 ~~determined under section 812) of the dividends or~~
 7 ~~increases in basis described in either such clause.”~~

8 (2) Section 812(d)(1)(A) is amended by insert-
 9 ing ~~“(including dividends excludable under section~~
 10 ~~116(a))”~~ after ~~“dividends”~~.

11 (3) Section 815(e)(2)(A)(iii) is amended by
 12 adding ~~“; the amount of dividends excludable under~~
 13 ~~section 116(a) (as modified by section 803(c)(1));~~
 14 ~~and the amount of basis increase under section~~
 15 ~~116(b) (as modified by section 803(c)(2))”~~ after
 16 ~~“section 103”~~.

17 (b) OTHER INSURANCE COMPANIES.—

18 (1) Section 832(b)(5)(B) is amended by strik-
 19 ing ~~“and”~~ at the end of clause (ii), by striking the
 20 period at the end of clause (iii) and inserting ~~“;~~
 21 ~~and”~~, and by adding after clause (iii) the following
 22 new clause:

23 ~~“(iv) any dividend excludable under~~
 24 ~~section 116(a) which is received during~~
 25 ~~such taxable year and any increase in basis~~

1 under section 116(b) which is allocated
 2 under section 282 to such company during
 3 such taxable year.”

4 (2) Section 832(c) is amended by striking
 5 “and” at the end of paragraph (12), by striking the
 6 period at the end of paragraph (13) and inserting “;
 7 and”, and by adding at the end the following new
 8 paragraph:

9 “(14) the amount of dividends received during
 10 the taxable year which are excluded from gross in-
 11 come under section 116(a).”

12 (3) Section 833(b)(3)(E) is amended—

13 (A) by striking “and” at the end of clause
 14 (i), by striking the period at the end of clause
 15 (ii) and inserting “; and”, and by inserting
 16 after clause (ii) the following new clause:

17 “(iii) the aggregate amount excluded
 18 for the taxable year under section
 19 116(a).”, and

20 (B) by adding at the end the following:

21 “‘The amount determined under clause (iii)
 22 shall be reduced by the amount of any decrease
 23 in such deductions for the taxable year by rea-
 24 son of section 832(b)(5)(B) to the extent such

1 decrease is attributable to the exclusion under
2 section 116(a).”

3 (4) Section 834(c) is amended by adding at the
4 end the following new paragraph:

5 “(10) EXCLUDABLE DIVIDENDS.—The amount
6 of dividends received during the taxable year which
7 are excluded from gross income under section
8 116(a).”

9 **SEC. 205. TREATMENT OF S CORPORATIONS.**

10 (a) BASIS ADJUSTMENTS RELATING TO DIVI-
11 DENDS.—Section 1367(a)(1) is amended by striking
12 “and” at the end of subparagraph (B), by striking the
13 period at the end of subparagraph (C) and inserting “,
14 and”, and by adding at the end the following new subpara-
15 graph:

16 “(D) increases in basis under section
17 116(b) allocated to the S corporation.”

18 (b) APPLICATION OF SECTION 116 AND PART X OF
19 SUBCHAPTER B TO S CORPORATIONS.—

20 (1) IN GENERAL.—Section 1368 is amended by
21 adding at the end the following new subsection:

22 “(f) COORDINATION WITH DIVIDEND EXCLUSION
23 AND RETAINED EARNINGS BASIS ADJUSTMENTS.—

24 “(1) DETERMINATION OF EXCLUDED DIVI-
25 DENDS AMOUNT.—

1 “(A) IN GENERAL.—Clauses (ii) and (iii)
 2 of section 281(b)(1)(A) shall not apply to
 3 amounts received or allocated in a taxable year
 4 for which the corporation is an S corporation.

5 “(B) CROSS REFERENCE.—

**“For treatment of taxes imposed by section 1374,
 see section 281(d)(1).”**

6 “(2) DISTRIBUTIONS.—Subject to regulations
 7 prescribed by the Secretary, the preceding provisions
 8 of this section shall not apply to any dividend ex-
 9 cludable from gross income under section 116(a)
 10 and any distribution described in section 283(a).”

11 (c) MODIFICATION TO TREATMENT OF SECTION
 12 1374 TAX.—

13 (1) Paragraph (2) of section 1366(f) is amend-
 14 ed to read as follows:

15 “(2) TREATMENT OF TAX IMPOSED ON BUILT-
 16 IN GAINS.—The amount of the items of the net rec-
 17 ognized built-in-gain taken into account under sec-
 18 tion 1374(b)(1) (reduced by any deduction allowed
 19 under section 1374(b)(2)) shall not be taken into ac-
 20 count under this section.”

21 (2)(A) Subsection (c) of section 1371 is amend-
 22 ed by adding at the end the following new para-
 23 graph:

1 “(B) EARNINGS AND PROFITS.—The accu-
 2 mulated earnings and profits of the corporation
 3 shall be increased at the beginning of the tax-
 4 able year by the amount not taken into account
 5 under section 1366 by reason of section
 6 1366(f)(2) (determined without regard any re-
 7 duction of such amount under section
 8 1374(b)(2)) reduced by the tax imposed by sec-
 9 tion 1374 (net of credits allowed).”

10 (B) Paragraph (1) of section 1371(c) is amend-
 11 ed by striking “and (3)” and inserting “, (3), and
 12 (4)”.

13 (d) REPEAL OF TAX AND TERMINATION WHERE EX-
 14 CESS PASSIVE INVESTMENT INCOME.—

15 (1) REPEAL OF TAX.—

16 (A) IN GENERAL.—Section 1375 is re-
 17 pealed.

18 (B) CONFORMING AMENDMENTS.—Sec-
 19 tions 26(b)(2)(J) and 1366(f)(3) are repealed.

20 (2) REPEAL OF TERMINATION.—Section
 21 1362(d) is amended by striking paragraph (3).

22 **SEC. 206. REPEAL OF ACCUMULATED EARNINGS TAX AND**
 23 **PERSONAL HOLDING COMPANY TAX.**

24 (a) IN GENERAL.—Parts I and II of subchapter G
 25 of chapter 1 (relating to corporations improperly accumu-

1 lating surplus and to personal holding companies) are
 2 hereby repealed.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 12 is amended by striking para-
 5 graph (2) and by redesignating paragraphs (3), (4),
 6 (5), (6), and (7) as paragraphs (2), (3), (4), (5),
 7 and (6), respectively.

8 (2) Section 26(b)(2) is amended by striking
 9 subparagraphs (F) and (G).

10 (3) Section 30A(c) is amended by inserting
 11 “or” at the end of paragraph (1), by striking para-
 12 graphs (2) and (3), and by redesignating paragraph
 13 (4) as paragraph (2).

14 (4) Section 41(e)(7)(E) is amended by adding
 15 “and” at the end of clause (i), by striking clause
 16 (ii), and by redesignating clause (iii) as clause (ii).

17 (5) Section 56(b)(2) is amended by striking
 18 subparagraph (C) and by redesignating subpara-
 19 graph (D) as subparagraph (C).

20 (6) Section 111 is amended by striking sub-
 21 section (d).

22 (7) Section 170(e)(4)(D) is amended by adding
 23 “and” at the end of clause (i), by striking clause
 24 (ii), and by redesignating clause (iii) as clause (ii).

1 ~~(8)~~ Sections ~~170(f)(10)(A)~~, ~~508(d)~~, ~~4947~~, and
 2 ~~4948(e)(4)~~ are each amended by striking
 3 ~~“545(b)(2),”~~ each place it appears.

4 ~~(9)(A)~~ Section ~~316(b)~~ is amended by striking
 5 paragraph ~~(2)~~ and by redesignating paragraph ~~(3)~~
 6 as paragraph ~~(2)~~.

7 ~~(B)~~ Section ~~331(b)~~ is amended by striking
 8 ~~“(other than a distribution referred to in paragraph~~
 9 ~~(2)(B) of section 316(b))”~~.

10 ~~(10)~~ Section ~~341(d)~~ is amended—

11 ~~(A)~~ by striking “section ~~544(a)~~ (relating to
 12 personal holding companies)” and inserting
 13 “section ~~465(f)~~ (relating to constructive owner-
 14 ship rules)”; and

15 ~~(B)~~ by inserting before the period at the
 16 end of the next to the last sentence “and such
 17 paragraph ~~(2)~~ shall be applied by inserting ‘or
 18 by or for his partner’ after ‘his family’ ”.

19 ~~(11)~~ Section ~~381(c)~~ is amended by striking
 20 paragraphs ~~(14)~~ and ~~(17)~~.

21 ~~(12)~~ Section ~~443(e)~~ is amended by striking
 22 paragraphs ~~(1)~~ and ~~(2)~~ and by redesignating para-
 23 graphs ~~(3)~~, ~~(4)~~, and ~~(5)~~ as paragraphs ~~(1)~~, ~~(2)~~, and
 24 ~~(3)~~, respectively.

1 ~~(13)~~ Section 447(g)(4)(A) is amended by strik-
 2 ing “other than—” and all that follows and insert-
 3 ing “other than an S corporation.”

4 ~~(14)(A)~~ Section 465(a)(1)(B) is amended to
 5 read as follows:

6 ~~“(B) a C corporation which is closely~~
 7 ~~held.”.~~

8 ~~(B)~~ Section 465(a)(3) is amended to read as
 9 follows:

10 ~~“(3) CLOSELY HELD DETERMINATION.—For~~
 11 purposes of paragraph (1), a corporation is closely
 12 held if, at any time during the last half of the tax-
 13 able year, more than 50 percent in value of its out-
 14 standing stock is owned, directly or indirectly, by or
 15 for not more than 5 individuals. For purposes of this
 16 paragraph, an organization described in section
 17 401(a), 501(c)(17), or 509(a) or a portion of a trust
 18 permanently set aside or to be used exclusively for
 19 the purposes described in section 642(c) shall be
 20 considered an individual.”

21 ~~(C)~~ Section 465(e)(7)(B) is amended by strik-
 22 ing clause (i) and by redesignating clauses (ii) and
 23 (iii) as clauses (i) and (ii), respectively.

24 ~~(D)~~ Section 465(e)(7)(G) is amended to read as
 25 follows:

1 ~~“(G) LOSS OF 1 MEMBER OF AFFILIATED~~
 2 ~~GROUP MAY NOT OFFSET INCOME OF PERSONAL~~
 3 ~~SERVICE CORPORATION.—Nothing in this para-~~
 4 ~~graph shall permit any loss of a member of an~~
 5 ~~affiliated group to be used as an offset against~~
 6 ~~the income of any other member of such group~~
 7 ~~which is a personal service corporation (as de-~~
 8 ~~finied in section 269A(b) but determined by sub-~~
 9 ~~stituting ‘5 percent’ for ‘10 percent’ in section~~
 10 ~~269A(b)(2)).”~~

11 ~~(E) Section 465 is amended by adding at the~~
 12 ~~end the following new subsection:~~

13 ~~“(f) CONSTRUCTIVE OWNERSHIP RULES.—For pur-~~
 14 ~~poses of subsection (a)(3)—~~

15 ~~“(1) STOCK NOT OWNED BY INDIVIDUAL.—~~
 16 ~~Stock owned, directly or indirectly, by or for a cor-~~
 17 ~~poration, partnership, estate, or trust shall be con-~~
 18 ~~sidered as being owned proportionately by its share-~~
 19 ~~holders, partners, or beneficiaries.~~

20 ~~“(2) FAMILY OWNERSHIP.—An individual shall~~
 21 ~~be considered as owning the stock owned, directly or~~
 22 ~~indirectly, by or for his family. For purposes of this~~
 23 ~~paragraph, the family of an individual includes only~~
 24 ~~his brothers and sisters (whether by the whole or~~

1 half blood), spouse, ancestors, and lineal descend-
 2 ants.

3 “(3) OPTIONS.—If any person has an option to
 4 acquire stock, such stock shall be considered as
 5 owned by such person. For purposes of this para-
 6 graph, an option to acquire such an option, and each
 7 one of a series of such options, shall be considered
 8 as an option to acquire such stock.

9 “(4) APPLICATION OF FAMILY AND OPTION
 10 RULES.—Paragraphs (2) and (3) shall be applied if,
 11 but only if, the effect is to make the corporation
 12 closely held under subsection (a)(3).

13 “(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL
 14 OWNERSHIP.—Stock constructively owned by a per-
 15 son by reason of the application of paragraph (1) or
 16 (3), shall, for purposes of applying paragraph (1) or
 17 (2), be treated as actually owned by such person;
 18 but stock constructively owned by an individual by
 19 reason of the application of paragraph (2) shall not
 20 be treated as owned by him for purposes of again
 21 applying such paragraph in order to make another
 22 the constructive owner of such stock.

23 “(6) OPTION RULE IN LIEU OF FAMILY
 24 RULE.—If stock may be considered as owned by an

1 individual under either paragraph (2) or (3) it shall
 2 be considered as owned by him under paragraph (3).

3 ~~“(7) CONVERTIBLE SECURITIES.—~~Outstanding
 4 securities convertible into stock (whether or not con-
 5 vertible during the taxable year) shall be considered
 6 as outstanding stock if the effect of the inclusion of
 7 all such securities is to make the corporation closely
 8 held under subsection (a)(3). The requirement under
 9 the preceding sentence that all convertible securities
 10 must be included if any are to be included shall be
 11 subject to the exception that, where some of the out-
 12 standing securities are convertible only after a later
 13 date than in the case of others, the class having the
 14 earlier conversion date may be included although the
 15 others are not included, but no convertible securities
 16 shall be included unless all outstanding securities
 17 having a prior conversion date are also included.”

18 ~~(15)(A)~~ Section 553(a)(1) is amended by strik-
 19 ing “section 543(d)” and inserting “subsection (c)”.

20 ~~(B)~~ Section 553 is amended by adding at the
 21 end the following new subsection:

22 ~~“(c) ACTIVE BUSINESS COMPUTER SOFTWARE ROY-~~
 23 ~~ALTIES.—~~

1 “(1) IN GENERAL.—For purposes of subsection
2 (a), the term ‘active business computer software roy-
3 alties’ means any royalties—

4 “(A) received by any corporation during
5 the taxable year in connection with the licensing
6 of computer software, and

7 “(B) with respect to which the require-
8 ments of paragraphs (2), (3), and (4) are met.

9 “(2) ROYALTIES MUST BE RECEIVED BY COR-
10 PORATION ACTIVELY ENGAGED IN COMPUTER SOFT-
11 WARE BUSINESS.—The requirements of this para-
12 graph are met if the royalties described in paragraph
13 (1)—

14 “(A) are received by a corporation engaged
15 in the active conduct of the trade or business
16 of developing, manufacturing, or producing
17 computer software, and

18 “(B) are attributable to computer software
19 which—

20 “(i) is developed, manufactured, or
21 produced by such corporation (or its prede-
22 cessor) in connection with the trade or
23 business described in subparagraph (A), or

24 “(ii) is directly related to such trade
25 or business.

1 ~~“(3) ROYALTIES MUST CONSTITUTE AT LEAST~~
 2 ~~50 PERCENT OF INCOME.—~~The requirements of this
 3 paragraph are met if the royalties described in para-
 4 graph (1) constitute at least 50 percent of the ordi-
 5 nary gross income of the corporation for the taxable
 6 year.

7 ~~“(4) DEDUCTIONS UNDER SECTIONS 162 AND~~
 8 ~~174 RELATING TO ROYALTIES MUST EQUAL OR EX-~~
 9 ~~CEED 25 PERCENT OF ORDINARY GROSS INCOME.—~~

10 ~~“(A) IN GENERAL.—~~The requirements of
 11 this paragraph are met if—

12 ~~“(i) the sum of the deductions allow-~~
 13 able to the corporation under sections 162,
 14 174, and 195 for the taxable year which
 15 are properly allocable to the trade or busi-
 16 ness described in paragraph (2) equals or
 17 exceeds 25 percent of the ordinary gross
 18 income of such corporation for such tax-
 19 able year; or

20 ~~“(ii) the average of such deductions~~
 21 for the ~~5~~-taxable year period ending with
 22 such taxable year equals or exceeds 25 per-
 23 cent of the average ordinary gross income
 24 of such corporation for such period.

1 If a corporation has not been in existence dur-
 2 ing the 5-taxable year period described in clause
 3 (ii), then the period of existence of such cor-
 4 poration shall be substituted for such 5-taxable
 5 year period.

6 “(B) DEDUCTIONS ALLOWABLE UNDER
 7 SECTION 162.—For purposes of subparagraph
 8 (A), a deduction shall not be treated as allow-
 9 able under section 162 if it is specifically allow-
 10 able under another section.

11 “(C) LIMITATION ON ALLOWABLE DEDUC-
 12 TIONS.—For purposes of subparagraph (A), no
 13 deduction shall be taken into account with re-
 14 spect to compensation for personal services ren-
 15 dered by the 5 individual shareholders holding
 16 the largest percentage (by value) of the out-
 17 standing stock of the corporation. For purposes
 18 of the preceding sentence individuals holding
 19 less than 5 percent (by value) of the stock of
 20 such corporation shall not be taken into ac-
 21 count.”

22 (16) Section 556(b)(1) is amended by striking
 23 “, but not including” and all that follows and insert-
 24 ing a period.

1 (17) Section 561(a) is amended by striking
2 paragraph (3), by inserting “and” at the end of
3 paragraph (1), and by striking “, and” at the end
4 of paragraph (2) and inserting a period.

5 (18) Section 562(b) is amended to read as fol-
6 lows:

7 “(b) DISTRIBUTIONS IN LIQUIDATION.—Except in
8 the case of a foreign personal holding company described
9 in section 552—

10 “(1) in the case of amounts distributed in liq-
11 uidation, the part of such distribution which is prop-
12 erly chargeable to earnings and profits accumulated
13 after February 28, 1913, shall be treated as a divi-
14 dend for purposes of computing the dividends paid
15 deduction, and

16 “(2) in the case of a complete liquidation occur-
17 ring within 24 months after the adoption of a plan
18 of liquidation, any distribution within such period
19 pursuant to such plan shall, to the extent of the
20 earnings and profits (computed without regard to
21 capital losses) of the corporation for the taxable year
22 in which such distribution is made, be treated as a
23 dividend for purposes of computing the dividends
24 paid deduction.

1 For purposes of paragraph (1), a liquidation includes a
 2 redemption of stock to which section 302 applies. Except
 3 to the extent provided in regulations, the preceding sen-
 4 tence shall not apply in the case of any mere holding or
 5 investment company which is not a regulated investment
 6 company.”

7 (19) Section 563 is amended by striking sub-
 8 sections (a) and (b), by redesignating subsections (c)
 9 and (d) as subsections (a) and (b), and by striking
 10 “, (b), or (c)” in subsection (b) (as so redesignated).

11 (20) Section 564 is hereby repealed.

12 (21) Section 631(e) is amended by striking the
 13 next to the last sentence and inserting the following:
 14 “This subsection shall have no application for pur-
 15 poses of applying subchapter G (relating to corpora-
 16 tions used to avoid income tax on shareholders).”

17 (22) Section 852(b)(1) is amended by striking
 18 “which is a personal holding company (as defined in
 19 section 542) or”.

20 (23)(A) Section 856(h)(1) is amended to read
 21 as follows:

22 “(1) IN GENERAL.—For purposes of subsection
 23 (a)(6), a corporation, trust, or association is closely
 24 held if the stock ownership requirement of section
 25 465(a)(3) is met.”

1 ~~(B)~~ Section 856(h)(3)(A)(i) is amended by
 2 striking “section 542(a)(2)” and inserting “section
 3 465(a)(3)”.

4 ~~(C)~~ Paragraph (3) of section 856(h) is amended
 5 by striking subparagraph (B) and by redesignating
 6 subparagraphs (C) and (D) as subparagraphs (B)
 7 and (C), respectively.

8 ~~(D)~~ Subparagraph (C) of section 856(h)(3), as
 9 redesignated by the preceding subparagraph, is
 10 amended by striking “subparagraph (C)” and insert-
 11 ing “subparagraph (B)”.

12 ~~(24)~~ The last sentence of section 882(e)(2) is
 13 amended to read as follows:
 14 “‘The preceding sentence shall not be construed to
 15 deny the credit provided by section 33 for tax with-
 16 held at source or the credit provided by section 34
 17 for certain uses of gasoline.”.

18 ~~(25)~~ Section 936(a)(3) is amended by striking
 19 subparagraphs (B) and (C), by inserting “or” at the
 20 end of subparagraph (A), and by redesignating sub-
 21 paragraph (D) as subparagraph (B).

22 ~~(26)~~ Section 936 is amended by striking sub-
 23 section (g).

24 ~~(27)~~ Section 992(d) is amended by striking
 25 paragraph (2) and by redesignating paragraphs (3),

1 (4), (5), (6), and (7) as paragraphs (2), (3), (4),
2 (5), and (6), respectively.

3 (28) Section 992 is amended by striking sub-
4 section (e).

5 (29) Section 1202(e)(8) is amended by striking
6 “section 543(d)(1)” and inserting “section
7 553(c)(1)”.

8 (30) Section 1298(b) is amended by striking
9 paragraph (8) and redesignating paragraph (9) as
10 paragraph (8).

11 (31) Section 1504(c)(2)(B) is amended by add-
12 ing “and” at the end of clause (i), by striking clause
13 (ii), and by redesignating clause (iii) as clause (ii).

14 (32)(A) Section 1551(a) is amended by striking
15 “or the accumulated earnings credit” and all that
16 follows and inserting “unless such transferee cor-
17 poration shall establish by the clear preponderance
18 of the evidence that the securing of such benefits
19 was not a major purpose of such transfer.”.

20 (B) The section heading for section 1551 is
21 amended by striking “**AND ACCUMULATED EARN-**
22 **INGS CREDIT**”.

23 (C) The item relating to section 1551 in the
24 table of sections for part I of subchapter B of chap-

1 ter 6 is amended by striking “and accumulated
2 earnings credit”.

3 ~~(33)~~(A) Section 1561(a) is amended—

4 (i) by striking paragraph (2);

5 (ii) by redesignating paragraphs ~~(3)~~ and
6 ~~(4)~~ as paragraphs (2) and ~~(3)~~;

7 (iii) by striking “paragraph ~~(3)~~” each
8 place it appears and inserting “paragraph (2)”,
9 (iv) by striking “paragraph ~~(4)~~” and in-
10 serting “paragraph ~~(3)~~”, and

11 (v) by striking the third sentence.

12 ~~(B)~~ Section 1561(b) is amended to read as fol-
13 lows:

14 “~~(b)~~ CERTAIN SHORT TAXABLE YEARS.—If a cor-
15 poration has a short taxable year which does not include
16 a December 31 and is a component member of a controlled
17 group of corporations with respect to such taxable year,
18 then for purposes of this subtitle, the amount in each tax-
19 able income bracket in the tax table in section 11(b) for
20 such corporation for such taxable year shall be the amount
21 specified in subsection (a)(1), divided by the number of
22 corporations which are component members of such group
23 on the last day of such taxable year. For purposes of the
24 preceding sentence, section 1563(b) shall be applied as if
25 such last day were substituted for December 31.”.

1 ~~(34)~~ Section 2057(c)(2)(C) is amended by add-
 2 ing at the end the following new sentence: “Ref-
 3 erences to sections 542 and 543 in the preceding
 4 sentence shall be treated as references to such sec-
 5 tions as in effect on the day before their repeal.”

6 ~~(35)~~ Sections 6422 is amended by striking
 7 paragraph ~~(3)~~ and by redesignating paragraphs ~~(4)~~
 8 through ~~(12)~~ and paragraphs ~~(3)~~ through ~~(11)~~, re-
 9 spectively.

10 ~~(36)~~ Section 6501 is amended by striking sub-
 11 section ~~(f)~~.

12 ~~(37)~~ Section 6503(k) of such Code is amended
 13 by striking paragraph ~~(1)~~ and by redesignating
 14 paragraphs ~~(2)~~ through ~~(5)~~ as paragraphs ~~(1)~~
 15 through ~~(4)~~, respectively.

16 ~~(38)~~ Section 6515 is amended by striking para-
 17 graph ~~(1)~~ and by redesignating paragraphs ~~(2)~~
 18 through ~~(6)~~ as paragraphs ~~(1)~~ through ~~(5)~~, respec-
 19 tively.

20 ~~(39)~~ Section 6601(b) is amended by striking
 21 paragraph ~~(4)~~ and redesignating paragraph ~~(5)~~ as
 22 paragraph ~~(4)~~.

23 ~~(40)~~ Subsections ~~(d)(1)(B)~~ and ~~(e)(2)~~ of section
 24 6662 of such Code are each amended by striking “or

1 a personal holding company (as defined in section
2 542)”.
3

3 ~~(41) Section 6683 is hereby repealed.~~

4 ~~(42) Section 7518(c)(1) is amended by insert-~~
5 ~~ing “and” at the end of subparagraph (C), by strik-~~
6 ~~ing “, and” at the end of subparagraph (D) and in-~~
7 ~~serting a period, and by striking subparagraph (E).~~
8 ~~(e) CLERICAL AMENDMENTS.—~~

9 ~~(1) The table of parts for subchapter G of~~
10 ~~chapter 1 of such Code is amended by striking the~~
11 ~~items relating to parts I and II.~~

12 ~~(2) The table of sections for part IV of such~~
13 ~~subchapter G is amended by striking the item relat-~~
14 ~~ing to section 564.~~

15 ~~(3) The table of sections for part I of sub-~~
16 ~~chapter B of chapter 68 of such Code is amended~~
17 ~~by striking the item relating to section 6683.~~

18 **SEC. 207. EFFECTIVE DATES.**

19 ~~(a) IN GENERAL.—Except as otherwise provided in~~
20 ~~this section, the amendments made by this title shall apply~~
21 ~~to distributions received, and basis allocations made under~~
22 ~~section 282 of the Internal Revenue Code of 1986 (as~~
23 ~~added by this title), after December 31, 2002.~~

24 ~~(b) SPECIAL RULES.—~~

1 ~~(1) SECTION 1374 TAX.~~—In applying the
 2 amendments made by this title, any tax imposed by
 3 ~~section 1374~~ of the Internal Revenue Code of 1986
 4 for any taxable year beginning before January 1,
 5 2003, shall not be taken into account.

6 ~~(2) SECTIONS 205(d) AND 206.~~—The amend-
 7 ments made by sections 205(d) and 206 shall apply
 8 to taxable years beginning after December 31, 2002;
 9 except that—

10 ~~(A)~~ section 547 of such Code (as in effect
 11 before its repeal) shall continue to apply to defi-
 12 ciency dividends (as defined in section 547(d) of
 13 such Code) relating to taxable years beginning
 14 before January 1, 2003, and

15 ~~(B)~~ subsections (a) and (b) of section 563
 16 of such Code (as so in effect) shall continue to
 17 apply to dividends relating to taxable years be-
 18 ginning before January 1, 2003.

19 Notwithstanding subparagraphs (A) and (B), such
 20 dividends shall not be taken into account in applying
 21 ~~section 116~~ of such Code or part X of subchapter
 22 B of chapter 1 of such Code.

1 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**
 2 **TENTS.**

3 (a) *SHORT TITLE.*—*This Act may be cited as the “Jobs*
 4 *and Growth Reconciliation Tax Act of 2003”.*

5 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 6 *expressly provided, whenever in this Act an amendment or*
 7 *repeal is expressed in terms of an amendment to, or repeal*
 8 *of, a section or other provision, the reference shall be consid-*
 9 *ered to be made to a section or other provision of the Inter-*
 10 *nal Revenue Code of 1986.*

11 (c) *TABLE OF CONTENTS.*—*The table of contents of this*
 12 *Act is as follows:*

Sec. 1. Short title; references; table of contents.

**TITLE I—ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX
REDUCTIONS; INCREASED EXPENSING FOR SMALL BUSINESSES**

Sec. 101. Acceleration of 10-percent individual income tax rate bracket expansion.

Sec. 102. Acceleration of reduction in individual income tax rates.

Sec. 103. Minimum tax relief to individuals.

Sec. 104. Acceleration of increase in standard deduction for married taxpayers filing joint returns.

Sec. 105. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.

Sec. 106. Acceleration of increase in, and refundability of, child tax credit.

Sec. 107. Increased expensing for small business.

Sec. 108. Application of EGTRRA sunset to this title.

TITLE II—PARTIAL EXCLUSION OF DIVIDENDS

Sec. 201. Partial exclusion of dividends received by individuals.

TITLE III—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 301. Clarification of economic substance doctrine.

Sec. 302. Penalty for failing to disclose reportable transaction.

Sec. 303. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.

Sec. 304. Penalty for understatements attributable to transactions lacking economic substance, etc.

- Sec. 305. Modifications of substantial understatement penalty for nonreportable transactions.*
- Sec. 306. Tax shelter exception to confidentiality privileges relating to taxpayer communications.*
- Sec. 307. Disclosure of reportable transactions.*
- Sec. 308. Modifications to penalty for failure to register tax shelters.*
- Sec. 309. Modification of penalty for failure to maintain lists of investors.*
- Sec. 310. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.*
- Sec. 311. Understatement of taxpayer's liability by income tax return preparer.*
- Sec. 312. Penalty on failure to report interests in foreign financial accounts.*
- Sec. 313. Frivolous tax submissions.*
- Sec. 314. Penalty on promoters of tax shelters.*
- Sec. 315. Statute of limitations for taxable years for which listed transactions not reported.*
- Sec. 316. Denial of deduction for interest on underpayments attributable to non-disclosed reportable and noneconomic substance transactions.*

Subtitle B—Enron-Related Tax Shelter Provisions

- Sec. 321. Limitation on transfer or importation of built-in losses.*
- Sec. 322. No reduction of basis under section 734 in stock held by partnership in corporate partner.*
- Sec. 323. Repeal of special rules for FASITs.*
- Sec. 324. Expanded disallowance of deduction for interest on convertible debt.*
- Sec. 325. Expanded authority to disallow tax benefits under section 269.*
- Sec. 326. Modifications of certain rules relating to controlled foreign corporations.*
- Sec. 327. Controlled entities ineligible for REIT status.*

Subtitle C—Other Corporate Governance Provisions

PART I—GENERAL PROVISIONS

- Sec. 331. Affirmation of consolidated return regulation authority.*
- Sec. 332. Signing of corporate tax returns by chief executive officer.*
- Sec. 333. Denial of deduction for certain fines, penalties, and other amounts.*
- Sec. 334. Disallowance of deduction for punitive damages.*

PART II—EXECUTIVE COMPENSATION REFORM

- Sec. 335. Treatment of nonqualified deferred compensation funded with assets located outside the United States.*
- Sec. 336. Inclusion in gross income of funded deferred compensation of corporate insiders.*
- Sec. 337. Prohibition on deferral of gain from the exercise of stock options and restricted stock gains through deferred compensation arrangements.*
- Sec. 338. Increase in withholding from supplemental wage payments in excess of \$1,000,000.*

Subtitle D—International Provisions

PART I—PROVISIONS TO DISCOURAGE EXPATRIATION

- Sec. 340. Revision of tax rules on expatriation.*
- Sec. 341. Tax treatment of inverted corporate entities.*
- Sec. 342. Excise tax on stock compensation of insiders in inverted corporations.*

Sec. 343. Reinsurance of United States risks in foreign jurisdictions.

PART II—OTHER PROVISIONS

Sec. 344. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.

Sec. 345. Effectively connected income to include certain foreign source income.

Sec. 346. Determination of basis of amounts paid from foreign pension plans.

Sec. 347. Recapture of overall foreign losses on sale of controlled foreign corporation.

Sec. 348. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.

Sec. 349. Sale of gasoline and diesel fuel at duty-free sales enterprises.

Sec. 350. Repeal of earned income exclusion of citizens or residents living abroad.

Subtitle E—Other Revenue Provisions

Sec. 351. Extension of Internal Revenue Service user fees.

Sec. 352. Addition of vaccines against hepatitis A to list of taxable vaccines.

Sec. 353. Disallowance of certain partnership loss transfers.

Sec. 354. Treatment of stripped interests in bond and preferred stock funds, etc.

Sec. 355. Reporting of taxable mergers and acquisitions.

Sec. 356. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.

Sec. 357. Qualified tax collection contracts.

Sec. 358. Extension of customs user fees.

Sec. 359. Clarification of exemption from tax for small property and casualty insurance companies.

Sec. 360. Partial payment of tax liability in installment agreements.

Sec. 361. Extension of amortization of intangibles to sports franchises.

Sec. 362. Deposits made to suspend running of interest on potential underpayments.

Sec. 363. Clarification of rules for payment of estimated tax for certain deemed asset sales.

Sec. 364. Limitation on deduction for charitable contributions of patents and similar property.

Sec. 365. Extension of provision permitting qualified transfers of excess pension assets to retiree health accounts.

Sec. 366. Proration rules for life insurance business of property and casualty insurance companies.

Sec. 367. Modification of treatment of transfers to creditors in divisive reorganizations.

Subtitle F—Other Provisions

Sec. 371. Temporary State Fiscal Relief Fund.

Sec. 372. Review of State agency blindness and disability determinations.

Sec. 373. Prohibition on use of SCHIP funds to provide coverage for childless adults.

TITLE IV—SMALL BUSINESS AND AGRICULTURAL PROVISIONS

Subtitle A—Small Business Provisions

Sec. 401. Exclusion of certain indebtedness of small business investment companies from acquisition indebtedness.

- Sec. 402. Repeal of occupational taxes relating to distilled spirits, wine, and beer.*
Sec. 403. Custom gunsmiths.
Sec. 404. Simplification of excise tax imposed on bows and arrows.

Subtitle B—Agricultural Provisions

- Sec. 411. Capital gain treatment under section 631(b) to apply to outright sales by landowners.*
Sec. 412. Special rules for livestock sold on account of weather-related conditions.
Sec. 413. Exclusion for loan payments under national health service corps loan repayment program.
Sec. 414. Payment of dividends on stock of cooperatives without reducing patronage dividends.

TITLE V—SIMPLIFICATION AND OTHER PROVISIONS

Subtitle A—Uniform Definition of Child

- Sec. 501. Uniform definition of child, etc.*
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.
Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.

Subtitle B—Simplification

- Sec. 511. Consolidation of life and non-life insurance company returns.*
Sec. 512. Special rules for taxation of life insurance companies.
Sec. 513. Modification of active business definition under section 355.

Subtitle C—Other Provisions

- Sec. 521. Civil rights tax relief.*
Sec. 522. Increase in section 382 limitation for companies emerging from bankruptcy.
Sec. 523. Increase in historic rehabilitation credit for certain low-income housing for the elderly.
Sec. 524. Modification of application of income forecast method of depreciation.
Sec. 525. Additional advance refundings of certain governmental bonds.
Sec. 526. Exclusion of income derived from certain wagers on horse races from gross income of nonresident alien individuals.
Sec. 527. Federal reimbursement of emergency health services furnished to undocumented aliens.
Sec. 528. Premiums for mortgage insurance.

TITLE VI—SUNSET

- Sec. 601. Sunset.*

1 ***TITLE I—ACCELERATION OF***
 2 ***CERTAIN PREVIOUSLY EN-***
 3 ***ACTED TAX REDUCTIONS; IN-***
 4 ***CREASED EXPENSING FOR***
 5 ***SMALL BUSINESSES***

6 ***SEC. 101. ACCELERATION OF 10-PERCENT INDIVIDUAL IN-***
 7 ***COME TAX RATE BRACKET EXPANSION.***

8 *(a) IN GENERAL.—Clause (i) of section 1(i)(1)(B) (re-*
 9 *lating to the initial bracket amount) is amended by striking*
 10 *“(\$12,000 in the case of taxable years beginning before Jan-*
 11 *uary 1, 2008)”.*

12 *(b) INFLATION ADJUSTMENT BEGINNING IN 2004.—*
 13 *Subparagraph (C) of section 1(i)(1) (relating to inflation*
 14 *adjustment) is amended to read as follows:*

15 *“(C) INFLATION ADJUSTMENT.—In pre-*
 16 *scribing the tables under subsection (f) which*
 17 *apply with respect to taxable years beginning in*
 18 *calendar years after 2003—*

19 *“(i) the cost-of-living adjustment used*
 20 *in making adjustments to the initial bracket*
 21 *amount shall be determined under sub-*
 22 *section (f)(3) by substituting ‘2002’ for*
 23 *‘1992’ in subparagraph (B) thereof, and*

1 “(ii) such adjustment shall not apply
2 to the amount referred to in subparagraph
3 (B)(iii).

4 If any amount after adjustment under the pre-
5 ceding sentence is not a multiple of \$50, such
6 amount shall be rounded to the next lowest mul-
7 tiple of \$50.”.

8 (c) *EFFECTIVE DATES.*—

9 (1) *SUBSECTION (a).*—The amendment made by
10 subsection (a) shall apply to taxable years beginning
11 after December 31, 2002.

12 (2) *SUBSECTION (b).*—The amendment made by
13 subsection (b) shall apply to taxable years beginning
14 after December 31, 2003.

15 (3) *TABLES FOR 2003.*—The Secretary of the
16 Treasury shall modify each table which has been pre-
17 scribed for taxable years beginning in 2003 and
18 which relates to the amendment made by subsection
19 (a), section 102, or section 103 to reflect each such
20 amendment.

21 **SEC. 102. ACCELERATION OF REDUCTION IN INDIVIDUAL**
22 **INCOME TAX RATES.**

23 (a) *IN GENERAL.*—The table in paragraph (2) of sec-
24 tion 1(i) (relating to reductions in rates after June 30,
25 2001) is amended to read as follows:

<i>“In the case of taxable years beginning during calendar year:</i>	<i>The corresponding percentages shall be substituted for the following percentages:</i>			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003 and thereafter	25.0%	28.0%	33.0%	35.0%”.

1 (b) *EFFECTIVE DATE.*—The amendment made by this
2 section shall apply to taxable years beginning after Decem-
3 ber 31, 2002.

4 **SEC. 103. MINIMUM TAX RELIEF TO INDIVIDUALS.**

5 (a) *IN GENERAL.*—So much of paragraph (1) of sec-
6 tion 55(d) (relating to exemption amount for taxpayers
7 other than corporations) as precedes subparagraph (C)
8 thereof is amended to read as follows:

9 “(1) *EXEMPTION AMOUNT FOR TAXPAYERS*
10 *OTHER THAN CORPORATIONS.*—In the case of a tax-
11 payer other than a corporation, the term ‘exemption
12 amount’ means as follows:

13 “(A) *JOINT RETURN AND SURVIVING*
14 *SPOUSE.*—In the case of a joint return or a sur-
15 viving spouse, the amount under the following
16 table:

<i>“In the case of taxable years beginning:</i>	<i>The exemption amount is:</i>
Before 2001	\$45,000
In 2001 and 2002	\$49,000
In 2003, 2004, and 2005	\$61,000
After 2005	\$45,000.

17 “(B) *INDIVIDUAL NOT MARRIED AND NOT A*
18 *SURVIVING SPOUSE.*—In the case of an indi-
19 vidual who is not a married individual and is

1 *not a surviving spouse, the amount under the fol-*
 2 *lowing table:*

***“In the case of taxable years The exemption
beginning: amount is:***

<i>Before 2001</i>	<i>\$33,750</i>
<i>In 2001 and 2002</i>	<i>\$35,750</i>
<i>In 2003, 2004, and 2005</i>	<i>\$41,750</i>
<i>After 2005</i>	<i>\$33,750.”.</i>

3 ***(b) CONFORMING AMENDMENTS.—***

4 ***(1) Section 55(d)(1)(C) is amended—***

5 ***(A) by striking “, and” and inserting a pe-***
 6 ***riod, and***

7 ***(B) by striking “50 percent” and inserting***
 8 ***“MARRIED INDIVIDUAL FILING A SEPARATE RE-***
 9 ***TURN.—50 percent”.***

10 ***(2) Section 55(d)(1)(D) is amended by striking***
 11 ***“\$22,500” and inserting “ESTATE AND TRUST.—***
 12 ***\$22,500”.***

13 ***(c) EFFECTIVE DATE.—The amendments made by this***
 14 ***section shall apply to taxable years beginning after Decem-***
 15 ***ber 31, 2002.***

16 ***SEC. 104. ACCELERATION OF INCREASE IN STANDARD DE-***
 17 ***DUCTION FOR MARRIED TAXPAYERS FILING***
 18 ***JOINT RETURNS.***

19 ***(a) IN GENERAL.—Paragraph (2) of section 63(c) (re-***
 20 ***lating to basic standard deduction) is amended to read as***
 21 ***follows:***

1 “(2) *BASIC STANDARD DEDUCTION.*—For pur-
 2 poses of paragraph (1), the basic standard deduction
 3 is—

4 “(A) 200 percent of the dollar amount in ef-
 5 fect under subparagraph (C) for the taxable year
 6 in the case of—

7 “(i) a joint return, or

8 “(ii) a surviving spouse (as defined in
 9 section 2(a)),

10 “(B) \$4,400 in the case of a head of house-
 11 hold (as defined in section 2(b)), or

12 “(C) \$3,000 in any other case.”.

13 (b) *CONFORMING AMENDMENTS.*—

14 (1) Section 63(c)(4) is amended by striking
 15 “(2)(D)” each place it occurs and inserting “(2)(C)”.

16 (2) Section 63(c) is amended by striking para-
 17 graph (7).

18 (3) Section 301(d) of the Economic Growth and
 19 Tax Relief Reconciliation Act of 2001 is amended by
 20 striking “2004” and inserting “2002”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
 22 section shall apply to taxable years beginning after Decem-
 23 ber 31, 2002.

1 **SEC. 105. ACCELERATION OF 15-PERCENT INDIVIDUAL IN-**
 2 **COME TAX RATE BRACKET EXPANSION FOR**
 3 **MARRIED TAXPAYERS FILING JOINT RE-**
 4 **TURNS.**

5 (a) *IN GENERAL.*—Paragraph (8) of section 1(f) (re-
 6 lating to phaseout of marriage penalty in 15-percent brack-
 7 et) is amended to read as follows:

8 “(8) *ELIMINATION OF MARRIAGE PENALTY IN 15-*
 9 *PERCENT BRACKET.*—With respect to taxable years
 10 beginning after December 31, 2002, in prescribing the
 11 tables under paragraph (1)—

12 “(A) the maximum taxable income in the
 13 15 percent rate bracket in the table contained in
 14 subsection (a) (and the minimum taxable income
 15 in the next higher taxable income bracket in such
 16 table) shall be 200 percent of the maximum tax-
 17 able income in the 15-percent rate bracket in the
 18 table contained in subsection (c) (after any other
 19 adjustment under this subsection), and

20 “(B) the comparable taxable income
 21 amounts in the table contained in subsection (d)
 22 shall be $\frac{1}{2}$ of the amounts determined under sub-
 23 paragraph (A).”.

24 (b) *CONFORMING AMENDMENTS.*—

1 (1) *The heading for subsection (f) of section 1 is*
 2 *amended by striking “PHASEOUT” and inserting*
 3 *“ELIMINATION”.*

4 (2) *Section 302(c) of the Economic Growth and*
 5 *Tax Relief Reconciliation Act of 2001 is amended by*
 6 *striking “2004” and inserting “2002”.*

7 (c) *EFFECTIVE DATE.—The amendments made by this*
 8 *section shall apply to taxable years beginning after Decem-*
 9 *ber 31, 2002.*

10 **SEC. 106. ACCELERATION OF INCREASE IN, AND**
 11 **REFUNDABILITY OF, CHILD TAX CREDIT.**

12 (a) *ACCELERATION OF INCREASE IN CREDIT.—Sub-*
 13 *section (a) of section 24 (relating to child tax credit) is*
 14 *amended to read as follows:*

15 “(a) *ALLOWANCE OF CREDIT.—There shall be allowed*
 16 *as a credit against the tax imposed by this chapter for the*
 17 *taxable year with respect to each qualifying child of the tax-*
 18 *payer an amount equal to \$1,000.”.*

19 (b) *EXPANSION OF CREDIT REFUNDABILITY.—*

20 (1) *IN GENERAL.—Clause (i) of section*
 21 *24(d)(1)(B) (relating to portion of credit refundable)*
 22 *is amended to read as follows:*

23 “(i) *15 percent of so much of the tax-*
 24 *payer’s earned income (within the meaning*
 25 *of section 32) which is taken into account*

1 *in computing taxable income for the taxable*
 2 *year as exceeds \$7,500, or”.*

3 (2) *CONFORMING AMENDMENT.*—Section 24(d) is
 4 *amended by striking paragraph (3).*

5 (c) *ADVANCE PAYMENT OF PORTION OF INCREASED*
 6 *CREDIT IN 2003.*—

7 (1) *IN GENERAL.*—Subchapter B of chapter 65
 8 *(relating to abatements, credits, and refunds) is*
 9 *amended by adding at the end the following new sec-*
 10 *tion:*

11 ***“SEC. 6429. ADVANCE PAYMENT OF PORTION OF IN-***
 12 ***CREASED CHILD CREDIT FOR 2003.***

13 “(a) *IN GENERAL.*—Each taxpayer who claimed a
 14 *credit under section 24 on the return for the taxpayer’s first*
 15 *taxable year beginning in 2002 shall be treated as having*
 16 *made a payment against the tax imposed by chapter 1 for*
 17 *such taxable year in an amount equal to the child tax credit*
 18 *refund amount (if any) for such taxable year.*

19 “(b) *CHILD TAX CREDIT REFUND AMOUNT.*—For pur-
 20 *poses of this section, the child tax credit refund amount is*
 21 *the amount by which the aggregate credits allowed under*
 22 *part IV of subchapter A of chapter 1 for such first taxable*
 23 *year would have been increased if—*

24 “(1) *the per child amount under section 24(a)(2)*
 25 *for such year were \$1,000,*

1 “(2) *only qualifying children (as defined in sec-*
 2 *tion 24(c)) of the taxpayer for such year who had not*
 3 *attained age 17 as of December 31, 2003, were taken*
 4 *into account, and*

5 “(3) *section 24(d)(1)(B)(ii) did not apply.*

6 “(c) *TIMING OF PAYMENTS.—In the case of any over-*
 7 *payment attributable to this section, the Secretary shall,*
 8 *subject to the provisions of this title, refund or credit such*
 9 *overpayment as rapidly as possible and, to the extent prac-*
 10 *ticable, before October 1, 2003. No refund or credit shall*
 11 *be made or allowed under this section after December 31,*
 12 *2003.*

13 “(d) *COORDINATION WITH CHILD TAX CREDIT.—*

14 “(1) *IN GENERAL.—The amount of credit which*
 15 *would (but for this subsection and section 26) be al-*
 16 *lowed under section 24 for the taxpayer’s first taxable*
 17 *year beginning in 2003 shall be reduced (but not*
 18 *below zero) by the payments made to the taxpayer*
 19 *under this section. Any failure to so reduce the credit*
 20 *shall be treated as arising out of a mathematical or*
 21 *clerical error and assessed according to section*
 22 *6213(b)(1).*

23 “(2) *JOINT RETURNS.—In the case of a payment*
 24 *under this section with respect to a joint return, half*

1 of such payment shall be treated as having been made
2 to each individual filing such return.

3 “(e) *NO INTEREST.*—No interest shall be allowed on
4 any overpayment attributable to this section.”.

5 (2) *CLERICAL AMENDMENT.*—The table of sec-
6 tions for subchapter B of chapter 65 is amended by
7 adding at the end the following new item:

“Sec. 6429. Advance payment of portion of increased child credit for 2003.”.

8 (d) *EFFECTIVE DATES.*—

9 (1) *IN GENERAL.*—Except as provided in para-
10 graph (2), the amendments made by this section shall
11 apply to taxable years beginning after December 31,
12 2002.

13 (2) *SUBSECTION (c).*—The amendments made by
14 subsection (c) shall take effect on the date of the enact-
15 ment of this Act.

16 **SEC. 107. INCREASED EXPENSING FOR SMALL BUSINESS.**

17 (a) *IN GENERAL.*—Paragraph (1) of section 179(b)
18 (relating to dollar limitation) is amended to read as follows:

19 “(1) *DOLLAR LIMITATION.*—The aggregate cost
20 which may be taken into account under subsection (a)
21 for any taxable year shall not exceed \$75,000.”.

22 (b) *INCREASE IN QUALIFYING INVESTMENT AT WHICH*
23 *PHASEOUT BEGINS.*—Paragraph (2) of section 179(b) (re-
24 lating to reduction in limitation) is amended by striking
25 “\$200,000” and inserting “\$325,000”.

1 (c) *OFF-THE-SHELF COMPUTER SOFTWARE.*—Para-
 2 graph (1) of section 179(d) (defining section 179 property)
 3 is amended to read as follows:

4 “(1) *SECTION 179 PROPERTY.*—For purposes of
 5 this section, the term ‘section 179 property’ means
 6 property—

7 “(A) which is—

8 “(i) tangible property (to which section
 9 168 applies), or

10 “(ii) computer software (as defined in
 11 section 197(e)(3)(B)) which is described in
 12 section 197(e)(3)(A)(i) and to which section
 13 167 applies,

14 “(B) which is section 1245 property (as de-
 15 fined in section 1245(a)(3)), and

16 “(C) which is acquired by purchase for use
 17 in the active conduct of a trade or business.

18 Such term shall not include any property described in
 19 section 50(b) and shall not include air conditioning
 20 or heating units.”.

21 (d) *ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT*
 22 *THRESHOLD FOR INFLATION.*—Subsection (b) of section
 23 179 (relating to limitations) is amended by adding at the
 24 end the following new paragraph:

25 “(5) *INFLATION ADJUSTMENTS.*—

1 “(A) *IN GENERAL.*—*In the case of any tax-*
 2 *able year beginning in a calendar year after*
 3 *2003, the dollar amounts in paragraphs (1) and*
 4 *(2) shall each be increased by an amount equal*
 5 *to—*

6 “(i) *such dollar amount, multiplied by*

7 “(ii) *the cost-of-living adjustment de-*
 8 *termined under section 1(f)(3) for the cal-*
 9 *endar year in which the taxable year be-*
 10 *gins, by substituting ‘calendar year 2002’*
 11 *for ‘calendar year 1992’ in subparagraph*
 12 *(B) thereof.*

13 “(B) *ROUNDING.*—

14 “(i) *DOLLAR LIMITATION.*—*If the*
 15 *amount in paragraph (1) as increased*
 16 *under subparagraph (A) is not a multiple*
 17 *of \$1,000, such amount shall be rounded to*
 18 *the nearest multiple of \$1,000.*

19 “(ii) *PHASEOUT AMOUNT.*—*If the*
 20 *amount in paragraph (2) as increased*
 21 *under subparagraph (A) is not a multiple*
 22 *of \$10,000, such amount shall be rounded to*
 23 *the nearest multiple of \$10,000.”.*

1 (e) *REVOCATION OF ELECTION.*—Paragraph (2) of sec-
 2 tion 179(c) (relating to election irrevocable) is amended to
 3 read as follows:

4 “(2) *REVOCATION OF ELECTION.*—The taxpayer
 5 may revoke an election under paragraph (1), and any
 6 specification contained in any such election, with re-
 7 spect to any property. Such revocation, once made,
 8 shall be irrevocable.”.

9 (f) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall apply to taxable years beginning after Decem-
 11 ber 31, 2002.

12 **SEC. 108. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

13 Each amendment made by this title (other than section
 14 107) shall be subject to title IX of the Economic Growth
 15 and Tax Relief Reconciliation Act of 2001 to the same ex-
 16 tent and in the same manner as the provision of such Act
 17 to which such amendment relates.

18 **TITLE II—PARTIAL EXCLUSION**
 19 **OF DIVIDENDS**

20 **SEC. 201. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY**
 21 **INDIVIDUALS.**

22 (a) *GENERAL RULE.*—Part III of subchapter B of
 23 chapter 1 is amended by inserting after section 115 the fol-
 24 lowing new section:

1 ***“SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED***
 2 ***BY INDIVIDUALS.***

3 *“(a) EXCLUSION FROM GROSS INCOME.—*

4 *“(1) IN GENERAL.—Gross income does not in-*
 5 *clude qualified dividend income received during the*
 6 *taxable year by an individual.*

7 *“(2) LIMITATION.—Paragraph (1) shall apply to*
 8 *qualified dividend income of a taxpayer only to the*
 9 *extent such income does not exceed the sum of—*

10 *“(A) \$500 (\$250 in the case of a married*
 11 *individual filing a separate return), plus*

12 *“(B) 10 percent (20 percent in the case of*
 13 *taxable years beginning after 2007) of such in-*
 14 *come in excess of the amount applicable under*
 15 *subparagraph (A).*

16 *“(b) QUALIFIED DIVIDEND INCOME.—For purposes of*
 17 *this subsection—*

18 *“(1) IN GENERAL.—The term ‘qualified dividend*
 19 *income’ means dividends received with respect to any*
 20 *share of stock of—*

21 *“(A) any domestic corporation, or*

22 *“(B) any foreign corporation but only if*
 23 *such share of stock is readily tradable on an es-*
 24 *tablished securities market.*

25 *“(2) CERTAIN DIVIDENDS EXCLUDED.—Such*
 26 *term shall not include—*

1 “(A) any dividend from a corporation
 2 which for the taxable year of the corporation in
 3 which the distribution is made, or the preceding
 4 taxable year, is a corporation exempt from tax
 5 under section 501 or 521,

6 “(B) any amount allowed as a deduction
 7 under section 591 (relating to deduction for divi-
 8 dends paid by mutual savings banks, etc.), and

9 “(C) any dividend described in section
 10 404(k).

11 “(3) *EXCLUSION OF DIVIDENDS OF CERTAIN FOR-*
 12 *EIGN CORPORATIONS.*—Such term shall not include
 13 any dividend from a foreign corporation which for
 14 the taxable year of the corporation in which the dis-
 15 tribution was made, or the preceding taxable year, is
 16 a foreign personal holding company (as defined in
 17 section 552), a foreign investment company (as de-
 18 fined in section 1246(b)), or a passive foreign invest-
 19 ment company (as defined in section 1297).

20 “(4) *COORDINATION WITH SECTION 246(C).*—Such
 21 term shall not include any dividend on any share of
 22 stock—

23 “(A) with respect to which the holding pe-
 24 riod requirements of section 246(c) are not met,
 25 or

1 “(B) to the extent that the taxpayer is
 2 under an obligation (whether pursuant to a short
 3 sale or otherwise) to make related payments with
 4 respect to positions in substantially similar or
 5 related property.

6 “(c) *SPECIAL RULES.*—

7 “(1) *AMOUNTS TAKEN INTO ACCOUNT AS INVEST-*
 8 *MENT INCOME.*—Qualified dividend income shall not
 9 include any amount which the taxpayer takes into ac-
 10 count as investment income under section
 11 163(d)(4)(B).

12 “(2) *COORDINATION WITH FOREIGN TAX CREDIT*
 13 *AND DEDUCTION.*—No credit shall be allowed under
 14 section 901, and no deduction shall be allowed under
 15 this chapter, for any taxes paid or accrued with re-
 16 spect to any income excludable under this section.

17 “(3) *EXTRAORDINARY DIVIDENDS.*—If an indi-
 18 vidual receives, with respect to any share of stock,
 19 qualified dividend income from 1 or more dividends
 20 which are extraordinary dividends (within the mean-
 21 ing of section 1059(c)), any loss on the sale or ex-
 22 change of such share shall, to the extent of such divi-
 23 dends, be treated as long-term capital loss.

24 “(4) *CERTAIN NONRESIDENT ALIENS INELIGIBLE*
 25 *FOR EXCLUSION.*—In the case of a nonresident alien

1 *individual, subsection (a) shall apply only in deter-*
 2 *mining the tax imposed for the taxable year by sec-*
 3 *tions 871(b)(1) and 877(b).*

4 “(5) *EXCLUSION DISREGARDED IN DETERMINING*
 5 *INCOME FOR CERTAIN PURPOSES.—Subsection (a)*
 6 *shall not apply for purposes of determining amounts*
 7 *of income under sections 32(i), 86(b), 135(b), 137(b),*
 8 *219(g), 221(b), 222(b), 408A(c)(3), 469(i), and 530(c),*
 9 *or subpart A of part IV of subchapter A.*

10 “(6) *TREATMENT OF DIVIDENDS FROM REGU-*
 11 *LATED INVESTMENT COMPANIES AND REAL ESTATE*
 12 *INVESTMENT TRUSTS.—A dividend from a regulated*
 13 *investment company or real estate investment trust*
 14 *shall be subject to the limitations prescribed in sec-*
 15 *tions 854 and 857.”.*

16 (b) *EXCLUSION OF DIVIDENDS FROM INVESTMENT IN-*
 17 *COME.—Subparagraph (B) of section 163(d)(4) (defining*
 18 *net investment income) is amended by adding at the end*
 19 *the following flush sentence:*

20 “Such term shall include qualified dividend in-
 21 *come (as defined in section 116(b)) only to the*
 22 *extent the taxpayer elects to treat such income as*
 23 *investment income for purposes of this sub-*
 24 *section.”.*

1 (c) *TREATMENT OF DIVIDENDS FROM REGULATED IN-*
 2 *VESTMENT COMPANIES.*—

3 (1) *Subsection (a) of section 854 (relating to*
 4 *dividends received from regulated investment compa-*
 5 *nies) is amended by inserting “section 116 (relating*
 6 *to partial exclusion of dividends received by individ-*
 7 *uals) and” after “For purposes of”.*

8 (2) *Paragraph (1) of section 854(b) (relating to*
 9 *other dividends) is amended by redesignating sub-*
 10 *paragraph (B) as subparagraph (C) and by inserting*
 11 *after subparagraph (A) the following new subpara-*
 12 *graph:*

13 “(B) *EXCLUSION UNDER SECTION 116.*—

14 “(i) *IN GENERAL.*—*If the aggregate*
 15 *dividends received by a regulated invest-*
 16 *ment company during any taxable year are*
 17 *less than 95 percent of its gross income,*
 18 *then, in computing the exclusion under sec-*
 19 *tion 116, rules similar to the rules of sub-*
 20 *paragraph (A) shall apply.*

21 “(ii) *GROSS INCOME.*—*For purposes of*
 22 *clause (i), in the case of 1 or more sales or*
 23 *other dispositions of stock or securities, the*
 24 *term ‘gross income’ includes only the excess*
 25 *of—*

1 “(I) the net short-term capital
2 gain from such sales or dispositions,
3 over

4 “(II) the net long-term capital
5 loss from such sales or dispositions.”.

6 (3) Subparagraph (C) of section 854(b)(1), as re-
7 designated by paragraph (2), is amended by striking
8 “subparagraph (A)” and inserting “subparagraph (A)
9 or (B)”.

10 (4) Paragraph (2) of section 854(b) is amended
11 by inserting “the exclusion under section 116 and”
12 after “for purposes of”.

13 (5) Subsection (b) of section 854 is amended by
14 adding at the end the following new paragraph:

15 “(5) COORDINATION WITH SECTION 116.—For
16 purposes of paragraph (1)(B), an amount shall be
17 treated as a dividend only if the amount is qualified
18 dividend income (within the meaning of section
19 116(b)).”.

20 (d) TREATMENT OF DIVIDENDS RECEIVED FROM REAL
21 ESTATE INVESTMENT TRUSTS.—Section 857(c) (relating to
22 restrictions applicable to dividends received from real estate
23 investment trusts) is amended to read as follows:

24 “(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RE-
25 CEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

1 “(1) *SECTION 243.*—For purposes of section 243
 2 *(relating to deductions for dividends received by cor-*
 3 *porations), a dividend received from a real estate in-*
 4 *vestment trust which meets the requirements of this*
 5 *part shall not be considered a dividend.*

6 “(2) *SECTION 116.*—For purposes of section 116
 7 *(relating to exclusion of dividends), rules similar to*
 8 *the rules of section 854(b)(1)(B) shall apply to divi-*
 9 *dends received from a real estate trust which meets*
 10 *the requirements of this part.”.*

11 *(e) CONFORMING AMENDMENTS.*—

12 *(1) Subsection (f) of section 301 is amended add-*
 13 *ing at the end the following new paragraph:*

14 “(4) *For partial exclusion from gross income of*
 15 *dividends received by individuals, see section 116.”.*

16 *(2) Paragraph (1) of section 306(a) is amended*
 17 *by adding at the end the following new subparagraph:*

18 “(D) *TREATMENT AS DIVIDEND.*—For pur-
 19 *poses of section 116, any amount treated as ordi-*
 20 *nary income under this paragraph shall be treat-*
 21 *ed as a dividend received from the corporation.”.*

22 *(3)(A) Subpart C of part II of subchapter C of*
 23 *chapter 1 (relating to collapsible corporations) is re-*
 24 *pealed.*

1 (B)(i) *Section 338(h) is amended by striking*
 2 *paragraph (14).*

3 (ii) *Sections 467(c)(5)(C), 1255(b)(2), and*
 4 *1257(d) are each amended by striking “, 341(e)(12),”.*

5 (iii) *The table of subparts for part II of sub-*
 6 *chapter C of chapter 1 is amended by striking the*
 7 *item related to subpart C.*

8 (4) *Section 531(a) is amended by inserting “90*
 9 *percent (80 percent in the case of taxable years begin-*
 10 *ning after 2007) of” after “equal to”.*

11 (5) *Section 541(a) is amended by inserting “90*
 12 *percent (80 percent in the case of taxable years begin-*
 13 *ning after 2007) of” after “equal to”.*

14 (6) *Section 584(c) is amended by adding at the*
 15 *end the following new flush sentence:*

16 *“The proportionate share of each participant in the amount*
 17 *of dividends received by the common trust fund and to*
 18 *which section 116 applies shall be considered for purposes*
 19 *of such paragraph as having been received by such partici-*
 20 *pant.”.*

21 (7) *Section 643(a) is amended by redesignating*
 22 *paragraph (7) as paragraph (8) and by inserting*
 23 *after paragraph (6) the following new paragraph:*

24 *“(7) EXCLUDED DIVIDENDS.—There shall be in-*
 25 *cluded the amount of any dividends excluded from*

1 *gross income under section 116 (relating to partial*
 2 *exclusion of dividends).”.*

3 *(8) Paragraph (5) of section 702(a) is amended*
 4 *to read as follows:*

5 *“(5) dividends with respect to which section 116*
 6 *or part VII of subchapter B applies,”.*

7 *(f) EFFECTIVE DATE.—The amendments made by this*
 8 *section shall apply to taxable years beginning after Decem-*
 9 *ber 31, 2003.*

10 ***TITLE III—REVENUE***
 11 ***PROVISIONS***
 12 ***Subtitle A—Provisions Designed To***
 13 ***Curtail Tax Shelters***

14 ***SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-***
 15 ***TRINE.***

16 *(a) IN GENERAL.—Section 7701 is amended by redес-*
 17 *ignating subsection (n) as subsection (o) and by inserting*
 18 *after subsection (m) the following new subsection:*

19 *“(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOC-*
 20 *TRINE; ETC.—*

21 *“(1) GENERAL RULES.—*

22 *“(A) IN GENERAL.—In applying the eco-*
 23 *nomie substance doctrine, the determination of*
 24 *whether a transaction has economic substance*
 25 *shall be made as provided in this paragraph.*

1 “(B) *DEFINITION OF ECONOMIC SUB-*
2 *STANCE.—For purposes of subparagraph (A)—*

3 “(i) *IN GENERAL.—A transaction has*
4 *economic substance only if—*

5 “(I) *the transaction changes in a*
6 *meaningful way (apart from Federal*
7 *tax effects) the taxpayer’s economic po-*
8 *sition, and*

9 “(II) *the taxpayer has a substan-*
10 *tial nontax purpose for entering into*
11 *such transaction and the transaction is*
12 *a reasonable means of accomplishing*
13 *such purpose.*

14 *In applying subclause (II), a purpose of*
15 *achieving a financial accounting benefit*
16 *shall not be taken into account in deter-*
17 *mining whether a transaction has a sub-*
18 *stantial nontax purpose if the origin of such*
19 *financial accounting benefit is a reduction*
20 *of income tax.*

21 “(ii) *SPECIAL RULE WHERE TAXPAYER*
22 *RELIES ON PROFIT POTENTIAL.—A trans-*
23 *action shall not be treated as having eco-*
24 *nomie substance by reason of having a po-*
25 *tential for profit unless—*

1 “(I) the present value of the rea-
 2 sonably expected pre-tax profit from
 3 the transaction is substantial in rela-
 4 tion to the present value of the expected
 5 net tax benefits that would be allowed
 6 if the transaction were respected, and

7 “(II) the reasonably expected pre-
 8 tax profit from the transaction exceeds
 9 a risk-free rate of return.

10 “(C) *TREATMENT OF FEES AND FOREIGN*
 11 *TAXES.—Fees and other transaction expenses*
 12 *and foreign taxes shall be taken into account as*
 13 *expenses in determining pre-tax profit under*
 14 *subparagraph (B)(ii).*

15 “(2) *SPECIAL RULES FOR TRANSACTIONS WITH*
 16 *TAX-INDIFFERENT PARTIES.—*

17 “(A) *SPECIAL RULES FOR FINANCING*
 18 *TRANSACTIONS.—The form of a transaction*
 19 *which is in substance the borrowing of money or*
 20 *the acquisition of financial capital directly or*
 21 *indirectly from a tax-indifferent party shall not*
 22 *be respected if the present value of the deductions*
 23 *to be claimed with respect to the transaction is*
 24 *substantially in excess of the present value of the*
 25 *anticipated economic returns of the person lend-*

ing the money or providing the financial capital.
 A public offering shall be treated as a borrowing,
 or an acquisition of financial capital, from a
 tax-indifferent party if it is reasonably expected
 that at least 50 percent of the offering will be
 placed with tax-indifferent parties.

“(B) *ARTIFICIAL INCOME SHIFTING AND
 BASIS ADJUSTMENTS.*—The form of a trans-
 action with a tax-indifferent party shall not be
 respected if—

“(i) it results in an allocation of in-
 come or gain to the tax-indifferent party in
 excess of such party’s economic income or
 gain, or

“(ii) it results in a basis adjustment or
 shifting of basis on account of overstating
 the income or gain of the tax-indifferent
 party.

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

“(A) *ECONOMIC SUBSTANCE DOCTRINE.*—
 The term ‘economic substance doctrine’ means
 the common law doctrine under which tax bene-
 fits under subtitle A with respect to a trans-
 action are not allowable if the transaction does

1 *not have economic substance or lacks a business*
 2 *purpose.*

3 “(B) *TAX-INDIFFERENT PARTY.*—*The term*
 4 *‘tax-indifferent party’ means any person or enti-*
 5 *ty not subject to tax imposed by subtitle A. A*
 6 *person shall be treated as a tax-indifferent party*
 7 *with respect to a transaction if the items taken*
 8 *into account with respect to the transaction have*
 9 *no substantial impact on such person’s liability*
 10 *under subtitle A.*

11 “(C) *EXCEPTION FOR PERSONAL TRANS-*
 12 *ACTIONS OF INDIVIDUALS.*—*In the case of an in-*
 13 *dividual, this subsection shall apply only to*
 14 *transactions entered into in connection with a*
 15 *trade or business or an activity engaged in for*
 16 *the production of income.*

17 “(D) *TREATMENT OF LESSORS.*—*A lessor of*
 18 *tangible property subject to a lease shall be treat-*
 19 *ed as satisfying the requirements of paragraph*
 20 *(1)(B)(ii) with respect to the leased property if*
 21 *such lease satisfies such requirements as provided*
 22 *by the Secretary.*

23 “(4) *OTHER COMMON LAW DOCTRINES NOT AF-*
 24 *FECTED.*—*Except as specifically provided in this sub-*
 25 *section, the provisions of this subsection shall not be*

1 *construed as altering or supplanting any other rule of*
2 *law, and the requirements of this subsection shall be*
3 *construed as being in addition to any such other rule*
4 *of law.*

5 “(5) *REGULATIONS.*—The Secretary shall pre-
6 scribe such regulations as may be necessary or appro-
7 priate to carry out the purposes of this subsection.
8 Such regulations may include exemptions from the
9 application of this subsection.”.

10 (b) *EFFECTIVE DATE.*—*The amendments made by this*
11 *section shall apply to transactions entered into on or after*
12 *May 8, 2003.*

13 **SEC. 302. PENALTY FOR FAILING TO DISCLOSE REPORT-**
14 **ABLE TRANSACTION.**

15 (a) *IN GENERAL.*—Part I of subchapter B of chapter
16 68 (relating to assessable penalties) is amended by inserting
17 after section 6707 the following new section:

18 ***“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-***
19 ***ABLE TRANSACTION INFORMATION WITH RE-***
20 ***TURN OR STATEMENT.***

21 “(a) IMPOSITION OF PENALTY.—Any person who fails
22 to include on any return or statement any information with
23 respect to a reportable transaction which is required under
24 section 6011 to be included with such return or statement

1 *shall pay a penalty in the amount determined under sub-*
 2 *section (b).*

3 “(b) *AMOUNT OF PENALTY.*—

4 “(1) *IN GENERAL.*—*Except as provided in para-*
 5 *graphs (2) and (3), the amount of the penalty under*
 6 *subsection (a) shall be \$50,000.*

7 “(2) *LISTED TRANSACTION.*—*The amount of the*
 8 *penalty under subsection (a) with respect to a listed*
 9 *transaction shall be \$100,000.*

10 “(3) *INCREASE IN PENALTY FOR LARGE ENTITIES*
 11 *AND HIGH NET WORTH INDIVIDUALS.*—

12 “(A) *IN GENERAL.*—*In the case of a failure*
 13 *under subsection (a) by—*

14 “(i) *a large entity, or*

15 “(ii) *a high net worth individual,*
 16 *the penalty under paragraph (1) or (2) shall be*
 17 *twice the amount determined without regard to*
 18 *this paragraph.*

19 “(B) *LARGE ENTITY.*—*For purposes of sub-*
 20 *paragraph (A), the term ‘large entity’ means,*
 21 *with respect to any taxable year, a person (other*
 22 *than a natural person) with gross receipts in ex-*
 23 *cess of \$10,000,000 for the taxable year in which*
 24 *the reportable transaction occurs or the pre-*
 25 *ceding taxable year. Rules similar to the rules of*

1 paragraph (2) and subparagraphs (B), (C), and
 2 (D) of paragraph (3) of section 448(c) shall
 3 apply for purposes of this subparagraph.

4 “(C) *HIGH NET WORTH INDIVIDUAL*.—For
 5 purposes of subparagraph (A), the term ‘high net
 6 worth individual’ means, with respect to a re-
 7 reportable transaction, a natural person whose net
 8 worth exceeds \$2,000,000 immediately before the
 9 transaction.

10 “(c) *DEFINITIONS*.—For purposes of this section—

11 “(1) *REPORTABLE TRANSACTION*.—The term ‘re-
 12 reportable transaction’ means any transaction with re-
 13 spect to which information is required to be included
 14 with a return or statement because, as determined
 15 under regulations prescribed under section 6011, such
 16 transaction is of a type which the Secretary deter-
 17 mines as having a potential for tax avoidance or eva-
 18 sion.

19 “(2) *LISTED TRANSACTION*.—Except as provided
 20 in regulations, the term ‘listed transaction’ means a
 21 reportable transaction which is the same as, or sub-
 22 stantially similar to, a transaction specifically identi-
 23 fied by the Secretary as a tax avoidance transaction
 24 for purposes of section 6011.

25 “(d) *AUTHORITY TO RESCIND PENALTY*.—

1 “(1) *IN GENERAL.*—*The Commissioner of Inter-*
 2 *nal Revenue may rescind all or any portion of any*
 3 *penalty imposed by this section with respect to any*
 4 *violation if—*

5 “(A) *the violation is with respect to a re-*
 6 *portable transaction other than a listed trans-*
 7 *action,*

8 “(B) *the person on whom the penalty is im-*
 9 *posed has a history of complying with the re-*
 10 *quirements of this title,*

11 “(C) *it is shown that the violation is due to*
 12 *an unintentional mistake of fact;*

13 “(D) *imposing the penalty would be against*
 14 *equity and good conscience, and*

15 “(E) *rescinding the penalty would promote*
 16 *compliance with the requirements of this title*
 17 *and effective tax administration.*

18 “(2) *DISCRETION.*—*The exercise of authority*
 19 *under paragraph (1) shall be at the sole discretion of*
 20 *the Commissioner and may be delegated only to the*
 21 *head of the Office of Tax Shelter Analysis. The Com-*
 22 *missioner, in the Commissioner’s sole discretion, may*
 23 *establish a procedure to determine if a penalty should*
 24 *be referred to the Commissioner or the head of such*
 25 *Office for a determination under paragraph (1).*

1 “(3) *NO APPEAL.*—Notwithstanding any other
 2 provision of law, any determination under this sub-
 3 section may not be reviewed in any administrative or
 4 judicial proceeding.

5 “(4) *RECORDS.*—If a penalty is rescinded under
 6 paragraph (1), the Commissioner shall place in the
 7 file in the Office of the Commissioner the opinion of
 8 the Commissioner or the head of the Office of Tax
 9 Shelter Analysis with respect to the determination,
 10 including—

11 “(A) the facts and circumstances of the
 12 transaction,

13 “(B) the reasons for the rescission, and

14 “(C) the amount of the penalty rescinded.

15 “(5) *REPORT.*—The Commissioner shall each
 16 year report to the Committee on Ways and Means of
 17 the House of Representatives and the Committee on
 18 Finance of the Senate—

19 “(A) a summary of the total number and
 20 aggregate amount of penalties imposed, and re-
 21 scinded, under this section, and

22 “(B) a description of each penalty rescinded
 23 under this subsection and the reasons therefor.

24 “(e) *PENALTY REPORTED TO SEC.*—In the case of a
 25 person—

1 “(1) which is required to file periodic reports
 2 under section 13 or 15(d) of the Securities Exchange
 3 Act of 1934 or is required to be consolidated with an-
 4 other person for purposes of such reports, and

5 “(2) which—

6 “(A) is required to pay a penalty under
 7 this section with respect to a listed transaction,

8 “(B) is required to pay a penalty under sec-
 9 tion 6662A with respect to any reportable trans-
 10 action at a rate prescribed under section
 11 6662A(c), or

12 “(C) is required to pay a penalty under sec-
 13 tion 6662B with respect to any noneconomic
 14 substance transaction,

15 the requirement to pay such penalty shall be disclosed in
 16 such reports filed by such person for such periods as the
 17 Secretary shall specify. Failure to make a disclosure in ac-
 18 cordance with the preceding sentence shall be treated as a
 19 failure to which the penalty under subsection (b)(2) applies.

20 “(f) COORDINATION WITH OTHER PENALTIES.—The
 21 penalty imposed by this section is in addition to any pen-
 22 alty imposed under this title.”.

23 (b) CONFORMING AMENDMENT.—The table of sections
 24 for part I of subchapter B of chapter 68 is amended by

1 *inserting after the item relating to section 6707 the fol-*
 2 *lowing:*

*“Sec. 6707A. Penalty for failure to include reportable transaction
 information with return or statement.”.*

3 *(c) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to returns and statements the due date*
 5 *for which is after the date of the enactment of this Act.*

6 **SEC. 303. ACCURACY-RELATED PENALTY FOR LISTED**
 7 **TRANSACTIONS AND OTHER REPORTABLE**
 8 **TRANSACTIONS HAVING A SIGNIFICANT TAX**
 9 **AVOIDANCE PURPOSE.**

10 *(a) IN GENERAL.—Subchapter A of chapter 68 is*
 11 *amended by inserting after section 6662 the following new*
 12 *section:*

13 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY**
 14 **ON UNDERSTATEMENTS WITH RESPECT TO**
 15 **REPORTABLE TRANSACTIONS.**

16 *“(a) IMPOSITION OF PENALTY.—If a taxpayer has a*
 17 *reportable transaction understatement for any taxable year,*
 18 *there shall be added to the tax an amount equal to 20 per-*
 19 *cent of the amount of such understatement.*

20 *“(b) REPORTABLE TRANSACTION UNDERSTATE-*
 21 *MENT.—For purposes of this section—*

22 *“(1) IN GENERAL.—The term ‘reportable trans-*
 23 *action understatement’ means the sum of—*

24 *“(A) the product of—*

1 “(i) the amount of the increase (if any)
 2 in taxable income which results from a dif-
 3 ference between the proper tax treatment of
 4 an item to which this section applies and
 5 the taxpayer’s treatment of such item (as
 6 shown on the taxpayer’s return of tax), and

7 “(ii) the highest rate of tax imposed by
 8 section 1 (section 11 in the case of a tax-
 9 payer which is a corporation), and

10 “(B) the amount of the decrease (if any) in
 11 the aggregate amount of credits determined
 12 under subtitle A which results from a difference
 13 between the taxpayer’s treatment of an item to
 14 which this section applies (as shown on the tax-
 15 payer’s return of tax) and the proper tax treat-
 16 ment of such item.

17 For purposes of subparagraph (A), any reduction of
 18 the excess of deductions allowed for the taxable year
 19 over gross income for such year, and any reduction
 20 in the amount of capital losses which would (without
 21 regard to section 1211) be allowed for such year, shall
 22 be treated as an increase in taxable income.

23 “(2) ITEMS TO WHICH SECTION APPLIES.—This
 24 section shall apply to any item which is attributable
 25 to—

1 “(A) *any listed transaction, and*

2 “(B) *any reportable transaction (other than*
 3 *a listed transaction) if a significant purpose of*
 4 *such transaction is the avoidance or evasion of*
 5 *Federal income tax.*

6 “(c) *HIGHER PENALTY FOR NONDISCLOSED LISTED*
 7 *AND OTHER AVOIDANCE TRANSACTIONS.—*

8 “(1) *IN GENERAL.—*Subsection (a) *shall be ap-*
 9 *plied by substituting ‘30 percent’ for ‘20 percent’ with*
 10 *respect to the portion of any reportable transaction*
 11 *understatement with respect to which the requirement*
 12 *of section 6664(d)(2)(A) is not met.*

13 “(2) *RULES APPLICABLE TO COMPROMISE OF*
 14 *PENALTY.—*

15 “(A) *IN GENERAL.—*If the 1st letter of pro-
 16 *posed deficiency which allows the taxpayer an*
 17 *opportunity for administrative review in the In-*
 18 *ternal Revenue Service Office of Appeals has*
 19 *been sent with respect to a penalty to which*
 20 *paragraph (1) applies, only the Commissioner of*
 21 *Internal Revenue may compromise all or any*
 22 *portion of such penalty.*

23 “(B) *APPLICABLE RULES.—*The rules of
 24 *paragraphs (2), (3), (4), and (5) of section*

1 6707A(d) shall apply for purposes of subpara-
2 graph (A).

3 “(d) *DEFINITIONS OF REPORTABLE AND LISTED*
4 *TRANSACTIONS.*—For purposes of this section, the terms ‘re-
5 portable transaction’ and ‘listed transaction’ have the re-
6 spective meanings given to such terms by section 6707A(c).

7 “(e) *SPECIAL RULES.*—

8 “(1) *COORDINATION WITH PENALTIES, ETC., ON*
9 *OTHER UNDERSTATEMENTS.*—In the case of an under-
10 statement (as defined in section 6662(d)(2))—

11 “(A) the amount of such understatement
12 (determined without regard to this paragraph)
13 shall be increased by the aggregate amount of re-
14 reportable transaction understatements and non-
15 economic substance transaction understatements
16 for purposes of determining whether such under-
17 statement is a substantial understatement under
18 section 6662(d)(1), and

19 “(B) the addition to tax under section
20 6662(a) shall apply only to the excess of the
21 amount of the substantial understatement (if
22 any) after the application of subparagraph (A)
23 over the aggregate amount of reportable trans-
24 action understatements and noneconomic sub-
25 stance transaction understatements.

1 “(2) *COORDINATION WITH OTHER PENALTIES.*—

2 “(A) *APPLICATION OF FRAUD PENALTY.*—

3 *References to an underpayment in section 6663*
 4 *shall be treated as including references to a re-*
 5 *portable transaction understatement and a non-*
 6 *economic substance transaction understatement.*

7 “(B) *NO DOUBLE PENALTY.*—*This section*
 8 *shall not apply to any portion of an understate-*
 9 *ment on which a penalty is imposed under sec-*
 10 *tion 6662B or 6663.*

11 “(3) *SPECIAL RULE FOR AMENDED RETURNS.*—
 12 *Except as provided in regulations, in no event shall*
 13 *any tax treatment included with an amendment or*
 14 *supplement to a return of tax be taken into account*
 15 *in determining the amount of any reportable trans-*
 16 *action understatement or noneconomic substance*
 17 *transaction understatement if the amendment or sup-*
 18 *plement is filed after the earlier of the date the tax-*
 19 *payer is first contacted by the Secretary regarding the*
 20 *examination of the return or such other date as is*
 21 *specified by the Secretary.*

22 “(4) *NONECONOMIC SUBSTANCE TRANS-*
 23 *ACTION UNDERSTATEMENT.*—*For purposes of this*
 24 *subsection, the term ‘noneconomic substance*

1 *transaction understatement’ has the meaning*
 2 *given such term by section 6662B(c).*

3 “(5) *CROSS REFERENCE.*—

***“For reporting of section 6662A(c) penalty to the
 Securities and Exchange Commission, see section
 6707A(e).”.***

4 (b) *DETERMINATION OF OTHER UNDERSTATE-*
 5 *MENTS.*—Subparagraph (A) of section 6662(d)(2) is
 6 *amended by adding at the end the following flush sentence:*
 7 *“The excess under the preceding sentence shall be*
 8 *determined without regard to items to which sec-*
 9 *tion 6662A applies and without regard to items*
 10 *with respect to which a penalty is imposed by*
 11 *section 6662B.”.*

12 (c) *REASONABLE CAUSE EXCEPTION.*—

13 (1) *IN GENERAL.*—Section 6664 is amended by
 14 *adding at the end the following new subsection:*

15 “(d) *REASONABLE CAUSE EXCEPTION FOR REPORT-*
 16 *ABLE TRANSACTION UNDERSTATEMENTS.*—

17 “(1) *IN GENERAL.*—No penalty shall be imposed
 18 *under section 6662A with respect to any portion of a*
 19 *reportable transaction understatement if it is shown*
 20 *that there was a reasonable cause for such portion*
 21 *and that the taxpayer acted in good faith with respect*
 22 *to such portion.*

1 “(2) *SPECIAL RULES.*—Paragraph (1) shall not
 2 *apply to any reportable transaction understatement*
 3 *unless—*

4 “(A) *the relevant facts affecting the tax*
 5 *treatment of the item are adequately disclosed in*
 6 *accordance with the regulations prescribed under*
 7 *section 6011,*

8 “(B) *there is or was substantial authority*
 9 *for such treatment, and*

10 “(C) *the taxpayer reasonably believed that*
 11 *such treatment was more likely than not the*
 12 *proper treatment.*

13 *A taxpayer failing to adequately disclose in accord-*
 14 *ance with section 6011 shall be treated as meeting the*
 15 *requirements of subparagraph (A) if the penalty for*
 16 *such failure was rescinded under section 6707A(d).*

17 “(3) *RULES RELATING TO REASONABLE BE-*
 18 *LIEF.*—*For purposes of paragraph (2)(C)—*

19 “(A) *IN GENERAL.*—*A taxpayer shall be*
 20 *treated as having a reasonable belief with respect*
 21 *to the tax treatment of an item only if such be-*
 22 *lief—*

23 “(i) *is based on the facts and law that*
 24 *exist at the time the return of tax which in-*
 25 *cludes such tax treatment is filed, and*

1 “(ii) relates solely to the taxpayer’s
 2 chances of success on the merits of such
 3 treatment and does not take into account
 4 the possibility that a return will not be au-
 5 dited, such treatment will not be raised on
 6 audit, or such treatment will be resolved
 7 through settlement if it is raised.

8 “(B) CERTAIN OPINIONS MAY NOT BE RE-
 9 LIED UPON.—

10 “(i) IN GENERAL.—An opinion of a
 11 tax advisor may not be relied upon to estab-
 12 lish the reasonable belief of a taxpayer if—

13 “(I) the tax advisor is described
 14 in clause (ii), or

15 “(II) the opinion is described in
 16 clause (iii).

17 “(ii) DISQUALIFIED TAX ADVISORS.—A
 18 tax advisor is described in this clause if the
 19 tax advisor—

20 “(I) is a material advisor (within
 21 the meaning of section 6111(b)(1)) who
 22 participates in the organization, man-
 23 agement, promotion, or sale of the
 24 transaction or who is related (within
 25 the meaning of section 267(b) or

1 707(b)(1)) to any person who so par-
2 ticipates,

3 “(II) is compensated directly or
4 indirectly by a material advisor with
5 respect to the transaction,

6 “(III) has a fee arrangement with
7 respect to the transaction which is con-
8 tingent on all or part of the intended
9 tax benefits from the transaction being
10 sustained, or

11 “(IV) as determined under regula-
12 tions prescribed by the Secretary, has a
13 continuing financial interest with re-
14 spect to the transaction.

15 “(iii) *DISQUALIFIED OPINIONS.*—For
16 purposes of clause (i), an opinion is dis-
17 qualified if the opinion—

18 “(I) is based on unreasonable fac-
19 tual or legal assumptions (including
20 assumptions as to future events),

21 “(II) unreasonably relies on rep-
22 resentations, statements, findings, or
23 agreements of the taxpayer or any
24 other person,

1 “(III) does not identify and con-
2 sider all relevant facts, or

3 “(IV) fails to meet any other re-
4 quirement as the Secretary may pre-
5 scribe.”.

6 (2) *CONFORMING AMENDMENT.*—The heading for
7 subsection (c) of section 6664 is amended by inserting
8 “FOR UNDERPAYMENTS” after “EXCEPTION”.

9 (d) *CONFORMING AMENDMENTS.*—

10 (1) Subparagraph (C) of section 461(i)(3) is
11 amended by striking “section 6662(d)(2)(C)(iii)” and
12 inserting “section 1274(b)(3)(C)”.

13 (2) Paragraph (3) of section 1274(b) is amend-
14 ed—

15 (A) by striking “(as defined in section
16 6662(d)(2)(C)(iii))” in subparagraph (B)(i), and

17 (B) by adding at the end the following new
18 subparagraph:

19 “(C) *TAX SHELTER.*—For purposes of sub-
20 paragraph (B), the term ‘tax shelter’ means—

21 “(i) a partnership or other entity,

22 “(ii) any investment plan or arrange-
23 ment, or

24 “(iii) any other plan or arrangement,

1 *if a significant purpose of such partnership, en-*
 2 *tity, plan, or arrangement is the avoidance or*
 3 *evasion of Federal income tax.”.*

4 (3) *Section 6662(d)(2) is amended by striking*
 5 *subparagraphs (C) and (D).*

6 (4) *Section 6664(c)(1) is amended by striking*
 7 *“this part” and inserting “section 6662 or 6663”.*

8 (5) *Subsection (b) of section 7525 is amended by*
 9 *striking “section 6662(d)(2)(C)(iii)” and inserting*
 10 *“section 1274(b)(3)(C)”.*

11 (6)(A) *The heading for section 6662 is amended*
 12 *to read as follows:*

13 ***“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY***
 14 ***ON UNDERPAYMENTS.”.***

15 (B) *The table of sections for part II of sub-*
 16 *chapter A of chapter 68 is amended by striking the*
 17 *item relating to section 6662 and inserting the fol-*
 18 *lowing new items:*

“Sec. 6662. Imposition of accuracy-related penalty on underpay-
 ments.

“Sec. 6662A. Imposition of accuracy-related penalty on understate-
 ments with respect to reportable transactions.”.

19 (e) ***EFFECTIVE DATE.***—*The amendments made by this*
 20 *section shall apply to taxable years ending after the date*
 21 *of the enactment of this Act.*

1 **SEC. 304. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 2 **UTABLE TO TRANSACTIONS LACKING ECO-**
 3 **NOMIC SUBSTANCE, ETC.**

4 (a) *IN GENERAL.*—Subchapter A of chapter 68 is
 5 amended by inserting after section 6662A the following new
 6 section:

7 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 8 **UTABLE TO TRANSACTIONS LACKING ECO-**
 9 **NOMIC SUBSTANCE, ETC.**

10 “(a) *IMPOSITION OF PENALTY.*—If a taxpayer has an
 11 noneconomic substance transaction understatement for any
 12 taxable year, there shall be added to the tax an amount
 13 equal to 40 percent of the amount of such understatement.

14 “(b) *REDUCTION OF PENALTY FOR DISCLOSED TRANS-*
 15 *ACTIONS.*—Subsection (a) shall be applied by substituting
 16 ‘20 percent’ for ‘40 percent’ with respect to the portion of
 17 any noneconomic substance transaction understatement
 18 with respect to which the relevant facts affecting the tax
 19 treatment of the item are adequately disclosed in the return
 20 or a statement attached to the return.

21 “(c) *NONECONOMIC SUBSTANCE TRANSACTION UNDER-*
 22 *STATEMENT.*—For purposes of this section—

23 “(1) *IN GENERAL.*—The term ‘noneconomic sub-

24 stance transaction understatement’ means any

25 amount which would be an understatement under sec-

26 tion 6662A(b)(1) if section 6662A were applied by

1 *taking into account items attributable to noneconomic*
 2 *substance transactions rather than items to which sec-*
 3 *tion 6662A would apply without regard to this para-*
 4 *graph.*

5 “(2) *NONECONOMIC SUBSTANCE TRANSACTION.*—
 6 *The term ‘noneconomic substance transaction’ means*
 7 *any transaction if—*

8 “(A) *there is a lack of economic substance*
 9 *(within the meaning of section 7701(n)(1)) for*
 10 *the transaction giving rise to the claimed benefit*
 11 *or the transaction was not respected under sec-*
 12 *tion 7701(n)(2), or*

13 “(B) *the transaction fails to meet the re-*
 14 *quirements of any similar rule of law.*

15 “(d) *RULES APPLICABLE TO COMPROMISE OF PEN-*
 16 *ALTY.*—

17 “(1) *IN GENERAL.*—*If the 1st letter of proposed*
 18 *deficiency which allows the taxpayer an opportunity*
 19 *for administrative review in the Internal Revenue*
 20 *Service Office of Appeals has been sent with respect*
 21 *to a penalty to which this section applies, only the*
 22 *Commissioner of Internal Revenue may compromise*
 23 *all or any portion of such penalty.*

1 “(2) *APPLICABLE RULES.*—The rules of para-
 2 graphs (2), (3), (4), and (5) of section 6707A(d) shall
 3 apply for purposes of paragraph (1).

4 “(e) *COORDINATION WITH OTHER PENALTIES.*—Ex-
 5 cept as otherwise provided in this part, the penalty imposed
 6 by this section shall be in addition to any other penalty
 7 imposed by this title.

8 “(f) *CROSS REFERENCES.*—

**“(1) For coordination of penalty with understate-
 ments under section 6662 and other special rules, see
 section 6662A(e).**

**“(2) For reporting of penalty imposed under this
 section to the Securities and Exchange Commission,
 see section 6707A(e).”.**

9 (b) *CLERICAL AMENDMENT.*—The table of sections for
 10 part II of subchapter A of chapter 68 is amended by insert-
 11 ing after the item relating to section 6662A the following
 12 new item:

 “Sec. 6662B. Penalty for understatements attributable to trans-
 actions lacking economic substance, etc.”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this
 14 section shall apply to transactions entered into on or after
 15 May 8, 2003.

16 **SEC. 305. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**
 17 **MENT PENALTY FOR NONREPORTABLE**
 18 **TRANSACTIONS.**

19 (a) *SUBSTANTIAL UNDERSTATEMENT OF CORPORA-*
 20 *TIONS.*—Section 6662(d)(1)(B) (relating to special rule for
 21 corporations) is amended to read as follows:

“(B) *SPECIAL RULE FOR CORPORATIONS.*—

In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

“(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, \$10,000), or

“(ii) \$10,000,000.”.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER

DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

“(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or”.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

“(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1),

1 *the Secretary may prescribe a list of positions for*
 2 *which the Secretary believes there is not substantial*
 3 *authority or there is no reasonable belief that the tax*
 4 *treatment is more likely than not the proper tax*
 5 *treatment. Such list (and any revisions thereof) shall*
 6 *be published in the Federal Register or the Internal*
 7 *Revenue Bulletin.”.*

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

11 **SEC. 306. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**

12 **PRIVILEGES RELATING TO TAXPAYER COM-**
 13 **MUNICATIONS.**

14 *(a) IN GENERAL.—Section 7525(b) (relating to section*
 15 *not to apply to communications regarding corporate tax*
 16 *shelters) is amended to read as follows:*

17 “(b) **SECTION NOT TO APPLY TO COMMUNICATIONS**
 18 **REGARDING TAX SHELTERS.**—*The privilege under sub-*
 19 *section (a) shall not apply to any written communication*
 20 *which is—*

21 *“(1) between a federally authorized tax practi-*
 22 *tioner and—*

23 *“(A) any person,*

24 *“(B) any director, officer, employee, agent,*
 25 *or representative of the person, or*

1 “(C) any other person holding a capital or
2 profits interest in the person, and

3 “(2) in connection with the promotion of the di-
4 rect or indirect participation of the person in any tax
5 shelter (as defined in section 1274(b)(3)(C)).”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall apply to communications made on or after the
8 date of the enactment of this Act.

9 **SEC. 307. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

10 (a) *IN GENERAL.*—Section 6111 (relating to registra-
11 tion of tax shelters) is amended to read as follows:

12 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

13 “(a) *IN GENERAL.*—Each material advisor with re-
14 spect to any reportable transaction shall make a return (in
15 such form as the Secretary may prescribe) setting forth—

16 “(1) information identifying and describing the
17 transaction,

18 “(2) information describing any potential tax
19 benefits expected to result from the transaction, and

20 “(3) such other information as the Secretary
21 may prescribe.

22 Such return shall be filed not later than the date specified
23 by the Secretary.

24 “(b) *DEFINITIONS.*—For purposes of this section—

25 “(1) *MATERIAL ADVISOR.*—

1 “(A) *IN GENERAL.*—The term ‘material ad-
2 visor’ means any person—

3 “(i) *who provides any material aid,*
4 *assistance, or advice with respect to orga-*
5 *nizing, promoting, selling, implementing, or*
6 *carrying out any reportable transaction,*
7 *and*

8 “(ii) *who directly or indirectly derives*
9 *gross income in excess of the threshold*
10 *amount for such aid, assistance, or advice.*

11 “(B) *THRESHOLD AMOUNT.*—For purposes
12 of subparagraph (A), the threshold amount is—

13 “(i) *\$50,000 in the case of a reportable*
14 *transaction substantially all of the tax bene-*
15 *fits from which are provided to natural per-*
16 *sons, and*

17 “(ii) *\$250,000 in any other case.*

18 “(2) *REPORTABLE TRANSACTION.*—The term ‘re-
19 portable transaction’ has the meaning given to such
20 term by section 6707A(c).

21 “(c) *REGULATIONS.*—The Secretary may prescribe reg-
22 ulations which provide—

23 “(1) *that only 1 person shall be required to meet*
24 *the requirements of subsection (a) in cases in which*

1 2 or more persons would otherwise be required to meet
 2 such requirements,

3 “(2) exemptions from the requirements of this
 4 section, and

5 “(3) such rules as may be necessary or appro-
 6 priate to carry out the purposes of this section.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) The item relating to section 6111 in the table
 9 of sections for subchapter B of chapter 61 is amended
 10 to read as follows:

 “Sec. 6111. Disclosure of reportable transactions.”.

11 (2)(A) So much of section 6112 as precedes sub-
 12 section (c) thereof is amended to read as follows:

13 **“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-**
 14 **ACTIONS MUST KEEP LISTS OF ADVISEES.**

15 “(a) IN GENERAL.—Each material advisor (as defined
 16 in section 6111) with respect to any reportable transaction
 17 (as defined in section 6707A(c)) shall maintain, in such
 18 manner as the Secretary may by regulations prescribe, a
 19 list—

20 “(1) identifying each person with respect to
 21 whom such advisor acted as such a material advisor
 22 with respect to such transaction, and

23 “(2) containing such other information as the
 24 Secretary may by regulations require.

1 *This section shall apply without regard to whether a mate-*
 2 *rial advisor is required to file a return under section 6111*
 3 *with respect to such transaction.”.*

4 (B) *Section 6112 is amended by redesignating*
 5 *subsection (c) as subsection (b).*

6 (C) *Section 6112(b), as redesignated by subpara-*
 7 *graph (B), is amended—*

8 (i) *by inserting “written” before “request”*
 9 *in paragraph (1)(A), and*

10 (ii) *by striking “shall prescribe” in para-*
 11 *graph (2) and inserting “may prescribe”.*

12 (D) *The item relating to section 6112 in the*
 13 *table of sections for subchapter B of chapter 61 is*
 14 *amended to read as follows:*

*“Sec. 6112. Material advisors of reportable transactions must keep
 lists of advisees.”.*

15 (3)(A) *The heading for section 6708 is amended*
 16 *to read as follows:*

17 ***“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES***
 18 ***WITH RESPECT TO REPORTABLE TRANS-***
 19 ***ACTIONS.”.***

20 (B) *The item relating to section 6708 in the*
 21 *table of sections for part I of subchapter B of chapter*
 22 *68 is amended to read as follows:*

*“Sec. 6708. Failure to maintain lists of advisees with respect to re-
 portable transactions.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to transactions with respect to which*
 3 *material aid, assistance, or advice referred to in section*
 4 *6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as*
 5 *added by this section) is provided after the date of the enact-*
 6 *ment of this Act.*

7 ***SEC. 308. MODIFICATIONS TO PENALTY FOR FAILURE TO***
 8 ***REGISTER TAX SHELTERS.***

9 (a) *IN GENERAL.*—*Section 6707 (relating to failure to*
 10 *furnish information regarding tax shelters) is amended to*
 11 *read as follows:*

12 ***“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-***
 13 ***ING REPORTABLE TRANSACTIONS.***

14 “(a) *IN GENERAL.*—*If a person who is required to file*
 15 *a return under section 6111(a) with respect to any report-*
 16 *able transaction—*

17 “(1) *fails to file such return on or before the date*
 18 *prescribed therefor, or*

19 “(2) *files false or incomplete information with*
 20 *the Secretary with respect to such transaction,*

21 *such person shall pay a penalty with respect to such return*
 22 *in the amount determined under subsection (b).*

23 “(b) *AMOUNT OF PENALTY.*—

1 “(1) *IN GENERAL.*—*Except as provided in para-*
 2 *graph (2), the penalty imposed under subsection (a)*
 3 *with respect to any failure shall be \$50,000.*

4 “(2) *LISTED TRANSACTIONS.*—*The penalty im-*
 5 *posed under subsection (a) with respect to any listed*
 6 *transaction shall be an amount equal to the greater*
 7 *of—*

8 “(A) \$200,000, or

9 “(B) 50 percent of the gross income derived
 10 *by such person with respect to aid, assistance, or*
 11 *advice which is provided with respect to the list-*
 12 *ed transaction before the date the return includ-*
 13 *ing the transaction is filed under section 6111.*

14 *Subparagraph (B) shall be applied by substituting*
 15 *‘75 percent’ for ‘50 percent’ in the case of an inten-*
 16 *tional failure or act described in subsection (a).*

17 “(c) *RESCISSION AUTHORITY.*—*The provisions of sec-*
 18 *tion 6707A(d) (relating to authority of Commissioner to re-*
 19 *scind penalty) shall apply to any penalty imposed under*
 20 *this section.*

21 “(d) *REPORTABLE AND LISTED TRANSACTIONS.*—*The*
 22 *terms ‘reportable transaction’ and ‘listed transaction’ have*
 23 *the respective meanings given to such terms by section*
 24 *6707A(c).’.*

1 (b) *CLERICAL AMENDMENT.*—*The item relating to sec-*
 2 *tion 6707 in the table of sections for part I of subchapter*
 3 *B of chapter 68 is amended by striking “tax shelters” and*
 4 *inserting “reportable transactions”.*

5 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to returns the due date for which is after*
 7 *the date of the enactment of this Act.*

8 **SEC. 309. MODIFICATION OF PENALTY FOR FAILURE TO**
 9 **MAINTAIN LISTS OF INVESTORS.**

10 (a) *IN GENERAL.*—*Subsection (a) of section 6708 is*
 11 *amended to read as follows:*

12 “(a) *IMPOSITION OF PENALTY.*—

13 “(1) *IN GENERAL.*—*If any person who is re-*
 14 *quired to maintain a list under section 6112(a) fails*
 15 *to make such list available upon written request to*
 16 *the Secretary in accordance with section*
 17 *6112(b)(1)(A) within 20 business days after the date*
 18 *of the Secretary’s request, such person shall pay a*
 19 *penalty of \$10,000 for each day of such failure after*
 20 *such 20th day.*

21 “(2) *REASONABLE CAUSE EXCEPTION.*—*No pen-*
 22 *alty shall be imposed by paragraph (1) with respect*
 23 *to the failure on any day if such failure is due to rea-*
 24 *sonable cause.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to requests made after the date of the*
 3 *enactment of this Act.*

4 ***SEC. 310. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN***
 5 ***CONDUCT RELATED TO TAX SHELTERS AND***
 6 ***REPORTABLE TRANSACTIONS.***

7 (a) *IN GENERAL.*—*Section 7408 (relating to action to*
 8 *enjoin promoters of abusive tax shelters, etc.) is amended*
 9 *by redesignating subsection (c) as subsection (d) and by*
 10 *striking subsections (a) and (b) and inserting the following*
 11 *new subsections:*

12 “(a) *AUTHORITY TO SEEK INJUNCTION.*—*A civil ac-*
 13 *tion in the name of the United States to enjoin any person*
 14 *from further engaging in specified conduct may be com-*
 15 *menced at the request of the Secretary. Any action under*
 16 *this section shall be brought in the district court of the*
 17 *United States for the district in which such person resides,*
 18 *has his principal place of business, or has engaged in speci-*
 19 *fied conduct. The court may exercise its jurisdiction over*
 20 *such action (as provided in section 7402(a)) separate and*
 21 *apart from any other action brought by the United States*
 22 *against such person.*

23 “(b) *ADJUDICATION AND DECREE.*—*In any action*
 24 *under subsection (a), if the court finds—*

1 “(1) that the person has engaged in any specified
2 conduct, and

3 “(2) that injunctive relief is appropriate to pre-
4 vent recurrence of such conduct,
5 the court may enjoin such person from engaging in such
6 conduct or in any other activity subject to penalty under
7 this title.

8 “(c) *SPECIFIED CONDUCT.*—For purposes of this sec-
9 tion, the term ‘specified conduct’ means any action, or fail-
10 ure to take action, subject to penalty under section 6700,
11 6701, 6707, or 6708.”.

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) *The heading for section 7408 is amended to*
14 *read as follows:*

15 ***“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-***
16 ***LATED TO TAX SHELTERS AND REPORTABLE***
17 ***TRANSACTIONS.”.***

18 (2) *The table of sections for subchapter A of*
19 *chapter 67 is amended by striking the item relating*
20 *to section 7408 and inserting the following new item:*

*“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and re-
portable transactions.”.*

21 (c) *EFFECTIVE DATE.*—The amendment made by this
22 section shall take effect on the day after the date of the en-
23 actment of this Act.

1 **SEC. 311. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY**
 2 **INCOME TAX RETURN PREPARER.**

3 (a) *STANDARDS CONFORMED TO TAXPAYER STAND-*
 4 *ARDS.*—Section 6694(a) (relating to understatements due to
 5 *unrealistic positions*) is amended—

6 (1) by striking “realistic possibility of being sus-
 7 tained on its merits” in paragraph (1) and inserting
 8 “reasonable belief that the tax treatment in such posi-
 9 tion was more likely than not the proper treatment”,

10 (2) by striking “or was frivolous” in paragraph
 11 (3) and inserting “or there was no reasonable basis
 12 for the tax treatment of such position”, and

13 (3) by striking “UNREALISTIC” in the heading
 14 and inserting “IMPROPER”.

15 (b) *AMOUNT OF PENALTY.*—Section 6694 is amend-
 16 ed—

17 (1) by striking “\$250” in subsection (a) and in-
 18 serting “\$1,000”, and

19 (2) by striking “\$1,000” in subsection (b) and
 20 inserting “\$5,000”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
 22 section shall apply to documents prepared after the date
 23 of the enactment of this Act.

1 **SEC. 312. PENALTY ON FAILURE TO REPORT INTERESTS IN**
 2 **FOREIGN FINANCIAL ACCOUNTS.**

3 (a) *IN GENERAL.*—Section 5321(a)(5) of title 31,
 4 *United States Code*, is amended to read as follows:

5 “(5) *FOREIGN FINANCIAL AGENCY TRANSACTION*
 6 *VIOLATION.*—

7 “(A) *PENALTY AUTHORIZED.*—*The Sec-*
 8 *retary of the Treasury may impose a civil money*
 9 *penalty on any person who violates, or causes*
 10 *any violation of, any provision of section 5314.*

11 “(B) *AMOUNT OF PENALTY.*—

12 “(i) *IN GENERAL.*—*Except as provided*
 13 *in subparagraph (C), the amount of any*
 14 *civil penalty imposed under subparagraph*
 15 *(A) shall not exceed \$5,000.*

16 “(ii) *REASONABLE CAUSE EXCEP-*
 17 *TION.*—*No penalty shall be imposed under*
 18 *subparagraph (A) with respect to any viola-*
 19 *tion if—*

20 “(I) *such violation was due to*
 21 *reasonable cause, and*

22 “(II) *the amount of the trans-*
 23 *action or the balance in the account at*
 24 *the time of the transaction was prop-*
 25 *erly reported.*

1 “(C) *WILLFUL VIOLATIONS.*—*In the case of*
 2 *any person willfully violating, or willfully caus-*
 3 *ing any violation of, any provision of section*
 4 *5314—*

5 “(i) *the maximum penalty under sub-*
 6 *paragraph (B)(i) shall be increased to the*
 7 *greater of—*

8 “(I) *\$25,000, or*

9 “(II) *the amount (not exceeding*
 10 *\$100,000) determined under subpara-*
 11 *graph (D), and*

12 “(ii) *subparagraph (B)(ii) shall not*
 13 *apply.*

14 “(D) *AMOUNT.*—*The amount determined*
 15 *under this subparagraph is—*

16 “(i) *in the case of a violation involving*
 17 *a transaction, the amount of the trans-*
 18 *action, or*

19 “(ii) *in the case of a violation involv-*
 20 *ing a failure to report the existence of an*
 21 *account or any identifying information re-*
 22 *quired to be provided with respect to an ac-*
 23 *count, the balance in the account at the*
 24 *time of the violation.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to violations occurring after the date of*
 3 *the enactment of this Act.*

4 ***SEC. 313. FRIVOLOUS TAX SUBMISSIONS.***

5 (a) *CIVIL PENALTIES.*—*Section 6702 is amended to*
 6 *read as follows:*

7 ***“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.***

8 ***“(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-***
 9 ***URNS.***—*A person shall pay a penalty of \$5,000 if—*

10 *“(1) such person files what purports to be a re-*
 11 *turn of a tax imposed by this title but which—*

12 *“(A) does not contain information on which*
 13 *the substantial correctness of the self-assessment*
 14 *may be judged, or*

15 *“(B) contains information that on its face*
 16 *indicates that the self-assessment is substantially*
 17 *incorrect; and*

18 *“(2) the conduct referred to in paragraph (1)—*

19 *“(A) is based on a position which the Sec-*
 20 *retary has identified as frivolous under sub-*
 21 *section (c), or*

22 *“(B) reflects a desire to delay or impede the*
 23 *administration of Federal tax laws.*

24 ***“(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUB-***
 25 ***MISSIONS.***—

1 “(1) *IMPOSITION OF PENALTY.*—*Except as pro-*
 2 *vided in paragraph (3), any person who submits a*
 3 *specified frivolous submission shall pay a penalty of*
 4 *\$5,000.*

5 “(2) *SPECIFIED FRIVOLOUS SUBMISSION.*—*For*
 6 *purposes of this section—*

7 “(A) *SPECIFIED FRIVOLOUS SUBMISSION.*—
 8 *The term ‘specified frivolous submission’ means*
 9 *a specified submission if any portion of such*
 10 *submission—*

11 “(i) *is based on a position which the*
 12 *Secretary has identified as frivolous under*
 13 *subsection (c), or*

14 “(ii) *reflects a desire to delay or im-*
 15 *pede the administration of Federal tax*
 16 *laws.*

17 “(B) *SPECIFIED SUBMISSION.*—*The term*
 18 *‘specified submission’ means—*

19 “(i) *a request for a hearing under—*

20 “(I) *section 6320 (relating to no-*
 21 *tice and opportunity for hearing upon*
 22 *filing of notice of lien), or*

23 “(II) *section 6330 (relating to no-*
 24 *tice and opportunity for hearing before*
 25 *levy), and*

1 “(ii) an application under—

2 “(I) section 6159 (relating to
3 agreements for payment of tax liability
4 in installments),

5 “(II) section 7122 (relating to
6 compromises), or

7 “(III) section 7811 (relating to
8 taxpayer assistance orders).

9 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
10 SION.—If the Secretary provides a person with notice
11 that a submission is a specified frivolous submission
12 and such person withdraws such submission within
13 30 days after such notice, the penalty imposed under
14 paragraph (1) shall not apply with respect to such
15 submission.

16 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
17 retary shall prescribe (and periodically revise) a list of posi-
18 tions which the Secretary has identified as being frivolous
19 for purposes of this subsection. The Secretary shall not in-
20 clude in such list any position that the Secretary deter-
21 mines meets the requirement of section
22 6662(d)(2)(B)(ii)(II).

23 “(d) REDUCTION OF PENALTY.—The Secretary may
24 reduce the amount of any penalty imposed under this sec-
25 tion if the Secretary determines that such reduction would

1 *promote compliance with and administration of the Federal*
 2 *tax laws.*

3 “(e) *PENALTIES IN ADDITION TO OTHER PEN-*
 4 *ALTIES.—The penalties imposed by this section shall be in*
 5 *addition to any other penalty provided by law.”.*

6 (b) *TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-*
 7 *INGS BEFORE LEVY.—*

8 (1) *FRIVOLOUS REQUESTS DISREGARDED.—Sec-*
 9 *tion 6330 (relating to notice and opportunity for*
 10 *hearing before levy) is amended by adding at the end*
 11 *the following new subsection:*

12 “(g) *FRIVOLOUS REQUESTS FOR HEARING, ETC.—*
 13 *Notwithstanding any other provision of this section, if the*
 14 *Secretary determines that any portion of a request for a*
 15 *hearing under this section or section 6320 meets the require-*
 16 *ment of clause (i) or (ii) of section 6702(b)(2)(A), then the*
 17 *Secretary may treat such portion as if it were never sub-*
 18 *mitted and such portion shall not be subject to any further*
 19 *administrative or judicial review.”.*

20 (2) *PRECLUSION FROM RAISING FRIVOLOUS*
 21 *ISSUES AT HEARING.—Section 6330(c)(4) is amend-*
 22 *ed—*

23 (A) *by striking “(A)” and inserting*
 24 *“(A)(i)”;*

25 (B) *by striking “(B)” and inserting “(ii)”;*

1 (C) by striking the period at the end of the
2 first sentence and inserting “; or”; and

3 (D) by inserting after subparagraph (A)(ii)
4 (as so redesignated) the following:

5 “(B) the issue meets the requirement of
6 clause (i) or (ii) of section 6702(b)(2)(A).”.

7 (3) STATEMENT OF GROUNDS.—Section
8 6330(b)(1) is amended by striking “under subsection
9 (a)(3)(B)” and inserting “in writing under subsection
10 (a)(3)(B) and states the grounds for the requested
11 hearing”.

12 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-
13 INGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is
14 amended—

15 (1) in subsection (b)(1), by striking “under sub-
16 section (a)(3)(B)” and inserting “in writing under
17 subsection (a)(3)(B) and states the grounds for the re-
18 quested hearing”, and

19 (2) in subsection (c), by striking “and (e)” and
20 inserting “(e), and (g)”.

21 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
22 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
23 MENTS.—Section 7122 is amended by adding at the end
24 the following new subsection:

1 “(e) *FRIVOLOUS SUBMISSIONS, ETC.*—Notwith-
 2 standing any other provision of this section, if the Secretary
 3 determines that any portion of an application for an offer-
 4 in-compromise or installment agreement submitted under
 5 this section or section 6159 meets the requirement of clause
 6 (i) or (ii) of section 6702(b)(2)(A), then the Secretary may
 7 treat such portion as if it were never submitted and such
 8 portion shall not be subject to any further administrative
 9 or judicial review.”.

10 (e) *CLERICAL AMENDMENT.*—The table of sections for
 11 part I of subchapter B of chapter 68 is amended by striking
 12 the item relating to section 6702 and inserting the following
 13 new item:

“Sec. 6702. *Frivolous tax submissions.*”.

14 (f) *EFFECTIVE DATE.*—The amendments made by this
 15 section shall apply to submissions made and issues raised
 16 after the date on which the Secretary first prescribes a list
 17 under section 6702(c) of the Internal Revenue Code of 1986,
 18 as amended by subsection (a).

19 **SEC. 314. PENALTY ON PROMOTERS OF TAX SHELTERS.**

20 (a) *PENALTY ON PROMOTING ABUSIVE TAX SHEL-*
 21 *TERS.*—Section 6700(a) is amended by adding at the end
 22 the following new sentence: “Notwithstanding the first sen-
 23 tence, if an activity with respect to which a penalty im-
 24 posed under this subsection involves a statement described
 25 in paragraph (2)(A), the amount of the penalty shall be

1 *equal to 50 percent of the gross income derived (or to be*
 2 *derived) from such activity by the person on which the pen-*
 3 *alty is imposed.”.*

4 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 5 *section shall apply to activities after the date of the enact-*
 6 *ment of this Act.*

7 ***SEC. 315. STATUTE OF LIMITATIONS FOR TAXABLE YEARS***
 8 ***FOR WHICH LISTED TRANSACTIONS NOT RE-***
 9 ***PORTED.***

10 (a) *IN GENERAL.*—*Section 6501(e)(1) (relating to sub-*
 11 *stantial omission of items for income taxes) is amended by*
 12 *adding at the end the following new subparagraph:*

13 “(C) *LISTED TRANSACTIONS.*—*If a taxpayer*
 14 *fails to include on any return or statement for*
 15 *any taxable year any information with respect*
 16 *to a listed transaction (as defined in section*
 17 *6707A(c)(2)) which is required under section*
 18 *6011 to be included with such return or state-*
 19 *ment, the tax for such taxable year may be as-*
 20 *essed, or a proceeding in court for collection of*
 21 *such tax may be begun without assessment, at*
 22 *any time within 6 years after the time the re-*
 23 *turn is filed. This subparagraph shall not apply*
 24 *to any taxable year if the time for assessment or*
 25 *beginning the proceeding in court has expired be-*

1 *fore the time a transaction is treated as a listed*
 2 *transaction under section 6011.”.*

3 **(b) EFFECTIVE DATE.**—*The amendment made by this*
 4 *section shall apply to transactions in taxable years begin-*
 5 *ning after the date of the enactment of this Act.*

6 **SEC. 316. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
 7 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**
 8 **CLOSED REPORTABLE AND NONECONOMIC**
 9 **SUBSTANCE TRANSACTIONS.**

10 **(a) IN GENERAL.**—*Section 163 (relating to deduction*
 11 *for interest) is amended by redesignating subsection (m) as*
 12 *subsection (n) and by inserting after subsection (l) the fol-*
 13 *lowing new subsection:*

14 **“(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO**
 15 **NONDISCLOSED REPORTABLE TRANSACTIONS AND NON-**
 16 **ECONOMIC SUBSTANCE TRANSACTIONS.**—*No deduction shall*
 17 *be allowed under this chapter for any interest paid or ac-*
 18 *crued under section 6601 on any underpayment of tax*
 19 *which is attributable to—*

20 **“(1) the portion of any reportable transaction**
 21 *understatement (as defined in section 6662A(b)) with*
 22 *respect to which the requirement of section*
 23 **6664(d)(2)(A) is not met, or**

24 **“(2) any noneconomic substance transaction un-**
 25 *derstatement (as defined in section 6662B(c)).”.*

1 (b) *EFFECTIVE DATE.*—The amendments made by this
 2 section shall apply to transactions in taxable years begin-
 3 ning after the date of the enactment of this Act.

4 ***Subtitle B—Enron-Related Tax***
 5 ***Shelter Provisions***

6 ***SEC. 321. LIMITATION ON TRANSFER OR IMPORTATION OF***
 7 ***BUILT-IN LOSSES.***

8 (a) *IN GENERAL.*—Section 362 (relating to basis to
 9 corporations) is amended by adding at the end the following
 10 new subsection:

11 “(e) *LIMITATIONS ON BUILT-IN LOSSES.*—

12 “(1) *LIMITATION ON IMPORTATION OF BUILT-IN*
 13 *LOSSES.*—

14 “(A) *IN GENERAL.*—If in any transaction
 15 described in subsection (a) or (b) there would
 16 (but for this subsection) be an importation of a
 17 net built-in loss, the basis of each property de-
 18 scribed in subparagraph (B) which is acquired
 19 in such transaction shall (notwithstanding sub-
 20 sections (a) and (b)) be its fair market value im-
 21 mediately after such transaction.

22 “(B) *PROPERTY DESCRIBED.*—For purposes
 23 of subparagraph (A), property is described in
 24 this subparagraph if—

1 “(i) gain or loss with respect to such
 2 property is not subject to tax under this
 3 subtitle in the hands of the transferor imme-
 4 diately before the transfer, and

5 “(ii) gain or loss with respect to such
 6 property is subject to such tax in the hands
 7 of the transferee immediately after such
 8 transfer.

9 *In any case in which the transferor is a partner-*
 10 *ship, the preceding sentence shall be applied by*
 11 *treating each partner in such partnership as*
 12 *holding such partner’s proportionate share of the*
 13 *property of such partnership.*

14 “(C) *IMPORTATION OF NET BUILT-IN*
 15 *LOSS.—For purposes of subparagraph (A), there*
 16 *is an importation of a net built-in loss in a*
 17 *transaction if the transferee’s aggregate adjusted*
 18 *bases of property described in subparagraph (B)*
 19 *which is transferred in such transaction would*
 20 *(but for this paragraph) exceed the fair market*
 21 *value of such property immediately after such*
 22 *transaction.”.*

23 “(2) *LIMITATION ON TRANSFER OF BUILT-IN*
 24 *LOSSES IN SECTION 351 TRANSACTIONS.—*

25 “(A) *IN GENERAL.—If—*

1 “(i) property is transferred by a trans-
 2 feror in any transaction which is described
 3 in subsection (a) and which is not described
 4 in paragraph (1) of this subsection, and

5 “(ii) the transferee’s aggregate adjusted
 6 bases of such property so transferred would
 7 (but for this paragraph) exceed the fair
 8 market value of such property immediately
 9 after such transaction,

10 then, notwithstanding subsection (a), the trans-
 11 feree’s aggregate adjusted bases of the property so
 12 transferred shall not exceed the fair market value
 13 of such property immediately after such trans-
 14 action.

15 “(B) ALLOCATION OF BASIS REDUCTION.—

16 The aggregate reduction in basis by reason of
 17 subparagraph (A) shall be allocated among the
 18 property so transferred in proportion to their re-
 19 spective built-in losses immediately before the
 20 transaction.

21 “(C) EXCEPTION FOR TRANSFERS WITHIN

22 AFFILIATED GROUP.—Subparagraph (A) shall
 23 not apply to any transaction if the transferor
 24 owns stock in the transferee meeting the require-
 25 ments of section 1504(a)(2). In the case of prop-

1 *erty to which subparagraph (A) does not apply*
 2 *by reason of the preceding sentence, the trans-*
 3 *feror's basis in the stock received for such prop-*
 4 *erty shall not exceed its fair market value imme-*
 5 *diately after the transfer.”.*

6 (b) *COMPARABLE TREATMENT WHERE LIQUIDA-*
 7 *TION.—Paragraph (1) of section 334(b) (relating to liquida-*
 8 *tion of subsidiary) is amended to read as follows:*

9 “(1) *IN GENERAL.—If property is received by a*
 10 *corporate distributee in a distribution in a complete*
 11 *liquidation to which section 332 applies (or in a*
 12 *transfer described in section 337(b)(1)), the basis of*
 13 *such property in the hands of such distributee shall*
 14 *be the same as it would be in the hands of the trans-*
 15 *feror; except that the basis of such property in the*
 16 *hands of such distributee shall be the fair market*
 17 *value of the property at the time of the distribution—*

18 *“(A) in any case in which gain or loss is*
 19 *recognized by the liquidating corporation with*
 20 *respect to such property, or*

21 *“(B) in any case in which the liquidating*
 22 *corporation is a foreign corporation, the cor-*
 23 *porate distributee is a domestic corporation, and*
 24 *the corporate distributee's aggregate adjusted*
 25 *bases of property described in section*

1 362(e)(1)(B) which is distributed in such liq-
 2 uidation would (but for this subparagraph) ex-
 3 ceed the fair market value of such property im-
 4 mediately after such liquidation.”.

5 (c) *EFFECTIVE DATE.*—The amendments made by this
 6 section shall apply to transactions after February 13, 2003.

7 **SEC. 322. NO REDUCTION OF BASIS UNDER SECTION 734 IN**
 8 **STOCK HELD BY PARTNERSHIP IN COR-**
 9 **PORATE PARTNER.**

10 (a) *IN GENERAL.*—Section 755 is amended by adding
 11 at the end the following new subsection:

12 “(c) *NO ALLOCATION OF BASIS DECREASE TO STOCK*
 13 *OF CORPORATE PARTNER.*—In making an allocation under
 14 subsection (a) of any decrease in the adjusted basis of part-
 15 nership property under section 734(b)—

16 “(1) no allocation may be made to stock in a
 17 corporation (or any person which is related (within
 18 the meaning of section 267(b) or 707(b)(1)) to such
 19 corporation) which is a partner in the partnership,
 20 and

21 “(2) any amount not allocable to stock by reason
 22 of paragraph (1) shall be allocated under subsection
 23 (a) to other partnership property.

24 Gain shall be recognized to the partnership to the extent
 25 that the amount required to be allocated under paragraph

1 (2) to other partnership property exceeds the aggregate ad-
 2 justed basis of such other property immediately before the
 3 allocation required by paragraph (2).”.

4 (b) *EFFECTIVE DATE.*—The amendment made by this
 5 section shall apply to distributions after February 13, 2003.

6 **SEC. 323. REPEAL OF SPECIAL RULES FOR FASITS.**

7 (a) *IN GENERAL.*—Part V of subchapter M of chapter
 8 1 (relating to financial asset securitization investment
 9 trusts) is hereby repealed.

10 (b) *CONFORMING AMENDMENTS.*—

11 (1) Paragraph (6) of section 56(g) is amended by
 12 striking “REMIC, or FASIT” and inserting “or
 13 REMIC”.

14 (2) Clause (ii) of section 382(l)(4)(B) is amended
 15 by striking “a REMIC to which part IV of subchapter
 16 M applies, or a FASIT to which part V of subchapter
 17 M applies,” and inserting “or a REMIC to which
 18 part IV of subchapter M applies,”.

19 (3) Paragraph (1) of section 582(c) is amended
 20 by striking “, and any regular interest in a FASIT,”.

21 (4) Subparagraph (E) of section 856(c)(5) is
 22 amended by striking the last sentence.

23 (5) Paragraph (5) of section 860G(a) is amended
 24 by adding “and” at the end of subparagraph (B), by

1 striking “, and” at the end of subparagraph (C) and
 2 inserting a period, and by striking subparagraph (D).

3 (6) Subparagraph (C) of section 1202(e)(4) is
 4 amended by striking “REMIC, or FASIT” and in-
 5 serting “or REMIC”.

6 (7) Subparagraph (C) of section 7701(a)(19) is
 7 amended by adding “and” at the end of clause (ix),
 8 by striking “, and” at the end of clause (x) and in-
 9 serting a period, and by striking clause (xi).

10 (8) The table of parts for subchapter M of chap-
 11 ter 1 is amended by striking the item relating to part
 12 V.

13 (c) *EFFECTIVE DATE.*—

14 (1) *IN GENERAL.*—Except as provided in para-
 15 graph (2), the amendments made by this section shall
 16 take effect on February 14, 2003.

17 (2) *EXCEPTION FOR EXISTING FASITS.*—

18 (A) *IN GENERAL.*—Paragraph (1) shall not
 19 apply to any FASIT in existence on the date of
 20 the enactment of this Act to the extent that reg-
 21 ular interests issued by the FASIT before such
 22 date continue to remain outstanding in accord-
 23 ance with the original terms of issuance.

24 (B) *TRANSFER OF ADDITIONAL ASSETS NOT*
 25 *PERMITTED.*—Except as provided in regulations

1 *prescribed by the Secretary of the Treasury or*
 2 *the Secretary's delegate, subparagraph (A) shall*
 3 *cease to apply as of the earliest date after the*
 4 *date of the enactment of this Act that any prop-*
 5 *erty is transferred to the FASIT.*

6 **SEC. 324. EXPANDED DISALLOWANCE OF DEDUCTION FOR**
 7 **INTEREST ON CONVERTIBLE DEBT.**

8 (a) *IN GENERAL.*—Paragraph (2) of section 163(l) is
 9 *amended by striking “or a related party” and inserting “or*
 10 *equity held by the issuer (or any related party) in any other*
 11 *person”.*

12 (b) *EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED*
 13 *BY DEALERS IN SECURITIES.*—Section 163(l) is amended
 14 *by redesignating paragraphs (4) and (5) as paragraphs (5)*
 15 *and (6) and by inserting after paragraph (3) the following*
 16 *new paragraph:*

17 “(4) *EXCEPTION FOR CERTAIN INSTRUMENTS*
 18 *ISSUED BY DEALERS IN SECURITIES.*—For purposes
 19 *of this subsection, the term ‘disqualified debt instru-*
 20 *ment’ does not include indebtedness issued by a dealer*
 21 *in securities (or a related party) which is payable in,*
 22 *or by reference to, equity (other than equity of the*
 23 *issuer or a related party) held by such dealer in its*
 24 *capacity as a dealer in securities. For purposes of*

1 *this paragraph, the term ‘dealer in securities’ has the*
 2 *meaning given such term by section 475.”.*

3 (c) *CONFORMING AMENDMENT.*—*Paragraph (3) of sec-*
 4 *tion 163(l) is amended by striking “or a related party” in*
 5 *the material preceding subparagraph (A) and inserting “or*
 6 *any other person”.*

7 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 8 *section shall apply to debt instruments issued after Feb-*
 9 *ruary 13, 2003.*

10 ***SEC. 325. EXPANDED AUTHORITY TO DISALLOW TAX BENE-***
 11 ***FITS UNDER SECTION 269.***

12 (a) *IN GENERAL.*—*Subsection (a) of section 269 (relat-*
 13 *ing to acquisitions made to evade or avoid income tax) is*
 14 *amended to read as follows:*

15 “(a) *IN GENERAL.*—*If—*

16 “(1)(A) *any person acquires stock in a corpora-*
 17 *tion, or*

18 “(B) *any corporation acquires, directly or indi-*
 19 *rectly, property of another corporation and the basis*
 20 *of such property, in the hands of the acquiring cor-*
 21 *poration, is determined by reference to the basis in*
 22 *the hands of the transferor corporation, and*

23 “(2) *the principal purpose for which such acqui-*
 24 *sition was made is evasion or avoidance of Federal*

1 **SEC. 327. CONTROLLED ENTITIES INELIGIBLE FOR REIT**
 2 **STATUS.**

3 (a) *IN GENERAL.*—Subsection (a) of section 856 (relat-
 4 ing to definition of real estate investment trust) is amended
 5 by striking “and” at the end of paragraph (6), by redesign-
 6 ating paragraph (7) as paragraph (8), and by inserting
 7 after paragraph (6) the following new paragraph:

8 “(7) which is not a controlled entity (as defined
 9 in subsection (l)); and”.

10 (b) *CONTROLLED ENTITY.*—Section 856 is amended by
 11 adding at the end the following new subsection:

12 “(l) *CONTROLLED ENTITY.*—

13 “(1) *IN GENERAL.*—For purposes of subsection
 14 (a)(7), an entity is a controlled entity if, at any time
 15 during the taxable year, one person (other than a
 16 qualified entity)—

17 “(A) in the case of a corporation, owns
 18 stock—

19 “(i) possessing at least 50 percent of
 20 the total voting power of the stock of such
 21 corporation, or

22 “(ii) having a value equal to at least
 23 50 percent of the total value of the stock of
 24 such corporation, or

25 “(B) in the case of a trust, owns beneficial
 26 interests in the trust which would meet the re-

1 quirements of subparagraph (A) if such interests
2 were stock.

3 “(2) *QUALIFIED ENTITY*.—For purposes of para-
4 graph (1), the term ‘qualified entity’ means—

5 “(A) any real estate investment trust, and

6 “(B) any partnership in which one real es-
7 tate investment trust owns at least 50 percent of
8 the capital and profits interests in the partner-
9 ship.

10 “(3) *ATTRIBUTION RULES*.—For purposes of this
11 paragraphs (1) and (2)—

12 “(A) *IN GENERAL*.—Rules similar to the
13 rules of subsections (d)(5) and (h)(3) shall apply;
14 except that section 318(a)(3)(C) shall not be ap-
15 plied under such rules to treat stock owned by a
16 qualified entity as being owned by a person
17 which is not a qualified entity.

18 “(B) *STAPLED ENTITIES*.—A group of enti-
19 ties which are stapled entities (as defined in sec-
20 tion 269B(c)(2)) shall be treated as one person.

21 “(4) *EXCEPTION FOR CERTAIN NEW REITS*.—

22 “(A) *IN GENERAL*.—The term ‘controlled en-
23 tity’ shall not include an incubator REIT.

24 “(B) *INCUBATOR REIT*.—A corporation
25 shall be treated as an incubator REIT for any

1 *taxable year during the eligibility period if it*
2 *meets all the following requirements for such*
3 *year:*

4 “(i) *The corporation elects to be treated*
5 *as an incubator REIT.*

6 “(ii) *The corporation has only voting*
7 *common stock outstanding.*

8 “(iii) *Not more than 50 percent of the*
9 *corporation’s real estate assets consist of*
10 *mortgages.*

11 “(iv) *From not later than the begin-*
12 *ning of the last half of the second taxable*
13 *year, at least 10 percent of the corporation’s*
14 *capital is provided by lenders or equity in-*
15 *vestors who are unrelated to the corpora-*
16 *tion’s largest shareholder.*

17 “(v) *The corporation annually in-*
18 *creases the value of its real estate assets by*
19 *at least 10 percent.*

20 “(vi) *The directors of the corporation*
21 *adopt a resolution setting forth an intent to*
22 *engage in a going public transaction.*

23 *No election may be made with respect to any*
24 *REIT if an election under this subsection was in*
25 *effect for any predecessor of such REIT.*

1 “(C) *ELIGIBILITY PERIOD.*—

2 “(i) *IN GENERAL.*—*The eligibility pe-*
 3 *riod (for which an incubator REIT election*
 4 *can be made) begins with the REIT’s second*
 5 *taxable year and ends at the close of the*
 6 *REIT’s third taxable year, except that the*
 7 *REIT may, subject to clauses (ii), (iii), and*
 8 *(iv), elect to extend such period for an addi-*
 9 *tional 2 taxable years.*

10 “(ii) *GOING PUBLIC TRANSACTION.*—*A*
 11 *REIT may not elect to extend the eligibility*
 12 *period under clause (i) unless it enters into*
 13 *an agreement with the Secretary that if it*
 14 *does not engage in a going public trans-*
 15 *action by the end of the extended eligibility*
 16 *period, it shall pay Federal income taxes*
 17 *for the 2 years of the extended eligibility pe-*
 18 *riod as if it had not made an incubator*
 19 *REIT election and had ceased to qualify as*
 20 *a REIT for those 2 taxable years.*

21 “(iii) *RETURNS, INTEREST, AND NO-*
 22 *TICE.*—

23 “(I) *RETURNS.*—*In the event the*
 24 *corporation ceases to be treated as a*
 25 *REIT by operation of clause (ii), the*

1 *corporation shall file any appropriate*
2 *amended returns reflecting the change*
3 *in status within 3 months of the close*
4 *of the extended eligibility period.*

5 “(II) *INTEREST.*—*Interest shall be*
6 *payable on any tax imposed by reason*
7 *of clause (ii) for any taxable year but,*
8 *unless there was a finding under sub-*
9 *paragraph (D), no substantial under-*
10 *payment penalties shall be imposed.*

11 “(III) *NOTICE.*—*The corporation*
12 *shall, at the same time it files its re-*
13 *turns under subclause (I), notify its*
14 *shareholders and any other persons*
15 *whose tax position is, or may reason-*
16 *ably be expected to be, affected by the*
17 *change in status so they also may file*
18 *any appropriate amended returns to*
19 *conform their tax treatment consistent*
20 *with the corporation’s loss of REIT*
21 *status.*

22 “(IV) *REGULATIONS.*—*The Sec-*
23 *retary shall provide appropriate regu-*
24 *lations setting forth transferee liability*
25 *and other provisions to ensure collec-*

1 tion of tax and the proper administra-
2 tion of this provision.

3 “(iv) *Clauses (ii) and (iii) shall not*
4 *apply if the corporation allows its incu-*
5 *bator REIT status to lapse at the end of the*
6 *initial 2-year eligibility period without en-*
7 *gaging in a going public transaction if the*
8 *corporation is not a controlled entity as of*
9 *the beginning of its fourth taxable year. In*
10 *such a case, the corporation’s directors may*
11 *still be liable for the penalties described in*
12 *subparagraph (D) during the eligibility pe-*
13 *riod.*

14 “(D) *SPECIAL PENALTIES.—If the Secretary*
15 *determines that an incubator REIT election was*
16 *filed for a principal purpose other than as part*
17 *of a reasonable plan to undertake a going public*
18 *transaction, an excise tax of \$20,000 shall be im-*
19 *posed on each of the corporation’s directors for*
20 *each taxable year for which an election was in*
21 *effect.*

22 “(E) *GOING PUBLIC TRANSACTION.—For*
23 *purposes of this paragraph, a going public trans-*
24 *action means—*

1 “(i) a public offering of shares of the
2 stock of the incubator REIT;

3 “(ii) a transaction, or series of trans-
4 actions, that results in the stock of the incu-
5 bator REIT being regularly traded on an
6 established securities market and that re-
7 sults in at least 50 percent of such stock
8 being held by shareholders who are unre-
9 lated to persons who held such stock before
10 it began to be so regularly traded; or

11 “(iii) any transaction resulting in
12 ownership of the REIT by 200 or more per-
13 sons (excluding the largest single share-
14 holder) who in the aggregate own at least 50
15 percent of the stock of the REIT.

16 For the purposes of this subparagraph, the rules
17 of paragraph (3) shall apply in determining the
18 ownership of stock.

19 “(F) DEFINITIONS.—The term ‘established
20 securities market’ shall have the meaning set
21 forth in the regulations under section 897.”.

22 (c) CONFORMING AMENDMENT.—Paragraph (2) of sec-
23 tion 856(h) is amended by striking “and (6)” each place
24 it appears and inserting “, (6), and (7)”.

25 (d) EFFECTIVE DATE.—

1 (1) *IN GENERAL.*—*The amendments made by*
 2 *this section shall apply to taxable years ending after*
 3 *May 8, 2003.*

4 (2) *EXCEPTION FOR EXISTING CONTROLLED EN-*
 5 *TITIES.*—*The amendments made by this section shall*
 6 *not apply to any entity which is a controlled entity*
 7 *(as defined in section 856(l) of the Internal Revenue*
 8 *Code of 1986, as added by this section) as of May 8,*
 9 *2003, which is a real estate investment trust for the*
 10 *taxable year which includes such date, and which has*
 11 *significant business assets or activities as of such*
 12 *date. For purposes of the preceding sentence, an enti-*
 13 *ty shall be treated as such a controlled entity on May*
 14 *8, 2003, if it becomes such an entity after such date*
 15 *in a transaction—*

16 (A) *made pursuant to a written agreement*
 17 *which was binding on such date and at all times*
 18 *thereafter, or*

19 (B) *described on or before such date in a fil-*
 20 *ing with the Securities and Exchange Commis-*
 21 *sion required solely by reason of the transaction.*

***Subtitle C—Other Corporate
Governance Provisions***

PART I—GENERAL PROVISIONS

***SEC. 331. AFFIRMATION OF CONSOLIDATED RETURN REGU-
LATION AUTHORITY.***

(a) *IN GENERAL.*—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: “In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.”.

(b) *RESULT NOT OVERTURNED.*—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation § 1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) *EFFECTIVE DATE.*—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

***SEC. 332. SIGNING OF CORPORATE TAX RETURNS BY CHIEF
EXECUTIVE OFFICER.***

(a) *IN GENERAL.*—Section 6062 (relating to signing of corporation returns) is amended by striking the first sen-

1 tence and inserting the following new sentence: “The return
 2 of a corporation with respect to income shall be signed by
 3 the chief executive officer of such corporation (or other such
 4 officer of the corporation as the Secretary may designate
 5 if the corporation does not have a chief executive officer).
 6 The preceding sentence shall not apply to any return of a
 7 regulated investment company (within the meaning of sec-
 8 tion 851).”.

9 (b) *EFFECTIVE DATE.*—The amendment made by this
 10 section shall apply to returns filed after the date of the en-
 11 actment of this Act.

12 **SEC. 333. DENIAL OF DEDUCTION FOR CERTAIN FINES, PEN-**
 13 **ALTIES, AND OTHER AMOUNTS.**

14 (a) *IN GENERAL.*—Subsection (f) of section 162 (relat-
 15 ing to trade or business expenses) is amended to read as
 16 follows:

17 “(f) *FINES, PENALTIES, AND OTHER AMOUNTS.*—

18 “(1) *IN GENERAL.*—Except as provided in para-
 19 graph (2), no deduction otherwise allowable shall be
 20 allowed under this chapter for any amount paid or
 21 incurred (whether by suit, agreement, or otherwise)
 22 to, or at the direction of, a government or entity de-
 23 scribed in paragraph (3) in relation to the violation
 24 of any law or the investigation or inquiry into the
 25 potential violation of any law.

1 “(2) *EXCEPTION FOR AMOUNTS CONSTITUTING*
 2 *RESTITUTION.*—*Paragraph (1) shall not apply to any*
 3 *amount which the taxpayer establishes constitutes res-*
 4 *titution for damage or harm caused by the violation*
 5 *of any law or the potential violation of any law. This*
 6 *paragraph shall not apply to any amount paid or in-*
 7 *curring as reimbursement to the government or entity*
 8 *for the costs of any investigation or litigation.*

9 “(3) *CERTAIN NONGOVERNMENTAL REGULATORY*
 10 *ENTITIES.*—*An entity is described in this paragraph*
 11 *if it is—*

12 “(A) *a nongovernmental entity which exer-*
 13 *cises self-regulatory powers (including imposing*
 14 *sanctions) in connection with a qualified board*
 15 *or exchange (as defined in section 1256(g)(7)), or*

16 “(B) *to the extent provided in regulations,*
 17 *a nongovernmental entity which exercises self-*
 18 *regulatory powers (including imposing sanc-*
 19 *tions) as part of performing an essential govern-*
 20 *mental function.”.*

21 “(b) *EFFECTIVE DATE.*—*The amendment made by this*
 22 *section shall apply to amounts paid or incurred after April*
 23 *27, 2003, except that such amendment shall not apply to*
 24 *amounts paid or incurred under any binding order or*
 25 *agreement entered into on or before April 27, 2003. Such*

1 *exception shall not apply to an order or agreement requir-*
 2 *ing court approval unless the approval was obtained on or*
 3 *before April 27, 2003.*

4 ***SEC. 334. DISALLOWANCE OF DEDUCTION FOR PUNITIVE***
 5 ***DAMAGES.***

6 *(a) DISALLOWANCE OF DEDUCTION.—*

7 *(1) IN GENERAL.—Section 162(g) (relating to*
 8 *treble damage payments under the antitrust laws) is*
 9 *amended by adding at the end the following new*
 10 *paragraph:*

11 *“(2) PUNITIVE DAMAGES.—No deduction shall be*
 12 *allowed under this chapter for any amount paid or*
 13 *incurred for punitive damages in connection with*
 14 *any judgment in, or settlement of, any action. This*
 15 *paragraph shall not apply to punitive damages de-*
 16 *scribed in section 104(c).”.*

17 *(2) CONFORMING AMENDMENTS.—*

18 *(A) Section 162(g) is amended—*

19 *(i) by striking “If” and inserting:*

20 *“(1) TREBLE DAMAGES.—If”, and*

21 *(ii) by redesignating paragraphs (1)*

22 *and (2) as subparagraphs (A) and (B), re-*
 23 *spectively.*

1 (B) *The heading for section 162(g) is*
 2 *amended by inserting “OR PUNITIVE DAMAGES”*
 3 *after “LAWS”.*

4 (b) *INCLUSION IN INCOME OF PUNITIVE DAMAGES*
 5 *PAID BY INSURER OR OTHERWISE.—*

6 (1) *IN GENERAL.—Part II of subchapter B of*
 7 *chapter 1 (relating to items specifically included in*
 8 *gross income) is amended by adding at the end the*
 9 *following new section:*

10 ***“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-***
 11 ***ANCE OR OTHERWISE.***

12 *“Gross income shall include any amount paid to or*
 13 *on behalf of a taxpayer as insurance or otherwise by reason*
 14 *of the taxpayer’s liability (or agreement) to pay punitive*
 15 *damages.”.*

16 (2) *REPORTING REQUIREMENTS.—Section 6041*
 17 *(relating to information at source) is amended by*
 18 *adding at the end the following new subsection:*

19 ***“(f) SECTION TO APPLY TO PUNITIVE DAMAGES COM-***
 20 ***PENSATION.—This section shall apply to payments by a***
 21 ***person to or on behalf of another person as insurance or***
 22 ***otherwise by reason of the other person’s liability (or agree-***
 23 ***ment) to pay punitive damages.”.***

1 (3) *CONFORMING AMENDMENT.*—*The table of sec-*
 2 *tions for part II of subchapter B of chapter 1 is*
 3 *amended by adding at the end the following new item:*

 “*Sec. 91. Punitive damages compensated by insurance or otherwise.*”.

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply to damages paid or incurred on or after*
 6 *the date of the enactment of this Act.*

7 ***PART II—EXECUTIVE COMPENSATION REFORM***

8 ***SEC. 335. TREATMENT OF NONQUALIFIED DEFERRED COM-***
 9 ***PENSATION FUNDED WITH ASSETS LOCATED***
 10 ***OUTSIDE THE UNITED STATES.***

11 (a) *IN GENERAL.*—*Section 83(c) (relating to special*
 12 *rules for property transferred in connection with perform-*
 13 *ance of services) is amended by adding at the end the fol-*
 14 *lowing new paragraph:*

15 “(4) *FOREIGN ASSETS FUNDING NONQUALIFIED*
 16 *DEFERRED COMPENSATION ARRANGEMENTS.*—

17 “(A) *IN GENERAL.*—*In determining whether*
 18 *there is a transfer of property for purposes of*
 19 *subsection (a), if assets are—*

20 “(i) *designated or otherwise available*
 21 *for the payment of nonqualified deferred*
 22 *compensation, and*

23 “(ii) *located outside the United States,*
 24 *such assets shall not be treated as subject to the*
 25 *claims of creditors.*

1 “(B) *COMPENSATION FOR SERVICES PER-*
 2 *FORMED IN FOREIGN JURISDICTION.*—Subpara-
 3 *graph (A) shall not apply to assets located in a*
 4 *foreign jurisdiction if substantially all of the*
 5 *services to which the nonqualified deferred com-*
 6 *ensation relates are performed in such jurisdic-*
 7 *tion.*

8 “(C) *REGULATIONS.*—*The Secretary shall*
 9 *prescribe such regulations as are necessary to*
 10 *carry out the provisions of this paragraph, in-*
 11 *cluding regulations to exempt arrangements from*
 12 *the application of this paragraph if—*

13 “(i) *the arrangement will not result in*
 14 *an improper deferral of United States tax,*
 15 *and*

16 “(ii) *the assets involved in the arrange-*
 17 *ment will be readily accessible in any insol-*
 18 *veny or bankruptcy proceeding.”.*

19 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 20 *section shall apply to amounts deferred in taxable years be-*
 21 *ginning after December 31, 2003.*

1 **SEC. 336. INCLUSION IN GROSS INCOME OF FUNDED DE-**
 2 **FERRED COMPENSATION OF CORPORATE IN-**
 3 **SIDERS.**

4 (a) *IN GENERAL.*—Subpart A of part I of subchapter
 5 D of chapter 1 is amended by adding at the end the fol-
 6 lowing new section:

7 **“SEC. 409A. INCLUSION IN GROSS INCOME OF FUNDED DE-**
 8 **FERRED COMPENSATION OF CORPORATE IN-**
 9 **SIDERS.**

10 “(a) *IN GENERAL.*—If an employer maintains a fund-
 11 ed deferred compensation plan—

12 “(1) *compensation of any disqualified individual*
 13 *which is deferred under such funded deferred com-*
 14 *pen-sation plan shall be included in the gross income*
 15 *of the disqualified individual or beneficiary for the*
 16 *1st taxable year in which there is no substantial risk*
 17 *of forfeiture of the rights to such compensation, and*

18 “(2) *the tax treatment of any amount made*
 19 *available under the plan to a disqualified individual*
 20 *or beneficiary shall be determined under section 72*
 21 *(relating to annuities, etc.).*

22 “(b) *FUNDED DEFERRED COMPENSATION PLAN.*—For
 23 purposes of this section—

24 “(1) *IN GENERAL.*—The term ‘funded deferred
 25 compensation plan’ means any plan providing for the
 26 deferral of compensation unless—

1 “(A) the employee’s rights to the compensa-
 2 tion deferred under the plan are no greater than
 3 the rights of a general creditor of the employer,
 4 and

5 “(B) all amounts set aside (directly or indi-
 6 rectly) for purposes of paying the deferred com-
 7 pensation, and all income attributable to such
 8 amounts, remain (until made available to the
 9 participant or other beneficiary) solely the prop-
 10 erty of the employer (without being restricted to
 11 the provision of benefits under the plan),

12 “(C) the amounts referred to in subpara-
 13 graph (B) are available to satisfy the claims of
 14 the employer’s general creditors at all times (not
 15 merely after bankruptcy or insolvency), and

16 “(D) the investment options which a partic-
 17 ipant may elect under the plan are the same as
 18 the investment options which a participant may
 19 elect under the qualified employer plan of the
 20 employer which has the fewest investment op-
 21 tions.

22 Such term shall not include a qualified employer
 23 plan.

24 “(2) SPECIAL RULES.—

1 “(A) *EMPLOYEE’S RIGHTS*.—A plan shall be
2 treated as failing to meet the requirements of
3 paragraph (1)(A) unless—

4 “(i) the compensation deferred under
5 the plan is payable only upon separation
6 from service, death, disability (within the
7 meaning of section 1614(a)(3) of the Social
8 Security Act (42 U.S.C. 1382c(a)(3))), or at
9 a specified time (or pursuant to a fixed
10 schedule), and

11 “(ii) the plan does not permit the ac-
12 celeration of the time such deferred com-
13 pensation is payable by reason of any event.
14 If the employer and employee agree to a modi-
15 fication of the plan that accelerates the time for
16 payment of any deferred compensation, then all
17 compensation previously deferred under the plan
18 shall be includible in gross income for the taxable
19 year during which such modification takes effect
20 and the taxpayer shall pay interest at the under-
21 payment rate on the underpayments that would
22 have occurred had the deferred compensation
23 been includible in gross income on the earliest
24 date that there is no substantial risk of forfeiture
25 of the rights to such compensation.

1 “(B) *CREDITOR’S RIGHTS*.—A plan shall be
 2 *treated as failing to meet the requirements of*
 3 *paragraph (1)(B) with respect to amounts set*
 4 *aside in a trust unless—*

5 “(i) *the employee has no beneficial in-*
 6 *terest in the trust,*

7 “(ii) *assets in the trust are available to*
 8 *satisfy claims of general creditors at all*
 9 *times (not merely after bankruptcy or insol-*
 10 *vency), and*

11 “(iii) *there is no factor that would*
 12 *make it more difficult for general creditors*
 13 *to reach the assets in the trust than it*
 14 *would be if the trust assets were held di-*
 15 *rectly by the employer in the United States.*

16 *Except as provided in regulations prescribed by*
 17 *the Secretary, such a factor shall include the lo-*
 18 *cation of the trust outside the United States un-*
 19 *less substantially all of the services to which the*
 20 *nonqualified deferred compensation relates are*
 21 *performed outside the United States. Such regu-*
 22 *lations may exempt any such trust if the trust*
 23 *will not result in an improper deferral of United*
 24 *States tax, and the assets involved in the trust*

1 *will be readily accessible in any insolvency or*
 2 *bankruptcy proceeding.*

3 “(c) *DISQUALIFIED INDIVIDUAL.*—*For purposes of this*
 4 *section, the term ‘disqualified individual’ means, with re-*
 5 *spect to a corporation, any individual—*

6 “(1) *who is subject to the requirements of section*
 7 *16(a) of the Securities Exchange Act of 1934 with re-*
 8 *spect to such corporation, or*

9 “(2) *who would be subject to such requirements*
 10 *if such corporation were an issuer of equity securities*
 11 *referred to in such section.*

12 “(d) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For*
 13 *purposes of this section—*

14 “(1) *QUALIFIED EMPLOYER PLAN.*—*The term*
 15 *‘qualified employer plan’ means—*

16 “(A) *any plan, contract, pension, account,*
 17 *or trust described in subparagraph (A) or (B) of*
 18 *section 219(g)(5), and*

19 “(B) *any other plan of an organization ex-*
 20 *empt from tax under subtitle A.*

21 “(2) *PLAN INCLUDES ARRANGEMENTS, ETC.*—*The*
 22 *term ‘plan’ includes any agreement or arrangement.*

23 “(3) *SUBSTANTIAL RISK OF FORFEITURE.*—*The*
 24 *rights of a person to compensation are subject to a*
 25 *substantial risk of forfeiture if such person’s rights to*

1 *such compensation are conditioned upon the future*
 2 *performance of substantial services by any individual.*

3 “(4) *TREATMENT OF EARNINGS.*—*References to*
 4 *deferred compensation shall be treated as including*
 5 *references to income attributable to such compensation*
 6 *or such income.”.*

7 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 8 *such subpart A is amended by adding at the end the fol-*
 9 *lowing new item:*

“Sec. 409A. Inclusion in gross income of funded deferred compensa-
tion of corporate insiders.”.

10 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 11 *section shall apply to amounts deferred in taxable years be-*
 12 *ginning after December 31, 2003.*

13 ***SEC. 337. PROHIBITION ON DEFERRAL OF GAIN FROM THE***
 14 ***EXERCISE OF STOCK OPTIONS AND RE-***
 15 ***STRICTED STOCK GAINS THROUGH DE-***
 16 ***FERRED COMPENSATION ARRANGEMENTS.***

17 (a) *IN GENERAL.*—*Section 83 (relating to property*
 18 *transferred in connection with performance of services) is*
 19 *amending by adding at the end the following new sub-*
 20 *section:*

21 “(i) *PROHIBITION ON ADDITIONAL DEFERRAL*
 22 *THROUGH DEFERRED COMPENSATION ARRANGEMENTS.*—
 23 *If a taxpayer elects to exchange an option to purchase em-*
 24 *ployer securities—*

1 “(1) to which subsection (a) applies, or
 2 “(2) which is described in subsection (e)(3),
 3 or any other compensation based on employer securities, for
 4 a right to receive future payments, then, notwithstanding
 5 any other provision of this title, there shall be included in
 6 gross income for the taxable year of the exchange an amount
 7 equal to the present value of such right (or such other
 8 amount as the Secretary may by regulations specify). For
 9 purposes of this subsection, the term ‘employer securities’
 10 has the meaning given such term by section 409(l).”.

11 (b) *EFFECTIVE DATE.*—The amendment made by this
 12 section shall apply to any exchange after December 31,
 13 2003.

14 **SEC. 338. INCREASE IN WITHHOLDING FROM SUPPLE-**
 15 **MENTAL WAGE PAYMENTS IN EXCESS OF**
 16 **\$1,000,000.**

17 (a) *IN GENERAL.*—If an employer elects under Treas-
 18 ury Regulation 31.3402(g)–1 to determine the amount to
 19 be deducted and withheld from any supplemental wage pay-
 20 ment by using a flat percentage rate, the rate to be used
 21 in determining the amount to be so deducted and withheld
 22 shall not be less than 28 percent (or the corresponding rate
 23 in effect under section 1(i)(2) of the Internal Revenue Code
 24 of 1986 for taxable years beginning in the calendar year
 25 in which the payment is made).

1 (b) *SPECIAL RULE FOR LARGE PAYMENTS.*—

2 (1) *IN GENERAL.*—*Notwithstanding subsection*
 3 *(a), if the supplemental wage payment, when added*
 4 *to all such payments previously made by the employer*
 5 *to the employee during the calendar year, exceeds*
 6 *\$1,000,000, the rate used with respect to such excess*
 7 *shall be equal to the maximum rate of tax in effect*
 8 *under section 1 of such Code for taxable years begin-*
 9 *ning in such calendar year.*

10 (2) *AGGREGATION.*—*All persons treated as a sin-*
 11 *gle employer under subsection (a) or (b) of section 52*
 12 *of the Internal Revenue Code of 1986 shall be treated*
 13 *as a single employer for purposes of this subsection.*

14 (c) *CONFORMING AMENDMENT.*—*Section 13273 of the*
 15 *Revenue Reconciliation Act of 1993 (Public Law 103–66)*
 16 *is repealed.*

17 (d) *EFFECTIVE DATE.*—*The provisions of, and the*
 18 *amendment made by, this section shall apply to payments*
 19 *made after December 31, 2003.*

***Subtitle D—International
Provisions***

***PART I—PROVISIONS TO DISCOURAGE
EXPATRIATION***

SEC. 340. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

“(a) GENERAL RULES.—For purposes of this subtitle—

“(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

“(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

“(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

“(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title,

1 *except that section 1091 shall not apply to any*
 2 *such loss.*

3 *Proper adjustment shall be made in the amount of*
 4 *any gain or loss subsequently realized for gain or loss*
 5 *taken into account under the preceding sentence.*

6 “(3) *EXCLUSION FOR CERTAIN GAIN.*—

7 “(A) *IN GENERAL.*—*The amount which, but*
 8 *for this paragraph, would be includible in the*
 9 *gross income of any individual by reason of this*
 10 *section shall be reduced (but not below zero) by*
 11 *\$600,000. For purposes of this paragraph, allo-*
 12 *cable expatriation gain taken into account under*
 13 *subsection (f)(2) shall be treated in the same*
 14 *manner as an amount required to be includible*
 15 *in gross income.*

16 “(B) *COST-OF-LIVING ADJUSTMENT.*—

17 “(i) *IN GENERAL.*—*In the case of an*
 18 *expatriation date occurring in any calendar*
 19 *year after 2003, the \$600,000 amount under*
 20 *subparagraph (A) shall be increased by an*
 21 *amount equal to—*

22 “(I) *such dollar amount, multi-*
 23 *plied by*

24 “(II) *the cost-of-living adjustment*
 25 *determined under section 1(f)(3) for*

1 *such calendar year, determined by sub-*
 2 *stituting ‘calendar year 2002’ for ‘cal-*
 3 *endar year 1992’ in subparagraph (B)*
 4 *thereof.*

5 “(ii) *ROUNDING RULES.—If any*
 6 *amount after adjustment under clause (i) is*
 7 *not a multiple of \$1,000, such amount shall*
 8 *be rounded to the next lower multiple of*
 9 *\$1,000.*

10 “(4) *ELECTION TO CONTINUE TO BE TAXED AS*
 11 *UNITED STATES CITIZEN.—*

12 “(A) *IN GENERAL.—If a covered expatriate*
 13 *elects the application of this paragraph—*

14 “(i) *this section (other than this para-*
 15 *graph and subsection (i)) shall not apply to*
 16 *the expatriate, but*

17 “(ii) *in the case of property to which*
 18 *this section would apply but for such elec-*
 19 *tion, the expatriate shall be subject to tax*
 20 *under this title in the same manner as if*
 21 *the individual were a United States citizen.*

22 “(B) *REQUIREMENTS.—Subparagraph (A)*
 23 *shall not apply to an individual unless the indi-*
 24 *vidual—*

1 “(i) provides security for payment of
2 tax in such form and manner, and in such
3 amount, as the Secretary may require,

4 “(ii) consents to the waiver of any
5 right of the individual under any treaty of
6 the United States which would preclude as-
7 sessment or collection of any tax which may
8 be imposed by reason of this paragraph,
9 and

10 “(iii) complies with such other require-
11 ments as the Secretary may prescribe.

12 “(C) *ELECTION*.—An election under sub-
13 paragraph (A) shall apply to all property to
14 which this section would apply but for the elec-
15 tion and, once made, shall be irrevocable. Such
16 election shall also apply to property the basis of
17 which is determined in whole or in part by ref-
18 erence to the property with respect to which the
19 election was made.

20 “(b) *ELECTION TO DEFER TAX*.—

21 “(1) *IN GENERAL*.—If the taxpayer elects the ap-
22 plication of this subsection with respect to any prop-
23 erty treated as sold by reason of subsection (a), the
24 payment of the additional tax attributable to such
25 property shall be postponed until the due date of the

1 *return for the taxable year in which such property is*
 2 *disposed of (or, in the case of property disposed of in*
 3 *a transaction in which gain is not recognized in*
 4 *whole or in part, until such other date as the Sec-*
 5 *retary may prescribe).*

6 “(2) *DETERMINATION OF TAX WITH RESPECT TO*
 7 *PROPERTY.—For purposes of paragraph (1), the addi-*
 8 *tional tax attributable to any property is an amount*
 9 *which bears the same ratio to the additional tax im-*
 10 *posed by this chapter for the taxable year solely by*
 11 *reason of subsection (a) as the gain taken into ac-*
 12 *count under subsection (a) with respect to such prop-*
 13 *erty bears to the total gain taken into account under*
 14 *subsection (a) with respect to all property to which*
 15 *subsection (a) applies.*

16 “(3) *TERMINATION OF POSTPONEMENT.—No tax*
 17 *may be postponed under this subsection later than the*
 18 *due date for the return of tax imposed by this chapter*
 19 *for the taxable year which includes the date of death*
 20 *of the expatriate (or, if earlier, the time that the secu-*
 21 *rity provided with respect to the property fails to*
 22 *meet the requirements of paragraph (4), unless the*
 23 *taxpayer corrects such failure within the time speci-*
 24 *fied by the Secretary).*

25 “(4) *SECURITY.—*

1 “(A) *IN GENERAL.*—No election may be
 2 made under paragraph (1) with respect to any
 3 property unless adequate security is provided to
 4 the Secretary with respect to such property.

5 “(B) *ADEQUATE SECURITY.*—For purposes
 6 of subparagraph (A), security with respect to
 7 any property shall be treated as adequate secu-
 8 rity if—

9 “(i) it is a bond in an amount equal
 10 to the deferred tax amount under paragraph
 11 (2) for the property, or

12 “(ii) the taxpayer otherwise establishes
 13 to the satisfaction of the Secretary that the
 14 security is adequate.

15 “(5) *WAIVER OF CERTAIN RIGHTS.*—No election
 16 may be made under paragraph (1) unless the tax-
 17 payer consents to the waiver of any right under any
 18 treaty of the United States which would preclude as-
 19 sessment or collection of any tax imposed by reason
 20 of this section.

21 “(6) *ELECTIONS.*—An election under paragraph
 22 (1) shall only apply to property described in the elec-
 23 tion and, once made, is irrevocable. An election may
 24 be made under paragraph (1) with respect to an in-

1 *terest in a trust with respect to which gain is re-*
 2 *quired to be recognized under subsection (f)(1).*

3 “(7) *INTEREST.*—*For purposes of section 6601—*

4 *“(A) the last date for the payment of tax*
 5 *shall be determined without regard to the election*
 6 *under this subsection, and*

7 *“(B) section 6621(a)(2) shall be applied by*
 8 *substituting ‘5 percentage points’ for ‘3 percent-*
 9 *age points’ in subparagraph (B) thereof.*

10 “(c) *COVERED EXPATRIATE.*—*For purposes of this sec-*
 11 *tion—*

12 *“(1) IN GENERAL.*—*Except as provided in para-*
 13 *graph (2), the term ‘covered expatriate’ means an ex-*
 14 *patriate.*

15 “(2) *EXCEPTIONS.*—*An individual shall not be*
 16 *treated as a covered expatriate if—*

17 “(A) *the individual—*

18 *“(i) became at birth a citizen of the*
 19 *United States and a citizen of another*
 20 *country and, as of the expatriation date,*
 21 *continues to be a citizen of, and is taxed as*
 22 *a resident of, such other country, and*

23 *“(ii) has not been a resident of the*
 24 *United States (as defined in section*
 25 *7701(b)(1)(A)(ii)) during the 5 taxable*

1 *years ending with the taxable year during*
 2 *which the expatriation date occurs, or*

3 “(B)(i) *the individual’s relinquishment of*
 4 *United States citizenship occurs before such indi-*
 5 *vidual attains age 18½, and*

6 “(ii) *the individual has been a resident of*
 7 *the United States (as so defined) for not more*
 8 *than 5 taxable years before the date of relin-*
 9 *quishment.*

10 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*
 11 *SION PLANS.—*

12 “(1) *EXEMPT PROPERTY.—This section shall not*
 13 *apply to the following:*

14 “(A) *UNITED STATES REAL PROPERTY IN-*
 15 *TERESTS.—Any United States real property in-*
 16 *terest (as defined in section 897(c)(1)), other*
 17 *than stock of a United States real property hold-*
 18 *ing corporation which does not, on the day before*
 19 *the expatriation date, meet the requirements of*
 20 *section 897(c)(2).*

21 “(B) *SPECIFIED PROPERTY.—Any property*
 22 *or interest in property not described in subpara-*
 23 *graph (A) which the Secretary specifies in regu-*
 24 *lations.*

1 “(2) *SPECIAL RULES FOR CERTAIN RETIREMENT*
2 *PLANS.*—

3 “(A) *IN GENERAL.*—If a covered expatriate
4 holds on the day before the expatriation date any
5 interest in a retirement plan to which this para-
6 graph applies—

7 “(i) such interest shall not be treated
8 as sold for purposes of subsection (a)(1), but

9 “(ii) an amount equal to the present
10 value of the expatriate’s nonforfeitable ac-
11 crued benefit shall be treated as having been
12 received by such individual on such date as
13 a distribution under the plan.

14 “(B) *TREATMENT OF SUBSEQUENT DIS-*
15 *TRIBUTIONS.*—In the case of any distribution on
16 or after the expatriation date to or on behalf of
17 the covered expatriate from a plan from which
18 the expatriate was treated as receiving a dis-
19 tribution under subparagraph (A), the amount
20 otherwise includible in gross income by reason of
21 the subsequent distribution shall be reduced by
22 the excess of the amount includible in gross in-
23 come under subparagraph (A) over any portion
24 of such amount to which this subparagraph pre-
25 viously applied.

1 “(C) *TREATMENT OF SUBSEQUENT DIS-*
 2 *TRIBUTIONS BY PLAN.*—*For purposes of this title,*
 3 *a retirement plan to which this paragraph ap-*
 4 *plies, and any person acting on the plan’s behalf,*
 5 *shall treat any subsequent distribution described*
 6 *in subparagraph (B) in the same manner as*
 7 *such distribution would be treated without re-*
 8 *gard to this paragraph.*

9 “(D) *APPLICABLE PLANS.*—*This paragraph*
 10 *shall apply to—*

11 “(i) *any qualified retirement plan (as*
 12 *defined in section 4974(c)),*

13 “(ii) *an eligible deferred compensation*
 14 *plan (as defined in section 457(b)) of an el-*
 15 *igible employer described in section*
 16 *457(e)(1)(A), and*

17 “(iii) *to the extent provided in regula-*
 18 *tions, any foreign pension plan or similar*
 19 *retirement arrangements or programs.*

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

21 “(1) *EXPATRIATE.*—*The term ‘expatriate’*
 22 *means—*

23 “(A) *any United States citizen who relin-*
 24 *quishes citizenship, and*

1 “(B) any long-term resident of the United
2 States who—

3 “(i) ceases to be a lawful permanent
4 resident of the United States (within the
5 meaning of section 7701(b)(6)), or

6 “(ii) commences to be treated as a resi-
7 dent of a foreign country under the provi-
8 sions of a tax treaty between the United
9 States and the foreign country and who
10 does not waive the benefits of such treaty
11 applicable to residents of the foreign coun-
12 try.

13 “(2) *EXPATRIATION DATE*.—The term ‘expatria-
14 tion date’ means—

15 “(A) the date an individual relinquishes
16 United States citizenship, or

17 “(B) in the case of a long-term resident of
18 the United States, the date of the event described
19 in clause (i) or (ii) of paragraph (1)(B).

20 “(3) *RELINQUISHMENT OF CITIZENSHIP*.—A cit-
21 izen shall be treated as relinquishing United States
22 citizenship on the earliest of—

23 “(A) the date the individual renounces such
24 individual’s United States nationality before a
25 diplomatic or consular officer of the United

1 *States pursuant to paragraph (5) of section*
2 *349(a) of the Immigration and Nationality Act*
3 *(8 U.S.C. 1481(a)(5)),*

4 *“(B) the date the individual furnishes to the*
5 *United States Department of State a signed*
6 *statement of voluntary relinquishment of United*
7 *States nationality confirming the performance of*
8 *an act of expatriation specified in paragraph*
9 *(1), (2), (3), or (4) of section 349(a) of the Im-*
10 *migration and Nationality Act (8 U.S.C.*
11 *1481(a)(1)–(4)),*

12 *“(C) the date the United States Department*
13 *of State issues to the individual a certificate of*
14 *loss of nationality, or*

15 *“(D) the date a court of the United States*
16 *cancels a naturalized citizen’s certificate of natu-*
17 *ralization.*

18 *Subparagraph (A) or (B) shall not apply to any in-*
19 *dividual unless the renunciation or voluntary relin-*
20 *quishment is subsequently approved by the issuance to*
21 *the individual of a certificate of loss of nationality by*
22 *the United States Department of State.*

23 *“(4) LONG-TERM RESIDENT.—The term ‘long-*
24 *term resident’ has the meaning given to such term by*
25 *section 877(e)(2).*

1 “(f) *SPECIAL RULES APPLICABLE TO BENEFICIARIES*’

2 *INTERESTS IN TRUST.—*

3 “(1) *IN GENERAL.—Except as provided in para-*
 4 *graph (2), if an individual is determined under para-*
 5 *graph (3) to hold an interest in a trust on the day*
 6 *before the expatriation date—*

7 “(A) *the individual shall not be treated as*
 8 *having sold such interest,*

9 “(B) *such interest shall be treated as a sep-*
 10 *arate share in the trust, and*

11 “(C)(i) *such separate share shall be treated*
 12 *as a separate trust consisting of the assets allo-*
 13 *cable to such share,*

14 “(ii) *the separate trust shall be treated as*
 15 *having sold its assets on the day before the expa-*
 16 *triation date for their fair market value and as*
 17 *having distributed all of its assets to the indi-*
 18 *vidual as of such time, and*

19 “(iii) *the individual shall be treated as hav-*
 20 *ing recontributed the assets to the separate trust.*

21 *Subsection (a)(2) shall apply to any income, gain, or*
 22 *loss of the individual arising from a distribution de-*
 23 *scribed in subparagraph (C)(ii). In determining the*
 24 *amount of such distribution, proper adjustments shall*

1 *be made for liabilities of the trust allocable to an in-*
 2 *dividual's share in the trust.*

3 “(2) *SPECIAL RULES FOR INTERESTS IN QUALI-*
 4 *FIED TRUSTS.—*

5 “(A) *IN GENERAL.—If the trust interest de-*
 6 *scribed in paragraph (1) is an interest in a*
 7 *qualified trust—*

8 “(i) *paragraph (1) and subsection (a)*
 9 *shall not apply, and*

10 “(ii) *in addition to any other tax im-*
 11 *posed by this title, there is hereby imposed*
 12 *on each distribution with respect to such in-*
 13 *terest a tax in the amount determined*
 14 *under subparagraph (B).*

15 “(B) *AMOUNT OF TAX.—The amount of tax*
 16 *under subparagraph (A)(ii) shall be equal to the*
 17 *lesser of—*

18 “(i) *the highest rate of tax imposed by*
 19 *section 1(e) for the taxable year which in-*
 20 *cludes the day before the expatriation date,*
 21 *multiplied by the amount of the distribu-*
 22 *tion, or*

23 “(ii) *the balance in the deferred tax ac-*
 24 *count immediately before the distribution*
 25 *determined without regard to any increases*

1 under subparagraph (C)(ii) after the 30th
2 day preceding the distribution.

3 “(C) *DEFERRED TAX ACCOUNT.*—For pur-
4 poses of subparagraph (B)(ii)—

5 “(i) *OPENING BALANCE.*—The opening
6 balance in a deferred tax account with re-
7 spect to any trust interest is an amount
8 equal to the tax which would have been im-
9 posed on the allocable expatriation gain
10 with respect to the trust interest if such
11 gain had been included in gross income
12 under subsection (a).

13 “(ii) *INCREASE FOR INTEREST.*—The
14 balance in the deferred tax account shall be
15 increased by the amount of interest deter-
16 mined (on the balance in the account at the
17 time the interest accrues), for periods after
18 the 90th day after the expatriation date, by
19 using the rates and method applicable
20 under section 6621 for underpayments of
21 tax for such periods, except that section
22 6621(a)(2) shall be applied by substituting
23 ‘5 percentage points’ for ‘3 percentage
24 points’ in subparagraph (B) thereof.

1 “(iii) *DECREASE FOR TAXES PRE-*
 2 *VIOUSLY PAID.—The balance in the tax de-*
 3 *ferred account shall be reduced—*

4 “(I) *by the amount of taxes im-*
 5 *posed by subparagraph (A) on any dis-*
 6 *tribution to the person holding the*
 7 *trust interest, and*

8 “(II) *in the case of a person hold-*
 9 *ing a nonvested interest, to the extent*
 10 *provided in regulations, by the amount*
 11 *of taxes imposed by subparagraph (A)*
 12 *on distributions from the trust with re-*
 13 *spect to nonvested interests not held by*
 14 *such person.*

15 “(D) *ALLOCABLE EXPATRIATION GAIN.—For*
 16 *purposes of this paragraph, the allocable expa-*
 17 *triation gain with respect to any beneficiary’s*
 18 *interest in a trust is the amount of gain which*
 19 *would be allocable to such beneficiary’s vested*
 20 *and nonvested interests in the trust if the bene-*
 21 *ficiary held directly all assets allocable to such*
 22 *interests.*

23 “(E) *TAX DEDUCTED AND WITHHELD.—*

24 “(i) *IN GENERAL.—The tax imposed by*
 25 *subparagraph (A)(ii) shall be deducted and*

1 *withheld by the trustees from the distribu-*
 2 *tion to which it relates.*

3 “(ii) *EXCEPTION WHERE FAILURE TO*
 4 *WAIVE TREATY RIGHTS.—If an amount may*
 5 *not be deducted and withheld under clause*
 6 *(i) by reason of the distributee failing to*
 7 *waive any treaty right with respect to such*
 8 *distribution—*

9 “(I) *the tax imposed by subpara-*
 10 *graph (A)(ii) shall be imposed on the*
 11 *trust and each trustee shall be person-*
 12 *ally liable for the amount of such tax,*
 13 *and*

14 “(II) *any other beneficiary of the*
 15 *trust shall be entitled to recover from*
 16 *the distributee the amount of such tax*
 17 *imposed on the other beneficiary.*

18 “(F) *DISPOSITION.—If a trust ceases to be*
 19 *a qualified trust at any time, a covered expa-*
 20 *triate disposes of an interest in a qualified trust,*
 21 *or a covered expatriate holding an interest in a*
 22 *qualified trust dies, then, in lieu of the tax im-*
 23 *posed by subparagraph (A)(ii), there is hereby*
 24 *imposed a tax equal to the lesser of—*

“(i) *the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or*

“(ii) *the balance in the tax deferred account immediately before such date.*

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

“(G) *DEFINITIONS AND SPECIAL RULES.—*

For purposes of this paragraph—

“(i) *QUALIFIED TRUST.—The term ‘qualified trust’ means a trust which is described in section 7701(a)(30)(E).*

“(ii) *VESTED INTEREST.—The term ‘vested interest’ means any interest which, as of the day before the expatriation date, is vested in the beneficiary.*

“(iii) *NONVESTED INTEREST.—The term ‘nonvested interest’ means, with respect to any beneficiary, any interest in a*

1 *trust which is not a vested interest. Such*
 2 *interest shall be determined by assuming the*
 3 *maximum exercise of discretion in favor of*
 4 *the beneficiary and the occurrence of all*
 5 *contingencies in favor of the beneficiary.*

6 “(iv) *ADJUSTMENTS.*—*The Secretary*
 7 *may provide for such adjustments to the*
 8 *bases of assets in a trust or a deferred tax*
 9 *account, and the timing of such adjust-*
 10 *ments, in order to ensure that gain is taxed*
 11 *only once.*

12 “(v) *COORDINATION WITH RETIREMENT*
 13 *PLAN RULES.*—*This subsection shall not*
 14 *apply to an interest in a trust which is*
 15 *part of a retirement plan to which sub-*
 16 *section (d)(2) applies.*

17 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
 18 *EST IN TRUST.*—

19 “(A) *DETERMINATIONS UNDER PARAGRAPH*
 20 *(1).*—*For purposes of paragraph (1), a bene-*
 21 *ficiary’s interest in a trust shall be based upon*
 22 *all relevant facts and circumstances, including*
 23 *the terms of the trust instrument and any letter*
 24 *of wishes or similar document, historical pat-*
 25 *terns of trust distributions, and the existence of*

1 *and functions performed by a trust protector or*
 2 *any similar adviser.*

3 “(B) *OTHER DETERMINATIONS.—For pur-*
 4 *poses of this section—*

5 “(i) *CONSTRUCTIVE OWNERSHIP.—If a*
 6 *beneficiary of a trust is a corporation, part-*
 7 *nership, trust, or estate, the shareholders,*
 8 *partners, or beneficiaries shall be deemed to*
 9 *be the trust beneficiaries for purposes of this*
 10 *section.*

11 “(ii) *TAXPAYER RETURN POSITION.—A*
 12 *taxpayer shall clearly indicate on its in-*
 13 *come tax return—*

14 “(I) *the methodology used to de-*
 15 *termine that taxpayer’s trust interest*
 16 *under this section, and*

17 “(II) *if the taxpayer knows (or*
 18 *has reason to know) that any other*
 19 *beneficiary of such trust is using a dif-*
 20 *ferent methodology to determine such*
 21 *beneficiary’s trust interest under this*
 22 *section.*

23 “(g) *TERMINATION OF DEFERRALS, ETC.—In the case*
 24 *of any covered expatriate, notwithstanding any other provi-*
 25 *sion of this title—*

1 “(1) any period during which recognition of in-
 2 come or gain is deferred shall terminate on the day
 3 before the expatriation date, and

4 “(2) any extension of time for payment of tax
 5 shall cease to apply on the day before the expatriation
 6 date and the unpaid portion of such tax shall be due
 7 and payable at the time and in the manner pre-
 8 scribed by the Secretary.

9 “(h) IMPOSITION OF TENTATIVE TAX.—

10 “(1) IN GENERAL.—If an individual is required
 11 to include any amount in gross income under sub-
 12 section (a) for any taxable year, there is hereby im-
 13 posed, immediately before the expatriation date, a tax
 14 in an amount equal to the amount of tax which
 15 would be imposed if the taxable year were a short tax-
 16 able year ending on the expatriation date.

17 “(2) DUE DATE.—The due date for any tax im-
 18 posed by paragraph (1) shall be the 90th day after the
 19 expatriation date.

20 “(3) TREATMENT OF TAX.—Any tax paid under
 21 paragraph (1) shall be treated as a payment of the
 22 tax imposed by this chapter for the taxable year to
 23 which subsection (a) applies.

24 “(4) DEFERRAL OF TAX.—The provisions of sub-
 25 section (b) shall apply to the tax imposed by this sub-

1 *section to the extent attributable to gain includible in*
2 *gross income by reason of this section.*

3 “(i) *SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.*—

4 “(1) *IMPOSITION OF LIEN.*—

5 “(A) *IN GENERAL.*—*If a covered expatriate*
6 *makes an election under subsection (a)(4) or (b)*
7 *which results in the deferral of any tax imposed*
8 *by reason of subsection (a), the deferred amount*
9 *(including any interest, additional amount, ad-*
10 *dition to tax, assessable penalty, and costs at-*
11 *tributable to the deferred amount) shall be a lien*
12 *in favor of the United States on all property of*
13 *the expatriate located in the United States (with-*
14 *out regard to whether this section applies to the*
15 *property).*

16 “(B) *DEFERRED AMOUNT.*—*For purposes of*
17 *this subsection, the deferred amount is the*
18 *amount of the increase in the covered expatri-*
19 *ate’s income tax which, but for the election under*
20 *subsection (a)(4) or (b), would have occurred by*
21 *reason of this section for the taxable year includ-*
22 *ing the expatriation date.*

23 “(2) *PERIOD OF LIEN.*—*The lien imposed by this*
24 *subsection shall arise on the expatriation date and*
25 *continue until—*

1 “(A) *the liability for tax by reason of this*
 2 *section is satisfied or has become unenforceable*
 3 *by reason of lapse of time, or*

4 “(B) *it is established to the satisfaction of*
 5 *the Secretary that no further tax liability may*
 6 *arise by reason of this section.*

7 “(3) *CERTAIN RULES APPLY.—The rules set forth*
 8 *in paragraphs (1), (3), and (4) of section 6324A(d)*
 9 *shall apply with respect to the lien imposed by this*
 10 *subsection as if it were a lien imposed by section*
 11 *6324A.*

12 “(j) *REGULATIONS.—The Secretary shall prescribe*
 13 *such regulations as may be necessary or appropriate to*
 14 *carry out the purposes of this section.”.*

15 (b) *INCLUSION IN INCOME OF GIFTS AND BEQUESTS*
 16 *RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS*
 17 *FROM EXPATRIATES.—Section 102 (relating to gifts, etc.*
 18 *not included in gross income) is amended by adding at the*
 19 *end the following new subsection:*

20 “(d) *GIFTS AND INHERITANCES FROM COVERED EX-*
 21 *PATRIATES.—*

22 “(1) *IN GENERAL.—Subsection (a) shall not ex-*
 23 *clude from gross income the value of any property ac-*
 24 *quired by gift, bequest, devise, or inheritance from a*
 25 *covered expatriate after the expatriation date. For*

1 *purposes of this subsection, any term used in this sub-*
 2 *section which is also used in section 877A shall have*
 3 *the same meaning as when used in section 877A.*

4 “(2) *EXCEPTIONS FOR TRANSFERS OTHERWISE*
 5 *SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)*
 6 *shall not apply to any property if either—*

7 “(A) *the gift, bequest, devise, or inheritance*
 8 *is—*

9 “(i) *shown on a timely filed return of*
 10 *tax imposed by chapter 12 as a taxable gift*
 11 *by the covered expatriate, or*

12 “(ii) *included in the gross estate of the*
 13 *covered expatriate for purposes of chapter*
 14 *11 and shown on a timely filed return of*
 15 *tax imposed by chapter 11 of the estate of*
 16 *the covered expatriate, or*

17 “(B) *no such return was timely filed but no*
 18 *such return would have been required to be filed*
 19 *even if the covered expatriate were a citizen or*
 20 *long-term resident of the United States.”.*

21 (c) *DEFINITION OF TERMINATION OF UNITED STATES*
 22 *CITIZENSHIP.—Section 7701(a) is amended by adding at*
 23 *the end the following new paragraph:*

24 “(48) *TERMINATION OF UNITED STATES CITIZEN-*
 25 *SHIP.—*

1 “(A) *IN GENERAL.*—An individual shall not
 2 cease to be treated as a United States citizen be-
 3 fore the date on which the individual’s citizen-
 4 ship is treated as relinquished under section
 5 877A(e)(3).

6 “(B) *DUAL CITIZENS.*—Under regulations
 7 prescribed by the Secretary, subparagraph (A)
 8 shall not apply to an individual who became at
 9 birth a citizen of the United States and a citizen
 10 of another country.”.

11 (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*
 12 *UNITED STATES.*—

13 (1) *IN GENERAL.*—Section 212(a)(10)(E) of the
 14 Immigration and Nationality Act (8 U.S.C.
 15 1182(a)(10)(E)) is amended to read as follows:

16 “(E) *FORMER CITIZENS NOT IN COMPLI-*
 17 *ANCE WITH EXPATRIATION REVENUE PROVI-*
 18 *SIONS.*—Any alien who is a former citizen of the
 19 United States who relinquishes United States
 20 citizenship (within the meaning of section
 21 877A(e)(3) of the Internal Revenue Code of 1986)
 22 and who is not in compliance with section 877A
 23 of such Code (relating to expatriation).”.

24 (2) *AVAILABILITY OF INFORMATION.*—

1 (A) *IN GENERAL.*—Section 6103(l) (relating
2 to disclosure of returns and return information
3 for purposes other than tax administration) is
4 amended by adding at the end the following new
5 paragraph:

6 “(19) *DISCLOSURE TO DENY VISA OR ADMISSION*
7 *TO CERTAIN EXPATRIATES.*—Upon written request of
8 the Attorney General or the Attorney General’s dele-
9 gate, the Secretary shall disclose whether an indi-
10 vidual is in compliance with section 877A (and if not
11 in compliance, any items of noncompliance) to offi-
12 cers and employees of the Federal agency responsible
13 for administering section 212(a)(10)(E) of the *Immi-*
14 *gration and Nationality Act* solely for the purpose of,
15 and to the extent necessary in, administering such
16 section 212(a)(10)(E).”.

17 (B) *SAFEGUARDS.*—

18 (i) *TECHNICAL AMENDMENTS.*—Para-
19 graph (4) of section 6103(p) of the *Internal*
20 *Revenue Code of 1986*, as amended by sec-
21 tion 202(b)(2)(B) of the *Trade Act of 2002*
22 (Public Law 107–210; 116 Stat. 961), is
23 amended by striking “or (17)” after “any
24 other person described in subsection (l)(16)”

1 each place it appears and inserting “or
2 (18)”.

3 (ii) *CONFORMING AMENDMENTS.*—Sec-
4 tion 6103(p)(4) (relating to safeguards), as
5 amended by clause (i), is amended by strik-
6 ing “or (18)” after “any other person de-
7 scribed in subsection (l)(16)” each place it
8 appears and inserting “(18), or (19)”.

9 (3) *EFFECTIVE DATES.*—

10 (A) *IN GENERAL.*—Except as provided in
11 subparagraph (B), the amendments made by this
12 subsection shall apply to individuals who relin-
13 quish United States citizenship on or after the
14 date of the enactment of this Act.

15 (B) *TECHNICAL AMENDMENTS.*—The
16 amendments made by paragraph (2)(B)(i) shall
17 take effect as if included in the amendments
18 made by section 202(b)(2)(B) of the Trade Act of
19 2002 (Public Law 107–210; 116 Stat. 961).

20 (e) *CONFORMING AMENDMENTS.*—

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

23 “(g) *APPLICATION.*—This section shall not apply to an
24 expatriate (as defined in section 877A(e)) whose expatria-

1 *tion date (as so defined) occurs on or after February 5,*
 2 *2003.”.*

3 *(2) Section 2107 is amended by adding at the*
 4 *end the following new subsection:*

5 *“(f) APPLICATION.—This section shall not apply to*
 6 *any expatriate subject to section 877A.”.*

7 *(3) Section 2501(a)(3) is amended by adding at*
 8 *the end the following new subparagraph:*

9 *“(F) APPLICATION.—This paragraph shall*
 10 *not apply to any expatriate subject to section*
 11 *877A.”.*

12 *(4)(A) Paragraph (1) of section 6039G(d) is*
 13 *amended by inserting “or 877A” after “section 877”.*

14 *(B) The second sentence of section 6039G(e) is*
 15 *amended by inserting “or who relinquishes United*
 16 *States citizenship (within the meaning of section*
 17 *877A(e)(3))” after “877(a)”.*

18 *(C) Section 6039G(f) is amended by inserting*
 19 *“or 877A(e)(2)(B)” after “877(e)(1)”.*

20 *(f) CLERICAL AMENDMENT.—The table of sections for*
 21 *subpart A of part II of subchapter N of chapter 1 is amend-*
 22 *ed by inserting after the item relating to section 877 the*
 23 *following new item:*

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

24 *(g) EFFECTIVE DATE.—*

1 (1) *IN GENERAL.*—*Except as provided in this*
 2 *subsection, the amendments made by this section shall*
 3 *apply to expatriates (within the meaning of section*
 4 *877A(e) of the Internal Revenue Code of 1986, as*
 5 *added by this section) whose expatriation date (as so*
 6 *defined) occurs on or after February 5, 2003.*

7 (2) *GIFTS AND BEQUESTS.*—*Section 102(d) of*
 8 *the Internal Revenue Code of 1986 (as added by sub-*
 9 *section (b)) shall apply to gifts and bequests received*
 10 *on or after February 5, 2003, from an individual or*
 11 *the estate of an individual whose expatriation date*
 12 *(as so defined) occurs after such date.*

13 (3) *DUE DATE FOR TENTATIVE TAX.*—*The due*
 14 *date under section 877A(h)(2) of the Internal Revenue*
 15 *Code of 1986, as added by this section, shall in no*
 16 *event occur before the 90th day after the date of the*
 17 *enactment of this Act.*

18 **SEC. 341. TAX TREATMENT OF INVERTED CORPORATE ENTI-**
 19 **TIES.**

20 (a) *IN GENERAL.*—*Subchapter C of chapter 80 (relat-*
 21 *ing to provisions affecting more than one subtitle) is*
 22 *amended by adding at the end the following new section:*

1 **“SEC. 7874. RULES RELATING TO INVERTED CORPORATE**
 2 **ENTITIES.**

3 *“(a) INVERTED CORPORATIONS TREATED AS DOMES-*
 4 *TIC CORPORATIONS.—*

5 *“(1) IN GENERAL.—If a foreign incorporated en-*
 6 *tity is treated as an inverted domestic corporation,*
 7 *then, notwithstanding section 7701(a)(4), such entity*
 8 *shall be treated for purposes of this title as a domestic*
 9 *corporation.*

10 *“(2) INVERTED DOMESTIC CORPORATION.—For*
 11 *purposes of this section, a foreign incorporated entity*
 12 *shall be treated as an inverted domestic corporation*
 13 *if, pursuant to a plan (or a series of related trans-*
 14 *actions)—*

15 *“(A) the entity completes after March 20,*
 16 *2002, the direct or indirect acquisition of sub-*
 17 *stantially all of the properties held directly or*
 18 *indirectly by a domestic corporation or substan-*
 19 *tially all of the properties constituting a trade or*
 20 *business of a domestic partnership,*

21 *“(B) after the acquisition at least 80 per-*
 22 *cent of the stock (by vote or value) of the entity*
 23 *is held—*

24 *“(i) in the case of an acquisition with*
 25 *respect to a domestic corporation, by former*
 26 *shareholders of the domestic corporation by*

1 *reason of holding stock in the domestic cor-*
 2 *poration, or*

3 “(ii) *in the case of an acquisition with*
 4 *respect to a domestic partnership, by former*
 5 *partners of the domestic partnership by rea-*
 6 *son of holding a capital or profits interest*
 7 *in the domestic partnership, and*

8 “(C) *the expanded affiliated group which*
 9 *after the acquisition includes the entity does not*
 10 *have substantial business activities in the foreign*
 11 *country in which or under the law of which the*
 12 *entity is created or organized when compared to*
 13 *the total business activities of such expanded af-*
 14 *filiated group.*

15 *Except as provided in regulations, an acquisition of*
 16 *properties of a domestic corporation shall not be*
 17 *treated as described in subparagraph (A) if none of*
 18 *the corporation’s stock was readily tradeable on an es-*
 19 *tablished securities market at any time during the 4-*
 20 *year period ending on the date of the acquisition.*

21 “(b) *PRESERVATION OF DOMESTIC TAX BASE IN CER-*
 22 *TAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION*
 23 *(a) DOES NOT APPLY.—*

1 “(1) *IN GENERAL.*—If a foreign incorporated en-
 2 tity would be treated as an inverted domestic corpora-
 3 tion with respect to an acquired entity if either—

4 “(A) subsection (a)(2)(A) were applied by
 5 substituting ‘after December 31, 1996, and on or
 6 before March 20, 2002’ for ‘after March 20, 2002’
 7 and subsection (a)(2)(B) were applied by sub-
 8 stituting ‘more than 50 percent’ for ‘at least 80
 9 percent’, or

10 “(B) subsection (a)(2)(B) were applied by
 11 substituting ‘more than 50 percent’ for ‘at least
 12 80 percent’,

13 then the rules of subsection (c) shall apply to any in-
 14 version gain of the acquired entity during the appli-
 15 cable period and the rules of subsection (d) shall
 16 apply to any related party transaction of the ac-
 17 quired entity during the applicable period. This sub-
 18 section shall not apply for any taxable year if sub-
 19 section (a) applies to such foreign incorporated entity
 20 for such taxable year.

21 “(2) *ACQUIRED ENTITY.*—For purposes of this
 22 section—

23 “(A) *IN GENERAL.*—The term ‘acquired en-
 24 tity’ means the domestic corporation or partner-
 25 ship substantially all of the properties of which

1 *are directly or indirectly acquired in an acquisi-*
 2 *tion described in subsection (a)(2)(A) to which*
 3 *this subsection applies.*

4 “(B) *AGGREGATION RULES.*—*Any domestic*
 5 *person bearing a relationship described in sec-*
 6 *tion 267(b) or 707(b) to an acquired entity shall*
 7 *be treated as an acquired entity with respect to*
 8 *the acquisition described in subparagraph (A).*

9 “(3) *APPLICABLE PERIOD.*—*For purposes of this*
 10 *section—*

11 “(A) *IN GENERAL.*—*The term ‘applicable*
 12 *period’ means the period—*

13 *“(i) beginning on the first date prop-*
 14 *erties are acquired as part of the acquisi-*
 15 *tion described in subsection (a)(2)(A) to*
 16 *which this subsection applies, and*

17 *“(ii) ending on the date which is 10*
 18 *years after the last date properties are ac-*
 19 *quired as part of such acquisition.*

20 “(B) *SPECIAL RULE FOR INVERSIONS OC-*
 21 *CURRING BEFORE MARCH 21, 2002.*—*In the case*
 22 *of any acquired entity to which paragraph*
 23 *(1)(A) applies, the applicable period shall be the*
 24 *10-year period beginning on January 1, 2003.*

1 “(c) *TAX ON INVERSION GAINS MAY NOT BE OFF-*
 2 *SET.—If subsection (b) applies—*

3 “(1) *IN GENERAL.—The taxable income of an ac-*
 4 *quired entity (or any expanded affiliated group which*
 5 *includes such entity) for any taxable year which in-*
 6 *cludes any portion of the applicable period shall in*
 7 *no event be less than the inversion gain of the entity*
 8 *for the taxable year.*

9 “(2) *CREDITS NOT ALLOWED AGAINST TAX ON IN-*
 10 *VERSION GAIN.—Credits shall be allowed against the*
 11 *tax imposed by this chapter on an acquired entity for*
 12 *any taxable year described in paragraph (1) only to*
 13 *the extent such tax exceeds the product of—*

14 “(A) *the amount of the inversion gain for*
 15 *the taxable year, and*

16 “(B) *the highest rate of tax specified in sec-*
 17 *tion 11(b)(1).*

18 *For purposes of determining the credit allowed by sec-*
 19 *tion 901 inversion gain shall be treated as from*
 20 *sources within the United States.*

21 “(3) *SPECIAL RULES FOR PARTNERSHIPS.—In*
 22 *the case of an acquired entity which is a partner-*
 23 *ship—*

1 “(A) the limitations of this subsection shall
 2 apply at the partner rather than the partnership
 3 level,

4 “(B) the inversion gain of any partner for
 5 any taxable year shall be equal to the sum of—

6 “(i) the partner’s distributive share of
 7 inversion gain of the partnership for such
 8 taxable year, plus

9 “(ii) income or gain required to be rec-
 10 ognized for the taxable year by the partner
 11 under section 367(a), 741, or 1001, or
 12 under any other provision of chapter 1, by
 13 reason of the transfer during the applicable
 14 period of any partnership interest of the
 15 partner in such partnership to the foreign
 16 incorporated entity, and

17 “(C) the highest rate of tax specified in the
 18 rate schedule applicable to the partner under
 19 chapter 1 shall be substituted for the rate of tax
 20 under paragraph (2)(B).

21 “(4) INVERSION GAIN.—For purposes of this sec-
 22 tion, the term ‘inversion gain’ means any income or
 23 gain required to be recognized under section 304,
 24 311(b), 367, 1001, or 1248, or under any other provi-
 25 sion of chapter 1, by reason of the transfer during the

1 *applicable period of stock or other properties by an*
 2 *acquired entity—*

3 *“(A) as part of the acquisition described in*
 4 *subsection (a)(2)(A) to which subsection (b) ap-*
 5 *plies, or*

6 *“(B) after such acquisition to a foreign re-*
 7 *lated person.*

8 *The Secretary may provide that income or gain from*
 9 *the sale of inventories or other transactions in the or-*
 10 *inary course of a trade or business shall not be treat-*
 11 *ed as inversion gain under subparagraph (B) to the*
 12 *extent the Secretary determines such treatment would*
 13 *not be inconsistent with the purposes of this section.*

14 *“(5) COORDINATION WITH SECTION 172 AND MIN-*
 15 *IMUM TAX.—Rules similar to the rules of paragraphs*
 16 *(3) and (4) of section 860E(a) shall apply for pur-*
 17 *poses of this section.*

18 *“(6) STATUTE OF LIMITATIONS.—*

19 *“(A) IN GENERAL.—The statutory period*
 20 *for the assessment of any deficiency attributable*
 21 *to the inversion gain of any taxpayer for any*
 22 *pre-inversion year shall not expire before the ex-*
 23 *piration of 3 years from the date the Secretary*
 24 *is notified by the taxpayer (in such manner as*
 25 *the Secretary may prescribe) of the acquisition*

described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(B) *PRE-INVERSION YEAR*.—For purposes of subparagraph (A), the term ‘pre-inversion year’ means any taxable year if—

“(i) any portion of the applicable period is included in such taxable year, and

“(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

“(d) *SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS*.—

“(1) *ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS*.—

“(A) *IN GENERAL*.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such

1 *time and manner, and shall contain such infor-*
 2 *mation, as the Secretary may prescribe.*

3 “(B) *SECRETARIAL ACTION.*—*Within 90*
 4 *days of receipt of an application under subpara-*
 5 *graph (A) (or such longer period as the Secretary*
 6 *and entity may agree upon), the Secretary*
 7 *shall—*

8 “(i) *enter into an agreement described*
 9 *in subparagraph (D) for the taxable year*
 10 *covered by the application,*

11 “(ii) *notify the entity that the Sec-*
 12 *retary has determined that the application*
 13 *was filed in good faith and substantially*
 14 *complies with the requirements for the ap-*
 15 *plication under subparagraph (A), or*

16 “(iii) *notify the entity that the Sec-*
 17 *retary has determined that the application*
 18 *was not filed in good faith or does not sub-*
 19 *stantially comply with such requirements.*

20 *If the Secretary fails to act within the time pre-*
 21 *scribed under the preceding sentence, the entity*
 22 *shall be treated for purposes of this paragraph as*
 23 *having received notice under clause (ii).*

24 “(C) *FAILURES TO COMPLY.*—*If an ac-*
 25 *quired entity fails to file an application under*

1 subparagraph (A), or the acquired entity receives
2 a notice under subparagraph (B)(iii), for any
3 taxable year, then for such taxable year—

4 “(i) there shall not be allowed any de-
5 duction, or addition to basis or cost of goods
6 sold, for amounts paid or incurred, or losses
7 incurred, by reason of a transaction between
8 the acquired entity and a foreign related
9 person,

10 “(ii) any transfer or license of intan-
11 gible property (as defined in section
12 936(h)(3)(B)) between the acquired entity
13 and a foreign related person shall be dis-
14 regarded, and

15 “(iii) any cost-sharing arrangement
16 between the acquired entity and a foreign
17 related person shall be disregarded.

18 “(D) *APPROVAL AGREEMENT.*—For pur-
19 poses of subparagraph (A), the term ‘approval
20 agreement’ means a prefiling, advance pricing,
21 or other agreement specified by the Secretary
22 which contains such provisions as the Secretary
23 determines necessary to ensure that the require-
24 ments of sections 163(j), 267(a)(3), 482, and 845,
25 and any other provision of this title applicable

1 to transactions between related persons and spec-
2 ified by the Secretary, are met.

3 “(E) TAX COURT REVIEW.—

4 “(i) IN GENERAL.—The Tax Court
5 shall have jurisdiction over any action
6 brought by an acquired entity receiving a
7 notice under subparagraph (B)(iii) to deter-
8 mine whether the issuance of the notice was
9 an abuse of discretion, but only if the action
10 is brought within 30 days after the date of
11 the mailing (determined under rules similar
12 to section 6213) of the notice.

13 “(ii) COURT ACTION.—The Tax Court
14 shall issue its decision within 30 days after
15 the filing of the action under clause (i) and
16 may order the Secretary to issue a notice
17 described in subparagraph (B)(ii).

18 “(iii) REVIEW.—An order of the Tax
19 Court under this subparagraph shall be re-
20 viewable in the same manner as any other
21 decision of the Tax Court.

22 “(2) MODIFICATIONS OF LIMITATION ON INTER-
23 EST DEDUCTION.—In the case of an acquired entity
24 to which subsection (b) applies, section 163(j) shall be
25 applied—

1 “(A) *without regard to paragraph (2)(A)(ii)*
2 *thereof, and*

3 “(B) *by substituting ‘25 percent’ for ‘50*
4 *percent’ each place it appears in paragraph*
5 *(2)(B) thereof.*

6 “(e) *OTHER DEFINITIONS AND SPECIAL RULES.—For*
7 *purposes of this section—*

8 “(1) *RULES FOR APPLICATION OF SUBSECTION*
9 *(a)(2).—In applying subsection (a)(2) for purposes of*
10 *subsections (a) and (b), the following rules shall*
11 *apply:*

12 “(A) *CERTAIN STOCK DISREGARDED.—*
13 *There shall not be taken into account in deter-*
14 *mining ownership for purposes of subsection*
15 *(a)(2)(B)—*

16 “(i) *stock held by members of the ex-*
17 *panded affiliated group which includes the*
18 *foreign incorporated entity, or*

19 “(ii) *stock of such entity which is sold*
20 *in a public offering or private placement re-*
21 *lated to the acquisition described in sub-*
22 *section (a)(2)(A).*

23 “(B) *PLAN DEEMED IN CERTAIN CASES.—If*
24 *a foreign incorporated entity acquires directly or*
25 *indirectly substantially all of the properties of a*

1 *domestic corporation or partnership during the*
 2 *4-year period beginning on the date which is 2*
 3 *years before the ownership requirements of sub-*
 4 *section (a)(2)(B) are met with respect to such do-*
 5 *mestic corporation or partnership, such actions*
 6 *shall be treated as pursuant to a plan.*

7 *“(C) CERTAIN TRANSFERS DISREGARDED.—*
 8 *The transfer of properties or liabilities (includ-*
 9 *ing by contribution or distribution) shall be dis-*
 10 *regarded if such transfers are part of a plan a*
 11 *principal purpose of which is to avoid the pur-*
 12 *poses of this section.*

13 *“(D) SPECIAL RULE FOR RELATED PART-*
 14 *NERSHIPS.—For purposes of applying subsection*
 15 *(a)(2) to the acquisition of a domestic partner-*
 16 *ship, except as provided in regulations, all part-*
 17 *nerships which are under common control (with-*
 18 *in the meaning of section 482) shall be treated*
 19 *as 1 partnership.*

20 *“(E) TREATMENT OF CERTAIN RIGHTS.—*
 21 *The Secretary shall prescribe such regulations as*
 22 *may be necessary—*

23 *“(i) to treat warrants, options, con-*
 24 *tracts to acquire stock, convertible debt in-*

1 *struments, and other similar interests as*
 2 *stock, and*

3 *“(ii) to treat stock as not stock.*

4 *“(2) EXPANDED AFFILIATED GROUP.—The term*
 5 *‘expanded affiliated group’ means an affiliated group*
 6 *as defined in section 1504(a) but without regard to*
 7 *section 1504(b)(3), except that section 1504(a) shall*
 8 *be applied by substituting ‘more than 50 percent’ for*
 9 *‘at least 80 percent’ each place it appears.*

10 *“(3) FOREIGN INCORPORATED ENTITY.—The*
 11 *term ‘foreign incorporated entity’ means any entity*
 12 *which is, or but for subsection (a)(1) would be, treated*
 13 *as a foreign corporation for purposes of this title.*

14 *“(4) FOREIGN RELATED PERSON.—The term ‘for-*
 15 *foreign related person’ means, with respect to any ac-*
 16 *quired entity, a foreign person which—*

17 *“(A) bears a relationship to such entity de-*
 18 *scribed in section 267(b) or 707(b), or*

19 *“(B) is under the same common control*
 20 *(within the meaning of section 482) as such enti-*
 21 *ty.*

22 *“(5) SUBSEQUENT ACQUISITIONS BY UNRELATED*
 23 *DOMESTIC CORPORATIONS.—*

24 *“(A) IN GENERAL.—Subject to such condi-*
 25 *tions, limitations, and exceptions as the Sec-*

retary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

“(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

“(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

“(ii) after such transaction, such acquired entity—

“(I) is a member of the same expanded affiliated group which includes

1 *the domestic corporation or has such a*
 2 *relationship or is under such common*
 3 *control with any member of such*
 4 *group, and*

5 “(II) *is not a member of, and does*
 6 *not have such a relationship and is not*
 7 *under such common control with any*
 8 *member of, the expanded affiliated*
 9 *group which before such acquisition in-*
 10 *cluded such entity.*

11 “(f) *REGULATIONS.—The Secretary shall provide such*
 12 *regulations as are necessary to carry out this section, in-*
 13 *cluding regulations providing for such adjustments to the*
 14 *application of this section as are necessary to prevent the*
 15 *avoidance of the purposes of this section, including the*
 16 *avoidance of such purposes through—*

17 “(1) *the use of related persons, pass-through or*
 18 *other noncorporate entities, or other intermediaries,*
 19 *or*

20 “(2) *transactions designed to have persons cease*
 21 *to be (or not become) members of expanded affiliated*
 22 *groups or related persons.”.*

23 “(b) *TREATMENT OF AGREEMENTS.—*

24 “(1) *CONFIDENTIALITY.—*

1 (A) *TREATMENT AS RETURN INFORMA-*
 2 *TION.—Section 6103(b)(2) (relating to return in-*
 3 *formation) is amended by striking “and” at the*
 4 *end of subparagraph (C), by inserting “and” at*
 5 *the end of subparagraph (D), and by inserting*
 6 *after subparagraph (D) the following new sub-*
 7 *paragraph:*

8 *“(E) any approval agreement under section*
 9 *7874(d)(1) to which any preceding subparagraph*
 10 *does not apply and any background information*
 11 *related to the agreement or any application for*
 12 *the agreement,”.*

13 (B) *EXCEPTION FROM PUBLIC INSPECTION*
 14 *AS WRITTEN DETERMINATION.—Section*
 15 *6110(b)(1)(B) is amended by striking “or (D)”*
 16 *and inserting “, (D), or (E)”.*

17 (2) *REPORTING.—The Secretary of the Treasury*
 18 *shall include with any report on advance pricing*
 19 *agreements required to be submitted after the date of*
 20 *the enactment of this Act under section 521(b) of the*
 21 *Ticket to Work and Work Incentives Improvement Act*
 22 *of 1999 (Public Law 106–170) a report regarding ap-*
 23 *proval agreements under section 7874(d)(1) of the In-*
 24 *ternal Revenue Code of 1986. Such report shall in-*
 25 *clude information similar to the information required*

1 *with respect to advance pricing agreements and shall*
 2 *be treated for confidentiality purposes in the same*
 3 *manner as the reports on advance pricing agreements*
 4 *are treated under section 521(b)(3) of such Act.*

5 (c) *INFORMATION REPORTING.*—*The Secretary of the*
 6 *Treasury shall exercise the Secretary’s authority under the*
 7 *Internal Revenue Code of 1986 to require entities involved*
 8 *in transactions to which section 7874 of such Code (as*
 9 *added by subsection (a)) applies to report to the Secretary,*
 10 *shareholders, partners, and such other persons as the Sec-*
 11 *retary may prescribe such information as is necessary to*
 12 *ensure the proper tax treatment of such transactions.*

13 (d) *CONFORMING AMENDMENT.*—*The table of sections*
 14 *for subchapter C of chapter 80 is amended by adding at*
 15 *the end the following new item:*

“Sec. 7874. Rules relating to inverted corporate entities.”.

16 (e) *TRANSITION RULE FOR CERTAIN REGULATED IN-*
 17 *VESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.*—
 18 *Notwithstanding section 7874 of the Internal Revenue Code*
 19 *of 1986 (as added by subsection (a)), a regulated investment*
 20 *company, or other pooled fund or trust specified by the Sec-*
 21 *retary of the Treasury, may elect to recognize gain by rea-*
 22 *son of section 367(a) of such Code with respect to a trans-*
 23 *action under which a foreign incorporated entity is treated*
 24 *as an inverted domestic corporation under section 7874(a)*

1 of such Code by reason of an acquisition completed after
 2 March 20, 2002, and before January 1, 2004.

3 **SEC. 342. EXCISE TAX ON STOCK COMPENSATION OF INSID-**
 4 **ERS IN INVERTED CORPORATIONS.**

5 (a) *IN GENERAL.*—Subtitle D is amended by adding
 6 at the end the following new chapter:

7 **“CHAPTER 48—STOCK COMPENSATION OF**
 8 **INSIDERS IN INVERTED CORPORATIONS**

“Sec. 5000A. Stock compensation of insiders in inverted corpora-
 tions entities.

9 **“SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN IN-**
 10 **VERTED CORPORATIONS.**

11 “(a) *IMPOSITION OF TAX.*—In the case of an indi-
 12 vidual who is a disqualified individual with respect to any
 13 inverted corporation, there is hereby imposed on such per-
 14 son a tax equal to 20 percent of the value (determined under
 15 subsection (b)) of the specified stock compensation held (di-
 16 rectly or indirectly) by or for the benefit of such individual
 17 or a member of such individual’s family (as defined in sec-
 18 tion 267) at any time during the 12-month period begin-
 19 ning on the date which is 6 months before the inversion
 20 date.

21 “(b) *VALUE.*—For purposes of subsection (a)—

22 “(1) *IN GENERAL.*—The value of specified stock
 23 compensation shall be—

1 “(A) in the case of a stock option (or other
 2 similar right) or any stock appreciation right,
 3 the fair value of such option or right, and

4 “(B) in any other case, the fair market
 5 value of such compensation.

6 “(2) DATE FOR DETERMINING VALUE.—The de-
 7 termination of value shall be made—

8 “(A) in the case of specified stock compensa-
 9 tion held on the inversion date, on such date,

10 “(B) in the case of such compensation which
 11 is canceled during the 6 months before the inver-
 12 sion date, on the day before such cancellation,
 13 and

14 “(C) in the case of such compensation which
 15 is granted after the inversion date, on the date
 16 such compensation is granted.

17 “(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN
 18 RECOGNIZED.—Subsection (a) shall apply to any disquali-
 19 fied individual with respect to an inverted corporation only
 20 if gain (if any) on any stock in such corporation is recog-
 21 nized in whole or part by any shareholder by reason of the
 22 acquisition referred to in section 7874(a)(2)(A) (determined
 23 by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with
 24 respect to such corporation.

1 “(d) *EXCEPTION WHERE GAIN RECOGNIZED ON COM-*
 2 *PENSATION.*—*Subsection (a) shall not apply to—*

3 “(1) *any stock option which is exercised on the*
 4 *inversion date or during the 6-month period before*
 5 *such date and to the stock acquired in such exercise,*
 6 *and*

7 “(2) *any specified stock compensation which is*
 8 *sold, exchanged, or distributed during such period in*
 9 *a transaction in which gain or loss is recognized in*
 10 *full.*

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

12 “(1) *DISQUALIFIED INDIVIDUAL.*—*The term ‘dis-*
 13 *qualified individual’ means, with respect to a cor-*
 14 *poration, any individual who, at any time during the*
 15 *12-month period beginning on the date which is 6*
 16 *months before the inversion date—*

17 “(A) *is subject to the requirements of section*
 18 *16(a) of the Securities Exchange Act of 1934*
 19 *with respect to such corporation or any member*
 20 *of the expanded affiliated group which includes*
 21 *such corporation, or*

22 “(B) *would be subject to such requirements*
 23 *if such corporation or member were an issuer of*
 24 *equity securities referred to in such section.*

1 “(2) *INVERTED CORPORATION; INVERSION*
2 *DATE.*—

3 “(A) *INVERTED CORPORATION.*—*The term*
4 *‘inverted corporation’ means any corporation to*
5 *which subsection (a) or (b) of section 7874 ap-*
6 *plies determined—*

7 “(i) *by substituting ‘July 10, 2002’ for*
8 *‘March 20, 2002’ in section 7874(a)(2)(A),*
9 *and*

10 “(ii) *without regard to subsection*
11 *(b)(1)(A).*

12 *Such term includes any predecessor or successor*
13 *of such a corporation.*

14 “(B) *INVERSION DATE.*—*The term ‘inver-*
15 *sion date’ means, with respect to a corporation,*
16 *the date on which the corporation first becomes*
17 *an inverted corporation.*

18 “(3) *SPECIFIED STOCK COMPENSATION.*—

19 “(A) *IN GENERAL.*—*The term ‘specified*
20 *stock compensation’ means payment (or right to*
21 *payment) granted by the inverted corporation*
22 *(or by any member of the expanded affiliated*
23 *group which includes such corporation) to any*
24 *person in connection with the performance of*
25 *services by a disqualified individual for such cor-*

poration or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

“(B) *EXCEPTIONS.*—Such term shall not include—

“(i) any option to which part II of subchapter D of chapter 1 applies, or

“(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

“(4) *EXPANDED AFFILIATED GROUP.*—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(f) *SPECIAL RULES.*—For purposes of this section—

“(1) *CANCELLATION OF RESTRICTION.*—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

“(2) *PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.*—Any payment of the tax imposed by this section directly or indirectly by the inverted corpora-

1 *tion or by any member of the expanded affiliated*
 2 *group which includes such corporation—*

3 *“(A) shall be treated as specified stock com-*
 4 *pensation, and*

5 *“(B) shall not be allowed as a deduction*
 6 *under any provision of chapter 1.*

7 *“(3) CERTAIN RESTRICTIONS IGNORED.—Wheth-*
 8 *er there is specified stock compensation, and the value*
 9 *thereof, shall be determined without regard to any re-*
 10 *striction other than a restriction which by its terms*
 11 *will never lapse.*

12 *“(4) PROPERTY TRANSFERS.—Any transfer of*
 13 *property shall be treated as a payment and any right*
 14 *to a transfer of property shall be treated as a right*
 15 *to a payment.*

16 *“(5) OTHER ADMINISTRATIVE PROVISIONS.—For*
 17 *purposes of subtitle F, any tax imposed by this sec-*
 18 *tion shall be treated as a tax imposed by subtitle A.*

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

22 *(b) DENIAL OF DEDUCTION.—*

23 *(1) IN GENERAL.—Paragraph (6) of section*
 24 *275(a) is amended by inserting “48,” after “46,”.*

(2) *\$1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.*—*Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:*

“(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.”.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period “or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A”.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

“Chapter 48. Stock compensation of insiders in inverted corporations.”.

1 (d) *EFFECTIVE DATE.*—The amendments made by this
 2 section shall take effect on July 11, 2002; except that periods
 3 before such date shall not be taken into account in applying
 4 the periods in subsections (a) and (e)(1) of section 5000A
 5 of the Internal Revenue Code of 1986, as added by this sec-
 6 tion.

7 **SEC. 343. REINSURANCE OF UNITED STATES RISKS IN FOR-**
 8 **EIGN JURISDICTIONS.**

9 (a) *IN GENERAL.*—Section 845(a) (relating to alloca-
 10 tion in case of reinsurance agreement involving tax avoid-
 11 ance or evasion) is amended by striking “source and char-
 12 acter” and inserting “amount, source, or character”.

13 (b) *EFFECTIVE DATE.*—The amendments made by this
 14 section shall apply to any risk reinsured after April 11,
 15 2002.

16 **PART II—OTHER PROVISIONS**

17 **SEC. 344. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
 18 **INTEREST ON UNDERPAYMENTS RELATED TO**
 19 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
 20 **MENT.**

21 (a) *GENERAL RULE.*—If—

22 (1) a taxpayer eligible to participate in the De-
 23 partment of the Treasury’s Offshore Voluntary Com-
 24 pliance Initiative did not participate in such initia-
 25 tive, and

1 (2) *any interest or applicable penalty is imposed*
 2 *with respect to any arrangement to which such initia-*
 3 *tive applied or to any underpayment of Federal in-*
 4 *come tax attributable to items arising in connection*
 5 *with such arrangement,*

6 *then, notwithstanding any other provision of law, the*
 7 *amount of such interest or penalty shall be equal to twice*
 8 *that determined without regard to this section.*

9 (b) *DEFINITIONS AND RULES.—For purposes of this*
 10 *section—*

11 (1) *APPLICABLE PENALTY.—The term “applica-*
 12 *ble penalty” means any penalty, addition to tax, or*
 13 *fine imposed under chapter 68 of the Internal Rev-*
 14 *enue Code of 1986.*

15 (2) *VOLUNTARY OFFSHORE COMPLIANCE INITIA-*
 16 *TIVE.—The term “Voluntary Offshore Compliance*
 17 *Initiative” means the program established by the De-*
 18 *partment of the Treasury in January of 2003 under*
 19 *which any taxpayer was eligible to voluntarily dis-*
 20 *close previously undisclosed income on assets placed*
 21 *in offshore accounts and accessed through credit card*
 22 *and other financial arrangements.*

23 (3) *PARTICIPATION.—A taxpayer shall be treated*
 24 *as having participated in the Voluntary Offshore*
 25 *Compliance Initiative if the taxpayer submitted the*

1 *request in a timely manner and all information re-*
 2 *quested by the Secretary of the Treasury or his dele-*
 3 *gate within a reasonable period of time following the*
 4 *request.*

5 *(c) EFFECTIVE DATE.—The provisions of this section*
 6 *shall apply to interest penalties, additions to tax, and fines*
 7 *with respect to any taxable year if as of May 8, 2003, the*
 8 *assessment of any tax, penalty, or interest with respect to*
 9 *such taxable year is not prevented by the operation of any*
 10 *law or rule of law.*

11 ***SEC. 345. EFFECTIVELY CONNECTED INCOME TO INCLUDE***
 12 ***CERTAIN FOREIGN SOURCE INCOME.***

13 *(a) IN GENERAL.—Section 864(c)(4)(B) (relating to*
 14 *treatment of income from sources without the United States*
 15 *as effectively connected income) is amended by adding at*
 16 *the end the following new flush sentence:*

17 *“Any income or gain which is equivalent to any*
 18 *item of income or gain described in clause (i),*
 19 *(ii), or (iii) shall be treated in the same manner*
 20 *as such item for purposes of this subparagraph.”.*

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

1 **SEC. 346. DETERMINATION OF BASIS OF AMOUNTS PAID**
 2 **FROM FOREIGN PENSION PLANS.**

3 (a) *IN GENERAL.*—Section 72 (relating to annuities
 4 and certain proceeds of endowment and life insurance con-
 5 tracts) is amended by redesignating subsection (w) as sub-
 6 section (x) by inserting subsection (v) the following new
 7 subsection:

8 “(w) *DETERMINATION OF BASIS OF FOREIGN PENSION*
 9 *PLANS.*—Notwithstanding any other provision of this sec-
 10 tion, for purposes of determining the portion of any dis-
 11 tribution from a foreign pension plan which is includible
 12 in gross income of the distributee, the investment in the con-
 13 tract with respect to the plan shall not include employer
 14 or employee contributions to the plan (or any earnings on
 15 such contributions) unless such contributions or earnings
 16 were subject to taxation by the United States or any foreign
 17 government.”.

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

21 **SEC. 347. RECAPTURE OF OVERALL FOREIGN LOSSES ON**
 22 **SALE OF CONTROLLED FOREIGN CORPORA-**
 23 **TION.**

24 (a) *IN GENERAL.*—Section 904(f)(3) (relating to dis-
 25 positions) is amending by adding at the end the following
 26 new subparagraph:

1 “(D) *APPLICATION TO DISPOSITIONS OF*
 2 *STOCK IN CONTROLLED FOREIGN CORPORA-*
 3 *TIONS.—In the case of any disposition by a tax-*
 4 *payer of any share of stock in a controlled for-*
 5 *ign corporation (as defined in section 957), this*
 6 *paragraph shall apply to such disposition in the*
 7 *same manner as if it were a disposition of prop-*
 8 *erty described in subparagraph (A), except that*
 9 *the exception contained in subparagraph (C)(i)*
 10 *shall not apply.”.*

11 (b) *EFFECTIVE DATE.—The amendment made by this*
 12 *section shall apply to dispositions after the date of the en-*
 13 *actment of this Act.*

14 **SEC. 348. PREVENTION OF MISMATCHING OF INTEREST**
 15 **AND ORIGINAL ISSUE DISCOUNT DEDUC-**
 16 **TIONS AND INCOME INCLUSIONS IN TRANS-**
 17 **ACTIONS WITH RELATED FOREIGN PERSONS.**

18 (a) *ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3)*
 19 *(relating to special rule for original issue discount on obli-*
 20 *gation held by related foreign person) is amended by redes-*
 21 *ignating subparagraph (B) as subparagraph (C) and by in-*
 22 *serting after subparagraph (A) the following new subpara-*
 23 *graph:*

24 “(B) *SPECIAL RULE FOR CERTAIN FOREIGN*
 25 *ENTITIES.—Notwithstanding subparagraph (A)*

(and any regulations thereunder), in the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year only to the extent such original issue discount is included during such taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation. For purposes of this subparagraph, the determination as to the proper allocation of the original issue discount to shareholders shall be made in such manner as the Secretary may prescribe.”.

(b) *INTEREST AND OTHER DEDUCTIBLE AMOUNTS.*—

Section 267(a)(3) is amended—

(1) by striking “The Secretary” and inserting:

“(A) *IN GENERAL.*—The Secretary”, and

(2) by adding at the end the following new subparagraph:

1 “(B) *SPECIAL RULE FOR CERTAIN FOREIGN*
2 *ENTITIES.*—Notwithstanding any regulations
3 issued under subparagraph (A), in the case of
4 any amount payable to a foreign personal hold-
5 ing company (as defined in section 552), a con-
6 trolled foreign corporation (as defined in section
7 957), or a passive foreign investment company
8 (as defined in section 1297), a deduction shall be
9 allowable to the payor with respect to such
10 amount for any taxable year only to the extent
11 such amount is included during such taxable
12 year in the gross income of a United States per-
13 son who owns (within the meaning of section
14 958(a)) stock in such corporation. For purposes
15 of this subparagraph, the determination as to the
16 proper allocation of such amount to shareholders
17 shall be made in such manner as the Secretary
18 may prescribe.”.

19 (c) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to payments accrued on or after May
21 8, 2003.

22 **SEC. 349. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-**
23 **FREE SALES ENTERPRISES.**

24 (a) *PROHIBITION.*—Section 555(b) of the Tariff Act of
25 1930 (19 U.S.C. 1555(b)) is amended—

(2) by inserting after paragraph (5) the following:

5 “(6) Any gasoline or diesel fuel sold at a duty-
6 free sales enterprise shall be considered to be entered
7 for consumption into the customs territory of the
8 United States.”.

9 (b) CONSTRUCTION.—The amendments made by this
10 section shall not be construed to create any inference with
11 respect to the interpretation of any provision of law as such
12 provision was in effect on the day before the date of enact-
13 ment of this Act.

14 (c) *EFFECTIVE DATE.*—*The amendments made by this*
15 *section shall take effect on the date of enactment of this Act.*

16 **SEC. 350. REPEAL OF EARNED INCOME EXCLUSION OF CITI-**
17 **ZENS OR RESIDENTS LIVING ABROAD.**

18 (a) *REPEAL*.—Section 911 (relating to citizens or resi-
19 dents living abroad) is amended by adding at the end the
20 following new subsection:

21 “(g) *TERMINATION.*—This section shall not apply to
22 any taxable year beginning after December 31, 2003.”.

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

***Subtitle E—Other Revenue
Provisions***

SEC. 351. EXTENSION OF INTERNAL REVENUE SERVICE

USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.

“(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

“(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

“(2) other similar requests.

“(b) PROGRAM CRITERIA.—

“(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

“(A) shall vary according to categories (or subcategories) established by the Secretary,

“(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

“(C) shall be payable in advance.

“(2) EXEMPTIONS, ETC.—

1 “(A) *IN GENERAL.*—*The Secretary shall*
 2 *provide for such exemptions (and reduced fees)*
 3 *under such program as the Secretary determines*
 4 *to be appropriate.*

5 “(B) *EXEMPTION FOR CERTAIN REQUESTS*
 6 *REGARDING PENSION PLANS.*—*The Secretary*
 7 *shall not require payment of user fees under such*
 8 *program for requests for determination letters*
 9 *with respect to the qualified status of a pension*
 10 *benefit plan maintained solely by 1 or more eli-*
 11 *gible employers or any trust which is part of the*
 12 *plan. The preceding sentence shall not apply to*
 13 *any request—*

14 “(i) *made after the later of—*

15 “(I) *the fifth plan year the pen-*
 16 *sion benefit plan is in existence, or*

17 “(II) *the end of any remedial*
 18 *amendment period with respect to the*
 19 *plan beginning within the first 5 plan*
 20 *years, or*

21 “(ii) *made by the sponsor of any proto-*
 22 *type or similar plan which the sponsor in-*
 23 *tends to market to participating employers.*

24 “(C) *DEFINITIONS AND SPECIAL RULES.*—
 25 *For purposes of subparagraph (B)—*

1 “(i) *PENSION BENEFIT PLAN.*—The
 2 term ‘pension benefit plan’ means a pen-
 3 sion, profit-sharing, stock bonus, annuity,
 4 or employee stock ownership plan.

5 “(ii) *ELIGIBLE EMPLOYER.*—The term
 6 ‘eligible employer’ means an eligible em-
 7 ployer (as defined in section
 8 408(p)(2)(C)(i)(I)) which has at least 1 em-
 9 ployee who is not a highly compensated em-
 10 ployee (as defined in section 414(q)) and is
 11 participating in the plan. The determina-
 12 tion of whether an employer is an eligible
 13 employer under subparagraph (B) shall be
 14 made as of the date of the request described
 15 in such subparagraph.

16 “(iii) *DETERMINATION OF AVERAGE*
 17 *FEES CHARGED.*—For purposes of any de-
 18 termination of average fees charged, any re-
 19 quest to which subparagraph (B) applies
 20 shall not be taken into account.

21 “(3) *AVERAGE FEE REQUIREMENT.*—The average
 22 fee charged under the program required by subsection
 23 (a) shall not be less than the amount determined
 24 under the following table:

“Category	Average Fee
Employee plan ruling and opinion	\$250

“Category	Average Fee
<i>Exempt organization ruling</i>	\$350
<i>Employee plan determination</i>	\$300
<i>Exempt organization determination</i>	\$275
<i>Chief counsel ruling</i>	\$200.

1 “(c) *TERMINATION*.—No fee shall be imposed under
2 this section with respect to requests made after September
3 30, 2013.”.

4 (b) *CONFORMING AMENDMENTS*.—

5 (1) *The table of sections for chapter 77 is amend-*
6 *ed by adding at the end the following new item:*

 “Sec. 7528. *Internal Revenue Service user fees.*”.

7 (2) *Section 10511 of the Revenue Act of 1987 is*
8 *repealed.*

9 (3) *Section 620 of the Economic Growth and*
10 *Tax Relief Reconciliation Act of 2001 is repealed.*

11 (c) *LIMITATIONS*.—Notwithstanding any other provi-
12 *sion of law, any fees collected pursuant to section 7528 of*
13 *the Internal Revenue Code of 1986, as added by subsection*
14 *(a), shall not be expended by the Internal Revenue Service*
15 *unless provided by an appropriations Act.*

16 (d) *EFFECTIVE DATE*.—The amendments made by this
17 section shall apply to requests made after the date of the
18 enactment of this Act.

1 **SEC. 352. ADDITION OF VACCINES AGAINST HEPATITIS A TO**
 2 **LIST OF TAXABLE VACCINES.**

3 (a) *IN GENERAL.*—Section 4132(a)(1) (defining tax-
 4 able vaccine) is amended by redesignating subparagraphs
 5 (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and
 6 (M), respectively, and by inserting after subparagraph (H)
 7 the following new subparagraph:

8 “(I) Any vaccine against hepatitis A.”.

9 (b) *CONFORMING AMENDMENT.*—Section
 10 9510(c)(1)(A) is amended by striking “October 18, 2000”
 11 and inserting “May 8, 2003”.

12 (c) *EFFECTIVE DATE.*—

13 (1) *SALES, ETC.*—The amendments made by this
 14 section shall apply to sales and uses on or after the
 15 first day of the first month which begins more than
 16 4 weeks after the date of the enactment of this Act.

17 (2) *DELIVERIES.*—For purposes of paragraph
 18 (1) and section 4131 of the Internal Revenue Code of
 19 1986, in the case of sales on or before the effective date
 20 described in such paragraph for which delivery is
 21 made after such date, the delivery date shall be con-
 22 sidered the sale date.

23 **SEC. 353. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS**
 24 **TRANSFERS.**

25 (a) *TREATMENT OF CONTRIBUTED PROPERTY WITH*
 26 *BUILT-IN LOSS.*—Paragraph (1) of section 704(c) is

1 amended by striking “and” at the end of subparagraph (A),
 2 by striking the period at the end of subparagraph (B) and
 3 inserting “, and”, and by adding at the end the following:

4 “(C) if any property so contributed has a
 5 built-in loss—

6 “(i) such built-in loss shall be taken
 7 into account only in determining the
 8 amount of items allocated to the contrib-
 9 uting partner, and

10 “(ii) except as provided in regulations,
 11 in determining the amount of items allo-
 12 cated to other partners, the basis of the con-
 13 tributed property in the hands of the part-
 14 nership shall be treated as being equal to its
 15 fair market value immediately after the
 16 contribution.

17 For purposes of subparagraph (C), the term ‘built-in
 18 loss’ means the excess of the adjusted basis of the
 19 property (determined without regard to subparagraph
 20 (C)(ii)) over its fair market value immediately after
 21 the contribution.”.

22 (b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-
 23 erty ON TRANSFER OF PARTNERSHIP INTEREST IF THERE
 24 IS SUBSTANTIAL BUILT-IN LOSS.—

1 (1) *ADJUSTMENT REQUIRED.*—Subsection (a) of
 2 section 743 (relating to optional adjustment to basis
 3 of partnership property) is amended by inserting be-
 4 fore the period “or unless the partnership has a sub-
 5 stantial built-in loss immediately after such transfer”.

6 (2) *ADJUSTMENT.*—Subsection (b) of section 743
 7 is amended by inserting “or with respect to which
 8 there is a substantial built-in loss immediately after
 9 such transfer” after “section 754 is in effect”.

10 (3) *SUBSTANTIAL BUILT-IN LOSS.*—Section 743
 11 is amended by adding at the end the following new
 12 subsection:

13 “(d) *SUBSTANTIAL BUILT-IN LOSS.*—

14 “(1) *IN GENERAL.*—For purposes of this section,
 15 a partnership has a substantial built-in loss with re-
 16 spect to a transfer of an interest in a partnership if
 17 the transferee partner’s proportionate share of the ad-
 18 justed basis of the partnership property exceeds by
 19 more than \$250,000 the basis of such partner’s inter-
 20 est in the partnership.

21 “(2) *REGULATIONS.*—The Secretary shall pre-
 22 scribe such regulations as may be appropriate to
 23 carry out the purposes of paragraph (1) and section
 24 734(d), including regulations aggregating related
 25 partnerships and disregarding property acquired by

1 *the partnership in an attempt to avoid such pur-*
 2 *poses.”.*

3 (4) *CLERICAL AMENDMENTS.—*

4 (A) *The section heading for section 743 is*
 5 *amended to read as follows:*

6 ***“SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-***
 7 ***ERTY WHERE SECTION 754 ELECTION OR SUB-***
 8 ***STANTIAL BUILT-IN LOSS.”.***

9 (B) *The table of sections for subpart C of*
 10 *part II of subchapter K of chapter 1 is amended*
 11 *by striking the item relating to section 743 and*
 12 *inserting the following new item:*

“Sec. 743. Adjustment to basis of partnership property where sec-
tion 754 election or substantial built-in loss.”.

13 (c) *ADJUSTMENT TO BASIS OF UNDISTRIBUTED PART-*
 14 *NERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS RE-*
 15 *DUCTION.—*

16 (1) *ADJUSTMENT REQUIRED.—*Subsection (a) of
 17 *section 734 (relating to optional adjustment to basis*
 18 *of undistributed partnership property) is amended by*
 19 *inserting before the period “or unless there is a sub-*
 20 *stantial basis reduction”.*

21 (2) *ADJUSTMENT.—*Subsection (b) of section 734
 22 *is amended by inserting “or unless there is a substan-*
 23 *tial basis reduction” after “section 754 is in effect”.*

1 (3) *SUBSTANTIAL BASIS REDUCTION.*—Section
 2 734 is amended by adding at the end the following
 3 new subsection:

4 “(d) *SUBSTANTIAL BASIS REDUCTION.*—

5 “(1) *IN GENERAL.*—For purposes of this section,
 6 there is a substantial basis reduction with respect to
 7 a distribution if the sum of the amounts described in
 8 subparagraphs (A) and (B) of subsection (b)(2) ex-
 9 ceeds \$250,000.

10 “(2) *REGULATIONS.*—

**“For regulations to carry out this subsection, see
 section 743(d)(2).”.**

11 (4) *CLERICAL AMENDMENTS.*—

12 (A) The section heading for section 734 is
 13 amended to read as follows:

14 **“SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED**
 15 **PARTNERSHIP PROPERTY WHERE SECTION**
 16 **754 ELECTION OR SUBSTANTIAL BASIS RE-**
 17 **DUCTION.”.**

18 (B) The table of sections for subpart B of
 19 part II of subchapter K of chapter 1 is amended
 20 by striking the item relating to section 734 and
 21 inserting the following new item:

 “Sec. 734. Adjustment to basis of undistributed partnership prop-
 erty where section 754 election or substantial basis
 reduction.”.

22 (d) *EFFECTIVE DATES.*—

1 (1) *SUBSECTION (a).—The amendment made by*
 2 *subsection (a) shall apply to contributions made after*
 3 *the date of the enactment of this Act.*

4 (2) *SUBSECTION (b).—The amendments made by*
 5 *subsection (b) shall apply to transfers after the date*
 6 *of the enactment of this Act.*

7 (3) *SUBSECTION (c).—The amendments made by*
 8 *subsection (c) shall apply to distributions after the*
 9 *date of the enactment of this Act.*

10 ***SEC. 354. TREATMENT OF STRIPPED INTERESTS IN BOND***
 11 ***AND PREFERRED STOCK FUNDS, ETC.***

12 (a) *IN GENERAL.*—Section 1286 (relating to tax treat-
 13 *ment of stripped bonds) is amended by redesignating sub-*
 14 *section (f) as subsection (g) and by inserting after sub-*
 15 *section (e) the following new subsection:*

16 “(f) *TREATMENT OF STRIPPED INTERESTS IN BOND*
 17 *AND PREFERRED STOCK FUNDS, ETC.*—In the case of an
 18 *account or entity substantially all of the assets of which*
 19 *consist of bonds, preferred stock, or a combination thereof,*
 20 *the Secretary may by regulations provide that rules similar*
 21 *to the rules of this section and 305(e), as appropriate, shall*
 22 *apply to interests in such account or entity to which (but*
 23 *for this subsection) this section or section 305(e), as the case*
 24 *may be, would not apply.”.*

1 (b) *CROSS REFERENCE.*—Subsection (e) of section 305
 2 is amended by adding at the end the following new para-
 3 graph:

4 “(7) *CROSS REFERENCE.*—

**“For treatment of stripped interests in certain ac-
 counts or entities holding preferred stock, see section
 1286(f).”.**

5 (c) *EFFECTIVE DATE.*—The amendments made by this
 6 section shall apply to purchases and dispositions after the
 7 date of the enactment of this Act.

8 **SEC. 355. REPORTING OF TAXABLE MERGERS AND ACQUI-**
 9 **TIONS.**

10 (a) *IN GENERAL.*—Subpart B of part III of subchapter
 11 A of chapter 61 is amended by inserting after section 6043
 12 the following new section:

13 **“SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.**

14 “(a) *IN GENERAL.*—The acquiring corporation in any
 15 taxable acquisition shall make a return (according to the
 16 forms or regulations prescribed by the Secretary) setting
 17 forth—

18 “(1) a description of the acquisition,

19 “(2) the name and address of each shareholder of
 20 the acquired corporation who is required to recognize
 21 gain (if any) as a result of the acquisition,

22 “(3) the amount of money and the fair market
 23 value of other property transferred to each such share-
 24 holder as part of such acquisition, and

1 “(4) such other information as the Secretary
2 may prescribe.

3 *To the extent provided by the Secretary, the requirements*
4 *of this section applicable to the acquiring corporation shall*
5 *be applicable to the acquired corporation and not to the*
6 *acquiring corporation.*

7 “(b) *NOMINEE REPORTING.*—Any person who holds
8 *stock as a nominee for another person shall furnish in the*
9 *manner prescribed by the Secretary to such other person*
10 *the information provided by the corporation under sub-*
11 *section (d).*

12 “(c) *TAXABLE ACQUISITION.*—For purposes of this sec-
13 *tion, the term ‘taxable acquisition’ means any acquisition*
14 *by a corporation of stock in or property of another corpora-*
15 *tion if any shareholder of the acquired corporation is re-*
16 *quired to recognize gain (if any) as a result of such acquisi-*
17 *tion.*

18 “(d) *STATEMENTS TO BE FURNISHED TO SHARE-*
19 *HOLDERS.*—Every person required to make a return under
20 *subsection (a) shall furnish to each shareholder whose name*
21 *is required to be set forth in such return a written statement*
22 *showing—*

23 “(1) *the name, address, and phone number of the*
24 *information contact of the person required to make*
25 *such return,*

1 “(2) the information required to be shown on
2 such return with respect to such shareholder, and

3 “(3) such other information as the Secretary
4 may prescribe.

5 *The written statement required under the preceding sen-*
6 *tence shall be furnished to the shareholder on or before Jan-*
7 *uary 31 of the year following the calendar year during*
8 *which the taxable acquisition occurred.”.*

9 (b) *ASSESSABLE PENALTIES.*—

10 (1) *Subparagraph (B) of section 6724(d)(1) (re-*
11 *lating to definitions) is amended by redesignating*
12 *clauses (ii) through (xvii) as clauses (iii) through*
13 *(xviii), respectively, and by inserting after clause (i)*
14 *the following new clause:*

15 “(ii) *section 6043A(a) (relating to re-*
16 *turns relating to taxable mergers and acqui-*
17 *sitions),”.*

18 (2) *Paragraph (2) of section 6724(d) is amended*
19 *by redesignating subparagraphs (F) through (AA) as*
20 *subparagraphs (G) through (BB), respectively, and by*
21 *inserting after subparagraph (E) the following new*
22 *subparagraph:*

23 “(F) *subsections (b) and (d) of section*
24 *6043A (relating to returns relating to taxable*
25 *mergers and acquisitions).”.*

1 (c) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *subpart B of part III of subchapter A of chapter 61 is*
 3 *amended by inserting after the item relating to section 6043*
 4 *the following new item:*

“Sec. 6043A. *Returns relating to taxable mergers and acquisitions.*”.

5 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to acquisitions after the date of the en-*
 7 *actment of this Act.*

8 ***SEC. 356. MINIMUM HOLDING PERIOD FOR FOREIGN TAX***
 9 ***CREDIT ON WITHHOLDING TAXES ON INCOME***
 10 ***OTHER THAN DIVIDENDS.***

11 (a) *IN GENERAL.*—*Section 901 is amended by redesign-*
 12 *ating subsection (l) as subsection (m) and by inserting*
 13 *after subsection (k) the following new subsection:*

14 “(l) *MINIMUM HOLDING PERIOD FOR WITHHOLDING*
 15 *TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS*
 16 *ETC.*—

17 “(1) *IN GENERAL.*—*In no event shall a credit be*
 18 *allowed under subsection (a) for any withholding tax*
 19 *(as defined in subsection (k)) on any item of income*
 20 *or gain with respect to any property if—*

21 “(A) *such property is held by the recipient*
 22 *of the item for 15 days or less during the 30-day*
 23 *period beginning on the date which is 15 days*

1 *before the date on which the right to receive pay-*
 2 *ment of such item arises, or*

3 *“(B) to the extent that the recipient of the*
 4 *item is under an obligation (whether pursuant to*
 5 *a short sale or otherwise) to make related pay-*
 6 *ments with respect to positions in substantially*
 7 *similar or related property.*

8 *This paragraph shall not apply to any dividend to*
 9 *which subsection (k) applies.*

10 “(2) *EXCEPTION FOR TAXES PAID BY DEAL-*
 11 *ERS.—*

12 “(A) *IN GENERAL.—Paragraph (1) shall*
 13 *not apply to any qualified tax with respect to*
 14 *any property held in the active conduct in a for-*
 15 *foreign country of a business as a dealer in such*
 16 *property.*

17 “(B) *QUALIFIED TAX.—For purposes of sub-*
 18 *paragraph (A), the term ‘qualified tax’ means a*
 19 *tax paid to a foreign country (other than the for-*
 20 *foreign country referred to in subparagraph (A))*
 21 *if—*

22 “(i) *the item to which such tax is at-*
 23 *tributable is subject to taxation on a net*
 24 *basis by the country referred to in subpara-*
 25 *graph (A), and*

1 “(ii) such country allows a credit
2 against its net basis tax for the full amount
3 of the tax paid to such other foreign coun-
4 try.

5 “(C) DEALER.—For purposes of subpara-
6 graph (A), the term ‘dealer’ means—

7 “(i) with respect to a security, any
8 person to whom paragraphs (1) and (2) of
9 subsection (k) would not apply by reason of
10 paragraph (4) thereof if such security were
11 stock, and

12 “(ii) with respect to any other prop-
13 erty, any person with respect to whom such
14 property is described in section 1221(a)(1).

15 “(D) REGULATIONS.—The Secretary may
16 prescribe such regulations as may be appropriate
17 to carry out this paragraph, including regula-
18 tions to prevent the abuse of the exception pro-
19 vided by this paragraph and to treat other taxes
20 as qualified taxes.

21 “(3) EXCEPTIONS.—The Secretary may by regu-
22 lation provide that paragraph (1) shall not apply to
23 property where the Secretary determines that the ap-
24 plication of paragraph (1) to such property is not
25 necessary to carry out the purposes of this subsection.

1 “(4) *CERTAIN RULES TO APPLY.*—*Rules similar*
 2 *to the rules of paragraphs (5), (6), and (7) of sub-*
 3 *section (k) shall apply for purposes of this subsection.*

4 “(5) *DETERMINATION OF HOLDING PERIOD.*—
 5 *Holding periods shall be determined for purposes of*
 6 *this subsection without regard to section 1235 or any*
 7 *similar rule.”.*

8 (b) *CONFORMING AMENDMENT.*—*The heading of sub-*
 9 *section (k) of section 901 is amended by inserting “ON DIVI-*
 10 *DENDS” after “TAXES”.*

11 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 12 *section shall apply to amounts paid or accrued more than*
 13 *30 days after the date of the enactment of this Act.*

14 **SEC. 357. QUALIFIED TAX COLLECTION CONTRACTS.**

15 (a) *CONTRACT REQUIREMENTS.*—

16 (1) *IN GENERAL.*—*Subchapter A of chapter 64*
 17 *(relating to collection) is amended by adding at the*
 18 *end the following new section:*

19 **“SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.**

20 “(a) *IN GENERAL.*—*Nothing in any provision of law*
 21 *shall be construed to prevent the Secretary from entering*
 22 *into a qualified tax collection contract.*

23 “(b) *QUALIFIED TAX COLLECTION CONTRACT.*—*For*
 24 *purposes of this section, the term ‘qualified tax collection*
 25 *contract’ means any contract which—*

1 “(1) is for the services of any person (other than
 2 an officer or employee of the Treasury Department)
 3 to locate and contact any taxpayer specified by the
 4 Secretary, to request payment from such taxpayer of
 5 an amount of Federal tax specified by the Secretary,
 6 and to obtain financial information specified by the
 7 Secretary with respect to such taxpayer, and

8 “(2) prohibits each person providing such serv-
 9 ices under such contract from committing any act or
 10 omission which employees of the Internal Revenue
 11 Service are prohibited from committing in the per-
 12 formance of similar services.

13 “(c) *FEES*.—The Secretary may retain and use an
 14 amount not in excess of 25 percent of the amount collected
 15 under any qualified tax collection contract for the costs of
 16 services performed under such contract. The Secretary shall
 17 keep adequate records regarding amounts so retained and
 18 used. The amount credited as paid by any taxpayer shall
 19 be determined without regard to this subsection.

20 “(d) *NO FEDERAL LIABILITY*.—The United States
 21 shall not be liable for any act or omission of any person
 22 performing services under a qualified tax collection con-
 23 tract.

24 “(e) *APPLICATION OF FAIR DEBT COLLECTION PRAC-*
 25 *TICES ACT*.—The provisions of the Fair Debt Collection

1 *Practices Act (15 U.S.C. 1692 et seq.) shall apply to any*
 2 *qualified tax collection contract, except to the extent super-*
 3 *seded by any provision of this title.*

4 “(f) *CROSS REFERENCES.*—

5 “(1) *For damages for certain unauthorized col-*
 6 *lection actions by persons performing services under*
 7 *a qualified tax collection contract, see section 7433A.*

8 “(2) *For application of Taxpayer Assistance Or-*
 9 *ders to persons performing services under a qualified*
 10 *tax collection contract, see section 7811(a)(4).”.*

11 (2) *CONFORMING AMENDMENTS.*—

12 (A) *Section 7809(a) is amended by insert-*
 13 *ing “6306,” before “7651”.*

14 (B) *The table of sections for subchapter A of*
 15 *chapter 64 is amended by adding at the end the*
 16 *following new item:*

“Sec. 6306. *Qualified Tax Collection Contracts.*”.

17 (b) *CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED*
 18 *COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES*
 19 *UNDER QUALIFIED TAX COLLECTION CONTRACTS.*—

20 (1) *IN GENERAL.*—*Subchapter B of chapter 76*
 21 *(relating to proceedings by taxpayers and third par-*
 22 *ties) is amended by inserting after section 7433 the*
 23 *following new section:*

1 ***“SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED***
 2 ***COLLECTION ACTIONS BY PERSONS PER-***
 3 ***FORMING SERVICES UNDER QUALIFIED TAX***
 4 ***COLLECTION CONTRACTS.***

5 *“(a) IN GENERAL.—Subject to the modifications pro-*
 6 *vided by subsection (b), section 7433 shall apply to the acts*
 7 *and omissions of any person performing services under a*
 8 *qualified tax collection contract (as defined in section*
 9 *6306(b)) to the same extent and in the same manner as*
 10 *if such person were an employee of the Internal Revenue*
 11 *Service.*

12 *“(b) MODIFICATIONS.—For purposes of subsection*
 13 *(a)—*

14 *“(1) Any civil action brought under section 7433*
 15 *by reason of this section shall be brought against the*
 16 *person who entered into the qualified tax collection*
 17 *contract with the Secretary and shall not be brought*
 18 *against the United States.*

19 *“(2) Such person and not the United States shall*
 20 *be liable for any damages and costs determined in*
 21 *such civil action.*

22 *“(3) Such civil action shall not be an exclusive*
 23 *remedy with respect to such person.*

24 *“(4) Subsections (c) and (d)(1) of section 7433*
 25 *shall not apply.”.*

1 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
 2 *tions for subchapter B of chapter 76 is amended by*
 3 *inserting after the item relating to section 7433 the*
 4 *following new item:*

“Sec. 7433A. Civil damages for certain unauthorized collection ac-
tions by persons performing services under a quali-
fied tax collection contract.”.

5 (c) *APPLICATION OF TAXPAYER ASSISTANCE ORDERS*
 6 *TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED*
 7 *TAX COLLECTION CONTRACT.*—*Section 7811 (relating to*
 8 *taxpayer assistance orders) is amended by adding at the*
 9 *end the following new subsection:*

10 “(g) *APPLICATION TO PERSONS PERFORMING SERV-*
 11 *ICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.*—
 12 *Any order issued or action taken by the National Taxpayer*
 13 *Advocate pursuant to this section shall apply to persons*
 14 *performing services under a qualified tax collection contract*
 15 *(as defined in section 6306(b)) to the same extent and in*
 16 *the same manner as such order or action applies to the Sec-*
 17 *retary.”.*

18 (d) *INELIGIBILITY OF INDIVIDUALS WHO COMMIT MIS-*
 19 *CONDUCT TO PERFORM UNDER CONTRACT.*—*Section 1203*
 20 *of the Internal Revenue Service Restructuring Act of 1998*
 21 *(relating to termination of employment for misconduct) is*
 22 *amended by adding at the end the following new subsection:*

23 “(e) *INDIVIDUALS PERFORMING SERVICES UNDER A*
 24 *QUALIFIED TAX COLLECTION CONTRACT.*—*An individual*

1 *shall cease to be permitted to perform any services under*
 2 *any qualified tax collection contract (as defined in section*
 3 *6306(b) of the Internal Revenue Code of 1986) if there is*
 4 *a final determination by the Secretary of the Treasury*
 5 *under such contract that such individual committed any*
 6 *act or omission described under subsection (b) in connection*
 7 *with the performance of such services.”.*

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

11 **SEC. 358. EXTENSION OF CUSTOMS USER FEES.**

12 *Section 13031(j)(3) of the Consolidated Omnibus*
 13 *Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is*
 14 *amended by striking “September 30, 2003” and inserting*
 15 *“December 31, 2013”.*

16 **SEC. 359. CLARIFICATION OF EXEMPTION FROM TAX FOR**
 17 **SMALL PROPERTY AND CASUALTY INSUR-**
 18 **ANCE COMPANIES.**

19 *(a) IN GENERAL.—Section 501(c)(15)(A) is amended*
 20 *to read as follows:*

1 “(A) *Insurance companies or associations*
 2 *other than life (including interinsurers and re-*
 3 *ciprocal underwriters) if—*

4 “(i) *the gross receipts for the taxable*
 5 *year do not exceed \$600,000, and*

6 “(ii) *more than 50 percent of such*
 7 *gross receipts consist of premiums.”.*

8 (b) **CONTROLLED GROUP RULE.**—Section
 9 501(c)(15)(C) is amended by inserting “, except that in ap-
 10 plying section 1563 for purposes of section 831(b)(2)(B)(ii),
 11 subparagraphs (B) and (C) of section 1563(b)(2) shall be
 12 disregarded” before the period at the end.

13 (c) **CONFORMING AMENDMENT.**—Clause (i) of section
 14 831(b)(2)(A) is amended by striking “exceed \$350,000 but”.

15 (d) **EFFECTIVE DATE.**—The amendments made by this
 16 section shall apply to taxable years beginning after Decem-
 17 ber 31, 2003.

18 **SEC. 360. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALL-**
 19 **MENT AGREEMENTS.**

20 (a) **IN GENERAL.**—

21 (1) Section 6159(a) (relating to authorization of
 22 agreements) is amended—

23 (A) by striking “satisfy liability for pay-
 24 ment of” and inserting “make payment on”, and

1 (B) by inserting “full or partial” after “fa-
2 cilitate”.

3 (2) Section 6159(c) (relating to Secretary re-
4 quired to enter into installment agreements in certain
5 cases) is amended in the matter preceding paragraph
6 (1) by inserting “full” before “payment”.

7 (b) *REQUIREMENT TO REVIEW PARTIAL PAYMENT*
8 *AGREEMENTS EVERY TWO YEARS.*—Section 6159 is
9 amended by redesignating subsections (d) and (e) as sub-
10 sections (e) and (f), respectively, and inserting after sub-
11 section (c) the following new subsection:

12 “(d) *SECRETARY REQUIRED TO REVIEW INSTALL-*
13 *MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO*
14 *YEARS.*—In the case of an agreement entered into by the
15 Secretary under subsection (a) for partial collection of a
16 tax liability, the Secretary shall review the agreement at
17 least once every 2 years.”.

18 (c) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to agreements entered into on or after
20 the date of the enactment of this Act.

21 **SEC. 361. EXTENSION OF AMORTIZATION OF INTANGIBLES**
22 **TO SPORTS FRANCHISES.**

23 (a) *IN GENERAL.*—Section 197(e) (relating to excep-
24 tions to definition of section 197 intangible) is amended

1 *by striking paragraph (6) and by redesignating paragraphs*
 2 *(7) and (8) as paragraphs (6) and (7), respectively.*

3 *(b) CONFORMING AMENDMENTS.—*

4 *(1)(A) Section 1056 (relating to basis limitation*
 5 *for player contracts transferred in connection with*
 6 *the sale of a franchise) is repealed.*

7 *(B) The table of sections for part IV of sub-*
 8 *chapter O of chapter 1 is amended by striking the*
 9 *item relating to section 1056.*

10 *(2) Section 1253 (relating to transfers of fran-*
 11 *chises, trademarks, and trade names) is amended by*
 12 *striking subsection (e).*

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

16 ***SEC. 362. DEPOSITS MADE TO SUSPEND RUNNING OF IN-***
 17 ***TEREST ON POTENTIAL UNDERPAYMENTS.***

18 *(a) IN GENERAL.—Subchapter A of chapter 67 (relat-*
 19 *ing to interest on underpayments) is amended by adding*
 20 *at the end the following new section:*

21 ***“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF IN-***
 22 ***TEREST ON POTENTIAL UNDERPAYMENTS,***
 23 ***ETC.***

24 *“(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN*
 25 *AS PAYMENT OF TAX.—A taxpayer may make a cash de-*

1 *posit with the Secretary which may be used by the Sec-*
 2 *retary to pay any tax imposed under subtitle A or B or*
 3 *chapter 41, 42, 43, or 44 which has not been assessed at*
 4 *the time of the deposit. Such a deposit shall be made in*
 5 *such manner as the Secretary shall prescribe.*

6 “(b) *NO INTEREST IMPOSED.*—*To the extent that such*
 7 *deposit is used by the Secretary to pay tax, for purposes*
 8 *of section 6601 (relating to interest on underpayments), the*
 9 *tax shall be treated as paid when the deposit is made.*

10 “(c) *RETURN OF DEPOSIT.*—*Except in a case where*
 11 *the Secretary determines that collection of tax is in jeop-*
 12 *ardy, the Secretary shall return to the taxpayer any*
 13 *amount of the deposit (to the extent not used for a payment*
 14 *of tax) which the taxpayer requests in writing.*

15 “(d) *PAYMENT OF INTEREST.*—

16 “(1) *IN GENERAL.*—*For purposes of section 6611*
 17 *(relating to interest on overpayments), a deposit*
 18 *which is returned to a taxpayer shall be treated as a*
 19 *payment of tax for any period to the extent (and only*
 20 *to the extent) attributable to a disputable tax for such*
 21 *period. Under regulations prescribed by the Secretary,*
 22 *rules similar to the rules of section 6611(b)(2) shall*
 23 *apply.*

24 “(2) *DISPUTABLE TAX.*—

1 “(A) *IN GENERAL.*—For purposes of this
 2 section, the term ‘disputable tax’ means the
 3 amount of tax specified at the time of the deposit
 4 as the taxpayer’s reasonable estimate of the max-
 5 imum amount of any tax attributable to disput-
 6 able items.

7 “(B) *SAFE HARBOR BASED ON 30-DAY LET-*
 8 *TER.*—In the case of a taxpayer who has been
 9 issued a 30-day letter, the maximum amount of
 10 tax under subparagraph (A) shall not be less
 11 than the amount of the proposed deficiency speci-
 12 fied in such letter.

13 “(3) *OTHER DEFINITIONS.*—For purposes of
 14 paragraph (2)—

15 “(A) *DISPUTABLE ITEM.*—The term ‘disput-
 16 able item’ means any item of income, gain, loss,
 17 deduction, or credit if the taxpayer—

18 “(i) has a reasonable basis for its
 19 treatment of such item, and

20 “(ii) reasonably believes that the Sec-
 21 retary also has a reasonable basis for dis-
 22 allowing the taxpayer’s treatment of such
 23 item.

24 “(B) *30-DAY LETTER.*—The term ‘30-day
 25 letter’ means the first letter of proposed defi-

1 *ciency which allows the taxpayer an opportunity*
 2 *for administrative review in the Internal Rev-*
 3 *enue Service Office of Appeals.*

4 “(4) *RATE OF INTEREST.*—*The rate of interest*
 5 *allowable under this subsection shall be the Federal*
 6 *short-term rate determined under section 6621(b),*
 7 *compounded daily.*

8 “(e) *USE OF DEPOSITS.*—

9 “(1) *PAYMENT OF TAX.*—*Except as otherwise*
 10 *provided by the taxpayer, deposits shall be treated as*
 11 *used for the payment of tax in the order deposited.*

12 “(2) *RETURNS OF DEPOSITS.*—*Deposits shall be*
 13 *treated as returned to the taxpayer on a last-in, first-*
 14 *out basis.”.*

15 “(b) *CLERICAL AMENDMENT.*—*The table of sections for*
 16 *subchapter A of chapter 67 is amended by adding at the*
 17 *end the following new item:*

“Sec. 6603. *Deposits made to suspend running of interest on poten-*
tial underpayments, etc.”.

18 “(c) *EFFECTIVE DATE.*—

19 (1) *IN GENERAL.*—*The amendments made by*
 20 *this section shall apply to deposits made after the*
 21 *date of the enactment of this Act.*

22 (2) *COORDINATION WITH DEPOSITS MADE UNDER*
 23 *REVENUE PROCEDURE 84-58.*—*In the case of an*
 24 *amount held by the Secretary of the Treasury or his*

1 *delegate on the date of the enactment of this Act as*
 2 *a deposit in the nature of a cash bond deposit pursu-*
 3 *ant to Revenue Procedure 84-58, the date that the*
 4 *taxpayer identifies such amount as a deposit made*
 5 *pursuant to section 6603 of the Internal Revenue*
 6 *Code (as added by this Act) shall be treated as the*
 7 *date such amount is deposited for purposes of such*
 8 *section 6603.*

9 **SEC. 363. CLARIFICATION OF RULES FOR PAYMENT OF ESTI-**
 10 **MATED TAX FOR CERTAIN DEEMED ASSET**
 11 **SALES.**

12 *(a) IN GENERAL.—Paragraph (13) of section 338(h)*
 13 *(relating to tax on deemed sale not taken into account for*
 14 *estimated tax purposes) is amended by adding at the end*
 15 *the following: “The preceding sentence shall not apply with*
 16 *respect to a qualified stock purchase for which an election*
 17 *is made under paragraph (10).”.*

18 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 19 *section (a) shall apply to transactions occurring after the*
 20 *date of the enactment of this Act.*

21 **SEC. 364. LIMITATION OF DEDUCTION FOR CHARITABLE**
 22 **CONTRIBUTIONS OF PATENTS AND SIMILAR**
 23 **PROPERTY.**

24 *(a) IN GENERAL.—Section 170(e)(1)(B) (relating to*
 25 *certain contributions of ordinary income and capital gain*

1 *property) is amended by striking “or” at the end of clause*
 2 *(i), by adding “or” at the end of clause (ii), and by insert-*
 3 *ing after clause (ii) the following new clause:*

4 *“(iii) of any patent, copyright, trade-*
 5 *mark, trade name, trade secret, know-how,*
 6 *software, or similar property, or applica-*
 7 *tions or registrations of such property.”.*

8 *(b) ANTI-ABUSE RULES.—The Secretary of the Treas-*
 9 *ury may prescribe such regulations or other administrative*
 10 *guidance as may be necessary or appropriate to prevent the*
 11 *avoidance of the purposes of section 170(e)(1)(B)(iii) of the*
 12 *Internal Revenue Code of 1986 (as added by subsection (a)),*
 13 *including preventing—*

14 *(1) the circumvention of the reduction of the*
 15 *charitable deduction by embedding or bundling the*
 16 *patent or similar property as part of a charitable*
 17 *contribution of property that includes the patent or*
 18 *similar property,*

19 *(2) the manipulation of the basis of the property*
 20 *to increase the amount of the charitable deduction*
 21 *through the use of related persons, pass-thru entities,*
 22 *or other intermediaries, or through the use of any*
 23 *provision of law or regulation (including the consoli-*
 24 *dated return regulations), and*

1 (3) a donor from changing the form of the patent
2 or similar property to property of a form for which
3 different deduction rules would apply.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply to contributions made after May 7,
6 2003.

7 **SEC. 365. EXTENSION OF TRANSFERS OF EXCESS PENSION**
8 **ASSETS TO RETIREE HEALTH ACCOUNTS.**

9 (a) *AMENDMENT OF INTERNAL REVENUE CODE OF*
10 1986.—Paragraph (5) of section 420(b) (relating to expira-
11 tion) is amended by striking “December 31, 2005” and in-
12 serting “December 31, 2013”.

13 (b) *AMENDMENTS OF ERISA.*—

14 (1) Section 101(e)(3) of the Employee Retirement
15 Income Security Act of 1974 (29 U.S.C. 1021(e)(3))
16 is amended by striking “Tax Relief Extension Act of
17 1999” and inserting “Jobs and Growth Reconcili-
18 ation Tax Act of 2003”.

19 (2) Section 403(c)(1) of such Act (29 U.S.C.
20 1103(c)(1)) is amended by striking “Tax Relief Ex-
21 tension Act of 1999” and inserting “Jobs and Growth
22 Reconciliation Tax Act of 2003”.

23 (3) Paragraph (13) of section 408(b) of such Act
24 (29 U.S.C. 1108(b)(3)) is amended—

1 (A) by striking “January 1, 2006” and in-
 2 serting “January 1, 2014”, and

3 (B) by striking “Tax Relief Extension Act
 4 of 1999” and inserting “Jobs and Growth Rec-
 5 onciliation Tax Act of 2003”.

6 **SEC. 366. PRORATION RULES FOR LIFE INSURANCE BUSI-**
 7 **NESS OF PROPERTY AND CASUALTY INSUR-**
 8 **ANCE COMPANIES.**

9 (a) *IN GENERAL.*—Section 832(b)(4) (defining pre-
 10 miums earned) is amended—

11 (1) by inserting “, except that any deduction at-
 12 tributable to such reserves shall be reduced in the
 13 same manner as the deductions provided by sections
 14 243, 244, and 245 for a life insurance company are
 15 reduced under section 805(a)(4)” before the period at
 16 the end of the first sentence following subparagraph
 17 (C), and

18 (2) by adding at the end the following new sen-
 19 tence: “In applying section 812(d) for purposes of the
 20 reduction under the third preceding sentence, only
 21 gross investment income attributable to the reserves
 22 described in such sentence shall be taken into ac-
 23 count.”.

1 (b) *EFFECTIVE DATE.*—The amendments made by this
 2 section shall apply to taxable years beginning after Decem-
 3 ber 31, 2003.

4 **SEC. 367. MODIFICATION OF TREATMENT OF TRANSFERS**
 5 **TO CREDITORS IN DIVISIVE REORGANIZA-**
 6 **TIONS.**

7 (a) *IN GENERAL.*—Section 361(b)(3) (relating to treat-
 8 ment of transfers to creditors) is amended by adding at the
 9 end the following new sentence: “In the case of a reorganiza-
 10 tion described in section 368(a)(1)(D) with respect to which
 11 stock or securities of the corporation to which the assets are
 12 transferred are distributed in a transaction which qualifies
 13 under section 355, this paragraph shall apply only to the
 14 extent that the money or other property transferred to such
 15 creditors does not exceed the adjusted bases of such assets
 16 transferred.”.

17 (b) *LIABILITIES IN EXCESS OF BASIS.*—Section
 18 357(c)(1)(B) is amended by inserting “with respect to
 19 which stock or securities of the corporation to which the as-
 20 sets are transferred are distributed in a transaction which
 21 qualifies under section 355” after “section 368(a)(1)(D)”.

22 (c) *EFFECTIVE DATE.*—The amendments made by this
 23 section shall apply to transfers of money or other property,
 24 or liabilities assumed, in connection with a reorganization
 25 occurring on or after the date of the enactment of this Act.

1 ***Subtitle F—Other Provisions***

2 ***SEC. 371. TEMPORARY STATE FISCAL RELIEF FUND.***

3 *(a) AUTHORITY TO MAKE PAYMENTS TO STATES.—*

4 *(1) IN GENERAL.—Not later than 45 days after*
5 *the date of enactment of this Act, the Secretary of the*
6 *Treasury (in this section referred to as the “Sec-*
7 *retary”) shall establish a program under which the*
8 *Secretary shall make a payment to each State in*
9 *which the chief executive officer of the State, or the*
10 *chief executive officer’s designee, in consultation and*
11 *coordination with other State and local officials, noti-*
12 *fies the Secretary not later than 6 months after the*
13 *date of enactment of this Act that the State intends*
14 *to use the payment in accordance with this section.*

15 *(2) REQUIREMENT.—In making payments to*
16 *States under this section, the Secretary shall ensure*
17 *that not more than 50 percent of the aggregate*
18 *amount made available for payments under this sec-*
19 *tion (after the application of section 1903(x)(3) of the*
20 *Social Security Act) is paid to States in fiscal year*
21 *2003.*

22 *(b) USE OF PAYMENT.—*

23 *(1) IN GENERAL.—Subject to paragraph (2), a*
24 *State shall use the funds provided under a payment*

1 *made under this section to carry out 1 or more of the*
 2 *following activities:*

3 *(A) Improving education or job training.*

4 *(B) Improving health care services.*

5 *(C) Improving transportation or other in-*
 6 *frastructure.*

7 *(D) Improving law enforcement or public*
 8 *safety.*

9 *(E) Maintaining essential government serv-*
 10 *ices.*

11 *(2) LIMITATION.—A State may only use funds*
 12 *provided under a payment made under this section*
 13 *for types of expenditures permitted under the most re-*
 14 *cently approved budget for the State.*

15 *(c) CERTIFICATIONS.—In order to receive a payment*
 16 *under this section, the State shall provide the Secretary*
 17 *with certifications that—*

18 *(1) the State’s proposed uses of the funds are*
 19 *consistent with subsection (b); and*

20 *(2) the State will allocate 50 percent of the funds*
 21 *directly to units of general local government based on*
 22 *the relative local population proportion for the State*
 23 *(as defined in subsection (d)(5)).*

24 *(d) AMOUNT OF PAYMENT.—*

1 (1) *IN GENERAL.*—*The amount of payment made*
 2 *to a State under this section shall be the minimum*
 3 *payment amount described in paragraph (2) plus the*
 4 *relative population proportion amount described in*
 5 *paragraph (3).*

6 (2) *MINIMUM PAYMENT AMOUNT.*—*The minimum*
 7 *payment amount described in this paragraph is—*

8 (A) *in the case of any of the several States*
 9 *or the District of Columbia, one-half of 1 percent*
 10 *of the aggregate amount made available for*
 11 *payments under this section (after the applica-*
 12 *tion of section 1903(x)(3) of the Social Security*
 13 *Act); and*

14 (B) *in the case of the Commonwealth of*
 15 *Puerto Rico, the United States Virgin Islands,*
 16 *Guam, the Commonwealth of the Northern Mar-*
 17 *iana Islands, or American Samoa, one-tenth of*
 18 *1 percent of such aggregate amount (after the ap-*
 19 *plication of section 1903(x)(3) of the Social Se-*
 20 *curity Act).*

21 (3) *RELATIVE POPULATION PROPORTION*
 22 *AMOUNT.*—*The relative population proportion*
 23 *amount described in this paragraph is the product*
 24 *of—*

1 (A) the aggregate amount made available
 2 for payments under this section (after the appli-
 3 cation of section 1903(x)(3) of the Social Secu-
 4 rity Act) minus the total of all of the minimum
 5 payment amounts determined under paragraph
 6 (2); and

7 (B) the relative State population proportion
 8 (as defined in paragraph (4)).

9 (4) *RELATIVE STATE POPULATION PROPORTION*
 10 *DEFINED.*—In this section, the term “relative State
 11 population proportion” means, with respect to a
 12 State, the amount equal to the quotient of—

13 (A) the population of the State (as reported
 14 in the most recent decennial census); and

15 (B) the total population of all States (as re-
 16 ported in the most recent decennial census).

17 (5) *RELATIVE LOCAL POPULATION PROPORTION*
 18 *DEFINED.*—In this section, the term “relative local
 19 population proportion” means, with respect to a unit
 20 of general local government within a State, the
 21 amount equal to the quotient of—

22 (A) the population of such unit of general
 23 local government (as reported in the most recent
 24 decennial census); and

1 (B) *the total population of the State (as re-*
 2 *ported in the most recent decennial census).*

3 (e) *APPROPRIATION.—There is authorized to be appro-*
 4 *priated and is appropriated for making payments under*
 5 *this section, \$20,000,000,000 for fiscal year 2003. Amounts*
 6 *appropriated under this subsection shall remain available*
 7 *for expenditure through December 31, 2004.*

8 (f) *INCREASED PAYMENTS TO STATES UNDER THE*
 9 *MEDICAID PROGRAM.—Section 1903 of the Social Security*
 10 *Act (42 U.S.C. 1396b) is amended by adding at the end*
 11 *the following:*

12 “(x) *TEMPORARY INCREASED PAYMENTS TO*
 13 *STATES.—*

14 “(1) *IN GENERAL.—From the amounts made*
 15 *available under paragraph (3), the Secretary shall in-*
 16 *crease payments to States under this section for the*
 17 *third and fourth calendar quarters of fiscal year*
 18 *2003, each calendar quarter of fiscal year 2004, and*
 19 *the first calendar quarter of fiscal year 2005.*

20 “(2) *METHOD OF INCREASE.—The Secretary*
 21 *shall determine the appropriate method for increasing*
 22 *payments to States in accordance with this sub-*
 23 *section.*

24 “(3) *FUNDING.—Notwithstanding section 371(e)*
 25 *of the Jobs and Growth Reconciliation Tax Act of*

1 2003, from the amounts appropriated in such section
 2 for fiscal year 2003, \$499,999 of such amount is here-
 3 by transferred and made available for the purpose of
 4 increasing payments to States under this section in
 5 accordance with this subsection. Amounts transferred
 6 under this paragraph shall remain available for ex-
 7 penditure through December 31, 2004.”.

8 (g) *REPEAL*.—Effective as of January 1, 2005, this
 9 section and the amendments made by this section are re-
 10 pealed.

11 **SEC. 372. REVIEW OF STATE AGENCY BLINDNESS AND DIS-**
 12 **ABILITY DETERMINATIONS.**

13 Section 1633 of the Social Security Act (42 U.S.C.
 14 1383b) is amended by adding at the end the following:

15 “(e)(1) The Commissioner of Social Security shall re-
 16 view determinations, made by State agencies pursuant to
 17 subsection (a) in connection with applications for benefits
 18 under this title on the basis of blindness or disability, that
 19 individuals who have attained 18 years of age are blind
 20 or disabled as of a specified onset date. The Commissioner
 21 of Social Security shall review such a determination before
 22 any action is taken to implement the determination.

23 “(2)(A) In carrying out paragraph (1), the Commis-
 24 sioner of Social Security shall review—

1 “(i) at least 25 percent of all determinations re-
 2 ferred to in paragraph (1) that are made in fiscal
 3 year 2004; and

4 “(ii) at least 50 percent of all such determina-
 5 tions that are made in fiscal year 2005 or thereafter.

6 “(B) In carrying out subparagraph (A), the Commis-
 7 sioner of Social Security shall, to the extent feasible, select
 8 for review the determinations which the Commissioner of
 9 Social Security identifies as being the most likely to be in-
 10 correct.”.

11 **SEC. 373. PROHIBITION ON USE OF SCHIP FUNDS TO PRO-**
 12 **VIDE COVERAGE FOR CHILDLESS ADULTS.**

13 (a) *GENERAL LIMITATIONS ON PAYMENTS.*—Section
 14 2105(c)(1) of the Social Security Act (42 U.S.C.
 15 1397ee(c)(1)) is amended by inserting before the period the
 16 following: “and may not include coverage of a childless
 17 adult unless the childless adult is a pregnant woman. For
 18 purposes of the preceding sentence, a caretaker relative (as
 19 such term is defined for purposes of carrying out section
 20 1931) shall not be considered a childless adult.”.

21 (b) *LIMITATION ON WAIVER AUTHORITY.*—Section
 22 2107 of the Social Security Act (42 U.S.C. 1397gg) is
 23 amended by adding at the end the following:

24 “(f) *LIMITATION OF WAIVER AUTHORITY.*—Notwith-
 25 standing subsection (e)(2)(A) and section 1115(a), the Sec-

1 retary may not approve a waiver, experimental, pilot, or
 2 demonstration project, or an amendment to such a project
 3 that has been approved as of the date of enactment of this
 4 subsection, that would allow funds made available under
 5 this title to be used to provide child health assistance or
 6 other health benefits coverage to a childless adult, other than
 7 a childless adult who is a pregnant woman. For purposes
 8 of the preceding sentence, a caretaker relative (as such term
 9 is defined for purposes of carrying out section 1931) shall
 10 not be considered a childless adult.”.

11 (c) *EFFECTIVE DATE.*—The amendments made by this
 12 section take effect on the date of enactment of this Act and
 13 apply to proposals to conduct a waiver, experimental, pilot,
 14 or demonstration project affecting the State children’s
 15 health insurance program under title XXI of such Act, and
 16 to any proposals to amend such a project, that are approved
 17 or extended on or after such date of enactment.

18 (d) *RULE OF CONSTRUCTION.*—Nothing in this section
 19 or the amendments made by this section shall be construed
 20 to—

21 (1) authorize the waiver of any provision of title
 22 XXI of the Social Security Act (42 U.S.C. 1397aa et
 23 seq.) that is not otherwise authorized to be waived
 24 under such title or under title XI of such Act (42

1 *U.S.C. 1301 et seq.) as of the date of enactment of this*
 2 *Act; or*

3 *(2) imply congressional approval of any waiver,*
 4 *experimental, pilot, or demonstration project affecting*
 5 *the State children’s health insurance program under*
 6 *title XXI of such Act that has been approved as of*
 7 *such date of enactment.*

8 ***TITLE IV—SMALL BUSINESS AND***
 9 ***AGRICULTURAL PROVISIONS***

10 ***Subtitle A—Small Business***
 11 ***Provisions***

12 ***SEC. 401. EXCLUSION OF CERTAIN INDEBTEDNESS OF***
 13 ***SMALL BUSINESS INVESTMENT COMPANIES***
 14 ***FROM ACQUISITION INDEBTEDNESS.***

15 *(a) IN GENERAL.—Section 514(c) (relating to acquisi-*
 16 *tion indebtedness) is amended by adding at the end the fol-*
 17 *lowing new paragraph:*

18 ***“(10) CERTAIN INDEBTEDNESS OF SMALL BUSI-***
 19 ***NESS INVESTMENT COMPANIES.—****For purposes of this*
 20 *section, the term ‘acquisition indebtedness’ does not*
 21 *include any indebtedness incurred by a small business*
 22 *investment company licensed under the Small Busi-*
 23 *ness Investment Act of 1958 which is evidenced by a*
 24 *debenture—*

1 “(A) issued by such company under section
2 303(a) of such Act, or

3 “(B) held or guaranteed by the Small Busi-
4 ness Administration.”.

5 (b) *EFFECTIVE DATE.*—The amendment made by this
6 section shall apply to any indebtedness incurred after De-
7 cember 31, 2002, by a small business investment company
8 described in section 514(c)(10) of the Internal Revenue Code
9 of 1986 (as added by this section) with respect to property
10 acquired by such company after such date.

11 **SEC. 402. REPEAL OF OCCUPATIONAL TAXES RELATING TO**
12 **DISTILLED SPIRITS, WINE, AND BEER.**

13 (a) *REPEAL OF OCCUPATIONAL TAXES.*—

14 (1) *IN GENERAL.*—The following provisions of
15 part II of subchapter A of chapter 51 (relating to oc-
16 cupational taxes) are hereby repealed:

17 (A) Subpart A (relating to proprietors of
18 distilled spirits plants, bonded wine cellars, etc.).

19 (B) Subpart B (relating to brewer).

20 (C) Subpart D (relating to wholesale deal-
21 ers) (other than sections 5114 and 5116).

22 (D) Subpart E (relating to retail dealers)
23 (other than section 5124).

1 (E) Subpart G (relating to general provi-
2 sions) (other than sections 5142, 5143, 5145, and
3 5146).

4 (2) NONBEVERAGE DOMESTIC DRAWBACK.—Sec-
5 tion 5131 is amended by striking “, on payment of
6 a special tax per annum,”.

7 (3) INDUSTRIAL USE OF DISTILLED SPIRITS.—
8 Section 5276 is hereby repealed.

9 (b) CONFORMING AMENDMENTS.—

10 (1)(A) The heading for part II of subchapter A
11 of chapter 51 and the table of subparts for such part
12 are amended to read as follows:

13 **“PART II—MISCELLANEOUS PROVISIONS**

 “Subpart A. Manufacturers of stills.

 “Subpart B. Nonbeverage domestic drawback claimants.

 “Subpart C. Recordkeeping by dealers.

 “Subpart D. Other provisions.”.

14 (B) The table of parts for such subchapter A is
15 amended by striking the item relating to part II and
16 inserting the following new item:

 “Part II. Miscellaneous provisions.”.

17 (2) Subpart C of part II of such subchapter (re-
18 lating to manufacturers of stills) is redesignated as
19 subpart A.

20 (3)(A) Subpart F of such part II (relating to
21 nonbeverage domestic drawback claimants) is redesi-
22 gnated as subpart B and sections 5131 through 5134

1 are redesignated as sections 5111 through 5114, re-
2 spectively.

3 (B) *The table of sections for such subpart B, as*
4 *so redesignated, is amended—*

5 (i) *by redesignating the items relating to*
6 *sections 5131 through 5134 as relating to sec-*
7 *tions 5111 through 5114, respectively, and*

8 (ii) *by striking “and rate of tax” in the*
9 *item relating to section 5111, as so redesignated.*

10 (C) *Section 5111, as redesignated by subpara-*
11 *graph (A), is amended—*

12 (i) *by striking “**AND RATE OF TAX**” in*
13 *the section heading,*

14 (ii) *by striking the subsection heading for*
15 *subsection (a), and*

16 (iii) *by striking subsection (b).*

17 (4) *Part II of subchapter A of chapter 51 is*
18 *amended by adding after subpart B, as redesignated*
19 *by paragraph (3), the following new subpart:*

20 ***“Subpart C—Recordkeeping by Dealers***

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of
 premises for inspection.”.

21 (5)(A) *Section 5114 (relating to records) is*
22 *moved to subpart C of such part II and inserted after*
23 *the table of sections for such subpart.*

1 (B) Section 5114 is amended—

2 (i) by striking the section heading and in-
3 serting the following new heading:

4 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,**

5 and

6 (ii) by redesignating subsection (c) as sub-
7 section (d) and by inserting after subsection (b)
8 the following new subsection:

9 “(c) *WHOLESALE DEALERS.*—For purposes of this
10 part—

11 “(1) *WHOLESALE DEALER IN LIQUORS.*—The
12 term ‘wholesale dealer in liquors’ means any dealer
13 (other than a wholesale dealer in beer) who sells, or
14 offers for sale, distilled spirits, wines, or beer, to an-
15 other dealer.

16 “(2) *WHOLESALE DEALER IN BEER.*—The term
17 ‘wholesale dealer in beer’ means any dealer who sells,
18 or offers for sale, beer, but not distilled spirits or
19 wines, to another dealer.

20 “(3) *DEALER.*—The term ‘dealer’ means any
21 person who sells, or offers for sale, any distilled spir-
22 its, wines, or beer.

23 “(4) *PRESUMPTION IN CASE OF SALE OF 20 WINE*
24 *GALLONS OR MORE.*—The sale, or offer for sale, of dis-
25 tilled spirits, wines, or beer, in quantities of 20 wine

1 gallons or more to the same person at the same time,
 2 shall be presumptive evidence that the person making
 3 such sale, or offer for sale, is engaged in or carrying
 4 on the business of a wholesale dealer in liquors or a
 5 wholesale dealer in beer, as the case may be. Such
 6 presumption may be overcome by evidence satisfac-
 7 torily showing that such sale, or offer for sale, was
 8 made to a person other than a dealer.”.

9 (C) Paragraph (3) of section 5121(d), as so re-
 10 designated, is amended by striking “section 5146”
 11 and inserting “section 5123”.

12 (6)(A) Section 5124 (relating to records) is
 13 moved to subpart C of part II of subchapter A of
 14 chapter 51 and inserted after section 5121.

15 (B) Section 5124 is amended—

16 (i) by striking the section heading and in-
 17 serting the following new heading:

18 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,**

19 (ii) by striking “section 5146” in subsection
 20 (c) and inserting “section 5123”, and

21 (iii) by redesignating subsection (c) as sub-
 22 section (d) and inserting after subsection (b) the
 23 following new subsection:

24 “(c) **RETAIL DEALERS.**—For purposes of this sec-
 25 tion—

1 “(1) *RETAIL DEALER IN LIQUORS.*—The term
2 ‘retail dealer in liquors’ means any dealer (other than
3 a retail dealer in beer) who sells, or offers for sale,
4 distilled spirits, wines, or beer, to any person other
5 than a dealer.

6 “(2) *RETAIL DEALER IN BEER.*—The term ‘retail
7 dealer in beer’ means any dealer who sells, or offers
8 for sale, beer, but not distilled spirits or wines, to any
9 person other than a dealer.

10 “(3) *DEALER.*—The term ‘dealer’ has the mean-
11 ing given such term by section 5121(c)(3).”.

12 (7) Section 5146 is moved to subpart C of part
13 II of subchapter A of chapter 51, inserted after section
14 5122, and redesignated as section 5123.

15 (8) Part II of subchapter A of chapter 51 is
16 amended by inserting after subpart C the following
17 new subpart:

18 **“Subpart D—Other Provisions**

 “Sec. 5131. Packaging distilled spirits for industrial uses.

 “Sec. 5132. Prohibited purchases by dealers.”.

19 (9) Section 5116 is moved to subpart D of part
20 II of subchapter A of chapter 51, inserted after the
21 table of sections, redesignated as section 5131, and
22 amended by inserting “(as defined in section
23 5121(c))” after “dealer” in subsection (a).

1 (10) Subpart D of part II of subchapter A of
2 chapter 51 is amended by adding at the end thereof
3 the following new section:

4 ***“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.***

5 “(a) *IN GENERAL.*—Except as provided in regulations
6 prescribed by the Secretary, it shall be unlawful for a dealer
7 to purchase distilled spirits for resale from any person other
8 than a wholesale dealer in liquors who is required to keep
9 the records prescribed by section 5121.

10 “(b) *PENALTY AND FORFEITURE.*—

***“For penalty and forfeiture provisions applicable
to violations of subsection (a), see sections 5687 and
7302.”.***

11 (11) Subsection (b) of section 5002 is amended—

12 (A) by striking “section 5112(a)” and in-
13 serting “section 5121(c)(3)”,

14 (B) by striking “section 5112” and insert-
15 ing “section 5121(c)”,

16 (C) by striking “section 5122” and insert-
17 ing “section 5122(c)”.

18 (12) Subparagraph (A) of section 5010(c)(2) is
19 amended by striking “section 5134” and inserting
20 “section 5114”.

21 (13) Subsection (d) of section 5052 is amended
22 to read as follows:

1 “(d) *BREWER*.—For purposes of this chapter, the term
 2 ‘brewer’ means any person who brews beer or produces beer
 3 for sale. Such term shall not include any person who pro-
 4 duces only beer exempt from tax under section 5053(e).”.

5 (14) *The text of section 5182 is amended to read*
 6 *as follows:*

7 “*For provisions requiring recordkeeping by*
 8 *wholesale liquor dealers, see section 5121, and by re-*
 9 *tail liquor dealers, see section 5122.*”.

10 (15) *Subsection (b) of section 5402 is amended*
 11 *by striking “section 5092” and inserting “section*
 12 *5052(d)”.*

13 (16) *Section 5671 is amended by striking “or*
 14 *5091”.*

15 (17)(A) *Part V of subchapter J of chapter 51 is*
 16 *hereby repealed.*

17 (B) *The table of parts for such subchapter J is*
 18 *amended by striking the item relating to part V.*

19 (18)(A) *Sections 5142, 5143, and 5145 are*
 20 *moved to subchapter D of chapter 52, inserted after*
 21 *section 5731, redesignated as sections 5732, 5733, and*
 22 *5734, respectively, and amended by striking “this*
 23 *part” each place it appears and inserting “this sub-*
 24 *chapter”.*

1 (B) Section 5732, as redesignated by subpara-
 2 graph (A), is amended by striking “(except the tax
 3 imposed by section 5131)” each place it appears.

4 (C) Paragraph (2) of section 5733(c), as redesign-
 5 ated by subparagraph (A), is amended by striking
 6 “liquors” both places it appears and inserting “to-
 7 bacco products and cigarette papers and tubes”.

8 (D) The table of sections for subchapter D of
 9 chapter 52 is amended by adding at the end thereof
 10 the following:

 “Sec. 5732. Payment of tax.

 “Sec. 5733. Provisions relating to liability for occupational taxes.

 “Sec. 5734. Application of State laws.”.

11 (E) Section 5731 is amended by striking sub-
 12 section (c) and by redesignating subsection (d) as sub-
 13 section (c).

14 (19) Subsection (c) of section 6071 is amended
 15 by striking “section 5142” and inserting “section
 16 5732”.

17 (20) Paragraph (1) of section 7652(g) is amend-
 18 ed—

19 (A) by striking “subpart F” and inserting
 20 “subpart B”, and

21 (B) by striking “section 5131(a)” and in-
 22 serting “section 5111”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on July 1, 2003, but shall not apply*
 3 *to taxes imposed for periods before such date.*

4 **SEC. 403. CUSTOM GUNSMITHS.**

5 (a) *SMALL MANUFACTURERS EXEMPT FROM FIRE-*
 6 *ARMS EXCISE TAX.*—*Section 4182 (relating to exemptions)*
 7 *is amended by redesignating subsection (c) as subsection (d)*
 8 *and by inserting after subsection (b) the following new sub-*
 9 *section:*

10 “(c) *SMALL MANUFACTURERS, ETC.*—

11 “(1) *IN GENERAL.*—*The tax imposed by section*
 12 *4181 shall not apply to any article described in such*
 13 *section if manufactured, produced, or imported by a*
 14 *person who manufactures, produces, and imports less*
 15 *than 50 of such articles during the calendar year.*

16 “(2) *CONTROLLED GROUPS.*—*All persons treated*
 17 *as a single employer for purposes of subsection (a) or*
 18 *(b) of section 52 shall be treated as one person for*
 19 *purposes of paragraph (1).”.*

20 (b) *EFFECTIVE DATE.*—

21 “(1) *IN GENERAL.*—*The amendments made by*
 22 *this section shall apply to articles sold by the manu-*
 23 *facturer, producer, or importer on or after the date*
 24 *which is the first day of the month beginning at least*
 25 *2 weeks after the date of the enactment of this Act.*

1 (2) *NO INFERENCE.*—*Nothing in the amend-*
 2 *ments made by this section shall be construed to cre-*
 3 *ate any inference with respect to the proper tax treat-*
 4 *ment of any sales before the effective date of such*
 5 *amendments.*

6 **SEC. 404. SIMPLIFICATION OF EXCISE TAX IMPOSED ON**
 7 **BOWS AND ARROWS.**

8 (a) *BOWS.*—*Section 4161(b)(1) (relating to bows) is*
 9 *amended to read as follows:*

10 “(1) *BOWS.*—

11 “(A) *IN GENERAL.*—*There is hereby im-*
 12 *posed on the sale by the manufacturer, producer,*
 13 *or importer of any bow which has a draw weight*
 14 *of 30 pounds or more, a tax equal to 11 percent*
 15 *of the price for which so sold.*

16 “(B) *ARCHERY EQUIPMENT.*—*There is here-*
 17 *by imposed on the sale by the manufacturer, pro-*
 18 *ducer, or importer—*

19 “(i) *of any part or accessory suitable*
 20 *for inclusion in or attachment to a bow de-*
 21 *scribed in subparagraph (A), and*

22 “(ii) *of any quiver or broadhead suit-*
 23 *able for use with an arrow described in*
 24 *paragraph (3),*

1 *a tax equal to 11 percent of the price for which*
 2 *so sold.”.*

3 **(b) ARROWS.**—*Section 4161(b) (relating to bows and*
 4 *arrows, etc.) is amended by redesignating paragraph (3)*
 5 *as paragraph (4) and inserting after paragraph (2) the fol-*
 6 *lowing:*

7 **“(3) ARROWS.**—

8 **“(A) IN GENERAL.**—*There is hereby im-*
 9 *posed on the sale by the manufacturer, producer,*
 10 *or importer of any arrow, a tax equal to 12 per-*
 11 *cent of the price for which so sold.*

12 **“(B) EXCEPTION.**—*The tax imposed by sub-*
 13 *paragraph (A) on an arrow shall not apply if*
 14 *the arrow contains an arrow shaft subject to the*
 15 *tax imposed by paragraph (2).*

16 **“(C) ARROW.**—*For purposes of this para-*
 17 *graph, the term ‘arrow’ means any shaft de-*
 18 *scribed in paragraph (2) to which additional*
 19 *components are attached.”.*

20 **(c) CONFORMING AMENDMENT.**—*The heading of sec-*
 21 *tion 4161(b)(2) (relating to arrows) is amended by striking*
 22 *“ARROWS.—” and inserting “ARROW COMPONENTS.—”.*

23 **(d) EFFECTIVE DATE.**—*The amendments made by this*
 24 *section shall apply to articles sold by the manufacturer,*

1 producer, or importer after the date of the enactment of this
 2 Act.

3 ***Subtitle B—Agricultural Provisions***

4 ***SEC. 411. CAPITAL GAIN TREATMENT UNDER SECTION*** 5 ***631(b) TO APPLY TO OUTRIGHT SALES BY*** 6 ***LANDOWNERS.***

7 (a) *IN GENERAL.*—The first sentence of section 631(b)
 8 (relating to disposal of timber with a retained economic in-
 9 terest) is amended by striking “retains an economic interest
 10 in such timber” and inserting “either retains an economic
 11 interest in such timber or makes an outright sale of such
 12 timber”.

13 (b) *CONFORMING AMENDMENT.*—The third sentence of
 14 section 631(b) is amended by striking “The date of dis-
 15 posal” and inserting “In the case of disposal of timber with
 16 a retained economic interest, the date of disposal”.

17 (c) *EFFECTIVE DATE.*—The amendments made by this
 18 section shall apply to sales after the date of the enactment
 19 of this Act.

20 ***SEC. 412. SPECIAL RULES FOR LIVESTOCK SOLD ON AC-*** 21 ***COUNT OF WEATHER-RELATED CONDITIONS.***

22 (a) *RULES FOR REPLACEMENT OF INVOLUNTARILY*
 23 *CONVERTED LIVESTOCK.*—Subsection (e) of section 1033
 24 (relating to involuntary conversions) is amended—

1 (1) *by striking “CONDITIONS.—For purposes”*
 2 *and inserting “CONDITIONS.—*

3 *“(1) IN GENERAL.—For purposes”, and*

4 *(2) by adding at the end the following new para-*
 5 *graph:*

6 *“(2) EXTENSION OF REPLACEMENT PERIOD.—*

7 *“(A) IN GENERAL.—In the case of drought,*
 8 *flood, or other weather-related conditions de-*
 9 *scribed in paragraph (1) which result in the*
 10 *area being designated as eligible for assistance*
 11 *by the Federal Government, subsection (a)(2)(B)*
 12 *shall be applied with respect to any converted*
 13 *property by substituting ‘4 years’ for ‘2 years’.*

14 *“(B) FURTHER EXTENSION BY SEC-*
 15 *RETARY.—The Secretary may extend on a re-*
 16 *gional basis the period for replacement under*
 17 *this section (after the application of subpara-*
 18 *graph (A)) for such additional time as the Sec-*
 19 *retary determines appropriate if the weather-re-*
 20 *lated conditions which resulted in such applica-*
 21 *tion continue for more than 3 years.”.*

22 *(b) INCOME INCLUSION RULES.—Section 451(e) (relat-*
 23 *ing to special rule for proceeds from livestock sold on ac-*
 24 *count of drought, flood, or other weather-related conditions)*

1 *is amended by adding at the end the following new para-*
 2 *graph:*

3 “(3) *SPECIAL ELECTION RULES.*—If section
 4 1033(e)(2) applies to a sale or exchange of livestock
 5 described in paragraph (1), the election under para-
 6 graph (1) shall be deemed valid if made during the
 7 replacement period described in such section.”.

8 (c) *EFFECTIVE DATE.*—The amendments made by this
 9 section shall apply to any taxable year with respect to
 10 which the due date of the return is after December 31, 2002.

11 **SEC. 413. EXCLUSION FOR LOAN PAYMENTS UNDER NA-**
 12 **TIONAL HEALTH SERVICE CORPS LOAN RE-**
 13 **PAYMENT PROGRAM.**

14 (a) *IN GENERAL.*—Section 108(f) (relating to student
 15 loans) is amended by adding at the end the following new
 16 paragraph:

17 “(4) *LOAN PAYMENTS UNDER NATIONAL HEALTH*
 18 *SERVICE CORPS LOAN REPAYMENT PROGRAM.*—In the
 19 case of an individual, gross income shall not include
 20 any amount received under section 338B(g) of the
 21 Public Health Service Act.”.

22 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 23 section (a) shall apply to amounts received by an indi-
 24 vidual in taxable years beginning after December 31, 2002.

1 **SEC. 414. PAYMENT OF DIVIDENDS ON STOCK OF COOPERA-**
 2 **TIVES WITHOUT REDUCING PATRONAGE DIVI-**
 3 **DENDS.**

4 (a) *IN GENERAL.*—Subsection (a) of section 1388 (re-
 5 lating to patronage dividend defined) is amended by adding
 6 at the end the following: “For purposes of paragraph (3),
 7 net earnings shall not be reduced by amounts paid during
 8 the year as dividends on capital stock or other proprietary
 9 capital interests of the organization to the extent that the
 10 articles of incorporation or bylaws of such organization or
 11 other contract with patrons provide that such dividends are
 12 in addition to amounts otherwise payable to patrons which
 13 are derived from business done with or for patrons during
 14 the taxable year.”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this
 16 section shall apply to distributions in taxable years ending
 17 after the date of the enactment of this Act.

18 **TITLE V—SIMPLIFICATION AND**
 19 **OTHER PROVISIONS**
 20 **Subtitle A—Uniform Definition of**
 21 **Child**

22 **SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.**

23 Section 152 is amended to read as follows:

24 **“SEC. 152. DEPENDENT DEFINED.**

25 “(a) *IN GENERAL.*—For purposes of this subtitle, the
 26 term ‘dependent’ means—

1 “(1) a qualifying child, or

2 “(2) a qualifying relative.

3 “(b) *EXCEPTIONS.*—For purposes of this section—

4 “(1) *DEPENDENTS INELIGIBLE.*—If an indi-
5 vidual is a dependent of a taxpayer for any taxable
6 year of such taxpayer beginning in a calendar year,
7 such individual shall be treated as having no depend-
8 ents for any taxable year of such individual begin-
9 ning in such calendar year.

10 “(2) *MARRIED DEPENDENTS.*—An individual
11 shall not be treated as a dependent of a taxpayer
12 under subsection (a) if such individual has made a
13 joint return with the individual’s spouse under sec-
14 tion 6013 for the taxable year beginning in the cal-
15 endar year in which the taxable year of the taxpayer
16 begins.

17 “(3) *CITIZENS OR NATIONALS OF OTHER COUN-*
18 TRIES.—

19 “(A) *IN GENERAL.*—The term ‘dependent’
20 does not include an individual who is not a cit-
21 izen or national of the United States unless such
22 individual is a resident of the United States or
23 a country contiguous to the United States.

24 “(B) *EXCEPTION FOR ADOPTED CHILD.*—
25 Subparagraph (A) shall not exclude any child of

1 *a taxpayer (within the meaning of subsection*
 2 *(f)(1)(B)) from the definition of ‘dependent’ if—*

3 *“(i) for the taxable year of the tax-*
 4 *payer, the child’s principal place of abode is*
 5 *the home of the taxpayer, and*

6 *“(ii) the taxpayer is a citizen or na-*
 7 *tional of the United States.*

8 *“(c) QUALIFYING CHILD.—For purposes of this sec-*
 9 *tion—*

10 *“(1) IN GENERAL.—The term ‘qualifying child’*
 11 *means, with respect to any taxpayer for any taxable*
 12 *year, an individual—*

13 *“(A) who bears a relationship to the tax-*
 14 *payer described in paragraph (2),*

15 *“(B) who has the same principal place of*
 16 *abode as the taxpayer for more than one-half of*
 17 *such taxable year,*

18 *“(C) who meets the age requirements of*
 19 *paragraph (3), and*

20 *“(D) who has not provided over one-half of*
 21 *such individual’s own support for the calendar*
 22 *year in which the taxable year of the taxpayer*
 23 *begins.*

24 *“(2) RELATIONSHIP TEST.—For purposes of*
 25 *paragraph (1)(A), an individual bears a relationship*

1 to the taxpayer described in this paragraph if such
2 individual is—

3 “(A) a child of the taxpayer or a descendant
4 of such a child, or

5 “(B) a brother, sister, stepbrother, or step-
6 sister of the taxpayer or a descendant of any
7 such relative.

8 “(3) *AGE REQUIREMENTS.*—

9 “(A) *IN GENERAL.*—For purposes of para-
10 graph (1)(C), an individual meets the require-
11 ments of this paragraph if such individual—

12 “(i) has not attained the age of 19 as
13 of the close of the calendar year in which
14 the taxable year of the taxpayer begins, or

15 “(ii) is a student who has not attained
16 the age of 24 as of the close of such calendar
17 year.

18 “(B) *SPECIAL RULE FOR DISABLED.*—In
19 the case of an individual who is permanently
20 and totally disabled (as defined in section
21 22(e)(3)) at any time during such calendar year,
22 the requirements of subparagraph (A) shall be
23 treated as met with respect to such individual.

24 “(4) *SPECIAL RULE RELATING TO 2 OR MORE*
25 *CLAIMING QUALIFYING CHILD.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
 2 *subparagraph (B) and subsection (e), if (but for*
 3 *this paragraph) an individual may be and is*
 4 *claimed as a qualifying child by 2 or more tax-*
 5 *payers for a taxable year beginning in the same*
 6 *calendar year, such individual shall be treated as*
 7 *the qualifying child of the taxpayer who is—*

8 “(i) *a parent of the individual, or*

9 “(ii) *if clause (i) does not apply, the*
 10 *taxpayer with the highest adjusted gross in-*
 11 *come for such taxable year.*

12 “(B) *MORE THAN 1 PARENT CLAIMING*
 13 *QUALIFYING CHILD.*—*If the parents claiming*
 14 *any qualifying child do not file a joint return to-*
 15 *gether, such child shall be treated as the quali-*
 16 *fying child of—*

17 “(i) *the parent with whom the child re-*
 18 *sided for the longest period of time during*
 19 *the taxable year, or*

20 “(ii) *if the child resides with both par-*
 21 *ents for the same amount of time during*
 22 *such taxable year, the parent with the high-*
 23 *est adjusted gross income.*

24 “(d) *QUALIFYING RELATIVE.*—*For purposes of this*
 25 *section—*

1 “(1) *IN GENERAL.*—*The term ‘qualifying rel-*
 2 *ative’ means, with respect to any taxpayer for any*
 3 *taxable year, an individual—*

4 “(A) *who bears a relationship to the tax-*
 5 *payer described in paragraph (2),*

6 “(B) *whose gross income for the calendar*
 7 *year in which such taxable year begins is less*
 8 *than the exemption amount (as defined in sec-*
 9 *tion 151(d)),*

10 “(C) *with respect to whom the taxpayer*
 11 *provides over one-half of the individual’s support*
 12 *for the calendar year in which such taxable year*
 13 *begins, and*

14 “(D) *who is not a qualifying child of such*
 15 *taxpayer or of any other taxpayer for any tax-*
 16 *able year beginning in the calendar year in*
 17 *which such taxable year begins.*

18 “(2) *RELATIONSHIP.*—*For purposes of para-*
 19 *graph (1)(A), an individual bears a relationship to*
 20 *the taxpayer described in this paragraph if the indi-*
 21 *vidual is any of the following with respect to the tax-*
 22 *payer:*

23 “(A) *A child or a descendant of a child.*

24 “(B) *A brother, sister, stepbrother, or step-*
 25 *sister.*

1 “(C) *The father or mother, or an ancestor of*
2 *either.*

3 “(D) *A stepfather or stepmother.*

4 “(E) *A son or daughter of a brother or sis-*
5 *ter of the taxpayer.*

6 “(F) *A brother or sister of the father or*
7 *mother of the taxpayer.*

8 “(G) *A son-in-law, daughter-in-law, father-*
9 *in-law, mother-in-law, brother-in-law, or sister-*
10 *in-law.*

11 “(H) *An individual (other than an indi-*
12 *vidual who at any time during the taxable year*
13 *was the spouse, determined without regard to*
14 *section 7703, of the taxpayer) who, for the tax-*
15 *able year of the taxpayer, has as such individ-*
16 *ual’s principal place of abode the home of the*
17 *taxpayer and is a member of the taxpayer’s*
18 *household.*

19 “(3) *SPECIAL RULE RELATING TO MULTIPLE*
20 *SUPPORT AGREEMENTS.—For purposes of paragraph*
21 *(1)(C), over one-half of the support of an individual*
22 *for a calendar year shall be treated as received from*
23 *the taxpayer if—*

24 “(A) *no one person contributed over one-half*
25 *of such support,*

1 “(B) over one-half of such support was re-
 2 ceived from 2 or more persons each of whom, but
 3 for the fact that any such person alone did not
 4 contribute over one-half of such support, would
 5 have been entitled to claim such individual as a
 6 dependent for a taxable year beginning in such
 7 calendar year,

8 “(C) the taxpayer contributed over 10 per-
 9 cent of such support, and

10 “(D) each person described in subparagraph
 11 (B) (other than the taxpayer) who contributed
 12 over 10 percent of such support files a written
 13 declaration (in such manner and form as the
 14 Secretary may by regulations prescribe) that
 15 such person will not claim such individual as a
 16 dependent for any taxable year beginning in
 17 such calendar year.

18 “(4) SPECIAL RULE RELATING TO INCOME OF
 19 HANDICAPPED DEPENDENTS.—

20 “(A) IN GENERAL.—For purposes of para-
 21 graph (1)(B), the gross income of an individual
 22 who is permanently and totally disabled (as de-
 23 fined in section 22(e)(3)) at any time during the
 24 taxable year shall not include income attrib-

1 *utable to services performed by the individual at*
 2 *a sheltered workshop if—*

3 “(i) *the availability of medical care at*
 4 *such workshop is the principal reason for*
 5 *the individual’s presence there, and*

6 “(ii) *the income arises solely from ac-*
 7 *tivities at such workshop which are incident*
 8 *to such medical care.*

9 “(B) *SHELTERED WORKSHOP DEFINED.—*
 10 *For purposes of subparagraph (A), the term*
 11 *‘sheltered workshop’ means a school—*

12 “(i) *which provides special instruction*
 13 *or training designed to alleviate the dis-*
 14 *ability of the individual, and*

15 “(ii) *which is operated by an organiza-*
 16 *tion described in section 501(c)(3) and ex-*
 17 *empt from tax under section 501(a), or by*
 18 *a State, a possession of the United States,*
 19 *any political subdivision of any of the fore-*
 20 *going, the United States, or the District of*
 21 *Columbia.*

22 “(5) *SPECIAL SUPPORT TEST IN CASE OF STU-*
 23 *DENTS.—For purposes of paragraph (1)(C), in the*
 24 *case of an individual who is—*

25 “(A) *a child of the taxpayer, and*

1 “(B) a student,
 2 *amounts received as scholarships for study at an edu-*
 3 *cational organization described in section*
 4 *170(b)(1)(A)(ii) shall not be taken into account in de-*
 5 *termining whether such individual received more than*
 6 *one-half of such individual’s support from the tax-*
 7 *payer.*

8 “(6) *SPECIAL RULES FOR SUPPORT.—For pur-*
 9 *poses of this subsection—*

10 “(A) *payments to a spouse which are in-*
 11 *cludible in the gross income of such spouse under*
 12 *section 71 or 682 shall not be treated as a pay-*
 13 *ment by the payor spouse for the support of any*
 14 *dependent,*

15 “(B) *amounts expended for the support of a*
 16 *child or children shall be treated as received from*
 17 *the noncustodial parent (as defined in subsection*
 18 *(e)(3)(B)) to the extent that such parent provided*
 19 *amounts for such support, and*

20 “(C) *in the case of the remarriage of a par-*
 21 *ent, support of a child received from the parent’s*
 22 *spouse shall be treated as received from the par-*
 23 *ent.*

24 “(e) *SPECIAL RULE FOR DIVORCED PARENTS.—*

1 “(1) *IN GENERAL.*—*Notwithstanding subsection*
 2 *(c)(4) or (d)(1)(C), if—*

3 “(A) *a child receives over one-half of the*
 4 *child’s support during the calendar year from*
 5 *the child’s parents—*

6 “(i) *who are divorced or legally sepa-*
 7 *rated under a decree of divorce or separate*
 8 *maintenance,*

9 “(ii) *who are separated under a writ-*
 10 *ten separation agreement, or*

11 “(iii) *who live apart at all times dur-*
 12 *ing the last 6 months of the calendar year,*
 13 *and*

14 “(B) *such child is in the custody of 1 or*
 15 *both of the child’s parents for more than 1/2 of*
 16 *the calendar year,*

17 *such child shall be treated as being the qualifying*
 18 *child or qualifying relative of the noncustodial parent*
 19 *for a calendar year if the requirements described in*
 20 *paragraph (2) are met.*

21 “(2) *REQUIREMENTS.*—*For purposes of para-*
 22 *graph (1), the requirements described in this para-*
 23 *graph are met if—*

24 “(A) *a decree of divorce or separate mainte-*
 25 *nance or written agreement between the parents*

1 *applicable to the taxable year beginning in such*
 2 *calendar year provides that—*

3 “(i) *the noncustodial parent shall be*
 4 *entitled to any deduction allowable under*
 5 *section 151 for such child, or*

6 “(ii) *the custodial parent will sign a*
 7 *written declaration that such parent will*
 8 *not claim such child as a dependent for*
 9 *such taxable year, and*

10 “(B) *in the case of such an agreement exe-*
 11 *cuted before January 1, 1985, the noncustodial*
 12 *parent provides at least \$600 for the support of*
 13 *such child during such calendar year.*

14 “(3) *CUSTODIAL PARENT AND NONCUSTODIAL*
 15 *PARENT.—For purposes of this subsection—*

16 “(A) *CUSTODIAL PARENT.—The term ‘custo-*
 17 *dial parent’ means the parent with whom a*
 18 *child shared the same principal place of abode*
 19 *for the greater portion of the calendar year.*

20 “(B) *NONCUSTODIAL PARENT.—The term*
 21 *‘noncustodial parent’ means the parent who is*
 22 *not the custodial parent.*

23 “(4) *EXCEPTION FOR MULTIPLE-SUPPORT*
 24 *AGREEMENTS.—This subsection shall not apply in*
 25 *any case where over one-half of the support of the*

1 *child is treated as having been received from a tax-*
 2 *payer under the provision of subsection (d)(3).*

3 “(f) *OTHER DEFINITIONS AND RULES.—For purposes*
 4 *of this section—*

5 “(1) *CHILD DEFINED.—*

6 “(A) *IN GENERAL.—The term ‘child’ means*
 7 *an individual who is—*

8 “(i) *a son, daughter, stepson, or step-*
 9 *daughter of the taxpayer, or*

10 “(ii) *an eligible foster child of the tax-*
 11 *payer.*

12 “(B) *ADOPTED CHILD.—In determining*
 13 *whether any of the relationships specified in sub-*
 14 *paragraph (A)(i) or paragraph (4) exists, a le-*
 15 *gally adopted individual of the taxpayer, or an*
 16 *individual who is placed with the taxpayer by*
 17 *an authorized placement agency for adoption by*
 18 *the taxpayer, shall be treated as a child of such*
 19 *individual by blood.*

20 “(C) *ELIGIBLE FOSTER CHILD.—For pur-*
 21 *poses of subparagraph (A)(ii), the term ‘eligible*
 22 *foster child’ means an individual who is placed*
 23 *with the taxpayer by an authorized placement*
 24 *agency or by judgment, decree, or other order of*
 25 *any court of competent jurisdiction.*

1 “(2) *STUDENT DEFINED.*—The term ‘student’
 2 *means an individual who during each of 5 calendar*
 3 *months during the calendar year in which the taxable*
 4 *year of the taxpayer begins—*

5 “(A) *is a full-time student at an edu-*
 6 *cational organization described in section*
 7 *170(b)(1)(A)(ii), or*

8 “(B) *is pursuing a full-time course of insti-*
 9 *tutional on-farm training under the supervision*
 10 *of an accredited agent of an educational organi-*
 11 *zation described in section 170(b)(1)(A)(ii) or of*
 12 *a State or political subdivision of a State.*

13 “(3) *PLACE OF ABODE.*—*An individual shall not*
 14 *be treated as having the same principal place of abode*
 15 *of the taxpayer if at any time during the taxable year*
 16 *of the taxpayer the relationship between the indi-*
 17 *vidual and the taxpayer is in violation of local law.*

18 “(4) *BROTHER AND SISTER.*—*The terms ‘brother’*
 19 *and ‘sister’ include a brother or sister by the half*
 20 *blood.*

21 “(5) *TREATMENT OF MISSING CHILDREN.*—

22 “(A) *IN GENERAL.*—*Solely for the purposes*
 23 *referred to in subparagraph (B), a child of the*
 24 *taxpayer—*

1 “(i) who is presumed by law enforce-
 2 ment authorities to have been kidnapped by
 3 someone who is not a member of the family
 4 of such child or the taxpayer, and

5 “(ii) who had, for the taxable year in
 6 which the kidnapping occurred, the same
 7 principal place of abode as the taxpayer for
 8 more than one-half of the portion of such
 9 year before the date of the kidnapping,
 10 shall be treated as meeting the requirement of
 11 subsection (c)(1)(B) with respect to a taxpayer
 12 for all taxable years ending during the period
 13 that the individual is kidnapped.

14 “(B) PURPOSES.—Subparagraph (A) shall
 15 apply solely for purposes of determining—

16 “(i) the deduction under section 151(c),

17 “(ii) the credit under section 24 (relat-
 18 ing to child tax credit),

19 “(iii) whether an individual is a sur-
 20 viving spouse or a head of a household (as
 21 such terms are defined in section 2), and

22 “(iv) the earned income credit under
 23 section 32.

1 “(C) *COMPARABLE TREATMENT OF CERTAIN*
 2 *QUALIFYING RELATIVES.*—*For purposes of this*
 3 *section, a child of the taxpayer—*

4 “(i) *who is presumed by law enforce-*
 5 *ment authorities to have been kidnapped by*
 6 *someone who is not a member of the family*
 7 *of such child or the taxpayer, and*

8 “(ii) *who was (without regard to this*
 9 *paragraph) a qualifying relative of the tax-*
 10 *payer for the portion of the taxable year be-*
 11 *fore the date of the kidnapping,*
 12 *shall be treated as a qualifying relative of the*
 13 *taxpayer for all taxable years ending during the*
 14 *period that the child is kidnapped.*

15 “(D) *TERMINATION OF TREATMENT.*—*Sub-*
 16 *paragraphs (A) and (C) shall cease to apply as*
 17 *of the first taxable year of the taxpayer begin-*
 18 *ning after the calendar year in which there is a*
 19 *determination that the child is dead (or, if ear-*
 20 *lier, in which the child would have attained age*
 21 *18).*

1 “(6) *CROSS REFERENCES.*—

“For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).”

2 ***SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF***
 3 ***HOUSEHOLD.***

4 (a) *HEAD OF HOUSEHOLD.*—Clause (i) of section
 5 2(b)(1)(A) is amended to read as follows:

6 “(i) a qualifying child of the indi-
 7 vidual (as defined in section 152(c), deter-
 8 mined without regard to section 152(e)), but
 9 not if such child—

10 “(I) is married at the close of the
 11 taxpayer’s taxable year, and

12 “(II) is not a dependent of such
 13 individual by reason of section
 14 152(b)(2) or 152(b)3), or both, or”.

15 (b) *CONFORMING AMENDMENTS.*—

16 (1) Section 2(b)(2) is amended by striking sub-
 17 paragraph (A) and by redesignating subparagraphs
 18 (B), (C), and (D) as subparagraphs (A), (B), and
 19 (C), respectively.

20 (2) Clauses (i) and (ii) of section 2(b)(3)(B) are
 21 amended to read as follows:

22 “(i) subparagraph (H) of section
 23 152(d)(2), or

24 “(ii) paragraph (3) of section 152(d).”.

1 **SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.**

2 (a) *IN GENERAL.*—Section 21(a)(1) is amended by
 3 striking “In the case of an individual who maintains a
 4 household which includes as a member one or more quali-
 5 fying individuals (as defined in subsection (b)(1))” and in-
 6 serting “In the case of an individual for which there are
 7 1 or more qualifying individuals (as defined in subsection
 8 (b)(1)) with respect to such individual”.

9 (b) *QUALIFYING INDIVIDUAL.*—Paragraph (1) of sec-
 10 tion 21(b) is amended to read as follows:

11 “(1) *QUALIFYING INDIVIDUAL.*—The term ‘quali-
 12 fying individual’ means—

13 “(A) a dependent of the taxpayer (as de-
 14 fined in section 152(a)(1)) who has not attained
 15 age 13,

16 “(B) a dependent of the taxpayer who is
 17 physically or mentally incapable of caring for
 18 himself or herself and who has the same prin-
 19 cipal place of abode as the taxpayer for more
 20 than one-half of such taxable year, or

21 “(C) the spouse of the taxpayer, if the
 22 spouse is physically or mentally incapable of
 23 caring for himself or herself and who has the
 24 same principal place of abode as the taxpayer
 25 for more than one-half of such taxable year.”.

1 (c) *CONFORMING AMENDMENT.*—Paragraph (1) of sec-
 2 tion 21(e) is amended to read as follows:

3 “(1) *PLACE OF ABODE.*—An individual shall not
 4 be treated as having the same principal place of abode
 5 of the taxpayer if at any time during the taxable year
 6 of the taxpayer the relationship between the indi-
 7 vidual and the taxpayer is in violation of local law.”.

8 **SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.**

9 (a) *IN GENERAL.*—Paragraph (1) of section 24(c) is
 10 amended to read as follows:

11 “(1) *IN GENERAL.*—The term ‘qualifying child’
 12 means a qualifying child of the taxpayer (as defined
 13 in section 152(c)) who has not attained age 17.”.

14 (b) *CONFORMING AMENDMENT.*—Section 24(c)(2) is
 15 amended by striking “the first sentence of section 152(b)(3)”
 16 and inserting “subparagraph (A) of section 152(b)(3)”.

17 **SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.**

18 (a) *QUALIFYING CHILD.*—Paragraph (3) of section
 19 32(c) is amended to read as follows:

20 “(3) *QUALIFYING CHILD.*—

21 “(A) *IN GENERAL.*—The term ‘qualifying
 22 child’ means a qualifying child of the taxpayer
 23 (as defined in section 152(c), determined without
 24 regard to paragraph (1)(D) thereof and section
 25 152(e)).

1 “(B) *MARRIED INDIVIDUAL.*—*The term*
 2 *‘qualifying child’ shall not include an individual*
 3 *who is married as of the close of the taxpayer’s*
 4 *taxable year unless the taxpayer is entitled to a*
 5 *deduction under section 151 for such taxable*
 6 *year with respect to such individual (or would be*
 7 *so entitled but for section 152(e)).*

8 “(C) *PLACE OF ABODE.*—*For purposes of*
 9 *subparagraph (A), the requirements of section*
 10 *152(c)(1)(B) shall be met only if the principal*
 11 *place of abode is in the United States.*

12 “(D) *IDENTIFICATION REQUIREMENTS.*—

13 “(i) *IN GENERAL.*—*A qualifying child*
 14 *shall not be taken into account under sub-*
 15 *section (b) unless the taxpayer includes the*
 16 *name, age, and TIN of the qualifying child*
 17 *on the return of tax for the taxable year.*

18 “(ii) *OTHER METHODS.*—*The Sec-*
 19 *retary may prescribe other methods for pro-*
 20 *viding the information described in clause*
 21 *(i).”.*

22 (b) *CONFORMING AMENDMENTS.*—

23 (1) *Section 32(c)(1) is amended by striking sub-*
 24 *paragraph (C) and by redesignating subparagraphs*

1 (D), (E), (F), and (G) as subparagraphs (C), (D),
 2 (E), and (F), respectively.

3 (2) Section 32(c)(4) is amended by striking
 4 “(3)(E)” and inserting “(3)(C)”.

5 (3) Section 32(m) is amended by striking “sub-
 6 sections (c)(1)(F)” and inserting “subsections
 7 (c)(1)(E)”.

8 **SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL**
 9 **EXEMPTION FOR DEPENDENTS.**

10 Subsection (c) of section 151 is amended to read as
 11 follows:

12 “(c) *ADDITIONAL EXEMPTION FOR DEPENDENTS.*—An
 13 exemption of the exemption amount for each individual who
 14 is a dependent (as defined in section 152) of the taxpayer
 15 for the taxable year.”.

16 **SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.**

17 (1) Section 21(e)(5) is amended—

18 (A) by striking “paragraph (2) or (4) of” in
 19 subparagraph (A), and

20 (B) by striking “within the meaning of sec-
 21 tion 152(e)(1)” and inserting “as defined in sec-
 22 tion 152(e)(3)(A)”.

23 (2) Section 21(e)(6)(B) is amended by striking
 24 “section 151(c)(3)” and inserting “section 152(f)(1)”.

1 (3) *Section 25B(c)(2)(B) is amended by striking*
 2 *“151(c)(4)” and inserting “152(f)(2)”.*

3 (4)(A) *Subparagraphs (A) and (B) of section*
 4 *51(i)(1) are each amended by striking “paragraphs*
 5 *(1) through (8) of section 152(a)” both places it ap-*
 6 *pears and inserting “subparagraphs (A) through (G)*
 7 *of section 152(d)(2)”.*

8 (B) *Section 51(i)(1)(C) is amended by striking*
 9 *“152(a)(9)” and inserting “152(d)(2)(H)”.*

10 (5) *Section 72(t)(7)(A)(iii) is amended by strik-*
 11 *ing “151(c)(3)” and inserting “152(f)(1)”.*

12 (6) *Section 129(c)(2) is amended by striking*
 13 *“151(c)(3)” and inserting “152(f)(1)”.*

14 (7) *The first sentence of section 132(h)(2)(B) is*
 15 *amended by striking “151(c)(3)” and inserting*
 16 *“152(f)(1)”.*

17 (8) *Section 153 is amended by striking para-*
 18 *graph (1) and by redesignating paragraphs (2), (3),*
 19 *and (4) as paragraphs (1), (2), and (3), respectively.*

20 (9) *Section 170(g)(3) is amended by striking*
 21 *“paragraphs (1) through (8) of section 152(a)” and*
 22 *inserting “subparagraphs (A) through (G) of section*
 23 *152(d)(2)”.*

24 (10) *The second sentence of section 213(d)(11) is*
 25 *amended by striking “paragraphs (1) through (8) of*

1 *section 152(a)” and inserting “subparagraphs (A)*
 2 *through (G) of section 152(d)(2)”.*

3 *(11) Section 529(e)(2)(B) is amended by striking*
 4 *“paragraphs (1) through (8) of section 152(a)” and*
 5 *inserting “subparagraphs (A) through (G) of section*
 6 *152(d)(2)”.*

7 *(12) Section 2032A(c)(7)(D) is amended by*
 8 *striking “section 151(c)(4)” and inserting “section*
 9 *152(f)(2)”.*

10 *(13) Section 7701(a)(17) is amended by striking*
 11 *“152(b)(4), 682,” and inserting “682”.*

12 *(14) Section 7702B(f)(2)(C)(iii) is amended by*
 13 *striking “paragraphs (1) through (8) of section*
 14 *152(a)” and inserting “subparagraphs (A) through*
 15 *(G) of section 152(d)(2)”.*

16 *(15) Section 7703(b)(1) is amended—*

17 *(A) by striking “151(c)(3)” and inserting*
 18 *“152(f)(1)”, and*

19 *(B) by striking “paragraph (2) or (4) of”.*

20 ***SEC. 508. EFFECTIVE DATE.***

21 *The amendments made by this subtitle shall apply to*
 22 *taxable years beginning after December 31, 2003.*

1 ***Subtitle B—Simplification***

2 ***SEC. 511. CONSOLIDATION OF LIFE AND NON-LIFE COM-***
 3 ***PANY RETURNS.***

4 (a) *IN GENERAL.*—Section 1504 (relating to definition
 5 of affiliated group) is amended by striking subsection (c)
 6 and by redesignating subsections (d), (e), and (f) as sub-
 7 sections (c), (d), and (e), respectively.

8 (b) *CONFORMING AMENDMENTS.*—

9 (1) Section 243(b)(2)(A) is amended by striking
 10 “, 1504(b)(4), and 1504(c)” and inserting “and
 11 1504(b)(4)”.

12 (2) Section 818(e)(1) is amended by striking “If
 13 an election under section 1504(c)(2) is effect with re-
 14 spect to an affiliated group for the taxable year” and
 15 inserting “If an affiliated group includes members
 16 which are, and which are not, life insurance compa-
 17 nies for any taxable year”.

18 (3) Section 1503(c)(1) is amended by striking
 19 “an election under section 1504(c)(2) is in effect for
 20 the taxable year”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
 22 section shall apply to taxable years beginning after Decem-
 23 ber 31, 2009.

24 (d) *WAIVER OF 5-YEAR WAITING PERIOD.*—Under reg-
 25 ulations prescribed by the Secretary of the Treasury or his

1 *delegate, an automatic waiver from the 5-year waiting pe-*
 2 *riod for reconsolidation provided in section 1504(a)(3) of*
 3 *the Internal Revenue Code of 1986 shall be granted to any*
 4 *corporation which was previously an includible corporation*
 5 *but was subsequently deemed a nonincludible corporation*
 6 *as a result of becoming a subsidiary of a corporation which*
 7 *was not an includible corporation solely by operation of sec-*
 8 *tion 1504(c)(2) of such Code (as in effect on the day before*
 9 *the date of the enactment of this Act).*

10 *(e) NONTERMINATION OF GROUP.—No affiliated group*
 11 *shall terminate solely as a result of the amendments made*
 12 *by this section.*

13 ***SEC. 512. SPECIAL RULES FOR TAXATION OF LIFE INSUR-***
 14 ***ANCE COMPANIES.***

15 *(a) REDUCTION IN MUTUAL LIFE INSURANCE COM-*
 16 *PANY DEDUCTIONS NOT TO APPLY.—*

17 *(1) IN GENERAL.—Section 809 (relating to re-*
 18 *duction in certain deductions of material life insur-*
 19 *ance companies) is amended by adding at the end the*
 20 *following:*

21 *“(j) DIFFERENTIAL EARNINGS RATE TREATED AS*
 22 *ZERO.—Notwithstanding subsection (c) or (f), the differen-*
 23 *tial earnings rate shall be treated as zero for purposes of*
 24 *computing both the differential earnings amount and the*
 25 *recomputed differential earnings amount for any taxable*

1 *year of a mutual life insurance company beginning after*
 2 *December 31, 2003, and before January 1, 2009.”.*

3 (2) *EFFECTIVE DATE.*—*The amendment made by*
 4 *this section shall apply to taxable years beginning*
 5 *after December 31, 2003.*

6 (b) *DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-*
 7 *1984 POLICYHOLDERS SURPLUS ACCOUNT.*—

8 (1) *IN GENERAL.*—*Section 815 (relating to dis-*
 9 *tributions to shareholders from pre-1984 policyholders*
 10 *surplus account) is amended by adding at the end the*
 11 *following:*

12 “(g) *SPECIAL RULES APPLICABLE DURING 2004*
 13 *THROUGH 2008.*—*In the case of any taxable year of a stock*
 14 *life insurance company beginning after December 31, 2003,*
 15 *and before January 1, 2009—*

16 “(1) *the amount under subsection (a)(2) for such*
 17 *taxable year shall be treated as zero, and*

18 “(2) *notwithstanding subsection (b), in deter-*
 19 *mining any subtractions from an account under sub-*
 20 *sections (c)(3) and (d)(3), any distribution to share-*
 21 *holders during such taxable year shall be treated as*
 22 *made first out of the policyholders surplus account,*
 23 *then out of the shareholders surplus account, and fi-*
 24 *nally out of other accounts.”.*

1 (2) *EFFECTIVE DATE.*—*The amendment made by*
 2 *this section shall apply to taxable years beginning*
 3 *after December 31, 2003.*

4 **SEC. 513. MODIFICATION OF ACTIVE BUSINESS DEFINITION**
 5 **UNDER SECTION 355.**

6 (a) *IN GENERAL.*—*Section 355(b) (defining active con-*
 7 *duct of a trade or business) is amended by adding at the*
 8 *end the following new paragraph:*

9 “(3) *SPECIAL RULES RELATING TO ACTIVE BUSI-*
 10 *NESS REQUIREMENT.*—

11 “(A) *IN GENERAL.*—*For purposes of deter-*
 12 *mining whether a corporation meets the require-*
 13 *ment of paragraph (2)(A), all members of such*
 14 *corporation’s separate affiliated group shall be*
 15 *treated as one corporation. For purposes of the*
 16 *preceding sentence, a corporation’s separate af-*
 17 *filiated group is the affiliated group which would*
 18 *be determined under section 1504(a) if such cor-*
 19 *poration were the common parent and section*
 20 *1504(b) did not apply.*

21 “(B) *CONTROL.*—*For purposes of para-*
 22 *graph (2)(D), all distributee corporations which*
 23 *are members of the same affiliated group (as de-*
 24 *finied in section 1504(a) without regard to sec-*

1 *tion 1504(b)) shall be treated as one distributee*
 2 *corporation.”.*

3 **(b) CONFORMING AMENDMENTS.—**

4 *(1) Subparagraph (A) of section 355(b)(2) is*
 5 *amended to read as follows:*

6 *“(A) it is engaged in the active conduct of*
 7 *a trade or business,”.*

8 *(2) Section 355(b)(2) is amended by striking the*
 9 *last sentence.*

10 **(c) EFFECTIVE DATE.—**

11 *(1) IN GENERAL.—The amendments made by*
 12 *this section shall apply—*

13 *(A) to distributions after the date of the en-*
 14 *actment of this Act, and*

15 *(B) for purposes of determining the contin-*
 16 *ued qualification under section 355(b)(2)(A) of*
 17 *the Internal Revenue Code of 1986 (as amended*
 18 *by subsection (b)(1)) of distributions made before*
 19 *such date, as a result of an acquisition, disposi-*
 20 *tion, or other restructuring after such date.*

21 *(2) TRANSITION RULE.—The amendments made*
 22 *by this section shall not apply to any distribution*
 23 *pursuant to a transaction which is—*

1 (A) made pursuant to an agreement which
 2 was binding on such date of enactment and at
 3 all times thereafter,

4 (B) described in a ruling request submitted
 5 to the Internal Revenue Service on or before such
 6 date, or

7 (C) described on or before such date in a
 8 public announcement or in a filing with the Se-
 9 curities and Exchange Commission.

10 (3) *ELECTION TO HAVE AMENDMENTS APPLY.*—
 11 Paragraph (2) shall not apply if the distributing cor-
 12 poration elects not to have such paragraph apply to
 13 distributions of such corporation. Any such election,
 14 once made, shall be irrevocable.

15 ***Subtitle C—Other Provisions***

16 ***SEC. 521. CIVIL RIGHTS TAX RELIEF.***

17 (a) *IN GENERAL.*—Part VII of subchapter B of chapter
 18 1 of the Internal Revenue Code of 1986 (relating to addi-
 19 tional itemized deductions for individuals) is amended by
 20 redesignating section 223 as section 224 and by inserting
 21 after section 222 the following new section:

1 **“SEC. 223. ATTORNEY FEES AND COSTS IN CONNECTION**
 2 **WITH AMOUNTS RECEIVED ON ACCOUNT OF**
 3 **CERTAIN UNLAWFUL DISCRIMINATION OR**
 4 **CIVIL FRAUD AGAINST THE UNITED STATES.**

5 “(a) *IN GENERAL.*—There shall be allowed as a deduc-
 6 tion for any taxable year an amount equal to the lesser of—

7 “(1) *the attorney fees and court costs paid by, or*
 8 *on behalf of, the taxpayer for such taxable year in*
 9 *connection with any action involving a claim of un-*
 10 *lawful discrimination or a claim of a violation of*
 11 *subchapter III of chapter 37 of title 31, United States*
 12 *Code, or*

13 “(2) *the amount includible in the taxpayer’s*
 14 *gross income for such taxable year on account of a*
 15 *judgment or settlement (whether by suit or agreement*
 16 *and whether as lump sums or periodic payments) re-*
 17 *sulting from such claim.*

18 “(b) *UNLAWFUL DISCRIMINATION DEFINED.*—For
 19 purposes of this section, the term ‘unlawful discrimination’
 20 means an act that is unlawful under any of the following:

21 “(1) *Section 302 of the Civil Rights Act of 1991*
 22 *(2 U.S.C. 1202).*

23 “(2) *Section 201, 202, 203, 204, 205, 206, or 207*
 24 *of the Congressional Accountability Act of 1995 (2*
 25 *U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).*

1 “(3) *The Fair Labor Standards Act of 1938* (29
2 *U.S.C. 201 et seq.*).

3 “(4) *Section 4 or 15 of the Age Discrimination*
4 *in Employment Act of 1967* (29 *U.S.C. 623 or 633a*).

5 “(5) *Section 501 or 504 of the Rehabilitation Act*
6 *of 1973* (29 *U.S.C. 791 or 794*).

7 “(6) *Section 510 of the Employee Retirement In-*
8 *come Security Act of 1974* (29 *U.S.C. 1140*).

9 “(7) *Title IX of the Education Amendments of*
10 *1972* (29 *U.S.C. 1681 et seq.*).

11 “(8) *The Employee Polygraph Protection Act of*
12 *1988* (29 *U.S.C. 201 et seq.*).

13 “(9) *The Worker Adjustment and Retraining No-*
14 *tification Act* (29 *U.S.C. 2102 et seq.*).

15 “(10) *Section 105 of the Family and Medical*
16 *Leave Act of 1993* (29 *U.S.C. 2615*).

17 “(11) *Chapter 43 of title 38, United States Code*
18 *(relating to employment and reemployment rights of*
19 *members of the uniformed services).*

20 “(12) *Section 1977, 1979, or 1980 of the Revised*
21 *Statutes* (42 *U.S.C. 1981, 1983, or 1985*).

22 “(13) *Section 703, 704, or 717 of the Civil*
23 *Rights Act of 1964* (42 *U.S.C. 2000e–2, 2000e–3, or*
24 *2000e–16*).

1 “(14) Section 804, 805, 806, 808, or 818 of the
2 *Fair Housing Act* (42 U.S.C. 3604, 3605, 3606, 3608,
3 or 3617).

4 “(15) Section 102, 202, 302, or 503 of the *Amer-*
5 *icans with Disabilities Act of 1990* (42 U.S.C. 12112,
6 12132, 12182, or 12203).

7 “(16) Section 40302 of the *Violence Against*
8 *Women Act of 1994* (42 U.S.C. 13981).

9 “(17) Any provision of Federal law (popularly
10 known as whistleblower protection provisions) prohib-
11 iting the discharge of an employee, the discrimination
12 against an employee, or any other form of retaliation
13 or reprisal against an employee for asserting rights or
14 taking other actions permitted under Federal law.

15 “(18) Any provision of State or local law, or
16 common law claims permitted under Federal, State,
17 or local law—

18 “(A) providing for the enforcement of civil
19 rights, or

20 “(B) regulating any aspect of the employ-
21 ment relationship, including prohibiting the dis-
22 charge of an employee, the discrimination
23 against an employee, or any other form of retal-
24 iation or reprisal against an employee for assert-

1 *ing rights or taking other actions permitted by*
 2 *law.”.*

3 *(b) DEDUCTION ALLOWED WHETHER OR NOT TAX-*
 4 *PAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of*
 5 *section 62 (defining adjusted gross income) is amended by*
 6 *inserting after paragraph (18) the following new item:*

7 *“(19) COSTS INVOLVING DISCRIMINATION*
 8 *SUITS.—The deduction allowed by section 223.”.*

9 *(c) CLERICAL AMENDMENT.—The table of sections for*
 10 *part VII of subchapter B of chapter 1 is amended by strik-*
 11 *ing the last item and inserting the following new items:*

“Sec. 223. Attorney fees and costs in connection with amounts re-
ceived on account of certain unlawful discrimination
or civil fraud against the United States.

“Sec. 224. Cross reference.”.

12 *(d) EFFECTIVE DATE.—The amendments made by this*
 13 *section shall apply to fees and costs paid after the date of*
 14 *the enactment of this Act with respect to any judgment or*
 15 *settlement occurring after such date.*

16 ***SEC. 522. INCREASE IN SECTION 382 LIMITATION FOR COM-***
 17 ***panies EMERGING FROM BANKRUPTCY.***

18 *(a) IN GENERAL.—Section 382(b) (relating to section*
 19 *382 limitation) is amended by adding at the end the fol-*
 20 *lowing new paragraph:*

21 *“(4) INCREASE IN SECTION 382 LIMITATION FOR*
 22 *COMPANIES EMERGING FROM BANKRUPTCY.—In the*
 23 *case of any new loss corporation which immediately*

1 *before any ownership change was an old loss corpora-*
 2 *tion under the jurisdiction of the court in a title 11*
 3 *or similar case (as defined in subsection (l)(5)(G)),*
 4 *the section 382 limitation for any post-change year*
 5 *beginning in 2004 or 2005 shall be an amount equal*
 6 *to 200 percent of the amount otherwise determined*
 7 *under paragraph (1) for such year.”.*

8 **(b) EFFECTIVE DATE.**—*The amendment made by this*
 9 *section shall apply to ownership changes after December 31,*
 10 *2002.*

11 **SEC. 523. INCREASE IN HISTORIC REHABILITATION CREDIT**
 12 **FOR CERTAIN LOW-INCOME HOUSING FOR**
 13 **THE ELDERLY.**

14 **(a) IN GENERAL.**—*Section 47 (relating to rehabilita-*
 15 *tion credit) is amended by adding at the end the following*
 16 *new subsection:*

17 “(e) **SPECIAL RULE REGARDING CERTAIN HISTORIC**
 18 **STRUCTURES.**—*In the case of any qualified rehabilitation*
 19 *expenditure with respect to any certified historic struc-*
 20 *ture—*

21 “(1) *which is placed in service after the date of*
 22 *the enactment of this subsection,*

23 “(2) *which is part of a qualified low-income*
 24 *building with respect to which a credit under section*
 25 *42 is allowed, and*

1 “(3) substantially all of the residential rental
 2 units of which are used for tenants who have attained
 3 the age of 65,
 4 subsection (a)(2) shall be applied by substituting ‘25 per-
 5 cent’ for ‘20 percent’.”.

6 (b) *APPLICATION OF MACRS.*—*The Internal Revenue*
 7 *Code of 1986 shall be applied and administered as if para-*
 8 *graph (4)(X) of section 251(d) of the Tax Reform Act of*
 9 *1986 as applied to the amendments made by section 201*
 10 *of such Act had not been enacted with respect to any prop-*
 11 *erty described in such paragraph and placed in service after*
 12 *the date of the enactment of this Act.*

13 (c) *EFFECTIVE DATE.*—*The amendment made by sub-*
 14 *section (a) shall apply to property placed in service after*
 15 *the date of the enactment of this Act.*

16 **SEC. 524. MODIFICATION OF APPLICATION OF INCOME**
 17 **FORECAST METHOD OF DEPRECIATION.**

18 (a) *IN GENERAL.*—*Section 167(g) (relating to depre-*
 19 *ciation under income forecast method) is amended by add-*
 20 *ing at the end the following new paragraph:*

21 “(7) *TREATMENT OF PARTICIPATIONS AND RE-*
 22 *SIDUALS.*—

23 “(A) *IN GENERAL.*—*For purposes of deter-*
 24 *mining the depreciation deduction allowable*
 25 *with respect to a property under this subsection,*

1 *the taxpayer may include participations and re-*
 2 *siduals with respect to such property in the ad-*
 3 *justed basis of such property for the taxable year*
 4 *in which the property is placed in service, but*
 5 *only to the extent that such participations and*
 6 *residuals relate to income estimated (for pur-*
 7 *poses of this subsection) to be earned in connec-*
 8 *tion with the property before the close of the 10th*
 9 *taxable year referred to in paragraph (1)(A).*

10 “(B) *PARTICIPATIONS AND RESIDUALS.—*
 11 *For purposes of this paragraph, the term ‘par-*
 12 *ticipations and residuals’ means, with respect to*
 13 *any property, costs the amount of which by con-*
 14 *tract varies with the amount of income earned in*
 15 *connection with such property.*

16 “(C) *SPECIAL RULES RELATING TO RE-*
 17 *COMPUTATION YEARS.—If the adjusted basis of*
 18 *any property is determined under this para-*
 19 *graph, paragraph (4) shall be applied by sub-*
 20 *stituting ‘for each taxable year in such period’*
 21 *for ‘for such period’.*

22 “(D) *COORDINATION WITH OTHER RULES.—*

23 “(i) *Notwithstanding subparagraph*
 24 *(A), the taxpayer may exclude participa-*
 25 *tions and residuals from the adjusted basis*

1 of such property and deduct such participa-
 2 tions and residuals in the taxable year that
 3 such participations and residuals are paid.

4 “(ii) Deductions computed in accord-
 5 ance with this paragraph shall be allowable
 6 notwithstanding paragraph (1)(B) or sec-
 7 tions 263, 263A, 404, 419, or 461(h).

8 “(E) AUTHORITY TO MAKE ADJUST-
 9 MENTS.—The Secretary shall prescribe appro-
 10 priate adjustments to the basis of property and
 11 to the look-back method for the additional
 12 amounts allowable as a deduction solely by rea-
 13 son of this paragraph.”.

14 (b) DETERMINATION OF INCOME.—Section 167(g)(5)
 15 (relating to special rules) is amended by redesignating sub-
 16 paragraphs (E) and (F) as subparagraphs (F) and (G), re-
 17 spectively, and inserting after subparagraph (D) the fol-
 18 lowing new subparagraph:

19 “(E) TREATMENT OF DISTRIBUTION
 20 COSTS.—For purposes of this subsection, the in-
 21 come with respect to any property shall be the
 22 taxpayer’s gross income from such property.”.

23 (c) EFFECTIVE DATE.—The amendments made by this
 24 section shall apply to property placed in service after the
 25 date of the enactment of this Act.

1 **SEC. 525. ADDITIONAL ADVANCE REFUNDINGS OF CERTAIN**
 2 **GOVERNMENTAL BONDS.**

3 (a) *IN GENERAL.*—Section 149(d)(3)(A)(i) (relating to
 4 advance refundings of other bonds) is amended—

5 (1) by striking “or” at the end of subclause (I),

6 (2) by adding “or” at the end of subclause (II),

7 and

8 (3) by inserting after subclause (II) the fol-
 9 lowing:

10 “(III) the 2nd advance refunding
 11 of the original bond if the original
 12 bond was issued after 1985 or the 3rd
 13 advance refunding of the original bond
 14 if the original bond was issued before
 15 1986, if, in either case, the refunding
 16 bond is issued before the date which is
 17 2 years after the date of the enactment
 18 of this subclause and the original bond
 19 was issued as part of an issue 90 per-
 20 cent or more of the net proceeds of
 21 which were used to finance a public el-
 22 elementary or secondary school in any
 23 State in which the State’s highest court
 24 ruled by opinion issued on November
 25 21, 2002, that the State school funding

1 *system violated the State constitution*
 2 *and was constitutionally inadequate,”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to refunding bonds issued on or after*
 5 *the date of the enactment of this Act.*

6 **SEC. 526. EXCLUSION OF INCOME DERIVED FROM CERTAIN**
 7 **WAGERS ON HORSE RACES FROM GROSS IN-**
 8 **COME OF NONRESIDENT ALIEN INDIVIDUALS.**

9 (a) *IN GENERAL.*—*Subsection (b) of section 872 (relat-*
 10 *ing to exclusions) is amended by redesignating paragraphs*
 11 *(5), (6), and (7) as paragraphs (6), (7), and (8), respec-*
 12 *tively, and inserting after paragraph (4) the following new*
 13 *paragraph:*

14 “(5) *INCOME DERIVED FROM WAGERING TRANS-*
 15 *ACTIONS IN CERTAIN PARIMUTUEL POOLS.*—*Gross in-*
 16 *come derived by a nonresident alien individual from*
 17 *a legal wagering transaction initiated outside the*
 18 *United States in a parimutuel pool with respect to a*
 19 *live horse race in the United States.”.*

20 (b) *CONFORMING AMENDMENT.*—*Section 883(a)(4) is*
 21 *amended by striking “(5), (6), and (7)” and inserting “(6),*
 22 *(7), and (8)”.*

23 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 24 *section shall apply to proceeds from wagering transactions*
 25 *after September 30, 2003.*

1 **SEC. 527. FEDERAL REIMBURSEMENT OF EMERGENCY**
2 **HEALTH SERVICES FURNISHED TO UNDOCU-**
3 **MENTED ALIENS.**

4 (a) *TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.*—
5 *There is appropriated, out of any funds in the Treasury*
6 *not otherwise appropriated, \$48,000,000 for fiscal year*
7 *2004, for the purpose of making allotments under this sec-*
8 *tion to States described in paragraph (1) or (2) of sub-*
9 *section (b). Funds appropriated under the preceding sen-*
10 *tence shall remain available until expended.*

11 (b) *STATE ALLOTMENTS.*—

12 (1) *BASED ON PERCENTAGE OF UNDOCUMENTED*
13 *ALIENS.*—

14 (A) *IN GENERAL.*—*Out of the amount ap-*
15 *propriated under subsection (a) for fiscal year*
16 *2004, the Secretary shall use \$32,000,000 of such*
17 *amount to make allotments for such fiscal year*
18 *in accordance with subparagraph (B).*

19 (B) *FORMULA.*—*The amount of the allot-*
20 *ment for each State for fiscal year 2004 shall be*
21 *equal to the product of—*

22 (i) *the total amount available for allot-*
23 *ments under this paragraph for the fiscal*
24 *year; and*

25 (ii) *the percentage of undocumented*
26 *aliens residing in the State with respect to*

1 *the total number of such aliens residing in*
 2 *all States, as determined by the Statistics*
 3 *Division of the Immigration and Natu-*
 4 *ralization Service, as of January 2003,*
 5 *based on the 2000 decennial census.*

6 (2) *BASED ON NUMBER OF UNDOCUMENTED*
 7 *ALIEN APPREHENSION STATES.—*

8 (A) *IN GENERAL.—Out of the amount ap-*
 9 *propriated under subsection (a) for fiscal year*
 10 *2004, the Secretary shall use \$16,000,000 of such*
 11 *amount to make allotments for such fiscal year*
 12 *for each of the 6 States with the highest number*
 13 *of undocumented alien apprehensions for such*
 14 *fiscal year.*

15 (B) *DETERMINATION OF ALLOTMENTS.—The*
 16 *amount of the allotment for each State described*
 17 *in subparagraph (A) for fiscal year 2004 shall*
 18 *bear the same ratio to the total amount available*
 19 *for allotments under this paragraph for the fiscal*
 20 *year as the ratio of the number of undocumented*
 21 *alien apprehensions in the State in that fiscal*
 22 *year bears to the total of such numbers for all*
 23 *such States for such fiscal year.*

24 (C) *DATA.—For purposes of this paragraph,*
 25 *the highest number of undocumented alien ap-*

1 *prehensions for fiscal year 2004 shall be based on*
2 *the 4 most recent quarterly apprehension rates*
3 *for undocumented aliens in such States, as re-*
4 *ported by the Immigration and Naturalization*
5 *Service.*

6 (3) *RULE OF CONSTRUCTION.—Nothing in this*
7 *section shall be construed as prohibiting a State that*
8 *is described in both of paragraphs (1) and (2) from*
9 *receiving an allotment under both paragraphs for fis-*
10 *cal year 2004.*

11 (c) *USE OF FUNDS.—*

12 (1) *AUTHORITY TO MAKE PAYMENTS.—From the*
13 *allotments made for a State under subsection (b) for*
14 *fiscal year 2004, the Secretary shall pay directly to*
15 *local governments, hospitals, or other providers lo-*
16 *cated in the State (including providers of services re-*
17 *ceived through an Indian Health Service facility*
18 *whether operated by the Indian Health Service or by*
19 *an Indian tribe or tribal organization) that provide*
20 *uncompensated emergency health services furnished to*
21 *undocumented aliens during that fiscal year, and to*
22 *the State, such amounts (subject to the total amount*
23 *available from such allotments) as the local govern-*
24 *ments, hospitals, providers, or State demonstrate were*

1 *incurred for the provision of such services during that*
 2 *fiscal year.*

3 (2) *LIMITATION ON STATE USE OF FUNDS.—*
 4 *Funds paid to a State from allotments made under*
 5 *subsection (b) for fiscal year 2004 may only be used*
 6 *for making payments to local governments, hospitals,*
 7 *or other providers for costs incurred in providing*
 8 *emergency health services to undocumented aliens or*
 9 *for State costs incurred with respect to the provision*
 10 *of emergency health services to such aliens.*

11 (3) *INCLUSION OF COSTS INCURRED WITH RE-*
 12 *SPECT TO CERTAIN ALIENS.—Uncompensated emer-*
 13 *gency health services furnished to aliens who have*
 14 *been allowed to enter the United States for the sole*
 15 *purpose of receiving emergency health services may be*
 16 *included in the determination of costs incurred by a*
 17 *State, local government, hospital, or other provider*
 18 *with respect to the provision of such services.*

19 (d) *APPLICATIONS; ADVANCE PAYMENTS.—*

20 (1) *DEADLINE FOR ESTABLISHMENT OF APPLICA-*
 21 *TION PROCESS.—*

22 (A) *IN GENERAL.—Not later than Sep-*
 23 *tember 1, 2003, the Secretary shall establish a*
 24 *process under which States, local governments,*
 25 *hospitals, or other providers located in the State*

1 *may apply for payments from allotments made*
 2 *under subsection (b) for fiscal year 2004 for un-*
 3 *compensated emergency health services furnished*
 4 *to undocumented aliens during that fiscal year.*

5 *(B) INCLUSION OF MEASURES TO COMBAT*
 6 *FRAUD.—The Secretary shall include in the*
 7 *process established under subparagraph (A)*
 8 *measures to ensure that fraudulent payments are*
 9 *not made from the allotments determined under*
 10 *subsection (b).*

11 *(2) ADVANCE PAYMENT; RETROSPECTIVE AD-*
 12 *JUSTMENT.—The process established under paragraph*
 13 *(1) shall allow for making payments under this sec-*
 14 *tion for each quarter of fiscal year 2004 on the basis*
 15 *of advance estimates of expenditures submitted by ap-*
 16 *plicants for such payments and such other investiga-*
 17 *tion as the Secretary may find necessary, and for*
 18 *making reductions or increases in the payments as*
 19 *necessary to adjust for any overpayment or under-*
 20 *payment for prior quarters of such fiscal year.*

21 *(e) DEFINITIONS.—In this section:*

22 *(1) HOSPITAL.—The term “hospital” has the*
 23 *meaning given such term in section 1861(e) of the So-*
 24 *cial Security Act (42 U.S.C. 1395x(e)).*

1 (2) *INDIAN TRIBE; TRIBAL ORGANIZATION.*—The
 2 terms “Indian tribe” and “tribal organization” have
 3 the meanings given such terms in section 4 of the In-
 4 dian Health Care Improvement Act (25 U.S.C. 1603).

5 (3) *PROVIDER.*—The term “provider” includes a
 6 physician, any other health care professional licensed
 7 under State law, and any other entity that furnishes
 8 emergency health services, including ambulance serv-
 9 ices.

10 (4) *SECRETARY.*—The term “Secretary” means
 11 the Secretary of Health and Human Services.

12 (5) *STATE.*—The term “State” means the 50
 13 States and the District of Columbia.

14 (f) *ENTITLEMENT.*—This section constitutes budget au-
 15 thority in advance of appropriations Acts and represents
 16 the obligation of the Federal Government to provide for the
 17 payment of amounts provided under this section.

18 **SEC. 528. PREMIUMS FOR MORTGAGE INSURANCE.**

19 (a) *MORTGAGE INSURANCE PREMIUMS TREATED AS*
 20 *INTEREST.*—

21 (1) *IN GENERAL.*—Paragraph (3) of section
 22 163(h) (relating to qualified residence interest) is
 23 amended by adding after subparagraph (D) the fol-
 24 lowing new subparagraph:

1 “(E) *MORTGAGE INSURANCE PREMIUMS*
 2 *TREATED AS INTEREST.*—

3 “(i) *IN GENERAL.*—*Premiums paid or*
 4 *accrued for qualified mortgage insurance by*
 5 *a taxpayer during the taxable year in con-*
 6 *nection with acquisition indebtedness with*
 7 *respect to a qualified residence of the tax-*
 8 *payer shall be treated for purposes of this*
 9 *subsection as qualified residence interest.*

10 “(ii) *PHASEOUT.*—*The amount other-*
 11 *wise allowable as a deduction under clause*
 12 *(i) shall be reduced (but not below zero) by*
 13 *10 percent of such amount for each \$1,000*
 14 *(\$500 in the case of a married individual*
 15 *filing a separate return) (or fraction there-*
 16 *of) that the taxpayer’s adjusted gross in-*
 17 *come for the taxable year exceeds \$100,000*
 18 *(\$50,000 in the case of a married indi-*
 19 *vidual filing a separate return).”.*

20 (2) *DEFINITION AND SPECIAL RULES.*—*Para-*
 21 *graph (4) of section 163(h) (relating to other defini-*
 22 *tions and special rules) is amended by adding at the*
 23 *end the following new subparagraphs:*

1 “(E) *QUALIFIED MORTGAGE INSURANCE.*—

2 *The term ‘qualified mortgage insurance’*
3 *means—*

4 “(i) *mortgage insurance provided by*
5 *the Veterans Administration, the Federal*
6 *Housing Administration, or the Rural*
7 *Housing Administration, and*

8 “(ii) *private mortgage insurance (as*
9 *defined by section 2 of the Homeowners*
10 *Protection Act of 1998 (12 U.S.C. 4901), as*
11 *in effect on the date of the enactment of this*
12 *subparagraph).*

13 “(F) *SPECIAL RULES FOR PREPAID QUALI-*
14 *FIED MORTGAGE INSURANCE.*—*Any amount paid*
15 *by the taxpayer for qualified mortgage insurance*
16 *that is properly allocable to any mortgage the*
17 *payment of which extends to periods that are*
18 *after the close of the taxable year in which such*
19 *amount is paid shall be chargeable to capital ac-*
20 *count and shall be treated as paid in such peri-*
21 *ods to which so allocated. No deduction shall be*
22 *allowed for the unamortized balance of such ac-*
23 *count if such mortgage is satisfied before the end*
24 *of its term. The preceding sentences shall not*
25 *apply to amounts paid for qualified mortgage*

1 *insurance provided by the Veterans Administra-*
 2 *tion or the Rural Housing Administration.”.*

3 ***(b) INFORMATION RETURNS RELATING TO MORTGAGE***
 4 ***INSURANCE.—Section 6050H (relating to returns relating***
 5 ***to mortgage interest received in trade or business from indi-***
 6 ***viduals) is amended by adding at the end the following new***
 7 ***subsection:***

8 ***“(h) RETURNS RELATING TO MORTGAGE INSURANCE***
 9 ***PREMIUMS.—***

10 ***“(1) IN GENERAL.—The Secretary may pre-***
 11 ***scribe, by regulations, that any person who, in the***
 12 ***course of a trade or business, receives from any indi-***
 13 ***vidual premiums for mortgage insurance aggregating***
 14 ***\$600 or more for any calendar year, shall make a re-***
 15 ***turn with respect to each such individual. Such re-***
 16 ***turn shall be in such form, shall be made at such***
 17 ***time, and shall contain such information as the Sec-***
 18 ***retary may prescribe.***

19 ***“(2) STATEMENT TO BE FURNISHED TO INDIVID-***
 20 ***UALS WITH RESPECT TO WHOM INFORMATION IS RE-***
 21 ***QUIRED.—Every person required to make a return***
 22 ***under paragraph (1) shall furnish to each individual***
 23 ***with respect to whom a return is made a written***
 24 ***statement showing such information as the Secretary***
 25 ***may prescribe. Such written statement shall be fur-***

1 *nished on or before January 31 of the year following*
 2 *the calendar year for which the return under para-*
 3 *graph (1) was required to be made.*

4 *“(3) SPECIAL RULES.—For purposes of this sub-*
 5 *section—*

6 *“(A) rules similar to the rules of subsection*
 7 *(c) shall apply, and*

8 *“(B) the term ‘mortgage insurance’*
 9 *means—*

10 *“(i) mortgage insurance provided by*
 11 *the Veterans Administration, the Federal*
 12 *Housing Administration, or the Rural*
 13 *Housing Administration, and*

14 *“(ii) private mortgage insurance (as*
 15 *defined by section 2 of the Homeowners*
 16 *Protection Act of 1998 (12 U.S.C. 4901), as*
 17 *in effect on the date of the enactment of this*
 18 *subparagraph).”.*

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

1 ***TITLE VI—SUNSET***

2 ***SEC. 601. SUNSET.***

3 (a) *IN GENERAL.*—*Except as otherwise provided, the*
 4 *provisions of, and amendments made, by this Act shall not*
 5 *apply to taxable years beginning after December 31, 2012,*
 6 *and the Internal Revenue Code of 1986 shall be applied and*
 7 *administered to such years as if such amendments had*
 8 *never been enacted.*

9 (b) *EXCEPTIONS.*—*Subsection (a) shall not apply to*
 10 *the following provisions of, and amendments made, by this*
 11 *Act:*

12 (1) *Title I (other than section 107).*

13 (2) *Title III (other than section 362).*

Amend the title so as to read: “A bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.”.

Calendar No. 90

108TH CONGRESS
1ST SESSION

S. 2

A BILL

To amend the Internal Revenue Code of 1986 to
provide additional tax incentives to encourage
economic growth.

MAY 9, 2003

Reported with an amendment and an amendment to the
title