

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 4213

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## AN ACT

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**  
 2 **TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the  
 4 “Tax Extenders Act of 2009”.

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 for  
 12 this Act is as follows:

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

**TITLE I—GENERAL PROVISIONS**

**Subtitle A—Individual Tax Relief**

- Sec. 101. Deduction of State and local sales taxes.
- Sec. 102. Additional standard deduction for State and local real property taxes.
- Sec. 103. Above-the-line deduction for qualified tuition and related expenses.
- Sec. 104. Deduction for certain expenses of elementary and secondary school teachers.

**Subtitle B—Business Tax Relief**

- Sec. 111. Research credit.
- Sec. 112. Exceptions for active financing income.
- Sec. 113. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
- Sec. 114. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
- Sec. 115. 7-year recovery period for motorsports entertainment complexes.
- Sec. 116. Railroad track maintenance credit.
- Sec. 117. Special expensing rules for certain film and television productions.
- Sec. 118. Expensing of environmental remediation costs.
- Sec. 119. Mine rescue team training credit.
- Sec. 120. Election to expense advanced mine safety equipment.
- Sec. 121. Employer wage credit for employees who are active duty members of the uniformed services.
- Sec. 122. 5-year depreciation for farming business machinery and equipment.

- Sec. 123. Treatment of certain dividends and assets of regulated investment companies.
- Sec. 124. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.
- Sec. 125. RIC qualified investment entity treatment under FIRPTA.
- Sec. 126. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

#### Subtitle C—Charitable Provisions

- Sec. 131. Contributions of capital gain real property made for conservation purposes.
- Sec. 132. Enhanced charitable deduction for contributions of food inventory.
- Sec. 133. Enhanced charitable deduction for contributions of book inventories to public schools.
- Sec. 134. Enhanced charitable deduction for corporate contributions of computer technology and equipment for educational purposes.
- Sec. 135. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 136. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 137. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income.
- Sec. 138. Basis adjustment to stock of S corporations making charitable contributions of property.

#### Subtitle D—Miscellaneous Provisions

- Sec. 141. Indian employment tax credit.
- Sec. 142. Accelerated depreciation for business property on an Indian reservation.
- Sec. 143. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 144. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 145. American Samoa economic development credit.

### TITLE II—COMMUNITY ASSISTANCE PROVISIONS

- Sec. 201. Empowerment zone tax incentives.
- Sec. 202. Renewal community tax incentives.
- Sec. 203. New markets tax credit.
- Sec. 204. Tax incentives for investment in the District of Columbia.
- Sec. 205. Tax incentives for New York Liberty Zone.
- Sec. 206. Tax incentives for the Gulf Opportunity Zone.
- Sec. 207. Election for refundable low-income housing credit for 2010.

### TITLE III—DISASTER RELIEF PROVISIONS

- Sec. 301. Deductibility of personal casualty losses attributable to federally declared disasters.
- Sec. 302. Expensing of certain qualified disaster expenses.
- Sec. 303. 5-year carryback of net operating losses attributable to Federally declared disasters.
- Sec. 304. Waiver of certain mortgage revenue bond requirements for residences located in Federally declared disaster areas.

Sec. 305. Expensing and special depreciation allowance for qualified disaster assistance property.

#### TITLE IV—ENERGY PROVISIONS

Sec. 401. Incentives for biodiesel and renewable diesel.  
 Sec. 402. Alternative motor vehicle credit for heavy hybrids.  
 Sec. 403. Alternative fuel credit for natural gas and liquified petroleum gas.  
 Sec. 404. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.

#### TITLE V—FOREIGN ACCOUNT TAX COMPLIANCE

##### Subtitle A—Increased Disclosure of Beneficial Owners

Sec. 501. Reporting on certain foreign accounts.  
 Sec. 502. Repeal of certain foreign exceptions to registered bond requirements.

##### Subtitle B—Under Reporting With Respect to Foreign Assets

Sec. 511. Disclosure of information with respect to foreign financial assets.  
 Sec. 512. Penalties for underpayments attributable to undisclosed foreign financial assets.  
 Sec. 513. Modification of statute of limitations for significant omission of income in connection with foreign assets.

##### Subtitle C—Other Disclosure Provisions

Sec. 521. Reporting of activities with respect to passive foreign investment companies.  
 Sec. 522. Secretary permitted to require financial institutions to file certain returns related to withholding on foreign transfers electronically.

##### Subtitle D—Provisions Related to Foreign Trusts

Sec. 531. Clarifications with respect to foreign trusts which are treated as having a United States beneficiary.  
 Sec. 532. Presumption that foreign trust has United States beneficiary.  
 Sec. 533. Uncompensated use of trust property.  
 Sec. 534. Reporting requirement of United States owners of foreign trusts.  
 Sec. 535. Minimum penalty with respect to failure to report on certain foreign trusts.

##### Subtitle E—Substitute Dividends and Dividend Equivalent Payments Received by Foreign Persons Treated as Dividends

Sec. 541. Substitute dividends and dividend equivalent payments received by foreign persons treated as dividends.

#### TITLE VI—OTHER REVENUE PROVISIONS

##### Subtitle A—Partnership Interests Held by Partners Providing Services

Sec. 601. Partnership interests transferred in connection with performance of services.  
 Sec. 602. Income of partners for performing investment management services treated as ordinary income received for performance of services.

## Subtitle B—Time for Payment of Corporate Estimated Taxes

Sec. 611. Time for payment of corporate estimated taxes.

## Subtitle C—Tax Expenditure Study

Sec. 621. Findings.

Sec. 622. Study of extended tax expenditures.

1 **TITLE I—GENERAL PROVISIONS**

2 **Subtitle A—Individual Tax Relief**

3 **SEC. 101. DEDUCTION OF STATE AND LOCAL SALES TAXES.**

4 (a) IN GENERAL.—Subparagraph (I) of section  
5 164(b)(5) is amended by striking “January 1, 2010” and  
6 inserting “January 1, 2011”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2009.

10 **SEC. 102. ADDITIONAL STANDARD DEDUCTION FOR STATE  
11 AND LOCAL REAL PROPERTY TAXES.**

12 (a) IN GENERAL.—Subparagraph (C) of section  
13 63(c)(1) is amended by striking “or 2009” and inserting  
14 “, 2009, or 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2009.

18 **SEC. 103. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED  
19 TUITION AND RELATED EXPENSES.**

20 (a) IN GENERAL.—Subsection (e) of section 222 is  
21 amended by striking “December 31, 2009” and inserting  
22 “December 31, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2009.

4 **SEC. 104. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**  
5 **MENTARY AND SECONDARY SCHOOL TEACH-**  
6 **ERS.**

7 (a) IN GENERAL.—Subparagraph (D) of section  
8 62(a)(2) is amended by striking “or 2009” and inserting  
9 “2009, or 2010”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2009.

13 **Subtitle B—Business Tax Relief**

14 **SEC. 111. RESEARCH CREDIT.**

15 (a) IN GENERAL.—Subparagraph (B) of section  
16 41(h)(1) is amended by striking “December 31, 2009”  
17 and inserting “December 31, 2010”.

18 (b) CONFORMING AMENDMENT.—Subparagraph (D)  
19 of section 45C(b)(1) is amended by striking “December  
20 31, 2009” and inserting “December 31, 2010”.

21 (c) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to amounts paid or incurred after  
23 December 31, 2009.

1 **SEC. 112. EXCEPTIONS FOR ACTIVE FINANCING INCOME.**

2 (a) IN GENERAL.—Sections 953(e)(10) and  
3 954(h)(9) are each amended by striking “January 1,  
4 2010” and inserting “January 1, 2011”.

5 (b) CONFORMING AMENDMENT.—Section 953(e)(10)  
6 is amended by striking “December 31, 2009” and insert-  
7 ing “December 31, 2010”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years of foreign corpora-  
10 tions beginning after December 31, 2009, and to taxable  
11 years of United States shareholders with or within which  
12 any such taxable year of such foreign corporation ends.

13 **SEC. 113. LOOK-THRU TREATMENT OF PAYMENTS BE-**  
14 **TWEEN RELATED CONTROLLED FOREIGN**  
15 **CORPORATIONS UNDER FOREIGN PERSONAL**  
16 **HOLDING COMPANY RULES.**

17 (a) IN GENERAL.—Subparagraph (C) of section  
18 954(c)(6) is amended by striking “January 1, 2010” and  
19 inserting “January 1, 2011”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to taxable years of foreign corpora-  
22 tions beginning after December 31, 2009, and to taxable  
23 years of United States shareholders with or within which  
24 any such taxable year of such foreign corporation ends.

1 **SEC. 114. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR**  
2 **QUALIFIED LEASEHOLD IMPROVEMENTS,**  
3 **QUALIFIED RESTAURANT BUILDINGS AND IM-**  
4 **PROVEMENTS, AND QUALIFIED RETAIL IM-**  
5 **PROVEMENTS.**

6 (a) IN GENERAL.—Clauses (iv), (v), and (ix) of sec-  
7 tion 168(e)(3)(E) are each amended by striking “January  
8 1, 2010” and inserting “January 1, 2011”.

9 (b) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to property placed in service after  
11 December 31, 2009.

12 **SEC. 115. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**  
13 **ENTERTAINMENT COMPLEXES.**

14 (a) IN GENERAL.—Subparagraph (D) of section  
15 168(i)(15) is amended by striking “December 31, 2009”  
16 and inserting “December 31, 2010”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to property placed in service after  
19 December 31, 2009.

20 **SEC. 116. RAILROAD TRACK MAINTENANCE CREDIT.**

21 (a) IN GENERAL.—Subsection (f) of section 45G is  
22 amended by striking “January 1, 2010” and inserting  
23 “January 1, 2011”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 this section shall apply to expenditures paid or incurred  
26 in taxable years beginning after December 31, 2009.



1 **SEC. 117. SPECIAL EXPENSING RULES FOR CERTAIN FILM**  
2 **AND TELEVISION PRODUCTIONS.**

3 (a) IN GENERAL.—Subsection (f) of section 181 is  
4 amended by striking “December 31, 2009” and inserting  
5 “December 31, 2010”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to productions commencing after  
8 December 31, 2009.

9 **SEC. 118. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
10 **COSTS.**

11 (a) IN GENERAL.—Subsection (h) of section 198 is  
12 amended by striking “December 31, 2009” and inserting  
13 “December 31, 2010”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to expenditures paid or incurred  
16 after December 31, 2009.

17 **SEC. 119. MINE RESCUE TEAM TRAINING CREDIT.**

18 (a) IN GENERAL.—Subsection (e) of section 45N is  
19 amended by striking “December 31, 2009” and inserting  
20 “December 31, 2010”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 2009.

1 **SEC. 120. ELECTION TO EXPENSE ADVANCED MINE SAFETY**  
2 **EQUIPMENT.**

3 (a) IN GENERAL.—Subsection (g) of section 179E is  
4 amended by striking “December 31, 2009” and inserting  
5 “December 31, 2010”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to property placed in service after  
8 December 31, 2009.

9 **SEC. 121. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**  
10 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**  
11 **FORMED SERVICES.**

12 (a) IN GENERAL.—Subsection (f) of section 45P is  
13 amended by striking “December 31, 2009” and inserting  
14 “December 31, 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to payments made after December  
17 31, 2009.

18 **SEC. 122. 5-YEAR DEPRECIATION FOR FARMING BUSINESS**  
19 **MACHINERY AND EQUIPMENT.**

20 (a) IN GENERAL.—Clause (vii) of section  
21 168(e)(3)(B) is amended by striking “January 1, 2010”  
22 and inserting “January 1, 2011”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to property placed in service after  
25 December 31, 2009.

1 **SEC. 123. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS**  
2 **OF REGULATED INVESTMENT COMPANIES.**

3 (a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of  
4 section 871(k) are each amended by striking “December  
5 31, 2009” and inserting “December 31, 2010”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2009.

9 **SEC. 124. LOOK-THRU OF CERTAIN REGULATED INVEST-**  
10 **MENT COMPANY STOCK IN DETERMINING**  
11 **GROSS ESTATE OF NONRESIDENTS.**

12 (a) IN GENERAL.—Paragraph (3) of section 2105(d)  
13 is amended by striking “December 31, 2009” and insert-  
14 ing “December 31, 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to estates of decedents dying after  
17 December 31, 2009.

18 **SEC. 125. RIC QUALIFIED INVESTMENT ENTITY TREATMENT**  
19 **UNDER FIRPTA.**

20 (a) IN GENERAL.—Clause (ii) of section  
21 897(h)(4)(A) is amended by striking “December 31,  
22 2009” and inserting “December 31, 2010”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to distributions made after Decem-  
25 ber 31, 2009.

1 **SEC. 126. SUSPENSION OF LIMITATION ON PERCENTAGE**  
2 **DEPLETION FOR OIL AND GAS FROM MAR-**  
3 **GINAL WELLS.**

4 (a) IN GENERAL.—Clause (ii) of section  
5 613A(c)(6)(H) is amended by striking “January 1, 2010”  
6 and inserting “January 1, 2011”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2009.

10 **Subtitle C—Charitable Provisions**

11 **SEC. 131. CONTRIBUTIONS OF CAPITAL GAIN REAL PROP-**  
12 **ERTY MADE FOR CONSERVATION PURPOSES.**

13 (a) IN GENERAL.—Clause (vi) of section  
14 170(b)(1)(E) is amended by striking “December 31,  
15 2009” and inserting “December 31, 2010”.

16 (b) CONTRIBUTIONS BY CERTAIN CORPORATE FARM-  
17 ERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B)  
18 is amended by striking “December 31, 2009” and insert-  
19 ing “December 31, 2010”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to contributions made in taxable  
22 years beginning after December 31, 2009.

1 **SEC. 132. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
2 **TRIBUTIONS OF FOOD INVENTORY.**

3 (a) IN GENERAL.—Clause (iv) of section  
4 170(e)(3)(C) is amended by striking “December 31,  
5 2009” and inserting “December 31, 2010”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to contributions made after De-  
8 cember 31, 2009.

9 **SEC. 133. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
10 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**  
11 **LIC SCHOOLS.**

12 (a) IN GENERAL.—Clause (iv) of section  
13 170(e)(3)(D) is amended by striking “December 31,  
14 2009” and inserting “December 31, 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to contributions made after De-  
17 cember 31, 2009.

18 **SEC. 134. ENHANCED CHARITABLE DEDUCTION FOR COR-**  
19 **PORATE CONTRIBUTIONS OF COMPUTER**  
20 **TECHNOLOGY AND EQUIPMENT FOR EDU-**  
21 **CATIONAL PURPOSES.**

22 (a) IN GENERAL.—Subparagraph (G) of section  
23 170(e)(6) is amended by striking “December 31, 2009”  
24 and inserting “December 31, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to contributions made in taxable  
3 years beginning after December 31, 2009.

4 **SEC. 135. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
5 **TIREMENT PLANS FOR CHARITABLE PUR-**  
6 **POSES.**

7 (a) IN GENERAL.—Subparagraph (F) of section  
8 408(d)(8) is amended by striking “December 31, 2009”  
9 and inserting “December 31, 2010”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to distributions made in taxable  
12 years beginning after December 31, 2009.

13 **SEC. 136. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
14 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
15 **NIZATIONS.**

16 (a) IN GENERAL.—Clause (iv) of section  
17 512(b)(13)(E) is amended by striking “December 31,  
18 2009” and inserting “December 31, 2010”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to payments received or accrued  
21 after December 31, 2009.

1 **SEC. 137. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-**  
2 **CHANGE OF CERTAIN BROWNFIELD SITES**  
3 **FROM UNRELATED BUSINESS TAXABLE IN-**  
4 **COME.**

5 (a) IN GENERAL.—Subparagraph (K) of section  
6 512(b)(19) is amended by striking “December 31, 2009”  
7 and inserting “December 31, 2010”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to property acquired after Decem-  
10 ber 31, 2009.

11 **SEC. 138. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**  
12 **TIONS MAKING CHARITABLE CONTRIBU-**  
13 **TIONS OF PROPERTY.**

14 (a) IN GENERAL.—Paragraph (2) of section 1367(a)  
15 is amended by striking “December 31, 2009” and insert-  
16 ing “December 31, 2010”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to contributions made in taxable  
19 years beginning after December 31, 2009.

20 **Subtitle D—Miscellaneous**  
21 **Provisions**

22 **SEC. 141. INDIAN EMPLOYMENT TAX CREDIT.**

23 (a) IN GENERAL.—Subsection (f) of section 45A is  
24 amended by striking “December 31, 2009” and inserting  
25 “December 31, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2009.

4 **SEC. 142. ACCELERATED DEPRECIATION FOR BUSINESS**  
5 **PROPERTY ON AN INDIAN RESERVATION.**

6 (a) IN GENERAL.—Paragraph (8) of section 168(j)  
7 is amended by striking “December 31, 2009” and insert-  
8 ing “December 31, 2010”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to property placed in service after  
11 December 31, 2009.

12 **SEC. 143. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**  
13 **COME ATTRIBUTABLE TO DOMESTIC PRO-**  
14 **DUCTION ACTIVITIES IN PUERTO RICO.**

15 (a) IN GENERAL.—Subparagraph (C) of section  
16 199(d)(8) is amended—

17 (1) by striking “first 4 taxable years” and in-  
18 serting “first 5 taxable years”, and

19 (2) by striking “January 1, 2010” and insert-  
20 ing “January 1, 2011”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 2009.



1 **SEC. 144. TEMPORARY INCREASE IN LIMIT ON COVER OVER**  
2 **OF RUM EXCISE TAXES TO PUERTO RICO AND**  
3 **THE VIRGIN ISLANDS.**

4 (a) **IN GENERAL.**—Paragraph (1) of section 7652(f)  
5 is amended by striking “January 1, 2010” and inserting  
6 “January 1, 2011”.

7 (b) **EFFECTIVE DATE.**—The amendment made by  
8 this section shall apply to distilled spirits brought into the  
9 United States after December 31, 2009.

10 **SEC. 145. AMERICAN SAMOA ECONOMIC DEVELOPMENT**  
11 **CREDIT.**

12 (a) **IN GENERAL.**—Subsection (d) of section 119 of  
13 division A of the Tax Relief and Health Care Act of 2006  
14 is amended—

15 (1) by striking “first 4 taxable years” and in-  
16 serting “first 5 taxable years”, and

17 (2) by striking “January 1, 2010” and insert-  
18 ing “January 1, 2011”.

19 (b) **EFFECTIVE DATE.**—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2009.

1                   **TITLE II—COMMUNITY**  
2                   **ASSISTANCE PROVISIONS**

3 **SEC. 201. EMPOWERMENT ZONE TAX INCENTIVES.**

4           (a) IN GENERAL.—Clause (i) of section  
5 1391(d)(1)(A) is amended by striking “December 31,  
6 2009” and inserting “December 31, 2010”.

7           (b) INCREASED EXCLUSION OF GAIN ON STOCK OF  
8 EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C)  
9 of section 1202(a)(2) is amended—

10                   (1) by striking “December 31, 2014” and in-  
11                   serting “December 31, 2015”, and

12                   (2) by striking “2014” in the heading and in-  
13                   serting “2015”.

14           (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to periods after December 31,  
16 2009.

17 **SEC. 202. RENEWAL COMMUNITY TAX INCENTIVES.**

18           (a) IN GENERAL.—Subsection (b) of section 1400E  
19 is amended—

20                   (1) by striking “December 31, 2009” in para-  
21                   graphs (1)(A) and (3) and inserting “December 31,  
22                   2010”, and

23                   (2) by striking “January 1, 2010” in paragraph  
24                   (3) and inserting “January 1, 2011”.

25           (b) ZERO-PERCENT CAPITAL GAINS RATE.—

1           (1) ACQUISITION DATES.—Paragraphs  
2           (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section  
3           1400F(b) are each amended by striking “January 1,  
4           2010” and inserting “January 1, 2011”.

5           (2) LIMITATION ON PERIOD OF GAINS.—Para-  
6           graph (2) of section 1400F(c) is amended—

7                   (A) by striking “December 31, 2014” and  
8                   inserting “December 31, 2015”, and

9                   (B) by striking “2014” in the heading and  
10                  inserting “2015”.

11          (3) CLERICAL AMENDMENT.—Subsection (d) of  
12          section 1400F is amended by striking “and ‘Decem-  
13          ber 31, 2014’ for ‘December 31, 2014’”.

14          (c) COMMERCIAL REVITALIZATION DEDUCTION.—  
15          Subsection (g) of section 1400I is amended by striking  
16          “December 31, 2009” and inserting “December 31,  
17          2010”.

18          (d) INCREASED EXPENSING UNDER SECTION 179.—  
19          Subparagraph (A) of section 1400J(b)(1) is amended by  
20          striking “January 1, 2010” and inserting “January 1,  
21          2011”.

22          (e) EFFECTIVE DATES.—

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

1 this section shall apply to periods after December  
2 31, 2009.

3 (2) ACQUISITIONS.—The amendments made by  
4 subsection (b)(1) and (d) shall apply to acquisitions  
5 after December 31, 2009.

6 (3) COMMERCIAL REVITALIZATION DEDUC-  
7 TION.—The amendment made by subsection (c) shall  
8 apply to building placed in service after December  
9 31, 2009.

10 **SEC. 203. NEW MARKETS TAX CREDIT.**

11 (a) IN GENERAL.—Subparagraph (F) of section  
12 45D(f)(1) is amended by inserting “and 2010” after  
13 “2009”.

14 (b) CARRYOVER OF UNUSED LIMITATION.—Para-  
15 graph (3) of section 45D(f) is amended by striking  
16 “2014” and inserting “2015”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to calendar years beginning after  
19 2009.

20 **SEC. 204. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
21 **TRICT OF COLUMBIA.**

22 (a) IN GENERAL.—Subsection (f) of section 1400 is  
23 amended by striking “December 31, 2009” each place it  
24 appears and inserting “December 31, 2010”.

1 (b) TAX-EXEMPT DC EMPOWERMENT ZONE  
2 BONDS.—Subsection (b) of section 1400A is amended by  
3 striking “December 31, 2009” and inserting “December  
4 31, 2010”.

5 (c) ZERO-PERCENT CAPITAL GAINS RATE.—

6 (1) ACQUISITION DATES.—Paragraphs  
7 (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of sec-  
8 tion 1400B(b) are each amended by striking “Janu-  
9 ary 1, 2010” and inserting “January 1, 2011”.

10 (2) LIMITATION ON PERIOD OF ZERO-PERCENT  
11 CAPITAL GAINS.—

12 (A) IN GENERAL.—Paragraph (2) of sec-  
13 tion 1400B(e) is amended—

14 (i) by striking “December 31, 2014”  
15 and inserting “December 31, 2015”, and

16 (ii) by striking “2014” in the heading  
17 and inserting “2015”.

18 (B) INTERESTS IN PARTNERSHIP AND S  
19 CORPORATIONS.—Paragraph (2) of section  
20 1400B(g) is amended by striking “December  
21 31, 2014” and inserting “December 31, 2015”.

22 (d) FIRST-TIME HOMEBUYER CREDIT.—Subsection  
23 (i) of section 1400C is amended by striking “January 1,  
24 2010” and inserting “January 1, 2011”.

25 (e) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, the amendments made by  
3           this section shall apply to periods after December  
4           31, 2009.

5           (2) TAX-EXEMPT DC EMPOWERMENT ZONE  
6           BONDS.—The amendment made by subsection (b)  
7           shall apply to bonds issued after December 31,  
8           2009.

9           (3) ACQUISITION DATES FOR ZERO-PERCENT  
10          CAPITAL GAINS RATE.—The amendments made by  
11          subsection (c)(1) shall apply to property acquired or  
12          substantially improved after December 31, 2009.

13          (4) FIRST-TIME HOMEBUYER CREDIT.—The  
14          amendment made by subsection (d) shall apply to  
15          property purchased after December 31, 2009.

16 **SEC. 205. TAX INCENTIVES FOR NEW YORK LIBERTY ZONE.**

17          (a) BONUS DEPRECIATION FOR NONRESIDENTIAL  
18          REAL PROPERTY AND RESIDENTIAL RENTAL PROP-  
19          PERTY.—Subparagraph (A) of section 1400L(b)(2) is  
20          amended by striking “December 31, 2009” in the last sen-  
21          tence and inserting “December 31, 2010”.

22          (b) TAX-EXEMPT BOND FINANCING.—Subparagraph  
23          (D) of section 1400L(d)(2) is amended by striking “Janu-  
24          ary 1, 2010” and inserting “January 1, 2011”.

25          (c) EFFECTIVE DATES.—

1           (1) BONUS DEPRECIATION.—The amendment  
2           made by subsection (a) shall apply to property  
3           placed in service after December 31, 2009.

4           (2) TAX-EXEMPT BOND FINANCING.—The  
5           amendment made by subsection (b) shall apply to  
6           bonds issued after December 31, 2009.

7 **SEC. 206. TAX INCENTIVES FOR THE GULF OPPORTUNITY**  
8           **ZONE.**

9           (a) WORK OPPORTUNITY TAX CREDIT FOR CORE  
10          DISASTER AREA.—Paragraph (1) of section 201(b) of the  
11          Katrina Emergency Tax Relief Act of 2005 is amended  
12          by striking “4-year” and inserting “5-year”.

13          (b) INCREASE IN REHABILITATION CREDIT.—Sub-  
14          section (h) of section 1400N is amended by striking “De-  
15          cember 31, 2009” and inserting “December 31, 2010”.

16          (c) EFFECTIVE DATES.—

17                 (1) WORK OPPORTUNITY TAX CREDIT.—The  
18                 amendment made by subsection (a) shall apply to in-  
19                 dividuals hired on or after August 28, 2009.

20                 (2) REHABILITATION CREDIT.—The amend-  
21                 ment made by subsection (b) shall apply to amounts  
22                 paid or incurred after December 31, 2009.

1 **SEC. 207. ELECTION FOR REFUNDABLE LOW-INCOME HOUS-**  
2 **ING CREDIT FOR 2010.**

3 (a) IN GENERAL.—Section 42 is amended by redesi-  
4 gnating subsection (n) as subsection (o) and by inserting  
5 after subsection (m) the following new subsection:

6 “(n) ELECTION FOR REFUNDABLE CREDITS.—

7 “(1) IN GENERAL.—The housing credit agency  
8 of each State shall be allowed a credit in an amount  
9 equal to such State’s 2010 low-income housing re-  
10 fundable credit election amount which shall be pay-  
11 able by the Secretary as provided in paragraph (5).

12 “(2) 2010 LOW-INCOME HOUSING REFUNDABLE  
13 CREDIT ELECTION AMOUNT.—For purposes of this  
14 subsection, the term ‘2010 low-income housing re-  
15 fundable credit election amount’ means, with respect  
16 to any State, such amount as the State may elect  
17 which does not exceed 85 percent of the product  
18 of—

19 “(A) the sum of—

20 “(i) 100 percent of the State housing  
21 credit ceiling for 2010 which is attrib-  
22 utable to amounts described in clauses (i)  
23 and (iii) of subsection (h)(3)(C), and

24 “(ii) 40 percent of the State housing  
25 credit ceiling for 2010 which is attrib-



1                   utable to amounts described in clauses (ii)  
2                   and (iv) of such subsection, multiplied by  
3                   “(B) 10.

4                   “(3) COORDINATION WITH NON-REFUNDABLE  
5                   CREDIT.—For purposes of this section, the amounts  
6                   described in clauses (i) through (iv) of subsection  
7                   (h)(3)(C) with respect to any State for 2010 shall  
8                   each be reduced by so much of such amount as is  
9                   taken into account in determining the amount of the  
10                  credit allowed with respect to such State under para-  
11                  graph (1).

12                  “(4) SPECIAL RULE FOR BASIS.—Basis of a  
13                  qualified low-income building shall not be reduced by  
14                  the amount of any payment made under this sub-  
15                  section.

16                  “(5) PAYMENT OF CREDIT; USE TO FINANCE  
17                  LOW-INCOME BUILDINGS.—The Secretary shall pay  
18                  to the housing credit agency of each State an  
19                  amount equal to the credit allowed under paragraph  
20                  (1). Rules similar to the rules of subsections (c) and  
21                  (d) of section 1602 of the American Recovery and  
22                  Reinvestment Tax Act of 2009 shall apply with re-  
23                  spect to any payment made under this paragraph,  
24                  except that such subsection (d) shall be applied by

1 substituting ‘January 1, 2012’ for ‘January 1,  
2 2011’.”.

3 (b) CONFORMING AMENDMENT.—Section 1324(b)(2)  
4 of title 31, United States Code, is amended by inserting  
5 “42(n),” after “36A,”.

6 **TITLE III—DISASTER RELIEF**  
7 **PROVISIONS**

8 **SEC. 301. DEDUCTIBILITY OF PERSONAL CASUALTY LOSSES**  
9 **ATTRIBUTABLE TO FEDERALLY DECLARED**  
10 **DISASTERS.**

11 (a) IN GENERAL.—Subclause (I) of section  
12 165(h)(3)(B)(i) is amended by striking “January 1,  
13 2010” and inserting “January 1, 2011”.

14 (b) EXTENSION OF \$500 LIMITATION.—Paragraph  
15 (1) of section 165(h) is amended by striking “December  
16 31, 2009” and inserting “December 31, 2010”.

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as otherwise pro-  
19 vided in this subsection, the amendments made by  
20 this section shall apply to losses attributable to dis-  
21 asters occurring after December 31, 2009.

22 (2) EXTENSION OF \$500 LIMITATION.—The  
23 amendment made by subsection (b) shall apply to  
24 taxable years beginning after December 31, 2009.

1 **SEC. 302. EXPENSING OF CERTAIN QUALIFIED DISASTER**  
2 **EXPENSES.**

3 (a) IN GENERAL.—Subparagraph (A) of section  
4 198A(b)(2) is amended by striking “January 1, 2010”  
5 and inserting “January 1, 2011”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to expenditures on account of dis-  
8 asters occurring after December 31, 2009.

9 **SEC. 303. 5-YEAR CARRYBACK OF NET OPERATING LOSSES**  
10 **ATTRIBUTABLE TO FEDERALLY DECLARED**  
11 **DISASTERS.**

12 (a) IN GENERAL.—Subclause (I) of section  
13 172(j)(1)(A)(i) is amended by striking “January 1, 2010”  
14 and inserting “January 1, 2011”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to losses attributable to disasters  
17 occurring after December 31, 2009.

18 **SEC. 304. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**  
19 **REQUIREMENTS FOR RESIDENCES LOCATED**  
20 **IN FEDERALLY DECLARED DISASTER AREAS.**

21 (a) IN GENERAL.—Paragraph (11) of section 143(k)  
22 is amended by striking “January 1, 2010” and inserting  
23 “January 1, 2011”.

24 (b) SPECIAL RULE FOR RESIDENCES DESTROYED IN  
25 FEDERALLY DECLARED DISASTER AREAS.—Paragraph  
26 (13) of section 143(k), as redesignated under subsection

1 (c), is amended by striking “January 1, 2010” in subpara-  
2 graphs (A)(i) and (B)(i) and inserting “January 1, 2011”.

3 (c) TECHNICAL AMENDMENT.—Subsection (k) of sec-  
4 tion 143 is amended by redesignating the second para-  
5 graph (12) (relating to special rules for residences de-  
6 stroyed in Federally declared disasters) as paragraph  
7 (13).

8 (d) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as otherwise pro-  
10 vided in this subsection, the amendments made by  
11 this section shall apply to bonds issued after Decem-  
12 ber 31, 2009.

13 (2) RESIDENCES DESTROYED IN FEDERALLY  
14 DECLARED DISASTER AREAS.—The amendments  
15 made by subsection (b) shall apply with respect to  
16 disasters occurring after December 31, 2009.

17 (3) TECHNICAL AMENDMENT.—The amendment  
18 made by subsection (c) shall take effect as if in-  
19 cluded in section 709 of the Tax Extenders and Al-  
20 ternative Minimum Tax Relief Act of 2008.

1 **SEC. 305. EXPENSING AND SPECIAL DEPRECIATION ALLOW-**  
2 **ANCE FOR QUALIFIED DISASTER ASSISTANCE**  
3 **PROPERTY.**

4 (a) IN GENERAL.—Subclause (I) of section  
5 168(n)(2)(A)(ii) is amended by striking “January 1,  
6 2010” and inserting “January 1, 2011”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to disasters occurring after Decem-  
9 ber 31, 2009.

10 **TITLE IV—ENERGY PROVISIONS**

11 **SEC. 401. INCENTIVES FOR BIODIESEL AND RENEWABLE**  
12 **DIESEL.**

13 (a) CREDITS FOR BIODIESEL AND RENEWABLE DIE-  
14 SEL USED AS FUEL.—Subsection (g) of section 40A is  
15 amended by striking “December 31, 2009” and inserting  
16 “December 31, 2010”.

17 (b) EXCISE TAX CREDITS AND PAYMENTS FOR BIO-  
18 DIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

19 (1) Paragraph (6) of section 6426(c) is amend-  
20 ed by striking “December 31, 2009” and inserting  
21 “December 31, 2010”.

22 (2) Subparagraph (B) of section 6427(e)(6) is  
23 amended by striking “December 31, 2009” and in-  
24 serting “December 31, 2010”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to sales and uses after December  
3 31, 2009.

4 **SEC. 402. ALTERNATIVE MOTOR VEHICLE CREDIT FOR**  
5 **HEAVY HYBRIDS.**

6 (a) IN GENERAL.—Paragraph (3) of section 30B(k)  
7 is amended by striking “December 31, 2009” and insert-  
8 ing “December 31, 2010”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to property purchased after De-  
11 cember 31, 2009.

12 **SEC. 403. ALTERNATIVE FUEL CREDIT FOR NATURAL GAS**  
13 **AND LIQUIFIED PETROLEUM GAS.**

14 (a) IN GENERAL.—Paragraph (5) of section 6426(d)  
15 is amended by striking “after December 31, 2009” and  
16 all that follows and inserting “after—

17 “(A) September 30, 2014, in the case of  
18 liquefied hydrogen,

19 “(B) December 31, 2010, in the case of—

20 “(i) compressed or liquified natural  
21 gas, and

22 “(ii) liquified petroleum gas (other  
23 than for use as fuel in a forklift), and

24 “(C) December 31, 2009, in any other  
25 case.”.

1 (b) PAYMENT AUTHORITY.—Paragraph (6) of section  
2 6427(e) is amended by striking “and” at the end of sub-  
3 paragraph (C), by striking the period at the end of sub-  
4 paragraph (D) and inserting a comma and by adding at  
5 the end the following new subparagraphs:

6 “(E) any alternative fuel (as so defined)  
7 involving compressed or liquified natural gas  
8 sold or used after December 31, 2010, and

9 “(F) any alternative fuel (as so defined)  
10 involving liquified petroleum gas (other than for  
11 use as fuel in a forklift) sold or used after De-  
12 cember 31, 2010.”.

13 (c) CONFORMING AMENDMENT.—Subparagraph (C)  
14 of section 6427(e)(6) is amended by inserting “(E), or  
15 (F)” after “subparagraph (D)”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to fuel sold or used after December  
18 31, 2009.

19 **SEC. 404. SPECIAL RULE FOR SALES OR DISPOSITIONS TO**  
20 **IMPLEMENT FERC OR STATE ELECTRIC RE-**  
21 **STRUCTURING POLICY FOR QUALIFIED ELEC-**  
22 **TRIC UTILITIES.**

23 (a) IN GENERAL.—Paragraph (3) of section 451(i)  
24 is amended by striking “January 1, 2010” and inserting  
25 “January 1, 2011”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to dispositions after December 31,  
 3 2009.

4 **TITLE V—FOREIGN ACCOUNT**  
 5 **TAX COMPLIANCE**  
 6 **Subtitle A—Increased Disclosure of**  
 7 **Beneficial Owners**

8 **SEC. 501. REPORTING ON CERTAIN FOREIGN ACCOUNTS.**

9 (a) IN GENERAL.—The Internal Revenue Code of  
 10 1986 is amended by inserting after chapter 3 the following  
 11 new chapter:

12 **“CHAPTER 4—TAXES TO ENFORCE RE-**  
 13 **PORTING ON CERTAIN FOREIGN AC-**  
 14 **COUNTS**

“Sec. 1471. Withholdable payments to foreign financial institutions.

“Sec. 1472. Withholdable payments to other foreign entities.

“Sec. 1473. Definitions.

“Sec. 1474. Special rules.

15 **“SEC. 1471. WITHHOLDABLE PAYMENTS TO FOREIGN FI-**  
 16 **NANCIAL INSTITUTIONS.**

17 “(a) IN GENERAL.—In the case of any withholdable  
 18 payment to a foreign financial institution which does not  
 19 meet the requirements of subsection (b), the withholding  
 20 agent with respect to such payment shall deduct and with-  
 21 hold from such payment a tax equal to 30 percent of the  
 22 amount of such payment.

23 “(b) REPORTING REQUIREMENTS, ETC.—



1           “(1) IN GENERAL.—The requirements of this  
2 subsection are met with respect to any foreign finan-  
3 cial institution if an agreement is in effect between  
4 such institution and the Secretary under which such  
5 institution agrees—

6           “(A) to obtain such information regarding  
7 each holder of each account maintained by such  
8 institution as is necessary to determine which  
9 (if any) of such accounts are United States ac-  
10 counts,

11           “(B) to comply with such verification and  
12 due diligence procedures as the Secretary may  
13 require with respect to the identification of  
14 United States accounts,

15           “(C) in the case of any United States ac-  
16 count maintained by such institution, to report  
17 on an annual basis the information described in  
18 subsection (c) with respect to such account,

19           “(D) to deduct and withhold a tax equal to  
20 30 percent of—

21           “(i) any passthru payment which is  
22 made by such institution to a recalcitrant  
23 account holder or another foreign financial  
24 institution which does not meet the re-  
25 quirements of this subsection, and

1           “(ii) in the case of any passthru pay-  
2           ment which is made by such institution to  
3           a foreign financial institution which has in  
4           effect an election under paragraph (3) with  
5           respect to such payment, so much of such  
6           payment as is allocable to accounts held by  
7           recalcitrant account holders or foreign fi-  
8           nancial institutions which do not meet the  
9           requirements of this subsection,

10           “(E) to comply with requests by the Sec-  
11           retary for additional information with respect to  
12           any United States account maintained by such  
13           institution, and

14           “(F) in any case in which any foreign law  
15           would (but for a waiver described in clause (i))  
16           prevent the reporting of any information re-  
17           ferred to in this subsection or subsection (c)  
18           with respect to any United States account  
19           maintained by such institution—

20           “(i) to attempt to obtain a valid and  
21           effective waiver of such law from each  
22           holder of such account, and

23           “(ii) if a waiver described in clause (i)  
24           is not obtained from each such holder

1           within a reasonable period of time, to close  
2           such account.

3       Any agreement entered into under this subsection  
4       may be terminated by the Secretary upon a deter-  
5       mination by the Secretary that the foreign financial  
6       institution is out of compliance with such agreement.

7           “(2) FINANCIAL INSTITUTIONS DEEMED TO  
8       MEET REQUIREMENTS IN CERTAIN CASES.—A for-  
9       eign financial institution may be treated by the Sec-  
10      retary as meeting the requirements of this sub-  
11      section if—

12           “(A) such institution—

13                   “(i) complies with such procedures as  
14                   the Secretary may prescribe to ensure that  
15                   such institution does not maintain United  
16                   States accounts, and

17                   “(ii) meets such other requirements as  
18                   the Secretary may prescribe with respect  
19                   to accounts of other foreign financial insti-  
20                   tutions maintained by such institution, or

21           “(B) such institution is a member of a  
22      class of institutions with respect to which the  
23      Secretary has determined that the application  
24      of this section is not necessary to carry out the  
25      purposes of this section.

1           “(3) ELECTION TO BE WITHHELD UPON RATH-  
2           ER THAN WITHHOLD ON PAYMENTS TO RECAL-  
3           CITRANT ACCOUNT HOLDERS AND NONPARTICI-  
4           PATING FOREIGN FINANCIAL INSTITUTIONS.—In the  
5           case of a foreign financial institution which meets  
6           the requirements of this subsection and such other  
7           requirements as the Secretary may provide and  
8           which elects the application of this paragraph—

9                   “(A) the requirements of paragraph (1)(D)  
10                  shall not apply,

11                   “(B) the withholding tax imposed under  
12                  subsection (a) shall apply with respect to any  
13                  withholdable payment to such institution to the  
14                  extent such payment is allocable to accounts  
15                  held by recalcitrant account holders or foreign  
16                  financial institutions which do not meet the re-  
17                  quirements of this subsection, and

18                   “(C) the agreement described in paragraph  
19                  (1) shall—

20                           “(i) require such institution to notify  
21                           the withholding agent with respect to each  
22                           such payment of the institution’s election  
23                           under this paragraph and such other infor-  
24                           mation as may be necessary for the with-  
25                           holding agent to determine the appropriate

1 amount to deduct and withhold from such  
2 payment, and

3 “(ii) include a waiver of any right  
4 under any treaty of the United States with  
5 respect to any amount deducted and with-  
6 held pursuant to an election under this  
7 paragraph.

8 To the extent provided by the Secretary, the election  
9 under this paragraph may be made with respect to  
10 certain classes or types of accounts of the foreign fi-  
11 nancial institution.

12 “(c) INFORMATION REQUIRED TO BE REPORTED ON  
13 UNITED STATES ACCOUNTS.—

14 “(1) IN GENERAL.—The agreement described in  
15 subsection (b) shall require the foreign financial in-  
16 stitution to report the following with respect to each  
17 United States account maintained by such institu-  
18 tion:

19 “(A) The name, address, and TIN of each  
20 account holder which is a specified United  
21 States person and, in the case of any account  
22 holder which is a United States owned foreign  
23 entity, the name, address, and TIN of each sub-  
24 stantial United States owner of such entity.

25 “(B) The account number.

1           “(C) The account balance or value (deter-  
2           mined at such time and in such manner as the  
3           Secretary may provide).

4           “(D) The gross receipts and gross with-  
5           drawals or payments from the account (deter-  
6           mined for such period and in such manner as  
7           the Secretary may provide).

8           “(2) ELECTION TO BE SUBJECT TO SAME RE-  
9           PORTING AS UNITED STATES FINANCIAL INSTITU-  
10          TIONS.—In the case of a foreign financial institution  
11          which elects the application of this paragraph—

12                   “(A) subparagraphs (C) and (D) of para-  
13                   graph (1) shall not apply, and

14                   “(B) the agreement described in subsection  
15                   (b) shall require such foreign financial institu-  
16                   tion to report such information with respect to  
17                   each United States account maintained by such  
18                   institution as such institution would be required  
19                   to report under sections 6041, 6042, 6045, and  
20                   6049 if—

21                           “(i) such institution were a United  
22                           States person, and

23                           “(ii) each holder of such account  
24                           which is a specified United States person  
25                           or United States owned foreign entity were

1           a natural person and citizen of the United  
2           States.

3           An election under this paragraph shall be made  
4           at such time, in such manner, and subject to  
5           such conditions as the Secretary may provide.

6           “(3) SEPARATE REQUIREMENTS FOR QUALI-  
7           FIED INTERMEDIARIES.—In the case of a foreign fi-  
8           nancial institution which is treated as a qualified  
9           intermediary by the Secretary for purposes of sec-  
10          tion 1441 and the regulations issued thereunder, the  
11          requirements of this section shall be in addition to  
12          any reporting or other requirements imposed by the  
13          Secretary for purposes of such treatment.

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

15                  “(1) UNITED STATES ACCOUNT.—

16                          “(A) IN GENERAL.—The term ‘United  
17                          States account’ means any financial account  
18                          which is held by one or more specified United  
19                          States persons or United States owned foreign  
20                          entities.

21                          “(B) EXCEPTION FOR CERTAIN ACCOUNTS  
22                          HELD BY INDIVIDUALS.—Unless the foreign fi-  
23                          nancial institution elects to not have this sub-  
24                          paragraph apply, such term shall not include

1 any depository account maintained by such fi-  
2 nancial institution if—

3 “(i) each holder of such account is a  
4 natural person, and

5 “(ii) with respect to each holder of  
6 such account, the aggregate value of all de-  
7 pository accounts held (in whole or in part)  
8 by such holder and maintained by the  
9 same financial institution which maintains  
10 such account does not exceed \$50,000.

11 To the extent provided by the Secretary, finan-  
12 cial institutions which are members of the same  
13 expanded affiliated group shall be treated for  
14 purposes of clause (ii) as a single financial in-  
15 stitution.

16 “(C) ELIMINATION OF DUPLICATIVE RE-  
17 PORTING REQUIREMENTS.—Such term shall not  
18 include any financial account in a foreign finan-  
19 cial institution if—

20 “(i) such account is held by another  
21 financial institution which meets the re-  
22 quirements of subsection (b), or

23 “(ii) the holder of such account is oth-  
24 erwise subject to information reporting re-  
25 quirements which the Secretary determines



1           would make the reporting required by this  
2           section with respect to United States ac-  
3           counts duplicative.

4           “(2) FINANCIAL ACCOUNT.—The term ‘finan-  
5           cial account’ means, with respect to any financial in-  
6           stitution—

7                   “(A) any depository account maintained by  
8                   such financial institution,

9                   “(B) any custodial account maintained by  
10                  such financial institution, and

11                  “(C) except as otherwise provided by the  
12                  Secretary, any equity or debt interest in such  
13                  financial institution (other than interests which  
14                  are regularly traded on an established securities  
15                  market).

16           Any equity or debt interest which constitutes a fi-  
17           nancial account under subparagraph (C) with re-  
18           spect to any financial institution shall be treated for  
19           purposes of this section as maintained by such fi-  
20           nancial institution.

21           “(3) UNITED STATES OWNED FOREIGN ENTI-  
22           TY.—The term ‘United States owned foreign entity’  
23           means any foreign entity which has one or more sub-  
24           stantial United States owners.

1           “(4) FOREIGN FINANCIAL INSTITUTION.—The  
2 term ‘foreign financial institution’ means any finan-  
3 cial institution which is a foreign entity. Except as  
4 otherwise provided by the Secretary, such term shall  
5 not include a financial institution which is organized  
6 under the laws of any possession of the United  
7 States.

8           “(5) FINANCIAL INSTITUTION.—Except as oth-  
9 erwise provided by the Secretary, the term ‘financial  
10 institution’ means any entity that—

11                   “(A) accepts deposits in the ordinary  
12 course of a banking or similar business,

13                   “(B) is engaged in the business of holding  
14 financial assets for the account of others, or

15                   “(C) is engaged (or holding itself out as  
16 being engaged) primarily in the business of in-  
17 vesting, reinvesting, or trading in securities (as  
18 defined in section 475(e)(2) without regard to  
19 the last sentence thereof), partnership interests,  
20 commodities (as defined in section 475(e)(2)),  
21 or any interest (including a futures or forward  
22 contract or option) in such securities, partner-  
23 ship interests, or commodities.

1           “(6) RECALCITRANT ACCOUNT HOLDER.—The  
2 term ‘recalcitrant account holder’ means any ac-  
3 count holder which—

4           “(A) fails to comply with reasonable re-  
5 quests for the information referred to in sub-  
6 section (b)(1)(A) or (c)(1)(A), or

7           “(B) fails to provide a waiver described in  
8 subsection (b)(1)(F) upon request.

9           “(7) PASSTHRU PAYMENT.—The term ‘passthru  
10 payment’ means any withholdable payment or other  
11 payment which is attributable to a withholdable pay-  
12 ment.

13           “(e) AFFILIATED GROUPS.—

14           “(1) IN GENERAL.—The requirements of sub-  
15 sections (b) and (c)(1) shall apply—

16           “(A) with respect to United States ac-  
17 counts maintained by the foreign financial insti-  
18 tution, and

19           “(B) except as otherwise provided by the  
20 Secretary, with respect to United States ac-  
21 counts maintained by each other foreign finan-  
22 cial institution (other than any foreign financial  
23 institution which meets the requirements of  
24 subsection (b)) which is a member of the same

1 expanded affiliated group as such foreign finan-  
2 cial institution.

3 “(2) EXPANDED AFFILIATED GROUP.—For pur-  
4 poses of this section, the term ‘expanded affiliated  
5 group’ means an affiliated group as defined in sec-  
6 tion 1504(a), determined—

7 “(A) by substituting ‘more than 50 per-  
8 cent’ for ‘at least 80 percent’ each place it ap-  
9 pears, and

10 “(B) without regard to paragraphs (2) and  
11 (3) of section 1504(b).

12 A partnership or any other entity (other than a cor-  
13 poration) shall be treated as a member of an ex-  
14 panded affiliated group if such entity is controlled  
15 (within the meaning of section 954(d)(3)) by mem-  
16 bers of such group (including any entity treated as  
17 a member of such group by reason of this sentence).

18 “(f) EXCEPTION FOR CERTAIN PAYMENTS.—Sub-  
19 section (a) shall not apply to any payment if the beneficial  
20 owner of such payment is—

21 “(1) any foreign government, any political sub-  
22 division of a foreign government, or any wholly  
23 owned agency or instrumentality of any one or more  
24 of the foregoing,

1           “(2) any international organization or any  
2 wholly owned agency or instrumentality thereof,

3           “(3) any foreign central bank of issue, or

4           “(4) any other class of persons identified by the  
5 Secretary for purposes of this subsection as posing  
6 a low risk of tax evasion.

7 **“SEC. 1472. WITHHOLDABLE PAYMENTS TO OTHER FOR-**  
8 **EIGN ENTITIES.**

9           “(a) IN GENERAL.—In the case of any withholdable  
10 payment to a non-financial foreign entity, if—

11           “(1) the beneficial owner of such payment is  
12 such entity or any other non-financial foreign entity,  
13 and

14           “(2) the requirements of subsection (b) are not  
15 met with respect to such beneficial owner,  
16 then the withholding agent with respect to such payment  
17 shall deduct and withhold from such payment a tax equal  
18 to 30 percent of the amount of such payment.

19           “(b) REQUIREMENTS FOR WAIVER OF WITH-  
20 HOLDING.—The requirements of this subsection are met  
21 with respect to the beneficial owner of a payment if—

22           “(1) such beneficial owner or the payee provides  
23 the withholding agent with either—

1           “(A) a certification that such beneficial  
2 owner does not have any substantial United  
3 States owners, or

4           “(B) the name, address, and TIN of each  
5 substantial United States owner of such bene-  
6 ficial owner,

7           “(2) the withholding agent does not know, or  
8 have reason to know, that any information provided  
9 under paragraph (1) is incorrect, and

10           “(3) the withholding agent reports the informa-  
11 tion provided under paragraph (1)(B) to the Sec-  
12 retary in such manner as the Secretary may provide.

13           “(c) EXCEPTIONS.—Subsection (a) shall not apply  
14 to—

15           “(1) except as otherwise provided by the Sec-  
16 retary, any payment beneficially owned by—

17           “(A) any corporation the stock of which is  
18 regularly traded on an established securities  
19 market,

20           “(B) any corporation which is a member of  
21 the same expanded affiliated group (as defined  
22 in section 1471(e)(2) without regard to the last  
23 sentence thereof) as a corporation described in  
24 subparagraph (A),

1           “(C) any entity which is organized under  
2           the laws of a possession of the United States  
3           and which is wholly owned by one or more bona  
4           fide residents (as defined in section 937(a)) of  
5           such possession,

6           “(D) any foreign government, any political  
7           subdivision of a foreign government, or any  
8           wholly owned agency or instrumentality of any  
9           one or more of the foregoing,

10           “(E) any international organization or any  
11           wholly owned agency or instrumentality thereof,

12           “(F) any foreign central bank of issue, or

13           “(G) any other class of persons identified  
14           by the Secretary for purposes of this subsection,  
15           and

16           “(2) any class of payments identified by the  
17           Secretary for purposes of this subsection as posing  
18           a low risk of tax evasion.

19           “(d) NON-FINANCIAL FOREIGN ENTITY.—For pur-  
20           poses of this section, the term ‘non-financial foreign enti-  
21           ty’ means any foreign entity which is not a financial insti-  
22           tution (as defined in section 1471(d)(5)).

23           **“SEC. 1473. DEFINITIONS.**

24           “For purposes of this chapter—

1           “(1) WITHHOLDABLE PAYMENT.—Except as  
2 otherwise provided by the Secretary—

3           “(A) IN GENERAL.—The term  
4 ‘withholdable payment’ means—

5           “(i) any payment of interest (includ-  
6 ing any original issue discount), dividends,  
7 rents, salaries, wages, premiums, annuities,  
8 compensations, remunerations, emolu-  
9 ments, and other fixed or determinable an-  
10 nual or periodical gains, profits, and in-  
11 come, if such payment is from sources  
12 within the United States, and

13           “(ii) any gross proceeds from the sale  
14 or other disposition of any property of a  
15 type which can produce interest or divi-  
16 dends from sources within the United  
17 States.

18           “(B) EXCEPTION FOR INCOME CONNECTED  
19 WITH UNITED STATES BUSINESS.—Such term  
20 shall not include any item of income which is  
21 taken into account under section 871(b)(1) or  
22 882(a)(1) for the taxable year.

23           “(C) SPECIAL RULE FOR SOURCING INTER-  
24 EST PAID BY FOREIGN BRANCHES OF DOMESTIC



1 FINANCIAL INSTITUTIONS.—Subparagraph (B)  
2 of section 861(a)(1) shall not apply.

3 “(2) SUBSTANTIAL UNITED STATES OWNER.—

4 “(A) IN GENERAL.—The term ‘substantial  
5 United States owner’ means—

6 “(i) with respect to any corporation,  
7 any specified United States person which  
8 owns, directly or indirectly, more than 10  
9 percent of the stock of such corporation  
10 (by vote or value),

11 “(ii) with respect to any partnership,  
12 any specified United States person which  
13 owns, directly or indirectly, more than 10  
14 percent of the profits interests or capital  
15 interests in such partnership, and

16 “(iii) in the case of a trust—

17 “(I) any specified United States  
18 person treated as an owner of any  
19 portion of such trust under subpart E  
20 of part I of subchapter J of chapter  
21 1, and

22 “(II) to the extent provided by  
23 the Secretary in regulations or other  
24 guidance, any specified United States  
25 person which holds, directly or indi-

1                   rectly, more than 10 percent of the  
2                   beneficial interests of such trust.

3                   “(B) SPECIAL RULE FOR INVESTMENT VE-  
4                   HICLES.—In the case of any financial institu-  
5                   tion described in section 1471(d)(5)(C), clauses  
6                   (i), (ii), and (iii) of subparagraph (A) shall be  
7                   applied by substituting ‘0 percent’ for ‘10 per-  
8                   cent’.

9                   “(3) SPECIFIED UNITED STATES PERSON.—Ex-  
10                  cept as otherwise provided by the Secretary, the  
11                  term ‘specified United States person’ means any  
12                  United States person other than—

13                  “(A) any corporation the stock of which is  
14                  regularly traded on an established securities  
15                  market,

16                  “(B) any corporation which is a member of  
17                  the same expanded affiliated group (as defined  
18                  in section 1471(e)(2) without regard to the last  
19                  sentence thereof) as a corporation the stock of  
20                  which is regularly traded on an established se-  
21                  curities market,

22                  “(C) any organization exempt from tax-  
23                  ation under section 501(a) or an individual re-  
24                  tirement plan,

1           “(D) the United States or any wholly  
2 owned agency or instrumentality thereof,

3           “(E) any State, the District of Columbia,  
4 any possession of the United States, any polit-  
5 ical subdivision of any of the foregoing, or any  
6 wholly owned agency or instrumentality of any  
7 one or more of the foregoing,

8           “(F) any bank (as defined in section 581),

9           “(G) any real estate investment trust (as  
10 defined in section 856),

11           “(H) any regulated investment company  
12 (as defined in section 851),

13           “(I) any common trust fund (as defined in  
14 section 584(a)), and

15           “(J) any trust which—

16                   “(i) is exempt from tax under section  
17 664(e), or

18                   “(ii) is described in section  
19 4947(a)(1).

20           “(4) WITHHOLDING AGENT.—The term ‘with-  
21 holding agent’ means all persons, in whatever capac-  
22 ity acting, having the control, receipt, custody, dis-  
23 posal, or payment of any withholdable payment.

1           “(5) FOREIGN ENTITY.—The term ‘foreign en-  
2           tity’ means any entity which is not a United States  
3           person.

4   **“SEC. 1474. SPECIAL RULES.**

5           “(a) LIABILITY FOR WITHHELD TAX.—Every person  
6           required to deduct and withhold any tax under this chap-  
7           ter is hereby made liable for such tax and is hereby indem-  
8           nified against the claims and demands of any person for  
9           the amount of any payments made in accordance with the  
10          provisions of this chapter.

11          “(b) CREDITS AND REFUNDS.—

12           “(1) IN GENERAL.—Except as provided in para-  
13          graph (2), the determination of whether any tax de-  
14          ducted and withheld under this chapter results in an  
15          overpayment by the beneficial owner of the payment  
16          to which such tax is attributable shall be made as  
17          if such tax had been deducted and withheld under  
18          subchapter A of chapter 3.

19           “(2) SPECIAL RULE WHERE FOREIGN FINAN-  
20          CIAL INSTITUTION IS BENEFICIAL OWNER OF PAY-  
21          MENT.—

22           “(A) IN GENERAL.—In the case of any tax  
23          properly deducted and withheld under section  
24          1471 from a specified financial institution pay-  
25          ment—

1           “(i) if the foreign financial institution  
2           referred to in subparagraph (B) with re-  
3           spect to such payment is entitled to a re-  
4           duced rate of tax with respect to such pay-  
5           ment by reason of any treaty obligation of  
6           the United States—

7                   “(I) the amount of any credit or  
8                   refund with respect to such tax shall  
9                   not exceed the amount of credit or re-  
10                  fund attributable to such reduction in  
11                  rate, and

12                  “(II) no interest shall be allowed  
13                  or paid with respect to such credit or  
14                  refund, and

15           “(ii) if such foreign financial institu-  
16           tion is not so entitled, no credit or refund  
17           shall be allowed or paid with respect to  
18           such tax.

19           “(B) SPECIFIED FINANCIAL INSTITUTION  
20           PAYMENT.—The term ‘specified financial insti-  
21           tution payment’ means any payment if the ben-  
22           eficial owner of such payment is a foreign fi-  
23           nancial institution.

24           “(3) REQUIREMENT TO IDENTIFY SUBSTANTIAL  
25           UNITED STATES OWNERS.—No credit or refund shall

1 be allowed or paid with respect to any tax properly  
2 deducted and withheld under this chapter unless the  
3 beneficial owner of the payment provides the Sec-  
4 retary such information as the Secretary may re-  
5 quire to determine whether such beneficial owner is  
6 a United States owned foreign entity (as defined in  
7 section 1471(d)(3)) and the identity of any substan-  
8 tial United States owners of such entity.

9 “(c) CONFIDENTIALITY OF INFORMATION.—

10 “(1) IN GENERAL.—For purposes of this chap-  
11 ter, rules similar to the rules of section 3406(f) shall  
12 apply.

13 “(2) DISCLOSURE OF LIST OF PARTICIPATING  
14 FOREIGN FINANCIAL INSTITUTIONS PERMITTED.—

15 The identity of a foreign financial institution which  
16 meets the requirements of section 1471(b) shall not  
17 be treated as return information for purposes of sec-  
18 tion 6103.

19 “(d) COORDINATION WITH OTHER WITHHOLDING  
20 PROVISIONS.—The Secretary shall provide for the coordi-  
21 nation of this chapter with other withholding provisions  
22 under this title, including providing for the proper cred-  
23 iting of amounts deducted and withheld under this chapter  
24 against amounts required to be deducted and withheld  
25 under such other provisions.

1       “(e) TREATMENT OF WITHHOLDING UNDER AGREE-  
2 MENTS.—Any tax deducted and withheld pursuant to an  
3 agreement described in section 1471(b) shall be treated  
4 for purposes of this title as a tax deducted and withheld  
5 by a withholding agent under section 1471(a).

6       “(f) REGULATIONS.—The Secretary shall prescribe  
7 such regulations or other guidance as may be necessary  
8 or appropriate to carry out the purposes of this chapter.”.

9       (b) SPECIAL RULE FOR INTEREST ON OVERPAY-  
10 MENTS.—Subsection (e) of section 6611 is amended by  
11 adding at the end the following new paragraph:

12               “(4) CERTAIN WITHHOLDING TAXES.—In the  
13 case of any overpayment resulting from tax deducted  
14 and withheld under chapter 3 or 4, paragraphs (1),  
15 (2), and (3) shall be applied by substituting ‘180  
16 days’ for ‘45 days’ each place it appears.”.

17       (c) CONFORMING AMENDMENTS.—

18               (1) Section 6414 is amended by inserting “or  
19 4” after “chapter 3”.

20               (2) Paragraph (1) of section 6501(b) is amend-  
21 ed by inserting “4,” after “chapter 3,”.

22               (3) Paragraph (2) of section 6501(b) is amend-  
23 ed—

24                       (A) by inserting “4,” after “chapter 3,” in  
25 the text thereof, and

1 (B) by striking “TAXES AND TAX IMPOSED  
2 BY CHAPTER 3” in the heading thereof and in-  
3 serting “AND WITHHOLDING TAXES”.

4 (4) Paragraph (3) of section 6513(b) is amend-  
5 ed—

6 (A) by inserting “or 4” after “chapter 3”,  
7 and

8 (B) by inserting “or 1474(b)” after “sec-  
9 tion 1462”.

10 (5) Subsection (c) of section 6513 is amended  
11 by inserting “4,” after “chapter 3,”.

12 (6) Paragraph (1) of section 6724(d) is amend-  
13 ed by inserting “under chapter 4 or” after “filed  
14 with the Secretary” in the last sentence thereof.

15 (7) Paragraph (2) of section 6724(d) is amend-  
16 ed by inserting “or 4” after “chapter 3”.

17 (8) The table of chapters of the Internal Rev-  
18 enue Code of 1986 is amended by adding at the end  
19 the following new item:

“CHAPTER 4. TAXES TO ENFORCE REPORTING ON CERTAIN FOREIGN  
ACCOUNTS.”.

20 (d) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as otherwise pro-  
22 vided in this subsection, the amendments made by  
23 this section shall apply to payments made after De-  
24 cember 31, 2012.



1           (2) GRANDFATHERED TREATMENT OF OUT-  
2           STANDING OBLIGATIONS.—The amendments made  
3           by this section shall not require any amount to be  
4           deducted or withheld from any payment under any  
5           obligation outstanding on the date which is 2 years  
6           after the date of the enactment of this Act.

7           (3) INTEREST ON OVERPAYMENTS.—The  
8           amendment made by subsection (b) shall apply—

9                   (A) in the case of such amendment's appli-  
10                  cation to paragraph (1) of section 6611(e) of  
11                  the Internal Revenue Code of 1986, to returns  
12                  the due date for which (determined without re-  
13                  gard to extensions) is after the date of the en-  
14                  actment of this Act,

15                  (B) in the case of such amendment's appli-  
16                  cation to paragraph (2) of such section, to  
17                  claims for credit or refund of any overpayment  
18                  filed after the date of the enactment of this Act  
19                  (regardless of the taxable period to which such  
20                  refund relates), and

21                  (C) in the case of such amendment's appli-  
22                  cation to paragraph (3) of such section, to re-  
23                  funds paid after the date of the enactment of  
24                  this Act (regardless of the taxable period to  
25                  which such refund relates).

1 **SEC. 502. REPEAL OF CERTAIN FOREIGN EXCEPTIONS TO**  
2 **REGISTERED BOND REQUIREMENTS.**

3 (a) REPEAL OF EXCEPTION TO DENIAL OF DEDUC-  
4 TION FOR INTEREST ON NON-REGISTERED BONDS.—

5 (1) IN GENERAL.—Paragraph (2) of section  
6 163(f) is amended by striking subparagraph (B) and  
7 by redesignating subparagraph (C) as subparagraph  
8 (B).

9 (2) CONFORMING AMENDMENTS.—

10 (A) Subparagraph (A) of section 163(f)(2)  
11 is amended by inserting “or” at the end of  
12 clause (ii), by striking “, or” at the end of  
13 clause (iii) and inserting a period, and by strik-  
14 ing clause (iv).

15 (B) Subparagraph (B) of section  
16 163(f)(2), as redesignated by paragraph (1), is  
17 amended—

18 (i) by striking “, and subparagraph  
19 (B),” in the matter preceding clause (i),  
20 and

21 (ii) by amending clause (i) to read as  
22 follows:

23 “(i) such obligation is of a type which  
24 the Secretary has determined by regula-  
25 tions to be used frequently in avoiding  
26 Federal taxes, and”.

1 (C) Sections 165(j)(2)(A) and 1287(b)(1)  
2 are each amended by striking “except that  
3 clause (iv) of subparagraph (A), and subpara-  
4 graph (B), of such section shall not apply”.

5 (b) REPEAL OF TREATMENT AS PORTFOLIO DEBT.—

6 (1) IN GENERAL.—Paragraph (2) of section  
7 871(h) is amended to read as follows:

8 “(2) PORTFOLIO INTEREST.—For purposes of  
9 this subsection, the term ‘portfolio interest’ means  
10 any interest (including original issue discount)  
11 which—

12 “(A) would be subject to tax under sub-  
13 section (a) but for this subsection, and

14 “(B) is paid on an obligation—

15 “(i) which is in registered form, and

16 “(ii) with respect to which—

17 “(I) the United States person  
18 who would otherwise be required to  
19 deduct and withhold tax from such in-  
20 terest under section 1441(a) receives  
21 a statement (which meets the require-  
22 ments of paragraph (5)) that the ben-  
23 efiticial owner of the obligation is not a  
24 United States person, or

1                   “(II) the Secretary has deter-  
2                   mined that such a statement is not re-  
3                   quired in order to carry out the pur-  
4                   poses of this subsection.”.

5                   (2) CONFORMING AMENDMENTS.—

6                   (A) Section 871(h)(3)(A) is amended by  
7                   striking “subparagraph (A) or (B) of”.

8                   (B) Paragraph (2) of section 881(c) is  
9                   amended to read as follows:

10                  “(2) PORTFOLIO INTEREST.—For purposes of  
11                  this subsection, the term ‘portfolio interest’ means  
12                  any interest (including original issue discount)  
13                  which—

14                  “(A) would be subject to tax under sub-  
15                  section (a) but for this subsection, and

16                  “(B) is paid on an obligation—

17                          “(i) which is in registered form, and

18                          “(ii) with respect to which—

19                                  “(I) the person who would other-  
20                                  wise be required to deduct and with-  
21                                  hold tax from such interest under sec-  
22                                  tion 1442(a) receives a statement  
23                                  which meets the requirements of sec-  
24                                  tion 871(h)(5) that the beneficial

1 owner of the obligation is not a  
2 United States person, or

3 “(II) the Secretary has deter-  
4 mined that such a statement is not re-  
5 quired in order to carry out the pur-  
6 poses of this subsection.”.

7 (c) DEMATERIALIZED BOOK ENTRY SYSTEMS  
8 TREATED AS REGISTERED FORM.—Paragraph (3) of sec-  
9 tion 163(f) is amended by inserting “, except that a dema-  
10 terialized book entry system shall be treated as a book  
11 entry system described in such section” before the period  
12 at the end.

13 (d) REPEAL OF EXCEPTION TO REQUIREMENT THAT  
14 TREASURY OBLIGATIONS BE IN REGISTERED FORM.—

15 (1) IN GENERAL.—Subsection (g) of section  
16 3121 of title 31, United States Code, is amended by  
17 striking paragraph (2) and by redesignating para-  
18 graphs (3) and (4) as paragraphs (2) and (3), re-  
19 spectively.

20 (2) CONFORMING AMENDMENTS.—Paragraph  
21 (1) of section 3121(g) of such title is amended—

22 (A) by adding “or” at the end of subpara-  
23 graph (A),

24 (B) by striking “; or” at the end of sub-  
25 paragraph (B) and inserting a period, and

1 (C) by striking subparagraph (C).

2 (e) PRESERVATION OF EXCEPTION FOR EXCISE TAX  
3 PURPOSES.—Paragraph (1) of section 4701(b) is amend-  
4 ed to read as follows:

5 “(1) REGISTRATION-REQUIRED OBLIGATION.—

6 “(A) IN GENERAL.—The term ‘registra-  
7 tion-required obligation’ has the same meaning  
8 as when used in section 163(f), except that  
9 such term shall not include any obligation  
10 which—

11 “(i) is required to be registered under  
12 section 149(a), or

13 “(ii) is described in subparagraph (B).

14 “(B) CERTAIN OBLIGATIONS NOT IN-  
15 CLUDED.—An obligation is described in this  
16 subparagraph if—

17 “(i) there are arrangements reason-  
18 ably designed to ensure that such obliga-  
19 tion will be sold (or resold in connection  
20 with the original issue) only to a person  
21 who is not a United States person,

22 “(ii) interest on such obligation is  
23 payable only outside the United States and  
24 its possessions, and

1                   “(iii) on the face of such obligation  
2                   there is a statement that any United  
3                   States person who holds such obligation  
4                   will be subject to limitations under the  
5                   United States income tax laws.”.

6           (f) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to obligations issued after the date  
8 which is 2 years after the date of the enactment of this  
9 Act.

## 10     **Subtitle B—Under Reporting With** 11           **Respect to Foreign Assets**

### 12     **SEC. 511. DISCLOSURE OF INFORMATION WITH RESPECT** 13           **TO FOREIGN FINANCIAL ASSETS.**

14           (a) IN GENERAL.—Subpart A of part III of sub-  
15 chapter A of chapter 61 is amended by inserting after sec-  
16 tion 6038C the following new section:

#### 17     **“SEC. 6038D. INFORMATION WITH RESPECT TO FOREIGN FI-** 18           **NANCIAL ASSETS.**

19           “(a) IN GENERAL.—Any individual who, during any  
20 taxable year, holds any interest in a specified foreign fi-  
21 nancial asset shall attach to such person’s return of tax  
22 imposed by subtitle A for such taxable year the informa-  
23 tion described in subsection (c) with respect to each such  
24 asset if the aggregate value of all such assets exceeds

1 \$50,000 (or such higher dollar amount as the Secretary  
2 may prescribe).

3 “(b) SPECIFIED FOREIGN FINANCIAL ASSETS.—For  
4 purposes of this section, the term ‘specified foreign finan-  
5 cial asset’ means—

6 “(1) any financial account (as defined in section  
7 1471(d)(2)) maintained by a foreign financial insti-  
8 tution (as defined in section 1471(d)(4)), and

9 “(2) any of the following assets which are not  
10 held in an account maintained by a financial institu-  
11 tion (as defined in section 1471(d)(5))—

12 “(A) any stock or security issued by a per-  
13 son other than a United States person,

14 “(B) any financial instrument or contract  
15 held for investment that has an issuer or  
16 counterparty which is other than a United  
17 States person, and

18 “(C) any interest in a foreign entity (as  
19 defined in section 1473).

20 “(c) REQUIRED INFORMATION.—The information de-  
21 scribed in this subsection with respect to any asset is:

22 “(1) In the case of any account, the name and  
23 address of the financial institution in which such ac-  
24 count is maintained and the number of such ac-  
25 count.



1           “(2) In the case of any stock or security, the  
2 name and address of the issuer and such informa-  
3 tion as is necessary to identify the class or issue of  
4 which such stock or security is a part.

5           “(3) In the case of any other instrument, con-  
6 tract, or interest—

7                 “(A) such information as is necessary to  
8 identify such instrument, contract, or interest,  
9 and

10                “(B) the names and addresses of all  
11 issuers and counterparties with respect to such  
12 instrument, contract, or interest.

13           “(4) The maximum value of the asset during  
14 the taxable year.

15           “(d) PENALTY FOR FAILURE TO DISCLOSE.—

16                 “(1) IN GENERAL.—If any individual fails to  
17 furnish the information described in subsection (c)  
18 with respect to any taxable year at the time and in  
19 the manner described in subsection (a), such person  
20 shall pay a penalty of \$10,000.

21                 “(2) INCREASE IN PENALTY WHERE FAILURE  
22 CONTINUES AFTER NOTIFICATION.—If any failure  
23 described in paragraph (1) continues for more than  
24 90 days after the day on which the Secretary mails  
25 notice of such failure to the individual, such indi-

1       vidual shall pay a penalty (in addition to the pen-  
2       alties under paragraph (1)) of \$10,000 for each 30-  
3       day period (or fraction thereof) during which such  
4       failure continues after the expiration of such 90-day  
5       period. The penalty imposed under this paragraph  
6       with respect to any failure shall not exceed \$50,000.

7       “(e) PRESUMPTION THAT VALUE OF SPECIFIED  
8 FOREIGN FINANCIAL ASSETS EXCEEDS DOLLAR  
9 THRESHOLD.—If—

10           “(1) the Secretary determines that an indi-  
11       vidual has an interest in one or more specified for-  
12       eign financial assets, and

13           “(2) such individual does not provide sufficient  
14       information to demonstrate the aggregate value of  
15       such assets,

16 then the aggregate value of such assets shall be treated  
17 as being in excess of \$50,000 (or such higher dollar  
18 amount as the Secretary prescribes for purposes of sub-  
19 section (a)) for purposes of assessing the penalties im-  
20 posed under this section.

21       “(f) APPLICATION TO CERTAIN ENTITIES.—To the  
22 extent provided by the Secretary in regulations or other  
23 guidance, the provisions of this section shall apply to any  
24 domestic entity which is formed or availed of for purposes  
25 of holding, directly or indirectly, specified foreign financial

1 assets, in the same manner as if such entity were an indi-  
2 vidual.

3 “(g) REASONABLE CAUSE EXCEPTION.—No penalty  
4 shall be imposed by this section on any failure which is  
5 shown to be due to reasonable cause and not due to willful  
6 neglect. The fact that a foreign jurisdiction would impose  
7 a civil or criminal penalty on the taxpayer (or any other  
8 person) for disclosing the required information is not rea-  
9 sonable cause.

10 “(h) REGULATIONS.—The Secretary shall prescribe  
11 such regulations or other guidance as may be necessary  
12 or appropriate to carry out the purposes of this section,  
13 including regulations or other guidance which provide ap-  
14 propriate exceptions from the application of this section  
15 in the case of—

16 “(1) classes of assets identified by the Sec-  
17 retary, including any assets with respect to which  
18 the Secretary determines that disclosure under this  
19 section would be duplicative of other disclosures,

20 “(2) nonresident aliens, and

21 “(3) bona fide residents of any possession of  
22 the United States.”.

23 (b) CLERICAL AMENDMENT.—The table of sections  
24 for subpart A of part III of subchapter A of chapter 61

1 is amended by inserting after the item relating to section  
2 6038C the following new item:

“Sec. 6038D. Information with respect to foreign financial assets.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 the date of the enactment of this Act.

6 **SEC. 512. PENALTIES FOR UNDERPAYMENTS ATTRIB-**  
7 **UTABLE TO UNDISCLOSED FOREIGN FINAN-**  
8 **CIAL ASSETS.**

9 (a) IN GENERAL.—Section 6662 is amended—

10 (1) in subsection (b), by inserting after para-  
11 graph (5) the following new paragraph:

12 “(6) Any undisclosed foreign financial asset un-  
13 derstatement.”, and

14 (2) by adding at the end the following new sub-  
15 section:

16 “(i) UNDISCLOSED FOREIGN FINANCIAL ASSET UN-  
17 DERSTATEMENT.—

18 “(1) IN GENERAL.—For purposes of this sec-  
19 tion, the term ‘undisclosed foreign financial asset  
20 understatement’ means, for any taxable year, the  
21 portion of the understatement for such taxable year  
22 which is attributable to any transaction involving an  
23 undisclosed foreign financial asset.

24 “(2) UNDISCLOSED FOREIGN FINANCIAL  
25 ASSET.—For purposes of this subsection, the term

1 ‘undisclosed foreign financial asset’ means, with re-  
2 spect to any taxable year, any asset with respect to  
3 which information was required to be provided under  
4 section 6038, 6038B, 6038D, 6046A, or 6048 for  
5 such taxable year but was not provided by the tax-  
6 payer as required under the provisions of those sec-  
7 tions.

8 “(3) INCREASE IN PENALTY FOR UNDISCLOSED  
9 FOREIGN FINANCIAL ASSET UNDERSTATEMENTS.—  
10 In the case of any portion of an underpayment  
11 which is attributable to any undisclosed foreign fi-  
12 nancial asset understatement, subsection (a) shall be  
13 applied with respect to such portion by substituting  
14 ‘40 percent’ for ‘20 percent’.”

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 the date of the enactment of this Act.

18 **SEC. 513. MODIFICATION OF STATUTE OF LIMITATIONS**  
19 **FOR SIGNIFICANT OMISSION OF INCOME IN**  
20 **CONNECTION WITH FOREIGN ASSETS.**

21 (a) EXTENSION OF STATUTE OF LIMITATIONS.—

22 (1) IN GENERAL.—Paragraph (1) of section  
23 6501(e) is amended by redesignating subparagraphs  
24 (A) and (B) as subparagraphs (B) and (C), respec-

1 tively, and by inserting before subparagraph (B) (as  
2 so redesignated) the following new subparagraph:

3 “(A) GENERAL RULE.—If the taxpayer  
4 omits from gross income an amount properly  
5 includible therein and—

6 “(i) such amount is in excess of 25  
7 percent of the amount of gross income  
8 stated in the return, or

9 “(ii) such amount—

10 “(I) is attributable to one or  
11 more assets with respect to which in-  
12 formation is required to be reported  
13 under section 6038D (or would be so  
14 required if such section were applied  
15 without regard to the dollar threshold  
16 specified in subsection (a) thereof and  
17 without regard to any exceptions pro-  
18 vided pursuant to subsection (h)(1)  
19 thereof), and

20 “(II) is in excess of \$5,000,  
21 the tax may be assessed, or a proceeding in  
22 court for collection of such tax may be begun  
23 without assessment, at any time within 6 years  
24 after the return was filed.”.

25 (2) CONFORMING AMENDMENTS.—

1           (A) Subparagraph (B) of section  
2           6501(e)(1), as redesignated by paragraph (1),  
3           is amended by striking all that precedes clause  
4           (i) and inserting the following:

5           “(B) DETERMINATION OF GROSS IN-  
6           COME.—For purposes of subparagraph (A)—”.

7           (B) Paragraph (2) of section 6229(e) is  
8           amended by striking “which is in excess of 25  
9           percent of the amount of gross income stated in  
10          its return” and inserting “and such amount is  
11          described in clause (i) or (ii) of section  
12          6501(e)(1)(A)”.

13          (b) ADDITIONAL REPORTS SUBJECT TO EXTENDED  
14          PERIOD.—Paragraph (8) of section 6501(c) is amended—

15               (1) by inserting “pursuant to an election under  
16               section 1295(b) or” before “under section 6038”,

17               (2) by inserting “1298(f),” before “6038”, and

18               (3) by inserting “6038D,” after “6038B,”.

19          (c) CLARIFICATIONS RELATED TO FAILURE TO DIS-  
20          CLOSE FOREIGN TRANSFERS.—Paragraph (8) of section

21          6501(c) is amended by striking “event” and inserting “tax  
22          return, event,”.

23          (d) EFFECTIVE DATE.—The amendments made by  
24          this section shall apply to—

1 (1) returns filed after the date of the enactment  
2 of this Act; and

3 (2) returns filed on or before such date if the  
4 period specified in section 6501 of the Internal Rev-  
5 enue Code of 1986 (determined without regard to  
6 such amendments) for assessment of such taxes has  
7 not expired as of such date.

8 **Subtitle C—Other Disclosure**  
9 **Provisions**

10 **SEC. 521. REPORTING OF ACTIVITIES WITH RESPECT TO**  
11 **PASSIVE FOREIGN INVESTMENT COMPANIES.**

12 (a) IN GENERAL.—Section 1298 is amended by re-  
13 designating subsection (f) as subsection (g) and by insert-  
14 ing after subsection (e) the following new subsection:

15 “(f) REPORTING REQUIREMENT.—Except as other-  
16 wise provided by the Secretary, each United States person  
17 who is a shareholder of a passive foreign investment com-  
18 pany shall file an annual report containing such informa-  
19 tion as the Secretary may require.”.

20 (b) CONFORMING AMENDMENT.—Subsection (e) of  
21 section 1291 is amended by striking “, (d), and (f)” and  
22 inserting “and (d)”.

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



1 **SEC. 522. SECRETARY PERMITTED TO REQUIRE FINANCIAL**  
2 **INSTITUTIONS TO FILE CERTAIN RETURNS**  
3 **RELATED TO WITHHOLDING ON FOREIGN**  
4 **TRANSFERS ELECTRONICALLY.**

5 (a) **IN GENERAL.**—Subsection (e) of section 6011 is  
6 amended by adding at the end the following new para-  
7 graph:

8 “(3) **SPECIAL RULE FOR RETURNS FILED BY**  
9 **FINANCIAL INSTITUTIONS WITH RESPECT TO WITH-**  
10 **HOLDING ON FOREIGN TRANSFERS.**—Paragraph  
11 (2)(A) shall not apply to any return filed by a finan-  
12 cial institution (as defined in section 1471(d)(5))  
13 with respect to tax for which such institution is  
14 made liable under section 1461 or 1474(a).”.

15 (b) **CONFORMING AMENDMENT.**—Subsection (c) of  
16 section 6724 is amended by inserting “or with respect to  
17 a return described in section 6011(e)(3)”.

18 (c) **EFFECTIVE DATE.**—The amendment made by  
19 this section shall apply to returns the due date for which  
20 (determined without regard to extensions) is after the date  
21 of the enactment of this Act.

1     **Subtitle D—Provisions Related to**  
2                     **Foreign Trusts**

3     **SEC. 531. CLARIFICATIONS WITH RESPECT TO FOREIGN**  
4                     **TRUSTS WHICH ARE TREATED AS HAVING A**  
5                     **UNITED STATES BENEFICIARY.**

6             (a) IN GENERAL.—Paragraph (1) of section 679(c)  
7 is amended by adding at the end the following:

8             “For purposes of subparagraph (A), an amount  
9 shall be treated as accumulated for the benefit of a  
10 United States person even if the United States per-  
11 son’s interest in the trust is contingent on a future  
12 event.”.

13             (b) CLARIFICATION REGARDING DISCRETION TO  
14 IDENTIFY BENEFICIARIES.—Subsection (c) of section 679  
15 is amended by adding at the end the following new para-  
16 graph:

17             “(4) SPECIAL RULE IN CASE OF DISCRETION TO  
18 IDENTIFY BENEFICIARIES.—For purposes of para-  
19 graph (1)(A), if any person has the discretion (by  
20 authority given in the trust agreement, by power of  
21 appointment, or otherwise) of making a distribution  
22 from the trust to, or for the benefit of, any person,  
23 such trust shall be treated as having a beneficiary  
24 who is a United States person unless—

1           “(A) the terms of the trust specifically  
2 identify the class of persons to whom such dis-  
3 tributions may be made, and

4           “(B) none of those persons are United  
5 States persons during the taxable year.”.

6           (c) CLARIFICATION THAT CERTAIN AGREEMENTS  
7 AND UNDERSTANDINGS ARE TERMS OF THE TRUST.—  
8 Subsection (c) of section 679, as amended by subsection  
9 (b), is amended by adding at the end the following new  
10 paragraph:

11           “(5) CERTAIN AGREEMENTS AND UNDER-  
12 STANDINGS TREATED AS TERMS OF THE TRUST.—  
13 For purposes of paragraph (1)(A), if any United  
14 States person who directly or indirectly transfers  
15 property to the trust is directly or indirectly involved  
16 in any agreement or understanding (whether writ-  
17 ten, oral, or otherwise) that may result in the in-  
18 come or corpus of the trust being paid or accumu-  
19 lated to or for the benefit of a United States person,  
20 such agreement or understanding shall be treated as  
21 a term of the trust.”.

1 **SEC. 532. PRESUMPTION THAT FOREIGN TRUST HAS**  
2 **UNITED STATES BENEFICIARY.**

3 (a) IN GENERAL.—Section 679 is amended by redес-  
4 ignating subsection (d) as subsection (e) and inserting  
5 after subsection (e) the following new subsection:

6 “(d) PRESUMPTION THAT FOREIGN TRUST HAS  
7 UNITED STATES BENEFICIARY.—If a United States per-  
8 son directly or indirectly transfers property to a foreign  
9 trust (other than a trust described in section  
10 6048(a)(3)(B)(ii)), the Secretary may treat such trust as  
11 having a United States beneficiary for purposes of apply-  
12 ing this section to such transfer unless such person—

13 “(1) submits such information to the Secretary  
14 as the Secretary may require with respect to such  
15 transfer, and

16 “(2) demonstrates to the satisfaction of the  
17 Secretary that such trust satisfies the requirements  
18 of subparagraphs (A) and (B) of subsection (c)(1).”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to transfers of property after the  
21 date of the enactment of this Act.

22 **SEC. 533. UNCOMPENSATED USE OF TRUST PROPERTY.**

23 (a) IN GENERAL.—Paragraph (1) of section 643(i)  
24 is amended—

1           (1) by striking “directly or indirectly to” and  
2           inserting “(or permits the use of any other trust  
3           property) directly or indirectly to or by”, and

4           (2) by inserting “(or the fair market value of  
5           the use of such property)” after “the amount of  
6           such loan”.

7           (b) EXCEPTION FOR COMPENSATED USE.—Para-  
8           graph (2) of section 643(i) is amended by adding at the  
9           end the following new subparagraph:

10                   “(E) EXCEPTION FOR COMPENSATED USE  
11                   OF PROPERTY.—In the case of the use of any  
12                   trust property other than a loan of cash or  
13                   marketable securities, paragraph (1) shall not  
14                   apply to the extent that the trust is paid the  
15                   fair market value of such use within a reason-  
16                   able period of time of such use.”.

17           (c) APPLICATION TO GRANTOR TRUSTS.—Subsection  
18           (c) of section 679, as amended by section 531, is amended  
19           by adding at the end the following new paragraph:

20                   “(6) UNCOMPENSATED USE OF TRUST PROP-  
21                   ERTY TREATED AS A PAYMENT.—For purposes of  
22                   this subsection, a loan of cash or marketable securi-  
23                   ties (or the use of any other trust property) directly  
24                   or indirectly to or by any United States person  
25                   (whether or not a beneficiary under the terms of the

1 trust) shall be treated as paid or accumulated for  
2 the benefit of a United States person. The preceding  
3 sentence shall not apply to the extent that the  
4 United States person repays the loan at a market  
5 rate of interest (or pays the fair market value of the  
6 use of such property) within a reasonable period of  
7 time.”.

8 (d) CONFORMING AMENDMENTS.—Paragraph (3) of  
9 section 643(i) is amended—

10 (1) by inserting “(or use of property)” after “If  
11 any loan”,

12 (2) by inserting “or the return of such prop-  
13 erty” before “shall be disregarded”, and

14 (3) by striking “REGARDING LOAN PRINCIPAL”  
15 in the heading thereof.

16 (e) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to loans made, and uses of prop-  
18 erty, after the date of the enactment of this Act.

19 **SEC. 534. REPORTING REQUIREMENT OF UNITED STATES**  
20 **OWNERS OF FOREIGN TRUSTS.**

21 (a) IN GENERAL.—Paragraph (1) of section 6048(b)  
22 is amended by inserting “shall submit such information  
23 as the Secretary may prescribe with respect to such trust  
24 for such year and” before “shall be responsible to ensure”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 535. MINIMUM PENALTY WITH RESPECT TO FAILURE**  
5 **TO REPORT ON CERTAIN FOREIGN TRUSTS.**

6 (a) IN GENERAL.—Subsection (a) of section 6677 is  
7 amended—

8 (1) by inserting “the greater of \$10,000 or” be-  
9 fore “35 percent”, and

10 (2) by striking the last sentence and inserting  
11 the following: “At such time as the gross reportable  
12 amount with respect to any failure can be deter-  
13 mined by the Secretary, any subsequent penalty im-  
14 posed under this subsection with respect to such fail-  
15 ure shall be reduced as necessary to assure that the  
16 aggregate amount of such penalties do not exceed  
17 the gross reportable amount (and to the extent that  
18 such aggregate amount already exceeds the gross re-  
19 reportable amount the Secretary shall refund such ex-  
20 cess to the taxpayer).”

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to notices and returns required to  
23 be filed after December 31, 2009.

1 **Subtitle E—Substitute Dividends**  
2 **and Dividend Equivalent Pay-**  
3 **ments Received by Foreign Per-**  
4 **sons Treated as Dividends**

5 **SEC. 541. SUBSTITUTE DIVIDENDS AND DIVIDEND EQUIVA-**  
6 **LENT PAYMENTS RECEIVED BY FOREIGN**  
7 **PERSONS TREATED AS DIVIDENDS.**

8 (a) IN GENERAL.—Section 871 is amended by redес-  
9 ignating subsection (l) as subsection (m) and by inserting  
10 after subsection (k) the following new subsection:

11 “(l) TREATMENT OF DIVIDEND EQUIVALENT PAY-  
12 MENTS.—

13 “(1) IN GENERAL.—For purposes of this sec-  
14 tion, sections 881 and 4948(a), and chapters 3 and  
15 4, a dividend equivalent shall be treated as a divi-  
16 dend from sources within the United States.

17 “(2) DIVIDEND EQUIVALENT.—For purposes of  
18 this subsection, the term ‘dividend equivalent’  
19 means—

20 “(A) any substitute dividend,

21 “(B) any payment made pursuant to a  
22 specified notional principal contract that (di-  
23 rectly or indirectly) is contingent upon, or de-  
24 termined by reference to, the payment of a divi-



1           dend from sources within the United States,  
2           and

3           “(C) any other payment determined by the  
4           Secretary to be substantially similar to a pay-  
5           ment described in subparagraph (A) or (B).

6           “(3) SPECIFIED NOTIONAL PRINCIPAL CON-  
7           TRACT.—For purposes of this subsection, the term  
8           ‘specified notional principal contract’ means—

9           “(A) any notional principal contract if—

10           “(i) in connection with entering into  
11           such contract, any long party transfers the  
12           underlying security,

13           “(ii) in connection with the termi-  
14           nation of such contract, any short party  
15           transfers the underlying security to any  
16           long party,

17           “(iii) the underlying security is not  
18           readily tradable on an established securi-  
19           ties market,

20           “(iv) in connection with entering into  
21           such contract, the underlying security is  
22           posted as collateral by any short party to  
23           the contract, or

1                   “(v) such contract is identified by the  
2                   Secretary as a specified notional principal  
3                   contract,

4                   “(B) in the case of payments made after  
5                   the date which is 2 years after the date of the  
6                   enactment of this subsection, any notional prin-  
7                   cipal contract unless the Secretary determines  
8                   that such contract is of a type which does not  
9                   have the potential for tax avoidance.

10                   “(4) DEFINITIONS.—For purposes of paragraph  
11                   (3)(A)—

12                   “(A) LONG PARTY.—The term ‘long party’  
13                   means, with respect to any underlying security  
14                   of any notional principal contract, any party to  
15                   the contract which is entitled to receive any  
16                   payment pursuant to such contract which is  
17                   contingent upon, or determined by reference to,  
18                   the payment of a dividend from sources within  
19                   the United States with respect to such under-  
20                   lying security.

21                   “(B) SHORT PARTY.—The term ‘short  
22                   party’ means, with respect to any underlying se-  
23                   curity of any notional principal contract, any  
24                   party to the contract which is not a long party  
25                   with respect to such underlying security.

1           “(C) UNDERLYING SECURITY.—The term  
2           ‘underlying security’ means, with respect to any  
3           notional principal contract, the security with re-  
4           spect to which the dividend referred to in para-  
5           graph (2)(B) is paid. For purposes of this para-  
6           graph, any index or fixed basket of securities  
7           shall be treated as a single security.

8           “(5) PAYMENTS DETERMINED ON GROSS  
9           BASIS.—For purposes of this subsection, the term  
10          ‘payment’ includes any gross amount which is used  
11          in computing any net amount which is transferred to  
12          or from the taxpayer.

13          “(6) PREVENTION OF OVER-WITHHOLDING.—In  
14          the case of any chain of dividend equivalents one or  
15          more of which is subject to tax under this section or  
16          section 881, the Secretary may reduce such tax, but  
17          only to the extent that the taxpayer can establish  
18          that such tax has been paid with respect to another  
19          dividend equivalent in such chain. For purposes of  
20          this paragraph, a dividend shall be treated as a divi-  
21          dend equivalent.

22          “(7) COORDINATION WITH CHAPTERS 3 AND  
23          4.—For purposes of chapters 3 and 4, each person  
24          that is a party to any contract or other arrangement  
25          that provides for the payment of a dividend equiva-

1       lent shall be treated as having control of such pay-  
2       ment.”.

3       (b) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to payments made on or after the  
5 date that is 90 days after the date of the enactment of  
6 this Act.

7       **TITLE VI—OTHER REVENUE**  
8       **PROVISIONS**

9       **Subtitle A—Partnership Interests**  
10      **Held by Partners Providing**  
11      **Services**

12      **SEC. 601. PARTNERSHIP INTERESTS TRANSFERRED IN**  
13                      **CONNECTION WITH PERFORMANCE OF SERV-**  
14                      **ICES.**

15      (a) **MODIFICATION TO ELECTION TO INCLUDE PART-**  
16 **nership Interest in Gross Income in Year of**  
17 **Transfer.**—Subsection (c) of section 83 is amended by  
18 redesignating paragraph (4) as paragraph (5) and by in-  
19 serting after paragraph (3) the following new paragraph:

20                      “(4) **PARTNERSHIP INTERESTS.**—Except as  
21                      provided by the Secretary, in the case of any trans-  
22                      fer of an interest in a partnership in connection with  
23                      the provision of services to (or for the benefit of)  
24                      such partnership—

1           “(A) the fair market value of such interest  
2           shall be treated for purposes of this section as  
3           being equal to the amount of the distribution  
4           which the partner would receive if the partner-  
5           ship sold (at the time of the transfer) all of its  
6           assets at fair market value and distributed the  
7           proceeds of such sale (reduced by the liabilities  
8           of the partnership) to its partners in liquidation  
9           of the partnership, and

10           “(B) the person receiving such interest  
11           shall be treated as having made the election  
12           under subsection (b)(1) unless such person  
13           makes an election under this paragraph to have  
14           such subsection not apply.”.

15           (b) CONFORMING AMENDMENT.—Paragraph (2) of  
16           section 83(b) is amended by inserting “or subsection  
17           (c)(4)(B)” after “paragraph (1)”.

18           (c) EFFECTIVE DATE.—The amendments made by  
19           this section shall apply to interests in partnerships trans-  
20           ferred after the date of the enactment of this Act.

1 **SEC. 602. INCOME OF PARTNERS FOR PERFORMING IN-**  
2 **VESTMENT MANAGEMENT SERVICES TREAT-**  
3 **ED AS ORDINARY INCOME RECEIVED FOR**  
4 **PERFORMANCE OF SERVICES.**

5 (a) IN GENERAL.—Part I of subchapter K of chapter  
6 1 is amended by adding at the end the following new sec-  
7 tion:

8 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-**  
9 **VESTMENT MANAGEMENT SERVICES TO**  
10 **PARTNERSHIP.**

11 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF  
12 PARTNERSHIP ITEMS.—For purposes of this title, in the  
13 case of an investment services partnership interest—

14 “(1) IN GENERAL.—Notwithstanding section  
15 702(b)—

16 “(A) any net income with respect to such  
17 interest for any partnership taxable year shall  
18 be treated as ordinary income, and

19 “(B) any net loss with respect to such in-  
20 terest for such year, to the extent not dis-  
21 allowed under paragraph (2) for such year,  
22 shall be treated as an ordinary loss.

23 All items of income, gain, deduction, and loss which  
24 are taken into account in computing net income or  
25 net loss shall be treated as ordinary income or ordi-  
26 nary loss (as the case may be).

1           “(2) TREATMENT OF LOSSES.—

2                   “(A) LIMITATION.—Any net loss with re-  
3           spect to such interest shall be allowed for any  
4           partnership taxable year only to the extent that  
5           such loss does not exceed the excess (if any)  
6           of—

7                           “(i) the aggregate net income with re-  
8                           spect to such interest for all prior partner-  
9                           ship taxable years, over

10                           “(ii) the aggregate net loss with re-  
11                           spect to such interest not disallowed under  
12                           this subparagraph for all prior partnership  
13                           taxable years.

14                   “(B) CARRYFORWARD.—Any net loss for  
15           any partnership taxable year which is not al-  
16           lowed by reason of subparagraph (A) shall be  
17           treated as an item of loss with respect to such  
18           partnership interest for the succeeding partner-  
19           ship taxable year.

20                   “(C) BASIS ADJUSTMENT.—No adjustment  
21           to the basis of a partnership interest shall be  
22           made on account of any net loss which is not  
23           allowed by reason of subparagraph (A).

24                   “(D) PRIOR PARTNERSHIP YEARS.—Any  
25           reference in this paragraph to prior partnership

1 taxable years shall only include prior partner-  
2 ship taxable years to which this section applies.

3 “(3) NET INCOME AND LOSS.—For purposes of  
4 this section—

5 “(A) NET INCOME.—The term ‘net in-  
6 come’ means, with respect to any investment  
7 services partnership interest for any partner-  
8 ship taxable year, the excess (if any) of—

9 “(i) all items of income and gain  
10 taken into account by the holder of such  
11 interest under section 702 with respect to  
12 such interest for such year, over

13 “(ii) all items of deduction and loss so  
14 taken into account.

15 “(B) NET LOSS.—The term ‘net loss’  
16 means, with respect to such interest for such  
17 year, the excess (if any) of the amount de-  
18 scribed in subparagraph (A)(ii) over the amount  
19 described in subparagraph (A)(i).

20 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

21 “(1) GAIN.—Any gain on the disposition of an  
22 investment services partnership interest shall be  
23 treated as ordinary income and shall be recognized  
24 notwithstanding any other provision of this subtitle.



1           “(2) LOSS.—Any loss on the disposition of an  
2 investment services partnership interest shall be  
3 treated as an ordinary loss to the extent of the ex-  
4 cess (if any) of—

5                   “(A) the aggregate net income with respect  
6 to such interest for all partnership taxable  
7 years, over

8                   “(B) the aggregate net loss with respect to  
9 such interest allowed under subsection (a)(2)  
10 for all partnership taxable years.

11           “(3) DISPOSITION OF PORTION OF INTEREST.—  
12 In the case of any disposition of an investment serv-  
13 ices partnership interest, the amount of net loss  
14 which otherwise would have (but for subsection  
15 (a)(2)(C)) applied to reduce the basis of such inter-  
16 est shall be disregarded for purposes of this section  
17 for all succeeding partnership taxable years.

18           “(4) DISTRIBUTIONS OF PARTNERSHIP PROP-  
19 erty.—In the case of any distribution of property  
20 by a partnership with respect to any investment  
21 services partnership interest held by a partner—

22                   “(A) the excess (if any) of—

23                           “(i) the fair market value of such  
24 property at the time of such distribution,  
25 over

1                   “(ii) the adjusted basis of such prop-  
2                   erty in the hands of the partnership,  
3                   shall be taken into account as an increase in  
4                   such partner’s distributive share of the taxable  
5                   income of the partnership (except to the extent  
6                   such excess is otherwise taken into account in  
7                   determining the taxable income of the partner-  
8                   ship),

9                   “(B) such property shall be treated for  
10                  purposes of subpart B of part II as money dis-  
11                  tributed to such partner in an amount equal to  
12                  such fair market value, and

13                  “(C) the basis of such property in the  
14                  hands of such partner shall be such fair market  
15                  value.

16                  Subsection (b) of section 734 shall be applied with-  
17                  out regard to the preceding sentence.

18                  “(5) APPLICATION OF SECTION 751.—In apply-  
19                  ing section 751(a), an investment services partner-  
20                  ship interest shall be treated as an inventory item.

21                  “(c) INVESTMENT SERVICES PARTNERSHIP INTER-  
22                  EST.—For purposes of this section—

23                  “(1) IN GENERAL.—The term ‘investment serv-  
24                  ices partnership interest’ means any interest in a  
25                  partnership which is held (directly or indirectly) by

1 any person if it was reasonably expected (at the time  
2 that such person acquired such interest) that such  
3 person (or any person related to such person) would  
4 provide (directly or indirectly) a substantial quantity  
5 of any of the following services with respect to assets  
6 held (directly or indirectly) by the partnership:

7 “(A) Advising as to the advisability of in-  
8 vesting in, purchasing, or selling any specified  
9 asset.

10 “(B) Managing, acquiring, or disposing of  
11 any specified asset.

12 “(C) Arranging financing with respect to  
13 acquiring specified assets.

14 “(D) Any activity in support of any service  
15 described in subparagraphs (A) through (C).

16 For purposes of this paragraph, the term ‘specified  
17 asset’ means securities (as defined in section  
18 475(c)(2) without regard to the last sentence there-  
19 of), real estate held for rental or investment, inter-  
20 ests in partnerships, commodities (as defined in sec-  
21 tion 475(e)(2)), or options or derivative contracts  
22 with respect to any of the foregoing.

23 “(2) EXCEPTION FOR CERTAIN CAPITAL INTER-  
24 ESTS.—

1           “(A) IN GENERAL.—In the case of any  
2           portion of an investment services partnership  
3           interest which is a qualified capital interest, all  
4           items of income, gain, loss, and deduction which  
5           are allocated to such qualified capital interest  
6           shall not be taken into account under sub-  
7           section (a) if—

8                   “(i) allocations of items are made by  
9                   the partnership to such qualified capital  
10                  interest in the same manner as such allo-  
11                  cations are made to other qualified capital  
12                  interests held by partners who do not pro-  
13                  vide any services described in paragraph  
14                  (1) and who are not related to the partner  
15                  holding the qualified capital interest, and

16                   “(ii) the allocations made to such  
17                   other interests are significant compared to  
18                   the allocations made to such qualified cap-  
19                   ital interest.

20           “(B) SPECIAL RULE FOR NO OR INSIGNIFI-  
21           CANT ALLOCATIONS TO NONSERVICE PRO-  
22           VIDERS.—To the extent provided by the Sec-  
23           retary in regulations or other guidance, in any  
24           case in which the requirements of subparagraph  
25           (A)(ii) are not satisfied, items of income, gain,

1 loss, and deduction shall not be taken into ac-  
2 count under subsection (a) to the extent that  
3 such items are properly allocable under such  
4 regulations or other guidance to qualified cap-  
5 ital interests.

6 “(C) SPECIAL RULE FOR DISPOSITIONS.—  
7 In the case of any investment services partner-  
8 ship interest any portion of which is a qualified  
9 capital interest, subsection (b) shall not apply  
10 to so much of any gain or loss as bears the  
11 same proportion to the entire amount of such  
12 gain or loss as—

13 “(i) the distributive share of gain or  
14 loss that would have been allocable to the  
15 qualified capital interest under subpara-  
16 graph (A) if the partnership sold all of its  
17 assets immediately before the disposition,  
18 bears to

19 “(ii) the distributive share of gain or  
20 loss that would have been so allocable to  
21 the investment services partnership inter-  
22 est of which such qualified capital interest  
23 is a part.

24 “(D) QUALIFIED CAPITAL INTEREST.—For  
25 purposes of this paragraph, the term ‘qualified

1 capital interest' means so much of a partner's  
2 interest in the capital of the partnership as is  
3 attributable to—

4 “(i) the fair market value of any  
5 money or other property contributed to the  
6 partnership in exchange for such interest  
7 (determined without regard to section  
8 752(a)) ,

9 “(ii) any amounts which have been in-  
10 cluded in gross income under section 83  
11 with respect to the transfer of such inter-  
12 est, and

13 “(iii) the excess (if any) of—

14 “(I) any items of income and  
15 gain taken into account under section  
16 702 with respect to such interest for  
17 taxable years to which this section ap-  
18 plies, over

19 “(II) any items of deduction and  
20 loss so taken into account.

21 The qualified capital interest shall be reduced  
22 by distributions from the partnership with re-  
23 spect to such interest for taxable years to which  
24 this section applies and by the excess (if any)

1 of the amount described in clause (iii)(II) over  
2 the amount described in clause (iii)(I).

3 “(E) TREATMENT OF CERTAIN LOANS.—

4 “(i) PROCEEDS OF PARTNERSHIP  
5 LOANS NOT TREATED AS QUALIFIED CAP-  
6 ITAL INTEREST OF SERVICE PROVIDING  
7 PARTNERS.—For purposes of this para-  
8 graph, an investment services partnership  
9 interest shall not be treated as a qualified  
10 capital interest to the extent that such in-  
11 terest is acquired in connection with the  
12 proceeds of any loan or other advance  
13 made or guaranteed, directly or indirectly,  
14 by any other partner or the partnership (or  
15 any person related to any such other part-  
16 ner or the partnership).

17 “(ii) REDUCTION IN ALLOCATIONS TO  
18 QUALIFIED CAPITAL INTERESTS FOR  
19 LOANS FROM NONSERVICE PROVIDING  
20 PARTNERS TO THE PARTNERSHIP.—For  
21 purposes of this paragraph, any loan or  
22 other advance to the partnership made or  
23 guaranteed, directly or indirectly, by a  
24 partner not providing services described in  
25 paragraph (1) to the partnership (or any

1 person related to such partner) shall be  
2 taken into account in determining the  
3 qualified capital interests of the partners  
4 in the partnership.

5 “(3) RELATED PERSONS.—A person shall be  
6 treated as related to another person if the relation-  
7 ship between such persons would result in a dis-  
8 allowance of losses under section 267 or 707(b).

9 “(d) OTHER INCOME AND GAIN IN CONNECTION  
10 WITH INVESTMENT MANAGEMENT SERVICES.—

11 “(1) IN GENERAL.—If—

12 “(A) a person performs (directly or indi-  
13 rectly) investment management services for any  
14 entity,

15 “(B) such person holds (directly or indi-  
16 rectly) a disqualified interest with respect to  
17 such entity, and

18 “(C) the value of such interest (or pay-  
19 ments thereunder) is substantially related to  
20 the amount of income or gain (whether or not  
21 realized) from the assets with respect to which  
22 the investment management services are per-  
23 formed,

24 any income or gain with respect to such interest  
25 shall be treated as ordinary income. Rules similar to



1 the rules of subsection (c)(2) shall apply for pur-  
2 poses of this subsection.

3 “(2) DEFINITIONS.—For purposes of this sub-  
4 section—

5 “(A) DISQUALIFIED INTEREST.—

6 “(i) IN GENERAL.—The term ‘dis-  
7 qualified interest’ means, with respect to  
8 any entity—

9 “(I) any interest in such entity  
10 other than indebtedness,

11 “(II) convertible or contingent  
12 debt of such entity,

13 “(III) any option or other right  
14 to acquire property described in sub-  
15 clause (I) or (II), and

16 “(IV) any derivative instrument  
17 entered into (directly or indirectly)  
18 with such entity or any investor in  
19 such entity.

20 “(ii) EXCEPTIONS.—Such term shall  
21 not include—

22 “(I) a partnership interest,

23 “(II) except as provided by the  
24 Secretary, any interest in a taxable  
25 corporation, and

1                   “(III) except as provided by the  
2                   Secretary, stock in an S corporation.

3                   “(B) TAXABLE CORPORATION.—The term  
4                   ‘taxable corporation’ means—

5                   “(i) a domestic C corporation, or

6                   “(ii) a foreign corporation substan-  
7                   tially all of the income of which is—

8                   “(I) effectively connected with  
9                   the conduct of a trade or business in  
10                  the United States, or

11                  “(II) subject to a comprehensive  
12                  foreign income tax (as defined in sec-  
13                  tion 457A(d)(2)).

14                  “(C) INVESTMENT MANAGEMENT SERV-  
15                  ICES.—The term ‘investment management serv-  
16                  ices’ means a substantial quantity of any of the  
17                  services described in subsection (c)(1).

18                  “(e) REGULATIONS.—The Secretary shall prescribe  
19                  such regulations or other guidance as is necessary or ap-  
20                  propriate to carry out the purposes of this section, includ-  
21                  ing regulations or other guidance to—

22                  “(1) provide modifications to the application of  
23                  this section (including treating related persons as  
24                  not related to one another) to the extent such modi-

1       fication is consistent with the purposes of this sec-  
2       tion,

3           “(2) prevent the avoidance of the purposes of  
4       this section, and

5           “(3) coordinate this section with the other pro-  
6       visions of this title.

7       “(f) CROSS REFERENCE.—For 40 percent penalty on  
8       certain underpayments due to the avoidance of this sec-  
9       tion, see section 6662.”.

10       (b) INCOME FROM INVESTMENT SERVICES PART-  
11       NERSHIP INTERESTS NOT TREATED AS QUALIFYING IN-  
12       COME OF PUBLICLY TRADED PARTNERSHIPS.—Sub-  
13       section (d) of section 7704 is amended by adding at the  
14       end the following new paragraph:

15           “(6) INCOME FROM INVESTMENT SERVICES  
16       PARTNERSHIP INTERESTS NOT QUALIFIED.—

17           “(A) IN GENERAL.—Items of income and  
18       gain shall not be treated as qualifying income  
19       if such items are treated as ordinary income by  
20       reason of the application of section 710 (relat-  
21       ing to special rules for partners providing in-  
22       vestment management services to partnership).

23           “(B) SPECIAL RULES FOR CERTAIN PART-  
24       NERSHIPS.—

1           “(i) CERTAIN PARTNERSHIPS OWNED  
2 BY REAL ESTATE INVESTMENT TRUSTS.—  
3 Subparagraph (A) shall not apply in the  
4 case of a partnership which meets each of  
5 the following requirements:

6           “(I) Such partnership is treated  
7 as publicly traded under this section  
8 solely by reason of interests in such  
9 partnership being convertible into in-  
10 terests in a real estate investment  
11 trust which is publicly traded.

12           “(II) 50 percent or more of the  
13 capital and profits interests of such  
14 partnership are owned, directly or in-  
15 directly, at all times during the tax-  
16 able year by such real estate invest-  
17 ment trust (determined with the ap-  
18 plication of section 267(c)).

19           “(III) Such partnership meets  
20 the requirements of paragraphs (2),  
21 (3), and (4) of section 856(c).

22           “(ii) CERTAIN PARTNERSHIPS OWN-  
23 ING OTHER PUBLICLY TRADED PARTNER-  
24 SHIPS.—Subparagraph (A) shall not apply

1 in the case of a partnership which meets  
2 each of the following requirements:

3 “(I) Substantially all of the as-  
4 sets of such partnership consist of in-  
5 terests in one or more publicly traded  
6 partnerships (determined without re-  
7 gard to subsection (b)(2)).

8 “(II) Substantially all of the in-  
9 come of such partnership is ordinary  
10 income or section 1231 gain (as de-  
11 fined in section 1231(a)(3)).

12 “(C) TRANSITIONAL RULE.—In the case of  
13 a partnership which is a publicly traded part-  
14 nership on the date of the enactment of this  
15 paragraph, subparagraph (A) shall not apply to  
16 any taxable year of the partnership beginning  
17 before the date which is 10 years after the date  
18 of the enactment of this paragraph.”.

19 (c) IMPOSITION OF PENALTY ON UNDERPAY-  
20 MENTS.—

21 (1) IN GENERAL.—Subsection (b) of section  
22 6662, as amended by section 512, is amended by in-  
23 sserting after paragraph (6) the following new para-  
24 graph:

1           “(7) The application of subsection (d) of section  
2           710 or the regulations prescribed under section  
3           710(e) to prevent the avoidance of the purposes of  
4           section 710.”.

5           (2) AMOUNT OF PENALTY.—

6           (A) IN GENERAL.—Section 6662, as  
7           amended by section 512, is amended by adding  
8           at the end the following new subsection:

9           “(j) INCREASE IN PENALTY IN CASE OF PROPERTY  
10          TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-  
11          ICES.—In the case of any portion of an underpayment to  
12          which this section applies by reason of subsection (b)(7),  
13          subsection (a) shall be applied with respect to such portion  
14          by substituting ‘40 percent’ for ‘20 percent’.”.

15          (B) CONFORMING AMENDMENTS.—Sub-  
16          paragraph (B) of section 6662A(e)(2) is  
17          amended—

18                  (i) by striking “section 6662(h)” and  
19                  inserting “subsection (h) or (i) of section  
20                  6662”, and

21                  (ii) by striking “GROSS VALUATION  
22                  MISSTATEMENT PENALTY” in the heading  
23                  and inserting “CERTAIN INCREASED UN-  
24                  DERPAYMENT PENALTIES”.

1           (3) SPECIAL RULES FOR APPLICATION OF REA-  
2           SONABLE CAUSE EXCEPTION.—Subsection (c) of sec-  
3           tion 6664 is amended—

4                   (A) by redesignating paragraphs (2) and  
5                   (3) as paragraphs (3) and (4), respectively,

6                   (B) by striking “paragraph (2)” in para-  
7                   graph (4), as so redesignated, and inserting  
8                   “paragraph (3)”, and

9                   (C) by inserting after paragraph (1) the  
10                  following new paragraph:

11                 “(2) SPECIAL RULE FOR UNDERPAYMENTS AT-  
12                 TRIBUTABLE TO INVESTMENT MANAGEMENT SERV-  
13                 ICES.—

14                   “(A) IN GENERAL.—Paragraph (1) shall  
15                   not apply to any portion of an underpayment to  
16                   which this section applies by reason of sub-  
17                   section (b)(7) unless—

18                           “(i) the relevant facts affecting the  
19                           tax treatment of the item are adequately  
20                           disclosed,

21                           “(ii) there is or was substantial au-  
22                           thority for such treatment, and

23                           “(iii) the taxpayer reasonably believed  
24                           that such treatment was more likely than  
25                           not the proper treatment.

1           “(B) RULES RELATING TO REASONABLE  
2 BELIEF.—Rules similar to the rules of sub-  
3 section (d)(3) shall apply for purposes of sub-  
4 paragraph (A)(iii).”.

5           (d) INCOME AND LOSS FROM INVESTMENT SERVICES  
6 PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DE-  
7 TERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

8           (1) INTERNAL REVENUE CODE.—Section  
9 1402(a) is amended by striking “and” at the end of  
10 paragraph (16), by striking the period at the end of  
11 paragraph (17) and inserting “; and”, and by insert-  
12 ing after paragraph (17) the following new para-  
13 graph:

14           “(18) notwithstanding the preceding provisions  
15 of this subsection, in the case of any individual en-  
16 gaged in the trade or business of providing services  
17 described in section 710(c)(1) with respect to any  
18 entity, any amount treated as ordinary income or or-  
19 dinary loss of such individual under section 710 with  
20 respect to such entity shall be taken into account in  
21 determining the net earnings from self-employment  
22 of such individual.”.

23           (2) SOCIAL SECURITY ACT.—Section 211(a) of  
24 the Social Security Act is amended by inserting after  
25 paragraph (16) the following new paragraph:



1           “(17) Notwithstanding the preceding provisions  
2 of this subsection, in the case of any individual en-  
3 gaged in the trade or business of providing services  
4 described in section 710(c)(1) of the Internal Rev-  
5 enue Code of 1986 with respect to any entity, any  
6 amount treated as ordinary income or ordinary loss  
7 of such individual under section 710 of such Code  
8 with respect to such entity shall be taken into ac-  
9 count in determining the net earnings from self-em-  
10 ployment of such individual.”.

11 (e) CONFORMING AMENDMENTS.—

12           (1) Subsection (d) of section 731 is amended by  
13 inserting “section 710(b)(4) (relating to distribu-  
14 tions of partnership property),” after “to the extent  
15 otherwise provided by”.

16           (2) Section 741 is amended by inserting “or  
17 section 710 (relating to special rules for partners  
18 providing investment management services to part-  
19 nership)” before the period at the end.

20           (3) The table of sections for part I of sub-  
21 chapter K of chapter 1 is amended by adding at the  
22 end the following new item:

“Sec. 710. Special rules for partners providing investment management services  
to partnership.”.

23 (f) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, the amendments made by  
3           this section shall apply to taxable years ending after  
4           December 31, 2009.

5           (2) PARTNERSHIP TAXABLE YEARS WHICH IN-  
6           CLUDE EFFECTIVE DATE.—In applying section  
7           710(a) of the Internal Revenue Code of 1986 (as  
8           added by this section) in the case of any partnership  
9           taxable year which includes December 31, 2009, the  
10          amount of the net income referred to in such section  
11          shall be treated as being the lesser of the net income  
12          for the entire partnership taxable year or the net in-  
13          come determined by only taking into account items  
14          attributable to the portion of the partnership taxable  
15          year which is after such date.

16          (3) DISPOSITIONS OF PARTNERSHIP INTER-  
17          ESTS.—Section 710(b) of the Internal Revenue Code  
18          of 1986 (as added by this section) shall apply to dis-  
19          positions and distributions after December 31, 2009.

20          (4) OTHER INCOME AND GAIN IN CONNECTION  
21          WITH INVESTMENT MANAGEMENT SERVICES.—Sec-  
22          tion 710(d) of such Code (as added by this section)  
23          shall take effect on January 1, 2010.

1           (5) PUBLICLY TRADED PARTNERSHIPS.—The  
2           amendment made by subsection (b) shall apply to  
3           taxable years beginning after December 31, 2009.

4           **Subtitle B—Time for Payment of**  
5           **Corporate Estimated Taxes**

6           **SEC. 611. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
7           **TAXES.**

8           The percentage under paragraph (1) of section  
9           202(b) of the Corporate Estimated Tax Shift Act of 2009  
10          in effect on the date of the enactment of this Act is in-  
11          creased by 26.5 percentage points.

12          **Subtitle C—Tax Expenditure Study**

13          **SEC. 621. FINDINGS.**

14          Congress finds the following:

15               (1) Currently, the aggregate cost of Federal tax  
16               expenditures rivals, or even exceeds, the amount of  
17               total Federal discretionary spending.

18               (2) Given the escalating public debt, a critical  
19               examination of this use of taxpayer dollars is essen-  
20               tial.

21               (3) Additionally, tax expenditures can com-  
22               plicate the Internal Revenue Code of 1986 for tax-  
23               payers and complicate tax administration for the In-  
24               ternal Revenue Service.

1           (4) To facilitate a better understanding of tax  
2           expenditures in the future, it is constructive for leg-  
3           islation extending these provisions to include a study  
4           of such provisions.

5 **SEC. 622. STUDY OF EXTENDED TAX EXPENDITURES.**

6           (a) IN GENERAL.—Not later than November 30,  
7 2010, the Chief of Staff of the Joint Committee on Tax-  
8 ation, in consultation with the Comptroller General of the  
9 United States, shall submit to the Committee on Ways  
10 and Means of the House of Representatives and the Com-  
11 mittee on Finance of the Senate a report on each tax ex-  
12 penditure (as defined in section 3(3) of the Congressional  
13 Budget Impoundment Control Act of 1974 (2 U.S.C.  
14 622(3)) extended by this Act.

15           (b) ROLLING SUBMISSION OF REPORTS.—The Chief  
16 of Staff of the Joint Committee on Taxation shall initially  
17 submit the reports for each such tax expenditure enacted  
18 in subtitle B of title I (relating to business tax relief) and  
19 title IV (relating to energy provisions) in order of the tax  
20 expenditure incurring the least aggregate cost to the  
21 greatest aggregate cost (determined by reference to the  
22 cost estimate of this Act by the Joint Committee on Tax-  
23 ation). Thereafter, such reports may be submitted in such  
24 order as the Chief of Staff determines appropriate.

1 (c) CONTENTS OF REPORT.—Such reports shall con-  
2 tain the following:

3 (1) An explanation of the tax expenditure and  
4 any relevant economic, social, or other context under  
5 which it was first enacted.

6 (2) A description of the intended purpose of the  
7 tax expenditure.

8 (3) An analysis of the overall success of the tax  
9 expenditure in achieving such purpose, and evidence  
10 supporting such analysis.

11 (4) An analysis of the extent to which further  
12 extending the tax expenditure, or making it perma-  
13 nent, would contribute to achieving such purpose.

14 (5) A description of the direct and indirect  
15 beneficiaries of the tax expenditure, including identi-  
16 fying any unintended beneficiaries.

17 (6) An analysis of whether the tax expenditure  
18 is the most cost-effective method for achieving the  
19 purpose for which it was intended, and a description  
20 of any more cost-effective methods through which  
21 such purpose could be accomplished.

22 (7) A description of any unintended effects of  
23 the tax expenditure that are useful in understanding  
24 the tax expenditure's overall value.

1           (8) An analysis of how the tax expenditure  
2           could be modified to better achieve its original pur-  
3           pose.

4           (9) A brief description of any interactions (ac-  
5           tual or potential) with other tax expenditures or di-  
6           rect spending programs in the same or related budg-  
7           et function worthy of further study.

8           (10) A description of any unavailable informa-  
9           tion the staff of the Joint Committee on Taxation  
10          may need to complete a more thorough examination  
11          and analysis of the tax expenditure, and what must  
12          be done to make such information available.

13          (d) MINIMUM ANALYSIS BY DEADLINE.—In the event  
14          the Chief of Staff of the Joint Committee on Taxation  
15          concludes it will not be feasible to complete all reports by  
16          the date specified in subsection (a), at a minimum, the  
17          reports for each tax expenditure enacted in subtitle B of  
18          title I (relating to business tax relief) and title IV (relating  
19          to energy provisions) shall be completed by such date.

          Passed the House of Representatives December 9,  
2009.

Attest:

*Clerk.*



111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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**H. R. 4213**

**AN ACT**

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.