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 Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;

TABLE OF CONTENTS.

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

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

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

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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.

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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.
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Sec. 145. American Samoa economic development credit.

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TITLE IV—ENERGY PROVISIONS

Sec. 401. Incentives for biodiesel and renewable diesel.
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Sec. 404. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.

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Sec. 502. Repeal of certain foreign exceptions to registered bond requirements.

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Sec. 511. Disclosure of information with respect to foreign financial assets.
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Sec. 513. Modification of statute of limitations for significant omissions of income in connection with foreign assets.

Subtitle C—Other Disclosure Provisions

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Sec. 522. Secretary permitted to require financial institutions to file certain returns related to withholding on foreign transfers electronically.

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

Subtitle C—Tax Expenditure Study

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Sec. 622. Study of extended tax expenditures.

TITLE I—GENERAL PROVISIONS

Subtitle A—Individual Tax Relief

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

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

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

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

(a) In General.—Subparagraph (C) of section 63(c)(1) is amended by striking “or 2009” and inserting “, 2009, or 2010”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

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

(a) In General.—Subsection (e) of section 222 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 104. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) In General.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2009” and inserting “2009, or 2010”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle B—Business Tax Relief

SEC. 111. RESEARCH CREDIT.

(a) In General.—Subparagraph (B) of section 41(h)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Conforming Amendment.—Subparagraph (D) of section 45C(b)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.
SEC. 112. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

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

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 113. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.
SEC. 114. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR
QUALIFIED LEASEHOLD IMPROVEMENTS,
QUALIFIED RESTAURANT BUILDINGS AND IM-
PROVEMENTS, AND QUALIFIED RETAIL IM-
PROVEMENTS.

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

(b) Effective Date.—The amendments made by
this section shall apply to property placed in service after December 31, 2009.

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

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

(b) Effective Date.—The amendment made by
this section shall apply to property placed in service after December 31, 2009.

SEC. 116. RAILROAD TRACK MAINTENANCE CREDIT.

(a) In General.—Subsection (f) of section 45G is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Effective Date.—The amendment made by
this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.
SEC. 117. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) In General.—Subsection (f) of section 181 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 118. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) In General.—Subsection (h) of section 198 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.

SEC. 119. MINE RESCUE TEAM TRAINING CREDIT.

(a) In General.—Subsection (e) of section 45N is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.
SEC. 120. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

(a) In General.—Subsection (g) of section 179E is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 121. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) In General.—Subsection (f) of section 45P is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to payments made after December 31, 2009.

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

(a) In General.—Clause (vii) of section 168(e)(3)(B) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2009.
SEC. 123. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS OF REGULATED INVESTMENT COMPANIES.

(a) In General.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 124. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) In General.—Paragraph (3) of section 2105(d) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

SEC. 125. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) In General.—Clause (ii) of section 897(h)(4)(A) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to distributions made after December 31, 2009.
SEC. 126. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) In General.—Clause (ii) of section 613A(e)(6)(H) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle C—Charitable Provisions

SEC. 131. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) In General.—Clause (vi) of section 170(b)(1)(E) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Contributions by Certain Corporate Farmers and Ranchers.—Clause (iii) of section 170(b)(2)(B) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) Effective Date.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.
SEC. 132. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

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

(b) Effective Date.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 133. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) In General.—Clause (iv) of section 170(e)(3)(D) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 134. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.

(a) In General.—Subparagraph (G) of section 170(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to contributions made after December 31, 2009.
(b) **Effective Date.**—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

**SEC. 135. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) **In General.**—Subparagraph (F) of section 408(d)(8) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) **Effective Date.**—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2009.

**SEC. 136. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.**

(a) **In General.**—Clause (iv) of section 512(b)(13)(E) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) **Effective Date.**—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.
SEC. 137. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-CHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS TAXABLE IN-COME.

(a) In General.—Subparagraph (K) of section 512(b)(19) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to property acquired after December 31, 2009.

SEC. 138. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) In General.—Paragraph (2) of section 1367(a) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

Subtitle D—Miscellaneous Provisions

SEC. 141. INDIAN EMPLOYMENT TAX CREDIT.

(a) In General.—Subsection (f) of section 45A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) **Effective Date.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

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

(a) **In General.**—Paragraph (8) of section 168(j) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) **Effective Date.**—The amendment made by this section shall apply to property placed in service after December 31, 2009.

**SEC. 143. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.**

(a) **In General.**—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking “first 4 taxable years” and inserting “first 5 taxable years”, and

(2) by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.
SEC. 144. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

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

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

SEC. 145. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

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

(1) by striking “first 4 taxable years” and inserting “first 5 taxable years”, and

(2) by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.
TITLE II—COMMUNITY ASSISTANCE PROVISIONS

SEC. 201. EMPOWERMENT ZONE TAX INCENTIVES.

(a) In General.—Clause (i) of section 1391(d)(1)(A) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Increased Exclusion of Gain on Stock of Empowerment Zone Businesses.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking “December 31, 2014” and inserting “December 31, 2015”, and

(2) by striking “2014” in the heading and inserting “2015”.

(c) Effective Date.—The amendments made by this section shall apply to periods after December 31, 2009.

SEC. 202. RENEWAL COMMUNITY TAX INCENTIVES.

(a) In General.—Subsection (b) of section 1400E is amended—

(1) by striking “December 31, 2009” in paragraphs (1)(A) and (3) and inserting “December 31, 2010”, and

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

(b) Zero-Percent Capital Gains Rate.—
(1) Acquisition Dates.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(2) Limitation on Period of Gains.—Paragraph (2) of section 1400F(c) is amended—

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

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

(3) Clerical Amendment.—Subsection (d) of section 1400F is amended by striking “and ‘December 31, 2014’ for ‘December 31, 2014’”.

(e) Commercial Revitalization Deduction.—Subsection (g) of section 1400I is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(d) Increased Expensing Under Section 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(e) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by
this section shall apply to periods after December
31, 2009.

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

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

SEC. 203. NEW MARKETS TAX CREDIT.

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

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

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

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

(a) IN GENERAL.—Subsection (f) of section 1400 is
amended by striking “December 31, 2009” each place it
appears and inserting “December 31, 2010”.
(b) **Tax-Exempt DC Empowerment Zone Bonds.**—Subsection (b) of section 1400A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) **Zero-Percent Capital Gains Rate.**—

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

(2) **Limitation on Period of Zero-Percent Capital Gains.**—

(A) **In General.**—Paragraph (2) of section 1400B(e) is amended—

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

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

(B) **Interests in Partnership and S Corporations.**—Paragraph (2) of section 1400B(g) is amended by striking “December 31, 2014” and inserting “December 31, 2015”.

(d) **First-Time Homebuyer Credit.**—Subsection (i) of section 1400C is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(e) **Effective Dates.**—
(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

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

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

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

(a) **BONUS DEPRECIATION FOR NONRESIDENTIAL REAL PROPERTY AND RESIDENTIAL RENTAL PROPERTY.**—Subparagraph (A) of section 1400L(b)(2) is amended by striking “December 31, 2009” in the last sentence and inserting “December 31, 2010”.

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

(c) **EFFECTIVE DATES.**—
(1) **Bonus Depreciation.**—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2009.

(2) **Tax-Exempt Bond Financing.**—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

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

(a) **Work Opportunity Tax Credit for Core Disaster Area.**—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking “4-year” and inserting “5-year”.

(b) **Increase in Rehabilitation Credit.**—Subsection (h) of section 1400N is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) **Effective Dates.**—

(1) **Work Opportunity Tax Credit.**—The amendment made by subsection (a) shall apply to individuals hired on or after August 28, 2009.

(2) **Rehabilitation Credit.**—The amendment made by subsection (b) shall apply to amounts paid or incurred after December 31, 2009.
SEC. 207. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) ELECTION FOR REFUNDABLE CREDITS.—

“(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State’s 2010 low-income housing refundable credit election amount which shall be payable by the Secretary as provided in paragraph (5).

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

“(A) the sum of—

“(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), and

“(ii) 40 percent of the State housing credit ceiling for 2010 which is attrib...
utable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by "(B) 10.

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

"(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

"(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by
substituting ‘January 1, 2012’ for ‘January 1, 2011’.”.

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

TITLE III—DISASTER RELIEF PROVISIONS

SEC. 301. DEDUCTIBILITY OF PERSONAL CASUALTY LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

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

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

(2) EXTENSION OF $500 LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.
SEC. 302. EXPENSING OF CERTAIN QUALIFIED DISASTER EXPENSES.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

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

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

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

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

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

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTER AREAS.—Paragraph (13) of section 143(k), as redesignated under subsection
(c), is amended by striking “January 1, 2010” in subparagraphs (A)(i) and (B)(i) and inserting “January 1, 2011”.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in Federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued after December 31, 2009.

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

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (c) shall take effect as if included in section 709 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.
SEC. 305. EXPensing AND speCIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.

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

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

TITLE IV—ENERGY PROVISIONS

SEC. 401. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

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

(b) EXCISE TAX CREDITS AND PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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(c) Effective Date.—The amendments made by this section shall apply to sales and uses after December 31, 2009.

SEC. 402. ALTERNATIVE MOTOR VEHICLE CREDIT FOR HEAVY HYBRIDS.

(a) In General.—Paragraph (3) of section 30B(k) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to property purchased after December 31, 2009.

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

(a) In General.—Paragraph (5) of section 6426(d) is amended by striking “after December 31, 2009” and all that follows and inserting “after—

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

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

“(i) compressed or liquified natural gas, and

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

“(C) December 31, 2009, in any other case.”.
(b) Payment Authority.—Paragraph (6) of section 6427(e) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma and by adding at the end the following new subparagraphs:

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

“(F) any alternative fuel (as so defined) involving liquified petroleum gas (other than for use as fuel in a forklift) sold or used after December 31, 2010.”.

(e) Conforming Amendment.—Subparagraph (C) of section 6427(e)(6) is amended by inserting “(E), or (F)” after “subparagraph (D)”.

(d) Effective Date.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 404. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) In General.—Paragraph (3) of section 451(i) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.
(b) **Effective Date.**—The amendment made by this section shall apply to dispositions after December 31, 2009.

**TITLE V—FOREIGN ACCOUNT TAX COMPLIANCE**

Subtitle A—Increased Disclosure of Beneficial Owners

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

(a) **In General.**—The Internal Revenue Code of 1986 is amended by inserting after chapter 3 the following new chapter:

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

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“Sec. 1471. Withholdable payments to foreign financial institutions.
“Sec. 1472. Withholdable payments to other foreign entities.
“Sec. 1473. Definitions.
“Sec. 1474. Special rules.
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“**SEC. 1471. WITHHOLDABLE PAYMENTS TO FOREIGN FINANCIAL INSTITUTIONS.**

“(a) **In General.**—In the case of any withholdable payment to a foreign financial institution which does not meet the requirements of subsection (b), the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30 percent of the amount of such payment.

“(b) **Reporting Requirements, etc.**—
“(1) IN GENERAL.—The requirements of this subsection are met with respect to any foreign financial institution if an agreement is in effect between such institution and the Secretary under which such institution agrees—

“(A) to obtain such information regarding each holder of each account maintained by such institution as is necessary to determine which (if any) of such accounts are United States accounts,

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

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

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

“(i) any passthru payment which is made by such institution to a recalcitrant account holder or another foreign financial institution which does not meet the requirements of this subsection, and
“(ii) in the case of any passthru payment which is made by such institution to a foreign financial institution which has in effect an election under paragraph (3) with respect to such payment, so much of such payment as is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection,

“(E) to comply with requests by the Secretary for additional information with respect to any United States account maintained by such institution, and

“(F) in any case in which any foreign law would (but for a waiver described in clause (i)) prevent the reporting of any information referred to in this subsection or subsection (c) with respect to any United States account maintained by such institution——

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

“(ii) if a waiver described in clause (i) is not obtained from each such holder
within a reasonable period of time, to close such account.

Any agreement entered into under this subsection may be terminated by the Secretary upon a determination by the Secretary that the foreign financial institution is out of compliance with such agreement.

“(2) Financial institutions deemed to meet requirements in certain cases.—A foreign financial institution may be treated by the Secretary as meeting the requirements of this subsection if—

“(A) such institution—

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

“(ii) meets such other requirements as the Secretary may prescribe with respect to accounts of other foreign financial institutions maintained by such institution, or

“(B) such institution is a member of a class of institutions with respect to which the Secretary has determined that the application of this section is not necessary to carry out the purposes of this section.
“(3) Election to be withheld upon rather than withhold on payments to recalcitrant account holders and nonparticipating foreign financial institutions.—In the case of a foreign financial institution which meets the requirements of this subsection and such other requirements as the Secretary may provide and which elects the application of this paragraph—

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

“(B) the withholding tax imposed under subsection (a) shall apply with respect to any withholdable payment to such institution to the extent such payment is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection, and

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

“(i) require such institution to notify the withholding agent with respect to each such payment of the institution’s election under this paragraph and such other information as may be necessary for the withholding agent to determine the appropriate
amount to deduct and withhold from such payment, and

“(ii) include a waiver of any right under any treaty of the United States with respect to any amount deducted and withheld pursuant to an election under this paragraph.

To the extent provided by the Secretary, the election under this paragraph may be made with respect to certain classes or types of accounts of the foreign financial institution.

“(c) Information Required To Be Reported On United States Accounts.—

“(1) In general.—The agreement described in subsection (b) shall require the foreign financial institution to report the following with respect to each United States account maintained by such institution:

“(A) The name, address, and TIN of each account holder which is a specified United States person and, in the case of any account holder which is a United States owned foreign entity, the name, address, and TIN of each substantial United States owner of such entity.

“(B) The account number.
“(C) The account balance or value (determined at such time and in such manner as the Secretary may provide).

“(D) The gross receipts and gross withdrawals or payments from the account (determined for such period and in such manner as the Secretary may provide).

“(2) Election to be subject to same reporting as United States financial institutions.—In the case of a foreign financial institution which elects the application of this paragraph—

“(A) subparagraphs (C) and (D) of paragraph (1) shall not apply, and

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

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

“(ii) each holder of such account which is a specified United States person or United States owned foreign entity were
a natural person and citizen of the United States.

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

“(3) Separate requirements for qualified intermediaries.—In the case of a foreign financial institution which is treated as a qualified intermediary by the Secretary for purposes of section 1441 and the regulations issued thereunder, the requirements of this section shall be in addition to any reporting or other requirements imposed by the Secretary for purposes of such treatment.

“(d) Definitions.—For purposes of this section—

“(1) United States account.—

“(A) in general.—The term ‘United States account’ means any financial account which is held by one or more specified United States persons or United States owned foreign entities.

“(B) Exception for certain accounts held by individuals.—Unless the foreign financial institution elects to not have this subparagraph apply, such term shall not include
any depository account maintained by such financial institution if—

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

“(ii) with respect to each holder of such account, the aggregate value of all depository accounts held (in whole or in part) by such holder and maintained by the same financial institution which maintains such account does not exceed $50,000.

To the extent provided by the Secretary, financial institutions which are members of the same expanded affiliated group shall be treated for purposes of clause (ii) as a single financial institution.

“(C) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENTS.—Such term shall not include any financial account in a foreign financial institution if—

“(i) such account is held by another financial institution which meets the requirements of subsection (b), or

“(ii) the holder of such account is otherwise subject to information reporting requirements which the Secretary determines
would make the reporting required by this section with respect to United States accounts duplicative.

“(2) Financial Account.—The term ‘financial account’ means, with respect to any financial institution—

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

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

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

Any equity or debt interest which constitutes a financial account under subparagraph (C) with respect to any financial institution shall be treated for purposes of this section as maintained by such financial institution.

“(3) United States Owned Foreign Entity.—The term ‘United States owned foreign entity’ means any foreign entity which has one or more substantial United States owners.
“(4) FOREIGN FINANCIAL INSTITUTION.—The term ‘foreign financial institution’ means any financial institution which is a foreign entity. Except as otherwise provided by the Secretary, such term shall not include a financial institution which is organized under the laws of any possession of the United States.

“(5) FINANCIAL INSTITUTION.—Except as otherwise provided by the Secretary, the term ‘financial institution’ means any entity that—

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

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

“(C) is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities (as defined in section 475(e)(2) without regard to the last sentence thereof), partnership interests, commodities (as defined in section 475(e)(2)), or any interest (including a futures or forward contract or option) in such securities, partnership interests, or commodities.
“(6) Recalcitrant account holder.—The term ‘recalcitrant account holder’ means any account holder which—

“(A) fails to comply with reasonable requests for the information referred to in subsection (b)(1)(A) or (c)(1)(A), or

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

“(7) Passthru payment.—The term ‘passthru payment’ means any withholdable payment or other payment which is attributable to a withholdable payment.

“(e) Affiliated Groups.—

“(1) In general.—The requirements of subsections (b) and (c)(1) shall apply—

“(A) with respect to United States accounts maintained by the foreign financial institution, and

“(B) except as otherwise provided by the Secretary, with respect to United States accounts maintained by each other foreign financial institution (other than any foreign financial institution which meets the requirements of subsection (b)) which is a member of the same
expanded affiliated group as such foreign financial institution.

“(2) EXPANDED AFFILIATED GROUP.—For purposes of this section, the term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a), determined—

“(A) by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears, and

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

A partnership or any other entity (other than a corporation) shall be treated as a member of an expanded affiliated group if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

“(f) EXCEPTION FOR CERTAIN PAYMENTS.—Subsection (a) shall not apply to any payment if the beneficial owner of such payment is—

“(1) any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,
“(2) any international organization or any wholly owned agency or instrumentality thereof,
“(3) any foreign central bank of issue, or
“(4) any other class of persons identified by the Secretary for purposes of this subsection as posing a low risk of tax evasion.

“SEC. 1472. WITHHOLDABLE PAYMENTS TO OTHER FOREIGN ENTITIES.
“(a) IN GENERAL.—In the case of any withholdable payment to a non-financial foreign entity, if—
“(1) the beneficial owner of such payment is such entity or any other non-financial foreign entity, and
“(2) the requirements of subsection (b) are not met with respect to such beneficial owner,
then the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30 percent of the amount of such payment.
“(b) REQUIREMENTS FOR WAIVER OF WITHHOLDING.—The requirements of this subsection are met with respect to the beneficial owner of a payment if—
“(1) such beneficial owner or the payee provides the withholding agent with either—
“(A) a certification that such beneficial owner does not have any substantial United States owners, or

“(B) the name, address, and TIN of each substantial United States owner of such beneficial owner,

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

“(3) the withholding agent reports the information provided under paragraph (1)(B) to the Secretary in such manner as the Secretary may provide.

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

“(1) except as otherwise provided by the Secretary, any payment beneficially owned by—

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

“(B) any corporation which is a member of the same expanded affiliated group (as defined in section 1471(e)(2) without regard to the last sentence thereof) as a corporation described in subparagraph (A),
“(C) any entity which is organized under the laws of a possession of the United States and which is wholly owned by one or more bona fide residents (as defined in section 937(a)) of such possession,

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

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

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

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

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

“(d) NON-FINANCIAL FOREIGN ENTITY.—For purposes of this section, the term ‘non-financial foreign entity’ means any foreign entity which is not a financial institution (as defined in section 1471(d)(5)).

“SEC. 1473. DEFINITIONS.

“For purposes of this chapter—
“(1) Withholdable payment.—Except as otherwise provided by the Secretary—

“(A) In general.—The term ‘withholdable payment’ means—

“(i) any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States, and

“(ii) any gross proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the United States.

“(B) Exception for income connected with United States business.—Such term shall not include any item of income which is taken into account under section 871(b)(1) or 882(a)(1) for the taxable year.

“(C) Special rule for sourcing interest paid by foreign branches of domestic
FINANCIAL INSTITUTIONS.—Subparagraph (B) of section 861(a)(1) shall not apply.

“(2) Substantial United States owner.—

“(A) In general.—The term ‘substantial United States owner’ means—

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

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

“(iii) in the case of a trust—

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

“(II) to the extent provided by the Secretary in regulations or other guidance, any specified United States person which holds, directly or indi-
rectly, more than 10 percent of the beneficial interests of such trust.

“(B) Special rule for investment vehicles.—In the case of any financial institution described in section 1471(d)(5)(C), clauses (i), (ii), and (iii) of subparagraph (A) shall be applied by substituting ‘0 percent’ for ‘10 percent’.

“(3) Specified United States person.—Except as otherwise provided by the Secretary, the term ‘specified United States person’ means any United States person other than—

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

“(B) any corporation which is a member of the same expanded affiliated group (as defined in section 1471(e)(2) without regard to the last sentence thereof) as a corporation the stock of which is regularly traded on an established securities market,

“(C) any organization exempt from taxation under section 501(a) or an individual retirement plan,
“(D) the United States or any wholly
owned agency or instrumentality thereof,
“(E) any State, the District of Columbia,
any possession of the United States, any polit-
ical subdivision of any of the foregoing, or any
wholly owned agency or instrumentality of any
one or more of the foregoing,
“(F) any bank (as defined in section 581),
“(G) any real estate investment trust (as
defined in section 856),
“(H) any regulated investment company
(as defined in section 851),
“(I) any common trust fund (as defined in
section 584(a)), and
“(J) any trust which—
“(i) is exempt from tax under section
664(c), or
“(ii) is described in section
4947(a)(1).
“(4) WITHHOLDING AGENT.—The term ‘with-
holding agent’ means all persons, in whatever capac-
ity acting, having the control, receipt, custody, dis-
posal, or payment of any withholdable payment.
“(5) FOREIGN ENTITY.—The term ‘foreign entity’ means any entity which is not a United States person.

“SEC. 1474. SPECIAL RULES.

“(a) LIABILITY FOR WITHHELD TAX.—Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

“(b) CREDITS AND REFUNDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the determination of whether any tax deducted and withheld under this chapter results in an overpayment by the beneficial owner of the payment to which such tax is attributable shall be made as if such tax had been deducted and withheld under subchapter A of chapter 3.

“(2) SPECIAL RULE WHERE FOREIGN FINANCIAL INSTITUTION IS BENEFICIAL OWNER OF PAYMENT.—

“(A) IN GENERAL.—In the case of any tax properly deducted and withheld under section 1471 from a specified financial institution payment—
“(i) if the foreign financial institution referred to in subparagraph (B) with respect to such payment is entitled to a reduced rate of tax with respect to such payment by reason of any treaty obligation of the United States—

“(I) the amount of any credit or refund with respect to such tax shall not exceed the amount of credit or refund attributable to such reduction in rate, and

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

“(ii) if such foreign financial institution is not so entitled, no credit or refund shall be allowed or paid with respect to such tax.

“(B) SPECIFIED FINANCIAL INSTITUTION PAYMENT.—The term ‘specified financial institution payment’ means any payment if the beneficial owner of such payment is a foreign financial institution.

“(3) REQUIREMENT TO IDENTIFY SUBSTANTIAL UNITED STATES OWNERS.—No credit or refund shall
be allowed or paid with respect to any tax properly
deducted and withheld under this chapter unless the
beneficial owner of the payment provides the Sec-
retary such information as the Secretary may re-
quire to determine whether such beneficial owner is
a United States owned foreign entity (as defined in
section 1471(d)(3)) and the identity of any substan-
tial United States owners of such entity.

“(c) CONFIDENTIALITY OF INFORMATION.—

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

“(2) DISCLOSURE OF LIST OF PARTICIPATING
FOREIGN FINANCIAL INSTITUTIONS PERMITTED.—
The identity of a foreign financial institution which
meets the requirements of section 1471(b) shall not
be treated as return information for purposes of sec-
tion 6103.

“(d) COORDINATION WITH OTHER WITHHOLDING
PROVISIONS.—The Secretary shall provide for the coordi-
nation of this chapter with other withholding provisions
under this title, including providing for the proper cred-
it of amounts deducted and withheld under this chapter
against amounts required to be deducted and withheld
under such other provisions.
“(e) TREATMENT OF WITHHOLDING UNDER AGREEMENTS.—Any tax deducted and withheld pursuant to an agreement described in section 1471(b) shall be treated for purposes of this title as a tax deducted and withheld by a withholding agent under section 1471(a).

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

(b) SPECIAL RULE FOR INTEREST ON OVERPAYMENTS.—Subsection (e) of section 6611 is amended by adding at the end the following new paragraph:

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

(c) CONFORMING AMENDMENTS.—

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

(2) Paragraph (1) of section 6501(b) is amended by inserting “4,” after “chapter 3,.”.

(3) Paragraph (2) of section 6501(b) is amended—

(A) by inserting “4,” after “chapter 3,” in the text thereof, and
(B) by striking “TAXES AND TAX IMPOSED
BY CHAPTER 3” in the heading thereof and in-
serting “AND WITHHOLDING TAXES”.

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

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

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

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

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

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

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

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

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise pro-
vided in this subsection, the amendments made by
this section shall apply to payments made after De-
(2) **Grandfathered treatment of outstanding obligations.**—The amendments made by this section shall not require any amount to be deducted or withheld from any payment under any obligation outstanding on the date which is 2 years after the date of the enactment of this Act.

(3) **Interest on overpayments.**—The amendment made by subsection (b) shall apply—

(A) in the case of such amendment’s application to paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986, to returns the due date for which (determined without regard to extensions) is after the date of the enactment of this Act,

(B) in the case of such amendment’s application to paragraph (2) of such section, to claims for credit or refund of any overpayment filed after the date of the enactment of this Act (regardless of the taxable period to which such refund relates), and

(C) in the case of such amendment’s application to paragraph (3) of such section, to refunds paid after the date of the enactment of this Act (regardless of the taxable period to which such refund relates).
SEC. 502. REPEAL OF CERTAIN FOREIGN EXCEPTIONS TO REGISTERED BOND REQUIREMENTS.

(a) Repeal of Exception to Denial of Deduction for Interest on Non-Registered Bonds.—

(1) In general.—Paragraph (2) of section 163(f) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) Conforming amendments.—

(A) Subparagraph (A) of section 163(f)(2) is amended by inserting “or” at the end of clause (ii), by striking “, or” at the end of clause (iii) and inserting a period, and by striking clause (iv).

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

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

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

“(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and”.

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

(b) REPEAL OF TREATMENT AS PORTFOLIO DEBT.—

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

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

“(A) would be subject to tax under subsection (a) but for this subsection, and

“(B) is paid on an obligation—

“(i) which is in registered form, and

“(ii) with respect to which—

“(I) the United States person who would otherwise be required to deduct and withhold tax from such interest under section 1441(a) receives a statement (which meets the requirements of paragraph (5)) that the beneficial owner of the obligation is not a United States person, or
“(II) the Secretary has determined that such a statement is not required in order to carry out the purposes of this subsection.”.

(2) CONFORMING AMENDMENTS.—

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

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

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

“(A) would be subject to tax under subsection (a) but for this subsection, and

“(B) is paid on an obligation—

“(i) which is in registered form, and

“(ii) with respect to which—

“(I) the person who would otherwise be required to deduct and withhold tax from such interest under section 1442(a) receives a statement which meets the requirements of section 871(h)(5) that the beneficial
owner of the obligation is not a United States person, or “(II) the Secretary has determined that such a statement is not required in order to carry out the purposes of this subsection.”.

(e) Dematerialized Book Entry Systems Treated as Registered Form.—Paragraph (3) of section 163(f) is amended by inserting “, except that a dematerialized book entry system shall be treated as a book entry system described in such section” before the period at the end.

(d) Repeal of Exception to Requirement That Treasury Obligations Be in Registered Form.—

(1) In General.—Subsection (g) of section 3121 of title 31, United States Code, is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Conforming Amendments.—Paragraph (1) of section 3121(g) of such title is amended—

(A) by adding “or” at the end of subparagraph (A),

(B) by striking “; or” at the end of subparagraph (B) and inserting a period, and
(C) by striking subparagraph (C).

(e) Preservation of Exception for Excise Tax Purposes.—Paragraph (1) of section 4701(b) is amended to read as follows:

“(1) Registration-required obligation.—

“(A) In general.—The term ‘registration-required obligation’ has the same meaning as when used in section 163(f), except that such term shall not include any obligation which—

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

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

“(B) Certain obligations not included.—An obligation is described in this subparagraph if—

“(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person,

“(ii) interest on such obligation is payable only outside the United States and its possessions, and
“(iii) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.”.

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

Subtitle B—Under Reporting With Respect to Foreign Assets

SEC. 511. DISCLOSURE OF INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038C the following new section:

“SEC. 6038D. INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.

“(a) IN GENERAL.—Any individual who, during any taxable year, holds any interest in a specified foreign financial asset shall attach to such person’s return of tax imposed by subtitle A for such taxable year the information described in subsection (e) with respect to each such asset if the aggregate value of all such assets exceeds
$50,000 (or such higher dollar amount as the Secretary may prescribe).

“(b) SPECIFIED FOREIGN FINANCIAL ASSETS.—For purposes of this section, the term ‘specified foreign financial asset’ means—

“(1) any financial account (as defined in section 1471(d)(2)) maintained by a foreign financial institution (as defined in section 1471(d)(4)), and

“(2) any of the following assets which are not held in an account maintained by a financial institution (as defined in section 1471(d)(5))—

“(A) any stock or security issued by a person other than a United States person,

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

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

“(c) REQUIRED INFORMATION.—The information described in this subsection with respect to any asset is:

“(1) In the case of any account, the name and address of the financial institution in which such account is maintained and the number of such account.
“(2) In the case of any stock or security, the name and address of the issuer and such information as is necessary to identify the class or issue of which such stock or security is a part.

“(3) In the case of any other instrument, contract, or interest—

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

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

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

“(d) PENALTY FOR FAILURE TO DISCLOSE.—

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

“(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the individual, such indi-
individual shall pay a penalty (in addition to the penalties under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The penalty imposed under this paragraph with respect to any failure shall not exceed $50,000.

“(e) Presumption That Value of Specified Foreign Financial Assets Exceeds Dollar Threshold.—If—

“(1) the Secretary determines that an individual has an interest in one or more specified foreign financial assets, and

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

then the aggregate value of such assets shall be treated as being in excess of $50,000 (or such higher dollar amount as the Secretary prescribes for purposes of subsection (a)) for purposes of assessing the penalties imposed under this section.

“(f) Application to Certain Entities.—To the extent provided by the Secretary in regulations or other guidance, the provisions of this section shall apply to any domestic entity which is formed or availed of for purposes of holding, directly or indirectly, specified foreign financial
assets, in the same manner as if such entity were an indi-
vidual.

“(g) Reasonable Cause Exception.—No penalty
shall be imposed by this section on any failure which is
shown to be due to reasonable cause and not due to willful
neglect. The fact that a foreign jurisdiction would impose
a civil or criminal penalty on the taxpayer (or any other
person) for disclosing the required information is not rea-
sonable cause.

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

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

“(2) nonresident aliens, and

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

(b) Clerical Amendment.—The table of sections
for subpart A of part III of subchapter A of chapter 61
is amended by inserting after the item relating to section 6038C the following new item:

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

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

SEC. 512. PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO UNDISCLOSED FOREIGN FINANCIAL ASSETS.

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

(1) in subsection (b), by inserting after paragraph (5) the following new paragraph:

“(6) Any undisclosed foreign financial asset understatement.”, and

(2) by adding at the end the following new subsection:

“(i) UNDISCLOSED FOREIGN FINANCIAL ASSET UNDERSTATEMENT.—

“(1) IN GENERAL.—For purposes of this section, the term ‘undisclosed foreign financial asset understatement’ means, for any taxable year, the portion of the understatement for such taxable year which is attributable to any transaction involving an undisclosed foreign financial asset.

“(2) UNDISCLOSED FOREIGN FINANCIAL ASSET.—For purposes of this subsection, the term
‘undisclosed foreign financial asset’ means, with respect to any taxable year, any asset with respect to which information was required to be provided under section 6038, 6038B, 6038D, 6046A, or 6048 for such taxable year but was not provided by the taxpayer as required under the provisions of those sections.

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

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

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

(a) EXTENSION OF STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 6501(e) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respec-
tively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

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

"(i) such amount is in excess of 25 percent of the amount of gross income stated in the return, or

"(ii) such amount—

"(I) is attributable to one or more assets with respect to which information is required to be reported under section 6038D (or would be so required if such section were applied without regard to the dollar threshold specified in subsection (a) thereof and without regard to any exceptions provided pursuant to subsection (h)(1) thereof), and

"(II) is in excess of $5,000,

the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.’’.

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

“(B) DETERMINATION OF GROSS INCOME.—For purposes of subparagraph (A)—”.

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

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

(1) by inserting “pursuant to an election under section 1295(b) or” before “under section 6038”,
(2) by inserting “1298(f),” before “6038”, and
(3) by inserting “6038D,” after “6038B,”.

(c) CLARIFICATIONS RELATED TO FAILURE TO DISCLOSE FOREIGN TRANSFERS.—Paragraph (8) of section 6501(c) is amended by striking “event” and inserting “tax return, event,”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—
(1) returns filed after the date of the enactment of this Act; and

(2) returns filed on or before such date if the period specified in section 6501 of the Internal Revenue Code of 1986 (determined without regard to such amendments) for assessment of such taxes has not expired as of such date.

Subtitle C—Other Disclosure Provisions

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

(a) In general.—Section 1298 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) Reporting Requirement.—Except as otherwise provided by the Secretary, each United States person who is a shareholder of a passive foreign investment company shall file an annual report containing such information as the Secretary may require.”.

(b) Conforming Amendment.—Subsection (e) of section 1291 is amended by striking “, (d), and (f)” and inserting “and (d)”.

(e) Effective Date.—The amendments made by this section take effect on the date of the enactment of this Act.
SEC. 522. SECRETARY PERMITTED TO REQUIRE FINANCIAL
INSTITUTIONS TO FILE CERTAIN RETURNS
RELATED TO WITHHOLDING ON FOREIGN TRANSFERS ELECTRONICALLY.

(a) In General.—Subsection (e) of section 6011 is amended by adding at the end the following new paragraph:

“(3) Special rule for returns filed by financial institutions with respect to withholding on foreign transfers.—Paragraph (2)(A) shall not apply to any return filed by a financial institution (as defined in section 1471(d)(5)) with respect to tax for which such institution is made liable under section 1461 or 1474(a).”.

(b) Conforming Amendment.—Subsection (c) of section 6724 is amended by inserting “or with respect to a return described in section 6011(e)(3)”.

(c) Effective Date.—The amendment made by this section shall apply to returns the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.
Subtitle D—Provisions Related to Foreign Trusts

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

(a) In General.—Paragraph (1) of section 679(c) is amended by adding at the end the following:

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

(b) Clarification Regarding Discretion To Identify Beneficiaries.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

“(4) Special rule in case of discretion to identify beneficiaries.—For purposes of paragraph (1)(A), if any person has the discretion (by authority given in the trust agreement, by power of appointment, or otherwise) of making a distribution from the trust to, or for the benefit of, any person, such trust shall be treated as having a beneficiary who is a United States person unless—
“(A) the terms of the trust specifically identify the class of persons to whom such distributions may be made, and

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

(e) Clarification That Certain Agreements and Understandings Are Terms of the Trust.—

Subsection (c) of section 679, as amended by subsection (b), is amended by adding at the end the following new paragraph:

“(5) Certain agreements and understandings treated as terms of the trust.—For purposes of paragraph (1)(A), if any United States person who directly or indirectly transfers property to the trust is directly or indirectly involved in any agreement or understanding (whether written, oral, or otherwise) that may result in the income or corpus of the trust being paid or accumulated to or for the benefit of a United States person, such agreement or understanding shall be treated as a term of the trust.”.
SEC. 532. PRESUMPTION THAT FOREIGN TRUST HAS UNITED STATES BENEFICIARY.

(a) IN GENERAL.—Section 679 is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

“(d) PRESUMPTION THAT FOREIGN TRUST HAS UNITED STATES BENEFICIARY.—If a United States person directly or indirectly transfers property to a foreign trust (other than a trust described in section 6048(a)(3)(B)(ii)), the Secretary may treat such trust as having a United States beneficiary for purposes of applying this section to such transfer unless such person—

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

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

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

SEC. 533. UNCOMPENSATED USE OF TRUST PROPERTY.

(a) IN GENERAL.—Paragraph (1) of section 643(i) is amended—
(1) by striking “directly or indirectly to” and inserting “(or permits the use of any other trust property) directly or indirectly to or by”, and

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

(b) EXCEPTION FOR COMPENSATED USE.—Paragraph (2) of section 643(i) is amended by adding at the end the following new subparagraph:

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

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

“(6) UNCOMPENSATED USE OF TRUST PROPERTY TREATED AS A PAYMENT.—For purposes of this subsection, a loan of cash or marketable securities (or the use of any other trust property) directly or indirectly to or by any United States person (whether or not a beneficiary under the terms of the
trust) shall be treated as paid or accumulated for
the benefit of a United States person. The preceding
sentence shall not apply to the extent that the
United States person repays the loan at a market
rate of interest (or pays the fair market value of the
use of such property) within a reasonable period of
time.”.

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

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

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

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

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

SEC. 534. REPORTING REQUIREMENT OF UNITED STATES
OWNERS OF FOREIGN TRUSTS.

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

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(b) **Effective Date.**—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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

(a) **In General.**—Subsection (a) of section 6677 is amended—

(1) by inserting “the greater of $10,000 or” before “35 percent”, and

(2) by striking the last sentence and inserting the following: “At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).”

(b) **Effective Date.**—The amendments made by this section shall apply to notices and returns required to be filed after December 31, 2009.
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.

(a) In General.—Section 871 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

“(l) Treatment of Dividend Equivalent Payments.—

“(1) In General.—For purposes of this section, sections 881 and 4948(a), and chapters 3 and 4, a dividend equivalent shall be treated as a dividend from sources within the United States.

“(2) Dividend Equivalent.—For purposes of this subsection, the term ‘dividend equivalent’ means—

“(A) any substitute dividend,

“(B) any payment made pursuant to a specified notional principal contract that (directly or indirectly) is contingent upon, or determined by reference to, the payment of a divi-
dend from sources within the United States, and

“(C) any other payment determined by the Secretary to be substantially similar to a payment described in subparagraph (A) or (B).

“(3) SPECIFIED NOTIONAL PRINCIPAL CONTRACT.—For purposes of this subsection, the term ‘specified notional principal contract’ means—

“(A) any notional principal contract if—

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

“(ii) in connection with the termination of such contract, any short party transfers the underlying security to any long party,

“(iii) the underlying security is not readily tradable on an established securities market,

“(iv) in connection with entering into such contract, the underlying security is posted as collateral by any short party to the contract, or
“(v) such contract is identified by the Secretary as a specified notional principal contract,

“(B) in the case of payments made after the date which is 2 years after the date of the enactment of this subsection, any notional principal contract unless the Secretary determines that such contract is of a type which does not have the potential for tax avoidance.

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

“(A) LONG PARTY.—The term ‘long party’ means, with respect to any underlying security of any notional principal contract, any party to the contract which is entitled to receive any payment pursuant to such contract which is contingent upon, or determined by reference to, the payment of a dividend from sources within the United States with respect to such underlying security.

“(B) SHORT PARTY.—The term ‘short party’ means, with respect to any underlying security of any notional principal contract, any party to the contract which is not a long party with respect to such underlying security.
“(C) UNDERLYING SECURITY.—The term ‘underlying security’ means, with respect to any notional principal contract, the security with respect to which the dividend referred to in paragraph (2)(B) is paid. For purposes of this paragraph, any index or fixed basket of securities shall be treated as a single security.

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

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

“(7) COORDINATION WITH CHAPTERS 3 AND 4.—For purposes of chapters 3 and 4, each person that is a party to any contract or other arrangement that provides for the payment of a dividend equiva-
lent shall be treated as having control of such pay-
ment.”.

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

TITLE VI—OTHER REVENUE
PROVISIONS
Subtitle A—Partnership Interests
Held by Partners Providing
Services
SEC. 601. PARTNERSHIP INTERESTS TRANSFERRED IN
CONNECTION WITH PERFORMANCE OF SERV-
ICES.

(a) MODIFICATION TO ELECTION TO INCLUDE PART-
NERSHIP INTEREST IN GROSS INCOME IN YEAR OF
TRANSFER.—Subsection (c) of section 83 is amended by
redesignating paragraph (4) as paragraph (5) and by in-
serting after paragraph (3) the following new paragraph:

“(4) PARTNERSHIP INTERESTS.—Except as
provided by the Secretary, in the case of any trans-
fer of an interest in a partnership in connection with
the provision of services to (or for the benefit of)
such partnership—
“(A) the fair market value of such interest shall be treated for purposes of this section as being equal to the amount of the distribution which the partner would receive if the partnership sold (at the time of the transfer) all of its assets at fair market value and distributed the proceeds of such sale (reduced by the liabilities of the partnership) to its partners in liquidation of the partnership, and

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interests in partnerships transferred after the date of the enactment of this Act.
SEC. 602. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.

(a) In General.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

"SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

"(a) Treatment of Distributive Share of Partnership Items.—For purposes of this title, in the case of an investment services partnership interest—

"(1) In General.—Notwithstanding section 702(b)—

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

"(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be)."
“(2) Treatment of losses.—

“(A) Limitation.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

“(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

“(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

“(B) Carryforward.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

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

“(D) Prior partnership years.—Any reference in this paragraph to prior partnership
taxable years shall only include prior partnership taxable years to which this section applies.

“(3) Net income and loss.—For purposes of this section—

“(A) Net income.—The term ‘net income’ means, with respect to any investment services partnership interest for any partnership taxable year, the excess (if any) of—

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

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

“(B) Net loss.—The term ‘net loss’ means, with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

“(b) Dispositions of partnership interests.—

“(1) Gain.—Any gain on the disposition of an investment services partnership interest shall be treated as ordinary income and shall be recognized notwithstanding any other provision of this subtitle.
“(2) Loss.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

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

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

“(3) Disposition of portion of interest.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

“(4) Distributions of partnership property.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

“(A) the excess (if any) of—

“(i) the fair market value of such property at the time of such distribution, over
“(ii) the adjusted basis of such property in the hands of the partnership,

shall be taken into account as an increase in such partner’s distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

“(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

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

Subsection (b) of section 734 shall be applied without regard to the preceding sentence.

“(5) APPLICATION OF SECTION 751.—In applying section 751(a), an investment services partnership interest shall be treated as an inventory item.

“(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

“(1) IN GENERAL.—The term ‘investment services partnership interest’ means any interest in a partnership which is held (directly or indirectly) by
any person if it was reasonably expected (at the time that such person acquired such interest) that such person (or any person related to such person) would provide (directly or indirectly) a substantial quantity of any of the following services with respect to assets held (directly or indirectly) by the partnership:

“(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

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

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

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

For purposes of this paragraph, the term ‘specified asset’ means securities (as defined in section 475(e)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to any of the foregoing.

“(2) Exception for certain capital interests.—
“(A) IN GENERAL.—In the case of any portion of an investment services partnership interest which is a qualified capital interest, all items of income, gain, loss, and deduction which are allocated to such qualified capital interest shall not be taken into account under subsection (a) if—

“(i) allocations of items are made by the partnership to such qualified capital interest in the same manner as such allocations are made to other qualified capital interests held by partners who do not provide any services described in paragraph (1) and who are not related to the partner holding the qualified capital interest, and

“(ii) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.

“(B) SPECIAL RULE FOR NO OR INSIGNIFICANT ALLOCATIONS TO NONSERVICE PROVIDERS.—To the extent provided by the Secretary in regulations or other guidance, in any case in which the requirements of subparagraph (A)(ii) are not satisfied, items of income, gain,
loss, and deduction shall not be taken into ac-
account under subsection (a) to the extent that
such items are properly allocable under such
regulations or other guidance to qualified cap-
ital interests.

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

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

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

“(D) QUALIFIED CAPITAL INTEREST.—For
purposes of this paragraph, the term ‘qualified
capital interest’ means so much of a partner’s interest in the capital of the partnership as is attributable to—

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

“(ii) any amounts which have been included in gross income under section 83 with respect to the transfer of such interest, and

“(iii) the excess (if any) of—

“(I) any items of income and gain taken into account under section 702 with respect to such interest for taxable years to which this section applies, over

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

The qualified capital interest shall be reduced by distributions from the partnership with respect to such interest for taxable years to which this section applies and by the excess (if any)
of the amount described in clause (iii)(II) over
the amount described in clause (iii)(I).

“(E) Treatment of Certain Loans.—

“(i) Proceeds of Partnership
Loans Not Treated as Qualified Capital Interest of Service Providing Partners.—For purposes of this para-
graph, an investment services partnership
interest shall not be treated as a qualified
capital interest to the extent that such in-
terest is acquired in connection with the
proceeds of any loan or other advance
made or guaranteed, directly or indirectly,
by any other partner or the partnership (or
any person related to any such other part-
ner or the partnership).

“(ii) Reduction in Allocations to Qualified Capital Interests for Loans from Nonservice Providing Partners to the Partnership.—For
purposes of this paragraph, any loan or
other advance to the partnership made or
guaranteed, directly or indirectly, by a
partner not providing services described in
paragraph (1) to the partnership (or any
person related to such partner) shall be taken into account in determining the qualified capital interests of the partners in the partnership.

“(3) RELATED PERSONS.—A person shall be treated as related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b).

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

“(1) IN GENERAL.—If—

“(A) a person performs (directly or indirectly) investment management services for any entity,

“(B) such person holds (directly or indirectly) a disqualified interest with respect to such entity, and

“(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to
the rules of subsection (c)(2) shall apply for purposes of this subsection.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) DISQUALIFIED INTEREST.—

“(i) IN GENERAL.—The term ‘disqualified interest’ means, with respect to any entity—

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

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

“(III) any option or other right to acquire property described in subclause (I) or (II), and

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

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

“(I) a partnership interest,

“(II) except as provided by the Secretary, any interest in a taxable corporation, and
“(III) except as provided by the Secretary, stock in an S corporation.

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

“(i) a domestic C corporation, or

“(ii) a foreign corporation substantially all of the income of which is—

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

“(II) subject to a comprehensive foreign income tax (as defined in section 457A(d)(2)).

“(C) INVESTMENT MANAGEMENT SERVICES.—The term ‘investment management services’ means a substantial quantity of any of the services described in subsection (c)(1).

“(e) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—

“(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modi-
ification is consistent with the purposes of this section,

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

“(3) coordinate this section with the other provisions of this title.

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

(b) INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS NOT TREATED AS QUALIFYING INCOME OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (d) of section 7704 is amended by adding at the end the following new paragraph:

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

“(A) IN GENERAL.—Items of income and gain shall not be treated as qualifying income if such items are treated as ordinary income by reason of the application of section 710 (relating to special rules for partners providing investment management services to partnership).

“(B) SPECIAL RULES FOR CERTAIN PARTNERSHIPS.—

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“(i) Certain partnerships owned by real estate investment trusts.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

“(I) Such partnership is treated as publicly traded under this section solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

“(II) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

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

“(ii) Certain partnerships owning other publicly traded partnerships.—Subparagraph (A) shall not apply
in the case of a partnership which meets each of the following requirements:

“(I) Substantially all of the assets of such partnership consist of interests in one or more publicly traded partnerships (determined without regard to subsection (b)(2)).

“(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).

“(C) TRANSITIONAL RULE.—In the case of a partnership which is a publicly traded partnership on the date of the enactment of this paragraph, subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after the date of the enactment of this paragraph.”.

(c) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662, as amended by section 512, is amended by inserting after paragraph (6) the following new paragraph:
“(7) The application of subsection (d) of section 710 or the regulations prescribed under section 710(e) to prevent the avoidance of the purposes of section 710.”.

(2) AMOUNT OF PENALTY.—

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

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

(B) CONFORMING AMENDMENTS.—Subparagraph (B) of section 6662A(e)(2) is amended—

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

(ii) by striking “GROSS VALUATION MISSTATEMENT PENALTY” in the heading and inserting “CERTAIN INCREASED UNDERPAYMENT PENALTIES”.

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(3) **Special rules for application of reasonable cause exception.**—Subsection (c) of section 6664 is amended—

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

(B) by striking “paragraph (2)” in paragraph (4), as so redesignated, and inserting “paragraph (3)”, and

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

“(2) **Special rule for underpayments attributable to investment management services.**—

“(A) **In general.**—Paragraph (1) shall not apply to any portion of an underpayment to which this section applies by reason of subsection (b)(7) unless—

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

“(ii) there is or was substantial authority for such treatment, and

“(iii) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.
“(B) Rules relating to reasonable belief.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of subparagraph (A)(iii).”.

(d) Income and Loss From Investment Services Partnership Interests Taken Into Account in Determining Net Earnings From Self-Employment.—

(1) Internal revenue code.—Section 1402(a) is amended by striking “and” at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting “; and”, and by inserting after paragraph (17) the following new paragraph:

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

(2) Social security act.—Section 211(a) of the Social Security Act is amended by inserting after paragraph (16) the following new paragraph:
“(17) Notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) of the Internal Revenue Code of 1986 with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 of such Code with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.”.

(e) Conforming Amendments.—

(1) Subsection (d) of section 731 is amended by inserting “section 710(b)(4) (relating to distributions of partnership property),” after “to the extent otherwise provided by”.

(2) Section 741 is amended by inserting “or section 710 (relating to special rules for partners providing investment management services to partnership)” before the period at the end.

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

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

(f) Effective Date.—
(1) **In General.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 2009.

(2) **Partnership Taxable Years Which Include Effective Date.**—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes December 31, 2009, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) **Dispositions of Partnership Interests.**—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after December 31, 2009.

(4) **Other Income and Gain in Connection with Investment Management Services.**—Section 710(d) of such Code (as added by this section) shall take effect on January 1, 2010.
(5) **Publicly Traded Partnerships.**—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

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

#### SEC. 611. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

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

### Subtitle C—Tax Expenditure Study

#### SEC. 621. FINDINGS.

Congress finds the following:

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

(2) Given the escalating public debt, a critical examination of this use of taxpayer dollars is essential.

(3) Additionally, tax expenditures can complicate the Internal Revenue Code of 1986 for taxpayers and complicate tax administration for the Internal Revenue Service.
(4) To facilitate a better understanding of tax expenditures in the future, it is constructive for legislation extending these provisions to include a study of such provisions.

SEC. 622. STUDY OF EXTENDED TAX EXPENDITURES.

(a) In general.—Not later than November 30, 2010, the Chief of Staff of the Joint Committee on Taxation, in consultation with the Comptroller General of the United States, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each tax expenditure (as defined in section 3(3) of the Congressional Budget Impoundment Control Act of 1974 (2 U.S.C. 622(3)) extended by this Act.

(b) Rolling Submission of Reports.—The Chief of Staff of the Joint Committee on Taxation shall initially submit the reports for each such tax expenditure enacted in subtitle B of title I (relating to business tax relief) and title IV (relating to energy provisions) in order of the tax expenditure incurring the least aggregate cost to the greatest aggregate cost (determined by reference to the cost estimate of this Act by the Joint Committee on Taxation). Thereafter, such reports may be submitted in such order as the Chief of Staff determines appropriate.
(c) CONTENTS OF REPORT.—Such reports shall contain the following:

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

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

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

(4) An analysis of the extent to which further extending the tax expenditure, or making it permanent, would contribute to achieving such purpose.

(5) A description of the direct and indirect beneficiaries of the tax expenditure, including identifying any unintended beneficiaries.

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

(7) A description of any unintended effects of the tax expenditure that are useful in understanding the tax expenditure’s overall value.
(8) An analysis of how the tax expenditure could be modified to better achieve its original purpose.

(9) A brief description of any interactions (actual or potential) with other tax expenditures or direct spending programs in the same or related budget function worthy of further study.

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

(d) **Minimum Analysis by Deadline.**—In the event the Chief of Staff of the Joint Committee on Taxation concludes it will not be feasible to complete all reports by the date specified in subsection (a), at a minimum, the reports for each tax expenditure enacted in subtitle B of title I (relating to business tax relief) and title IV (relating to energy provisions) shall be completed by such date.

Passed the House of Representatives December 9, 2009.

Attest:

*Clerk.*
AN ACT

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

H. R. 4213

111TH CONGRESS

1ST SESSION