106TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 106–467
Part 1

WAGE AND EMPLOYMENT GROWTH ACT OF 1999

NOVEMBER 11, 1999.—Ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3081]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3081) to increase the Federal minimum wage and to amend the Internal Revenue Code of 1986 to provide tax benefits for small businesses, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

The amendments (stated in terms of title designation) are as follows:

1. In the table of sections strike all after title I and insert the following:

TITLE II—SMALL BUSINESS PROVISIONS

TITLE III—PENSION PROVISIONS

Subtitle A—Expanding Coverage

Subtitle B—Enhancing Fairness for Women

Subtitle C—Increasing Portability for Participants

Subtitle D—Strengthening Pension Security and Enforcement

Subtitle E—Reducing Regulatory Burdens

2. Strike all after title I and insert the following:

TITLE II—SMALL BUSINESS PROVISIONS

SEC. 201. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.".

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) is amended to read as follows: "Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 202. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

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

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $30,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 203. INCREASED DEDUCTION FOR MEAL EXPENSES.

(a) IN GENERAL.—Paragraph (1) of section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking "50 percent" in the text and inserting "the allowable percentage".

(b) ALLOWABLE PERCENTAGES.—Subsection (n) of section 274 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) ALLOWABLE PERCENTAGE.—For purposes of paragraph (1), the allowable percentage is—

"(A) in the case of amounts for items described in paragraph (1)(B), 50 percent, and

"(B) in the case of expenses for food or beverages, 60 percent (55 percent for taxable years beginning during 2001)."

(c) CONFORMING AMENDMENT.—The heading for subsection (n) of section 274 is amended by striking "50 PERCENT" and inserting "LIMITED PERCENTAGES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 204. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Paragraph (4) of section 274(n) (relating to limited percentages of meal and entertainment expenses allowed as deduction), as redesignated by section 203, is amended to read as follows:

"(4) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed while away from home (within the meaning of section 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, paragraph (2)(B) shall be applied by substituting '80 percent' for the percentage otherwise applicable under paragraph (2)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

SEC. 205. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.

Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7200 et seq.), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which such payment is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

SEC. 206. INCOME AVERAGING FOR FARMERS AND FISHERMEN NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Section 55(c) (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS AND FISHERMEN.—Solely for purposes of this section, section 1301 (relating to averaging of farm and fishing income) shall not apply in computing the regular tax.".

(b) ALLOWING INCOME AVERAGING FOR FISHERMEN.—

(1) IN GENERAL.—Section 1301(a) is amended by striking "farming business" and inserting "farming business or fishing business,".

(2) DEFINITION OF ELECTED FARM INCOME.—

(A) IN GENERAL.—Clause (i) of section 1301(b)(1)(A) is amended by inserting "or fishing business" before the semicolon.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 1301(b)(1) is amended by inserting "or fishing business" after "farming business" both places it occurs.

(3) DEFINITION OF FISHING BUSINESS.—Section 1301(b) is amended by adding at the end the following new paragraph:

"(4) FISHING BUSINESS.—The term 'fishing business' means the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 207. REPEAL OF OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 of the Internal Revenue Code of 1986 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions."

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions."

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "and rate of tax" in the section heading,

(ii) by striking "(a) ELIGIBILITY FOR DRAWBACK.—", and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection."

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer."

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3)."

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D. Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers."

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302."

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e)."

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112, and by retail liquor dealers, see section 5122."

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended—

(i) by striking "this part" each place it appears and inserting "this subchapter", and

(ii) by striking "this subpart" in section 5732(c)(2) (as so redesignated) and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Subsection (c) of section 5733, as redesignated by subparagraph (A), is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.
"Sec. 5733. Provisions relating to liability for occupational taxes.
"Sec. 5734. Application of State laws."

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111(a)".

(21) The table of sections for subchapter D of chapter 51 is amended by striking the item relating to section 5276.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2001, but shall not apply to taxes imposed for periods before such date.

TITLE III—PENSION PROVISIONS

Subtitle A—Expanding Coverage

SEC. 301. INCREASE IN BENEFIT AND CONTRIBUTION LIMITS.

(a) DEFINED BENEFIT PLANS.—

(1) DOLLAR LIMIT.—

(A) Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plans) is amended by striking "$90,000" and inserting "$160,000".

(B) Subparagraphs (C) and (D) of section 415(b)(2) are each amended by striking "$90,000" each place it appears in the headings and the text and inserting "$160,000".

(C) Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by striking "the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000'" and inserting "one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$160,000'".

(2) LIMIT REDUCED WHEN BENEFIT BEGINS BEFORE AGE 62.—Subparagraph (C) of section 415(b)(2) is amended by striking "the social security retirement age" each place it appears in the heading and text and inserting "age 62".

(3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER AGE 65.—Subparagraph (D) of section 415(b)(2) is amended by striking "the social security retirement age" each place it appears in the heading and text and inserting "age 65".

(4) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—

(A) by striking "$90,000" in paragraph (1)(A) and inserting "$160,000", and

(B) in paragraph (3)(A)—

(i) by striking "$90,000" in the heading and inserting "$160,000", and

(ii) by striking "October 1, 1986" and inserting "July 1, 2000".

(5) CONFORMING AMENDMENT.—Section 415(b)(2) is amended by striking subparagraph (F).

(b) DEFINED CONTRIBUTION PLANS.—

(1) DOLLAR LIMIT.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended by striking "$30,000" and inserting "$40,000".

(2) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—

(A) by striking "$30,000" in paragraph (1)(C) and inserting "$40,000", and

(B) in paragraph (3)(D)—

(i) by striking "$30,000" in the heading and inserting "$40,000", and

(ii) by striking "October 1, 1993" and inserting "July 1, 2000".

(c) QUALIFIED TRUSTS.—

(1) COMPENSATION LIMIT.—Sections 401(a)(17), 404(l), 408(k), and 505(b)(7) are each amended by striking "$150,000" each place it appears and inserting "$200,000".

(2) BASE PERIOD AND ROUNDING OF COST-OF-LIVING ADJUSTMENT.—Subparagraph (B) of section 401(a)(17) is amended—

(A) by striking "October 1, 1993" and inserting "July 1, 2000", and

(B) by striking "$10,000" both places it appears and inserting "$5,000".

(d) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Paragraph (1) of section 402(g) (relating to limitation on exclusion for elective deferrals) is amended to read as follows:

"(1) IN GENERAL.—

"(A) LIMITATION.—Notwithstanding subsections (e)(3) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds the applicable dollar amount.

"(B) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A), the applicable dollar amount shall be the amount determined in accordance with the following table:

"For taxable years beginning in calendar year:	**The applicable dollar amount:**
2001	$11,000
2002	$12,000
2003	$13,000
2004 or thereafter	$14,000.".

(2) COST-OF-LIVING ADJUSTMENT.—Paragraph (5) of section 402(g) is amended to read as follows:

"(5) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2004, the Secretary shall adjust the $14,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2003, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.".

(3) CONFORMING AMENDMENTS.—

(A) Section 402(g) (relating to limitation on exclusion for elective deferrals), as amended by paragraphs (1) and (2), is further amended by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

(B) Paragraph (2) of section 457(c) is amended by striking "402(g)(8)(A)(iii)" and inserting "402(g)(7)(A)(iii)".

(C) Clause (iii) of section 501(c)(18)(D) is amended by striking "(other than paragraph (4) thereof)".

(e) DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended—

(A) in subsections (b)(2)(A) and (c)(1) by striking "$7,500" each place it appears and inserting "the applicable dollar amount", and

(B) in subsection (b)(3)(A) by striking "$15,000" and inserting "twice the dollar amount in effect under subsection (b)(2)(A)".

(2) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—Paragraph (15) of section 457(e) is amended to read as follows:

"(15) APPLICABLE DOLLAR AMOUNT.—

"(A) IN GENERAL.—The applicable dollar amount shall be the amount determined in accordance with the following table:

"For taxable years beginning in calendar year:	The applicable dollar amount:
2001	$11,000
2002	$12,000
2003	$13,000
2004 or thereafter	$14,000.

"(B) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after December 31, 2004, the Secretary shall adjust the $14,000 amount specified in the table in subparagraph (A) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2003, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.".

(f) SIMPLE RETIREMENT ACCOUNTS.—

(1) LIMITATION.—Clause (ii) of section 408(p)(2)(A) (relating to general rule for qualified salary reduction arrangement) is amended by striking "$6,000" and inserting "the applicable dollar amount".

(2) APPLICABLE DOLLAR AMOUNT.—Subparagraph (E) of 408(p)(2) is amended to read as follows:

"(E) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the applicable dollar amount shall be the amount determined in accordance with the following table:

"For taxable years beginning in calendar year:	The applicable dollar amount:
2001	$7,000
2002	$8,000
2003	$9,000
2004 or thereafter	$10,000.

"(ii) COST-OF-LIVING ADJUSTMENT.—In the case of a year beginning after December 31, 2004, the Secretary shall adjust the $10,000 amount under clause (i) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter beginning July 1, 2003, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.".

(3) CONFORMING AMENDMENTS.—

(A) Clause (I) of section 401(k)(11)(B)(i) is amended by striking "$6,000" and inserting "the amount in effect under section 408(p)(2)(A)(ii)".

(B) Section 401(k)(11) is amended by striking subparagraph (E).

(g) ROUNDING RULE RELATING TO DEFINED BENEFIT PLANS AND DEFINED CONTRIBUTION PLANS.—Paragraph (4) of section 415(d) is amended to read as follows:

"(4) ROUNDING.—

"(A) $160,000 AMOUNT.—Any increase under subparagraph (A) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(B) $40,000 AMOUNT.—Any increase under subparagraph (C) of paragraph (1) which is not a multiple of $1,000 shall be rounded to the next lowest multiple of $1,000.".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

SEC. 302. PLAN LOANS FOR SUBCHAPTER S OWNERS, PARTNERS, AND SOLE PROPRIETORS.

(a) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 4975(f)(6) (relating to exemptions not to apply to certain transactions) is amended by adding at the end the following new clause:

"(iii) LOAN EXCEPTION.—For purposes of subparagraph (A)(i), the term 'owner-employee' shall only include a person described in subclause (II) or (III) of clause (i).".

(b) AMENDMENT TO ERISA.—Section 408(d)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)(2)) is amended by adding at the end the following new subparagraph:

"(C) For purposes of paragraph (1)(A), the term 'owner-employee' shall only include a person described in clause (ii) or (iii) of subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made after December 31, 2000.

SEC. 303. MODIFICATION OF TOP-HEAVY RULES.

(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.—

(1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended—

(A) by striking "or any of the 4 preceding plan years" in the matter preceding clause (i),

(B) by striking clause (i) and inserting the following:

"(i) an officer of the employer having an annual compensation greater than $150,000,",

(C) by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and

(D) by striking the second sentence in the matter following clause (iii), as redesignated by subparagraph (C).

(2) CONFORMING AMENDMENT.—Section 416(i)(1)(B)(iii) is amended by striking "and subparagraph (A)(ii)".

(b) MATCHING CONTRIBUTIONS TAKEN INTO ACCOUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—Section 416(c)(2)(A) (relating to defined contribution plans) is amended by adding at the end the following: "Employer matching contributions (as defined in section 401(m)(4)(A)) shall be taken into account for purposes of this subparagraph.".

(c) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 416(g) is amended to read as follows:

"(3) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of determining—

"(i) the present value of the cumulative accrued benefit for any employee, or

"(ii) the amount of the account of any employee,

such present value or amount shall be increased by the aggregate distributions made with respect to such employee under the plan during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which if it had not been terminated would have been required to be included in an aggregation group.

"(B) 5-YEAR PERIOD IN CASE OF IN-SERVICE DISTRIBUTION.—In the case of any distribution made for a reason other than separation from service, death, or disability, subparagraph (A) shall be applied by substituting '5-year period' for '1-year period'.".

(2) BENEFITS NOT TAKEN INTO ACCOUNT.—Subparagraph (E) of section 416(g)(4) is amended—

(A) by striking "LAST 5 YEARS" in the heading and inserting "LAST YEAR BEFORE DETERMINATION DATE", and

(B) by striking "5-year period" and inserting "1-year period".

(d) DEFINITION OF TOP-HEAVY PLANS.—Paragraph (4) of section 416(g) (relating to other special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

"(H) CASH OR DEFERRED ARRANGEMENTS USING ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—The term 'top-heavy plan' shall not include a plan which consists solely of—

"(i) a cash or deferred arrangement which meets the requirements of section 401(k)(12), and

"(ii) matching contributions with respect to which the requirements of section 401(m)(11) are met.

If, but for this subparagraph, a plan would be treated as a top-heavy plan because it is a member of an aggregation group which is a top-heavy group, contributions under the plan may be taken into account in determining whether any other plan in the group meets the requirements of subsection (c)(2).".

(e) FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT REQUIREMENT.—Subparagraph (C) of section 416(c)(1) (relating to defined benefit plans) is amended—

(A) by striking "clause (ii)" in clause (i) and inserting "clause (ii) or (iii)", and

(B) by adding at the end the following:

"(iii) EXCEPTION FOR FROZEN PLAN.—For purposes of determining an employee's years of service with the employer, any service with the employer shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 410(b)) no employee or former employee.".

(f) ELIMINATION OF FAMILY ATTRIBUTION.—Section 416(i)(1)(B) (defining 5-percent owner) is amended by adding at the end the following new clause:

"(iv) FAMILY ATTRIBUTION DISREGARDED.—Solely for purposes of applying this paragraph (and not for purposes of any provision of this title which incorporates by reference the definition of a key employee or 5-percent owner under this paragraph), section 318 shall be applied without regard to subsection (a)(1) thereof in determining whether any person is a 5-percent owner.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

SEC. 304. ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.

(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended by adding at the end the following new subsection:

"(n) ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—Elective deferrals (as defined in section 402(g)(3)) shall not be subject to any limitation contained in paragraph (3), (7), or (9) of subsection (a), and such elective deferrals shall not be taken into account in applying any such limitation to any other contributions.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

SEC. 305. REPEAL OF COORDINATION REQUIREMENTS FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations), as amended by section 211, is amended to read as follows:

"(c) LIMITATION.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed the amount in effect under subsection (b)(2)(A) (as modified by any adjustment provided under subsection (b)(3)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2000.

SEC. 306. ELIMINATION OF USER FEE FOR REQUESTS TO IRS REGARDING PENSION PLANS.

(a) ELIMINATION OF CERTAIN USER FEES.—The Secretary of the Treasury or the Secretary's delegate shall not require payment of user fees under the program established under section 7527 of the Internal Revenue Code of 1986 for requests to the Internal Revenue Service for determination letters with respect to the qualified status of a pension benefit plan maintained solely by one or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

(1) made after the 5th plan year the pension benefit plan is in existence, or

(2) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

(b) PENSION BENEFIT PLAN.—For purposes of this section, the term "pension benefit plan" means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term "eligible employer" has the same meaning given such term in section 408(p)(2)(C)(i)(I) of the Internal Revenue Code of 1986. The determination of whether an employer is an eligible employer under this section shall be made as of the date of the request described in subsection (a).

(d) EFFECTIVE DATE.—The provisions of this section shall apply with respect to requests made after December 31, 2000.

SEC. 307. DEDUCTION LIMITS.

(a) IN GENERAL.—Section 404(a) (relating to general rule) is amended by adding at the end the following:

"(12) DEFINITION OF COMPENSATION.—For purposes of paragraphs (3), (7), (8), and (9), the term 'compensation' shall include amounts treated as participant's compensation under subparagraph (C) or (D) of section 415(c)(3).".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 404(a)(3) is amended by striking the last sentence thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

SEC. 308. OPTION TO TREAT ELECTIVE DEFERRALS AS AFTER-TAX CONTRIBUTIONS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to deferred compensation, etc.) is amended by inserting after section 402 the following new section:

"SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFERRALS AS PLUS CONTRIBUTIONS.

"(a) GENERAL RULE.—If an applicable retirement plan includes a qualified plus contribution program—

"(1) any designated plus contribution made by an employee pursuant to the program shall be treated as an elective deferral for purposes of this chapter, except that such contribution shall not be excludable from gross income, and

"(2) such plan (and any arrangement which is part of such plan) shall not be treated as failing to meet any requirement of this chapter solely by reason of including such program.

"(b) QUALIFIED PLUS CONTRIBUTION PROGRAM.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified plus contribution program' means a program under which an employee may elect to make designated plus contributions in lieu of all or a portion of elective deferrals the employee is otherwise eligible to make under the applicable retirement plan.

"(2) SEPARATE ACCOUNTING REQUIRED.—A program shall not be treated as a qualified plus contribution program unless the applicable retirement plan—

"(A) establishes separate accounts ('designated plus accounts') for the designated plus contributions of each employee and any earnings properly allocable to the contributions, and

"(B) maintains separate recordkeeping with respect to each account.

"(c) DEFINITIONS AND RULES RELATING TO DESIGNATED PLUS CONTRIBUTIONS.—For purposes of this section—

"(1) DESIGNATED PLUS CONTRIBUTION.—The term 'designated plus contribution' means any elective deferral which—

"(A) is excludable from gross income of an employee without regard to this section, and

"(B) the employee designates (at such time and in such manner as the Secretary may prescribe) as not being so excludable.

"(2) DESIGNATION LIMITS.—The amount of elective deferrals which an employee may designate under paragraph (1) shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals excludable from gross income of the employee for the taxable year (without regard to this section), over

"(B) the aggregate amount of elective deferrals of the employee for the taxable year which the employee does not designate under paragraph (1).

"(3) ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—A rollover contribution of any payment or distribution from a designated plus account which is otherwise allowable under this chapter may be made only if the contribution is to—

"(i) another designated plus account of the individual from whose account the payment or distribution was made, or

"(ii) a Roth IRA of such individual.

"(B) COORDINATION WITH LIMIT.—Any rollover contribution to a designated plus account under subparagraph (A) shall not be taken into account for purposes of paragraph (1).

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) EXCLUSION.—Any qualified distribution from a designated plus account shall not be includible in gross income.

"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' has the meaning given such term by section 408A(d)(2)(A) (without regard to clause (iv) thereof).

"(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a designated plus account shall not be treated as a qualified distribution if such payment or distribution is made within the 5-taxable-year period beginning with the earlier of—

"(i) the first taxable year for which the individual made a designated plus contribution to any designated plus account established for such individual under the same applicable retirement plan, or

"(ii) if a rollover contribution was made to such designated plus account from a designated plus account previously established for such individual under another applicable retirement plan, the first taxable

year for which the individual made a designated plus contribution to such previously established account.

"(C) DISTRIBUTIONS OF EXCESS DEFERRALS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any excess deferral under section 402(g)(2) and any income on the excess deferral.

"(3) AGGREGATION RULES.—Section 72 shall be applied separately with respect to distributions and payments from a designated plus account and other distributions and payments from the plan.

"(e) OTHER DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE RETIREMENT PLAN.—The term 'applicable retirement plan' means—

"(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a), and

"(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

"(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means any elective deferral described in subparagraph (A) or (C) of section 402(g)(3).".

(b) EXCESS DEFERRALS.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "The preceding sentence shall not apply to so much of such excess as does not exceed the designated plus contributions of the individual for the taxable year.", and

(2) by inserting "(or would be included but for the last sentence thereof)" after "paragraph (1)" in paragraph (2)(A).

(c) ROLLOVERS.—Subparagraph (B) of section 402(c)(8) is amended by adding at the end the following:

"If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated plus account (as defined in section 402A), an eligible retirement plan with respect to such portion shall include only another designated plus account and a Roth IRA.".

(d) REPORTING REQUIREMENTS.—

(1) W–2 INFORMATION.—Section 6051(a)(8) is amended by inserting ", including the amount of designated plus contributions (as defined in section 402A)" before the comma at the end.

(2) INFORMATION.—Section 6047 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DESIGNATED PLUS CONTRIBUTIONS.—The Secretary shall require the plan administrator of each applicable retirement plan (as defined in section 402A) to make such returns and reports regarding designated plus contributions (as so defined) to the Secretary, participants and beneficiaries of the plan, and such other persons as the Secretary may prescribe.".

(e) CONFORMING AMENDMENTS.—

(1) Section 408A(e) is amended by adding after the first sentence the following new sentence: "Such term includes a rollover contribution described in section 402A(c)(3)(A).".

(2) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 402 the following new item:

"Sec. 402A. Optional treatment of elective deferrals as plus contributions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 309. REDUCED PBGC PREMIUM FOR NEW PLANS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(1) in clause (i), by inserting "other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined)," after "single-employer plan,",

(2) in clause (iii), by striking the period at the end and inserting ", and", and

(3) by adding at the end the following new clause:

"(iv) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, $5 for each individual who is a participant in such plan during the plan year.".

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor's controlled group (or any predecessor of either) had not established or maintained a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new single-employer plan.

"(ii)(I) For purposes of this paragraph, the term 'small employer' means an employer which on the first day of any plan year has, in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

"(II) In the case of a plan maintained by two or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsors shall be aggregated for purposes of determining whether any contributing sponsor is a small employer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plans established after December 31, 2000.

SEC. 310. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR NEW AND SMALL PLANS.

(a) NEW PLANS.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new clause:

"(v) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product of the amount determined under clause (ii) and the applicable percentage. For purposes of this clause, the term 'applicable percentage' means—

"(I) 0 percent, for the first plan year.

"(II) 20 percent, for the second plan year.

"(III) 40 percent, for the third plan year.

"(IV) 60 percent, for the fourth plan year.

"(V) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.".

(b) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)) is amended—

(1) by striking "The" in subparagraph (E)(i) and inserting "Except as provided in subparagraph (G), the", and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

"(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether 25-or-fewer-employees limitation has been satisfied.".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to plans established after December 31, 2000.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2000.

Subtitle B—Enhancing Fairness for Women

SEC. 321. CATCHUP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(v) CATCHUP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.—

"(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

"(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

"(A) IN GENERAL.—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

"(i) the applicable percentage of the applicable dollar amount for such elective deferrals for such year, or

"(ii) the excess (if any) of—

"(I) the participant's compensation for the year, over

"(II) any other elective deferrals of the participant for such year which are made without regard to this subsection.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in:	The applicable percentage is:
2001	10 percent
2002	20 percent
2003	30 percent
2004 and thereafter	40 percent.

"(3) TREATMENT OF CONTRIBUTIONS.—In the case of any contribution to a plan under paragraph (1)—

"(A) such contribution shall not, with respect to the year in which the contribution is made—

"(i) be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, or

"(ii) be taken into account in applying such limitations to other contributions or benefits under such plan or any other such plan, and

"(B) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k), 408(p), 408B, 410(b), or 416 by reason of the making of (or the right to make) such contribution.

"(4) ELIGIBLE PARTICIPANT.—For purposes of this subsection, the term 'eligible participant' means, with respect to any plan year, a participant in a plan—

"(A) who has attained the age of 50 before the close of the plan year, and

"(B) with respect to whom no other elective deferrals may (without regard to this subsection) be made to the plan for the plan year by reason of the application of any limitation or other restriction described in paragraph (3) or contained in the terms of the plan.

"(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

"(A) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means, with respect to any year, the amount in effect under section 402(g)(1)(B), 408(p)(2)(E)(i), or 457(e)(15)(A), whichever is applicable to an applicable employer plan, for such year.

"(B) APPLICABLE EMPLOYER PLAN.—The term 'applicable employer plan' means—

"(i) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

"(ii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

"(iii) an eligible deferred compensation plan under section 457 of an eligible employer as defined in section 457(e)(1)(A), and

"(iv) an arrangement meeting the requirements of section 408 (k) or (p).

"(C) ELECTIVE DEFERRAL.—The term 'elective deferral' has the meaning given such term by subsection (u)(2)(C).

"(D) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to an applicable employer plan described in subparagraph (B)(iii) for any year to which section 457(b)(3) applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions in taxable years beginning after December 31, 2000.

SEC. 322. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF EMPLOYEES TO DEFINED CONTRIBUTION PLANS.

(a) EQUITABLE TREATMENT.—

(1) IN GENERAL.—Subparagraph (B) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended by striking "25 percent" and inserting "100 percent".

(2) APPLICATION TO SECTION 403(b).—Section 403(b) is amended—

(A) by striking "the exclusion allowance for such taxable year" in paragraph (1) and inserting "the applicable limit under section 415",

(B) by striking paragraph (2), and

(C) by inserting "or any amount received by a former employee after the 5th taxable year following the taxable year in which such employee was terminated" before the period at the end of the second sentence of paragraph (3).

(3) CONFORMING AMENDMENTS.—

(A) Subsection (f) of section 72 is amended by striking "section 403(b)(2)(D)(iii))" and inserting "section 403(b)(2)(D)(iii), as in effect before the enactment of the Wage and Employment Growth Act of 1999)".

(B) Section 404(a)(10)(B) is amended by striking ", the exclusion allowance under section 403(b)(2),".

(C) Section 415(a)(2) is amended by striking ", and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in section 403(b)(2)".

(D) Section 415(c)(3) is amended by adding at the end the following new subparagraph:

"(E) ANNUITY CONTRACTS.—In the case of an annuity contract described in section 403(b), the term 'participant's compensation' means the participant's includible compensation determined under section 403(b)(3).".

(E) Section 415(c) is amended by striking paragraph (4).

(F) Section 415(c)(7) is amended to read as follows:

"(7) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMIT.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

"(B) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

"(C) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2).".

(G) Subparagraph (B) of section 402(g)(7) (as redesignated by section 211) is amended by inserting before the period at the end the following: "(as in effect before the enactment of the Wage and Employment Growth Act of 1999)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.

(b) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—

(1) IN GENERAL.—Subsection (k) of section 415 is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—For purposes of this section, any annuity contract described in section 403(b) for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). For purposes of this section, any contribution by an employer to a simplified employee pension plan for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to limitation years beginning after December 31, 1999.

(B) EXCLUSION ALLOWANCE.—Effective for limitation years beginning in 2000, in the case of any annuity contract described in section 403(b) of the Internal Revenue Code of 1986, the amount of the contribution disqualified by reason of section 415(g) of such Code shall reduce the exclusion allowance as provided in section 403(b)(2) of such Code.

(3) MODIFICATION OF 403(b) EXCLUSION ALLOWANCE TO CONFORM TO 415 MODIFICATION.—The Secretary of the Treasury shall modify the regulations regarding the exclusion allowance under section 403(b)(2) of the Internal Revenue Code of 1986 to render void the requirement that contributions to a defined benefit pension plan be treated as previously excluded amounts for purposes of the exclusion allowance. For taxable years beginning after December 31, 1999, such regulations shall be applied as if such requirement were void.

(c) DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 457(b)(2) (relating to salary limitation on eligible deferred compensation plans) is amended by striking "33⅓ percent" and inserting "100 percent".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 2000.

SEC. 323. FASTER VESTING OF CERTAIN EMPLOYER MATCHING CONTRIBUTIONS.

(a) AMENDMENTS TO 1986 CODE.—Section 411(a) (relating to minimum vesting standards) is amended—

(1) in paragraph (2), by striking "A plan" and inserting "Except as provided in paragraph (12), a plan", and

(2) by adding at the end the following:

"(12) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A)), paragraph (2) shall be applied—

"(A) by substituting '3 years' for '5 years' in subparagraph (A), and

"(B) by substituting the following table for the table contained in subparagraph (B):

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.".

(b) AMENDMENTS TO ERISA.—Section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) in paragraph (2), by striking "A plan" and inserting "Except as provided in paragraph (4), a plan", and

(2) by adding at the end the following:

"(4) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

"(A) by substituting '3 years' for '5 years' in subparagraph (A), and

"(B) by substituting the following table for the table contained in subparagraph (B):

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2000.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment), or

(ii) January 1, 2001, or

(B) January 1, 2005.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

SEC. 324. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.

(a) SIMPLIFICATION AND FINALIZATION OF MINIMUM DISTRIBUTION REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall—

(A) simplify and finalize the regulations relating to minimum distribution requirements under sections 401(a)(9), 408(a)(6) and (b)(3), 403(b)(10), and 457(d)(2) of the Internal Revenue Code of 1986, and

(B) modify such regulations to—

(i) reflect current life expectancy, and

(ii) revise the required distribution methods so that, under reasonable assumptions, the amount of the required minimum distribution does not decrease over a participant's life expectancy.

(2) FRESH START.—Notwithstanding subparagraph (D) of section 401(a)(9) of such Code, during the first year that regulations are in effect under this subsection, required distributions for future years may be redetermined to reflect changes under such regulations. Such redetermination shall include the opportunity to choose a new designated beneficiary and to elect a new method of calculating life expectancy.

(3) EFFECTIVE DATE FOR REGULATIONS.—Regulations referred to in paragraph (1) shall be effective for years beginning after December 31, 2000, and shall apply in such years without regard to whether an individual had previously begun receiving minimum distributions.

(b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD BEGUN BEFORE DEATH OCCURS.—

(1) IN GENERAL.—Subparagraph (B) of section 401(a)(9) is amended by striking clause (i) and redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(2) CONFORMING CHANGES.—

(A) Clause (i) of section 401(a)(9)(B) (as so redesignated) is amended—

(i) by striking "FOR OTHER CASES" in the heading, and

(ii) by striking "the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii)" and inserting "his entire interest has been distributed to him,".

(B) Clause (ii) of section 401(a)(9)(B) (as so redesignated) is amended by striking "clause (ii)" and inserting "clause (i)".

(C) Clause (iii) of section 401(a)(9)(B) (as so redesignated) is amended—

(i) by striking "clause (iii)(I)" and inserting "clause (ii)(I)",

(ii) by striking "clause (iii)(III)" in subclause (I) and inserting "clause (ii)(III)",

(iii) by striking "the date on which the employee would have attained the age 70½," in subclause (I) and inserting "April 1 of the calendar year following the calendar year in which the spouse attains 70½,", and

(iv) by striking "the distributions to such spouse begin," in subclause (II) and inserting "his entire interest has been distributed to him,".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.

(c) REDUCTION IN EXCISE TAX.—

(1) IN GENERAL.—Subsection (a) of section 4974 is amended by striking "50 percent" and inserting "10 percent".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 2000.

SEC. 325. CLARIFICATION OF TAX TREATMENT OF DIVISION OF SECTION 457 PLAN BENEFITS UPON DIVORCE.

(a) IN GENERAL.—Section 414(p)(11) (relating to application of rules to governmental and church plans) is amended—

(1) by inserting "or an eligible deferred compensation plan (within the meaning of section 457(b))" after "subsection (e))", and

(2) in the heading, by striking "GOVERNMENTAL AND CHURCH PLANS" and inserting "CERTAIN OTHER PLANS".

(b) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—Paragraph (10) of section 414(p) is amended by striking "and section 409(d)" and inserting "section 409(d), and section 457(d)".

(c) TAX TREATMENT OF PAYMENTS FROM A SECTION 457 PLAN.—Subsection (p) of section 414 is amended by redesignating paragraph (12) as paragraph (13) and inserting after paragraph (11) the following new paragraph:

"(12) TAX TREATMENT OF PAYMENTS FROM A SECTION 457 PLAN.—If a distribution or payment from an eligible deferred compensation plan described in section 457(b) is made pursuant to a qualified domestic relations order, rules similar to the rules of section 402(e)(1)(A) shall apply to such distribution or payment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers, distributions, and payments made after December 31, 2000.

SEC. 326. MODIFICATION OF SAFE HARBOR RELIEF FOR HARDSHIP WITHDRAWALS FROM CASH OR DEFERRED ARRANGEMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall revise the regulations relating to hardship distributions under section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that the period an employee is prohibited from making elective and employee contributions in order for a distribution to be deemed necessary to satisfy financial need shall be equal to 6 months.

(b) EFFECTIVE DATE.—The revised regulations under subsection (a) shall apply to years beginning after December 31, 2000.

Subtitle C—Increasing Portability for Participants

SEC. 331. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF PLANS.

(a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—

(1) ROLLOVERS FROM SECTION 457 PLANS.—

(A) IN GENERAL.—Section 457(e) (relating to other definitions and special rules) is amended by adding at the end the following:

"(16) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—In the case of an eligible deferred compensation plan established and maintained by an employer described in subsection (e)(1)(A), if—

"(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in an eligible rollover distribution (within the meaning of section 402(c)(4) without regard to subparagraph (C) thereof),

"(ii) the employee transfers any portion of the property such employee receives in such distribution to an eligible retirement plan described in section 402(c)(8)(B), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) (other than paragraph (4)(C)) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).

"(C) REPORTING.—Rollovers under this paragraph shall be reported to the Secretary in the same manner as rollovers from qualified retirement plans (as defined in section 4974(c)).".

(B) DEFERRAL LIMIT DETERMINED WITHOUT REGARD TO ROLLOVER AMOUNTS.—Section 457(b)(2) (defining eligible deferred compensation plan) is amended by inserting "(other than rollover amounts)" after "taxable year".

(C) DIRECT ROLLOVER.—Paragraph (1) of section 457(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following:

"(C) in the case of a plan maintained by an employer described in subsection (e)(1)(A), the plan meets requirements similar to the requirements of section 401(a)(31).

Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of transfer.".

(D) WITHHOLDING.—

(i) Paragraph (12) of section 3401(a) is amended by adding at the end the following:

"(E) under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457(b) maintained by an employer described in section 457(e)(1)(A); or".

(ii) Paragraph (3) of section 3405(c) is amended to read as follows:

"(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).".

(iii) LIABILITY FOR WITHHOLDING.—Subparagraph (B) of section 3405(d)(2) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end the following:

"(iv) section 457(b).".

(2) ROLLOVERS TO SECTION 457 PLANS.—

(A) IN GENERAL.—Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by inserting after clause (iv) the following new clause:

"(v) an eligible deferred compensation plan described in section 457(b) of an employer described in section 457(e)(1)(A).".

(B) SEPARATE ACCOUNTING.—Section 402(c) is amended by adding at the end the following new paragraph:

"(11) SEPARATE ACCOUNTING.—Unless a plan described in clause (v) of paragraph (8)(B) agrees to separately account for amounts rolled into such plan from eligible retirement plans not described in such clause, the plan described in such clause may not accept transfers or rollovers from such retirement plans.".

(C) 10 PERCENT ADDITIONAL TAX.—Subsection (t) of section 72 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new paragraph:

"(9) SPECIAL RULE FOR ROLLOVERS TO SECTION 457 PLANS.—For purposes of this subsection, a distribution from an eligible deferred compensation plan (as defined in section 457(b)) of an employer described in section 457(e)(1)(A) shall be treated as a distribution from a qualified retirement plan described in 4974(c)(1) to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in section 4974(c)).".

(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403 (b) PLANS.—

(1) ROLLOVERS FROM SECTION 403 (b) PLANS.—Section 403(b)(8)(A)(ii) (relating to rollover amounts) is amended by striking "such distribution" and all that follows and inserting "such distribution to an eligible retirement plan described in section 402(c)(8)(B), and".

(2) ROLLOVERS TO SECTION 403 (b) PLANS.—Section 402(c)(8)(B) (defining eligible retirement plan), as amended by subsection (a), is amended by striking "and" at the end of clause (iv), by striking the period at the end of clause (v) and inserting ", and", and by inserting after clause (v) the following new clause:

"(vi) an annuity contract described in section 403(b).".

(c) EXPANDED EXPLANATION TO RECIPIENTS OF ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) of the provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution.".

(d) SPOUSAL ROLLOVERS.—Section 402(c)(9) (relating to rollover where spouse receives distribution after death of employee) is amended by striking "; except that" and all that follows up to the end period.

(e) CONFORMING AMENDMENTS.—

(1) Section 72(o)(4) is amended by striking "and 408(d)(3)" and inserting "403(b)(8), 408(d)(3), and 457(e)(16)".

(2) Section 219(d)(2) is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(3) Section 401(a)(31)(B) is amended by striking "and 403(a)(4)" and inserting ", 403(a)(4), 403(b)(8), and 457(e)(16)".

(4) Subparagraph (A) of section 402(f)(2) is amended by striking "or paragraph (4) of section 403(a)" and inserting ", paragraph (4) of section 403(a), subparagraph (A) of section 403(b)(8), or subparagraph (A) of section 457(e)(16)".

(5) Paragraph (1) of section 402(f) is amended by striking "from an eligible retirement plan".

(6) Subparagraphs (A) and (B) of section 402(f)(1) are amended by striking "another eligible retirement plan" and inserting "an eligible retirement plan".

(7) Subparagraph (B) of section 403(b)(8) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for pur-

poses of subparagraph (A), except that section 402(f) shall be applied to the payor in lieu of the plan administrator.".

(8) Section 408(a)(1) is amended by striking "or 403(b)(8)" and inserting ", 403(b)(8), or 457(e)(16)".

(9) Subparagraphs (A) and (B) of section 415(b)(2) are each amended by striking "and 408(d)(3)" and inserting "403(b)(8), 408(d)(3), and 457(e)(16)".

(10) Section 415(c)(2) is amended by striking "and 408(d)(3)" and inserting "408(d)(3), and 457(e)(16)".

(11) Section 4973(b)(1)(A) is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(f) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

SEC. 332. ROLLOVERS OF IRAS INTO WORKPLACE RETIREMENT PLANS.

(a) IN GENERAL.—Subparagraph (A) of section 408(d)(3) (relating to rollover amounts) is amended by adding "or" at the end of clause (i), by striking clauses (ii) and (iii), and by adding at the end the following:

"(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to this paragraph).

For purposes of clause (ii), the term 'eligible retirement plan' means an eligible retirement plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B).".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 403(b) is amended by striking "section 408(d)(3)(A)(iii)" and inserting "section 408(d)(3)(A)(ii)".

(2) Clause (i) of section 408(d)(3)(D) is amended by striking "(i), (ii), or (iii)" and inserting "(i) or (ii)".

(3) Subparagraph (G) of section 408(d)(3) is amended to read as follows:

"(G) SIMPLE RETIREMENT ACCOUNTS.—In the case of any payment or distribution out of a simple retirement account (as defined in subsection (p)) to which section 72(t)(6) applies, this paragraph shall not apply unless such payment or distribution is paid into another simple retirement account.".

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of the amendments made by this section.

SEC. 333. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.

(a) ROLLOVERS FROM EXEMPT TRUSTS.—Paragraph (2) of section 402(c) (relating to maximum amount which may be rolled over) is amended by adding at the end the following: "The preceding sentence shall not apply to such distribution to the extent—

"(A) such portion is transferred in a direct trustee-to-trustee transfer to a qualified trust which is part of a plan which is a defined contribution plan and which agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or

"(B) such portion is transferred to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B).".

(b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of section 401(a)(31) (relating to limitation) is amended by adding at the

end the following: "The preceding sentence shall not apply to such distribution if the plan to which such distribution is transferred—

"(i) agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or

"(ii) is an eligible retirement plan described in clause (i) or (ii) of section 402(c)(8)(B).".

(c) RULES FOR APPLYING SECTION 72 TO IRAS.—Paragraph (3) of section 408(d) (relating to special rules for applying section 72) is amended by inserting at the end the following:

"(H) APPLICATION OF SECTION 72.—

"(i) IN GENERAL.—If—

"(I) a distribution is made from an individual retirement plan, and

"(II) a rollover contribution is made to an eligible retirement plan described in section 402(c)(8)(B)(iii), (iv), (v), or (vi) with respect to all or part of such distribution,

then, notwithstanding paragraph (2), the rules of clause (ii) shall apply for purposes of applying section 72.

"(ii) APPLICABLE RULES.—In the case of a distribution described in clause (i)—

"(I) section 72 shall be applied separately to such distribution,

"(II) notwithstanding the pro rata allocation of income on, and investment in, the contract to distributions under section 72, the portion of such distribution rolled over to an eligible retirement plan described in clause (i) shall be treated as from income on the contract (to the extent of the aggregate income on the contract from all individual retirement plans of the distributee), and

"(III) appropriate adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2000.

SEC. 334. HARDSHIP EXCEPTION TO 60-DAY RULE.

(a) EXEMPT TRUSTS.—Paragraph (3) of section 402(c) (relating to transfer must be made within 60 days of receipt) is amended to read as follows:

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(B) HARDSHIP EXCEPTION.—The Secretary may waive the 60-day requirement under subparagraph (A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.".

(b) IRAS.—Paragraph (3) of section 408(d) (relating to rollover contributions), as amended by section 333, is amended by adding after subparagraph (H) the following new subparagraph:

"(I) WAIVER OF 60-DAY REQUIREMENT.—The Secretary may waive the 60-day requirement under subparagraphs (A) and (D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

SEC. 335. TREATMENT OF FORMS OF DISTRIBUTION.

(a) PLAN TRANSFERS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (6) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following:

"(D) PLAN TRANSFERS.—

"(i) A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available

under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

"(I) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(II) the terms of both the transferor plan and the transferee plan authorize the transfer described in subclause (I),

"(III) the transfer described in subclause (I) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(IV) the election described in subclause (III) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(V) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and

"(VI) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.

"(ii) Clause (i) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.

"(E) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regulations, a defined contribution plan shall not be treated as failing to meet the requirements of this section merely because of the elimination of a form of distribution previously available thereunder. This subparagraph shall not apply to the elimination of a form of distribution with respect to any participant unless—

"(i) a single sum payment is available to such participant at the same time or times as the form of distribution being eliminated, and

"(ii) such single sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated.".

(2) AMENDMENT TO ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following:

"(4)(A) A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

"(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan;

"(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i);

"(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan;

"(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election;

"(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)(2); and

"(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.

"(B) Subparagraph (A) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.

"(5) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regulations, a defined contribution plan shall not be treated as failing to meet the requirements of this section merely because of the elimination of a form of distribution previously available thereunder. This paragraph shall not apply to the elimination of a form of distribution with respect to any participant unless—

"(A) a single sum payment is available to such participant at the same time or times as the form of distribution being eliminated; and

"(B) such single sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.

(b) REGULATIONS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—The last sentence of paragraph (6)(B) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended to read as follows: "The Secretary shall by regulations provide that this subparagraph shall not apply to any plan amendment that does not adversely affect the rights of participants in a material manner.".

(2) AMENDMENT TO ERISA.—The last sentence of section 204(g)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)(2)) is amended to read as follows: "The Secretary of the Treasury shall by regulations provide that this paragraph shall not apply to any plan amendment that does not adversely affect the rights of participants in a material manner.".

(3) SECRETARY DIRECTED.—Not later than December 31, 2001, the Secretary of the Treasury is directed to issue final regulations under section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974, including the regulations required by the amendments made by this subsection. Such regulations shall apply to plan years beginning after December 31, 2001, or such earlier date as is specified by the Secretary of the Treasury.

SEC. 336. RATIONALIZATION OF RESTRICTIONS ON DISTRIBUTIONS.

(a) MODIFICATION OF SAME DESK EXCEPTION.—

(1) SECTION 401(k).—

(A) Section 401(k)(2)(B)(i)(I) (relating to qualified cash or deferred arrangements) is amended by striking "separation from service" and inserting "severance from employment".

(B) Subparagraph (A) of section 401(k)(10) (relating to distributions upon termination of plan or disposition of assets or subsidiary) is amended to read as follows:

"(A) IN GENERAL.—An event described in this subparagraph is the termination of the plan without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).".

(C) Section 401(k)(10) is amended—

(i) in subparagraph (B)—

(I) by striking "An event" in clause (i) and inserting "A termination", and

(II) by striking "the event" in clause (i) and inserting "the termination",

(ii) by striking subparagraph (C), and

(iii) by striking "OR DISPOSITION OF ASSETS OR SUBSIDIARY" in the heading.

(2) SECTION 403(b).—

(A) Paragraphs (7)(A)(ii) and (11)(A) of section 403(b) are each amended by striking "separates from service" and inserting "has a severance from employment".

(B) The heading for paragraph (11) of section 403(b) is amended by striking "SEPARATION FROM SERVICE" and inserting "SEVERANCE FROM EMPLOYMENT".

(3) SECTION 457.—Clause (ii) of section 457(d)(1)(A) is amended by striking "is separated from service" and inserting "has a severance from employment".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

SEC. 337. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.

(a) 403(b) PLANS.—Subsection (b) of section 403 is amended by adding at the end the following new paragraph:

"(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.".

(b) 457 PLANS.—

(1) Subsection (e) of section 457 is amended by adding after paragraph (16) the following new paragraph:

"(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.".

(2) Section 457(b)(2) is amended by striking "(other than rollover amounts)" and inserting "(other than rollover amounts and amounts received in a transfer referred to in subsection (e)(17))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 2000.

SEC. 338. EMPLOYERS MAY DISREGARD ROLLOVERS FOR PURPOSES OF CASH-OUT AMOUNTS.

(a) QUALIFIED PLANS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by adding at the end the following:

"(D) SPECIAL RULE FOR ROLLOVER CONTRIBUTIONS.—A plan shall not fail to meet the requirements of this paragraph if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).".

(2) AMENDMENT TO ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended by adding at the end the following:

"(4) A plan shall not fail to meet the requirements of this subsection if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue Code of 1986.".

(b) ELIGIBLE DEFERRED COMPENSATION PLANS.—Clause (i) of section 457(e)(9)(A) is amended by striking "such amount" and inserting "the portion of such amount which is not attributable to rollover contributions (as defined in section 411(a)(11)(D))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

SEC. 339. MINIMUM DISTRIBUTION AND INCLUSION REQUIREMENTS FOR SECTION 457 PLANS.

(a) MINIMUM DISTRIBUTION REQUIREMENTS.—Paragraph (2) of section 457(d) (relating to distribution requirements) is amended to read as follows:

"(2) MINIMUM DISTRIBUTION REQUIREMENTS.—A plan meets the minimum distribution requirements of this paragraph if such plan meets the requirements of section 401(a)(9).".

(b) INCLUSION IN GROSS INCOME.—

(1) YEAR OF INCLUSION.—Subsection (a) of section 457 (relating to year of inclusion in gross income) is amended to read as follows:

"(a) YEAR OF INCLUSION IN GROSS INCOME.—

"(1) IN GENERAL.—Any amount of compensation deferred under an eligible deferred compensation plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income—

"(A) is paid to the participant or other beneficiary, in the case of a plan of an eligible employer described in subsection (e)(1)(A), and

"(B) is paid or otherwise made available to the participant or other beneficiary, in the case of a plan of an eligible employer described in subsection (e)(1)(B).

"(2) SPECIAL RULE FOR ROLLOVER AMOUNTS.—To the extent provided in section 72(t)(9), section 72(t) shall apply to any amount includible in gross income under this subsection.".

(2) CONFORMING AMENDMENTS.—

(A) So much of paragraph (9) of section 457(e) as precedes subparagraph (A) is amended to read as follows:

"(9) BENEFITS OF TAX EXEMPT ORGANIZATION PLANS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—In the case of an eligible deferred compensation plan of an employer described in subsection (e)(1)(B)—".

(B) Section 457(d) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR GOVERNMENT PLAN.—An eligible deferred compensation plan of an employer described in subsection (e)(1)(A) shall not be treated as failing to meet the requirements of this subsection solely by reason of making a distribution described in subsection (e)(9)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

Subtitle D—Strengthening Pension Security and Enforcement

SEC. 341. REPEAL OF 150 PERCENT OF CURRENT LIABILITY FUNDING LIMIT.

(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 412(c)(7) (relating to full-funding limitation) is amended—

(1) by striking "the applicable percentage" in subparagraph (A)(i)(I) and inserting "in the case of plan years beginning before January 1, 2004, the applicable percentage", and

(2) by amending subparagraph (F) to read as follows:

"(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

"In the case of any plan year beginning in—	The applicable percentage is—
2001	160
2002	165
2003	170.".

(b) AMENDMENT TO ERISA.—Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended—

(1) by striking "the applicable percentage" in subparagraph (A)(i)(I) and inserting "in the case of plan years beginning before January 1, 2004, the applicable percentage", and

(2) by amending subparagraph (F) to read as follows:

"(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

"In the case of any plan year beginning in—	The applicable percentage is—
2001	160
2002	165
2003	170.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

SEC. 342. MAXIMUM CONTRIBUTION DEDUCTION RULES MODIFIED AND APPLIED TO ALL DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Subparagraph (D) of section 404(a)(1) (relating to special rule in case of certain plans) is amended to read as follows:

"(D) SPECIAL RULE IN CASE OF CERTAIN PLANS.—

"(i) IN GENERAL.—In the case of any defined benefit plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded termi-

nation liability (determined as if the proposed termination date referred to in section 4041(b)(2)(A)(i)(II) of the Employee Retirement Income Security Act of 1974 were the last day of the plan year).

"(ii) PLANS WITH LESS THAN 100 PARTICIPANTS.—For purposes of this subparagraph, in the case of a plan which has less than 100 participants for the plan year, termination liability shall not include the liability attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years before the termination date.

"(iii) RULE FOR DETERMINING NUMBER OF PARTICIPANTS.—For purposes of determining whether a plan has more than 100 participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(C))) shall be treated as one plan, but only employees of such member or employer shall be taken into account.

"(iv) PLANS ESTABLISHED AND MAINTAINED BY PROFESSIONAL SERVICE EMPLOYERS.—Clause (i) shall not apply to a plan described in section 4021(b)(13) of the Employee Retirement Income Security Act of 1974.".

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 4972(c) is amended to read as follows:

"(6) EXCEPTIONS.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account so much of the contributions to one or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the greater of—

"(A) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or

"(B) the sum of—

"(i) the amount of contributions described in section 401(m)(4)(A), plus

"(ii) the amount of contributions described in section 402(g)(3)(A).

For purposes of this paragraph, the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to a defined benefit plan and then to amounts described in subparagraph (B).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

SEC. 343. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following:

"(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

"(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 344. PERIODIC PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025 (a)) is amended to read as follows:

"(a)(1) Except as provided in paragraph (2)—

"(A) The administrator of an individual account plan shall furnish a pension benefit statement—

"(i) to a plan participant at least once annually, and

"(ii) to a plan beneficiary upon written request.

"(B) The administrator of a defined benefit plan shall furnish a pension benefit statement—

"(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit who is employed by the employer maintaining the plan at the time the statement is furnished to participants, and

"(ii) to a participant or beneficiary of the plan upon written request.

"(2) Notwithstanding paragraph (1), the administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall only be required to furnish a pension benefit statement under paragraph (1) upon the written request of a participant or beneficiary of the plan.

"(3) A pension benefit statement under paragraph (1)—

"(A) shall indicate, on the basis of the latest available information—

"(i) the total benefits accrued, and

"(ii) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

"(B) shall be communicated in a manner calculated to be understood by the average plan participant, and

"(C) may be provided in written, electronic, telephonic, or other appropriate form.

"(4) In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if the administrator provides the participant at least once each year with notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice shall be provided in written, electronic, telephonic, or other appropriate form, and may be included with other communications to the participant if done in a manner reasonably designed to attract the attention of the participant.".

(b) CONFORMING AMENDMENTS.—

(1) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(2) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

"(b) In no case shall a participant or beneficiary of a plan be entitled to more than one statement described in subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is applicable, in any 12-month period.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

SEC. 345. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITY.

(a) IMPOSITION AND AMOUNT OF PENALTY MADE DISCRETIONARY.—Section 502(l)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(1)) is amended—

(1) by striking "shall" and inserting "may", and

(2) by striking "equal to" and inserting "not greater than".

(b) APPLICABLE RECOVERY AMOUNT.—Section 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from any fiduciary or other person (or from any other person on behalf of any such fiduciary or other person) with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under subsection (a)(2) or (a)(5). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.".

(c) OTHER RULES.—Section 502(l) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)) is amended by adding at the end the following:

"(5) A person shall be jointly and severally liable for the penalty described in paragraph (1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

"(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of enactment of this Act.

(2) TRANSITION RULE.—In applying the amendment made by subsection (b) (relating to applicable recovery amount), a breach or other violation occurring before the date of enactment of this Act which continues after the 180th day after such date (and which may have been discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

SEC. 346. EXCISE TAX RELIEF FOR SOUND PENSION FUNDING.

(a) IN GENERAL.—Subsection (c) of section 4972 (relating to nondeductible contributions) is amended by adding at the end the following new paragraph:

"(7) DEFINED BENEFIT PLAN EXCEPTION.—In determining the amount of nondeductible contributions for any taxable year, an employer may elect for such year not to take into account any contributions to a defined benefit plan except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof). For purposes of this paragraph, the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to defined contribution plans and then to amounts described in this paragraph. If an employer makes an election under this paragraph for a taxable year, paragraph (6) shall not apply to such employer for such taxable year.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

SEC. 347. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.

(a) AMENDMENT TO 1986 CODE.—Chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING BENEFIT ACCRUALS TO SATISFY NOTICE REQUIREMENTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the failure is corrected.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures that are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as one plan. For purposes of this paragraph, if not all persons who are treated as

a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

"(1) In the case of a plan other than a multiemployer plan, the employer.

"(2) In the case of a multiemployer plan, the plan.

"(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFICANTLY REDUCING BENEFIT ACCRUALS.—

"(1) IN GENERAL.—If an applicable pension plan is amended to provide for a significant reduction in the rate of future benefit accrual, the plan administrator shall provide written notice to each applicable individual (and to each employee organization representing applicable individuals).

"(2) NOTICE.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary) to allow applicable individuals to understand the effect of the plan amendment.

"(3) TIMING OF NOTICE.—Except as provided in regulations, the notice required by paragraph (1) shall be provided within a reasonable time before the effective date of the plan amendment.

"(4) DESIGNEES.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

"(5) NOTICE BEFORE ADOPTION OF AMENDMENT.—A plan shall not be treated as failing to meet the requirements of paragraph (1) merely because notice is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.

"(f) APPLICABLE INDIVIDUAL; APPLICABLE PENSION PLAN.—For purposes of this section—

"(1) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means, with respect to any plan amendment—

"(A) any participant in the plan, and

"(B) any beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under an applicable qualified domestic relations order (within the meaning of section 414(p)(1)(A)),

who may reasonably be expected to be affected by such plan amendment.

"(2) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

"(A) any defined benefit plan, or

"(B) an individual account plan which is subject to the funding standards of section 412,

which had 100 or more participants who had accrued a benefit, or with respect to whom contributions were made, under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective. Such term shall not include a governmental plan (within the meaning of section 414(d)) or a church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made.".

(b) AMENDMENT TO ERISA.—Section 204(h) of the Employee Retirement Income Security Act or 1974 (29 U.S.C. 1054(h)) is amended by adding at the end the following new paragraph:

"(3)(A) A plan to which paragraph (1) applies shall not be treated as meeting the requirements of such paragraph unless, in addition to any notice required to be provided to an individual or organization under such paragraph, the plan administrator provides the notice described in subparagraph (B).

"(B) The notice required by subparagraph (A) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary of the Treasury) to allow individuals to understand the effect of the plan amendment.

"(C) Except as provided in regulations prescribed by the Secretary of the Treasury, the notice required by subparagraph (A) shall be provided within a reasonable time before the effective date of the plan amendment.

"(D) A plan shall not be treated as failing to meet the requirements of subparagraph (A) merely because notice is provided before the adoption of the plan amend-

ment if no material modification of the amendment occurs before the amendment is adopted.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980F. Failure of applicable plans reducing benefit accruals to satisfy notice requirements.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan amendments taking effect on or after the date of the enactment of this Act.

(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(2) and (3) of the Internal Revenue Code of 1986 and section 204(h)(3) of the Employee Retirement Income Security Act of 1974 (as added by the amendments made by this section), a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(3) SPECIAL RULE.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.

SEC. 348. PROTECTION OF INVESTMENT OF EMPLOYEE CONTRIBUTIONS TO 401(K) PLANS.

(a) IN GENERAL.—Section 1524(b) of the Taxpayer Relief Act of 1997 is amended to read as follows:

"(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to elective deferrals for plan years beginning after December 31, 1998.

"(2) NONAPPLICATION TO PREVIOUSLY ACQUIRED PROPERTY.—The amendments made by this section shall not apply to any elective deferral which is invested in assets consisting of qualifying employer securities, qualifying employer real property, or both, if such assets were acquired before January 1, 1999.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the provision of the Taxpayer Relief Act of 1997 to which it relates.

SEC. 349. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

SEC. 350. TECHNICAL CORRECTIONS TO SAVER ACT.

Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking "2001 and 2005 on or after September 1 of each year involved" and inserting "2001, 2005, and 2009 in the month of September of each year involved";

(2) in subsection (b), by adding at the end the following new sentence: "To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301 et seq.), with the American Savings Education Council.";

(3) in subsection (e)(2)—

(A) by striking subparagraph (D) and inserting the following:

"(D) the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;";

(B) by redesignating subparagraph (G) as subparagraph (J); and

(C) by inserting after subparagraph (F) the following new subparagraphs:

"(G) the Chairman and Ranking Member of the Committee on Finance of the Senate;

"(H) the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives;

"(I) the Chairman and Ranking Member of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the House of Representatives; and";

(4) in subsection (e)(3)(A)—

(A) by striking "There shall be no more than 200 additional participants." and inserting "The participants in the National Summit shall also include additional participants appointed under this subparagraph.";

(B) by striking "one-half shall be appointed by the President," in clause (i) and inserting "not more than 100 participants shall be appointed under this clause by the President,", and by striking "and" at the end of clause (i);

(C) by striking "one-half shall be appointed by the elected leaders of Congress" in clause (ii) and inserting "not more than 100 participants shall be appointed under this clause by the elected leaders of Congress", and by striking the period at the end of clause (ii) and inserting "; and"; and

(D) by adding at the end the following new clause:

"(iii) The President, in consultation with the elected leaders of Congress referred to in subsection (a), may appoint under this clause additional participants to the National Summit. The number of such additional participants appointed under this clause may not exceed the lesser of 3 percent of the total number of all additional participants appointed under this paragraph, or 10. Such additional participants shall be appointed from persons nominated by the organization referred to in subsection (b)(2) which is made up of private sector businesses and associations partnered with Government entities to promote long term financial security in retirement through savings and with which the Secretary is required thereunder to consult and cooperate and shall not be Federal, State, or local government employees.";

(5) in subsection (e)(3)(B), by striking "January 31, 1998" in subparagraph (B) and inserting "May 1, 2001, May 1, 2005, and May 1, 2009, for each of the subsequent summits, respectively";

(6) in subsection (f)(1)(C), by inserting ", no later than 90 days prior to the date of the commencement of the National Summit," after "comment" in paragraph (1)(C);

(7) in subsection (g), by inserting ", in consultation with the congressional leaders specified in subsection (e)(2)," after "report";

(8) in subsection (i)—

(A) by striking "beginning on or after October 1, 1997" in paragraph (1) and inserting "2001, 2005, and 2009"; and

(B) by adding at the end the following new paragraph:

"(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any private contributions received in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph."; and

(9) in subsection (k)—

(A) by striking "shall enter into a contract on a sole-source basis" and inserting "may enter into a contract on a sole-source basis"; and

(B) by striking "fiscal year 1998" and inserting "fiscal years 2001, 2005, and 2009".

SEC. 351. MODEL SPOUSAL CONSENT LANGUAGE AND QUALIFIED DOMESTIC RELATIONS ORDER.

(a) MODEL SPOUSAL CONSENT LANGUAGE.—Section 205(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)) is amended by adding at the end the following new paragraph:

"(9) Not later than January 1, 2001, the Secretary of Labor shall develop model language for the spousal consent required under paragraph (2) which—

"(A) is written in a manner calculated to be understood by the average person, and

"(B) discloses in plain terms whether—

"(i) the waiver is irrevocable, and

"(ii) the waiver may be revoked by a qualified domestic relations order.".

(b) MODEL QUALIFIED DOMESTIC RELATIONS ORDER.—Section 206(d)(3) of such Act (29 U.S.C. 1056(d)(3)) is amended by adding at the end the following new subparagraph:

"(O) Not later than January 1, 2001, the Secretary shall develop language for a qualified domestic relations order which meets—

"(i) the requirements of subparagraph (B)(i), and

"(ii) the requirements of this Act related to the need to consider the treatment of any lump sum payment, qualified joint and survivor annuity, or qualified pre-retirement survivor annuity.".

(c) PUBLICITY.—The Secretary of Labor shall include publicity for the model language required by the amendments made by this section in the pension outreach efforts undertaken by each Secretary.

SEC. 352. ELIMINATION OF ERISA DOUBLE JEOPARDY.

(a) ELIMINATION OF SECOND LAWSUITS BY THE SECRETARY.—Section 502(h) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(h)) is amended—

(1) by inserting "(1)" after "(h)", and

(2) by adding at the end the following:

"(2) In any case in which—

"(A) a complaint in an action brought against a person under subsection (a)(2) is served in accordance with paragraph (1), and

"(B) the action is maintained as a class action or derivative action under the Federal Rules of Civil Procedure,

"(C) the action is resolved by a court-approved settlement agreement,

"(D) the complaint is served upon the Secretary at least 90 days prior to final court approval of the settlement agreement, and

"(E) the Secretary receives a fully executed copy of the settlement agreement within the time established by the court for notifying the plan's participants of the proposed compromise pursuant to Rule 23 or 23.1 of the Federal Rules of Civil Procedure,

the Secretary shall be barred from litigating any claim against such person under subsection (a)(2) that was, or could have been, brought in that action with respect to the same plan. Notwithstanding this paragraph, the Secretary shall not be barred from litigating any claim against such person under subsection (a)(2) if the Secretary filed a complaint under subsection (a)(2) prior to the final court approval of the settlement agreement.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective with respect to all actions or claims commenced by the Secretary that are pending on or after the date of the enactment of this Act.

Subtitle E—Reducing Regulatory Burdens

SEC. 361. MODIFICATION OF TIMING OF PLAN VALUATIONS.

(a) AMENDMENTS TO 1986 CODE.—Section 412(c)(9) (relating to annual valuation) is amended—

(1) by striking "For purposes" and inserting the following:

"(A) IN GENERAL.—For purposes", and

(2) by adding at the end the following:

"(B) ELECTION TO USE PRIOR YEAR VALUATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), if, for any plan year—

"(I) an election is in effect under this subparagraph with respect to a plan, and

"(II) the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)), determined as of the valuation date for the preceding plan year,

then this section shall be applied using the information available as of such valuation date.

"(ii) EXCEPTIONS.—

"(I) ACTUAL VALUATION EVERY 3 YEARS.—Clause (i) shall not apply for more than 2 consecutive plan years and valuation shall be under subparagraph (A) with respect to any plan year to which clause (i) does not apply by reason of this subclause.

"(II) REGULATIONS.—Clause (i) shall not apply to the extent that more frequent valuations are required under the regulations under subparagraph (A).

"(iii) ADJUSTMENTS.—Information under clause (i) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) ELECTION.—An election under this subparagraph, once made, shall be irrevocable without the consent of the Secretary.".

(b) AMENDMENTS TO ERISA.—Paragraph (9) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following:

"(B)(i) Except as provided in clause (ii), if, for any plan year—

"(I) an election is in effect under this subparagraph with respect to a plan, and

"(II) the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)), determined as of the valuation date for the preceding plan year,

then this section shall be applied using the information available as of such valuation date.

"(ii)(I) Clause (i) shall not apply for more than 2 consecutive plan years and valuation shall be under subparagraph (A) with respect to any plan year to which clause (i) does not apply by reason of this subclause.

"(II) Clause (i) shall not apply to the extent that more frequent valuations are required under the regulations under subparagraph (A).

"(iii) Information under clause (i) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) An election under this subparagraph, once made, shall be irrevocable without the consent of the Secretary of the Treasury.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

SEC. 362. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT LOSS OF DIVIDEND DEDUCTION.

(a) IN GENERAL.—Section 404(k)(2)(A) (defining applicable dividends) is amended by striking "or" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) is, at the election of such participants or their beneficiaries—

"(I) payable as provided in clause (i) or (ii), or

"(II) paid to the plan and reinvested in qualifying employer securities, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 363. REPEAL OF TRANSITION RULE RELATING TO CERTAIN HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (4) of section 1114(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to plan years beginning after December 31, 2000.

SEC. 364. EMPLOYEES OF TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—The Secretary of the Treasury shall modify Treasury Regulations section 1.410(b)–6(g) to provide that employees of an organization described in section 403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who are eligible to make contributions under section 403(b) of such Code pursuant to a salary reduction agreement may be treated as excludable with respect to a plan under section 401 (k) or (m) of such Code that is provided under the same general arrangement as a plan under such section 401(k), if—

(1) no employee of an organization described in section 403(b)(1)(A)(i) of such Code is eligible to participate in such section 401(k) plan or section 401(m) plan, and

(2) 95 percent of the employees who are not employees of an organization described in section 403(b)(1)(A)(i) of such Code are eligible to participate in such plan under such section 401 (k) or (m).

(b) EFFECTIVE DATE.—The modification required by subsection (a) shall apply as of the same date set forth in section 1426(b) of the Small Business Job Protection Act of 1996.

SEC. 365. CLARIFICATION OF TREATMENT OF EMPLOYER-PROVIDED RETIREMENT ADVICE.

(a) IN GENERAL.—Subsection (a) of section 132 (relating to exclusion from gross income) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", or", and by adding at the end the following new paragraph:

"(7) qualified retirement planning services.".

(b) QUALIFIED RETIREMENT PLANNING SERVICES DEFINED.—Section 132 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:

"(m) QUALIFIED RETIREMENT PLANNING SERVICES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified retirement planning services' means any retirement planning service provided to an employee and his spouse by an employer maintaining a qualified employer plan.

"(2) NONDISCRIMINATION RULE.—Subsection (a)(7) shall apply in the case of highly compensated employees only if such services are available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.

"(3) QUALIFIED EMPLOYER PLAN.—For purposes of this subsection, the term 'qualified employer plan' means a plan, contract, pension, or account described in section 219(g)(5).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

SEC. 366. REPORTING SIMPLIFICATION.

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term "one-participant retirement plan" means a retirement plan that—

(A) on the first day of the plan year—

(i) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated), or

(ii) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation),

(B) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business,

(C) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses),

(D) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

(E) does not cover a business that leases employees.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case of a retirement plan which covers less than 25 employees on the first day of the plan year and meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2), the Secretary of the Treasury shall provide for the filing of a simplified annual return that is substantially similar to the annual return required to be filed by a one-participant retirement plan.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on January 1, 2001.

SEC. 367. IMPROVEMENT OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program) giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program,

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures,

(3) extending the duration of the self-correction period under the Administrative Policy Regarding Self-Correction for significant compliance failures,

(4) expanding the availability to correct insignificant compliance failures under the Administrative Policy Regarding Self-Correction during audit, and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

SEC. 368. SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

"(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(i) owns the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

"(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).

"(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

"(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner.".

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(B)".

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking "as defined in section 4022(b)(6)", and

(B) by adding at the end the following:

"(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(1) owns the entire interest in an unincorporated trade or business,

"(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

"(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).".

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking "section 4022(b)(6)" and inserting "section 4021(d)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2000, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 369. MODIFICATION OF EXCLUSION FOR EMPLOYER PROVIDED TRANSIT PASSES.

(a) IN GENERAL.—Section 132(f)(3) (relating to cash reimbursements) is amended by striking the last sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 370. REPEAL OF THE MULTIPLE USE TEST.

(a) IN GENERAL.—Paragraph (9) of section 401(m) is amended to read as follows:

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (k), including regulations permitting appropriate aggregation of plans and contributions.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

SEC. 371. FLEXIBILITY IN NONDISCRIMINATION, COVERAGE, AND LINE OF BUSINESS RULES.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test under section 401(a)(4) of such Code, as in effect before January 1, 1994, but only if—

(A) the plan satisfies conditions prescribed by the Secretary to appropriately limit the availability of such test, and

(B) the plan is submitted to the Secretary for a determination of whether it satisfies such test.

Subparagraph (B) shall only apply to the extent provided by the Secretary.

(2) EFFECTIVE DATES.—

(A) REGULATIONS.—The regulation required by paragraph (1) shall apply to years beginning after December 31, 2000.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under paragraph (1)(A) shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(b) COVERAGE TEST.—

(1) IN GENERAL.—Section 410(b)(1) (relating to minimum coverage requirements) is amended by adding at the end the following:

"(D) In the case that the plan fails to meet the requirements of subparagraphs (A), (B) and (C), the plan—

"(i) satisfies subparagraph (B), as in effect immediately before the enactment of the Tax Reform Act of 1986,

"(ii) is submitted to the Secretary for a determination of whether it satisfies the requirement described in clause (i), and

"(iii) satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of this subparagraph.

Clause (ii) shall apply only to the extent provided by the Secretary.".

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to years beginning after December 31, 2000.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under regulations prescribed by the Secretary under section 410(b)(1)(D) of the Internal Revenue Code of 1986 shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(c) LINE OF BUSINESS RULES.—The Secretary of the Treasury shall, on or before December 31, 2000, modify the existing regulations issued under section 414(r) of the Internal Revenue Code of 1986 in order to expand (to the extent that the Secretary determines appropriate) the ability of a pension plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.

SEC. 372. EXTENSION TO INTERNATIONAL ORGANIZATIONS OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.

(a) IN GENERAL.—Subparagraph (G) of section 401(a)(5), subparagraph (H) of section 401(a)(26), subparagraph (G) of section 401(k)(3), and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 are each amended by inserting "or by an international organization which is described in section 414(d)" after "or instrumentality thereof)".

(b) CONFORMING AMENDMENTS.—

(1) The headings for subparagraph (G) of section 401(a)(5) and subparagraph (H) of section 401(a)(26) are each amended by inserting "AND INTERNATIONAL ORGANIZATION" after "GOVERNMENTAL".

(2) Subparagraph (G) of section 401(k)(3) is amended by inserting "STATE AND LOCAL GOVERNMENTAL AND INTERNATIONAL ORGANIZATION PLANS.—" after "(G)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

SEC. 373. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT TO 1986 CODE.—Subparagraph (A) of section 417(a)(6) is amended by striking "90-day" and inserting "180-day".

(2) AMENDMENT OF ERISA.—Subparagraph (A) of section 205(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055) is amended by striking "90-day" and inserting "180-day".

(3) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986, and the regulations of such Secretary under part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to the extent that they relate to sections 203(e) and 205 of such Act, to substitute "180 days" for "90 days" each place it appears—

(A) in Treasury Regulations sections 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b), and

(B) in the regulations of such Secretary under such part 2.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) and the modifications required by paragraph (3) shall apply to years beginning after December 31, 2000.

(b) CONSENT REGULATION INAPPLICABLE TO CERTAIN DISTRIBUTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986, and the regulations under section 205 of the Employee Retirement Income Security Act of 1974, to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) EFFECTIVE DATE.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2000.

SEC. 374. ANNUAL REPORT DISSEMINATION.

(a) IN GENERAL.—Section 104(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amended by striking "shall furnish" and inserting "shall make available for examination (and, upon request, shall furnish)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for years beginning after December 31, 1998.

SEC. 375. EXCESS BENEFIT PLANS.

(a) IN GENERAL.—Section 3(36) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(36)) is amended to read as follows:

"(36) The term 'excess benefit plan' means a plan, without regard to whether such plan is funded, maintained by an employer solely for the purpose of providing benefits to employees in excess of any limitation imposed by section 401(a)(17) or 415 of the Internal Revenue Code of 1986 or any other limitation on contributions or benefits in such Code on plans to which any of such sections apply. To the extent that a separable part of a plan (as determined by the Secretary of Labor) maintained by an employer is maintained for such purpose, that part shall be treated as a separate plan which is an excess benefit plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1999.

SEC. 376. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under section 203(a)(3)(B) of the Employee Retirement Income Security Act

of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that, except in the case of employment, subsequent to the commencement of payment of benefits, with a former employer, the notification required by such regulation—

(1) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1024(b)), rather than in a separate notice, and

(2) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 1999.

SEC. 377. CLARIFICATION OF CHURCH WELFARE PLAN STATUS UNDER STATE INSURANCE LAW.

For purposes of determining the status under State insurance law of a church plan (as defined in section 414(e) of the Internal Revenue Code and section 3(33) of the Employee Retirement Income Security Act that is a welfare plan (as defined in section 3(1)), such church plan (and any trust under such plan) shall be deemed a single-employer plan that—

(1) reimburses costs from general church assets;

(2) purchases insurance coverage with general church assets; or

(3) both.

For purposes of this paragraph, the term "reimbursing costs from general church assets" means engaging in a practice that does not have the effect of transferring or spreading risk. The scope of this paragraph is limited to determining the status of a church welfare plan under State insurance law, and does not otherwise recharacterize the status, or modify or affect the rights, of any plan participant, including those who make plan contributions.

Subtitle F—Plan Amendments

SEC. 381. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this title, or pursuant to any regulation issued under this title, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2003.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting "2005" for "2003".

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect, and

(B) such plan or contract amendment applies retroactively for such period.

TITLE IV—EXTENSION OF WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT

SEC. 401. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) TEMPORARY EXTENSION.—Sections 51(c)(4)(B) and 51A(f) (relating to termination) are each amended by striking "June 30, 1999" and inserting "December 31, 2001".

(b) CLARIFICATION OF FIRST YEAR OF EMPLOYMENT.—Paragraph (2) of section 51(i) is amended by striking "during which he was not a member of a targeted group".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1999.

(d) SPECIAL RULE.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, the credit determined under sections 51 and 51A of such Code which is otherwise allowable under such Code and which is attributable to the suspension period shall not be taken into account prior to October 1, 2000. On or after such date, such credit may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means allowed by such Code.

(2) SUSPENSION PERIOD.—For purposes of this subsection, the suspension period is the period beginning on July 1, 1999, and ending on September 30, 2000.

(3) EXPEDITED REFUNDS.—

(A) IN GENERAL.—If there is an overpayment of tax with respect to a taxable year by reason of paragraph (1), the taxpayer may file an application for a tentative refund of such overpayment. Such application shall be in such manner and form, and contain such information, as the Secretary may prescribe.

(B) DEADLINE FOR APPLICATIONS.—Subparagraph (A) shall apply only to applications filed before October 1, 2001.

(C) ALLOWANCE OF ADJUSTMENTS.—Not later than 90 days after the date on which an application is filed under this paragraph, the Secretary shall—

(i) review the application,

(ii) determine the amount of the overpayment, and

(iii) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in section 6411(b) of such Code.

(D) CONSOLIDATED RETURNS.—The provisions of section 6411(c) of such Code shall apply to an adjustment under this paragraph in such manner as the Secretary may provide.

(4) CREDIT ATTRIBUTABLE TO SUSPENSION PERIOD.—

(A) IN GENERAL.—For purposes of this subsection, in the case of a taxable year which includes a portion of the suspension period, the amount of credit determined under sections 51 and 51A of such Code for such taxable year which is attributable to such period is the amount which bears the same ratio to the amount of credit determined under such sections for such taxable year as the number of months in the suspension period which are during such taxable year bears to the number of months in such taxable year.

(B) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of such Code for any period before July 1, 1999, with respect to any underpayment of tax imposed by such Code to the extent such underpayment was created or increased by reason of subparagraph (A).

(5) SECRETARY.—For purposes of this subsection, the term "Secretary" means the Secretary of the Treasury (or such Secretary's delegate).

TITLE V—ESTATE TAX RELIEF

Subtitle A—Reductions of Estate and Gift Tax Rates

SEC. 501. REDUCTIONS OF ESTATE AND GIFT TAX RATES.

(a) MAXIMUM RATE OF TAX REDUCED TO 50 PERCENT.—

(1) IN GENERAL.—The table contained in section 2001(c)(1) is amended by striking the two highest brackets and inserting the following:

"Over $2,500,000	$1,025,800, plus 50% of the excess over $2,500,000.".

(2) PHASE-IN OF REDUCED RATE.—Subsection (c) of section 2001 is amended by adding at the end the following new paragraph:

"(3) PHASE-IN OF REDUCED RATE.—In the case of decedents dying, and gifts made, during 2001, the last item in the table contained in paragraph (1) shall be applied by substituting '53%' for '50%'.".

(b) REPEAL OF PHASEOUT OF GRADUATED RATES.—Subsection (c) of section 2001 is amended by striking paragraph (2) and redesignating paragraph (3), as added by subsection (a), as paragraph (2).

(c) ADDITIONAL REDUCTIONS OF RATES OF TAX.—Subsection (c) of section 2001, as so amended, is amended by adding at the end the following new paragraph:

"(3) PHASEDOWN OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 2002—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

"(i) each of the rates of tax shall be reduced by the number of percentage points determined under subparagraph (B), and

"(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

"(B) PERCENTAGE POINTS OF REDUCTION.—

"For calendar year:	The number of percentage points is:
2003	1.0
2004	2.0.

"(C) TABLE FOR YEARS AFTER 2004.—The table applicable under this subsection to estates of decedents dying, and gifts made, during calendar year 2004 shall apply to estates of decedents dying, and gifts made, after calendar year 2004.

"(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply the table contained in section 2011(b) except that the Secretary shall prescribe percentage point reductions which maintain the proportionate relationship (as in effect before any reduction under this paragraph) between the credit under section 2011 and the tax rates under subsection (c).".

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to estates of decedents dying, and gifts made, after December 31, 2000.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to estates of decedents dying, and gifts made, after December 31, 2002.

SEC. 502. SENSE OF THE CONGRESS CONCERNING REPEAL OF THE DEATH TAX.

(a) FINDINGS.—Congress finds the following:

(1) The death tax stifles economic growth by taking productive resources out of the private sector, thereby causing unemployment and inhibiting job creation.

(2) The death tax penalizes hard work and entrepreneurial activity by causing the demise of small, family-owned businesses when an owner dies.

(3) The death tax rates in the United States are the second highest among all industrialized nations.

(4) The death tax prevents minorities from gaining an economic foothold in the economy since it limits the inter-generational transfer of wealth, which is critical to establishing a legacy and power base for minorities in our society.

(5) The death tax presents serious challenges for farmers whose value is in their land, not liquid assets, and who must sell land to pay the tax, thereby jeopardizing the future existence of the already-struggling family farm.

(6) The death tax contributes to the development of rural areas by causing farms and ranches to be sold and subdivided.

(7) Previous attempts by Congress to create death tax exemptions have been ineffective due to an inability to legislatively duplicate the complex family relationships that exist in our society.

(8) Increasing entrepreneurship and investment in retirement will bring a whole new class of people under the death tax.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the death tax relief in this Act is considered a first step in our effort to ultimately repeal this onerous tax.

Subtitle B—Unified Credit Replaced With Unified Exemption Amount

SEC. 511. UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES REPLACED WITH UNIFIED EXEMPTION AMOUNT.

(a) IN GENERAL.—

(1) ESTATE TAX.—Part IV of subchapter A of chapter 11 is amended by inserting after section 2051 the following new section:

"SEC. 2052. EXEMPTION.

"(a) IN GENERAL.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the excess (if any) of—

"(1) the exemption amount for the calendar year in which the decedent died, over

"(2) the sum of—

"(A) the aggregate amount allowed as an exemption under section 2521 with respect to gifts made by the decedent after December 31, 2000, and

"(B) the aggregate amount of gifts made by the decedent for which credit was allowed by section 2505 (as in effect on the day before the date of the enactment of the Wage and Employment Growth Act of 1999).

Gifts which are includible in the gross estate of the decedent shall not be taken into account in determining the amounts under paragraph (2).

"(b) EXEMPTION AMOUNT.—For purposes of subsection (a), the term 'exemption amount' means the amount determined in accordance with the following table:

"In the case of calendar year:	**The exemption amount is:**
2001	$675,000
2002 and 2003	$700,000
2004	$850,000
2005	$950,000
2006 or thereafter	$1,000,000.".

(2) GIFT TAX.—Subchapter C of chapter 12 (relating to deductions) is amended by inserting before section 2522 the following new section:

"SEC. 2521. EXEMPTION.

"In computing taxable gifts for any calendar year, there shall be allowed as a deduction in the case of a citizen or resident of the United States an amount equal to the excess of—

"(1) the exemption amount determined under section 2052 for such calendar year, over

"(2) the sum of—

"(A) the aggregate amount allowed as an exemption under this section for all preceding calendar years after 2000, and

"(B) the aggregate amount of gifts for which credit was allowed by section 2505 (as in effect on the day before the date of the enactment of the Wage and Employment Growth Act of 1999).".

(b) REPEAL OF UNIFIED CREDITS.—

(1) Section 2010 (relating to unified credit against estate tax) is hereby repealed.

(2) Section 2505 (relating to unified credit against gift tax) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 2001(b)(1) is amended by inserting before the comma "reduced by the amount described in section 2052(a)(2)(B)".

(2)(A) Subsection (b) of section 2011 is amended—

(i) by striking "adjusted" in the table, and

(ii) by striking the last sentence.

(B) Subsection (f) of section 2011 is amended by striking ", reduced by the amount of the unified credit provided by section 2010".

(3) Subsection (a) of section 2012 is amended by striking "and the unified credit provided by section 2010".

(4)(A) Subsection (b) of section 2013 is amended by inserting before the period at the end of the first sentence "and increased by the exemption allowed under

section 2052 or 2106(a)(4) (or the corresponding provisions of prior law) in determining the taxable estate of the transferor for purposes of the estate tax".

(B) Subparagraph (A) of section 2013(c)(1) is amended by striking "2010,".

(5) Paragraph (2) of section 2014(b) is amended by striking "2010,".

(6) Clause (ii) of section 2056A(b)(12)(C) is amended to read as follows:

"(ii) to treat any reduction in the tax imposed by paragraph (1)(A) by reason of the credit allowable under section 2010 (as in effect on the day before the date of the enactment of the Wage and Employment Growth Act of 1999) or the exemption allowable under section 2052 with respect to the decedent as a credit under section 2505 (as so in effect) or exemption under section 2521 (as the case may be) allowable to such surviving spouse for purposes of determining the amount of the exemption allowable under section 2521 with respect to taxable gifts made by the surviving spouse during the year in which the spouse becomes a citizen or any subsequent year,".

(7) Paragraph (3) of section 2057(a) is amended to read as follows:

"(3) COORDINATION WITH EXEMPTION AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if this section applies to an estate, the exemption amount under section 2052 shall be $625,000.

"(B) INCREASE IN EXEMPTION AMOUNT IF DEDUCTION IS LESS THAN $675,000.—If the deduction allowed by this section is less than $675,000, the amount of the exemption amount under section 2052 shall be increased (but not above the amount which would apply to the estate without regard to this section) by the excess of $675,000 over the amount of the deduction allowed.".

(8)(A) Subparagraph (B) of section 2101(b)(1) is amended by inserting before the comma "reduced by the aggregate amount of gifts for which credit was allowed by section 2505 (as in effect on the day before the date of the enactment of the Wage and Employment Growth Act of 1999)"

(B) Subsection (b) of section 2101 is amended by striking the last sentence.

(9) Section 2102 is amended by striking subsection (c).

(10) Subsection (a) of section 2106 is amended by adding at the end the following new paragraph:

"(4) EXEMPTION.—

"(A) IN GENERAL.—An exemption of $60,000.

"(B) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a nonresident not a citizen of the United States under section 2209, the exemption under this paragraph shall be the greater of—

"(i) $60,000, or

"(ii) that proportion of $175,000 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(C) SPECIAL RULES.—

"(i) COORDINATION WITH TREATIES.—To the extent required under any treaty obligation of the United States, the exemption allowed under this paragraph shall be equal to the amount which bears the same ratio to the exemption amount under section 2052 (for the calendar year in which the decedent died) as the value of the part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated. For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.

"(ii) COORDINATION WITH GIFT TAX EXEMPTION AND UNIFIED CREDIT.—If an exemption has been allowed under section 2521 (or a credit has been allowed under section 2505 as in effect on the day before the date of the enactment of the Wage and Employment Growth Act of 1999) with respect to any gift made by the decedent, each dollar amount contained in subparagraph (A) or (B) or the exemption amount applicable under clause (i) of this subparagraph (whichever applies) shall be reduced by the exemption so allowed under 2521 (or, in the case of such a credit, by the amount of the gift for which the credit was so allowed).".

(11)(A) Subsection (a) of section 2107 is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON EXEMPTION AMOUNT.—Subparagraphs (B) and (C) of section 2106(a)(4) shall not apply in applying section 2106 for purposes of this section.".

(B) Subsection (c) of section 2107 is amended—

(i) by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(ii) by striking the second sentence of paragraph (2) (as so redesignated).

(12) Section 2206 is amended by striking "the taxable estate" in the first sentence and inserting "the sum of the taxable estate and the amount of the exemption allowed under section 2052 or 2106(a)(4) in computing the taxable estate".

(13) Section 2207 is amended by striking "the taxable estate" in the first sentence and inserting "the sum of the taxable estate and the amount of the exemption allowed under section 2052 or 2106(a)(4) in computing the taxable estate".

(14) Subparagraph (B) of section 2207B(a)(1) is amended to read as follows:

"(B) the sum of the taxable estate and the amount of the exemption allowed under section 2052 or 2106(a)(4) in computing the taxable estate.".

(15) Subsection (a) of section 2503 is amended by striking "section 2522" and inserting "section 2521".

(16) Paragraph (1) of section 6018(a) is amended by striking "the applicable exclusion amount in effect under section 2010(c)" and inserting "the exemption amount under section 2052".

(17) Subparagraph (A) of section 6601(j)(2) is amended to read as follows:

"(A) the amount of the tax which would be imposed by chapter 11 on an amount of taxable estate equal to $1,000,000, or".

(18) The table of sections for part II of subchapter A of chapter 11 is amended by striking the item relating to section 2010.

(19) The table of sections for part IV of subchapter A of chapter 11 is amended by inserting after the item relating to section 2051 the following new item:

"Sec. 2052. Exemption.".

(20) The table of sections for subchapter A of chapter 12 is amended by striking the item relating to section 2505.

(21) The table of sections for subchapter C of chapter 12 is amended by inserting before the item relating to section 2522 the following new item:

"Sec. 2521. Exemption.".

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) insofar as they relate to the tax imposed by chapter 11 of the Internal Revenue Code of 1986, shall apply to estates of decedents dying after December 31, 2000, and

(2) insofar as they relate to the tax imposed by chapter 12 of such Code, shall apply to gifts made after December 31, 2000.

Subtitle C—Modifications of Generation-skipping Transfer Tax

SEC. 521. DEEMED ALLOCATION OF GST EXEMPTION TO LIFETIME TRANSFERS TO TRUSTS; RETROACTIVE ALLOCATIONS.

(a) IN GENERAL.—Section 2632 (relating to special rules for allocation of GST exemption) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) DEEMED ALLOCATION TO CERTAIN LIFETIME TRANSFERS TO GST TRUSTS.—

"(1) IN GENERAL.—If any individual makes an indirect skip during such individual's lifetime, any unused portion of such individual's GST exemption shall be allocated to the property transferred to the extent necessary to make the inclusion ratio for such property zero. If the amount of the indirect skip exceeds such unused portion, the entire unused portion shall be allocated to the property transferred.

"(2) UNUSED PORTION.—For purposes of paragraph (1), the unused portion of an individual's GST exemption is that portion of such exemption which has not previously been—

"(A) allocated by such individual,

"(B) treated as allocated under subsection (b) with respect to a direct skip occurring during or before the calendar year in which the indirect skip is made, or

"(C) treated as allocated under paragraph (1) with respect to a prior indirect skip.

"(3) DEFINITIONS.—

"(A) INDIRECT SKIP.—For purposes of this subsection, the term 'indirect skip' means any transfer of property (other than a direct skip) subject to the tax imposed by chapter 12 made to a GST trust.

"(B) GST TRUST.—The term 'GST trust' means a trust that could have a generation-skipping transfer with respect to the transferor unless—

"(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by 1 or more individuals who are non-skip persons—

"(I) before the date that the individual attains age 46,

"(II) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

"(III) upon the occurrence of an event that, in accordance with regulations prescribed by the Secretary, may reasonably be expected to occur before the date that such individual attains age 46;

"(ii) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons and who are living on the date of death of another person identified in the instrument (by name or by class) who is more than 10 years older than such individuals;

"(iii) the trust instrument provides that, if one or more individuals who are non-skip persons die on or before a date or event described in clause (i) or (ii), more than 25 percent of the trust corpus either must be distributed to the estate or estates of one or more of such individuals or is subject to a general power of appointment exercisable by one or more of such individuals;

"(iv) the trust is a trust any portion of which would be included in the gross estate of a non-skip person (other than the transferor) if such person died immediately after the transfer;

"(v) the trust is a charitable lead annuity trust (within the meaning of section 2642(e)(3)(A)) or a charitable remainder annuity trust or a charitable remainder unitrust (within the meaning of section 664(d)); or

"(vi) the trust is a trust with respect to which a deduction was allowed under section 2522 for the amount of an interest in the form of the right to receive annual payments of a fixed percentage of the net fair market value of the trust property (determined yearly) and which is required to pay principal to a non-skip person if such person is alive when the yearly payments for which the deduction was allowed terminate.

For purposes of this subparagraph, the value of transferred property shall not be considered to be includible in the gross estate of a non-skip person or subject to a right of withdrawal by reason of such person holding a right to withdraw so much of such property as does not exceed the amount referred to in section 2503(b) with respect to any transferor, and it shall be assumed that powers of appointment held by non-skip persons will not be exercised.

"(4) AUTOMATIC ALLOCATIONS TO CERTAIN GST TRUSTS.—For purposes of this subsection, an indirect skip to which section 2642(f) applies shall be deemed to have been made only at the close of the estate tax inclusion period. The fair market value of such transfer shall be the fair market value of the trust property at the close of the estate tax inclusion period.

"(5) APPLICABILITY AND EFFECT.—

"(A) IN GENERAL.—An individual—

"(i) may elect to have this subsection not apply to—

"(I) an indirect skip, or

"(II) any or all transfers made by such individual to a particular trust, and

"(ii) may elect to treat any trust as a GST trust for purposes of this subsection with respect to any or all transfers made by such individual to such trust.

"(B) ELECTIONS.—

"(i) ELECTIONS WITH RESPECT TO INDIRECT SKIPS.—An election under subparagraph (A)(i)(I) shall be deemed to be timely if filed on a timely filed gift tax return for the calendar year in which the transfer was made or deemed to have been made pursuant to paragraph (4) or on such later date or dates as may be prescribed by the Secretary.

"(ii) OTHER ELECTIONS.—An election under clause (i)(II) or (ii) of subparagraph (A) may be made on a timely filed gift tax return for the calendar year for which the election is to become effective.

"(d) RETROACTIVE ALLOCATIONS.—

"(1) IN GENERAL.—If—

"(A) a non-skip person has an interest or a future interest in a trust to which any transfer has been made,

"(B) such person—

"(i) is a lineal descendant of a grandparent of the transferor or of a grandparent of the transferor's spouse or former spouse, and

"(ii) is assigned to a generation below the generation assignment of the transferor, and

"(C) such person predeceases the transferor,

then the transferor may make an allocation of any of such transferor's unused GST exemption to any previous transfer or transfers to the trust on a chronological basis.

"(2) SPECIAL RULES.—If the allocation under paragraph (1) by the transferor is made on a gift tax return filed on or before the date prescribed by section 6075(b) for gifts made within the calendar year within which the non-skip person's death occurred—

"(A) the value of such transfer or transfers for purposes of section 2642(a) shall be determined as if such allocation had been made on a timely filed gift tax return for each calendar year within which each transfer was made,

"(B) such allocation shall be effective immediately before such death, and

"(C) the amount of the transferor's unused GST exemption available to be allocated shall be determined immediately before such death.

"(3) FUTURE INTEREST.—For purposes of this subsection, a person has a future interest in a trust if the trust may permit income or corpus to be paid to such person on a date or dates in the future.".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 2632(b) is amended by striking "with respect to a direct skip" and inserting "or subsection (c)(1)".

(c) EFFECTIVE DATES.—

(1) DEEMED ALLOCATION.—Section 2632(c) of the Internal Revenue Code of 1986 (as added by subsection (a)), and the amendment made by subsection (b), shall apply to transfers subject to chapter 11 or 12 made after December 31, 1999, and to estate tax inclusion periods ending after December 31, 1999.

(2) RETROACTIVE ALLOCATIONS.—Section 2632(d) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to deaths of non-skip persons occurring after December 31, 1999.

SEC. 522. SEVERING OF TRUSTS.

(a) IN GENERAL.—Subsection (a) of section 2642 (relating to inclusion ratio) is amended by adding at the end the following new paragraph:

"(3) SEVERING OF TRUSTS.—

"(A) IN GENERAL.—If a trust is severed in a qualified severance, the trusts resulting from such severance shall be treated as separate trusts thereafter for purposes of this chapter.

"(B) QUALIFIED SEVERANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualified severance' means the division of a single trust and the creation (by any means available under the governing instrument or under local law) of two or more trusts if—

"(I) the single trust was divided on a fractional basis, and

"(II) the terms of the new trusts, in the aggregate, provide for the same succession of interests of beneficiaries as are provided in the original trust.

"(ii) TRUSTS WITH INCLUSION RATIO GREATER THAN ZERO.—If a trust has an inclusion ratio of greater than zero and less than 1, a severance is a qualified severance only if the single trust is divided into two trusts, one of which receives a fractional share of the total value of all trust assets equal to the applicable fraction of the single trust immediately before the severance. In such case, the trust receiving such fractional share shall have an inclusion ratio of zero and the other trust shall have an inclusion ratio of 1.

"(iii) REGULATIONS.—The term 'qualified severance' includes any other severance permitted under regulations prescribed by the Secretary.

"(C) TIMING AND MANNER OF SEVERANCES.—A severance pursuant to this paragraph may be made at any time. The Secretary shall prescribe by forms or regulations the manner in which the qualified severance shall be reported to the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to severances after December 31, 1999.

SEC. 523. MODIFICATION OF CERTAIN VALUATION RULES.

(a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR DEEMED ALLOCATION MADE.—Paragraph (1) of section 2642(b) (relating to valuation rules, etc.) is amended to read as follows:

"(1) GIFTS FOR WHICH GIFT TAX RETURN FILED OR DEEMED ALLOCATION MADE.—If the allocation of the GST exemption to any transfers of property is made on a gift tax return filed on or before the date prescribed by section 6075(b) for such transfer or is deemed to be made under section 2632 (b)(1) or (c)(1)—

"(A) the value of such property for purposes of subsection (a) shall be its value as finally determined for purposes of chapter 12 (within the meaning of section 2001(f)(2)), or, in the case of an allocation deemed to have been made at the close of an estate tax inclusion period, its value at the time of the close of the estate tax inclusion period, and

"(B) such allocation shall be effective on and after the date of such transfer, or, in the case of an allocation deemed to have been made at the close of an estate tax inclusion period, on and after the close of such estate tax inclusion period.".

(b) TRANSFERS AT DEATH.—Subparagraph (A) of section 2642(b)(2) is amended to read as follows:

"(A) TRANSFERS AT DEATH.—If property is transferred as a result of the death of the transferor, the value of such property for purposes of subsection (a) shall be its value as finally determined for purposes of chapter 11; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the distribution concerned.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 1999.

SEC. 524. RELIEF PROVISIONS.

(a) IN GENERAL.—Section 2642 is amended by adding at the end the following new subsection:

"(g) RELIEF PROVISIONS.—

"(1) RELIEF FOR LATE ELECTIONS.—

"(A) IN GENERAL.—The Secretary shall by regulation prescribe such circumstances and procedures under which extensions of time will be granted to make—

"(i) an allocation of GST exemption described in paragraph (1) or (2) of subsection (b), and

"(ii) an election under subsection (b)(3) or (c)(5) of section 2632.

Such regulations shall include procedures for requesting comparable relief with respect to transfers made before the date of the enactment of this paragraph.

"(B) BASIS FOR DETERMINATIONS.—In determining whether to grant relief under this paragraph, the Secretary shall take into account all relevant circumstances, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Secretary deems relevant. For purposes of determining whether to grant relief under this paragraph, the time for making the allocation (or election) shall be treated as if not expressly prescribed by statute.

"(2) SUBSTANTIAL COMPLIANCE.—An allocation of GST exemption under section 2632 that demonstrates an intent to have the lowest possible inclusion ratio with respect to a transfer or a trust shall be deemed to be an allocation of so much of the transferor's unused GST exemption as produces the lowest possible inclusion ratio. In determining whether there has been substantial compliance, all relevant circumstances shall be taken into account, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Secretary deems relevant.".

(b) EFFECTIVE DATES.—

(1) RELIEF FOR LATE ELECTIONS.—Section 2642(g)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to requests pending on, or filed after, December 31, 1999.

(2) SUBSTANTIAL COMPLIANCE.—Section 2642(g)(2) of such Code (as so added) shall take effect on the date of the enactment of this Act and shall apply to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 1999.

Subtitle D—Conservation Easements

SEC. 531. EXPANSION OF ESTATE TAX RULE FOR CONSERVATION EASEMENTS.

(a) WHERE LAND IS LOCATED.—

(1) IN GENERAL.—Clause (i) of section 2031(c)(8)(A) (defining land subject to a conservation easement) is amended—

(A) by striking "25 miles" both places it appears and inserting "50 miles", and

(B) striking "10 miles" and inserting "25 miles".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 1999.

(b) CLARIFICATION OF DATE FOR DETERMINING VALUE OF LAND AND EASEMENT.—

(1) IN GENERAL.—Section 2031(c)(2) (defining applicable percentage) is amended by adding at the end the following new sentence: "The values taken into account under the preceding sentence shall be such values as of the date of the contribution referred to in paragraph (8)(B).".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to estates of decedents dying after December 31, 1997.

TITLE VI—TAX RELIEF FOR DISTRESSED COMMUNITIES AND INDUSTRIES

Subtitle A—American Community Renewal Act of 1999

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "American Community Renewal Act of 1999".

SEC. 602. DESIGNATION OF AND TAX INCENTIVES FOR RENEWAL COMMUNITIES.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter X—Renewal Communities

"PART I—DESIGNATION

"SEC. 1400E. DESIGNATION OF RENEWAL COMMUNITIES.

"(a) DESIGNATION.—

"(1) DEFINITIONS.—For purposes of this title, the term 'renewal community' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as a renewal community (hereinafter in this section referred to as a 'nominated area'); and

"(B) which the Secretary of Housing and Urban Development designates as a renewal community, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration; and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

"(2) NUMBER OF DESIGNATIONS.—

"(A) IN GENERAL.—The Secretary of Housing and Urban Development may designate not more than 15 nominated areas as renewal communities.

"(B) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under paragraph (1), at least 3 must be areas—

"(i) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000,

"(ii) which are outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(iii) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(3) AREAS DESIGNATED BASED ON DEGREE OF POVERTY, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the nominated areas designated as renewal communities under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

"(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION, ETC.—An area shall not be designated under subparagraph (A) if the Secretary of Housing and Urban Development determines that the course of action described in subsection (d)(2) with respect to such area is inadequate.

"(C) PRIORITY FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES WITH RESPECT TO FIRST 10 DESIGNATIONS.—With respect to the first 10 designations made under this section—

"(i) all shall be chosen from nominated areas which are empowerment zones or enterprise communities (and are otherwise eligible for designation under this section); and

"(ii) two shall be areas described in paragraph (2)(B).

"(4) LIMITATION ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—The Secretary of Housing and Urban Development shall prescribe by regulation no later than 4 months after the date of the enactment of this section, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A);

"(ii) the parameters relating to the size and population characteristics of a renewal community; and

"(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development may designate nominated areas as renewal communities only during the 36-month period beginning on the first day of the first month following the month in which the regulations described in subparagraph (A) are prescribed.

"(C) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation of a nominated area as a renewal community under paragraph (2) unless—

"(i) the local governments and the States in which the nominated area is located have the authority—

"(I) to nominate such area for designation as a renewal community;

"(II) to make the State and local commitments described in subsection (d); and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination regarding such area is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe; and

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate.

"(5) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—For purposes of this subchapter, in the case of a nominated area on an Indian reservation, the res-

ervation governing body (as determined by the Secretary of the Interior) shall be treated as being both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a renewal community shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31, 2007,

"(B) the termination date designated by the State and local governments in their nomination, or

"(C) the date the Secretary of Housing and Urban Development revokes such designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which the area is located—

"(A) has modified the boundaries of the area, or

"(B) is not complying substantially with, or fails to make progress in achieving, the State or local commitments, respectively, described in subsection (d).

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as a renewal community under subsection (a) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of one or more local governments;

"(B) the boundary of the area is continuous; and

"(C) the area—

"(i) has a population, of at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (within the meaning of section 143(k)(2)(B)) which has a population of 50,000 or greater; or

"(II) 1,000 in any other case; or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the State and the local governments in which it is located certify (and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification) that—

"(A) the area is one of pervasive poverty, unemployment, and general distress;

"(B) the unemployment rate in the area, as determined by the most recent available data, was at least 1½ times the national unemployment rate for the period to which such data relate;

"(C) the poverty rate for each population census tract within the nominated area is at least 20 percent; and

"(D) in the case of an urban area, at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

"(4) CONSIDERATION OF HIGH INCIDENCE OF CRIME.—The Secretary of Housing and Urban Development shall take into account, in selecting nominated areas for designation as renewal communities under this section, the extent to which such areas have a high incidence of crime.

"(5) CONSIDERATION OF COMMUNITIES IDENTIFIED IN GAO STUDY.—The Secretary of Housing and Urban Development shall take into account, in selecting nominated areas for designation as renewal communities under this section, if the area has census tracts identified in the May 12, 1998, report of the Government Accounting Office regarding the identification of economically distressed areas.

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate any nominated area as a renewal community under subsection (a) only if—

"(A) the local government and the State in which the area is located agree in writing that, during any period during which the area is a renewal community, such governments will follow a specified course of action which meets the requirements of paragraph (2) and is designed to reduce the various burdens borne by employers or employees in such area; and

"(B) the economic growth promotion requirements of paragraph (3) are met.

"(2) COURSE OF ACTION.—

"(A) IN GENERAL.—A course of action meets the requirements of this paragraph if such course of action is a written document, signed by a State (or local government) and neighborhood organizations, which evidences a partnership between such State or government and community-based organizations and which commits each signatory to specific and measurable goals, actions, and timetables. Such course of action shall include at least five of the following:

"(i) A reduction of tax rates or fees applying within the renewal community.

"(ii) An increase in the level of efficiency of local services within the renewal community.

"(iii) Crime reduction strategies, such as crime prevention (including the provision of such services by nongovernmental entities).

"(iv) Actions to reduce, remove, simplify, or streamline governmental requirements applying within the renewal community.

"(v) Involvement in the program by private entities, organizations, neighborhood organizations, and community groups, particularly those in the renewal community, including a commitment from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents from the renewal community.

"(vi) State or local income tax benefits for fees paid for services performed by a nongovernmental entity which were formerly performed by a governmental entity.

"(vii) The gift (or sale at below fair market value) of surplus real property (such as land, homes, and commercial or industrial structures) in the renewal community to neighborhood organizations, community development corporations, or private companies.

"(B) RECOGNITION OF PAST EFFORTS.—For purposes of this section, in evaluating the course of action agreed to by any State or local government, the Secretary of Housing and Urban Development shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(3) ECONOMIC GROWTH PROMOTION REQUIREMENTS.—The economic growth promotion requirements of this paragraph are met with respect to a nominated area if the local government and the State in which such area is located certify in writing that such government and State, respectively, have repealed or otherwise will not enforce within the area, if such area is designated as a renewal community—

"(A) licensing requirements for occupations that do not ordinarily require a professional degree;

"(B) zoning restrictions on home-based businesses which do not create a public nuisance;

"(C) permit requirements for street vendors who do not create a public nuisance;

"(D) zoning or other restrictions that impede the formation of schools or child care centers; and

"(E) franchises or other restrictions on competition for businesses providing public services, including but not limited to taxicabs, jitneys, cable television, or trash hauling,

except to the extent that such regulation of businesses and occupations is necessary for and well-tailored to the protection of health and safety.

"(e) COORDINATION WITH TREATMENT OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—For purposes of this title, if there are in effect with respect to the same area both—

"(1) a designation as a renewal community; and

"(2) a designation as an empowerment zone or enterprise community,

both of such designations shall be given full effect with respect to such area.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as a renewal community, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' includes Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State;

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development; and

"(C) the District of Columbia.

"(4) APPLICATION OF RULES RELATING TO CENSUS TRACTS AND CENSUS DATA.—The rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

"PART II—RENEWAL COMMUNITY CAPITAL GAIN; RENEWAL COMMUNITY BUSINESS

"SEC. 1400F. RENEWAL COMMUNITY CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include any qualified capital gain recognized on the sale or exchange of a qualified community asset held for more than 5 years.

"(b) QUALIFIED COMMUNITY ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified community asset' means—

"(A) any qualified community stock;

"(B) any qualified community partnership interest; and

"(C) any qualified community business property.

"(2) QUALIFIED COMMUNITY STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified community stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer after December 31, 2000, and before January 1, 2008, at its original issue (directly or through an underwriter) from the corporation solely in exchange for cash;

"(ii) as of the time such stock was issued, such corporation was a renewal community business (or, in the case of a new corporation, such corporation was being organized for purposes of being a renewal community business); and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a renewal community business.

"(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

"(3) QUALIFIED COMMUNITY PARTNERSHIP INTEREST.—The term 'qualified community partnership interest' means any capital or profits interest in a domestic partnership if—

"(A) such interest is acquired by the taxpayer after December 31, 2000, and before January 1, 2008;

"(B) as of the time such interest was acquired, such partnership was a renewal community business (or, in the case of a new partnership, such partnership was being organized for purposes of being a renewal community business); and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a renewal community business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

"(4) QUALIFIED COMMUNITY BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified community business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 2000, and before January 1, 2008;

"(ii) the original use of such property in the renewal community commences with the taxpayer; and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a renewal community business of the taxpayer.

"(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

"(i) property which is substantially improved (within the meaning of section 1400B(b)(4)(B)(ii)) by the taxpayer before January 1, 2008; and

"(ii) any land on which such property is located.

"(c) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (b), and subsections (e), (f), and (g), of section 1400B shall apply for purposes of this section.

"SEC. 1400G. RENEWAL COMMUNITY BUSINESS DEFINED.

"For purposes of this part, the term 'renewal community business' means any entity or proprietorship which would be a qualified business entity or qualified proprietorship under section 1397B if—

"(1) references to renewal communities were substituted for references to empowerment zones in such section; and

"(2) '80 percent' were substituted for '50 percent' in subsections (b)(2) and (c)(1) of such section.

"PART III—FAMILY DEVELOPMENT ACCOUNTS

"SEC. 1400H. FAMILY DEVELOPMENT ACCOUNTS FOR RENEWAL COMMUNITY EITC RECIPIENTS.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction—

"(A) in the case of a qualified individual, the amount paid in cash for the taxable year by such individual to any family development account for such individual's benefit; and

"(B) in the case of any person other than a qualified individual, the amount paid in cash for the taxable year by such person to any family development account for the benefit of a qualified individual but only if the amount so paid is designated for purposes of this section by such individual.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount allowable as a deduction to any individual for any taxable year by reason of paragraph (1)(A) shall not exceed the lesser of—

"(i) $2,000, or

"(ii) an amount equal to the compensation includible in the individual's gross income for such taxable year.

"(B) PERSONS DONATING TO FAMILY DEVELOPMENT ACCOUNTS OF OTHERS.—The amount which may be designated under paragraph (1)(B) by any qualified individual for any taxable year of such individual shall not exceed $1,000.

"(3) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—Rules similar to rules of section 219(c) shall apply to the limitation in paragraph (2)(A).

"(4) COORDINATION WITH IRAS.—No deduction shall be allowed under this section for any taxable year to any person by reason of a payment to an account for the benefit of a qualified individual if any amount is paid for such taxable year into an individual retirement account (including a Roth IRA) for the benefit of such individual.

"(5) ROLLOVERS.—No deduction shall be allowed under this section with respect to any rollover contribution.

"(b) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION OF AMOUNTS IN GROSS INCOME.—Except as otherwise provided in this subsection, any amount paid or distributed out of a family development account shall be included in gross income by the payee or distributee, as the case may be.

"(2) EXCLUSION OF QUALIFIED FAMILY DEVELOPMENT DISTRIBUTIONS.—Paragraph (1) shall not apply to any qualified family development distribution.

"(c) QUALIFIED FAMILY DEVELOPMENT DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified family development distribution' means any amount paid or distributed out of a family development account which would otherwise be includible in gross income, to the extent that such payment or distribution is used exclusively to pay qualified family development expenses for the holder of the account or the spouse or dependent (as defined in section 152) of such holder.

"(2) QUALIFIED FAMILY DEVELOPMENT EXPENSES.—The term 'qualified family development expenses' means any of the following:

"(A) Qualified higher education expenses.

"(B) Qualified first-time homebuyer costs.

"(C) Qualified business capitalization costs.

"(D) Qualified medical expenses.

"(E) Qualified rollovers.

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' has the meaning given such term by section 72(t)(7), determined by treating postsecondary vocational educational schools as eligible educational institutions.

"(B) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—The term 'postsecondary vocational educational school' means an area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of the enactment of this section.

"(C) COORDINATION WITH OTHER BENEFITS.—The amount of qualified higher education expenses for any taxable year shall be reduced as provided in section 25A(g)(2).

"(4) QUALIFIED FIRST-TIME HOMEBUYER COSTS.—The term 'qualified first-time homebuyer costs' means qualified acquisition costs (as defined in section 72(t)(8) without regard to subparagraph (B) thereof) with respect to a principal residence (within the meaning of section 121) for a qualified first-time homebuyer (as defined in section 72(t)(8)).

"(5) QUALIFIED BUSINESS CAPITALIZATION COSTS.—

"(A) IN GENERAL.—The term 'qualified business capitalization costs' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

"(B) QUALIFIED EXPENDITURES.—The term 'qualified expenditures' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

"(C) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business other than any trade or business—

"(i) which consists of the operation of any facility described in section 144(c)(6)(B), or

"(ii) which contravenes any law.

"(D) QUALIFIED PLAN.—The term 'qualified plan' means a business plan which meets such requirements as the Secretary may specify.

"(6) QUALIFIED MEDICAL EXPENSES.—The term 'qualified medical expenses' means any amount paid during the taxable year, not compensated for by insurance or otherwise, for medical care (as defined in section 213(d)) of the taxpayer, his spouse, or his dependent (as defined in section 152).

"(7) QUALIFIED ROLLOVERS.—The term 'qualified rollover' means any amount paid from a family development account of a taxpayer into another such account established for the benefit of—

"(A) such taxpayer, or

"(B) any qualified individual who is—

"(i) the spouse of such taxpayer, or

"(ii) any dependent (as defined in section 152) of the taxpayer.

Rules similar to the rules of section 408(d)(3) shall apply for purposes of this paragraph.

"(d) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—Any family development account is exempt from taxation under this subtitle unless such account has ceased to be a family development account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations). Notwithstanding any other provision of this title (including chapters 11 and 12), the basis of any person in such an account is zero.

"(2) LOSS OF EXEMPTION IN CASE OF PROHIBITED TRANSACTIONS.—For purposes of this section, rules similar to the rules of section 408(e) shall apply.

"(3) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (4), (5), and (6) of section 408(d) shall apply for purposes of this section.

"(e) FAMILY DEVELOPMENT ACCOUNT.—For purposes of this title, the term 'family development account' means a trust created or organized in the United States for the exclusive benefit of a qualified individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

"(1) Except in the case of a qualified rollover (as defined in subsection (c)(7))—

"(A) no contribution will be accepted unless it is in cash; and

"(B) contributions will not be accepted for the taxable year in excess of $3,000.

"(2) The requirements of paragraphs (2) through (6) of section 408(a) are met.

"(f) QUALIFIED INDIVIDUAL.—For purposes of this section, the term 'qualified individual' means, for any taxable year, an individual—

"(1) who is a bona fide resident of a renewal community throughout the taxable year; and

"(2) to whom a credit was allowed under section 32 for the preceding taxable year.

"(g) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—The term 'compensation' has the meaning given such term by section 219(f)(1).

"(2) MARRIED INDIVIDUALS.—The maximum deduction under subsection (a) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to a family development account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(4) EMPLOYER PAYMENTS; CUSTODIAL ACCOUNTS.—Rules similar to the rules of sections 219(f)(5) and 408(h) shall apply for purposes of this section.

"(5) REPORTS.—The trustee of a family development account shall make such reports regarding such account to the Secretary and to the individual for whom the account is maintained with respect to contributions (and the years to which they relate), distributions, and such other matters as the Secretary may require under regulations. The reports required by this paragraph—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations; and

"(B) shall be furnished to individuals—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate; and

"(ii) in such manner as the Secretary prescribes in such regulations.

"(6) INVESTMENT IN COLLECTIBLES TREATED AS DISTRIBUTIONS.—Rules similar to the rules of section 408(m) shall apply for purposes of this section.

"(h) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED FAMILY DEVELOPMENT EXPENSES.—

"(1) IN GENERAL.—If any amount is distributed from a family development account and is not used exclusively to pay qualified family development expenses for the holder of the account or the spouse or dependent (as defined in section 152) of such holder, the tax imposed by this chapter for the taxable year of such distribution shall be increased by 10 percent of the portion of such amount which is includible in gross income.

"(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—Paragraph (1) shall not apply to distributions which are—

"(A) made on or after the date on which the account holder attains age 59½,

"(B) made to a beneficiary (or the estate of the account holder) on or after the death of the account holder, or

"(C) attributable to the account holder's being disabled within the meaning of section 72(m)(7).

"(i) APPLICATION OF SECTION.—This section shall apply to amounts paid to a family development account for any taxable year beginning after December 31, 2000, and before January 1, 2008.

"SEC. 1400I. DESIGNATION OF EARNED INCOME TAX CREDIT PAYMENTS FOR DEPOSIT TO FAMILY DEVELOPMENT ACCOUNT.

"(a) IN GENERAL.—With respect to the return of any qualified individual (as defined in section 1400H(f)) for the taxable year of the tax imposed by this chapter, such individual may designate that a specified portion (not less than $1) of any overpayment of tax for such taxable year which is attributable to the earned income tax credit shall be deposited by the Secretary into a family development account of such individual. The Secretary shall so deposit such portion designated under this subsection.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year—

"(1) at the time of filing the return of the tax imposed by this chapter for such taxable year, or

"(2) at any other time (after the time of filing the return of the tax imposed by this chapter for such taxable year) specified in regulations prescribed by the Secretary.

Such designation shall be made in such manner as the Secretary prescribes by regulations.

"(c) PORTION ATTRIBUTABLE TO EARNED INCOME TAX CREDIT.—For purposes of subsection (a), an overpayment for any taxable year shall be treated as attributable to the earned income tax credit to the extent that such overpayment does not exceed the credit allowed to the taxpayer under section 32 for such taxable year.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by this chapter (determined without regard to extensions) or, if later, the date the return is filed.

"(e) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2007.

"PART IV—ADDITIONAL INCENTIVES

"SEC. 1400K. COMMERCIAL REVITALIZATION DEDUCTION.

"(a) GENERAL RULE.—At the election of the taxpayer, either—

"(1) one-half of any qualified revitalization expenditures chargeable to capital account with respect to any qualified revitalization building shall be allowable as a deduction for the taxable year in which the building is placed in service, or

"(2) a deduction for all such expenditures shall be allowable ratably over the 120-month period beginning with the month in which the building is placed in service.

The deduction provided by this section with respect to such expenditure shall be in lieu of any depreciation deduction otherwise allowable on account of such expenditure.

"(b) QUALIFIED REVITALIZATION BUILDINGS AND EXPENDITURES.—For purposes of this section—

"(1) QUALIFIED REVITALIZATION BUILDING.—The term 'qualified revitalization building' means any building (and its structural components) if—

"(A) such building is located in a renewal community and is placed in service after December 31, 2000;

"(B) a commercial revitalization deduction amount is allocated to the building under subsection (d); and

"(C) depreciation (or amortization in lieu of depreciation) is allowable with respect to the building (without regard to this section).

"(2) QUALIFIED REVITALIZATION EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified revitalization expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 (without regard to this section) and which is—

"(I) nonresidential real property; or

"(II) an addition or improvement to property described in subclause (I);

"(ii) in connection with the construction of any qualified revitalization building which was not previously placed in service or in connection with the substantial rehabilitation (within the meaning of section

47(c)(1)(C)) of a building which was placed in service before the beginning of such rehabilitation; and

"(iii) for land (including land which is functionally related to such property and subordinate thereto).

"(B) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building for any taxable year shall not exceed the excess of—

"(i) $10,000,000, reduced by

"(ii) any such expenditures with respect to the building taken into account by the taxpayer or any predecessor in determining the amount of the deduction under this section for all preceding taxable years.

"(C) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified revitalization expenditure' does not include—

"(i) ACQUISITION COSTS.—The costs of acquiring any building or interest therein and any land in connection with such building to the extent that such costs exceed 30 percent of the qualified revitalization expenditures determined without regard to this clause.

"(ii) CREDITS.—Any expenditure which the taxpayer may take into account in computing any credit allowable under this title unless the taxpayer elects to take the expenditure into account only for purposes of this section.

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—Qualified revitalization expenditures with respect to any qualified revitalization building shall be taken into account for the taxable year in which the qualified revitalization building is placed in service. For purposes of the preceding sentence, a substantial rehabilitation of a building shall be treated as a separate building.

"(d) LIMITATION ON AGGREGATE DEDUCTIONS ALLOWABLE WITH RESPECT TO BUILDINGS LOCATED IN A STATE.—

"(1) IN GENERAL.—The amount of the deduction determined under this section for any taxable year with respect to any building shall not exceed the commercial revitalization deduction amount (in the case of an amount determined under subsection (a)(2), the present value of such amount as determined under the rules of section 42(b)(2)(C) by substituting '100 percent' for '72 percent' in clause (ii) thereof) allocated to such building under this subsection by the commercial revitalization agency. Such allocation shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

"(2) COMMERCIAL REVITALIZATION DEDUCTION AMOUNT FOR AGENCIES.—

"(A) IN GENERAL.—The aggregate commercial revitalization deduction amount which a commercial revitalization agency may allocate for any calendar year is the amount of the State commercial revitalization deduction ceiling determined under this paragraph for such calendar year for such agency.

"(B) STATE COMMERCIAL REVITALIZATION DEDUCTION CEILING.—The State commercial revitalization deduction ceiling applicable to any State—

"(i) for each calendar year after 2000 and before 2008 is $6,000,000 for each renewal community in the State; and

"(ii) zero for each calendar year thereafter.

"(C) COMMERCIAL REVITALIZATION AGENCY.—For purposes of this section, the term 'commercial revitalization agency' means any agency authorized by a State to carry out this section.

"(e) RESPONSIBILITIES OF COMMERCIAL REVITALIZATION AGENCIES.—

"(1) PLANS FOR ALLOCATION.—Notwithstanding any other provision of this section, the commercial revitalization deduction amount with respect to any building shall be zero unless—

"(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization agency which is approved (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) by the governmental unit of which such agency is a part; and

"(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such allocation and provides such individual a reasonable opportunity to comment on the allocation.

"(2) QUALIFIED ALLOCATION PLAN.—For purposes of this subsection, the term 'qualified allocation plan' means any plan—

"(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization agency which are appropriate to local conditions;

"(B) which considers—

"(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for a renewal community through a citizen participation process;

"(ii) the amount of any increase in permanent, full-time employment by reason of any project; and

"(iii) the active involvement of residents and nonprofit groups within the renewal community; and

"(C) which provides a procedure that the agency (or its agent) will follow in monitoring compliance with this section.

"(f) REGULATIONS.—For purposes of this section, the Secretary shall, by regulations, provide for the application of rules similar to the rules of section 49 and subsections (a) and (b) of section 50.

"(g) TERMINATION.—This section shall not apply to any building placed in service after December 31, 2007.

"SEC. 1400L. INCREASE IN EXPENSING UNDER SECTION 179.

"(a) GENERAL RULE.—In the case of a renewal community business (as defined in section 1400G), for purposes of section 179—

"(1) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(A) $35,000; or

"(B) the cost of section 179 property which is qualified renewal property placed in service during the taxable year; and

"(2) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified renewal property shall be 50 percent of the cost thereof.

"(b) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified renewal property which ceases to be used in a renewal community by a renewal community business.

"(c) QUALIFIED RENEWAL PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified renewal property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 2000, and before January 1, 2008; and

"(B) such property would be qualified zone property (as defined in section 1397C) if references to renewal communities were substituted for references to empowerment zones in section 1397C.

"(2) CERTAIN RULES TO APPLY.—The rules of subsections (a)(2) and (b) of section 1397C shall apply for purposes of this section.".

SEC. 603. EXTENSION OF EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS TO RENEWAL COMMUNITIES.

(a) EXTENSION.—Paragraph (2) of section 198(c) (defining targeted area) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) RENEWAL COMMUNITIES INCLUDED.—Except as provided in subparagraph (B), such term shall include a renewal community (as defined in section 1400E) with respect to expenditures paid or incurred after December 31, 2000.".

(b) EXTENSION OF TERMINATION DATE FOR RENEWAL COMMUNITIES.—Subsection (h) of section 198 is amended by inserting before the period "(December 31, 2007, in the case of a renewal community, as defined in section 1400E).".

SEC. 604. EXTENSION OF WORK OPPORTUNITY TAX CREDIT FOR RENEWAL COMMUNITIES.

(a) EXTENSION.—Subsection (c) of section 51 (relating to termination) is amended by adding at the end the following new paragraph:

"(5) EXTENSION OF CREDIT FOR RENEWAL COMMUNITIES.—

"(A) IN GENERAL.—In the case of an individual who begins work for the employer after the date contained in paragraph (4)(B), for purposes of section 38—

"(i) in lieu of applying subsection (a), the amount of the work opportunity credit determined under this section for the taxable year shall be equal to—

"(I) 15 percent of the qualified first-year wages for such year; and

"(II) 30 percent of the qualified second-year wages for such year;

"(ii) subsection (b)(3) shall be applied by substituting '$10,000' for '$6,000';

"(iii) paragraph (4)(B) shall be applied by substituting for the date contained therein the last day for which the designation under section 1400E of the renewal community referred to in subparagraph (B)(i) is in effect; and

"(iv) rules similar to the rules of section 51A(b)(5)(C) shall apply.

"(B) QUALIFIED FIRST- AND SECOND-YEAR WAGES.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualified wages' means, with respect to each 1-year period referred to in clause (ii) or (iii), as the case may be, the wages paid or incurred by the employer during the taxable year to any individual but only if—

"(I) the employer is engaged in a trade or business in a renewal community throughout such 1-year period;

"(II) the principal place of abode of such individual is in such renewal community throughout such 1-year period; and

"(III) substantially all of the services which such individual performs for the employer during such 1-year period are performed in such renewal community.

"(ii) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

"(iii) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under clause (ii).".

(b) CONGRUENT TREATMENT OF RENEWAL COMMUNITIES AND ENTERPRISE ZONES FOR PURPOSES OF YOUTH RESIDENCE REQUIREMENTS.—

(1) HIGH-RISK YOUTH.—Subparagraphs (A)(ii) and (B) of section 51(d)(5) are each amended by striking "empowerment zone or enterprise community" and inserting "empowerment zone, enterprise community, or renewal community".

(2) QUALIFIED SUMMER YOUTH EMPLOYEE.—Clause (iv) of section 51(d)(7)(A) is amended by striking "empowerment zone or enterprise community" and inserting "empowerment zone, enterprise community, or renewal community".

(3) HEADINGS.—Paragraphs (5)(B) and (7)(C) of section 51(d) are each amended by inserting "OR COMMUNITY" in the heading after "ZONE".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who begin work for the employer after December 31, 2000.

SEC. 605. CONFORMING AND CLERICAL AMENDMENTS.

(a) DEDUCTION FOR CONTRIBUTIONS TO FAMILY DEVELOPMENT ACCOUNTS ALLOWABLE WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 (relating to adjusted gross income defined) is amended by inserting after paragraph (19) the following new paragraph:

"(20) FAMILY DEVELOPMENT ACCOUNTS.—The deduction allowed by section 1400H(a)(1).".

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) TAX IMPOSED.—Subsection (a) of section 4973 is amended by striking "or" at the end of paragraph (3), adding "or" at the end of paragraph (4), and inserting after paragraph (4) the following new paragraph:

"(5) a family development account (within the meaning of section 1400H(e)),".

(2) EXCESS CONTRIBUTIONS.—Section 4973 is amended by adding at the end the following new subsection:

"(g) FAMILY DEVELOPMENT ACCOUNTS.—For purposes of this section, in the case of family development accounts, the term 'excess contributions' means the sum of—

"(1) the excess (if any) of—

"(A) the amount contributed for the taxable year to the accounts (other than a qualified rollover, as defined in section 1400H(c)(7)), over

"(B) the amount allowable as a deduction under section 1400H for such contributions; and

"(2) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(A) the distributions out of the accounts for the taxable year which were included in the gross income of the payee under section 1400H(b)(1);

"(B) the distributions out of the accounts for the taxable year to which rules similar to the rules of section 408(d)(5) apply by reason of section 1400H(d)(3); and

"(C) the excess (if any) of the maximum amount allowable as a deduction under section 1400H for the taxable year over the amount contributed to the account for the taxable year.

For purposes of this subsection, any contribution which is distributed from the family development account in a distribution to which rules similar to the rules of section 408(d)(4) apply by reason of section 1400H(d)(3) shall be treated as an amount not contributed.".

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(6) SPECIAL RULE FOR FAMILY DEVELOPMENT ACCOUNTS.—An individual for whose benefit a family development account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a family development account by reason of the application of section 1400H(d)(2) to such account."; and

(2) in subsection (e)(1), by striking "or" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) a family development account described in section 1400H(e), or".

(d) INFORMATION RELATING TO CERTAIN TRUSTS AND ANNUITY PLANS.—Subsection (c) of section 6047 is amended—

(1) by inserting "or section 1400H" after "section 219"; and

(2) by inserting ", of any family development account described in section 1400H(e),", after "section 408(a)".

(e) INSPECTION OF APPLICATIONS FOR TAX EXEMPTION.—Clause (i) of section 6104(a)(1)(B) is amended by inserting "a family development account described in section 1400H(e)," after "section 408(a),".

(f) FAILURE TO PROVIDE REPORTS ON FAMILY DEVELOPMENT ACCOUNTS.—Paragraph (2) of section 6693(a) is amended by striking "and" at the end of subparagraph (C), by striking the period and inserting ", and" at the end of subparagraph (D), and by adding at the end the following new subparagraph:

"(E) section 1400H(g)(6) (relating to family development accounts).".

(g) CONFORMING AMENDMENTS REGARDING COMMERCIAL REVITALIZATION DEDUCTION.—

(1) Section 172 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) NO CARRYBACK OF SECTION 1400K DEDUCTION BEFORE DATE OF THE ENACTMENT.—No portion of the net operating loss for any taxable year which is attributable to any commercial revitalization deduction determined under section 1400K may be carried back to a taxable year ending before the date of the enactment of section 1400K.".

(2) Subparagraph (B) of section 48(a)(2) is amended by inserting "or commercial revitalization" after "rehabilitation" each place it appears in the text and heading.

(3) Subparagraph (C) of section 469(i)(3) is amended—

(A) by inserting "or section 1400K" after "section 42"; and

(B) by inserting "AND COMMERCIAL REVITALIZATION DEDUCTION" after "CREDIT" in the heading.

(h) CLERICAL AMENDMENTS.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter X. Renewal Communities.".

Subtitle B—Timber Incentives

SEC. 611. TEMPORARY SUSPENSION OF MAXIMUM AMOUNT OF AMORTIZABLE REFORESTATION EXPENDITURES.

(a) INCREASE IN DOLLAR LIMITATION.—Paragraph (1) of section 194(b) (relating to amortization of reforestation expenditures) is amended by striking "$10,000 ($5,000" and inserting "$25,000 ($12,500".

(b) TEMPORARY SUSPENSION OF INCREASED DOLLAR LIMITATION.—Subsection (b) of section 194(b) (relating to amortization of reforestation expenditures) is amended by adding at the end the following new paragraph:

"(5) SUSPENSION OF DOLLAR LIMITATION.—Paragraph (1) shall not apply to taxable years beginning after December 31, 2000, and before January 1, 2004.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 48(b) is amended by striking "section 194(b)(1)" and inserting "section 194(b)(1) and without regard to section 194(b)(5)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE VII—REAL ESTATE PROVISIONS

Subtitle A—Improvements in Low-Income Housing Credit

SEC. 701. MODIFICATION OF STATE CEILING ON LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Clauses (i) and (ii) of section 42(h)(3)(C) (relating to State housing credit ceiling) are amended to read as follows:

"(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

"(ii) the greater of—

"(I) the applicable amount under subparagraph (H) multiplied by the State population, or

"(II) $2,000,000,".

(b) APPLICABLE AMOUNT.—Paragraph (3) of section 42(h) (relating to housing credit dollar amount for agencies) is amended by adding at the end the following new subparagraph:

"(H) APPLICABLE AMOUNT OF STATE CEILING.—For purposes of subparagraph (C)(ii), the applicable amount shall be determined under the following table:

"For calendar year:	The applicable amount is:
2001	$1.35
2002	1.45
2003	1.55
2004 and thereafter	1.65.".

(c) ADJUSTMENT OF STATE CEILING FOR INCREASES IN COST-OF-LIVING.—Paragraph (3) of section 42(h) (relating to housing credit dollar amount for agencies), as amended by subsection (c), is amended by adding at the end the following new subparagraph:

"(I) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of a calendar year after 2004, the $2,000,000 in subparagraph (C) and the $1.65 amount in subparagraph (H) shall each be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—

"(I) In the case of the amount in subparagraph (C), any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(II) In the case of the amount in subparagraph (H), any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.".

(d) CONFORMING AMENDMENTS.—

(1) Section 42(h)(3)(C), as amended by subsection (a), is amended—

(A) by striking "clause (ii)" in the matter following clause (iv) and inserting "clause (i)", and

(B) by striking "clauses (i)" in the matter following clause (iv) and inserting "clauses (ii)".

(2) Section 42(h)(3)(D)(ii) is amended—

(A) by striking "subparagraph (C)(ii)" and inserting "subparagraph (C)(i)", and

(B) by striking "clauses (i)" in subclause (II) and inserting "clauses (ii)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2000.

SEC. 702. MODIFICATION OF CRITERIA FOR ALLOCATING HOUSING CREDITS AMONG PROJECTS.

(a) SELECTION CRITERIA.—Subparagraph (C) of section 42(m)(1) (relating to certain selection criteria must be used) is amended—

(1) by inserting ", including whether the project includes the use of existing housing as part of a community revitalization plan" before the comma at the end of clause (iii), and

(2) by striking clauses (v), (vi), and (vii) and inserting the following new clauses:

"(v) tenant populations with special housing needs,

"(vi) public housing waiting lists,

"(vii) tenant populations of individuals with children, and

"(viii) projects intended for eventual tenant ownership.".

(b) PREFERENCE FOR COMMUNITY REVITALIZATION PROJECTS LOCATED IN QUALIFIED CENSUS TRACTS.—Clause (ii) of section 42(m)(1)(B) is amended by striking "and" at the end of subclause (I), by adding "and" at the end of subclause (II), and by inserting after subclause (II) the following new subclause:

"(III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan,".

SEC. 703. ADDITIONAL RESPONSIBILITIES OF HOUSING CREDIT AGENCIES.

(a) MARKET STUDY; PUBLIC DISCLOSURE OF RATIONALE FOR NOT FOLLOWING CREDIT ALLOCATION PRIORITIES.—Subparagraph (A) of section 42(m)(1) (relating to responsibilities of housing credit agencies) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by adding at the end the following new clauses:

"(iii) a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

"(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.".

(b) SITE VISITS.—Clause (iii) of section 42(m)(1)(B) (relating to qualified allocation plan) is amended by inserting before the period "and in monitoring for noncompliance with habitability standards through regular site visits".

SEC. 704. MODIFICATIONS TO RULES RELATING TO BASIS OF BUILDING WHICH IS ELIGIBLE FOR CREDIT.

(a) ADJUSTED BASIS TO INCLUDE PORTION OF CERTAIN BUILDINGS USED BY LOW-INCOME INDIVIDUALS WHO ARE NOT TENANTS AND BY PROJECT EMPLOYEES.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(1) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(2) by redesignating subparagraph (C) as subparagraph (D), and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) INCLUSION OF BASIS OF PROPERTY USED TO PROVIDE SERVICES FOR CERTAIN NONTENANTS.—

"(i) IN GENERAL.—The adjusted basis of any building located in a qualified census tract (as defined in paragraph (5)(C)) shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation and not otherwise taken into account) used throughout the taxable year in providing any community service facility.

"(ii) LIMITATION.—The increase in the adjusted basis of any building which is taken into account by reason of clause (i) shall not exceed 10 percent of the eligible basis of the qualified low-income housing project of which it is a part. For purposes of the preceding sentence, all community service facilities which are part of the same qualified low-income housing project shall be treated as one facility.

"(iii) COMMUNITY SERVICE FACILITY.—For purposes of this subparagraph, the term 'community service facility' means any facility designed to serve primarily individuals whose income is 60 percent or less of area median income (within the meaning of subsection (g)(1)(B)).".

(b) CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-

INCOME HOUSING CREDIT.—Subparagraph (E) of section 42(i)(2) (relating to determination of whether building is federally subsidized) is amended—

(1) in clause (i), by inserting "or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on October 1, 1997)" after "this subparagraph)", and

(2) in the subparagraph heading, by inserting "OR NATIVE AMERICAN HOUSING ASSISTANCE" after "HOME ASSISTANCE".

SEC. 705. OTHER MODIFICATIONS.

(a) ALLOCATION OF CREDIT LIMIT TO CERTAIN BUILDINGS.—

(1) The first sentence of section 42(h)(1)(E)(ii) is amended by striking "(as of" the first place it appears and inserting "(as of the later of the date which is 6 months after the date that the allocation was made or".

(2) The last sentence of section 42(h)(3)(C) is amended by striking "project which" and inserting "project which fails to meet the 10 percent test under paragraph (1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which".

(b) DETERMINATION OF WHETHER BUILDINGS ARE LOCATED IN HIGH COST AREAS.—The first sentence of section 42(d)(5)(C)(ii)(I) is amended—

(1) by inserting "either" before "in which 50 percent", and

(2) by inserting before the period "or which has a poverty rate of at least 25 percent".

SEC. 706. CARRYFORWARD RULES.

(a) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of—

"(I) the unused State housing credit ceiling for the year preceding such year, over

"(II) the aggregate housing credit dollar amount allocated for such year.".

(b) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

SEC. 707. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to—

(1) housing credit dollar amounts allocated after December 31, 2000, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

Subtitle B—Provisions Relating to Real Estate Investment Trusts

PART I—TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES

SEC. 711. MODIFICATIONS TO ASSET DIVERSIFICATION TEST.

(a) IN GENERAL.—Subparagraph (B) of section 856(c)(4) is amended to read as follows:

"(B)(i) not more than 25 percent of the value of its total assets is represented by securities (other than those includible under subparagraph (A)), and

"(ii) except with respect to a taxable REIT subsidiary and securities includible under subparagraph (A)—

"(I) not more than 5 percent of the value of its total assets is represented by securities of any one issuer,

"(II) the trust does not hold securities possessing more than 10 percent of the total voting power of the outstanding securities of any one issuer, and

"(III) the trust does not hold securities having a value of more than 10 percent of the total value of the outstanding securities of any one issuer.".

(b) EXCEPTION FOR STRAIGHT DEBT SECURITIES.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

"(7) STRAIGHT DEBT SAFE HARBOR IN APPLYING PARAGRAPH (4).—Securities of an issuer which are straight debt (as defined in section 1361(c)(5) without regard to subparagraph (B)(iii) thereof) shall not be taken into account in applying paragraph (4)(B)(ii)(III) if—

"(A) the issuer is an individual, or

"(B) the only securities of such issuer which are held by the trust or a taxable REIT subsidiary of the trust are straight debt (as so defined), or

"(C) the issuer is a partnership and the trust holds at least a 20 percent profits interest in the partnership.".

SEC. 712. TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES.

(a) INCOME FROM TAXABLE REIT SUBSIDIARIES NOT TREATED AS IMPERMISSIBLE TENANT SERVICE INCOME.—Clause (i) of section 856(d)(7)(C) (relating to exceptions to impermissible tenant service income) is amended by inserting "or through a taxable REIT subsidiary of such trust" after "income".

(b) CERTAIN INCOME FROM TAXABLE REIT SUBSIDIARIES NOT EXCLUDED FROM RENTS FROM REAL PROPERTY.—

(1) IN GENERAL.—Subsection (d) of section 856 (relating to rents from real property defined) is amended by adding at the end the following new paragraphs:

"(8) SPECIAL RULE FOR TAXABLE REIT SUBSIDIARIES.—For purposes of this subsection, amounts paid to a real estate investment trust by a taxable REIT subsidiary of such trust shall not be excluded from rents from real property by reason of paragraph (2)(B) if the requirements of either of the following subparagraphs are met:

"(A) LIMITED RENTAL EXCEPTION.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in section 856(d)(2)(B). The preceding sentence shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents made by the other tenants of the trust's property for comparable space.

"(B) EXCEPTION FOR CERTAIN LODGING FACILITIES.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.

"(9) ELIGIBLE INDEPENDENT CONTRACTOR.—For purposes of paragraph (8)(B)—

"(A) IN GENERAL.—The term 'eligible independent contractor' means, with respect to any qualified lodging facility, any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate the facility, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

"(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility by reason of any of the following:

"(i) The taxable REIT subsidiary bears the expenses for the operation of the facility pursuant to the management agreement or other similar service contract.

"(ii) The taxable REIT subsidiary receives the revenues from the operation of such facility, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

"(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

"(I) January 1, 1999, or

"(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar serv-

ice contract with such person with respect to such qualified lodging facility.

"(C) RENEWALS, ETC., OF EXISTING LEASES.—For purposes of subparagraph (B)(iii)—

"(i) a lease shall be treated as in effect on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on whichever of the dates under subparagraph (B)(iii) is the latest, and

"(ii) a lease of a property entered into after whichever of the dates under subparagraph (B)(iii) is the latest shall be treated as in effect on such date if—

"(I) on such date, a lease of such property from the trust was in effect, and

"(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

"(D) QUALIFIED LODGING FACILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified lodging facility' means any lodging facility unless wagering activities are conducted at or in connection with such facility by any person who is engaged in the business of accepting wagers and who is legally authorized to engage in such business at or in connection with such facility.

"(ii) LODGING FACILITY.—The term 'lodging facility' means a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis.

"(iii) CUSTOMARY AMENITIES AND FACILITIES.—The term 'lodging facility' includes customary amenities and facilities operated as part of, or associated with, the lodging facility so long as such amenities and facilities are customary for other properties of a comparable size and class owned by other owners unrelated to such real estate investment trust.

"(E) OPERATE INCLUDES MANAGE.—References in this paragraph to operating a property shall be treated as including a reference to managing the property.

"(F) RELATED PERSON.—Persons shall be treated as related to each other if such persons are treated as a single employer under subsection (a) or (b) of section 52.".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 856(d)(2) is amended by inserting "except as provided in paragraph (8)," after "(B)".

(3) DETERMINING RENTS FROM REAL PROPERTY.—

(A)(i) Paragraph (1) of section 856(d) is amended by striking "adjusted bases" each place it occurs and inserting "fair market values".

(ii) The amendment made by this subparagraph shall apply to taxable years beginning after December 31, 2000.

(B)(i) Clause (i) of section 856(d)(2)(B) is amended by striking "number" and inserting "value".

(ii) The amendment made by this subparagraph shall apply to amounts received or accrued in taxable years beginning after December 31, 2000, except for amounts paid pursuant to leases in effect on July 12, 1999, or pursuant to a binding contract in effect on such date and at all times thereafter.

SEC. 713. TAXABLE REIT SUBSIDIARY.

(a) IN GENERAL.—Section 856 is amended by adding at the end the following new subsection:

"(l) TAXABLE REIT SUBSIDIARY.—For purposes of this part—

"(1) IN GENERAL.—The term 'taxable REIT subsidiary' means, with respect to a real estate investment trust, a corporation (other than a real estate investment trust) if—

"(A) such trust directly or indirectly owns stock in such corporation, and

"(B) such trust and such corporation jointly elect that such corporation shall be treated as a taxable REIT subsidiary of such trust for purposes of this part.

Such an election, once made, shall be irrevocable unless both such trust and corporation consent to its revocation. Such election, and any revocation thereof, may be made without the consent of the Secretary.

"(2) 35 PERCENT OWNERSHIP IN ANOTHER TAXABLE REIT SUBSIDIARY.—The term 'taxable REIT subsidiary' includes, with respect to any real estate investment

trust, any corporation (other than a real estate investment trust) with respect to which a taxable REIT subsidiary of such trust owns directly or indirectly—

"(A) securities possessing more than 35 percent of the total voting power of the outstanding securities of such corporation, or

"(B) securities having a value of more than 35 percent of the total value of the outstanding securities of such corporation.

The preceding sentence shall not apply to a qualified REIT subsidiary (as defined in subsection (i)(2)). The rule of section 856(c)(7) shall apply for purposes of subparagraph (B).

"(3) EXCEPTIONS.—The term 'taxable REIT subsidiary' shall not include—

"(A) any corporation which directly or indirectly operates or manages a lodging facility or a health care facility, and

"(B) any corporation which directly or indirectly provides to any other person (under a franchise, license, or otherwise) rights to any brand name under which any lodging facility or health care facility is operated.

Subparagraph (B) shall not apply to rights provided to an eligible independent contractor to operate or manage a lodging facility if such rights are held by such corporation as a franchisee, licensee, or in a similar capacity and such lodging facility is either owned by such corporation or is leased to such corporation from the real estate investment trust.

"(4) DEFINITIONS.—For purposes of paragraph (3)—

"(A) LODGING FACILITY.—The term 'lodging facility' has the meaning given to such term by paragraph (9)(D)(ii).

"(B) HEALTH CARE FACILITY.—The term 'health care facility' has the meaning given to such term by subsection (e)(6)(D)(ii).".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 856(i) is amended by adding at the end the following new sentence: "Such term shall not include a taxable REIT subsidiary.".

SEC. 714. LIMITATION ON EARNINGS STRIPPING.

Paragraph (3) of section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) any interest paid or accrued (directly or indirectly) by a taxable REIT subsidiary (as defined in section 856(l)) of a real estate investment trust to such trust.".

SEC. 715. 100 PERCENT TAX ON IMPROPERLY ALLOCATED AMOUNTS.

(a) IN GENERAL.—Subsection (b) of section 857 (relating to method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest) is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph:

"(7) INCOME FROM REDETERMINED RENTS, REDETERMINED DEDUCTIONS, AND EXCESS INTEREST.—

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year of the real estate investment trust a tax equal to 100 percent of redetermined rents, redetermined deductions, and excess interest.

"(B) REDETERMINED RENTS.—

"(i) IN GENERAL.—The term 'redetermined rents' means rents from real property (as defined in subsection 856(d)) the amount of which would (but for subparagraph (E)) be reduced on distribution, apportionment, or allocation under section 482 to clearly reflect income as a result of services furnished or rendered by a taxable REIT subsidiary of the real estate investment trust to a tenant of such trust.

"(ii) EXCEPTION FOR CERTAIN SERVICES.—Clause (i) shall not apply to amounts received directly or indirectly by a real estate investment trust for services described in paragraph (1)(B) or (7)(C)(i) of section 856(d).

"(iii) EXCEPTION FOR DE MINIMIS AMOUNTS.—Clause (i) shall not apply to amounts described in section 856(d)(7)(A) with respect to a property to the extent such amounts do not exceed the one percent threshold described in section 856(d)(7)(B) with respect to such property.

"(iv) EXCEPTION FOR COMPARABLY PRICED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

"(I) such subsidiary renders a significant amount of similar services to persons other than such trust and tenants of such trust who

are unrelated (within the meaning of section 856(d)(8)(F)) to such subsidiary, trust, and tenants, but

"(II) only to the extent the charge for such service so rendered is substantially comparable to the charge for the similar services rendered to persons referred to in subclause (I).

"(v) EXCEPTION FOR CERTAIN SEPARATELY CHARGED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

"(I) the rents paid to the trust by tenants (leasing at least 25 percent of the net leasable space in the trust's property) who are not receiving such service from such subsidiary are substantially comparable to the rents paid by tenants leasing comparable space who are receiving such service from such subsidiary, and

"(II) the charge for such service from such subsidiary is separately stated.

"(vi) EXCEPTION FOR CERTAIN SERVICES BASED ON SUBSIDIARY'S INCOME FROM THE SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if the gross income of such subsidiary from such service is not less than 150 percent of such subsidiary's direct cost in furnishing or rendering the service.

"(vii) EXCEPTIONS GRANTED BY SECRETARY.—The Secretary may waive the tax otherwise imposed by subparagraph (A) if the trust establishes to the satisfaction of the Secretary that rents charged to tenants were established on an arms' length basis even though a taxable REIT subsidiary of the trust provided services to such tenants.

"(C) REDETERMINED DEDUCTIONS.—The term 'redetermined deductions' means deductions (other than redetermined rents) of a taxable REIT subsidiary of a real estate investment trust if the amount of such deductions would (but for subparagraph (E)) be decreased on distribution, apportionment, or allocation under section 482 to clearly reflect income as between such subsidiary and such trust.

"(D) EXCESS INTEREST.—The term 'excess interest' means any deductions for interest payments by a taxable REIT subsidiary of a real estate investment trust to such trust to the extent that the interest payments are in excess of a rate that is commercially reasonable.

"(E) COORDINATION WITH SECTION 482.—The imposition of tax under subparagraph (A) shall be in lieu of any distribution, apportionment, or allocation under section 482.

"(F) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Until the Secretary prescribes such regulations, real estate investment trusts and their taxable REIT subsidiaries may base their allocations on any reasonable method.".

(b) AMOUNT SUBJECT TO TAX NOT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) (relating to real estate investment trust taxable income) is amended by striking "paragraph (5)" and inserting "paragraphs (5) and (7)".

SEC. 716. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this part shall apply to taxable years beginning after December 31, 2000.

(b) TRANSITIONAL RULES RELATED TO SECTION 711.—

(1) EXISTING ARRANGEMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by section 711 shall not apply to a real estate investment trust with respect to—

(i) securities of a corporation held directly or indirectly by such trust on July 12, 1999,

(ii) securities of a corporation held by an entity on July 12, 1999, if such trust acquires control of such entity pursuant to a written binding contract in effect on such date and at all times thereafter before such acquisition,

(iii) securities received by such trust (or a successor) in exchange for, or with respect to, securities described in clause (i) or (ii) in a transaction in which gain or loss is not recognized, and

(iv) securities acquired directly or indirectly by such trust as part of a reorganization (as defined in section 368(a)(1) of the Internal Revenue Code of 1986) with respect to such trust if such securities are de-

scribed in clause (i), (ii), or (iii) with respect to any other real estate investment trust.

(B) NEW TRADE OR BUSINESS OR SUBSTANTIAL NEW ASSETS.—Subparagraph (A) shall cease to apply to securities of a corporation as of the first day after July 12, 1999, on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than—

(i) pursuant to a binding contract in effect on such date and at all times thereafter before the acquisition of such asset,

(ii) in a transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Internal Revenue Code of 1986, or

(iii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(C) LIMITATION ON TRANSITION RULES.—Subparagraph (A) shall cease to apply to securities of a corporation held, acquired, or received, directly or indirectly, by a real estate investment trust as of the first day after July 12, 1999, on which such trust acquires any additional securities of such corporation other than—

(i) pursuant to a binding contract in effect on July 12, 1999, and at all times thereafter, or

(ii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(2) TAX-FREE CONVERSION.—If—

(A) at the time of an election for a corporation to become a taxable REIT subsidiary, the amendment made by section 711 does not apply to such corporation by reason of paragraph (1), and

(B) such election first takes effect before January 1, 2004,

such election shall be treated as a reorganization qualifying under section 368(a)(1)(A) of such Code.

PART II—HEALTH CARE REITS

SEC. 721. HEALTH CARE REITS.

(a) SPECIAL FORECLOSURE RULE FOR HEALTH CARE PROPERTIES.—Subsection (e) of section 856 (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED HEALTH CARE PROPERTIES.—For purposes of this subsection—

"(A) ACQUISITION AT EXPIRATION OF LEASE.—The term 'foreclosure property' shall include any qualified health care property acquired by a real estate investment trust as the result of the termination of a lease of such property (other than a termination by reason of a default, or the imminence of a default, on the lease).

"(B) GRACE PERIOD.—In the case of a qualified health care property which is foreclosure property solely by reason of subparagraph (A), in lieu of applying paragraphs (2) and (3)—

"(i) the qualified health care property shall cease to be foreclosure property as of the close of the second taxable year after the taxable year in which such trust acquired such property, and

"(ii) if the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in clause (i) is necessary to the orderly leasing or liquidation of the trust's interest in such qualified health care property, the Secretary may grant one or more extensions of the grace period for such qualified health care property.

Any such extension shall not extend the grace period beyond the close of the 6th year after the taxable year in which such trust acquired such qualified health care property.

"(C) INCOME FROM INDEPENDENT CONTRACTORS.—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property by reason of subparagraph (A) or paragraph (1), income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

"(i) any lease of property in effect on the date the real estate investment trust acquired the qualified health care property (without regard to its renewal after such date so long as such renewal is pursuant to the terms of such lease as in effect on such date), or

"(ii) any lease of property entered into after such date if—

"(I) on such date, a lease of such property from the trust was in effect, and

"(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

"(D) QUALIFIED HEALTH CARE PROPERTY.—

"(i) IN GENERAL.—The term 'qualified health care property' means any real property (including interests therein), and any personal property incident to such real property, which—

"(I) is a health care facility, or

"(II) is necessary or incidental to the use of a health care facility.

"(ii) HEALTH CARE FACILITY.—For purposes of clause (i), the term 'health care facility' means a hospital, nursing facility, assisted living facility, congregate care facility, qualified continuing care facility (as defined in section 7872(g)(4)), or other licensed facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, default, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the medicare program under title XVIII of the Social Security Act with respect to such facility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

PART III—CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES

SEC. 731. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

(a) DISTRIBUTION REQUIREMENT.—Clauses (i) and (ii) of section 857(a)(1)(A) (relating to requirements applicable to real estate investment trusts) are each amended by striking "95 percent (90 percent for taxable years beginning before January 1, 1980)" and inserting "90 percent".

(b) IMPOSITION OF TAX.—Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking "95 percent (90 percent in the case of taxable years beginning before January 1, 1980)" and inserting "90 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

PART IV—CLARIFICATION OF EXCEPTION FROM IMPERMISSIBLE TENANT SERVICE INCOME

SEC. 741. CLARIFICATION OF EXCEPTION FOR INDEPENDENT OPERATORS.

(a) IN GENERAL.—Paragraph (3) of section 856(d) (relating to independent contractor defined) is amended by adding at the end the following flush sentence:

"In the event that any class of stock of either the real estate investment trust or such person is regularly traded on an established securities market, only persons who own, directly or indirectly, more than 5 percent of such class of stock shall be taken into account as owning any of the stock of such class for purposes of applying the 35 percent limitation set forth in subparagraph (B) (but all of the outstanding stock of such class shall be considered outstanding in order to compute the denominator for purpose of determining the applicable percentage of ownership).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

PART V—MODIFICATION OF EARNINGS AND PROFITS RULES

SEC. 751. MODIFICATION OF EARNINGS AND PROFITS RULES.

(a) RULES FOR DETERMINING WHETHER REGULATED INVESTMENT COMPANY HAS EARNINGS AND PROFITS FROM NON-RIC YEAR.—

(1) IN GENERAL.—Subsection (c) of section 852 is amended by adding at the end the following new paragraph:

"(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

"(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and

"(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(D) and section 855.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 857(d)(3) is amended to read as follows:

"(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and".

(b) CLARIFICATION OF APPLICATION OF REIT SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENT.—Subparagraph (B) of section 857(d)(3) is amended by inserting before the period "and section 858".

(c) APPLICATION OF DEFICIENCY DIVIDEND PROCEDURES.—Paragraph (1) of section 852(e) is amended by adding at the end the following new sentence: "If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year and the amount referred to in paragraph (2)(A)(i) shall be the portion of the accumulated earnings and profits which resulted in such failure.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

Subtitle C—Private Activity Bond Volume Cap

SEC. 761. ACCELERATION OF PHASE-IN OF INCREASE IN VOLUME CAP ON PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—The table contained in section 146(d)(2) (relating to per capita limit; aggregate limit) is amended to read as follows:

"Calendar Year	Per Capita Limit	Aggregate Limit
2001	$55.00	$165,000,000
2002	60.00	180,000,000
2003	65.00	195,000,000
2004, 2005, and 2006	70.00	210,000,000
2007 and thereafter	75.00	225,000,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after 2000.

Subtitle D—Exclusion From Gross Income for Certain Forgiven Mortgage Obligations

SEC. 771. EXCLUSION FROM GROSS INCOME FOR CERTAIN FORGIVEN MORTGAGE OBLIGATIONS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to exclusion from gross income) is amended by striking "or" at the end of both subparagraphs (A) and (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of an individual, the indebtedness discharged is qualified residential indebtedness.".

(b) QUALIFIED RESIDENTIAL INDEBTEDNESS SHORTFALL.—Section 108 (relating to discharge of indebtedness) is amended by adding at the end the following new subsection:

"(h) QUALIFIED RESIDENTIAL INDEBTEDNESS.—

"(1) LIMITATIONS.—The amount excluded under subparagraph (E) of subsection (a)(1) with respect to any qualified residential indebtedness shall not exceed the excess (if any) of—

"(A) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(B) the sum of—

"(i) the amount realized from the sale of the real property securing such indebtedness reduced by the cost of such sale, and

"(ii) the outstanding principal amount of any other indebtedness secured by such property.

"(2) QUALIFIED RESIDENTIAL INDEBTEDNESS.—

"(A) IN GENERAL.—The term 'qualified residential indebtedness' means indebtedness which—

"(i) was incurred or assumed by the taxpayer in connection with real property used as the principal residence (within the meaning of section 121) of the taxpayer and is secured by such real property,

"(ii) is incurred or assumed to acquire, construct, reconstruct, or substantially improve such real property, and

"(iii) with respect to which such taxpayer makes an election to have this paragraph apply.

"(B) REFINANCED INDEBTEDNESS.—Such term shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (A)(ii), but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(C) EXCEPTIONS.—Such term shall not include qualified farm indebtedness or qualified real property business indebtedness.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 108(a) is amended—

(A) in subparagraph (A) by striking "and (D)" and inserting "(D), and (E)", and

(B) by amending subparagraph (B) to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION; QUALIFIED REAL PROPERTY BUSINESS EXCLUSION; AND QUALIFIED RESIDENTIAL SHORTFALL EXCLUSION.—Subparagraphs (C), (D), and (E) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent.".

(2) Paragraph (1) of section 108(b) is amended by striking "or (C)" and inserting "(C), or (E)".

(3) Subsection (c) of section 121 of such Code is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE RELATING TO DISCHARGE OF INDEBTEDNESS.—The amount of gain which (but for this paragraph) would be excluded from gross income under subsection (a) with respect to a principal residence shall be reduced by the amount excluded from gross income under section 108(a)(1)(E) with respect to such residence.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 2000.

I. INTRODUCTION

A. PURPOSE AND SUMMARY

Purpose

The revenue provisions of the bill, H.R. 3081 included in the Committee bill ("The Wage and Employment Act of 1999") (the "bill") provide: (1) small business tax relief (Title II); (2) pension reforms (Title III); (3) extension of certain tax provisions expiring in 1999 (Title IV); (4) estate tax relief (Title V); (5) tax relief for distressed communities and industries (Title VI); and (6) real estate tax relief (Title VII).

The bill provides net tax reductions of over $30 billion over fiscal years 2000–2004. This will provide needed tax relief for small businesses, distressed industries and others, and will give American taxpayers more freedom to improve their financial condition and to help the economy continue to invest and grow into the 21st century.

Summary

I. Small business provisions

Accelerate 100-Percent Self-Employed Health Insurance Deduction.—The bill increases the deduction for self-employed health insurance to 100-percent for taxable years beginning after December 31, 2000.

Increase Section 179 Expensing.—The bill increases the maximum section 179 deduction from the present-law $19,000 per year, up to $30,000 per year for taxable years beginning after December 31, 2000.

Increase Business Meals Deduction,—The bill increase the business meals deduction from the present-law 50-percent to 55 percent for taxable years beginning in 2001 and 60-percent deduction for taxable years beginning after December 31, 2000.

Increased Deduction for Business Meals While Operating under Department of Transportation Hours of Service Limitations.—The bill accelerates the increase in the deduction for business meals while operating under Department of Transportation hours of service limitations so that it becomes 80 percent in 2001 and thereafter.

Provide that Federal Production Payments to Farmers are Taxable in the Year Received.—The bill modifies the constructive receipt rule for purposes of payments made by the Secretary of Agriculture under the Federal Agriculture Improvement and Reform Act of 1996 (the "FAIR Act"). The existence of any option to accelerate any payment pursuant to the FAIR Act is disregarded and the payment is not included in gross income until received. The provision is effective on the date of enactment.

Farmer and Fisherman Income Averaging.—The election to average income is extended to cover income from the trade or business of fishing as well as farming (i.e., the trade or business of catching, taking or harvesting fish that are intended to enter commerce through sale, barter or trade). Also a farmer or fisherman electing to average his or her farm or fishing income will owe alternative minimum tax only to the extent he or she would have owed alternative minimum tax had averaging not been elected. The provision is effective for taxable years beginning after December 31, 2000.

Repeal of Special Occupational Taxes on Producers and Marketers of Alcoholic Beverages.—The special occupational taxes on producers and marketers of alcoholic beverages are repealed. The provision is effective on July 1, 2001.

II. Pension reform provisions

A. Expanding coverage

Increase in benefit and contribution limits.—Beginning in 2001, the bill increases the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs in $1,000 annual increments until the limits reach $14,000 in 2004. Beginning 2001, the bill increases the maximum annual elective deferrals that may be made to a SIMPLE plan in $1,000 annul increments until the limit reaches $10,000 in 2004. The $14,000 and $10,000 dollar limits are indexed in $500 increments,

as under present law. The bill increases the dollar limit on deferrals under a section 457 plan to $11,000 in 2001, $12,000 in 2002, $13,000 in 2003, and $14,000 in 2004. After 2004, the limit is indexed in $500 increments. The limit is twice the otherwise applicable dollar limit in the three years prior to retirement. Effective in 2001, the bill: increases the $130,000 annual benefit limit for defined benefit plans to $160,000 (indexed in $5,000 increments) and lowers the early retirement age to 62 and the normal retirement age to 65 for purposes of applying the limit; increases the $30,000 annual contribution limit for defined contribution plans to $40,000 (indexed in $1,000 increments); and increases the limit on compensation that may be taken into account under a plan to $200,000 (indexed in $5,000 increments).

Plan loans for subchapter S shareholders, partners, and sole proprietors.—The bill generally eliminates the special present-law rules relating to plan loans made to an owner-employee. Thus, the general statutory exemption applies to such transactions. Present law applies with respect to IRAs. The provision is effective with respect to loans made in years beginning after December 31, 2000.

Modification of top-heavy rules.—The bill provides that a safe-harbor section 401(k) plan is not a top-heavy plan and that matching contributions may be taken into account in satisfying the minimum contribution requirements. In addition, the bill simplifies the definition of key employee and the determination of top-heavy and status and repeals the family attribution rule used to determine whether an individual is a key employee by reason of being a 5-percent owner of the employer. The provision is effective for years beginning after December 31, 2000.

Elective deferrals not taken into account for purposes of deduction limits.—The bill provides that the elective deferral contributions are not subject to the qualified plan deduction limits, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan does not take into account elective deferral contributions. The provision is effective for years beginning after December 31, 2000.

Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.—For years beginning after December 31, 2000, the bill repeals the rules coordinating the section 457 dollar limit with contributions under other types of plans.

Eliminate IRS user fees for certain determination letter requests regarding employer plans.—Under the bill, an employer with no more than 100 employees is not required to pay a user fee for any determination letter request made during the first 5 plan years with respect to the qualified status of a retirement plan that the employer maintains. The provision is effective for determination letter requests made after December 31, 2000.

Definition of compensation for purposes of deduction limits.—The bill provides that for purposes of the qualified plan deduction limit the compensation otherwise paid or accrued during the employer's taxable year to the beneficiaries under the plan includes elective deferrals under a section 401K plan or a section 403(b) annuity, and elective contributions under a section 457 plan. The provision is effective for years beginning after December 31, 2000.

Option to treat elective deferrals as after-tax contributions.—The bill provides that a section 401(k) plan or a section 403(b) annuity may permit a participant to elect to have all or a portion of the participant's elective deferrals under the plan treated as designated plus contributions. A qualified distribution from a participant's designated plus contributions account is not includable in the participant's gross income. Designated plus contributions are generally otherwise treated the same as elective deferrals for purposes of the qualified plan rules. The provision is effective for taxable years beginning after December 31, 2000.

Reduced PBGC premiums for small and new plans.—Under the bill, for the first five plan years of a new single-employer plan of a small employer, the flat-rate Pension Benefit Guaranty Corporation ("PBGC") premium is $5 per plan participant. The provision also provides that the variable premium is phased in for new defined benefit plans over a six-year period starting with the plan's first plan year. In addition, the bill provides that, in the case of any plan (not just a new plan) or an employer with 25 or fewer employees, the variable-rate premium is no more than $5 multiplied by the number of plan participants. The provisions relating to new plans is effective for plans established after December 31, 2000. The provision reducing the PBGC premium for small plans is effective for years beginning after December 31, 2000.

B. Enhancing fairness for women

Additional salary reduction catch-up contributions.—The bill permits individuals who are age 50 or older to make additional contributions to a section 401(k) (or similar plan). The maximum permitted additional contribution is the applicable percent of the otherwise applicable dollar contribution limitation. The applicable percent is 10 percent in 2001, and increases by 10 percentage points until the applicable percent is 40 in 2004 and thereafter. Catch-up contributions to a section 401(k) (or similar) plan are not subject to any other contribution limits, are not taken into account in applying other contribution limits, and are not subject to nondiscriminating rules.

Equitable treatment for contributions of employees to defined contribution plans.—The bill (1) increases the 25 percent of compensation limitation on annual additions under a defined contribution plan to 100 percent, (2) conforms the limits on contributions to a tax-sheltered annuity to the limits applicable to tax-qualified plans, and (3) increases the 33⅓ percent of compensation limitation on deferrals under a section 457 plan to 100 percent of compensation. The provision is effective for years beginning after December 31, 2000.

Faster vesting of employer matching contributions.—Under the bill, employer matching contributions have to vest at least as rapidly as under 3-year cliff vesting or under 6-year graded vesting that provides for a nonforfeitable right to 20 percent of employer matching contributions for each year of service beginning with the participant's second year of service and ending with 100 percent after 6 years of service. The provision is effective for plan years beginning after December 31, 2000, with a delayed effective date for plans maintained pursuant to a collective bargaining agreement.

Simplify and update the minimum distribution rules.—The bill applies the present-law rules applicable if the participant dies before distribution of minimum benefits has begun to all post-death distributions. The bill reduces the excise tax on failures to satisfy the minimum distribution rules to 10 percent of the amount that was required to be distributed but was not distributed. The Treasury is directed to update, simplify, and finalize the regulations relating to the minimum distribution rules. The bill repeals the special minimum distribution rules applicable to section 457 plans. The provision is effective for years beginning after December 31, 2000.

Clarification of tax treatment of division of section 457 plan benefits upon divorce.—The bill applies the taxation rules for qualified plan distributions pursuant to a QDRO to distributions made pursuant to a domestic relations order from a section 457 plan. In addition, a section 457 plan is not treated as violating the restrictions on distributions from such plans due to payments to an alternate payee under a QDRO. The provision is effective for transfers, distributions and payments made after December 31, 2000.

Modification of safe harbor relief for hardship withdrawals from 401(k) plans.—The bill directs the Secretary of the Treasury to revise the applicable regulations to reduce from 12 months to 6 months the period during which an employee must be prohibited from making elective contributions and employee contributions in order for a distribution to be deemed necessary to satisfy an immediate and heavy financial need. The provision is effective for years beginning after December 31, 2000.

C. Increasing portability for participants

Rollovers of retirement plan and IRA distributions.—The bill provides that eligible rollover distributions from qualified retirement plans, section 403(b) annuities, IRAs and governmental section 457 plans generally can be rolled over to any of such plans or arrangements. The direct rollover and withholding rules are extended to distributions from a section 457 plan. The bill provides that employee after-tax contributions can be rolled over into another qualified plan or a traditional IRA. In the case of a rollover from a qualified plan to another qualified plan, the rollover can be accomplished only through a direct rollover. The bill provides that surviving spouses can roll over distributions to a qualified plan, section 403(b) annuity, or governmental section 457 plan in which the spouse participates. The provision is effective for distributions made after December 31, 2000.

Waiver of 60-day rule.—The bill provides that the Secretary may waive the 60-day rollover period if the failure to waive such requirement would be against equity or good conscience,S including cases of casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. The provision applies to distributions made after December 31, 2000.

Treatment of forms of distribution.—Under the bill, if certain requirements are satisfied, a defined contribution plan may eliminate optional forms of benefit (1) in connection with certain transfers of benefits, or (2) if a single sum distribution is offered. In addition, the Secretary is to provide for circumstances under which early re-

tirement benefits, retirement-type subsidies, or an optional form of benefit may be reduced or eliminated if the rights of participants are not materially affected. The provision is effective for years beginning after December 31, 2000.

Rationalization of restrictions on distributions.—The bill modifies the distribution restrictions applicable to section 401(k) plans, section 403(b) annuities, and section 457 plans to provide that distribution may occur upon severance from employment rather than separation from service. The provision is effective for distributions after December 31, 2000.

Purchase of service credit under governmental pension plans.—Under the bill a participant in a State or local government plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 403(b) annuity or a section 457 plan if the transferred amount is used (1) to purchase permissive service credits under the plan, or (2) to repay certain contributions. The provision is effective for transfers after December 31, 2000.

Employers may disregard rollovers for purposes of cash-out rules.—Under the bill a plan is permitted to disregard benefits attributable to rollover contributions for purposes of the cash-out rules. The provision is effective for distributions after December 31, 2000.

D. Strengthening pension security and enforcement

Phase in repeal of 150 percent of current liability full funding limit; deduction for contributions to fund termination liability.—Under the bill, the current liability full funding limit is 160 percent of current liability for plan years beginning in 2001, 165 percent for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit is repealed for plan years beginning in 2004 and thereafter. The special rule allowing a deduction for unfunded current liability generally is extended to all defined benefit pension plans covered by the PBGC. The provision is effective for years beginning after December 31, 2000.

Extension of PBGC missing participants program.—The bill extends the PBGC missing participant program to multiemployer plans, defined contribution plans, and defined benefit plans that are not covered by the PBGC. The provision is effective for distributions from terminating plans that occur after the PBGC adopts final regulations implementing the provision.

Excise tax relief for sound pension funding.—Under the bill if an employer elects, contributions in excess of the current liability full funding limit are not subject to the excise tax on nondeductible contributions. The provision is effective for years beginning after December 31, 2000.

Notice of significant reduction in plan benefit accruals.—The bill requires the plan administrator of a defined benefit plan (other than governmental plans and certain church plans) with more than 100 participants to notify plan participants in advance of an amendment that significantly reduces the rate of future benefit accruals. The notice must include sufficient information to allow participants to understand how the amendment will affect different

classes of employees. In some cases, additional information must be provided after the amendment is effective. An excise tax applies if the required notice is not provided.

*Modifications to section 415 limits for multiemployer plans.*Under the bill, the 100 percent of compensation defined benefit plan limit does no apply to multiemployer plans. The provision is effective for years beginning after December 31, 2000.

E. Reducing regulatory burdens

Modification of timing of plan valuations.—The bill provides that a valuation must be performed with respect to a defined benefit plan with assets of at least 125 percent of current liability only once every 3 years. The provision is effective for plan years beginning after December 31, 2000.

ESOP dividends may be reinvested without loss of dividend deduction.—Under the bill, an employer is entitled to deduct dividends that, at the election of plan participants or their beneficiaries, are paid to the plan and reinvested in employer securities. The provision is effective for taxable years beginning after December 31, 2000.

Repeal transition rule relating to certain highly compensated employees.—The bill repeals the special definition of highly compensated employee under the Tax Reform Act of 1986. The provision is effective for plan years beginning after December 31, 2000.

Employees of tax-exempt entities.—The bill directs the Treasury Department to revise its regulations under section 401(b) to provide that, if certain requirements are satisfied, employees of a tax-exempt charitable organization who are eligible to make salary reduction contributions under a section 403(b) annuity may be treated as excludable employees for purposes of testing a section 401(k) plan.

Treatment of employer-provided retirement advice.—Under the bill, qualified retirement planning services provided to an employee and his or her spouse by an employer maintaining a qualified plan are generally excludable from income and wages. The provision is effective with respect to taxable years beginning after December 31, 2000.

Reporting simplification.—The bill directs the Secretary of the Treasury to provide for an exemption from the annual return requirement for plan that covers only the sole owner of a business that maintains the plan (and such owner's spouse), or partners in a partnership that maintains the plan (and such partners' spouses), if the total value of the plan assets as of the end of the plan year and all prior plan years does not exceed $250,000 and the plan meets certain other requirements. In addition, the Secretary of the Treasury is directed to provide for the filing of a simplified annual return substantially similar to the Form 5500–EZ by a plan that meets certain requirements. The provision is effective on the date of enactment.

Improvement to Employee Plans Compliance Resolution System.—The bill directs the Secretary of the Treasury to continue to update and improve EPCRS, giving special attention to (1) increasing the awareness and knowledge of small employers concerning the availability and use of EPCRS, (2) taking into account special

concerns and circumstances that small employers face with respect to compliance and correction of compliance failures, (3) extending the duration of the self-correction period under APRSC for significant compliance failures, (4) expanding the availability to correct insignificant compliance failures under APRSC during audit, and (5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure. the provision is effective on the date of enactment.

Rules for substantial owner benefits in terminated plans.—The bill increases the PBGC guarantee for certain substantial owners. The bill is effective for plan terminations with respect to which notices of intent to terminate are provided, or for which proceedings for termination are instituted by the PBGC after December 31, 2000.

Clarification of exclusion for employer-provided transit passes.—The bill repeals the rule providing that cash reimbursements for transit benefits are excludable from income only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer. The provision is effective for taxable years beginning after December 31, 2000.

Repeal of the multiple use test.—The bill repeals the multiple use test, effective for years beginning after December 31, 2000.

Flexibility in nondiscrimination and line of business rules.—The bill directs the Secretary of the Treasury to provide by regulation circumstances under which plans can use the prior-law facts and circumstances test to satisfy the nondiscrimination, coverage, and line of business rules, used to determine compliance. The provision is effective on the date of enactment.

Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local government plans.—Under the bill, a plan maintained by a tax-exempt international organization is exempt from the nondiscrimination and minimum participation rules. The provision is effective for plan years beginning after December 31, 2000.

Notice and consent period regarding distributions.—Under the bill, a qualified retirement plan is required to provide the applicable distribution notice no less than 30 days and no more than six months before the date distribution commences. The Secretary of the Treasury is directed to modify the applicable regulations to reflect the extension of the notice period to six months and to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt. The provision is effective for years beginning after December 31, 2000.

F. Provisions relating to plan amendments.

Any amendments to a plan or annuity contract required to be made by the bill are not required to be made before the last day of the first plan year beginning on or after January 1, 2003. In the case of a governmental plan, the date for amendments is extended to the first plan year beginning on or after January 1, 2004. The provision is effective on the date of enactment.

III. Extension of work opportunity credit and welfare-to-work credit

Extend the Work Opportunity Tax Credit.—The bill extends the WOTC for 30 months (through December 31, 2001). The bill also includes a direction to the Secretary of the Treasury to expedite procedures to allow taxpayers to satisfy their WOTC filing requirements (*e.g.,* Form 8850) by electronic means. Generally, the provision is effective for wages paid to, or incurred with respect to, qualified individuals who begin work for the employer on or after July 1, 1999, and before January, 2002.

Extend the Welfare-To-Work Tax Credit.—The bill extends the welfare-to-work credit for 30 months (through December 3, 2001). The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2002.

IV. Estate tax relief provisions

Reduction of Estate, Gift, and Generation-Skipping Taxes.—The bill contains a sense of the Congress that death tax relief is considered a first step in the effort to ultimately repeal the estate, gift, and generation-skipping transfer ("GST") taxes. The bill provides that, beginning in 2001 the unified credit is replaced with a unified exemption amount, and the estate and gift tax rates above 53 percent and the 5-percent surtax (which phases out the benefit of the graduate rates) are repealed. In 2002, the rates in excess of 50 percent are repealed. In 2003 and 2004, all estate and gift tax rates are reduced by 1 percentage point each year, after which the rates will remain as in effect in 2004. In 2003 and 2004, there is a proportionate reduction in the state death tax credit rate each year, after which the state death tax credit will remain as in effect in 2004.

Modify Generation-Skipping Tax Rules.—The bill deems there to have been GST tax exemption allocated to transfers made during life that are "indirect skips," which are transfers to GST trusts that are not direct skips. The bill also allows the retroactive allocation of GST exemption when there is an unnatural order of death. Moreover, the bill allows a trust holding property with an inclusion ratio greater than zero to be severed at any time in a "qualified severance." In addition, the valuation rules are modified such that, for timely and automatic allocations of GST tax exemption, the value of the property for purposes of determining the inclusion ratio is its finally determined gift tax value or estate tax value depending on the circumstances of the transfer. The bill also authorizes and directs the Treasury Secretary to grant extensions of time to make the election to allocate GST tax exemption and to grant exceptions to the time requirement. Finally, the bill provides that substantial compliance with the statutory and regulatory requirements for allocating GST tax exemption suffice to establish that GST tax exemption was allocated to a particular transfer or trust. The GST provisions generally are effective after December 31, 1999.

Expand Estate Tax Rule for Conservation Easements.—The bill expands the availability of qualified conservation easements by modifying the distance requirements. Under the bill, the distance within which the land must be situated from metropolitan area,

national park, or wilderness area is increased from 25 to 50 miles, and the distance from which the land must be situated from an Urban National Forest is increased from 10 to 25 miles. The expanded distance provisions are effective for estates of decedents dying after December 31, 1999. The bill also clarifies that the date for determining easement compliance is the date on which the donation was made, effective for estates of decedents dying after December 31, 1997.

V. Distressed communities and industries provisions

Renewal Community Provisions.—The bill authorizes the Secretary of HUD to designate up to 15 renewal communities that will receive tax benefits for a seven year period beginning January 1, 2001, and ending December 31, 2007. The tax benefits include: a zero percent capital gains tax rate on the sale of qualified community assets held for more than five years; family development accounts for qualified higher educational expenses, qualified first-time homebuyer costs, qualified business capitalization costs, and qualified medical expenses; commercial revitalization deductions for qualified revitalization buildings located in a renewal community; $35,000 in additional section 179 expensing; expensing of environmental remediation costs (for brownfields); and an extension of the work opportunity tax credit to qualified individuals who live in a renewal community.

Increase the Maximum Dollar Amount of Reforestation Expenditures Eligible for Amortization and Credit.—The bill increases the amount of reforestation expenditures eligible for 7-year amortization and the reforestation credit from $10,000 to $25,000 per taxable year (from $5,000 to $12,500 in the case of a separate return by a married individual). For taxable years beginning in 2001 through 2003, there is no limit on the amount eligible for 7-year amortization. The provision is effective for expenditures paid or incurred in taxable years beginning after December 31, 2000.

VI. Real estate provisions

Modifications in Low-Income Housing Credit.—The bill increases the credit cap and makes other changes. The provision generally is effective for calendar years beginning after December 31, 2000.

Provisions Relating to REITs.—Under the bill, a Real Estate Investment Trust (REIT) generally may not own more than ten percent of the total value of securities of a single issuer (to supplement the voting power limitation under present law), but this ten-percent limit does not apply for securities held directly or indirectly by such REIT on July 12, 1999. An exception to the limitations on ownership applies in the case of a wholly owned "taxable REIT subsidiary" that meets certain requirements. The bill also permits a REIT to own and operate a health care facility for at least two years, and treat it as permitted "foreclosure" property, if the facility is acquired by the termination or expiration of a lease of the property. The bill also simplifies and modifies other rules, including earnings and profits rules for REITs and regulated investment companies (RICs). The provisions generally are effective for taxable years beginning after December 31, 2000.

Increase in State Volume Limits on Tax-Exempt Private Activity Bonds.—The bill increases the present-law annual State private activity bond volume limits to $75 per resident of each State or $225 million (if greater). The volume limit increases are effective for bonds issued after December 31, 2000.

Exclusion from gross income for certain forgiven mortgage obligations.—The bill provides individual taxpayers with an election to exclude discharge of indebtedness income to the extent such income is attributable to the sale of real property securing qualified residential indebtedness. Qualified residential indebtedness is defined as indebtedness incurred or assumed by the taxpayer for the acquisition, construction, reconstruction, or substantial improvement of the taxpayer's principal residence and which is secured by such principal residence. The provision is effective for discharges of indebtedness after December 31, 2000.

B. Background and Need for Legislation

The revenue provisions approved by the Committee reflect the need for tax relief for small business provisions, pension reforms, extension of certain tax provisions expiring in 1999, estate tax relief, tax relief for distressed communities and industries, and real estate tax relief provisions.

C. Legislative History

Committee action

The Committee on Ways and Means marked up the revenue provisions of the bill on November 9, 1999, and approved the provisions, as amended, on November 9, 1999, by a roll call vote of 23 yeas and 14 nays, with a quorum present.

Committee hearings

The following Committee and Subcommittee hearings related to provisions in the bill have been held during the 106th Congress.

Full Committee hearings

Tax-related hearings were held by the full Committee as follows:

Outlook for the state of the U.S. economy (January 20, 1999).

President's fiscal year 2000 budget (February 4, 1999).

Revenue provisions in President's fiscal year 2000 budget (March 10, 1999).

Reducing the tax burden: Enhancing retirement and health security (June 16, 1999).

Reducing the tax burden: Providing tax relief to strengthen the family and sustain a strong economy (June 23, 1999).

Subcommittee hearings

The Oversight Subcommittee held tax-related hearings as follows:

Pension issues (March 23, 1999).

Impact of complexity in the Tax Code on individual taxpayers and small businesses (May 25, 1999).

Work opportunity tax credit (July 1, 1999).

II. EXPLANATION OF THE REVENUE PROVISIONS OF THE BILL

TITLE II. SMALL BUSINESS TAX RELIEF PROVISIONS

A. ACCELERATE 100-PERCENT SELF-EMPLOYED HEALTH INSURANCE DEDUCTION (SEC. 201 OF THE BILL AND SEC. 162(i) OF THE CODE)

Present law

Under present law, the tax treatment of health insurance expenses depends on the individual's circumstances. Self-employed individuals may deduct a portion of health insurance expenses for the individual and his or her spouse and dependents. The deductible percentage of health insurance expenses of a self-employed individual is 60 percent in 1999 through 2001, 70 percent in 2002, and 100 percent in 2003 and thereafter. The deduction for health insurance expenses of self-employed individuals is not available for any month in which the taxpayer is eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer's spouse.

Employees can exclude from income 100 percent of employer-provided health insurance.

Individuals who itemize deductions may deduct their health insurance expenses only to the extent that the total medical expenses of the individual exceed 7.5 percent of adjusted gross income (sec. 213). Subject to certain dollar limitations, premiums for qualified long-term care insurance are treated as medical expenses for purposes of the itemized deduction for medical expenses (sec. 213). The amount of qualified long-term car insurance premiums that may be taken into account for 1999 are as follows: $210 in the case of an individual 40 years old or less; $400 in the case of an individual who is over 40 but not more than 50; $800 in the case of an individual who is more than 50 but not more than 60; $2,120 in the case of an individual who is more than 60 but not more than 70; and $2,660 in the case of an individual who is more than 70. These dollar limits are indexed for inflation.

The self-employed health deduction also applies to qualified long-term care insurance premiums treated as medical care for purposes of the itemized deduction for medical expenses.

Reasons for change

The Committee believes it appropriate to eliminate the disparate treatment of employer-provided health care and health insurance expenses of self-employed individuals as soon as possible.

Explanation of provision

Beginning in 2001, the provision increases the deduction for health insurance expenses (and qualified long-term care insurance expenses) or self-employed individuals to 100 percent.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

B. INCREASE SECTION 179 EXPENSING (SEC. 202 OF THE BILL AND SEC. 179 OF THE CODE)

Present law

Present law provides that, in lieu of depreciation, a taxpayer with a sufficient small amount of annual investment may elect to deduct up to $19,000 (for taxable years beginning in 1999) of the cost of a qualifying property placed in service for the taxable year (sec. 179). In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $19,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

The $19,000 amount is increased to $25,000 for taxable years beginning in 2003 and thereafter. The increase is phased in as follows: for taxable years beginning in 2000, the amount is $20,000; for taxable years beginning in 2001 or 2002, the amount is $24,000; and for taxable years beginning in 2003 and thereafter, the amount is $25,000.

Reasons for change

The Committee believes that section 179 expensing provides two important benefits for small businesses (including small businesses that are farms). First, it lowers the cost of capital for tangible property used in a trade or business. Second, it eliminates depreciation recordkeeping requirements with respect to expensed property. In the Small Business Job Protection Act of 1996, the Congress increased the value of these benefits over a phase-in period ending in 2003. The Committee now believes that the value of the benefits should be increased for taxable years beginning in 2001 and thereafter, so that taxpayers may receive these benefits earlier.

Explanation of provision

The bill provides that the maximum dollar amount that may be deducted under section 179 is increased to $30,000 for taxable years beginning in 2001 and thereafter.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

C. INCREASE DEDUCTION FOR BUSINESS MEALS (SEC. 203 OF THE BILL AND SEC. 274(n) OF THE CODE)

Present law

Ordinary and necessary business expenses, as well as expenses incurred for the production of income, are generally deductible, subject to a number of restrictions and limitations (secs. 162 and

212). No deduction generally is allowed for personal, living, or family expenses (sec. 262).

Meal and entertainment expenses incurred for business reasons or for the production of income are deductible if certain legal and substantiation requirements are met. Generally, the amount allowable as a deduction for business meal and entertainment expenses is limited to 50 percent of the otherwise deductible amount (sec. 274(n)). Exceptions to this 50-percent rule are provided for food and beverages provided to crew members of certain vessels and offshore oil or gas platforms or drilling rigs, as well as to individuals subject to the hours of service limitations of the Department of Transportation. No deduction is allowed for meal or beverage expenses unless they are not lavish or extravagant under the circumstances (sec. 274(k)(1)(A)). In addition, no deduction is allowed for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose (sec. 274(a)(3)).

An expense for food or beverages is not deductible unless the taxpayer establishes that the item was directly related to the "active conduct" of the taxpayer's trade or business or, in the case of an item directly preceding or following a substantial and bona fide business discussion, that the item was "associated with" the active conduct of the taxpayer's trade or business (sec. 274(a)(1)(A)). Accordingly, a business meal expense generally is not deductible unless there is a substantial and bona fide business discussion during, directly preceding, or directly following the meal. Also, the taxpayer or an employee of the taxpayer must be present at the meal (sec. 274(k)(1)(B)).

Separate requirements apply to deductions with respect to individuals who are traveling away from home in pursuit of a trade or business. The absence of a business discussion is irrelevant for purposes of the "active conduct" and "associated with" tests described above if the individual either has the meal alone or has the meal with other persons provided that no deduction is claimed with respect to those other persons.

No deduction is allowed with respect to business meal and entertainment expenses unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer's own statement (1) the amount of the expense, (2) the time and place of the expense, (3) the business purpose of the expense, and (4) the business relationship of the taxpayer to the persons entertained (sec. 274(d)). The Code authorizes the IRS to provide simpler rules for amounts below a threshold specified by the IRS. Accordingly, the IRS provides standard meal allowances (generally $30 per day, but higher in specified high-cost areas and for employees "in the transportation industry") that taxpayers who are traveling away from home on business may utilize as an alternative to the substantiation procedures specified above (Treas. Reg. sec. 1.274(d)–1T).

Reasons for change

The Committee believes that these expenses generally serve legitimate business purposes, which is more appropriately reflected

by increasing the deductible portion of business meal expenses from 50 percent to 60 percent.

Explanation of provision

The bill increases the business meals deduction from the present-law 50 percent to 55 percent for taxable years beginning in 2001 and 60 percent for taxable years beginning in 2002 and thereafter. The bill does not alter the 50-percent limitation with respect to the business entertainment deduction.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

D. INCREASED DEDUCTION FOR BUSINESS MEALS WHILE OPERATING UNDER DEPARTMENT OF TRANSPORTATION HOURS OF SERVICE LIMITATIONS (SEC. 204 OF THE BILL AND SEC. 274 OF THE CODE)

Present law

Ordinary and necessary business expenses, as well as expenses incurred for the production of income, are generally deductible, subject to a number of restrictions and limitations. Generally, the amount allowable as a deduction for food and beverage is limited to 50 percent of the otherwise deductible amount. Exceptions to this 50 percent rule are provided for food and beverages provided to crew members of certain vessels and offshore oil or gas platforms or drilling rigs.

The 1997 Act increased to 80 percent the deductible percentage of the cost of food and beverages consumed while away from home by an individual during, or incident to, a period of duty subject to the hours of service limitations of the Department of Transportation.

Individuals subject to the hours of service limitations of the Department of Transportation include:

(1) certain air transportation employees such as pilots, crew, dispatchers, mechanics, and control tower operators pursuant to Federal Aviation Administration regulations,

(2) interstate truck operators and interstate bus drivers pursuant to Department of Transportation regulations,

(3) certain railroad employees such as engineers, conductors, train crews, dispatchers and control operations personnel pursuant to Federal Railroad Administration regulations, and

(4) certain merchant mariners pursuant to Coast Guard regulations.

The increase in the deductible percentage is phased in according to the following schedule:

Taxable years beginning in:	*Deductible percentage*
1998, 1999	55
2000, 2001	60
2002, 2003	65
2004, 2005	70
2006, 2007	75
2008 and thereafter	80

Reasons for change

Individuals subject to the hours of service limitations of the Department of Transportation are frequently forced to eat meals away from home in circumstances where their choice is limited, prices are comparatively high and the opportunity for lavish meals is remote. The Committee believes that it is appropriate to allow a higher percentage of the cost of food and beverages consumed while away from home on business by these individuals to be deducted than is allowed under the general rule.

Explanation of provision

The bill accelerates the increase in the deduction for business meals while operating under Department of Transportation hours of service limitations so that it becomes 80 percent in 2001 and thereafter.

Effective date

The provision is effective for taxable years beginning after 2000.

E. PROVIDE THAT FEDERAL PRODUCTION PAYMENTS TO FARMERS ARE TAXABLE IN THE YEAR RECEIVED (SEC. 205 OF THE BILL)

Present law

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer's method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

The Federal Agriculture Improvement and Reform Act of 1996 (the "FAIR Act") provides for production flexibility contracts between certain eligible owners and producers and the Secretary of Agriculture. These contracts generally cover crop years from 1996 through 2002. Annual payments are made under such contracts at specific times during the Federal government's fiscal year. Section 112(d)(2) of the FAIR Act provides that one-half of each annual payment is to be made on either December 15 or January 15 of the fiscal year, at the option of the recipient.[1] The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year. The Emergency Farm Financial Relief Act of 1998 added section 112(d)(3) to the FAIR Act which provides that all payments for fiscal year 1999 are to be paid at such time or times during fiscal year 1999 as the recipient may specify. Thus, the one-half of the annual amount that would otherwise be required to be paid no later than September 30, 1999 can be specified for payment in calendar year 1998.

These options potentially would have resulted in the constructive receipt (and thus inclusion in income) of the payments to which they relate at the time they could have been exercised, whether or not they were in fact exercised. However, section 2012 of the Tax

[1] This rule applies to fiscal years after 1996. For fiscal year 1996, this payment was to be made not later than 30 days after the production flexibility contract was entered into.

and Trade Relief Extension Act of 1998 provided that the time a production flexibility contract payment under the FAIR Act properly is includible in income is to be determined without regard to either option, effective for production flexibility contract payments made under the FAIR Act in taxable years ending after December 31, 1995.

Reasons for change

The Committee does not believe that farmers should be required to accelerate the recognition of income on production flexibility contract payments solely because Congress creates an option for the accelerated receipt of such payments.

Explanation of provision

Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the FAIR Act, as in effect on the date of enactment of the provision, is to be disregarded in determining the taxable year in which such payment is properly included in gross income. Options to accelerate payments that are enacted in the future are covered by this rule, providing the payment to which they relate is mandated by the FAIR Act as in effect on the date of enactment of this Act.

The provision does not delay the inclusion of any amount in gross income beyond the taxable period in which the amount is received.

Effective date

The provision is effective on the date of enactment.

F. FARMER AND FISHERMEN INCOME AVERAGING (SEC. 206 OF THE BILL AND SECS. 55(C) AND 1301 OF THE CODE)

Present law

An individual taxpayer may elect to compute his or her current year tax liability by averaging, over the prior three-year period, all or portion of his or her taxable income from the trade or business of farming. The averaging election is not coordinated with the alternative minimum tax. Thus, some farmers may become subject to the alternative minimum tax solely as a result of the averaging election.

Reasons for change

Income from farming and commercial fishing can fluctuate significantly from year to year due to circumstances beyond the taxpayer's control. Allowing both farmers and commercial fishermen an election to average their income over a period of years mitigates the adverse tax consequences that may result from fluctuating income levels. This income averaging should be coordinated with the alternative minimum tax so that a farmer's or commercial fisherman's alternative minimum tax liability will not be increased solely because he or she elects income averaging.

Explanation of provision

The election to average income is extended to cover income from the trade or business of fishing as well as farming. For this pur-

pose, the trade or business of fishing is the conduct of commercial fishing as defined in Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) and includes the trade or business of catching, taking or harvesting fish that are intended to enter commerce through sale, barter or trade.

The provision coordinates farmers' and fishermen's income averaging with the alternative minimum tax. A farmer or fisherman electing to average his or her farm or fishing income will owe alternative minimum tax only to the extent he or she would have owed alternative minimum tax had averaging not been elected.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

G. REPEAL SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES (SEC. 207 OF THE BILL AND SECS. 5081, 5091, 5111, 5121, 5131 AND 5276 OF THE CODE)

Present law

Under present law, special occupational taxes are imposed on producers and others engaged in the marketing of distilled spirits, wine, and beer. These excise taxes are imposed as part of a broader Federal tax and regulatory engine governing the production and marketing of alcoholic beverages. The special occupational taxes are payable annually, on July 1 of each year. The present tax rates are as follows:

	Amount per year
Producers:[2]	
Distilled spirits and wines (sec. 5081)	$1,000
Brewers (sec. 5091) (per premise)	1,000
Wholesale dealers (sec. 5111):	
Liquors, wines, or beer	500
Retail dealers (sec. 5121):	
Liquors, wines, or beer	250
Nonbeverage use of distilled spirits (sec. 5131)	500
Industrial use of distilled spirits (sec. 5276)	250

Reasons for change

The financial burden of the alcohol occupational taxes falls disproportionately on small business; therefore, the Committee determined it is appropriate to repeal these taxes to offset in part any burden placed on these businesses by the increase in the minimum wage also included in the bill.

Explanation of provision

The special occupational taxes on producers and marketers of alcoholic beverages are repealed.

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[2] Tax is $500 per year per premise for businesses with gross receipts of less than $500,000 in the preceding taxable year. Certain small alcohol fuel producers are exempt from the tax. (See secs. 5081(c) and 5181(c)(4).)

Effective date

The provision is effective on July 1, 2001. The provision does not affect liability for taxes imposed with respect to periods before July 1, 2001.

TITLE III. PENSION PROVISIONS

A. EXPANDING COVERAGE

1. Increase in benefit and contribution limits (sec. 301 of the bill and secs. 401(a)(17), 402(g), 408(p), 415 and 457 of the Code)

Present Law

In general

Under present law, limits apply to contributions and benefits under qualified plans (sec. 415), the amount of compensation that may be taken into account under a plan for determining benefits (sec. 401(a)(17)), the maximum amount of elective deferrals that an individual may make to a salary reduction plan or tax sheltered annuity (sec. 402(g)), and deferrals under an eligible deferred compensation plan of a tax-exempt organization or a State or local government (sec. 457).

Limitations on contributions and benefits

Under present law, the limits on contributions and benefits under qualified plans are based on the type of plan. Under a defined contribution plan, the qualification rules limit the annual additions to the plan with respect to each plan participant to the lesser of (1) 25 percent of compensation or (2) $30,000 (for 1999). Annual additions are the sum of employer contributions, employee contributions, and forfeitures with respect to an individual under all defined contribution plans of the same employer. The $30,000 limit is indexed for cost-of-living adjustments in $5,000 increments.

Under a defined benefit plan, the maximum annual benefit payable at retirement is generally the lesser of (1) 100 percent of average compensation, or (2) $130,000 (for 1999). The dollar limit is adjusted for cost-of-living increases in $5,000 increments.

Under present law, in general, the dollar limit on annual benefits is reduced if benefits under the plan begin before the social security retirement age (currently, age 65) and increased if benefits begin after social security retirement age.[3]

Compensation limitation

Under present law, the annual compensation of each participant that may be taken into account for purposes of determining contributions and benefits under a plan, applying the deduction rules, and for nondiscrimination testing purposes is limited to $160,000 (for 1999). The compensation limit is indexed for cost-of-living adjustments in $10,000 increments.

[3] An overall limit applies if a participant participates in a defined contribution plan and a defined benefit plan maintained by the same employer (sec. 415(e)). This limit is repealed for years beginning after December 31, 1999.

Elective deferral limitations

Under present law, under certain salary reduction arrangements, an employee may elect to have the employer make payments as contributions to a plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals.

The maximum annual amount of elective deferrals that an individual may make to a qualified cash or deferred arrangement (a "section 401(k) plan"), a tax-sheltered annuity ("section 403(b) annuity") or a salary reduction simplified employee pension plan ("SEP") is $10,000 (for 1999). The maximum annual amount of elective deferrals that an individual may make to a SIMPLE plan is $6,000. These limits are indexed for inflation in $500 increments.

Section 457 plans

The maximum annual deferral under a deferred compensation plan of a State or local government or a tax-exempt organization (a "section 457 plan") is the lesser of (1) $8,000 (for 1999) or (2) 33⅓ percent of compensation. The $8,000 limit is increased for inflation in $500 increments. Under a special catch-up rule, the section 457 plan may provide that, for one or more of the participant's last 3 years before retirement, the otherwise applicable limit is increased to the lesser of (1) $15,000 or (2) the sum of the otherwise applicable limit for the year plus the amount by which the limit applicable in preceding years of participation exceeded the deferrals for that year.

Reasons for change

The tax benefits provided under qualified plans are a departure from the normally applicable income tax rules. The special tax benefits for qualified plans are generally justified on the ground that they serve an important social policy objective, i.e., the provision of retirement benefits to a broad group of employees. The limits on contributions and benefits, elective deferrals, and compensation that may be taken into account under a qualified plan all serve to limit the tax benefits associated with such plans. The level at which to place such limits involves a balancing of different policy objectives and a judgment as to what limits are most likely to best further policy goals.

One of the factors that may influence the decision of an employer, particularly a small employer, to adopt a plan is the extent to which the owners of the business, the decision-makers, or other highly compensated employees will benefit under the plan. The Committee believes that increasing the dollar limits on qualified plan contributions and benefits will encourage employers to establish qualified plans for their employees.

The Committee understands that, in recent years, section 401(k) plans have become increasingly more prevalent. The Committee believes it is important to increase the amount of employee elective deferrals allowed under such plans, and other plans that allow deferrals, to better enable plan participants to save for their retirement.

Explanation of provision

Limits on contributions and benefits

The provision increases the $30,000 annual addition limit for defined contribution plans to $40,000. This amount is indexed in $1,000 increments.[4]

The provision increases the $130,000 annual benefit limit under a defined benefit plan to $160,000. The dollar limit is reduced for benefit commencement before age 62 and increased for benefit commencement after age 65.

Compensation limitation

The provision increases the limit on compensation that may be taken into account under a plan to $200,000. This amount is indexed in $5,000 increments.

Elective deferral limitations

Beginning in 2001, the provision increases the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs in $1,000 annual increments until the limits reach $14,000 in 2004. Beginning in 2001, the provision increases the maximum annual elective deferrals that may be made to a SIMPLE plan in $1,000 annual increments until the limit reaches $10,000 in 2004. Beginning after 2004, the $14,000 and $10,000 limits are indexed in $500 increments, as under present law.

Section 457 plans

The provision increases the dollar limit on deferrals under a section 457 plan to conform to the elective deferral limitation. Thus, the limit is $11,000 in 2001, and is increased in $1,000 annual increments until the limit reaches $14,000 in 2004. The limit is indexed thereafter in $500 increments. The limit is twice the otherwise applicable dollar limit in the 3 years prior to retirement.[5]

Effective date

The provision is effective for years beginning after December 31, 2000.

2. Plan loans for subchapter S shareholders, partners, and sole proprietors (sec. 302 of the bill and sec. 4975 of the Code)

Present law

The Internal Revenue Code prohibits certain transactions ("prohibited transactions") between a qualified plan and a disqualified person in order to prevent persons with a close relationship to the qualified plan from using that relationship to the detriment of plan participants and beneficiaries.[6] Certain types of transactions are

[4] The 25 percent of compensation limitation is increased to 100 percent of compensation under another provision of the bill.

[5] Another provision of the bill increases the 33⅓ percentage of compensation limit to 100 percent.

[6] Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), also contains prohibited transaction rules. The Code and ERISA provisions are substantially similar, although not identical.

exempted from the prohibited transaction rules, including loans from the plan to plan participants, if certain requirements are satisfied. In addition, the Department of Labor can grant an administrative exemption from the prohibited transaction rules if she finds the exemption is administratively feasible, in the interest of the plan and plan participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan. Pursuant to this exemption process, the Secretary of Labor grants exemptions both with respect to specific transactions and classes of transactions.

The statutory exemptions to the prohibited transaction rules do not apply to certain transactions in which the plan makes a loan to an owner-employee.[7] Loans to participants other than owner-employees are permitted if loans are available to all participants on a reasonably equivalent basis, are not made available to highly compensated employees in an amount greater than made available to other employees, are made in accordance with specific provisions in the plan, bear a reasonable rate of interest, and are adequately secured. In addition, the Code places limits on the amount of loans and repayment terms.

For purposes of the prohibited transaction rules, an owner-employee means (1) a sole proprietor, (2) a partner who owns more than 10 percent of either the capital interest or the profits interest in the partnership, (3) an employee or officer of a Subchapter S corporation who owns more than 5 percent of the outstanding stock of the corporation, and (4) the owner of an individual retirement arrangement ("IRA"). The term owner-employee also includes certain family members of an owner-employee and certain corporations owned by an owner-employee.

Under the Internal Revenue Code, a two-tier excise tax is imposed on disqualified persons who engage in a prohibited transaction. The first level tax is equal to 15 percent of the amount involved in the transaction. The second level tax is imposed if the prohibited transaction is not corrected within a certain period, and is equal to 100 percent of the amount involved.

Reasons for change

The Committee believes that the present-law prohibited transaction rules regarding loans unfairly discriminate against the owners of unincorporated businesses and subchapter S corporations. For example, under present law, the sole shareholder of a C corporation may take advantage of the statutory exemption to the prohibited transaction rules for loans, but an individual who does business as a sole proprietor may not.

Explanation of provision

The provision generally eliminates the special present-law rules relating to plan loans made to an owner-employee. Thus, the general statutory exemption applies to such transactions. Present law continues to apply with respect to IRAs.

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[7] Certain transactions involving a plan and Subchapter S shareholders are permitted.

Effective date

The provision is effective with respect to loans made after December 31, 2000.

3. Modification of top-heavy rules (sec. 303 of the bill and sec. 416 of the Code)

Present law

In general

Under present law, additional qualification requirements apply to plans that primarily benefit an employer's key employees ("top-heavy plans"). These additional requirements provide (1) more rapid vesting for plan participants who are non-key employees and (2) minimum nonintegrated employer contributions or benefits for plan participants who are non-key employees.

Definition of top-heavy plan

In general, a top-heavy plan is a plan under which more than 60 percent of the contributions or benefits are provided to key employees. More precisely, a defined benefit plan is a top-heavy plan if more than 60 percent of the cumulative accrued benefits under the plan are for key employees. A defined contribution plan is top heavy if the sum of the account balances of key employees is more than 60 percent of the total account balances under the plan. For each plan year, the determination of top-heavy status generally is made as of the last day of the preceding plan year ("the determination date").

For purposes of determining whether a plan is a top-heavy plan, benefits derived both from employer and employee contributions, including employee elective contributions, are taken into account. In addition, the accrued benefit of a participant in a defined benefit plan and the account balance of a participant in a defined contribution plan includes any amount distributed within the 5-year period ending on the determination date.

An individual's accrued benefit or account balance is not taken into account in determining whether a plan is top-heavy if the individual has not performed services for the employer during the 5-year period ending on the determination date.

In some cases, two or more plans of a single employer must be aggregated for purposes of determining whether the group of plans is top-heavy. The following plans must be aggregated: (1) plans which cover a key employee (including collectively bargained plans); and (2) any plan upon which a plan covering a key employee depends for purposes of satisfying the Code's nondiscrimination rules. The employer may be required to include terminated plans in the required aggregation group. In some circumstances, an employer may elect to aggregate plans for purposes of determining whether they are top heavy.

SIMPLE plans are not subject to the top-heavy rules.

Definition of key employee

A key employee is an employee who, during the plan year that ends on the determination date or any of the 4 preceding plan

years, is (1) an officer earning over one-half of the defined benefit plan dollar limitation of section 415 ($65,000 for 1999), (2) a 5–percent owner of the employer, (3) a 1-percent owner of the employer earning over $150,000, or (4) one of the 10 employees earning more than the defined contribution plan dollar limit ($30,000 for 1999) with the largest ownership interests in the employer. A family ownership attribution rule applies to the determination of 1-percent owner status, 5-percent owner status, and largest ownership interest. Under this attribution rule, an individual is treated as owning stock owned by the individual's spouse, children, grandchildren, or parents.

Minimum benefit for non-key employees

A minimum benefit generally must be provided to all non-key employees in a top-heavy plan. In general, a top-heavy defined benefit plan must provide a minimum benefit equal to the lesser of (1) 2 percent of compensation multiplied by the employee's years of service, or (2) 20 percent of compensation. A top-heavy defined contribution plan must provide a minimum annual contribution equal to the lesser of (1) 3 percent of compensation, or (2) the percentage of compensation at which contributions were made for key employees (including employee elective contributions made by key employees and employer matching contributions).

For purposes of the minimum benefit rules, only benefits derived from employer contributions (other than amounts employees have elected to defer) to the plan are taken into account, and an employee's social security benefits are disregarded (i.e., the minimum benefit is nonintegrated). Employer matching contributions may be used to satisfy the minimum contribution requirement; however, in such a case the contributions are not treated as matching contributions for purposes of applying the special nondiscrimination requirements applicable to employee elective contributions and matching contributions under sections 401(k) and (m). Thus, such contributions would have to meet the general nondiscrimination test of section 401(a)(4).[8]

Top-heavy vesting

Benefits under a top-heavy plan must vest at least as rapidly as under one of the following schedules: (1) 3–year cliff vesting, which provides for 100 percent vesting after 3 years of service; and (2) 2–6 year graduated vesting, which provides for 20 percent vesting after 2 years of service, and 20 percent more each year thereafter so that a participant is fully vested after 6 years of service.[9]

Qualified cash or deferred arrangements

Under a qualified cash or deferred arrangement (a "section 401(k) plan"), an employee may elect to have the employer make payments as contributions to a qualified plan on behalf of the employee, or to the employee directly in cash. Contributions made at

[8] Tres. Reg. sec. 1.416–1 Q&A M–19.

[9] Benefits under a plan that is not top heavy must vest at least as rapidly as under one of the following schedules: (1) 5-year cliff vesting; and (2) 3-7 year graded vesting, which provides for 20 percent vesting after 3 years and 20 percent more each year thereafter so that a participant is fully vested after 7 years of service.

the election of the employee are called elective deferrals. A special nondiscrimination test applies to elective deferrals under cash or deferred arrangements, which compares the elective deferrals of highly compensated employees with elective deferrals of nonhighly compensated employees. (This test is called the actual deferral percentage test or the "ADP" test). Employer matching contributions under qualified defined contribution plans are also subject to a similar nondiscrimination test. (This test is called the actual contribution percentage test or the "ACP" test.)

Under a design-based safe harbor, a cash or deferred arrangement is deemed to satisfy the ADP test if the plan satisfies one of two contribution requirements and satisfies a notice requirement. A plan satisfies the contribution requirement under the safe harbor rule for qualified cash or deferred arrangements if the employer either (1) satisfies a matching contribution requirement or (2) makes a nonelective contribution to a defined contribution plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to the permitted disparity rules (sec. 401(1)). A plan satisfies the matching contribution requirement if, under the arrangement: (1) the employer makes a matching contribution on behalf of each nonhighly compensated employee that is equal to (a) 100 percent of the employee's elective deferrals up to 3 percent of compensation and (b) 50 percent of the employee's elective deferrals from 3 to 5 percent of compensation; and (2) the rate of match with respect to any elective contribution for highly compensated employees is not greater than the rate of match for nonhighly compensated employees. Matching contributions that satisfy the design-based safe harbor for cash or deferred arrangements are deemed to satisfy the ACP test. Certain additional matching contributions are also deemed to satisfy the ACP test.

Reasons for change

The top-heavy rules primarily affect the plans of small employers. While the top-heavy rules were intended to provide additional minimum benefits to rank-and-file employees, the Committee is concerned that in some cases the top-heavy rules may act as a deterrent to the establishment of a plan by a small employer. The Committee believes that simplification of the top-heavy rules will help alleviate the additional administrative burdens the rules place on small employers. The Committee also believes that, in applying the top-heavy minimum benefit rules, the employer should receive credit for all contributions the employer makes, including matching contributions.

The Committee understands that some employers may have been discouraged from adopting a safe harbor section 401(k) plan due to concerns about the top-heavy rules. The Committee believes that facilitating the adoption of such plans will broaden coverage. Thus, the Committee believes it appropriate to provide that such plans are not subject to the top-heavy rules.

Explanation of provision

Definition of top-heavy plan

The provision provides that a plan consisting of a cash-or-deferred arrangement that satisfies the design-based safe harbor for such plans and matching contributions that satisfy the safe harbor rule for such contributions is not a top-heavy plan. Matching or nonelective contributions provided under such a plan may be taken into account in satisfying the minimum contribution requirements applicable to top-heavy plans.[10]

In determining whether a plan is top-heavy, the provision provides that distributions during the year ending on the date the top-heavy determination is being made are taken into account. The present-law 5-year rule applies with respect to in-service distributions. Similarly, the provision provides that an individual's accrued benefit or account balance is not taken into account if the individual has not performed services for the employer during the 1year period ending on the date the top-heavy determination is being made.

Definition of key employee

The provision (1) provides that an employee is not considered a key employee by reason of officer status unless the employee earns more than $150,000 in compensation for the year, and (2) repeals the top-10 owner key employee category.

The provision repeals the 4-year lookback rule for determining key employee status and provides that an employee is a key employee only if he or she is a key employee during the current plan year.

The family ownership attribution rule no longer applies in determining whether an individual is a 5-percent owner of the employer for purposes of the top-heavy rules only.

Minimum benefit for non-key employees

Under the provision, matching contributions are taken into account in determining whether the minimum benefit requirement has been satisfied.[11]

The provision provides that, in determining the minimum benefit required under a defined benefit plan, a year of service does not include any year in which no employee benefits under the plan (as determined under sec. 410).

Effective date

The provision is effective for years beginning after December 31, 2000.

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[10] This provision is not intended to preclude the use of nonelective contributions that are used to satisfy the safe harbor rules from being used to satisfy other qualified retirement plan nondiscrimination rules, including those involving cross-testing.

[11] Thus, this provision overrides the provision in Treasury regulations that, if matching contributions are used to satisfy the minimum benefit requirement, then they are not treated as matching contributions for purposes of the section 401(m) nondiscrimination rules.

4. Elective deferrals not taken into account for purposes of deduction limits (sec. 304 of the bill and sec. 404 of the Code)

Present law

Employer contributions to one or more qualified retirement plans are deductible subject to certain limits. In general, the deduction limit depends on the kind of plan.

In the case of a defined benefit pension plan or a money purchase pension plan, the employer generally may deduct the amount necessary to satisfy the minimum funding cost of the plan for the year. If a defined benefit pension plan has more than 100 participants, the maximum amount deductible is at least equal to the plan's unfunded current liabilities.

In the case of a profit-sharing or stock bonus plan, the employer generally may deduct an amount equal to 15 percent of compensation of the employees covered by the plan for the year.

If an employer sponsors both a defined benefit pension plan and a defined contribution plan that covers some of the same employees (or a money purchase pension plan and another kind of defined contribution plan), the total deduction for all plans for a plan year generally is limited to the greater of (1) 25 percent of compensation or (2) the contribution necessary to meet the minimum funding requirements of the defined benefit pension plan for the year (or the amount of the plan's unfunded current liabilities, in the case of a plan with more than 100 participants).

For purposes of the deduction limits, employee elective deferral contributions to a section 401(k) plan are treated as employer contributions and, thus, are subject to the generally applicable deduction limits.

Subject to certain exceptions, nondeductible contributions are subject to a 10-percent excise tax.

Reasons for change

Subjecting elective deferrals to the normally applicable deduction limits may cause employers to restrict the amount of elective contributions an employee may make or to restrict employer contributions to the plan, thereby reducing participants' ultimate retirement benefits and their ability to save adequately for retirement. The Committee believes that the amount of elective deferrals otherwise allowable should not be further limited through application of the deduction rules.

Explanation of provision

Under the provision, elective deferral contributions are not subject to the deduction limits, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan does not take into account elective deferral contributions.

Effective date

The provision is effective for years beginning after December 31, 2000.

5. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations (sec. 305 of the bill and sec. 457 of the Code)

Present law

Compensation deferred under an eligible deferred compensation plan of a tax-exempt or State and local government employer (a "section 457 plan") is not includible in gross income until paid or made available. In general, the maximum permitted annual deferral under such a plan is the lesser of (1) $8,000 (in 1999) or (2) 33⅓ percent of compensation. The $8,000 limit is increased for inflation in $500 increments. Under a special catch-up rule, a section 457 plan may provide that, for one or more of the participant's last 3 years before retirement, the otherwise applicable limit is increased to the lesser of (1) $15,000 or (2) the sum of the otherwise applicable limit for the year plus the amount by which the limit applicable in preceding years of participation exceeded the deferrals for that year.

The $8,000 limit (as modified under the catch-up rule), applies to all deferrals under all section 457 plans in which the individual participates. In addition, in applying the $8,000 limit, contributions under a tax-sheltered annuity ("section 403(b) annuity"), elective deferrals under a qualified cash or deferred arrangement ("section 401(k) plan"), salary reduction contributions under a simplified employee pension plan ("SEP"), and contributions under a SIMPLE plan are taken into account. Further, the amount deferred under a section 457 plan is taken into account in applying a special catch-up rule for section 403(b) annuities.

Reasons for change

The Committee believes that individuals participating in a section 457 plan should also be able to fully participate in a section 403(b) annuity or section 401(k) plan of the employer. Eliminating the coordination rule may also encourage the establishment of section 403(b) or 401(k) plans by tax-exempt and governmental employers (as permitted under present law).

Explanation of provision

The provision repeals the rules coordinating the section 457 dollar limit with contributions under other types of plans.[12]

Effective date

The provision is effective for years beginning after December 31, 2000.

6. Eliminate IRS user fees for certain determination letter requests regarding employer plans (sec. 306 of the bill and sec. 7527 of the Code)

Present law

An employer that maintains a retirement plan for the benefit of its employees may request from the Internal Revenue Service

[12] The limits on deferrals under a section 457 plan are modified under other provisions of the bill.

("IRS") a determination as to whether the form of the plan satisfies the requirements applicable to tax-qualified plans (sec. 401(a)). In order to obtain from the IRS a determination letter on the qualified status of the plan, the employer must pay a user fee. The user fee may range from $125 to $1,250, depending upon the scope of the request and the type and format of the plan.[13]

Reasons for change

One of the factors affecting the decision of a small employer to adopt a plan is the level of administrative costs associated with the plan. The Committee believes that reducing administrative costs, such as IRS user fees, will help further the establishment of qualified plans by small employers.

Explanation of provision

A small employer (100 or fewer employees) is not required to pay a user fee for a determination letter request with respect to the qualified status of a retirement plan that the employer maintains if the request is made within the first 5 plan years of the plan. The provision applies only to requests by employers for determination letters concerning the qualified retirement plans they maintain. Therefore, a sponsor of a prototype plan is required to pay a user fee for a request for a notification letter, opinion letter, or similar ruling. A small employer that adopts a prototype plan, however, is not required to pay a user fee for a determination letter request with respect to the employer's plan.

Effective date

The provision is effective for determination letter requests made after December 31, 2000.

7. Definition of compensation for purposes of deduction limits (sec. 307 of the bill and sec. 404 of the Code)

Present law

Employer contributions to one or more qualified retirement plans are deductible subject to certain limits. In general, the deduction limit depends on the kind of plan. Subject to certain exceptions, nondeductible contributions are subject to a 10-percent excise tax.

In the case of a defined benefit pension plan or a money purchase pension plan, the employer generally may deduct the amount necessary to satisfy the minimum funding cost of the plan for the year. If a defined benefit pension plan has more than 100 participants, the maximum amount deductible is at least equal to the plan's unfunded current liabilities.

In some cases, the amount of deductible contributions is limited by compensation. In the case of a profit-sharing or stock bonus plan, the employer generally may deduct an amount equal to 15 percent of compensation of the employees covered by the plan for the year.

If an employer sponsors both a defined benefit pension plan and a defined contribution plan that covers some of the same employees

[13] User fees are statutorily authorized; however, the IRS sets the dollar amount of the fee applicable to any particular type of request.

(or a money purchase pension plan and another kind of defined contribution plan), the total deduction for all plans for a plan year generally is limited to the greater of (1) 25 percent of compensation or (2) the contribution necessary to meet the minimum funding requirements of the defined benefit pension plan for the year (or the amount of the plan's unfunded current liabilities, in the case of a plan with more than 100 participants).

In the case of an employee stock ownership plan ("ESOP"), principal payments on a loan used to acquire qualifying employer securities are deductible up to 25 percent of compensation.

For purposes of the deduction limits, employee elective deferral contributions to a qualified cash or deferred arrangement ("section 401(k) plan") are treated as employer contributions and, thus, are subject to the generally applicable deduction limits. [14]

For purposes of the deduction limits, compensation means the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the plan, and the beneficiaries under a profit-sharing or stock bonus plan are the employees who benefit under the plan with respect to the employer's contribution. [15] An employee who is eligible to make elective deferrals under a section 401(k) plan is treated as benefitting under the arrangement even if the employee elects not to defer. [16]

For purposes of the deduction rules, compensation generally includes only taxable compensation, and thus does not include salary reduction amounts, such as elective deferrals under a section 401(k) plan or a tax-sheltered annuity ("section 403(b) annuity"), elective contributions under a deferred compensation plan of a tax-exempt organization or a State or local government ("section 457 plan"), and salary reduction contributions under a section 125 cafeteria plan. For purposes of the contribution limits under section 415, compensation does include such salary reduction amounts.

Reasons for change

The Committee believes that compensation unreduced by employee elective contributions is a more appropriate measure of compensation for plan purposes, including deduction limits, than the present-law rule. Applying the same definition for deduction purposes as is generally used for other qualified plan purposes will also simplify application of the qualified plan rules.

Explanation of provision

Under the provision, the definition of compensation for purposes of the deduction rules includes salary reduction amounts treated as compensation under section 415.

Effective date

The provision is effective for years beginning after December 31, 2000.

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[14] Another provision in the bill provides that elective deferrals are not subject to the deduction limits.

[15] Rev. Rul. 65–295, 1965–2 C.B. 148.

[16] Treas. Reg. sec. 1.410(b)–3.

8. Option to treat elective deferrals as after-tax contributions (sec. 308 of the bill and new sec. 402A of the Code)

PRESENT LAW

A qualified cash or deferred arrangement ("section 401(k) plan") or a tax-sheltered annuity ("section 403(b) annuity") may permit a participant to elect to have the employer make payments as contributions to the plan or to the participant directly in cash. Contributions made to the plan at the election of a participant are elective deferrals. Elective deferrals must be nonforfeitable and are subject to an annual dollar limitation (sec. 402(g)) and distribution restrictions. In addition, elective deferrals under a section 401(k) plan are subject to special nondiscrimination rules. Elective deferrals (and earnings attributable thereto) are not includible in a participant's gross income until distributed from the plan.

Individuals with adjusted gross income below certain levels generally may make nondeductible contributions to a Roth IRA and may convert a deductible or nondeductible IRA into a Roth IRA. Amounts held in a Roth IRA that are withdrawn as a qualified distribution are not includible in income, nor subject to the additional 10–percent tax on early withdrawals. A qualified distribution is a distribution that (1) is made after the 5–taxable year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA, and (2) is made after attainment of age 59½, is made on account of death or disability, or is a qualified special purpose distribution (i.e., for first-time homebuyer expenses of up to $10,000). A distribution from a Roth IRA that is not a qualified distribution is includible in income to the extent attributable to earnings, and is subject to the 10-percent tax on early withdrawals (unless an exception applies). [17]

Reasons for change

The recently-enacted Roth IRA provisions have provided individuals with another form of tax-favored retirement savings. For a variety of reasons, some individuals may prefer to save through a Roth IRA rather than a traditional deductible IRA. The Committee believes that similar savings choices should be available to participants in section 401(k) plans and tax-sheltered annuities.

Explanation of provision

A section 401(k) plan or a section 403(b) annuity is permitted to include a "qualified plus contribution program" that permits a participant to elect to have all or a portion of the participant's elective deferrals under the plan treated as designated plus contributions. Designated plus contributions are elective deferrals that the participant designates as not excludable from the participant's gross income.

The annual dollar limitation on a participant's designated plus contributions is the section 402(g) annual limitation on elective deferrals, reduced by the participant's elective deferrals that the participant does not designate as designated plus contributions. Des-

[17] Early distributions of converted amounts may also accelerate income inclusion of converted amounts that are taxable under the 4-year rule applicable to 1998 conversions.

ignated plus contributions are treated as any other elective deferral for purposes of nonforfeitability requirements and distribution restrictions. Under a section 401(k) plan, designated plus contributions also are treated as any other elective deferral for purposes of the special nondiscrimination requirements.

The plan is required to establish a separate account, and maintain separate recordkeeping, for a participant's designated plus contributions (and earnings allocable thereto). A qualified distribution from a participant's designated plus contributions account is not includible in the participant's gross income. A qualified distribution is a distribution that is made after the end of a specified nonexclusion period and that is (1) made on or after the date on which the participant attains age 59½, (2) made to a beneficiary (or to the estate of the participant) on or after the death of the participant, or (3) attributable to the participant's being disabled.[18] The nonexclusion period is the 5-year-taxable period beginning with the earlier of (1) the first taxable year for which the participant made a designated plus contribution to any designated plus contribution account established for the participant under the plan, or (2) if the participant has made a rollover contribution to the designated plus contribution account that is the source of the distribution from a designated plus contribution account established for the participant under another plan, the first taxable year for which the participant made a designated plus contribution to the previously established account.

A distribution from a designated plus contributions account that is a corrective distribution of an elective deferral (and income allocable thereto) that exceeds the section 402(g) annual limit on elective deferrals is not a qualified distribution.

A participant is permitted to roll over a distribution from a designated plus contributions account only to another designated plus contributions account or a Roth IRA of the participant.

The Secretary of the Treasury is directed to require the plan administrator of each section 401(k) plan or section 403(b) annuity that permits participants to make designated plus contributions to make such returns and reports regarding designated plus contributions to the Secretary, plan participants and beneficiaries, and other persons that the Secretary may designate.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

9. Reduced PBGC premiums for small and new plans (secs. 309 and 310 of the bill and sec. 4006 of ERISA)

Present law

Under present law, the Pension Benefit Guaranty Corporation ("PBGC") provides insurance protection for participants and beneficiaries under certain defined benefit pension plans by guaranteeing certain basic benefits under the plan in the event the plan is terminated with insufficient assets to pay benefits promised

[18] A qualified special purpose distribution, as defined under the rules relating to Roth IRAs, does not qualify as a tax-free distribution from a designated plus contributions account.

under the plan. The guaranteed benefits are funded in part by premium payments from employers who sponsor defined benefit plans. The amount of the required annual PBGC premium for a single-employer plan is generally a flat rate premium of $19 per participant and an additional variable rate premium based on a charge of $9 per $1,000 of unfunded vested benefits. Unfunded vested benefits under a plan generally means (1) the unfunded current liability for vested benefits under the plan, over (2) the value of the plan's assets, reduced by any credit balance in the funding standard account. No variable rate premium is imposed for a year if contributions to the plan were at least equal to the full funding limit.

The PBGC guarantee is phased in ratably in the case of plans that have been in effect for less than 5 years, and with respect to benefit increases from a plan amendment that was in effect for less than 5 years before termination of the plan.

Reasons for change

The Committee believes that reducing the PBGC premiums for new and small plans will help encourage the establishment of defined benefit pension plans.

Explanation of provision

Reduced flat-rate premiums for new plans of small employers

Under the provision, for the first five plan years of a new single-employer plan of a small employer, the flat-rate PBGC premium is $5 per plan participant.

A small employer is a contributing sponsor that, on the first day of the plan year, has 100 or fewer employees. For this purpose, all employees of the members of the controlled group of the contributing sponsor are taken into account. In the case of a plan to which more than one unrelated contributing sponsor contributes, employees of all contributing sponsors (and their controlled group members) are taken into account in determining whether the plan is a plan of a small employer.

A new plan means a defined benefit plan maintained by a contributing sponsor if, during the 36-month period ending on the date of adoption of the plan, such contributing sponsor (or controlled group member or a predecessor of either) has not established or maintained a plan subject to PBGC coverage with respect to which benefits were accrued for substantially the same employees as are in the new plan.

Reduced variable PBGC premium for new and small employer plans

The provision provides that the variable premium is phased in for new defined benefit plans over a six-year period starting with the plan's first plan year. The amount of the variable premium is a percentage of the variable premium otherwise due, as follows: 0 percent of the otherwise applicable variable premium in the first plan year; 20 percent in the second plan year; 40 percent in the third plan year; 60 percent in the fourth plan year; 80 percent in the fifth plan year; and 100 percent in the sixth plan year (and thereafter).

A new defined benefit plan is defined as under the flat-rate premium provision relating to new small employer plans.

The provision also provides that, in the case of any plan (not just a new plan) of an employer with 25 or fewer employees, the variable-rate premium is no more than $5 multiplied by the number of plan participants in the plan at the close of the preceding year.

Effective date

The provisions relating to new plans are effective for plans established after December 31, 2000. The provision reducing the PBGC variable premium for small plans is effective for years beginning after December 31, 2000.

B. ENHANCING FAIRNESS FOR WOMEN

1. Additional salary reduction catch-up contributions (sec. 321 of the bill and secs. 402(g), 408(p), and 457 of the Code)

Present law

Elective deferral limitations

Under present law, under certain salary reduction arrangements, an employee may elect to have the employer make payments as contributions to a plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals.

The maximum annual amount of elective deferrals that an individual may make to a qualified cash or deferred arrangement (a "401(k) plan"), a tax-sheltered annuity ("section 403(b) annuity") or a salary reduction simplified employee pension plan ("SEP") is $10,000 (for 1999). The maximum annual amount of elective deferrals that an individual may make to a SIMPLE plan is $6,000. These limits are indexed for inflation in $500 increments.

Section 457 plans

The maximum annual deferral under a deferred compensation plan of a State or local government or a tax-exempt organization (a "section 457 plan") is the lesser of (1) $8,000 (for 1999) or (2) 33⅓ percent of compensation. The $8,000 dollar limit is increased for inflation in $500 increments. Under a special catch-up rule, the section 457 plan may provide that, for one or more of the participant's last 3 years before retirement, the otherwise applicable limit is increased to the lesser of (1) $15,000 or (2) the sum of the otherwise applicable limit for the year plus the amount by which the limit applicable in preceding years of participation exceeded the deferrals for that year.

Reasons for change

Although the Committee believes that individuals should be saving for retirement throughout their working lives, as a practical matter, many individuals simply do not focus on the amount of retirement savings they need until they near retirement. In addition, many individuals may have difficulty saving more in earlier years, e.g., because an employee leaves the workplace to care for a family.

Some individuals may have a greater ability to save as they near retirement.

The Committee believes that the pension laws should assist individuals who are nearing retirement to save more for their retirement.

Explanation of provision

The provision provides that the otherwise applicable dollar limit on elective deferrals under a section 401(k) plan, section 403(b) annuity, or SIMPLE, or deferrals under a section 457 plan are increased for individuals who have attained age 50 by the end of the year.[19] Additional contributions may be made by an individual who has attained age 50 before the end of the plan year and with respect to whom no other elective deferrals may otherwise be made to the plan for the year because of the application of any limitation of the Code (e.g., the annual limit on elective deferrals) or of the plan. Under the provision, the additional amount of elective contributions that may be made by an eligible individual participating in such a plan is the lesser of (1) the applicable percent of the maximum dollar amount of elective deferrals otherwise excludable from the gross income of the participant for the year (under sec. 402(g)) or (2) the participant's compensation for the year reduced by any other elective deferrals of the participant for the year.[20] The applicable percent is 10 percent in 2001, and increases by 10 percentage points until the applicable percent is 40 in 2004 and thereafter.

Catch-up contributions made under the provision are not subject to any other contribution limits and are not taken into account in applying other contribution limits. In addition, such contributions are not subject to applicable nondiscrimination rules.[21]

An employer may make matching contributions with respect to catch-up contributions. Any such matching contributions are subject to the normally applicable rules.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

2. Equitable treatment for contributions of employees to defined contribution plans (sec. 322 of the bill and secs. 403(b), 415, and 457 of the Code)

Present law

Present law imposes limits on the contributions that may be made to tax-favored retirement plans.

Defined contribution plans

In the case of a tax-qualified defined contribution plan, the limit on annual additions that can be made to the plan on behalf of an employee is the lesser of $30,000 (for 1999) or 25 percent of the em-

[19] Another provision in the bill increases the dollar limit on elective deferrals under such arrangements.

[20] In the case of a section 457 plans, this catch-up rule does not apply during the participant's last 3 years before retirement (in those years, the regularly applicable dollar limit is doubled).

[21] Another provision in the bill provides that elective contributions are deductible without regard to the otherwise applicable deduction limits.

ployee's compensation (sec. 415(c)). Annual additions include employer contributions, including contributions made at the election of the employee (i.e., employee elective deferrals), after-tax employee contributions, and any forfeitures allocated to the employee. For this purpose, compensation means taxable compensation of the employee, plus elective deferrals, and similar salary reduction contributions. A separate limit applies to benefits under a defined benefit plan.

For years before January 1, 2000, an overall limit applies if an employee is a participant in both a defined contribution plan and a defined benefit plan of the same employer.

Tax-sheltered annuities

In the case of a tax-sheltered annuity (a "section 403(b) annuity"), the annual contribution generally cannot exceed the lesser of the exclusion allowance or the section 415(c) defined contribution limit. The exclusion allowance for a year is equal to 20 percent of the employee's includible compensation, multiplied by the employee's years of service, minus excludable contributions for prior years under qualified plans, tax-sheltered annuities or section 457 plans of the employer.

In addition to this general rule, employees of nonprofit educational institutions, hospitals, home health service agencies, health and welfare service agencies, and churches may elect application of one of several special rules that increase the amount of the otherwise permitted contributions. The election of a special rule is irrevocable; an employee may not elect to have more than one special rule apply.

Under one special rule, in the year the employee separates from service, the employee may elect to contribute up to the exclusion allowance, without regard to the 25 percent of compensation limit under section 415. Under this rule, the exclusion allowance is determined by taking into account no more than 10 years of service.

Under a second special rule, the employee may contribute up to the lesser of: (1) the exclusion allowance; (2) 25 percent of the participant's includible compensation; or (3) $15,000.

Under a third special rule, the employee may elect to contribute up to the section 415(c) limit, without regard to the exclusion allowance. If this option is elected, then contributions to other plans of the employer are also taken into account in applying the limit.

For purposes of determining the contribution limits applicable to section 403(b) annuities, includible compensation means the amount of compensation received from the employer for the most recent period which may be counted as a year of service under the exclusion allowance. In addition, includible compensation includes elective deferrals and similar salary reduction amounts.

Treasury regulations include provisions regarding application of the exclusion allowance in cases where the employee participates in a section 403(b) annuity and a defined benefit plan. The Taxpayer Relief Act of 1997 directed the Secretary of the Treasury to revise these regulations, effective for years beginning after December 31, 1999, to reflect the repeal of the overall limit on contributions and benefits.

Section 457 plans

Compensation deferred under an eligible deferred compensation plan of a tax-exempt or State and local governmental employer (a "section 457 plan") is not includible in gross income until paid or made available. In general, the maximum permitted annual deferral under such a plan is the lesser of (1) $8,000 (in 1999) or (2) 33⅓ percent of compensation. The $8,000 limit is increased for inflation in $500 increments.

Reasons for change

The present-law rules that limit contributions to defined contribution plans by a percentage of compensation reduce the amount that lower- and middle-income workers can save for retirement. The present-law limits may not allow such workers to accumulate adequate retirement benefits, particularly if a defined contribution plan is the only type of retirement plan maintained by the employer.

Conforming the contribution limits for tax-sheltered annuities to the limits applicable to retirement plans will simplify the administration of the pension laws, and provide more equitable treatment for participants in similar types of plans.

Explanation of provision

Increase in defined contribution plan limit

The provision increases the 25 percent of compensation limitation on annual additions under a defined contribution plan to 100 percent.[22]

Conforming limits on tax-sheltered annuities

The provision repeals the exclusion allowance applicable to contributions to tax-sheltered annuities. Thus, such annuities are subject to the limits applicable to tax-qualified plans.

The provision also directs the Secretary of the Treasury to revise the regulations relating to the exclusion allowance under section 403(b)(2) to render void the requirement that contributions to a defined benefit plan be treated as previously excluded amounts for purposes of the exclusion allowance. For taxable years beginning after December 31, 1999, the regulatory provisions regarding the exclusion allowance are to be applied as if the requirement that contributions to a defined benefit plan be treated as previously excluded amounts for purposes of the exclusion allowance were void.

Section 457 plans

The provision increases the 33⅓ percent of compensation limitation on deferrals under a section 457 plan to 100 percent of compensation.

Effective date

The provision is generally effective for years beginning after December 31, 2000. The provision regarding the regulations under section 403(b)(2) is effective on the date of enactment.

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[22] Another provision of the bill increases the defined contribution plan dollar limit.

3. Faster vesting of employer matching contributions (sec. 323 of the bill and sec. 411 of the Code)

Present law

Under present law, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under one of two alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent after 4 years of service, 60 percent after 5 years of service, 80 percent after 6 years of service, and 100 percent after 7 years of service.[23]

Reasons for change

The Committee understands that many employees, particularly lower- and middle-income employees, do not take full advantage of the retirement savings opportunities provided by their employer's section 401(k) plan. The Committee believes that providing faster vesting for matching contributions will make section 401(k) plans more attractive for employees, particularly lower- and middle-income employees, and will encourage employees to save more for their own retirement. In addition, faster vesting for matching contributions will enable short-service employees to accumulate greater retirement savings.

Explanation of provision

The provision applies faster vesting schedules to employer matching contributions. Under the provision, employer matching contributions have to vest at least as rapidly as under one of the following two alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of employer matching contributions upon the completion of 3 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to 20 percent of employer matching contributions for each year of service beginning with the participant's second year of service and ending with 100 percent after 6 years of service.

Effective date

The provision is effective for plan years beginning after December 31, 2000, with a delayed effective date for plans maintained pursuant to a collective bargaining agreement. The provision does not apply to any employee until the employee has an hour of service after the effective date. In applying the new vesting schedule, service before the effective date is taken into account.

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[23] The minimum vesting requirements are also contained in Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

4. Simplify and update the minimum distribution rules (secs. 324 and 339 of the bill and secs. 401(a)(9) and 457 of the Code)

Present law

In general

Minimum distribution rules apply to all types of tax-favored retirement vehicles, including qualified plans, individual retirement arrangements ("IRAs"), tax-sheltered annuities ("section 403(b) annuities"), and eligible deferred compensation plans of tax-exempt and State and local government employers ("section 457 plans"). In general, under these rules, distribution of minimum benefits must begin no later than the required beginning date. Minimum distribution rules also apply to benefits payable with respect to a plan participant who has died. Failure to comply with the minimum distribution rules results in an excise tax imposed on the individual plan participant equal to 50 percent of the required minimum distribution not distributed for the year. The excise tax can be waived if the individual establishes to the satisfaction of the Secretary that the shortfall in the amount distributed was due to reasonable error and reasonable steps are being taken to remedy the shortfall.

Distributions prior to the death of the individual

In the case of distributions prior to the death of the plan participant, the minimum distribution rules are satisfied if either (1) the participant's entire interest in the plan is distributed by the required beginning date, or (2) the participant's interest in the plan is to be distributed (in accordance with regulations), beginning not later than the required beginning date, over a permissible period. The permissible periods are (1) the life of the participant, (2) the lives of the participant and a designated beneficiary, (3) the life expectancy of the participant, or (4) the joint life and last survivor expectancy of the participant and a designated beneficiary. In calculating minimum required distributions, life expectancies of the participant and the participant's spouse may be recomputed annually.

In the case of qualified plans, tax-sheltered annuities, and section 457 plans, the required beginning date is the April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½ or (2) the calendar year in which the employee retires. However, in the case of a 5-percent owner of the employer, distributions are required to begin no later than the April 1 of the calendar year following the year in which the 5-percent owner attains age 70½. If commencement of benefits is delayed beyond age 70½ from a defined benefit plan, then the accrued benefit of the employee must be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan.[24] In the case of distributions from an IRA other than a Roth IRA, the required beginning date is the April 1 following the calendar year in which the IRA owner

[24] State and local government plans and church plans are not required to actuarially increase benefits that begin after age 70½.

attains age 70½. The pre-death minimum distribution rules do not apply to Roth IRAs.

In general, under proposed regulations, in order to satisfy the minimum distribution rules, annuity payments under a defined benefit plan must be paid in period payments made at intervals not longer than one year over a permissible period, and must be non-increasing, or increase only as a result of the following: (1) cost-of-living adjustments; (2) cash refunds of employee contributions; (3) benefit increases under the plan; or (4) an adjustment due to death of the employee's beneficiary. In the case of a defined contribution plan, the minimum required distribution is determined by dividing the employee's benefit by the applicable life expectancy.

Distributions after the death of the plan participant

The minimum distribution rules also apply to distributions to beneficiaries of deceased participants. In general, if the participant dies after minimum distributions have begun, the remaining interest must be distributed at least as rapidly as under the minimum distribution method being used as of the date of death. If the participant dies before minimum distributions have begun, then the entire remaining interest must generally be distributed within 5 years of the participant's death. The 5-year rule does not apply if distributions begin within 1 year of the participant's death and are payable over the life of a designated beneficiary or over the life expectancy of a designated beneficiary. A surviving spouse beneficiary is not required to begin distribution until the date the deceased participant would have attained age 70½.

Special rules for section 457 plans

Eligible deferred compensation plans of State and local and tax-exempt employers ("section 457 plans") are subject to the minimum distribution rules described above. Such plans are also subject to additional minimum distribution requirements (sec. 457(d)(2)(b)).

Reasons for change

The Committee believes that the minimum distribution rules are among the most complex of the rules relating to tax-favored arrangements. While a plan or IRA trustee may assist the individual in complying with the minimum distribution rules, ultimately the responsibility for compliance falls on the individual. Many of the complexities of the present-law rules are contained in Treasury regulations, which have not yet been finalized. The Committee believes that the present-law rules impose undue burdens on individuals and plan administrators.

The sanction for failure to comply with the minimum distribution rules is severe. The Committee believes this sanction is inappropriate, particularly given the complexity of the rules, and the likelihood of inadvertent mistakes.

Explanation of provision

Modification of post-death distribution rules

The provision applies the present-law rules applicable if the participant dies before distribution of minimum benefits has begun to

all post-death distributions. Thus, in general, if the employee dies before his or her entire interest has been distributed, distribution of the remaining interest must be made within 5 years of the date of death, or begin within one year of the date of death and paid over the life or life expectancy of a designated beneficiary. In the case of a surviving spouse, distributions are not required to begin until the surviving spouse attains age 70½. Minimum distributions that have already begun may be recalculated under the new rule.

Reduction in excise tax

The provision reduces the excise tax on failures to satisfy the minimum distribution rules to 10 percent of the amount that was required to be distributed but was not distributed.

Treasury regulations

The Treasury is directed to update, simplify and finalize the regulations relating to the minimum distribution rules. The Treasury is directed to reflect in the regulations current life expectancies and to revise the required distribution methods so that, under reasonable assumptions, the amount of the required distribution does not decrease over time. The regulations are to permit recalculation of distributions for future years to reflect the change in the regulations, and to permit the election of a new designated beneficiary and method of calculating life expectancy. The regulations are to be effective for years beginning after December 31, 2000.

Section 457 plans

The provision repeals the special minimum distribution rules applicable to section 457 plans. Thus, such plans are subject to the same minimum distribution rules applicable to other types of tax-favored arrangements.

Effective date

In general, the provision is effective for years beginning after December 31, 2000.

5. Clarification of tax treatment of division of section 457 plan benefits upon divorce (sec. 325 of the bill and secs. 414(p) and 457 of the Code)

Present law

Under present law, benefits provided under a qualified retirement plan for a participant may not be assigned or alienated to creditors of the participant, except in very limited circumstances. One exception to the prohibition on assignment or alienation rule is a qualified domestic relations order ("QDRO"). A QDRO is a domestic relations order that creates or recognizes a right of an alternate payee to any plan benefit payable with respect to a participant, and that meets certain procedural requirements.

Under present law, a distribution from a governmental plan or a church plan is treated as made pursuant to a QDRO if it is made pursuant to a domestic relations order that creates or recognizes a right of an alternate payee to any plan benefit payable with respect to a participant. Such distributions are not required to meet the

procedural requirements that apply with respect to distributions from qualified plans.

Under present law, amounts distributed from a qualified plan generally are taxable to the participant in the year of distribution. However, if amounts are distributed to the spouse (or former spouse) of the participant by reason of a QDRO, the benefits are taxable to the spouse (or former spouse). Amounts distributed pursuant to a QDRO to an alternate payee other than the spouse (or former spouse) are taxable to the plan participant.

Section 457 of the Internal Revenue Code provides rules for deferral of compensation by an individual participating in an eligible deferred compensation plan ("section 457 plan") of a tax-exempt or State and local government employer. The QDRO rules do not apply to section 457 plans.

Reasons for change

The Committee believes that the rules regarding qualified domestic relations orders should apply to all types of employer-sponsored retirement plans.

Explanation of provision

The provision applies the taxation rules for qualified plan distributions pursuant to a QDRO to distributions made pursuant to a domestic relations order from a section 457 plan. In addition, a section 457 plan is not treated as violating the restrictions on distributions from such plans due to payments to an alternate payee under a QDRO. The special rule applicable to governmental plans and church plans applies for purposes of determining whether a distribution is pursuant to a QDRO.

Effective date

The provision is effective for transfers, distributions and payments made after December 31, 2000.

6. Modification of safe harbor relief for hardship withdrawals from 401(k) plans (sec. 326 of the bill)

Present law

Elective deferrals under a qualified cash or deferred arrangement (a "section 401(k) plan") may not be distributable prior to the occurrence of one or more specified events. One event upon which distribution is permitted is the financial hardship of the employee. Applicable Treasury regulations[25] provide that a distribution is made on account of hardship only if the distribution is made on account of an immediate and heavy financial need of the employee and is necessary to satisfy the heavy need.

The Treasury regulations provide a safe harbor under which a distribution may be deemed necessary to satisfy an immediate and heavy financial need. One requirement of this safe harbor is that the employee be prohibited from making elective contributions and employee contributions to the plan and all other plans maintained

[25] Treas. Reg. sec. 1.401(k)–1.

by the employer for at least 12 months after receipt of the hardship distribution.

Reasons for change

Although the Committee believes that it is appropriate to restrict the circumstances in which an in-service distribution from a 401(k) plan is permitted and to encourage participants to take such distributions only when necessary to satisfy an immediate and heavy financial need, the Committee is concerned about the impact that a 12-month suspension of contributions may have on the retirement savings of a participant who experiences a hardship. The Committee believes that the combination of a 6-month contribution suspension and the other elements of the regulatory safe harbor will provide an adequate incentive for a participant to seek sources of funds other than his or her 401(k) plan account balance in order to satisfy financial hardships.

Explanation of provision

The Secretary of the Treasury is directed to revise the applicable regulations to reduce from 12 months to 6 months the period during which an employee must be prohibited from making elective contributions and employee contributions in order for a distribution to be deemed necessary to satisfy an immediate and heavy financial need.

Effective date

The provision is effective for years beginning after December 31, 2000.

C. INCREASING PORTABILITY FOR PARTICIPANTS

1. Rollovers of retirement plan and IRA distributions (secs. 331–333 and 339 of the bill and secs. 401, 402, 403(b), 408, 457, and 3405 of the Code)

Present law

In general

Present law permits the rollover of funds from a tax-favored retirement plan to another tax-favored retirement plan. The rules that apply depend on the type of plan involved. Similarly, the rules regarding the tax treatment of amounts that are not rolled over depend on the type of plan involved.

Distributions from qualified plans

Under present law, an "eligible rollover distribution" from a tax-qualified employer-sponsored retirement plan may be rolled over tax free to a traditional individual retirement arrangement ("IRA")[26] or another qualified plan.[27] An "eligible rollover distribution" means any distribution to an employee of all or any portion

[26] A "traditional" IRA refers to IRAs other than Roth IRAs or SIMPLE IRAs. All references to IRAs refers only to traditional IRAs.

[27] An eligible rollover distribution may either be rolled over by the distributee within 60 days of the date of the distribution or, as described below, directly rolled over by the distributing plan.

of the balance to the credit of the employee in a qualified plan, except the term does not include (1) any distribution which is one of a series of substantially equal periodic payments made (a) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or (b) for a specified period of 10 years or more, (2) any distribution to the extent such distribution is required under the minimum distribution rules, and (3) certain hardship distributions. The maximum amount that can be rolled over is the amount of the distribution includible in income, i.e., after-tax employee contributions cannot be rolled over. Qualified plans are not required to accept rollovers.

Distributions from tax-sheltered annuities

Eligible rollover distributions from a tax-sheltered annuity ("section 403(b) annuity") may be rolled over into an IRA or another section 403(b) annuity. Distributions from a section 403(b) annuity cannot be rolled over into a tax-qualified plan. Section 403(b) annuities are not required to accept rollovers.

IRA distributions

Distributions from a traditional IRA, other than minimum required distributions, can be rolled over into another IRA. In general, distributions from an IRA cannot be rolled over into a qualified plan or section 403(b) annuity. An exception to this rule applies in the case of so-called "conduit IRAs." Under the conduit IRA rule, amounts can be rolled from a qualified plan into an IRA and then subsequently rolled back to another qualified plan if the amounts in the IRA are attributable solely to rollovers from a qualified plan. Similarly, an amount may be rolled over from a section 403(b) annuity to an IRA and subsequently rolled back into a section 403(b) annuity if the amounts in the IRA are attributable solely to rollovers from a section 403(b) annuity.

Distributions from section 457 plans

A "section 457 plan" is an eligible deferred compensation plan of a State or local government or tax-exempt employer that meets certain requirements. In some cases, different rules apply under section 457 to governmental plans and plans of tax-exempt employers. For example, governmental section 457 plans are like qualified plans in that plan assets are required to be held in a trust for the exclusive benefit of plan participants and beneficiaries. In contrast, benefits under a section 457 plan of a tax-exempt employer are unfunded, like nonqualified deferred compensation plans of private employers.

Section 457 benefits can be transferred to another section 457 plan. Distributions from a section 457 plan cannot be rolled over to another section 457 plan, a qualified plan, a section 403(b) annuity, or an IRA.

Rollovers by surviving spouses

A surviving spouse that receives an eligible rollover distribution may roll over the distribution into an IRA, but not a qualified plan or section 403(b) annuity.

Direct rollovers and withholding requirements

Qualified plans and section 403(b) annuities are required to provide that a plan participant has the right to elect that an eligible rollover distribution be directly rolled over to another eligible retirement plan. If the plan participant does not elect the direct rollover option, then withholding is required on the distribution at a 20-percent rate.

Notice of eligible rollover distribution

The plan administrator of a qualified plan or a section 403(b) annuity is required to provide a written explanation of rollover rules to individuals who receive a distribution eligible for rollover. In general, the notice is to be provided within a reasonable period of time before making the distribution and is to include an explanation of (1) the provisions under which the individual may have the distribution directly rolled over to another eligible retirement plan, (2) the provision that requires withholding if the distribution is not directly rolled over, (3) the provision under which the distribution may be rolled over within 60 days of receipt, and (4) if applicable, certain other rules that may apply to the distribution. The Treasury Department has provided more specific guidance regarding timing and content of the notice.

Taxation of distributions

As is the case with the rollover rules, different rules regarding taxation of benefits apply to different types of tax-favored arrangements. In general, distributions from a qualified plan, section 403(b) annuity, or IRA are includible in income in the year received. In certain cases, distributions from qualified plans are eligible for capital gains treatment and averaging. These rules do not apply to distributions from another type of plan. Distributions from a qualified plan, IRA, and section 403(b) annuity generally are subject to an additional 10-percent early withdrawal tax if made before age 59½. There are a number of exceptions to the early withdrawal tax. Some of the exceptions apply to all three types of plans, and others apply only to certain types of plans. For example, the 10-percent early withdrawal tax does not apply to IRA distributions for educational expenses, but does apply to similar distributions from qualified plans and section 403(b) annuities. Benefits under a section 457 plan are generally includible in income when paid or made available. The 10-percent early withdrawal tax does not apply to section 457 plans.

Reasons for change

Present law encourages individuals who receive distributions from qualified plans and similar arrangements to save those distributions for retirement by facilitating tax-free rollovers to an IRA or another qualified plan. The Committee believes that expanding the rollover options for individuals in employer-sponsored retirement plans and owners of IRAs will provide further incentives for individuals to continue to accumulate funds for retirement. The Committee believes it appropriate to extend the same rollover rules to governmental section 457 plans; like qualified plans, such plans are required to hold plan assets in trust for employees.

Explanation of provision

In general

The provision provides that eligible rollover distributions from qualified retirement plans, section 403(b) annuities, and governmental section 457 plans generally could be rolled over to any of such plans or arrangements.[28] Similarly, distributions from an IRA generally may be rolled over into a qualified plan, section 403(b) annuity, or governmental section 457 plan. The direct rollover and withholding rules are extended to distributions from a governmental section 457 plan, and such plans are required to provide the written notification regarding eligible rollover distributions. The rollover notice (with respect to all plans) is required to include a description of the provisions under which distributions from the plan to which the distribution is rolled over may be subject to restrictions and tax consequences different than those applicable to distributions from the distributing plan. Qualified plans, section 403(b) annuities, and section 457 plans are not required to accept rollovers.

Some special rules apply in certain cases. A distribution from a qualified plan is not eligible for capital gains or averaging treatment if there was a rollover to the plan that would not have been permitted under present law. Thus, in order to preserve capital gains and averaging treatment for a qualified plan distribution that is rolled over, the rollover has to be made to a "conduit IRA" as under present law, and then rolled back into a qualified plan. Amounts distributed from a section 457 plan are subject to the early withdrawal tax to the extent the distribution consists of amounts attributable to rollovers from another type of plan. Section 457 plans are required to separately account for such amounts.

The provision also provides that benefits in governmental section 457 plans are includible in income when paid.

Rollover of after-tax contributions

The provision provides that employee after-tax contributions may be rolled over into another qualified plan or a traditional IRA. In the case of a rollover from a qualified plan to another qualified plan, the rollover may be accomplished only through a direct rollover. In addition, a qualified plan may not accept rollovers of after-tax contributions unless the plan provides separate accounting for such contributions (and earnings thereon). After-tax contributions (including nondeductible contributions to an IRA) may not be rolled over from an IRA into a qualified plan, tax-sheltered annuity, or section 457 plan.

In the case of a distribution from a traditional IRA that is rolled over into an eligible rollover plan that is not an IRA, the distribution is attributed first to amounts other than after-tax contributions.

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[28] Hardship distributions from governmental section 457 plans would be considered eligible rollover distributions.

Expansion of spousal rollovers

The provision provides that surviving spouses may roll over distributions to a qualified plan, section 403(b) annuity, or governmental section 457 plan in which the spouse participates.

Treasury regulations

The Secretary is directed to prescribe rules necessary to carry out the provisions. Such rules may include, for example, reporting requirements and mechanisms to address mistakes relating to rollovers. It is anticipated that the IRS will develop forms to assist individuals who roll over after-tax contributions to an IRA in keeping track of such contributions. Such forms could, for example, expand Form 8606—Nondeductible IRAs, to include information regarding after-tax contributions.

Effective date

The provision is effective for distributions made after December 31, 2000.

2. Waiver of 60-day rule (sec. 334 of the bill and secs. 402 and 408 of the Code)

Present law

Under present law, amounts received from an IRA or qualified plan may be rolled over tax free if the rollover is made within 60 days of the date of the distribution. The Secretary does not have the authority to waive the 60-day requirement.

Reasons for change

The inability of the Secretary to waive the 60-day rollover period can result in adverse tax consequences for individuals. The Committee believes such harsh results are inappropriate and that providing for waivers of the rule will help facilitate rollovers.

Explanation of provision

The provision provides that the Secretary may waive the 60-day rollover period if the failure to waive such requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Effective date

The provision applies to distributions made after December 31, 2000.

3. Treatment of forms of distribution (sec. 335 of the bill and sec. 411(d)(6) of the Code)

Present law

An amendment of a qualified retirement plan may not decrease the accrued benefit of a plan participant. An amendment is treated as reducing an accrued benefit if, with respect to benefits accrued before the amendment is adopted, the amendment has the effect of either (1) eliminating or reducing an early retirement benefit or a

retirement-type subsidy, or (2) except as provided by Treasury regulations, eliminating an optional form of benefit (sec. 411(d)(6)).[29]

The prohibition against the elimination of an optional form of benefit applies to plan mergers, spinoffs, transfers, and transactions amending or having the effect of amending a plan or plans to transfer plan benefits. For example, if Plan A, a profit-sharing plan that provides for distribution of benefits in annual installments over ten or twenty years, is merged with Plan B, a profit-sharing plan that provides for distribution of benefits in annual installments over life expectancy at the time of retirement, the merged plan must preserve the ten- or twenty-year installment option with respect to benefits accrued under Plan A as of the date of the merger and the installments over life expectancy with respect to benefits accrued under Plan B as of the date of the merger. Similarly, for example, if a participant's benefit under a defined contribution plan is transferred to another defined contribution plan maintained by the same or a different employer, the optional forms of benefit available with respect to the participant's accrued benefit under the transferor plan must be preserved.[30]

Reasons for change

The Committee understands that the application of the prohibition against the elimination of any optional form of benefit to plan mergers and transfers with respect to defined contribution plans frequently results in complexity and confusion, especially in the context of business acquisitions and similar transactions. In addition, the Committee understands that a defined contribution plan participant who is entitled to receive a single sum distribution generally may roll over such a distribution to an IRA and control the manner of distribution from the IRA.

Explanation of provision

A defined contribution plan to which benefits are transferred is not treated as reducing a participant's or beneficiary's accrued benefit even though it does not provide all of the forms of distribution previously available under the transferor plan if (1) the plan receives from another defined contribution plan a direct transfer of the participant's or beneficiary's benefit accrued under the transferor plan, or the plan results from a merger or other transaction that has the effect of a direct transfer (including consolidations of benefits attributable to different employers within a multiple employer plan), (2) the terms of both the transferor plan and the transferee plan authorize the transfer, (3) the transfer occurs pursuant to a voluntary election by the participant or beneficiary that is made after the participant or beneficiary received a notice describing the consequences of making the election, (4) if the transferor plan provides for an annuity as the normal form of distribution in accordance with the joint and survivor annuity rules (sec. 417), the participant's spouse (if any) consents to the transfer in a manner similar to the consent required by section 417, and (5) the transferee plan allows the participant or beneficiary to receive dis-

[29] A similar provision is contained in Title I of ERISA.
[30] Treas. Reg. sec. 1.411(d)–4, Q&A–2(a)(3)(i).

tribution of his or her benefit under the transferee plan in the form of a single sum distribution.

In addition, except to the extent provided by the Secretary of the Treasury in regulations, a defined contribution plan is not treated as reducing a participant's accrued benefit if (1) a plan amendment eliminates a form of distribution previously available under the plan, (2) a single sum distribution is available to the participant at the same time or times as the form of distribution eliminated by the amendment, and (3) the single sum distribution is based on the same or greater portion of the participant's accrued benefit as the form of distribution eliminated by the amendment.

Furthermore, the provision directs the Secretary of the Treasury to provide by regulations that the prohibitions against eliminating or reducing an early retirement benefit, a retirement-type subsidy, or an optional form of benefit not apply to plan amendments that do not adversely affect the rights of participants in a material manner but that do eliminate or reduce early retirement benefits, retirement-type subsidies, and optional forms of benefit that create significant burdens and complexities for a plan and its participants.

It is intended that the factors to be considered in determining whether an amendment has a materially adverse effect on a participant would include (1) all of the participant's early retirement benefits, retirement-type subsidies, and optional forms of benefits that are reduced or eliminated by the amendment, (2) the extent to which early retirement benefits, retirement-type subsidies, and optional forms of benefit in effect with respect to a participant after the amendment effective date provide rights that are comparable to the rights that are reduced or eliminated by the plan amendment, (3) the number of years before the participant attains normal retirement age under the plan (or early retirement age, as applicable), (4) the size of the participant's benefit that is affected by the plan amendment, in relation to the amount of the participant's compensation, and (5) the number of years before the plan amendment is effective.

The Secretary is directed to issue, not later than December 31, 2001, final regulations under section 411(d)(6), including regulations required under the provision.

Effective date

The provision is effective for years beginning after December 31, 2000, except that the direction to the Secretary is effective on the date of enactment.

4. Rationalization of restrictions on distributions (sec. 336 of the bill and secs. 401(k), 403(b), and 457 of the Code)

Present law

Elective deferrals under a qualified cash or deferred arrangement ("section 401(k) plan"), tax-sheltered annuity ("section 403(b) annuity"), or an eligible deferred compensation plan of a tax-exempt organization or State or local government ("section 457 plan"), may not be distributable prior to the occurrence of one or more specified events. These permissible distributable events include "separation from service."

A separation from service occurs only upon a participant's death, retirement, resignation or discharge, and not when the employee continues on the same job for a different employer as a result of the liquidation, merger, consolidation or other similar corporate transaction. A severance from employment occurs when a participant ceases to be employed by the employer that maintains the plan. Under a so-called "same desk rule," a participant's severance from employment does not necessarily result in a separation from service.[31]

In addition to separation from service and other events, a section 401(k) plan that is maintained by a corporation may permit distributions to certain employees who experience a severance from employment with the corporation that maintains the plan but does not experience a separation from service because the employee continues on the same job for a different employer as a result of a corporate transaction. If the corporation disposes of substantially all of the assets used by the corporation in a trade or business, a distributable event occurs with respect to the accounts of the employees who continue employment with the corporation that acquires the assets. If the corporation disposes of its interest in a subsidiary, a distributable event occurs with respect to the accounts of the employees who continue employment with the subsidiary.

Reasons for change

The Committee believes that application of the "same desk" rule is inappropriate because it hinders portability of retirement benefits, creates confusion for employees, and results in significant administrative burdens for employers that engage in business acquisition transactions.

Explanation of provision

The provision modifies the distribution restrictions applicable to section 401(k) plans, section 403(b) annuities, and section 457 plans to provide that distribution may occur upon severance from employment rather than separation from service. In addition, the provisions for distribution from a section 401(k) plan based upon a corporation's disposition of its assets or a subsidiary are repealed; this special rule is no longer necessary under the provision.

Effective date

The provision is effective for distributions after December 31, 2000.

5. Purchase of service credit under governmental pension plans (sec. 337 of the bill and secs. 403(b) and 457 of the Code)

Present law

A qualified retirement plan maintained by a State or local government employer may provide that a participant may make after-tax employee contributions in order to purchase permissive service credit, subject to certain limits (sec. 415). Permissive service credit means credit for a period of service recognized by the governmental

[31] Rev. Rul. 79–336, 1979–2 C.B. 187.

plan only if the employee voluntarily contributes to the plan an amount (as determined by the plan) that does not exceed the amount necessary to fund the benefit attributable to the period of service and that is in addition to the regular employee contributions, if any, under the plan.

In the case of any repayment of contributions and earnings to a governmental plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State), any such repayment is not taken into account for purposes of the section 415 limits on contributions and benefits. Also, service credit obtained as a result of such a repayment is not considered permissive service credit for purposes of the section 415 limits.

A participant may not use a rollover or direct transfer of benefits from a tax-sheltered annuity ("section 403(b) annuity") or an eligible deferred compensation plan of a tax-exempt organization of a State or local government ("section 457 plan") to purchase permissive service credits or repay contributions and earnings with respect to a forfeiture of service credit.

Reasons for change

The Committee understands that many employees work for multiple State or local government employers during their careers. The Committee believes that allowing such employees to use their section 403(b) annuity and section 457 plan accounts to purchase permissive service credits or make repayments with respect to forfeitures of service credit will result in more significant retirement benefits for employees who would not otherwise be able to afford such credits or repayments.

Explanation of provision

A participant in a State or local governmental plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 403(b) annuity or a section 457 plan if the transferred amount is used (1) to purchase permissive service credits under the plan, or (2) to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan (or another plan maintained by a State or local government employer within the same State).

Effective date

The provision is effective for transfers after December 31, 2000.

6. Employers may disregard rollovers for purposes of cash-out rules (sec. 338 of the bill and sec. 411(a)(11) of the Code)

Present law

If a qualified retirement plan participant ceases to be employed by the employer that maintains the plan, the plan may distribute the participant's nonforfeitable accrued benefit without the consent of the participant and, if applicable, the participant's spouse, if the present value of the benefit does not exceed $5,000. If such an in-

voluntary distribution occurs and the participant subsequently returns to employment covered by the plan, then service taken into account in computing benefits payable under the plan after the return need not include service with respect to which a benefit was involuntarily distributed unless the employee repays the benefit.[32]

Generally, a participant may roll over an involuntary distribution from a qualified plan to an IRA or to another qualified plan.[33]

Reasons for change

The present-law cash-out rule reflects a balancing of various policies. On the one hand is the desire to assist individuals to save for retirement by making it easier to keep retirement funds in tax-favored vehicles. On the other hand is the recognition that keeping track of small account balances of former employees creates administrative burdens for plans.

The Committee is concerned that, in some cases, the cash-out rule may discourage plans from accepting rollovers because the rollover will increase participants' benefits to above the cash-out amount, and increase administrative burdens. The Committee believes that disregarding rollovers for purposes of the cash-out rule will further the intent of the cash-out rule by removing a possible disincentive for plans to accept rollovers.

Explanation of provision

A plan is permitted to provide that the present value of a participant's nonforfeitable accrued benefit is determined without regard to the portion of such benefit that is attributable to rollover contributions (and any earnings allocable thereto).

Effective date

The provision is effective for distributions after December 31, 2000.

D. STRENGTHENING PENSION SECURITY AND ENFORCEMENT

1. Phase in repeal of 150 percent of current liability funding limit; deduction for contributions to fund termination liability (secs. 341 and 342 of the bill and secs. 404(a)(1), 412(c)(7), and 4972(c) of the Code)

Present law

Under present law, defined benefit pension plans are subject to minimum funding requirements designed to ensure that pension plans have sufficient assets to pay benefits. A defined benefit pension plan is funded using one of a number of acceptable actuarial cost methods.

No contribution is required under the minimum funding rules in excess of the full funding limit. The full funding limit is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 155 percent of the plan's current liability, over (2) the value of the plan's assets

[32] A similar provision is contained in Title I of ERISA.
[33] Other provisions of the bill expand the kinds of plans to which benefits may be rolled over.

(sec. 412(c)(7)).[34] In general, current liability is all liabilities to plan participants and beneficiaries accrued to date, whereas the accrued liability full funding limit is based on projected benefits. The current liability full funding limit is scheduled to increase as follows: 160 percent for plan years beginning in 2001 or 2002, 165 percent for plan years beginning in 2003 and 2004, and 170 percent for plan years beginning in 2005 and thereafter.[35] In no event is a plan's full funding limit less than 90 percent of the plan's current liability over the value of the plan's assets.

An employer sponsoring a defined benefit pension plan generally may deduct amounts contributed to satisfy the minimum funding standard for the plan year. Contributions in excess of the full funding limit generally are not deductible. Under a special rule, an employer that sponsors a defined benefit pension plan (other than a multiemployer plan) which has more than 100 participants for the plan year may deduct amounts contributed of up to 100 percent of the plan's unfunded current liability.

Reasons for change

The Committee is concerned that the current liability full funding limit may result in inadequate funding of pension plans and thus jeopardize pension security. Also, the Committee believes that the special deduction rule should be expanded to give more plan sponsors incentives to adequately fund their plans.

Explanation of provision

Current liability full funding limit

The provision gradually increases and then repeals the current liability full funding limit. The current liability full funding limit is 160 percent of current liability for plan years beginning in 2001, 165 percent for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit is repealed for plan years beginning in 2004 and thereafter.

Deduction for contributions to fund termination liability

The special rule allowing a deduction for unfunded current liability generally is extended to all defined benefit pension plans, i.e., the provision applies to multiemployer plans and plans with 100 or fewer participants. The special rule does not apply to plans not covered by the PBGC termination insurance program.[36]

The provision also modifies the rule by providing that the deduction is for up to 100 percent of unfunded termination liability, determined as if the plan terminated at the end of the plan year. In the case of a plan with less than 100 participants for the plan year, termination liability does not include the liability attributable to benefit increases for highly compensated employees resulting from

[34] The minimum funding requirements, including the full funding limit, are also contained in title I of ERISA.

[35] As originally enacted in the Pension Protection Act of 1997, the current liability full funding limit was 150 percent of current liability. The Taxpayer Relief Act of 1997 increased the current liability full funding limit to 155 percent in 1999 and 2000, and adopted the scheduled increases described in the text.

[36] The PBGC termination insurance program does not cover plans of professional service employers that have fewer than 25 participants.

a plan amendment which was made or became effective, whichever is later, within the last two years.

Effective date

The provision is effective for plan years beginning after December 31, 2000.

2. Extension of PBGC missing participants program (sec. 343 of the bill and secs. 206(f), 401(a)(34), and 4050 of ERISA)

Present law

The plan administrator of a defined benefit pension plan that is subject to Title IV of ERISA, is maintained by a single employer, and terminates under a standard termination is required to distribute the assets of the plan. With respect to a participant whom the plan administrator cannot locate after a diligent search, the plan administrator satisfies the distribution requirement only by purchasing irrevocable commitments from an insurer to provide all benefit liabilities under the plan or transferring the participant's designated benefit to the Pension Benefit Guaranty Corporation ("PBGC"), which holds the benefit of the missing participant as trustee until the PBGC locates the missing participant and distributes the benefit.

The PBGC missing participant program is not available to multiemployer plans or defined contribution plans and other plans not covered by Title IV of ERISA.

Reasons for change

The Committee recognizes that no statutory provision or formal regulatory guidance exists concerning an appropriate method of handling missing participants in terminated multiemployer plans and plans that are not covered by Title IV of ERISA. Therefore, sponsors of these plans face uncertainty with respect to missing participants. The Committee believes that it is appropriate to extend the established PBGC missing participant program to these plans in order to reduce uncertainty for plan sponsors and increase the likelihood that missing participants will receive their retirement benefits.

Explanation of provision

The PBGC is directed to prescribe for terminating multiemployer plans rules similar to the present-law missing participant rules applicable to terminating single employer plans that are subject to Title IV of ERISA.

In addition, to the extent provided in PBGC regulations, plan administrators of certain types of plans that are not covered by the PBGC missing participant program under present law are permitted, but not required, to elect to transfer missing participants' benefits to the PBGC upon plan termination. Specifically, the provision extends the missing participants program to defined contribution plans, defined benefit plans that do not have more than 25 active participants and are maintained by professional service employers, and the portions of defined benefit plans that provide

benefits based upon the separate accounts of participants and therefore are treated as defined contribution plans under ERISA.

Effective date

The provision is effective for distributions from terminating plans that occur after the PBGC adopts final regulations implementing the provision.

3. Excise tax relief for sound pension funding (sec. 346 of the bill and sec. 4972 of the Code)

Present law

Under present law, defined benefit pension plans are subject to minimum funding requirements designed to ensure that pension plans have sufficient assets to pay benefits. A defined benefit pension plan is funded using one of a number of acceptable actuarial cost methods.

No contribution is required under the minimum funding rules in excess of the full funding limit. The full funding limit is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 155 percent of the plan's current liability, over (2) the value of the plan's assets (sec. 412(c)(7)). In general, current liability is all liabilities to plan participants and beneficiaries accrued to date, whereas the accrued liability full funding limit is based on projected benefits. The current liability full funding limit is scheduled to increase as follows: 160 percent for plan years beginning in 2001 or 2002, 165 percent for plan years beginning in 2003 and 2004, and 170 percent for plan years beginning in 2005 and thereafter.[37] In no event is a plan's full funding limit less than 90 percent of the plan's current liability over the value of the plan's assets.

An employer sponsoring a defined benefit pension plan generally may deduct amounts contributed to satisfy the minimum funding standard for the plan year. Contributions in excess of the full funding limit generally are not deductible. Under a special rule, an employer that sponsors a defined benefit pension plan (other than a multiemployer plan) which has more than 100 participants for the plan year may deduct amounts contributed of up to 100 percent of the plan's unfunded current liability.

Present law also provides that contributions to defined contribution plans are deductible, subject to certain limitations.

Subject to certain exceptions, an employer that makes nondeductible contributions to a plan is subject to an excise tax equal to 10 percent of the amount of the nondeductible contributions for the year. The 10-percent excise tax does not apply to contributions to certain terminating defined benefit plans. The 10-percent excise tax also does not apply to contributions of up to 6 percent of compensation to a defined contribution plan for employer matching and employee elective deferrals.

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[37] As originally enacted in the Pension Protection Act of 1997, the current liability full funding limit was 150 percent of current liability. The Taxpayer Relief Act of 1997 increased the current liability full funding limit to 155 percent in 1999 and 2000, and adopted the scheduled increases described in the text. Another provision in the bill gradually increases and then repeals the current liability full funding limit.

Reasons for change

The Committee believes that employers should be encouraged to adequately fund their pension plans. Therefore, the Committee does not believe that an excise tax should be imposed on employer contributions that do not exceed the accrued liability full funding limit.

Explanation of provision

In determining the amount of nondeductible contributions, the employer may elect not to take into account contributions to a defined benefit pension plan except to the extent they exceed the accrued liability full funding limit. Thus, if an employer elects, contributions in excess of the current liability full funding limit are not subject to the excise tax on nondeductible contributions. An employer making such an election for a year may not take advantage of the present-law exceptions for certain terminating plans and certain contributions to defined contribution plans.

Effective date

The provision is effective for years beginning after December 31, 2000.

4. Notice of significant reduction in plan benefit accruals (sec. 347 of the bill and new sec. 4980F of the Code)

Present law

Section 204(h) of Title I of ERISA provides that a defined benefit pension plan or a money purchase pension plan may not be amended so as to provide for a significant reduction in the rate of future benefit accrual, unless, after adoption of the plan amendment and not less than 15 days before the effective date of the plan amendment, the plan administrator provides a written notice ("section 204(h) notice"), setting forth the plan amendment (or a summary of the amendment written in a manner calculated to be understood by the average plan participant) and its effective date. The plan administrator must provide the section 204(h) notice to each plan participant, each alternate payee under an applicable qualified domestic relations order ("QDRO"), and each employee organization representing participants in the plan. The applicable Treasury regulations [38] provide, however, that a plan administrator need not provide the section 204(h) notice to any participant or alternate payee whose rate of future benefit accrual is reasonably expected not to be reduced by the amendment, nor to an employee organization that does not represent a participant to whom the section 204(h) notice must be provided. In addition, the regulations provide that the rate of future benefit accrual is determined without regard to optional forms of benefit, early retirement benefits, retirement-type subsidiaries, ancillary benefits, and certain other rights and features.

A covered amendment generally will not become effective with respect to any participants and alternate payees whose rate of future benefit accrual is reasonably expected to be reduced by the

[38] Treas. Reg. sec. 1.411(d)–6.

amendment but who do not receive a section 204(h) notice. An amendment will become effective with respect to all participants and alternate payees to whom the section 204(h) notice was required to be provided if the plan administrator (1) has made a good faith effort to comply with the section 204(h) notice requirements, (2) has provided a section 204(h) notice to each employee organization that represents any participant to whom a section 204(h) notice was required to be provided, (3) has failed to provide a section 204(h) notice to no more than a de minimis percentage of participants and alternate payees to whom a section 204(h) notice was required to be provided, and (4) promptly upon discovering the oversight, provides a section 204(h) notice to each omitted participant and alternate payee.

The Internal Revenue Code does not require any notice concerning a plan amendment that provides for a significant reduction in the rate of future benefit accrual.

Reasons for change

The Committee is aware of recent significant publicity concerning conversions of traditional defined benefit pension plans to "cash balance" plans, with particular focus on the impact such conversions have on affected workers. Several legislative proposals have been introduced to address some of the issues relating to such conversions.

The Committee believes that employees are entitled to meaningful disclosure concerning plan amendments that may result in reductions of future benefit accruals. The Committee has determined that present law does not require employers to provide such disclosure, particularly in cases where traditional defined benefit plans are converted to cash balance plans. The Committee also believes that any disclosure requirements applicable to plan amendments should strike a balance between providing meaningful disclosure and avoiding the imposition of unnecessary administrative burdens on employers, and that this balance may best be struck through the regulatory process with an opportunity for input from affected parties.

Explanation of provision

The provision adds to the Internal Revenue Code a requirement that the plan administrator of a defined benefit pension plan or a money purchase pension plan with more than 100 participants furnish a written notice concerning a plan amendment that provides for a significant reduction in the rate of future benefit accrual. The plan administrator is required to provide in this notice, in a manner calculated to be understood by the average plan participant, sufficient information (as defined in Treasury regulations) to allow participants to understand the effect of the amendment.

The notice requirement does not apply to governmental plans or church plans with respect to which an election to have the qualified plan participation, vesting, and funding rules apply has not been made (sec. 410(d)).

The plan administrator is required to provide this notice to each affected participant, each affected alternate payee, and each employee organization representing affected participants. For pur-

poses of the provision, an affected participant or alternate payee is a participant or alternate payee to whom the significant reduction in the rate of future benefit accrual is reasonably expected to apply.

Except to the extent provided by Treasury regulations, the plan administrator is required to provide the notice within a reasonable time before the effective date of the plan amendment.

The provision imposes on a plan administrator that fails to comply with the notice requirement an excise tax equal to $100 per day per omitted participant and alternate payee. For failures due to reasonable cause and not to willful neglect, the total excise tax imposed during a taxable year of the employer will not exceed $500,000. Furthermore, in the case of a failure due to reasonable cause and not to willful neglect, the Secretary of the Treasury is authorized to waive the excise tax to the extent that the payment of the tax would be excessive relative to the failure involved.

The Committee anticipates that the Secretary will issue the necessary regulations within 90 days of enactment. The Committee also anticipates that such guidance may be relatively detailed because of the need to provide for alternative disclosures rather than a single disclosure methodology that may not fit all situations, and the need to consider the complex actuarial calculations and assumptions involved in providing necessary disclosures.

The Committee intends that Treasury regulations will provide for a notice that describes how the amendment generally will affect different classes of employees and that the regulations will require the plan administrator to furnish this notice not less than 30 days before the effective date of the amendment. With respect to an amendment that provides for a significant change in the manner in which accrued benefits are determined under the plan, or requires an affected participant or affected alternate payee to choose between 2 or more benefit formulas, the Committee intends that the regulations will require the plan administrator to provide an additional notice to each affected participant and affected alternate payee within 6 months after the effective date of the amendment.

An example of an amendment that provides for a significant change in the manner in which accrued benefits are determined is an amendment that replaces a benefit formula that defines a participant's normal retirement benefit as a percentage of the participant's final average compensation with a benefit formula that defines a participant's normal retirement benefit in terms of a hypothetical account credited with annual allocations of contributions and interest. Examples of amendments that do not provide for a significant change in the manner in which accrued benefits are determined are (1) an amendment that reduces the percentage of average compensation that the plan provides as an annual benefit commencing at normal retirement age from 60 percent to 50 percent, and (2) an amendment that modifies the definition of compensation used to determine average compensation by providing for the exclusion of bonuses and overtime.

The Committee intends that the regulations will require the plan administrator to provide in this additional notice (1) the individual's accrued benefit (and, if the amendment adds the option of an immediate lump sum distribution, the present value of the accrued benefit) as of the amendment effective date, determined under the

terms of the plan in effect immediately before the effective date, (2) the individual's accrued benefit as of the amendment effective date, determined under the terms of the plan in effect on the amendment effective date and without regard to any minimum accrued benefit that may not be decreased by the amendment (sec. 411(d)(6)), and (3) either (a) sufficient information for the individual to compute his or her projected accrued benefit or to acquire information necessary to compute such projected accrued benefit, or (b) a determination of the individual's projected accrued benefit with a disclosure of the assumptions (which must be reasonable in the aggregate) used by the plan in determining the projected accrued benefit. The Committee intends that the regulations will provide that, for purposes of this additional notice, an individual's accrued benefit and projected accrued benefit are computed as if the accrued benefit were in the form of a single life annuity at normal retirement age, taking into account any early retirement subsidy.

With respect to the description of the individual's accrued benefit as of the amendment effective date, an example of determining such benefit under the terms of the plan in effect on the amendment effective date and without regard to the sec. 411(d)(6) protected benefit is a situation in which (1) an amendment replaces a benefit formula that defines a participant's normal retirement benefit as a percentage of the participant's final average compensation with a benefit formula that defines a participant's normal retirement benefit in terms of a hypothetical account credited with annual allocations of contributions and interest, (2) the amendment adds the option of an immediate lump sum distribution, (3) the present value of a participant's sec. 411(d)(6) protected benefit is $50,000, and (4) the beginning balance of the participant's hypothetical account balance under the terms of the plan in effect on the amendment effective date is $25,000. In this example, the Committee intends that the regulations would provide that the required notice would inform the participant that, as of the amendment effective date, the individual's accrued benefit determined under the terms of the plan in effect immediately before the effective date is $50,000, and the individual's accrued benefit determined under the terms of the plan in effect on the amendment effective date is $25,000.

With respect to a plan amendment that requires an affected participant or affected alternate payee to choose between 2 or more benefit formulas, the Committee intends that the Secretary of the Treasury, after consultation with the Secretary of Labor, may require additional information to be provided in the notices and to require either of the notices to be provided at a different time. The Committee does not intend this authorization to result in a modification of the present-law fiduciary requirements under Title I of ERISA.

An example of facts and circumstances under which reasonable cause may exist for a failure to comply with the notice requirement is a plan administrator's inability to provide the required generalized notice concerning a plan amendment if the amendment results from a business merger or acquisition transaction and the timing of the transaction prevents the plan administrator from providing

the notice at least 30 days prior to the effective date of the amendment.

Effective date

The provision is effective for plan amendments taking effect on or after the date of enactment. The period for providing any notice required under the provision will not end before the last day of the 3-month period following the date of enactment. Prior to the issuance of Treasury regulations, a plan will be treated as meeting the requirements of the provision if the plan makes a good faith effort to comply with such requirements. Examples of good faith compliance in which the provision would not require additional employee communications include: (1) A plan amendment provides that participants may choose to have their accrued benefits determined under the amended plan formula or under the formula as in effect immediately prior to the amendment effective date, and the plan administrator provides participants with comparison information, including clearly stated assumptions, relative to the amended and prior formulas so that participants are able to make an informed decision; (2) A plan administrator provides to participants estimates of accrued benefits at various career stages, determined under the amended plan formula and under the formula as in effect immediately prior to the amendment effective date, including clearly stated assumptions, and stated as annuities and/or lump sums (without regard to section 417) as appropriate under the plan provisions; (3) An employer informs certain employees before they are hired that the employer's current plan benefit formula will be amended at a specified future date, and these employees participate in the plan under the formula as in effect immediately prior to the amendment until such specified future date (good faith compliance would be relevant for these employees only).

5. Modifications to section 415 limits for multiemployer plans (sec. 349 of the bill and sec. 415 of the Code)

Present law

Under present law, limits apply to contributions and benefits under qualified plans (sec. 415). The limits on contributions and benefits under qualified plans are based on the type of plan.

Under a defined benefit plan, the maximum annual benefit payable at retirement is generally the lesser of (1) 100 percent of average compensation for the highest three years, or (2) $130,000 (for 1999). The dollar limit is adjusted for cost-of-living increases in $5,000 increments. The dollar limit is reduced in the case of retirement before the social security retirement age and increases in the case of retirement after the social security retirement age.

A special rule applies to governmental defined benefit plans. In the case of such plans, the defined benefit dollar limit is reduced in the case of retirement before age 62 and increased in the case of retirement after age 65. In addition, there is a floor on early retirement benefits. Pursuant to this floor, the minimum benefit payable at age 55 is $75,000.

In the case of a defined contribution plan, the limit on annual is additions if the lesser of (1) 25 percent of compensation [39] or (2) $30,000 (for 1999). In applying the limits on contributions and benefits, plans of the same employer are aggregated.

Reasons for change

The Committee understands that, because pension benefits under multiemployer plans are typically based upon factors other than compensation, the section 415 benefit limits frequently result in benefit reductions for employees in industries in which wages vary annually.

Explanation of provision

Under the provision, the 100 percent of compensation defined benefit plan limit does not apply to multiemployer plans.

Effective date

The provision is effective for years beginning after December 31, 2000.

E. REDUCING REGULATORY BURDENS

1. Modification of timing of plan valuations (sec. 361 of the bill and sec. 412 of the Code)

Present law

Under present law, in the case of plans subject to the minimum funding rules, a plan valuation is generally required annually. The Secretary may require that a valuation be made more frequently in particular cases.

Prior to the Retirement Protection Act of 1994, plan valuations generally were required at least once every three years.

Reasons for change

While plan valuations are necessary to ensure adequate funding of defined benefit pension plans, they also create administrative burdens for employers. The Committee believes that requiring valuations at least once every three years in the case of well-funded plans strikes an appropriate balance between funding concerns and employer concerns about plan administrative costs.

Explanation of provision

The provision allows an employer to elect to use the prior year's plan valuation in certain cases. The election may be made only with respect to a defined benefit plan with assets of at least 125 percent of current liability (determined as of the valuation date for the preceding year). If the prior year's valuation is used, it must be adjusted, as provided in regulations, to reflect significant differences in participants. An election made under the provision may be revoked only with the consent of the Secretary. In any event, a plan valuation is required once every three years.[40]

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[39] Another provision increases this limit to 100 percent of compensation.

[40] As under present law, the Secretary could require that a valuation be made more frequently in particular cases.

Effective date

The provision is effective for plan years beginning after December 31, 2000.

2. ESOP dividends may be reinvested without loss of dividend deduction (sec. 362 of the bill and sec. 404 of the Code)

Present law

An employer is entitled to deduct certain dividends paid in cash during the employer's taxable year with respect to stock of the employer that is held by an employee stock ownership plan ("ESOP"). The deduction is allowed with respect to dividends that, in accordance with plan provisions, are (1) paid in cash directly to the plan participants or their beneficiaries, (2) paid to the plan and subsequently distributed to the participants or beneficiaries in cash no later than 90 days after the close of the plan year in which the dividends are paid to the plan, or (3) used to make payments on loans (including payments of interest as well as principal) that were used to acquire the employer securities (whether or not allocated to participants) with respect to which the dividend is paid.

Reasons for change

The Committee believes that it is appropriate to provide incentives for the accumulation of retirement benefits and expansion of employee ownership. The Committee has determined that the present-law rules concerning the deduction of dividends on employer stock held by an ESOP discourage employers from permitting such dividends to be reinvested in employer stock and accumulate for retirement purposes.

Explanation of provision

In addition to the deductions permitted under present law for dividends paid with respect to employer securities that are held by an ESOP, an employer is entitled to deduct dividends that, at the election of plan participants or their beneficiaries, are (1) payable in cash directly to plan participants or beneficiaries, (2) paid to the plan and subsequently distributed to the participants or beneficiaries in cash no later than 90 days after the close of the plan year in which the dividends are paid to the plan, or (3) paid to the plan and reinvested in qualifying employer securities.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

3. Repeal transition rule relating to certain highly compensated employees (sec. 363 of the bill and sec. 1114(c)(4) of the Tax Reform Act of 1986)

Present law

Under present law, for purposes of the rules relating to qualified plans, a highly compensated employee is generally defined as an

employee[41] who (1) was a 5-percent owner of the employer at any time during the year or the preceding year or (2) either (a) had compensation for the preceding year in excess of $80,000 (for 1999) or (b) at the election of the employer, had compensation in excess of $80,000 for the preceding year and was in the top 20 percent of employees by compensation for such year.

Under a rule enacted in the Tax Reform Act of 1986, a special definition of highly compensated employee applies for purposes of the nondiscrimination rules relating to qualified cash or deferred arrangements ("section 401(k) plans") and matching contributions. This special definition applies to an employer incorporated on December 15, 1924, that meets certain specific requirements.

Reasons for change

The Committee believes that it is appropriate to repeal the special definition of highly compensated employee in light of the substantial modification of the general definition of highly compensated employee in the Small Business Job Protection Act of 1996.

Explanation of provision

The provision repeals the special definition of highly compensated employee under the Tax Reform Act of 1986. Thus, the present-law definition applies.

Effective date

The provision is effective for plan years beginning after December 31, 2000.

4. Employees of tax-exempt entities (sec. 364 of the bill)

Present law

The Tax Reform Act of 1986 provided that nongovernmental tax-exempt employers were not permitted to maintain a qualified cash or deferred arrangement ("section 401(k) plan"). This prohibition was repealed, effective for years beginning after December 31, 1996, by the Small Business Job Protection Act of 1996.

Treasury regulations provide that, in applying the nondiscrimination rules to a section 401(k) plan (or a section 401(m) plan that is provided under the same general arrangement as the section 401(k) plan), the employer may treat as excludable those employees of a tax-exempt entity who could not participate in the arrangement due to the prohibition on maintenance of a section 401(k) plan by such entities. Such employees may be disregarded only if more than 95 percent of the employees who could participate in the section 401(k) plan benefit under the plan for the plan year.[42]

Tax-exempt charitable organizations may maintain a tax-sheltered annuity (a "section 403(b) annuity") that allows employees to make salary reduction contributions.

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[41] An employee includes a self-employed individual.
[42] Treas. Reg. sec. 1.410(b)–6(g).

Reasons for change

The Committee believes that it is appropriate to modify the special rule regarding the treatment of certain employees of a tax-exempt organization as excludable for section 401(k) plan nondiscrimination testing purposes in light of the provision of the Small Business Job Protection Act of 1996 that permits such organizations to maintain section 401(k) plans.

Explanation of provision

The Treasury Department is directed to revise its regulations under section 410(b) to provide that employees of a tax-exempt charitable organization who are eligible to make salary reduction contributions under a section 403(b) annuity may be treated as excludable employees for purposes of testing a section 401(k) plan, or a section 401(m) plan that is provided under the same general arrangement as the section 401(k) plan of the employer if (1) no employee of such tax-exempt entity is eligible to participate in the section 401(k) or 401(m) plan and (2) at least 95 percent of the employees who are not employees of the charitable employer are eligible to participate in such section 401(k) plan or section 401(m) plan.

The revised regulations will be effective for years beginning after December 31, 1996.

Effective date

The provision is effective on the date of enactment.

5. Treatment of employer-provided retirement advice (sec. 365 of the bill and sec. 132 of the Code)

Present law

Under present law, certain employer-provided fringe benefits are excludable from gross income (sec. 132) and wages for employment tax purposes. These excludable fringe benefits include working condition fringe benefits and de minimis fringes. In general, a working condition fringe benefit is any property or services provided by an employer to an employee to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction as a business expense. A de minimis fringe benefit is any property or services provided by the employer the value of which, after taking into account the frequency with which similar fringes are provided, is so small as to make accounting for it unreasonable or administratively impracticable.

In addition, if certain requirements are satisfied, up to $5,250 annually of employer-provided educational assistance is excludable from gross income (sec. 127) and wages. This exclusion expires with respect to courses beginning after May 31, 2000.[43] Education not excludable under section 127 may be excludable as a working condition fringe.

There is no specific exclusion under present law for employer-provided retirement planning services. However, such services may

[39] The exclusion does not apply with respect to graduate-level courses.

be excludable as employer-provided educational assistance or a fringe benefit.

Reasons for change

In order to plan adequately for retirement, individuals must anticipate retirement income needs and understand how their retirement income goals can be achieved. Employer-sponsored plans are a key part of retirement income planning. The Committee believes that employers sponsoring retirement plans should be encouraged to provide retirement planning services for their employees in order to assist them in preparing for retirement.

Explanation of provision

Qualified retirement planning services provided to an employee and his or her spouse by an employer maintaining a qualified plan are excludable from income and wages. The exclusion does not apply with respect to highly compensated employees unless the services are available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified plan. The exclusion is intended to allow employers to provide advice and information regarding retirement planning. The exclusion is not limited to information regarding the qualified plan, and, thus, for example, applies to advice and information regarding retirement income planning for an individual and his or her spouse and how the employer's plan fits into the individual's overall retirement income plan. On the other hand, the exclusion is not intended to apply to services that may be related to retirement planning, such as tax preparation, accounting, legal or brokerage services. The Committee also intends that the provision is not to be interpreted as narrowing present law.

Effective date

The provision is effective with respect to taxable years beginning after December 31, 2000.

6. Reporting simplification (sec. 366 of the bill)

Present law

A plan administrator of a pension, annuity, stock bonus, profit-sharing or other funded plan of deferred compensation generally must file with the Secretary of the Treasury an annual return for each plan year containing certain information with respect to the qualification, financial condition, and operation of the plan. Title I of ERISA also may require the plan administrator to file annual reports concerning the plan with the Department of Labor and the Pension Benefit Guaranty Corporation ("PBGC"). The plan administrator must use the Form 5500 series as the format for the required annual return.[44] The Form 5500 series annual return/report, which consists of a primary form and various schedules, includes the information required to be filed with all three agencies. The plan administrator satisfies the reporting requirement with re-

[44] Treas. Reg. sec. 301.6058–1(a).

spect to each agency by filing the Form 5500 series annual return/report with the Internal Revenue Service ("IRS"), which forwards the form to the Department of Labor and the PBGC.

The Form 5500 series consists of 3 different forms: Form 5500, Form 5500–C/R, and Form 5500–EZ. Form 5500 is the most comprehensive of the forms and requires the most detailed financial information. Form 5500–C/R requires less information than Form 5500, and Form 5500–EZ, which consists of only 1 page, is the simplest of the forms.

The size of the plan determines which form a plan administrator must file. If the plan has more than 100 participants at the beginning of the plan year, the plan administrator generally must file Form 5500. If the plan has fewer than 100 participants at the beginning of the plan year, the plan administrator generally may file Form 5500–C/R. A plan administrator generally may file Form 5500–EZ if (1) the only participants in the plan are the sole owner of a business that maintains the plan (and such owner's spouse), or partners in a partnership that maintains the plan (and such partners' spouses), (2) the plan is not aggregated with another plan in order to satisfy the minimum coverage requirements of section 410(b), (3) the employer is not a member of a related group of employers, and (4) the employer does not receive the services of leased employees. If the plan satisfies the eligibility requirements for Form 5500–EZ and the total value of the plan assets as of the end of the plan year and all prior plan years does not exceed $100,000, the plan administrator is not required to file a return.

Reasons for change

The Committee believes that simplification of the reporting requirements applicable to plans of small employers will encourage such employers to provide retirement benefits for their employees.

Explanation of provision

The Secretary of the Treasury is directed to provide for the filing of a simplified annual return substantially similar to the Form 5500–EZ by a plan that (1) covers less than 25 employees on the first day of the plan year, (2) is not aggregated with another plan in order to satisfy the minimum coverage requirements of section 410(b), (3) is maintained by an employer that is not a member of a related group of employers, and (4) is maintained by an employer that does not receive the services of leased employees.

In addition, the Secretary is directed to modify the annual return filing requirements with respect to plans that satisfy the eligibility requirements for Form 5500–EZ to provide that if the total value of the plan assets of such a plan as of the end of the plan year and all prior plan years does not exceed $250,000, the plan administrator is not required to file a return.

Effective date

The provision is effective on the date of enactment.

7. Improvement to Employee Plans Compliance Resolution System (sec. 367 of the bill)

Present law

A retirement plan that is intended to be a tax-qualified plan provides retirement benefits on a tax-favored basis if the plan satisfies all of the requirements of section 401(a). Similarly, an annuity that is intended to be a tax-sheltered annuity provides retirement benefits on a tax-favored basis if the program satisfies all of the requirements of section 403(b). Failure to satisfy all of the applicable requirements of section 401(a) or section 403(b) may disqualify a plan or annuity for the intended tax-favored treatment.

The Internal Revenue Service ("IRS") has established the Employee Plans Compliance Resolution System ("EPCRS"), which is a comprehensive system of correction programs for sponsors of retirement plans and annuities that are intended, but have failed, to satisfy the requirements of section 401(a) and section 403(b), as applicable.[45] EPCRS permits employers to correct compliance failures and continue to provide their employees with retirement benefits on a tax-favored basis.

The IRS has designed EPCRS to (1) encourage operational and formal compliance, (2) promote voluntary and timely correction of compliance failures, (3) provide sanctions for compliance failures identified on audit that are reasonable in light of the nature, extent, and severity of the violation, (4) provide consistent and uniform administration of the correction programs, and (5) permit employers to rely on the availability of EPCRS in taking corrective actions to maintain the tax-favored status of their retirement plans and annuities.

The basic elements of the programs that comprise EPCRS are self-correction, voluntary correction with IRS approval, and correction on audit. The Administrative Policy Regarding Self-Correction ("APRSC") permits a plan sponsor that has established compliance practices to correct certain insignificant failures at any time (including during an audit), and certain significant failures within a 2–year period, without payment of any fee or sanction. The Voluntary Compliance Resolution ("VCR") program, the Walk-In Closing Agreement Program ("Walk-In CAP"), and the Tax-Sheltered Annuity Voluntary Correction ("TVC") program permit an employer, at any time before an audit, to pay a limited fee and receive IRS approval of a correction. For a failure that is discovered on audit and corrected, the Audit Closing Agreement Program ("Audit CAP") provides for a sanction that bears a reasonable relationship to the nature, extent, and severity of the failure and that takes into account the extent to which correction occurred before audit.

The IRS has expressed its intent that EPCRS will be updated and improved periodically in light of experience and comments from those who use it.

Reasons for change

The Committee commends the IRS for the establishment of EPCRS and agrees with the IRS that EPCRS should be updated

[45] Rev. Proc. 98–22, 1998–12 I.R.B. 11, as modified by Rev. Proc. 99–13, 1999–5, I.R.B. 52.

and improved periodically. The Committee believes that future improvements should facilitate use of the compliance and correction programs by small employers and expand the flexibility of the programs.

Explanation of provision

The Secretary of the Treasury is directed to continue to update and improve EPCRS, giving special attention to (1) increasing the awareness and knowledge of small employers concerning the availability and use of EPCRS, (2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures, (3) extending the duration of the self-correction period under APRSC for significant compliance failures, (4) expanding the availability to correct insignificant compliance failures under APRSC during audit, and (5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

Effective date

The provision is effective on the date of enactment.

18. Rules for substantial owner benefits in terminated plans (sec. 368 of the bill and secs. 4021, 4022, 4043 and 4044 of ERISA)

Present law

Under present law, the Pension Benefit Guaranty Corporation ("PBGC") provides participants and beneficiaries in a defined benefit pension plan with certain minimal guarantees as to the receipt of benefits under the plan in case of plan termination. The employer sponsoring the defined benefit pension plan is required to pay premiums to the PBGC to provide insurance for the guaranteed benefits. In general, the PBGC will guarantee all basic benefits which are payable in periodic installments for the life (or lives) of the participant and his or her beneficiaries and are non-forfeitable at the time of plan termination. The amount of the guaranteed benefit is subject to certain limitations. One limitation is that the plan (or an amendment to the plan which increases benefits) must be in effect for 60 months before termination for the PBGC to guarantee the full amount of basic benefits for a plan participant, other than a substantial owner. In the case of a substantial owner, the guaranteed basic benefit is phased in over 30 years beginning with participation in the plan. A substantial owner is one who owns, directly or indirectly, more than 10 percent of the voting stock of a corporation or all the stock of a corporation. Special rules restricting the amount of benefit guaranteed and the allocation of assets also apply to substantial owners.

Reasons for change

The Committee believes that the present-law rules concerning limitations on guaranteed benefits for substantial owners are overly complicated and restrictive and thus may discourage some small business owners from establishing defined benefit pension plans.

Explanation of provision

The provision provides that the 60 month phase-in of guaranteed benefits applies to a substantial owner with less than 50 percent ownership interest. For a substantial owner with a 50 percent or more ownership interest ("majority owner"), the phase-in depends on the number of years the plan has been in effect. The majority owner's guaranteed benefit is limited so that it may not be more than the amount phased in over 60 months for other participants. The rules regarding allocation of assets apply to substantial owners, other than majority owners, in the same manner as other participants.

Effective date

The provision is effective for plan terminations with respect to which notices of intent to terminate are provided, or for which proceedings for termination are instituted by the PBGC after December 31, 2000.

9. Clarification of exclusion for employer-provided transit passes (sec. 369 of the bill and sec. 132 of the Code)

Present law

Qualified transportation fringe benefits provided by an employer are excluded from an employee's gross income and wages. Qualified transportation fringe benefits include parking, transit passes, and vanpool benefits. Up to $175 per month (for 1999) of employer-provided parking is excludable from income and up to $65 (for 1999) per month of employer-provided transit and vanpool benefits are excludable from income.

Qualified transportation benefits generally include a cash reimbursement by an employer to an employee. However, in the case of transit passes, a cash reimbursement is considered a qualified transportation fringe benefit only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

No amount is includible in the gross income of an employee merely because the employee is offered a choice between cash and any qualified transportation benefit (or a choice among such benefits).

Reasons for change

The Committee believes that the present-law voucher rule relating to transit benefits unduly restricts the use of cash reimbursement for such benefits compared to other types of qualified transportation benefits. In addition, the Committee understands that some employers are concerned about the administrative interpretation of the present-law rules, and may be discouraged from providing such benefits because of the costs and administrative burdens involved in obtaining vouchers or due to concerns that the IRS will disqualify their reimbursement programs. The Committee believes that transit benefits should not be subject to more restrictive rules than other transportation fringe benefits, and that the provision of transit benefits should be encouraged.

Explanation of provision

The provision repeals the rule providing that cash reimbursements for transit benefits are excludable from income only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer.

Effective date

The provision is effective for taxable years beginning after December 31, 2000.

10. Repeal of the multiple use test (sec. 370 of the bill and sec. 401(m) of the Code)

Present law

Elective deferrals under a qualified cash or deferred arrangement ("section 401(k) plan") are subject to a special annual nondiscrimination test ("ADP test"). The ADP test compares the actual deferral percentages ("ADPs") of the highly compensated employee group and the nonhighly compensated employee group. The ADP for each group generally is the average of the deferral percentages separately calculated for the employees in the group who are eligible to make elective deferrals for all or a portion of the relevant plan year. Each eligible employee's deferral percentage generally is the employee's elective deferrals for the year divided by the employee's compensation for the year.

The plan generally satisfies the ADP test if the ADP of the highly compensated employee group for the current plan year is either (1) not more than 125 percent of the ADP of the nonhighly compensated employee group for the prior plan year, or (2) not more than 200 percent of the ADP of the nonhighly compensated employee group for the prior plan year and not more than 2 percentage points greater than the ADP of the nonhighly compensated employee group for the prior plan year.

Employer matching contributions and after-tax employee contributions under a defined contribution plan also are subject to a special annual nondiscrimination test ("ACP test"). The ACP test compares the actual deferral percentages ("ACPs") of the highly compensated employee group and the nonhighly compensated employee group. The ACP for each group generally is the average of the contribution percentages separately calculated for the employees in the group who are eligible to make after-tax employee contributions or who are eligible for an allocation of matching contributions for all or a portion of the relevant plan year. Each eligible employee's contribution percentage generally is the employee's aggregate after-tax employee contributions and matching contributions for the year divided by the employee's compensation for the year.

The plan generally satisfies the ACP test if the ACP of the highly compensated employee group for the current plan year is either (1) not more than 125 percent of the ACP of the nonhighly compensated employee group for the prior plan year, or (2) not more than 200 percent of the ACP of the nonhighly compensated employee group for the prior plan year and not more than 2 percent-

age points greater than the ACP of the nonhighly compensated employee group for the prior plan year.

For any year in which (1) at least one highly compensated employee is eligible to participate in an employer's plan or plans that are subject to both the ADP test and the ACP test, (2) the plan subject to the ADP test satisfies the ADP test but the ADP of the highly compensated employee group exceeds 125 percent of the ADP of the nonhighly compensated employee group, and (3) the plan subject to the ACP test satisfies the ACP test but the ACP of the highly compensated employee group exceeds 125 percent of the ACP of the nonhighly compensated employee group, an additional special nondiscrimination test ("multiple use test") applies to the elective deferrals, employer matching contributions, and after-tax employee contributions. The plan or plans generally satisfy the multiple use test if the sum of the ADP and the ACP of the highly compensated employee group does not exceed the greater of (1) the sum of (A) 1.25 times the greater of the ADP or the ACP of the nonhighly compensated employee group, and (B) 2 percentage points plus (but not more than 2 times) the lesser of the ADP or the ACP of the nonhighly compensated employee group, or (2) the sum of (A) 1.25 times the lesser of the ADP or the ACP of the nonhighly compensated employee group, and (B) 2 percentage points plus (but not more than 2 times) the greater of the ADP or the ACP of the nonhighly compensated employee group.

Reasons for change

The Committee believes that the ADP test and the ACP test are adequate to prevent discrimination in favor of highly compensated employees under 401(k) plans and has determined that the multiple use test unnecessarily complicates 401(k) plan administration.

Explanation of provision

The provision repeals the multiple use test.

Effective date

The provision is effective for years beginning after December 31, 2000.

11. Flexibility in nondiscrimination and line of business rules (sec. 371 of the bill and secs. 401(a)(4), 410(b), and 414(r) of the Code)

Present law

A plan is not a qualified retirement plan if the contributions or benefits provided under the plan discriminate in favor of highly compensated employees (sec. 401(a)(4)). The applicable Treasury regulations set forth the exclusive rules for determining whether a plan satisfies the nondiscrimination requirement. These regulations state that the form of the plan and the effect of the plan in operation determine whether the plan is nondiscriminatory and that intent is irrelevant.

Similarly, a plan is not a qualified retirement plan if the plan does not benefit a minimum number of employees (sec. 410(b)). A plan satisfies this minimum coverage requirement if and only if it satisfies one of the tests specified in the applicable Treasury regu-

lations. If an employer is treated as operating separate lines of business, the employer may apply the minimum coverage requirements to a plan separately with respect to the employees in each separate line of business (sec. 414(r)). Under a so-called "gateway" requirement, however, the plan must benefit a classification of employees that does not discriminate in favor of highly compensated employees in order for the employer to apply the minimum coverage requirements separately for the employees in each separate line of business. A plan satisfies this gateway requirement only if it satisfies one of the tests specified in the applicable Treasury regulations.

Reasons for change

It has been brought to the attention of the Committee that some plans are unable to satisfy the mechanical tests used to determine compliance with the nondiscrimination and line of business requirements solely as a result of relatively minor plan provisions. The Committee believes that, in such cases, it may be appropriate to expand the consideration of facts and circumstances in the application of the mechanical tests.

Explanation of provision

The Secretary of the Treasury is directed to modify, on or before December 31, 2000, the existing regulations issued under section 414(r) in order to expand (to the extent that the Secretary may determine to be appropriate) the ability of a plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.

The Secretary of the Treasury is directed to provide by regulation applicable to years beginning after December 31, 2000, that a plan is deemed to satisfy the nondiscrimination requirements of section 401(a)(4) if the plan satisfies the pre–1994 facts and circumstances test, satisfies the conditions prescribed by the Secretary to appropriately limit the availability of such test, and is submitted to the Secretary for a determination of whether it satisfies such test (to the extent provided by the Secretary).

Similarly, a plan complies with the minimum coverage requirement of section 410(b) if the plan satisfies the pre–1989 coverage rules, is submitted to the Secretary for a determination of whether it satisfies the pre–1989 coverage rules (to the extent provided by the Secretary), and satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of the pre–1989 coverage rules.

Effective date

The provision is effective on the date of enactment.

12. Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local government plans (sec. 372 of the bill, sec. 1505 of the Taxpayer Relief Act of 1997, and secs. 401(a) and 401(k) of the Code)

Present law

A qualified retirement plan maintained by a State or local government is exempt from the rules concerning nondiscrimination (sec. 401(a)(4)) and minimum participation (sec. 401(a)(26)). A governmental plan maintained by an international organization that is exempt from taxation by reason of the International Organizations Immunities Act is not exempt from the nondiscrimination and minimum participation rules.

Reasons for change

The Committee believes that application of the nondiscrimination and minimum participation rules to plans maintained by tax-exempt international organizations is unnecessary and inappropriate in light of the unique circumstances under which such plans and organizations operate.

Explanation of provision

A governmental plan maintained by a tax-exempt international organization is exempt from the nondiscrimination and minimum participation rules.

Effective date

The provision is effective for plan years beginning after December 31, 2000.

13. Notice and consent period regarding distributions (sec. 373 of the bill and sec. 417 of the Code)

Present law

Notice and consent requirements apply to certain distributions from qualified retirement plans. These requirements relate to the content and timing of information that a plan must provide to a participant prior to a distribution, and to whether the plan must obtain the participant's consent to the distribution. The nature and extent of the notice and consent requirements applicable to a distribution depend upon the value of the participant's vested accrued benefit and whether the joint and survivor annuity requirements (sec. 417) apply to the participant.[46]

If the present value of the participant's vested accrued benefit exceeds $5,000, the plan may not distribute the participant's benefit without the written consent of the participant. The participant's consent to a distribution is not valid unless the participant has received from the plan a notice that contains a written explanation of (1) the material features and the relative values of the optional forms of benefit available under the plan, (2) the participant's right, if any, to have the distribution directly transferred to

[46] Similar provisions are contained in Title I of ERISA.

another retirement plan or IRA, and (3) the rules concerning the taxation of a distribution. If the joint and survivor annuity requirements apply to the participant, this notice also must contain a written explanation of (1) the terms and conditions of the qualified joint and survivor annuity ("QJSA"), (2) the participant's right to make, and the effect of, an election to waive the QJSA, (3) the rights of the participant's spouse with respect to a participant's waiver of the QJSA, and (4) the right to make, and the effect of, a revocation of a waiver of the QJSA. The plan generally must provide this notice to the participant no less than 30 and no more than 90 days before the date distribution commences.

If the participant's vested accrued benefit does not exceed $5,000, the terms of the plan may provide for distribution without the participant's consent. The plan generally is required, however, to provide to the participant a notice that contains a written explanation of (1) the participant's right, if any, to have the distribution directly transferred to another retirement plan or IRA, and (2) the rules concerning the taxation of a distribution. The plan generally must provide this notice to the participant no less than 30 and no more than 90 days before the date distribution commences.

Reasons for change

The Committee understands that an employee is not always able to evaluate distribution alternatives, select the most appropriate alternative, and notify the plan of the selection within a 90–day period. The Committee believes that requiring a plan to furnish multiple distribution notices to an employee who does not make a distribution election within 90 days is administratively burdensome. In addition, the Committee believes that participants who are entitled to defer distributions should be informed of the impact of a decision not to defer distribution on the taxation and accumulation of their retirement benefits.

Explanation of provision

A qualified retirement plan is required to provide the applicable distribution notice no less than 30 days and no more than 180 days before the date distribution commences. The Secretary of the Treasury is directed to modify the applicable regulations to reflect the extension of the notice period to 180 days and to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

Effective date

The provision is effective for years beginning after December 31, 2000.

F. PROVISIONS RELATING TO PLAN AMENDMENTS (SEC. 381 OF THE BILL)

Present law

Plan amendments to reflect amendments to the law generally must be made by the time prescribed by law for filing the income

tax return of the employer for the employer's taxable year in which the change in law occurs.

Reasons for change

The Committee believes that employers should have adequate time to amend their plans to reflect amendments to the law.

Explanation of provision

Any amendments to a plan or annuity contract required to be made by the provision are not required to be made before the last day of the first plan year beginning on or after January 1, 2003. In the case of a governmental plan, the date for amendments is extended to the last day of the first plan year beginning on or after January 1, 2005. The delayed amendment date shall not apply to any amendment required or permitted by the provision unless, during the period beginning on the date the applicable section of the provision takes effect and ending on the delayed amendment date, (1) the plan or annuity contract is operated as if such amendment were in effect, and (2) such amendment applies retroactively for such period.

Effective date

The provision is effective on the date of enactment.

TITLE IV. EXTENSION OF WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT

A. EXTEND THE WORK OPPORTUNITY TAX CREDIT (SEC. 401 OF THE BILL AND SEC. 51 OF THE CODE)

Present law

The work opportunity tax credit ("WOTC") is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit generally is equal to a percentage of qualified wages. The credit percentage is 25 percent for employment of at least 120 hours but less than 400 hours and 40 percent for employment of 400 hours or more. Qualified wages consist of wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual begins work for the employer.

Generally, no more than $6,000 of wages during the first year of employment is permitted to be taken into account with respect to any individual. Thus, the maximum credit per individual is $2,400. With respect to qualified summer youth employees, the maximum credit is 40 percent of up to $3,000 of qualified first-year wages, for a maximum credit of $1,200. The credit is only effective for wages paid to, or incurred with respect to, qualified individuals who began work for the employer before July 1, 1999.

The employer's deduction for wages is reduced by the amount of the credit.

Reasons for change

The Committee believes the preliminary experience of the WOTC is promising as an incentive for employers to hire individuals who are under-skilled, undereducated, or who generally may be less de-

sirable (e.g., lacking in work experience) to employers. A temporary extension of this credit will allow the Congress and the Treasury and Labor Departments to continue to monitor the effectiveness of the credit. The Committee also believes that the electronic filing of the request for certification (the "Form 8850") will reduce the administrative burden involved in claiming the credit and encourage more employers to participate in the program.

Explanation of provision

The bill extends the WOTC for 30 months (through December 31, 2001). However, under the bill, credits earned by taxpayers for expenditures incurred after June 30, 1999, would not be claimed or taken into account for estimated taxes or otherwise prior to October 1, 2000. The bill provides that taxpayers may file for expedited refunds after September 30, 2000.

The bill also directs the Secretary of the Treasury to expedite procedures to allow taxpayers to satisfy their WOTC filing requirements (e.g., Form 8850) by electronic means.

Effective date

Generally, the provision is effective for wages paid to, or incurred with respect to, qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

B. EXTEND THE WELFARE-TO-WORK TAX CREDIT (SEC. 401 OF THE BILL AND SEC. 51A OF THE CODE)

Present law

The Code provides a tax credit to employers on the first $20,000 of eligible wages paid to qualified long-term family assistance ("TANF") recipients during the first two years of employment. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. The maximum credit is $8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997 (the date of enactment of this credit) if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Eligible wages include cash wages paid to an employee plus amounts paid by the employer for the following: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129.

The welfare to work credit is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 1998, and before June 30, 1999.

Reasons for change

The Committee believes that the credit should be temporarily extended to provide the Congress and the Treasury and Labor Departments a better opportunity to assess the operation and effectiveness of the credit in meeting its goals. When enacted in the Taxpayer Relief Act of 1997, the goals of the welfare-to-work credit were: (1) to provide an incentive to hire long-term welfare recipients; (2) to promote the transition from welfare to work by increasing access to employment; and (3) to encourage employers to provide these individuals with training, health coverage, dependent care and ultimately better job attachment.

Explanation of provision

The bill extends the welfare-to-work credit for 30 months (through December 31, 2001). However, under the bill, credits earned by taxpayers for expenditures incurred after June 30, 1999, would not be claimed or taken into account for estimated taxes or otherwise prior to October 1, 2000. The bill provides that taxpayers may file for expedited refunds after September 30, 2000.

Effective date

The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2002.

TITLE V. ESTATE TAX RELIEF

A. REDUCTION OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES (SECS. 501, 502, AND 511 OF THE BILL AND SECS. 2001, 2010, AND 2505 OF THE CODE)

Present law

A gift tax is imposed on lifetime transfers and an estate tax is imposed on transfers at death. The gift tax and the estate tax are unified so that a single graduated rate schedule applies to cumulative taxable transfers made by a taxpayer during his or her lifetime and at death. The unified estate and gift tax rates begin at 18 percent on the first $10,000 in cumulative taxable transfers over $3 million. In addition, a 5-percent surtax is imposed on cumulative taxable transfers between $10 million and the amount necessary to phase out the benefits of the graduated rates.

A unified credit is available with respect to taxable transfers by gift and at death. The unified credit amount effectively exempts from tax a total of $650,000 in 1999, $675,000 in 2000 and 2001, $700,000 in 2002 and 2003, $850,000 in 2004, $950,000 in 2005, and $1 million in 2006 and thereafter.

A generation-skipping transfer ("GST") tax generally is imposed on transfers, either directly or through a trust or similar arrangement, to a "skip person" (i.e., a beneficiary in a generation more than one generation below that of the transferor). Transfers subject to the GST tax include direct skips, taxable terminations, and tax-

able distributions. The GST tax is imposed at a flat rate of 55 percent (i.e., the top estate and gift tax rate) on cumulative generation-skipping transfers in excess of $1 million (indexed beginning in 1999).

Reasons for change

The Committee finds that the estate, gift, and GST taxes are unduly burdensome on all taxpayers, including decedents' estates, decedents' heirs, and businesses. Therefore, the Committee believes it is appropriate to reduce the estate, gift, and GST tax burden imposed on all taxpayers.

Explanation of provision

The bill contains a sense of the Congress that death tax relief is considered a first step in the effort to ultimately repeal the estate, gift, and GST taxes.

The bill provides that, beginning in 2001, the unified credit is converted into a unified exemption, and the 5-percent surtax (which phases out the benefit of the graduated rates) and rates in excess of 53 percent are repealed. In 2002, the rates in excess of 50 percent are repealed. In 2003 and 2004, all estate and gift tax rates are reduced by 1 percentage point each year, after which the rates will remain as in effect in 2004. In 2003 and 2004, there is a proportionate reduction in the state death tax credit rate each year, after which the state death tax credit will remain as in effect in 2004.

Effective date

The unified credit is replaced with a unified exemption, and the 5-percent surtax and rates in excess of 53 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2000. The rates in excess of 50 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001. All estate and gift tax rates are reduced by 1 percentage point each year (and there is a proportionate reduction in the state death tax credit) in 2003 and 2004, which applies to estates of decedents dying after and gifts made after December 31, 2002.

B. MODIFY GENERATION-SKIPPING TAX RULES

1. Deemed allocation of the generation-skipping transfer ("GST") tax exemption to lifetime transfers to trusts that are not direct skips (sec. 521 of the bill and sec. 2632 of the Code)

Present law

A GST tax generally is imposed on transfers, either directly or through a trust or similar arrangement, to a "skip person" (i.e., a beneficiary in a generation more than one generation below that of the transferor). Transfers subject to the GST tax include direct skips, taxable terminations, and taxable distributions. An exemption of $1 million (indexed beginning in 1999) is provided for each person making generation-skipping transfers. The exemption may be allocated by a transferor (or his or her executor) to transferred property.

A direct skip is any transfer subject to estate or gift tax of an interest in property to a skip person. A skip person may be a natural person or certain trusts. All persons assigned to the second or more remote generation below the transferor are skip persons (e.g., grandchildren and great-grandchildren). Trusts are skip persons if (1) all interests in the trust are held by skip persons, or (2) no person holds an interest in the trust and at no time after the transfer may a distribution (including distributions and terminations) be made to a non-skip person.

A taxable termination is a termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in trust unless, immediately after such termination, a non-skip person has an interest in the property, or unless at no time after the termination may a distribution (including a distribution upon termination) be made from the trust to a skip person. A taxable distribution is a distribution from a trust to a skip person (other than a taxable termination or direct skip).

The tax rate on generation-skipping transfers is a flat rate of tax equal to the maximum estate and gift tax rate in effect at the time of the transfer (55 percent under present law) multiplied by the "inclusion ratio." The inclusion ratio with respect to any property transferred in a generation-skipping transfer indicates the amount of "GST exemption" allocated to a trust. The allocation of GST exemption reduces the 55-percent tax rate on a generation-skipping transfer.

If an individual makes a direct skip during his or her lifetime, any unused GST exemption is automatically allocated to a direct skip to the extent necessary to make the inclusion ratio for such property equal to zero. An individual may elect out of the automatic allocation for lifetime direct skips.

For lifetime transfers made to a trust that are not direct skips, the transferor must allocate GST exemption—the allocation is not automatic. If GST exemption is allocated on a timely-filed gift tax return, then the portion of the trust which is exempt from GST tax is based on the value of the property at the time of the transfer. If, however, the allocation is not made on a timely-filed gift tax return, then the portion of the trust which is exempt from GST tax is based on the value of the property at the time the allocation of GST exemption was made.

Treas. Reg. 26.2632–1(d) further provides that any unused GST exemption, which has not been allocated to transfers made during an individual's life, is automatically allocated on the due date for filing the decedent's estate tax return. Unused GST exemption is allocated pro rata on the basis of the value of the property as finally determined for estate tax purposes, first to direct skips treated as occurring at the transferor's death. The balance, if any, of unused GST exemption is allocated pro rata, on the basis of the estate tax value of the nonexempt portion of the trust property (or in the case of trusts that are not included in the gross estate, on the basis of the date of death value of the trust) to trusts with respect to which a taxable termination may occur or from which a taxable distribution may be made.

Reasons for change

Under present law, GST tax exemption is automatically allocated to transfers that are direct skips; however, GST tax exemption is not automatically allocated to transfers to trusts that are not direct skips ("indirect skips"). The Committee recognizes that there are situations where a taxpayer would desire allocation of GST tax exemption, yet the taxpayer had missed allocating GST tax exemption to an indirect skip, e.g., because the taxpayer or the taxpayer's advisor inadvertently omitted making the election on a timely-filed gift tax return or the taxpayer submitted a defective election. Thus, the Committee believes that automatic allocation is appropriate for transfers to a trust from which generation-skipping transfers are likely to occur.

Explanation of provision

Under the bill, GST tax exemption is automatically allocated to transfers made during life that are "indirect skips." An indirect skip is any transfer of property (that is not a direct skip) subject to the gift tax that is made to a GST trust.

A GST trust is defined as a trust that could have a generation-skipping transfer with respect to the transferor (e.g., a taxable termination or taxable distribution), unless:

The trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by 1 or more individuals who are non-skip persons (a) before the date that the individual attains age 46, (b) on or before 1 or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or (c) upon the occurrence of an event that, in accordance with regulations prescribed by the Treasury Secretary, may reasonably be expected to occur before the date that such individual attains age 46;

The trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by 1 or more individuals who are non-skip persons and who are living on the date of death of another person identified in the instrument (by name or by class) who is more than 10 years older than such individuals;

The trust instrument provides that, if 1 or more individuals who are non-skip persons die on or before a date or event described in clause (1) or (2), more than 25 percent of the trust corpus either must be distributed to the estate or estates of 1 or more of such individuals or is subject to a general power of appointment exercisable by 1 or more of such individuals;

The trust is a trust any portion of which would be included in the gross estate of a non-skip person (other than the transferor) if such person died immediately after the transfer;

The trust is a charitable lead annuity trust or a charitable remainder annuity trust or a charitable unitrust; or

The trust is a trust with respect to which a deduction was allowed under section 2522 for the amount of an interest in the form of the right to receive annual payments of a fixed percentage of the net fair market value of the trust property (determined yearly) and which is required to pay principal to a non-

skip person if such person is alive when the yearly payments for which the deduction was allowed terminate.

If any individual makes an indirect skip during the individual's lifetime, then any unused portion of such individual's GST exemption is allocated to the property transferred to the extent necessary to produce the lowest possible inclusion ratio for such property.

An individual may elect not to have the automatic allocation rules apply to an indirect skip, and such elections will be deemed timely if filed on a timely-filed gift tax return for the calendar year in which the transfer was made or deemed to have been made or on such later date or dates as may be prescribed by the Treasury Secretary. An individual may elect not to have the automatic allocation rules apply to any or all transfers made by such individual to a particular trust and may elect to treat any trust as a GST trust with respect to any or all transfers made by the individual to such trust, and such election may be made on a timely-filed gift tax return for the calendar year for which the election is to become effective.

Effective date

The provision applies to transfers subject to estate or gift tax made after December 31, 1999, and to estate tax inclusion periods ending after December 31, 1999.

2. Retroactive allocation of the GST tax exemption (sec. 521 of the bill and sec. 2632 of the Code)

Present law

A taxable termination is a termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in trust unless, immediately after such termination, a non-skip person has an interest in the property, or unless at no time after the termination may a distribution (including a distribution upon termination) be made from the trust to a skip person. A taxable distribution is a distribution from a trust to a skip person (other than a taxable termination or direct skip). If a transferor allocates GST tax exemption to a trust prior to the taxable termination or taxable distribution, GST tax may be avoided.

A transferor likely will not allocate GST tax exemption to a trust that the transferor expects will benefit only non-skip persons. However, if a taxable termination occurs because, for example, the transferor's child unexpectedly dies such that the trust terminates in favor of the transferor's grandchild, and GST tax exemption had not been allocated to the trust, then GST tax would be due even if the transferor had unused GST tax exemption.

Reasons for change

The Committee recognizes that when a transferor does not expect the second generation (e.g., the transferor's child) to die before the termination of a trust, the transferor likely will not allocate GST tax exemption to the transfer to the trust. If a transferor knew, however, that the transferor's child might predecease the transferor and that there could be a taxable termination as a result thereof, the transferor likely would have allocated GST tax exemp-

tion at the time of the transfer to the trust. The Committee believes it is appropriate to provide that when there is an unnatural order of death (e.g., when the second generation dies before the first generation transferor), the transferor may allocate GST tax exemption retroactively to the date of the respective transfer to trust.

Explanation of provision

Under the bill, GST tax exemption may be allocated retroactively when there is an unnatural order of death. If a lineal descendant of the transferor predeceases the transferor, then the transferor may allocate any unused GST exemption to any previous transfer or transfers to the trust on a chronological basis. The provision allows a transferor to retroactively allocate GST exemption to a trust where a beneficiary (a) is a non-skip person, (b) is a lineal descendant of the transferor's grandparent or a grandparent of the transferor's spouse, (c) is a generation younger than the generation of the transferor, and (d) dies before the transferor. Exemption is allocated under this rule retroactively, and the applicable fraction and inclusion ratio would be determined based on the value of the property on the date that the property was transferred to trust.

Effective date

The provision applies to deaths of non-skip persons occurring after December 31, 1999.

3. Severing of trusts holding property having an inclusion ratio of greater than zero (sec. 522 of the bill and sec. 2642 of the Code)

Present law

A generation-skipping transfer tax ("GST tax") generally is imposed on transfers, either directly or through a trust or similar arrangement, to a "skip person" (i.e., a beneficiary in a generation more than one generation below that of the transferor). Transfers subject to the GST tax include direct skips, taxable terminations, and taxable distributions. An exemption of $1 million (indexed beginning in 1999) is provided for each person making generation-skipping transfers. The exemption may be allocated by a transferor (or his or her executor) to transferred property.

If the value of transferred property exceeds the amount of the GST exemption allocated to that property, then the GST tax generally is determined by multiplying a flat tax rate equal to the highest estate tax rate (which is currently 55 percent) by the "inclusion ratio" and the value of the taxable property at the time of the taxable event. The "inclusion ratio" is the number one minus the "applicable fraction." The applicable fraction is a fraction calculated by dividing the amount of the GST exemption allocated to the property by the value of the property.

Under Treas. Reg. 26.2654–1(b), a trust may be severed into two or more trusts (e.g., one with an inclusion ratio of zero and one with an inclusion ratio of one) only if (1) the trust is severed according to a direction in the governing instrument or (2) the trust is severed pursuant to the trustee's discretionary powers, but only if certain other conditions are satisfied (e.g., the severance occurs

or a reformation proceeding begins before the estate tax return is due). Under current Treasury regulations, however, a trustee cannot establish inclusion ratios of zero and one by severing a trust that is subject to the GST tax after the trust has been created.

Reasons for change

If a trust has an inclusion ratio between zero and one, every distribution from the trust is subject to tax at a reduced rate. Complexity in this regard can be reduced if a GST trust is treated as two separate trusts for GST tax purposes—one with an inclusion ratio of zero and one with an inclusion ratio of one. This result can be achieved by drafting complex documents in order to meet the specific requirements of severance. The Committee believes it is appropriate to make the rules regarding severance less burdensome and less complex.

Explanation of provision

Under the bill, a trust may be severed in a "qualified severance." A qualified severance is defined as the division of a single trust and the creation of two or more trusts if (1) the single trust was divided on a fractional basis, and (2) the terms of the new trusts, in the aggregate, provide for the same succession of interests of beneficiaries as are provided in the original trust. If a trust has an inclusion ratio of greater than zero and less than one, a severance is a qualified severance only if the single trust is divided into two trusts, one of which receives a fractional share of the total value of all trust assets equal to the applicable fraction of the single trust immediately before the severance. In such case, the trust receiving such fractional share shall have an inclusion ratio of zero and the other trust shall have an inclusion ratio of one. Under the provision, a trustee may elect to sever a trust in a qualified severance at any time.

Effective date

The provision is effective for severances of trusts occurring after December 31, 1999.

4. Modification of certain valuation rules (sec. 523 of the bill and sec. 2642 of the Code)

Present law

Under present law, the inclusion ratio is determined using gift tax values for allocations of GST tax exemption made on timely filed gift tax returns. The inclusion ratio generally is determined using estate tax values for allocations of GST tax exemption made to transfers at death. Treas. Reg. 26.2642–5(b) provides that, with respect to taxable terminations and taxable distributions, the inclusion ratio becomes final on the later of the period of assessment with respect to the first transfer using the inclusion ratio or the period for assessing the estate tax with respect to the transferor's estate.

Reasons for change

The Committee believes it is appropriate to clarify the valuation rules relating to timely and automatic allocations of GST tax exemption.

Explanation of provision

Under the bill, in connection with timely and automatic allocations of GST tax exemption, the value of the property for purposes of determining the inclusion ratio shall be its finally determined gift tax value or estate tax value depending on the circumstances of the transfer. In the case of a GST tax exemption allocation deemed to be made at the conclusion of an estate tax inclusion period, the value for purposes of determining the inclusion ratio shall be its value at that time.

Effective date

The provision is effective for transfers subject to estate or gift tax made after December 31, 1999.

5. Relief from late elections (sec. 524 of the bill and sec. 2642 of the Code)

Present law

Under present law, an election to allocate GST tax exemption to a specific transfer may be made at any time up to the time for filing the transferor's estate tax return. If an allocation is made on a gift tax return filed timely with respect to the transfer to trust, then the value on the date of transfer to the trust is used for determining GST tax exemption allocation. However, if the allocation relating to a specific transfer is not made on a timely-filed gift tax return, then the value on the date of allocation must be used. There is no statutory provision allowing relief for an inadvertent failure to make an election on a timely-filed gift tax return to allocate GST tax exemption.

Reasons for change

The Committee believes it is appropriate for the Treasury Secretary to grant extensions of time to make an election to allocate GST tax exemption and to grant exceptions to the statutory time requirement in appropriate circumstances, e.g., when the taxpayer intended to allocate GST tax exemption and the failure to timely allocate GST tax exemption was inadvertent.

Explanation of provision

Under the bill, the Treasury Secretary is authorized and directed to grant extensions of time to make the election to allocate GST tax exemption and to grant exceptions to the time requirement. If such relief is granted, then the value on the date of transfer to trust would be used for determining GST tax exemption allocation.

In determining whether to grant relief for late elections, the Treasury Secretary is directed to consider all relevant circumstances, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Treasury Secretary deems relevant. For purposes of determining

whether to grant relief, the time for making the allocation (or election) is treated as if not expressly prescribed by statute.

Effective date

The provision applies to transfers subject to estate or gift tax made after December 31, 1999.

6. Substandard compliance (sec. 524 of the bill and sec. 2642 of the Code)

Present law

Under present law, there is no statutory rule which provides that substantial compliance with the statutory and regulatory requirements for allocating GST tax exemption will suffice to establish that GST tax exemption was allocated to a particular transfer or trust.

Reasons for change

The Committee recognizes that the rules and regulations regarding the allocation of GST tax exemption are complex. Thus, it is often difficult for taxpayers to comply with the technical requirements for making a proper election to allocate GST tax exemption. The Committee therefore believes it is appropriate to provide that GST tax exemption will be allocated when a taxpayer substantially complies with the rules and regulations for allocating GST tax exemption.

Explanation of provision

Under the bill, substantial compliance with the statutory and regulatory requirements for allocating GST tax exemption will suffice to establish that GST tax exemption was allocated to a particular transfer or a particular trust. If a taxpayer demonstrates substantial compliance, then so much of the transferor's unused GST tax exemption will be allocated to the extent it produces the lowest possible inclusion ratio. In determining whether there has been substantial compliance, all relevant circumstances will be considered, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Treasury Secretary deems appropriate.

Effective date

This provision applies to transfers subject to estate or gift tax made after December 31, 1999.

C. EXPAND ESTATE TAX RULE FOR CONSERVATION EASEMENTS (SEC. 531 OF THE BILL AND SEC. 2031 OF THE CODE)

Present law

An executor may elect to exclude from the taxable estate 40 percent of the value of any land subject to a qualified conservation easement, up to a maximum exclusion of $100,000 in 1998, $200,000 in 1999, $300,000 in 2000, $400,000 in 2001, and $500,000 in 2002 and thereafter (sec. 2031(c)). The exclusion percentage is reduced by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conserva-

tion easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right).

A qualified conservation easement is one that meets the following requirements: (1) the land is located within 25 miles of a metropolitan area (as defined by the Office of Management and Budget) or a national park or wilderness area, or within 10 miles of an Urban National Forest (as designated by the Forest Service of the U.S. Department of Agriculture); (2) the land has been owned by the decedent or a member of the decedent's family at all times during the three-year period ending on the date of the decedent's death; and (3) a qualified conservation contribution (within the meaning of sec. 170(h)) of a qualified real property interest (as generally defined in sec. 170(h)(2)(C)) was granted by the decedent or a member of his or her family. For purposes of the provision, preservation of a historically important land area or a certified historic structure does not qualify as a conservation purpose.

In order to qualify for the exclusion, a qualifying easement must have been granted by the decedent, a member of the decedent's family, the executor of the decedent's estate, or the trustee of a trust holding the land, no later than the date of the election. To the extent that the value of such land is excluded from the taxable estate, the basis of such land acquired at death is a carryover basis (i.e., the basis is not stepped-up to its fair market value at death). Property financed with acquisition indebtedness is eligible for this provision only to the extent of the net equity in the property. The exclusion from estate taxes does not extend to the value of any development rights retained by the decedent or donor.

Reasons for change

The Committee believes that expanding the availability of qualified conservation easements will further ease existing pressures to develop or sell environmentally significant land in order to raise funds to pay estate taxes and would, thereby, advance the preservation of such land. The Committee also believes it appropriate to clarify the date for determining easement compliance.

Explanation of provision

The bill expands the availability of qualified conservation easements by modifying the distance requirements. Under the bill, the distance within which the land must be situated from a metropolitan area, national park, or wilderness area is increased from 25 to 50 miles, and the distance from which the land must be situated from an Urban National Forest is increased from 10 to 25 miles. The bill also clarifies that the date for determining easement compliance is the date on which the donation was made.

Effective date

The provision that clarifies the date for determining easement compliance is effective for estates of decedents dying after December 31, 1997. The provisions that modify the distance rules are effective for estates of decedents dying after December 31, 1999.

TITLE VI. DISTRESSED COMMUNITIES AND INDUSTRIES PROVISIONS

A. RENEWAL COMMUNITY PROVISIONS (SECS. 601–605 OF THE BILL AND SECS. 51, 198, 4973, 4975, 6047, 6104, 6693, AND NEW SECS. 1400E–L OF THE CODE)

Present law

Pursuant to the Omnibus Budget Reconciliation Act of 1993 ("OBRA 1993"), the Secretaries of the Department of Housing and Urban Development (HUD) and the Department of Agriculture designated a total of nine empowerment zones and 95 enterprise communities on December 21, 1994. As required by law, six empowerment zones are located in urban areas and three empowerment zones are located in rural areas.[47] Of the enterprise communities, 65 are located in urban areas and 30 are located in rural areas (sec. 1391). Designated empowerment zones and enterprise communities were required to satisfy certain eligibility criteria, including specified poverty rates and population and geographic size limitations (sec. 1392).

The following tax incentives are available for certain businesses located in empowerment zones: (1) a 20-percent wage credit for the first $15,000 of wages paid to a zone resident who works in the zone; (2) an additional $20,000 of section 179 expensing for "qualified zone property" placed in service by an "enterprise zone business" (accordingly, certain businesses operating in empowerment zones are allowed up to $39,000 of expensing for 1999); (3) special tax-exempt financing for certain zone facilities; and (4) the so-called "brownfields" tax incentive, which allows taxpayers to expense (rather than capitalize) certain environmental remediation expenditures.[48]

The 95 enterprise communities are eligible for the special tax-exempt financing benefits and "brownfields" tax incentive, but not the other tax incentives (i.e., the wage credit and additional sec. 179 expensing) available in the empowerment zones. In addition to these tax incentives, OBRA 1993 provided that Federal grants would be made to designated empowerment zones and enterprise communities. The tax incentives (other than the "brownfields" incentive) for empowerment zones and enterprise communities generally will be available during the period that the designation remains in effect (i.e., a 10-year period).

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[47] The six designated urban empowerment zones are located in New York City, Chicago, Atlanta, Detroit, Baltimore, and Philadelphia-Camden (New Jersey). The three designated rural empowerment zones are located in Kentucky Highlands (Clinton, Jackson, and Wayne counties, Kentucky), Mid-Delta Mississippi (Bolivar, Holmes, Humphreys, and Leflore counties, Mississippi), and Rio Grande Valley Texas (Cameron, Hidalgo, Starr, and Willacy counties, Texas).

[48] The environmental remediation expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site, generally meaning any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be located within a targeted area; and (3) contains (or potentially contains) a hazardous substance. Targeted areas include: (1) empowerment zones and enterprise communities as designated under OBRA 1993 and the 1997 Act (including any supplemental empowerment zone designated on December 21, 1994); (2) sites announced before February 1997, as being subject to one of the 76 Environmental Protection Agency (EPA) Brownfields Pilots; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. The "brownfields" provision (enacted in the 1997 Act) applies to eligible expenditures incurred in taxable years ending after date of enactment and before January 1, 2001.

Pursuant to the Tax Relief Act of 1997 ("1997 Act"), the Secretary of HUD designated two additional empowerment zones located in urban areas (thereby increasing to eight the total number of empowerment zones located in urban areas) with respect to which the same tax incentives generally apply (i.e., the wage credit, additional expensing under section 179, special tax-exempt financing, and "brownfields" incentive) as are available within the empowerment zones authorized by OBRA 1993.[49] The two additional empowerment zones are subject to the same eligibility criteria under present-law section 1392 that apply to the original six urban empowerment zones.[50] However, a special rule provides that the designations of these two additional empowerment zones will not take effect until January 1, 2000 (and generally will remain in effect for 10 years).

The 1997 Act also authorizes the Secretaries of HUD and Agriculture to designate an additional 20 empowerment zones (no more than 15 in urban areas and no more than five in rural areas).[51] With respect to these additional empowerment zones, the present-law eligibility criteria are expanded slightly in comparison to the eligibility criteria provided for by OBRA 1993. First, the general square mileage limitations (i.e., 20 square miles for urban areas and 1,000 square miles for rural areas) are expanded to allow the empowerment zones to include an additional 2,000 acres. This additional acreage, which could be developed for commercial or industrial purposes, is not subject to the poverty rate criteria and may be divided among up to three noncontiguous parcels. In addition, the general requirement that at least half of the nominated area consists of census tracts with poverty rates of 35 percent or more does not apply to the 20 additional empowerment zones. However, under present-law section 1392(a)(4), at least 90 percent of the census tracts within a nominated area must have a poverty rate of 25 percent or more, and the remaining census tracts must have a poverty rate of 20 percent or more.[52] For this purpose, census tracts with populations under 2,000 are treated as satisfying the 25-percent poverty rate criteria if (1) at least 75 percent of the tract was zoned for commercial or industrial use, and (2) the tract is contiguous to one or more other tracts that actually have a poverty rate of 25 percent or more.

Within the 20 additional empowerment zones, qualified "enterprise zone businesses" are eligible to receive up to $20,000 of additional section 179 expensing[53] and to utilize special tax-exempt financing benefits. The "brownfields" tax incentive (described above) also is available within all designated empowerment zones. How-

[49] The two additional empowerment zones are located in Cleveland and Los Angeles. The wage credit available in the two new urban empowerment zones is modified slightly to provide that the credit rate will be 20 percent for calendar years 2000–2004, 15–percent for calendar year 2005, 10 percent for calendar year 2006, and five percent for calendar year 2007. No wage credit will be available in the two new urban empowerment zones after 2007.

[50] In order to permit designation of these two additional empowerment zones, the 1997 Act increased the aggregate population cap applicable to urban empowerment zones from 750,000 to a cap of one million aggregate population for the eight urban empowerment zones.

[51] The additional 20 empowerment zones were designated by the Secretaries of HUD and Agriculture on December 31, 1998.

[52] In lieu of the poverty criteria, outmigration may be taken into account in designating one rural empowerment zone.

[53] However, the additional section 179 expensing is not available within the additional 2,000 acres allowed to be included under the 1997 Act within an empowerment zone.

ever, businesses within the 20 additional empowerment zones are not eligible to receive the present-law wage credit available within the 11 other designated empowerment zones (i.e., the wage credit is available only within the nine zones designated under OBRA 1993 and the two urban zones designated under the 1997 Act that are eligible for the same tax incentives as are available in the nine zones designated under OBRA 1993). The 20 additional empowerment zones generally will remain in effect for 10 years (i.e., from 1999 through 2008).[54]

Reasons for change

The Committee believes that the tax incentives available in empowerment zones and enterprise communities are inadequate to address the problems of distressed rural and urban areas. Revitalization of economically distressed areas through expanded business and employment opportunities and increased savings incentives should help address both economic and social problems in such areas.

Explanation of provision

The provision authorizes the designation of 15 "renewal communities" within which special tax incentives would be available. The following is a description of the designation process and the tax incentives that would be available within the renewal communities.

Designation process

Designation of 15 renewal communities.—Under the bill, the Secretary of HUD is authorized to designate up to 15 "renewal communities" from areas nominated by States and local governments. At least three of the designated communities must be in rural areas (defined as areas which are (1) within local government jurisdictions with a population less than 50,000, (2) outside of a metropolitan statistical area, or (3) determined by HUD to be a rural area). The Secretary of HUD would be required to publish (within four months after enactment) regulations describing the selection process; all designations of renewal communities would have to be made within 36 months after such regulations are published. The designation of an area as a renewal community terminates after December 31, 2007.[55]

Old empowerment zones and enterprise communities could seek additional designation as renewal communities.—The bill allows the previously designated empowerment zones and enterprise communities to apply for designation as renewal communities. Priority is given in the designation of the first ten renewal communities to nominated areas that are designated as empowerment zones or enterprise communities under present law and that otherwise meet the requirements for designation as a renewal community. If a previously designated empowerment zone or enterprise community is selected as one of the 15 renewal communities, then the area's des-

[54] In addition, the 1997 Act also provides for special tax incentives (some of which are modeled after the empowerment zone tax incentives, but which also include a zero percent capital gains rate for certain qualified assets) for the District of Columbia.

[55] The designation would terminate earlier than December 31, 2007, if (1) an earlier termination date is designated by the State or local government in their designation, or (2) the Secretary of HUD revokes the designation as of an earlier date.

ignation as an empowerment zone or enterprise community remains in effect and the same area would also be designated as a renewal community. For such an area obtaining dual-designation status, the special tax incentives available for empowerment zones (or enterprise communities, as the case may be) and for renewal communities would be available.

Eligibility criteria.—To be designated as a renewal community, a nominated area must meet all of the following criteria: (1) each census tract has a poverty rate of at least 20 percent; (2) in the case of an urban area, at least 70 percent of the households have incomes below 80 percent of the median income of households within the local government jurisdiction; (3) the unemployment rate is at least 1.5 times the national unemployment rate; and (4) the area is one of pervasive poverty, unemployment, and general distress.

Except with respect to the designation of the first ten renewal communities when priority would be given to existing empowerment zones and enterprise communities (as described above), those areas with the highest average ranking of eligibility factors (1), (2), and (3) above would be designated as renewal communities. The Secretary of HUD shall take into account in selecting areas for designation the extent to which such areas have a high incidence of crime, as well as whether the area has census tracts identified in the May 12, 1998, report of the Government Accounting Office regarding the identification of economically distressed areas.

There are no geographic size or maximum population limitations placed on the designated renewal communities. The provision merely requires that the boundary of a designated community be "continuous" and that the designated community have a minimum population of 4,000 if the community is located within a metropolitan statistical area (at least 1,000 in all other cases, or the community must be entirely within an Indian reservation).

Required State and local government course of action.—In order for an area to be designated as a renewal community, State and local governments are required to submit a written course of action that promises within the nominated area at least five of the following: (1) a reduction of tax rates or fees; (2) an increase in the level of efficiency of local services; (3) crime reduction strategies; (4) actions to remove or streamline governmental requirements; (5) involvement by private entities and community groups, such as to provide jobs and job training and financial assistance; (6) State or local income tax benefits for fees paid for services performed by a nongovernmental entity that were formerly performed by a government entity; and (7) the gift (or sale at below fair market value) of surplus realty by the State or local government to community organizations or private companies.

In addition, the bill requires that the nominating State and local governments promise to promote economic growth in the nominated area by repealing or not enforcing (1) licensing requirements for occupations that do not ordinarily require a professional degree, (2) zoning restrictions on home-based businesses which do not create a public nuisance, (3) permit requirements for street vendors who do not create a public nuisance, (4) zoning or other restrictions that impede the formation of schools or child care centers, and (5) franchises or other restrictions on competition for businesses pro-

viding public services, including but not limited to taxicabs, jitneys, cable television, or trash hauling, unless such regulations are necessary for and well-tailored to the protection of health and safety.

Tax incentives for renewal communities

The following tax incentives generally would be available during the seven-year period beginning January 1, 2001, and ending December 31, 2007.

100-percent capital gain exclusion.—The bill provides for a 100 percent capital gains exclusion for capital gain from the sale of any qualified community asset acquired after December 31, 2000, and before January 1, 2008, and held for more than five years. A "qualified community asset" includes: (1) qualified community stock (meaning original-issue stock purchased for cash in a "renewal community business"); (2) a qualified community partnership interest (meaning a partnership interest acquired for cash in a renewal community business); and (3) qualified community business property (meaning tangible real and personal property used in a renewal community business if acquired (or substantially improved) by the taxpayer after December 31, 2000). A "renewal community business" is similar to the present-law definition of an enterprise zone business [56] except that 80 percent of the gross income must be derived from the conduct of a qualified business within a renewal community. Property continues to be a "qualified community asset" if sold (or otherwise transferred) to a subsequent purchaser, provided that the property continues to represent an interest in (or is tangible property used in) a renewal community business. The termination of an area's status as a renewal community does not affect whether property is a qualified community asset. Any gain attributable to the period before January 1, 2001, and after December 31, 2007, is not eligible for the 100-percent capital gains exclusion.

Family development accounts.—The bill allows individuals to claim an above-the-line deduction for certain amounts paid in cash to a family development account ("FDA") established for the benefit of a "qualified individual," meaning an individual who both resides in a renewal community throughout the taxable year and was allowed to claim the earned income credit (EIC) during the preceding taxable year. A qualified individual may claim a deduction of up to

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[56] An "enterprise zone business" is defined as a corporation or partnership (or proprietorship) if for the taxable year: (1) the sole trade or business of the corporation or partnership is the active conduct of a qualified business within an empowerment zone or enterprise community; (2) at least 50 percent of the total gross income is derived from the active conduct of a "qualified business" within a zone or community; (3) a substantial portion of the business' tangible property is used within a zone or community; (4) a substantial portion of the business' intangible property is used in the active conduct of such business; (5) a substantial portion of the services performed by employees are performed within a zone or community; (6) at least 35 percent of the employees are residents of the zone or community; and (7) less than five percent of the average of the aggregate unadjusted bases of the property owned by the business is attributable to (a) certain financial property, or (b) collectibles not held primarily for sale to customers in the ordinary course of an active trade or business (sec. 1397B).

A "qualified business" is defined as any trade or business other than a trade or business that consists predominantly of the development or holding of intangibles for sale or license. In addition, the leasing of real property that is located within the empowerment zone or community to others is treated as a qualified business only if (1) the leased property is not residential property, and (2) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses. The rental of tangible personal property to others is not a qualified business unless at least 50 percent of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone or enterprise community (sec. 1397B(d)).

$2,000 per year for amounts he or she contributes to his or her own FDA. Any other person may contribute amounts to one or more FDAs established for the benefit of a qualified individual and deduct up to $1,000 per qualified individual. Contributions to an FDA made on or before April 15th of the current taxable year could be treated as made during the preceding taxable year. The bill permits (but does not require) individuals to direct that the IRS directly deposit their EIC refunds into an FDA on behalf of such individual.

An FDA is exempt from taxation (other than the unrelated business income tax imposed by present-law section 511). A distribution from an FDA is not included in the gross income of the distributee if it is a "qualified family development distribution." A qualified family development distribution is defined as a distribution from an FDA that is used exclusively to pay for (1) qualified higher educational expenses, (2) qualified first-time homebuyer expenses, (3) qualified business capitalization costs [57], or (4) qualified medical expenses. Such qualified expenses must be incurred on behalf of the FDA account holder, or the spouse or dependent of the account holder.

Distributions from an FDA that are not qualified family development distributions are included in gross income and subject to a 10-percent additional tax. The 10-percent additional tax does not apply to distributions that are made on or after the account holder attains age 59½, dies, or becomes disabled. The purpose of this rule is to encourage account holders to use the amounts contributed to the FDA for qualified family development distributions or to save such amounts for retirement.

The bill permits tax-free rollovers of amounts in an FDA into another such account established for the benefit of an individual who (1) *both* resides in a renewal community throughout the taxable year and was allowed to claim the earned income credit during the preceding taxable year, and (2) either is the account holder or is a spouse or dependent of the account holder.

Commercial revitalization deduction.—The bill allows each State to allocate an amount of "commercial revitalization deductions" with respect to qualified revitalization expenditures incurred in connection with a qualified revitalization building. The commercial revitalization deduction is equal to (a) 50 percent of qualified revitalization expenditures for the taxable year in which a qualified revitalization building is placed in service or, at the election of the taxpayer, (b) a ten-percent deduction for qualified revitalization expenditures per year for a 10–year period beginning with the year in which the building is placed in service. A "qualified revitalization expenditure" means the cost (up to $10 million) of constructing or substantially rehabilitating a building used for commercial purposes in a designated renewal community, including certain land acquisition costs. A commercial revitalization deduction would be in lieu of any depreciation deduction otherwise allowable on account of such expenditure.

[57] As is the case for enterprise zone businesses, a qualified business capitalization cost would not include expenditures incurred for the capitalization of any trade or business described in section 144(c)(6)(B) (e.g., a country club, hot tub facility, or liquor store).

Each State would be allowed to allocate no more than $6 million worth of commercial revitalization deductions to each renewal community located within the State for each calendar year after 2000 and before 2008. The appropriate State agency would make the allocations pursuant to a qualified allocation plan. The qualified allocation plan would (1) set forth the selection criteria to be used to determine priorities as appropriate to local conditions; (2) consider how the building project would contribute to the renewal community and its residents, and (3) provide a procedure that the agency would follow to monitor compliance.

A qualified revitalization building must be located in a renewal community and placed in service after December 31, 2000, and before January 1, 2008.

Additional section 179 expensing.—A renewal community business is allowed an additional $35,000 of section 179 expensing for qualified renewal property placed in service after December 31, 2000, and before January 1, 2008. If a renewal community business is located in an area that is designated as both an empowerment zone and a renewal community, such business could be allowed an additional $55,000 of section 179 expensing (i.e., $20,000 of additional expensing because the area is designated an empowerment zone plus $35,000 of additional expensing because the area is designated a renewal community). The section 179 expensing allowed to a taxpayer is phased out by the amount by which 50 percent of the cost of qualified renewal property placed in service during the year by the taxpayer exceeds $200,000. The term "qualified renewal property" is similar to the definition of "qualified zone property" under section 1397C.

Expensing of environmental remediation costs ("brownfields").—Under the bill, a renewal community is treated as a "targeted area" under section 198 which permits expensing of certain environmental remediation costs. Thus, taxpayers can elect to treat certain environmental remediation expenditures that otherwise would be capitalized as deductible in the year paid or incurred. The expenditure must be incurred in connection with the abatement or control of environmental contaminants, as required by Federal and State law, at a trade or business site located within a designated renewal community. This provision applies to expenditures incurred after December 31, 2000, and before January 1, 2008.

Extension of work opportunity tax credit ("WOTC").—The provision makes two changes to the WOTC. Beginning in 2001, the provision expands the high-risk youth and qualified summer youth categories in the present-law WOTC to include qualified individuals who live in a renewal community.

Second, in the event that the WOTC program were to expire, the bill permits employers engaged in a trade or business in a renewal community to claim a tax credit with respect to individuals hired from one or more targeted groups that live and perform substantially all of their work in a renewal community. The tax credit equals 15 percent of the qualified first-year wages and 30 percent of the qualified second-year wages through December 31, 2007.[58]

[58] The Work Opportunity Tax Credit expired on July 1, 1999. A different section of the bill extends the Work Opportunity Tax Credit through December 31, 2001.

No more than $10,000 of wages may be taken into account in each year. Thus, the maximum credit for a qualifying individual is $1,500 with respect to qualified first-year wages and $3,000 with respect to qualified second-year wages. Qualified wages generally consist of wages paid or incurred during the period for which the WOTC is being calculated.

Targeted groups eligible for the tax credit include: (1) certain individuals certified by the designated local agency as being a member of a family receiving assistance under a IV–A program for any nine months during the 18-month period ending on the hiring date; (2) certain ex-felons having a hiring date within one year of release from prison or date of conviction; (3) individuals who are at least 18 but not 25 years of age and have a principal place of abode within an empowerment zone, enterprise community, or renewal community; (4) individuals who are at least 18 but not 25 years of age who are certified as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for a period of at least six months ending on the hiring date; (5) individuals who have a physical or mental disability that constitutes a substantial handicap to employment and who have been referred to the employer while receiving, or after completing, vocational rehabilitation services; (6) individuals who are 16 or 17 years of age, perform services during any 90-day period between May 1 and September 15, and have a principal place of abode within an empowerment zone, enterprise community, or renewal community; (7) certain veterans who receive food stamps; and (8) recipients of certain ("SSI") Supplemental Security Income benefits.

Effective date

Although renewal communities would be designated within 36 months after publication of regulations by HUD, the tax benefits available in renewal communities are effective for the 7-year period beginning January 1, 2001, and ending December 31, 2007.

B. INCREASE THE MAXIMUM DOLLAR AMOUNT OF REFORESTATION EXPENDITURES ELIGIBLE FOR AMORTIZATION AND CREDIT (SEC. 611 OF THE BILL AND SECS. 48 AND 194 OF THE CODE)

Present law

Amortization of reforestation costs (sec. 194)

A taxpayer may elect to amortize up to $10,000 ($5,000 in the case of a separate return by a married individual) of qualifying reforestation expenditures incurred during the taxable year with respect to qualifying timber property. Amortization is taken over 84 months (7 years) and is subject to a mandatory half-year convention.[59] In the case of an individual, the amortization deduction is allowed in determining adjusted gross income (an above-the-line deduction) rather than as an itemized deduction.

[59] Under the half-year convention, all reforestation expenditures are considered to be incurred on the first day of the first month of the second half of the taxable year. Thus, an amortization deduction equal to 6/84 of the expenditures for the year is allowed in the first and eighth years and an amortization deduction equal to 1/7 (12/84) of such expenditures is allowed in the second through seventh years.

Qualifying reforestation expenditures are the direct costs a taxpayer incurs in connection with the forestation or reforestation of a site by planting or seeding, and include costs for the preparation of the site, the cost of the seed or seedlings, and the cost of the labor and tools (including depreciation of long lived assets such as tractors and other machines) used in the reforestation activity. Qualifying reforestation expenditures do not include expenditures that would otherwise be deductible and do not include costs for which the taxpayer has been reimbursed under a governmental cost sharing program, unless the amount of the reimbursement is also included in the taxpayer's gross income.

Qualifying timber property includes any woodlot or other site that is located in the United States that will contain trees in significant commercial quantities and that is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products. The regulations require that the site consist of at least one acre that is devoted to such activities.[60] A taxpayer may hold qualifying timber property in fee or by lease. Where the property is held by one person for life with the remainder to another person, the life tenant is considered the owner of the property for this purpose.

Reforestation amortization is subject to recapture as ordinary income on sale of qualifying timber property within 10 years of the year in which the qualifying reforestation expenditures were incurred.[61]

Reforestation tax credit (sec. 48(b))

A tax credit is allowed equal to 10 percent of the reforestation expenditures incurred during the year that are properly elected to be amortized. An amount allowed as a credit is subject to recapture if the qualifying timber property to which the expenditure relates is disposed of within 5 years.

Reasons for change

The Committee notes that the amount of reforestation eligible for 7-year amortization and the credit has not been increased since it was added to the Code in 1980. The Committee believes that it is appropriate to increase this amount and to temporarily suspend the application of the limit to the amount eligible for 7-year amortization.

Explanation of provision

The provision increases the amount of reforestation expenditures eligible for 7-year amortization and the reforestation credit from $10,000 to $25,000 per taxable year (from $5,000 to $12,500 in the case of a separate return by a married individual).

For taxable years beginning in 2001 through 2003, the provision removes the limitation on the amount eligible for 7-year amortization.

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[60] Treas. Reg. sec. 1.194–3(a).
[61] Sec. 1245(b)(7); Treas. Reg. sec. 1.194–1(c).

Effective date

The provision is effective for expenditures paid or incurred in taxable years beginning after December 31, 2000. Expenditures paid or incurred prior to the effective date continue to be recovered under the rules of present law. For taxable years beginning after 2003, the amount of reforestation expenditures eligible for 7-year amortization and for the credit is limited to $25,000. For taxable years beginning in 2001, 2002, and 2003, the amount of reforestation expenditures eligible for the credit is limited to $25,000 and no limit applies to the amount eligible for 7-year amortization.

TITLE VII. REAL ESTATE PROVISIONS

A. INCREASE LOW-INCOME HOUSING TAX CREDIT CAP AND MAKE OTHER MODIFICATIONS (SEC. 701–707 OF THE BILL AND SEC. 42 OF THE CODE)

Present law

In general

The low-income housing tax credit may be claimed over a 10-year period for the cost of rental housing occupied by tenants having incomes below specified levels. The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the Internal Revenue Service so that the 10 annual installments have a present value of 70 percent of the total qualified expenditures. The credit percentage for new substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent qualified expenditures.

Credit cap

The aggregate credit authority provided annually to each State is $1.25 per resident, except in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit and certain carry-over amounts.

Expenditure test

Generally, the building must be placed in service in the year in which it receives an allocation to qualify for the credit. An exception is provided in the case where the taxpayer has expended an amount equal to 10-percent or more of the taxpayer's reasonably expected basis in the building by the end of the calendar year in which the allocation is received and certain other requirements are met.

Basis of building eligible for the credit

Buildings receiving assistance under the HOME investment partnerships act ("HOME") are not eligible for the enhanced credit for buildings located in high cost areas (i.e., qualified census tracts and difficult development areas). Under the enhanced credit, the 70-percent and 30-percent credit are increased to a 91-percent and 39-percent credit, respectfully.

Eligible basis is generally limited to the portion of the building used by qualified low-income tenants for residential living and some common areas.

State allocation plans

Each State must develop a plan for allocating credits and such plan must include certain allocation criteria including: (1) project location; (2) housing needs characteristics; (3) project characteristics; (4) sponsor characteristics; (5) participation of local tax-exempts; (6) tenant populations with special needs; and (7) public housing waiting lists. The State allocation plan must also give preference to housing projects: (1) that serve the lowest income tenants; and (2) that are obligated to serve qualified tenants for the longest periods.

Credit administration

There are no explicit requirements that housing credit agencies perform a comprehensive market study of the housing needs of the low-income individuals in the area to be served by the project, nor that such agency conduct site visits to monitor for compliance with habitability standards.

Stacking rule

Authority to allocate credits remains at the State (as opposed to local) government level unless State law provides otherwise.[62] Generally, credits may be allocated only from volume authority arising during the calendar year in which the building is placed in service, except in the case of: (1) credits claimed on additions to qualified basis; (2) credits allocated in a later year pursuant to an earlier binding commitment made no later than the year in which the building is placed in service; and (3) carryover allocations.

Each State annually receives low-income housing credit authority equal to $1.25 per State resident for allocation to qualified low-income projects.[63] In addition to this $1.25 per resident amount, each State's "housing credit ceiling" includes the following amounts: (1) the unused State housing credit ceiling (if any) of such State for the preceding calendar year;[64] (2) the amount of the State housing credit ceiling (if any) returned in the calendar year;[65] and (3) the amount of the national pool (if any) allocated to such State by the Treasury Department.

The national pool consists of States' unused housing credit carryovers. For each State, the unused housing credit carryover for a calendar year consists of the excess (if any) of the unused State housing credit ceiling for such year over the excess (if any) of the

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[62] For example, constitutional home rule cities in Illinois are guaranteed their proportionate share of the $1.25 amount, based on their population relative to that of the State as a whole.

[63] A State's population, for these purposes, is the most recent estimate of the State's population released by the Bureau of the Census before the beginning of the year to which the limitation applies. Also, for these purposes, the District of Columbia and the U.S. possessions (i.e., Puerto Rico, the Virgin Islands, Guam, the Northern Marianas and American Samoa) are treated as States.

[64] The unused State housing credit ceiling is the amount (if positive) of the previous year's annual credit limitation plus credit returns less the credit actually allocated in that year.

[65] Credit returns are the sum of any amounts allocated to projects within a State which fail to become a qualified low-income housing project within the allowable time period plus any amounts allocated to a project within a State under an allocation which is canceled by mutual consent of the housing credit agency and the allocation recipient.

aggregate housing credit dollar amount allocated for such year over the sum of $1.25 per resident and the credit returns for such year. The amounts in the national pool are allocated only to a State which allocated its entire housing credit ceiling for the preceding calendar year, and requested a share in the national pool not later than May 1 of the calendar year. The national pool allocation to qualified States is made on a pro rata basis equivalent to the fraction that a State's population enjoys relative to the total population of all qualified States for that year.

The present-law stacking rule provides that a State is treated as using its annual allocation of credit authority ($1.25 per State resident) and any returns during the calendar year followed by any unused credits carried forward from the preceding year's credit ceiling and finally any applicable allocations from the National pool.

Reasons for change

The Committee believes that the credit acts as a stimulus for low-income housing. It believes that the expansion of the credit cap will allow the construction and substantial rehabilitation of more affordable rental housing for low-income individuals in the future. The other changes to the credit program are intended to improve the operation of the credit.

Explanation of provision

Credit cap

The bill makes two changes to the credit cap. First, the $1.25 per capita element of the credit cap is increased to $1.65 per capita. This increase is phased-in by increasing the credit cap by 10 cents per capita each year for four years. Second, the $1.25 per capita cap for each State is modified so that small population States are given a minimum of $2 million of annual credit cap. Therefore the credit cap will be: $1.35 per capita or $2 million, whichever is greater, in calendar year 2001; $1.45 per capita or $2 million, whichever is greater, in calendar 2002; $1.55 per capita or $2 million, whichever is greater, in calendar year 2003; $1.65 per capita or $2 million, whichever is greater, in calendar year 2004 and thereafter. The $1.65 and $2 million amounts are indexed for inflation beginning in 2005.

Expenditure test

The bill allows a building which receives an allocation in the second half of a calendar to qualify under the 10-percent test if the taxpayer expends an amount equal to 10-percent or more of the taxpayer's reasonably expected basis in the building within six months of receiving the allocation regardless of whether the 10-percent test is met by the end of the calendar year.

Basis of building eligible for the credit

The bill makes three changes to the basis rules of the credit. First, the bill provides that assistance received under the Native American Housing Assistance and Self-Determination Act of 1996 is not taken into account in determining whether a building is Federally subsidized for purposes of the credit. This allows such build-

ings to qualify for something other than the 30-percent credit generally applicable to Federally subsidized buildings. Second, the definition of qualified census tracts for purposes of the enhanced credit is expanded to include any census tracts with a poverty rate of 25 percent or more. Third, the bill extends the credit to a portion of the building used as a community service facility not in excess of 10 percent of the total eligible basis in the building. A community service facility is defined as any facility designed to serve primarily individuals whose income is 60 percent or less of area median income.

State allocation plans

The bill strikes the plan criteria relating to participation of local tax-exempts, replacing it with two other criteria: tenant populations of individuals with children and projects intended for eventual tenant ownership. It also provides that the present-law criteria relating to sponsor characteristics include whether the project involves the use of existing housing as part of a community revitalization plan. Also, the bill adds a third category of housing projects to the preferential list. That third category is for projects located in qualified census tracts which contribute to a concerted community revitalization plan.

Credit administration

The bill requires a comprehensive market study of the housing needs of the low-income individuals in the area to be served by the project and a written explanation available to the general public for any allocation not made in accordance with the established priorities and selection criteria of the housing credit agency. It also requires site inspections by the housing credit agency to monitor compliance with habitability standards applicable to the project.

Stacking rule

The bill modifies the stacking rule so that each State would be treated as using its allocation of the unused State housing credit ceiling (if any) from the preceding calendar before the current year's allocation of credit (including any credits returned to the State) and then finally any National pool allocations.

Effective date

In general, the bill is effective for calendar years beginning after December 31, 2000, and buildings placed-in-service after such date in the case of projects that also receive financing with proceeds of tax-exempt bonds subject to the private activity bond volume limit which are issued after such date. The increase and indexing of the credit cap are effective for calendar years after December 31, 2000.

B. PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS (REITS) (SECS. 711–716, 721, 731, 741, AND 751 OF THE BILL AND SECS. 852, 856, AND 857 OF THE CODE)

Present law

A real estate investment trust ("REIT") is an entity that receives most of its income from passive real-estate related investments and

that essentially receives pass-through treatment for income that is distributed to shareholders

If an electing entity meets the requirements for REIT status, the portion of its income that is distributed to the investors each year generally is taxed to the investors without being subjected to a tax at the REIT level. In general, a REIT must derive its income from passive sources and not engage in any active trade or business.

A REIT must satisfy a number of tests on a year by year basis that relate to the entity's (1) organizational structure; (2) source of income; (3) nature of assets; and (4) distribution of income. Under the source-of-income tests, at least 95 percent of its gross income generally must be derived from rents from real property, dividends, interest, and certain other passive sources (the "95 percent test"). In addition, at least 75 percent of its gross income generally must be from real estate sources, including rents from real property and interest on mortgages secured by real property. For purposes of the 95 and 75 percent tests, qualified income includes amounts received from certain "foreclosure property," treated as such for 3 years after the property is acquired by the REIT in foreclosure after a default (or imminent default) on a lease of such property or on indebtedness which such property secured.

In general, for purposes of the 95 percent and 75 percent tests, rents from real property do not include amounts for services to tenants or for managing or operating real property. However, there are some exceptions. Qualified rents include amounts received for services that are "customarily furnished or rendered" in connection with the rental of real property, so long as the services are furnished through an independent contractor from whom the REIT does not derive any income. Amounts received for services that are not "customarily furnished or rendered" are not qualified rents.

An independent contractor is defined as a person who does not own, directly or indirectly, more than 35 percent of the shares of the REIT. Also, no more than 35 percent of the total shares of stock of an independent contractor (or of the interests in assets or net profits, if not a corporation) can be owned directly or indirectly by persons owning 35 percent or more of the interests in the REIT. In addition, a REIT cannot derive any income from an independent contractor.

Rents for certain personal property leased in connection with real property are treated as rents from real property if the adjusted basis of the personal property does not exceed 15 percent of the aggregate adjusted bases of the real and the personal property.

Rents from real property do not include amounts received from any corporation if the REIT owns 10 percent or more of the voting power or of the total number of shares of all classes of stock of such corporation. Similarly, in the case of other entities, rents are not qualified if the REIT owns 10 percent of more in the assets or net profits of such person.

At the close of each quarter of the taxable year, at least 75 percent of the value of total REIT assets must be represented by real estate assets, cash and cash items, and Government securities. Also, a REIT cannot own securities (other than Government securities and certain real estate assets) in an amount greater than 25 percent of the value of REIT assets. In addition, it cannot own se-

curities of any one issuer representing more than 5 percent of the total value of REIT assets or more than 10 percent of the voting securities of any corporate issuer. Securities for purposes of these rules are defined by reference to the Investment Company Act of 1940.[66]

Under an exception to the ownership rule, a REIT is permitted to have a wholly owned subsidiary corporation, but the assets and items of income and deduction of such corporation are treated as those of the REIT, and thus can affect the qualification of the REIT under the income and asset tests.

A REIT generally is required to distribute 95 percent of its income before the end of its taxable year, as deductible dividends paid to shareholders. This rule is similar to a rule for regulated investment companies ("RICs") that requires distribution of 90 percent of income. Both REITS and RICs can make certain "deficiency dividends" after the close of the taxable year, and have these treated as made before the end of the year. The regulations applicable to REITS state that a distribution will be treated as a "deficiency dividend" (and, thus, as made before the end of the prior taxable year) only to the extent the earnings and profits for that year exceed the amount of distributions actually made during the taxable year.[67]

A REIT that has been or has combined with a C corporation[68] will be disqualified if, as of the end of its taxable year, it has accumulated earnings and profits from a non-REIT year. A similar rule applies to regulated investment companies ("RICs"). In the case of a REIT, any distribution made in order to comply with this requirement is treated as being first from pre-REIT accumulated earnings and profits. RICs do not have a similar ordering rule.

In the case of a RIC, any distribution made within a specified period after determination that the investment company did not qualify as a RIC for the taxable year will be treated as applying to the RIC for the non-RIC year, "for purposes of applying [the earnings and profits rule that forbids a RIC to have non-RIC earnings and profits] to subsequent taxable years". The REIT rules do not specify any particular separate treatment of distributions made after the end of the taxable year for purposes of the earnings and profits rule. Treasury regulations under the REIT provisions state that "distribution procedures similar to those . . . for regulated investment companies apply to non-REIT earnings and profits of a real estate investment trust."[69]

Reasons for change

The Committee is concerned that under present law, disqualified income of a REIT may be avoided through transactions with entities that are engaged in activities that produce disqualified income but that are effectively owned by the REIT. For example, a REIT may invest in an entity in which it owns virtually all the value

[66] 15 U.S.C. 80a–1 and following. See Code section 856(c)(5)(F).
[67] Treas. Reg. sec. 1.858–1(b)(2).
[68] A "C corporation" is a corporation that is subject to taxation under the rules of subchapter C of the Internal Revenue Code, which generally provides for a corporate level tax on corporate income. Thus, a C corporation is not a pass-through entity. Earnings and profits of a C corporation, when distributed to shareholders, are taxed to the shareholders as dividends.
[69] Treas. Reg. sec. 1.857–11(c).

(e.g., through preferred stock) even though it owns only a small amount of the vote. The remainder of the voting power might be held by persons related to the REIT such as its officers, directors, or employees. The REIT might effectively be the beneficiary of virtually all the earnings of the entity, through its preferred stock ownership. Also, the REIT might hold significant debt in the entity, and receive significant interest income that reduces the entity's taxable income (subject to corporate level tax if the entity is a C corporation) while producing permissible income to the REIT.

Similarly, if the entity is a partnership engaged in activities that would generate nonqualified income for the REIT if done directly, the REIT might use a significant debt investment in the partnership combined with a small equity interest, to reduce the amount of nonqualified income it would report from the partnership through its partnership interest, while still receiving a significant income stream through the debt.

As a result of these concerns, the Committee believes that a 10-percent value, as well as a 10-percent vote test, generally is appropriate to test the permitted relationship of a REIT to the entities in which it invests.

The Committee believes, however, that certain types of activities that relate to the REIT's real estate investments should be permitted to be performed under the control of the REIT, through the establishment of a "taxable REIT subsidiary" where there are rules which limit the amount of the subsidiary's income that can be reduced through transactions with the REIT. A limit on the amount of REIT asset value that can be represented by investment in such subsidiaries is also desirable. In addition, the Committee believes it is desirable to obtain information regarding the extent of use of the new taxable REIT subsidiaries and the amount of corporate Federal income tax that such subsidiaries are paying. One type of activity is the provision of tenant services that the REIT wishes to provide in order to remain competitive that might not be considered customary because they are relatively new or "cutting-edge". The Committee believes that provision of tenant services by taxable REIT subsidiaries will simplify such rental operations since uncertainty whether a particular service provided by a subsidiary is "customary" will not affect the parent's qualification as a REIT. Another type of activity that the Committee believes appropriate for a subsidiary is management and operation of the real estate in which a REIT has developed expertise with respect to its own properties that it also would like to provide to third parties.

The Committee believes that allowing operation of health care facilities directly by a REIT for a limited period of time is appropriate to assure continuous provision of health care services where the facilities are acquired by the REIT upon termination of a lease (as upon foreclosure) where there may not be enough time to obtain a new independent provider of such health care services.

Finally, the Committee believes that a number of other changes are desirable, including simplifying the determination whether a publicly traded entity is an independent contractor and modifying and conforming certain RIC and REIT distribution rules.

Explanation of provision

Investment limitations and taxable REIT subsidiaries

General rule.—Under the provision, a REIT generally cannot own more than 10 percent of the total value of securities of a single issuer, in addition to the present law rule that a REIT cannot own more than 10 percent of the outstanding voting securities of a single issuer.

Exception for safe-harbor debt.—For purposes of the new 10–percent value test, securities are generally defined to exclude safe harbor debt owned by a REIT (as defined for purposes of sec. 1361(c)(5)(B) (i) and (ii)) if the issuer is an individual, or if the REIT (and any taxable REIT subsidiary of such REIT) owns no other securities of the issuer. However, in the case of a REIT that owns securities of a partnership, safe harbor debt is excluded from the definition of securities only if the REIT owns at least 20 percent or more of the profits interest in the partnership. The purpose of the partnership rule requiring a 20 percent profits interest is to assure that if the partnership produces income that would be disqualified income to the REIT, the REIT will be treated as receiving a significant portion of that income directly through its partnership interest, even though it also may derive qualified interest income through its safe harbor debt interest.

Exception for taxable REIT subsidiaries.—An exception to the limitations on ownership of securities of a single issuer applies in the case of a "taxable REIT subsidiary" that meets certain requirements. To qualify as a taxable REIT subsidiary, both the REIT and the subsidiary corporation must join in an election. In addition, any corporation (other than a REIT or a qualified REIT subsidiary under section 856(i) that does not properly elect with the REIT to be a taxable REIT subsidiary) of which a taxable REIT subsidiary owns, directly or indirectly, more than 35 percent of the vote or value is automatically treated as a taxable REIT subsidiary.

Securities (as defined in the Investment Company Act of 1940) of taxable REIT subsidiaries could not exceed 25 percent of the total value of a REIT's assets.

A taxable REIT subsidiary can engage in certain business activities that under present law could disqualify the REIT because, but for the proposal, the taxable REIT subsidiary's activities and relationship with the REIT could prevent certain income from qualifying as rents from real property. Specifically, the subsidiary can provide services to tenants of REIT property (even if such services were not considered services customarily furnished in connection with the rental of real property), and can manage or operate properties, generally for third parties, without causing amounts received or accrued directly or indirectly by REIT for such activities to fail to be treated as rents from real property. However, rents paid to a REIT are not generally qualified rents if the REIT owns more than 10 percent of the value, (as well as of the vote) of a corporation paying the rents. The only exceptions are for rents that are paid by taxable REIT subsidiaries and that also meet a limited rental exception (where 90 percent of space is leased to third parties at comparable rents) and an exception for rents from certain lodging facilities (operated by an independent contractor).

However, the subsidiary cannot directly or indirectly operate or manage a lodging or healthcare facility. Nevertheless, it can lease a qualified lodging facility (*e.g.,* a hotel) from the REIT (provided no gambling revenues were derived by the hotel or on its premises); and the rents paid are treated as rents from real property so long as the lodging facility was operated by an independent contractor for a fee. The subsidiary can bear all expenses of operating the facility and receive all the net revenues, minus the independent contractor's fee.

For purposes of the rule that an independent contractor may operate a qualified lodging facility, an independent contractor will qualify so long as, at the time it enters into the management agreement with the taxable REIT subsidiary, it is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not related to the REIT or the taxable REIT subsidiary. The REIT may receive income from such an independent contractor with respect to certain pre-existing leases.

Also, the subsidiary generally cannot provide to any person rights to any brand name under which hotels or healthcare facilities are operated. An exception applies to rights provided to an independent contractor to operate or manage a lodging facility, if the rights are held by the subsidiary as licensee or franchisee, and the lodging facility is owned by the subsidiary or leased to it by the REIT.

Interest paid by a taxable REIT subsidiary to the related REIT is subject to the earnings stripping rules of section 163(j). Thus the taxable REIT subsidiary cannot deduct interest in any year that would exceed 50 percent of the subsidiary's adjusted gross income.

If any amount of interest, rent, or other deductions of the taxable REIT subsidiary for amounts paid to the REIT is determined to be other than at arm's length ("redetermined" items), an excise tax of 100 percent is imposed on the portion that was excessive. "Safe harbors" are provided for certain rental payments where (1) the amounts are de minimis, (2) there is specified evidence that charges to unrelated parties are substantially comparable, (3) certain charges for services from the taxable REIT subsidiary are separately stated, or (4) the subsidiary's gross income from the service is not less than 150 percent of the subsidiary's direct cost in furnishing the service.

In determining whether rents are arm's length rents, the fact that such rents do not meet the requirements of the specified safe harbors shall not be taken into account. In addition, rent received by a REIT shall not fail to qualify as rents from real property by reason of the fact that all or any portion of such rent is redetermined for purposes of the excise tax.

The Commissioner of Internal Revenue is to conduct a study to determine how many taxable REIT subsidiaries are in existence and the aggregate amount of taxes paid by such subsidiaries and shall submit a report to the Congress describing the results of such study.

Health Care REITS

The provision permits a REIT to own and operate a health care facility for at least two years, and treat it as permitted "fore-

closure" property, if the facility is acquired by the termination or expiration of a lease of the property. Extensions of the 2 year period can be granted.

Conformity with regulated investment company rules

Under the provision, the REIT distribution requirements are modified to conform to the rules for regulated investment companies. Specifically, a REIT is required to distribute only 90 percent, rather than 95 percent, of its income.

Definition of independent contractor

If any class of stock of the REIT or the person being tested as an independent contractor is regularly traded on an established securities market, only persons who directly or indirectly own 5 percent or more of such class of stock shall be counted in determining whether the 35 percent ownership limitations have been exceeded.

Modification of earnings and profits rules for RICs and REITS

The rule allowing a RIC to make a distribution after a determination that it had failed RIC status, and thus meet the requirement of no non-RIC earnings and profits in subsequent years, is modified to clarify that, when the sole reason for the determination is that the RIC had non-RIC earnings and profits in the initial year (i.e. because it was determined not to have distributed all C corporation earnings and profits), the procedure would apply to permit RIC qualification in the initial year to which such determination applied, in addition to subsequent years.

The RIC earnings and profits rules are also modified to provide an ordering rule similar to the REIT rule, treating a distribution to meet the requirements of no non-RIC earnings and profits as coming first from the earliest accumulated earnings and profits which, if not distributed, would result in a failure to meet such requirements. The REIT ordering rule is conformed. In addition, the REIT deficiency dividend rules are modified to take account of this ordering rule.

Provision regarding rental income from certain personal property

The provision modifies the present law rule that permits certain rents from personal property to be treated as real estate rental income if such personal property does not exceed 15 percent of the aggregate of real and personal property. The provision replaces the present law comparison of the adjusted bases of properties with a comparison based on fair market values.

Effective date

The provision is effective for taxable years beginning after December 31, 2000. The provision with respect to modification of earnings and profits rules is effective for distributions after December 31, 2000.

In the case of the provisions relating to permitted ownership of securities of an issuer, special transition rules apply. The new rules forbidding a REIT to own more than 10 percent of the value of se-

curities of a single issuer do not apply to a REIT with respect to securities held directly or indirectly by such REIT on July 12, 1999, or acquired pursuant to the terms of written binding contract in effect on that date and at all times thereafter until the acquisition.

Also, securities received in a tax-free exchange or reorganization, with respect to or in exchange for such grandfathered securities would be grandfathered. The grandfathering of such securities ceases to apply if the REIT acquires additional securities of that issuer after that date, other than pursuant to a binding contract in effect on that date and at all times thereafter, or in a reorganization with another corporation the securities of which are grandfathered.

This transition also ceases to apply to securities of a corporation as of the first day after July 12, 1999 on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than pursuant to a binding contract in effect on such date and at all times thereafter, or in a reorganization or transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Code. If a corporation makes an election to become a taxable REIT subsidiary, effective before January 1, 2004 and at a time when the REIT's ownership is grandfathered under these rules, the election is treated as a reorganization under section 368(a)(1)(") of the Code.

The new 10 percent of value limitation for purposes of defining qualified rents is effective for taxable years beginning after December 31, 2000. There is an exception for rents paid under a lease or pursuant to a binding contract in effect on July 12, 1999 and at all times thereafter.

C. INCREASE IN PRIVATE ACTIVITY BOND STATE VOLUME LIMITS (SEC. 761 OF THE BILL AND SEC. 146 OF THE CODE)

Present law

Interest on bonds issued by States and local governments is excluded from income if the proceeds of the bonds are used to finance activities conducted and paid for by the governmental units (sec. 103). Interest on bonds issued by these governmental units to finance activities carried out or paid for by private persons ("private activity bonds") is taxable unless the activities are specified in the Internal Revenue Code. Private activity bonds on which interest may be tax-exempt include bonds for privately operated transportation facilities (airports, docks and wharves, mass transit, and high speed rail facilities), privately owned and/or provided municipal services (water, sewer, solid waste disposal, and certain electric and heating facilities), economic development (small manufacturing facilities and redevelopment in economically depressed areas), and certain social programs (low-income rental housing, qualified mortgage bonds, student loan bonds, and exempt activities of charitable organizations described in sec. 501(c)(3)).

The volume of tax-exempt private activity bonds that States and local governments may issue for most of these purposes in each calendar year is limited by State-wide volume limits. The current annual volume limits are $50 per resident of the State or $150 million if greater. The volume limits do not apply to private activity bonds

to finance airports, docks and wharves, certain governmentally owned, but privately operated solid waste disposal facilities, certain high speed rail facilities, and to certain types of private activity tax-exempt bonds that are subject to other limits on their volume (qualified veterans' mortgage bonds and certain "new" empowerment zone and enterprise community bonds).

The current annual volume limits that apply to private activity tax-exempt bonds increase to $75 per resident of each State or $225 million, if greater, beginning in calendar year 2007. The increase is, ratably phased in, beginning with $55 per capita or $165 million, if greater, in calendar year 2003.

Reasons for change

The Committee determined that an adjustment to the annual State private activity bond volume limits to levels comparable to the dollar limits that first applied after enactment of the Tax Reform Act of 1986 is appropriate. Such an adjustment will assist States in meeting infrastructure needs and encouraging economic development and will facilitate continuation of privatization efforts regarding municipal services such as solid waste disposal, water, and sewer services without reversing the general policy of limiting the use of this Federal subsidy for conduit borrowing in transactions that distort market choice and efficiency.

Explanation of provision

The bill increases in the present-law annual State private activity bond volume limits. The volume limits would be phased-in as follows, beginning in calendar year 2001:

Calendar year	*Volume limit*
2001	$55 per resident ($165 million, if greater)
2002	$60 per resident ($180 million, if greater)
2003	$65 per resident ($195 million, if greater)
2004, 2005, and 2006	$70 per resident ($210 million, if greater)
2007 and thereafter	$75 per resident ($225 million, if greater)

Effective date

The volume limit increases are effective for calender years after December 31, 2000.

D. EXCLUSION FROM GROSS INCOME FOR CERTAIN FORGIVEN MORTGAGE OBLIGATIONS (SEC. 771 OF THE BILL AND SEC. 108 OF THE CODE)

Present law

Generally, gross income means all income from whatever source derived including income for the discharge of indebtedness. However, gross income does not include discharge of indebtedness income if: (1) the discharge occurs in a Title 11 case; (2) the discharge occurs when the taxpayer is insolvent; (3) the indebtedness discharged is qualified farm indebtedness; or (4) except in the case of a C corporation, the indebtedness discharged is qualified real property business indebtedness. No exclusion provided for qualified residential indebtedness.

Explanation of provision

In the case of an individual taxpayer, the bill provides an exclusion from discharge of indebtedness income to the extent such income is attributable to the sale of real property securing qualified residential indebtedness. Qualified residential indebtedness is defined as indebtedness incurred or assumed by the taxpayer for the acquisition, construction, reconstruction, or substantial improvement of the taxpayer's principal residence and which is secured by such principal residence. Refinancing indebtedness is qualified residential indebtedness only to the extent the refinancing indebtedness does not exceed the amount of indebtedness being refinanced. The taxpayer would elect to have this exclusion apply. The exclusion does not apply to qualified farm indebtedness or qualified real property business indebtedness.

Effective date

The provision is effective for discharges of indebtedness after December 31, 2000.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 3081.

MOTION TO REPORT THE BILL

The bill, H.R. 3081, as amended, was ordered favorably reported by a rollcall vote of 23 yeas to 14 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Representatives	Yea	Nay
Mr. Archer	X		Mr. Rangel		X
Mr. Crane	X		Mr. Stark		X
Mr. Thomas	X		Mr. Matsui		
Mr. Shaw	X		Mr. Coyne		X
Mrs. Johnson	X		Mr. Levin		X
Mr. Houghton	X		Mr. Cardin		X
Mr. Herger	X		Mr. McDermott		X
Mr. McCrery	X		Mr. Kleczka		X
Mr. Camp	X		Mr. Lewis (GA)		X
Mr. Ramstad	X		Mr. Neal		X
Mr. Nussle	X		Mr. McNulty		X
Mr. Johnson	X		Mr. Jefferson		
Ms. Dunn	X		Mr. Tanner		X
Mr. Collins	X		Mr. Becerra		X
Mr. Portman	X		Mrs. Thurman		X
Mr. English	X		Mr. Doggett		X
Mr. Watkins	X				
Mr. Hayworth	X				
Mr. Weller	X				
Mr. Hulshof	X				
Mr. McInnis	X				
Mr. Lewis (KY)	X				
Mr. Foley	X				

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendment to Chairman Archer's amendment.

A substitute amendment by Mr. Rangel, was defeated by a rollcall vote of 12 yeas to 23 nays. The vote was as follows:

Representatives	Yea	Nay	Representatives	Yea	Nay
Mr. Archer		X	Mr. Rangel	X	
Mr. Crane		X	Mr. Stark		
Mr. Thomas		X	Mr. Matsui		
Mr. Shaw		X	Mr. Coyne	X	
Mrs. Johnson		X	Mr. Levin	X	
Mr. Houghton		X	Mr. Cardin	X	
Mr. Herger		X	Mr. McDermott	X	
Mr. McCrery		X	Mr. Kleczka	X	
Mr. Camp		X	Mr. Lewis (GA)	X	
Mr. Ramstad		X	Mr. Neal	X	
Mr. Nussle		X	Mr. McNulty	X	
Mr. Johnson		X	Mr. Jefferson		
Ms. Dunn		X	Mr. Tanner	X	
Mr. Collins		X	Mr. Becerra	X	
Mr. Portman		X	Mrs. Thurman	X	
Mr. English		X	Mr. Doggett		
Mr. Watkins		X			
Mr. Hayworth		X			
Mr. Weller		X			
Mr. Hulshof		X			
Mr. McInnis		X			
Mr. Lewis (KY)		X			
Mr. Foley		X			

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives, the following statement is made concerning the affects on the budget of the revenue provisions of the bill, H.R. 3081, as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2000–2009:

ESTIMATED BUDGET EFFECTS OF H.R. 3081, THE ''WAGE AND EMPLOYMENT GROWTH ACT OF 1999,'' AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[Fiscal years 2000–2004, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2000–20004
I. Amendments to the Fair Labor Standards Act of 1938			No Revenue Effect				
II. Small Business Provisions							
1. Accelerate 100% self-employed health insurance deduction and extend eligibility to those who choose not to participate in employer-subsidized health plans.	tyba 12/31/00	.....	−274	−1,040	−657	.....	−1,971
2. Increase section 179 expensing to $30,000	tyba 12/31/00	.....	−359	−616	−350	−187	−1,513
3. 60% business meals deduction (excluding entertainment expenses)—phasein by 5 percentage points per year	tyba 12/31/00	.....	−249	−763	−1,049	−1,098	−3,160
4. 80% business meals deduction for workers subject to DOT hours of service limitation	tyba 12/31/00	.....	−38	−68	−62	−54	−221
5. Provide that Federal farm production payments are taxable in the year of receipt (ignore election to take the payments in an earlier year unless exercised).	DOE			Negligible Revenue Effect			
6. Coordinate farmer income averaging and the AMT and provide the same inocme everaging relief to commercial fishermen	tyba 12/31/00	.....	−1	−2	−2	−2	−6
7. Repeat the occupational taxes relating to distilled spirits, wine, and beer	tyba 7/1/01	.....	−68	−80	−80	−80	−308
Total of Small Business Provisions		.....	−989	−2,569	−2,200	−1,421	−7,179
III. Pension Provisions							
A. Provisions for Expanding Coverage							
1. Increase contribution and benefit limits:							
a. Increase limitation on exclusion for elective deferrals to $11,000 in 2001, $12,000 in 2002, $13,000 in 2003, $14,000 in 2004; index in $500 increments thereafter [1].	yba 12/31/00	.....	−131	−315	−465	−574	−1,485
b. Increase limitation on SIMPLE elective contributions to $7,000 in 2001, $8,000 in 2002, $9,000 in 2003, $10,000 in 2004; index in $500 increments thereafter [1].	yba 12/31/00	.....	−5	−14	−22	−27	−67
c. Increase defined benefit dollar limit to $160,000	yba 12/31/00	.....	−18	−31	−40	−45	−134
b. Lower early retirement age to 62; lower normal retirement age to 65	yba 12/31/00	.....	−3	−4	−4	−4	−16
e. Increase annual addition limitation for defined contribution plans to $40,000 [1]	yba 12/31/00	.....	−6	−11	−13	−14	−44
f. Increase qualified plan compensation limit to $200,000 [1]	yba 12/31/00	.....	−40	−69	−78	−83	−270
g. Increase limits on deferrals under deferred compensation plans of State-local governments and tax-exempt organizations to $11,000 in 2001, $12,000 in 2002, $13,000 in 2003, and $14,000 in 2004 [1].	yba 12/31/00	.....	−52	−92	−107	−118	−369
2. Plan loans for subchapter S owners, partners, and sole proprietors	pyba 12/31/00	.....	−20	−30	−32	−35	−117
3. Modification of top-heavy rules	pyba 12/31/00	.....	−4	−9	−11	−12	−36
4. Elective deferrals not taken into account for purposes of deduction limits	yba 12/31/00	.....	−38	−71	−81	−85	−275
5. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.	yba 12/31/00	.....	−16	−22	−22	−22	−82
6. Elimination of user fee for certain requests regarding employer pension plans; waiver applies only for request made during first 5 plan years [2].	rma 12/31/00	.....	−9	−5	−5	.....	−19
7. Definition of compensation for purposes of deduction limits [1]	yba 12/31/00	.....	−1	−2	−3	−3	−9
8. Option to treat elective deferrals as after-tax contributions [1]	tyba 12/31/00	.....	−50	100	131	144	426
9. Reduce PBGC premium for new plans of small employers [2]	pea 12/31/00	.....	.....	(3)	(3)	(3)	−1
10. Phase-in of additional PBGC premium for new plans; include additional variable premium relief for small employers [2]	pea 12/31/00	.....	.....	(3)	(3)	(3)	−9
Subtotal of Provisions for Expanding Coverage		.....	−293	−578	−755	−881	−2,507
B. Provisions for Enhancing Fairness for Women							
1. Additional catch-up contributions for individual age 50 and above—increase in maximum contribution limits for pension plans by 10% annually beginning in 2001, not to exceed 40%.	yba 12/31/00	.....	−73	−151	−130	−97	−451
2. Equitable treatment for contributions of employees to defend contribution plans [1]	yba 12/31/00	.....	−51	−77	−83	−90	−301
3. Faster vesting of certain employer matching contributions				Negligible Revenue Effect			

ESTIMATED BUDGET EFFECTS OF H.R. 3081, THE ''WAGE AND EMPLOYMENT GROWTH ACT OF 1999,'' AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[Fiscal years 2000–2004, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2000–20004
4. Simplify and update the minimum distribution rules by modifying post-death distribution rules, reducing (to 10%) the excise tax on failures to make minimum distributions, and directing the Treasury to simplify and finalize regulations relating to the minimum distribution rules.	yba 12/31/00	.....	−118	−212	−239	−268	−837
5. Clarification of tax treatment of division of section 457 plan benefits upon divorce	tdapma 12/31/00			Negligible Revenue Effect			
6. Modification of safe harbor relief for hardship withdrawals from 401(k) plans	yba 12/31/00			Negligible Revenue Effect			
Subtotal of Provisions for Enhancing Fairness for Women		.....	−242	−440	−452	−455	−1,589
C. Provisions for increasing Portability for Participants							
1. Rollcovers allowed among governmental section 457 plans, section 403(b) plans, and qualified plans	dma 12/31/00	.....	−7	−11	−12	−12	−41
2. Rollovers of IRAs to workplace retirement plans	dma 12/31/00			Negligible Revenue Effect			
3. Rollovers of after-tax retirement plan contributions	dma 12/31/00			Negligible Revenue Effect			
4. Waiver of 60-day rule	dma 12/31/00			Negligible Revenue Effect			
5. Treatment of forms of qualified plan distributions	yba 12/31/00			Negligible Revenue Effect			
6. Rationalization of restrictions on distributions	da 12/31/00			Negligible Revenue Effect			
7. Purchase of service credit in governmental defined benefit plans	ta 12/31/00			Negligible Revenue Effect			
8. Employers may disregard rollovers for cash-out amounts	da 12/31/00						
Subtotal of Provisions for Increasing Portability for Participants		.....	−7	−11	−12	−12	−41
D. Provisions for Strengthening Pension Security and Enforcement							
1. Phase-in repeal of 150% of current liability funding limit; extend maximum deduction rule	yba 12/31/00	.....	−7	−21	−33	−36	−98
2. Missing plan participants	(4)			Negligible Revenue Effect			
3. Periodic pension benefits statements	pyba 12/31/00			No Revenue Effect			
4. Civil penalties for breach of fiduciary responsibility [5]	voo/a DOE			No Revenue Effect			
5. Excise tax relief for sound pension funding	yba 12/31/00	.....	−2	−3	−3	−3	−11
6. Notice of significant reduction in plan benefit accruals	pateo/a DOE			Negligible Revenue Effect			
7. Protection of investment of employee contributions to 401(k) plans	aiii TRA'97			Negligible Revenue Effect			
8. Repeal 100% of compensation limit for multiemployer plans	yba 12/31/00	.....	−2	−4	−4	−4	−13
9. Technical correction to Saver Act	DOE			No Revenue Effect			
10. Model spousal consent language and qualified domestic relations order	DOE			No Revenue Effect			
11. Elimination of ERISA double jeopardy	aaocpo/a DOE			Negligible Revenue Effect			
Subtotal of Provisions for Strengthening Pension Security and Enforcement		.....	−11	−28	−40	−43	−122
E. Provisions for Reducing Regulatory Burdens							
1. Modification of timing of plan valuations	pyba 12/31/00			Negligible Revenue Effect			
2. ESOP dividends may be reinvested without loss of dividend deduction	tyba 12/31/00	.....	−19	−44	−56	−61	−180
3. Repeal transition rule relating to certain highly compensated employees	pyba 12/31/00	.....	−2	−3	−3	−3	−10
4. Employees of tax-exempt entities [6]	DOE			Negligible Revenue Effect			
5. Treatment of employer-provided retirement advice	yba 12/31/00			Negligible Revenue Effect			
6. Pension plan reporting simplification [6]	1/1/01			Negligible Revenue Effect			
7. Improvement to Employee Plans Compliance Resolution System [6]	DOE			Negligible Revenue Effect			
8. Substantial owner benefits in terminated plans [2]	DOE			Negligible Revenue Effect			
9. Clarification of exclusion for employer-provided transit passes	tyba 12/31/00	.....	−6	−10	−13	−14	−43

10. Repeal of multiple use test	yba 12/31/00		Considered in Other Provisions				
11. Flexibility in nondiscrimination and line of business rules [6]	DOE		Negligible Revenue Effect				
12. Extension to international organization of moratorium on application of certain nondiscrimination rules applicable to State and local government plans.	yba 12/31/00		Negligible Revenue Effect				
13. Notice and consent period regarding distributions	yba 12/31/00		No Revenue Effect				
14. Annual report dissemination	rf yba 12/31/98		No Revenue Effect				
15. Excess benefit plans	yba 12/31/99		Negligible Revenue Effect				
16. Benefit suspension notice	pbya 12/31/99		No Revenue Effect				
17. Clarification of church welfare plan status under State insurance law	DOE		No Revenue Effect				
Subtotal of Provisions for Reducing Regulatory Burdens			−27	−57	−72	−78	−233
F. Provisions relating to plan amendments	DOE		No Revenue Effect				
Total of Pension Provisions			−580	−1,114	−1,331	−1,469	−4,492
IV. Extension of Expiring Provisions							
1. Work opportunity tax credit; credit cannot be claimed until after 9/30/00 (through 12/31/01)	wpoifibwa 6/30/99		−550	−293	−151	−58	−1,051
2. Welfare-to-work tax credit; credit cannot be claimed until after 9/30/00 (through 12/31/01)	wpoifibwa 6/30/99		−127	−79	−47	−19	−272
Total of Extension of Expiring Provisions			−677	−372	−198	−77	−1,323
V. Estate and Gift Tax Relief Provisions							
1. Reduction in estate, gift, and generation-skipping transfer taxes: beginning in 2001, convert the unified credit into a true exemption, repeal the 5% "bubble" (which phases out the lower rates); repeal rates in excess of 53%; in 2002, repeal rates in excess of 50%; in 2003 through 2004, reduce all rates by 1 percentage point a year; proportionately reduce State tax credit rates.	dda & gma 12/31/00			−4,166	−5,612	−6,379	−16,157
2. Provide deemed allocation of GST exemption	ta 12/31/99		−1	−3	−4	−4	−12
3. Provide retroactive allocation of GST for unnatural orders of death	generally ea 12/31/99		−4	−5	−6	−6	−21
4. Allow severances of trusts holding property having an inclusion ratio of greater than zero			Included in Estate and Gift Item 3				
5. Modify certain valuation rates			Included in Estate and Gift Item 3				
6. Provide relief from late elections			Included in Estate and Gift Item 3				
7. Provide rule of substantial compliance			Included in Estate and Gift Item 3				
8. Expand estate tax rule for conservation easements—increase the 25-mile limit to 50 miles; increase 10-mile limit to 25 miles, and clarify that the date for determining easement compliance.	dda 12/31/99 & dda 12/31/97		−10	−13	−19	−20	−62
Total of Estate and Gift Tax Relief Provisions			−15	−4,187	−5,641	−6,409	−16,252
VI. Distressed Communities and Industries Provisions							
A. "American Community Renewal Act of 1999"							
1. Designate 15 renewal communities within 36 months; provide various incentives (zero capital gains tax on certain 5-year investments; special deduction for real estate revitalization expenditures; special expensing for certain business property; work opportunity tax credit; environmental remediation expenses; family development accounts) beginning 1/1/01 and ending 12/31/07.	DOE		−104	−202	−208	−205	−720
B. Timber incentives							
1. Increase maximum reforestation expenses qualifying for amortization and credit from $10,000 to $25,000; remove cap on amortization of reforestation costs in 2001 through 2003.	tyba 12/31/00		−5	−15	−22	−27	−70
Total of Distressed Communities and Industries Provisions			−109	−217	−230	−232	−790

ESTIMATED BUDGET EFFECTS OF H.R. 3081, THE ''WAGE AND EMPLOYMENT GROWTH ACT OF 1999,'' AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[Fiscal years 2000–2004, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2000–20004
VII. Real Estate Provisions							
A. Improvements in the Low-Income Housing Credit—increase per capita credit by $0.10 per year through 2004; thereafter COLA; $2 million small State minimum beginning in 2001; COLA beginning in 2005; modify stacking rules and credit allocation rules; certain Native American housing assistance disregarded in determining whether building is Federally subsidized for purposes of the low-income housing credit.	tyba 12/31/00	.....	−5	−26	−75	−153	−259
B. Real Estate Investment Trust (REIT) Provisions							
1. Impose 10% vote or value test	tyba 12/31/00	.....	2	8	8	8	26
2. Treatment of income and services provided by taxable REIT subsidiaries	tyba 12/31/00	.....	60	158	53	23	294
3. Personal property treatment for determining rents from real property for REITs	tyba 12/31/00	.....	−1	−1	−1	−1	−3
4. Special foreclosure rule for health care REITs	tyba 12/31/00			Negligible Revenue Effect			
5. Conformity with RIC 90% distribution rules	tyba 12/31/00	.....	1	1	1	1	3
6. Clarification of definition of independent operators for REITs	tyba 12/31/00			Negligible Revenue Effect			
7. Modification of earnings and profits rules	da 12/31/00	.....	−6	−3	−3	−3	−16
C. Accelerate 5-Year Phasein of Private Activity Bond Volume Cap	cyba 12/31/00	.....	−9	−36	−75	−117	−237
D. Exclusion from Gross Income for Certain Forgiven Mortgage Obligations	doia 12/31/00	.....	−2	−6	−6	−6	−20
Total of Real Estate Provisions	.....	.....	40	95	−98	−248	−212
Net Total	.....	.....	−2,330	−8,364	−9,698	−9,856	−30,248

[1] Provision includes interaction with other provisions in Provisions for Expanding Coverage.

[2] Estimate provided by the Congressional Budget Office.

[3] Loss of less than $5 million.

[4] Effective for distributions from terminating plans that occur after the PBGC has adopted final regulations implementing provision.

[5] Department of Labor penalties.

[6] Directs the Secretary of the Treasury to modify rules through regulations.

Legend for ''Effective'' column: aaocpo/a = any action or claim pending on or after; aiii TRA'97 = as if included in the Taxpayer Relief Act of 1997; cyba = calendar years beginning after; da = distributions after; doia = discharges of indebtedness after; dda = decedents dying after; dma = distributions made after; DOE = date of enactment; ea = events after; gma = gifts made after; pateo/a = plan amendments taking effect on or after; pea = plans established after; pyba = plan years beginning after; rf = reports for; rma = requests made after; ta = transfers after; tdapma = transfers, distributions, and payments made after; tyba = taxable years beginning after; voo/a = violations occurring on or after; wpoifibwa = wages paid or incurred for individuals beginning work after; yba = years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee states that the revenue provisions in the bill involve no new or increased budget authority.

Tax expenditures

In compliance with clause 2(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee states that the revenue-reducing income tax provisions involve increased tax expenditures, and the revenue-increasing income tax provisions involve reduced tax expenditures. (See amounts in table in Part IV.A., above.)

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office (CBO), the following statement by CBO is made: The Committee agrees with the cost estimate provided by CBO, which appears below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 10, 1999.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate and mandates statements for H.R. 3081, the Wage and Employment Growth Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Hester Grippando (for IRS user fees), and Tami Ohler (for pension plans) and Christi Hawley Sadoti (for minimum wage). The staff contact for the mandate statements is Ralph E. Smith.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3081—Wage and Employment Growth Act of 1999

Summary

H.R. 3081 would increase the federal minimum wage in three steps from $5.15 to $6.15 in April 2002. It would reduce taxes for certain small businesses, change the tax treatment of certain pension plans, and reduce estate and gift taxes. The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) estimate that this bill would decrease governmental receipts by $30 billion over 2000–2004 period. In addition, CBO estimates that the bill would increase direct spending by $20 million over the same

period. Because the bill would affect receipts and direct spending, pay-as-you-go procedures would apply.

H.R. 3081 contains one new intergovernmental mandate. In each of the fiscal years 2001–2004, the cost of that mandate would exceed the threshold for intergovernmental mandates ($50 million in fiscal year 1996 adjusted annually for inflation) established in the Unfunded Mandates Reform Act (UMRA). The bill also contains three new private-sector mandates. The costs of these mandates would exceed the threshold established by UMRA for private-sector mandates ($100 million in fiscal year 1996, adjusted annually for inflation) in each of the fiscal years 2000 through 2004. CBO has prepared separate mandate statements that provide more detail on the mandates and their estimated costs.

Estimated cost to the Federal Government

The estimated budgetary impact of H.R. 3081 is shown in the following table.

	By fiscal year, in millions of dollars—				
	2000	2001	2002	2003	2004
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	0	0	0	0	0
Estimated Outlays	5	10	−2	3	3
CHANGES IN REVENUES					
Estimated Revenues	0	−2,329	−8,360	−9,694	−9,852

Basis of estimate

For the purposes of this estimate, CBO assumes H.R. 3081 will be enacted early in fiscal year 2000.

Revenues

All revenue provisions with the exception of the following were estimated by JCT.

IRS User Fees.—Beginning on December 31, 2000, the bill would eliminate the fee the Internal Revenue Service (IRS) currently charges for determination letters regarding small business pension plans under five years old. CBO estimates that the eliminating these fees would decrease governmental receipts by $19 million over the 2001–2003 period, net of income and payroll tax offsets. CBO based its estimate on recent collections data and on information from the IRS.

Direct Spending

IRS User Fees.—The IRS has the authority to retain and spend, without further appropriation action, a small portion of fees that would be eliminated. CBO estimates that the eliminating these fees would decrease direct spending by a negligible amount over the 2001–2004 period.

Federal Minimum Wage.—H.R. 3081 would increase the federal minimum wage in three steps from $5.15 per hour to $6.15 per hour by April 2002. The increases would result in additional direct spending from the Welfare-to-Work grant program, under which states and nonprofit organizations subsidize the employment of in-

dividuals attempting to leave welfare for gainful employment. Funding totaling $3 billion has already been allocated to grantees, and CBO estimates that 10 percent of the total will ultimately not be spent.

Program data through June 1999 indicate that about 11 percent of the state grants and 25 percent of the grants to nonprofit organizations had been spent on subsidized employment. CBO assumes that grantees would continue to support the same number of workers in subsidized employment, and that the increased minimum wage would boost the costs of supporting them in those jobs. As a result, funds for this program would be spent more quickly than under current law, and some funds that otherwise would not be used will be spent as well. CBO estimates that additional spending would total $10 million during the 2000–2002 period, resulting from increases of $5 million in 2000 and $10 million in 2001 and a decrease of $5 million in 2002.

Reduced PBGC Premiums for New Plans.—Under current law, single-employer defined-benefit pension plans pay two types of annual premiums to the Pension Benefit Guaranty Corporation (PBGC). All covered plans are subject to a flat-rate premium of $19 per participant. In addition, underfunded plans must also pay a variable premium that depends on the amount by which the plan's liabilities exceed its assets.

The bill would reduce the flat-rate premium from $19 to $5 per participant for plans established by employers with 100 or fewer participants during the first five years of the plan's operation. According to information obtained from the PBGC, approximately 3,000 plans would qualify for this reduction. Those plans contain an average of about 10 participants each. CBO estimates that the change would reduce PBGC's premium income, which is classified as an offsetting collection, by about $0.4 million annually beginning in 2002 or by about $1.3 million over the 2000–2004 period.

Reduction of Additional PBGC Premiums for New and Small Plans.—The bill would make two changes affecting the variable-rate premium paid by underfunded plans. First, the all new plans that are underfunded, the bill would phase in the variable-rate premium. In the first year, plans would pay nothing. In the succeeding four years, they would pay 20 percent, 40 percent, 60 percent, and 80 percent, respectively, of the full amount. In the sixth and later years, they would pay the full variable-rate premium determined by their funding status. On the basis of information on premium payments to the PBGC in 1996 and 1997, CBO estimates that this change would affect the premiums of approximately 400 plans each year. It would reduce PBGC's total premium receipts by about $4.2 million over the 2000–2004 period.

The bill would also reduce the variable-rate premium paid by all underfunded plans (not just new plans) established by employers with 25 or fewer employees. Under the bill, the variable-rate premium per participant paid by those plans would not exceed $5 multiplied by the number of participants in the plan. CBO estimates that approximately 8,300 plans would have their premium payments to PBGC reduced by this provision beginning in 2002. Premiums received by the PBGC would decline by $1.5 million in 2002 and by $4.6 million over the 2002–2004 period.

Missing Participants in Terminated Pension Plans.—The legislation would expand the mission participant program. The Retirement Protection Act of 1994 established a missing participant program at PBGC for terminating defined benefit plans. The bill would expand the program to include terminating multiemployer plans, defined benefit plans not covered by PBGC, and defined contribution plans.

The budgetary impact of this provision would be less than $0.5 million annually. PBGC does not expect a high volume of missing participants as a result of this proposal, and the administrative costs of expanding the program would not be high. The net budgetary effect of increased benefit payments would also be small. Amounts paid by a pension plan to PBGC for missing participants are held in PBGC's trust fund, which is off-budget. Amounts paid by PBGC to participants at the time they are located are funded in the same manner as benefit payments to participants in plans for which PBGC is the trustee—partially by the trust fund and partially by on-budget revolving funds.

Rules for Benefits of Substantial Owners of Terminated Plans.—The legislation would simplify the rules by which the PBGC pays benefits to substantial owners (those with an ownership interest of at least 10 percent) of terminated pension plans. Only about one-third of the plans taken over by PBGC involve substantial owners, and the change in benefits paid by PBGC to owner-employees under this provision would be less than $0.5 million in each year.

Pay-as-you-go considerations

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By fiscal year, in millions of dollars—									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	5	10	-2	3	3	4	4	4	4	4
Changes in receipts	0	-2,329	-8,360	-9,694	-9,852	-11,220	-12,149	-13,192	-13,946	-14,906

Intergovernmental and private-sector impact

H.R. 3081 contains one new intergovernmental mandate. In each of the fiscal years 2001–2004, the cost of that mandate would exceed the threshold for intergovernmental mandates ($50 million in fiscal year 1996, adjusted annually for inflation) established in the Unfunded Mandates Reform Act (UMBRA). The bill also contains three new private-sector mandates. The costs of these mandates would exceed the threshold established by UMBRA for private-sector mandates ($100 million in fiscal year 1996, adjusted annually for inflation) in each of the fiscal years 2000 through 2004. CBO has prepared separate mandate statements that provide more detail on the mandates and their estimated costs.

Estimate prepared by: Federal revenues: Hester Grippando (for IRS fees). Federal spending: Tami Ohler (for pensions), Christ Hawley Sadoti (for Welfare-to-Work), and John Righter (for IRS fees).

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis; G. Thomas Woodward, Assistant Director for Tax Analysis.

CONGRESSIONAL BUDGET OFFICE PRIVATE-SECTOR MANDATE STATEMENT

H.R. 3081—Wage and Employment Growth Act of 1999

Summary

H.R. 3081 would increase the federal minimum wage in three steps from $5.15 to $6.15 by April 2002. It would reduce taxes for certain small businesses, change the tax treatment of certain pension plans, and reduce estate and gift taxes.

Private-sector mandates contained in bill

Section 101 of H.R. 3081 would impose a mandate on private-sector employers covered by the Fair Labor Standards Act (FLSA) because it would require them to pay a higher minimum wage rate than they are required to pay under current law. In addition, the Joint Committee on Taxation has determined that two revenue provisions of the bill contain private-sector mandates. One would impose a 10 percent vote or value test for Real Estate Investment Trusts (REITs). The other would change the treatment of income and services provided by taxable REIT subsidiaries.

Estimated direct cost to the private sector

CBO's estimate of the direct cost of the private-sector mandates in Section 101 of H.R. 3081 is displayed in the following table, along with the Joint Committee on Taxation's estimate of the private-sector mandates imposed on REITs by the revenue provisions. The cost of the mandates in the bill would exceed the threshold specified in the Unfunded Mandates Reform Act of 1995 ($100 million in 1996, adjusted annually for inflation) in each of the first five years following enactment.

Provision	By fiscal year, in billions of dollars—				
	2000	2001	2002	2003	2004
Increase the federal minimum wage	0.5	1.6	3.4	4.1	3.7
Real Estate Investment Trust	.....	0.06	0.17	0.06	0.03

Basis of estimate

H.R. 3081 would increase the federal minimum wage in three annual steps, beginning on April 1, 2000. The provision of the FLSA permitting employers to pay teenagers $4.25 per hour during the first 90 consecutive days of employment would not change. (the estimates in the table are based on the assumption that the federal minimum wage would rise to $6.15 per hour on April 1, 2002, and remain at that wage rate. The language in the bill, as reported, is unclear as to what the minimum wage rate would be on April 1,

2003, and thereafter. Staff of the sponsor indicated that the bill will be clarified to assure that the federal minimum wage would not revert to $5.15 per hour on April 1, 2003.)

To estimate the direct cost to private employers of raising the minimum wage, CBO used information on the number of workers whose wages would be affected in April 2000 and subsequent months, the wage rates those workers would receive in the absence of the bill, and the number of hours for which they would be compensated.

The estimate was made in two steps, which are described in more detail below. First, CBO used data from the Current Population Survey (CPS) to estimate how much it would have cost employers to comply with the mandate had they been required to do so in early 1999. Second, this estimate was used to project the costs to employers beginning in April 2000, taking into account the expected decline in the number of workers in the relevant wage range.

Estimates from the current population survey

Data on hourly wage rates contained in the March 1999 CPS are the basis for CBO's estimate of the number of private-sector workers in that month who were paid a wage rate in the relevant range. At that time, about 1.3 million workers in the private sector reported being paid exactly $5.15 per hour. About 700,000 workers reported being paid $5.00 per hour; CBO assumes that these workers were also covered by the $5.15 minimum wage and misreported their wage rate. An additional 7.6 million workers were paid between $5.16 and $6.14 per hour. Roughly one-third of the workers in the relevant wage range were teenagers. Based on information from the Bureau of Labor Statistics, CBO assumes that about 30 percent of those teenagers were in their first 90 days of employment with their current employer and therefore not covered by the increase in the minimum wage in H.R. 3081.[1]

CBO estimates that if the private-sector workers who had been paid between $5.15 and $5.47 per hour in March 1999 had been paid $5.48 instead (with no change in the number of hours worked), their employers would have paid them approximately $80 million in additional wages in that month. If the workers who had been paid between $5.15 and $5.80 per hour had been paid $5.81, their employers would have incurred an additional wage bill of about $240 million in that month. If the workers who had been paid between $5.15 and $6.14 had been paid $6.15 their employers would have incurred an additional wage bill of about $500 million in that month. Moreover, employers would have been required to pay their share of legally mandated costs that are tied to a worker's wages; these payments are included in CBO's estimate of the total direct cost of the mandate.

Applying the estimates from the CPS to the projection period

The monthly cost to employers of the proposed increases in the minimum wage would be smaller in the future than now because

[1] This estimate is derived from information on job tenure, by age, provided by the Bureau of Labor Statistics. That information is based on supplemental questions included in the February 1998 Current Population Survey.

the number of workers in the affected range will decline, as it did after previous increases in the minimum wage rate. For example, between 1992 and 1995, the number of workers earning $4.25 per hour (the minimum wage rate which became effective in April 1991) fell by about 30 percent. Between September 1997 and March 1999, the number of workers paid $5.15 per hour (the minimum wage rate established in September 1997) fell by an even greater amount as market forces and increases in state minimum wage rates raised the level of wages paid. CBO assumes that the direct cost of the mandate would steadily decrease at a rate of about 10 percent per year throughout the projection period.

Estimates for each fiscal year were made by aggregating the monthly costs. The estimate for fiscal year 2000 is the smallest because that period would include an increased minimum wage for only six months. The estimate of the direct cost to the private sector is highest for 2003, when all twelve months would be at $6.15 per hour.

Limitations

Estimates of the direct cost of this mandate are uncertain for at least two reasons. First, the main source of data—the March 1999 CPS—is subject to sampling error and other problems when used for this purpose. For example, there is uncertainty about the actual wage rate of workers who said that they were paid $5.00 per hour. CBO assumed that the workers who reported being paid this rate after the minimum wage had risen to $5.15 were actually paid $5.15 because there is no evidence that compliance with the Fair Labor Standards Act fell. In addition, the wage rates of certain other low-wage workers (some who reported being paid below $5.00 per hour and some who were not paid on an hourly basis) would also be affected by an increase in the statutory minimum, but the CPS does not provide reliable estimates of the number of such workers nor the increase in mandate cost that would be attributable to them.[2]

A second source of uncertainty in this estimate is the fact that there is no solid basis for projecting the further number of workers who will have wage rates in the relevant range, their precise wage rates, nor the number of hours they will work under current law. The annual decline estimated from earlier periods could turn out to be too rapid or too slow.

Indirect effects of an increase in the minimum wage

An increase in the minimum wage rate from $5.15 to $6.15 would require employers to raise the wage rates paid to the lowest-paid workers covered by the FLSA by 19 percent and would require employers to raise the wages of workers in the range between the old and new statutory rates by smaller amounts. As under current law, employers could still pay teenage workers $4.25 per hour during their first 90 calendar days of employment.

[2] In March 1999, 1.1 million workers reported being paid an hourly wage rate of less than $5.00. Some workers, such as employees in retail firms whose gross volume of sales is less than $500,000 are not covered by the minimum wage, while others, such as certain tipped workers, are covered but can be paid a lower wage rate.

Economists have devoted considerable energy to the task of estimating how employers would respond to such a mandate. Although most economists would agree that an increase in the minimum wage rate would cause firms to employ fewer low-wage workers (or employ them for fewer hours), there is considerable disagreement about the magnitude of the reduction. The main reason for this disagreement is that it has proven difficult to distinguish the effects on employment of past changes in the minimum wage from other changes in the labor market. Moreover, the estimates from such analyses are difficult to apply to future changes because labor market conditions will be different.

Based on CBO's review of a number of relevant studies, a plausible range of estimates of the potential job losses is that a 10 percent increase in the minimum wage would result in a 0.5 percent to 2 percent reduction in the employment level of teenagers and a small percentage reduction for young adults (ages 20 to 24).[3] These estimates imply employment losses for an increase in the minimum wage of the amount provided in H.R. 3081 of roughly 100,000 to 500,000 jobs.

The low end of this range might be more realistic because the number of minimum-wage workers is smaller than it was during most of the time periods when the employment effects were estimated in the literature. Although the current minimum wage rate is $5.15 has been in place for about two years (since September 1997), relatively few workers are paid that rate. In March 1999, only about 2 million workers were paid the federal minimum wage. During much of the past two decades, when many of the studies were undertaken, between 2 million and 4 million workers were paid the minimum wage.

Moreover, the 1996 increase in the minimum wage amended the FLSA to permit employers to pay teenagers $4.25 per hour for the first 90 days, and the current bill would not change this provision. The labor market experiences on which the estimates reported above are based did not reflect such a differential. Presumably, the differential could result in fewer employment losses for teenagers, more losses for adults, and fewer losses overall. While recent data indicate that few employers are using this option, its availability could cushion employment losses if labor markets weakened.

Previous CBO estimate

On June 8, 1999, CBO issued an estimate of S. 192, which would increase the minimum wage to $5.65 per hour in September 1999 and to $6.15 per hour in September 2000. The current estimate of the direct cost to the private sector is based on the same methodology used for that estimate.

Estimate prepared by: Ralph Smith.

Estimated approved by: Joseph Antos, Assistant Director for Health and Human Resources.

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[3] See, for example, Alison J. Wellington, "Effects of the Minimum Wage on the Employment Status of Youths: An Update," Journal of Human Resources, Vol. XXVI, No. 1 (Winter 1991), pp. 27–46, Charles Brown, "Minimum Wage Laws: Are They Overrated?" Journal of Economic Perspectives, Vol. 2, No. 3 (Summer 1988), pp. 133–145, David Card and Alan B. Krueger, Myth and Measurement: The New Economics of the CBO (Princeton University Press, 1995), and Marvin H. Kosters, editor, The Effects of the CBO on Employment (AEI Press, 1996).

CONGRESSIONAL BUDGET OFFICE INTERGOVERNMENTAL MANDATES STATEMENT

H.R. 3081—Wage and Employment Growth Act of 1999

Summary

H.R. 3081 would increase the federal minimum wage in three steps from $5.15 to $6.15 by April 2002. It would reduce taxes for certain small businesses, change the tax treatment of certain pension plans, and reduce estate and gift taxes.

Intergovernmental mandates contained in the bill

Section 101 of H.R. 3081 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because state, local, and tribal governments would be required to pay a higher minimum wage to employees than they are required to pay under current law.

Estimated direct costs of mandates to state, local, and tribal governments

Is the Statutory Threshold ($50 million in 1996, adjusted annually for inflation) Exceeded?

Yes, beginning in fiscal year 2001.

TOTAL DIRECT COSTS OF MANDATES

	By fiscal year, in millions of dollars—				
	2000	2001	2002	2003	2004
Direct Costs	30	100	220	280	250

The amounts in the table represent the estimated increase in wages and payroll taxes that state, local, and tribal government employers would be required to pay to raise the wages rates of all employees who would otherwise have been paid between $5.15 and the proposed rate. (These estimates are based on the assumption that the federal minimum wage would rise to $6.15 per hour on April 1, 2002, and remain at that wage rate. The language in the bill, as reported, is unclear as to what the minimum wage rate would be on April 1, 2003, and thereafter. Staff of the sponsor indicated that the bill will be clarified to assure that the federal minimum wage would not revert to $5.15 per hour on April 1, 2003.)

Basis of estimate

Under section 101 of H.R. 3081, the minimum wage would increase from $5.15 per hour to $5.48 per hour on April 1, 2000, to $5.81 per hour on April 1, 2001, and to $6.15 per hour on April 1, 2002. The provision of the FLSA permitting employers to pay teenagers $4.25 per hour during the first 90 consecutive days of employment would not change.

CBO estimated the total number of workers whose wages would be affected by the increase in the minimum wage rate in April 2000 and subsequent months, the wage rates these workers would receive in the absence of the enactment of the proposal, and the number of hours for which they would be compensated. Fewer than 10

percent of the affected workers were employed by state, local, or tribal governments.

The estimate was made in two steps. First, CBO used data from the Current Population Survey to estimate how much it would have cost employers to comply with the mandate had they been required to do so in early 1999. Second, these estimate were used to project the costs to employers beginning in April 2000, taking into account the expected decline in the number of workers in the relevant wage range. Limitations of the data and methods are discussed in more detail in the private-sector mandate statement that accompanies this statement.

Appropriations or other Federal financial assistance provided in bill to cover mandate costs

None.

Estimated prepared by: Theresa Gullo and Ralph Smith.

Estimated approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning the tax burden on small businesses and others, incentives for distressed communities and industries, real estate tax relief, pension reforms, extension of tax provisions expiring in 1999, certain revenue offsets, that the Committee concluded that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect to clause 3(c)(4) of rule XII of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Reform with respect to the provisions contained in the bill.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *"), and from the 16th Amendment to the Constitution.

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4).

The Committee has determined that the following provisions of the bill contain Federal mandates on the private sector (for amounts, see table in Part IV.A., above): (1) impose 10 percent vote or value test for REITS, and (2) treatment of income and services provided by taxable REIT subsidiaries.

The costs required to comply with each Federal private sector mandate generally are no greater than the estimated budget effects of the provision. Benefits from the provisions include improved administration of the Federal tax laws and a more accurate measurement of income for Federal income tax purposes.

The bill will not impose a Federal intergovernmental mandate on State, local, and tribal governments.

E. APPLICABILITY OF HOUSE RULE XXI5(b)

Rule XXI5(b) of the Rules of the House of Representatives provides, in part, that "No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless determined by a vote of not less than three-fifths of the Members." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increase within the meaning of the rule.

F. TAX COMPLEXITY ANALYSIS

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided, along with an estimate of the number and the type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS regarding each of the provisions included in the complexity analysis, including a discussion of the likely effect on IRS forms and any expected impact on the IRS.

1. Accelerate 100–percent self-employed health insurance deduction (sec. 201 of the bill)

Summary description of provision

The provision accelerates the increase in the deduction for health insurance expenses of self-employed individuals so that the deduction is 100 percent in years beginning after December 31, 2000.

Number of affected taxpayers

It is estimated that the provision will affect over three million small businesses.

Discussion

It is not anticipated that individuals or small businesses will need to keep additional records due to the provision. It is not anticipated that the provision will result in an increase in disputes with the IRS, or increase tax return preparation costs. It is not anticipated that regulatory guidance will be needed to implement the provision. Accelerating the 100-percent deduction may simplify the preparation of tax returns for self-employed individuals, because they will no longer need to keep track of the percent of health insurance expenses that are deductible, and will need to perform one less calculation.

2. Increase deduction for business meals (sec. 203 of the bill)

Summary description of provision

The provision phases in an increase in the deductible percentage of business meal (food and beverage) expenses. The increase in the deductible percentage is phased in as follows: 55 percent in 2001; and 60 percent in 2002 and thereafter.

Number of affected taxpayers

It is estimated that almost all small businesses will be affected by the provision.

Discussion

Because the provision increases the percentage deduction only with respect to meals and not entertainment, small businesses may have to keep additional records to distinguish between the two types of expenditures. The provision may lead to additional disputes between small businesses and the IRS regarding the nature of an expenditure, particularly in business situations where the meal and entertainment is provided as a package for a single price. No new regulatory changes would be needed to implement the provision (although a conforming change to regulations to reflect the increasing percentage would be appropriate). The provision may increase complexity because the percentage of the deduction is phased in.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, November 10, 1999.

MS. LINDY L. PAULL,
Chief of Staff, Joint Committee on Taxation,
Washington, DC.

DEAR MS. PAULL: Following are the Internal Revenue Service's (IRS) comments on the two provisions from the Committee on Ways and Means markup of H.R. 3081, the "Wage and Employment Growth Act of 1999." that you identified for complexity analysis in your letter of November 10. Due to the short turnaround

time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provisions.

100 PERCENT DEDUCTION OF SELF-EMPLOYED HEALTH INSURANCE COSTS

Provision: An acceleration of the increase in the deduction for health insurance expenses of self-employed individuals so that the deduction is 100 percent in years beginning after December 31, 1999.

IRS Comments: This provision would eliminate one line from the self-employed health insurance deduction worksheet contained in the 2000 instructions for Forms 1040 and 1040NR. This worksheet is currently four lines. The Form 1040–ES for 2000 would also reflect the provision. No new forms would be required.

INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES

Provision: An increase from 50 percent in the deductible percentage of business meal (food and beverage) expenses for all businesses. The increase in the deductible percentage is phased in as follows: 55 percent in 2001; and 60 percent in 2002 and thereafter.

IRS Comments: This provision would require the addition of a new 5-line column on Form 2106 and a new line on Form 2106–EZ, beginning in 2001, to account for the different limits on meal expenses and entertainment expenses. Currently, the same 50 percent limit generally applies to both types of expenses. Minor changes to the instructions for Schedules C, C–EZ, E, and F of Form 1040; Form 1065; and the Form 1120 series, beginning in 2001, would also be required. No new firms would be required.

Sincerely,

CHARLES O. ROSSOTTI.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In the opinion of the committee, in order to expedite the business of the House of Representatives, it is necessary to dispense with the requirements of clause 3(e) of rule XIII of the Rules of the House of Representatives (relating to showing changes in existing law made by the bill as reported).

VII. DISSENTING VIEWS

We cannot support the bill reported by the Committee for the simple reason that we are united in our desire *to actually enact* legislation that provides a fair increase in the minimum wage and that includes a reasonable tax package targeted to small businesses. The President already has made it clear in a letter to the Speaker that he will veto the Committee bill because the tax provisions contained within it threaten our country's fiscal discipline and are inconsistent with the President's pledge to put Social Security and Medicare first.

In our view, the Republican leadership this year has pursued a cynical veto strategy. Their $792 billion tax bill was fiscally irresponsible and deliberately designed to receive a Presidential veto. In addition, the Republican leadership was unable to defeat needed patient's rights legislation directly because it was supported by a large bipartisan majority. Instead, it attached to that legislation tax provisions that deliberately were designed to ensure a Presidential veto. The Republican leadership does not support an increase in the minimum wage but could not maintain that position if the issue were fairly presented to the House of Representatives. Again, they have utilized the cynical strategy of attaching tax provisions to the minimum wage bill that guarantee a veto.

During the Committee consideration of this bill, many of the Republican Members of the Committee emphasized their support for increasing the minimum wage and the importance of many of the tax provisions contained in the Committee bill. However, they all voted for a bill deliberately designed to be vetoed. Unless the Committee bill is modified, there will be no increase in the minimum wage and none of those tax provisions will become law as part of this legislation. This is a fraud perpetrated on both those parties who support an increase in the minimum wage and those parties that support those tax reductions.

Contrary to the Republican strategy, we offered a substitute in the Committee that could become law. It combined a fair increase in the minimum wage with a reasonable package of tax provisions. It is consistent with the approach taken by the Congress in 1996 when it enacted an increase in the minimum wage. While small businesses may need relief to assist them in paying a living wage to their workers, any relief must be targeted to those most in need and must be provided in a fiscally responsible manner. We intend to offer that substitute on the Floor and hope it will be the basis for a bipartisan compromise on this issue.

C.B. RANGEL.
KAREN L. THURMAN.
WM. J. JEFFERSON.
XAVIER BECERRA.
ROBERT T. MATSUI.
WILLIAM J. COYNE.
BEN CARDIN.
RICHARD E. NEAL.
JERRY KLECZKA.
JOHN LEWIS.
JIM MCDERMOTT.
PETE STARK.
LLOYD DOGGETT.
MICHAEL R. MCNULTY.
SANDER LEVIN.
JOHN S. TANNER.

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