

108TH CONGRESS
1ST SESSION

S. 112

To amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to fund America's war effort.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2003

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to fund America's war effort.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "War Financing Act
5 of 2003".

6 **SEC. 2. AMENDMENT OF 1986 CODE.**

7 Except as otherwise expressly provided, whenever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a section or other provi-
10 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **TITLE I—VALUE ADDED TAX**

4 **SEC. 101. IMPOSITION OF TAX.**

5 (a) IN GENERAL.—Subtitle D (relating to miscella-
6 neous excise taxes) is amended by inserting before chapter
7 31 the following new chapter:

8 **“CHAPTER 30—VALUE ADDED TAX**

“SUBCHAPTER A. Imposition of tax.

“SUBCHAPTER B. Taxable transaction.

“SUBCHAPTER C. Taxable amount, rate of tax and exemption
from tax for certain transactions and certain enti-
ties; credit against tax.

“SUBCHAPTER D. Administration.

“SUBCHAPTER E. Definitions and special rules; treatment of cer-
tain transactions.

9 **“Subchapter A—Imposition of Tax**

“Sec. 3901. Imposition of tax.

10 **“SEC. 3901. IMPOSITION OF TAX.**

11 “(a) GENERAL RULE.—A tax is hereby imposed on
12 each taxable transaction.

13 “(b) AMOUNT OF TAX.—Except as otherwise pro-
14 vided in this chapter, the amount of the tax shall be 1
15 percent of the taxable amount.

16 **“Subchapter B—Taxable Transaction**

“Sec. 3903. Taxable transactions.

“Sec. 3904. Nontaxable transaction.

“Sec. 3905. Taxable person.

“Sec. 3906. Transactions in the United States.

“Sec. 3907. Rules pertaining to sales of property and performance
of services.

1 **“SEC. 3903. TAXABLE TRANSACTIONS.**

2 “(a) GENERAL RULE.—Except as otherwise provided
3 in this chapter or in regulations, the term “taxable trans-
4 action” means—

5 “(1) the sale of property or services in the
6 United States by a taxable person in connection with
7 a business,

8 “(2) the import of property or services for use
9 or consumption in the United States,

10 “(3) the—

11 “(A) sale of property or services (not in-
12 cluded in subparagraph (B)) in the United
13 States other than in connection with business
14 for a consideration that exceeds \$1,000, or

15 “(B) lease of property in the United States
16 other than in connection with a business, if the
17 fair market value of the leased property exceeds
18 \$1,000, and

19 “(4) the sale of property or services exported
20 from the United States for use or consumption out-
21 side the United States.

1 “(b) CROSS REFERENCES.—

“For other transactions specifically treated as taxable transactions, see sections 3933, 3936, and 3937.

2 “SEC. 3904. NONTAXABLE TRANSACTION.

3 “(a) GENERAL RULE.—The term ‘nontaxable trans-
4 action’ includes—

5 “(1) any transfer of possession of, or transfer
6 of a security interest in, property or services by a
7 debtor to a creditor or a representative of creditors,
8 or

9 “(2) any transfer of possession, or incidents of
10 ownership, of property or services to a fiduciary who
11 represents the interests of an owner under a legal
12 disability,

13 “(3) any transfer of ownership of property or
14 services by a debtor to a trustee in bankruptcy, re-
15 ceiver, or other fiduciary appointed to marshal, man-
16 age, or liquidate a debtor’s property for the benefit
17 of creditors,

18 “(4) any import of an article that is free of
19 duty under parts 1 and 2 of schedule 8 of the Har-
20 monized Tariff Schedule of the United States, or

21 “(5) any sale of property located, or services
22 performed, outside the United States, unless such
23 sale constitutes an export to which section
24 3903(a)(4) applies.

1 “(b) AUTHORIZATION TO TREAT TRANSACTION AS
2 NONTAXABLE.—The Secretary may, by regulations, treat
3 any transaction as a nontaxable transaction if such classi-
4 fication—

5 “(1) is provided to reduce the cash flow costs
6 of the tax on the transactions, and

7 “(2) does not reduce net tax revenue.

8 **“SEC. 3905. TAXABLE PERSON.**

9 “(a) GENERAL RULE.—Except as otherwise provided
10 in this chapter, the term ‘taxable person’ means—

11 “(1) a person who engages in a taxable or non-
12 taxable transaction in connection with a business,
13 and

14 “(2) a person who engages in a transaction de-
15 scribed in section 3903(a)(3), but only with respect
16 to such transaction.

17 “(b) TREATMENT OF EMPLOYEES.—For purposes of
18 this chapter, an employee shall not be treated as a taxable
19 person with respect to activities engaged in as an em-
20 ployee.

21 **“SEC. 3906. TRANSACTIONS IN THE UNITED STATES.**

22 “(a) SALES OF PROPERTY.—For purposes of this
23 chapter, a sale of property shall be treated as occurring
24 in the United States if the property is located in the
25 United States at the time of the sale.

1 “(b) SALES OF SERVICES.—For purposes of this
 2 chapter, a sale of services shall be treated as occurring
 3 in the United States to the extent that the services are
 4 provided from a place of business in the United States.

5 **“SEC. 3907. RULES PERTAINING TO SALES OF PROPERTY**
 6 **AND PERFORMANCE OF SERVICES.**

7 “(a) EXCHANGES CLASSIFIED BY CONSIDERATION
 8 GIVEN.—For purposes of this chapter—

9 “(1) an exchange of property for property or
 10 services shall be treated as a sale of property, and

11 “(2) an exchange of services for property or
 12 services shall be treated as a sale of services,

13 regardless, in either case, of whether other consideration
 14 is received.

15 “(b) CERTAIN TRANSFERS OF PROPERTY TO EM-
 16 PLOYEES TREATED AS SALES.—For purposes of this
 17 chapter, the transfer of property to an employee as com-
 18 pensation (other than a transfer that is excludable from
 19 the employee’s gross income for purposes of chapter 1)
 20 shall be treated as the sale of property.

21 “(c) SALE OF SERVICES.—For purposes of this chap-
 22 ter—

23 “(1) CERTAIN ACTIVITIES TREATED AS SALES
 24 OF SERVICES.—Activities treated as the sale of serv-
 25 ices shall include (but shall not be limited to)—

1 “(A) the granting of the right to use prop-
2 erty,

3 “(B) the granting of a right to the per-
4 formance of services or to reimbursement (in-
5 cluding the granting of warranties, insurance,
6 and similar items),

7 “(C) the making of a covenant not to com-
8 pete (or similar agreement to refrain from
9 doing something),

10 “(D) the supply of electricity, gas, water,
11 and other utilities, and

12 “(E) the licensing of patents, copyrights,
13 trademarks, software, and other proprietary in-
14 formation.

15 “(2) EMPLOYERS AND EMPLOYEES.—

16 “(A) SERVICES FOR EMPLOYER.—The per-
17 formance of services by an employee for an em-
18 ployer shall not be treated as the sale of serv-
19 ices.

20 “(B) SERVICES FOR EMPLOYEE.—The per-
21 formance of services by an employer for an em-
22 ployee as compensation (other than a transfer
23 of services that is excludable from the employ-
24 ee’s gross income for purposes of chapter 1)
25 shall be treated as the sale of services.

1 **“Subchapter C—Taxable Amount; Rate of Tax**
 2 **and Exemption From Tax for Certain**
 3 **Transactions and Certain Entities; Credit**
 4 **Against Tax**

“Sec. 3911. Taxable amount.

“Sec. 3912. Zero rated exports.

“Sec. 3913. Government entities and exempt organizations.

“Sec. 3914. Credit against tax.

“Sec. 3915. Constructive credit for certain purchases from a consumer.

“Sec. 3916. Credit for post-sale price adjustments and refunds.

“Sec. 3917. Deferred credit attributable to taxable casual sales.

5 **“SEC. 3911. TAXABLE AMOUNT.**

6 “(a) AMOUNT CHARGED CUSTOMER.—Except as oth-
 7 erwise provided in this chapter, if money is the only con-
 8 sideration for any transaction, the taxable amount shall
 9 be the price the seller charged the purchaser of the prop-
 10 erty or services—

11 “(1) including all invoiced charges for transpor-
 12 tation and other items payable to the seller with re-
 13 spect to the transaction,

14 “(2) excluding—

15 “(A) the tax imposed by section 3901, and

16 “(B) any separately stated State and local
 17 sales and use taxes with respect to the trans-
 18 action, and

19 “(3) reduced by any—

20 “(A) discount offered for prompt payment,

1 “(B) trade or quantity discount or other
2 price allowance granted at the time of sale, and

3 “(C) cash rebate granted at the time of the
4 sale.

5 “(b) EXCHANGES.—Except as otherwise provided in
6 this chapter, the taxable amount for any exchange of prop-
7 erty or services—

8 “(1) for other property or services, or

9 “(2) for a combination of money and

10 “(A) property or services, or

11 “(B) property and services,

12 shall be the fair market value of the property or services
13 sold, adjusted by the items described in subsection (a).

14 “(c) IMPORTS.—

15 “(1) IN GENERAL.—For purposes of this chap-
16 ter, the taxable amount in the case of any import
17 shall be—

18 “(A) the customs value plus customs du-
19 ties and any other duties that may be imposed,
20 or

21 “(B) if there is no such customs value, the
22 fair market value (determined as if the importer
23 had sold the property or rendered the services).

24 If the value in paragraph (1)(A) does not include the cost
25 to the importer of transporting and insuring the property

1 or services to the point of import, the taxable amount shall
2 include such costs.

3 “(2) IMPORTS OF PREVIOUSLY EXPORTED ARTI-
4 CLES.—For purposes of this chapter, the taxable
5 amount for any import of an article that is returned
6 to the United States—

7 “(A) after export for repairs or alterations
8 abroad, or

9 “(B) after export to undergo assembly,
10 processing, manufacture, or other changes in
11 condition abroad,

12 shall be the net cost to the importer of such repairs,
13 alterations, assembly, processing, manufacture, or
14 other change in condition.

15 “(3) LIMITATION FOR PREVIOUSLY EXPORTED
16 ARTICLES.—Paragraph (2) shall apply only to an ar-
17 ticle—

18 “(A) that the importer acquired before ex-
19 port, and

20 “(B) as to which there has been no trans-
21 fer of ownership between the time of export and
22 import.

23 “(d) CERTAIN RELATED PARTY TRANSACTIONS.—
24 For purposes of this chapter, the taxable amount for a
25 transaction conducted for no consideration or for a consid-

1 eration that is less than fair market value shall be the
 2 fair market value of the property or services sold, if—

3 “(1) the seller and the recipient—

4 “(A) are related persons, or

5 “(B) are employer and employee, and

6 “(2) the recipient is not eligible for a section
 7 3914 input tax credit with respect to such purchase.

8 “(e) GAMBLING, LOTTERIES, AND OTHER GAMES OF
 9 CHANCE.—For purposes of this chapter, the taxable
 10 amount of proceeds from gambling, lotteries, and similar
 11 games of chance shall be the gross receipts from these ac-
 12 tivities, reduced by the amount paid to the winners.

13 **“SEC. 3912. ZERO RATED EXPORTS.**

14 “The rate of tax imposed by section 3901 shall be
 15 zero with respect to sales of property and services exported
 16 from the United States for use or consumption outside
 17 the United States.

18 **“SEC. 3913. GOVERNMENT ENTITIES AND EXEMPT ORGANI-
 19 ZATIONS.**

20 “(a) GENERAL RULE.—The sale of property and
 21 services by a government entity or exempt organization
 22 shall be a taxable transaction only if a charge or fee is
 23 imposed.

24 “(b) EXEMPT TRANSACTIONS.—For purposes of this
 25 chapter, the supply of property or services by a govern-

1 ment entity or exempt organization without consideration
2 shall be exempt from the tax imposed by section 3901.

3 “(c) **AUTHORITY TO TREAT SALES FOR NOMINAL**
4 **CONSIDERATION AS EXEMPT TRANSACTIONS.**—To the ex-
5 tent provided in regulations, a sale of property or services
6 under subsection (a) shall be treated as an exempt trans-
7 action under subsection (b) if a government entity or ex-
8 empt organization imposes a nominal charge or fee for
9 such property or services.

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

11 “(1) **GOVERNMENT ENTITY.**—The term ‘gov-
12 ernment entity’ means the United States, any State
13 or political subdivision thereof, the District of Co-
14 lumbia, a Commonwealth or possession of the
15 United States, or any agency or instrumentality of
16 any of the foregoing.

17 “(2) **EXEMPT ORGANIZATION.**—The term ‘ex-
18 empt organization’ means any organization which is
19 exempt from tax under chapter 1.

20 **“SEC. 3914. CREDIT AGAINST TAX.**

21 “(a) **GENERAL RULE.**—There shall be allowed to a
22 taxable person as a credit against the tax imposed by sec-
23 tion 3901 the aggregate amount of tax imposed by section
24 3901 which—

1 “(1) is payable by sellers to the taxable person
2 of property or services that the taxable person uses
3 in the business to which the transaction relates, or

4 “(2) has been reported by the taxable person as
5 importer of property or services that the taxable per-
6 son uses in the business to which the transaction
7 relates.

8 “(b) EXEMPT TRANSACTIONS, ETC.—If property or
9 services are used partly in the business and partly for
10 other purposes, the credit shall not be allowable with re-
11 spect to the property or services used for other purposes.
12 If property or services are used in the business partly for
13 taxable and nontaxable transactions and partly for exempt
14 transactions, the credit shall not be allowable with respect
15 to the property and services used for exempt transactions.

16 “(c) BAD DEBTS.—

17 “(1) GENERAL RULE.—If—

18 “(A) a taxable person issues a tax invoice
19 and reports tax under section 3901 on a sale of
20 property or services,

21 “(B) the purchaser fails to pay all or a
22 portion of the taxable amount of the sale plus
23 tax imposed under section 3901, and

1 “(C) the debt becomes deductible as a
2 wholly or partially worthless debt under section
3 166(a),

4 there shall be allowed as a credit under subsection
5 (a) the portion of the tax imposed by section 3901
6 that is attributable to the deductible worthless debt.

7 “(2) AMOUNT OF CREDIT.—For purposes of
8 this subsection, the tax attributable to the worthless
9 debt shall be an amount equal to the deductible
10 worthless debt described in paragraph (1), multiplied
11 by a fraction, the numerator of which is the tax rate
12 provided in section 3901(b) at the time of sale and
13 the denominator of which is 100 plus the tax rate
14 provided in section 3901(b) at the time of the sale.

15 “(3) SUBSTANTIATION REQUIRED.—For pur-
16 poses of this chapter, the credit authorized under
17 subsection (a) shall be allowable only if supported by
18 a statement by the purchaser that any credit allow-
19 able to the purchaser under subsection (a) will be re-
20 duced by the amount specified in paragraph (2).

21 “(d) EXCESS CREDIT TREATED AS OVERPAY-
22 MENT.—

23 “(1) IN GENERAL.—If for any taxable period
24 the aggregate amount of the credits allowable by
25 subsection (a) exceeds the aggregate amount of the

1 tax imposed by section 3901 for such period, such
 2 excess shall be treated as an overpayment of the tax
 3 imposed by section 3901.

4 “(2) TIME WHEN OVERPAYMENT ARISES.—Any
 5 overpayment under paragraph (1) for any taxable
 6 period shall be treated as arising on the later of—

7 “(A) the due date for the return for such
 8 period, or

9 “(B) the date on which the return is filed.

10 **“SEC. 3915. CONSTRUCTIVE CREDIT FOR CERTAIN PUR-**
 11 **CHASES FROM A CONSUMER.**

12 “(a) GENERAL RULE.—For purposes of this chapter,
 13 if a taxable person acquires property from a consumer in
 14 a sale that is not subject to the tax imposed by section
 15 3901, the purchaser shall be allowed as a credit under sec-
 16 tion 3914(a) the amount of tax deemed charged under
 17 subsection (b). This section applies only to property that
 18 was subject to the tax imposed by section 3901 when it
 19 was acquired by such consumer.

20 “(b) AMOUNT OF TAX INCLUDED IN PURCHASE
 21 PRICE.—For purposes of this section, the seller to the tax-
 22 able person shall be deemed to have charged as tax an
 23 amount equal to the selling price of the property multi-
 24 plied by a fraction—

1 “(1) the numerator of which is the tax rate pro-
2 vided in section 3901(b) at the time of sale, and

3 “(2) the denominator of which is 100 plus the
4 tax rate provided in section 3901(b) at the time of
5 the sale.

6 “(c) **TIME WHEN CREDIT IS AVAILABLE.**—For pur-
7 poses of this chapter, the credit authorized under sub-
8 section (a) shall be allowed for the tax period in which
9 the taxable person purchased the property.

10 **“SEC. 3916. CREDIT FOR POST-SALE PRICE ADJUSTMENTS**
11 **AND REFUNDS.**

12 “(a) **GENERAL RULE.**—For purposes of this chapter,
13 if a taxable person issues a sales refund, rebate, or price
14 allowance attributable to a sale taxable under section 3901
15 and previously reported under section 3924, the taxable
16 person shall be allowed as a credit under section 3914(a)
17 the amount of the tax deemed allocable to the refund, re-
18 bate, or price allowance under subsection (b).

19 “(b) **AMOUNT OF CREDIT.**—For purposes of this sec-
20 tion, the amount of tax deemed allocable to the refund,
21 rebate, or price allowance described in subsection (a) shall
22 be an amount equal to the refund, rebate, or price allow-
23 ance multiplied by a fraction—

24 “(1) the numerator of which is the tax rate pro-
25 vided in section 3901(b) at the time of the sale, and

1 as a credit under section 3914, whichever of the following
2 is smallest:

3 “(1) the amount of tax imposed by section 3901
4 that—

5 “(A) is payable by suppliers to the seller of
6 property or services that the seller uses in the
7 section 3903(a)(3) transaction, or

8 “(B) has been reported by the seller as im-
9 porter of property or services that the importer
10 uses in the section 3903(a)(3) transaction;

11 “(2) the tax imposed by section 3901 on the
12 sale; or

13 “(3) the amount of tax referred to in paragraph
14 (1) multiplied by a fraction—

15 “(A) the numerator of which is the taxable
16 amount of the sale, and

17 “(B) the denominator of which is the tax-
18 exclusive cost of the property and services de-
19 scribed in subparagraphs (A) and (B) of para-
20 graph (1).

21 In no case can the credit exceed the total amount of the
22 taxes referred to in paragraph (1) not previously claimed
23 as credits under this section.

24 “(b) TIME WHEN CREDIT IS AVAILABLE.—For pur-
25 poses of this chapter, the credit authorized under sub-

1 section (a) shall be allowed for the taxable period in which
 2 the sale giving rise to the credit is reportable.

3 “(c) **SUBSTANTIATION REQUIRED.**—For purposes of
 4 this chapter, the credit authorized under subsection (a)
 5 shall be allowable only if supported by a tax invoice listing
 6 the tax described in subparagraph (A) of paragraph (1)
 7 or a document acceptable to the Secretary listing the tax
 8 described in subparagraph (B) of paragraph (1).

9 **“Subchapter D—Administration**

“Sec. 3921. Seller liable for tax.

“Sec. 3922. Tax invoices.

“Sec. 3923. De minimis exception.

“Sec. 3924. Time for filing return and claiming credit; taxable
 period; tax point; deposits of tax.

“Sec. 3925. Treatment of related businesses.

“Sec. 3926. Secretary to be notified of certain events.

“Sec. 3927. Regulations.

10 **“SEC. 3921. SELLER LIABLE FOR TAX.**

11 “(a) **GENERAL RULE.**—The person selling or import-
 12 ing property or services shall be liable for the tax imposed
 13 by section 3901.

14 “(b) **JOINT LIABILITY ON NON-OWNER SELLER.**—
 15 To the extent provided in regulations, any person making
 16 a sale of property or services on behalf of the owner (other
 17 than as an employee), and having control of the proceeds
 18 of the sale, shall be jointly and severally liable with the
 19 owner for any tax on the sale, and shall be allowed as
 20 a credit against such liability any amount creditable to the
 21 owner under section 3917.

1 **“SEC. 3922. TAX INVOICES.**

2 “(a) SELLER MUST GIVE PURCHASER TAX IN-
3 VOICE.—Any taxable person engaging in a taxable trans-
4 action shall give the purchaser a tax invoice with respect
5 to such transaction if—

6 “(1) the seller has reason to believe that the
7 purchaser is a taxable person, or

8 “(2) the purchaser requests a tax invoice.

9 “(b) CONTENT OF INVOICE.—The tax invoice re-
10 quired by subsection (a) with respect to any transaction
11 shall set forth—

12 “(1) the name and identification number of the
13 seller,

14 “(2) the name of the purchaser,

15 “(3) the amount of the tax imposed by section
16 3901, and

17 “(4) such other information as may be pre-
18 scribed by regulations.

19 “(c) NO CREDIT WITHOUT INVOICE.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graphs (2) and (3), a purchaser may claim a credit
22 with respect to a transaction only if the purchaser—

23 “(A) has received from the seller and has
24 in his possession a tax invoice that meets the
25 requirements of subsection (b), and

1 “(B) is named as the purchaser in such in-
2 voice.

3 “(2) EMPLOYEES OR OTHER AGENTS NAMED IN
4 INVOICES.—To the extent provided in regulations,
5 the naming of an employee or other agent of the
6 purchaser shall be treated as the naming of the pur-
7 chaser.

8 “(3) WAIVER OF INVOICE REQUIREMENT IN
9 CERTAIN CASES.—To the extent provided in regula-
10 tions, paragraph (1) shall not apply—

11 “(A) where the purchaser without fault on
12 his part fails to receive or fails to have in his
13 possession a tax invoice, or

14 “(B) to a taxable transaction (or category
15 of transactions) where—

16 “(i) the amount involved is de mini-
17 mis, or

18 “(ii) the information required by sub-
19 section (b) can be reliably established by
20 sampling or by another method and can be
21 adequately documented.

22 “(d) TIME FOR FURNISHING INVOICE.—Any invoice
23 required to be furnished by subsection (a) with respect to
24 any transaction shall be furnished not later than the ear-
25 lier of—

1 “(1) the date the taxable person bills the pur-
2 chaser with respect to such transaction, or

3 “(2) the date that is 15 business days after the
4 tax point for such transaction (as defined in section
5 3924(d)).

6 “(e) WAIVER OF TAX INVOICE.—The Secretary may
7 by regulations waive the requirement in subsection (a) to
8 issue a tax invoice.

9 **“SEC. 3923. DE MINIMIS EXEMPTION.**

10 “(a) IN GENERAL.—A person whose aggregate tax-
11 able transactions—

12 “(1) do not exceed \$5,000 for the calendar
13 year, and

14 “(2) can reasonably be expected not to exceed
15 such amount for the next calendar year,

16 may elect to be treated as a person who is not a taxable
17 person for the next calendar year,

18 “(b) EXCEPTIONS.—Subsection (a) does not apply—

19 “(1) to taxable transactions described in section
20 5903(a)(3), or

21 “(2) to any import of property or services.

22 “(c) TERMINATION OF ELECTION.—An election
23 under subsection (a) shall be terminated on the last day
24 of—

1 “(1) the first calendar quarter of any year for
2 which such election is made if the aggregate taxable
3 transactions for such quarter exceed \$2,500,

4 “(2) the second of any 2 consecutive calendar
5 quarters of any such year if the aggregate taxable
6 transactions for such quarters exceed \$3,000, or

7 “(3) the third of any 3 consecutive calendar
8 quarters of any such year if the aggregate taxable
9 transactions for such quarters exceed \$4,000.

10 “(d) CALCULATION OF TAXABLE TRANSACTIONS.—

11 For purposes of this section—

12 “(1) the taxable amount of any zero-rated
13 transaction shall be treated as zero, and

14 “(2) the term ‘taxable transaction’ does not in-
15 clude a transaction which is treated as a taxable
16 transaction solely by reason of paragraph (3) of sec-
17 tion 5903(a).

18 “(e) INFLATION ADJUSTMENT.—

19 “(1) IN GENERAL.—For calendar years begin-
20 ning after 2004, the dollar amounts set forth in sub-
21 sections (a) and (b) shall be increased by an amount
22 equal to—

23 “(A) such dollar amount, multiplied by

24 “(B) the cost-of-living adjustment for the
25 calendar year.

1 “(2) COMPUTATIONAL RULES.—The cost-of-liv-
 2 ing adjustment is the percentage (if any) by which
 3 the consumer price index determined under section
 4 1(f)(5) for the preceding calendar year exceeds the
 5 Consumer Price Index for the second preceding cal-
 6 endar year. If the amount determined under para-
 7 graph (1) is not a multiple of \$100, then such in-
 8 crease shall be rounded to the nearest multiple of
 9 \$100.

10 **“SEC. 3924. TIME FOR FILING RETURN AND CLAIMING**
 11 **CREDIT; TAXABLE PERIOD; TAX POINT; DE-**
 12 **POSITS OF TAX.**

13 “(a) FILING RETURN.—Before the first day of the
 14 second calendar month beginning after the close of each
 15 taxable period, each taxable person shall file a return of
 16 the tax imposed by section 3901 on taxable transactions
 17 having a tax point within such taxable period.

18 “(b) CREDIT ALLOWED FOR TAXABLE PERIOD IN
 19 WHICH PURCHASER RECEIVES INVOICE.—

20 “(1) IN GENERAL.—Except as provided in para-
 21 graph (2), a credit allowable by section 3914 with
 22 respect to a transaction may be allowed only for the
 23 first taxable period by the close of which the taxable
 24 person—

1 “(A) has paid or accrued amounts properly
2 allocable to the tax imposed by section 3901
3 with respect to such transaction, and

4 “(B) has a tax invoice (or equivalent) with
5 respect to such transaction.

6 “(2) USE FOR LATER PERIOD.—To the extent
7 provided in regulations, at the taxable person’s elec-
8 tion, a credit allowable by section 3914 may be al-
9 lowed for a period after the period set forth in para-
10 graph (1).

11 “(c) TAXABLE PERIOD.—For purposes of this
12 chapter—

13 “(1) IN GENERAL.—The term ‘taxable period’
14 means each calendar quarter.

15 “(2) EXCEPTIONS.—

16 “(A) ELECTION OF MONTHLY TAXABLE
17 PERIOD.—If the taxable person so elects, the
18 term ‘taxable period’ means each month.

19 “(B) OTHER PERIODS.—To the extent pro-
20 vided in regulations, the term ‘taxable period’
21 includes a period selected by the taxable person,
22 other than the period provided in paragraph (1)
23 or subparagraph (A).

24 “(3) AUTHORITY TO ALTER LENGTH OF TAX
25 PERIOD.—The Secretary, to the extent the Secretary

1 deems such action necessary to protect the revenue,
2 may shorten the length of a taxable person's tax pe-
3 riod under this subsection.

4 “(d) TAX POINT.—For purposes of this chapter—

5 “(1) CHAPTER 1 RULES WITH RESPECT TO
6 SELLER GOVERN.—Except as provided in para-
7 graphs (2) and (3), the tax point for any sale of
8 property or services occurs at the earliest of—

9 “(A) the time (or times) when any income
10 from the sale should be treated by the seller as
11 received or accrued (or any loss should be taken
12 into account by the seller) for purposes of chap-
13 ter 1,

14 “(B) the time (or times) when the seller
15 receives payment for the sale, or

16 “(C) the time when the seller issues a tax
17 invoice covering the sale.

18 “(2) EXCEPTION TO CHAPTER 1 RULES.—To
19 the extent permitted by regulations, if the taxable
20 person so elects, the tax point for any sale of prop-
21 erty or services occurs when the taxable person re-
22 ceives payment for the sale.

23 “(3) IMPORTS.—The tax point for imports of
24 property occurs when property is entered, or with-
25 drawn from warehouse for consumption, in the

1 United States, as determined under the Harmonized
2 Tariff Schedule of the United States. The tax point
3 for imports of services occurs when services are en-
4 tered or transferred for use in the United States.

5 “(e) PERIODIC DEPOSITS REQUIRED.—

6 “(1) IN GENERAL.—To the extent provided in
7 regulations, a taxable person shall make periodic de-
8 posits of estimated liability for the tax imposed by
9 section 3901.

10 “(2) ESTIMATED LIABILITY.—For purposes of
11 paragraph (1), the estimated liability shall equal—

12 “(A) the tax imposed by section 3901 for
13 the period, and

14 “(B) reduced by the credit allowable under
15 section 3914 on tax invoices received during the
16 period.

17 **“SEC. 3925. TREATMENT OF RELATED BUSINESSES.**

18 “For purposes of this chapter, to the extent provided
19 in regulations, a taxable person may elect—

20 “(1) to treat as one taxable person—

21 “(A) a controlled group of corporations
22 under section 52(a), or

23 “(B) two or more businesses (whether or
24 not incorporated) under common control under
25 section 52(b), and

1 “(2) to treat as separate taxable persons separate divisions of the same business.

3 **“SEC. 3926. SECRETARY TO BE NOTIFIED OF CERTAIN**
4 **EVENTS.**

5 “To the extent provided in regulations, each person
6 engaged in a business shall notify the Secretary (at such
7 time or times as may be prescribed by such regulations)
8 of—

9 “(1) any change in the form in which the business is conducted, and

11 “(2) any other change that might affect—

12 “(A) the liability for the tax imposed by
13 section 3901,

14 “(B) the amount of such tax or any credit
15 against such tax, or

16 “(C) the administration of such tax in the
17 case of such person.

18 **“SEC. 3927. REGULATIONS.**

19 “The Secretary shall prescribe such regulations as
20 may be necessary to carry out the purposes of this chapter.
21 ter.

22 **“Subchapter E—Definitions and Special**
23 **Rules; Treatment of Certain Transactions**

“Sec. 3931. Definitions.

“Sec. 3932. Special rules.

“Sec. 3933. Personal use by owner of business property or services.

“Sec. 3934. Financial services.

“Sec. 3935. Special rule for insurance contracts.

“Sec. 3936. Self-consumption of property or services in connection with exempt transactions.

“Sec. 3937. Cessation of taxable person status.

“Sec. 3938. Transfer in satisfaction of debt.

1 **“SEC. 3931. DEFINITIONS.**

2 “(a) PROPERTY.—For purposes of this chapter, the
3 term ‘property’ means any tangible property.

4 “(b) SALE OF SERVICES.—For purposes of this chap-
5 ter, the term ‘sale of services’ means the performance of
6 services for a consideration.

7 “(c) SALE OF PROPERTY.—For purposes of this
8 chapter, the term ‘sale of property’ means the transfer of
9 ownership of property from a seller to a purchaser for a
10 consideration.

11 “(d) BUSINESS.—For purposes of this chapter, the
12 term ‘business’ includes any activity carried on continu-
13 ously or regularly, whether or not for profit, that involves
14 or is intended to involve the sale of property or services.

15 “(e) EMPLOYEE.—For purposes of this chapter, the
16 term ‘employee’ has the meaning such term has for pur-
17 poses of chapter 24 (relating to withholding).

18 “(f) PERSON.—For purposes of this chapter, the
19 term ‘person’ has the meaning such term has under sec-
20 tion 7701(a)(1), and it also includes any government
21 entity.

22 “(g) BUSINESS DAY.—For purposes of this chapter,
23 the term ‘business day’ means any day other than Satur-

1 day, Sunday, or a legal holiday within the meaning of sec-
2 tion 7503.

3 “(h) UNITED STATES.—For purposes of this chapter,
4 the term ‘United States’, when used in a geographic sense,
5 includes the customs territory (as defined in General
6 Headnote 2 of the Harmonized Tariff Schedule of the
7 United States) and any area seaward of the States lying
8 above the outer boundaries of the outer continental shelf
9 (as defined in section 1331 of title 43, United States
10 Code).

11 **“SEC. 3932. SPECIAL RULES.**

12 “(a) COORDINATION WITH SUBTITLE A.—For pur-
13 poses of subtitle A—

14 “(1) TREATMENT OF CREDIT.—Any credit al-
15 lowable to a taxable person under section 3914 that
16 is attributable to any property or services shall be
17 treated as a reduction in the amount paid or in-
18 curred by the taxable person for such property or
19 services.

20 “(2) AMOUNT OF DEDUCTION FOR TAX.—The
21 amount allowable as a deduction for the tax imposed
22 by section 3901 shall be determined without regard
23 to any credit allowable under section 3914.

24 “(b) SPECIAL RULE WHERE SALE OF PROPERTY IN-
25 CLUDES INCIDENTAL SALE OF SERVICES.—For purposes

1 of this chapter, if in connection with the sale of any prop-
 2 erty there is an incidental sale of services, such sale of
 3 services shall be treated as part of the sale of such prop-
 4 erty.

5 “(c) SPECIAL RULE WHERE SALE OF SERVICES IN-
 6 CLUDES INCIDENTAL SALE OF PROPERTY.—For purposes
 7 of this chapter, if in connection with the sale of any serv-
 8 ices there is an incidental sale of property, such sale of
 9 property shall be treated as part of the sale of such serv-
 10 ices.

11 “(d) USE INCLUDES HELD FOR USE.—For purposes
 12 of this chapter, property or services held for use by any
 13 person shall be treated as used by the person.

14 **“SEC. 3933. PERSONAL USE BY OWNER OF BUSINESS PROP-**
 15 **ERTY OR SERVICES.**

16 “(a) GENERAL RULE.—For purposes of this chapter,
 17 if any business property or services are distributed to or
 18 used by an owner of the taxable person for personal pur-
 19 poses, and part or all of the tax imposed on the acquisition
 20 of such property or services was subject to the credit avail-
 21 able under section 3914, such distribution or use shall be
 22 treated as a taxable transaction.

23 “(b) TAXABLE AMOUNT.—In the case of a distribu-
 24 tion or use described in subsection (a), for purposes of
 25 this chapter, the taxable amount shall be—

1 “(1) except as provided in paragraph (2), the
2 fair market value of the property or the services, or

3 “(2) if such distribution or use is only tem-
4 porary, the fair rental value.

5 “(c) DEFINITIONS.—For purposes of this section—

6 “(1) BUSINESS PROPERTY OR SERVICES.—The
7 term ‘business property or services’ means any prop-
8 erty or services if a sale of such property or services
9 by the taxable person would be a taxable trans-
10 action.

11 “(2) OWNER.—The term ‘owner’ means—

12 “(A) in the case of a sole proprietorship,
13 the proprietor,

14 “(B) in the case of any other business en-
15 terprise, any holder of a beneficial interest in
16 the corporation, partnership, or other entity,
17 and

18 “(C) any member of the family (within the
19 meaning of section 267(c)(4)) of an individual
20 described in subparagraph (A) or (B).

21 “(d) SECTION 3911(d) HAS PRIORITY.—For pur-
22 poses of this chapter, section 3911(d) (and not subsection
23 (a)) shall apply to a transaction that is described in both
24 such provisions.

1 **“SEC. 3934. FINANCIAL SERVICES.**

2 “For purposes of this chapter, the taxable amount
3 of any financial service shall be the amount determined
4 under section 3911.

5 **“SEC. 3935. SPECIAL RULE FOR INSURANCE CONTRACTS.**

6 “For purposes of this chapter, the taxable amount
7 of any insurance services involving intermediation shall be
8 the excess of—

9 “(1) the portion of the premium attributable to
10 insurance coverage, over

11 “(2) the actuarial cost to the insurer of pro-
12 viding such insurance coverage.

13 **“SEC. 3936. SELF-CONSUMPTION OF PROPERTY OR SERV-**
14 **ICES IN CONNECTION WITH EXEMPT TRANS-**
15 **ACTIONS.**

16 “For purposes of this chapter, to the extent provided
17 in regulations, if any property is produced or services are
18 rendered by a government entity or exempt organization
19 for use by itself in providing property or services exempt
20 from tax under section 3913(b)—

21 “(1) the property or services supplied to itself
22 shall be deemed sold in the course of business in a
23 taxable transaction, and

24 “(2) the taxable amount shall be the fair mar-
25 ket value of such property or services.

1 **“SEC. 3937. CESSATION OF TAXABLE PERSON STATUS.**

2 “(a) GENERAL RULE.—For purposes of this chapter,
3 if a person ceases to be a taxable person—

4 “(1) any property and services then forming
5 part of the assets of the business shall be deemed to
6 be sold in a taxable transaction immediately before
7 such cessation, and

8 “(2) the taxable amount shall be the lesser of
9 the cost of the property and services to the taxable
10 person or their fair market value when they are
11 treated as sold.

12 “(b) EXCEPTIONS.—Except as provided by regula-
13 tions, subsection (a) shall not apply—

14 “(1) with respect to any property or services de-
15 scribed in subsection (a), to the extent that such
16 property or services are transferred to a taxable per-
17 son as part of a transfer of a going concern, or

18 “(2) with respect to any property or services de-
19 scribed in subsection (a) for which the taxable per-
20 son was not allowed a credit under section 3916(a).

21 **“SEC. 3938. TRANSFER IN SATISFACTION OF DEBT.**

22 “For purposes of this chapter, the transfer of prop-
23 erty or services by a debtor to a creditor in payment of
24 reduction of debt is a sale of such property or services.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) TIME AND PLACE FOR PAYING TAX.—Sec-
2 tion 6151 (relating to time and place for paying tax
3 shown on returns) is amended by adding at the end
4 the following new subsection:

5 “(d) PAYMENT OF BUSINESS ACTIVITIES TAX BY
6 CERTIFICATE OF WAIVER OF CREDIT.—

7 “(1) GENERAL RULE.—A certificate of waiver
8 of credit issued in the form and containing the infor-
9 mation required by regulations shall be treated as
10 payment by the seller of the tax imposed by section
11 3901 to the extent of the qualified face amount of
12 the certificate.

13 “(2) CONDITIONS FOR ISSUANCE.—A certificate
14 of waiver of credit may be issued by a taxable person
15 with respect to business property or services if—

16 “(A) the amount of the tax imposed by
17 section 3901 and charged on a single tax in-
18 voice covering a transaction between the seller
19 and another taxable person exceeds \$750,000,

20 “(B) the purchaser is entitled under sec-
21 tion 3914(a) to a credit for the amount of tax
22 payable by the seller with respect to the trans-
23 action in subparagraph (A),

24 “(C) the purchaser waives the right to
25 claim the credit described in subparagraph (B)

1 in an amount equal to the qualified face
2 amount of the certificate, and

3 “(D) the seller and the purchaser agree
4 that the certificate, to the extent of its qualified
5 face amount, will be accepted by the seller in
6 partial payment of the consideration (including
7 the tax) for the transaction described in sub-
8 paragraph (A).

9 “(3) QUALIFIED FACE AMOUNT.—The qualified
10 face amount of a certificate of waiver shall be the
11 excess of the tax imposed by section 3901 on the
12 transaction described in paragraph (2)(A) over
13 \$750,000.

14 “(4) AUTHORITY TO ISSUE REGULATIONS.—
15 The Secretary shall prescribe by regulation the form
16 of and information required to be included in a cer-
17 tificate of waiver of credit under this section.”.

18 (2) COLLECTION.—

19 (A) IN GENERAL.—Subchapter B of chap-
20 ter 64 (relating to receipt of payment) is
21 amended by adding at the end the following
22 new section:

1 **“SEC. 6318. PAYMENT OF BUSINESS ACTIVITIES TAX.**

2 “Periodic deposits of estimated tax liability under
3 section 3924(e) shall be considered payment on account
4 of the business activities tax imposed by chapter 30.”.

5 (B) CLERICAL AMENDMENT.—The table of
6 sections for subchapter B of chapter 64 is
7 amended by adding at the end thereof the fol-
8 lowing new item:

“Sec. 6318. Payment of business activities tax.”.

9 (3) OVERPAYMENTS; CREDITS AND REFUNDS.—

10 (A) OVERPAYMENTS.—Subsection (b) of
11 section 6401 (relating to amounts treated as
12 overpayments) is amended by adding at the end
13 the following new paragraph:

14 “(3) SPECIAL RULE FOR CREDIT UNDER SEC-
15 TION 3914.—Any excess of credits treated by section
16 3914(d) as an overpayment of the tax shall be con-
17 sidered an overpayment.”.

18 (B) REFUND OR CREDIT.—Section 6402
19 (relating to authority to make credits or re-
20 funds) is amended by redesignating subsection
21 (i) as (l) and by inserting after subsection (h)
22 the following new subsection:

23 “(i) REPAYMENT OF BUSINESS ACTIVITIES TAX.—
24 Within 90 days after the date on which a tax return is
25 filed pursuant to section 3913 showing an overpayment,

1 the Secretary shall make, to the extent he deems practical,
2 a limited examination of the return to discover omissions
3 and errors of computation, and shall determine the
4 amount of the overpayment, if any, for the taxable period
5 to which the return relates and refund or credit the
6 amount of such overpayment to the taxable person who
7 filed the return.”.

8 (4) FAILURE TO FILE.—Section 6652 (relating
9 to failure to file certain information returns, reg-
10 istration statements, etc.) is amended by redesignig-
11 nating subsection (m) as subsection (n) and adding
12 after subsection (l) the following new subsection:

13 “(m) FAILURE TO GIVE TAX INVOICE.—In the case
14 of each failure to give a tax invoice as required by section
15 3922(a) within the time prescribed therefore, unless it is
16 shown that such failure is due to reasonable cause and
17 not to willful neglect, there shall be paid (on notice and
18 demand by the Secretary and in the same manner as tax)
19 by the person failing to provide such tax invoice, an
20 amount equal to \$1,000 for each such failure. If such fail-
21 ure continues for 10 days after notice and demand by the
22 purchaser for such tax invoice, unless it is shown that such
23 failure is due to reasonable cause and not to willful ne-
24 glect, there shall be paid (on notice and demand by the
25 Secretary and in the same manner as tax) by the person

1 failing to provide such tax invoice, an additional amount
 2 equal to 10 percent of the amount required to be shown
 3 as tax on such tax invoice if the failure is for not more
 4 than 1 month, with an additional 5 percent for each addi-
 5 tional month or fraction thereof during which such failure
 6 continues.”.

7 (5) CLERICAL AMENDMENT.—The table of
 8 chapters for subtitle D (relating miscellaneous excise
 9 taxes) is amended by adding before the item relating
 10 to chapter 31 the following new item:

11 **“CHAPTER 30—BUSINESS ACTIVITIES**
 12 **TAX”.**

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
 15 this section shall apply to transactions occurring on
 16 or after January 1 of the 2d calendar year following
 17 the date of the enactment of this Act.

18 (2) TAX ON SALES PURSUANT TO CONTRACTS
 19 EXECUTED BEFORE THE EFFECTIVE DATE OF CHAP-
 20 TER 30.—The tax imposed by section 3901 of the
 21 Internal Revenue Code of 1986 shall be imposed on
 22 any taxable transaction pursuant to any contract ex-
 23 ecuted before the date referred to in paragraph (1)
 24 if the transaction has a tax point on or after that
 25 date. Any separately stated tax imposed by such sec-

1 Proper adjustments shall be made in amounts subse-
2 quently transferred to the extent prior estimates were in
3 excess of or less than the amounts required to be trans-
4 ferred.

5 “(c)(1) The Secretary of the Treasury shall use the
6 money in the War Financing Trust Fund to pay for any
7 administrative costs in collecting the tax imposed under
8 section 3901 of the Internal Revenue Code of 1986 or in
9 operating the War Financing Trust Fund.

10 “(2) The moneys remaining in the Trust Fund after
11 payment of costs under paragraph (1), shall be available,
12 as provided by appropriation Acts, for making expendi-
13 tures to meet those obligations of the United States here-
14 tofore or hereafter incurred with respect to any case in
15 which United States Armed Forces are introduced into
16 hostilities or into situations where imminent involvement
17 in hostilities is clearly indicated by the circumstances.”.

18 (b) CONFORMING AMENDMENT.—The table of sec-
19 tions for subchapter I of chapter 31 of title 31, United
20 States Code, is amended by adding at the end the fol-
21 lowing new item:

“3114. Certain proceeds of value added tax to fund America’s war effort.”.

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