

110TH CONGRESS  
1ST SESSION

# S. 1111

To amend the Internal Revenue Code of 1986 to make the Federal income tax system simpler, fairer, and more fiscally responsible, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 16, 2007

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

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## A BILL

To amend the Internal Revenue Code of 1986 to make the Federal income tax system simpler, fairer, and more fiscally responsible, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the  
6 “Fair Flat Tax Act of 2007”.

7 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
8 wise expressly provided, whenever in this Act an amend-  
9 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
 2 shall be considered to be made to a section or other provi-  
 3 sion of the Internal Revenue Code of 1986.

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

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Purpose.

#### TITLE I—INDIVIDUAL INCOME TAX REFORMS

- Sec. 101. 3 progressive individual income tax rates for all forms of income.
- Sec. 102. Health care standard deduction.
- Sec. 103. Increase in basic standard deduction.
- Sec. 104. Refundable credit for State and local income, sales, and real and personal property taxes.
- Sec. 105. Earned income child credit and earned income credit for childless taxpayers.
- Sec. 106. Repeal of individual alternative minimum tax.
- Sec. 107. Termination of various exclusions, exemptions, deductions, and credits.

#### TITLE II—CORPORATE AND BUSINESS INCOME TAX REFORMS

- Sec. 201. Corporate flat tax.
- Sec. 202. Treatment of travel on corporate aircraft.
- Sec. 203. Termination of various preferential treatments.
- Sec. 204. Elimination of tax expenditures that subsidize inefficiencies in the health care system.
- Sec. 205. Pass-through business entity transparency.
- Sec. 206. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 207. Revaluation of LIFO inventories of large integrated oil companies.
- Sec. 208. Modifications of foreign tax credit rules applicable to large integrated oil companies which are dual capacity taxpayers.
- Sec. 209. Repeal of lower of cost or market value of inventory rule.
- Sec. 210. Reinstitution of per country foreign tax credit.
- Sec. 211. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.

#### TITLE III—OTHER PROVISIONS

##### Subtitle A—Improvements in Tax Compliance

- Sec. 301. Information reporting on payments to corporations.
- Sec. 302. Broker reporting of customer's basis in securities transactions.
- Sec. 303. Additional reporting requirements by regulation.
- Sec. 304. Increase in information return penalties.
- Sec. 305. E-filing requirement for certain large organizations.

- Sec. 306. Implementation of standards clarifying when employee leasing companies can be held liable for their clients' Federal employment taxes.
- Sec. 307. Modification of collection due process procedures for employment tax liabilities.
- Sec. 308. Expansion of IRS access to information in National Directory of New Hires for tax administration purposes.
- Sec. 309. Disclosure of prisoner return information to Federal Bureau of Prisons.
- Sec. 310. Modification of criminal penalties for willful failures involving tax payments and filing requirements.
- Sec. 311. Understatement of taxpayer liability by return preparers.
- Sec. 312. Penalties for failure to file certain returns electronically.
- Sec. 313. Penalty for filing erroneous refund claims.

Subtitle B—Requiring Economic Substance

- Sec. 321. Clarification of economic substance doctrine.
- Sec. 322. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 323. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.

Subtitle C—Miscellaneous

- Sec. 331. Denial of deduction for punitive damages.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS; SUNSET

- Sec. 401. Technical and conforming amendments.
- Sec. 402. Sunset.

1 **SEC. 2. PURPOSE.**

2       The purpose of this Act is to amend the Internal Rev-  
3 enue Code of 1986—

4           (1) to make the Federal individual income tax  
5 system simpler, fairer, and more transparent by—

6           (A) recognizing the overall Federal, State,  
7 and local tax burden on individual Americans,  
8 especially the regressive nature of State and  
9 local taxes, and providing a Federal income tax  
10 credit for State and local income, sales, and  
11 property taxes,

1           (B) providing for an earned income tax  
2           credit for childless taxpayers and a new earned  
3           income child credit,

4           (C) repealing the individual alternative  
5           minimum tax,

6           (D) increasing the basic standard deduc-  
7           tion and maintaining itemized deductions for  
8           principal residence mortgage interest and chari-  
9           table contributions,

10          (E) reducing the number of exclusions, ex-  
11          emptions, deductions, and credits, and

12          (F) treating all income equally,

13          (2) to make the Federal corporate income tax  
14          rate a flat 35 percent and eliminate special tax pref-  
15          erences that favor particular types of businesses or  
16          activities, and

17          (3) to partially offset the Federal budget deficit  
18          through the increased fiscal responsibility resulting  
19          from these reforms.

1     **TITLE I—INDIVIDUAL INCOME**  
 2                     **TAX REFORMS**

3     **SEC. 101. 3 PROGRESSIVE INDIVIDUAL INCOME TAX RATES**  
 4                     **FOR ALL FORMS OF INCOME.**

5             (a) MARRIED INDIVIDUALS FILING JOINT RETURNS  
 6 AND SURVIVING SPOUSES.—The table contained in sec-  
 7 tion 1(a) is amended to read as follows:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$30,000 .....	15% of taxable income.
Over \$30,000 but not over \$120,000.	\$4,500, plus 25% of the excess over \$30,000
Over \$120,000 .....	\$27,000, plus 35% of the excess over \$120,000”.

8             (b) HEADS OF HOUSEHOLDS.—The table contained  
 9 in section 1(b) is amended to read as follows:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$16,000 .....	15% of taxable income.
Over \$16,000 but not over \$105,000.	\$2,400, plus 25% of the excess over \$16,000
Over \$105,000 .....	\$24,650, plus 35% of the excess over \$105,000”.

10            (c) UNMARRIED INDIVIDUALS (OTHER THAN SUR-  
 11 VIVING SPOUSES AND HEADS OF HOUSEHOLDS).—The  
 12 table contained in section 1(c) is amended to read as fol-  
 13 lows:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$15,000 .....	15% of taxable income.
Over \$15,000 but not over \$60,000.	\$2,250, plus 25% of the excess over \$15,000
Over \$60,000 .....	\$13,500, plus 35% of the excess over \$60,000”.

14            (d) MARRIED INDIVIDUALS FILING SEPARATE RE-  
 15 TURNS.—The table contained in section 1(d) is amended  
 16 to read as follows:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$15,000 .....	15% of taxable income.

**“If taxable income is:**

Over \$15,000 but not over  
\$60,000.  
Over \$60,000 .....

**The tax is:**

\$2,250, plus 25% of the excess over  
\$15,000  
\$13,500, plus 35% of the excess over  
\$60,000”.

1 (e) CONFORMING AMENDMENTS TO INFLATION AD-  
2 JUSTMENT.—Section 1(f) is amended—

3 (1) by striking “1993” in paragraph (1) and in-  
4 serting “2008”,

5 (2) by striking “except as provided in para-  
6 graph (8)” in paragraph (2)(A),

7 (3) by striking “1992” in paragraph (3)(B) and  
8 inserting “2007”,

9 (4) by striking paragraphs (7) and (8), and

10 (5) by striking “PHASEOUT OF MARRIAGE PEN-  
11 ALTY IN 15-PERCENT BRACKET;” in the heading  
12 thereof.

13 (f) REPEAL OF RATE DIFFERENTIAL FOR CAPITAL  
14 GAINS AND DIVIDENDS.—

15 (1) REPEAL OF 2003 RATE REDUCTION.—Sec-  
16 tion 303 of the Jobs and Growth Tax Relief Rec-  
17 onciliation Act of 2003 is amended by striking “De-  
18 cember 3, 2008” and inserting “December 31,  
19 2007”.

20 (2) TERMINATION OF PRE-2003 CAPITAL GAIN  
21 RATE DIFFERENTIAL.—Section 1(h) is amended  
22 (after the application of paragraph (1)) by adding at  
23 the end the following new paragraph:

1           “(13) TERMINATION.—This section shall not  
2           apply to taxable years beginning after December 31,  
3           2007.”.

4           (g) ADDITIONAL CONFORMING AMENDMENTS.—

5           (1) Section 1 is amended by striking subsection  
6           (i).

7           (2) The Internal Revenue Code of 1986 is  
8           amended by striking “calendar year 1992” each  
9           place it appears and inserting “calendar year 2007”.

10          (3) Section 1445(e)(1) (after the application of  
11          subsection (g)(1)) is amended by striking “(or, to  
12          the extent provided in regulations, 20 percent)”.

13          (h) EFFECTIVE DATE.—The amendments made by  
14          this section shall apply to taxable years beginning after  
15          December 31, 2007.

16       **SEC. 102. HEALTH CARE STANDARD DEDUCTION.**

17          (a) IN GENERAL.—Section 62(a) (defining adjusted  
18          gross income) is amended by inserting after paragraph  
19          (21) the following new paragraph:

20               “(22) INDIVIDUAL SHARED RESPONSIBILITY  
21               PAYMENTS.—

22                       “(A) IN GENERAL.—In the case of a tax-  
23                       payer with gross income for the taxable year ex-  
24                       ceeding 100 percent of the poverty line (ad-  
25                       justed for the size of the family involved) for

1 the calendar year in which such taxable year  
2 begins and who is enrolled in a HAPI plan  
3 under the Healthy Americans Act, the deduc-  
4 tion allowable under section 213 by reason of  
5 subsection (d)(1)(D) thereof (determined with-  
6 out regard to any income limitation under sub-  
7 section (a) thereof) in an amount equal to the  
8 applicable fraction times, in the case of—

9 “(i) coverage of an individual, \$6,025,

10 “(ii) coverage of a married couple or  
11 domestic partnership (as determined by a  
12 State) without dependent children,  
13 \$12,050,

14 “(iii) coverage of an unmarried indi-  
15 vidual with 1 or more dependent children,  
16 \$8,610, plus \$2,000 for each dependent  
17 child, and

18 “(iv) coverage of a married couple or  
19 domestic partnership (as determined by a  
20 State) with 1 or more dependent children,  
21 \$15,210, plus \$2,000 for each dependent  
22 child.

23 “(B) APPLICABLE FRACTION.—For pur-  
24 poses of subparagraph (A), the applicable frac-  
25 tion is the fraction (not to exceed 1)—

1           “(i) the numerator of which is the  
2           gross income of the taxpayer for the tax-  
3           able year expressed as a percentage of the  
4           poverty line (adjusted for the size of the  
5           family involved) minus such poverty line  
6           for the calendar year in which such taxable  
7           year begins, and

8           “(ii) the denominator of which is 400  
9           percent of the poverty line (adjusted for  
10          the size of the family involved) minus such  
11          poverty line.

12          “(C)    PHASEOUT        OF        DEDUCTION  
13          AMOUNT.—

14               “(i) IN GENERAL.—The amount oth-  
15               erwise determined under subparagraph (A)  
16               for any taxable year shall be reduced by  
17               the amount determined under clause (ii).

18               “(ii) AMOUNT OF REDUCTION.—The  
19               amount determined under this clause shall  
20               be the amount which bears the same ratio  
21               to the amount determined under subpara-  
22               graph (A) as—

23                       “(I) the excess of the taxpayer’s  
24                       modified adjusted gross income for  
25                       such taxable year, over \$62,500

1 (\$125,000 in the case of a joint re-  
2 turn), bears to

3 “(II) \$62,500 (\$125,000 in the  
4 case of a joint return).

5 Any amount determined under this clause  
6 which is not a multiple of \$1,000 shall be  
7 rounded to the next lowest \$1,000.

8 “(D) INFLATION ADJUSTMENT.—In the  
9 case of any taxable year beginning in a calendar  
10 year after 2009, each dollar amount contained  
11 in subparagraph (A) and subparagraph  
12 (C)(ii)(I) shall be increased by an amount equal  
13 to such dollar amount, multiplied by the cost-  
14 of-living adjustment determined under section  
15 1(f)(3) for the calendar year in which the tax-  
16 able year begins, determined by substituting  
17 ‘calendar year 2008’ for ‘calendar year 1992’ in  
18 subparagraph (B) thereof. Any increase deter-  
19 mined under the preceding sentence shall be  
20 rounded to the nearest multiple of \$50 (\$1,000  
21 in the case of the dollar amount contained in  
22 subparagraph (C)(ii)(I)).

23 “(E) DETERMINATION OF MODIFIED AD-  
24 JUSTED GROSS INCOME.—

1           “(i) IN GENERAL.—For purposes of  
2           this paragraph, the term ‘modified ad-  
3           justed gross income’ means adjusted gross  
4           income—

5           “(ii) determined without regard to  
6           this section and sections 86, 135, 137,  
7           199, 221, 222, 911, 931, and 933, and

8           “(iii) increased by—

9           “(I) the amount of interest re-  
10           ceived or accrued during the taxable  
11           year which is exempt from tax under  
12           this title, and

13           “(II) the amount of any social se-  
14           curity benefits (as defined in section  
15           86(d)) received or accrued during the  
16           taxable year.

17           “(F) POVERTY LINE.—For purposes of  
18           this paragraph, the term ‘poverty line’ has the  
19           meaning given such term in section 673(2) of  
20           the Community Health Services Block Grant  
21           Act (42 U.S.C. 9902(2)), including any revision  
22           required by such section.”.

23           (b) CONFORMING AMENDMENT.—Section  
24           213(d)(1)(D) is amended by inserting “amounts paid  
25           under section 3421 and” after “including”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2007.

4 **SEC. 103. INCREASE IN BASIC STANDARD DEDUCTION.**

5 (a) IN GENERAL.—Paragraph (2) of section 63(c)  
6 (defining standard deduction) is amended to read as fol-  
7 lows:

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

11 “(A) 200 percent of the dollar amount in  
12 effect under subparagraph (C) for the taxable  
13 year in the case of—

14 “(i) a joint return, or

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

17 “(B) \$26,250 in the case of a head of  
18 household (as defined in section 2(b)), reduced  
19 by any deduction allowed under section  
20 62(a)(22) for such taxable year, or

21 “(C) \$15,000 in any other case, reduced  
22 by any deduction allowed under section  
23 62(a)(22) for such taxable year.”.

1 (b) CONFORMING AMENDMENT TO INFLATION AD-  
 2 JUSTMENT.—Section 63(c)(4)(B)(i) is amended by strik-  
 3 ing “(2)(B), (2)(C), or”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 2007.

7 **SEC. 104. REFUNDABLE CREDIT FOR STATE AND LOCAL IN-**  
 8 **COME, SALES, AND REAL AND PERSONAL**  
 9 **PROPERTY TAXES.**

10 (a) GENERAL RULE.—Subpart C of part IV of sub-  
 11 chapter A of chapter 1 (relating to refundable credits) is  
 12 amended by redesignating section 36 as section 37 and  
 13 by inserting after section 35 the following new section:

14 **“SEC. 36. CREDIT FOR STATE AND LOCAL INCOME, SALES,**  
 15 **AND REAL AND PERSONAL PROPERTY TAXES.**

16 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
 17 dividual, there shall be allowed as a credit against the tax  
 18 imposed by this subtitle for the taxable year an amount  
 19 equal to 10 percent of the qualified State and local taxes  
 20 paid by the taxpayer for such year.

21 “(b) QUALIFIED STATE AND LOCAL TAXES.—For  
 22 purposes of this section, the term ‘qualified State and local  
 23 taxes’ means—

24 “(1) State and local income taxes,

25 “(2) State and local general sales taxes,

1           “(3) State and local real property taxes, and

2           “(4) State and local personal property taxes.

3           “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
4 poses of this section—

5           “(1) STATE OR LOCAL TAXES.—A State or local  
6 tax includes only a tax imposed by a State, a posses-  
7 sion of the United States, or a political subdivision  
8 of any of the foregoing, or by the District of Colum-  
9 bia.

10           “(2) GENERAL SALES TAXES.—

11           “(A) IN GENERAL.—The term ‘general  
12 sales tax’ means a tax imposed at one rate with  
13 respect to the sale at retail of a broad range of  
14 classes of items.

15           “(B) APPLICATION OF RULES.—Rules  
16 similar to the rules under subparagraphs (C),  
17 (D), (E), (F), (G), and (H) of section 164(b)(5)  
18 shall apply.

19           “(3) PERSONAL PROPERTY TAXES.—The term  
20 ‘personal property tax’ means an ad valorem tax  
21 which is imposed on an annual basis in respect of  
22 personal property.

23           “(4) APPLICATION OF RULES TO PROPERTY  
24 TAXES.—Rules similar to the rules of subsections (c)  
25 and (d) of section 164 shall apply.

1           “(5) NO CREDIT FOR MARRIED INDIVIDUALS  
2           FILING SEPARATE RETURNS.—If the taxpayer is a  
3           married individual (within the meaning of section  
4           7703), this section shall apply only if the taxpayer  
5           and the taxpayer’s spouse file a joint return for the  
6           taxable year.

7           “(6) DENIAL OF CREDIT TO DEPENDENTS.—No  
8           credit shall be allowed under this section to any indi-  
9           vidual with respect to whom a deduction under sec-  
10          tion 151 is allowable to another taxpayer for a tax-  
11          able year beginning in the calendar year in which  
12          such individual’s taxable year begins.

13          “(7) DENIAL OF DOUBLE BENEFIT.—Any  
14          amount taken into account in determining the credit  
15          allowable under this section may not be taken into  
16          account in determining any credit or deduction  
17          under any other provision of this chapter.”.

18          (b) TECHNICAL AMENDMENTS.—

19                 (1) Paragraph (2) of section 1324(b) of title  
20                 31, United States Code, is amended by inserting “or  
21                 from section 36 of such Code” before the period at  
22                 the end.

23                 (2) The table of sections for subpart C of part  
24                 IV of subchapter A of chapter 1 is amended by

1 striking the item relating to section 36 and inserting  
 2 the following:

“Sec. 36. Credit for state and local income, sales, and real and personal prop-  
 erty taxes.

“Sec. 37. Overpayments of tax.”.

3 (c) REPORT REGARDING USE OF CREDIT BY RENT-  
 4 ERS.—Not later than 180 days after the date of the enact-  
 5 ment of this Act, the Secretary of the Treasury shall re-  
 6 port to the Committee on Finance of the Senate and the  
 7 Committee on Ways and Means of the House of Rep-  
 8 resentatives recommendations regarding the treatment of  
 9 a portion of rental payments in a manner similar to real  
 10 property taxes under section 36 of the Internal Revenue  
 11 Code of 1986 (as added by this section).

12 (d) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to taxable years beginning after  
 14 December 31, 2007.

15 **SEC. 105. EARNED INCOME CHILD CREDIT AND EARNED IN-**  
 16 **COME CREDIT FOR CHILDLESS TAXPAYERS.**

17 (a) IN GENERAL.—Subsection (a) of section 32 (re-  
 18 lating to earned income) is amended to read as follows:

19 “(a) ALLOWANCE OF EARNED INCOME CHILD CRED-  
 20 IT AND EARNED INCOME CREDIT.—

21 “(1) IN GENERAL.—There shall be allowed as a  
 22 credit against the tax imposed by this subtitle for  
 23 the taxable year—

1           “(A) in the case of any eligible individual  
2           with 1 or more qualifying children, an amount  
3           equal to the earned income child credit amount,  
4           and

5           “(B) in the case of any eligible individual  
6           with no qualifying children, an amount equal to  
7           the earned income credit amount.

8           “(2) EARNED INCOME CHILD CREDIT  
9           AMOUNT.—For purposes of this section, the earned  
10          income child credit amount is equal to the sum of—

11           “(A) the credit percentage of so much of  
12           the taxpayer’s earned income for the taxable  
13           year as does not exceed the earned income limit  
14           amount, plus

15           “(B) the supplemental child credit amount  
16           determined under subsection (n) for such tax-  
17           able year.

18           “(3) EARNED INCOME CREDIT AMOUNT.—For  
19           purposes of this section, the earned income credit  
20           amount is equal to the credit percentage of so much  
21           of the taxpayer’s earned income for the taxable year  
22           as does not exceed the earned income limit amount.

23           “(4) LIMITATION.—The amount of the credit  
24           allowable to a taxpayer under paragraph (2)(A) or

1 (3) for any taxable year shall not exceed the excess  
2 (if any) of—

3 “(A) the credit percentage of the earned  
4 income amount, over

5 “(B) the phaseout percentage of so much  
6 of the adjusted gross income (or, if greater, the  
7 earned income) of the taxpayer for the taxable  
8 year as exceeds the phaseout amount.”.

9 (b) SUPPLEMENTAL CHILD CREDIT AMOUNT.—Sec-  
10 tion 32 is amended by adding at the end the following  
11 new subsection:

12 “(n) SUPPLEMENTAL CHILD CREDIT AMOUNT.—

13 “(1) IN GENERAL.—For purposes of subsection  
14 (a)(2)(B), the supplemental child credit amount for  
15 any taxable year is equal to the lesser of—

16 “(A) the credit which would be allowed  
17 under section 24 for such taxable year without  
18 regard to the limitation under section 24(b)(3)  
19 with respect to any qualifying child as defined  
20 under subsection (c)(3), or

21 “(B) the amount by which the aggregate  
22 amount of credits allowed by subpart A for  
23 such taxable year would increase if the limita-  
24 tion imposed by section 24(b)(3) were increased  
25 by the excess (if any) of—

1           “(i) 15 percent of so much of the tax-  
2           payer’s earned income which is taken into  
3           account in computing taxable income for  
4           the taxable year as exceeds \$10,000, or

5           “(ii) in the case of a taxpayer with 3  
6           or more qualifying children (as so defined),  
7           the excess (if any) of—

8                   “(I) the taxpayer’s social security  
9                   taxes for the taxable year, over

10                   “(II) the credit allowed under  
11                   this section for the taxable year.

12       The amount of the credit allowed under this sub-  
13       section shall not be treated as a credit allowed under  
14       subpart A and shall reduce the amount of credit oth-  
15       erwise allowable under section 24(a) without regard  
16       to section 24(b)(3).

17           “(2) SOCIAL SECURITY TAXES.—For purposes  
18       of paragraph (1)—

19                   “(A) IN GENERAL.—The term ‘social secu-  
20                   rity taxes’ means, with respect to any taxpayer  
21                   for any taxable year—

22                   “(i) the amount of the taxes imposed  
23                   by section 3101 and 3201(a) on amounts  
24                   received by the taxpayer during the cal-

1           endar year in which the taxable year be-  
2           gins,

3           “(ii) 50 percent of the taxes imposed  
4           by section 1401 on the self-employment in-  
5           come of the taxpayer for the taxable year,  
6           and

7           “(iii) 50 percent of the taxes imposed  
8           by section 3211(a)(1) on amounts received  
9           by the taxpayer during the calendar year  
10          in which the taxable year begins.

11          “(B) COORDINATION WITH SPECIAL RE-  
12          FUND OF SOCIAL SECURITY TAXES.—The term  
13          ‘social security taxes’ shall not include any  
14          taxes to the extent the taxpayer is entitled to  
15          a special refund of such taxes under section  
16          6413(c).

17          “(C) SPECIAL RULE.—Any amounts paid  
18          pursuant to an agreement under section 3121(l)  
19          (relating to agreements entered into by Amer-  
20          ican employers with respect to foreign affiliates)  
21          which are equivalent to the taxes referred to in  
22          subparagraph (A)(i) shall be treated as taxes  
23          referred to in such paragraph.

24          “(3) INFLATION ADJUSTMENT.—In the case of  
25          any taxable year beginning in a calendar year after

1 2007, the \$10,000 amount contained in paragraph  
2 (1)(B) shall be increased by an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-  
5 mined under section 1(f)(3) for the calendar  
6 year in which the taxable year begins, deter-  
7 mined by substituting ‘calendar year 2000’ for  
8 ‘calendar year 1992’ in subparagraph (B)  
9 thereof.

10 “Any increase determined under the preceding  
11 sentence shall be rounded to the nearest multiple of  
12 \$50.”.

13 (c) CONFORMING AMENDMENT.—Section 24(d) is  
14 amended by adding at the end the following new para-  
15 graph:

16 “(4) TERMINATION.—This subsection shall not  
17 apply with respect to any taxable year beginning  
18 after December 31, 2007.”.

19 (d) CERTAIN TREATMENT OF EARNED INCOME  
20 MADE PERMANENT.—Clause (vi) of section 32(c)(2)(B)  
21 is amended to read as follows:

22 “(vi) a taxpayer may elect to treat  
23 amounts excluded from gross income by  
24 reason of section 112 as earned income.”.

1 (e) REPEAL OF DISQUALIFIED INVESTMENT INCOME  
2 TEST.—Subsection (i) of section 32 is repealed.

3 (f) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2007.

6 **SEC. 106. REPEAL OF INDIVIDUAL ALTERNATIVE MINIMUM**  
7 **TAX.**

8 (a) IN GENERAL.—Section 55(a) (relating to alter-  
9 native minimum tax imposed) is amended by adding at  
10 the end the following new flush sentence:

11 “For purposes of this title, the tentative minimum  
12 tax on any taxpayer other than a corporation for any tax-  
13 able year beginning after December 31, 2007, shall be  
14 zero.”.

15 (b) MODIFICATION OF LIMITATION ON USE OF  
16 CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—  
17 Subsection (c) of section 53 (relating to credit for prior  
18 year minimum tax liability) is amended to read as follows:

19 “(c) LIMITATION.—

20 “(1) IN GENERAL.—Except as provided in para-  
21 graph (2), the credit allowable under subsection (a)  
22 for any taxable year shall not exceed the excess (if  
23 any) of—

24 “(A) the regular tax liability of the tax-  
25 payer for such taxable year reduced by the sum

1 of the credits allowable under subparts A, B, D,  
2 E, and F of this part, over

3 “(B) the tentative minimum tax for the  
4 taxable year.

5 “(2) TAXABLE YEARS BEGINNING AFTER  
6 2007.—In the case of any taxable year beginning  
7 after 2007, the credit allowable under subsection (a)  
8 to a taxpayer other than a corporation for any tax-  
9 able year shall not exceed 90 percent of the regular  
10 tax liability of the taxpayer for such taxable year re-  
11 duced by the sum of the credits allowable under sub-  
12 parts A, B, D, E, and F of this part.”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2007.

16 **SEC. 107. TERMINATION OF VARIOUS EXCLUSIONS, EXEMP-**  
17 **TIONS, DEDUCTIONS, AND CREDITS.**

18 (a) IN GENERAL.—Subchapter C of chapter 90 (re-  
19 lating to provisions affecting more than one subtitle) is  
20 amended by adding at the end the following new section:

21 **“SEC. 7875. TERMINATION OF CERTAIN PROVISIONS.**

22 “The following provisions shall not apply to taxable  
23 years beginning after December 31, 2007:

24 “(1) Section 67 (relating to 2-percent floor on  
25 miscellaneous itemized deductions).

1           “(2) Section 74(c) (relating to exclusion of cer-  
2           tain employee achievement awards).

3           “(3) Section 79 (relating to exclusion of group-  
4           term life insurance purchased for employees).

5           “(4) Section 119 (relating to exclusion of meals  
6           or lodging furnished for the convenience of the em-  
7           ployer).

8           “(5) Section 125 (relating to exclusion of cafe-  
9           teria plan benefits).

10          “(6) Section 132 (relating to certain fringe ben-  
11          efits), except with respect to subsection (a)(5) there-  
12          of (relating to exclusion of qualified transportation  
13          fringe).

14          “(7) Section 163(h)(4)(A)(i)(II) (relating to  
15          definition of qualified residence).

16          “(8) Section 165(d) (relating to deduction for  
17          wagering losses).

18          “(9) Section 217 (relating to deduction for  
19          moving expenses).

20          “(10) Section 454 (relating to deferral of tax  
21          on obligations issued at discount).

22          “(11) Section 501(c)(9) (relating to tax-exempt  
23          status of voluntary employees’ beneficiary associa-  
24          tions).

1           “(12) Section 911 (relating to exclusion of  
2           earned income of citizens or residents of the United  
3           States living abroad).

4           “(13) Section 912 (relating to exemption for  
5           certain allowances).”.

6           (b) CONFORMING AMENDMENT.—The table of sec-  
7           tions for subchapter C of chapter 90 is amended by adding  
8           at the end the following new item:

          “Sec. 7875. Termination of certain provisions.”.

9           **TITLE        II—CORPORATE        AND**  
10           **BUSINESS INCOME TAX RE-**  
11           **FORMS**

12           **SEC. 201. CORPORATE FLAT TAX.**

13           (a) IN GENERAL.—Subsection (b) of section 11 (re-  
14           lating to tax imposed) is amended to read as follows:

15           “(b) AMOUNT OF TAX.—The amount of tax imposed  
16           by subsection (a) shall be equal to 35 percent of the tax-  
17           able income.”.

18           (b) CONFORMING AMENDMENTS.—

19           (1) Section 280C(c)(3)(B)(ii)(II) is amended by  
20           striking “maximum rate of tax under section  
21           11(b)(1)” and inserting “rate of tax under section  
22           11(b)”.

23           (2) Sections 860E(e)(2)(B), 860E(e)(6)(A)(ii),  
24           860K(d)(2)(A)(ii),                               860K(e)(1)(B)(ii),  
25           1446(b)(2)(B), and 7874(e)(1)(B) are each amended

1 by striking “highest rate of tax specified in section  
2 11(b)(1)” and inserting “rate of tax specified in sec-  
3 tion 11(b)”.

4 (3) Section 904(b)(3)(D)(ii) is amended by  
5 striking “(determined without regard to the last sen-  
6 tence of section 11(b)(1))”.

7 (4) Section 962 is amended by striking sub-  
8 section (e) and by redesignating subsection (d) as  
9 subsection (e).

10 (5) Section 1201(a) is amended by striking  
11 “(determined without regard to the last 2 sentences  
12 of section 11(b)(1))”.

13 (6) Section 1561(a) is amended—

14 (A) by striking paragraph (1) and by re-  
15 designating paragraphs (2), (3), and (4) as  
16 paragraphs (1), (2), and (3), respectively,

17 (B) by striking “The amounts specified in  
18 paragraph (1), the” and inserting “The”,

19 (C) by striking “paragraph (2)” and in-  
20 serting “paragraph (1)”,

21 (D) by striking “paragraph (3)” both  
22 places it appears and inserting “paragraph  
23 (2)”,

24 (E) by striking “paragraph (4)” and in-  
25 serting “paragraph (3)”, and

1 (F) by striking the fourth sentence.

2 (7) Subsection (b) of section 1561 is amended  
3 to read as follows:

4 “(b) CERTAIN SHORT TAXABLE YEARS.—If a cor-  
5 poration has a short taxable year which does not include  
6 a December 31 and is a component member of a controlled  
7 group of corporations with respect to such taxable year,  
8 then for purposes of this subtitle, the amount to be used  
9 in computing the accumulated earnings credit under sec-  
10 tion 535(c)(2) and (3) of such corporation for such taxable  
11 year shall be the amount specified in subsection (a)(1) di-  
12 vided by the number of corporations which are component  
13 members of such group on the last day of such taxable  
14 year. For purposes of the preceding sentence, section  
15 1563(b) shall be applied as if such last day were sub-  
16 stituted for December 31.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2007.

20 **SEC. 202. TREATMENT OF TRAVEL ON CORPORATE AIR-**  
21 **CRAFT.**

22 (a) IN GENERAL.—Section 162 (relating to trade or  
23 business expenses) is amended by redesignating subsection  
24 (q) as subsection (r) and by inserting after subsection (p)  
25 the following new subsection:

1       “(q) TREATMENT OF TRAVEL ON CORPORATE AIR-  
2 CRAFT.—The rate at which an amount allowable as a de-  
3 duction under this chapter for the use of an aircraft owned  
4 by the taxpayer is determined shall not exceed the rate  
5 at which an amount paid or included in income by an em-  
6 ployee of such taxpayer for the personal use of such air-  
7 craft is determined.”.

8       (b) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2007.

11 **SEC. 203. TERMINATION OF VARIOUS PREFERENTIAL**  
12 **TREATMENTS.**

13       (a) IN GENERAL.—Section 7875, as added by section  
14 107, is amended—

15           (1) by inserting “(or transactions in the case of  
16 sections referred to in paragraphs (21), (22), (23),  
17 (24), and (27))” after “taxable years beginning”,  
18 and

19           (2) by adding at the end the following new  
20 paragraphs:

21           “(14) Section 43 (relating to enhanced oil re-  
22 covery credit).

23           “(15) Section 263(c) (relating to intangible  
24 drilling and development costs in the case of oil and  
25 gas wells and geothermal wells).

1           “(16) Section 382(l)(5) (relating to exception  
2 from net operating loss limitations for corporations  
3 in bankruptcy proceeding).

4           “(17) Section 451(i) (relating to special rules  
5 for sales or dispositions to implement Federal En-  
6 ergy Regulatory Commission or State electric re-  
7 structuring policy).

8           “(18) Section 453A (relating to special rules for  
9 nondealers), but only with respect to the dollar limi-  
10 tation under subsection (b)(1) thereof and sub-  
11 section (b)(3) thereof (relating to exception for per-  
12 sonal use and farm property).

13           “(19) Section 460(e)(1) (relating to special  
14 rules for long-term home construction contracts or  
15 other short-term construction contracts).

16           “(20) Section 613A (relating to percentage de-  
17 pletion in case of oil and gas wells).

18           “(21) Section 616 (relating to development  
19 costs).

20           “(22) Sections 861(a)(6), 862(a)(6), 863(b)(2),  
21 863(b)(3), and 865(b) (relating to inventory prop-  
22 erty sales source rule exception).”.

23           (b) FULL TAX RATE ON NUCLEAR DECOMMISS-  
24 SIONING RESERVE FUND.—Subparagraph (B) of section  
25 468A(e)(2) is amended to read as follows:

1                   “(B) RATE OF TAX.—For purposes of sub-  
 2                   paragraph (A), the rate set forth in this sub-  
 3                   paragraph is 35 percent.”.

4           (c) DEFERRAL OF ACTIVE INCOME OF CONTROLLED  
 5 FOREIGN CORPORATIONS.—Section 952 (relating to sub-  
 6 part F income defined) is amended by adding at the end  
 7 the following new subsection:

8           “(e) SPECIAL APPLICATION OF SUBPART.—

9                   “(1) IN GENERAL.—For taxable years begin-  
 10                  ning after December 31, 2007, notwithstanding any  
 11                  other provision of this subpart, the term ‘subpart F  
 12                  income’ means, in the case of any controlled foreign  
 13                  corporation, the income of such corporation derived  
 14                  from any foreign country.

15                  “(2) APPLICABLE RULES.—Rules similar to the  
 16                  rules under the last sentence of subsection (a) and  
 17                  subsection (d) shall apply to this subsection.”.

18           (d) DEFERRAL OF ACTIVE FINANCING INCOME.—  
 19 Section 953(e)(10) is amended—

20                  (1) by striking “January 1, 2009” and insert-  
 21                  ing “January 1, 2008”, and

22                  (2) by striking “December 31, 2008” and in-  
 23                  serting “December 31, 2007”.

24           (e) DEPRECIATION ON EQUIPMENT IN EXCESS OF  
 25 ALTERNATIVE        DEPRECIATION        SYSTEM.—Section

1 168(g)(1) (relating to alternative depreciation system) is  
2 amended by striking “and” at the end of subparagraph  
3 (D), by adding “and” at the end of subparagraph (E),  
4 and by inserting after subparagraph (E) the following new  
5 subparagraph:

6 “(F) notwithstanding subsection (a), any  
7 tangible property placed in service after Decem-  
8 ber 31, 2007,”.

9 (f) EFFECTIVE DATE.—The amendments made by  
10 subsections (b), (c), and (d) shall apply to taxable years  
11 beginning after December 31, 2007.

12 **SEC. 204. ELIMINATION OF TAX EXPENDITURES THAT SUB-**  
13 **SIDIZE INEFFICIENCIES IN THE HEALTH**  
14 **CARE SYSTEM.**

15 Not later than 180 days after the date of the enact-  
16 ment of this Act, the Secretary of the Treasury shall re-  
17 port to the Committee on Finance of the Senate and the  
18 Committee on Ways and Means of the House of Rep-  
19 resentatives recommendations regarding the elimination of  
20 Federal tax incentives which subsidize inefficiencies in the  
21 health care system and if eliminated would result in Fed-  
22 eral budget savings of not less than \$10,000,000,000 an-  
23 nually.

1 **SEC. 205. PASS-THROUGH BUSINESS ENTITY TRANS-**  
2 **PARENCY.**

3 Not later than 90 days after the date of the enact-  
4 ment of this Act, the Secretary of the Treasury shall re-  
5 port to the Committee on Finance of the Senate and the  
6 Committee on Ways and Means of the House of Rep-  
7 resentatives regarding the implementation of additional  
8 reporting requirements with respect to any pass-through  
9 entity with the goal of the reduction of tax avoidance  
10 through the use of such entities. In addition, the Secretary  
11 shall develop procedures to share such report data with  
12 State revenue agencies under the disclosure requirements  
13 of section 6103(d) of the Internal Revenue Code of 1986.

14 **SEC. 206. MODIFICATION OF EFFECTIVE DATE OF LEASING**  
15 **PROVISIONS OF THE AMERICAN JOBS CRE-**  
16 **ATION ACT OF 2004.**

17 (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)  
18 of the American Jobs Creation Act of 2004 is amended  
19 by adding at the end the following new paragraph:

20 “(5) LEASES TO FOREIGN ENTITIES.—In the  
21 case of tax-exempt use property leased to a tax-ex-  
22 empt entity which is a foreign person or entity, the  
23 amendments made by this part shall apply to taxable  
24 years beginning after December 31, 2006, with re-  
25 spect to leases entered into on or before March 12,  
26 2004.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect as if included in the enact-  
3 ment of the American Jobs Creation Act of 2004.

4 **SEC. 207. REVALUATION OF LIFO INVENTORIES OF LARGE**  
5 **INTEGRATED OIL COMPANIES.**

6 (a) GENERAL RULE.—Notwithstanding any other  
7 provision of law, if a taxpayer is an applicable integrated  
8 oil company for its last taxable year ending in calendar  
9 year 2006, the taxpayer shall—

10 (1) increase, effective as of the close of such  
11 taxable year, the value of each historic LIFO layer  
12 of inventories of crude oil, natural gas, or any other  
13 petroleum product (within the meaning of section  
14 4611) by the layer adjustment amount, and

15 (2) decrease its cost of goods sold for such tax-  
16 able year by the aggregate amount of the increases  
17 under paragraph (1).

18 If the aggregate amount of the increases under paragraph  
19 (1) exceed the taxpayer's cost of goods sold for such tax-  
20 able year, the taxpayer's gross income for such taxable  
21 year shall be increased by the amount of such excess.

22 (b) LAYER ADJUSTMENT AMOUNT.—For purposes of  
23 this section—

1           (1) IN GENERAL.—The term “layer adjustment  
2 amount” means, with respect to any historic LIFO  
3 layer, the product of—

4                   (A) \$18.75, and

5                   (B) the number of barrels of crude oil (or  
6 in the case of natural gas or other petroleum  
7 products, the number of barrel-of-oil equiva-  
8 lents) represented by the layer.

9           (2) BARREL-OF-OIL EQUIVALENT.—The term  
10 “barrel-of-oil equivalent” has the meaning given  
11 such term by section 29(d)(5) (as in effect before its  
12 redesignation by the Energy Tax Incentives Act of  
13 2005).

14           (c) APPLICATION OF REQUIREMENT.—

15                   (1) NO CHANGE IN METHOD OF ACCOUNTING.—  
16 Any adjustment required by this section shall not be  
17 treated as a change in method of accounting.

18                   (2) UNDERPAYMENTS OF ESTIMATED TAX.—No  
19 addition to the tax shall be made under section 6655  
20 of the Internal Revenue Code of 1986 (relating to  
21 failure by corporation to pay estimated tax) with re-  
22 spect to any underpayment of an installment re-  
23 quired to be paid with respect to the taxable year  
24 described in subsection (a) to the extent such under-  
25 payment was created or increased by this section.

1 (d) APPLICABLE INTEGRATED OIL COMPANY.—For  
2 purposes of this section, the term “applicable integrated  
3 oil company” means an integrated oil company (as defined  
4 in section 291(b)(4) of the Internal Revenue Code of  
5 1986) which has an average daily worldwide production  
6 of crude oil of at least 500,000 barrels for the taxable  
7 year and which had gross receipts in excess of  
8 \$1,000,000,000 for its last taxable year ending during cal-  
9 endar year 2006. For purposes of this subsection all per-  
10 sons treated as a single employer under subsections (a)  
11 and (b) of section 52 of the Internal Revenue Code of  
12 1986 shall be treated as 1 person and, in the case of a  
13 short taxable year, the rule under section 448(c)(3)(B)  
14 shall apply.

15 **SEC. 208. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**  
16 **APPLICABLE TO LARGE INTEGRATED OIL**  
17 **COMPANIES WHICH ARE DUAL CAPACITY**  
18 **TAXPAYERS.**

19 (a) IN GENERAL.—Section 901 (relating to credit for  
20 taxes of foreign countries and of possessions of the United  
21 States) is amended by redesignating subsection (n) as sub-  
22 section (o) and by inserting after subsection (l) the fol-  
23 lowing new subsection:

1       “(m) SPECIAL RULES RELATING TO LARGE INTE-  
2 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY  
3 TAXPAYERS.—

4           “(1) GENERAL RULE.—Notwithstanding any  
5 other provision of this chapter, any amount paid or  
6 accrued by a dual capacity taxpayer which is a large  
7 integrated oil company to a foreign country or pos-  
8 session of the United States for any period shall not  
9 be considered a tax—

10           “(A) if, for such period, the foreign coun-  
11 try or possession does not impose a generally  
12 applicable income tax, or

13           “(B) to the extent such amount exceeds  
14 the amount (determined in accordance with reg-  
15 ulations) which—

16           “(i) is paid by such dual capacity tax-  
17 payer pursuant to the generally applicable  
18 income tax imposed by the country or pos-  
19 session, or

20           “(ii) would be paid if the generally ap-  
21 plicable income tax imposed by the country  
22 or possession were applicable to such dual  
23 capacity taxpayer.

24           Nothing in this paragraph shall be construed to  
25 imply the proper treatment of any such amount

1 not in excess of the amount determined under  
2 subparagraph (B).

3 “(2) DUAL CAPACITY TAXPAYER.—For pur-  
4 poses of this subsection, the term ‘dual capacity tax-  
5 payer’ means, with respect to any foreign country or  
6 possession of the United States, a person who—

7 “(A) is subject to a levy of such country or  
8 possession, and

9 “(B) receives (or will receive) directly or  
10 indirectly a specific economic benefit (as deter-  
11 mined in accordance with regulations) from  
12 such country or possession.

13 “(3) GENERALLY APPLICABLE INCOME TAX.—  
14 For purposes of this subsection—

15 “(A) IN GENERAL.—The term ‘generally  
16 applicable income tax’ means an income tax (or  
17 a series of income taxes) which is generally im-  
18 posed under the laws of a foreign country or  
19 possession on income derived from the conduct  
20 of a trade or business within such country or  
21 possession.

22 “(B) EXCEPTIONS.—Such term shall not  
23 include a tax unless it has substantial applica-  
24 tion, by its terms and in practice, to—

1                   “(i) persons who are not dual capacity  
2                   taxpayers, and

3                   “(ii) persons who are citizens or resi-  
4                   dents of the foreign country or possession.

5                   “(4) LARGE INTEGRATED OIL COMPANY.—For  
6                   purposes of this subsection, the term ‘large inte-  
7                   grated oil company’ means, with respect to any tax-  
8                   able year, an integrated oil company (as defined in  
9                   section 291(b)(4)) which—

10                   “(A) had gross receipts in excess of  
11                   \$1,000,000,000 for such taxable year, and

12                   “(B) has an average daily worldwide pro-  
13                   duction of crude oil of at least 500,000 barrels  
14                   for such taxable year.”

15                   (b) EFFECTIVE DATE.—

16                   (1) IN GENERAL.—The amendments made by  
17                   this section shall apply to taxes paid or accrued in  
18                   taxable years beginning after the date of the enact-  
19                   ment of this Act.

20                   (2) CONTRARY TREATY OBLIGATIONS  
21                   UPHELD.—The amendments made by this section  
22                   shall not apply to the extent contrary to any treaty  
23                   obligation of the United States.

1 **SEC. 209. REPEAL OF LOWER OF COST OR MARKET VALUE**  
2 **OF INVENTORY RULE.**

3 (a) IN GENERAL.—Subsection (a) of section 471 (re-  
4 lating to general rules for inventories) is amended to read  
5 as follows:

6 “(a) GENERAL RULE.—Whenever in the opinion of  
7 the Secretary the use of inventories is necessary in order  
8 clearly to determine the income of the taxpayer, inven-  
9 tories shall be valued at cost.”.

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

13 **SEC. 210. REINSTITUTION OF PER COUNTRY FOREIGN TAX**  
14 **CREDIT.**

15 (a) IN GENERAL.—Subsection (a) of section 904 (re-  
16 lating to limitation on credit) is amended to read as fol-  
17 lows:

18 “(a) LIMITATION.—The amount of the credit in re-  
19 spect of the tax paid or accrued to any foreign country  
20 or possession of the United States shall not exceed the  
21 same proportion of the tax against which such credit is  
22 taken which the taxpayer’s taxable income from sources  
23 within such country or possession (but not in excess of  
24 the taxpayer’s entire taxable income) bears to such tax-  
25 payer’s entire taxable income for the same taxable year.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2007.

4 **SEC. 211. APPLICATION OF RULES TREATING INVERTED**  
 5 **CORPORATIONS AS DOMESTIC CORPORA-**  
 6 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**  
 7 **RING AFTER MARCH 20, 2002.**

8 (a) IN GENERAL.—Section 7874(b) (relating to in-  
 9 verted corporations treated as domestic corporations) is  
 10 amended to read as follows:

11 “(b) INVERTED CORPORATIONS TREATED AS DO-  
 12 MESTIC CORPORATIONS.—

13 “(1) IN GENERAL.—Notwithstanding section  
 14 7701(a)(4), a foreign corporation shall be treated for  
 15 purposes of this title as a domestic corporation if  
 16 such corporation would be a surrogate foreign cor-  
 17 poration if subsection (a)(2) were applied by sub-  
 18 stituting ‘80 percent’ for ‘60 percent’.

19 “(2) SPECIAL RULE FOR CERTAIN TRANS-  
 20 ACTIONS OCCURRING AFTER MARCH 20, 2002.—

21 “(A) IN GENERAL.—If—

22 “(i) paragraph (1) does not apply to  
 23 a foreign corporation, but

24 “(ii) paragraph (1) would apply to  
 25 such corporation if, in addition to the sub-

1           stitution under paragraph (1), subsection  
2           (a)(2) were applied by substituting ‘March  
3           20, 2002’ for ‘March 4, 2003’ each place  
4           it appears,

5           then paragraph (1) shall apply to such corpora-  
6           tion but only with respect to taxable years of  
7           such corporation beginning after December 31,  
8           2006.

9           “(B) SPECIAL RULES.—Subject to such  
10          rules as the Secretary may prescribe, in the  
11          case of a corporation to which paragraph (1)  
12          applies by reason of this paragraph—

13                 “(i) the corporation shall be treated,  
14                 as of the close of its last taxable year be-  
15                 ginning before January 1, 2007, as having  
16                 transferred all of its assets, liabilities, and  
17                 earnings and profits to a domestic corpora-  
18                 tion in a transaction with respect to which  
19                 no tax is imposed under this title,

20                 “(ii) the bases of the assets trans-  
21                 ferred in the transaction to the domestic  
22                 corporation shall be the same as the bases  
23                 of the assets in the hands of the foreign  
24                 corporation, subject to any adjustments  
25                 under this title for built-in losses,

1           “(iii) the basis of the stock of any  
2           shareholder in the domestic corporation  
3           shall be the same as the basis of the stock  
4           of the shareholder in the foreign corpora-  
5           tion for which it is treated as exchanged,  
6           and

7           “(iv) the transfer of any earnings and  
8           profits by reason of clause (i) shall be dis-  
9           regarded in determining any deemed divi-  
10          dend or foreign tax creditable to the do-  
11          mestic corporation with respect to such  
12          transfer.

13          “(C) REGULATIONS.—The Secretary may  
14          prescribe such regulations as may be necessary  
15          or appropriate to carry out this paragraph, in-  
16          cluding regulations to prevent the avoidance of  
17          the purposes of this paragraph.”.

18          (b) EFFECTIVE DATE.—The amendment made by  
19          this section shall apply to taxable years beginning after  
20          December 31, 2006.

1 **TITLE III—OTHER PROVISIONS**  
2 **Subtitle A—Improvements in Tax**  
3 **Compliance**

4 **SEC. 301. INFORMATION REPORTING ON PAYMENTS TO**  
5 **CORPORATIONS.**

6 (a) IN GENERAL.—Section 6041(a) (relating to pay-  
7 ments of \$600 or more) is amended by inserting “(includ-  
8 ing any corporation other than a corporation exempt from  
9 taxation)” after “another person”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to payments made after December  
12 31, 2007.

13 **SEC. 302. BROKER REPORTING OF CUSTOMER’S BASIS IN**  
14 **SECURITIES TRANSACTIONS.**

15 (a) IN GENERAL.—Section 6045 (relating to returns  
16 of brokers) is amended by adding at the end the following  
17 new subsection:

18 “(g) ADDITIONAL INFORMATION REQUIRED IN THE  
19 CASE OF SECURITIES TRANSACTIONS.—

20 “(1) IN GENERAL.—If a broker is otherwise re-  
21 quired to make a return under subsection (a) with  
22 respect to any applicable security, the broker shall  
23 include in such return the information described in  
24 paragraph (2).

25 “(2) ADDITIONAL INFORMATION REQUIRED.—

1           “(A) IN GENERAL.—The information re-  
2           quired under paragraph (1) to be shown on a  
3           return with respect to an applicable security of  
4           a customer shall include for each reported ap-  
5           plicable security the customer’s adjusted basis  
6           in such security.

7           “(B) EXEMPTION FROM REQUIREMENT.—  
8           The Secretary shall issue such regulations or  
9           guidance as necessary concerning the applica-  
10          tion of the requirement under subparagraph (A)  
11          in cases in which a broker in making a return  
12          does not have sufficient information to meet  
13          such requirement with respect to the reported  
14          applicable security. Such regulations or guid-  
15          ance may—

16                 “(i) require such other information re-  
17                 lated to such adjusted basis as the Sec-  
18                 retary may prescribe, and

19                 “(ii) exempt classes of cases in which  
20                 the broker does not have sufficient infor-  
21                 mation to meet either the requirement  
22                 under subparagraph (A) or the require-  
23                 ment under clause (i).

24           “(3) INFORMATION TRANSFERS.—To the extent  
25           provided in regulations, there shall be such ex-

1 changes of information between brokers as such reg-  
2 ulations may require for purposes of enabling such  
3 brokers to meet the requirements of this subsection.

4 “(4) DEFINITIONS.—For purposes of this sub-  
5 section, the term ‘applicable security’ means any—

6 “(A) security described in subparagraph  
7 (A) or (C) of section 475(e)(2),

8 “(B) interest in a regulated investment  
9 company (as defined in section 851), or

10 “(C) other financial instrument designated  
11 in regulations prescribed by the Secretary.”.

12 (b) DETERMINATION OF BASIS OF CERTAIN SECURI-  
13 TIES BY FIFO METHOD.—Section 1012 (relating to basis  
14 of property—cost) is amended by adding at the end the  
15 following new sentence: “Except to the extent provided in  
16 regulations, the basis of any applicable security reportable  
17 under section 6045 (by reason of subsection (g) thereof)  
18 shall be determined on a first-in, first-out method.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to sales and transfers occurring  
21 after December 31, 2007, with respect to securities ac-  
22 quired before, on, or after such date.

1 **SEC. 303. ADDITIONAL REPORTING REQUIREMENTS BY**  
2 **REGULATION.**

3 The Secretary of the Treasury is authorized to issue  
4 regulations under which with respect to payments made  
5 after December 31, 2007—

6 (1) any merchant acquiring bank is required to  
7 annually report to the Secretary the gross reim-  
8 bursement payments made to merchants in a cal-  
9 endar year, unless the benefit of such reporting does  
10 not justify the cost of compliance, as determined by  
11 the Secretary,

12 (2) any contractor receiving payments of \$600  
13 or more in a calendar year from a particular busi-  
14 ness is required to furnish such business the con-  
15 tractor's certified taxpayer identification number or  
16 be subject to withholding on such payments at a flat  
17 rate percentage selected by the contractor, and

18 (3) any Federal, State, or local government is  
19 required to report to the Secretary any non-wage  
20 payment to procure property and services, other  
21 than payments of interest, payments for real prop-  
22 erty, payments to tax-exempt entities or foreign gov-  
23 ernments, intergovernmental payments, and pay-  
24 ments made pursuant to a classified or confidential  
25 contract.

1 **SEC. 304. INCREASE IN INFORMATION RETURN PENALTIES.**

2 (a) FAILURE TO FILE CORRECT INFORMATION RE-  
3 TURNS.—

4 (1) IN GENERAL.—Section 6721(a)(1) is  
5 amended—

6 (A) by striking “\$50” and inserting  
7 “\$250”, and

8 (B) by striking “\$250,000” and inserting  
9 “\$3,000,000”.

10 (2) REDUCTION WHERE CORRECTION IN SPECI-  
11 FIED PERIOD.—

12 (A) CORRECTION WITHIN 30 DAYS.—Sec-  
13 tion 6721(b)(1) is amended—

14 (i) by striking “\$15” and inserting  
15 “\$50”,

16 (ii) by striking “\$50” and inserting  
17 “\$250”, and

18 (iii) by striking “\$75,000” and insert-  
19 ing “\$500,000”.

20 (B) FAILURES CORRECTED ON OR BEFORE  
21 AUGUST 1.—Section 6721(b)(2) is amended—

22 (i) by striking “\$30” and inserting  
23 “\$100”,

24 (ii) by striking “\$50” and inserting  
25 “\$250”, and

1 (iii) by striking “\$150,000” and in-  
2 serting “\$1,500,000”.

3 (3) LOWER LIMITATION FOR PERSONS WITH  
4 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—  
5 Section 6721(d)(1) is amended—

6 (A) in subparagraph (A)—

7 (i) by striking “\$100,000” and insert-  
8 ing “\$1,000,000”, and

9 (ii) by striking “\$250,000” and in-  
10 serting “\$3,000,000”,

11 (B) in subparagraph (B)—

12 (i) by striking “\$25,000” and insert-  
13 ing “\$175,000”, and

14 (ii) by striking “\$75,000” and insert-  
15 ing “\$500,000”, and

16 (C) in subparagraph (C)—

17 (i) by striking “\$50,000” and insert-  
18 ing “\$500,000”, and

19 (ii) by striking “\$150,000” and in-  
20 serting “\$1,500,000”.

21 (4) PENALTY IN CASE OF INTENTIONAL DIS-  
22 REGARD.—Section 6721(e) is amended—

23 (A) by striking “\$100” in paragraph (2)  
24 and inserting “\$500”,

1 (B) by striking “\$250,000” in paragraph  
2 (3)(A) and inserting “\$3,000,000”.

3 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-  
4 MENTS.—

5 (1) IN GENERAL.—Section 6722(a) is amend-  
6 ed—

7 (A) by striking “\$50” and inserting  
8 “\$250”, and

9 (B) by striking “\$100,000” and inserting  
10 “\$1,000,000”.

11 (2) PENALTY IN CASE OF INTENTIONAL DIS-  
12 REGARD.—Section 6722(c) is amended—

13 (A) by striking “\$100” in paragraph (1)  
14 and inserting “\$500”, and

15 (B) by striking “\$100,000” in paragraph  
16 (2)(A) and inserting “\$1,000,000”.

17 (c) FAILURE TO COMPLY WITH OTHER INFORMA-  
18 TION REPORTING REQUIREMENTS.—Section 6723 is  
19 amended—

20 (1) by striking “\$50” and inserting “\$250”,  
21 and

22 (2) by striking “\$100,000” and inserting  
23 “\$1,000,000”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to information returns  
3 required to be filed on or after January 1, 2008.

4 **SEC. 305. E-FILING REQUIREMENT FOR CERTAIN LARGE**  
5 **ORGANIZATIONS.**

6 (a) IN GENERAL.—The first sentence of section  
7 6011(e)(2) is amended to read as follows: “In prescribing  
8 regulations under paragraph (1), the Secretary shall take  
9 into account (among other relevant factors) the ability of  
10 the taxpayer to comply at reasonable cost with the require-  
11 ments of such regulations.”.

12 (b) CONFORMING AMENDMENT.—Section 6724 is  
13 amended by striking subsection (c).

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years ending on or after  
16 December 31, 2008.

17 **SEC. 306. IMPLEMENTATION OF STANDARDS CLARIFYING**  
18 **WHEN EMPLOYEE LEASING COMPANIES CAN**  
19 **BE HELD LIABLE FOR THEIR CLIENTS’ FED-**  
20 **ERAL EMPLOYMENT TAXES.**

21 With respect to employment tax returns required to  
22 be filed with respect to wages paid on or after January  
23 1, 2008, the Secretary of the Treasury shall issue regula-  
24 tions establishing—

1           (1) standards for holding employee leasing com-  
2           panies jointly and severally liable with their clients  
3           for Federal employment taxes under chapters 21,  
4           22, 23, and 24 of the Internal Revenue Code of  
5           1986, and

6           (2) standards for holding such companies solely  
7           liable for such taxes.

8 **SEC. 307. MODIFICATION OF COLLECTION DUE PROCESS**  
9                   **PROCEDURES FOR EMPLOYMENT TAX LI-**  
10                   **ABILITIES.**

11           (a) IN GENERAL.—Section 6330(f) (relating to jeop-  
12           ardy and State refund collection) is amended—

13           (1) by striking “; or” at the end of paragraph  
14           (1) and inserting a comma,

15           (2) by adding “or” at the end of paragraph (2),  
16           and

17           (3) by inserting after paragraph (2) the fol-  
18           lowing new paragraph:

19           “(3) the Secretary has served a disqualified em-  
20           ployment tax levy,”.

21           (b) DISQUALIFIED EMPLOYMENT TAX LEVY.—Sec-  
22           tion 6330 (relating to notice and opportunity for hearing  
23           before levy) is amended by adding at the end the following  
24           new subsection:

1       “(h) DISQUALIFIED EMPLOYMENT TAX LEVY.—For  
2 purposes of subsection (f), a disqualified employment tax  
3 levy is any levy in connection with the collection of employ-  
4 ment taxes for any taxable period if the person subject  
5 to the levy (or any predecessor thereof) requested a hear-  
6 ing under this section with respect to unpaid employment  
7 taxes arising in the most recent 2-year period before the  
8 beginning of the taxable period with respect to which the  
9 levy is served. For purposes of the preceding sentence, the  
10 term ‘employment taxes’ means any taxes under chapter  
11 21, 22, 23, or 24.”.

12       (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to levies served on or after January  
14 1, 2008.

15 **SEC. 308. EXPANSION OF IRS ACCESS TO INFORMATION IN**  
16 **NATIONAL DIRECTORY OF NEW HIRES FOR**  
17 **TAX ADMINISTRATION PURPOSES.**

18       (a) IN GENERAL.—Paragraph (3) of section 453(j)  
19 of the Social Security Act (42 U.S.C. 653(j)) is amended  
20 to read as follows:

21               “(3) ADMINISTRATION OF FEDERAL TAX  
22 LAWS.—The Secretary of the Treasury shall have  
23 access to the information in the National Directory  
24 of New Hires for purposes of administering the In-  
25 ternal Revenue Code of 1986.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

4 **SEC. 309. DISCLOSURE OF PRISONER RETURN INFORMA-**  
5 **TION TO FEDERAL BUREAU OF PRISONS.**

6 (a) DISCLOSURE.—

7 (1) IN GENERAL.—Subsection (1) of section  
8 6103 (relating to disclosure of returns and return  
9 information for purposes other than tax administra-  
10 tion) is amended by adding at the end the following  
11 new paragraph:

12 “(22) DISCLOSURE OF RETURN INFORMATION  
13 OF PRISONERS TO FEDERAL BUREAU OF PRISONS.—

14 “(A) IN GENERAL.—Under such proce-  
15 dures as the Secretary may prescribe, the Sec-  
16 retary may disclose return information with re-  
17 spect to persons incarcerated in Federal prisons  
18 whom the Secretary believes filed or facilitated  
19 the filing of false or fraudulent returns to the  
20 head of the Federal Bureau of Prisons if the  
21 Secretary determines that such disclosure is  
22 necessary to permit effective tax administration.

23 “(B) DISCLOSURE BY AGENCY TO EMPLOY-  
24 EES.—The head of the Federal Bureau of Pris-

1           ons may redisclose information received under  
2           subparagraph (A)—

3                   “(i) only to those officers and employ-  
4                   ees of the Bureau who are personally and  
5                   directly engaged in taking administrative  
6                   actions to address violations of administra-  
7                   tive rules and regulations of the prison fa-  
8                   cility, and

9                   “(ii) solely for the purposes described  
10                  in subparagraph (C).

11                 “(C) RESTRICTION ON USE OF DISCLOSED  
12                 INFORMATION.—Return information disclosed  
13                 under this paragraph may be used only for the  
14                 purposes of—

15                   “(i) preventing the filing of false or  
16                   fraudulent returns; and

17                   “(ii) taking administrative actions  
18                   against individuals who have filed or at-  
19                   tempted to file false or fraudulent re-  
20                   turns.”.

21                 (2) PROCEDURES AND RECORD KEEPING RE-  
22                 LATED TO DISCLOSURE.—Subsection (p)(4) of sec-  
23                 tion 6103 is amended—

1 (A) by striking “(14), or (17)” in the mat-  
2 ter before subparagraph (A) and inserting  
3 “(14), (17), or (22)”, and

4 (B) by striking “(9), or (16)” in subpara-  
5 graph (F)(i) and inserting “(9), (16), or (22)”.

6 (3) EVALUATION BY TREASURY INSPECTOR  
7 GENERAL FOR TAX ADMINISTRATION.—Paragraph  
8 (3) of section 7803(d) is amended by striking “and”  
9 at the end of subparagraph (A), by striking the pe-  
10 riod at the end of subparagraph (B) and inserting  
11 “; and”, and by adding at the end the following new  
12 subparagraph:

13 “(C) not later than 3 years after the date  
14 of the enactment of section 6103(l)(22), submit  
15 a written report to Congress on the implemen-  
16 tation of such section.”.

17 (b) ANNUAL REPORTS.—

18 (1) IN GENERAL.—The Secretary of the Treas-  
19 ury shall submit to Congress and make publicly  
20 available an annual report on the filing of false and  
21 fraudulent returns by individuals incarcerated in  
22 Federal and State prisons.

23 (2) CONTENTS OF REPORT.—The report sub-  
24 mitted under paragraph (1) shall contain statistics  
25 on the number of false or fraudulent returns associ-

1       ated with each Federal and State prison and such  
2       other information that the Secretary determines is  
3       appropriate.

4           (3) EXCHANGE OF INFORMATION.—For the  
5       purpose of gathering information necessary for the  
6       reports required under paragraph (1), the Secretary  
7       of the Treasury shall enter into agreements with the  
8       head of the Federal Bureau of Prisons and the  
9       heads of State agencies charged with responsibility  
10      for administration of State prisons under which the  
11      head of the Bureau or Agency provides to the Sec-  
12      retary not less frequently than annually the names  
13      and other identifying information of prisoners incar-  
14      cerated at each facility administered by the Bureau  
15      or Agency.

16      (c) EFFECTIVE DATE.—The amendments made by  
17      this section shall apply to disclosures on or after January  
18      1, 2008.

19      **SEC. 310. MODIFICATION OF CRIMINAL PENALTIES FOR**  
20                           **WILLFUL FAILURES INVOLVING TAX PAY-**  
21                           **MENTS AND FILING REQUIREMENTS.**

22      (a) INCREASE IN PENALTY FOR ATTEMPT TO EVADE  
23      OR DEFEAT TAX.—Section 7201 (relating to attempt to  
24      evade or defeat tax) is amended—

1           (1) by striking “\$100,000” and inserting  
2           “\$500,000”,

3           (2) by striking “\$500,000” and inserting  
4           “\$1,000,000”, and

5           (3) by striking “5 years” and inserting “10  
6           years”.

7           (b) MODIFICATION OF PENALTIES FOR WILLFUL  
8 FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR  
9 PAY TAX.—

10           (1) IN GENERAL.—Section 7203 (relating to  
11 willful failure to file return, supply information, or  
12 pay tax) is amended—

13                   (A) in the first sentence—

14                           (i) by striking “Any person” and in-  
15                           serting the following:

16                           “(a) IN GENERAL.—Any person”, and

17                                   (ii) by striking “\$25,000” and insert-  
18                                   ing “\$50,000”,

19                   (B) in the third sentence, by striking “sec-  
20                   tion” and inserting “subsection”, and

21                   (C) by adding at the end the following new  
22                   subsection:

23                   “(b) AGGRAVATED FAILURE TO FILE.—

1           “(1) IN GENERAL.—In the case of any failure  
2 described in paragraph (2), the first sentence of sub-  
3 section (a) shall be applied by substituting—

4                   “(A) ‘felony’ for ‘misdemeanor’,

5                   “(B) ‘\$250,000 (\$500,000’ for ‘\$50,000  
6 (\$100,000’, and

7                   “(C) ‘5 years’ for ‘1 year’.

8           “(2) FAILURE DESCRIBED.—A failure described  
9 in this paragraph is—

10                   “(A) a failure to make a return described  
11 in subsection (a) for any 3 taxable years occur-  
12 ring during any period of 5 consecutive taxable  
13 years if the aggregate tax liability for such pe-  
14 riod is not less than \$50,000, or

15                   “(B) a failure to make a return if the tax  
16 liability giving rise to the requirement to make  
17 such return is attributable to an activity which  
18 is a felony under any State or Federal law.”.

19           (2) PENALTY MAY BE APPLIED IN ADDITION TO  
20 OTHER PENALTIES.—Section 7204 (relating to  
21 fraudulent statement or failure to make statement to  
22 employees) is amended by striking “the penalty pro-  
23 vided in section 6674” and inserting “the penalties  
24 provided in sections 6674 and 7203(b)”.

1 (c) FRAUD AND FALSE STATEMENTS.—Section 7206  
2 (relating to fraud and false statements) is amended—

3 (1) by striking “\$100,000” and inserting  
4 “\$500,000”,

5 (2) by striking “\$500,000” and inserting  
6 “\$1,000,000”, and

7 (3) by striking “3 years” and inserting “5  
8 years”.

9 (d) INCREASE IN MONETARY LIMITATION FOR UN-  
10 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO  
11 FRAUD.—Section 7206 (relating to fraud and false state-  
12 ments), as amended by subsection (a)(3), is amended—

13 (1) by striking “Any person who—” and insert-  
14 ing “(a) IN GENERAL.—Any person who—”, and

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

17 “(b) INCREASE IN MONETARY LIMITATION FOR UN-  
18 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO  
19 FRAUD.—If any portion of any underpayment (as defined  
20 in section 6664(a)) or overpayment (as defined in section  
21 6401(a)) of tax required to be shown on a return is attrib-  
22 utable to fraudulent action described in subsection (a), the  
23 applicable dollar amount under subsection (a) shall in no  
24 event be less than an amount equal to such portion. A

1 rule similar to the rule under section 6663(b) shall apply  
2 for purposes of determining the portion so attributable.”.

3 (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to actions, and failures to act, oc-  
5 ccurring after the date of the enactment of this Act.

6 **SEC. 311. UNDERSTATEMENT OF TAXPAYER LIABILITY BY**  
7 **RETURN PREPARERS.**

8 (a) APPLICATION OF RETURN PREPARER PENALTIES  
9 TO ALL TAX RETURNS.—

10 (1) DEFINITION OF TAX RETURN PREPARER.—

11 Paragraph (36) of section 7701(a) (relating to in-  
12 come tax preparer) is amended—

13 (A) by striking “income” each place it ap-  
14 pears in the heading and the text, and

15 (B) in subparagraph (A), by striking “sub-  
16 title A” each place it appears and inserting  
17 “this title”.

18 (2) CONFORMING AMENDMENTS.—

19 (A)(i) Section 6060 is amended by striking  
20 “**INCOME TAX RETURN PREPARERS**” in the  
21 heading and inserting “**TAX RETURN PRE-**  
22 **PARERS**”.

23 (ii) Section 6060(a) is amended—

1 (I) by striking “an income tax return  
2 preparer” each place it appears and insert-  
3 ing “a tax return preparer”,

4 (II) by striking “each income tax re-  
5 turn preparer” and inserting “each tax re-  
6 turn preparer”, and

7 (III) by striking “another income tax  
8 return preparer” and inserting “another  
9 tax return preparer”.

10 (iii) The item relating to section 6060 in  
11 the table of sections for subpart F of part III  
12 of subchapter A of chapter 61 is amended by  
13 striking “income tax return preparers” and in-  
14 serting “tax return preparers”.

15 (iv) Subpart F of part III of subchapter A  
16 of chapter 61 is amended by striking “**Income**  
17 **Tax Return Preparers**” in the heading  
18 and inserting “**Tax Return Preparers**”.

19 (v) The item relating to subpart F in the  
20 table of subparts for part III of subchapter A  
21 of chapter 61 is amended by striking “income  
22 tax return preparers” and inserting “tax return  
23 preparers”.

24 (B) Section 6103(k)(5) is amended—

1 (i) by striking “income tax return pre-  
2 parer” each place it appears and inserting  
3 “tax return preparer”, and

4 (ii) by striking “income tax return  
5 preparers” each place it appears and in-  
6 serting “tax return preparers”.

7 (C)(i) Section 6107 is amended—

8 (I) by striking “**INCOME TAX RE-**  
9 **TURN PREPARER**” in the heading and in-  
10 serting “**TAX RETURN PREPARER**”,

11 (II) by striking “an income tax return  
12 preparer” each place it appears in sub-  
13 sections (a) and (b) and inserting “a tax  
14 return preparer”,

15 (III) by striking “**INCOME TAX RE-**  
16 **TURN PREPARER**” in the heading for sub-  
17 section (b) and inserting “**TAX RETURN**  
18 **PREPARER**”, and

19 (IV) in subsection (c), by striking “in-  
20 come tax return preparers” and inserting  
21 “tax return preparers”.

22 (ii) The item relating to section 6107 in  
23 the table of sections for subchapter B of chap-  
24 ter 61 is amended by striking “Income tax re-

1           turn preparer” and inserting “Tax return pre-  
2           parer”.

3           (D) Section 6109(a)(4) is amended—

4                 (i) by striking “an income tax return  
5                 preparer” and inserting “a tax return pre-  
6                 parer”, and

7                 (ii) by striking “INCOME RETURN  
8                 PREPARER” in the heading and inserting  
9                 “TAX RETURN PREPARER”.

10          (E) Section 6503(k)(4) is amended by  
11          striking “Income tax return preparers” and in-  
12          serting “Tax return preparers”.

13          (F)(i) Section 6694 is amended—

14                 (I) by striking “**INCOME TAX RE-**  
15                 **TURN PREPARER**” in the heading and in-  
16                 serting “**TAX RETURN PREPARER**”,

17                 (II) by striking “an income tax return  
18                 preparer” each place it appears and insert-  
19                 ing “a tax return preparer”,

20                 (III) in subsection (c)(2), by striking  
21                 “the income tax return preparer” and in-  
22                 serting “the tax return preparer”,

23                 (IV) in subsection (e), by striking  
24                 “subtitle A” and inserting “this title”, and

1 (V) in subsection (f), by striking “in-  
2 come tax return preparer” and inserting  
3 “tax return preparer”.

4 (ii) The item relating to section 6694 in  
5 the table of sections for part I of subchapter B  
6 of chapter 68 is amended by striking “income  
7 tax return preparer” and inserting “tax return  
8 preparer”.

9 (G)(i) Section 6695 is amended—

10 (I) by striking “**INCOME**” in the  
11 heading, and

12 (II) by striking “an income tax return  
13 preparer” each place it appears and insert-  
14 ing “a tax return preparer”.

15 (ii) Section 6695(f) is amended—

16 (I) by striking “subtitle A” and in-  
17 sserting “this title”, and

18 (II) by striking “the income tax re-  
19 turn preparer” and inserting “the tax re-  
20 turn preparer”.

21 (iii) The item relating to section 6695 in  
22 the table of sections for part I of subchapter B  
23 of chapter 68 is amended by striking “income”.

1 (H) Section 6696(e) is amended by strik-  
2 ing “subtitle A” each place it appears and in-  
3 serting “this title”.

4 (I)(i) Section 7407 is amended—

5 (I) by striking “**INCOME TAX RE-**  
6 **TURN PREPARERS**” in the heading and  
7 inserting “**TAX RETURN PREPARERS**”,

8 (II) by striking “an income tax return  
9 preparer” each place it appears and insert-  
10 ing “a tax return preparer”,

11 (III) by striking “income tax pre-  
12 parer” both places it appears in subsection  
13 (a) and inserting “tax return preparer”,  
14 and

15 (IV) by striking “income tax return”  
16 in subsection (a) and inserting “tax re-  
17 turn”.

18 (ii) The item relating to section 7407 in  
19 the table of sections for subchapter A of chap-  
20 ter 76 is amended by striking “income tax re-  
21 turn preparers” and inserting “tax return pre-  
22 parers”.

23 (J)(i) Section 7427 is amended—

24 (I) by striking “**INCOME TAX RE-**  
25 **TURN PREPARERS**” in the heading and

1 inserting “**TAX RETURN PREPARERS**”,  
2 and

3 (II) by striking “an income tax return  
4 preparer” and inserting “a tax return pre-  
5 parer”.

6 (ii) The item relating to section 7427 in  
7 the table of sections for subchapter B of chap-  
8 ter 76 is amended to read as follows:

“Sec. 7427. Tax return preparers.”.

9 (b) **MODIFICATION OF PENALTY FOR UNDERSTATE-**  
10 **MENT OF TAXPAYER’S LIABILITY BY TAX RETURN PRE-**  
11 **PARER.**—Subsections (a) and (b) of section 6694 are  
12 amended to read as follows:

13 “(a) **UNDERSTATEMENT DUE TO UNREASONABLE**  
14 **POSITIONS.**—

15 “(1) **IN GENERAL.**—Any tax return preparer  
16 who prepares any return or claim for refund with re-  
17 spect to which any part of an understatement of li-  
18 ability is due to a position described in paragraph  
19 (2) shall pay a penalty with respect to each such re-  
20 turn or claim in an amount equal to the greater of—

21 “(A) \$1,000, or

22 “(B) 50 percent of the income derived (or  
23 to be derived) by the tax return preparer with  
24 respect to the return or claim.

1           “(2) UNREASONABLE POSITION.—A position is  
2 described in this paragraph if—

3                   “(A) the tax return preparer knew (or rea-  
4 sonably should have known) of the position,

5                   “(B) there was not a reasonable belief that  
6 the position would more likely than not be sus-  
7 tained on its merits, and

8                   “(C)(i) the position was not disclosed as  
9 provided in section 6662(d)(2)(B)(ii), or

10                   “(ii) there was no reasonable basis for the  
11 position.

12           “(3) REASONABLE CAUSE EXCEPTION.—No  
13 penalty shall be imposed under this subsection if it  
14 is shown that there is reasonable cause for the un-  
15 derstatement and the tax return preparer acted in  
16 good faith.

17           “(b) UNDERSTATEMENT DUE TO WILLFUL OR  
18 RECKLESS CONDUCT.—

19                   “(1) IN GENERAL.—Any tax return preparer  
20 who prepares any return or claim for refund with re-  
21 spect to which any part of an understatement of li-  
22 ability is due to a conduct described in paragraph  
23 (2) shall pay a penalty with respect to each such re-  
24 turn or claim in an amount equal to the greater of—

25                   “(A) \$5,000, or



1 **“SEC. 6652A. FAILURE TO FILE CERTAIN RETURNS ELEC-**  
2 **TRONICALLY.**

3 “(a) IN GENERAL.—If a person fails to file a return  
4 described in section 6651 or 6652(c)(1) in electronic form  
5 as required under section 6011(e)—

6 “(1) such failure shall be treated as a failure to  
7 file such return (even if filed in a form other than  
8 electronic form), and

9 “(2) the penalty imposed under section 6651 or  
10 6652(e), whichever is appropriate, shall be equal to  
11 the greater of—

12 “(A) the amount of the penalty under such  
13 section, determined without regard to this sec-  
14 tion, or

15 “(B) the amount determined under sub-  
16 section (b).

17 “(b) AMOUNT OF PENALTY.—

18 “(1) IN GENERAL.—Except as provided in para-  
19 graphs (2) and (3), the penalty determined under  
20 this subsection is equal to \$40 for each day during  
21 which a failure described under subsection (a) con-  
22 tinues. The maximum penalty under this paragraph  
23 on failures with respect to any 1 return shall not ex-  
24 ceed the lesser of \$20,000 or 10 percent of the gross  
25 receipts of the taxpayer for the year.

1           “(2) INCREASED PENALTIES FOR TAXPAYERS  
2 WITH GROSS RECEIPTS BETWEEN \$1,000,000 AND  
3 \$100,000,000.—

4           “(A) TAXPAYERS WITH GROSS RECEIPTS  
5 BETWEEN \$1,000,000 AND \$25,000,000.—In the  
6 case of a taxpayer having gross receipts exceed-  
7 ing \$1,000,000 but not exceeding \$25,000,000  
8 for any year—

9           “(i) the first sentence of paragraph  
10 (1) shall be applied by substituting ‘\$200’  
11 for ‘\$40’, and

12           “(ii) in lieu of applying the second  
13 sentence of paragraph (1), the maximum  
14 penalty under paragraph (1) shall not ex-  
15 ceed \$100,000.

16           “(B) TAXPAYERS WITH GROSS RECEIPTS  
17 OVER \$25,000,000.—Except as provided in para-  
18 graph (3), in the case of a taxpayer having  
19 gross receipts exceeding \$25,000,000 for any  
20 year—

21           “(i) the first sentence of paragraph  
22 (1) shall be applied by substituting ‘\$500’  
23 for ‘\$40’, and

24           “(ii) in lieu of applying the second  
25 sentence of paragraph (1), the maximum

1 penalty under paragraph (1) shall not ex-  
2 ceed \$250,000.

3 “(3) INCREASED PENALTIES FOR CERTAIN TAX-  
4 PAYERS WITH GROSS RECEIPTS EXCEEDING  
5 \$100,000,000.—In the case of a return described in  
6 section 6651—

7 “(A) TAXPAYERS WITH GROSS RECEIPTS  
8 BETWEEN \$100,000,000 AND \$250,000,000.—In the  
9 case of a taxpayer having gross receipts exceed-  
10 ing \$100,000,000 but not exceeding  
11 \$250,000,000 for any year—

12 “(i) the amount of the penalty deter-  
13 mined under this subsection shall equal the  
14 sum of—

15 “(I) \$50,000, plus

16 “(II) \$1,000 for each day during  
17 which such failure continues (twice  
18 such amount for each day such failure  
19 continues after the first such 60  
20 days), and

21 “(ii) the maximum amount under  
22 clause (i)(II) on failures with respect to  
23 any 1 return shall not exceed \$200,000.

24 “(B) TAXPAYERS WITH GROSS RECEIPTS  
25 OVER \$250,000,000.—In the case of a taxpayer

1           having gross receipts exceeding \$250,000,000  
2           for any year—

3                   “(i) the amount of the penalty deter-  
4                   mined under this subsection shall equal the  
5                   sum of—

6                           “(I) \$250,000, plus

7                           “(II) \$2,500 for each day during  
8                           which such failure continues (twice  
9                           such amount for each day such failure  
10                           continues after the first such 60  
11                           days), and

12                           “(ii) the maximum amount under  
13                           clause (i)(II) on failures with respect to  
14                           any 1 return shall not exceed \$250,000.

15                   “(C) EXCEPTION FOR CERTAIN RE-  
16                   TURNS.—Subparagraphs (A) and (B) shall not  
17                   apply to any return of tax imposed under sec-  
18                   tion 511.”.

19           (b) CLERICAL AMENDMENT.—The table of sections  
20           for part I of subchapter A of chapter 68 is amended by  
21           inserting after the item relating to section 6652 the fol-  
22           lowing new item:

          “Sec. 6652A. Failure to file certain returns electronically.”.

23           (c) EFFECTIVE DATE.—The amendments made by  
24           this section shall apply to returns required to be filed on  
25           or after January 1, 2008.

1 **SEC. 313. PENALTY FOR FILING ERRONEOUS REFUND**  
 2 **CLAIMS.**

3 (a) IN GENERAL.—Part I of subchapter B of chapter  
 4 68 (relating to assessable penalties) is amended by insert-  
 5 ing after section 6675 the following new section:

6 **“SEC. 6676. ERRONEOUS CLAIM FOR REFUND OR CREDIT.**

7 “(a) CIVIL PENALTY.—If a claim for refund or credit  
 8 with respect to income tax (other than a claim for a refund  
 9 or credit relating to the earned income credit under section  
 10 32) is made for an excessive amount, unless it is shown  
 11 that the claim for such excessive amount has a reasonable  
 12 basis, the person making such claim shall be liable for a  
 13 penalty in an amount equal to 20 percent of the excessive  
 14 amount.

15 “(b) EXCESSIVE AMOUNT.—For purposes of this sec-  
 16 tion, the term ‘excessive amount’ means in the case of any  
 17 person the amount by which the amount of the claim for  
 18 refund or credit for any taxable year exceeds the amount  
 19 of such claim allowable under this title for such taxable  
 20 year.

21 “(c) COORDINATION WITH OTHER PENALTIES.—  
 22 This section shall not apply to any portion of the excessive  
 23 amount of a claim for refund or credit on which a penalty  
 24 is imposed under part II of subchapter A of chapter 68.”.

25 (b) CONFORMING AMENDMENT.—The table of sec-  
 26 tions for part I of subchapter B of chapter 68 is amended

1 by inserting after the item relating to section 6675 the  
 2 following new item:

“Sec. 6676. Erroneous claim for refund or credit.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by  
 4 this section shall apply to any claim—

5 (1) filed or submitted after the date of the en-  
 6 actment of this Act, or

7 (2) filed or submitted prior to such date but not  
 8 withdrawn before the date which is 30 days after  
 9 such date of enactment.

## 10 **Subtitle B—Requiring Economic** 11 **Substance**

### 12 **SEC. 321. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-** 13 **TRINE.**

14 (a) **IN GENERAL.**—Section 7701 is amended by re-  
 15 designating subsection (p) as subsection (q) and by insert-  
 16 ing after subsection (o) the following new subsection:

17 “(p) **CLARIFICATION OF ECONOMIC SUBSTANCE**  
 18 **DOCTRINE; ETC.**—

19 “(1) **GENERAL RULES.**—

20 “(A) **IN GENERAL.**—In any case in which  
 21 a court determines that the economic substance  
 22 doctrine is relevant for purposes of this title to  
 23 a transaction (or series of transactions), such  
 24 transaction (or series of transactions) shall have

1 economic substance only if the requirements of  
2 this paragraph are met.

3 “(B) DEFINITION OF ECONOMIC SUB-  
4 STANCE.—For purposes of subparagraph (A)—

5 “(i) IN GENERAL.—A transaction has  
6 economic substance only if—

7 “(I) the transaction changes in a  
8 meaningful way (apart from Federal  
9 tax effects) the taxpayer’s economic  
10 position, and

11 “(II) the taxpayer has a substan-  
12 tial nontax purpose for entering into  
13 such transaction and the transaction  
14 is a reasonable means of accom-  
15 plishing such purpose.

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

23 “(ii) SPECIAL RULE WHERE TAX-  
24 PAYER RELIES ON PROFIT POTENTIAL.—A  
25 transaction shall not be treated as having

1 economic substance by reason of having a  
2 potential for profit unless—

3 “(I) the present value of the rea-  
4 sonably expected pre-tax profit from  
5 the transaction is substantial in rela-  
6 tion to the present value of the ex-  
7 pected net tax benefits that would be  
8 allowed if the transaction were re-  
9 spected, and

10 “(II) the reasonably expected  
11 pre-tax profit from the transaction ex-  
12 ceeds a risk-free rate of return.

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

18 “(2) SPECIAL RULES FOR TRANSACTIONS WITH  
19 TAX-INDIFFERENT PARTIES.—

20 “(A) SPECIAL RULES FOR FINANCING  
21 TRANSACTIONS.—The form of a transaction  
22 which is in substance the borrowing of money  
23 or the acquisition of financial capital directly or  
24 indirectly from a tax-indifferent party shall not  
25 be respected if the present value of the deduc-

1           tions to be claimed with respect to the trans-  
2           action is substantially in excess of the present  
3           value of the anticipated economic returns of the  
4           person lending the money or providing the fi-  
5           nancial capital. A public offering shall be treat-  
6           ed as a borrowing, or an acquisition of financial  
7           capital, from a tax-indifferent party if it is rea-  
8           sonably expected that at least 50 percent of the  
9           offering will be placed with tax-indifferent par-  
10          ties.

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

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

19                   “(ii) it results in a basis adjustment  
20                   or shifting of basis on account of over-  
21                   stating the income or gain of the tax-indif-  
22                   ferent party.

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

1           “(A) ECONOMIC SUBSTANCE DOCTRINE.—  
2           The term ‘economic substance doctrine’ means  
3           the common law doctrine under which tax bene-  
4           fits under subtitle A with respect to a trans-  
5           action are not allowable if the transaction does  
6           not have economic substance or lacks a business  
7           purpose.

8           “(B) TAX-INDIFFERENT PARTY.—The  
9           term ‘tax-indifferent party’ means any person  
10          or entity not subject to tax imposed by subtitle  
11          A. A person shall be treated as a tax-indifferent  
12          party with respect to a transaction if the items  
13          taken into account with respect to the trans-  
14          action have no substantial impact on such per-  
15          son’s liability under subtitle A.

16          “(C) EXCEPTION FOR PERSONAL TRANS-  
17          ACTIONS OF INDIVIDUALS.—In the case of an  
18          individual, this subsection shall apply only to  
19          transactions entered into in connection with a  
20          trade or business or an activity engaged in for  
21          the production of income.

22          “(D) TREATMENT OF LESSORS.—In apply-  
23          ing paragraph (1)(B)(ii) to the lessor of tan-  
24          gible property subject to a lease—

1                   “(i) the expected net tax benefits with  
2                   respect to the leased property shall not in-  
3                   clude the benefits of—

4                                 “(I) depreciation,

5                                 “(II) any tax credit, or

6                                 “(III) any other deduction as  
7                   provided in guidance by the Secretary,

8                   and

9                                 “(ii) subclause (II) of paragraph  
10                   (1)(B)(ii) shall be disregarded in deter-  
11                   mining whether any of such benefits are al-  
12                   lowable.

13                   “(4) OTHER COMMON LAW DOCTRINES NOT AF-  
14                   FECTED.—Except as specifically provided in this  
15                   subsection, the provisions of this subsection shall not  
16                   be construed as altering or supplanting any other  
17                   rule of law, and the requirements of this subsection  
18                   shall be construed as being in addition to any such  
19                   other rule of law.

20                   “(5) REGULATIONS.—The Secretary shall pre-  
21                   scribe such regulations as may be necessary or ap-  
22                   propriate to carry out the purposes of this sub-  
23                   section. Such regulations may include exemptions  
24                   from the application of this subsection.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to transactions entered into after  
3 the date of the enactment of this Act.

4 **SEC. 322. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
5 **UTABLE TO TRANSACTIONS LACKING ECO-**  
6 **NOMIC SUBSTANCE, ETC.**

7 (a) IN GENERAL.—Subchapter A of chapter 68 is  
8 amended by inserting after section 6662A the following  
9 new section:

10 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
11 **UTABLE TO TRANSACTIONS LACKING ECO-**  
12 **NOMIC SUBSTANCE, ETC.**

13 “(a) IMPOSITION OF PENALTY.—If a taxpayer has a  
14 noneconomic substance transaction understatement for  
15 any taxable year, there shall be added to the tax an  
16 amount equal to 40 percent of the amount of such under-  
17 statement.

18 “(b) REDUCTION OF PENALTY FOR DISCLOSED  
19 TRANSACTIONS.—Subsection (a) shall be applied by sub-  
20 stituting ‘20 percent’ for ‘40 percent’ with respect to the  
21 portion of any noneconomic substance transaction under-  
22 statement with respect to which the relevant facts affect-  
23 ing the tax treatment of the item are adequately disclosed  
24 in the return or a statement attached to the return.

1       “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-  
2     DERSTATEMENT.—For purposes of this section—

3               “(1) IN GENERAL.—The term ‘noneconomic  
4     substance transaction understatement’ means any  
5     amount which would be an understatement under  
6     section 6662A(b)(1) if section 6662A were applied  
7     by taking into account items attributable to non-  
8     economic substance transactions rather than items  
9     to which section 6662A would apply without regard  
10    to this paragraph.

11              “(2) NONECONOMIC SUBSTANCE TRANS-  
12     ACTION.—The term ‘noneconomic substance trans-  
13     action’ means any transaction if—

14                   “(A) there is a lack of economic substance  
15                    (within the meaning of section 7701(p)(1)) for  
16                    the transaction giving rise to the claimed ben-  
17                    efit or the transaction was not respected under  
18                    section 7701(p)(2), or

19                   “(B) the transaction fails to meet the re-  
20                    quirements of any similar rule of law.

21       “(d) RULES APPLICABLE TO COMPROMISE OF PEN-  
22     ALTY.—

23               “(1) IN GENERAL.—If the first letter of pro-  
24     posed deficiency which allows the taxpayer an oppor-  
25     tunity for administrative review in the Internal Rev-

1        enue Service Office of Appeals has been sent with  
 2        respect to a penalty to which this section applies,  
 3        only the Commissioner of Internal Revenue may  
 4        compromise all or any portion of such penalty.

5            “(2) APPLICABLE RULES.—The rules of para-  
 6        graphs (2) and (3) of section 6707A(d) shall apply  
 7        for purposes of paragraph (1).

8            “(e) COORDINATION WITH OTHER PENALTIES.—Ex-  
 9        cept as otherwise provided in this part, the penalty im-  
 10       posed by this section shall be in addition to any other pen-  
 11       alty imposed by this title.

12          “(f) CROSS REFERENCES.—

          “(1) For coordination of penalty with understatements  
 under section 6662 and other special rules, see section  
 6662A(e).

          “(2) For reporting of penalty imposed under this section  
 to the Securities and Exchange Commission, see section  
 6707A(e).”.

13          (b) COORDINATION WITH OTHER UNDERSTATE-  
 14       MENTS AND PENALTIES.—

15            (1)     The     second     sentence     of     section  
 16        6662(d)(2)(A) is amended by inserting “and without  
 17        regard to items with respect to which a penalty is  
 18        imposed by section 6662B” before the period at the  
 19        end.

20            (2)     Subsection (e) of section 6662A is amend-  
 21        ed—

1 (A) in paragraph (1), by inserting “and  
2 noneconomic substance transaction understate-  
3 ments” after “reportable transaction under-  
4 statements” both places it appears,

5 (B) in paragraph (2)(A), by inserting “and  
6 a noneconomic substance transaction under-  
7 statement” after “reportable transaction under-  
8 statement”,

9 (C) in paragraph (2)(B), by inserting  
10 “6662B or” before “6663”,

11 (D) in paragraph (2)(C)(i), by inserting  
12 “or section 6662B” before the period at the  
13 end,

14 (E) in paragraph (2)(C)(ii), by inserting  
15 “and section 6662B” after “This section”,

16 (F) in paragraph (3), by inserting “or non-  
17 economic substance transaction understate-  
18 ment” after “reportable transaction understate-  
19 ment”, and

20 (G) by adding at the end the following new  
21 paragraph:

22 “(4) NONECONOMIC SUBSTANCE TRANSACTION  
23 UNDERSTATEMENT.—For purposes of this sub-  
24 section, the term ‘noneconomic substance trans-

1       action understatement’ has the meaning given such  
2       term by section 6662B(e).”.

3           (3) Subsection (e) of section 6707A is amend-  
4       ed—

5                   (A) by striking “or” at the end of subpara-  
6       graph (B), and

7                   (B) by striking subparagraph (C) and in-  
8       serting the following new subparagraphs:

9                   “(C) is required to pay a penalty under  
10       section 6662B with respect to any noneconomic  
11       substance transaction, or

12                   “(D) is required to pay a penalty under  
13       section 6662(h) with respect to any transaction  
14       and would (but for section 6662A(e)(2)(C))  
15       have been subject to penalty under section  
16       6662A at a rate prescribed under section  
17       6662A(c) or under section 6662B,”.

18       (c) CLERICAL AMENDMENT.—The table of sections  
19       for part II of subchapter A of chapter 68 is amended by  
20       inserting after the item relating to section 6662A the fol-  
21       lowing new item:

      “Sec. 6662B. Penalty for understatements attributable to transactions lacking  
          economic substance, etc.”.

22       (d) EFFECTIVE DATE.—The amendments made by  
23       this section shall apply to transactions entered into after  
24       the date of the enactment of this Act.

1 **SEC. 323. DENIAL OF DEDUCTION FOR INTEREST ON UN-**  
2 **DERPAYMENTS ATTRIBUTABLE TO NON-**  
3 **ECONOMIC SUBSTANCE TRANSACTIONS.**

4 (a) IN GENERAL.—Section 163(m) (relating to inter-  
5 est on unpaid taxes attributable to nondisclosed reportable  
6 transactions) is amended—

7 (1) by striking “attributable” and all that fol-  
8 lows and inserting the following: “attributable to—

9 “(1) the portion of any reportable transaction  
10 understatement (as defined in section 6662A(b))  
11 with respect to which the requirement of section  
12 6664(d)(2)(A) is not met, or

13 “(2) any noneconomic substance transaction  
14 understatement (as defined in section 6662B(c)).”,  
15 and

16 (2) by inserting “AND NONECONOMIC SUB-  
17 STANCE TRANSACTIONS” after “TRANSACTIONS”.

18 (b) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to transactions after the date of  
20 the enactment of this Act in taxable years ending after  
21 such date.

22 **Subtitle C—Miscellaneous**

23 **SEC. 331. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

24 (a) DISALLOWANCE OF DEDUCTION.—

1           (1) IN GENERAL.—Section 162(g) (relating to  
2           treble damage payments under the antitrust laws) is  
3           amended—

4                   (A) by redesignating paragraphs (1) and  
5                   (2) as subparagraphs (A) and (B), respectively,  
6                   (B) by striking “If” and inserting:

7                   “(1) TREBLE DAMAGES.—If”, and

8                   (C) by adding at the end the following new  
9                   paragraph:

10                   “(2) PUNITIVE DAMAGES.—No deduction shall  
11                   be allowed under this chapter for any amount paid  
12                   or incurred for punitive damages in connection with  
13                   any judgment in, or settlement of, any action. This  
14                   paragraph shall not apply to punitive damages de-  
15                   scribed in section 104(e).”.

16           (2) CONFORMING AMENDMENT.—The heading  
17           for section 162(g) is amended by inserting “OR PU-  
18           NITIVE DAMAGES” after “LAWS”.

19           (b) INCLUSION IN INCOME OF PUNITIVE DAMAGES  
20           PAID BY INSURER OR OTHERWISE.—

21                   (1) IN GENERAL.—Part II of subchapter B of  
22                   chapter 1 (relating to items specifically included in  
23                   gross income) is amended by adding at the end the  
24                   following new section:

1 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**  
2 **ANCE OR OTHERWISE.**

3 “Gross income shall include any amount paid to or  
4 on behalf of a taxpayer as insurance or otherwise by rea-  
5 son of the taxpayer’s liability (or agreement) to pay puni-  
6 tive damages.”.

7 (2) REPORTING REQUIREMENTS.—Section 6041  
8 (relating to information at source) is amended by  
9 adding at the end the following new subsection:

10 “(h) SECTION TO APPLY TO PUNITIVE DAMAGES  
11 COMPENSATION.—This section shall apply to payments by  
12 a person to or on behalf of another person as insurance  
13 or otherwise by reason of the other person’s liability (or  
14 agreement) to pay punitive damages.”.

15 (3) CONFORMING AMENDMENT.—The table of  
16 sections for part II of subchapter B of chapter 1 is  
17 amended by adding at the end the following new  
18 item:

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to damages paid or incurred on  
21 or after the date of the enactment of this Act.

1 **TITLE IV—TECHNICAL AND CON-**  
2 **FORMING AMENDMENTS;**  
3 **SUNSET**

4 **SEC. 401. TECHNICAL AND CONFORMING AMENDMENTS.**

5 The Secretary of the Treasury or the Secretary's del-  
6 egate shall not later than 90 days after the date of the  
7 enactment of this Act, submit to the Committee on Ways  
8 and Means of the House of Representatives and the Com-  
9 mittee on Finance of the Senate a draft of any technical  
10 and conforming changes in the Internal Revenue Code of  
11 1986 which are necessary to reflect throughout such Code  
12 the purposes of the provisions of, and amendments made  
13 by, this Act.

14 **SEC. 402. SUNSET.**

15 (a) IN GENERAL.—All provisions of, and amend-  
16 ments made by, this Act shall not apply to taxable years  
17 beginning after December 31, 2012.

18 (b) APPLICATION OF CODE.—The Internal Revenue  
19 Code of 1986 shall be applied and administered to taxable  
20 years described in subsection (a) as if the provisions of,  
21 and amendments made by, this Act had never been en-  
22 acted.

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