community service is given to a person who has dedicated personal efforts to promoting civic and cultural activities. The award this year is being given to Dr. Eduardo Lorenzo. The Joe Benavidez Award for education is presented to a person who has supported educational issues relating to Hispanics of all ages. Ms. Janie Rubio is this year's recipient. The Labor Involvement Award is being given to Ms. Estela Mata for her efforts to increase community awareness, improve the quality of life, and open doors for Hispanics. The Bruno Valdez Arts and Entertainment Award is presented to a Hispanic artist who has promoted Hispanic culture through professional and personal activity. The award this year is being given to Mr. Roel Martinez. The Veterans Award is given to a member of the Hispanic Community who has honorably served in the U.S. Armed Forces. Mr. Aleucion Duran is being honored with the award this year. Ms. Lorena Gonzalez will be given the Maria DeLeary Award. This year the Hispanic community will honor Mr. Domingo Berlanga for his selfless work that he devotes to the Hispanic Community.

To honor those of the Hispanic community just starting to pursue their life goals, the Pedro Mata, Jr., Scholarship Award will be given to Ms. Holly Saultman. The purpose of this award is to foster a commitment to community service and encourage continued education.

Mr. Speaker, it is with great pride that I rise today and ask my colleagues in the House of Representatives to join me in congratulating the winners of these awards. The recipients are to be commended for their dedication, commitment, and leadership to the Hispanic community of Flint and Genesee County.

## TRIBUTE TO THE MEMBERS OF THE SOUTH BAY POST NO. 8300 OF THE VETERANS OF FOREIGN WARS IN EAST PATCHOGUE

### HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 11, 1996*

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the members of the South Bay Post No. 8300 of the Veterans of Foreign Wars, in East Patchogue, Long Island as they celebrate the 50th anniversary of the post's founding this Saturday, September 14.

Established by World War II veterans returning home to Brookhaven Town after leading America's victory over fascism, the South Bay Post takes its name from the Great South Bay that separates the south shore of Suffolk County from Fire Island and the Atlantic Ocean. South Bay Post No. 8300 was officially chartered on September 14, 1946, and Howard D. Hunter was chosen as the post's first commander.

Utilizing a surplus Army hospital building from Camp Upton, now Brookhaven National Laboratory, the post opened its headquarters on Dunton Avenue in East Patchogue in the early 1950's on land purchased from the town of Brookhaven for $1. Post members moved the hospital building from Camp Upton in three sections, installed the foundation and completed all the necessary renovations. Since its inception, the post headquarters have been expanded to accommodate its membership, that rose from an original 73 veterans to a high of 142 in 1973. Today the roster stands at 79.

On May 30, 1947, the post held its first important event when it sponsored a Memorial Day parade and service at the Bellport Cemetery. The post still continues its annual Memorial Day parade tradition.

During South Bay Post No. 8300's half-century lifespan, many changes have come to this area of Long Island. What remains unchanged is the devotion that the post's charter members possess for their country and comrades-in-arms. This Saturday night, during the 50th anniversary celebration dinner, Post Commander Dominic Chiapperino will present 50-year pins to 11 charter members whose passion and faith in America and the Veterans of Foreign Wars post they founded have never wavered.

I ask my colleagues in the U.S. House of Representatives to join me in saluting these 11 charter members of South Bay Post No. 8300, Veterans of Foreign Wars, on their 50-year anniversary. The 50-year charter members are: Anthony Fuoco, Ralph Fuoco, Sam Fuoco, Anthony Satornino, Dominic Satornino, Charles Stethani, Vincent Stethani, Walter Albasi, James Cardamone, Gasper Perry, and Joseph Stethani.

As citizens of this free and prosperous Nation, all Americans owe our war veterans a tremendous debt of gratitude for the sacrifices they endured and the efforts they made on our behalf. Please join me in saluting South Bay Post No. 8300 of the Veterans of Foreign Wars and all of its members, for all they do for our veterans and for all they've done for America.

## INTRODUCTORY STATEMENT FOR H.R. 4050 VALUE-ADDED TAX PROPOSAL

### HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 11, 1996*

Mr. GIBBONS. Mr. Speaker, the United States must have a new revenue system. We cannot afford the current system. It costs too much to operate. It destroys Americans' confidence in their Government and it hurts our economy by exporting American job opportunities.

Today, I have introduced H.R. 4050, and I have also placed in the CONGRESSIONAL RECORD a statement and a technical description for this proposal. This is the best that I have been able to do, drawing upon my 27 years of experience on the Committee on Ways and Means and my 34 years in Congress. I welcome discussion and criticism.

The legislation is comprehensive. First, it repeals all income taxes, personal and corporate. Second, it replaces the revenue lost with a value-added tax [VAT] on all goods and services at one flat tax rate. Third, it recognizes the current individual tax burden and it contains a proposal to keep this tax burden as it currently is and has been for the last 30 years.

A value-added tax is paid for by every American consumer which, by the way, is the ultimate impact of our current system. It is collected by business and remitted by business to the U.S. Government. A VAT simply taxes the value of each good and service on its way to the ultimate consumer. It does so in a fashion which does not cause the rate of taxation to pyramid.

#### THE CURRENT SYSTEM

While raising the revenue we need and achieving some of the goals we originally set for it, our income tax system has become a maze of complexity, intimidating to almost all taxpayers in its broad scope and labyrinthine nature. Because of this complexity, most Americans think the Tax Code is unfair. Most believe it allows the wealthiest to escape fair taxation and leaves the heavier burden on those less fortunate. On average, Federal taxes take about 23.8 percent of family income. At the very least, Americans deserve a tax system they can understand and trust, one with the consistency that assures that all are paying by the same process.

Businesses, too, feel overly burdened by our tax system. Compliance requests, complex forms, and expensive staff are needed to merely comply.

Our current tax system has the effect of exporting our job opportunities. Practically all countries have a value-added tax. Their VAT is subtracted from the price of their goods are exported to the United States. When their goods enter our tax environment, we collect little if any U.S. tax. But when our goods and services enter their countries, they add their VAT to the price of our goods before they are sold. Therefore, our goods, when sold overseas, carry the tax costs of two systems but their goods sold in our country are largely exempt from taxation. The ultimate impact is to diminish and export our U.S.-based job opportunities.

#### MY PROPOSAL FOR AN AMERICAN VALUE-ADDED TAX—H.R. 4050

The bill I am introducing today would eliminate all of these problems. It repeals the individual and corporate income taxes as well as the Social Security and Medicare taxes—approximately 90 percent of our current Federal taxes. It is my proposal for a single-rate subtraction-method value-added tax as a complete replacement for our current tax system. I feel confident that this bill will give the Congress a strong starting point for this important debate. A technical explanation of this bill follows my introductory statement.

A value-added tax is a tax placed on the sale of goods and services at each point where the value of a product is increased instead of taxing income as it is received. For example, a tax would be imposed when timber was sold. If the purchaser of the timber made it into paper and sold the paper, a tax would be placed on the value added by the papermaker. The value added by the papermaker would be determined by adding up the gross receipts from the sales of paper and subtracting the cost of business purchases—for example, timber, equipment, chemicals for bleaching, electricity or other energy costs, et cetera. Because the tax applies only to businesses, the value-added tax is not collected upon the sale of an owner-occupied private residence.

Under a VAT, American exports would not be taxed because they will be taxed when they enter a foreign country—if we taxed them in the United States then we cannot be competitive and this will cost us American jobs. The tax would apply only to consumption of

goods and services that takes place in the United States, whether imported or domestically produced. All imported goods would have our VAT added to this cost.

My VAT legislation provides a simple, understandable means of collecting the revenue the Government needs to operate and satisfying our citizens' right to understand their tax burden. All consumers would have the same tax rate. The simplicity of this system would improve compliance and reduce administrative costs for both the payor and the Government.

Many alternative tax systems purport to be simple, but a close examination of the details belies that claim. My VAT has no special exemptions or deductions and it has only one rate.

DISTRIBUTION OF TAX BURDEN

As the Congress considers any alternative to our current system, I state quite emphatically that two debates should remain outside of the discussion of a new tax system: First the amount of revenue the Government raises and spends, and second the distribution of the tax burden. The former has been discussed extensively in this 104th Congress, and perhaps rightly so, but on any count it is a debate that should take place outside of tax reform. The latter, burden distribution, should remain as it is—a progressive American system that helps the least among us and ensures that those benefiting the most from our democratic government and open economy pay their fair share. Both must be addressed. Neither should hinder our review of a VAT.

One of my key tenets in formulating a new tax regime is to maintain the same degree of progressivity that our current system has. The imposition of my VAT would not accomplish that by itself. Title III of my bill, the burden adjuster, is designed to keep the tax burden as it is now and has been for the last 30 years. Because the estimated 20-percent rate would likely result in a tax increase compared to current law for lower-income Americans and a tax decrease for upper-income Americans, my proposal adjusts that result so that, on average, each income group would bear the same burden it bears today.

My goals in designing this burden adjustment are: No. 1 to keep the adjustment mechanism itself as simple as possible; and No. 2 to minimize the number of taxpayers who would be subject to it. I believe that I have succeeded on both counts.

Since this is a key tax fairness issue, I want to share some details on its specifics and how it was developed. The burden adjustment aspect of my proposal is very simple. The 50 million taxpayers with incomes of less than $30,000 would get a rebate of the value-added tax they would pay, and the 17.5 million with incomes above $75,000 would be charged a bit extra. The 42 million taxpayers with incomes between $30,000 and $75,000 would not have to deal with an income tax at all.

Specifically, a rebate to low-income—up to $30,000—Americans would bring them to their current burden level. The rebate would be phased out proportionally, reaching zero at $30,000. The Internal Revenue Service would provide a table showing the amount of rebate at each income level. Taxpayers would simply look up their income in the table in order to know how much their rebate would be. They could file for their rebate from the IRS or, as the Secretary may arrange, they could receive it along with other cash transfers they may get from the Federal Government.

Taxpayers with income of more than $75,000 would pay a 17-percent flat rate on the amount of their adjusted gross incomes that exceeds $75,000. This low, flat rate would be sufficient to keep the average tax rate of the top 16 percent of the population at its current rate—under the assumption that they spend all of their income and pay the 20-percent VAT on their purchases.

The rebate calculation is very easy and would be done by the IRS. All taxpayers would need to do is look up their income in a table. The extra assessment calculation is as simple as possible. Taxpayers would apply a flat rate to an already familiar measure of income.

The vast middle-class—those with incomes between $30,000 and $75,000—would not have to bother with any of this. They would simply pay the VAT when they purchased goods and services. Period. No forms, no filing, no IRS.

So, with my value-added tax, 42 million taxpayers would no longer file tax forms of any kind. Another 50 million people would have the simple task of applying for a rebate of the VAT they pay, which they could look up in a table provided to them. Only 16 percent of all current taxpayers—17.5 million out of 110.8 million taxpayers—would be required to file and pay the additional assessment.

No complicated transition rules are needed—this VAT, with its rebate system for businesses, eliminates the need.

CONCLUSION

I look forward to vigorous discussion of my proposal with all commentators and participants in the policymaking process. It is through such dialog that sound changes to our tax laws evolve.

As we prepare to reform our current tax system, the implications of replacement must be fully understood and dealt with. We need to educate ourselves. I applaud Ways and Means Committee Chairman ARCHER for holding hearings on this subject.

I have spent years working on the ideas that I have presented here. And the ideas are certainly not mine alone. Hundreds of Americans have written on this subject and practically every country on earth with the exception of Australia has a form of value added taxation.

I could not have brought these many ideas together and presented them as I have without the help of some very fine and learned professionals: Janice Mays, currently chief counsel and staff director for the Democratic members of the Committee on Ways and Means who formerly served in that capacity for the full committee, John Buckley, currently chief tax counsel to the Democratic members of the Committee on Ways and Means and former chief of staff to the Joint Committee on Taxation and prior to that assistant legislative counsel to the House of Representatives; Kathleen O'Connell, chief economist for the Democratic members of the Committee on Ways and Means and former deputy assistant director for tax analysis at the Congressional Budget Office, Ellen Dadisman, Frank Phifer and others on our Democratic staff. I have also received much assistance from many other generous public servants.

Numerous others, particularly those in the private sector, have studied, written, and discussed for endless hours with me on this subject. Nothing is perfect and nothing is ever final, but this is the best that I have been able to do. Your input is welcomed. I would be glad to respond to all comments.

TECHNICAL DESCRIPTION OF H.R. 4050

The bill consists of three titles. The bill's provisions take effect on January 1, 1998.

TITLE I

Title I of the bill repeals the individual and corporate income taxes (including the minimum taxes), and the employment taxes used to fund the Social Security and Medicare programs. These repealed taxes constitute approximately 90 percent of current Federal revenues. The bill maintains the current funding of those programs by dedicating a portion of the revenues raised from the value-added tax imposed by Title II of the bill to the appropriate trust funds for such programs.

TITLE II

Title II of the bill imposes a broad-based, single rate, subtraction method, value-added tax. Businesses would collect and remit the tax. The estimated rate of the tax would be 20 percent. The 20 percent rate is an estimate of the rate that, in combination with the burden adjustment provisions of title III, will result in the bill being both revenue neutral and distributionally neutral. The rate was selected to minimize the number of taxpayers affected by the burden adjustment provisions.

Except for an exception for very small businesses, all persons engaged in business activities in the United States would be responsible for collecting and remitting the value-added tax. Businesses with gross receipts of less than $12,000 per year would be exempt from the tax unless they waive that exemption. For this purpose, the term ''business activity'' means the sale of property in the United States, the grant of the right to use property in the United States, and the performance of services in the United States other than as an employee. Such activities would be subject to the value-added tax if they are carried on continuously or regularly, regardless of profit motive.

The amount of the value added by any business during any taxable period would be computed under the subtraction method. The business would total its gross receipts from business activities for the taxable period and then subtract the amount (referred to as ''business purchases'') paid by the business during the taxable period for products and services to be used or sold in the business activity. Business purchases do not include amounts paid for employee compensation. If the amount paid for business purchases during any taxable period exceeds the business gross receipts for that taxable period, the business would be entitled to a refund equal to the VAT rate times that excess.

The value-added tax would be adjusted at the international border. In the case of exports, the adjustment would be made by excluding gross receipts from exports of goods and services from business gross receipts. Business purchases would include the cost of goods and services used to produce exported goods and services, thereby refunding to the exporter the value-added tax embedded in the price of those goods and services. In the case of imports, the adjustment would be made by excluding purchases of imported products or services in computing the amount of business purchases. There are also provisions that would refund the value-added tax to persons (such as tourists) making nonbusiness purchases of property in the United States for use outside the United States. There would be a tax on nonbusiness imports of property or services into the United States.

Businesses engaged in providing financial services would be subject to the value-added tax based on the value of the financial intermediation services that they provide. Those businesses could specify that a portion of the amounts they receive such as interest are implicit fees for financial intermediation services and the amount so specified would be treated as a deductible business purchase by the person paying the interest. Except for businesses engaged in providing financial services, dividends, interest, and other returns from financial assets would be excluded from gross receipts for purposes of the value-added tax.

There are rules for goods and services furnished by governmental entities and tax-exempt organizations. Those goods and services would be exempt from the value-added tax unless there is a separate charge imposed. If the full cost of the goods or services is not covered by the amounts charged for them, the entity cannot deduct the portion of its business purchases funded from other sources in computing its value added. Public utility services, mass transit services, and postal services furnished by governmental entities would be subject to the tax even if there is no separate charge.

TITLE III

Title III of the bill provides a rebate of the value-added tax to low-income individuals and imposes an assessment on high-income individuals.

Individuals whose adjusted net income for a year does not exceed $30,000 would be eligible for a rebate of the value-added tax. The amount of the rebate would be the applicable percentage of the individual's adjusted net income. The applicable percentage is 20 percent reduced by two-thirds of one percent for each whole $1,000 of the individual's adjusted net income. For the purposes of the rebate, adjusted net income includes the value of some non-indexed Federal transfer payments received during the year.

Individuals would be eligible to receive a rebate only if they are citizens and residents of the United States for the entire year, have a principal place of abode in the United States for more than half the year, and are not the dependent of another taxpayer.

The bill contains provisions for the advance payment of the rebate by employers. These provisions are similar to the provisions of current law which provide for advance payment of the earned income credit.

Taxpayers with net incomes over $75,000 would be required to pay an assessment equal to 17 percent of their net income under current law except that net income would include:

1. tax-exempt interest,

2. foreign earned income excludable under current Internal Revenue Code section 911, and

3. items of elective deferred compensation and nonqualified deferred compensation when there is not a substantial risk of forfeiture.

The bill's change in the treatment of nonqualified deferred compensation is necessary to prevent avoidance of the bill's assessment. The bill repeals the corporate income tax and therefore eliminates the current-law impediments to the use of nonqualified deferred compensation.

In addition, the bill contains provisions to prevent corporations from being used to avoid the assessment. The undistributed income of closely held corporations would be deemed distributed to their shareholders.

H.R. 4050

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

(a) IN GENERAL.—This Act may be cited as the ''Revenue Restructuring Act of 1996''.

(b) FUNDAMENTAL PRINCIPLES FOR TAX RESTRUCTURING.—The provisions of this Act are a substitute for the current Federal income taxes and social security and medicare employment taxes and are designed to meet the following principles which should govern all proposals for fundamental tax reform:

(1) REVENUE NEUTRALITY.—The debate about the best method by which the Government raises revenue should not be confused with the issue of how much revenue the Government should raise.

(2) FAIRNESS.—Equitable distribution of the tax burden is of paramount importance. Tax reform should not be used as an opportunity to alter the current distribution of the burden of Federal taxes.

(3) SIMPLICITY.—Much of the unhappiness with the current Federal tax system arises from its perceived complexity. Tax reform should focus on the creation of a truly simpler system, thereby avoiding the ill will and skepticism generated by the current Federal tax system.

(4) ECONOMIC EFFICIENCY.—A good revenue system should minimize interference in economic markets. It should result in the least amount of distortion and bias, should encourage economic growth, and should promote the vigor and competitiveness of American companies.

(5) INTERNATIONAL COMPETITIVENESS.—The current income tax is an impediment to maximum competitiveness of American companies in international markets. Any reform proposal should be border-adjustable and promote the competitiveness of American companies.

(c) RESPONSIBILITIES OF DEPARTMENT OF TREASURY.—The rate of the value added tax and the burden adjustment provisions contained in this Act are tentative and intended to be both revenue neutral and distributionally neutral. The Secretary of the Treasury shall, within 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives such adjustments to—

(1) the rate of the tax imposed by title II of this Act, and

(2) the burden adjustments established by title III of this Act,

to ensure that the provisions of this Act do not result in a significant change in the amount of Federal revenues or in the distribution of the Federal tax burden.

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

(e) TABLE OF CONTENTS.—



**TITLE I—REPEAL OF INDIVIDUAL AND CORPORATE INCOME TAXES AND SOCIAL SECURITY AND MEDICARE TAXES**

**SEC. 101. REPEAL OF INDIVIDUAL AND CORPORATE INCOME TAXES.**

(a) IN GENERAL.—Subchapter A of chapter 1 (relating to normal taxes and surtaxes) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

**SEC. 102. REPEAL OF SOCIAL SECURITY AND MEDICARE TAXES.**

(a) IN GENERAL.—

(1) Chapter 21 (relating to Federal Insurance Contributions Act) is hereby repealed.

(2) Chapter 2 (relating to self-employment tax) is hereby repealed.

(b) REPEAL OF TIER 1 RAILROAD RETIREMENT TAXES.—

(1) Subsection (a) of section 3201 (relating to tax on employees) is hereby repealed.

(2) Subsection (a) of section 3211 (relating to tax on employee representatives) is amended by striking paragraph (1).

(3) Section 3221 (relating to tax on employers) is amended by striking subsections (a) and (e).

(4) Paragraph (2) of section 3231(e) is amended—

(A) by striking clause (iii) of subparagraph (A), and

(B) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) APPLICABLE BASE.—The term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year; except that—

''(i) for purposes of this chapter, and

''(ii) computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974 (except with respect to annuity amounts determined under subsection (a) or (f)(3) of section 3 of such Act), clause (2) of the first sentence, and the second sentence, of subsection (c) of section 230 of the Social Security Act shall be disregarded.''

(4) Subsection (e) of section 3231 is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (a)(2)) shall apply to remuneration paid after December 31, 1997.

(2) SELF-EMPLOYMENT TAX.—The amendment made by subsection (a)(2) shall apply to taxable years beginning after December 31, 1997.

## TITLE II—VALUE ADDED TAX

### SEC. 201. IMPOSITION OF VALUE ADDED TAX.

The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

**''Subtitle L—Value Added Tax**

''CHAPTER 100. Value added tax.

**''CHAPTER 100—VALUE ADDED TAX**

''SUBCHAPTER A. Imposition of tax.

''SUBCHAPTER B. Computation of tax.

''SUBCHAPTER C. General rules.

''SUBCHAPTER D. Special rules.

''SUBCHAPTER E. Small business exemption.

''SUBCHAPTER F. Definitions.

''SUBCHAPTER G. Administration.

**''Subchapter A—Imposition of Tax**

''Sec. 10001. Tax imposed.

**''SEC. 10001. TAX IMPOSED.**

''In the case of any person engaged in any business activity, there is hereby imposed for each taxable period a tax in an amount equal to 20 percent of the taxable value added.

**''Subchapter B—Computation of Tax**

''Sec. 10011. Taxable value added.

''Sec. 10012. Business activity.

''Sec. 10013. Gross receipts from business activities.

''Sec. 10014. Business purchases.

''Sec. 10015. Exemption for certain nontaxable exchanges.

**''SEC. 10011. TAXABLE VALUE ADDED.**

''(a) IN GENERAL.—For purposes of this chapter, the term 'taxable value added' means the amount by which—

''(1) the gross receipts of any person from business activities for a taxable period, exceed

''(2) the business purchases of such person for the taxable period.

''(b) REFUND IF BUSINESS PURCHASES EXCEED GROSS RECEIPTS.—If the business purchases described in subsection (a)(2) exceeds the gross receipts described in subsection (a)(1) for any taxable period, an amount equal to 20 percent of such excess shall be treated as an overpayment of the tax imposed by section 10001 for such period.

**''SEC. 10012. BUSINESS ACTIVITY.**

''(a) IN GENERAL.—For purposes of this chapter, the term 'business activity' means—

''(1) any of the following transactions by any person in connection with a business—

''(A) any sale of property in the United States,

''(B) any grant of a right to use property in the United States, and

''(C) the performance of services in the United States, and

''(2) the export of property or services from the United States in connection with a business.

For purposes of the preceding sentence, the term 'property' does not include any financial instrument (as defined in section 10051) or money.

''(b) EXCEPTION FOR SERVICES PERFORMED AS EMPLOYEE.—For purposes of this chapter, the term 'business activity' does not include the performance of services by an employee for the employee's employer.

**''SEC. 10013. GROSS RECEIPTS FROM BUSINESS ACTIVITIES.**

''(a) IN GENERAL.—For purposes of this chapter, the term 'gross receipts' means all receipts from a business activity.

''(b) EXPORTS.—

''(1) GENERAL RULE.—For purposes of this chapter, the term 'gross receipts' does not include amounts received by the exporter for property or services exported from the United States for use or consumption outside the United States.

''(2) EXPORT THROUGH NONBUSINESS ENTITY.—For purposes of paragraph (1), if property or services are sold to a governmental entity or exempt organization for export and are exported other than in a business activity of such entity or organization, then the seller of such property or services is deemed to be the exporter thereof.

''(3) INTERNATIONAL TRANSPORTATION.—

**''For treatment of international transportation services, see section 10031.**

''(c) EXCHANGES.—For purposes of this chapter, the amount treated as gross receipts from an exchange is the amount of money plus the fair market value of other consideration received in the exchange.

''(d) CERTAIN INSURANCE PROCEEDS.—For purposes of this chapter, the term 'gross receipts' includes the proceeds of property and casualty insurance for losses in connection with a business activity.

''(e) TAXES.—For purposes of this chapter, the term 'gross receipts' shall not include—

''(1) any separately stated excise tax, sales tax, customs duty, or other levy imposed by a Federal, State, or local government which is imposed on a business transaction and which is received or collected by the seller in connection with the sale, and

''(2) any tax imposed by chapter 31, 32, 33, 34, 35, 36, 39, 51, 52, or 53.

''(f) TRANSFERS TO RELATED PERSONS.—

''(1) IN GENERAL.—For purposes of this chapter, the amount treated as the gross receipts from any transaction described in section 10012(a)(1) between related persons shall be the fair market value of the property sold, right granted, or services performed (as the case may be).

''(2) RELATED PERSON.—For purposes of this subsection, the term 'related person' means—

''(A) in the case of an employment relationship, an employer and employee,

''(B) in the case of any entity, an owner of the entity,

''(C) any person specified in regulations, and

''(D) any member of the family (within the meaning of section 267(c)(4)) of any individual described in subparagraph (A), (B), or (C).

''(3) OWNER.—For purposes of paragraph (2), the term 'owner' means—

''(A) the proprietor of a sole proprietorship, and

''(B) any holder of a beneficial interest in a corporation, partnership, trust, or other entity.

**''SEC. 10014. BUSINESS PURCHASES.**

''(a) IN GENERAL.—For purposes of this chapter, the term 'business purchase' means any amount paid or incurred to acquire property, a right to use property, or services for use or sale in a business activity. For purposes of the preceding sentence, the term 'property' does not include any financial instrument or money.

''(b) EXCEPTIONS.—The term 'business purchase' does not include—

''(1) any amount paid or incurred as current or deferred compensation to employees or for employee benefits,

''(2) any payment which is unlawful under Federal, State, or local law, or

''(3) except as provided in subsection (d)—

''(A) any amount paid or incurred as a premium for insurance other than property and casualty insurance, or

''(B) any other implicit intermediation fees.

''(c) IMPORTS.—The term 'business purchase' does not include—

''(1) any amount paid or incurred for the import of property or services, and

''(2) in the case of imported property, any amounts paid or incurred for the transportation of such property to the United States (if such costs are not included in the amount paid for the property).

''(d) FINANCIAL INTERMEDIATION SERVICES.—

''(1) IN GENERAL.—For purposes of this chapter, business purchases include implicit financial intermediation fees.

''(2) IMPLICIT FINANCIAL INTERMEDIATION FEES.—For purposes of paragraph (1), the term 'implicit financial intermediation fees' means amounts allocable to the business activity for which a person has received notice under section 10032(d) (relating to implicit financial intermediation fees) and which have otherwise not been taken into account.

''(3) CROSS REFERENCE.—

**For additional treatment of financial intermediation services, see section 10032.**

''(e) EXCHANGES.—For purposes of this chapter, the amount treated as paid or incurred for business purchases in connection with an exchange is the amount of money plus the fair market value of other consideration transferred in the exchange.

''(f) TAXES.—For purposes of this chapter, the term 'business purchase' does not include any excise tax, sales tax, customs duty, or other separately stated levy imposed by a Federal, State, or local government on business purchases.

''(g) GAMBLING PAYMENTS.—Except as provided in subsection (a), in the case of a business activity involving gambling, lotteries, or other games of chance, business purchases include amounts paid to winners.

**''SEC. 10015. EXEMPTION FOR CERTAIN NONTAXABLE EXCHANGES.**

''(a) GENERAL RULE.—For purposes of this chapter, gross receipts shall not include gross receipts from an applicable nontaxable transaction except to the extent attributable to money or other property received in the transaction.

''(b) APPLICABLE NONTAXABLE TRANSACTIONS.—For purposes of this section, the term 'applicable nontaxable transaction' means any transaction—

''(1) to which section 332, 351, 368, or 721 applies, or

''(2) which is specified by the Secretary and with respect to which gain is not recognized in whole or in part under chapter 1.

**''Subchapter C—General Rules**

''Sec. 10021. Accounting methods.

**''SEC. 10021. ACCOUNTING METHODS.**

''(a) IN GENERAL.—Except as provided in this section, a person subject to tax under this chapter may use any of the following methods of accounting for purposes of this chapter:

''(1) The cash receipts and disbursements method.

''(2) An accrual method.

''(3) Any other method permitted by the Secretary.

The Secretary may require a person to modify any method to clearly reflect gross receipts and business purchases.

''(b) CONSISTENCY REQUIREMENT.—All persons which are members of a controlled group of corporations which does not elect to be treated as one person for purposes of this chapter under section 10063(a)(2) shall use the same method of accounting for purposes of this chapter.

''(c) SPECIAL RULES FOR LONG-TERM CONTRACTS.—

''(1) IN GENERAL.—In the case of any sale pursuant to a long-term contract (as defined in section 460(f))—

''(A) the seller shall use the percentage of completion method in computing gross receipts from the contract, and

''(B) the purchaser shall use the cash receipts and disbursements method in computing business purchases from the contract.

''(2) REPORTING.—The Secretary may require taxpayers to file statements containing such information with respect to long-term contracts as the Secretary may prescribe.

''(d) INSTALLMENT METHOD PROHIBITED.—Gross receipts from the sale of property shall not be taken into account for purposes of this chapter under the installment method.

**''SEC. 10022. GOVERNMENTAL ENTITIES AND EXEMPT ORGANIZATIONS.**

''(a) IN GENERAL.—For purposes of this chapter, the transfer of property, the grant of a right to use property, or the furnishing of services by a governmental entity or an exempt organization shall be treated as a business activity if there is a separately stated charge for such transfer, grant, or furnishing.

''(b) SPECIAL RULES FOR GOVERNMENTAL ENTITIES.—For purposes of this chapter—

''(1) IN GENERAL.—The transfer of property, the grant of a right to use property, or furnishing of services by a governmental entity with respect to any of the following activities shall be treated as a business activity whether or not there is a separately stated charge for such transfer or furnishing:

''(A) Public utility services.

''(B) Mass transit services.

''(C) Postal services.

''(D) Any activity not involving the exercise of any essential governmental function (within the meaning of section 115).

''(2) GROSS RECEIPTS.—In the case of a transfer of property, grant of a right to use property, or furnishing of services which is treated as a business activity solely by reason of paragraph (1), gross receipts shall be determined on the basis of the fair market value of such property, right, or services.

''(c) BUSINESS PURCHASES REDUCED BY SUBSIDIES.—

''(1) IN GENERAL.—For purposes of this chapter, in the case of a business activity of an exempt organization or a governmental entity (other than an activity which is treated as a business activity solely by reason of subsection (b)(1)), the business purchases for such activity shall be reduced by the amount of any subsidy provided for that activity.

''(2) SUBSIDY.—For purposes of paragraph (1), the term 'subsidy' means the portion of the cost of the transfer of property, the right to use property, or the furnishing of services, which is not borne by amounts charged therefor.

''(d) ALLOCATION.—The Secretary shall by regulation provide for the proper allocation of gross receipts and business purchases between business activities and other activities.

''(e) SELF-CONSUMPTION OF PROPERTY OR SERVICES.—Notwithstanding the provisions of this section, the Secretary may by regulation provide that property produced, or services furnished, by a governmental entity or an exempt organization for use by itself are to be treated as sold in a business activity if such treatment is necessary to carry out the purposes of this chapter. In any such case the taxable value added shall be determined by reference to the fair market value of the property or services.

**''SEC. 10023. POST-SALE PRICE ADJUSTMENTS AND REFUNDS; BAD DEBTS.**

''(a) PRICE ADJUSTMENTS AND REFUNDS.—

''(1) RECEIPT TREATED AS REDUCTION IN BUSINESS PURCHASES.—If a person subject to tax under this chapter receives a post-sale price adjustment attributable to a business purchase which was taken into account in computing the taxable value added for a prior taxable period, then the amount of such adjustment shall be treated as a reduction in business purchases for the taxable period in which it is received.

''(2) ISSUANCE TREATED AS REDUCTION IN GROSS RECEIPTS.—If a person subject to tax under this chapter issues a post-sale price adjustment for a sale the gross receipts from which were taken into account in computing the taxable value added for a prior taxable period, then the amount of such adjustment shall be treated as a reduction in gross receipts for the taxable period in which it is issued.

''(3) POST-SALE PRICE ADJUSTMENT.—For purposes of this subsection, the term 'post-sale price adjustment' means a refund, rebate, or other price allowance attributable to a sale of property or services.

''(b) BAD DEBTS.—

''(1) SELLER.—

''(A) WRITEOFFS AND WRITEDOWNS.—If an amount owed to a seller of business property or services that was taken into account as gross receipts in computing the taxable value added of the seller for a prior taxable period becomes wholly or partially uncollectible during any subsequent taxable period, then the seller shall treat the amount (or part thereof that is uncollectible) as a reduction in gross receipts for the taxable period in which it becomes wholly or partially uncollectible.

''(B) NOTICE.—Whenever a seller treats an amount as wholly or partially uncollectible under subparagraph (A), the seller shall notify the purchaser of the amount the seller is treating as uncollectible. The notice shall set forth with specificity the purchase or purchases to which the treatment relates and shall be sent to the purchaser at the purchaser's last known address within 10 days after close of the taxable period in which the seller treats the amount as wholly or partially uncollectible.

''(C) RECOVERIES.—If a seller receives payment for an amount that was treated as a reduction in gross receipts under subparagraph (A) in a prior taxable period, then the seller shall treat the payment as a gross receipt for the taxable period in which it is received.

''(2) PURCHASER.—

''(A) WRITEOFFS AND WRITEDOWNS.—If a purchaser receives notice under paragraph (1)(B) from a seller for all or a portion of the amount owed for business property or services that the purchaser treated as a business purchase in a prior taxable period, then the purchaser shall treat such amount as a reduction in business purchases for the taxable period in which the notice is received.

''(B) REPAYMENTS.—If a purchaser pays all or part of an amount treated as a reduction in business purchases under subparagraph (A) in a prior taxable period, then the purchaser shall treat the amount paid as a business purchase for the taxable period in which the payment is made.

**''SEC. 10024. SOURCE RULES.**

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

''(b) RIGHT TO USE PROPERTY.—For purposes of this chapter, the grant of a right to use property shall be treated as occurring in the United States to the extent such right involves the use of such property in the United States.

''(c) SALES OF SERVICES.—

''(1) GENERAL RULE.—For purposes of this chapter, a sale of services shall be treated as occurring in the United States to the extent that—

''(A) the services are provided from a place of business, or with respect to property, in the United States, or

''(B) the services are incidental to the provision of services within the United States.

''(2) CROSS REFERENCE.—

**''For treatment of international transportation services, see section 10031.**

**''SEC. 10025. CONVERSIONS.**

For purposes of this chapter, any conversion of property or services from use in a business activity to use in any other activity, or from use in any other activity to use in a business activity, shall be treated as a sale of the property or services for their fair market value.

**''Subchapter D—Special Rules**



**''SEC. 10031. INTERNATIONAL TRANSPORTATION SERVICES.**

''(a) EXPORTS.—For purposes of this chapter, in the case of property exported from the United States—

''(1) GROSS RECEIPTS.—The term 'gross receipts' does not include receipts from transportation of such property from the United States.

''(2) BUSINESS PURCHASES.—The term 'business purchase' does not include amounts paid or incurred for transportation of such property from the United States.

''(b) INTERNATIONAL TRANSPORTATION OF PASSENGERS.—For purposes of this chapter—

''(1) GROSS RECEIPTS.—Gross receipts—

''(A) do not include receipts from the transportation of passengers from outside the United States to a destination in the United States, but

''(B) include receipts from the transportation of passengers from the United States to a destination outside the United States.

''(2) BUSINESS PURCHASES.—Business purchases—

''(A) do not include amounts paid or incurred in a business activity for the transportation of passengers from outside the

United States to a destination in the United States, but

''(B) include amounts paid or incurred in a business activity for the transportation of passengers from the United States to a destination outside the United States.

**''SEC. 10032. FINANCIAL INTERMEDIATION SERVICES.**

''(a) GENERAL RULE.—For purposes of this chapter—

''(1) the providing of financial intermediation services shall be treated as a business activity, and

''(2) this chapter shall be applied to such business activity by substituting financial receipts and adjusted business purchases properly allocable to such business activity for gross receipts and business purchases.

''(b) FINANCIAL RECEIPTS.—For purposes of this section, the term 'financial receipts' means all receipts other than amounts received as contributions to capital.

''(c) ADJUSTED BUSINESS PURCHASES.—For purposes of this section, the term 'adjusted business purchases' means business purchases, adjusted as follows:

''(1) PRINCIPAL AND INTEREST.—Business purchases include any principal or interest payments properly allocable to the business activity described in subsection (a).

''(2) FINANCIAL INSTRUMENTS.—Notwithstanding any other provision of this chapter, business purchases include the cost of, and payments under, financial instruments (other than financial instruments representing equity interests in the person subject to the tax imposed by this chapter).

''(3) INSURANCE CLAIMS.—Business purchases include claims and cash surrender values paid in connection with insurance or reinsurance services.

''(4) REINSURANCE.—Business purchases include amounts paid for reinsurance.

''(d) REPORTING TO CUSTOMERS.—

''(1) ALLOCATION AND REPORTING.—

''(A) IN GENERAL.—A person engaged in the business activity of providing financial intermediation services shall—

''(i) allocate fees received for such services (other than services for which separately stated fees are charged) among recipients of such services on a reasonable and consistent basis, and

''(ii) report to each recipient the fees so allocated.

''(B) TIMING.—The report under subparagraph (A)(ii) shall be furnished to the recipient no later than the 45th day after the close of a taxable period.

''(2) EXCEPTION.—The Secretary shall establish procedures under which notice need not be given under this subsection to persons with respect to whom services are not provided in connection with a business activity.

''(e) DEFINITIONS.—For purposes of this section—

''(1) FINANCIAL INTERMEDIATION SERVICE.—The term 'financial intermediation service' means—

''(A) lending services,

''(B) insurance services,

''(C) market-making and dealer services, and

''(D) any other service provided as a business activity in which a person acts as an intermediary in—

''(i) the transfer of property, services, or financial assets, liabilities, risks, or instruments (or income or expense derived therefrom) between two or more other persons, or

''(ii) the pooling of economic risk among other persons,

and derives all or a portion of such person's gross receipts from streams of income or expense, discounts, or other financial flows associated with the matter with respect to which such person is acting as an intermediary.

''(2) LENDING SERVICES.—The term 'lending services' means the regular making of loans and providing credit to, or taking deposits from, customers, but does not include an installment or delayed payment arrangement provided by a seller of property or services under which additional charges or fees are imposed by the seller for late payment and for which no interest is charged.

''(3) MARKET-MAKING OR DEALER SERVICES.—The term 'market-making or dealer services' means services provided by a person who—

''(A) regularly purchases financial instruments from or sells financial instruments to customers in the ordinary course of a trade or business, or

''(B) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in financial instruments with customers in the ordinary course of a trade or business.

**''SEC. 10033. NONBUSINESS IMPORTS OF PROPERTY OR SERVICES.**

''(a) IMPOSITION OF TAX.—There is hereby imposed on the taxable nonbusiness import of any property or services a tax equal to 20 percent of the sum of—

''(1) the amount paid or incurred for the property or services, plus

''(2) in the case of property, any amounts paid or incurred for transportation costs (if such costs are not included in the amount paid for the property).

''(b) TAXABLE NONBUSINESS IMPORT.—For purposes of subsection (a), the term 'taxable nonbusiness import' means any import of any property or services for use or consumption within the United States unless—

''(1) such property or services is imported for use or sale in a business activity of the importer, or

''(2) such property is imported free of duty under chapter 98 of the Harmonized Tariff Schedule of the United States.

**''SEC. 10034. REFUND FOR CERTAIN NONBUSINESS PURCHASES.**

''(a) REFUND ALLOWED.—If the tax imposed by section 10001 was paid on any qualified nonbusiness purchase, the Secretary shall pay (without interest) to the purchaser an amount equal to such tax.

''(b) QUALIFIED NONBUSINESS PURCHASE.—For purposes of this section, the term 'qualified nonbusiness purchase' means any purchase of property or services if—

''(1) such purchase is not in connection with a business,

''(2) the purchaser establishes to the satisfaction of the Secretary that substantially all of the use of such property or services is outside the United States, and

''(3) the amount of the tax imposed by section 10001 on such purchase is separately stated.

''(c) PERIOD FOR FILING CLAIMS.—No claim shall be allowed under this section with respect to any purchase unless filed by the purchaser not later than 180 days after the date of such purchase.

**''Subchapter E—Small Business Exemption**

''Sec. 10041. Small business exemption.

**''SEC. 10041. SMALL BUSINESS EXEMPTION.**

''(a) EXEMPTION.—Except as provided in subsection (b), if the aggregate amount of gross receipts of any person for any taxable period and the 3 preceding taxable periods does not exceed the exemption amount, no tax shall be imposed under section 10001 (and no credit or refund shall be allowed under section 10011) for the taxable period.

''(b) EXCEPTIONS.—

''(1) PERSON MUST ALWAYS BE EXEMPT.—Subsection (a) shall not apply to any person for a taxable period unless the person was exempt from the tax imposed by section 10001 for all preceding taxable periods.

''(2) ELECTION.—Subsection (a) shall not apply to any person for a taxable period if the person elects not to have subsection (a) apply for the taxable period.

''(c) STATEMENTS.—A person to which this section applies for any taxable period shall file a statement containing such information as the Secretary may prescribe.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) EXEMPTION AMOUNT.—The term 'exemption amount' means $12,000 (or an equivalent amount if the taxable period is not a calendar quarter).

''(2) PERSONS NOT ENGAGED IN BUSINESS FOR ENTIRE PERIOD.—If a person was not engaged in a business activity for the entire period referred to in subsection (a), such subsection shall be applied on the basis of the period the person was so engaged.

''(3) PREDECESSORS.—Any reference in this section to a person shall include a reference to any predecessor of the person.

**''Subchapter F—Definitions**

''Sec. 10051. Definitions.

**''SEC. 10051. DEFINITIONS.**

''For purposes of this chapter—

''(1) SALE OF SERVICES.—The term 'sale of services' means the performance of services for consideration, and includes the granting of a right to the performance of services or to reimbursement (including the granting of warranties, insurance, and similar items) for consideration.

''(2) GRANT OF RIGHT TO USE PROPERTY.—The term 'grant of a right to use property' means the granting of a right to use property for consideration.

''(3) SALE OF PROPERTY.—The term 'sale of property' means the transfer of ownership of property from a seller to a purchaser for consideration.

''(4) PROPERTY.—The term 'property' means any tangible or intangible property.

''(5) BUSINESS.—The term 'business' includes any activity carried on continuously or regularly, whether or not for profit, that involves or is intended to involve the sale of property, the grant of a right to use property, or the sale of services.

''(6) BUSINESS PROPERTY OR SERVICE.—The term 'business property or service' means any property or service the sale of which by the owner or provider thereof would be a business activity or which is used by the owner or provider in a business activity.

''(7) EMPLOYEE.—The term 'employee' has the same meaning as when such term is used for purposes of chapter 24 (relating to withholding).

''(8) PERSON.—The term 'person' has the meaning given such term by section 7701(a)(1), but also includes any governmental entity.

''(9) UNITED STATES.—The term 'United States', when used in a geographic sense, includes the customs territory of the United States (as defined in General Headnote 2 of the Harmonized Tariff Schedules of the United States) and any area seaward of the States lying within the outer boundaries of the outer continental shelf (as defined in section 1331 of title 43, United States Code).

''(10) GOVERNMENTAL ENTITY.—The term 'governmental entity' means the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of any of the foregoing.

''(11) EXEMPT ORGANIZATION.—The term 'exempt organization' means any organization exempt from taxation under chapter 1.

''(12) FINANCIAL INSTRUMENT DEFINED.—The term 'financial instrument' means any—

''(A) share of stock in a corporation,

''(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust,

''(C) note, bond, debenture, or other evidence of indebtedness,

''(D) interest rate, currency, or equity notional principal contract,

''(E) evidence of an interest in, or a derivative financial instrument in, any financial instrument described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a financial instrument or currency, and

''(F) position which—

''(i) is not a financial instrument described in subparagraph (A), (B), (C), (D), or (E),

''(ii) is a hedge with respect to such a financial instrument, and

''(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

''(13) USE INCLUDES HELD FOR USE.—Property or services held for use by any person shall be treated as used by that person.

''(14) EXCHANGES TREATED AS SALES.—An exchange shall be treated as a sale.

**''Subchapter G—Administration**



**''SEC. 10061. LIABILITY FOR TAX.**

''The person selling property, granting the right to use property, or selling services shall be liable for the tax imposed by section 10001.

**''SEC. 10062. TIME FOR FILING RETURN; TAXABLE PERIOD.**

''(a) FILING RETURN.—Before the 16th day of the second calendar month beginning after the close of each taxable period, each person subject to tax under this chapter shall file a return of the tax imposed by section 10001 for such taxable period.

''(b) TAXABLE PERIOD.—For purposes of this chapter—

''(1) IN GENERAL.—The term 'taxable period' means a calendar quarter, except that if a taxpayer has a taxable year under chapter 1 other than the calendar year, then such term means a quarter of that taxable year.

''(2) OTHER PERIODS.—To the extent provided in regulations, the term 'taxable period' includes a period selected by a person other than a calendar quarter.

''(3) AUTHORITY TO SHORTEN LENGTH OF TAX PERIOD.—The Secretary may shorten the length of a person's taxable period under this subsection to the extent the Secretary deems such action necessary to protect the revenue.

**''SEC. 10063. TREATMENT OF RELATED BUSINESSES.**

''(a) GENERAL RULE.—For purposes of this chapter—

''(1) AFFILIATED GROUPS AND BUSINESSES UNDER COMMON CONTROL.—Except to the extent otherwise provided in regulations—

''(A) an affiliated group of corporations (as defined in section 1504(a) without regard to paragraphs (2), (4), and (7) of section 1504(b)), or

''(B) two or more businesses (whether or not incorporated) under common control within the meaning of section 52(b) and the regulations thereunder,

shall be treated as one person.

''(2) CONTROLLED GROUP.—A controlled group of corporations, as defined in section 1563(a) (determined without regard to the second sentence of paragraph (4) of such section and without regard to section 1563(e)(3)(C)), may elect to be treated as one person.

''(b) RELATED PARTY TRANSACTIONS.—For purposes of this chapter, transactions in the United States between corporations or other businesses that are treated, or that may elect to be treated, as one person under subsection (a) shall not be taken into account in computing the gross receipts or business purchases of any such corporation or business.

**''SEC. 10064. SECRETARY TO BE NOTIFIED OF CERTAIN EVENTS.**

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

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

''(2) any other change that might affect—

''(A) the liability for the tax imposed by section 10001,

''(B) the amount of such tax or any credit against such tax, or

''(C) the administration of such tax in the case of such person.

**''SEC. 10065. REGULATIONS.**

''The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.''

**SEC. 202. REFUND AUTHORITY.**

Section 6402 (relating to authority to make credits or refunds) is amended by designating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsection:

''(h) REPAYMENT OF VALUE ADDED TAX.—Within 45 days after the date on which a value added tax return is filed pursuant to section 10062 showing an overpayment, the Secretary shall make, to the extent the Secretary deems practical, a limited examination of the return to discover omissions and errors of computation, and shall determine the amount of the overpayment, if any, for the taxable period to which the return relates and refund the amount of such overpayment to the person who filed the return.''

**SEC. 203. DEDICATION OF PORTION OF VAT REVENUES TO SOCIAL SECURITY TRUST FUNDS.**

(a) IN GENERAL.—The Secretary of the Treasury shall deposit in each Social Security Trust Fund for periods after 1997 that portion of the revenues from the tax imposed by chapter 100 of the Internal Revenue Code of 1986 which is necessary to maintain each such Fund in the same position it would be in but for the amendments made by section 102 of this Act.

(b) SOCIAL SECURITY TRUST FUNDS.—For purposes of subsection (a), the Social Security Trust Funds are—

(1) the Federal Old-Age and Survivors Insurance Trust Fund established by section 201(a) of the Social Security Act,

(2) the Federal Disability Insurance Trust Fund established by section 201(b) of such Act, and

(3) the Federal Hospital Insurance Trust Fund established by section 1817(a) of such Act.

## TITLE III—BURDEN ADJUSTMENTS

**SEC. 301. REBATE OF VALUE ADDED TAX TO LOW-INCOME INDIVIDUALS; BURDEN ASSESSMENT ON HIGH-INCOME INDIVIDUALS.**

(a) IN GENERAL.—Subtitle A is amended by adding at the end the following new chapter:

**''CHAPTER 7—VALUE ADDED TAX BURDEN ADJUSTMENTS**



**''Subchapter A—Rebate to Low-Income Individuals**



**''SEC. 1601. REBATE TO LOW-INCOME INDIVIDUALS.**

''(a) GENERAL RULE.—The Secretary shall, for each taxable year, pay to each eligible individual an amount equal to the VAT rebate for such year.

''(b) VAT REBATE.—For purposes of this section—

''(1) IN GENERAL.—The VAT rebate for any taxable year is an amount equal to the applicable percentage of so much of the adjusted net income of the eligible individual for such year as does not exceed $30,000.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is 20 percent reduced (but not below zero) by ⅔ of 1 percentage point for each whole $1,000 of the individual's adjusted net income.

''(3) ADJUSTED NET INCOME.—The term 'adjusted net income' means the sum of—

''(A) the net income (as defined in section 1611(c)) for the taxable year, plus

''(B) the value of specified Federal transfer payments received during the taxable year.

''(4) SPECIFIED FEDERAL TRANSFER PAYMENTS.—The term 'specified Federal transfer payments' means—

''(A) aid provided under a State plan approved under part A of title IV of the Social Security Act (relating to aid to families with dependent children),

''(B) assistance provided under—

''(i) the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977), or

''(ii) the portion of the program under sections 21 and 22 of such Act which provides food assistance, and

''(C) any other Federal assistance which consists of money payments or script and which is not adjusted for changes in the cost-of-living.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual if—

''(1) such individual is a citizen or resident of the United States for the entire taxable year,

''(2) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

''(3) such individual is not a dependent of another taxpayer for any taxable year beginning in the same calendar year as such taxable year, and

''(4) such individual's adjusted net income for the taxable year does not exceed $30,000.

''(d) AMOUNT OF REBATE TO BE DETERMINED UNDER TABLES.—

''(1) IN GENERAL.—The amount of the rebate allowed by this section shall be determined under tables prescribed by the Secretary.

''(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsection (b) and shall have income brackets of not greater than $50 each.

''(e) MARRIED INDIVIDUALS MUST FILE JOINT CLAIM.—In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint claim is filed by such individual and such individual's spouse, and such joint claim shows the combined adjusted net incomes of such individual and spouse.

''(f) COORDINATION WITH PERIODIC PAYMENTS OF REBATE.—If any payment is made to the individual under section 1602 during any calendar year or if periodic payments have been made to the individual under this section during any calendar year, then such

individual shall pay to the Secretary an amount equal to the excess (if any) of—

''(1) the aggregate amount of such payments, over

''(2) the maximum amount which would be payable to such individual under this section (for such individual's last taxable year beginning in such calendar year) without regard to such payments and on the basis of the actual adjusted net income of such individual for such taxable year.

Any amount required to be paid under this subsection shall be assessed and collected in the same manner as tax imposed by chapter 1.

''(g) CLAIM REQUIRED TO BE FILED, ETC.—

''(1) IN GENERAL.—No payment shall be made under this section unless claim therefor is filed with the Secretary.

''(2) REBATE PAYABLE WITH FEDERAL TRANSFER PAYMENTS, ETC..—To the maximum extent practical, the Secretary shall arrange for the payment of the rebate under this section to be made with Federal transfer payments and payments of social security benefits.

**''SEC. 1602. ADVANCE PAYMENT OF REBATE.**

''(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages to an employee with respect to whom a VAT rebate eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment to such employee equal to such employee's VAT rebate advance amount.

''(b) VAT REBATE ELIGIBILITY CERTIFICATE.—For purposes of this title, a VAT rebate eligibility certificate is a statement furnished by an employee to the employer which—

''(1) certifies that the employee will be eligible to receive payments under section 1601 for the taxable year,

''(2) certifies the employee's estimate of his adjusted net income (as defined in section 1601(b)) for the taxable year other than income from wages from such employer, and

''(3) certifies—

''(A) that the employee does not have another VAT rebate eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer, and

''(B) that the spouse of the employee does not have a VAT rebate eligibility certificate in effect.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

''(c) VAT REBATE ADVANCE AMOUNT.—For purposes of this title, the term 'VAT rebate advance amount' means, with respect to any payroll period, the amount determined—

''(1) on the basis of the employee's wages from the employer for such period and the employee's estimate under subsection (b)(2) of his adjusted net income (as defined in section 1601(b)) for the taxable year other than from such wages, and

''(2) in accordance with tables prescribed by the Secretary.

''(d) PAYMENTS TO BE TREATED AS PAYMENTS VALUE ADDED TAX.—

''(1) IN GENERAL.—For purposes of this title, payments made by an employer under subsection (a) to his employees for any payroll period—

''(A) shall not be treated as the payment of compensation, and

''(B) shall be treated as made out of amounts of the taxes imposed for the payroll period under chapter 100 (relating to value added tax), as if the employer had paid to the Secretary, on the day on which the wages are paid to the employees, an amount equal to such payments.

''(2) ADVANCE PAYMENTS EXCEED TAXES DUE.—In the case of any employer, if for any payroll period the aggregate amount of VAT rebate advance payments exceeds the sum of the amounts referred to in paragraph (1)(B), each such advance payment shall be reduced by an amount which bears the same ratio to such excess as such advance payment bears to the aggregate amount of all such advance payments.

''(3) EMPLOYER MAY MAKE FULL ADVANCE PAYMENTS.—The Secretary shall prescribe regulations under which an employer may elect (in lieu of any application of paragraph (2))—

''(A) to pay in full all VAT rebate advance amounts, and

''(B) to have additional amounts paid by reason of this paragraph treated as the advance payment of taxes imposed by this title.

''(e) FURNISHING AND TAKING EFFECT OF CERTIFICATES.—Rules similar to the rules of section 3507(e) shall apply for purposes of this section.

**''Subchapter B—Burden Assessment on High-Income Individuals**



**''SEC. 1611. ASSESSMENT ON HIGH-INCOME INDIVIDUALS.**

''(a) GENERAL RULE.—Each assessable person whose net income for the taxable year exceeds the threshold amount shall pay an assessment for such year equal to 17 percent of the excess (if any) of such income over the threshold amount.

''(b) ASSESSABLE PERSON.—For purposes of this subchapter, the term 'assessable person' means any individual, estate, or trust other than a trust exempt from taxation under chapter 1.

''(c) NET INCOME.—

''(1) IN GENERAL.—For purposes of this section, the term 'net income' means adjusted gross income determined with the modifications described in the following paragraphs.

''(2) CERTAIN EXCLUSIONS DISREGARDED.—Net income shall be determined without regard to—

''(A) sections 911, 931, and 933,

''(B) section 457, and

''(C) any exclusion from gross income for any elective deferral (as defined in section 402(g)(3)).

''(3) CERTAIN AMOUNTS INCLUDED.—

''(A) TAX EXEMPT INTEREST.—Net income shall be increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

''(B) NONQUALIFIED DEFERRED COMPENSATION.—Deferred compensation shall be included in gross income for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation (within the meaning of section 457(f)(3)). The preceding sentence shall not apply to any plan or contract described in section 457(f)(2).

''(4) ESTATES AND TRUSTS.—The adjusted gross income of an estate or trust shall be determined in accordance with section 67(e).

''(d) THRESHOLD AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'threshold amount' means—

''(A) except as provided in subparagraph (B), $75,000, and

''(B) zero in the case of a taxpayer who—

''(i) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

''(ii) does not live apart from his spouse at all times during the taxable year.

''(2) SPECIAL RULES FOR TRUSTS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the threshold amount for any trust shall be zero.

''(B) EXCEPTION FOR CURRENT DISTRIBUTION TRUSTS.—Subparagraph (A) shall not apply to any trust to which section 651 applies for the taxable year.

''(C) BENEFICIARY MAY ALLOCATE THRESHOLD.—Any beneficiary of a trust to which subparagraph (A) applies may elect to allocate any portion of such beneficiary's threshold amount under paragraph (1) for any taxable year to such trust. Such allocation shall apply for such trust's taxable year beginning in the taxable year from which made and shall reduce the threshold amount otherwise available to such beneficiary.

''(d) ASSESSMENT COLLECTED AS TAX.—For purposes of subtitle F, the assessment imposed by this section shall be treated as if it were a tax imposed by chapter 1.

**''SEC. 1612. INCLUSION OF UNDISTRIBUTED INCOME OF CERTAIN CORPORATIONS.**

''(a) GENERAL RULE.—Each assessable person who owns (within the meaning of section 542(a)) stock in a corporation on the last day in the taxable year of such corporation on which such corporation was an applicable corporation shall include in gross income (for such person's taxable year in which or with which such taxable year of the corporation ends) as a dividend the amount such person would have received as a dividend if on such last day such corporation had distributed pro rata to its shareholders an amount which bears the same ratio to the undistributed income of the corporation for the taxable year as the portion of such taxable year during which such corporation is an applicable corporation bears to the entire taxable year.

''(b) APPLICABLE CORPORATION.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable corporation' means—

''(A) any corporation engaged in a service-related business in which a shareholder performs substantial services, and

''(B) any closely held C corporation.

Such term shall not include any corporation exempt from taxation under chapter 1.

''(2) SERVICE-RELATED BUSINESS.—The term 'service-related business' means any trade or business described in subparagraph (A) of section 1202(e)(3).

''(3) CLOSELY HELD C CORPORATION.—The term 'closely held C corporation' means any C corporation if, at any time during the last half of the taxable year, more than 50 percent in value of its outstanding stock is owned, directly or indirectly through the application of section 544, by or for not more than 10 individuals.

''(c) UNDISTRIBUTED INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'undistributed income' means the net income of the corporation for the taxable year reduced any distributions by the corporation to its shareholders with respect to its stock—

''(A) which are made during the taxable year and not taken into account under subparagraph (B) for the preceding taxable year, or

''(B) which—

''(i) are made after the close of the taxable year and on or before the 45th day following the close of the taxable year, and

''(ii) are designated, at such time and in such manner as the Secretary may prescribe, as distributions for purposes of this paragraph.

Any distribution described in subparagraph (B) shall be included in the gross income of

the shareholder for the shareholder's taxable year which includes the last day of the taxable year of the corporation for which the reduction under this paragraph was made.

''(2) NET INCOME.—Net income shall be determined in the same way as taxable income under chapter 1 as in effect on the day before the date of the enactment of this section.

''(d) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (d) and (e) of section 551 shall apply with respect to amounts required to be included in gross income under this section.''

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle A is amended adding at the end the following new item:

''Chapter 7. Value added tax burden adjustments.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

## THE SUPREME COURT

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 11, 1996*

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 4, 1996 into the CONGRESSIONAL RECORD.

THE SUPREME COURT

The U.S. Supreme Court recently completed its 1995–1996 term. Hoosiers don't often talk to me about the Court, but its actions have a wide-ranging impact on our daily lives and have important consequences for Congress as well. Under our constitutional system of checks-and-balances, the Court's decisions help define the limits of congressional authority.

The Court in recent years has been marked by the emergence of a conservative majority. Its conservatism is marked by a preference for law enforcement in the area of criminal law, by a general skepticism of affirmative action, and by a sympathetic view of state powers in our federal system of government. This Court has worked on several occasions to enhance the powers of the states at the expense of Congress.

But the conservative majority is not monolithic. Justice Antonin Scalia is perhaps the most ardently conservative voice on the Court, but his sharp and bitter dissents, often directed at fellow conservatives, suggest his influence has diminished. The decisive votes on key decisions, in contrast, belong to the two ''moderate'' conservatives, Justices Sandra Day O'Connor and Anthony Kennedy. Both are conservative, but not predictably so. In some areas of the law, most notably redistricting and state-federal relations, O'Connor and Kennedy have joined their conservative colleagues to upset long-settled constitutional principles. But in other areas, often involving individual liberties, the two Justices have taken a pragmatic, incremental approach, forging narrow majorities with their more liberal colleagues.

The number of petitions arriving at the Supreme Court has climbed to about 7,000 a term, but the Justices are taking and deciding fewer cases. This term, the Court issued the fewest written opinions (just 75) in more than 40 years. This trend reflects in part the judicial philosophy of the Court's conservative majority—that the Court should defer to elected lawmakers on policy matters and should let legal issues percolate in the lower courts before weighing in.

What follows is a summary of the key decisions from this term.

INDIVIDUAL RIGHTS

The highest profile cases decided this term involved individual rights. Justices O'Connor and Kennedy were the swing votes. Both have rejected government policies which seek to classify people—to their advantage or disadvantage—by race, gender or sexual orientation.

In an important sex-discrimination case, the Court ruled that the men-only admissions policy at the Virginia Military Institute, a state-supported college, was unconstitutional and that the alternative program the state had devised for women was an inadequate substitute for admitting women to the military college. The Court also struck down a Colorado state constitutional amendment that nullified existing civil rights protections for homosexuals and barred the passage of any new laws protecting them at the state or local level.

The Court invalidated four congressional districts in Texas and North Carolina which included a majority of minority voters. The Court held that the use of race as a ''predominant factor'' in drawing district lines made the districts presumptively unconstitutional. Many states, particularly in the South, had created majority-black or hispanic districts in the last round of redistricting in an effort to comply with Justice Department interpretations of the federal Voting Rights Act. The Court, in the last two terms, has thrown out several of these maps, and will likely revisit the issue next term.

FEDERALISM

The Court also addressed fundamental questions about the distribution of power between states and the federal government. The conservative majority has acted in recent years to curb the reach of federal authority, particularly when it may intrude on state powers. Last year, for example, the Court overturned a federal law banning gun possession within 1000 feet of a school.

This term the Court curbed the authority of Congress to subject states to lawsuits in federal courts. The case centered on a 1988 gaming law that gave Indian tribes the right to sue states in federal court to bring them to the bargaining table over terms for opening casinos. The Court held that the Eleventh Amendment to the Constitution forbids Congress from authorizing private parties, including Indian tribes, to bring lawsuits in federal court against unconsenting states.

OTHER KEY DECISIONS

The Court issued several other important decisions this term.

The Court decided several important cases relating to free speech. The Court struck down a provision of a 1992 federal law permitting cable television stations to ban indecent programming on public access channels. It also ruled that political parties could not be limited in the amount of money they spend on behalf of their candidates as long as the expenditures are independent and not coordinated with the candidate. In a third case the Court said independent government contractors could not be fired for failing to show political loyalty. In addition, the Court struck down laws in Rhode Island and other states that prohibited the advertising of beer and liquor prices.

In the area of criminal law, the Court upheld provisions of a new federal law setting strict limits on the ability of federal courts to hear appeals from state prison inmates who have previously filed a petition challenging the constitutionality of their conviction or sentence. The Court also held that the government may seize cars, houses and other property used for criminal activity even if the actual owner of the property did not know about the wrongdoing.

CONCLUSION

Conservatives now control the Court, and even the liberal-leaning Justices, including Clinton appointees Ruth Bader Ginsburg and Stephen Breyer, are much more pragmatic than the old left. They are moderate on economic issues and fairly liberal on social issues, but often side with the conservative majority in criminal law cases.

The ideological center of the Court has moved to the right over the last few years, but the conservative majority is fragile. Only three Justices—Scalia, Thomas and Rehnquist—are reliably conservative, and overall the conservatives hold a narrow 5–4 advantage. The replacement of a single Justice could make a significant difference in the dynamics of the Court.

## SPEECH BY KIM SANG HYUN

### HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 11, 1996*

Mr. DAVIS. Mr. Speaker, I believe that my colleagues would benefit from hearing the words of Kim Sang Hyun, Member of the National Assembly of the Republic of Korea, and I ask unanimous consent to have Kim Sang Hyun's speech at National Press Club on September 5, 1996, be entered into the RECORD.

BEYOND AUTHORITARIAN LEGACIES: NEW POLITICAL LEADERSHIP FOR KOREA

(By Kim Sang Hyunq, Member of the National Assembly, The Republic of Korea)

Good morning, ladies and gentlemen.

I would like to begin by telling you what a long way it took me to be here this morning to speak to you at this prestigious press club. It took ten years. It was back in 1986 when I was invited to have the honor of speaking before this forum. Korea was then under the military dictatorship of Chun Doohwan, and I was prohibited from leaving the country, as were many other democracy fighters, including my colleagues who have joined me here today. I would like to introduce them to you all in the audience: (would you all come forward here, please.)

From my left, Congressman Park Chung-Hoon. He was an able leader of student movement, and he was put into jail for four times for his courageous struggle for democratization. Congressman Chang Young-Dal, who spent 8 years in prison for the crime of fighting for democracy against military rule. The last but not the least in importance, Congressman Kim Chang Be, who was the leader of the citizens of Kwangju who bravely fought the troops of General Chun and General Roh during the massacre of 1980, and later was sentenced to death.

As for myself, I spent 4 years and 3 months in prison; I was put under house arrest on 73 occasions; I was physically tortured on three occasions; and I was banned from politics for 17 years. Throughout these hard years of my political and personal ordeal, under prosecution, repression and humiliation, I never lost my spirit or my sense of duty and honor to struggle for the cause of democracy for Korea and for the cause of an ultimate unification of our nation.

It was not until 1992 that I was set free politically to make my way back to the national legislature. Well, I am sorry we may sound like a bunch of ex-convicts. And I don't even remember what my charges were for which I was sent to jail. (Wait for a