

congressional and intergovernmental relations, U.S. Department of Housing and Urban Development; and Mr. Jose Teran, of Florida, Mr. James Broaddus, of Texas, Mr. Lane Carson, of Louisiana, and Mr. Morgan Edwards, of North Carolina, to be members of the Board of Directors, National Institute of Building Sciences.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 20, 2003, at 9:30 am on the CEO Compensation in the Post-Enron Era, in Room SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 20, 2003, at 2:30 pm on the North Pacific Crab, in SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 20, 2003 at 2:30 p.m. to hold a hearing on the Future of U.S. Economic Relations in the Western Hemisphere

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Narco-Terrorism: International Drug Trafficking and Terrorism—A Dangerous Mix" on Tuesday, May 20, 2003, at 10 a.m., in the Dirksen Senate Office Building Room 226.

Panel 1: Mr. Steven W. Casteel, Assistant Administrator for Intelligence, Drug Enforcement Administration, Washington, DC; Mr. Steve McCraw, Assistant Director for Intelligence, Federal Bureau of Investigation, Washington, DC; and Ms. Deborah A. McCarthy, Deputy Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs, Department of State, Washington, DC.

Panel 2: Mr. Raphael Perl, Specialist in International Affairs, Congressional Research Service, Library, of Congress, Washington, DC; Mr. Rensselaer W. Lee III, President, Global Advisory Service, McLean, VA; and Mr. Larry Johnson, Managing Director, Berg Associates, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Com-

mittee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, May 20, 2003, at 9:30 a.m., to conduct an oversight hearing on the operations of the John F. Kennedy Center for the Performing Arts and the Smithsonian Institution.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. WARNER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, May 20, 2003 at 2 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Tuesday, May 20, 2003, at 2 p.m. for a hearing regarding "Drugs, Counterfeiting, and Arms Trade: North Korea's Crime Syndicate".

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be authorized to meet on Tuesday, May 20 at 2 p.m. to conduct a hearing to review the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Administration's proposal to reauthorize TEA21. The hearing will take place in Senate Dirksen 410.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that William Buhrow, a legislative fellow in the office of Senator GEORGE ALLEN, be permitted the privilege of the floor during Senate consideration of S. 1050.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I ask unanimous consent, on behalf of Senator MIKULSKI, that Michael Hadley, a defense fellow in her office, be granted the privilege of the floor for the duration of consideration of the Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, a legislative fellow in Senator BINGAMAN's office, be granted the privilege of the floor during the pendency of S. 1050 and any votes thereon.

I further ask unanimous consent that Kathryn Kolbe, a legislative fellow in the office of Senator KAY BAILEY HUTCHISON, be granted the privilege of

the floor during the remainder of the consideration of S. 1050.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I ask unanimous consent that Ed Rimback, a military fellow in my office, be provided floor privileges for the duration of the debate on S. 1050.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that a fellow in my office, Greg Brown, be granted the privilege of the floor for the debate on the Defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that John Gumbleton, a military fellow in my office, as well as James Kadtko, a science technology fellow in my office, be granted the privilege of the floor during debate on S. 1050.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Stephan Tela, a Navy fellow, be granted the privilege of the floor during consideration of S. 1050.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2

Mr. WARNER. Mr. President, I ask unanimous consent that notwithstanding passage of H.R. 2, the following Senate amendments be modified with the changes that are at the desk: Landrieu No. 580; Schumer No. 651; Grassley-Baucus No. 680; Baucus-Grassley No. 644.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 580

At the end of end of subtitle C of title V add the following:

SEC. \_\_\_\_ RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) (relating to modification) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'."

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

AMENDMENT NO. 651

At the end of subtitle C of title V, insert the following:

**SEC. \_\_\_\_ . EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.**

**(a) RENEWAL COMMUNITIES.—**

(1) IN GENERAL.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

**“(g) EXPANSION OF DESIGNATED AREAS.—**  
**“(1) EXPANSION BASED ON 2000 CENSUS.—**

At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

“(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

“(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

**“(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—**

“(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

“(B) AREA.—An area is described in this subparagraph if—

“(i) the area is adjacent to at least 1 other area designated as a renewal community,

“(ii) the area has a population less than the population required under subsection (c)(2)(C), and

“(a) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or (b) the area contains a population of less than 100 people.

“(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

**AMENDMENT NO. 680**

On page 8, beginning with line 13, strike all through the matter following line 2 on page 9, and insert:

“(A) JOINT RETURN AND SURVIVING SPOUSE.—In the case of a joint return or a surviving spouse, the amount under the following table:

<b>“In the case of taxable years beginning:</b>	<b>The exemption amount is:</b>
Before 2001 .....	\$45,000
In 2001 and 2002 .....	\$49,000
In 2003 .....	\$ 60,500
In 2004 .....	\$60,500
In 2005 .....	\$60,500
After 2005 .....	\$45,000.

“(B) INDIVIDUAL NOT MARRIED AND NOT A SURVIVING SPOUSE.—In the case of an individual who is not a married individual and is not a surviving spouse, the amount under the following table:

<b>“In the case of taxable years beginning:</b>	<b>The exemption amount is:</b>
Before 2001 .....	\$33,750
In 2001 and 2002 .....	\$35,750
In 2003 .....	\$41,500
In 2004 .....	\$41,500
In 2005 .....	\$41,500
After 2005 .....	\$33,750.”.

Beginning on page 82, line 25, strike all through page 83, line 13, and insert:

(2) EXCEPTION FOR EXISTING FASITS.—The amendments made by this section shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance of such interests.

On page 165, beginning with line 21, strike all through page 166, line 8, and insert:

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury’s Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury’s voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer’s underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1), then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

On page 206, between lines 19 and 20, insert:

**SEC. \_\_\_\_ . INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT’S INCOME.**

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking “age 14” and inserting “age 18”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. \_\_\_\_ . CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.**

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

“(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

“(i) the amount of start-up expenditures with respect to the active trade or business, or

“(ii) \$5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed \$50,000, and

“(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.”.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking “AMORTIZE” and inserting “DEDUCT” in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

“(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

“(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

“(A) the amount of organizational expenditures with respect to the taxpayer, or

“(B) \$5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed \$50,000, and

“(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.”.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

“(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

“(i) the amount of organizational expenses with respect to the partnership, or

“(ii) \$5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed \$50,000, and

“(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.”.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking “AMORTIZATION” and inserting “DEDUCTION” in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

**SEC. \_\_\_\_ . CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.**

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: “Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

**SEC. \_\_\_\_ . CLASS LIVES FOR UTILITY GRADING COSTS.**

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause: “(iv) initial clearing and grading land improvements with respect to gas utility property.”

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

“(F) 20-YEAR PROPERTY.—The term ‘20-year property’ means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.”

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting “or (E)(iv)” after “(E)(iii)”, and

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

“(F) 225”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

**SEC. \_\_\_\_ . PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.**

(a) **IN GENERAL.**—Section 332 is amended by adding at the end the following new subsection:

“(d) **RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.**—

“(1) **IN GENERAL.**—Subsection (a) and section 331 shall not apply to any distribution in complete liquidation of an applicable holding company to the extent of the earnings and profits of such company.

“(2) **APPLICABLE HOLDING COMPANY.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘applicable holding company’ means any corporation—

“(i) which is a member of a chain of includible corporations with a common parent which is a foreign corporation,

“(ii) the stock of which is directly owned by such common parent or another foreign corporation,

“(iii) substantially all of the assets of which consist of stock in other members of such chain of corporations, and

“(iv) which has not been in existence at least 5 years as of the date of the liquidation.

“(B) **INCLUDIBLE CORPORATION.**—The term ‘includible corporation’ has the meaning given such term under section 1504(b) (without regard to paragraph (3) thereof).”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distributions in complete liquidation occurring after the date of the enactment of this Act.

**SEC. \_\_\_\_ . LEASE TERM TO INCLUDE CERTAIN SERVICE CONTRACTS.**

(a) **IN GENERAL.**—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

“(C) **SPECIAL RULE FOR SERVICE CONTRACTS.**—In determining a lease term, there shall be taken into account any optional service contract or other similar arrangement.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to leases entered into after the date of the enactment of this Act.

**SEC. \_\_\_\_ . RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.**

(a) **IN GENERAL.**—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

“(10) **PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.**—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the exchange to which section 1031 applied.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

Beginning on page 260, line 7, strike all through page 264, line 6, and insert:

**SEC. 521. CIVIL RIGHTS TAX RELIEF.**

(a) **DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.**—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

“(19) **COSTS INVOLVING DISCRIMINATION SUITS, ETC.**—Any deduction allowable under

this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code. The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer’s gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.”

(b) **UNLAWFUL DISCRIMINATION DEFINED.**—Section 62 is amended by adding at the end the following new subsection:

“(e) **UNLAWFUL DISCRIMINATION DEFINED.**—For purposes of subsection (a)(19), the term ‘unlawful discrimination’ means an act that is unlawful under any of the following:

“(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

“(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

“(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

“(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

“(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

“(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

“(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

“(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

“(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

“(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

“(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

“(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

“(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

“(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2, 2000e-3, or 2000e-16).

“(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

“(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

“(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

“(18) Any provision of State or local law, or common law claims permitted under Federal, State, or local law—

“(i) providing for the enforcement of civil rights, or

“(ii) regulating any aspect of the employment relationship, including prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fees and costs paid after the date of the enactment of this Act with respect to any judgment or settlement occurring after such date.

At the end, insert the following:

**TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS**

**Subtitle A—Extensions of Expiring Provisions**

**SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.**

(a) **IN GENERAL.**—Subsection (f) of section 9812 is amended by striking “2003” and inserting “2004”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2002.

**SEC. 702. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.**

(a) **IN GENERAL.**—Paragraph (2) of section 26(a) is amended—

(1) by striking “RULE FOR 2000, 2001, 2002, AND 2003.—” and inserting “RULE FOR 2000, 2001, 2002, 2003, AND 2004.—”, and

(2) by striking “during 2000, 2001, 2002, or 2003,” and inserting “during 2000, 2001, 2002, 2003, or 2004”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 904(h) is amended by striking “during 2000, 2001, 2002, or 2003” and inserting “during 2000, 2001, 2002, 2003, or 2004”.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 703. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.**

(a) **IN GENERAL.**—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking “2004” and inserting “2005”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2002.

**SEC. 704. WORK OPPORTUNITY CREDIT.**

(a) **IN GENERAL.**—Subparagraph (B) of section 51(c)(4) is amended by striking “2003” and inserting “2004”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

**SEC. 705. WELFARE-TO-WORK CREDIT.**

(a) **IN GENERAL.**—Subsection (f) of section 51A is amended by striking “2003” and inserting “2004”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

**SEC. 706. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARINE PROPERTIES.**

(a) **IN GENERAL.**—Subparagraph (H) of section 613A(c)(6) is amended by striking “2004” and inserting “2005”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

**SEC. 707. QUALIFIED ZONE ACADEMY BONDS.**

(a) **IN GENERAL.**—Paragraph (1) of section 1397E(e) is amended by striking “2000, 2001, 2002, and 2003” and inserting “2000, 2001, 2002, 2003, and 2004”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 708. COVER OVER OF TAX ON DISTILLED SPIRITS.**

(a) **IN GENERAL.**—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2002.

**SEC. 709. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.**

(a) EXTENSION OF DEDUCTION.—Section 170(e)(6)(G) (relating to termination) is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2002.

**SEC. 710. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking “December 31, 2003,” and inserting “December 31, 2004,” and

(B) in subparagraphs (A), (B), and (C), by striking “2004”, “2005”, and “2006”, respectively, and inserting “2005”, “2006”, and “2007”, respectively.

(2) in subsection (e), by striking “December 31, 2006” and inserting “December 31, 2007”.

(b) CONFORMING AMENDMENTS.—Clause (iii) of section 280F(a)(1)(C) is amended by striking “2007” and inserting “2008”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2002.

**SEC. 711. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.**

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking “December 31, 2003,” and inserting “December 31, 2004,” and

(B) in clauses (i), (ii), and (iii), by striking “2004”, “2005”, and “2006”, respectively, and inserting “2005”, “2006”, and “2007”, respectively, and

(2) in subsection (f), by striking “December 31, 2006” and inserting “December 31, 2007”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2002.

**SEC. 712. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.**

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking “during 2002 or 2003” and inserting “during 2002, 2003, or 2004”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

**SEC. 713. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking “2003” each place it appears and inserting “2004”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking “1998, 1999, 2001, or 2002” each place it appears and inserting “1998, 1999, 2001, 2002, or 2003”.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking “and 2002” and inserting “2002, and 2003”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

**SEC. 714. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking “2003” and inserting “2004”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2002.

On Thursday, May 15, 2003, the Senate passed H.R. 2, the text of which follows:

*Resolved*, That the bill from the House of Representatives (H.R. 2) entitled “An Act to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.”, do pass with the following AMENDMENT:

Strike out all after the enacting clause and insert:

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Jobs and Growth Tax Relief Reconciliation Act of 2003”.

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

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

Sec. 1. Short title; references; table of contents.

**TITLE I—ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX REDUCTIONS; INCREASED EXPENSING FOR SMALL BUSINESSES**

Sec. 101. Acceleration of 10-percent individual income tax rate bracket expansion.

Sec. 102. Acceleration of reduction in individual income tax rates.

Sec. 103. Minimum tax relief to individuals.

Sec. 104. Acceleration of increase in standard deduction for married taxpayers filing joint returns.

Sec. 105. Acceleration of 15-percent individual income tax rate bracket expansion for married taxpayers filing joint returns.

Sec. 106. Acceleration of increase in, and refundability of, child tax credit.

Sec. 107. Increased expensing for small businesses.

Sec. 108. Application of EGTRRA sunset to this title.

**TITLE II—PARTIAL EXCLUSION OF DIVIDENDS**

Sec. 201. Partial exclusion of dividends received by individuals.

**TITLE III—REVENUE PROVISIONS**

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 301. Clarification of economic substance doctrine.

Sec. 302. Penalty for failing to disclose reportable transaction.

Sec. 303. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.

Sec. 304. Penalty for understatements attributable to transactions lacking economic substance, etc.

Sec. 305. Modifications of substantial understatement penalty for nonreportable transactions.

Sec. 306. Tax shelter exception to confidentiality privileges relating to taxpayer communications.

Sec. 307. Disclosure of reportable transactions.

Sec. 308. Modifications to penalty for failure to register tax shelters.

Sec. 309. Modification of penalty for failure to maintain lists of investors.

Sec. 310. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.

Sec. 311. Understatement of taxpayer's liability by income tax return preparer.

Sec. 312. Penalty on failure to report interests in foreign financial accounts.

Sec. 313. Frivolous tax submissions.

Sec. 314. Penalty on promoters of tax shelters.

Sec. 315. Statute of limitations for taxable years for which listed transactions not reported.

Sec. 316. Denial of deduction for interest on underpayments attributable to non-disclosed reportable and non-economic substance transactions.

Subtitle B—Enron-Related Tax Shelter Provisions

Sec. 321. Limitation on transfer or importation of built-in losses.

Sec. 322. No reduction of basis under section 734 in stock held by partnership in corporate partner.

Sec. 323. Repeal of special rules for FASITs.

Sec. 324. Expanded disallowance of deduction for interest on convertible debt.

Sec. 325. Expanded authority to disallow tax benefits under section 269.

Sec. 326. Modifications of certain rules relating to controlled foreign corporations.

Sec. 327. Controlled entities ineligible for REIT status.

Subtitle C—Other Corporate Governance Provisions

**PART I—GENERAL PROVISIONS**

Sec. 331. Affirmation of consolidated return regulation authority.

Sec. 332. Signing of corporate tax returns by chief executive officer.

Sec. 333. Denial of deduction for certain fines, penalties, and other amounts.

Sec. 334. Disallowance of deduction for punitive damages.

Sec. 335. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.

**PART II—EXECUTIVE COMPENSATION REFORM**

Sec. 336. Treatment of nonqualified deferred compensation funded with assets located outside the United States.

Sec. 337. Inclusion in gross income of funded deferred compensation of corporate insiders.

Sec. 338. Prohibition on deferral of gain from the exercise of stock options and restricted stock gains through deferred compensation arrangements.

Sec. 339. Increase in withholding from supplemental wage payments in excess of \$1,000,000.

Subtitle D—International Provisions

**PART I—PROVISIONS TO DISCOURAGE EXPATRIATION**

Sec. 340. Revision of tax rules on expatriation.

Sec. 341. Tax treatment of inverted corporate entities.

Sec. 342. Excise tax on stock compensation of insiders in inverted corporations.

Sec. 343. Reinsurance of United States risks in foreign jurisdictions.

**PART II—OTHER PROVISIONS**

Sec. 344. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.

Sec. 345. Effectively connected income to include certain foreign source income.

Sec. 346. Determination of basis of amounts paid from foreign pension plans.

Sec. 347. Recapture of overall foreign losses on sale of controlled foreign corporation.

Sec. 348. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.

Sec. 349. Sale of gasoline and diesel fuel at duty-free sales enterprises.

Sec. 350. Repeal of earned income exclusion of citizens or residents living abroad.

Subtitle E—Other Revenue Provisions

Sec. 351. Extension of Internal Revenue Service user fees.

- Sec. 352. Addition of vaccines against hepatitis A to list of taxable vaccines.
- Sec. 353. Disallowance of certain partnership loss transfers.
- Sec. 354. Treatment of stripped interests in bond and preferred stock funds, etc.
- Sec. 355. Reporting of taxable mergers and acquisitions.
- Sec. 356. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.
- Sec. 357. Qualified tax collection contracts.
- Sec. 358. Extension of customs user fees.
- Sec. 359. Clarification of exemption from tax for small property and casualty insurance companies.
- Sec. 360. Partial payment of tax liability in installment agreements.
- Sec. 361. Extension of amortization of intangibles to sports franchises.
- Sec. 362. Deposits made to suspend running of interest on potential underpayments.
- Sec. 363. Clarification of rules for payment of estimated tax for certain deemed asset sales.
- Sec. 364. Limitation on deduction for charitable contributions of patents and similar property.
- Sec. 365. Extension of transfers of excess pension assets to retiree health accounts.
- Sec. 366. Proration rules for life insurance business of property and casualty insurance companies.
- Sec. 367. Modification of treatment of transfers to creditors in divisive reorganizations.
- Sec. 368. Increase in age of minor children whose unearned income is taxed as if parent's income.
- Sec. 369. Consistent amortization of periods for intangibles.
- Sec. 370. Clarification of definition of non-qualified preferred stock.
- Sec. 371. Class lives for utility grading costs.
- Sec. 372. Prohibition on nonrecognition of gain through complete liquidation of holding company.
- Sec. 373. Lease term to include certain service contracts.
- Sec. 374. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
- Subtitle F—Other Provisions
- Sec. 381. Temporary State and local fiscal relief.
- Sec. 382. Review of State agency blindness and disability determinations.
- Sec. 383. Prohibition on use of SCHIP funds to provide coverage for childless adults.
- Sec. 384. Medicaid DSH allotments.
- TITLE IV—SMALL BUSINESS AND AGRICULTURAL PROVISIONS
- Subtitle A—Small Business Provisions
- Sec. 401. Exclusion of certain indebtedness of small business investment companies from acquisition indebtedness.
- Sec. 402. Repeal of occupational taxes relating to distilled spirits, wine, and beer.
- Sec. 403. Custom gunsmiths.
- Sec. 404. Simplification of excise tax imposed on bows and arrows.
- Subtitle B—Agricultural Provisions
- Sec. 411. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
- Sec. 412. Special rules for livestock sold on account of weather-related conditions.
- Sec. 413. Exclusion for loan payments under national health service corps loan repayment program.
- Sec. 414. Payment of dividends on stock of cooperatives without reducing patronage dividends.
- TITLE V—SIMPLIFICATION AND OTHER PROVISIONS
- Subtitle A—Uniform Definition of Child
- Sec. 501. Uniform definition of child, etc.
- Sec. 502. Modifications of definition of head of household.
- Sec. 503. Modifications of dependent care credit.
- Sec. 504. Modifications of child tax credit.
- Sec. 505. Modifications of earned income credit.
- Sec. 506. Modifications of deduction for personal exemption for dependents.
- Sec. 507. Technical and conforming amendments.
- Sec. 508. Effective date.
- Subtitle B—Simplification
- Sec. 511. Consolidation of life and non-life company returns.
- Sec. 512. Special rules for taxation of life insurance companies.
- Sec. 513. Modification of active business definition under section 355.
- Subtitle C—Other Provisions
- Sec. 521. Civil rights tax relief.
- Sec. 522. Increase in section 382 limitation for companies emerging from bankruptcy.
- Sec. 523. Increase in historic rehabilitation credit for certain low-income housing for the elderly.
- Sec. 524. Modification of application of income forecast method of depreciation.
- Sec. 525. Additional advance refundings of certain governmental bonds.
- Sec. 526. Exclusion of income derived from certain wagers on horse races from gross income of nonresident alien individuals.
- Sec. 527. Federal reimbursement of emergency health services furnished to undocumented aliens.
- Sec. 528. Premiums for mortgage insurance.
- Sec. 529. Sense of the Senate on repealing the 1993 tax hike on social security benefits section.
- Sec. 530. Flat tax.
- Sec. 531. Toll tax on excess qualified foreign distribution amount.
- Sec. 532. Child support enforcement.
- Sec. 533. Low-income housing tax credit.
- Sec. 534. Expensing of broadband internet access expenditures.
- Sec. 535. Income tax credit for distilled spirits wholesalers and for distilled spirits in control state bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
- Sec. 536. Clarification of contribution in aid of construction for water and sewerage disposal utilities.
- Sec. 537. Restoration of deduction for travel expenses of spouse, etc. accompanying taxpayer on business travel.
- Sec. 538. Certain sightseeing flights exempt from taxes on air transportation.
- Sec. 539. Conforming the Internal Revenue Code of 1986 to requirements imposed by the Women's Health and Cancer Rights Act of 1998.
- Sec. 540. Expansion of designated renewal community area based on 2000 census data.
- Sec. 541. Renewal community employers may qualify for employment credit by employing residents of certain other renewal communities.
- Sec. 542. Expansion of income tax exclusion for combat zone service.
- Sec. 543. Availability of certain tax benefits for members of the armed forces performing services at Guantanamo Bay Naval Station, Cuba, and on the island of Diego Garcia.
- Sec. 544. Citrus canker tree relief.
- Sec. 545. Exclusion of certain punitive damage awards.
- Sec. 546. Reatment of certain imported recycled halons.
- Sec. 547. Modification of involuntary conversion rules for businesses affected by the September 11th terrorist attacks.
- Subtitle D—Medicare Provisions.
- Sec. 561. Equalizing urban and rural standardized payment amounts under the medicare inpatient hospital prospective payment system.
- Sec. 562. Fairness in the Medicare Disproportionate Share Hospital (DSH) adjustment for rural hospitals.
- Sec. 563. Medicare inpatient hospital payment adjustment for low-volume hospitals.
- Sec. 564. Adjustment to the medicare inpatient hospital PPS wage index to revise the labor-related share of such index.
- Sec. 565. One-year extension of hold harmless provisions for small rural hospitals and temporary treatment of certain sole community hospitals to limit decline in payment under the OPD PPS.
- Sec. 566. Critical access hospital (CAH) improvements.
- Sec. 567. Temporary increase for home health services furnished in a rural area.
- Sec. 568. Temporary increase in payments for certain services furnished by small rural hospitals under medicare prospective payment system for hospital outpatient department services.
- Sec. 569. Temporary increase for ground ambulance services furnished in a rural area.
- Sec. 570. Exclusion of certain rural health clinic and federally qualified health center services from the medicare pps for skilled nursing facilities.
- Sec. 571. Medicare incentive payment program improvements.
- Sec. 572. Two-year treatment of certain clinical diagnostic laboratory tests furnished by a sole community hospital.
- Sec. 573. Establishment of floor on geographic adjustments of payments for physicians' services.
- Sec. 574. Freeze in payments for items of durable medical equipment and orthotics and prosthetics.
- Sec. 575. Application of coinsurance and deductible for clinical diagnostic laboratory tests.
- Sec. 576. Revision in payments for covered outpatient drugs.
- Sec. 577. Inapplicability of sunset.
- Subtitle E—Provisions Relating To S Corporation Reform and Simplification
- PART I—MAXIMUM NUMBER OF SHAREHOLDERS OF AN S CORPORATION
- Sec. 581. Members of family treated as 1 shareholder.
- Sec. 582. Increase in number of eligible shareholders to 100.
- Sec. 583. Nonresident aliens allowed as beneficiaries of an electing small business trust.
- PART II—TERMINATION OF ELECTION AND ADDITIONS TO TAX DUE TO PASSIVE INVESTMENT INCOME
- Sec. 584. Modifications to passive income rules.
- PART III—TREATMENT OF S CORPORATION SHAREHOLDERS
- Sec. 585. Transfer of suspended losses incident to divorce.
- Sec. 586. Use of passive activity loss and at-risk amounts by qualified subchapter S trust income beneficiaries.

- Sec. 587. Disregard of unexercised powers of appointment in determining potential current beneficiaries of ESBT.
- Sec. 588. Clarification of electing small business trust distribution rules.

PART IV—PROVISIONS RELATING TO BANKS

- Sec. 589. Sale of stock in IRA relating to S corporation election exempt from prohibited transaction rules.
- Sec. 590. Exclusion of investment securities income from passive income test for bank S corporations.
- Sec. 591. Treatment of qualifying director shares.

PART V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

- Sec. 592. Relief from inadvertently invalid qualified subchapter S subsidiary elections and terminations.
- Sec. 593. Information returns for qualified subchapter S subsidiaries.

PART VI—ADDITIONAL PROVISIONS

- Sec. 594. Elimination of all earnings and profits attributable to pre-1983 years.

TITLE VI—BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM

- Sec. 601. Short title.
- Sec. 602. Establishment of Commission.
- Sec. 603. Duties of the Commission.
- Sec. 604. Powers of the Commission.
- Sec. 605. Commission personnel matters.
- Sec. 606. Termination of the Commission.
- Sec. 607. Authorization of appropriations.

TITLE VII—REAL ESTATE INVESTMENT TRUSTS

Subtitle A—REIT Corrections

- Sec. 701. Revisions to REIT asset test.
- Sec. 702. Clarification of application of limited rental exception.
- Sec. 703. Deletion of customary services exception.
- Sec. 704. Conformity with general hedging definition.
- Sec. 705. Conformity with regulated investment company rules.
- Sec. 706. Prohibited transactions provisions.
- Sec. 707. Effective dates.

Subtitle B—REIT Savings Provisions

- Sec. 711. Revisions to REIT provisions.

TITLE VIII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions of Expiring Provisions

- Sec. 801. Parity in the application of certain limits to mental health benefits.
- Sec. 802. Allowance of nonrefundable personal credits against regular and minimum tax liability.
- Sec. 803. Credit for electricity produced from certain renewable resources.
- Sec. 804. Work opportunity credit.
- Sec. 805. Welfare-to-work credit.
- Sec. 806. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 807. Qualified zone academy bonds.
- Sec. 808. Cover over of tax on distilled spirits.
- Sec. 809. Deduction for corporate donations of computer technology.
- Sec. 810. Credit for qualified electric vehicles.
- Sec. 811. Deduction for clean-fuel vehicles and certain refueling property.
- Sec. 812. Deduction for certain expenses of school teachers.
- Sec. 813. Availability of medical savings accounts.
- Sec. 814. Expensing of environmental remediation costs.

TITLE IX—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

- Sec. 900. Short title.
- Sec. 901. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the foreign service.

- Sec. 902. Exclusion from gross income of certain death gratuity payments.
- Sec. 903. Exclusion for amounts received under Department of Defense Homeowners Assistance Program.
- Sec. 904. Expansion of combat zone filing rules to contingency operations.
- Sec. 905. Modification of membership requirement for exemption from tax for certain veterans' organizations.
- Sec. 906. Clarification of the treatment of certain dependent care assistance programs.
- Sec. 907. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.
- Sec. 908. Suspension of tax-exempt status of terrorist organizations.
- Sec. 909. Above-the-line deduction for overnight travel expenses of national guard and reserve members.
- Sec. 910. Tax relief and assistance for families of Space Shuttle Columbia heroes.
- Sec. 1001. Sunset.

TITLE I—ACCELERATION OF CERTAIN PREVIOUSLY ENACTED TAX REDUCTIONS; INCREASED EXPENSING FOR SMALL BUSINESSES

SEC. 101. ACCELERATION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(B) (relating to the initial bracket amount) is amended by striking “\$12,000 in the case of taxable years beginning before January 1, 2008”).

(b) INFLATION ADJUSTMENT BEGINNING IN 2004.—Subparagraph (C) of section 1(i)(1) (relating to inflation adjustment) is amended to read as follows:

“(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—

“(i) the cost-of-living adjustment used in making adjustments to the initial bracket amount shall be determined under subsection (f)(3) by substituting ‘2002’ for ‘1992’ in subparagraph (B) thereof, and

“(ii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.”.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

(3) TABLES FOR 2003.—The Secretary of the Treasury shall modify each table which has been prescribed for taxable years beginning in 2003 and which relates to the amendment made by subsection (a), section 102, or section 103 to reflect each such amendment.

SEC. 102. ACCELERATION OF REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) IN GENERAL.—The table in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended to read as follows:

	“In the case of taxable years beginning during calendar year:			
	28%	31%	36%	39.6%
2001 .....	27.5%	30.5%	35.5%	39.1%
2002 .....	27.0%	30.0%	35.0%	38.6%

	“In the case of taxable years beginning during calendar year:			
	28%	31%	36%	39.6%
2003 and thereafter.	25.0%	28.0%	33.0%	35.0%”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 103. MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—So much of paragraph (1) of section 55(d) (relating to exemption amount for taxpayers other than corporations) as precedes subparagraph (C) thereof is amended to read as follows:

“(1) EXEMPTION AMOUNT FOR TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the term ‘exemption amount’ means as follows:

“(A) JOINT RETURN AND SURVIVING SPOUSE.—In the case of a joint return or a surviving spouse, the amount under the following table:

“In the case of taxable years beginning:	The exemption amount is:
Before 2001 .....	\$45,000
In 2001 and 2002 .....	\$49,000
In 2003 .....	\$60,500
In 2004 .....	\$60,500
In 2005 .....	\$60,500
After 2005 .....	\$45,000.

“(B) INDIVIDUAL NOT MARRIED AND NOT A SURVIVING SPOUSE.—In the case of an individual who is not a married individual and is not a surviving spouse, the amount under the following table:

“In the case of taxable years beginning:	The exemption amount is:
Before 2001 .....	\$33,750
In 2001 and 2002 .....	\$35,750
In 2003 .....	\$41,500
In 2004 .....	\$41,500
In 2005 .....	\$41,500
After 2005 .....	\$33,750.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 55(d)(1)(C) is amended—

(A) by striking “, and” and inserting a period, and

(B) by striking “50 percent” and inserting “MARRIED INDIVIDUAL FILING A SEPARATE RETURN.—50 percent”.

(2) Section 55(d)(1)(D) is amended by striking “\$22,500” and inserting “ESTATE AND TRUST.—\$22,500”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 104. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (7) of section 63(c) (relating to standard deduction) is amended to read as follows:

“(7) APPLICABLE PERCENTAGE.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2003 .....	195
2004 .....	200
2005 .....	174
2006 .....	184
2007 .....	187
2008 .....	190
2009 and thereafter .....	200.”.

(b) CONFORMING AMENDMENT.—Section 301(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “2004” and inserting “2002”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 105. ACCELERATION OF 15-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.**

(a) IN GENERAL.—Subparagraph (B) of section 1(f)(8) (relating to phaseout of marriage penalty in 15-percent bracket) is amended to read as follows:

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

“For taxable years beginning in calendar year—	The applicable percentage is—
2003 .....	195
2004 .....	200
2005 .....	180
2006 .....	187
2007 .....	193
2008 and thereafter .....	200.”

(b) CONFORMING AMENDMENT.—Section 302(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “2004” and inserting “2002”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 106. ACCELERATION OF INCREASE IN, AND REFUNDABILITY OF, CHILD TAX CREDIT.**

(a) ACCELERATION OF INCREASE IN CREDIT.—Subsection (a) of section 24 (relating to child tax credit) is amended to read as follows:

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to \$1,000.”

(b) EXPANSION OF CREDIT REFUNDABILITY.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking “10 percent in the case of taxable years beginning before January 1, 2005”.

(c) ADVANCE PAYMENT OF PORTION OF INCREASED CREDIT IN 2003.—

(1) IN GENERAL.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

**“SEC. 6429. ADVANCE PAYMENT OF PORTION OF INCREASED CHILD CREDIT FOR 2003.**

“(a) IN GENERAL.—Each taxpayer who claimed a credit under section 24 on the return for the taxpayer’s first taxable year beginning in 2002 shall be treated as having made a payment against the tax imposed by chapter 1 for such taxable year in an amount equal to the child tax credit refund amount (if any) for such taxable year.

“(b) CHILD TAX CREDIT REFUND AMOUNT.—For purposes of this section, the child tax credit refund amount is the amount by which the aggregate credits allowed under part IV of subchapter A of chapter 1 for such first taxable year would have been increased if—

“(1) the per child amount under section 24(a)(2) for such year were \$1,000,

“(2) only qualifying children (as defined in section 24(c)) of the taxpayer for such year who had not attained age 17 as of December 31, 2003, were taken into account, and

“(3) section 24(d)(1)(B)(ii) did not apply.

“(c) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before October 1, 2003. No refund or credit shall be made or allowed under this section after December 31, 2003.

“(d) COORDINATION WITH CHILD TAX CREDIT.—

“(1) IN GENERAL.—The amount of credit which would (but for this subsection and section 26) be allowed under section 24 for the taxpayer’s first taxable year beginning in 2003 shall be reduced (but not below zero) by the payments made to

the taxpayer under this section. Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

“(2) JOINT RETURNS.—In the case of a payment under this section with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return.

“(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.”

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

“Sec. 6429. Advance payment of portion of increased child credit for 2003.”

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

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

**SEC. 107. INCREASED EXPENSING FOR SMALL BUSINESS.**

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

“(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed \$25,000 (\$100,000 in the case of taxable years beginning after 2002 and before 2008).”

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) (relating to reduction in limitation) is amended by inserting “(\$400,000 in the case of taxable years beginning after 2002 and before 2008)” after “\$200,000”.

(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Paragraph (1) of section 179(d) (defining section 179 property) is amended to read as follows:

“(1) SECTION 179 PROPERTY.—For purposes of this section, the term ‘section 179 property’ means property—

“(A) which is—

“(i) tangible property (to which section 168 applies), or

“(ii) computer software (as defined in section 197(e)(3)(B)) which is described in section 197(e)(3)(A)(i), to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2008,

“(B) which is section 1245 property (as defined in section 1245(a)(3)), and

“(C) which is acquired by purchase for use in the active conduct of a trade or business. Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.”

(d) ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT THRESHOLD FOR INFLATION.—Subsection (b) of section 179 (relating to limitations) is amended by adding at the end the following new paragraph:

“(5) INFLATION ADJUSTMENTS.—

“(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003 and before 2008, the \$100,000 and \$400,000 amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 2002’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) ROUNDING.—

“(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of \$1,000, such amount shall be rounded to the nearest multiple of \$1,000.

“(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph

(A) is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.”

(e) REVOCATION OF ELECTION.—Paragraph (2) of section 179(c) (relating to election irrevocable) is amended to read as follows:

“(2) REVOCATION OF ELECTION.—An election under paragraph (1) with respect to any taxable year beginning after 2002 and before 2008, and any specification contained in any such election, may be revoked by the taxpayer with respect to any property. Such revocation, once made, shall be irrevocable.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 108. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

Each amendment made by this title (other than section 107) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

**TITLE II—PARTIAL EXCLUSION OF DIVIDENDS**

**SEC. 201. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.**

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 is amended by inserting after section 115 the following new section:

**“SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.**

“(a) EXCLUSION FROM GROSS INCOME.—

“(1) IN GENERAL.—Gross income does not include the applicable percentage of qualified dividend income received during the taxable year by an individual.

“(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage is—

“(A) 50 percent in the case of taxable years beginning in 2003,

“(B) 100 percent in the case of taxable years beginning in 2004, 2005, and 2006, and

“(C) zero percent in the case of any other taxable year.

“(b) QUALIFIED DIVIDEND INCOME.—For purposes of this subsection—

“(1) IN GENERAL.—The term ‘qualified dividend income’ means dividends received with respect to any share of stock of—

“(A) any domestic corporation, or

“(B) any foreign corporation but only if such share of stock is readily tradable on an established securities market.

“(2) CERTAIN DIVIDENDS EXCLUDED.—Such term shall not include—

“(A) any dividend from a corporation which for the taxable year of the corporation in which the distribution is made, or the preceding taxable year, is a corporation exempt from tax under section 501 or 521,

“(B) any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.), and

“(C) any dividend described in section 404(k).

“(3) EXCLUSION OF DIVIDENDS OF CERTAIN FOREIGN CORPORATIONS.—Such term shall not include any dividend from a foreign corporation which for the taxable year of the corporation in which the distribution was made, or the preceding taxable year, is a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or a passive foreign investment company (as defined in section 1297).

“(4) COORDINATION WITH SECTION 246(C).—Such term shall not include any dividend on any share of stock—

“(A) with respect to which the holding period requirements of section 246(c) are not met, or

“(B) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

“(c) SPECIAL RULES.—

“(1) AMOUNTS TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—Qualified dividend income shall not include any amount which the taxpayer takes into account as investment income under section 163(d)(4)(B).”

“(2) COORDINATION WITH FOREIGN TAX CREDIT AND DEDUCTION.—No credit shall be allowed under section 901, and no deduction shall be allowed under this chapter, for any taxes paid or accrued with respect to any income excludable under this section.”

“(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only in determining the tax imposed for the taxable year by sections 871(b)(1) and 877(b).”

“(4) EXCLUSION DISREGARDED IN DETERMINING INCOME FOR CERTAIN PURPOSES.—Subsection (a) shall not apply for purposes of determining amounts of income under sections 32(i), 86(b), 135(b), 137(b), 219(g), 221(b), 222(b), 408A(c)(3), 469(i), and 530(c), or subpart A of part IV of subchapter A.”

“(5) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—A dividend from a regulated investment company or real estate investment trust shall be subject to the limitations prescribed in sections 854 and 857.”

(b) EXCLUSION OF DIVIDENDS FROM INVESTMENT INCOME.—Subparagraph (B) of section 163(d)(4) (defining net investment income) is amended by adding at the end the following flush sentence:

“Such term shall include qualified dividend income (as defined in section 116(b)) only to the extent the taxpayer elects to treat such income as investment income for purposes of this subsection.”

(c) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—

(1) Subsection (a) of section 854 (relating to dividends received from regulated investment companies) is amended by inserting “section 116 (relating to partial exclusion of dividends received by individuals) and” after “For purposes of”.

(2) Paragraph (1) of section 854(b) (relating to other dividends) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) EXCLUSION UNDER SECTION 116.—

“(i) IN GENERAL.—If the aggregate dividends received by a regulated investment company during any taxable year are less than 95 percent of its gross income, then, in computing the exclusion under section 116, rules similar to the rules of subparagraph (A) shall apply.”

“(ii) GROSS INCOME.—For purposes of clause (i), in the case of 1 or more sales or other dispositions of stock or securities, the term ‘gross income’ includes only the excess of—

“(I) the net short-term capital gain from such sales or dispositions, over

“(II) the net long-term capital loss from such sales or dispositions.”

(3) Subparagraph (C) of section 854(b)(1), as redesignated by paragraph (2), is amended by striking “subparagraph (A)” and inserting “subparagraph (A) or (B)”.

(4) Paragraph (2) of section 854(b) is amended by inserting “the exclusion under section 116 and” after “for purposes of”.

(5) Subsection (b) of section 854 is amended by adding at the end the following new paragraph:

“(5) COORDINATION WITH SECTION 116.—For purposes of paragraph (1)(B), an amount shall be treated as a dividend only if the amount is qualified dividend income (within the meaning of section 116(b)).”

(d) TREATMENT OF DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—Section 857(c) (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

“(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

“(1) SECTION 243.—For purposes of section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered a dividend.”

“(2) SECTION 116.—For purposes of section 116 (relating to exclusion of dividends), rules similar to the rules of section 854(b)(1)(B) shall apply to dividends received from a real estate trust which meets the requirements of this part.”

(e) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 301 is amended adding at the end the following new paragraph:

“(4) For partial exclusion from gross income of dividends received by individuals, see section 116.”

(2) Paragraph (1) of section 306(a) is amended by adding at the end the following new subparagraph:

“(D) TREATMENT AS DIVIDEND.—For purposes of section 116, any amount treated as ordinary income under this paragraph shall be treated as a dividend received from the corporation.”

(3)(A) Subpart C of part II of subchapter C of chapter 1 (relating to collapsible corporations) is repealed.

(B)(i) Section 338(h) is amended by striking paragraph (14).

(ii) Sections 467(c)(5)(C), 1255(b)(2), and 1257(d) are each amended by striking “, 341(e)(12).”

(iii) The table of subparts for part II of subchapter C of chapter 1 is amended by striking the item related to subpart C.

(4) Section 531 is amended—

(A) by inserting “the taxable percentage of” after “equal to”, and

(B) by adding at the end the following: “For purposes of this section, the taxable percentage is 100 percent minus the applicable percentage (as defined in section 116(a)(2)).”

(5) Section 541 is amended—

(A) by inserting “the taxable percentage of” after “equal to”, and

(B) by adding at the end the following: “For purposes of this section, the taxable percentage is 100 percent minus the applicable percentage (as defined in section 116(a)(2)).”

(6) Section 584(c) is amended by adding at the end the following new flush sentence:

“The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered for purposes of such paragraph as having been received by such participant.”

(7) Section 643(a) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) EXCLUDED DIVIDENDS.—There shall be included the amount of any dividends excluded from gross income under section 116 (relating to partial exclusion of dividends).”

(8) Paragraph (5) of section 702(a) is amended to read as follows:

“(5) dividends with respect to which section 116 or part VII of subchapter B applies,”

(9)(A) Section 1059(a) is amended by striking “corporation” each place it appears and inserting “taxpayer”.

(B)(i) The heading for section 1059 is amended by striking “CORPORATE”.

(ii) The item relating to section 1059 in the table of sections for part IV of subchapter O of chapter 1 is amended by striking “Corporate shareholder’s” and inserting “Shareholder’s”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

### TITLE III—REVENUE PROVISIONS

#### Subtitle A—Provisions Designed To Curtail Tax Shelters

#### SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o)

and by inserting after subsection (m) the following new subsection:

“(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

“(1) GENERAL RULES.—

“(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

“(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

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

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

“(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

“(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

“(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

“(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

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

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

“(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

“(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

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

“(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

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

“(A) ECONOMIC SUBSTANCE DOCTRINE.—The term ‘economic substance doctrine’ means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

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

“(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

“(D) TREATMENT OF LESSORS.—A lessor of tangible property subject to a lease shall be treated as satisfying the requirements of paragraph (1)(B)(ii) with respect to the leased property if such lease satisfies such requirements as provided by the Secretary.

“(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

“(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

**SEC. 302. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.**

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

**“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.**

“(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be \$50,000.

“(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be \$100,000.

“(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

“(A) IN GENERAL.—In the case of a failure under subsection (a) by—

“(i) a large entity, or

“(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

“(B) LARGE ENTITY.—For purposes of subparagraph (A), the term ‘large entity’ means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of \$10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

“(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term ‘high net worth individual’ means, with respect to a reportable transaction, a natural person whose net worth exceeds \$2,000,000 immediately before the transaction.

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

“(1) REPORTABLE TRANSACTION.—The term ‘reportable transaction’ means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

“(2) LISTED TRANSACTION.—Except as provided in regulations, the term ‘listed transaction’ means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

“(d) AUTHORITY TO RESCIND PENALTY.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

“(A) the violation is with respect to a reportable transaction other than a listed transaction,

“(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

“(C) it is shown that the violation is due to an unintentional mistake of fact;

“(D) imposing the penalty would be against equity and good conscience, and

“(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

“(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner’s sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

“(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

“(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

“(A) the facts and circumstances of the transaction,

“(B) the reasons for the rescission, and

“(C) the amount of the penalty rescinded.

“(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

“(B) a description of each penalty rescinded under this subsection and the reasons therefor.

“(e) PENALTY REPORTED TO SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which—

“(A) is required to pay a penalty under this section with respect to a listed transaction,

“(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

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

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

“(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.”.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

“Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

**SEC. 303. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.**

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

**“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.**

“(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

“(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘reportable transaction understatement’ means the sum of—

“(A) the product of—

“(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer’s treatment of such item (as shown on the taxpayer’s return of tax), and

“(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

“(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer’s treatment of an item to which this section applies (as shown on the taxpayer’s return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

“(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

“(A) any listed transaction, and

“(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

“(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

“(1) IN GENERAL.—Subsection (a) shall be applied by substituting ‘30 percent’ for ‘20 percent’ with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

“(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

“(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

“(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).

“(e) SPECIAL RULES.—

“(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an

understatement (as defined in section 6662(d)(2))—

“(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

“(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

“(2) COORDINATION WITH OTHER PENALTIES.—

“(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

“(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

“(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

“(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term ‘noneconomic substance transaction understatement’ has the meaning given such term by section 6662B(c).

“(5) CROSS REFERENCE.—

“**For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).**”

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

“The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.”

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

“(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

“(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

“(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

“(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

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

“(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

“(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

“(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

“(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

“(ii) relates solely to the taxpayer’s chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

“(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

“(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

“(1) the tax advisor is described in clause (ii), or

“(II) the opinion is described in clause (iii).

“(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

“(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

“(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

“(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

“(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

“(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

“(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

“(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

“(III) does not identify and consider all relevant facts, or

“(IV) fails to meet any other requirement as the Secretary may prescribe.”

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting “FOR UNDERPAYMENTS” after “EXCEPTION”.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 1274(b)(3)(C)”.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking “(as defined in section 6662(d)(2)(C)(iii))” in subparagraph (B)(i), and

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

“(C) TAX SHELTER.—For purposes of subparagraph (B), the term ‘tax shelter’ means—

“(i) a partnership or other entity,

“(ii) any investment plan or arrangement, or

“(iii) any other plan or arrangement, if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.”

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking “this part” and inserting “section 6662 or 6663”.

(5) Subsection (b) of section 7525 is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 1274(b)(3)(C)”.

(6)(A) The heading for section 6662 is amended to read as follows:

“**SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.**”

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

“Sec. 6662. Imposition of accuracy-related penalty on underpayments.

“Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.”

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

**SEC. 304. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.**

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

“**SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.**

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

“(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting ‘20 percent’ for ‘40 percent’ with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

“(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

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

“(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term ‘noneconomic substance transaction’ means any transaction if—

“(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

“(B) the transaction fails to meet the requirements of any similar rule of law.

“(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

“(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

“(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

“(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).”

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into on or after May 8, 2003.

**SEC. 305. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NON-REPORTABLE TRANSACTIONS.**

(a) **SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.**—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

“(B) **SPECIAL RULE FOR CORPORATIONS.**—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

“(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, \$10,000), or

“(ii) \$10,000,000.”

(b) **REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.**—

(1) **IN GENERAL.**—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

“(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or”

(2) **CONFORMING AMENDMENT.**—Section 6662(d) is amended by adding at the end the following new paragraph:

“(3) **SECRETARIAL LIST.**—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.”

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

**SEC. 306. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.**

(a) **IN GENERAL.**—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

“(b) **SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.**—The privilege under subsection (a) shall not apply to any written communication which is—

“(1) between a federally authorized tax practitioner and—

“(A) any person,

“(B) any director, officer, employee, agent, or representative of the person, or

“(C) any other person holding a capital or profits interest in the person, and

“(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

**SEC. 307. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

(a) **IN GENERAL.**—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

**“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

“(a) **IN GENERAL.**—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

“(1) information identifying and describing the transaction,

“(2) information describing any potential tax benefits expected to result from the transaction, and

“(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **MATERIAL ADVISOR.**—

“(A) **IN GENERAL.**—The term ‘material advisor’ means any person—

“(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

“(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

“(B) **THRESHOLD AMOUNT.**—For purposes of subparagraph (A), the threshold amount is—

“(i) \$50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

“(ii) \$250,000 in any other case.

“(2) **REPORTABLE TRANSACTION.**—The term ‘reportable transaction’ has the meaning given to such term by section 6707A(c).

“(c) **REGULATIONS.**—The Secretary may prescribe regulations which provide—

“(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

“(2) exemptions from the requirements of this section, and

“(3) such rules as may be necessary or appropriate to carry out the purposes of this section.”

(b) **CONFORMING AMENDMENTS.**—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6111. Disclosure of reportable transactions.”

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

**“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.**

“(a) **IN GENERAL.**—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

“(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

“(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.”

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting “written” before “request” in paragraph (1)(A), and

(ii) by striking “shall prescribe” in paragraph (2) and inserting “may prescribe”.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.”

(3)(A) The heading for section 6708 is amended to read as follows:

**“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.”**

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

“Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

**SEC. 308. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.**

(a) **IN GENERAL.**—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

**“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.**

“(a) **IN GENERAL.**—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

“(1) fails to file such return on or before the date prescribed therefor, or

“(2) files false or incomplete information with the Secretary with respect to such transaction, such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

“(b) **AMOUNT OF PENALTY.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be \$50,000.

“(2) **LISTED TRANSACTIONS.**—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

“(A) \$200,000, or

“(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting ‘75 percent’ for ‘50 percent’ in the case of an intentional failure or act described in subsection (a).

“(c) **RESCISSIION AUTHORITY.**—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

“(d) **REPORTABLE AND LISTED TRANSACTIONS.**—The terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).”

(b) **CLERICAL AMENDMENT.**—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking “tax shelters” and inserting “reportable transactions”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

**SEC. 309. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.**

(a) **IN GENERAL.**—Subsection (a) of section 6708 is amended to read as follows:

“(a) **IMPOSITION OF PENALTY.**—

“(1) **IN GENERAL.**—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary’s request, such person shall pay a penalty of \$10,000 for each day of such failure after such 20th day.

“(2) **REASONABLE CAUSE EXCEPTION.**—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

**SEC. 310. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.**

(a) **IN GENERAL.**—Section 7408 (relating to action to enjoin promoters of abusive tax shelters,

etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

“(a) **AUTHORITY TO SEEK INJUNCTION.**—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

“(b) **ADJUDICATION AND DECREE.**—In any action under subsection (a), if the court finds—

“(1) that the person has engaged in any specified conduct, and

“(2) that injunctive relief is appropriate to prevent recurrence of such conduct, the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

“(c) **SPECIFIED CONDUCT.**—For purposes of this section, the term ‘specified conduct’ means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.”

(b) **CONFORMING AMENDMENTS.**—

(1) The heading for section 7408 is amended to read as follows:

**“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.”**

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.”

(c) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

**SEC. 311. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.**

(a) **STANDARDS CONFORMED TO TAXPAYER STANDARDS.**—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking “realistic possibility of being sustained on its merits” in paragraph (1) and inserting “reasonable belief that the tax treatment in such position was more likely than not the proper treatment”,

(2) by striking “or was frivolous” in paragraph (3) and inserting “or there was no reasonable basis for the tax treatment of such position”, and

(3) by striking “UNREALISTIC” in the heading and inserting “IMPROPER”.

(b) **AMOUNT OF PENALTY.**—Section 6694 is amended—

(1) by striking “\$250” in subsection (a) and inserting “\$1,000”, and

(2) by striking “\$1,000” in subsection (b) and inserting “\$5,000”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

**SEC. 312. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.**

(a) **IN GENERAL.**—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

“(5) **FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.**—

“(A) **PENALTY AUTHORIZED.**—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

“(B) **AMOUNT OF PENALTY.**—

“(i) **IN GENERAL.**—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed \$5,000.

“(ii) **REASONABLE CAUSE EXCEPTION.**—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

“(I) such violation was due to reasonable cause, and

“(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

“(C) **WILLFUL VIOLATIONS.**—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

“(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

“(I) \$25,000, or

“(II) the amount (not exceeding \$100,000) determined under subparagraph (D), and

“(ii) subparagraph (B)(ii) shall not apply.

“(D) **AMOUNT.**—The amount determined under this subparagraph is—

“(i) in the case of a violation involving a transaction, the amount of the transaction, or

“(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

**SEC. 313. FRIVOLOUS TAX SUBMISSIONS.**

(a) **CIVIL PENALTIES.**—Section 6702 is amended to read as follows:

**“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

“(a) **CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.**—A person shall pay a penalty of \$5,000 if—

“(1) such person files what purports to be a return of a tax imposed by this title but which—

“(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

“(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

“(2) the conduct referred to in paragraph (1)—

“(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

“(B) reflects a desire to delay or impede the administration of Federal tax laws.

“(b) **CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.**—

“(1) **IMPOSITION OF PENALTY.**—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of \$5,000.

“(2) **SPECIFIED FRIVOLOUS SUBMISSION.**—For purposes of this section—

“(A) **SPECIFIED FRIVOLOUS SUBMISSION.**—The term ‘specified frivolous submission’ means a specified submission if any portion of such submission—

“(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

“(ii) reflects a desire to delay or impede the administration of Federal tax laws.

“(B) **SPECIFIED SUBMISSION.**—The term ‘specified submission’ means—

“(i) a request for a hearing under—

“(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

“(II) section 6330 (relating to notice and opportunity for hearing before levy), and

“(ii) an application under—

“(I) section 6159 (relating to agreements for payment of tax liability in installments),

“(II) section 7122 (relating to compromises), or

“(III) section 7811 (relating to taxpayer assistance orders).

“(3) **OPPORTUNITY TO WITHDRAW SUBMISSION.**—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

“(c) **LISTING OF FRIVOLOUS POSITIONS.**—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

“(d) **REDUCTION OF PENALTY.**—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

“(e) **PENALTIES IN ADDITION TO OTHER PENALTIES.**—The penalties imposed by this section shall be in addition to any other penalty provided by law.”

(b) **TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.**—

(1) **FRIVOLOUS REQUESTS DISREGARDED.**—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

“(g) **FRIVOLOUS REQUESTS FOR HEARING, ETC.**—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.”

(2) **PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.**—Section 6330(c)(4) is amended—

(A) by striking “(A)” and inserting “(A)(i)”;

(B) by striking “(B)” and inserting “(ii)”;

(C) by striking the period at the end of the first sentence and inserting “; or”; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

“(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).”

(3) **STATEMENT OF GROUNDS.**—Section 6330(b)(1) is amended by striking “under subsection (a)(3)(B)” and inserting “in writing under subsection (a)(3)(B) and states the grounds for the requested hearing”.

(c) **TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.**—Section 6320 is amended—

(1) in subsection (b)(1), by striking “under subsection (a)(3)(B)” and inserting “in writing under subsection (a)(3)(B) and states the grounds for the requested hearing”, and

(2) in subsection (c), by striking “and (e)” and inserting “(e), and (g)”.

(d) **TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.**—Section 7122 is amended by adding at the end the following new subsection:

“(e) **FRIVOLOUS SUBMISSIONS, ETC.**—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.”

(e) **CLERICAL AMENDMENT.**—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

“Sec. 6702. Frivolous tax submissions.”

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to submissions made

and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

**SEC. 314. PENALTY ON PROMOTERS OF TAX SHELTERS.**

(a) **PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.**—Section 6700(a) is amended by adding at the end the following new sentence: “Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

**SEC. 315. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.**

(a) **IN GENERAL.**—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

“(C) **LISTED TRANSACTIONS.**—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.”.

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

**SEC. 316. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) **IN GENERAL.**—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) **INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.**—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

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

“(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).”.

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

**Subtitle B—Enron-Related Tax Shelter Provisions**

**SEC. 321. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.**

(a) **IN GENERAL.**—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

“(e) **LIMITATIONS ON BUILT-IN LOSSES.**—

“(1) **LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.**—

“(A) **IN GENERAL.**—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property de-

scribed in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

“(B) **PROPERTY DESCRIBED.**—For purposes of subparagraph (A), property is described in this subparagraph if—

“(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

“(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner’s proportionate share of the property of such partnership.

“(C) **IMPORTATION OF NET BUILT-IN LOSS.**—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee’s aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.”.

“(2) **LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.**—

“(A) **IN GENERAL.**—If—

“(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

“(ii) the transferee’s aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee’s aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

“(B) **ALLOCATION OF BASIS REDUCTION.**—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

“(C) **EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.**—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor’s basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.”.

(b) **COMPARABLE TREATMENT WHERE LIQUIDATION.**—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

“(1) **IN GENERAL.**—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

“(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

“(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee’s aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to transactions after February 13, 2003.

**SEC. 322. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNER IN CORPORATE PARTNER.**

(a) **IN GENERAL.**—Section 755 is amended by adding at the end the following new subsection:

“(c) **NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.**—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

“(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

“(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distributions after February 13, 2003.

**SEC. 323. REPEAL OF SPECIAL RULES FOR FASITs.**

(a) **IN GENERAL.**—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (6) of section 56(g) is amended by striking “REMIC, or FASIT” and inserting “or REMIC”.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking “a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,” and inserting “or a REMIC to which part IV of subchapter M applies;”.

(3) Paragraph (1) of section 582(c) is amended by striking “, and any regular interest in a FASIT,”.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding “and” at the end of subparagraph (B), by striking “, and” at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking “REMIC, or FASIT” and inserting “or REMIC”.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding “and” at the end of clause (ix), by striking “, and” at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) **EXCEPTION FOR EXISTING FASITs.**—The amendments made by this section shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance of such interests.

**SEC. 324. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.**

(a) **IN GENERAL.**—Paragraph (2) of section 163(l) is amended by striking “or a related party” and inserting “or equity held by the issuer (or any related party) in any other person”.

(b) **EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.**—Section

163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

“(4) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term ‘disqualified debt instrument’ does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term ‘dealer in securities’ has the meaning given such term by section 475.”

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking “or a related party” in the material preceding subparagraph (A) and inserting “or any other person”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

**SEC. 325. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.**

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

“(a) IN GENERAL.—If—

“(1)(A) any person acquires stock in a corporation, or

“(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

“(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance, then the Secretary may disallow such deduction, credit, or other allowance.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

**SEC. 326. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.**

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence:

“Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

**SEC. 327. CONTROLLED ENTITIES INELIGIBLE FOR REIT STATUS.**

(a) IN GENERAL.—Subsection (a) of section 856 (relating to definition of real estate investment trust) is amended by striking “and” at the end of paragraph (6), by redesignating paragraph (7) as paragraph (8), and by inserting after paragraph (6) the following new paragraph:

“(7) which is not a controlled entity (as defined in subsection (l)); and”.

(b) CONTROLLED ENTITY.—Section 856 is amended by adding at the end the following new subsection:

“(l) CONTROLLED ENTITY.—

“(1) IN GENERAL.—For purposes of subsection (a)(7), an entity is a controlled entity if, at any time during the taxable year, one person (other than a qualified entity)—

“(A) in the case of a corporation, owns stock—

“(i) possessing at least 50 percent of the total voting power of the stock of such corporation, or

“(ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

“(B) in the case of a trust, owns beneficial interests in the trust which would meet the requirements of subparagraph (A) if such interests were stock.

“(2) QUALIFIED ENTITY.—For purposes of paragraph (1), the term ‘qualified entity’ means—

“(A) any real estate investment trust, and

“(B) any partnership in which one real estate investment trust owns at least 50 percent of the capital and profits interests in the partnership.

“(3) ATTRIBUTION RULES.—For purposes of this paragraphs (1) and (2)—

“(A) IN GENERAL.—Rules similar to the rules of subsections (d)(5) and (h)(3) shall apply; except that section 318(a)(3)(C) shall not be applied under such rules to treat stock owned by a qualified entity as being owned by a person which is not a qualified entity.

“(B) STAPLED ENTITIES.—A group of entities which are stapled entities (as defined in section 269B(c)(2)) shall be treated as one person.

“(4) EXCEPTION FOR CERTAIN NEW REITS.—

“(A) IN GENERAL.—The term ‘controlled entity’ shall not include an incubator REIT.

“(B) INCUBATOR REIT.—A corporation shall be treated as an incubator REIT for any taxable year during the eligibility period if it meets all the following requirements for such year:

“(i) The corporation elects to be treated as an incubator REIT.

“(ii) The corporation has only voting common stock outstanding.

“(iii) Not more than 50 percent of the corporation’s real estate assets consist of mortgages.

“(iv) From not later than the beginning of the last half of the second taxable year, at least 10 percent of the corporation’s capital is provided by lenders or equity investors who are unrelated to the corporation’s largest shareholder.

“(v) The corporation annually increases the value of its real estate assets by at least 10 percent.

“(vi) The directors of the corporation adopt a resolution setting forth an intent to engage in a going public transaction.

No election may be made with respect to any REIT if an election under this subsection was in effect for any predecessor of such REIT.

“(C) ELIGIBILITY PERIOD.—

“(i) IN GENERAL.—The eligibility period (for which an incubator REIT election can be made) begins with the REIT’s second taxable year and ends at the close of the REIT’s third taxable year, except that the REIT may, subject to clauses (ii), (iii), and (iv), elect to extend such period for an additional 2 taxable years.

“(ii) GOING PUBLIC TRANSACTION.—A REIT may not elect to extend the eligibility period under clause (i) unless it enters into an agreement with the Secretary that if it does not engage in a going public transaction by the end of the extended eligibility period, it shall pay Federal income taxes for the 2 years of the extended eligibility period as if it had not made an incubator REIT election and had ceased to qualify as a REIT for those 2 taxable years.

“(iii) RETURNS, INTEREST, AND NOTICE.—

“(I) RETURNS.—In the event the corporation ceases to be treated as a REIT by operation of clause (ii), the corporation shall file any appropriate amended returns reflecting the change in status within 3 months of the close of the extended eligibility period.

“(II) INTEREST.—Interest shall be payable on any tax imposed by reason of clause (ii) for any taxable year but, unless there was a finding under subparagraph (D), no substantial underpayment penalties shall be imposed.

“(III) NOTICE.—The corporation shall, at the same time it files its returns under subclause (I), notify its shareholders and any other persons whose tax position is, or may reasonably be expected to be, affected by the change in status so they also may file any appropriate amended re-

turns to conform their tax treatment consistent with the corporation’s loss of REIT status.

“(IV) REGULATIONS.—The Secretary shall provide appropriate regulations setting forth transferee liability and other provisions to ensure collection of tax and the proper administration of this provision.

“(iv) Clauses (ii) and (iii) shall not apply if the corporation allows its incubator REIT status to lapse at the end of the initial 2-year eligibility period without engaging in a going public transaction if the corporation is not a controlled entity as of the beginning of its fourth taxable year. In such a case, the corporation’s directors may still be liable for the penalties described in subparagraph (D) during the eligibility period.

“(D) SPECIAL PENALTIES.—If the Secretary determines that an incubator REIT election was filed for a principal purpose other than as part of a reasonable plan to undertake a going public transaction, an excise tax of \$20,000 shall be imposed on each of the corporation’s directors for each taxable year for which an election was in effect.

“(E) GOING PUBLIC TRANSACTION.—For purposes of this paragraph, a going public transaction means—

“(i) a public offering of shares of the stock of the incubator REIT;

“(ii) a transaction, or series of transactions, that results in the stock of the incubator REIT being regularly traded on an established securities market and that results in at least 50 percent of such stock being held by shareholders who are unrelated to persons who held such stock before it began to be so regularly traded; or

“(iii) any transaction resulting in ownership of the REIT by 200 or more persons (excluding the largest single shareholder) who in the aggregate own at least 50 percent of the stock of the REIT.

For the purposes of this subparagraph, the rules of paragraph (3) shall apply in determining the ownership of stock.

“(F) DEFINITIONS.—The term ‘established securities market’ shall have the meaning set forth in the regulations under section 897.”

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 856(h) is amended by striking “and (6)” each place it appears and inserting “, (6), and (7)”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after May 8, 2003.

(2) EXCEPTION FOR EXISTING CONTROLLED ENTITIES.—The amendments made by this section shall not apply to any entity which is a controlled entity (as defined in section 856(l) of the Internal Revenue Code of 1986, as added by this section) as of May 8, 2003, which is a real estate investment trust for the taxable year which includes such date, and which has significant business assets or activities as of such date. For purposes of the preceding sentence, an entity shall be treated as such a controlled entity on May 8, 2003, if it becomes such an entity after such date in a transaction—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter, or

(B) described on or before such date in a filing with the Securities and Exchange Commission required solely by reason of the transaction.

**Subtitle C—Other Corporate Governance Provisions**

**PART I—GENERAL PROVISIONS**

**SEC. 331. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.**

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: “In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this

title that would apply if such corporations filed separate returns.”.

(b) **RESULT NOT OVERTURNED.**—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) **EFFECTIVE DATE.**—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

**SEC. 332. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.**

(a) **IN GENERAL.**—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: “The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

**SEC. 333. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) **IN GENERAL.**—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

“(f) **FINES, PENALTIES, AND OTHER AMOUNTS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (3) in relation to the violation of any law or the investigation or inquiry into the potential violation of any law.

“(2) **EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.**—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

“(3) **CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.**—An entity is described in this paragraph if it is—

“(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

“(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

**SEC. 334. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) **DISALLOWANCE OF DEDUCTION.**—

(1) **IN GENERAL.**—Section 162(g) (relating to triple damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

“(2) **PUNITIVE DAMAGES.**—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in con-

nection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 162(g) is amended—

(i) by striking “If” and inserting:

“(1) **TREBLE DAMAGES.**—If”, and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting “OR PUNITIVE DAMAGES” after “LAWS”.

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

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

**“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

“Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer’s liability (or agreement) to pay punitive damages.”.

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

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

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

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

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

**SEC. 335. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.**

(a) **IN GENERAL.**—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking “Any person who—” and inserting “(a) **IN GENERAL.**—Any person who—”, and

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

“(b) **INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.**—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.”.

(b) **INCREASE IN PENALTIES.**—

(1) **ATTEMPT TO EVADE OR DEFEAT TAX.**—Section 7201 is amended—

(A) by striking “\$100,000” and inserting “\$250,000”,

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

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

(2) **WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.**—Section 7203 is amended—

(A) in the first sentence—

(i) by striking “misdemeanor” and inserting “felony”, and

(ii) by striking “1 year” and inserting “10 years”, and

(B) by striking the third sentence.

(3) **FRAUD AND FALSE STATEMENTS.**—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking “\$100,000” and inserting “\$250,000”,

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

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

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

**PART II—EXECUTIVE COMPENSATION REFORM**

**SEC. 336. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION FUNDED WITH ASSETS LOCATED OUTSIDE THE UNITED STATES.**

(a) **IN GENERAL.**—Section 83(c) (relating to special rules for property transferred in connection with performance of services) is amended by adding at the end the following new paragraph:

“(4) **FOREIGN ASSETS FUNDING NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.**—

“(A) **IN GENERAL.**—In determining whether there is a transfer of property for purposes of subsection (a), if assets are—

“(i) designated or otherwise available for the payment of nonqualified deferred compensation, and

“(ii) located outside the United States, such assets shall not be treated as subject to the claims of creditors.

“(B) **COMPENSATION FOR SERVICES PERFORMED IN FOREIGN JURISDICTION.**—Subparagraph (A) shall not apply to assets located in a foreign jurisdiction if substantially all of the services to which the nonqualified deferred compensation relates are performed in such jurisdiction.

“(C) **REGULATIONS.**—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this paragraph, including regulations to exempt arrangements from the application of this paragraph if—

“(i) the arrangement will not result in an improper deferral of United States tax, and

“(ii) the assets involved in the arrangement will be readily accessible in any insolvency or bankruptcy proceeding.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts deferred in taxable years beginning after December 31, 2003.

**SEC. 337. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS.**

(a) **IN GENERAL.**—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following new section:

**“SEC. 409A. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS.**

“(a) **IN GENERAL.**—If an employer maintains a funded deferred compensation plan—

“(1) compensation of any disqualified individual which is deferred under such funded deferred compensation plan shall be included in the gross income of the disqualified individual or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

“(2) the tax treatment of any amount made available under the plan to a disqualified individual or beneficiary shall be determined under section 72 (relating to annuities, etc.).

“(b) **FUNDED DEFERRED COMPENSATION PLAN.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘funded deferred compensation plan’ means any plan providing for the deferral of compensation unless—

“(A) the employee’s rights to the compensation deferred under the plan are no greater than the rights of a general creditor of the employer, and

“(B) all amounts set aside (directly or indirectly) for purposes of paying the deferred compensation, and all income attributable to such amounts, remain (until made available to the participant or other beneficiary) solely the property of the employer (without being restricted to the provision of benefits under the plan),

“(C) the amounts referred to in subparagraph (B) are available to satisfy the claims of the employer’s general creditors at all times (not merely after bankruptcy or insolvency), and

“(D) the investment options which a participant may elect under the plan are the same as the investment options which a participant may elect under the qualified employer plan of the employer which has the fewest investment options.

Such term shall not include a qualified employer plan.

“(2) SPECIAL RULES.—

“(A) EMPLOYEE’S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(A) unless—

“(i) the compensation deferred under the plan is payable only upon separation from service, death, disability (within the meaning of section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3))), or at a specified time (or pursuant to a fixed schedule), and

“(ii) the plan does not permit the acceleration of the time such deferred compensation is payable by reason of any event.

If the employer and employee agree to a modification of the plan that accelerates the time for payment of any deferred compensation, then all compensation previously deferred under the plan shall be includible in gross income for the taxable year during which such modification takes effect and the taxpayer shall pay interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income on the earliest date that there is no substantial risk of forfeiture of the rights to such compensation.

“(B) CREDITOR’S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(B) with respect to amounts set aside in a trust unless—

“(i) the employee has no beneficial interest in the trust,

“(ii) assets in the trust are available to satisfy claims of general creditors at all times (not merely after bankruptcy or insolvency), and

“(iii) there is no factor that would make it more difficult for general creditors to reach the assets in the trust than it would be if the trust assets were held directly by the employer in the United States.

Except as provided in regulations prescribed by the Secretary, such a factor shall include the location of the trust outside the United States unless substantially all of the services to which the nonqualified deferred compensation relates are performed outside the United States. Such regulations may exempt any such trust if the trust will not result in an improper deferral of United States tax, and the assets involved in the trust will be readily accessible in any insolvency or bankruptcy proceeding.

“(c) DISQUALIFIED INDIVIDUAL.—For purposes of this section, the term ‘disqualified individual’ means, with respect to a corporation, any individual—

“(1) who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

“(2) who would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

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

“(1) QUALIFIED EMPLOYER PLAN.—The term ‘qualified employer plan’ means—

“(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

“(B) any other plan of an organization exempt from tax under subtitle A.

“(2) PLAN INCLUDES ARRANGEMENTS, ETC.—The term ‘plan’ includes any agreement or arrangement.

“(3) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person’s

rights to such compensation are conditioned upon the future performance of substantial services by any individual.

“(4) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income attributable to such compensation or such income.”.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

“Sec. 409A. Inclusion in gross income of funded deferred compensation of corporate insiders.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts deferred in taxable years beginning after December 31, 2003.

**SEC. 338. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.**

(a) IN GENERAL.—Section 83 (relating to property transferred in connection with performance of services) is amended by adding at the end the following new subsection:

“(i) PROHIBITION ON ADDITIONAL DEFERRAL THROUGH DEFERRED COMPENSATION ARRANGEMENTS.—If a taxpayer elects to exchange an option to purchase employer securities—

“(1) to which subsection (a) applies, or

“(2) which is described in subsection (e)(3), or any other compensation based on employer securities, for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term ‘employer securities’ has the meaning given such term by section 409(l).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any exchange after December 31, 2003.

**SEC. 339. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS IN EXCESS OF \$1,000,000.**

(a) IN GENERAL.—If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent (or the corresponding rate in effect under section 1(i)(2) of the Internal Revenue Code of 1986 for taxable years beginning in the calendar year in which the payment is made).

(b) SPECIAL RULE FOR LARGE PAYMENTS.—

(1) IN GENERAL.—Notwithstanding subsection (a), if the supplemental wage payment, when added to all such payments previously made by the employer to the employee during the calendar year, exceeds \$1,000,000, the rate used with respect to such excess shall be equal to the maximum rate of tax in effect under section 1 of such Code for taxable years beginning in such calendar year.

(2) AGGREGATION.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subsection.

(c) CONFORMING AMENDMENT.—Section 13273 of the Revenue Reconciliation Act of 1993 (Public Law 103–66) is repealed.

(d) EFFECTIVE DATE.—The provisions of, and the amendment made by, this section shall apply to payments made after December 31, 2003.

**Subtitle D—International Provisions  
PART I—PROVISIONS TO DISCOURAGE  
EXPATRIATION**

**SEC. 340. REVISION OF TAX RULES ON EXPATRIATION.**

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

**“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

“(a) GENERAL RULES.—For purposes of this subtitle—

“(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

“(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

“(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

“(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

“(3) EXCLUSION FOR CERTAIN GAIN.—

“(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by \$600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

“(B) COST-OF-LIVING ADJUSTMENT.—

“(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the \$600,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting ‘calendar year 2002’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of \$1,000, such amount shall be rounded to the next lower multiple of \$1,000.

“(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

“(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

“(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

“(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

“(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

“(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

“(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

“(iii) complies with such other requirements as the Secretary may prescribe.

“(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

“(b) ELECTION TO DEFER TAX.—

“(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed

until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

“(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

“(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

“(4) SECURITY.—

“(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

“(7) INTEREST.—For purposes of section 6601—

“(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

“(B) section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(c) COVERED EXPATRIATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘covered expatriate’ means an expatriate.

“(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

“(A) the individual—

“(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

“(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

“(B)(i) the individual’s relinquishment of United States citizenship occurs before such individual attains age 18½, and

“(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

“(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

“(1) EXEMPT PROPERTY.—This section shall not apply to the following:

“(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

“(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

“(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

“(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

“(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

“(ii) an amount equal to the present value of the expatriate’s nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

“(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

“(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan’s behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

“(D) APPLICABLE PLANS.—This paragraph shall apply to—

“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

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

“(1) EXPATRIATE.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

“(2) EXPATRIATION DATE.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual’s United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen’s certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) LONG-TERM RESIDENT.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’ INTERESTS IN TRUST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,

“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual’s share in the trust.

“(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

“(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

“(i) paragraph (1) and subsection (a) shall not apply, and

“(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

“(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

“(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

“(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

“(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

“(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

“(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the

expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States."

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country."

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation)."

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E)."

**(B) SAFEGUARDS.—**

(i) **TECHNICAL AMENDMENTS.**—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961), is amended by striking “or (17)” after “any other person described in subsection (1)(16)” each place it appears and inserting “or (18)”.

(ii) **CONFORMING AMENDMENTS.**—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking “or (18)” after “any other person described in subsection (1)(16)” each place it appears and inserting “(18), or (19)”.

**(3) EFFECTIVE DATES.—**

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) **TECHNICAL AMENDMENTS.**—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961).

**(e) CONFORMING AMENDMENTS.—**

(1) Section 877 is amended by adding at the end the following new subsection:

“(g) **APPLICATION.**—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.”.

(2) Section 2107 is amended by adding at the end the following new subsection:

“(f) **APPLICATION.**—This section shall not apply to any expatriate subject to section 877A.”.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

“(F) **APPLICATION.**—This paragraph shall not apply to any expatriate subject to section 877A.”.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting “or 877A” after “section 877”.

(B) The second sentence of section 6039G(e) is amended by inserting “or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))” after “877(a)”.

(C) Section 6039G(f) is amended by inserting “or 877A(e)(2)(B)” after “877(e)(1)”.

(f) **CLERICAL AMENDMENT.**—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

**(g) EFFECTIVE DATE.—**

(1) **IN GENERAL.**—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) **GIFTS AND BEQUESTS.**—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) **DUE DATE FOR TENTATIVE TAX.**—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

**SEC. 341. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.**

(a) **IN GENERAL.**—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

**“SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.**

“(a) **INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.**—

“(1) **IN GENERAL.**—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

“(2) **INVERTED DOMESTIC CORPORATION.**—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

“(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

“(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

“(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

“(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

“(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation’s stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

“(b) **PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.**—

“(1) **IN GENERAL.**—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

“(A) subsection (a)(2)(A) were applied by substituting ‘after December 31, 1996, and on or before March 20, 2002’ for ‘after March 20, 2002’ and subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’, or

“(B) subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’, then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

“(2) **ACQUIRED ENTITY.**—For purposes of this section—

“(A) **IN GENERAL.**—The term ‘acquired entity’ means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

“(B) **AGGREGATION RULES.**—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

“(3) **APPLICABLE PERIOD.**—For purposes of this section—

“(A) **IN GENERAL.**—The term ‘applicable period’ means the period—

“(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

“(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

“(B) **SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.**—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

“(c) **TAX ON INVERSION GAINS MAY NOT BE OFFSET.**—If subsection (b) applies—

“(1) **IN GENERAL.**—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

“(2) **CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.**—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

“(A) the amount of the inversion gain for the taxable year, and

“(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

“(3) **SPECIAL RULES FOR PARTNERSHIPS.**—In the case of an acquired entity which is a partnership—

“(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

“(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

“(i) the partner’s distributive share of inversion gain of the partnership for such taxable year, plus

“(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

“(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

“(4) **INVERSION GAIN.**—For purposes of this section, the term ‘inversion gain’ means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

“(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

“(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

“(5) **COORDINATION WITH SECTION 172 AND MINIMUM TAX.**—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

“(6) **STATUTE OF LIMITATIONS.**—

“(A) **IN GENERAL.**—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term ‘pre-inversion year’ means any taxable year if—

“(i) any portion of the applicable period is included in such taxable year, and

“(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

“(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

“(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

“(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

“(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

“(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

“(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

“(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

“(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

“(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

“(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

“(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

“(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term ‘approval agreement’ means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

“(E) TAX COURT REVIEW.—

“(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

“(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

“(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

“(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

“(A) without regard to paragraph (2)(A)(ii) thereof, and

“(B) by substituting ‘25 percent’ for ‘50 percent’ each place it appears in paragraph (2)(B) thereof.

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

“(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

“(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

“(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

“(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

“(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

“(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

“(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

“(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

“(ii) to treat stock as not stock.

“(2) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(3) FOREIGN INCORPORATED ENTITY.—The term ‘foreign incorporated entity’ means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

“(4) FOREIGN RELATED PERSON.—The term ‘foreign related person’ means, with respect to any acquired entity, a foreign person which—

“(A) bears a relationship to such entity described in section 267(b) or 707(b), or

“(B) is under the same common control (within the meaning of section 482) as such entity.

“(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

“(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

“(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

“(i) before such transaction the domestic corporation did not have a relationship described

in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

“(ii) after such transaction, such acquired entity—

“(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

“(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

“(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

“(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

“(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.”

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking “and” at the end of subparagraph (C), by inserting “and” at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

“(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement.”

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking “or (D)” and inserting “(D), or (E)”.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary’s authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

“Sec. 7874. Rules relating to inverted corporate entities.”

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code

with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

**SEC. 342. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.**

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

**“CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS**

“Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

**“SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.**

“(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual’s family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

“(b) VALUE.—For purposes of subsection (a)—

“(1) IN GENERAL.—The value of specified stock compensation shall be—

“(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

“(B) in any other case, the fair market value of such compensation.

“(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

“(A) in the case of specified stock compensation held on the inversion date, on such date,

“(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

“(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

“(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with respect to such corporation.

“(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

“(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

“(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

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

“(1) DISQUALIFIED INDIVIDUAL.—The term ‘disqualified individual’ means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

“(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

“(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

“(2) INVERTED CORPORATION; INVERSION DATE.—

“(A) INVERTED CORPORATION.—The term ‘inverted corporation’ means any corporation to which subsection (a) or (b) of section 7874 applies determined—

“(i) by substituting ‘July 10, 2002’ for ‘March 20, 2002’ in section 7874(a)(2)(A), and

“(ii) without regard to subsection (b)(1)(A). Such term includes any predecessor or successor of such a corporation.

“(B) INVERSION DATE.—The term ‘inversion date’ means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

“(3) SPECIFIED STOCK COMPENSATION.—

“(A) IN GENERAL.—The term ‘specified stock compensation’ means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

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

“(i) any option to which part II of subchapter D of chapter 1 applies, or

“(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

“(4) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(f) SPECIAL RULES.—For purposes of this section—

“(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

“(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

“(A) shall be treated as specified stock compensation, and

“(B) shall not be allowed as a deduction under any provision of chapter 1.

“(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

“(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

“(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

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

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting “48,” after “46.”.

(2) \$1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

“(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affil-

ated group (as defined in such section) which includes such corporation.”.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period “or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A”.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

“Chapter 48. Stock compensation of insiders in inverted corporations.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

**SEC. 343. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.**

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking “source and character” and inserting “amount, source, or character”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

**PART II—OTHER PROVISIONS**

**SEC. 344. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury’s Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury’s voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer’s underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1), then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term “applicable penalty” means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term “Voluntary Offshore Compliance Initiative” means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest penalties, additions to tax, and fines with respect to any taxable year if as of May 8, 2003, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 345. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.**

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

“Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.”.

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

**SEC. 346. DETERMINATION OF BASIS OF AMOUNTS PAID FROM FOREIGN PENSION PLANS.**

(a) IN GENERAL.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (w) as subsection (x) by inserting subsection (v) the following new subsection:

“(v) DETERMINATION OF BASIS OF FOREIGN PENSION PLANS.—Notwithstanding any other provision of this section, for purposes of determining the portion of any distribution from a foreign pension plan which is includible in gross income of the distributee, the investment in the contract with respect to the plan shall not include employer or employee contributions to the plan (or any earnings on such contributions) unless such contributions or earnings were subject to taxation by the United States or any foreign government.”.

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

**SEC. 347. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.**

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amended by adding at the end the following new subparagraph:

“(D) APPLICATION TO DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.”.

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

**SEC. 348. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.**

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—Notwithstanding subparagraph (A) (and any regulations thereunder), in the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year only to the extent such original issue discount is included during such taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such cor-

poration. For purposes of this subparagraph, the determination as to the proper allocation of the original issue discount to shareholders shall be made in such manner as the Secretary may prescribe.”.

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking “The Secretary” and inserting:

“(A) IN GENERAL.—The Secretary”, and

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

“(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—Notwithstanding any regulations issued under subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year only to the extent such amount is included during such taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation. For purposes of this subparagraph, the determination as to the proper allocation of such amount to shareholders shall be made in such manner as the Secretary may prescribe.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after May 8, 2003.

**SEC. 349. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.**

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.”.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

**SEC. 350. REPEAL OF EARNED INCOME EXCLUSION OF CITIZENS OR RESIDENTS LIVING ABROAD.**

(a) REPEAL.—Section 911 (relating to citizens or residents living abroad) is amended by adding at the end the following new subsection:

“(g) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2003.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**Subtitle E—Other Revenue Provisions**

**SEC. 351. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.**

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

“(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

“(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

“(2) other similar requests.

“(b) PROGRAM CRITERIA.—

“(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

“(A) shall vary according to categories (or subcategories) established by the Secretary,

“(B) shall be determined after taking into account the average time for (and difficulty of)

complying with requests in each category (and subcategory), and

“(C) shall be payable in advance.

“(2) EXEMPTIONS, ETC.—

“(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

“(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

“(i) made after the later of—

“(I) the fifth plan year the pension benefit plan is in existence, or

“(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

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

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

“(i) PENSION BENEFIT PLAN.—The term ‘pension benefit plan’ means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

“(ii) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

“(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

“(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion .....	\$250
Exempt organization ruling .....	\$350
Employee plan determination .....	\$300
Exempt organization determination ...	\$275
Chief counsel ruling .....	\$200.

“(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

“Sec. 7528. Internal Revenue Service user fees.”.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

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

**SEC. 352. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.**

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and

by inserting after subparagraph (H) the following new subparagraph:

“(I) Any vaccine against hepatitis A.”.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking “October 18, 2000” and inserting “May 8, 2003”.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

**SEC. 353. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.**

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following:

“(C) if any property so contributed has a built-in loss—

“(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

“(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term ‘built-in loss’ means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution.”.

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period “or unless the partnership has a substantial built-in loss immediately after such transfer”.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting “or with respect to which there is a substantial built-in loss immediately after such transfer” after “section 754 is in effect”.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

“(d) SUBSTANTIAL BUILT-IN LOSS.—

“(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner’s proportionate share of the adjusted basis of the partnership property exceeds by more than \$250,000 the basis of such partner’s interest in the partnership.

“(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes.”.

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

**“SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.”.**

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

“Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.”.

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period “or unless there is a substantial basis reduction”.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting “or unless there is a substantial basis reduction” after “section 754 is in effect”.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

“(d) SUBSTANTIAL BASIS REDUCTION.—

“(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds \$250,000.

“(2) REGULATIONS.—

**“For regulations to carry out this subsection, see section 743(d)(2).”.**

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

**“SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.”.**

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

“Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.”.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

**SEC. 354. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.**

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.”.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

“(7) CROSS REFERENCE.—

**“For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).”.**

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

**SEC. 355. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.**

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

**“SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.**

“(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return

(according to the forms or regulations prescribed by the Secretary) setting forth—

“(1) a description of the acquisition,

“(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

“(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

“(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

(c) TAXABLE ACQUISITION.—For purposes of this section, the term ‘taxable acquisition’ means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

“(1) the name, address, and phone number of the information contact of the person required to make such return,

“(2) the information required to be shown on such return with respect to such shareholder, and

“(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.”.

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (vii) as clauses (iii) through (viii), respectively, and by inserting after clause (i) the following new clause:

“(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions).”.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

“(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

“Sec. 6043A. Returns relating to taxable mergers and acquisitions.”.

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

**SEC. 356. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.**

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

“(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

“(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on

any item of income or gain with respect to any property if—

“(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

“(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property. This paragraph shall not apply to any dividend to which subsection (k) applies.

“(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

“(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term ‘qualified tax’ means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

“(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

“(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

“(C) DEALER.—For purposes of subparagraph (A), the term ‘dealer’ means—

“(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

“(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

“(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

“(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

“(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

“(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.”.

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting “ON DIVIDENDS” after “TAXES”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

**SEC. 357. QUALIFIED TAX COLLECTION CONTRACTS.**

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

“**SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.**

“(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

“(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term ‘qualified tax collection contract’ means any contract which—

“(1) is for the services of any person (other than an officer or employee of the Treasury Department) to locate and contact any taxpayer

specified by the Secretary, to request payment from such taxpayer of an amount of Federal tax specified by the Secretary, and to obtain financial information specified by the Secretary with respect to such taxpayer, and

“(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services.

“(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

“(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

“(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by any provision of this title.

“(f) CROSS REFERENCES.—

“(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

“(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).”.

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting “6306,” before “7651”.

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

“Sec. 6306. Qualified Tax Collection Contracts.”.

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

“**SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.**

“(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

“(b) MODIFICATIONS.—For purposes of subsection (a)—

“(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

“(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

“(3) Such civil action shall not be an exclusive remedy with respect to such person.

“(4) Subsections (c) and (d)(1) of section 7433 shall not apply.”.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

“Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.”.

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

“(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.”.

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

“(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.”.

(e) EFFECTIVE DATE.—The amendments made to this section shall take effect on the date of the enactment of this Act.

**SEC. 358. EXTENSION OF CUSTOMS USER FEES.**

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended by striking “September 30, 2003” and inserting “September 30, 2013”.

**SEC. 359. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.**

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

“(A) Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if—

“(i) the gross receipts for the taxable year do not exceed \$600,000, and

“(ii) more than 50 percent of such gross receipts consist of premiums.”.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting “, except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded” before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking “exceed \$350,000 but”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 360. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking “satisfy liability for payment of” and inserting “make payment on”, and

(B) by inserting “full or partial” after “facilitate”.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting “full” before “payment”.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d)

and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

“(d) **SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.**—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

**SEC. 361. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.**

(a) **IN GENERAL.**—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) **CONFORMING AMENDMENTS.**—

(1)(A) **SECTION 1056** (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

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

**SEC. 362. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.**

(a) **IN GENERAL.**—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

**“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.**

“(a) **AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.**—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

“(b) **NO INTEREST IMPOSED.**—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

“(c) **RETURN OF DEPOSIT.**—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

“(d) **PAYMENT OF INTEREST.**—

“(1) **IN GENERAL.**—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

“(2) **DISPUTABLE TAX.**—

“(A) **IN GENERAL.**—For purposes of this section, the term ‘disputable tax’ means the amount of tax specified at the time of the deposit as the taxpayer’s reasonable estimate of the maximum amount of any tax attributable to disputable items.

“(B) **SAFE HARBOR BASED ON 30-DAY LETTER.**—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

“(3) **OTHER DEFINITIONS.**—For purposes of paragraph (2)—

“(A) **DISPUTABLE ITEM.**—The term ‘disputable item’ means any item of income, gain, loss, deduction, or credit if the taxpayer—

“(i) has a reasonable basis for its treatment of such item, and

“(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer’s treatment of such item.

“(B) **30-DAY LETTER.**—The term ‘30-day letter’ means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

“(4) **RATE OF INTEREST.**—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

“(e) **USE OF DEPOSITS.**—

“(1) **PAYMENT OF TAX.**—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

“(2) **RETURNS OF DEPOSITS.**—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.”

(b) **CLERICAL AMENDMENT.**—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

“Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.”

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) **COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84-58.**—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84-58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

**SEC. 363. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.**

(a) **IN GENERAL.**—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: “The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

**SEC. 364. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.**

(a) **IN GENERAL.**—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking “or” at the end of clause (i), by adding “or” at the end of clause (ii), and by inserting after clause (ii) the following new clause:

“(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property.”

(b) **ANTI-ABUSE RULES.**—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable de-

duction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to contributions made after May 7, 2003.

**SEC. 365. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.**

(a) **AMENDMENT OF INTERNAL REVENUE CODE OF 1986.**—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking “December 31, 2005” and inserting “December 31, 2013”.

(b) **AMENDMENTS OF ERISA.**—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking “Tax Relief Extension Act of 1999” and inserting “Jobs and Growth Tax Relief Reconciliation Act of 2003”.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking “Tax Relief Extension Act of 1999” and inserting “Jobs and Growth Tax Relief Reconciliation Act of 2003”.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking “January 1, 2006” and inserting “January 1, 2014”, and

(B) by striking “Tax Relief Extension Act of 1999” and inserting “Jobs and Growth Tax Relief Reconciliation Act of 2003”.

**SEC. 366. PRORATION RULES FOR LIFE INSURANCE BUSINESS OF PROPERTY AND CASUALTY INSURANCE COMPANIES.**

(a) **IN GENERAL.**—Section 832(b)(4) (defining premiums earned) is amended—

(1) by inserting “, except that any deduction attributable to such reserves shall be reduced in the same manner as the deductions provided by sections 243, 244, and 245 for a life insurance company are reduced under section 805(a)(4)” before the period at the end of the first sentence following subparagraph (C), and

(2) by adding at the end the following new sentence: “In applying section 812(d) for purposes of the reduction under the third preceding sentence, only gross investment income attributable to the reserves described in such sentence shall be taken into account.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 367. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.**

(a) **IN GENERAL.**—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: “In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the money or other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.”

(b) **LIABILITIES IN EXCESS OF BASIS.**—Section 357(c)(1)(B) is amended by inserting “with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355” after “section 368(a)(1)(D)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

**SEC. 368. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT’S INCOME.**

(a) **IN GENERAL.**—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking “age 14” and inserting “age 18”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 369. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

“(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

“(i) the amount of start-up expenditures with respect to the active trade or business, or

“(ii) \$5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed \$50,000, and

“(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.”.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking “AMORTIZE” and inserting “DEDUCT” in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

“(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

“(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

“(A) the amount of organizational expenditures with respect to the taxpayer, or

“(B) \$5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed \$50,000, and

“(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.”.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

“(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

“(i) the amount of organizational expenses with respect to the partnership, or

“(ii) \$5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed \$50,000, and

“(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

“(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.”.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking “AMORTIZATION” and inserting “DEDUCTION” in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 370. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: “Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 371. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) initial clearing and grading land improvements with respect to gas utility property.”

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

“(F) 20-YEAR PROPERTY.—The term ‘20-year property’ means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.”

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting “or (E)(iv)” after “(E)(iii)”, and

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

“(F) ..... 25”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 372. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

“(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

“(1) IN GENERAL.—Subsection (a) and section 331 shall not apply to any distribution in complete liquidation of an applicable holding company to the extent of the earnings and profits of such company.

“(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘applicable holding company’ means any corporation—

“(i) which is a member of a chain of includible corporations with a common parent which is a foreign corporation,

“(ii) the stock of which is directly owned by such common parent or another foreign corporation,

“(iii) substantially all of the assets of which consist of stock in other members of such chain of corporations, and

“(iv) which has not been in existence at least 5 years as of the date of the liquidation.

“(B) INCLUDIBLE CORPORATION.—The term ‘includible corporation’ has the meaning given such term under section 1504(b) (without regard to paragraph (3) thereof).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring after the date of the enactment of this Act.

SEC. 373. LEASE TERM TO INCLUDE CERTAIN SERVICE CONTRACTS.

(a) IN GENERAL.—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR SERVICE CONTRACTS.—In determining a lease term, there shall be taken into account any optional service contract or other similar arrangement.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to leases entered into after the date of the enactment of this Act.

SEC. 374. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

“(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the exchange to which section 1031 applied.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

Subtitle F—Other Provisions

SEC. 381. TEMPORARY STATE AND LOCAL FISCAL RELIEF.

(a) \$10,000,000,000 FOR A TEMPORARY INCREASE OF THE MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State’s FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR 2004.—Subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State’s FMAP for the first, second, and third calendar quarters of fiscal year 2004, before the application of this subsection.

(3) GENERAL 2.95 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2004.—Subject to paragraphs (5), (6), and (7), for each State for the third and fourth calendar quarters of fiscal year 2003 and for the first, second, and third calendar quarters of fiscal year 2004, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 2.95 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to paragraphs (6) and (7), with respect to the third and fourth calendar quarters of fiscal year 2003 and the first, second, and third calendar quarters of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 5.90 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4);

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(C) any payments under XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of

the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State shall not require that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for the third and fourth calendar quarters of fiscal year 2003 and the first, second and third calendar quarters of fiscal year 2004, than the percentage that was required by the State under such plan on April 1, 2003, prior to application of this subsection.

(8) DEFINITIONS.—In this subsection:

(A) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(9) REPEAL.—Effective as of October 1, 2004, this subsection is repealed.

(b) \$10,000,000,000 FOR ASSISTANCE IN PROVIDING GOVERNMENT SERVICES.—

(I) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary shall establish a program under which the Secretary shall make a payment to each State in accordance with paragraph (2) and each unit of general local government which qualifies for a payment under paragraph (3).

(B) REQUIREMENT.—In making payments under this subsection, the Secretary shall ensure that not more than 72.70 percent of the amount appropriated under subparagraph (C) is paid in fiscal year 2003.

(C) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments under this subsection, \$10,000,000,000. Amounts appropriated under this subparagraph shall remain available for expenditure through September 30, 2004.

(2) \$6,000,000,000 PAID TO STATES.—

(A) AMOUNT OF PAYMENT.—

(i) BASED ON POPULATION.—Subject to clause (ii), \$6,000,000,000 of the amount appropriated under paragraph (1)(C) shall be used to pay each State an amount equal to the relative population proportion amount described in clause (iii).

(ii) MINIMUM PAYMENT.—

(I) IN GENERAL.—No State shall receive a payment under this paragraph that is less than—

(aa) in the case of any of the several States or the District of Columbia, \$30,000,000; and

(bb) in the case of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, \$6,000,000.

(II) PRO RATA ADJUSTMENTS.—The Secretary shall adjust on a pro rata basis the amount of the payments to States determined under this subparagraph to the extent necessary to comply with the requirements of subclause (I).

(iii) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this clause is the product of—

(I) \$6,000,000,000; and

(II) the relative State population proportion (defined in clause (iv)).

(iv) RELATIVE STATE POPULATION PROPORTION DEFINED.—For purposes of clause (iii)(II), the term "relative State population proportion" means, with respect to a State, the amount equal to the quotient of—

(I) the population of the State (as reported in the most recent decennial census); and

(II) the total population of all States (as reported in the most recent decennial census).

(B) USE OF PAYMENT.—

(i) IN GENERAL.—Subject to clause (ii), a State shall use the funds provided under a payment made under this paragraph to fund 1 or more of the following activities:

(I) Education or job training.

(II) Health care or other social services.

(III) Transportation or other infrastructure.

(IV) Law enforcement or public safety.

(V) Essential government services.

(ii) LIMITATION.—A State may only use funds provided under a payment made under this paragraph for types of expenditures permitted under the most recently approved budget for the State.

(C) CERTIFICATION.—In order to receive a payment under this paragraph for a fiscal year, the State shall provide the Secretary with a certification that the State's proposed uses of the funds are consistent with subparagraph (B).

(3) \$4,000,000,000 PAID TO UNITS OF GENERAL LOCAL GOVERNMENT.—

(A) ELIGIBILITY.—The Secretary shall, by regulation, establish procedures under which units of general local government may qualify for the payments provided under this paragraph. Such procedures shall include a requirement that no unit of general local government shall be eligible for a payment under this paragraph unless the unit provides the Secretary with a certification that the unit's proposed uses of the funds are consistent with subparagraph (C).

(B) AMOUNT OF PAYMENT.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall pay each unit of general local government that qualifies for a payment under the regulation required under subparagraph (A), an amount equal to the same ratio to \$4,000,000,000 as the population of such unit of general local government (as reported in the most recent decennial census) bears to the total population of all such units that qualify for a payment under this paragraph (as so reported).

(ii) ADJUSTMENTS.—The Secretary may adjust the amount of the payment otherwise determined for a unit of general local government under this subparagraph to the extent the Secretary determines necessary to ensure that all such units that would qualify for a payment under this paragraph receive a payment.

(C) USE OF PAYMENT.—

(i) IN GENERAL.—Subject to clause (ii), a unit of general local government shall use the funds provided under a payment made under this paragraph to fund 1 or more of the following activities:

(I) Education or job training.

(II) Health care or other social services.

(III) Transportation or other infrastructure.

(IV) Law enforcement or public safety.

(V) Essential government services.

(ii) LIMITATION.—A unit of general local government may only use funds provided under a payment made under this paragraph for types of expenditures permitted under the most recently approved budget for the unit.

(4) DEFINITIONS.—In this subsection:

(A) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(B) STATE.—The term "State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(C) UNIT OF GENERAL LOCAL GOVERNMENT.—

(i) IN GENERAL.—The term "unit of general local government" means—

(I) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(II) the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(ii) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this subsection, the rules under section 6720(c) of title 31, United States Code, shall apply.

(5) REPEAL.—Effective as of October 1, 2004, this subsection is repealed.

#### SEC. 382. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) at least 25 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2004; and

"(ii) at least 50 percent of all such determinations that are made in fiscal year 2005 or thereafter.

"(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect."

#### SEC. 383. PROHIBITION ON USE OF SCHIP FUNDS TO PROVIDE COVERAGE FOR CHILDLESS ADULTS.

(a) GENERAL LIMITATIONS ON PAYMENTS.—Section 2105(c)(1) of the Social Security Act (42 U.S.C. 1397ee(c)(1)) is amended by inserting before the period the following: "and may not include coverage of a childless adult unless the childless adult is a pregnant woman. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult."

(b) LIMITATION ON WAIVER AUTHORITY.—Section 2107 of the Social Security Act (42 U.S.C. 1397gg) is amended by adding at the end the following:

"(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), the Secretary may not approve a waiver, experimental, pilot, or demonstration project, or an amendment to such a project that has been approved as of the date of enactment of this subsection, that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a childless adult, other than a childless adult who is a pregnant woman. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult."

(c) **EFFECTIVE DATE.**—The amendments made by this section take effect on the date of enactment of this Act and apply to proposals to conduct a waiver, experimental, pilot, or demonstration project affecting the State children's health insurance program under title XXI of such Act, and to any proposals to amend such a project, that are approved or extended on or after such date of enactment.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section or the amendments made by this section shall be construed to—

(1) authorize the waiver of any provision of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) that is not otherwise authorized to be waived under such title or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act; or

(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affecting the State children's health insurance program under title XXI of such Act that has been approved as of such date of enactment.

#### SEC. 384. MEDICAID DSH ALLOTMENTS.

(a) **TEMPORARY INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE UNDER THE MEDICAID PROGRAM.**—

(1) **IN GENERAL.**—Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r-4(f)(5)) is amended—

(A) by striking “In the case of” and inserting the following:

“(A) **IN GENERAL.**—In the case of”; and

(B) by adding at the end the following:

“(B) **TEMPORARY INCREASE IN FLOOR FOR FISCAL YEAR 2004.**—During the period that begins on October 1, 2003, and ends on September 30, 2004, subparagraph (A) shall be applied—

“(i) by substituting ‘fiscal year 2002’ for ‘fiscal year 1999’;

“(iii) by substituting ‘Centers for Medicare & Medicaid Services’ for ‘Health Care Financing Administration’;

“(ii) by substituting ‘August 31, 2003’ for ‘August 31, 2000’;

“(iv) by substituting ‘3 percent’ for ‘1 percent’ each place it appears;

“(v) by substituting ‘fiscal year 2004’ for ‘fiscal year 2001’; and

“(vi) without regard to the second sentence.”.

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) take effect on October 1, 2003, and apply to DSH allotments under title XIX of the Social Security Act only with respect to fiscal year 2004.

(b) **ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.**—

(1) **IN GENERAL.**—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r-4(f)) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

“(6) **ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.**—

“(A) **TENNESSEE.**—Only with respect to fiscal year 2004, if the statewide waiver approved under section 1115 for the State of Tennessee with respect to the requirements of this title (as in effect on the date of enactment of this paragraph) is revoked or terminated, the Secretary shall—

“(i) permit the State of Tennessee to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities (other than State-owned institutions or facilities), on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

“(ii) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State for fiscal year 2004 that pro-

vides for the maximum amount (permitted consistent with paragraph (3)(B)(ii)) that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.

“(B) **HAWAII.**—The Secretary shall compute a DSH allotment for the State of Hawaii for fiscal year 2004 in the same manner as DSH allotments are determined with respect to those States to which paragraph (5) applies (but without regard to the requirement under such paragraph that total expenditures under the State plan for disproportionate share hospital adjustments for any fiscal year exceeds 0).”.

(2) **TREATMENT OF INSTITUTIONS FOR MENTAL DISEASES.**—Section 1923(h)(1) of the Social Security Act (42 U.S.C. 1396r-4(h)(1)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “Payment” and inserting “Subject to paragraph (3), payment”; and

(B) by adding at the end the following:

“(3) **SPECIAL RULE.**—The limitation of paragraph (1) shall not apply in the case of Tennessee with respect to fiscal year 2004 in the case of a revocation or termination of its statewide waiver described in subsection (f)(6)(A).”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if enacted on October 1, 2002.

### TITLE IV—SMALL BUSINESS AND AGRICULTURAL PROVISIONS

#### Subpart A—Small Business Provisions

#### SEC. 401. EXCLUSION OF CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES FROM ACQUISITION INDEBTEDNESS.

(a) **IN GENERAL.**—Section 514(c) (relating to acquisition indebtedness) is amended by adding at the end the following new paragraph:

“(10) **CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES.**—For purposes of this section, the term ‘acquisition indebtedness’ does not include any indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

“(A) issued by such company under section 303(a) of such Act, or

“(B) held or guaranteed by the Small Business Administration.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to any indebtedness incurred after December 31, 2002, by a small business investment company described in section 514(c)(10) of the Internal Revenue Code of 1986 (as added by this section) with respect to property acquired by such company after such date.

#### SEC. 402. REPEAL OF OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER.

(a) **REPEAL OF OCCUPATIONAL TAXES.**—

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

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

(B) Subpart B (relating to brewer).

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

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

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

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

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

(b) **CONFORMING AMENDMENTS.**—

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

#### “PART II—MISCELLANEOUS PROVISIONS

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping by dealers.

“Subpart D. Other provisions.”.

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

“Part II. Miscellaneous provisions.”.

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

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

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

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

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

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

(i) by striking “**AND RATE OF TAX**” in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

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

#### “Subpart C—Recordkeeping by Dealers

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.”.

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

(B) Section 5114 is amended—

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

#### “SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,

and

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

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

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

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

“(3) **DEALER.**—The term ‘dealer’ means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

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

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

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

(B) Section 5124 is amended—

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

**“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”**

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

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

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

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

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

“(3) **DEALER.**—The term ‘dealer’ has the meaning given such term by section 5121(c)(3).”

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

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

**“Subpart D—Other Provisions**

“Sec. 5131. Packaging distilled spirits for industrial uses.

“Sec. 5132. Prohibited purchases by dealers.”

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

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

**“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

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

“(b) **PENALTY AND FORFEITURE.**—

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

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

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

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

(C) by striking “section 5122” and inserting “section 5122(c)”.

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

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

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

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

“For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.”

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

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

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

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

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

and 5734, respectively, and amended by striking “this part” each place it appears and inserting “this subchapter”.

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

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking “liquors” both places it appears and inserting “tobacco products and cigarette papers and tubes”.

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

“Sec. 5732. Payment of tax.

“Sec. 5733. Provisions relating to liability for occupational taxes.

“Sec. 5734. Application of State laws.”

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

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

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

(A) by striking “subpart F” and inserting “subpart B”, and

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

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on July 1, 2003, but shall not apply to taxes imposed for periods before such date.

**SEC. 403. CUSTOM GUNSMITHS.**

(a) **SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.**—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) **SMALL MANUFACTURERS, ETC.**—

“(1) **IN GENERAL.**—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

“(2) **CONTROLLED GROUPS.**—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).”

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) **NO INFERENCE.**—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

**SEC. 404. SIMPLIFICATION OF EXCISE TAX IMPOSED ON BOWS AND ARROWS.**

(a) **BOWS.**—Section 4161(b)(1) (relating to bows) is amended to read as follows:

“(1) **BOWS.**—

“(A) **IN GENERAL.**—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

“(B) **ARCHERY EQUIPMENT.**—There is hereby imposed on the sale by the manufacturer, producer, or importer—

“(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

“(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (3), a tax equal to 11 percent of the price for which so sold.”

(b) **ARROWS.**—Section 4161(b) (relating to bows and arrows, etc.) is amended by redesignating

paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

“(3) **ARROWS.**—

“(A) **IN GENERAL.**—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

“(B) **EXCEPTION.**—The tax imposed by subparagraph (A) on an arrow shall not apply if the arrow contains an arrow shaft subject to the tax imposed by paragraph (2).

“(C) **ARROW.**—For purposes of this paragraph, the term ‘arrow’ means any shaft described in paragraph (2) to which additional components are attached.”

(c) **CONFORMING AMENDMENT.**—The heading of section 4161(b)(2) (relating to arrows) is amended by striking “ARROWS.—” and inserting “ARROW COMPONENTS.—”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

**Subtitle B—Agricultural Provisions****SEC. 411. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.**

(a) **IN GENERAL.**—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking “retains an economic interest in such timber” and inserting “either retains an economic interest in such timber or makes an outright sale of such timber”.

(b) **CONFORMING AMENDMENT.**—The third sentence of section 631(b) is amended by striking “The date of disposal” and inserting “In the case of disposal of timber with a retained economic interest, the date of disposal”.

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

**SEC. 412. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.**

(a) **RULES FOR REPLACEMENT OF INVOLUNTARILY CONVERTED LIVESTOCK.**—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking “CONDITIONS.—For purposes” and inserting “CONDITIONS.—

“(1) **IN GENERAL.**—For purposes”, and

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

“(2) **EXTENSION OF REPLACEMENT PERIOD.**—

“(A) **IN GENERAL.**—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting ‘4 years’ for ‘2 years’.

“(B) **FURTHER EXTENSION BY SECRETARY.**—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.”

(b) **INCOME INCLUSION RULES.**—Section 451(e) (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

“(3) **SPECIAL ELECTION RULES.**—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any taxable year with respect to which the due date of the return is after December 31, 2002.

**SEC. 413. EXCLUSION FOR LOAN PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.**

(a) *IN GENERAL.*—Section 108(f) (relating to student loans) is amended by adding at the end the following new paragraph:

“(4) *LOAN PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.*—In the case of an individual, gross income shall not include any amount received under section 338B(g) of the Public Health Service Act.”

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall apply to amounts received by an individual in taxable years beginning after December 31, 2002.

**SEC. 414. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.**

(a) *IN GENERAL.*—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following: “For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.”

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to distributions in taxable years ending after the date of the enactment of this Act.

**TITLE V—SIMPLIFICATION AND OTHER PROVISIONS**

**Subtitle A—Uniform Definition of Child**

**SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.**

Section 152 is amended to read as follows:

**“SEC. 152. DEPENDENT DEFINED.**

“(a) *IN GENERAL.*—For purposes of this subtitle, the term ‘dependent’ means—

“(1) a qualifying child, or

“(2) a qualifying relative.

“(b) *EXCEPTIONS.*—For purposes of this section—

“(1) *DEPENDENTS INELIGIBLE.*—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

“(2) *MARRIED DEPENDENTS.*—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual’s spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

“(3) *CITIZENS OR NATIONALS OF OTHER COUNTRIES.*—

“(A) *IN GENERAL.*—The term ‘dependent’ does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

“(B) *EXCEPTION FOR ADOPTED CHILD.*—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of ‘dependent’ if—

“(i) for the taxable year of the taxpayer, the child’s principal place of abode is the home of the taxpayer, and

“(ii) the taxpayer is a citizen or national of the United States.

“(c) *QUALIFYING CHILD.*—For purposes of this section—

“(1) *IN GENERAL.*—The term ‘qualifying child’ means, with respect to any taxpayer for any taxable year, an individual—

“(A) who bears a relationship to the taxpayer described in paragraph (2),

“(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

“(C) who meets the age requirements of paragraph (3), and

“(D) who has not provided over one-half of such individual’s own support for the calendar year in which the taxable year of the taxpayer begins.

“(2) *RELATIONSHIP TEST.*—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

“(A) a child of the taxpayer or a descendant of such a child, or

“(B) a brother, sister, stepbrother, or step-sister of the taxpayer or a descendant of any such relative.

“(3) *AGE REQUIREMENTS.*—

“(A) *IN GENERAL.*—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

“(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

“(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

“(B) *SPECIAL RULE FOR DISABLED.*—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

“(4) *SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.*—

“(A) *IN GENERAL.*—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

“(i) a parent of the individual, or

“(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

“(B) *MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.*—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

“(i) the parent with whom the child resided for the longest period of time during the taxable year, or

“(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

“(d) *QUALIFYING RELATIVE.*—For purposes of this section—

“(1) *IN GENERAL.*—The term ‘qualifying relative’ means, with respect to any taxpayer for any taxable year, an individual—

“(A) who bears a relationship to the taxpayer described in paragraph (2),

“(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

“(C) with respect to whom the taxpayer provides over one-half of the individual’s support for the calendar year in which such taxable year begins, and

“(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

“(2) *RELATIONSHIP.*—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

“(A) A child or a descendant of a child.

“(B) A brother, sister, stepbrother, or step-sister.

“(C) The father or mother, or an ancestor of either.

“(D) A stepfather or stepmother.

“(E) A son or daughter of a brother or sister of the taxpayer.

“(F) A brother or sister of the father or mother of the taxpayer.

“(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

“(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual’s principal place of abode the home of the taxpayer and is a member of the taxpayer’s household.

“(3) *SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.*—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

“(A) no one person contributed over one-half of such support,

“(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

“(C) the taxpayer contributed over 10 percent of such support, and

“(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

“(4) *SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.*—

“(A) *IN GENERAL.*—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

“(i) the availability of medical care at such workshop is the principal reason for the individual’s presence there, and

“(ii) the income arises solely from activities at such workshop which are incident to such medical care.

“(B) *SHELTERED WORKSHOP DEFINED.*—For purposes of subparagraph (A), the term ‘sheltered workshop’ means a school—

“(i) which provides special instruction or training designed to alleviate the disability of the individual, and

“(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

“(5) *SPECIAL SUPPORT TEST IN CASE OF STUDENTS.*—For purposes of paragraph (1)(C), in the case of an individual who is—

“(A) a child of the taxpayer, and

“(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual’s support from the taxpayer.

“(6) *SPECIAL RULES FOR SUPPORT.*—For purposes of this subsection—

“(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,

“(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and

“(C) in the case of the remarriage of a parent, support of a child received from the parent’s spouse shall be treated as received from the parent.

“(e) SPECIAL RULE FOR DIVORCED PARENTS.—“(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

“(A) a child receives over one-half of the child’s support during the calendar year from the child’s parents—

“(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

“(ii) who are separated under a written separation agreement, or

“(iii) who live apart at all times during the last 6 months of the calendar year, and

“(B) such child is in the custody of 1 or both of the child’s parents for more than ½ of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the non-custodial parent for a calendar year if the requirements described in paragraph (2) are met.

“(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

“(A) a decree of divorce or separate maintenance or written agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

“(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

“(ii) the custodial parent will sign a written declaration that such parent will not claim such child as a dependent for such taxable year, and

“(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least \$600 for the support of such child during such calendar year.

“(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

“(A) CUSTODIAL PARENT.—The term ‘custodial parent’ means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

“(B) NONCUSTODIAL PARENT.—The term ‘non-custodial parent’ means the parent who is not the custodial parent.

“(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

“(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

“(1) CHILD DEFINED.—

“(A) IN GENERAL.—The term ‘child’ means an individual who is—

“(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

“(ii) an eligible foster child of the taxpayer.

“(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

“(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term ‘eligible foster child’ means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

“(2) STUDENT DEFINED.—The term ‘student’ means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

“(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

“(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

“(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal

place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

“(4) BROTHER AND SISTER.—The terms ‘brother’ and ‘sister’ include a brother or sister by the half blood.

“(5) TREATMENT OF MISSING CHILDREN.—

“(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

“(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

“(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

“(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

“(i) the deduction under section 151(c),

“(ii) the credit under section 24 (relating to child tax credit),

“(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

“(iv) the earned income credit under section 32.

“(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

“(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

“(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

“(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

“(6) CROSS REFERENCES.—

“**For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).”**

**SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.**

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

“(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

“(I) is married at the close of the taxpayer’s taxable year, and

“(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or”

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

“(i) subparagraph (H) of section 152(d)(2), or

“(ii) paragraph (3) of section 152(d).”

**SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Section 21(a)(1) is amended by striking “In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as

defined in subsection (b)(1))” and inserting “In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual”.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

“(1) QUALIFYING INDIVIDUAL.—The term ‘qualifying individual’ means—

“(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

“(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

“(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.”

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

“(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.”

**SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.**

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

“(1) IN GENERAL.—The term ‘qualifying child’ means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.”

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking “the first sentence of section 152(b)(3)” and inserting “subparagraph (A) of section 152(b)(3)”.

**SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.**

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

“(3) QUALIFYING CHILD.—

“(A) IN GENERAL.—The term ‘qualifying child’ means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

“(B) MARRIED INDIVIDUAL.—The term ‘qualifying child’ shall not include an individual who is married as of the close of the taxpayer’s taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

“(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

“(D) IDENTIFICATION REQUIREMENTS.—

“(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

“(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).”

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking “(3)(E)” and inserting “(3)(C)”.

(3) Section 32(m) is amended by striking “subsections (c)(1)(F)” and inserting “subsections (c)(1)(E)”.

**SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.**

Subsection (c) of section 151 is amended to read as follows:

“(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount

for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.”.

**SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.**

(1) Section 21(e)(5) is amended—  
(A) by striking “paragraph (2) or (4) of” in subparagraph (A), and

(B) by striking “within the meaning of section 152(e)(1)” and inserting “as defined in section 152(e)(3)(A)”.

(2) Section 21(e)(6)(B) is amended by striking “section 151(c)(3)” and inserting “section 152(f)(1)”.

(3) Section 25B(c)(2)(B) is amended by striking “151(c)(4)” and inserting “152(f)(2)”.

(4)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking “paragraphs (1) through (8) of section 152(a)” both places it appears and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(B) Section 51(i)(1)(C) is amended by striking “152(a)(9)” and inserting “152(d)(2)(H)”.

(5) Section 72(t)(7)(A)(iii) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(6) Section 129(c)(2) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(7) The first sentence of section 132(h)(2)(B) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(8) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(9) Section 170(g)(3) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(10) The second sentence of section 213(d)(11) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(11) Section 529(e)(2)(B) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(12) Section 2032A(c)(7)(D) is amended by striking “section 151(c)(4)” and inserting “section 152(f)(2)”.

(13) Section 7701(a)(17) is amended by striking “152(b)(4), 682,” and inserting “682”.

(14) Section 7702B(f)(2)(C)(iii) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(15) Section 7703(b)(1) is amended—

(A) by striking “151(c)(3)” and inserting “152(f)(1)”, and

(B) by striking “paragraph (2) or (4) of”.

**SEC. 508. EFFECTIVE DATE.**

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 2003.

**Subtitle B—Simplification**

**SEC. 511. CONSOLIDATION OF LIFE AND NON-LIFE COMPANY RETURNS.**

(a) IN GENERAL.—Section 1504 (relating to definition of affiliated group) is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 243(b)(2)(A) is amended by striking “, 1504(b)(4), and 1504(c)” and inserting “and 1504(b)(4)”.

(2) Section 818(e)(1) is amended by striking “If an election under section 1504(c)(2) is effect with respect to an affiliated group for the taxable year” and inserting “If an affiliated group includes members which are, and which are not, life insurance companies for any taxable year”.

(3) Section 1503(c)(1) is amended by striking “an election under section 1504(c)(2) is in effect for the taxable year”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

(d) WAIVER OF 5-YEAR WAITING PERIOD.—Under regulations prescribed by the Secretary of the Treasury or his delegate, an automatic waiver from the 5-year waiting period for re-consolidation provided in section 1504(a)(3) of the Internal Revenue Code of 1986 shall be granted to any corporation which was previously an includible corporation but was subsequently deemed a nonincludible corporation as a result of becoming a subsidiary of a corporation which was not an includible corporation solely by operation of section 1504(c)(2) of such Code (as in effect on the day before the date of the enactment of this Act).

(e) NONTERMINATION OF GROUP.—No affiliated group shall terminate solely as a result of the amendments made by this section.

**SEC. 512. SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.**

(a) REDUCTION IN MUTUAL LIFE INSURANCE COMPANY DEDUCTIONS NOT TO APPLY.—

(1) IN GENERAL.—Section 809 (relating to reduction in certain deductions of material life insurance companies) is amended by adding at the end the following:

“(j) DIFFERENTIAL EARNINGS RATE TREATED AS ZERO.—Notwithstanding subsection (c) or (f), the differential earnings rate shall be treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount for any taxable year of a mutual life insurance company beginning after December 31, 2003, and before January 1, 2009.”.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

(b) DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

(1) IN GENERAL.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following:

“(g) SPECIAL RULES APPLICABLE DURING 2004 THROUGH 2008.—In the case of any taxable year of a stock life insurance company beginning after December 31, 2003, and before January 1, 2009—

“(1) the amount under subsection (a)(2) for such taxable year shall be treated as zero, and

“(2) notwithstanding subsection (b), in determining any subtractions from an account under subsections (c)(3) and (d)(3), any distribution to shareholders during such taxable year shall be treated as made first out of the policyholders surplus account, then out of the shareholders surplus account, and finally out of other accounts.”.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 513. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.**

(a) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

“(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation’s separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation’s separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

“(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as one distributee corporation.”.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

“(A) it is engaged in the active conduct of a trade or business.”.

(2) Section 355(b)(2) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to distributions after the date of the enactment of this Act, and

(B) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) ELECTION TO HAVE AMENDMENTS APPLY.—Paragraph (2) shall not apply if the distributing corporation elects not to have such paragraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

**Subtitle C—Other Provisions**

**SEC. 521. CIVIL RIGHTS TAX RELIEF.**

(a) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

“(19) COSTS INVOLVING DISCRIMINATION SUITS, ETC.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code. The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer’s gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.”.

(b) UNLAWFUL DISCRIMINATION DEFINED.—Section 62 is amended by adding at the end the following new subsection:

“(e) UNLAWFUL DISCRIMINATION DEFINED.—For purposes of subsection (a)(19), the term ‘unlawful discrimination’ means an act that is unlawful under any of the following:

“(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

“(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

“(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

“(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

“(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

“(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

“(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

“(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

“(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

“(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

“(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

“(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

“(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

“(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2, 2000e-3, or 2000e-16).

“(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

“(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

“(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

“(18) Any provision of State or local law, or common law claims permitted under Federal, State, or local law—

“(i) providing for the enforcement of civil rights, or

“(ii) regulating any aspect of the employment relationship, including prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fees and costs paid after the date of the enactment of this Act with respect to any judgment or settlement occurring after such date.

**SEC. 522. INCREASE IN SECTION 382 LIMITATION FOR COMPANIES EMERGING FROM BANKRUPTCY.**

(a) IN GENERAL.—Section 382(b) (relating to section 382 limitation) is amended by adding at the end the following new paragraph:

“(4) INCREASE IN SECTION 382 LIMITATION FOR COMPANIES EMERGING FROM BANKRUPTCY.—In the case of any new loss corporation which immediately before any ownership change was an old loss corporation under the jurisdiction of the court in a title 11 or similar case (as defined in subsection (1)(5)(G)), the section 382 limitation for any post-change year beginning in 2004 or 2005 shall be an amount equal to 200 percent of the amount otherwise determined under paragraph (1) for such year.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to ownership changes after December 31, 2002.

**SEC. 523. INCREASE IN HISTORIC REHABILITATION CREDIT FOR CERTAIN LOW-INCOME HOUSING FOR THE ELDERLY.**

(a) IN GENERAL.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

“(e) SPECIAL RULE REGARDING CERTAIN HISTORIC STRUCTURES.—In the case of any qualified rehabilitation expenditure with respect to any certified historic structure—

“(1) which is placed in service after the date of the enactment of this subsection,

“(2) which is part of a qualified low-income building with respect to which a credit under section 42 is allowed, and

“(3) substantially all of the residential rental units of which are used for tenants who have attained the age of 65,

subsection (a)(2) shall be applied by substituting ‘25 percent’ for ‘20 percent.’”

(b) APPLICATION OF MACRS.—The Internal Revenue Code of 1986 shall be applied and administered as if paragraph (4)(X) of section 251(d) of the Tax Reform Act of 1986 as applied to the amendments made by section 201 of such Act had not been enacted with respect to any property described in such paragraph and placed in service after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 524. MODIFICATION OF APPLICATION OF INCOME FORECAST METHOD OF DEPRECIATION.**

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

“(7) TREATMENT OF PARTICIPATIONS AND RESIDUALS.—

“(A) IN GENERAL.—For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

“(B) PARTICIPATIONS AND RESIDUALS.—For purposes of this paragraph, the term ‘participations and residuals’ means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

“(C) SPECIAL RULES RELATING TO RECOMPUTATION YEARS.—If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting ‘for each taxable year in such period’ for ‘for such period’.

“(D) COORDINATION WITH OTHER RULES.—

“(i) Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

“(ii) Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B) or sections 263, 263A, 404, 419, or 461(h).

“(E) AUTHORITY TO MAKE ADJUSTMENTS.—The Secretary shall prescribe appropriate adjustments to the basis of property and to the look-back method for the additional amounts allowable as a deduction solely by reason of this paragraph.”

(b) DETERMINATION OF INCOME.—Section 167(g)(5) (relating to special rules) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

“(E) TREATMENT OF DISTRIBUTION COSTS.—For purposes of this subsection, the income with respect to any property shall be the taxpayer’s gross income from such property.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 525. ADDITIONAL ADVANCE REFUNDINGS OF CERTAIN GOVERNMENTAL BONDS.**

(a) IN GENERAL.—Section 149(d)(3)(A)(i) (relating to advance refundings of other bonds) is amended—

(1) by striking “or” at the end of subclause (I),

(2) by adding “or” at the end of subclause (II), and

(3) by inserting after subclause (II) the following:

“(III) the 2nd advance refunding of the original bond if the original bond was issued after 1985 or the 3rd advance refunding of the original bond if the original bond was issued before 1986, if, in either case, the refunding bond is issued before the date which is 2 years after the date of the enactment of this subclause and the original bond was issued as part of an issue 90 percent or more of the net proceeds of which were used to finance a public elementary or secondary school in any State in which the State’s highest court ruled by opinion issued on Novem-

ber 21, 2002, that the State school funding system violated the State constitution and was constitutionally inadequate.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to refunding bonds issued on or after the date of the enactment of this Act.

**SEC. 526. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES FROM GROSS INCOME OF NON-RESIDENT ALIEN INDIVIDUALS.**

(a) IN GENERAL.—Subsection (b) of section 872 (relating to exclusions) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

“(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race in the United States.”

(b) CONFORMING AMENDMENT.—Section 883(a)(4) is amended by striking “(5), (6), and (7)” and inserting “(6), (7), and (8)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceeds from wagering transactions after September 30, 2003.

**SEC. 527. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.**

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, \$48,000,000 for fiscal year 2004, for the purpose of making allotments under this section to States described in paragraph (1) or (2) of subsection (b). Funds appropriated under the preceding sentence shall remain available until expended.

(b) STATE ALLOTMENTS.—

(1) BASED ON PERCENTAGE OF UNDOCUMENTED ALIENS.—

(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for fiscal year 2004, the Secretary shall use \$32,000,000 of such amount to make allotments for such fiscal year in accordance with subparagraph (B).

(B) FORMULA.—The amount of the allotment for each State for fiscal year 2004 shall be equal to the product of—

(i) the total amount available for allotments under this paragraph for the fiscal year; and

(ii) the percentage of undocumented aliens residing in the State with respect to the total number of such aliens residing in all States, as determined by the Statistics Division of the Immigration and Naturalization Service, as of January 2003, based on the 2000 decennial census.

(2) BASED ON NUMBER OF UNDOCUMENTED ALIEN APPREHENSION STATES.—

(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for fiscal year 2004, the Secretary shall use \$16,000,000 of such amount to make allotments for such fiscal year for each of the 6 States with the highest number of undocumented alien apprehensions for such fiscal year.

(B) DETERMINATION OF ALLOTMENTS.—The amount of the allotment for each State described in subparagraph (A) for fiscal year 2004 shall bear the same ratio to the total amount available for allotments under this paragraph for the fiscal year as the ratio of the number of undocumented alien apprehensions in the State in that fiscal year bears to the total of such numbers for all such States for such fiscal year.

(C) DATA.—For purposes of this paragraph, the highest number of undocumented alien apprehensions for fiscal year 2004 shall be based on the 4 most recent quarterly apprehension rates for undocumented aliens in such States, as reported by the Immigration and Naturalization Service.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State

that is described in both of paragraphs (1) and (2) from receiving an allotment under both paragraphs for fiscal year 2004.

(c) USE OF FUNDS.—

(1) AUTHORITY TO MAKE PAYMENTS.—From the allotments made for a State under subsection (b) for fiscal year 2004, the Secretary shall pay directly to local governments, hospitals, or other providers located in the State (including providers of services received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization) that provide uncompensated emergency health services furnished to undocumented aliens during that fiscal year, and to the State, such amounts (subject to the total amount available from such allotments) as the local governments, hospitals, providers, or State demonstrate were incurred for the provision of such services during that fiscal year.

(2) LIMITATION ON STATE USE OF FUNDS.—Funds paid to a State from allotments made under subsection (b) for fiscal year 2004 may only be used for making payments to local governments, hospitals, or other providers for costs incurred in providing emergency health services to undocumented aliens or for State costs incurred with respect to the provision of emergency health services to such aliens.

(3) INCLUSION OF COSTS INCURRED WITH RESPECT TO CERTAIN ALIENS.—Uncompensated emergency health services furnished to aliens who have been allowed to enter the United States for the sole purpose of receiving emergency health services may be included in the determination of costs incurred by a State, local government, hospital, or other provider with respect to the provision of such services.

(d) APPLICATIONS; ADVANCE PAYMENTS.—

(1) DEADLINE FOR ESTABLISHMENT OF APPLICATION PROCESS.—

(A) IN GENERAL.—Not later than September 1, 2003, the Secretary shall establish a process under which States, local governments, hospitals, or other providers located in the State may apply for payments from allotments made under subsection (b) for fiscal year 2004 for uncompensated emergency health services furnished to undocumented aliens during that fiscal year.

(B) INCLUSION OF MEASURES TO COMBAT FRAUD.—The Secretary shall include in the process established under subparagraph (A) measures to ensure that fraudulent payments are not made from the allotments determined under subsection (b).

(2) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The process established under paragraph (1) shall allow for making payments under this section for each quarter of fiscal year 2004 on the basis of advance estimates of expenditures submitted by applicants for such payments and such other investigation as the Secretary may find necessary, and for making reductions or increases in the payments as necessary to adjust for any overpayment or underpayment for prior quarters of such fiscal year.

(e) DEFINITIONS.—In this section:

(1) HOSPITAL.—The term “hospital” has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)).

(2) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian tribe” and “tribal organization” have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

(3) PROVIDER.—The term “provider” includes a physician, any other health care professional licensed under State law, and any other entity that furnishes emergency health services, including ambulance services.

(4) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(5) STATE.—The term “State” means the 50 States and the District of Columbia.

(f) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Fed-

eral Government to provide for the payment of amounts provided under this section.

**SEC. 528. PREMIUMS FOR MORTGAGE INSURANCE.**

(a) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

(1) IN GENERAL.—Paragraph (3) of section 163(h) (relating to qualified residence interest) is amended by adding after subparagraph (D) the following new subparagraph:

“(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

“(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this subsection as qualified residence interest.

“(ii) PHASEOUT.—The amount otherwise allowable as a deduction under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each \$1,000 (\$500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer’s adjusted gross income for the taxable year exceeds \$100,000 (\$50,000 in the case of a married individual filing a separate return).”.

(2) DEFINITION AND SPECIAL RULES.—Paragraph (4) of section 163(h) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

“(E) QUALIFIED MORTGAGE INSURANCE.—The term ‘qualified mortgage insurance’ means—

“(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

“(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

“(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.”.

(b) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

“(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

“(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating \$600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

“(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

“(3) SPECIAL RULES.—For purposes of this subsection—

“(A) rules similar to the rules of subsection (c) shall apply, and

“(B) the term ‘mortgage insurance’ means—

“(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

“(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after the date of enactment of this section in taxable years ending after such date.

**SEC. 529. SENSE OF THE SENATE ON REPEALING THE 1993 TAX HIKE ON SOCIAL SECURITY BENEFITS SECTION.**

(a) FINDINGS.—(1) The 1993 tax on social security benefits was imposed as part of President Clinton’s agenda to raise taxes.

(2) The original 1993 tax hike on social security benefits was to raise income taxes on social security retirees with as little as \$25,000 of income.

(3) Repeated efforts to repeal the 1993 tax hike on social security benefits have failed.

(4) Seniors rely on social security benefits as well as dividend income to fund their retirement and they should have taxes reduced on both sources of income.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate Finance Committee should report out the Social Security Benefits Tax Relief Act of 2003, S. 514, to repeal the tax on seniors not later than July 31, 2003, and the Senate shall consider such bill not later than September 30, 2003, in a manner consistent with the preservation of the Medicare Trust Fund.

**SEC. 530. FLAT TAX.**

(a) FINDINGS.—The Senate finds the following:

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 17,000 pages of rules and regulations, is long overdue for an overhaul.

(2) The current Internal Revenue Code has over 6,900,000,000 words compared to the bible at 1,773,000 words, the Declaration of Independence at 1,300 words, The Gettysburg Address at 267 words, and the Pledge of Allegiance at only 31 words.

(3) It is an unacceptable waste of our Nation’s precious resources when Americans spend more than 5,800,000,000 hours every year compiling information and filling out Internal Revenue Code tax forms. In addition, taxpayers spend \$194,000,000,000 each year in tax code compliance. America’s resources could be dedicated to far more productive pursuits.

(4) The primary goal of any tax reform is to promote growth and remove the inefficiencies of the current tax code. The flat tax will expand the economy by an estimated \$2,000,000,000,000 over seven years.

(5) Another important goal of the flat tax is to achieve fairness, with a single low flat tax rate for all individuals and businesses.

(6) Simplicity is another critically important goal of the flat tax, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out.

(7) A comprehensive analyses of our tax structure has concluded that a flat tax of 19 percent could be imposed upon individuals and be revenue neutral.

(8) If the decision is made to include deductibility on items such as interest on home mortgages and charitable contributions, the flat tax would be raised from a 19 percent to a 20 percent rate to accommodate the deductions and remain revenue neutral.

(9) The flat tax would tax business at a 20 percent rate on net profits and be revenue neutral and lead to investment decisions being made on the basis of productivity rather than for tax avoidance.

(10) The flat tax would lead to the elimination of the capital gains tax. This would become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and raising the standard of living for all Americans.

(11) The flat tax would lower the cost of capital by allowing businesses to write off the cost of capital purchase in the same year the purchase was made as opposed to complying with complicated depreciation schedules.

(12) By eliminating the double tax on dividends, the flat tax eliminates the distortions in the tax code favoring debt over equity financing by businesses.

(13) The flat tax would eliminate the estate and gift tax. With the elimination of the estate and gift tax, family-held businesses will be much more stable under the flat tax system.

(14) As tax loopholes are eliminated and the tax code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over \$120,000,000,000 in uncollected revenue annually.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate Finance Committee and the Joint Economic Committee should undertake a comprehensive analysis of simplification including flat tax proposals, including appropriate hearings and consider legislation providing for a flat tax.

**SEC. 531. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.**

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

**“SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.**

“(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

“(1) the taxpayer’s excess qualified foreign distribution amount, and

“(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

“(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘excess qualified foreign distribution amount’ means the excess (if any) of—

“(A) dividends received by the taxpayer during the taxable year which are—

“(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

“(ii) described in a domestic reinvestment plan approved by the taxpayer’s president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer’s board of directors, management committee, executive committee, or similar body, which plan shall provide for the reinvestment of such dividends in the United States, including as a source for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation, over

“(B) the base dividend amount.

“(2) BASE DIVIDEND AMOUNT.—The term ‘base dividend amount’ means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations in which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

“(3) FIXED BASE PERIOD.—

“(A) IN GENERAL.—The term ‘fixed base period’ means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

“(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

“(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

“(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall mean such shorter period representing all of the taxable years of the taxpayer ending on or before December 31, 2002.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) DIVIDENDS.—The term ‘dividend’ means a dividend as defined in section 316, except that the term shall also include amounts described in section 951(a)(1)(B), and shall exclude amounts described in sections 78 and 959.

“(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term ‘controlled foreign corporation’ shall have the same meaning as under section 957(a) and the term ‘United States shareholder’ shall have the same meaning as under section 951(b).

“(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent.

“(4) FOREIGN TAX CREDIT LIMITATION.—For all purposes of section 904, there shall be disregarded 85 percent of—

“(A) the excess qualified foreign distribution amount,

“(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

“(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

“(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

“(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer in applying the rules of this section.

“(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

“(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

“(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

“(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

“(d) ELECTION.—

“(1) IN GENERAL.—An election under this section shall be made on the taxpayer’s timely filed income tax return for the taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

“(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

“(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer, and shall apply to all members of the affiliated group.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.”.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

“Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.”.

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section, other than the amendment made by subsection (d), shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

(d) TERMINATION OF REHABILITATION CREDIT FOR BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUCTURES.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

“(e) TERMINATION OF CREDIT FOR BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUCTURES.—No credit shall be allowed under subsection (a)(1) with respect to expenditures incurred after December 31, 2003.”.

**SEC. 532. CHILD SUPPORT ENFORCEMENT.**

(a) INCLUSION IN INCOME OF AMOUNT OF UNPAID CHILD SUPPORT.—Section 108 (relating to discharge of indebtedness income) is amended by adding at the end the following new subsection:

“(h) UNPAID CHILD SUPPORT.—

“(1) IN GENERAL.—For purposes of this chapter, any unpaid child support of a delinquent debtor for any taxable year shall be treated as amounts includible in gross income of the delinquent debtor for the taxable year.

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

“(A) CHILD SUPPORT.—The term ‘child support’ means—

“(i) any periodic payment of a fixed amount, or

“(ii) any payment of a medical expense, education expense, insurance premium, or other similar item,

which is required to be paid to a custodial parent by an individual under a support instrument for the support of any qualifying child of such individual. ‘Child support’ does not include any amount which is described in section 408(a)(3) of the Social Security Act and which has been assigned to a State.

“(B) CUSTODIAL PARENT.—The term ‘custodial parent’ means an individual who is entitled to receive child support and who has registered with the appropriate State office of child support enforcement charged with implementing section 454 of the Social Security Act.

“(C) **DELINQUENT DEBTOR.**—The term ‘delinquent debtor’ means a taxpayer who owes unpaid child support to a custodial parent.

“(D) **QUALIFYING CHILD.**—The term ‘qualifying child’ means a child of a custodial parent with respect to whom a dependent deduction is allowable under section 151 for the taxable year (or would be so allowable but for paragraph (2) or (4) of section 152(e)).

“(E) **SUPPORT INSTRUMENT.**—The term ‘support instrument’ means—

“(i) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

“(ii) a written separation agreement, or

“(iii) a decree (not described in clause (i)) of a court or administrative agency requiring a parent to make payments for the support or maintenance of 1 or more children of such parent.

“(F) **UNPAID CHILD SUPPORT.**—The term ‘unpaid child support’ means child support that is payable for months during a custodial parent’s taxable year and unpaid as of the last day of such taxable year, provided that such unpaid amount as of such day equals or exceeds one-half of the total amount of child support due to the custodial parent for such year.

“(3) **COORDINATION WITH OTHER LAWS.**—Amounts treated as income by paragraph (1) shall not be treated as income by reason of paragraph (1) for the purposes of any provision of law which is not an internal revenue law.”.

(b) **EFFECTIVE DATE; IMPLEMENTATION.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2002. The Secretary of the Treasury shall publish Form 1099-CS (or such other form that may be prescribed to comply with the amendment made by subsection (b)(1)) and regulations, if any, that may be deemed necessary to carry out the purposes of this Act, not later than 90 days after the date of enactment of this Act.

#### SEC. 533. **LOW-INCOME HOUSING TAX CREDIT.**

(a) **FINDINGS.**—The Senate finds the following:  
(1) The low-income housing tax credit is the Nation’s primary program for producing affordable rental housing.

(2) Each year, the low-income housing tax credit produces over 115,000 affordable apartments.

(3) Since Congress created the low-income housing tax credit in 1986, the credit has created 1,500,000 units of affordable housing for about 3,500,000 Americans.

(4) Analyses have found that certain approaches to reducing or eliminating the taxation of dividends have the potential to reduce the value of the low-income housing tax credit and so reduce the amount of affordable housing available.

(5) As of 2001, over 7,000,000 American renter families (1 in 5) suffer severe housing affordability problems, meaning that the family spends more than half of its income on rent or lives in substandard housing.

(6) More than 150,000 apartments in the low-cost rental housing inventory are lost each year due to rent increases, abandonment, and deterioration.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that any reduction or elimination of the taxation on dividends should include provisions to preserve the success of the low-income housing tax credit.

#### SEC. 534. **EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.**

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

##### “SEC. 191. **BROADBAND EXPENDITURES.**

“(a) **TREATMENT OF EXPENDITURES.**—

“(1) **IN GENERAL.**—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an

expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

“(2) **ELECTION.**—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

“(b) **QUALIFIED BROADBAND EXPENDITURES.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘qualified broadband expenditure’ means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to the purchase or installation of qualified equipment (including any upgrades thereto), together with any direct or indirect costs incurred and properly taken into account with respect to the connection of such qualified equipment to any qualified subscriber, but only if such costs are incurred after December 31, 2003, and before January 1, 2005.

“(2) **CERTAIN SATELLITE EXPENDITURES EXCLUDED.**—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

“(3) **LEASED EQUIPMENT.**—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

“(4) **LIMITATION WITH REGARD TO CURRENT GENERATION BROADBAND SERVICES.**—Only 50 percent of the amounts taken into account under paragraph (1) with respect to qualified equipment through which current generation broadband services are provided shall be treated as qualified broadband expenditures.

“(c) **WHEN EXPENDITURES TAKEN INTO ACCOUNT.**—For purposes of this section—

“(1) **IN GENERAL.**—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

“(A) current generation broadband services are provided through such equipment to qualified subscribers, or

“(B) next generation broadband services are provided through such equipment to qualified subscribers.

“(2) **LIMITATION.**—

“(A) **IN GENERAL.**—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

“(i) the original use of which commences with the taxpayer, and

“(ii) which is placed in service, after December 31, 2003.

“(B) **SALE-LEASEBACKS.**—For purposes of subparagraph (A), if property—

“(i) is originally placed in service after December 31, 2003, by any person, and

“(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

“(d) **SPECIAL ALLOCATION RULES.**—

“(1) **CURRENT GENERATION BROADBAND SERVICES.**—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which

the equipment is capable of serving with current generation broadband services.

“(2) **NEXT GENERATION BROADBAND SERVICES.**—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of—

“(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

“(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i), which the equipment is capable of serving with next generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

“(e) **DEFINITIONS.**—For purposes of this section—

“(1) **ANTENNA.**—The term ‘antenna’ means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

“(2) **CABLE OPERATOR.**—The term ‘cable operator’ has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

“(3) **COMMERCIAL MOBILE SERVICE CARRIER.**—The term ‘commercial mobile service carrier’ means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

“(4) **CURRENT GENERATION BROADBAND SERVICE.**—The term ‘current generation broadband service’ means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

“(5) **MULTIPLEXING OR DEMULTIPLEXING.**—The term ‘multiplexing’ means the transmission of 2 or more signals over a single channel, and the term ‘demultiplexing’ means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

“(6) **NEXT GENERATION BROADBAND SERVICE.**—The term ‘next generation broadband service’ means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

“(7) **NONRESIDENTIAL SUBSCRIBER.**—The term ‘nonresidential subscriber’ means any person who purchases broadband services which are delivered to the permanent place of business of such person.

“(8) **OPEN VIDEO SYSTEM OPERATOR.**—The term ‘open video system operator’ means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

“(9) **OTHER WIRELESS CARRIER.**—The term ‘other wireless carrier’ means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

“(10) **PACKET SWITCHING.**—The term ‘packet switching’ means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

“(11) **PROVIDER.**—The term ‘provider’ means, with respect to any qualified equipment—

“(A) a cable operator,

“(B) a commercial mobile service carrier,

“(C) an open video system operator,

“(D) a satellite carrier,

“(E) a telecommunications carrier, or

“(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

“(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

“(A) such a subscriber has been passed by the provider’s equipment and can be connected to such equipment for a standard connection fee.

“(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

“(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

“(D) such services have been purchased by 1 or more such subscribers, and

“(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

“(13) QUALIFIED EQUIPMENT.—

“(A) IN GENERAL.—The term ‘qualified equipment’ means equipment which provides current generation broadband services or next generation broadband services—

“(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

“(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

“(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

“(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

“(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

“(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

“(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

“(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and

demultiplexing packets or cells of data and making associated application adaptations, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber’s premises.

“(14) QUALIFIED SUBSCRIBER.—The term ‘qualified subscriber’ means—

“(A) with respect to the provision of current generation broadband services—

“(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

“(B) with respect to the provision of next generation broadband services—

“(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) any residential subscriber.

“(15) RESIDENTIAL SUBSCRIBER.—The term ‘residential subscriber’ means any individual who purchases broadband services which are delivered to such individual’s dwelling.

“(16) RURAL AREA.—The term ‘rural area’ means any census tract which—

“(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

“(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

“(17) RURAL SUBSCRIBER.—The term ‘rural subscriber’ means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

“(18) SATELLITE CARRIER.—The term ‘satellite carrier’ means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

“(19) SATURATED MARKET.—The term ‘saturated market’ means any census tract in which, as of the date of the enactment of this section—

“(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

“(B) such services can be utilized—

“(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

“(20) SUBSCRIBER.—The term ‘subscriber’ means any person who purchases current generation broadband services or next generation broadband services.

“(21) TELECOMMUNICATIONS CARRIER.—The term ‘telecommunications carrier’ has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

“(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

“(B) does not include a commercial mobile service carrier.

“(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term ‘total potential subscriber population’ means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and poten-

tial nonresidential subscribers maintaining permanent places of business located in such area.

“(23) UNDERSERVED AREA.—The term ‘underserved area’ means any census tract which is located in—

“(A) an empowerment zone or enterprise community designated under section 1391,

“(B) the District of Columbia Enterprise Zone established under section 1400,

“(C) a renewal community designated under section 1400E, or

“(D) a low-income community designated under section 45D.

“(24) UNDERSERVED SUBSCRIBER.—The term ‘underserved subscriber’ means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

“(f) SPECIAL RULES.—

“(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

“(2) BASIS REDUCTION.—

“(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

“(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

“(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).”

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking “or” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, or”, and by adding at the end the following:

“(v) from the sale of property subject to a lease described in section 191(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the qualified broadband expenditures which would be taken into account under section 191 for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.”

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) (relating to capital expenditures) is amended by striking “or” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, or”, and by adding at the end the following new subparagraph:

“(I) expenditures for which a deduction is allowed under section 191.”

(2) Section 1016(a) of such Code is amended by striking “and” at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting “, and”, and by adding at the end the following new paragraph:

“(29) to the extent provided in section 191(f)(2).”

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

“Sec. 191. Broadband expenditures.”

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986

(as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

**SEC. 535. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.**

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

**“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.**

“(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any

taxable year is the amount equal to the product of—

“(1) in the case of—

“(A) any eligible wholesaler—

“(i) the number of cases of bottled distilled spirits—

“(I) which were bottled in the United States, and

“(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

“(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

“(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

“(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term ‘eligible wholesaler’ means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

“(c) AVERAGE TAX-FINANCING COST.—

“(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

“(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

“(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is \$25.68.

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

“(1) CASE.—The term ‘case’ means 12 80-proof 750 milliliter bottles.

“(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.”

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking “plus” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, plus”, and by adding at the end the following new paragraph:

“(16) the distilled spirits credit determined under section 5011(a).”

(2) Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

“(1) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before January 1, 2003.”

(3) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

“Sec. 5011. Income tax credit for average cost of carrying excise tax.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 536. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION FOR WATER AND SEWERAGE DISPOSAL UTILITIES.**

(a) IN GENERAL.—Subparagraph (A) of section 118(c)(3) (relating to definitions) is amended to read as follows:

“(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term ‘contribution in aid of con-

struction’ shall be defined by regulations prescribed by the Secretary, except that such term—

“(i) shall include amounts paid as customer connection fees (including amounts paid to connect the customer’s water service line or sewer lateral line to the utility’s distribution or collection system or extend a main water or sewer line to provide service to a customer), and

“(ii) shall not include amounts paid as service charges for starting or stopping services.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

**SEC. 537. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.**

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by striking paragraph (3)(A).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, and on or before December 31, 2004.

**SEC. 538. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.**

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: “For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date.

**SEC. 539. CONFORMING THE INTERNAL REVENUE CODE OF 1986 TO REQUIREMENTS IMPOSED BY THE WOMEN’S HEALTH AND CANCER RIGHTS ACT OF 1998.**

(a) IN GENERAL.—Subchapter B of chapter 100 (relating to other requirements) is amended by inserting after section 9812 the following new section:

**“SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTION SURGERY FOLLOWING MASTECTOMIES.**

“(a) IN GENERAL.—A group health plan that provides medical and surgical benefits with respect to a mastectomy shall provide, in a case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage for—

“(1) all stages of reconstruction of the breast on which the mastectomy has been performed,

“(2) surgery and reconstruction of the other breast to produce a symmetrical appearance, and

“(3) prostheses and physical complications of mastectomy, including lymphedemas,

in a manner determined in consultation with the attending physician and the patient. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

“(b) PROHIBITIONS.—A group health plan may not—

“(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section, and

“(2) penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section.

“(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.”

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 100 of such Code is amended inserting after the item relating to section 9812 the following new item:

“Sec. 9813. Required coverage for reconstructive surgery following mastectomies.”

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) **SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.**—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

**SEC. 540. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.**

(a) **RENEWAL COMMUNITIES.**—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

“(g) **EXPANSION OF DESIGNATED AREAS.**—

“(1) **EXPANSION BASED ON 2000 CENSUS.**—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

“(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

“(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

“(2) **EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.**—

“(A) **IN GENERAL.**—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

“(B) **AREA.**—An area is described in this subparagraph if—

“(i) the area is adjacent to at least 1 other area designated as a renewal community,

“(ii) the area has a population less than the population required under subsection (c)(2)(C), and

“(iii)(I) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or

“(II) the area contains a population of less than 100 people.

“(3) **APPLICABILITY.**—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).”

(b) **EFFECTIVE DATE.**—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

**SEC. 541. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.**

(a) **IN GENERAL.**—Section 1400H(b)(2) (relating to modification) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) subsection (d)(1)(B) thereof shall be applied by substituting ‘such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community’ for ‘such empowerment zone’.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

**SEC. 542. EXPANSION OF INCOME TAX EXCLUSION FOR COMBAT ZONE SERVICE.**

(a) **COMBAT ZONE SERVICE TO INCLUDE TRANSIT TO ZONE.**—Section 112(c)(3) of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new sentence: “Such service shall include any period (not to exceed 14 days) of direct transit to the combat zone.”

(b) **REMOVAL OF LIMITATION ON EXCLUSION FOR COMMISSIONED OFFICERS.**—

(1) **IN GENERAL.**—Subsection (b) of section 112 of the Internal Revenue Code of 1986 (relating to certain combat zone compensation of members of the Armed Forces) is repealed.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 112(a) of such Code is amended—

(i) by striking “below the grade of commissioned officer”, and

(ii) by striking “ENLISTED PERSONNEL” in the heading and inserting “IN GENERAL”.

(B) Section 112(c) of such Code is amended by striking paragraphs (1) and (5) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to months beginning after December 31, 2002.

**SEC. 543. AVAILABILITY OF CERTAIN TAX BENEFITS FOR MEMBERS OF THE ARMED FORCES PERFORMING SERVICES AT GUANTANAMO BAY NAVAL STATION, CUBA, AND ON THE ISLAND OF DIEGO GARCIA.**

(a) **GENERAL RULE.**—In the case of a member of the Armed Forces of the United States who is entitled to special pay under section 305 of title 37, United States Code (relating to special pay: hardship duty pay), for services performed as a member of the Joint Task Force Guantanamo at Guantanamo Bay Naval Station, Cuba, or for services performed on the Island of Diego Garcia as part of Operation Iraqi Freedom, such member shall be treated in the same manner as if such services were in a combat zone (as determined under section 112 of the Internal Revenue Code of 1986) for purposes of the following provisions of such Code:

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces on death).

(4) Section 2201 (relating to members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this section shall take effect on January 1, 2003.

(2) **WITHHOLDING.**—Subsection (a)(5) shall apply to remuneration paid after December 31, 2002.

**SEC. 544. CITRUS CANKER TREE RELIEF.**

(a) **RATABLE INCLUSION.**—

(1) **IN GENERAL.**—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by inserting after section 1301 the following new section:

**“SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.**

“(a) **IN GENERAL.**—At the election of the taxpayer, any amount taken into account as income or gain by reason of receiving a citrus canker tree payment shall be included in the income of the taxpayer ratably over the 10-year period beginning with the taxable year in which the payment is received or accrued by the taxpayer. Such election shall be made on the return of tax for such taxable year in such manner as the Secretary prescribes, and, once made shall be irrevocable.

“(b) **CITRUS CANKER TREE PAYMENT.**—For purposes of subsection (a), the term ‘citrus canker tree payment’ means a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations (7 C.F.R. 301) made by the final rule published in the Federal Register by the Secretary of Agriculture on June 18, 2001 (66 Fed. Reg. 32713, Docket No. 00-37-4).”

(2) **CLERICAL AMENDMENT.**—The table of sections for part I of subchapter Q of chapter 1 is amended by inserting after the item relating to section 1301 the following new item:

Sec. 1302. Ratable income inclusion for citrus canker tree payments.”

(b) **EXPANSION OF PERIOD WITHIN WHICH CONVERTED CITRUS TREE PROPERTY MUST BE REPLACED.**—Section 1033 (relating to period within which property must be replaced) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) **COMMERCIAL TREES DESTROYED BECAUSE OF CITRUS TREE CANKER.**—In the case of commercial citrus trees which are compulsorily or involuntarily converted under a public order as a result of the citrus tree canker, clause (i) of subsection (a)(2)(B) shall be applied as if such clause reads: ‘4 years after the close of the first taxable year in which any part of the gain upon conversion is realized, or such additional period after the close of such taxable year as determined appropriate by the Secretary on a regional basis if a State or Federal plant health authority determines with respect to such region that the land on which such trees grew is not free from the bacteria that causes citrus tree canker’.”

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

**SEC. 545. EXCLUSION OF CERTAIN PUNITIVE DAMAGE AWARDS.**

(a) **IN GENERAL.**—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

“(d) **EXCLUSION OF PUNITIVE DAMAGES PAID TO A STATE UNDER A SPLIT-AWARD STATUTE.**—

“(1) **IN GENERAL.**—The phrase ‘other than punitive damages’ in subsection (a) shall not apply to—

“(A) any portion of an award of punitive damages in a civil action which is paid to a State under a split-award statute, or

“(B) any attorneys’ fees or other costs incurred by the taxpayer in connection with obtaining an award of punitive damages to which subparagraph (A) is applicable.

“(2) **SPLIT-AWARD STATUTE.**—For purposes of this subsection, the term ‘split-award statute’ means a State law that requires a fixed portion of an award of punitive damages in a civil action to be paid to the State.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to awards made in

taxable years ending after the date of the enactment of this Act.

**SEC. 546. TREATMENT OF CERTAIN IMPORTED RECYCLED HALONS.**

(a) *IN GENERAL.*—Section 1803(c) of the Small Business Job Protection Act of 1986 (Public Law 104-188) is amended by striking “1997” and “1998” and inserting “1994”.

(b) *WAIVER OF LIMITATIONS.*—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including *res judicata*), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

**SEC. 547. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.**

(a) *IN GENERAL.*—Subsection (g) of section 1400L is amended to read as follows:

“(g) *MODIFICATION OF RULES APPLICABLE TO NONRECOGNITION OF GAIN.*—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

“(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

“(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting ‘5 years’ for ‘2 years’ with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.”.

(b) *EFFECTIVE DATE.*—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

**Subtitle D—Medicare Provisions**

**SEC. 561. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.**

(a) *IN GENERAL.*—Section 1886(d)(3)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking “(iv) For discharges” and inserting “(iv)(I) Subject to subclause (II), for discharges”; and

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

“(II) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute a standardized amount for hospitals located in any area within the United States and within each region equal to the standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.”.

(b) *CONFORMING AMENDMENTS.*—

(1) *COMPUTING DRG-SPECIFIC RATES.*—Section 1886(d)(3)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking “IN DIFFERENT AREAS”;

(B) in the matter preceding clause (i), by striking “, each of”;

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting “for fiscal years before fiscal year 2004,” before “for hospitals”; and

(ii) in subclause (II), by striking “and” after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting “for fiscal years before fiscal year 2004,” before “for hospitals”; and

(ii) in subclause (II), by striking the period at the end and inserting “; and”; and

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

“(iii) for a fiscal year beginning after fiscal year 2003, for hospitals located in all areas, to the product of—

“(I) the applicable standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

“(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.”.

(2) *TECHNICAL CONFORMING SUNSET.*—Section 1886(d)(3) of the Social Security Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter preceding subparagraph (A), by inserting “, for fiscal years before fiscal year 1997,” before “a regional adjusted DRG prospective payment rate”; and

(B) in subparagraph (D), in the matter preceding clause (i), by inserting “, for fiscal years before fiscal year 1997,” before “a regional DRG prospective payment rate for each region.”.

**SEC. 562. FAIRNESS IN THE MEDICARE DISPROPORTIONATE SHARE HOSPITAL (DSH) ADJUSTMENT FOR RURAL HOSPITALS.**

(a) *EQUALIZING DSH PAYMENT AMOUNTS.*—

(1) *IN GENERAL.*—Section 1886(d)(5)(F)(vii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vii)) is amended by inserting “, and, after October 1, 2003, for any other hospital described in clause (iv),” after “clause (iv)(I)” in the matter preceding subclause (I).

(2) *CONFORMING AMENDMENTS.*—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (iv)—

(i) in subclause (II)—

(I) by inserting “and before October 1, 2003,” after “April 1, 2001,”; and

(II) by inserting “or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)” after “clause (xiii)”;

(ii) in subclause (III)—

(I) by inserting “and before October 1, 2003,” after “April 1, 2001,”; and

(II) by inserting “or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)” after “clause (xii)”;

(iii) in subclause (IV)—

(I) by inserting “and before October 1, 2003,” after “April 1, 2001,”; and

(II) by inserting “or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)” after “clause (x) or (xi)”;

(iv) in subclause (V)—

(I) by inserting “and before October 1, 2003,” after “April 1, 2001,”; and

(II) by inserting “or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)” after “clause (xi)”;

(v) in subclause (VI)—

(I) by inserting “and before October 1, 2003,” after “April 1, 2001,”; and

(II) by inserting “or, for discharges occurring on or after October 1, 2003, is equal to the percent determined in accordance with the applicable formula described in clause (vii)” after “clause (x)”;

(B) in clause (viii), by striking “The formula” and inserting “For discharges occurring before October 1, 2003, the formula”; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking “For purposes” and inserting “With

respect to discharges occurring before October 1, 2003, for purposes”.

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2003.

**SEC. 563. MEDICARE INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.**

Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

“(12) *PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.*—

“(A) *PAYMENT ADJUSTMENT.*—

“(i) *IN GENERAL.*—Notwithstanding any other provision of this section, for each cost reporting period (beginning with the cost reporting period that begins in fiscal year 2005), the Secretary shall provide for an additional payment amount to each low-volume hospital (as defined in clause (iii)) for discharges occurring during that cost reporting period to increase the amount paid to such hospital under this section for such discharges by the applicable percentage increase determined under clause (ii).

“(ii) *APPLICABLE PERCENTAGE INCREASE.*—The Secretary shall determine a percentage increase applicable under this paragraph that ensures that—

“(I) no percentage increase in payments under this paragraph exceeds 25 percent of the amount of payment that would otherwise be made to a low-volume hospital under this section for each discharge (but for this paragraph);

“(II) low-volume hospitals that have the lowest number of discharges during a cost reporting period receive the highest percentage increase in payments due to the application of this paragraph; and

“(III) the percentage increase in payments due to the application of this paragraph is reduced as the number of discharges per cost reporting period increases.

“(iii) *LOW-VOLUME HOSPITAL DEFINED.*—For purposes of this paragraph, the term ‘low-volume hospital’ means, for a cost reporting period, a subsection (d) hospital (as defined in paragraph (1)(B)) other than a critical access hospital (as defined in section 1861(m)(1)) that—

“(I) the Secretary determines had an average of less than 2,000 discharges (determined with respect to all patients and not just individuals receiving benefits under this title) during the 3 most recent cost reporting periods for which data are available that precede the cost reporting period to which this paragraph applies; and

“(II) is located at least 15 miles from a similar hospital (or is deemed by the Secretary to be so located by reason of such factors as the Secretary determines appropriate, including the time required for an individual to travel to the nearest alternative source of appropriate inpatient care (taking into account the location of such alternative source of inpatient care and any weather or travel conditions that may affect such travel time)).

“(B) *PROHIBITING CERTAIN REDUCTIONS.*—Notwithstanding subsection (e), the Secretary shall not reduce the payment amounts under this section to offset the increase in payments resulting from the application of subparagraph (A).”.

**SEC. 564. ADJUSTMENT TO THE MEDICARE INPATIENT HOSPITAL PPS WAGE INDEX TO REVISE THE LABOR-RELATED SHARE OF SUCH INDEX.**

(a) *IN GENERAL.*—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(1) by striking “WAGE LEVELS.—The Secretary” and inserting “WAGE LEVELS.—

“(i) *IN GENERAL.*—Except as provided in clause (ii), the Secretary”; and

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

“(ii) *ALTERNATIVE PROPORTION TO BE ADJUSTED BEGINNING IN FISCAL YEAR 2004.*—

“(I) *IN GENERAL.*—Except as provided in subclause (II), for discharges occurring on or after

October 1, 2003, the Secretary shall substitute "62 percent" for the proportion described in the first sentence of clause (i).

"(II) HOLD HARMLESS FOR CERTAIN HOSPITALS.—If the application of subclause (I) would result in lower payments to a hospital than would otherwise be made, then this subparagraph shall be applied as if this clause had not been enacted."

(b) WAIVING BUDGET NEUTRALITY.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)), as amended by subsection (a), is amended by adding at the end of clause (i) the following new sentence: "The Secretary shall apply the previous sentence for any period as if the amendments made by section 564(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 had not been enacted."

**SEC. 565. ONE-YEAR EXTENSION OF HOLD HARMLESS PROVISIONS FOR SMALL RURAL HOSPITALS AND TEMPORARY TREATMENT OF CERTAIN SOLE COMMUNITY HOSPITALS TO LIMIT DECLINE IN PAYMENT UNDER THE OPD PPS.**

(a) HOLD HARMLESS PROVISIONS.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in the heading, by striking "SMALL" and inserting "CERTAIN";

(2) by inserting "or a sole community hospital (as defined in section 1886(d)(5)(D)(iii)) located in a rural area" after "100 beds"; and

(3) by striking "2004" and inserting "2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply with respect to payment for OPD services furnished on and after January 1, 2004.

**SEC. 566. CRITICAL ACCESS HOSPITAL (CAH) IMPROVEMENTS.**

(a) PERMITTING HOSPITALS TO ALLOCATE SWING BEDS AND ACUTE CARE INPATIENT BEDS SUBJECT TO A TOTAL LIMIT OF 25 BEDS.—

(1) IN GENERAL.—Section 1820(c)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395i-4(c)(2)(B)(iii)) is amended to read as follows:

"(iii) provides not more than a total of 25 extended care service beds (pursuant to an agreement under subsection (f)) or acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period that does not exceed, as determined on an annual, average basis, 96 hours per patient;"

(2) CONFORMING AMENDMENT.—Section 1820(f) of the Social Security Act (42 U.S.C. 1395i-4(f)) is amended by striking "and the number of beds used at any time for acute care inpatient services does not exceed 15 beds".

(b) ELIMINATION OF THE ISOLATION TEST FOR COST-BASED CAH AMBULANCE SERVICES.—

(1) IN GENERAL.—Section 1834(l)(8) of the Social Security Act (42 U.S.C. 1395m(l)(8)), as added by section 205(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-482), as enacted into law by section 1(a)(6) of Public Law 106-554 (114 Stat. 2763), is amended by striking the comma at the end of subparagraph (B) and all that follows and inserting a period.

(2) TECHNICAL CORRECTION.—Section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) is amended by redesignating paragraph (8), as added by section 221(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-486), as enacted into law by section 1(a)(6) of Public Law 106-554 (114 Stat. 2763), as paragraph (9).

(c) COVERAGE OF COSTS FOR CERTAIN EMERGENCY ROOM ON-CALL PROVIDERS.—

(1) IN GENERAL.—Section 1834(g)(5) of the Social Security Act (42 U.S.C. 1395m(g)(5)) is amended—

(A) in the heading—

(i) by inserting "CERTAIN" before "EMERGENCY"; and

(ii) by striking "PHYSICIANS" and inserting "PROVIDERS";

(B) by striking "emergency room physicians who are on-call (as defined by the Secretary)" and inserting "physicians, physician assistants, nurse practitioners, and clinical nurse specialists who are on-call (as defined by the Secretary) to provide emergency services"; and

(C) by striking "physicians' services" and inserting "services covered under this title".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to costs incurred for services provided on or after January 1, 2004.

(d) AUTHORIZATION OF PERIODIC INTERIM PAYMENT (PIP).—

(1) IN GENERAL.—Section 1815(e)(2) of the Social Security Act (42 U.S.C. 1395g(e)(2)) is amended—

(A) in subparagraph (C), by striking "and" after the semicolon at the end;

(B) in subparagraph (D), by adding "and" after the semicolon at the end; and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) inpatient critical access hospital services."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to payments for inpatient critical access hospital services furnished on or after January 1, 2004.

(e) EXCLUSION OF NEW CAHS FROM PPS HOSPITAL WAGE INDEX CALCULATION.—Section 1886(d)(3)(E)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)(i)), as amended by section 564, is amended by inserting after the first sentence the following new sentence: "In calculating the hospital wage levels under the preceding sentence applicable with respect to cost reporting periods beginning on or after January 1, 2004, the Secretary shall exclude the wage levels of any hospital that became a critical access hospital prior to the cost reporting period for which such hospital wage levels are calculated."

**SEC. 567. TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.**

(a) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D))) on or after October 1, 2003, and before October 1, 2005, the Secretary of Health and Human Services shall increase the payment amount otherwise made under section 1895 of such Act (42 U.S.C. 1395fff) for such services by 10 percent.

(b) WAIVING BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall not reduce the standard prospective payment amount (or amounts) under section 1895 of the Social Security Act (42 U.S.C. 1395fff) applicable to home health services furnished during a period to offset the increase in payments resulting from the application of subsection (a).

(c) NO EFFECT ON SUBSEQUENT PERIODS.—The payment increase provided under subsection (a) for a period under such subsection, shall not apply to episodes and visits ending after such period, and shall not be taken into account in calculating the payment amounts applicable for episodes and visits occurring after such period.

**SEC. 568. TEMPORARY INCREASE IN PAYMENTS FOR CERTAIN SERVICES FURNISHED BY SMALL RURAL HOSPITALS UNDER MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.**

(a) INCREASE.—

(1) IN GENERAL.—In the case of an applicable covered OPD service (as defined in paragraph (2)) that is furnished by a hospital described in paragraph (7)(D)(i) of section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) on or after January 1, 2004, and before January 1, 2007, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall increase the Medicare OPD fee schedule amount (as determined under paragraph (4)(A) of such section) that is applicable for such service in

that year (determined without regard to any increase under this section in a previous year) by 5 percent.

(2) APPLICABLE COVERED OPD SERVICES DEFINED.—For purposes of this section, the term "applicable covered OPD service" means a covered clinic or emergency room visit that is classified within the groups of covered OPD services (as defined in paragraph (1)(B) of section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t))) established under paragraph (2)(B) of such section.

(b) NO EFFECT ON COPAYMENT AMOUNT.—The Secretary shall compute the copayment amount for applicable covered OPD services under section 1833(t)(8)(A) of the Social Security Act (42 U.S.C. 1395l(t)(8)(A)) as if this section had not been enacted.

(c) NO EFFECT ON INCREASE UNDER HOLD HARMLESS OR OUTLIER PROVISIONS.—The Secretary shall apply the temporary hold harmless provision under paragraph (7)(D)(i) of section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) and the outlier provision under paragraph (5) of such section as if this section had not been enacted.

(d) WAIVING BUDGET NEUTRALITY AND NO REVISION OR ADJUSTMENTS.—The Secretary shall not make any revision or adjustment under subparagraph (A), (B), or (C) of section 1833(t)(9) of the Social Security Act (42 U.S.C. 1395l(t)(9)) because of the application of subsection (a)(1).

(e) NO EFFECT ON PAYMENTS AFTER INCREASE PERIOD ENDS.—The Secretary shall not take into account any payment increase provided under subsection (a)(1) in determining payments for covered OPD services (as defined in paragraph (1)(B) of section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t))) under such section that are furnished after January 1, 2007.

(f) FINDINGS.—The Senate finds the following:

(1) The Medicare program has a responsibility to pay enough for beneficial new technologies in order to ensure that Medicare beneficiaries have access to care; however, such program must also be a prudent purchaser of health care items and services.

(2) The 2003 Medicare Hospital Outpatient Prospective Payment System Regulation may have resulted in limiting beneficiary access to care.

(3) A methodology should be developed under the Medicare outpatient prospective payment system under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) with appropriate resources and such methodology should be implemented January 1, 2004. This will ensure that all hospitals are appropriately reimbursed for the drugs and biologics that are used in the outpatient setting which in turn will ensure patient access to new technologies.

(g) TECHNICAL AMENDMENT.—Section 1833(t)(2)(B) (42 U.S.C. 1395l(t)(2)(B)) is amended by inserting "(and periodically revise such groups pursuant to paragraph (9)(A))" after "establish groups".

**SEC. 569 TEMPORARY INCREASE FOR GROUND AMBULANCE SERVICES FURNISHED IN A RURAL AREA.**

Section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)), as amended by section 566(b)(2), is amended by adding at the end the following new paragraph:

"(10) TEMPORARY INCREASE FOR GROUND AMBULANCE SERVICES FURNISHED IN A RURAL AREA.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, in the case of ground ambulance services furnished on or after January 1, 2004, and before January 1, 2007, for which the transportation originates in a rural area described in paragraph (9) or in a rural census tract described in such paragraph, the fee schedule established under this section shall provide that the rate for the service otherwise established, after application of any increase under such paragraph, shall be increased by 5 percent.

“(B) APPLICATION OF INCREASED PAYMENTS AFTER 2006.—The increased payments under subparagraph (A) shall not be taken into account in calculating payments for services furnished on or after the period specified in such subparagraph.”.

**SEC. 570. EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FROM THE MEDICARE PPS FOR SKILLED NURSING FACILITIES.**

(a) IN GENERAL.—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended—

(1) in paragraph (2)(A)(i)(II), by striking “clauses (ii) and (iii)” and inserting “clauses (ii), (iii), and (iv)”;

(2) by adding at the end of paragraph (2)(A) the following new clause:

“(iv) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Services described in this clause are—

“(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

“(II) Federally qualified health center services (as defined in paragraph (3) of such section); that would be described in clause (ii) if such services were furnished by a physician or practitioner not affiliated with a rural health clinic or a Federally qualified health center.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2004.

**SEC. 571. MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS.**

(a) PROCEDURES FOR SECRETARY, AND NOT PHYSICIANS, TO DETERMINE WHEN BONUS PAYMENTS UNDER MEDICARE INCENTIVE PAYMENT PROGRAM SHOULD BE MADE.—Section 1833(m) of the Social Security Act (42 U.S.C. 1395l(m)) is amended—

(1) by inserting “(1)” after “(m)”;

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

“(2) The Secretary shall establish procedures under which the Secretary, and not the physician furnishing the service, is responsible for determining when a payment is required to be made under paragraph (1).”.

(b) EDUCATIONAL PROGRAM REGARDING THE MEDICARE INCENTIVE PAYMENT PROGRAM.—The Secretary shall establish and implement an ongoing educational program to provide education to physicians under the medicare program on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395l(m)).

(c) ONGOING STUDY AND ANNUAL REPORT ON THE MEDICARE INCENTIVE PAYMENT PROGRAM.—

(1) ONGOING STUDY.—The Secretary shall conduct an ongoing study on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395l(m)). Such study shall focus on whether such program increases the access of medicare beneficiaries who reside in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A))) as a health professional shortage area to physicians’ services under the medicare program.

(2) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary considers appropriate.

**SEC. 572. TWO-YEAR TREATMENT OF CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED BY A SOLE COMMUNITY HOSPITAL.**

Notwithstanding subsections (a)(1)(D) and (h) of section 1833 of the Social Security Act (42 U.S.C. 1395l) and section 1834(d)(1) of such Act (42 U.S.C. 1395m(d)(1)), in the case of a clinical diagnostic laboratory test covered under part B of title XVIII of such Act that is furnished in 2004 or 2005 by a sole community hospital (as de-

finied in section 1886(d)(5)(D)(iii) of such Act (42 U.S.C. 1395wu(d)(5)(D)(iii))) as part of services provided to patients of the hospital, the following rules shall apply:

(1) PAYMENT BASED ON REASONABLE COSTS.—The amount of payment for such test shall be 100 percent of the reasonable costs of the hospital in furnishing such test.

(2) NO BENEFICIARY COST-SHARING.—No coinsurance, deductible, copayment, or other cost-sharing otherwise applicable under such part B shall apply with respect to such test.

**SEC. 573. ESTABLISHMENT OF FLOOR ON GEOGRAPHIC ADJUSTMENTS OF PAYMENTS FOR PHYSICIANS’ SERVICES.**

Section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)) is amended—

(1) in subparagraph (A), by striking “subparagraphs (B) and (C)” and inserting “subparagraphs (B), (C), and (E)”;

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

“(E) FLOOR FOR PRACTICE EXPENSE, MALPRACTICE, AND WORK GEOGRAPHIC INDICES.—For purposes of payment for services furnished on or after January 1, 2004, after calculating the practice expense, malpractice, and work geographic indices in clauses (i), (ii), and (iii) of subparagraph (A) and in subparagraph (B), the Secretary shall increase any such index to 1.00 for any locality for which such index is less than 1.00.”.

**SEC. 574. FREEZE IN PAYMENTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT AND ORTHOTICS AND PROSTHETICS.**

(a) DME.—Section 1834(a)(14) of the Social Security Act (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F)—

(A) by striking “a subsequent year” and inserting “2003”; and

(B) by striking “the previous year.” and inserting “2002.”;

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

“(G) for each of the years 2004 through 2013, 0 percentage points; and

“(H) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.”.

(b) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) of the Social Security Act (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (vii), by striking “and” at the end;

(2) in clause (viii)—

(A) by striking “a subsequent year” and inserting “2003”; and

(B) by striking “the previous year” and inserting “2002.”;

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

“(ix) for each of the years 2004 through 2013, 0 percent; and

“(x) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.”.

**SEC. 575. APPLICATION OF COINSURANCE AND DEDUCTIBLE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.**

(a) COINSURANCE.—

(1) IN GENERAL.—Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (1)(D)—

(i) in clause (i), by striking “(or 100 percent, in the case of such tests for which payment is made on an assignment-related basis)”;

(ii) in clause (ii), by striking “100 percent” and inserting “80 percent”;

(B) in paragraph (2)(D)—

(i) in clause (i), by striking “(or 100 percent, in the case of such tests for which payment is

made on an assignment-related basis or to a provider having an agreement under section 1866)”;

and

(ii) in clause (ii), by striking “100 percent” and inserting “80 percent”.

(2) CONFORMING AMENDMENT.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by striking “and with respect to clinical diagnostic laboratory tests for which payment is made under part B”.

(b) DEDUCTIBLE.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

**SEC. 576. REVISION IN PAYMENTS FOR COVERED OUTPATIENT DRUGS.**

Section 1842(o)(1) of the Social Security Act (42 U.S.C. 1395u(o)(1)) is amended by striking “equal to 95 percent of the average wholesale price.” and inserting “equal to—

“(A) in the case of drugs furnished prior to January 1, 2004, 95 percent of the average wholesale price; and

“(B) in the case of drugs furnished on or after January 1, 2004, the lesser of—

“(i) 85 percent of the average wholesale price; or

“(ii) the amount payable for the drug or biological during the last quarter of the previous year (as determined under this subparagraph, or, in the case of 2004, under subparagraph (A) using the second quarter of 2003) increased by the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.”.

**SEC. 577. INAPPLICABILITY OF SUNSET.**

The provisions of section 1001(a) of this Act shall not apply to the provisions of, and amendments made by, this subtitle.

**Subtitle E—Provisions Relating To S Corporation Reform and Simplification**

**PART I—MAXIMUM NUMBER OF SHAREHOLDERS OF AN S CORPORATION**

**SEC. 581. MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.**

(a) IN GENERAL.—Paragraph (1) of section 1361(c) (relating to special rules for applying subsection (b)) is amended to read as follows:

“(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

“(A) IN GENERAL.—For purpose of subsection (b)(1)(A)—

“(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

“(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

“(B) MEMBERS OF THE FAMILY.—For purpose of subparagraph (A)(ii), the term ‘members of the family’ means the common ancestor, lineal descendants of the common ancestor and the spouses of such lineal descendants or common ancestor.

“(C) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

“(D) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

“(E) ELECTION.—An election under subparagraph (A)(ii)—

“(i) must be made with the consent of all persons who are shareholders (including those that are family members) in the corporation on the day the election is made,

“(ii) in the case of—

“(I) an electing small business trust, shall be made by the trustee of the trust, and

“(II) a qualified subchapter S trust, shall be made by the beneficiary of the trust,

“(iii) under regulations, shall remain in effect until terminated, and

“(iv) shall apply only with respect to 1 family in any corporation.”

(b) RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.—Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by this Act, is amended—

(1) by inserting “or under section 1361(c)(1)(A)(ii)” after “section 1361(b)(3)(B)(ii)” in paragraph (1), and

(2) by inserting “or under section 1361(c)(1)(E)(iii)” after “section 1361(b)(3)(C)” in paragraph (1)(B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 582. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 100.**

(a) IN GENERAL.—Section 1361(b)(1)(A) (defining small business corporation) is amended by striking “75” and inserting “100”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 583. NONRESIDENT ALIENS ALLOWED AS BENEFICIARIES OF AN ELECTING SMALL BUSINESS TRUST.**

(a) IN GENERAL.—Section 1361(e)(1)(A)(i)(I) is amended by inserting “(including a nonresident alien individual)” after “individual”.

(b) CONFORMING AMENDMENT.—Clause (v) of section 1361(c)(2)(B) is amended by adding at the end the following new sentence: “This clause shall not apply for purposes of subsection (b)(1)(C).”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**PART II—TERMINATION OF ELECTION AND ADDITIONS TO TAX DUE TO PASSIVE INVESTMENT INCOME**

**SEC. 584. MODIFICATIONS TO PASSIVE INCOME RULES.**

(a) INCREASED PERCENTAGE LIMIT.—

(1) IN GENERAL.—Subsection (a)(2) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking “25 percent” and inserting “60 percent”.

(2) CONFORMING AMENDMENTS.—

(A) Section 26(b)(2)(J) is amended by striking “25 percent” and inserting “60 percent”.

(B) Section 1362(d)(3)(A)(i)(II) is amended by striking “25 percent” and inserting “60 percent”.

(C) The heading for paragraph (3) of section 1362(d) is amended by striking “25 PERCENT” and inserting “60 PERCENT”.

(D) Section 1375(b)(1)(A)(i) is amended by striking “25 percent” and inserting “60 percent”.

(E) The heading for section 1375 is amended by striking “25 percent” and inserting “60 percent”.

(F) The table of sections for part III of subchapter S of chapter 1 is amended by striking “25 percent” in the item relating to section 1375 and inserting “60 percent”.

(b) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Section 1362(d)(3) is amended—

(1) by striking “annuities,” and all that follows in subparagraph (C)(i) and inserting “and annuities.”, and

(2) by striking subparagraphs (C)(iv) and (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—Section 1375(d) is amended by striking “subchapter C” both places it appears and inserting “accumulated”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**PART III—TREATMENT OF S CORPORATION SHAREHOLDERS**

**SEC. 585. TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE.**

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

“(4) TRANSFER OF SUSPENDED LOSSES AND DEDUCTIONS WHEN STOCK IS TRANSFERRED INCIDENT TO DIVORCE.—For purposes of paragraph (2), the transfer of any shareholder’s stock in an S corporation incident to a decree of divorce shall include any loss or deduction described in such paragraph attributable to such stock.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers in taxable years beginning after December 31, 2003.

**SEC. 586. USE OF PASSIVE ACTIVITY LOSS AND AT-RISK AMOUNTS BY QUALIFIED SUBCHAPTER S TRUST INCOME BENEFICIARIES.**

(a) IN GENERAL.—Section 1361(d)(1) (relating to special rule for qualified subchapter S trust) is amended—

(1) by striking “and” at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting “, and”, and

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

“(C) for purposes of applying sections 465 and 469(g) to the beneficiary of the trust, the disposition of the S corporation stock by the trust shall be treated as a disposition by such beneficiary.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 2003.

**SEC. 587. DISREGARD OF UNEXERCISED POWERS OF APPOINTMENT IN DETERMINING POTENTIAL CURRENT BENEFICIARIES OF ESBT.**

(a) IN GENERAL.—Section 1361(e)(2) (defining potential current beneficiary) is amended by inserting “(determined without regard to any unexercised (in whole or in part) power of appointment during such period)” after “of the trust” in the first sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 588. CLARIFICATION OF ELECTING SMALL BUSINESS TRUST DISTRIBUTION RULES.**

(a) IN GENERAL.—Section 641(c)(1) (relating to special rules for taxation of electing small business trusts) is amended—

(1) by striking “and” at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

“(B) any distribution attributable to the portion treated as a separate trust shall be treated separately from any distribution attributable to the portion not so treated, and”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**PART IV—PROVISIONS RELATING TO BANKS**

**SEC. 589. SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.**

(a) IN GENERAL.—Section 4975(d) (relating to exemptions) is amended by striking “or” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “; or”, and by adding at the end the following new paragraph:

“(16) a sale of stock held by a trust which constitutes an individual retirement account

under section 408(a) to the individual for whose benefit such account is established if such sale is pursuant to an election under section 1362(a).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of stock held by individual retirement accounts on the date of the enactment of this Act.

**SEC. 590. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.**

(a) IN GENERAL.—Section 1362(d)(3) (relating to where passive investment income exceeds certain percentage of gross receipts for 3 consecutive taxable years and corporation has accumulated earnings and profits), as amended by this Act, is amended by adding at the end the following new subparagraph:

“(E) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (as defined in section 246A(c)(3)(B)(ii)), or a qualified subchapter S subsidiary which is a bank, the term ‘passive investment income’ shall not include—

“(i) interest income earned by such bank, bank holding company, or qualified subchapter S subsidiary, or

“(ii) dividends on assets required to be held by such bank, bank holding company, or qualified subchapter S subsidiary to conduct a banking business, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 591. TREATMENT OF QUALIFYING DIRECTOR SHARES.**

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

“(f) TREATMENT OF QUALIFYING DIRECTOR SHARES.—

“(1) IN GENERAL.—For purposes of this subchapter—

“(A) qualifying director shares shall not be treated as a second class of stock, and

“(B) no person shall be treated as a shareholder of the corporation by reason of holding qualifying director shares.

“(2) QUALIFYING DIRECTOR SHARES DEFINED.—For purposes of this subsection, the term ‘qualifying director shares’ means any shares of stock in a bank (as defined in section 581) or in a bank holding company registered as such with the Federal Reserve System—

“(i) which are held by an individual solely by reason of status as a director of such bank or company or its controlled subsidiary; and

“(ii) which are subject to an agreement pursuant to which the holder is required to dispose of the shares of stock upon termination of the holder’s status as a director at the same price as the individual acquired such shares of stock.

“(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualifying director shares shall be includible as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.”

(b) CONFORMING AMENDMENT.—Section 1366(a) is amended by adding at the end the following new paragraph:

“(3) ALLOCATION WITH RESPECT TO QUALIFYING DIRECTOR SHARES.—The holders of qualifying director shares (as defined in section 1361(f)) shall not, with respect to such shares of stock, be allocated any of the items described in paragraph (1).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**PART V—QUALIFIED SUBCHAPTER S SUBSIDIARIES**

**SEC. 592. RELIEF FROM INADVERTENTLY INVALID QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS AND TERMINATIONS.**

(a) IN GENERAL.—Section 1362(f) (relating to inadvertent invalid elections or terminations) is amended—

(1) by inserting “or under section 1361(b)(3)(B)(ii)” after “subsection (a)” in paragraph (1),

(2) by inserting “or under section 1361(b)(3)(C)” after “subsection (d)” in paragraph (1)(B),

(3) by inserting “or a qualified subchapter S subsidiary, as the case may be” after “small business corporation” in paragraph (3)(A),

(4) by inserting “or a qualified subchapter S subsidiary, as the case may be” after “S corporation” in paragraph (4), and

(5) by inserting “or a qualified subchapter S subsidiary, as the case may be” after “S corporation” in the matter following paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 593. INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES.**

(a) IN GENERAL.—Section 1361(b)(3)(A) (relating to treatment of certain wholly owned subsidiaries) is amended by inserting “and in the case of information returns required under part III of subchapter A of chapter 61” after “Secretary”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**PART VI—ADDITIONAL PROVISIONS**

**SEC. 594. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS.**

(a) IN GENERAL.—Subsection (a) of section 1311 of the Small Business Job Protection Act of 1996 is amended to read as follows:

“(a) IN GENERAL.—If a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, the amount of such corporation’s accumulated earnings and profits (as of the beginning of the first taxable year beginning after December 31, 2003) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**TITLE VI—BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM**

**SEC. 601. SHORT TITLE.**

This Act may be cited as the “Fundamental Tax Reform Commission Act of 2003”.

**SEC. 602. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established the “Blue Ribbon Commission on Comprehensive Tax Reform” (in this Act referred to as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members of whom—

(A) 1 shall be the Chairman of the Board of Governors of the Federal Reserve System;

(B) 2 shall be appointed by the majority leader of the Senate;

(C) 2 shall be appointed by the minority leader of the Senate;

(D) 2 shall be appointed by the Speaker of the House of Representatives;

(E) 2 shall be appointed by the minority leader of the House of Representatives; and

(F) 3 shall be appointed by the President, of which no more than 2 shall be of the same party as the President.

(2) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(3) DATE.—The appointments of the members of the Commission shall be made not later than July 30, 2003.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

**SEC. 603. DUTIES OF THE COMMISSION.**

(a) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(c) REPORT.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to section 602(b), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

**SEC. 604. POWERS OF THE COMMISSION.**

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 605. COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 606. TERMINATION OF THE COMMISSION.**

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 603.

**SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to the Commission to carry out this Act.

**TITLE VII—REAL ESTATE INVESTMENT TRUSTS**

**Subtitle A—REIT Corrections**

**SEC. 701. REVISIONS TO REIT ASSET TEST.**

(a) EXPANSION OF STRAIGHT DEBT SAFE HARBOR.—Section 856 (defining real estate investment trust) is amended—

(1) in subsection (c) by striking paragraph (7), and

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

“(m) SAFE HARBOR IN APPLYING SUBSECTION (c)(4).—

“(1) IN GENERAL.—In applying subclause (III) of subsection (c)(4)(B)(iii), except as otherwise determined by the Secretary in regulations, the following shall not be considered securities held by the trust:

“(A) Straight debt securities of an issuer which meet the requirements of paragraph (2).

“(B) Any loan to an individual or an estate.

“(C) Any section 467 rental agreement (as defined in section 467(d)), other than with a person described in subsection (d)(2)(B).

“(D) Any obligation to pay rents from real property (as defined in subsection (d)(1)).

“(E) Any security issued by a State or any political subdivision thereof, the District of Columbia, a foreign government or any political subdivision thereof, or the Commonwealth of Puerto Rico, but only if the determination of any payment received or accrued under such security does not depend in whole or in part on the profits of any entity not described in this subparagraph or payments on any obligation issued by such an entity.

“(F) Any security issued by a real estate investment trust.

“(G) Any other arrangement as determined by the Secretary.

“(2) SPECIAL RULES RELATING TO STRAIGHT DEBT SECURITIES.—

“(A) IN GENERAL.—For purposes of paragraph (1)(A), securities meet the requirements of this paragraph if such securities are straight debt, as

defined in section 1361(c)(5) (without regard to subparagraph (B)(iii) thereof).

“(B) SPECIAL RULES RELATING TO CERTAIN CONTINGENCIES.—For purposes of subparagraph (A), any interest or principal shall not be treated as failing to satisfy section 1361(c)(5)(B)(i) solely by reason of the fact that the time of payment of such interest or principal is subject to a contingency, but only if—

“(i) any such contingency does not have the effect of changing the effective yield to maturity, as determined under section 1272, other than a change in the annual yield to maturity which either—

“(I) does not exceed the greater of 1/4 of 1 percent or 5 percent of the annual yield to maturity, or

“(II) results solely from a default or the exercise of a prepayment right by the issuer of the debt, or

“(ii) neither the aggregate issue price nor the aggregate face amount of the issuer's debt instruments held by the trust,

exceeds \$1,000,000 and not more than 12 months of unaccrued interest can be required to be prepaid thereunder.

“(C) SPECIAL RULES RELATING TO CORPORATE OR PARTNERSHIP ISSUERS.—In the case of an issuer which is a corporation or a partnership, securities that otherwise would be described in paragraph (1)(A) shall be considered not to be so described if the trust holding such securities and any of its controlled taxable REIT subsidiaries (as defined in subsection (d)(8)(A)(iv)) hold any securities of the issuer which—

“(i) are not described in paragraph (1) (prior to the application of paragraph (1)(C)), and

“(ii) have an aggregate value greater than 1 percent of the issuer's outstanding securities.

“(3) LOOK-THROUGH RULE FOR PARTNERSHIP SECURITIES.—

“(A) IN GENERAL.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii)—

“(i) a trust's interest as a partner in a partnership (as defined in section 7701(a)(2)) shall not be considered a security, and

“(ii) the trust shall be deemed to own its proportionate share of each of the assets of the partnership.

“(B) DETERMINATION OF TRUST'S INTEREST IN PARTNERSHIP ASSETS.—For purposes of subparagraph (A), with respect to any taxable year beginning after the date of the enactment of this subparagraph—

“(i) the trust's interest in the partnership assets shall be the trust's proportionate interest in any securities issued by the partnership (determined without regard to subparagraph (A)(i) and paragraph (4), but not including securities described in paragraph (1)), and

“(ii) the value of any debt instrument shall be the adjusted issue price thereof, as defined in section 1272(a)(4).

“(4) CERTAIN PARTNERSHIP DEBT INSTRUMENTS NOT TREATED AS A SECURITY.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii)—

“(A) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security to the extent of the trust's interest as a partner in the partnership, and

“(B) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security if at least 75 percent of the partnership's gross income (excluding gross income from prohibited transactions) is derived from sources referred to in subsection (c)(3).

“(5) SECRETARIAL GUIDANCE.—The Secretary is authorized to provide guidance (including through the issuance of a written determination, as defined in section 6110(b)) that an arrangement shall not be considered a security held by the trust for purposes of applying subclause (III) of subsection (c)(4)(B)(iii) notwithstanding that such arrangement otherwise could be considered a security under subparagraph (F) of subsection (c)(5).”.

#### SEC. 702. CLARIFICATION OF APPLICATION OF LIMITED RENTAL EXCEPTION.

Subparagraph (A) of section 856(d)(8) (relating to special rules for taxable REIT subsidiaries) is amended to read as follows:

“(A) LIMITED RENTAL EXCEPTION.—

“(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in paragraph (2)(B).

“(ii) RENTS MUST BE SUBSTANTIALLY COMPARABLE.—Clause (i) shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents paid by the other tenants of the trust's property for comparable space.

“(iii) TIMES FOR TESTING RENT COMPARABILITY.—The substantial comparability requirement of clause (ii) shall be treated as met with respect to a lease to a taxable REIT subsidiary of the trust if such requirement is met under the terms of the lease—

“(I) at the time such lease is entered into,

“(II) at the time of each extension of the lease, including a failure to exercise a right to terminate, and

“(III) at the time of any modification of the lease between the trust and the taxable REIT subsidiary if the rent under such lease is effectively increased pursuant to such modification. With respect to subclause (III), if the taxable REIT subsidiary of the trust is a controlled taxable REIT subsidiary of the trust, the term ‘rents from real property’ shall not in any event include rent under such lease to the extent of the increase in such rent on account of such modification.

“(iv) CONTROLLED TAXABLE REIT SUBSIDIARY.—For purposes of clause (iii), the term ‘controlled taxable REIT subsidiary’ means, with respect to any real estate investment trust, any taxable REIT subsidiary of such trust if such trust owns directly or indirectly—

“(I) stock possessing more than 50 percent of the total voting power of the outstanding stock of such subsidiary, or

“(II) stock having a value of more than 50 percent of the total value of the outstanding stock of such subsidiary.

“(v) CONTINUING QUALIFICATION BASED ON THIRD PARTY ACTIONS.—If the requirements of clause (i) are met at a time referred to in clause (iii), such requirements shall continue to be treated as met so long as there is no increase in the space leased to any taxable REIT subsidiary of such trust or to any person described in paragraph (2)(B).

“(vi) CORRECTION PERIOD.—If there is an increase referred to in clause (v) during any calendar quarter with respect to any property, the requirements of clause (iii) shall be treated as met during the quarter and the succeeding quarter if such requirements are met at the close of such succeeding quarter.”.

#### SEC. 703. DELETION OF CUSTOMARY SERVICES EXCEPTION.

Subparagraph (B) of section 857(b)(7) (relating to redetermined rents) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), (v), (vi), and (vii) as clauses (ii), (iii), (iv), (v), and (vi), respectively.

#### SEC. 704. CONFORMITY WITH GENERAL HEDGING DEFINITION.

(a) DEFINITION.—Subparagraph (G) of section 856(c)(5) (relating to treatment of certain hedging instruments) is amended to read as follows:

“(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from the sale or disposition of such a transaction, shall not con-

stitute gross income under paragraph (2) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets.”.

#### SEC. 705. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking “90 percent” and inserting “95 percent”.

#### SEC. 706. PROHIBITED TRANSACTIONS PROVISIONS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

“(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term ‘prohibited transaction’ does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

“(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

“(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

“(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

“(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

“(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

“(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

“(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

“(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

“(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

“(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

“(vi) the sales price of the property sold by the trust to its taxable REIT subsidiary is not based in whole or in part on the income or profits of the subsidiary or the income or profits that the subsidiary derives from the sale or operation of such property.”.

#### SEC. 707. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall apply to taxable years beginning after December 31, 2000.

(b) SECTIONS 703 THROUGH 706.—The amendments made by sections 703, 704, 705 and 706 shall apply to taxable years beginning after the date of the enactment of this Act.

**Subtitle B—REIT Savings Provisions****SEC. 711. REVISIONS TO REIT PROVISIONS.**

(a) RULES OF APPLICATION FOR FAILURE TO SATISFY SECTION 856(c)(4).—Section 856(c) (relating to definition of real estate investment trust), as amended by section 701, is amended by inserting after paragraph (6) the following new paragraph:

“(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4).—

“(A) DE MINIMIS FAILURE.—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

“(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

“(I) 1 percent of the total value of the trust’s assets at the end of the quarter for which such measurement is done, and

“(II) \$10,000,000, and

“(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association’s identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

“(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

“(B) FAILURES EXCEEDING DE MINIMIS AMOUNT.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

“(i) such failure involves the ownership of assets the total value of which exceeds the de minimis standard described in subparagraph (A)(i) at the end of the quarter for which such measurement is done,

“(ii) following the corporation, trust, or association’s identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

“(iii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect,

“(iv) the corporation, trust, or association pays a tax computed under subparagraph (C), and

“(v)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (ii) within 6 months after the last day of the quarter in which the corporation, trust or association’s identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

“(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

“(C) TAX.—For purposes of subparagraph (B)(iv)—

“(i) TAX IMPOSED.—If a corporation, trust, or association elects the application of this subparagraph, there is hereby imposed a tax on the failure described in subparagraph (B) of such corporation, trust, or association. Such tax shall be paid by the corporation, trust, or association.

“(ii) TAX COMPUTED.—The amount of the tax imposed by clause (i) shall be the greater of—

“(I) \$50,000, or

“(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (B)(ii) for the period specified in clause (iii) by the highest rate of tax specified in section 11.

“(iii) PERIOD.—For purposes of clause (ii)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

“(iv) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.”

(b) MODIFICATION OF RULES OF APPLICATION FOR FAILURE TO SATISFY SECTIONS 856(c)(2) OR 856(c)(3).—Paragraph (6) of section 856(c) (relating to definition of real estate investment trust) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

“(A) following the corporation, trust, or association’s identification of the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year, a description of each item of its gross income described in such paragraphs is set forth in a schedule for such taxable year filed in accordance with regulations prescribed by the Secretary, and”

(c) REASONABLE CAUSE EXCEPTION TO LOSS OF REIT STATUS IF FAILURE TO SATISFY REQUIREMENTS.—Subsection (g) of section 856 (relating to termination of election) is amended—

(1) in paragraph (1) by inserting before the period at the end of the first sentence the following: “unless paragraph (5) applies”, and

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

“(5) ENTITIES TO WHICH PARAGRAPH APPLIES.—This paragraph applies to a corporation, trust, or association—

“(A) which is not a real estate investment trust to which the provisions of this part apply for the taxable year due to one or more failures to comply with one or more of the provisions of this part (other than subsection (c)(6) or (c)(7) of section 856),

“(B) such failures are due to reasonable cause and not due to willful neglect, and

“(C) if such corporation, trust, or association pays (as prescribed by the Secretary in regulations and in the same manner as tax) a penalty of \$50,000 for each failure to satisfy a provision of this part due to reasonable cause and not willful neglect.”

(d) DEDUCTION OF TAX PAID FROM AMOUNT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) is amended by striking “(7)” and inserting “(7) of this subsection, section 856(c)(7)(B)(iii), and section 856(g)(1).”

(e) EXPANSION OF DEFICIENCY DIVIDEND PROCEDURE.—Subsection (e) of section 860 is amended by striking “or” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “; or”, and by adding at the end the following new paragraph:

“(4) a statement by the taxpayer attached to its amendment or supplement to a return of tax for the relevant tax year.”

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

**TITLE VIII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS****Subtitle A—Extensions of Expiring Provisions****SEC. 801. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.**

(a) IN GENERAL.—Subsection (f) of section 9812 is amended by striking “2003” and inserting “2004”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2002.

**SEC. 802. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking “RULE FOR 2000, 2001, 2002, AND 2003.—” and inserting “RULE FOR 2000, 2001, 2002, 2003, AND 2004.—”, and

(2) by striking “during 2000, 2001, 2002, or 2003.” and inserting “during 2000, 2001, 2002, 2003, or 2004”.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking “during 2000, 2001, 2002, or 2003” and inserting “during 2000, 2001, 2002, 2003, or 2004”.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 803. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.**

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking “2004” and inserting “2005”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2002.

**SEC. 804. WORK OPPORTUNITY CREDIT.**

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking “2003” and inserting “2004”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

**SEC. 805. WELFARE-TO-WORK CREDIT.**

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking “2003” and inserting “2004”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

**SEC. 806. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.**

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking “2004” and inserting “2005”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

**SEC. 807. QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking “2000, 2001, 2002, and 2003” and inserting “2000, 2001, 2002, 2003, and 2004”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 808. COVER OVER OF TAX ON DISTILLED SPIRITS.**

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2002.

**SEC. 809. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.**

(a) **EXTENSION OF DEDUCTION.**—Section 170(e)(6)(G) (relating to termination) is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to contributions made after December 31, 2002.

**SEC. 810. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) **IN GENERAL.**—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking “December 31, 2003,” and inserting “December 31, 2004,” and

(B) in subparagraphs (A), (B), and (C), by striking “2004”, “2005”, and “2006”, respectively, and inserting “2005”, “2006”, and “2007”, respectively.

(2) in subsection (e), by striking “December 31, 2006” and inserting “December 31, 2007”.

(b) **CONFORMING AMENDMENTS.**—Clause (iii) of section 280F(a)(1)(C) is amended by striking “2007” and inserting “2008”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2002.

**SEC. 811. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.**

(a) **IN GENERAL.**—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking “December 31, 2003,” and inserting “December 31, 2004,” and

(B) in clauses (i), (ii), and (iii), by striking “2004”, “2005”, and “2006”, respectively, and inserting “2005”, “2006”, and “2007”, respectively, and

(2) in subsection (f), by striking “December 31, 2006” and inserting “December 31, 2007”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2002.

**SEC. 812. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.**

(a) **IN GENERAL.**—Subparagraph (D) of section 62(a)(2) is amended by striking “during 2002 or 2003” and inserting “during 2002, 2003, or 2004”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

**SEC. 813. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

(a) **IN GENERAL.**—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking “2003” each place it appears and inserting “2004”.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (2) of section 220(j) is amended by striking “1998, 1999, 2001, or 2002” each place it appears and inserting “1998, 1999, 2001, 2002, or 2003”.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking “and 2002” and inserting “2002, and 2003”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 2003.

**SEC. 814. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

(a) **EXTENSION OF TERMINATION DATE.**—Subsection (h) of section 198 is amended by striking “2003” and inserting “2004”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2002.

**TITLE IX—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL****SEC. 900. SHORT TITLE.**

This title may be cited as the “Armed Forces Tax Fairness Act of 2003”.

**SEC. 901. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.**

(a) **IN GENERAL.**—Subsection (d) of section 121 (relating to exclusion of gain from sale of prin-

cipal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

“(9) **MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.**—

“(A) **IN GENERAL.**—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual’s spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

“(B) **MAXIMUM PERIOD OF SUSPENSION.**—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

“(C) **QUALIFIED OFFICIAL EXTENDED DUTY.**—For purposes of this paragraph—

“(i) **IN GENERAL.**—The term ‘qualified official extended duty’ means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

“(ii) **UNIFORMED SERVICES.**—The term ‘uniformed services’ has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

“(iii) **FOREIGN SERVICE OF THE UNITED STATES.**—The term ‘member of the Foreign Service of the United States’ has the meaning given the term ‘member of the Service’ by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

“(iv) **EXTENDED DUTY.**—The term ‘extended duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

“(D) **SPECIAL RULES RELATING TO ELECTION.**—

“(i) **ELECTION LIMITED TO 1 PROPERTY AT A TIME.**—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

“(ii) **REVOCATION OF ELECTION.**—An election under subparagraph (A) may be revoked at any time.”

(b) **EFFECTIVE DATE; SPECIAL RULE.**—

(1) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) **WAIVER OF LIMITATIONS.**—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

**SEC. 902. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.**

(a) **IN GENERAL.**—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

“(C) **EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.**—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.”

(b) **CONFORMING AMENDMENT.**—Subparagraph (A) of section 134(b)(3) is amended by striking “subparagraph (B)” and inserting “subparagraphs (B) and (C)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

**SEC. 903. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.**

(a) **IN GENERAL.**—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking “or” at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting “, or”, and by adding at the end the following new paragraph:

“(8) qualified military base realignment and closure fringe.”

(b) **QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.**—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) **QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘qualified military base realignment and closure fringe’ means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

“(2) **LIMITATION.**—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).”

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

**SEC. 904. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.**

(a) **IN GENERAL.**—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting “, or when deployed outside the United States away from the individual’s permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law” after “section 112”,

(2) by inserting in the first sentence “or at any time during the period of such contingency operation” after “for purposes of such section”,

(3) by inserting “or operation” after “such an area”, and

(4) by inserting “or operation” after “such area”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 7508(d) is amended by inserting “or contingency operation” after “area”.

(2) The heading for section 7508 is amended by inserting “**OR CONTINGENCY OPERATION**” after “**COMBAT ZONE**”.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting “or contingency operation” after “combat zone”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

**SEC. 905. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS’ ORGANIZATIONS.**

(a) **IN GENERAL.**—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking “or widowers” and inserting “, widowers, ancestors, or lineal descendants”.

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

**SEC. 906. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.**

(a) *IN GENERAL.*—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

“(4) *CLARIFICATION OF CERTAIN BENEFITS.*—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).”.

**(b) CONFORMING AMENDMENTS.**

(1) Section 134(b)(3)(A), as amended by section 102, is amended by inserting “and paragraph (4)” after “subparagraphs (B) and (C)”.

(2) Section 3121(a)(18) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(3) Section 3306(b)(13) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(4) Section 3401(a)(18) is amended by striking “or 129” and inserting “, 129, or 134(b)(4)”.

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(d) *NO INFERENCE.*—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

**SEC. 907. CLARIFICATION RELATING TO EXEMPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.**

(a) *IN GENERAL.*—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking “or” at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

“(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or”.

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 908. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.**

(a) *IN GENERAL.*—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) *SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.*—

“(1) *IN GENERAL.*—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

“(2) *TERRORIST ORGANIZATIONS.*—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

“(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

“(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United

Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

“(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

“(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

“(ii) such Executive order refers to this subsection.

“(3) *PERIOD OF SUSPENSION.*—With respect to any organization described in paragraph (2), the period of suspension—

“(A) begins on the later of—

“(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

“(ii) the date of the enactment of this subsection, and

“(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

“(4) *DENIAL OF DEDUCTION.*—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

“(5) *DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.*—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

“(6) *ERRONEOUS DESIGNATION.*—

“(A) *IN GENERAL.*—If—

“(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

“(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

“(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization, credit or refund (with interest) with respect to such overpayment shall be made.

“(B) *WAIVER OF LIMITATIONS.*—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

“(7) *NOTICE OF SUSPENSIONS.*—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.”.

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

**SEC. 909. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.**

(a) *DEDUCTION ALLOWED.*—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

“(p) *TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.*—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.”.

(b) *DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.*—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

“(E) *CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.*—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.”.

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

**SEC. 910. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.**

(a) *INCOME TAX RELIEF.*—

(1) *IN GENERAL.*—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

“(5) *RELIEF WITH RESPECT TO ASTRONAUTS.*—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.”.

(2) *CONFORMING AMENDMENTS.*—

(A) Section 5(b)(1) is amended by inserting “, astronauts,” after “Forces”.

(B) Section 6013(f)(2)(B) is amended by inserting “, astronauts,” after “Forces”.

(3) *CLERICAL AMENDMENTS.*—

(A) The heading of section 692 is amended by inserting “, ASTRONAUTS,” after “FORCES”.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting “, astronauts,” after “Forces”.

(4) *EFFECTIVE DATE.*—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) *DEATH BENEFIT RELIEF.*—

(1) *IN GENERAL.*—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

“(4) *RELIEF WITH RESPECT TO ASTRONAUTS.*—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.”.

(2) *CLERICAL AMENDMENT.*—The heading for subsection (i) of section 101 is amended by inserting “OR ASTRONAUTS” after “VICTIMS”.

(3) *EFFECTIVE DATE.*—The amendments made by this subsection shall apply to amounts paid

after December 31, 2002, with respect to deaths occurring after such date.

(c) **ESTATE TAX RELIEF.**—

(1) **IN GENERAL.**—Section 2201(b) (defining qualified decedent) is amended by striking “and” at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) any astronaut whose death occurs in the line of duty.”.

(2) **CLERICAL AMENDMENTS.**—

(A) The heading of section 2201 is amended by inserting “, **DEATHS OF ASTRONAUTS,**” after “**FORCES**”.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting “, **DEATHS OF ASTRONAUTS,**” after “**FORCES**”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

#### TITLE X—SUNSET

##### SEC. 1001. SUNSET.

(a) **IN GENERAL.**—Except as otherwise provided, the provisions of, and amendments made, by this Act shall not apply to taxable years beginning after December 31, 2012, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such amendments had never been enacted.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to the following provisions of, and amendments made by, this Act:

(1) Title I (other than section 107).

(2) Title III (other than section 362).

#### CORRECTING ENROLLMENT OF H.R. 1298

Mr. WARNER. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 46 which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 46) to correct the enrollment of H. R. 1298.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 46) was agreed to, as follows:

##### S. CON. RES. 46

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes, shall make the following correction: In section 202(d)(4)(A)(i), strike “from all other sources” and insert “from all sources”.

#### EXPRESSING THE GRATITUDE OF THE SENATE TO MICHAEL L. GILLETTE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of S. Res. 150, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

A resolution (S. Res. 150) expressing gratitude of the Senate to Michael L. Gillette, Director of the Center for Legislative Archives, for his service in preserving and making available the records of Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 150) was agreed to, as follows:

##### S. RES. 105

Whereas Michael L. Gillette, Director of the Center for Legislative Archives, retires on June 2, 2003, after 31 years of Government service;

Whereas Michael L. Gillette became the Director of the Center for Legislative Archives, National Archives and Records Administration, in 1991, and for 12 years has worked tirelessly to preserve and make available the official records of the Senate and the House of Representatives;

Whereas Michael L. Gillette promoted the use of the official records of Congress in educational publications, exhibitions, and projects to advance public understanding of the history of Congress and representative democracy;

Whereas Michael L. Gillette formerly was a member of the staff of what is now the National Archives and Records Administration at the Lyndon Baines Johnson Presidential Library, having joined that staff in 1972;

Whereas, during his 31 years of United States Government service at the National Archives and Records Administration, Michael L. Gillette has demonstrated unflinching dedication, skill, and good humor in the performance of his official duties; and

Whereas, throughout his career, Michael L. Gillette has sought to preserve the public record and promote the study of United States history; Now, therefore, be it

Resolved, That the Senate—

(1) commends Michael L. Gillette for his 31 years of service to the United States;

(2) expresses its appreciation and gratitude for Michael L. Gillette's dedication during the past 12 years to preserve and promote the records of Congress; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Michael L. Gillette.

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, after consultation with the Chairman of the Select Committee on Intelligence of the Senate, and pursuant to the provisions of Public Law 107-306, announces the appointment of the following individuals to serve as members of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community: The Honorable Fred Thompson of Tennessee, Bran Ferren of California.

The Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, pursuant to Public Law 105-292, as amended by Public Law 106-55, appoints the following individual to the United States Commission on International Religious Freedom: Michael K. Young of Washington, D.C.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-498, appoints Claude O. Pressnell, Jr. of Tennessee, to the Advisory Committee on Student Financial Assistance for a three-year term.

#### ORDERS FOR WEDNESDAY, MAY 21, 2003

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, May 21. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1050, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, tomorrow the Senate will resume debate on the Department of Defense authorization bill. Under the previous order, there will be 20 minutes remaining for debate in relation to the first- and second-degree amendments which are pending to the Defense bill. Following that debate, the Senate will vote in relation to the Warner second-degree amendment regarding low-yield nuclear weapons. Senators should, therefore, expect the first rollcall vote to occur at approximately 10 a.m. tomorrow morning.

Following the disposition of these amendments, additional amendments are expected, and, therefore, rollcall votes are expected throughout the day. It is still hoped that the Senate will be able to complete action on this bill tomorrow afternoon so that the Senate may vote on final passage of this important legislation at a reasonable time during Wednesday's session.

I will simply add a postscript of my own, Mr. President. I will be in consultation with the ranking member of the committee and the leadership on both sides of the aisle to achieve some type of the usual procedure whereby amendments are made known to the managers at a specified time and, hopefully, in that way we can evaluate what remains to be done on the bill and expedite its final consideration by the Senate.