United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, THURSDAY, JUNE 17, 2004 *No. 84—Part II*

House of Representatives

AMERICAN JOBS CREATION ACT OF 2004—Continued

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, we are here today because the United States Tax Code is out of sync with the rest of the world. Among our major trading partners, the United States is alone in the world in not using other forms of taxation other than direct income taxation.

Four times the United States defended our ability to create subsidies and, therefore, produce a more level playing field among our trading partners. We had for years refused to reexamine our code more fundamentally and thought that a subsidy mandate would create a more level playing field. Four times, the World Trade Organization said that under the rules of the World Trade Organization, of which we are a founding member, that that would not be permissible.

We are here today because the core of the bill is to repeal the Foreign Sales Corporation extraterritorial tax structure, and it also affords us an opportunity to examine an out-of-date Tax Code.

For those who say all we should be doing is repealing the subsidy, which has been declared against the rules, is to ignore the reason why we put the rules in place in the first place. The reason we did the subsidy was because we were at a disadvantage. It can certainly be argued we should have fundamentally changed our Tax Code back when we did that, but the simple answer is, we did not.

What we are trying to do is correct the errors of our ways, primarily by omission, but occasionally by commission, of not allowing U.S.-based, U.S. workers to put products and services out in the world on a level playing field with the rest of the world. That is what this bill does.

In addition to that, in examining these areas, we discovered portions of the Tax Code that are just flat out unfair. And this is an opportunity; I believe everybody deserves 1 day every 20 years to have a look at the problems they face in the Tax Code. Why? Because small business in certain industries are faced with a discriminatory U.S. Tax Code that puts U.S. small businesses at a disadvantage to foreign businesses.

We are going to hear there is a provision in here about arrows, there is a provision in here about tackle boxes, there is a provision in here about sonar, fish detecting equipment. The reason it is in here is because our code discriminates against American producers.

So not only are we rewriting our laws to be good trading partners and assisting those people who no longer get the subsidy because we are rewriting the laws, we are providing one day every 20 years to examine those portions of the code that make absolutely no sense.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

This is so interesting. The chairman of the committee stands to tell us what this bill is all about, which is labeled the American Jobs Creation Act and, guess what? This is nothing about jobs. He would have us believe that the reason for this legislation is to reform the Tax Code, to bring it up to date. Well, I have heard this type of Republican talk before: we have to pull it out by the roots. That is when we only had thousands of pages in the Tax Code.

But in the middle of the night, they bring us now a bill that is 400 pages long, and probably nobody in the House has even seen it yet. Do not call this a tax bill and do not say that you are reforming the system, because the fact is, if you wanted to really fix what this bill was supposed to do, and that is to remove the subsidy, all you do is remove the subsidy, and you do not give a tax cut for $150 billion, but you pick up $50 billion, which is the amount of the subsidy.

So you can put lipstick on a pig, but you cannot call it a lady. This is a lousy bill. It has nothing to do with reform.

And about this one day that someone is entitled to get their priorities, well, he is 100 percent correct. They sent the word out that every lobbyist in Washington has one day to get his favorite in this bill. It is just unfortunate that the American people did not get their one day to get jobs in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I do not rise to defend the honor of Miss Piggy, as the gentleman from New York indicated, and I am anxiously finding a flashlight because, apparently, the gentleman from New York exists in perpetual darkness since he believes night extends for more than 2 years. This bill has been around a long, long time.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WALSH) for the purpose of entering into a colloquy with the gentleman from Colorado (Mr. BEAUPREZ).

Mr. WALSH. Mr. Speaker, I thank the gentleman from California (Chairman THOMAS) for his leadership on this important legislation.

I understand the Senate version of the FSC/ETI bill includes the ''Green Bonds'' proposal. As the gentleman

knows, the Green Bonds proposal is intended to spur investment in building design and technologies which reduce energy consumption. They promote alternative energy use and improve environmental quality. The Green Bonds proposal also has tremendous job creation potential, as it includes specific minimum job creation requirements for projects.

While the legislation we are about to approve does not include the language relating to Green Bonds, I hope that the House will be able to accept the Senate-passed Green Bonds proposal in conference.

Mr. Speaker, I yield to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for yielding, and I thank him for raising this question.

This is technology, Mr. Speaker, that I am very familiar with, have been for many, many years, and similar to the gentleman from New York, this technology holds great potential for economic development, job and career development within my own district back in Colorado. I similarly hope that the House can favorably entertain inclusion of this provision when we go to conference.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume to thank the gentlemen from New York and Colorado, because without their active participation, the Green Bonds provision would not have been included in the House Energy Conference Report, H.R. 6, but it was, and this House passed it. Therefore, the opportunity to examine it in this conference is available to us. We did not deliberately exclude that measure from this bill, and I look forward to working with the gentlemen as we deliberate with the Senate on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. STARK), a senior member of the Committee on Ways and Means and ranking member of the Subcommittee on Health.

(Mr. STARK asked and was given permission to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, very seldom do I find myself almost speechless. If it were not for the rule which appears to gag all of the Members from offering any amendments that would perhaps help this bill and correct the problem which we know as FSC, and it is the first time that I have known that when you take away a subsidy that was not any good, that was improper in the first place, that for some reason you owe business the money that you have been improperly paying them all of these years.

As anybody who has ever had a job in private industry would know, this bill does very little for producers or farmers or small business. It is a return to right-wing radical McCarthyism.

The real serious problem, as I have thought about it this morning, my young 8-year-old son is here, and he is going to be paying for this bill for a long time. It is us elderly white, mostly elderly white males who are doing this to help the lobbyists who have contributed so generously to the Republican campaigns who are going to make these youngsters pay for it, and I think that is an obscenity that will stand long after we have left these halls.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members that it is not appropriate under the rules of debate to introduce guests on the House floor.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Illinois (Mr. CRANE), and to observe that I was worried about a job for the young man, but it is clear that he now has a job being a shield for his father.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to offer my strong support for H.R. 4520, the American Jobs Creation Act of 2004. This important legislation will end EU sanctions against our exporters, which is harming U.S. workers, and will deliver much-needed tax relief to the manufacturing sector of our economy.

In April 2003, I introduced bipartisan legislation to repeal ETI and return that money to domestic manufacturers. That legislation lowered the corporate tax rate for domestic manufacturing from 35 to 32 percent, and I am therefore quite pleased that $75 billion in direct relief for U.S. manufacturers has been included in this legislation. Of this, $13 billion is devoted to current ETI beneficiaries through important transition relief, and over $60 billion is devoted to rate cuts for manufacturers. Lowering the cost of doing business for this sector of our economy is critical for keeping the playing field level with our foreign competitors and stimulating U.S. job growth.

I would like to thank the gentleman from California (Chairman THOMAS) for working with me to include these very important provisions in the legislation before us today and, at the same time, I am pleased that the legislation also includes significant international tax reforms.

Contrary to the assertion by some, these provisions do not shift jobs overseas. Rather, they allow our multinationals doing business abroad to become more competitive.

□ 1230

This creates jobs here at home and is critically important to the long-term competitiveness of our multinationals engaged in the global economy.

H.R. 4520 also extends the enhanced section 179 expensing for 2 years, making it easier for small businesses to invest in new equipment and grow their businesses, and includes many tax relief and simplification provisions for smaller, subchapter S corporations. This, coupled with the nearly $200 billion in tax relief for small businesses provided in the Bush cuts of 2001 and 2003, is fundamental for helping small business, the backbone of our economy, continue to thrive.

No legislation is perfect; and I, for one, wish we had the resources available to do more. But this is a great first step, and it comes at an important time. If we do not act, EU sanctions against many U.S. goods will continue to grow until they reach 17 percent, further harming U.S. businesses and workers. And we must not allow that to happen.

Mr. Speaker, we have traveled a long road in bringing this legislation to the floor, and I am glad to be here today in support of a great bill. We have two alternatives. We can vote to end EU sanctions against U.S. manufacturers then ensuring that all sectors of our corporate economy continue to flourish, or we can vote to allow sanctions to continue to grow. I suggest that there is only one responsible choice, and I urge my colleagues to vote for the American Job Creation Act.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of Committee on Ways and Means and ranking member on the Subcommittee on Trade.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, this bill is called the American Jobs Creation Act. Because of specific provisions in it under truth-in-packaging, it should be called the Overseas Job Creation Act. I point to three provisions. They are technical. They matter.

One, reducing nine foreign tax credit baskets to two, costing $8 billion. And what it would do is make it more profitable, and I urge you to listen to this, to invest in a tax haven overseas than in the U.S. It was President Reagan who put it this way some years ago: this kind of provision ''gives U.S. taxpayers with operations in a high-tax country an incentive to invest in low-tax countries overseas. Low-tax country investments may be more attractive than investments in the United States.''

Secondly, the look-through provisions for payments between related corporations, $3½ billion. What it tells the U.S. multinational is invest your overseas profit other than in the United States and get benefits.

Thirdly, the repatriation provision, $5 billion. It says those profits coming back need to be invested in the United States. There is no definition of what an investment is. They could use the money to close down a factory.

Last year, the gentleman from Illinois (Mr. CRANE), the gentleman from New York (Mr. RANGEL), and the gentleman from Illinois (Mr. MANZULLO), and I introduced a bill to replace FSC that related to manufacturing with

provisions that related to manufacturing, 40 billion for 40 billion. Instead, we have 150 billion, and monies for so-called manufacturing can be used for entities that process hamburgers. This bill makes mincemeat out of good, sound policy. Reject it.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

In 1986 the reason the basket went from two to nine was for pure revenue to be spent in other areas. And as President Reagan said, it would entice someone to go from a high-tax country to a low-tax country. Shame on us if we are the high-tax country.

Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN), a champion in trade around the world.

Ms. DUNN. Mr. Speaker, this is a critically important bill for the constituents I represent. It contains tax relief for domestic manufacturers including producers of software, a provision on which I insisted during committee consideration.

The bill also restores after 18 years a tax deduction for State sales taxes. This relief is long overdue; and it enjoys bipartisan support, very strong here in the House.

The litigation of major provisions goes on and on. It provides a tax rate cut for small business. It updates 40-year-old provisions in the law that overtax U.S. businesses operating overseas. It provides incentives to companies to bring home foreign earnings, invest them here in the United States; and it extends the R&D tax credit, and it provides transition relief for current users of ETI.

I am sure every Member of this Chamber could think of ways he or she would change this bill. But insisting this or that provision and ignoring the larger issue will not bring us into compliance with our international trade obligations under the WTO. And it will not get us closer to providing real tax relief to U.S. workers and businesses.

I urge support of this bill.

Mr. Speaker, I rise in strong support of H.R. 4520 and urge my colleagues on both sides of the aisle to join me in voting for this important legislation.

This bill contains a number of critically important provisions. It brings us into compliance with the WTO and it will remove punitive sanctions on American products that are hurting U.S. sales in Europe and jeopardizing American workers.

Voting against this bill is a sure way to increase foreign tariffs on U.S. products, making it tougher for U.S. workers to compete in the world economy.

The simple fact is this: U.S. workers need this bill. They need the opportunity to compete domestically and internationally.

I urge my colleagues to vote for it.

Mr. Speaker, this is a good bill, a strong bill, a bipartisan bill, and it is a necessary bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT), who will explain how in the Congress we find Christmas in mid-June.

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, I wanted to bring out the symbol for today.

Like the Queen of England, the Republican Party can declare when Christmas comes. Christmas comes on the 17th of June. We were supposed to fix an international trade practice bill here; but every day we delay, American companies have to pay more, and so they finally got around to the other day putting out this beautiful Christmas tree that we have; but instead of offering a solution to the trades problems, they just had a giveaway for all the special interests.

They raised the taxes on the exporters and lowered the taxes on those people who put the jobs overseas. They intended to give $30 billion to oil, tobacco, drug companies; and to get this bill passed, the Republican leadership bought one special interest after another.

Now, they started out with corporate jets. That is this one up here. And then the collection agents. Do you know that they are going to give your tax record to private collection agencies to collect people's debts to the IRS? And also there is tackle boxes here, and there are bows and arrows and sonar devices. And there are two for tobacco here: one, they reduce their taxes, and then they have a buy out. And they were just practically for anybody.

This one is the pharmaceutical companies. Here is Coke and Pepsi. My goodness, they have just gone on and on and on.

Now, my Latin friends say this is Feliz Navidad, but I say it is fleecing America. They are not taking care of small business people. Every one of those. Yes, I know the bow and arrow makers, they are not very big. They are just a little bauble that gets two votes or one vote. Some of these are two votes, and some of these are 25 votes. There are a whole bunch more that I wanted to put on here.

Maybe we could give unemployment benefits to people who have had long-term unemployment. That would be Christmas for them. But, no, we just got special interests. Do not vote for this bill.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I tell the gentleman, only my friends on the other side of the aisle would have a 6-inch tree and call it Christmas.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I appreciate very much the comments of my friend from Washington State. Apparently, they were not pre-cleared by the ACLU because he referred to a Christmas tree rather than a holiday tree. I am sure he may get phone calls on that.

Be that as it may, rather than focusing on posturing or props or process, let us take a look at results, a little economics 101.

The fact is when you reduce income tax rates, you create economic incentive. You put people back to work. That is the essence of the job bill. One of the biggest taxes, as the chairman pointed out, geopolitically right now as it exists, American manufacturers and farmers are being hit with escalating tariffs. Tariffs is another term for taxes. Right now they are at 8 percent.

Guess what happens because of rising tariffs? The very exports that everyone champions, even those who say they are friends of workers, when you have higher tariffs, you do not have the exports; that costs jobs. Lowering those tariffs will actually create jobs.

We could talk more about the restaurant owners and depreciation and opportunities, but the bottom line is with this bill we create jobs. Vote ''yes.'' Reject the holiday ornamentation and the props and the pandering. Vote ''yes'' on this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), the conscience of the Congress, a member of the Committee on Ways and Means.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from New York (Mr. RANGEL) for yielding me time.

Mr. Speaker, I rise in outrage at this irresponsible bill we are voting on today. This bill is so reckless that the majority refused to allow us to vote on a substitute for fear that the debate would show the bill for what it really is. This bill is an overloaded Christmas tree with Christmas gifts for all sorts of special interests, from Chinese ceiling fans, to tackle boxes.

Mr. Speaker, instead of replacing the FSC incentive with much-needed help for United States manufacturers, as the Rangel substitute would have done, this bill provides $5 billion in new tax breaks that actually encourages companies to move their operations offshore. We are bleeding manufacturing jobs, and this bill encourages outsourcing. It is outrageous. It is a disgrace and a shame.

To add insult to injury, this bill will increase our deficit by a minimum of $34 billion over 10 years. But because the gimmicks are designed to hide the true costs, the actual price tag will be much higher.

Perhaps the most outrageous provisions of the bill, though, are the blatant sweeteners and special interest tax breaks designed to buy votes. Not one of them has anything to do with FSC.

These are just a few of the many gifts that have been placed on the tree: a tax break for manufacturers of fish and tackle boxes, a tax break for a maker of sonar devices used in fishing, a tax break for landowners who sell timber from their land, a tax break for makers of bows and arrows, a tax break for whaling, a tax break for alcoholic beverage wholesalers, and a $9 million buyout for tobacco.

Mr. Speaker, the calendar may say June 17; but make no mistake, today is Christmas for specialty interests. I urge my colleagues to do what is right and reject this bill.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just find it amazing that allowing American manufacturers to have a level playing field with foreign manufacturers is called a tax break.

Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. SHAW), a valuable member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me time to speak in strong favor of this most important bill.

We have heard so much. The gentleman from Georgia (Mr. LEWIS), while very eloquent, was missing the point. The point is this bill does create jobs and the louder one talks does not change that fact.

We have been running corporations offshore in this country because of our tax bills. One has to look no further than Chrysler leaving the United States, one of the Big Three going to Germany because they got a better deal. That is what jobs are: companies and people. Employers create jobs, not the United States Congress. But the United States Congress for years has been taking jobs away and running jobs offshore because of higher taxes and more regulation and then coming to the floor and complaining about the jobs leaving.

But I want to speak about one other part of this bill which is very important. If you are from Nevada, if you are from Texas, if you are from Florida and some other States, this bill has something that is so long in coming, something that we have been working for for so many years; and that part of this bill is for the first time in about 20 years, the American public is going to be able to deduct its sales tax from its taxable income here in this country.

This is huge. If you are from Florida you better think about this. If you vote against the deductibility of sales tax, you are voting against the taxpayers of Florida, Texas, Nevada, Ohio, and other States. We do not have an income tax in Florida to deduct from taxable income tax. So Florida does not get to deduct anything. This is pure fairness. I am proud that it is part of this bill.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know why he is so proud of giving these people a break just for 2 years when the Democratic alternative would have made it permanent so they would not have to worry about paying it back in 2 years.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), a strong, hard-working member of the Committee on Ways and Means.

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Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time.

There are 8.2 million Americans unemployed today, another 4.7 million Americans who have been so frustrated in their search for a job that they have dropped out of the workforce looking for work, and another 4.7 million Americans who cannot find anything more than part-time employment: Close to 18 million Americans today not satisfied with their opportunities to have a full paying job.

There were 2.7 million manufacturing jobs lost in the last 3 years. The share of the population in America that is working today at 62 percent is the lowest it has ever been since 1994. Payroll remains 5.5 million jobs short of the average that we have seen in most economic recoveries since World War II.

What is the response of this House to those conditions of America's trying to work? Billions of dollars of tax incentives for corporations to invest abroad and ship American jobs with that investment. This is a textbook case of how loopholes seep into our Tax Code. Where else but in the world of catering to special interests would it take $150 billion in tax cuts for corporations to remedy a $4 billion problem?

The dirtiest joke about all of this is that while we are giving tax cuts to corporations to send jobs overseas, there is a provision in this bill that actually would have bounty hunters to go out and try to collect taxes from Americans who actually filed a tax return but have not yet been able to pay the perhaps $500 that they still owe the IRS. So now these bounty hunters will be paid 25 percent of what they collect from you and you and you to do the work that the IRS says it could do at 4 to 5 percent of the cost.

That is what this bill is loaded down with. That is why this bill should not win. Democrats had a bill that would have kept jobs here, given manufacturing corporations in America a chance to pay less in taxes if they kept jobs here. We were not given a chance to put that bill on the floor today. That is what we have today.

Who will win? It will not be the interests of the American public, but there are a lot of special interests that are watching very closely. Vote against this bill.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman well knows that no substitute was offered in committee, no substitute was offered in front of the Committee on Rules. You can say it till you are blue in the face, but the Democrats offered no substitute, neither in committee nor in the Committee on Rules.

Mr. Speaker, it is now my pleasure to yield 1½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), someone who is extremely interested in American jobs.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me the time.

This is plain and simple a jobs bill. If American multinational companies are not competitive, we lose jobs all across this country, in the millions and millions of small businesses that produce parts and products that go abroad, and furthermore, if our multinationals are not strong, we do not produce jobs in America for this reason.

A 10-year study of our multinationals showed that they produced 2.8 million jobs abroad over the last 10 years, but those same parent companies produced 5.5 million new jobs right here in America. Being able to compete internationally is what creates jobs here at home. And it is not just those who export that have to be able to compete internationally; it is everyone because international competition is right down the street at Wal-Mart. So if we are not competitive, we lose jobs.

This bill reforms the structure under which we tax international earnings so we are competitive. That is all it does. We have to repeal one section of our law, so we feed that money back in to level the playing field for our companies so that they can continue to grow more jobs in America than they do abroad and so that they can continue to buy product from the millions of small businesses all across America that supply the goods that go abroad and make us competitive.

This is a jobs bill, and do not forget it for one minute. If we do not pass it, we lose jobs.

Mr. RANGEL. Mr. Speaker, talking about jobs or lack of it, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES), who knows that they do not have the jobs. She is a hardworking member of the Committee on Ways and Means.

Mrs. JONES of Ohio. Mr. Speaker, I want to thank my ranking member and my chairman the gentleman from New York (Mr. RANGEL) for his leadership.

I rise against H.R. 4520, and in Ohio it is truly the place where we know about a loss of jobs. Since President Bush took office, in the City of Cleveland alone we have lost 60,000 jobs. In the State of Ohio we have lost more than 200,000 jobs, many of them manufacturing jobs and many of them service workers jobs, and that was why in the Committee on Ways and Means I offered an amendment and subsequently withdrew it that would have provided benefits to service sector workers that have lost their jobs due to international trade.

The irony is that my amendment was ruled nongermane. H.R. 4520 is overloaded with special interest measures, but my amendment which would have dealt with service workers who are left out of the process was denied an opportunity, but more importantly, if H.R. 4520 is such a good bill, why not allow the Democrats to offer a bill so that our colleagues would have an option? I know they keep saying it was not a substitute, but this is a semantical argument that it is not a substitute. The Democrats had a bill that would have allowed us to do many of the things that are offered in H.R. 4520 but made them permanent.

I smile as I stand here and say this this morning to all the people of America, do not be fooled. Do not get fooled. Do not be fooled. This is not a jobs bill. Tell the Republican leadership you want a J-O-B. You want a J-O-B, not benefits for other corporations.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from California (Mr. HERGER), a colleague and member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in strong support of the American Jobs Creation Act. It is critical that we pass this legislation today. Many of our exports to Europe are currently facing an 8 percent tariff, and this tariff will rise to 17 percent if we do not act.

This legislation is also critical because it recognizes that American companies are operating in a global economy, and we need a tax system that allows them to compete and win.

This bill makes necessary reforms, but most importantly, this legislation will be a tremendous benefit to U.S. manufacturers, both large and small.

Some have said this legislation does not do enough for small business; yet this legislation is strongly supported by the largest small business group in America, the National Federation of Independent Business.

I urge my colleagues to support this legislation.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a hard-working member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, if Congress was subject to the truth-in-advertising law, we would be held accountable for the title of this bill, American Jobs Creation Act, as misleading the American people. My colleagues can call it what they want, this bill will not create jobs or save jobs in this country. It will cost us jobs, and we know that.

This bill costs $34 billion, according to the Joint Tax Committee, over the next 10 years. It will add to the deficit of the country. That is certainly not going to help our economy, but the truth is it costs a lot more than $34 billion. Because of all the sunsets and the phasing in, this bill costs a lot more than that, hundreds of billions of dollars, which is just going to add to the national debt and cost us jobs.

Mr. Speaker, the tragedy is that we do have a problem with the World Trade Organization that we should correct. Legislation has been offered to do that on a revenue neutral basis, without adding to the deficit and helping U.S. manufacturers so we keep jobs here in America. That has been rejected.

So what do we have? We have a bill that is laden with special interest provisions, hundreds of special interest provisions, that have been given out, that have nothing to do with job creation, have nothing to with the underlying problem with the World Trade Organization and has everything to do with trying to pass a bill to help special interests. Then we have provisions in here that actually harm our country, such as the private contracting of tax collection functions. I cannot think of anything more basic to our government than collection of taxes, and now we want to have private collection agencies dealing with our constituents? I do not want to see that happen.

Mr. Speaker, this bill will not help create jobs. It will hurt us in keeping jobs in America. We should have done better. We should have corrected the problem. Let us go back and do that. I urge my colleagues to reject this bill.

Mr. THOMAS. Mr. Speaker, it is now my pleasure to yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN), a newer Member of the House but someone who has already made an impact on a portion of this bill.

Mrs. BLACKBURN. Mr. Speaker, I want to thank the chairman for his work on this issue.

As we pass the American Jobs Creation Act today, this is a great day, a great day for the people of Tennessee and Florida and Texas and Washington and Wyoming. There are 55 million people in the U.S. that live in States that do not have a State income tax, that have a State sales tax, and restoring the deductibility of that State sales tax to our Federal income tax filing is important.

It is important in my State. I started working on this issue when I was in the State Senate. This means $1 billion a year to Tennessee's economy, and let me tell my colleagues, Mr. Speaker, that means jobs because Tennessee is a small business State. This will assist us in creating jobs, good, solid, homegrown jobs, that are going to stay right there with us.

I want to thank the gentleman from Texas (Mr. BRADY) and the gentleman from Texas (Mr. DELAY) for their work on this important piece of legislation and especially thank our chairman.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I would just like to make it clear that if the Democrats had a chance to have an alternative this provision would have not lasted just for 2 years, as Republicans would have it, but would have been made permanent.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), a hardworking member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for the time.

When $4 billion in sanctions are imposed for an unjustified tax break declared illegal in an international forum, this House Republican leadership produces this monstrosity of a bill to expand this $4 billion problem to an outrageous $150 billion chunk of corporate welfare.

The title of a lead column in the Business section of the Washington Post captures the essence of this sorry legislation: ''Tax Legislation Only Worthy of the Trash Heap.'' At least one corporate lobbyist was candid in boasting that this bill has ''risen to a new level of sleaze.'' The latest bit of sleaze was added only in the wee hours of this morning, a provision to obstruct an ongoing investigation by the Internal Revenue Service of corporate tax shelters, denying our IRS even the identity of those who were sold abusive corporate tax products.

Once again, with tax breaks for the private jets of corporate executives, for sonar devices for finding fish, for whale hunters, we can see that the big fish do rather well in this bill, while the American people are told one whopper after another.

This is a jobs bill all right. It is a jobs bill for corporate lobbyists who have done rather well. It is also a jobs bill for people in Bermuda and China. Indeed, I think the taxpayers of Bermuda and China ought to be footing the $150 billion price tag for this bill, not the American taxpayers because they appear to be the ones benefiting from this legislation. To those corporations that will dodge their taxes by planting their corporate flags on the shores of Bermuda, this bill gives them a pat on the back.

The Republicans once said they were opposed to this fleeing of American corporations abroad. Now they help buy them first class airfare at the expense of American taxpayers. Certainly, the most appalling provision of all is the $10 billion given to the producers of nicotine, a lethal product that ruins the lives of so many American families. Under this outrageous section, Big Tobacco will get cheaper tobacco, even more tobacco will be grown, and the American taxpayer will be the loser.

□ 1300

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe the gentleman from Texas (Judge DOGGETT) needs to know that provision has been ruled by the courts not to provide attorney/client privilege and that there was no new power granted under that language. And the gentleman from Texas (Judge DOGGETT) knows that when the courts rule, we try to be responsible in that regard.

Former Speaker Tip O'Neill said, ''All politics is local.'' I had said that some areas of the code have not been examined in 20 years or more, and people deserve a day at least once every 20 years to try to correct the horrible, horrible condition of many areas of our economy under our current Tax Code.

Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. MCINTYRE) who wants to talk about ending a subsidy to a particular group of Americans, and this is the first time they have had their day in court in almost three-quarters of a century.

Mr. MCINTYRE. Mr. Speaker, I rise in strong support of H.R. 4520, the

American Jobs Creation Act. In North Carolina, we have known something about losing jobs and we know what it means to be able to gain jobs back. That is why these WTO penalties that we are concerned about are being discussed today in many areas like textile, agriculture, and high-tech.

But my point today is a concern about tobacco. There are some things that are rather disparaging that are simply not true. This is not a Republican or Democratic issue. This is about helping families and helping gain jobs for those who have suffered enough under the only remaining Depression-era Federal farm program in America.

Members are concerned about American government being involved in tobacco. Well, let us get out of the 1930s. This is not a bail-out; it is a buy-out. And if we continue to do nothing, it will be a wipe-out.

What if Members' income was cut by 50 percent in the last 5 years like our tobacco farmers and you do not have control over it? It is done through a formula set by the Secretary of Agriculture, and this fall you may face another 20 to 30 percent cut in income. How are you going to pay for your kids, their education, their health care, their families? Are we going to take these farmers and put them on welfare?

We have to get the American government out of the tobacco business, and we can do that with this buy-out. We are not just paying off farmers, we are giving back to them what the Federal Government has taken from them. There is a Federal property interest in a tobacco allotment. Farmers can put it in deed, lease it, rent it, and that is controlled through the Federal Government.

This would be an opportunity to help our farmers make a decision: Are they going to continue to farm tobacco or get out? This is an opportunity for us to make a decision for the American taxpayer: Will the American taxpayer continue to subsidize tobacco or will we get out of the tobacco business, which so many people want to do?

This is a logical situation to help the American tobacco farmer and their family to be able to have the interest that the Federal Government has taken from them and now controls their income to be able to buy back that interest and then let them make the decision.

Our farmers in our rural regional and State economies have suffered enough. It is time for this uncertainty to end, not only for these families but for the American government's involvement in tobacco. It is also time to give farmers the freedom of choice and get them out from under a government mandate where they have no control over the amount of income they can make.

Let us do right by our farmers and their families. Let this be a win for the farmer, a win for the taxpayer, and a win for the American government.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the biggest fraud on farmers, and especially tobacco farmers, that I have seen in my 34 years in Congress. Here we have some help allegedly for the tobacco farmers, and those of us on the Committee on Ways and Means could not even discuss it because it is not in our jurisdiction, yet it is in our bill.

A person does not have to be a politician or Member of Congress to know if we are talking about farming and tobacco, we should be talking about the Committee on Agriculture and not the tax-writing committee. This bill has nothing to do with taxes, nothing to do with international sanctions against us. It has everything to do with trying to pick up votes for those people who know that they are facing economic distress in this area.

The right thing to have done was to have it in the Committee on Agriculture, which has jurisdiction and who understands this issue even better than some of the smartest Members on the Committee on Ways and Means.

Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, it is interesting that the sponsor of this bill would mention that all politics is local. I would remind the gentleman that in my State of Mississippi local elected officials are held personally liable for debts they incur while in office. If they spend more money than they can collect in taxes, they are personally liable. I wonder if the sponsor of this bill would be willing to pay his share of the $1,553,114,795,203.56 that his policies have added to the American debt in just the past 3 years?

I wonder how many of the Members who feel so strongly about this bill would be willing to pay their share of the $34 billion it is going to add to our Nation's debt. Do Members really feel that strongly about it? Do Members really think they are doing enough good to stick my kids with their $34 billion bill?

We are at war, and shame on us if we are the first generation of Americans to cut taxes as young Americans are dying on a daily basis. We are at war and we ought to be willing to pay for it and we ought to quit sticking our kids with our bills.

Mr. THOMAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Louisiana (Mr. MCCRERY), the chairman of the Subcommittee on Select Revenue of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding me this time to talk about what I think is perhaps the most important tax bill we have passed through this House in the last several years.

There has been a lot of talk and rhetoric about how the international tax provisions contained in this bill will ship jobs overseas when in fact just the opposite is the case and just the opposite is supported by the facts, but we do not hear many facts coming from those critics from the bill, we just hear rhetoric. Rhetoric is easy.

Let me give Members some facts. I will start with the fact that 93 percent of all products made overseas by American companies with operations overseas are sold overseas, not made over there and brought back here to be sold in our market to replace part of the market share here in the United States. Those products made overseas by American companies that have affiliates overseas are sold overseas. That should tell Members something. It should tell Members that our American companies who create facilities overseas to make things do so in order to compete in those overseas markets. They want market share over there, and in many cases and in most cases they need those facilities over there to serve those markets.

Another fact, another statistic that is important: 40 percent of all exports by American manufacturers from the United States go to foreign affiliates of those same American manufacturers. In other words, our manufacturers here in the United States are making things here to sell over there to their own foreign affiliates. So if it were not for the fact that American companies had those foreign affiliates overseas, those exports probably would not be sold. Those exports would not be leaving the United States. And all those exports, those products, are made by workers here in the United States.

So those jobs overseas, those plants overseas owned by American manufacturers support jobs here in the United States. Those are the facts. Forget the rhetoric, this bill is about jobs here in the United States. It is the best bill we have had on the floor in a long, long time, and we ought to pass it.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), our distinguished minority whip.

Mr. HOYER. Mr. Speaker, the other side can say it over and over and over again, but the facts are correct that this is not about jobs here because if it was about jobs here, we could have passed the Manzullo-Rangel bill 6 months ago. We did not. We did not because we wanted to pass a partisan bill.

The Heritage Foundation says, ''There is always a certain amount of grease that is part of getting any tax policy changes through the process,'' but with this bill the Heritage Foundation says that ''the actual policy seems to be secondary to the grease.''

This is a sad day in this House. I have served here for 23 years. This is the worst tax bill that I have seen on the floor of this House. It is the most irresponsible bill. I challenge the Members on that side of the aisle to bring me one editorial, Members will not find it in the Wall Street Journal, Members will not find it out of the Heritage Foundation, one editorial that says this bill is worth passing.

We have been involved in an orgy of self-indulgence. That is how great empires fail, so focused on self and corporate and individual embellishment that they forget about the community, they forget about their country, they forget about investing in their people. They forget about investing in jobs in America.

The gentleman from Illinois (Mr. MANZULLO) is not on the floor, he was just a few minutes ago. He and the gentleman from New York (Mr. RANGEL) and the gentleman from Illinois (Mr. CRANE) had a bill that spoke to jobs in America. This bill does not. Defeat this bill. Be responsible, stand up for America, send this bill back to committee.

Mr. THOMAS. Mr. Speaker, I yield 1½ minutes to the gentleman from Kentucky (Mr. LEWIS) who understands all politics are local, and the Chair appreciates the tremendous work the gentleman from Kentucky has put in in perfecting this bill.

(Mr. LEWIS of Kentucky asked and was given permission to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to voice my support, my strong support for H.R. 4520, the American Jobs Creation Act of 2004, and encourage my colleagues to vote in favor of this important legislation.

There are over 40,000 tobacco farms in Kentucky alone. Tobacco farming is the primary source of livelihood of tens of thousands of Americans supporting local economies in nine U.S. States. Every tobacco dollar is said to turn over 6 to 7 times in its community.

Under current Federal policy, American farmers lose while farmers in countries like Brazil win. American tobacco farmers simply cannot respond to new market pressures and opportunities while beholden to an outdated government-controlled system.

With this bill, farmers can move beyond tobacco. By ending the quota system, economists anticipate as many as two-thirds of current tobacco farmers would exit the business without increasing taxes or the national debt.

Our obligation as Members of Congress is always to our constituents, not to special interest groups. Including a buy-out provision in H.R. 4520 provides long-awaited relief to American farmers, replacing lost jobs and revitalizing thousands of communities across the Nation who depend upon tobacco for their economic stability.

I commend the gentleman from California (Mr. THOMAS) for his leadership and vision on this issue, understanding the plight of American farmers and working with a bipartisan coalition to include this important provision in the Jobs Creation bill. I urge my colleagues to vote in favor of H.R. 4520.

Mr. RANGEL. Mr. Speaker, I yield 10 seconds to the gentleman from Maryland (Mr. HOYER), our distinguished whip.

Mr. HOYER. Mr. Speaker, there will be some Members who will speak on behalf of this bill, but I have not talked to one of them that thought this was a good bill. They think there are provisions in this bill, as the chairman said, that have not been considered for some time, and they are voting for that provision. Not one Member have I talked to on this side of the aisle or that thinks this is a good bill.

□ 1315

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MANZULLO) from the other side of the aisle. He is just as much a Republican as I am a Democrat. One thing we have in common is that when we have a problem with the WTO we do not think it is a Republican or a Democratic issue, but we think in a bipartisan way we should work toward trying to resolve that. We have done that. It has been a pleasure working with him.

Mr. MANZULLO. Mr. Speaker, after 1999 all businesses, from normally large chapter C corporations to nontraditional corporations such as sub S partnerships, limited liability corporations and sole proprietorships, have had a tax break for the items that they export. This is the extraterritorial income exclusion, or ETI. The WTO held this tax break illegal because it gives a preferential tax break to exported items, even though Europe does the very same thing through its VAT tax, which is rebated at the border.

The present House bill replaces the ETI tax with a large tax cut for businesses that manufacture in the U.S., similar to what the other body did, except that in this House bill, only chapter C corporations get the tax cut because the House bill tax cut does not apply to other nonchapter C businesses, such as subchapter S, limited liability and sole proprietorships, normally the little guys.

The present House bill has the same problem as my bill did from early last year. That is why I admitted my mistake and abandoned the original Crane-Rangel-Manzullo bill because it, too, limited relief only to chapter C corporations. My district's 2,000 manufacturing businesses are little guys, mostly sub S like the rest of the Nation. I worked with the other body last summer to include the manufacturing benefit to everybody, which is what that body did. The House bill hurts businesses which are presently exporting and which are nonchapter C corporations by causing a tax increase.

SAS in North Carolina, 100 employees, manufactures software, exports a lot. Because it is a subchapter S business and not a chapter C corporation, SAS will have a massive tax increase. Excel Foundry and Machine in Pekin, Illinois, 100 employees, a third of its revenue coming from exports. They just added three engineers and put on an addition. Because they are a sub S and not a chapter C, their tax benefit will end, and they will have a tax increase. National Machinery of Tiffin, Ohio, the last U.S. manufacturer of cold forming machines, exports most of its product. Because they are an LLC and not a chapter C, they will have a massive tax increase. They make a machine that makes bullets.

There are tax cuts for small businesses and depending on how you total them, somewhere between $2.75 billion and $18 billion; and I want to thank everybody for those tax cuts. We appreciate the sub S reform and expensing extension for 2 years. However, the bill totals about $143 billion in gross tax cuts, meaning the large and multinational corporations get a benefit of about 93 percent of the entire bill.

The class warfare between large and small businesses was not asked for by the large companies. They want the smaller manufacturers to thrive because the little guys are the suppliers for the large companies. The supporters of the bill say the nonchapter C people got their tax break when personal income tax rates were reduced for everybody, but everybody knows it costs a lot more to run a small business. As chairman of the Committee on Small Business, I cannot discriminate against small businesses; and I hope the majority of the House will agree with that.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, now I guess I am a little bit baffled. The gentleman from Illinois, chairman of the Committee on Small Business, was an original cosponsor of H.R. 1769, the Rangel-Manzullo bill. That included a corporate rate cut and specifically limited it to C corps. It did not extend it to S corps and partnerships, and it did not have any of the 11 subchapter S provisions that we include. He is making an appeal for bullets, but he is not supporting bows and arrows.

Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Tennessee (Mr. JENKINS).

Mr. JENKINS. I thank the gentleman for yielding me this time.

Mr. Speaker, I strongly support H.R. 4520 for many reasons. Number one, it protects American jobs. In addition, it brings some measure of relief to a segment of our economy that has been under assault for a long period of time. Lawsuits, actions and inactions of our government have put hardworking tobacco farm families in peril and threaten the economic well-being of rural communities in many States. This will help prevent an economic train wreck in those areas that have depended on this crop as a mainstay of their economy longer than we have been a Nation. In addition, it will help, in my honest opinion, to satisfy the mandate of the fifth amendment to our Constitution that no property will be taken without just compensation.

Finally, Mr. Speaker, it will address a great inequity that has existed since 1986. It restores the State sales tax exemption for Federal income tax. I urge my colleagues to support this legislation.

Mr. Speaker. I strongly support H.R. 4520 and I commend the chairman and the Committee on Ways and Means for bringing to the House this legislation to protect American jobs and to bring fairness to a segment of our agricultural economy and a section of our Tax Code.

Assessments totaling billions of dollars are being assessed against exported American goods by the World Trade Organization—threatening tens of thousands of American jobs—unless the Congress responds with remedial measures. This is the remedial action that will provide protection for those jobs for thousands of Americans.

In addition it brings some measure of relief to a segment of our economy that has been under assault for a long period of time. Lawsuits—actions and inactions of our government have put hardworking tobacco farm families in peril—and threaten the economic well being of rural communities in many States. This will help prevent an economic train wreck in those areas that have depended on this crop as a mainstay of their economy longer than we have been a nation. In addition it will help—in my opinion—to satisfy the mandate of the fifth amendment to our Constitution—that no property will be taken without compensation.

Finally, Mr. Speaker, it will address a great inequity that has existed since 1986. In that year the ability to claim as a deduction on our Federal income tax an amount that was paid in State sales tax was taken away. Many states rely on sales tax as their principle source of revenue and do not have a State income tax. State income tax is still a valid deduction on a Federal income tax return—but not State sales tax. H.R. 4520 restores sales tax as a deduction. If H.R. 4520 becomes the law of the land it will alleviate the existence of this inequity that many have never been able to understand.

I urge my colleagues to support this legislation.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. MANZULLO), whom I would like to believe as the chairman of the Committee on Small Business knows more about small businesses than the chairman of the Committee on Ways and Means knows about tobacco.

Mr. MANZULLO. Mr. Speaker, I would like to respond to my colleague, the chairman of the Committee on Ways and Means. I am in favor of a tax cut for all manufacturing entities, from large corporations through to the sole proprietorships. The reason I abandoned my own bill, Manzullo-Rangel-Crane, is the fact that it limited relief only to the large corporations. Only. Only to the large corporations. I cannot support that. What we need is a bill as in the other body that has a manufacturing benefit for everybody who manufactures, not just the large ones.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Texas (Mr. SAM JOHNSON), a valuable member of the Committee on Ways and Means.

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in strong support of this international tax bill. We worked for the better part of 3 years to get to this point. Everyone in here knows we need it. I want to congratulate Chairman THOMAS for leading us. The bill strikes the right tone in the repeal and replacement of FSC/ETI. This section of the bill was debated long and hard, and I am proud of the deal we have reached on this section. I am also glad to see long overdue international competitiveness reforms are still in this bill.

In addition, I want to mention my strong support for the return of the State sales tax deduction. Since 1986, the residents of seven States, including Texas, that rely upon sales taxes rather than income taxes have been unfairly denied this deduction. From every corner of my congressional district, my constituents are thrilled at the prospect of being given this tax deduction. We like to say no taxes in Texas.

I urge my colleagues to vote for this bill.

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I urge my colleagues to vote for this bill.

I want to urge caution however on the revenue raisers that are used to offset some of our tax cuts.

I find the revenue raisers in the House bill to have many flaws—large and small. I have been sharing my reservations with the Chairman and other committee members who are likely to be conferees.

My reservations about the House offsets, however, are magnified into grave concerns when I look at the Senate tax increases. In particular, I cannot accept retroactive tax increases and will not support a conference agreement that includes retroactive tax increases.

I am firmly in the camp of those who believe that tax cuts do not need to be offset with tax increases. This is simply money the Federal Government is not collecting that belongs to individuals or companies that have earned the money.

However, to the extent that we are forced to offset some off our tax cuts, I urge the Chairman and other conferees to pick through these offsets so that the "pay-for" is not worse policy than the items we are trying to fix.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I certainly would like to thank the gentleman from New York (Mr. RANGEL) for all the hard work that he has put in on this legislation, and I would like to thank Lou Dobbs at CNN for his constant exposure of the practice of U.S. firms that are outsourcing jobs. These firms are simply exporting American jobs to Third World countries for cheap exploited labor. This bill is a prime example of what Lou Dobbs has been reporting about. This bill is a $140 billion tax boondoggle at a time when U.S. unemployment rates are still too high and at a time when this administration has created historic deficits.

This bill gives $35 billion of the $140 billion tax break that they have created to U.S. firms to invest in jobs overseas, not American jobs, not jobs in your city, not jobs in your hometown, not jobs in your county. The Republicans have become experts at outsourcing jobs. The Republican National Committee and George W. Bush even outsourced their fund-raising solicitation telephone calls to a firm that employs workers in India. This brazen, costly tax giveaway to corporations exporting jobs, 60 percent of whom pay no taxes, is an assault on hardworking Americans who are now collectively paying more taxes than rich corporations. Shame, shame, shame.

The Republicans refused to support targeted U.S. manufacturing credits. These so-called conservative Republicans, who are supposed to be fiscal conservatives, no longer care about the huge United States deficit. They have become the big spenders of the taxpayers' dollars, outsourcing the jobs to foreign countries for cheap labor. These are conservative Republicans piling up this deficit and giving away our American jobs. They no longer care about the joblessness of Americans in their own hometowns.

Shame, shame, shame.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 15 seconds to the gentleman from Ohio (Mr. PORTMAN) who understands the difference between spending and investing.

(Mr. PORTMAN asked and was given permission to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, I thank the gentleman from California for putting together a good bill that actually does just the opposite of what my friend from California just talked about. It helps American businesses be able to compete in the global marketplace. That will create jobs in this country. And it enables our businesses to be able to compete in an increasingly competitive global marketplace. That is good for America.

I want to commend Chairman THOMAS for crafting a bill that will create jobs here in America. I am particularly pleased that the American Jobs Creation Act includes important and long-needed reforms to the rules under which U.S. businesses are taxed on their global operations. Those reforms are one of the key reasons I support this legislation.

They are a long time in coming, and I want to particularly thank Mr. HOUGHTON for his leadership and perseverance in this area. He has been a champion of tax simplification, and focused much of his attention on the complicated, archaic and outdated international tax rules. On a bipartisan basis, he initiated a comprehensive package of reforms that have been vetted and fine-tuned over a decade. I am pleased many of those provisions are in this bill. These are critical provisions that will determine whether or not our nation can compete in the global marketplace.

Some have tried to characterize the international tax reforms as provisions that would reward U.S. companies that move jobs offshore. The exact opposite is true. These reforms are critical to U.S. manufacturers that make products in the United States and sell those products in the global marketplace. To access global markets, U.S. exporters must compete directly with non-U.S. companies. The international tax reforms in the American Jobs Creation Act begin to level the playing field between U.S. companies and their foreign competitors. They are necessary to protect and grow U.S. manufacturing jobs in export industries. Ninety-six percent of the world's consumers are outside the United States. Without markets in which to sell their goods, U.S. companies cannot provide U.S. jobs to manufacture those goods. Companies with global operations provide over half of all U.S. manufacturing jobs. Suppliers who depend on those multinational companies to buy their products provide many more U.S. manufacturing jobs.

Mr. Speaker, I want to mention two specific reforms that are included in this bill. The first, dealing with interest allocation, would eliminate a fundamental distortion in the U.S. tax law that results in double taxation of U.S. taxpayers that have operations abroad. Currently, we tax corporations on their worldwide income, but allow a foreign tax credit against the U.S. tax on foreign-source income. The foreign tax credit limitation applies so that foreign tax credits may be used to offset only the U.S. tax on foreign-source income and not on U.S.-source income.

In order to determine the foreign tax credit that can be claimed, expenses must be allocated between U.S.-source income and foreign-source income. These allocation rules cause a disproportionate amount of U.S. interest expense to be allocated to foreign-source income—which in turns reduces the foreign tax credit. This double taxation makes it more difficult for U.S. companies to compete in the global marketplace.

Perhaps the most outrageous aspect is the fact that this double taxation makes it more costly to build factories in the United States. Only our own U.S. companies are facing this distortion. Foreign corporations making an investment in the United States do not suffer double taxation. That is a perverse result. H.R. 4520 would correct this.

Another key international reform is the reduction in the number of foreign tax credit limitation baskets. It is a matter of simplification, fairness and U.S. jobs. The current basket structure is a major source of complexity and inefficiency in the U.S. international tax rules. It requires a U.S. company to divide its business income earned outside the U.S. into at least two, and perhaps many more, baskets. Thus, every company with global operations must characterize and allocate each dollar of its business income—on an item-by-item basis—to one of the nine baskets. The company must then associate every item of expense incurred everywhere in the world to one of the nine baskets. The company must then go through the same exercise for every dollar of tax paid to any foreign government. That does not make sense. No other country in the world requires anything approaching this level of complexity.

Reducing the number of foreign tax credit limitation baskets is also a matter of fairness. Some U.S. global companies do not face the complications caused by the separate baskets simply because they do not engage in any financial services businesses or because they engage in those businesses exclusively. U.S. companies that do both should not be disadvantaged. Finally, it's a matter of U.S. jobs. For many companies, creating one active business basket will rescue the U.S. tax on exports. The export of U.S. manufactured property typically gives rise to foreign-source income that is not highly taxed. If credits attributable to other types of business income can be used to reduce that tax burden further, those exports will be more competitive in the global marketplace. That means more jobs here.

Mr. Speaker, our international tax system needs to be changed to reflect today's economy. It's time to simplify these taxes to make U.S. companies more competitive and to create more jobs here in America.

Mr. RANGEL. Mr. Speaker, it is my pleasure to yield 1 minute to the gentlewoman from California (Ms. PELOSI), the leader of the minority and a person that has been very sensitive to the necessity and the creation of jobs for all Americans.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, today our country is at a crossroads, and this debate on the floor clearly defines the choice that we have to make. The gentleman from New York (Mr. RANGEL) at that crossroads offers us a path to expand opportunity in our country and to grow community. The gentleman from New York, as we make this important decision, knows that nothing less is at stake than our technological, industrial, and manufacturing base. The path that the gentleman from New York will take us down is one that will stop the hemorrhaging of U.S. jobs overseas. The gentleman from New York will strengthen our base. That is a decision we have to make. Are we going to strengthen that base, which is so essential to our national security, so essential to job creation in our country? Or are we going to abandon it? The gentleman from New York strengthens it. The Republican proposal abandons it.

But I have to give the Republicans credit, I really have to give them credit, because they are consistent. They are consistently the handmaidens of the special interests at the expense of the public interest and the public good. Every opportunity they get to bring legislation to the floor, we see the difference between the Democrats and the Republicans in that regard. That is most unfortunate. Because people across our country are suffering from job loss, from uncertainty in their lives, from their communities dissolving because businesses are leaving and what that means to America's families and America's communities. That is most unfortunate.

The gentleman from New York on the other hand again takes us to a place which strengthens community and strengthens and expands opportunity. We have to view what the Republicans are doing within the context of their reckless economic policies. Here they come to the floor abandoning the American worker at a time when the Republican reckless policies have produced the worst job loss since Herbert Hoover. No President of the United States since Herbert Hoover has lost jobs in office, but these Republican policies have produced those losses. It has to be viewed within the context of, again, that uncertainty in American life. How sad.

The gentleman from New York's proposal should be viewed in the context of a Democratic proposal to take the initiative on outsourcing, a proposal that says we must have innovation to create the jobs of the future, we must have education to produce the workforce of the future, and we must have job creation using the Tax Code that will reward businesses that stay here, create jobs here, and maintain jobs in the U.S.; and that is the distinct difference between what the Republicans are proposing and what the gentleman from New York is proposing today.

□ 1330

Unfortunately, because the Republicans are once again afraid of ideas, they would not allow the gentleman from New York's (Mr. RANGEL) proposal to come to the floor. They would not allow a substitute to be brought to the floor so we could have a fair airing of these different visions of America, because they are two different visions of America.

Instead, the gentleman from New York (Mr. RANGEL) is confined to a motion to recommit, a parliamentary instrument that gives him only a few minutes to present his case. But his case is a clearly distinctly different one from the Republicans.

We are talking about two different visions of America. The gentleman from New York's (Mr. RANGEL) is about supporting American values, of expanding opportunity again through innovation, education, using the Tax Code for job creations, rewarding those who keep jobs here in the U.S. It recognizes the reality of the global economy and wants to make the U.S. manufacturers the most competitive in the world with the most productive workers, the U.S. workers, in the world.

So I thank the gentleman from New York (Mr. RANGEL) for his sense of responsibility to the American worker,

to the American economy, for his sense of responsibility that we all have to make the future better and not have an erosion of jobs in our country but of an enhancing of opportunity. And I thank him for what he is doing as far as a sense of communities is concerned because that is a strong American value that is being seriously undermined by again the erosion of our manufacturing base and what that does to communities across the country.

So I urge my colleagues as they stand at this crossroad to choose the gentleman from New York's (Mr. RANGEL) vision of America. They can do so by supporting his motion to recommit. They can do so by rejecting the Republicans' ill-conceived legislation and voting ''no'' on final passage.

Mr. THOMAS. Mr. Speaker, I request respectively that I have the same 1 minute to be able to yield to the gentleman from Florida, a member of the committee.

The SPEAKER pro tempore (Mr. LATOURETTE). With all due respect, the Chair has historically granted the courtesy to the Speaker, the majority leader, and the minority leader to conclude their observations, and the Chair provided the same courtesy to the minority leader.

Mr. THOMAS. Mr. Speaker, I understand 1 minute was yielded, and I just respectfully ask for 1 minute to the gentleman from Florida as was done on the other side. That is all.

The SPEAKER pro tempore. The Chair will recognize the gentleman from Florida (Mr. FOLEY) for 1 minute.

Mr. FOLEY. Mr. Speaker, I never thought I would see the day on this House floor that Democrats would criticize and belittle American workers making tackle boxes and bows and arrows, hard-working citizens. They may not be as elegant as George Soros or as wealthy, but they work hard.

The very simple issue is a tackle box made in America has an excise tax; a tackle box sent from China does not. So I guess their inference is keep jobs in China, do not worry about us.

I never thought I would see the day when the Democrats would criticize a corporation like Tyco that has thousands of American workers, hard-working citizens in our community and they criticize them and call them unpatriotic, but they get up on the floor and start worrying about protecting people that owe the taxpayers money. They are afraid of collecting taxes that are due the United States Treasury. This is a perverse sense of arguments that really is almost laughable.

We have got great provisions in this bill. We have got important provisions in this bill. We have got things that will make the economy work, leasehold improvements, faster, accelerated depreciation. So they can crow all they want about this, but it is a jobs bill.

It is a fair bill, and we urge its adoption.

Mr. RANGEL. Mr. Speaker, I ask how much time is remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 2 minutes, and the gentleman from California (Mr. THOMAS) has 3¼ minutes.

Mr. RANGEL. Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Guam (Ms. BORDALLO) for a colloquy.

Ms. BORDALLO. Mr. Speaker, I thank the chairman for yielding me this time.

The Senate has included a provision in their version of this legislation that uses an offset derived from closing a loophole in residency requirements for filing taxes in the U.S. Territories to fund Green Bonds.

Given that this issue has been addressed by the House in other legislation, I hope that the House will take the position that this offset should be used instead to help the U.S. Territories with the unfunded federal mandate of the earned income credit, and I hope he can help us with this provision.

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Ms. BORDALLO. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I tell the gentlewoman, a Delegate from Guam, and the gentlewoman from the Virgin Islands I would be pleased to work with them in conference to try to solve this problem for the Territories.

Ms. BORDALLO. Mr. Speaker, I thank the gentleman for his response.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. RYAN), a very valued member of the committee.

Mr. RYAN of Wisconsin. Mr. Speaker, let us look at what this bill is all about. What we do when our companies go overseas to compete, to sell goods and services, to create jobs here at home and sell overseas, they pay two taxes. Our foreign competitor countries pay one tax. When an American company sells a good and service overseas, they pay the U.S. tax and the foreign country tax at the same time. When our foreign competitors compete against us, they pay one tax. We are double taxing American jobs and American operations overseas.

So in replacing this current tax policy we have which goes to ½ of 1 percent of American manufacturers, we are giving a tax rate reduction for all American manufacturing corporations on what they produce in America, and we are removing this double tax so when we operate overseas by selling goods and services overseas to create jobs here at home, we are not tying one hand behind our backs.

We are pushing jobs overseas with the American Tax Code we have today, and this bill corrects that problem. This protects jobs, and this is a good bill that has to pass because we have to get rid of these tariffs. I urge adoption of this legislation.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY), who has been a champion for something that is extremely important to his constituency.

Mr. BRADY of Texas. Mr. Speaker, I rise in strong support of this measure. My older brother is a computer salesman in Houston, Texas, and when he and his American colleagues try to sell their American products overseas, they find they have an anchor around their neck. It is the American Tax Code. It is so outdated that it really costs us American jobs and American workers.

This bill changes that. It gives us a chance to compete overseas, and we help local manufacturers build and local farmers grow and local companies sell by lowering their tax rates so they can hire new workers, so they can buy new equipment, so they can compete wherever they choose to be sell.

This provision also includes a sales tax deductibility to help families afford clothes and cars and tires, and all that adds up over the years. It allows taxpayers in each State to choose the highest of their State income or their State sales tax. It is a direct economic boost to families to help them afford it. It is very important to States like Texas, which will capture almost, I think, $1 billion for families through this, and it provides a measure of fairness.

We are pushing for permanency. That will come. But this is a major victory for sales tax States.

The SPEAKER pro tempore. The Chair would advise the gentleman from California (Mr. THOMAS) has 3¼ minutes remaining, and the gentleman from New York (Mr. RANGEL) has 2 minutes.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

It is abundantly clear that the majority will succeed in passing this bill not because the bill is good but because they have succeeded in reaching out to other people and giving them gifts to be putting on the tree under this Christmas tree bill. In other words, we call it buying votes.

But I would ask the seller to beware and the buyer to beware because when some of these gifts are opened, they will find the boxes empty. Our beleaguered tobacco farmers will find that there will be a sign there: We do not have the money we promised, go to Appropriations; we do not have the regulations, go to Commerce; we do not have the jurisdiction, go to Agriculture. They will find that when they take a look at this bill and they are looking for jobs, there is going to be a sign there: Take a flight overseas. That is where the jobs are going to be.

So I am suggesting that even though they may be successful in winning this, they are not winning the minds and the hearts of the American people, who know that they have denied the minority an opportunity to say that we have a better idea in order to do these things.

Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

I include my statement in the RECORD, especially in opposition to the giveaway of taxpayers' dollars, the money that is going to go to those who hold quotas for big tobacco.

I am here today to express my strong opposition to a $9.6 billion dollar taxpayer-funded tobacco bailout that has been slipped into unrelated legislation at the 11th hour. This proposal undermines public health, fleeces taxpayers, and embarrasses Congress.

We have learned today that Americans reject this bailout by an eight to one margin. It is no surprise why. The bailout is a massive giveaway to Big Tobacco. The quota program keeps prices of tobacco leaf high. By ending the program, the legislation would cause the price to collapse. The result would be windfall profits for cigarette manufacturers. An Agriculture Department economist has estimated that Big Tobacco would pocket $15 billion dollars in profit over 14 years. This profit could then be used to lower prices and addict more children.

The public health impact of this proposal is reason enough to reject it. But there's more. The proposal is also a shameless raid on the Federal treasury. It is a no-stings-attached $9.6 billion dollar cash transfer from taxpayers to tobacco growers. There is not even a guarantee that anyone will stop growing tobacco.

Other farmers do not get this kind of treatment. Nor do factory workers, service employees, or anyone else that I know. It does not make any sense for the taxpayer to write checks to tobacco growers and not expect anything in return. Even newspapers in tobacco-growing regions have objected to this proposal.

An idea this bad and unpopular could never pass the House in an honest, up-or-down vote. That's why the Republican leadership has refused to permit a vote on the bailout.

Taxpayers deserve not to be fleeced. And parents need our help keeping their kids from becoming addicted to tobacco. But we are doing just the opposite by passing a massive giveaway to Big Tobacco. All we are asking is for the Republican leadership to schedule a vote on this proposal and let democracy take its course.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time.

I am suggesting if this bill was as good as some of you are saying that it is, you would not have to come on this side of the aisle and offer promises that you know you cannot fulfill in conference and you know you cannot fulfill because you do not have jurisdiction. There will come a time that we are going to say when you call it a jobs bill, at least it should mean jobs for United States citizens and not jobs for foreigners.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Perhaps the gentleman is not aware that the gentleman from Virginia (Mr. GOODLATTE), chairman of the Committee on Agriculture, and the chairman of the Committee on Ways and Means have exchanged letters on questions of jurisdiction as is often done. Also, I guess the gentleman is expressing clearly the current attitude of the minority, and, sadly, it is different than it used to be. What happened to the can-do attitude that Americans always exhibit?

It seems to me after 20 years, somebody ought to get 1 day to take a look at the fact that when he was in the majority, if one were in a State that had a sales tax and they rented, they got nothing. After 65 years people want an end of subsidy. Why not? Why not allow U.S. aero manufacturers to be treated the same as foreigners? If someone has new technology, why not, not punish them with a different tax system?

Mr. Speaker, I will place in the RECORD the Statement of Administration Policy which says ''The administration urges the House to pass H.R. 4520 promptly.'' And I would urge the House to do the same.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4520—AMERICAN JOBS CREATION ACT OF 2004

The Administration supports foreign sales corporation/extraterritorials income (FSC/ETI) legislation that reforms the tax code, removes the underlying reason for the tariffs that have been imposed on American exports by the European Union (EU), and further advances the competitiveness of American manufacturers and other job creators.

The Administration urges the House to pass H.R. 4520 promptly. If Congress does not act to replace the current FSC/ETI provisions in the tax code, then the tariffs that were imposed by the EU on March 1st will inflict an increasing burden on American exporters, American workers, and the overall economy. To support the continued strengthening of our economy and to create more jobs, Congress should act now to end the threat posed by these tariffs and to promote the competitiveness of American manufacturers and other job-creating sectors of the U.S. economy. The Administration looks forward to working with the conferees on this legislation to move it toward budget neutrality, and to enacting legislation that removes the threat of escalating EU sanctions and encourages economic growth and job creation at home.

Mr. STARK. Mr. Speaker, I rise today in strident opposition to H.R. 4520 the so-called "Jobs Creation Act." This bill is a sham and a disgrace—and everybody knows it. Repealing the extraterritorial income (ETI) regime is absolutely necessary to avoid retaliatory duties imposed by the European Union, but replacing that regime with unnecessary corporate tax cuts, and including extraneous provisions that have no business in a corporate tax bill, is ludicrous.

We have known for years that tax systems benefiting exports are clearly prohibited under our international trade agreements. Now we are faced with growing duties on certain exports, which hurt manufacturers and put American jobs in jeopardy. A bill to put the United States in compliance with World Trade Organization trade laws has been turned into a Christmas tree of special interest give-aways. By reducing from nine to two the number of foreign tax credit baskets, foreign controlled subsidiaries of U.S. corporations will have new tax shelters including domestic companies to move even more jobs overseas. During this jobless economic recovery, we cannot afford to give corporations even more incentive to ship jobs offshore. I'm appalled that such a bill would even be considered on the House floor.

The Republicans have always claimed to be fiscally responsible, but this bill is one of the most fiscally irresponsible pieces of legislation I have ever seen. According to a February GAO report, on average, 61 percent of all U.S. controlled corporations reported no tax liability between 1996 and 2000. When nearly two-thirds of U.S. corporations already have no tax liability, it is preposterous that we would reduce the top corporate tax rate from 35 to 32 percent at an estimated cost of over $63 billion over the next ten years. It would only cost $50 billion to make corporations whole after the loss of the ETI exclusion, but the Republicans are reducing corporate tax revenue by another $29 billion with these new rate reductions.

Fiscal irresponsibility surrounding the ETI exclusion is reason enough to vote against this bill, but H.R. 4520 goes even further, adding a total of $34 billion to the national debt through a litany of unnecessary tax breaks. For example, the bill would allow foreign controlled corporations to move income back to the U.S. with a one time 85 percent deduction for that foreign income. This provision would cost more than $3 billion over ten years, and rewards corporations who have moved jobs overseas in the past. In addition, the reduction of foreign tax credit baskets from nine to two categories will decrease revenue by almost $8 billion during the next 10 years. These provisions and many others mortgage the future of our economy and create an enormous tax burden for our children and grandchildren.

Even if the American Jobs Creation Act merely repealed the ETI exclusion and replaced it with fair tax breaks for domestic production, I could not support this bill. Why? Because it contains so many blatant and shameful provisions that have no business being in a tax bill! The Republican leadership refused to write a bill that could garner bipartisan support, so they tossed in these provisions to buy members votes. This is not democracy. This is a Republican House bowing to the power of corporate America and doing whatever it takes to get this ridiculous piece of legislation passed.

The most egregious portion of this legislation is a dangerous buyout for the tobacco industry that would cost $9.6 billion dollars, most of which would line the pockets of large tobacco manufacturers like Phillip Morris. The tobacco buyout is nothing more than an election year bribe to enlist southern Democrats' votes on a bill they would otherwise be unlikely to support. Just recently the Surgeon General released a report saying that tobacco causes diseases in "nearly every organ of the body." Instead of using this opportunity to allow the FDA to regulate tobacco, Republicans are giving a huge windfall to the tobacco industry while doing nothing to reduce tobacco production and improve public health.

Finally, the Republicans have thwarted the democratic process by refusing to allow the Democrats an amendment in the nature of a substitute for this bill. Are the Republicans afraid that the bipartisan approach that passed with flying colors in the Senate might actually have enough votes to pass in the House? My friend and colleague Mr. RANGEL has been working on a bipartisan approach to solving the FSC/ETI problem for years. But we won't have the opportunity to vote on that proposal today because the Republicans don't want anyone to compare our fair and responsible

alternative to their unfair, irresponsible corporate tax break grab bag.

The so-called American Jobs Creation Act does not create jobs. Instead, it creates new incentives for U.S. corporations to send jobs overseas. The fiscal irresponsibility of adding another $34 billion to the national debt over the next 10 years while the economy is trying to recover from recession is inconceivable to me. Finally, the extraneous provisions in this bill are mere gifts to Republican friends. This bill is a disaster for the American people and our tax code. Republicans should be hanging their heads in shame—but Republicans have no shame, as this bill clearly shows. I strongly urge all my colleagues to vote against H.R. 4520.

Mr. HOLT. Mr. Speaker, today I rise to express my disappointment that the American Jobs Creation Act (H.R. 4520) includes a provision that grants the tobacco industry a $10 billion buyout but does not grant the Food and Drug Administration the authority to regulate tobacco products.

The consequences of tobacco use are disturbing. Smoking-related illnesses claim an estimated 430,700 American lives each year. Smoking costs the United States approximately $92.2 billion annually in health-care costs and lost productivity. It is directly responsible for 87 percent of lung cancer cases and causes most cases of emphysema and chronic bronchitis. Spit tobacco and other smokeless tobacco are not safe alternatives. They can lead to tooth decay and loss, gum disease and oral cancer.

Dispite the enormous risks to tobacco—which is the most deadly of all consumer products—the Federal agency that is most responsible for protecting the public health is powerless to effectively regulate this product. In 2000, the Supreme Court explicitly ruled that the FDA does not have the authority to regulate tobacco products and that it is the responsibility of Congress to provide the USDA with this authority. Congress cannot wait any longer to act on this matter.

Many of my colleagues have fought hard to reach a compromise that will give the proper authority to the FDA to regulate tobacco products without needlessly impeding on the tobacco industry's right to produce and sell its product. Unfortunately, the legislation we are considering today squanders an opportunity to couple a tobacco buyout measure with improving public health. Even more disheartening than this missed opportunity is the sad reality that a bargaining tool has been removed from the table and our ability to pass legislation providing the FDA with the regulatory authority it needs has been jeopardized.

I urge my colleagues to vote against this bill and to pass legislation that will allow the FDA to carry out its mission to ensure the safety of products consumed by the public.

Mr. UDALL of Colorado. Mr. Speaker, Congress definitely needs to respond to the retaliatory tariffs imposed on American exports because of the World Trade Organization's rulings addressed by this bill.

But, we do not need to pass the bill as it stands—in fact, we shouldn't.

The bill is unbalanced and excessive. It includes provisions that could provide new incentives for American companies to move overseas. I am concerned that it could allow companies to simultaneously outsource much of the work needed to make a product and at the same time benefit from a tax break for ''domestic production.''

The bill is unduly tilted toward large companies rather than the small businesses that are the source of most jobs in our country. It also includes billions of dollars worth of new narrow special-interest tax breaks, as well as other provisions that supposedly will raise revenue to offset the corporate tax incentives. Those offsets include provisions for outsourcing IRS debt collection, which I think is a bad idea, and creating additional paperwork for charitable contributions.

Of course, the bill also includes desirable provisions. If they stood alone, or were part of a bill that otherwise was acceptable, I would be happy to vote for the legislation. And I did support the motion to recommit, which would have greatly improved the bill.

If the motion to recommit had been adopted, the result would have been to provide an incentive to manufacturers to keep jobs in the United States by reducing corporate tax rates for domestic production by 3.5 percent.

The motion to recommit also would have removed the provisions that provide incentives to move jobs overseas and the targeted special interest provisions. It would have provided better treatment for small businesses, farming cooperatives, and domestic manufacturers.

At the same time, the motion to recommit would have retained such desirable provisions as those extending small business expensing, the research and development tax credit, and renewable energy credits as well as the same temporary foreign income repatriation provisions as those in the Senate-passed version of this legislation.

Unfortunately, the motion to recommit was not successful, and so I cannot support this bill in its present form.

I expect that a conference committee will be appointed to resolve differences between this bill and corresponding legislation passed by the Senate. I hope that this will result in a revised and improved version that deserves enactment.

Mr. BALDWIN. Mr. Speaker, many months ago, Congress was tasked with replacing a $5 billion-a-year export subsidy for domestic manufacturers that was deemed illegal by the World Trade Organization. At the time, I believed this would be a golden opportunity for Congress to not only replace the subsidy, but also craft a bill that would provide incentives to domestic manufacturers in order to create more jobs and get America back to work. The bill on the floor today, H.R. 4520, is sad evidence that Congress has squandered this opportunity by letting the needs of special interests and lobbyists come before the needs of American families.

Like the rest of America, my home State of Wisconsin has been hit hard by the loss of good paying manufacturing jobs over the last few years. Many of those workers who have found new jobs are typically working longer hours, working for less pay, working for fewer benefits, and working harder than ever to keep their families' budgets afloat. There are thousands of other Wisconsinites who have yet to find a job. By passing H.R. 4520 today, Congress will essentially turn its back on those who are struggling to maintain or find a job.

The so-called American Jobs Creation Act is a 930-page bill that reads like a horror story to me. Simply replacing the export subsidy would have cost $50 billion over 10 years. Instead, House Republicans have brought to the floor a bill, riddled with special-interest provisions and favors, that costs $150 billion over 10 years. Instead of creating jobs, it creates tax cuts for cruise-ship operators, foreign dog-race gamblers, NASCAR track owners, whaling tribes, bow-and-arrow makers, Chinese ceiling fan manufacturers, Oldsmobile dealers, and beer and liquor wholesalers.

It is clear to me that our nation's economy is changing—and not for the better. As you may know, 2.7 million manufacturing jobs have been lost since the beginning of the Bush Administration. Many on the other side of this issue say that the outsourcing of information technology and service industry jobs to other countries like China and India is healthy for our economy even though it is estimated that 3.4 million service industry jobs alone will move offshore by 2015. This is outrageous. Instead of confronting and fixing these serious economic challenges, H.R. 4520 makes them worse.

For example, H.R. 4250 provides Republican plan includes at least $30 billion in additional tax incentives for companies to move overseas. Specifically, it includes a large loophole that allows corporations to outsource almost all of the work needed to make a product and still reap most of the benefits from a tax break for ''domestic production.'' For example, if Microsoft hires foreign computer programmers to produce parts of its software because of lower wage rates overseas, it will receive a rate reduction for the cost savings so long as the final computer program is assembled in the U.S. I find it reprehensible that Republicans would bring a bill to the floor that discourages companies from keeping jobs where they belong—right here in the United States.

As I mentioned earlier, I believe that we need to give American companies the incentives they need to expand their businesses and create more good paying jobs. Unfortunately, tax breaks in H.R. 4250 unfairly discriminate against smaller companies even though these small firms create 75 percent of all new U.S. jobs every year. In fact, 82 percent of all profitable corporations will receive no tax benefit from this bill because they do not have incomes large enough to benefit from reducing the corporate tax rate to 32 from 35 percent. The rate reduction is essentially the core of this bill and I believe it makes no sense that subchapter S corporations, partnerships, farms, and other proprietorships engaged in manufacturing activities will receive no benefit from this reduction even though they are vital to the health of our nation's economy.

I am supporting an alternative bill, H.R. 1769, which was authored by Representative CHARLES RANGEL (D–NY). The bill provides tax incentives for companies to manufacture their products in America and provides no incentives for businesses to move offshore or utilize tax havens. It would also extend tax incentives and tax relief to small firms and farms—not just large corporations. Above any other reason, I support H.R. 1769 rather than the bill on the floor today because it puts our nation's best economic interests before special interests.

In conclusion, the number of gifts and favors in this bill makes it clear that Christmas has indeed come early for many lobbyists in Washington, DC. They have succeeded in taking a bill that could have created thousands of

jobs in the U.S. and converting it into a bill that no Member of Congress—and no American worker—should be proud of. I urge the House to reject the American Jobs Creation Act of 2004 and bring to the floor a bill that truly creates American jobs now and well into the future.

Mr. BLUMENAUER. Mr. Speaker, there is no more fitting counterpoint to the Reagan legacy than what we are seeing here today. Ronald Reagan was President during one of Congress's most significant tax accomplishments—The Tax Reform Act of 1986. It truly was tax reform. It made the tax system more fair, less complicated, and reduced governmental distortion of fundamental economic decisions by reducing categories of taxation. There was at least some nod towards maintaining a balance between resources and requirements.

Today's bill, H.R. 4520, is the antithesis of reform, making the tax code more complex while ignoring fiscal realities. Some provisions are just downright cynical. The Republican leadership was forced to withdraw an invitation for churches to break the law and to violate the fundamental principle of separation of church and State three times every election year.

This bill represents a troubling breakdown of the legislative process, illustrating how far the Ways and Means Committee has fallen from its previous reputation for bipartisanship and cooperation in crafting tax policy. This measure is a political grab-bag for lobbyists. Good legislation has been taken hostage by adding on provisions to ''buy'' votes for passage. We will then roll the political dice and let the chips fall where they may.

At a time of exploding deficits, when there's a battle over adequately funding our Nation's infrastructure which would put tens of thousands of people to work everyday, we're spending at least $34 billion, but realistically up to $180 billion over the next 11 years, if supposedly temporary provisions are extended.

The saddest aspect of this legislation is not a lack of fiscal responsibility or an abnegation of sound tax policy. This bill signals a surrender; not just by the leadership, but by Members of Congress, in the struggle to be meaningful, responsible policy makers. This cannot be foisted off on the inability of one committee chairman to manage the committee inconsistent with its historic role and achievements. It's not merely his failure. It's not just the failure of the majority leadership to be able to have the committee function and have a set of comprehensive objectives that meet the needs of the country. A vote of support on H.R. 4520 is our failure as a Congress.

Mr. MATSUI. Mr. Speaker, I rise today in strong opposition to H.R. 4520. Let me be clear—I support enacting legislation that would bring the United States into compliance with its WTO obligations and lead to the removal of the millions of dollars in sanctions that are hurting farmers and business across America. However, I cannot support a bill that provides over $250 million in corporate tax cuts over 10 years—during a time when our nation is experiencing record deficits.

Mr. Speaker, this year, the United States is expected to incur record deficits of over $450 billion. Over the next 10 years, the nation's debt is expected to grow by more than $2.5 trillion! If there ever was a time when Congress should be promoting fiscal responsibility—now is that time.

Mr. Speaker, the bill before us today would add hundreds of billions of dollars to our nation's deficit over the next ten years. The official cost of this bill is $34 billion. However, this estimate severely underestimates the true, long-term cost of the bill. The legislation includes numerous budget gimmicks—such as phasing in some of the major tax cuts and scheduling other tax cuts to expire after only a few years. In fact, when these budget gimmicks are removed, the true long-term cost of the bill is more than $250 billion!

Mr. Speaker, it is important to consider what the American people are getting for a bill that would add hundreds of billions of dollars to our nation's deficit. Unfortunately, rather than addressing critical national priorities—such as protecting Social Security and Medicare, providing incentives for the creation of U.S. jobs, or promoting affordable and accessible health care—this bill would provide billions of dollars in tax cuts to special interests and corporations.

Mr. Speaker, almost two-thirds of America's corporations paid no federal taxes from 1996 to 2000, according to a study by the General Accounting Office. Given these figures, I cannot understand why we would not take the money raised by repealing our WTO-inconsistent tax provisions and use these funds to address America's critical priorities—such as paying down the national debt to protect Social Security and Medicare, promoting U.S. jobs, or providing for affordable and accessible health care.

Mr. Speaker, we are a nation at war. We have deficits so large that international organizations like the IMF are warning that the continuation of our fiscal policies threaten to hurt not just the U.S. economy, but the global economy. This is no time to be giving special interests and corporations hundreds of billions in tax cuts. Mr. Speaker, the legislation under consideration today is a stark reflection of the differences in priorities and values that many of us have with the current tax and economic agenda of the majority. I strongly encourage my colleagues to vote ''no'' on this bill.

Mr. SANDLIN. Mr. Speaker, I rise today to claim a victory for Texans, but I remain uncertain that this bill is a victory for Americans or American jobs.

For Texans, I am pleased that after a great many months of work and much discussion, this legislation finally returns some fairness to our nation's tax code that had been missing for almost twenty years. Since 1986, some 54 million American taxpayers—almost 20% of our nation's population—have been denied the ability to deduct the state tax burden they bear from their income solely because the seven states where they live rely only on a retail sales tax to meet their needs.

Mr. Speaker, as a consequence of the reinstatement of the deductibility of sales tax provided in this bill, the taxpayers in my home state of Texas will save almost a billion dollars from their federal income tax burden in this year alone. That works out to around $300 in federal tax savings for every family in Texas, and, Mr. Speaker, that's a good thing. This bill is not.

While I am pleased that this legislation provides 22 million Texans with the ability to deduct their state tax burden from their income, I am disappointed that Chairman THOMAS's provision only allows Texans this benefit for two years. In the Ways and Means Committee on Monday, in the Rules Committee this morning, and in discussions over the past several weeks, I have insisted that Texans and the 42 million other Americans who live in states with a retail sales tax and without a state income tax deserve better than temporary equality. I have insisted that the deductibility of sales tax payments be made permanent.

If the deductibility of sales tax was good tax policy before 1986 and it is good tax policy for the next two years, then it appears clear to me that the ability to deduct sales tax payments is good tax policy on a permanent basis. The citizens of Florida, Nevada, South Dakota, Washington, Wyoming, and Texas have for too long borne a disproportionate share of the federal tax burden. That is not fair. That is not American.

While I wish that the deduction had been made permanent and made more generous, I am pleased that this bill at least rectifies an obvious inequity and reinstates the deductibility of sales tax payments, however temporarily.

However, Mr. Speaker, the good news for Texans is tempered by what is a terribly flawed bill. A wise man once said, ''There are two things you never want to see made: legislation and sausage.'' After witnessing the development of this bill for the past two years, I am convinced that he was right.

Mr. Speaker, the legislation before us today takes a $40 million problem and purports to solve it with $150 billion. In doing so, it passes on at least $34 billion in debt to the American people—to our children and grandchildren. I say that it adds ''at least'' $34 billion, because the bill is riddled with budget gimmicks such as delayed provisions and sunsets that obscure the true effect of this bill on the national debt. It is estimated that without these gimmicks the true cost of this bill could be as much as $300 billion over ten years—that comes out to $1,000 in corporate tax breaks for every man, woman and child in this country.

As a Blue Dog, Mr. Speaker, the continuing glut of deficit spending that we have witnessed in the past few years is of great concern to me and to my constituents. Potentially adding $300 billion to the national debt to solve a $40 billion problem—a problem that the Senate has proven can be solved without adding a penny to the debt—is a tragic breach of faith with the people who sent us to this House, whose best interests we are supposed to be representing. Adding $1,000 to the ''debt tax'' owed by every man, woman and child is simply bad tax policy, not to mention bad financial policy for the generations to come who will have to pay for this bill.

Mr. Speaker, this bill has some good provisions. Texans and others need to be treated fairly under our tax code; they need the ability to deduct their state tax burden, just as other Americans have the last 18 years. This bill allows that, and that's a good thing. Mr. Speaker, our nation's corporations thrive on their capacity to innovate. Innovation is driven by their ability to invest in research and development, and this bill extends the very important R&D tax credit that drives the innovation that makes America's corporations the envy of the world. That's a good thing.

Mr. Speaker, this bill fixes the problem for which U.S. companies are being subjected to

international trade sanctions. That repair will take a significant burden off the backs of our nation's exporters and once again enable them to compete effectively around the world. Finally, Mr. Speaker, the bill reduces the tax rate for American manufacturers, which frees up necessary capital to continue to build their business and keep American business on its best game. These are good things, to.

However, Mr. Speaker, while those provisions may be good for American business, for American taxpayers, and for American workers, the vast majority of the 450-page bill is so larded with special interest corporate giveaways, that it gives the term ''pork barrel'' a bad name. I for one have never been whaling, but I am no sure why native Alaskan subsistence whalers need a tax break. But of one thing I am absolutely certain, my children and grandchildren should not have to pay for it.

Mr. PAUL. Mr. Speaker, I will vote for H.R. 4520 today because the tax cuts contained in the bill outweigh the unfortunate but inevitable subsidies also included. I promise my constituents that I will vote for all tax cuts and against all new spending. So when faced with a bill that contains both, my decision is based on whether the bill cuts taxes overall, i.e. whether its ultimate impact will be to reduce or increase federal revenues. This legislation does reduce revenues, and therefore takes a small step towards reducing the size of the federal government. So while I certainly object to some parts of the bill, especially the tobacco bailout, I do support tax cuts.

My biggest concern with the bill, however, is not based on its contents. I object to the process underlying the bill and the political reason for which it was written. This bill is on the floor for one reason and one reason only: the World Trade Organization demanded that we change our domestic tax law. Since America first joined the WTO in 1994, Europe has objected to how we tax American companies on their overseas earnings. The EU took its dispute to the WTO grievance board, which voted in favor of the Europeans. After all, it's not fair for high-tax Europe to compete with relatively low tax America; the only solution is to force the U.S. to tax its companies more. The WTO ruling was clear: Congress must change American tax rules to comply with ''international law.''

Sadly, Congress chose to comply. We scrambled to change our corporate tax laws in 2001, but failed to appease the Europeans. They again complained to the WTO, which again sided with the EU. So we're back to the drawing board, working overtime to change our domestic laws to satisfy the WTO and the Europeans.

This outrageous affront to our national sovereignty was of course predictable when we joined the WTO. During congressional debates we were assured that entry into the organization posed no threat whatsoever to our sovereignty. But this was nonsense. A Congressional Research Service report was quite clear about the consequences of our membership: ''As a member of the WTO, the United States does commit to act in accordance with the rules of the multi-lateral body. It is legally obligated to insure that national laws do not conflict with WTO rules.'' With the Europeans and the WTO now telling us our laws are illegal and must be changed, it's hard to imagine a more blatant loss of American sovereignty.

The bill does cut taxes overall, and for that reason I will vote in favor of it. Any legislation that results in less money being sent to the black hole that is the federal Treasury is worth supporting. I especially support the provision that allows Texans (and citizens of other states that do not have an income tax) to deduct state sales taxes, and will vote yes accordingly.

Mr. CAMP. Mr. Speaker, I rise today in strong support of H.R. 4520, the American Jobs Creation Act.

Mr. Speaker, the bill before us today is about creating American jobs and making U.S. manufacturers more competitive in the world marketplace. To accomplish these core objectives we need to pass legislation that reduces the high tax rate U.S. manufacturers are forced to pay. Many would be surprised to learn that the U.S. has the second highest corporate tax burden at 40 percent, of any developed nation, just two percentage points below Japan. While the Republican Congress has done much to lower individual tax rates, it is also important to pass legislation that helps American employers better compete with Irish companies that have a 12.5 percent tax rate, Korean businesses that have a 29.7 percent rate, and British companies that incur a 30 percent tax rate. Although the United States leads the world in terms of productivity and efficiency, we need to begin to erase the serious disadvantages our tax code places on our companies.

By passing this bill today, we will be on our way to stopping another tariff increase imposed by the European Union on U.S. exports. On June 1, the EU increased the retaliatory tariff another percentage point to eight percent on American goods. If Congress fails to address this issue, the EU will continue to tack on another tariff each month until we act. Tariffs on American exports could go as high as 17 percent. Every one of our districts will feel the effects of the EU's actions. Products on the wide-ranging EU sanctions list range from agriculture, iron and steel, timber, textiles, to machinery. Imagine a 17 percent tax on U.S. exports! This would amount to a $4 billion bill that the American people would ultimately pay every time they went to the grocery store or mall.

If we do nothing and let the tariffs grow to the full 17 percent, American companies will not be able to hire new workers, expand operations, make new investments, and remain viable in the marketplace. The bill before us today will make the needed adjustments to our international tax laws plus give our U.S. manufacturers overdue tax relief, and lift the onerous tariffs on American products.

I urge my colleagues to vote for this critically important jobs bill. If you want to help the U.S. manufacturing sector grow and our economy to continue to expand, vote for this bill. By doing nothing, we risk crippling our robust new economy and endanger American job creation.

Mr. HOLT. Mr. Speaker, I rise in opposition to this tax bill which is full of giveaways to special interests. I wanted to support this bill. I support an across-the-board corporate rate reduction for income from U.S. manufacturing activities so that more manufacturing jobs can be created here in the United States. I am also a strong supporter of the R&D tax credit because it is an investment in the future and will keep our economy strong over the longterm.

However, this bill is full of items that have nothing to do with job creation or long-term investment in research.

This bill is a tax break for special interests. Do we really need a special tax loophole for manufactures of fishing tackle boxes? Or a tax break to benefit makers of sonar devices used for fishing. As an outdoorsman, I support fishing but we don't need a tax break to do it.

Many of my constituents enjoy target shooting with bow and arrows but do the makers of bow and arrows really need the tax break that this bill provides?

Further, the bill continues the Republicans' attack on the environment. In this bill is a tax break for whaling and a tax break to benefit landowners who sell timber from their property.

Also in this bill is a provision that isn't even tax policy, that is the tobacco ''buyout''. I can understand helping small tobacco farmers, however this bill only helps big tobacco corporations. The provisions of this bill will line their pockets with billions of dollars.

If the current quota system is eliminated, as proposed in the FSC bill, the price of tobacco will collapse. The minimum drop that can be expected in 50 cents per pound of tobacco—roughly the current amount that goes for rent to quota owners. As the U.S. price drops, foreign producers will lower their prices too. Falling prices will drive small tobacco farmers off of their land, while enriching Big Tobacco.

U.S. tobacco manufacturers intend to purchase 450 million pounds of domestic tobacco this year. At a discount of 50 cents per pound, the immediate savings is $225 million. But this is just a minimum estimate. According to a USDA economist, factoring in prices changes for both domestic and foreign tobacco, the end of the quota is worth $15 billion to the tobacco industry over 14 years.

Cigarette manufacturers can take this entire windfall as profit or use part of it to lower prices, addicting more children and killing more Americans. It is no surprise that leading public health groups consider this proposal an unmitigated disaster.

The list of special interest tax breaks goes on. If that is not bad enough the bill once again hurts the future generations of Americans by adding at least $34 billion in debt that will have to be paid back by our children. The legislation in the other body was at least revenue neutral.

More tax cuts of this sort will not only jeopardize critical public services now, but they will also hurt Americans well into the future. Massive deficits create large debt and will create high interest payments that will crowd out spending on public investments for future generations. Moreover, these deep deficits threaten to increase interest rates in the future—making it harder for Americans to buy homes and afford higher education and making it harder for businesses to raise capital.

The President is pretending that we can have war without sacrifice. Eventually, someone has to pay. I believe Chairman Greenspan's recent comments are appropriate: ''Our fiscal prospects are, in my judgment, a significant obstacle to long-term stability because the budget deficit is not readily subject to correction by market forces that stabilize other imbalances. The free lunch has still to be invented.''

Mr. Speaker, today we should be passing a revenue neutral bill that helps manufacturing

here in the United States, discourages sending jobs overseas and invests in research and development for our future.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to thank the honorable gentleman from California for his hard and patient work in getting the American Jobs Creation Act out of committee and to the floor.

It has been a difficult process I know, but with the passage of this bill we will add to the 1.1 million jobs this economy has created in the last 9 months.

I want to say that again: We have added 1.1 million new jobs in the last 9 months. And still the Democrats are talking about the worst economy since the great Depression.

I call their strategy Snipe and Gripe. Snipe at the heels of the leaders who are making progress and gripe about the economic recovery.

Theirs is a deliberate effort to talk down this economic recovery and slow its growth.

Our economy took a blow 2½ years ago, but Americans are fighting back. Thanks to the policies of this President and this Republican Congress, businesses are putting people back to work and our economy is growing at rates not seen in 20 years.

I want to take a second to thank Chairman THOMAS for cutting the corporate tax rate from 35 percent to 32 percent permanently. With this and other tax changes in the bill, American companies will be more competitive, more able to compete internationally, and, to the dismay of the Democrats, able to add even still more jobs.

As importantly, this bill recognizes the inequity taxpayers of states without income taxes face under current law. Finally, residents of Florida will be allowed to deduct their state sales tax from federal taxable income.

By including the sales tax deductibility, even temporarily, this bill brings fairness and relief to the residents of Florida.

It is only with dogged determination that we have been able to move this legislation and bring a greater measure of fairness to the tax code.

Ms. WATSON. Mr. Speaker, I rise today to voice my strong opposition to the Thomas ''American Jobs Exportation Act'' that provides billions of new tax breaks for offshore operations at the expense of exacerbating our Nation's deficits.

At the same time, I am extremely disappointed that millions of U.S. producers, farmers, and small business owners will be left behind. In my Los Angeles district, where the entertainment industry is the main driving force of our local economy, hundreds of thousands of workers are hurt by the phenomenon of runaway production, or the practice of filming overseas for pure economic reasons. The Senate JOBS Act has taken a serious look at this issue and included provisions to encourage domestic film production through tax write-offs. I regret that this was stripped out of the House bill, and, with the closed rule we are operating under today, no member could offer an amendment to address this devastating issue.

I support the underlying goals of what we are attempting today, which is to replace FSC/ETI export incentives with help for U.S. manufacturers. But H.R. 4520 has turned into a big corporate gift that keeps on giving, an overstuffed piñata for lobbyists. Millions of workers, such as the creative workforce hit hard by the outsourcing of film production, are altogether ignored.

H.R. 4520 is an outrageous bill not only because it fails to adequately address the plight of U.S. workers, but it helps move U.S. investment and jobs abroad. There is little wonder then that a modest provision to help keep entertainment jobs in the United States was completely discounted. While I strongly urge my colleagues to oppose H.R. 4520, I hope better legislation will be negotiated in conference.

Mr. GRAVES. Mr. Speaker, I rise today in support of the tobacco buyout provision that has been added to H.R. 4520, the American Jobs Creation Act. This provision offers great relief to the hard working tobacco farmers of Missouri and the Nation.

The American tobacco farmer has been financially pressed for decades due to outdated government regulations. This bill provides hope to many tobacco farmers and quota owners nationwide that face the increased challenges to their operations.

This tobacco provision provides $9.6 billion in compensation to quota holders and tobacco growers over 5 years. This ends a depression-era program and introduces free market reforms to tobacco farming.

Many may not realize Missouri's contribution to the tobacco industry, but our state alone in 2000 contributed roughly $2 million in annual sales. While tobacco farmers may be small in numbers, their contribution should not go unnoticed.

I want to commend Chairman THOMAS and House leadership for working to assist Missouri tobacco farmers and farmers across the Nation. I am pleased by my colleagues' efforts to include the tobacco provision in the American Jobs Creation Act and I look forward to supporting this legislation.

Mr. ROGERS of Michigan. Mr. Speaker, over the last 15 years, the Archery products industry has seen a tremendous growth in its sport due to increased deer populations and expanded hunting seasons. Unfortunately, that expansion has reached a plateau and we are seeing decreasing numbers of bow hunters and sportsmen nationwide.

This problem threatens not only our industry but the future of our sport as well. The archery industry tax adopted in the early 1970's has accomplished many of its original goals, but has shown a limitation that keeps the sport from growing in the future.

I believe that it is once again time for the leaders in the archery industry to step forward and reform the archery excise tax to meet the demands of the next century. This reform must protect the archery industry by benefiting the next generation of sportsmen and enhancing our heritage.

The current tax represents an unfair burden shared by only a few manufacturers in the larger archery industry. While you cannot fault the leaders who drafted this legislation in the early 1970's, since then, the sport has created dozens of new industries and products. Unfortunately, the tax has not changed to keep up with the changing market in archery products. Today, only a few of the manufacturers of archery products pay the tax, most products used in archery hunting today have never paid the tax, and with the legislation passing today, that failed legacy will continue. It is time to create a program that will accomplish the goal of expanding the sport and sharing the tax among the broad variety of archery product industries.

When the legislation to tax the archery industry was enacted in the 1970's, one-half of the revenue was to be used for purposes of the regular Federal Aid in Wildlife Restoration Program and one-half could be used for the acquisition and development of public archery ranges and for courses. Unfortunately, budget constraints have limited the amount of money state agencies had been able to expend on development of ranges.

Reform should mandate that 20 percent of the funding be directed to ''wildlife heritage, skills and education programs.'' This would include tremendous programs like ''Becoming an Outdoors Woman'' and ''Archery in Schools.''

The current system taxes domestically made arrows, bows and equipment leaving much of the current industry untaxed and making the current structure a heavy burden on the consumers and a few manufacturers.

Reform should clarify the definition of arrows and make several additional changes to the bow and arrow excise tax provisions in current law. Under current law, imported arrows are not taxed. To remedy this, a 3–5 percent excise tax would be imposed on the first sale of a shaft suitable for making an arrow. Since many arrow shaft manufacturers also sell arrows, a 3–5 percent excise tax would be imposed on the first sale of an arrow unless the excise tax has already been collected on the arrow shaft used in making the arrow. In addition, a 3–5 percent tax will be levied on other industry items including: tree stands, releases, quivers, hunting blinds, archery targets, scents and sprays. The list of taxable items, among others, already includes bow handles, bow levels, bow stabilizers, camouflaged bow covers, kisser buttons, and string peeps.

This proposal never received serious consideration from Congress and was dismissed by the proponents of the current proposal as too complicated and too troublesome to consider. Unfortunately, the proposal in H.R. 4520 is a half step that will force the State agencies, wildlife groups, and the archery industry to come back to the Congress for a real reform that will promote the sport of archery, enhance our nation's wildlife resources and protect the archery industry.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to this legislation. There is no question that Congress must act promptly to repeal the tax breaks for U.S. exporters. The EU sanctions are increasing and are unfairly hurting sectors of the economy that do not benefit from the tax advantage.

But this is the wrong way to do it. This bill—with all the special interest tax breaks that have been loaded onto it—would hurt the economy more than doing nothing. It abolishes the tax subsidies for exporters but replaces them with an array of special interest tax breaks. We have an opportunity here for reform that would help our manufacturing sector while responding to the UE sanctions. We should not affirmatively do harm by passing this bill instead.

I am particularly concerned that this bill substantially increases incentives to move American jobs offshore—by 40 million dollars, according to one estimate. How can we encourage companies to move jobs offshore at a time when the unemployment rate in New

York City is at 8.1 percent and the national rate is 5.6 percent? Who are we helping here? Certainly not the American worker.

Unfortunately, the Majority has denied us the opportunity to vote on the Rangel substitute to this misguided legislation. The Rangel alternative would strike provisions that promote shipping jobs overseas, add provisions to create more jobs in the United States by giving tax relief to American manufacturing including small business and farmers, strike narrow special interest provisions, and is fully paid for. And the Rangel substitute would close tax loopholes for corporations and individuals that move abroad to avoid paying taxes. By limiting debate on these critical issues, the Republicans do a disservice to the American people.

I strongly urge my colleagues to vote against this legislation.

Ms. ESHOO. Mr. Speaker, I'm very disappointed that I can't support this legislation because there are parts of the bill that I do support and also because American industry needs to have a resolution to avoid debilitating trade sanctions and tariffs.

I support the bill's extension of the Research and Development tax credit which is set to expire at the end of this month. I also strongly support the inclusion of incentives for corporations to repatriate their overseas profits which would stimulate the investment of hundreds of millions of dollars in our domestic economy. I've been a strong advocate of both of these provisions which were included in the alternative offered by Representative RANGEL. In fact, the alternative includes language on repatriation of overseas profits that would provide even greater benefits than the bill before us.

Unfortunately, with this bill, what began as an opportunity to correct the tax code and avert retaliatory tariffs has turned into a special interest handout for everything from tobacco to tackle boxes. None of the special interest provisions added have anything to do with amending international tax law but are merely an attempt to buy votes for this misguided bill. The bill also discriminates against small businesses, excluding them from many of the tax breaks granted to large corporation.

Not only does this bill not do enough to create American jobs, as the title claims, but it adds $34 billion to our nation's deficit at a time when the Administration and the Majority in Congress are underfunding important priorities such as education, health care, and antiterrorism.

In contract to this bill, Representative RANGEL's alternative is a responsible approach and I'm pleased to vote for it. Instead of a $34 billion price tag, the alternative is revenue neutral; every provision in the bill is offset with other revenue. In addition to the Research and Development tax credit extension and reduced taxes on repatriated profits, the proposal also provides tax relief for domestic manufacturers—including small businesses and farms—to promote job growth here in America and boost our economy.

I'm hopeful that the conference committee will report back to the House a bill that addresses the necessary reform of international tax law without creating special interest loopholes and exacerbating our record national deficits.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 681, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. RANGEL. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Rangel moves to recommit the bill H.R. 4520 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Strike all after the enacting clause other than title VII and insert before title VII the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''American Jobs Creation Act of 2004''.

(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. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 of the Internal Revenue Code of 1986 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking ''or under section 114''.

(4) Section 275(a) is amended—

(A) by inserting ''or'' at the end of paragraph (4)(A), by striking ''or'' at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of''; and inserting:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of'', and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking ''114, 164(a),'' and inserting ''164(a)''.

(7) Section 999(c)(1) is amended by striking ''941(a)(5),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after December 31, 2004.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may revoke such election, effective as of the close of December 31, 2004, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of December 31, 2004) all of its property to a foreign corporation in connection with an exchange described in section 354 of the Internal Revenue Code of 1986, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, each current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2001 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

''Years:	The phaseout percentage is:
2005	80
2006	60
2007 and thereafter	0

(ii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the aggregate FSC/ETI benefits for the taxpayer's taxable year beginning in calendar year 2001.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term 'FSC/ETI benefit' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR FARM AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.

(9) SPECIAL RULE FOR CERTAIN TAXABLE YEARS WHICH INCLUDE DECEMBER 31, 2004.—In the case of a taxable year which is not a calendar year and which includes December 31, 2004, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount, reduced by

(B) the aggregate FSC/ETI benefits of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on December 31, 2004.

SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

''(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to 10 percent of the qualified production activities income of the taxpayer for the taxable year.

''(b) PHASEIN.—In the case of taxable years beginning in 2005, 2006, or 2007, subsection (a) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	The transition percentage is:
2005	3
2006	6
2007	9

''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section, the term 'qualified production activities income' means the product of—

''(1) the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities, and

''(2) the domestic/worldwide fraction.

''(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

''(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

''(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

''(B) the sum of—

''(i) the costs of goods sold that are allocable to such receipts,

''(ii) other deductions, expenses, or losses directly allocable to such receipts, and

''(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

''(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

''(3) SPECIAL RULE FOR DETERMINING COSTS.—

''(A) For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its value in the United States, determined immediately after it was brought into the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

''(B) In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost (or adjusted basis) under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

''(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(A) any sale, exchange, or other disposition of, or

''(B) any lease, rental or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

''(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualifying production property' means—

''(A) any tangible personal property,

''(B) any computer software, and

''(C) any property described in paragraph (3) or (4) of section 168(f), including any underlying copyright or trademark.

Subparagraph (C) shall not apply to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

''(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

''(B) oil or gas (or any primary product thereof),

''(C) electricity,

''(D) water supplied by pipeline to the consumer,

''(E) utility services, or

''(F) any property (not described in paragraph (1)(B)) which is a film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

''(3) SPECIAL RULE FOR NONCORPORATE TAXPAYERS.—In the case of a taxpayer other than a corporation subject to tax under section 11, the term 'qualifying production property' only includes—

''(A) agricultural or horticultural products, including timber, and

''(B) other tangible personal property not described in subparagraph (B) or (C) of paragraph (1) and not described in section 1221(a)(3).

''(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction (not greater than 1)—

''(A) the numerator of which is the value of the domestic production of the taxpayer, and

''(B) the denominator of which is the value of the worldwide production of the taxpayer.

''(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

''(A) the domestic production gross receipts, over

''(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

''(3) PURCHASED INPUTS.—

''(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

''(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

''(ii) Items consumed in connection with such activities.

''(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

''(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

''(4) VALUE OF WORLDWIDE PRODUCTION.—

''(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

''(i) worldwide production gross receipts shall be taken into account, and

''(ii) paragraph (3)(B) shall not apply.

''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

''(h) DEFINITIONS AND SPECIAL RULES.—

''(1) UNITED STATES.—For purposes of this section, the term 'United States' includes the Commonwealth of Puerto Rico and any other possession of the United States.

''(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

''(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

''(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

''(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) (determined as if the organization were a corporation if it is not) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(a),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

''(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

''(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

''(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

''(3) SPECIAL RULES FOR PARTNERSHIPS AND S CORPORATIONS.—For purposes of this section, a partner's distributive share of any partnership item shall be taken into account as if directly realized by the partner. A rule similar to the rule of the preceding sentence shall apply in the case of a shareholder in an S Corporation.

''(4) SPECIAL RULE FOR AFFILIATED GROUPS.—

''(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(i) by substituting '50 percent' for '80 percent' each place it appears, and

''(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

''(5) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

''(6) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(7) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

''(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the American Jobs Creation Act of 2004 applies to such transaction, and

''(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 199. Income attributable to domestic production activities.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 2004.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

TITLE II—ADDITIONAL BUSINESS BENEFITS

Subtitle A—Small Business Expensing

SEC. 201. 2-YEAR EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Subsections (b), (c), and (d) of section 179 are each amended by striking ''2006'' each place it appears and inserting ''2008''.

Subtitle B—S Corporation Reform and Simplification

SEC. 211. 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 (D), all members of the family shall be treated as 1 shareholder.

''(B) MEMBERS OF THE FAMILY.—For purpose of subparagraph (A)(ii)—

''(i) IN GENERAL.—The term 'members of the family' means the common ancestor, lineal descendants of the common ancestor, and the spouses (or former spouses) of such lineal descendants or common ancestor.

''(ii) 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 3 generations removed from the youngest generation of shareholders who would (but for this clause) be members of the family. For purposes of the preceding sentence, a spouse (or former spouse) shall be treated as being of the same generation as the individual to which such spouse is (or was) married.

''(C) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) exists, the rules of section 152(b)(2) shall apply.

''(D) ELECTION.—An election under subparagraph (A)(ii)—

''(i) may, except as otherwise provided in regulations prescribed by the Secretary, be made by any member of the family, and

''(ii) shall remain in effect until terminated as provided in regulations prescribed by the Secretary.''.

(b) RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.—Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by section 219, is amended—

(1) by inserting ''or section 1361(c)(1)(A)(ii)'' after ''section 1361(b)(3)(B)(ii),'' in paragraph (1), and

(2) by inserting ''or section 1361(c)(1)(D)(iii)'' after ''section 1361(b)(3)(C),'' in paragraph (1)(B).

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to elections and terminations made after December 31, 2004.

SEC. 212. 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, 2004.

SEC. 213. EXPANSION OF BANK S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Section 1361(c)(2)(A) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (v) the following new clause:

''(vi) In the case of a corporation which is a bank (as defined in section 581), a trust which constitutes an individual retirement account under section 408(a), including one designated as a Roth IRA under section 408A, but only to the extent of the stock held by such trust in such bank as of the date of the enactment of this clause.''.

(b) TREATMENT AS SHAREHOLDER.—Section 1361(c)(2)(B) (relating to treatment as shareholders) is amended by adding at the end the following new clause:

''(vi) In the case of a trust described in clause (vi) of subparagraph (A), the individual for whose benefit the trust was created shall be treated as a shareholder.''.

(c) SALE OF BANK STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.—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—

''(A) such stock is in a bank (as defined in section 581),

''(B) such stock is held by such trust as of the date of the enactment of this paragraph,

''(C) such sale is pursuant to an election under section 1362(a) by such bank,

''(D) such sale is for fair market value at the time of sale (as established by an independent appraiser) and the terms of the sale are otherwise at least as favorable to such trust as the terms that would apply on a sale to an unrelated party,

''(E) such trust does not pay any commissions, costs, or other expenses in connection with the sale, and

''(F) the stock is sold in a single transaction for cash not later than 120 days after the S corporation election is made.''.

(d) CONFORMING AMENDMENT.—Section 512(e)(1) is amended by inserting ''1361(c)(2)(A)(vi) or'' before ''1361(c)(6)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 214. 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—

(1) by inserting ''(determined without regard to any power of appointment to the extent such power remains unexercised at the end of such period)'' after ''of the trust'' in the first sentence, and

(2) by striking ''60-day'' in the second sentence and inserting ''1-year''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 215. TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE, ETC.

(a) IN GENERAL.—Section 1366(d)(2) (relating to indefinite carryover of disallowed losses and deductions) is amended to read as follows:

''(2) INDEFINITE CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any loss or deduction which is disallowed for any taxable year by reason of paragraph (1) shall be treated as incurred by the corporation in the succeeding taxable year with respect to that shareholder.

''(B) TRANSFERS OF STOCK BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in section 1041(a) of stock of an S corporation, any loss or deduction described in subparagraph (A) with respect such stock shall be treated as incurred by the corporation in the succeeding taxable year with respect to the transferee.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 216. 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 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 made after December 31, 2004.

SEC. 217. 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 25 percent of gross receipts for 3 consecutive taxable years and corporation has accumulated earnings and profits) is amended by adding at the end the following new subparagraph:

''(F) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a))), or a financial holding company (within the meaning of section 2(p) of such Act), the term 'passive investment income' shall not include—

''(i) interest income earned by such bank or company, or

''(ii) dividends on assets required to be held by such bank or company, 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, 2004.

SEC. 218. TREATMENT OF BANK DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—

''(1) IN GENERAL.—Restricted bank director stock shall not be taken into account as outstanding stock of the S corporation in applying this subchapter (other than section 1368(f)).

''(2) RESTRICTED BANK DIRECTOR STOCK.—For purposes of this subsection, the term 'restricted bank director stock' means stock in a bank (as defined in section 581), a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a))), or a financial holding company (within the meaning of section 2(p) of such Act), registered with the Federal Reserve System if such stock—

''(A) is required to be held by an individual under applicable Federal or State law in order to permit such individual to serve as a director, and

''(B) is subject to an agreement with such bank or company (or a corporation which controls (within the meaning of section 368(c)) such bank or company) pursuant to which the holder is required to sell back such stock (at the same price as the individual acquired such stock) upon ceasing to hold the office of director.

''(3) CROSS REFERENCE.—

''For treatment of certain distributions with respect to restricted bank director stock, see section 1368(f).''.

(b) DISTRIBUTIONS.—Section 1368 (relating to distributions) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—If a director receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any restricted bank director stock (as defined in section 1361(f)), the amount of such distribution—

''(1) shall be includible in gross income of the director, and

''(2) shall be deductible by the corporation for the taxable year of such corporation in which or with which ends the taxable year in which such amount in included in the gross income of the director.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 219. 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 '', section 1361(b)(3)(B)(ii),'' after ''subsection (a)'' in paragraph (1),

(2) by inserting '', section 1361(b)(3)(C),'' after ''subsection (d)'' in paragraph (1)(B),

(3) by amending paragraph (3)(A) to read as follows:

''(A) so that the corporation for which the election was made is a small business corporation or a qualified subchapter S subsidiary, as the case may be, or'',

(4) by amending paragraph (4) to read as follows:

''(4) the corporation for which the election was made, and each person who was a shareholder in such corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of such corporation as an S corporation or a qualified subchapter S subsidiary, as the case may be) as may be required by the Secretary with respect to such period,'', 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, 2004.

SEC. 220. 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, 2004.

SEC. 221. REPAYMENT OF LOANS FOR QUALIFYING EMPLOYER SECURITIES.

(a) IN GENERAL.—Subsection (f) of section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(7) S CORPORATION REPAYMENT OF LOANS FOR QUALIFYING EMPLOYER SECURITIES.—A plan shall not be treated as violating the requirements of section 401 or 409 or subsection (e)(7), or as engaging in a prohibited transaction for purposes of subsection (d)(3), merely by reason of any distribution (as described in section 1368(a)) with respect to S corporation stock that constitutes qualifying employer securities, which in accordance with the plan provisions is used to make payments on a loan described in subsection (d)(3) the proceeds of which were used to acquire such qualifying employer securities (whether or not allocated to participants). The preceding sentence shall not apply in the case of a distribution which is paid with respect to any employer security which is allocated to a participant unless the plan provides that employer securities with a fair market value of not less than the amount of such distribution are allocated to such participant for the year which (but for the preceding sentence) such distribution would have been allocated to such participant.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions with respect to S corporation stock made after December 31, 2004.

Subtitle C—Toll Tax on Excess Qualified Foreign Distribution Amount

SEC. 231. 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 the 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) the aggregate 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 which—

''(I) is 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, and

''(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), 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 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 include all 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' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

''(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by 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. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

''(4) FOREIGN TAX CREDIT LIMITATION.—For 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 for purposes 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 first 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.—The amendments made by this section 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.

TITLE III—EXTENSION OF EXPIRING PROVISIONS

SEC. 301. 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 TAXABLE YEARS 2000 THROUGH 2005.—'', and

(2) by striking ''or 2003,'' and inserting ''2003, 2004, or 2005,''.

(b) CONFORMING PROVISIONS.—

(1) Section 904(h) is amended by striking ''or 2003'' and inserting ''2003, 2004, or 2005''.

(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 or 2005.

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

SEC. 302. EXTENSION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

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

SEC. 303. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 45(c)(3) (defining qualified facility) are both amended by striking ''2004'' and inserting ''2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after December 31, 2003.

SEC. 304. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

SEC. 305. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

SEC. 306. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

SEC. 307. CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by striking ''or 2003'' and inserting '', 2003, 2004, or 2005''.

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

SEC. 308. EXTENSION OF ACCELERATED DEPRECIATION BENEFIT FOR PROPERTY ON INDIAN RESERVATIONS.

Paragraph (8) of section 168(j) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

SEC. 309. CHARITABLE CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) (relating to special rule for contributions of computer technology and equipment for educational purposes) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

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

SEC. 310. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 (relating to termination) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 311. 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 in the text and headings and inserting ''2004''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2002'' and inserting ''2002, and 2004''.

(2) Subparagraph (C) of section 220(j)(2) is amended to read as follows:

''(C) NO LIMITATION FOR 2000 OR 2003.—The numerical limitation shall not apply for 2000 or 2003.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

(d) TIME FOR FILING REPORTS.—The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2004, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

SEC. 312. 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 ''January 1, 2004'' and inserting ''January 1, 2006''.

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

SEC. 313. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2003'' and inserting ''2003, 2004, and 2005''.

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

SEC. 314. DISTRICT OF COLUMBIA.

(a) DISTRICT OF COLUMBIA ENTERPRISE ZONE.—Subsection (f) of section 1400 is amended by striking ''December 31, 2003'' both places it appears and inserting ''December 31, 2005''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) Section 1400B is amended by striking ''January 1, 2004'' each place it appears and inserting ''January 1, 2006''.

(2) Subsections (e)(2) and (g)(2) of section 1400B are each amended by striking ''2008'' each place it appears in the headings and text and inserting ''2010''.

(3) Subsection (d) of section 1400F is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after December 31, 2003.

SEC. 315. EXTENSION OF CERTAIN NEW YORK LIBERTY ZONE BOND FINANCING.

Subparagraph (D) of section 1400L(d)(2) is amended by striking ''2005'' and inserting ''2009''.

SEC. 316. DISCLOSURES RELATING TO TERRORIST ACTIVITIES.

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are both amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) DISCLOSURE OF TAXPAYER IDENTITY TO LAW ENFORCEMENT AGENCIES INVESTIGATING TERRORISM.—Subparagraph (A) of section 6103(i)(7) is amended by adding at the end the following new clause:

''(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

SEC. 317. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

SEC. 318. 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, 2006''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

SEC. 319. JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking ''2004'' and inserting ''2005''.

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking ''2004'' and inserting ''2005'', and

(2) by striking ''with respect to—'' and all that follows and inserting ''with respect to the matters addressed in the joint review referred to in section 8021(f)(2).''.

(c) TIME FOR JOINT REVIEW.—The joint review required by section 8021(f)(2) of the Internal Revenue Code of 1986 to be made before June 1, 2004, shall be treated as timely if made before June 1, 2005.

SEC. 320. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 is amended—

(1) by striking ''and'' at the end of paragraph (1), by striking paragraph (2), and by inserting after paragraph (1) the following new paragraphs:

''(2) on or after January 1, 2004, and before the date of the enactment of American Jobs Creation Act of 2004, and

''(3) after December 31, 2005.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for services furnished on or after December 31, 2003.

SEC. 321. COMBINED EMPLOYMENT TAX REPORTING PROJECT.

(a) IN GENERAL.—Paragraph (1) of section 976(b) of the Taxpayer Relief Act of 1997 (111 Stat. 898) is amended by striking ''for a period ending with the date which is 5 years after the date of the enactment of this Act'' and inserting ''during the period ending on December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

SEC. 322. CLEAN-FUEL VEHICLES.

(a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Paragraph (2) of section 30(b) (relating to phaseout) is amended to read as follows:

''(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2005, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by 75 percent.''.

(b) DEDUCTION FOR QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—Subparagraph (B) of section 179A(b)(1) (relating to phaseout) is amended to read as follows:

''(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2005, the limit otherwise applicable under subparagraph (A) shall be reduced by 75 percent.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

TITLE IV—PERMANENT DEDUCTION FOR STATE AND LOCAL GENERAL RETAIL SALES TAXES

SEC. 401. DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.

(a) IN GENERAL.—Subsection (b) of section 164 (relating to definitions and special rules) is amended by adding at the end the following:

''(5) GENERAL SALES TAXES.—For purposes of subsection (a)—

''(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—

''(i) IN GENERAL.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

''(I) without regard to the reference to State and local income taxes, and

''(II) as if State and local general sales taxes were referred to in a paragraph thereof.

''(B) DEFINITION OF GENERAL SALES TAX.—The term 'general sales tax' means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

''(C) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

''(i) the fact that the tax does not apply with respect to some or all of such items shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

''(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

''(D) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

''(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term 'compensating use tax' means, with respect to any item, a tax which—

''(i) is imposed on the use, storage, or consumption of such item, and

''(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

''(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

''(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer's trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.''.

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

TITLE V—PROVISIONS TO PREVENT TAX AVOIDANCE THROUGH INDIVIDUAL AND CORPORATE EXPATRIATION

Subtitle A—Individual Expatriation

SEC. 501. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(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 2004, 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 2003' 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) 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 after the date of the enactment of this subsection.''.

(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)''.

(e) 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.''.

(f) 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 after the date of the enactment of this Act.

(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 after the date of the enactment of this Act, 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.

Subtitle B—Corporate Expatriation

SEC. 511. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

TITLE VI—OTHER REVENUE OFFSETS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 601. 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 any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(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.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(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 after the date of the enactment of this Act.

SEC. 602. 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) DISCLOSURE BY SECRETARY.—

(1) IN GENERAL.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) DISCLOSURE RELATING TO PAYMENTS OF CERTAIN PENALTIES.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.''.

(2) RECORDS.—Section 6103(p)(3)(A) is amended by striking ''or (n)'' and inserting ''(n), or (q)''.

(c) 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.''.

(d) 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. 603. 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 ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, 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—

''(I) 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,

''(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

''(V) as determined under regulations prescribed by the Secretary, has a disqualifying 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,

''(IV) is not signed by all individuals who are principal authors of the opinion, or

''(V) 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. 604. 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 an 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 after the date of the enactment of this Act.

SEC. 605. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE 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. 606. 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. 607. 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, managing, promoting, selling, implementing, insuring, 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) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), 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.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 608. 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) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) 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. 609. 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. 610. 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, which is—

''(1) subject to penalty under section 6700, 6701, 6707, or 6708, or

''(2) in violation of any requirement under regulations issued under section 320 of title 31, United States Code.''.

(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. 611. 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. 612. 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 $10,000.

''(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) $100,000, or

''(II) 50 percent of the amount 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. 613. 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. 614. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 615. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

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

SEC. 616. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) 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 time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 617. 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.

SEC. 618. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

SEC. 619. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

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

SEC. 620. STUDY ON INFORMATION SHARING AMONG LAW ENFORCEMENT AGENCIES.

(a) STUDY.—The Secretary of the Treasury shall, jointly with the Attorney General, the Securities and Exchange Commission, and the Commissioner of Internal Revenue, study the effectiveness of, and ways to improve, the sharing of information related to the promotion of prohibited tax shelters or tax avoidance schemes and other potential violations of Federal laws.

(b) REPORT.—The Secretary shall, not later than 1 year after the date of the enactment of this Act, report to the appropriate committees of the Congress the results of the study under subsection (a), including any recommendations for legislation.

Subtitle B—Enron-Related Tax Shelter Provisions

SEC. 631. 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 described 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 DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions after December 31, 2003.

(2) LIQUIDATIONS.—The amendment made by subsection (b) shall apply to liquidations after December 31, 2003.

SEC. 632. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP 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 in such manner as the Secretary may prescribe.

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. 633. 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)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: ''An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.''.

(B) The last sentence of section 860G(a)(3) is amended by inserting '', and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property'' before the period at the end.

(6) Paragraph (3) 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).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.''.

(8)(A) Section 860G(a)(3)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

''(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

''(II) occurs after the startup day, and

''(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.''.

(B) Section 860G(a)(7)(B) is amended to read as follows:

''(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

''(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

''(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of this subparagraph.''.

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

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking ''and any regular interest in a FASIT,'', and

(B) by striking ''or FASIT'' each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking ''or a FASIT''.

(12) 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.—Paragraph (1) 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.

SEC. 634. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

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

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—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) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) 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.''.

(d) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

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

SEC. 635. 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 or persons acquire, directly or indirectly, control of 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,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

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

SEC. 636. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

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

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

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

Subtitle C—Restructuring of Incentives for Alcohol Fuels, Etc.

SEC. 641. REDUCED RATES OF TAX ON GASOHOL REPLACED WITH EXCISE TAX CREDIT; REPEAL OF OTHER ALCOHOL-BASED FUEL INCENTIVES; ETC.

(a) EXCISE TAX CREDIT FOR ALCOHOL FUEL MIXTURES.—

(1) IN GENERAL.—Subsection (f) of section 6427 is amended to read as follows:

''(f) ALCOHOL FUEL MIXTURES.—

''(1) IN GENERAL.—The amount of credit which would (but for section 40(c)) be determined under section 40(a)(1) for any period—

''(A) shall, with respect to taxable events occurring during such period, be treated—

''(i) as a payment of the taxpayer's liability for tax imposed by section 4081, and

''(ii) as received at the time of the taxable event, and

''(B) to the extent such amount of credit exceeds such liability for such period, shall (except as provided in subsection (k)) be paid subject to subsection (i)(3) by the Secretary without interest.

''(2) SPECIAL RULES.—

''(A) ONLY CERTAIN ALCOHOL TAKEN INTO ACCOUNT.—For purposes of paragraph (1), section 40 shall be applied—

''(i) by not taking into account alcohol with a proof of less than 190, and

''(ii) by treating as alcohol the alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TREATMENT OF REFINERS.—For purposes of paragraph (1), in the case of a mixture—

''(i) the alcohol in which is described in subparagraph (A)(ii), and

''(ii) which is produced by any person at a refinery prior to any taxable event,

section 40 shall be applied by treating such person as having sold such mixture at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

''(3) MIXTURES NOT USED AS FUEL.—Rules similar to the rules of subparagraphs (A) and (D) of section 40(d)(3) shall apply for purposes of this subsection.

''(4) TERMINATION.—This section shall apply only to periods to which section 40 applies, determined by substituting in section 40(e)—

''(A) 'December 31, 2010' for 'December 31, 2007', and

''(B) 'January 1, 2011' for 'January 1, 2008'.''

(2) REVISION OF RULES FOR PAYMENT OF CREDIT.—Paragraph (3) of section 6427(i) is amended to read as follows:

''(3) SPECIAL RULE FOR ALCOHOL MIXTURE CREDIT.—

''(A) IN GENERAL.—A claim may be filed under subsection (f)(1)(B) by any person for any period—

''(i) for which $200 or more is payable under such subsection (f)(1)(B), and

''(ii) which is not less than 1 week.

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

''(B) PAYMENT OF CLAIM.—Notwithstanding subsection (f)(1)(B), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the filing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

''(C) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''

(b) REPEAL OF OTHER INCENTIVES FOR FUEL MIXTURES.—

(1) Subsection (b) of section 4041 is amended to read as follows:

''(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

''(1) IN GENERAL.—No tax shall be imposed by subsection (a) or (d)(1) on liquids sold for use or used in an off-highway business use.

''(2) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of paragraph (1) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B), (2)(B), or (3)(A)(ii) of subsection (a) (whichever is appropriate) and by the corresponding provision of subsection (d)(1) (if any).

''(3) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(e)(2); except that such term shall not, for purposes of subsection (a)(1), include use in a diesel-powered train.''

(2) Section 4041(k) is hereby repealed.

(3) Section 4081(c) is hereby repealed.

(4) Section 4091(c) is hereby repealed.

(c) TRANSFERS TO HIGHWAY TRUST FUND.—Paragraph (4) of section 9503(b) is amended by adding ''or'' at the end of subparagraph (B), by striking the comma at the end of subparagraph (C) and inserting a period, and by striking subparagraphs (D), (E), and (F).

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended to read as follows:

''(c) COORDINATION WITH EXCISE TAX BENEFITS.—The amount of the credit determined under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account the benefit provided with respect to such alcohol under section 6427(f).''

(2) Subparagraph (B) of section 40(d)(4) is amended by striking ''under section 4041(k) or 4081(c)'' and inserting ''under section 6427(f)''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxes imposed after September 30, 2003.

SEC. 642. ALCOHOL FUEL SUBSIDIES BORNE BY GENERAL FUND.

(a) TRANSFERS TO FUND.—Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, the amount of taxes received under section 4081 shall include any amount treated as a payment under section 6427(f)(1)(A) and shall not be reduced by the amount paid under section 6427(f)(1)(B).''.

(b) TRANSFERS FROM FUND.—Subparagraph (A) of section 9503(c)(2) is amended by adding at the end the following new sentence: ''Clauses (i)(III) and (ii) shall not apply to claims under section 6427(f)(1)(B).''

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxes received after September 30, 2004.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts paid after September 30, 2004, and (to the extent related to section 34 of the Internal Revenue Code of 1986) to fuel used after such date.

Subtitle D—Reduction of Fuel Tax Evasion

SEC. 651. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

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

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(c) EXEMPTION FROM TAX ON TIRES.—

(1) IN GENERAL.—Section 4072(b)(2) is amended by adding at the end the following flush sentence: ''Such term shall not include tires of a type used exclusively on vehicles described in section 4053(8).''.

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

(d) REFUND OF FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 7,500 miles during the taxpayer's taxable year.''.

(2) NO TAX-FREE SALES.—Subsection (b) of section 4082, as amended by section 652, is amended by inserting before the period at the end ''and such term shall not include any use described in section 6421(e)(2)(C)''.

(3) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used solely in any off-highway business use described in section 6421(e)(2)(C).''.

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

SEC. 652. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) 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) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS TREATED AS TERMINAL.—Subsection (a) of section 4081 is amended by adding at the end the following new paragraph:

''(3) CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS TREATED AS TERMINAL.—

''(A) IN GENERAL.—In the case of aviation-grade kerosene which is removed from any terminal directly into the fuel tank of an aircraft (determined without regard to any refueler truck, tanker, or tank wagon which meets the requirements of subparagraph (B)), a refueler truck, tanker, or tank wagon shall be treated as part of such terminal if—

''(i) such truck, tanker, or wagon meets the requirements of subparagraph (B) with respect to an airport, and

''(ii) except in the case of exigent circumstances identified by the Secretary in regulations, no vehicle registered for highway use is loaded with aviation-grade kerosene at such terminal.

''(B) REQUIREMENTS.—A refueler truck, tanker, or tank wagon meets the requirements of this subparagraph with respect to an airport if such truck, tanker, or wagon—

''(i) is loaded with aviation-grade kerosene at such terminal located within such airport and delivers such kerosene only into aircraft at such airport,

''(ii) has storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft,

''(iii) is not registered for highway use, and

''(iv) is operated by—

''(I) the terminal operator of such terminal, or

''(II) a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or wagon.

''(C) REPORTING.—The Secretary shall require under section 4101(d) reporting by such terminal operator of—

''(i) any information obtained under subparagraph (B)(iv)(II), and

''(ii) any similar information maintained by such terminal operator with respect to deliveries of fuel made by trucks, tankers, or wagons operated by such terminal operator.''.

(4) LIABILITY FOR TAX ON AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—Subsection (a) of section 4081 is amended by adding at the end the following new paragraph:

''(4) LIABILITY FOR TAX ON AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—For purposes of paragraph (2)(C), the person who uses the fuel for commercial aviation shall pay the tax imposed under such paragraph. For purposes of the preceding sentence, fuel shall be treated as used when such fuel is removed into the fuel tank.''.

(5) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence:

''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(6) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount

which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Subparagraph (A) of section 6427(i)(4) is amended—

(A) by striking ''subsection (l)(5)'' both places it appears and inserting ''paragraph (4)(B) or (5) of subsection (l)'', and

(B) by striking ''the preceding sentence'' and inserting ''subsection (l)(5)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(F) Section 6416(b)(2) is amended by striking ''4091 or''.

(G) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(H) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(I) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(J)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any payment made to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(K) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(L) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(M) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(N) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(O) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(P) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(Q) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''.

(R) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(S) The heading for subpart B of part III of subchapter A of chapter 32, as redesignated by paragraph (1), is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 653. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect on the 180th day after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 654. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as previously amended by this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

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

SEC. 655. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

(c) PUBLICATION OF REGISTERED PERSONS.—Beginning on July 1, 2004, the Secretary of the Treasury (or the Secretary's delegate) shall periodically publish a current list of persons registered under section 4101 of the Internal Revenue Code of 1986 who are required to register under such section.

SEC. 656. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

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

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6716 the following new section:

''SEC. 6717. FAILURE TO DISPLAY TAX REGISTRATION ON VESSELS.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the aggregate number of penalties (if any) imposed with respect to prior months by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6716 the following new item:

''Sec. 6717. Failure to display tax registration on vessels.''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on October 1, 2004.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to penalties imposed after September 30, 2004.

SEC. 657. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6717 the following new section:

''SEC. 6718. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6717 the following new item:

''Sec. 6718. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties imposed after September 30, 2004.

SEC. 658. COLLECTION FROM CUSTOMS BOND WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—Subpart B of part III of subchapter A of chapter 32, as redesignated by section 652(d), is amended by adding after section 4103 the following new section:

''SEC. 4104. COLLECTION FROM CUSTOMS BOND WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—The importer of record shall be jointly and severally liable for the tax imposed by section 4081(a)(1)(A)(iii) if, under regulations prescribed by the Secretary, any other person that is not a person who is registered under section 4101 is liable for such tax.

''(b) COLLECTION FROM CUSTOMS BOND.—If any tax for which any importer of record is liable under subsection (a), or for which any importer of record that is not a person registered under section 4101 is otherwise liable, is not paid on or before the last date prescribed for payment, the Secretary may collect such tax from the Customs bond posted with respect to the importation of the taxable fuel to which the tax relates. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any action by the Secretary described in the preceding sentence shall be treated as an action to collect the tax from a bond described in section 4101(b)(1) and not as an action to collect from a bond relating to the importation of merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32, as redesignated by section 652(d), is amended by adding after the item related to section 4103 the following new item:

''Sec. 4104. Collection from Customs bond where importer not registered.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fuel entered after September 30, 2004.

SEC. 659. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) PRORATION OF TAX WHERE VEHICLE SOLD.—

(1) IN GENERAL.—Subparagraph (A) of section 4481(c)(2) (relating to where vehicle destroyed or stolen) is amended by striking ''destroyed or stolen'' both places it appears and inserting ''sold, destroyed, or stolen''.

(2) CONFORMING AMENDMENT.—The heading for section 4481(c)(2) is amended by striking ''DESTROYED OR STOLEN'' and inserting ''SOLD, DESTROYED, OR STOLEN''.

(b) REPEAL OF INSTALLMENT PAYMENT.—

(1) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(2) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(c) ELECTRONIC FILING.—Section 4481 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 is amended by striking subsection (f).

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

SEC. 660. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 250 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 250 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 661. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties paid under sections 6715, 6715A, 6717, 6718, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 662. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor covered by such claim are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel) is amended by adding at the end the following new flush sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 663. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding after section 4104 the following new section:

''SEC. 4105. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant fuel to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the taxable fuel across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding after the item relating to section 4104 the following new item:

''Sec. 4105. Two-party exchanges.''.

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

SEC. 664. SIMPLIFICATION OF TAX ON TIRES.

(a) IN GENERAL.—Subsection (a) of section 4071 is amended to read as follows:

''(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on taxable tires sold by the manufacturer, producer, or importer thereof a tax at the rate of 9.4 cents (4.7 cents in the case of a biasply tire) for each 10 pounds so much of the maximum rated load capacity thereof as exceeds 3,500 pounds.''

(b) TAXABLE TIRE.—Section 4072 is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

''(a) TAXABLE TIRE.—For purposes of this chapter, the term 'taxable tire' means any tire of the type used on highway vehicles if wholly or in part made of rubber and if marked pursuant to Federal regulations for highway use.''

(c) EXEMPTION FOR TIRES SOLD TO DEPARTMENT OF DEFENSE.—Section 4073 is amended to read as follows:

''SEC. 4073. EXEMPTIONS.

''The tax imposed by section 4071 shall not apply to tires sold for the exclusive use of the Department of Defense or the Coast Guard.''

(d) CONFORMING AMENDMENTS.—

(1) Section 4071 is amended by striking subsection (c) and by moving subsection (e) after subsection (b) and redesignating subsection (e) as subsection (c).

(2) The item relating to section 4073 in the table of sections for part II of subchapter A of chapter 32 is amended to read as follows:

''Sec. 4073. Exemptions.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales in calendar years beginning more than 30 days after the date of the enactment of this Act.

Subtitle E—Prevention of Tax Avoidance Through Treaty Shopping

SEC. 671. DENIAL OF TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.

(a) IN GENERAL.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

''(d) DENIAL OF TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.—

''(1) IN GENERAL.—A foreign entity shall not be entitled under any income tax treaty of the United States with a foreign country to any reduced rate of any withholding tax imposed by this title on any deductible foreign payment unless such entity is predominantly owned by individuals who are residents of such foreign country.

''(2) DEDUCTIBLE FOREIGN PAYMENT.—For purposes of paragraph (1), the term 'deductible foreign payment' means any payment—

''(A) which is made by a domestic entity directly or indirectly to a related person which is a foreign entity, and

''(B) which is allowable as a deduction under this chapter.

''(3) DOMESTIC AND FOREIGN ENTITIES; RELATED PERSON.—For purposes of this subsection—

''(A) DOMESTIC ENTITY.—The term 'domestic entity' means any domestic corporation or domestic partnership.

''(B) FOREIGN ENTITY.—The term 'foreign entity' means any foreign corporation or foreign partnership.

''(C) RELATED PERSON.—The term 'related person' has the meaning given such term by

section 954(d)(3) (determined by substituting 'domestic entity' for 'controlled foreign corporation' each place it appears).

''(4) PREDOMINANT OWNERSHIP.—For purposes of this subsection—

''(A) IN GENERAL.—An entity is predominantly owned by individuals who are residents of a foreign country if—

''(i) in the case of a corporation, more than 50 percent (by value) of the stock of such corporation is owned (within the meaning of section 883(c)(4)) by individuals who are residents of such foreign country, or

''(ii) in the case of a partnership, more than 50 percent (by value) of the beneficial interests in such partnership are so owned.

''(B) PUBLICLY TRADED CORPORATIONS.—A foreign corporation also shall be treated as predominantly owned by individuals who are residents of a foreign country if—

''(i)(I) the stock of such corporation is primarily and regularly traded on an established securities market in such foreign country, and

''(II) such corporation has activities within such foreign country which are substantial in relation to the total activities of such corporation and its related persons, or

''(ii) such corporation is wholly owned (directly or indirectly) by another foreign corporation which is described in clause (i).

''(C) SPECIAL RULE.—

''(i) IN GENERAL.—A foreign corporation shall be treated as meeting the requirements of subparagraph (A) if—

''(I) such requirements would be met if '30 percent' were substituted for '50 percent' in subparagraph (A)(i),

''(II) the treaty country is a member of a multinational economic association such as the European Union, and

''(III) at least 50 percent of the value of the stock of the corporation is owned (within the meaning of section 883(c)(4)) by individuals who are residents of the treaty country or other qualified foreign countries.

''(ii) QUALIFIED FOREIGN COUNTRY.—For purposes of this subparagraph, the term 'qualified foreign country' means any foreign country if—

''(I) such foreign country is a member of the multinational economic association of which the treaty country is a member, and

''(II) such foreign country has a tax treaty with the United States providing a withholding tax rate reduction which is not less than the withholding tax rate reduction applicable (without regard to this subsection) to the payment received by such foreign corporation.

''(5) EXCEPTION FOR CORPORATIONS WITH SUBSTANTIAL BUSINESS ACTIVITIES IN TREATY COUNTRY.—Paragraph (1) shall not apply to a payment received by a foreign corporation if such corporation has substantial business activities in the treaty country and if such corporation establishes to the satisfaction of the Secretary that the payment is subject to an effective rate of income tax imposed by such country greater than 90 percent of the maximum rate of tax specified in section 11.

''(6) EXCEPTION FOR PAYMENTS RECEIVED BY CONTROLLED FOREIGN CORPORATION.—Paragraph (1) shall not apply to any deductible foreign payment made by a corporation if the recipient of the payment is a controlled foreign corporation and the payor is a United States shareholder (as defined in section 951(b)) of such corporation.

''(7) CONDUIT PAYMENTS.—Under regulations prescribed by the Secretary, paragraph (1) shall not apply to a payment received by a foreign entity referred to in paragraph (1) if—

''(A) within a reasonable period after such entity receives such payment, such entity makes a comparable payment directly or indirectly to another related person,

''(B) such related person is a resident of a foreign country with which the United States has an income tax treaty,

''(C) such related person is predominantly owned by individuals who are residents of such country, and

''(D) the withholding tax rate applicable under such treaty is equal to or greater than the withholding tax rate applicable (without regard to this paragraph) to the payment received by such foreign entity.

A similar rule shall apply where the payment is includible in the gross income of a related person by reason of a foreign law comparable to subpart F of part III of subchapter N.''

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

SEC. 672. TRANSFER PRICE REDUCED BY DEFLECTED TAX HAVEN INCOME.

(a) IN GENERAL.—Section 482 (relating to allocation of income and deductions among taxpayers) is amended by inserting ''(a) IN GENERAL.—'' before ''In the case of two or more'' and by adding at the end the following new subsection:

''(b) SPECIAL RULE FOR RELATED-PARTY INBOUND AND OUTBOUND TRANSACTIONS.—

''(1) IN GENERAL.—In the case of property or services to which this subsection applies, the transfer price under this section for such property or service shall be the transfer price determined without regard to this subsection—

''(A) in the case of a related-party inbound transaction, reduced by the deflected tax haven income with respect to such property or service, or

''(B) in the case of a related-party outbound transaction, increased by the deflected tax haven income with respect to such property or service.

''(2) PROPERTY OR SERVICES TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection applies to any property or services if there is a related-party inbound or outbound transaction with respect to such property or services.

''(B) RELATED-PARTY INBOUND TRANSACTION.—A related-party inbound transaction is any transaction where—

''(i) property is acquired directly or indirectly by a foreign-controlled domestic corporation from a foreign related person, or

''(ii) the services are performed directly or indirectly for a foreign-controlled domestic corporation by a foreign related person.

''(C) RELATED-PARTY OUTBOUND TRANSACTION.—A related-party outbound transaction is any transaction where—

''(i) property is sold directly or indirectly by a foreign-controlled domestic corporation to a foreign related person, or

''(ii) services are performed directly or indirectly by a foreign-controlled domestic corporation for a foreign related person.

''(3) DEFLECTED TAX HAVEN INCOME.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'deflected tax haven income' means income (whether in the form of profits, commissions, fees, or otherwise) derived by a foreign related person in connection with any transaction related to property or services to which this subsection applies if such income would be treated as foreign base company sales income (as defined in section 954(d)) or foreign base company services income (as defined in section 954(e)) were such foreign related person treated as a controlled foreign corporation.

''(B) EXCEPTION FOR INCOME SUBJECT TO FOREIGN TAXES.—

''(i) HIGH TAXES.—Such term shall not include any item of income with respect to which the requirements of section 954(b)(4) are met.

''(ii) OTHER TAXES.—If the taxpayer establishes to the satisfaction of the Secretary that an item of income was subject to an income tax imposed by a foreign country and the effective rate of such tax (and such effective rate was not greater than 90 percent of the maximum rate of tax specified in section 11), the term 'deflected tax haven income' shall not include the same proportion of such income as such effective rate of tax bears to 90 percent.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) FOREIGN RELATED PERSON.—The term 'foreign related person' means any foreign person who is related (within the meaning of subsection (a)) to the foreign-controlled domestic corporation.

''(B) FOREIGN-CONTROLLED DOMESTIC CORPORATION.—The term 'foreign-controlled domestic corporation' means any domestic corporation which is 25-percent foreign-owned (as defined in section 6038A(c)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property acquired, and services performed, after the date of the enactment of this Act.

Subtitle F—Additions to List of Taxable Vaccines

SEC. 681. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Paragraph (1) of section 4132(a) (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) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by subsection (a) 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. 682. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(N) Any trivalent vaccine against influenza.''.

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(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.

Subtitle G—Other Provisions

SEC. 691. IRS USER FEES MADE PERMANENT.

(a) IN GENERAL.—Section 7528 (relating to Internal Revenue Service user fees) is amended by striking subsection (c).

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

SEC. 692. COBRA FEES.

(a) USE OF MERCHANDISE PROCESSING FEE.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by aligning subparagraph (B) with subparagraph (A); and

(2) in paragraph (2), by striking ''commercial operations'' and all that follows through ''processing.'' and inserting ''customs revenue functions as defined in section 415 of the Homeland Security Act of 2002 (other than functions performed by the Office of International Affairs referred to in section 415(8) of that Act), and for automation (including the Automation Commercial Environment computer system), and for no other purpose. To the extent that funds in the Customs User Fee Account are insufficient to pay the costs of such customs revenue functions, customs duties in an amount equal to the amount of such insufficiency shall be available, to the extent provided for in appropriations Acts, to pay the costs of such customs revenue functions in the amount of such insufficiency, and shall be available for no other purpose. The provisions of the first and second sentences of this paragraph specifying the purposes for which amounts in the Customs User Fee Account may be made available shall not be superseded except by a provision of law which specifically modifies or supersedes such provisions.''.

(b) REIMBURSEMENT OF APPROPRIATIONS FROM COBRA FEES.—Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended by adding at the end the following:

''(E) Nothing in this paragraph shall be construed to preclude the use of appropriated funds, from sources other than the fees collected under subsection (a), to pay the costs set forth in clauses (i), (ii), and (iii) of subparagraph (A).''.

(c) SENSE OF CONGRESS; EFFECTIVE PERIOD FOR COLLECTING FEES; STANDARD FOR SETTING FEES.—

(1) SENSE OF CONGRESS.—The Congress finds that—

(A) the fees set forth in paragraphs (1) through (8) of subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 have been reasonably related to the costs of providing customs services in connection with the activities or items for which the fees have been charged under such paragraphs; and

(B) the fees collected under such paragraphs have not exceeded, in the aggregate, the amounts paid for the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activities or items for which the fees were charged under such paragraphs.

(2) EFFECTIVE PERIOD; STANDARD FOR SETTING FEES.—Section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking paragraph (3).

(d) CLERICAL AMENDMENTS.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) in subsection (a)(5)(B), by striking ''$1.75'' and inserting ''$1.75.'';

(2) in subsection (b)—

(A) in paragraph (1)(A), by aligning clause (iii) with clause (ii);

(B) in paragraph (7), by striking ''paragraphs'' and inserting ''paragraph''; and

(C) in paragraph (9), by aligning subparagraph (B) with subparagraph (A); and

(3) in subsection (e)(2), by aligning subparagraph (B) with subparagraph (A).

(e) STUDY OF ALL FEES COLLECTED BY DEPARTMENT OF HOMELAND SECURITY.—The Secretary of the Treasury shall conduct a study of all the fees collected by the Department of Homeland Security, and shall submit to the Congress, not later than September 30, 2005, a report containing the recommendations of the Secretary on—

(1) what fees should be eliminated;

(2) what the rate of fees retained should be; and

(3) any other recommendations with respect to the fees that the Secretary considers appropriate.

Amend subsection (c) of section 641 of the bill as amended above to read as follows:

(c) TRANSFERS TO HIGHWAY TRUST FUND.—

(1) Paragraph (4) of section 9503(b) is amended by adding ''or'' at the end of subparagraph (C), by striking the comma at the end of subparagraph (D) and inserting a period, and by striking subparagraphs (E) and (F).

(2) Paragraph (4) of section 9503(b), as amended by paragraph (1), is further amended by adding ''or'' at the end of subparagraph (B), by striking the comma at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

Amend paragraph (2) of section 641(e) of the bill as amended above to read as follows:

(2) SUBSECTION (c).—

(A) The amendments made by subsection (c)(1) shall apply to taxes imposed after September 30, 2003.

(B) The amendments made by subsection (c)(2) shall apply to taxes imposed after September 30, 2006.

Mr. RANGEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) is recognized for 5 minutes in support of his motion.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Many Members here today are voting for this motion to recommit for a very important reason, because if we care about State tax fairness, if one is from one of those seven States like Florida or Texas or Tennessee or Washington or Nevada or South Dakota that rely primarily on a State sales tax, the best way to give one's citizens relief is through their Rangel motion to recommit because tax relief there is permanent, not temporary. All that is being offered in the majority bill here is 2 years of relief.

What are they going to tell their people back home when they have given them a tax break for 2 years, not the permanent relief that my friend from New York is offering?

So it is very important for folks who are sincere about this issue, who really care about tax relief for their citizens, to vote for the motion to recommit. If one is from one of these seven States and do not vote for the motion to recommit, they are not truly serving their people.

□ 1345

Mr. RANGEL. Mr. Speaker, this motion to recommit, we have a restricted amount of time, because the majority denied us the opportunity to have a substitute. If the underlying bill is so good, why not allow in the democratic process, with a small ''d,'' the opportunity for someone to say, I have a better idea; and since they are the majority, why do they not believe that they have enough votes and must have confidence in what they are doing, at least to get the majority to vote for it?

So my motion to recommit, what we would have done if we had had the chance, is that we do not provide tax incentives for manufacturers and other people to move their jobs overseas. What we do is grab the essence of the agreement that we had with the gentleman from Illinois (Mr. MANZULLO), with the gentleman from Illinois (Mr. CRANE) when we put together a bipartisan bill to create jobs, not for those overseas, but for those in the United States of America.

We also do not include all of the addition of tax incentives for things that are not related to resolving the problem before us. We have what is indeed called a jobs bill, and that is what we had hoped that we would be able to do.

As was pointed out by the gentleman from Tennessee (Mr. COOPER), we believe that States who do not have income taxes and rely on sales taxes should get relief, but why the majority would restrict this relief to 2 years is far beyond my expectation; and that is why we thought we had a better idea to make it permanent.

When kids look under the Christmas tree, there is going to be a gift for them too. They will be inheriting one of the biggest debts that we have ever seen, because this bill that started out with a plus of $50 billion, they have now provided a $34 billion deficit. And indeed, if you take all of the phasing-outs and take the sunsettings out of it, it is estimated that it would add $300 million to the deficit.

One thing that we do not do, and that is to provide safe harbor for churches, allowing them entry into partisan politics, because we were so pleased to see that they knew that they really had overburdened the purposes of this bill and finally excluded that.

It would seem to me that those people who really are interested in the jobs of the United States will have an opportunity to vote on this motion to recommit, and those people who believe that there is a gift for them under the tree and that that is the only reason that they are voting for a bill that most people who get a chance to read this bill, since it was not made available today to most of the members of the subcommittees in this House, would realize that this bill is bad for American job seekers, it is bad for America, and it is bad for our economy.

So I do hope that perhaps sometime in the future when Republicans think that they have a great idea, that they

also should remember in a democracy and in this Congress they should not just attempt continuously to stifle the opposition but to have enough confidence in what they are doing to give us a chance to say, we want a substitute, we want to be heard, we want our bill on the floor for people to evaluate and to be able to vote for.

But each time we do it, they said that if we did not take their tobacco, it was out of the jurisdiction. We have been hampered in the committee, we have been hampered by the Committee on Rules, and we are hampered now by the rules of the House. I think we should stop talking about what happened in the days of Rostenkowski and think what is happening to the American people today and what can we do in a bipartisan way, working together to resolve problems that we have.

It should be embarrassing to everyone in this House that when a foreign group like the World Trade Organization provides sanctions against United States exporters that we believe that we come up with a Republican solution. It should be an American solution, congressional solution, and not an attempt of a partisan solution for partisan purposes.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California (Mr. THOMAS) is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, the minority leader, in discussing the minority position, talked about the vision of the gentleman from New York, the path that he wished to take. We were just handed 3 minutes ago this particular motion to recommit, so if we are looking for a contest of freshness, the gentleman's vision is clearly the most recently pasted-together piece of legislation to be presented us. In fact, the paste is still kind of damp.

So if, in fact, the vision is the path that the gentleman from New York wishes to follow, we would hope it is a shining path. But when you look at this legislation, what you discover, notwithstanding the half an hour of berating on the floor of the House the tobacco proposal, guess what is recently pasted to his vision? You guessed it, the tobacco proposal. Apparently he has had a change of vision.

For more than 20 years, when they were the majority, they did not give a dang about people deducting sales taxes, because they were the ones who removed it from the code. But, guess what? That vision had a bolt of lightning 20 minutes ago, and now we have permanent sales tax removal.

Had Republicans decided to go with permanent sales tax removal, I am quite sure they would have come up with a deduction for your dog. Why? Because no matter what we do, they are going to be better. But better is not copying. Better is starting out with an idea, carrying it through, and presenting it to you.

What their motion to recommit will do is to say if you are a company in the U.S. and you deign to try to make a profit by selling overseas, you will be punished. It says that in our desire to raise revenue, we will examine what you have been doing. Not tomorrow, not the day after tomorrow. We will retroactively go back to what you have been doing for 20 or 30 or 40 years and now say not only can you not do it; you are going to have to pay for doing it, notwithstanding the fact it was legal. Retroactively.

And then bragging about the fact that they removed the international tax provisions, what they are really bragging about is since U.S.-based companies are double taxed today, without these changes, they will continue to be double taxed.

Why are companies going overseas? Because they are double taxed. They want to keep double taxation, and they want to complain about companies going overseas.

It is pretty simple: support H.R. 4520. Companies will stay at home, and that creates jobs.

So I appreciate the gentleman from New York's vision. I just hope the paste lasts through the vote, because, frankly, that is about what it is worth.

PARLIAMENTARY INQUIRY

Mr. RANGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. RANGEL. Mr. Speaker, how does one find out whether or not the former speaker did not tell the truth as it relates to what is in the motion to recommit? How would one be able to find out, when he said that the tobacco proposals are in the motion to recommit, that he did not tell the truth? What procedure does one follow in order to adjust the record and to make certain that truth will prevail over this partisan effort?

The SPEAKER pro tempore. In response to the gentleman's inquiry, the Chair is not able to place remarks in debate in historical context. That is a matter for the Members to debate.

Mr. RANGEL. Mr. Speaker, I am sorry, I did not hear the Speaker.

The SPEAKER pro tempore. The Chair is unable to put the matter into historical context. The gentleman has raised a matter for Members to address by debate.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RANGEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, this 15-minute vote on the motion to recommit will be followed by a 15-minute vote, if ordered, on the passage of H.R. 4520, and then a 5-minute vote, if ordered, on the approval of the Journal.

The vote was taken by electronic device, and there were—yeas 193, nays 235, not voting 5, as follows:

[Roll No. 258]

YEAS—193

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—235

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon

Cantor
Capito
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Conyers
DeMint
Hastings (FL)
Kilpatrick
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1418

Mr. TIAHRT, Mr. WALSH and Mr. OSE changed their vote from ''yea'' to ''nay.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEVIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote followed by a 5-minute vote on approval of the Journal.

The vote was taken by electronic device, and there were—ayes 251, noes 178, not voting 5, as follows:

[Roll No. 259]

AYES—251

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carson (OK)
Carter
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Majette
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wu
Young (AK)

NOES—178

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bartlett (MD)
Bass
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Costello
Crowley
Cummings
Davis (CA)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Pomeroy
Rahall
Rangel
Reyes
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Stark
Strickland
Stupak
Tancredo
Tauscher
Taylor (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Waxman
Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Wynn
Young (FL)

NOT VOTING—5

Conyers
DeMint
Hastings (FL)
Kilpatrick
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1437

Ms. MAJETTE changed her vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.